

Nov 25 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRAYLON LAMAR MORRIS,

APPELLANT

APPELLATE CASE NO. 2023-000608

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #3 (DVD—COMPILATION VIDEO) AND STATE’S EXHIBIT #30
(DVD—BOND HEARING).**

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2019-GS-23-07279
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
BRAYLON LAMAR MORRIS,	)	
DEFENDANT.	)	
_____	)	

February 16, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE ALEX KINLAW, JR., JUDGE

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(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

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Reporter's Note:

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P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 10:48 a.m.)

THE COURT: All right. Are y'all ready to proceed?

MR. GREGORY: The State's prepared, Your Honor. We do have a matter that we'd like to address just briefly before just to kind of piggy-back on our argument from Monday morning where I said in front of Your Honor that just because they asked for an immunity hearing does not mean they're entitled to an immunity hearing.

After a little bit of research, I'd like, if Your Honor would permit, to pass up State vs. Manning case, if you don't mind. I've made copies for the defense as well.

May I approach, Your Honor?

Judge, this is State vs. Manning. This is a Supreme Court case dealing with stand your ground immunity hearings.

And before I even start talking about Manning, Your Honor, what I would like to point out is it's the State's position that in this case we don't even get to the implication of the Stand Your Ground Statute. We're under 440(C), Your Honor, because this happened in a Walmart shopping center in Greenville County.

And in order to get to 440(C) to make yourself -- or to invoke that, the defendant is not engaged in any unlawful activity, and that's debatable, but the main

1 point is the defendant is attacked in another place where
2 he has a right to be. And without any type of
3 articulation whatsoever that he was attacked, I don't even
4 think he can avail himself of this privilege of immunity,
5 the stand your ground immunity.

6 Also in State v. Manning, the case I handed up, Your
7 Honor, the State -- the Supreme Court said that it is not
8 -- a full evidentiary hearing is not what is required for
9 an immunity hearing. In that case the Court listened to
10 -- and I'll read on page 5 of 6, Your Honor, the Court
11 said, "Because these essential facts were undisputed," the
12 facts of the case, there was no dispute as to the facts,
13 "and the trial judge heard legal arguments from both sides
14 on the applicability of the subsection," which was
15 subsection C as well, "in the respondent's case, we agree
16 with the State that the trial judge heard and considered
17 all that was necessary to make the immunity determination
18 by a preponderance of the evidence." Even without a full
19 evidentiary hearing, that's what this case stands for,
20 Your Honor.

21 Short of any -- and in our case, it's on video. I
22 don't think there's going to be any dispute as to the
23 facts of what happened there that day. And legal
24 arguments should suffice for this under State v. Manning
25 to make a determination of whether or not we can even go

1 forward to an immunity hearing.

2 THE COURT: All right. What do you say,
3 Mr. Boatwright [sic].

4 MR. GAMBRELL: Judge, I was just trying to read the
5 factual background of that case, of the Manning case.

6 MR. GREGORY: And, Judge, I'm happy to provide the
7 factual background. It was a female who came over to the
8 defendant's house -- make sure this is right. She brought
9 a gun and they were arguing about their relationship
10 status. During the course of that argument, the defendant
11 in the Manning case grabbed the gun, she turned around and
12 shot him in the back -- the defendant shot him in the back
13 of the head. So she was unarmed at the time of the
14 shooting just like it was in this case, which the video
15 clearly shows. So that's kind of the background of the
16 story for that.

17 And the Court relied on an affidavit of the
18 defendant's statement -- not an affidavit, but just the
19 defendant's statement, he reviewed that, I assume, in
20 camera somehow, plus the legal arguments, and he found
21 that a full evidentiary hearing was just not even required
22 in this. And the Supreme Court agreed.

23 THE COURT: Did you have an opportunity to read the
24 case?

25 MR. GAMBRELL: Not the whole case, Judge, but I think

1 I understand the State's position on it.

2 Our position would be that if he's at a place where
3 he's lawfully allowed to be, you know, with regard to the
4 elements of self-defense, you know, his position would be
5 that there were prior threats made by this individual to
6 him and his family, and that was the last conversation
7 that Mr. Morris and Mr. Deck had between each other. He
8 was there at Walmart shopping with his family unrelated to
9 anything to do with Mr. Deck. The next time that he sees
10 Mr. Deck after those threatening statements was when
11 Mr. Deck walked into the Walmart. Mr. Deck did not go
12 through the normal entrance to the Walmart but came
13 through the exit and was approaching him.

14 And if you look at the case law, essentially, you
15 know, when you're talking about an immunity hearing,
16 you're talking about the elements of self-defense. And I
17 would point out that, you know, either he cannot be at
18 fault for bringing on the difficulty either. Has to be in
19 imminent danger or have a belief that he's in imminent
20 danger. And if he has a belief in imminent danger, he can
21 act on appearances and the circumstances. And in the
22 Frazier case, State v. Frazier, 401 S.C. 224 from 2013,
23 the Court says one doesn't have to wait until his
24 assailant gets the drop on him. He has the right to act
25 under the law of self-preservation.

1 And so our position would be that when he sees
2 Mr. Deck coming into the Walmart based on the previous
3 threats that he had received from him -- if you'll look at
4 the video, Mr. Deck has his hand in his pocket -- you
5 know, his position would be that he was there to do him
6 and his family harm, and that's why he acted in
7 self-defense. And if 440(C) applies, then the duty to
8 retreat would be removed and he can stand his ground and
9 meet force for force.

10 So he's allowed to act on appearances, the
11 circumstances, the fact that there were previous threats
12 made to Mr. Morris and his family, and that was the next
13 time that they had seen each other.

14 THE COURT: Mr. Gregory?

15 MR. GREGORY: Judge, that is -- just for my
16 clarification, State v. Frazier, is that a self-defense
17 case or is that a stand-your-ground case?

18 MR. GAMBRELL: It's a self-defense case. But, I
19 mean, when you're talking about stand your ground, you're
20 also -- I mean, essentially you're talking about
21 self-defense.

22 MR. GREGORY: But in order to get to an immunity
23 hearing, the statute is pretty clear. The defendant is
24 attacked in another place where he is lawfully allowed to
25 be.

1 And as I previously pointed out, we disagree on the
2 characterization of this video, Your Honor. The defendant
3 in the video clearly approaches him with a gun. At the
4 time of the shooting, the victim is backing up with his
5 hands out, nothing in his hands. And that's when he's
6 shot. We're happy to provide that with an in-camera
7 review of the video, Your Honor.

8 So I believe, under State v. Manning, I'm not sure a
9 full evidentiary hearing is necessary in this case.

10 MR. GAMBRELL: And, Judge, it goes to -- I mean, when
11 you said "attack," I mean, he believed that he was being
12 -- he believed that this man had threatened him
13 previously. He wasn't there -- he was there shopping with
14 his family. You know, this individual comes in, doesn't
15 go through the main entrance but comes straight to the
16 exit to where my client is. And so, again, under Frazier,
17 doesn't have to wait for his assailant to get the drop on
18 him. But if he believes -- and, again, ultimately, a
19 reasonable person also has to believe that, but I believe
20 that comes through his testimony.

21 But if he believes he's in imminent danger, he has a
22 right to defend himself, and I think that that absolutely
23 does fall under the act.

24 MR. GREGORY: For a self-defense argument, not as a
25 stand-your-ground argument.

1 MR. GAMBRELL: Well, I would say it falls under a
2 stand-your-ground argument, also, Judge, because, again,
3 if he has a belief that he's being attacked, that this
4 person is coming there to attack him and a reasonable
5 person would believe that, then the statute applies. I
6 think the Court would at least have to review the video
7 and listen to Mr. Morris's testimony if nothing else in
8 order to make a determination.

9 THE COURT: I was just reading Justice Pleicones's
10 dissent. You didn't reference Pleicones's dissent, which,
11 you know, I think has some valid points. I mean, I
12 understood you were referencing the majority in this
13 Manning case, but I think there's some credence to Judge
14 Pleicones's dissent, if you look at it and read his
15 dissent in that case.

16 So I think your citing of the Manning case is noted
17 for the record, and I read the majority opinion that was
18 given to me in that case, and I also read Judge
19 Pleicones's dissent. But I think in the interest of
20 fairness, I'm going to go ahead and allow the hearing and
21 allow the defendant to proceed.

22 So was that the only pretrial motion?

23 MR. GREGORY: That's it, Your Honor. And I wasn't
24 trying to hide that from the Court. I was just pointing
25 it out because it is a majority opinion, Your Honor.

1 THE COURT: All right. But you know I always like to
2 read dissenting opinions, as well I'm sure you do too.

3 MR. GREGORY: I did too. I read it, Your Honor.

4 THE COURT: Okay. All right. Okay. Anything else
5 before we proceed? I'm ready whenever you guys are.

6 MR. GREGORY: Not from the State, Judge.

7 MR. GAMBRELL: Nothing from the defense, Your Honor.

8 THE COURT: All right. Who's your first witness?

9 MR. GAMBRELL: I call Mr. Braylon Morris.

10 THE CLERK: Mr. Morris, please come around to the end
11 of the bench. As best you can, please place your left
12 hand on the Bible and raise -- raise it as you can.

13 WHEREUPON,

14 BRAYLON LAMAR MORRIS

15 After having been duly sworn, testified as follows:

16 MR. GAMBRELL: Judge, may I have permission to
17 question Mr. Morris from counsel table?

18 THE COURT: As long as everyone can hear. As long as
19 he can hear you, I can hear you and the court reporter, I
20 don't have any problems.

21 MR. GAMBRELL: Thank you, Your Honor. May it please
22 the Court.

23 THE COURT: The mic's on? Okay.

24 MR. GAMBRELL: If the Court please, Your Honor.

25 THE COURT: Go ahead.

DIRECT EXAMINATION

BY MR. GAMBRELL:

Q Mr. Morris, could you state your name for the record, please.

A Braylon Lamar Morris.

Q How old are you, Mr. Morris?

A I'm 37 years old.

Q Where are you from?

A Greenville, South Carolina.

Q How far did you go in school?

A I graduated from Greenville High with a diploma.

Q What year was that?

A 2004.

Q Are you married? single? divorced?

A I'm single because I'm locked up.

Q Have you ever been married before?

A No.

Q Do you have any children?

A I have stepchildren.

Q How many children?

A Altogether I have -- in different relationships I've got five stepchildren.

Q And at the time that this incident occurred in July of 2019, were you seeing anyone at the time?

A Yes. I was seeing Heidi Meriweather.

1 Q And how many children does she have?

2 A She has three.

3 Q Okay.

4 THE COURT: What's her last name? Heidi what?

5 THE WITNESS: Meriweather.

6 THE COURT: Meriweather.

7 THE WITNESS: Or you could say Heidi Walker.

8 THE COURT: Okay.

9 BY MR. GAMBRELL:

10 Q How long had you all been seeing each other?

11 A For over a year and a half.

12 Q And did y'all live together at the time?

13 A Yes, we did.

14 Q Okay. And did her kids also live there?

15 A Yes, sir.

16 Q Okay. Were you working at the time?

17 A I was on house arrest.

18 Q Do you recall, were you driving at the time?

19 A Yes, sir.

20 Q Okay. What kind of car did you drive?

21 A It was a 2012 Nissan Altima.

22 Q And what kind of car did Heidi have?

23 A She didn't have no car at the time.

24 Q Okay. Do you recall the day of July 5, 2019?

25 A Yes, sir.

1 Q Okay. Tell me about what you did that day.

2 A That day I woke up. I had to report to Eagle Eye
3 house arrest, so me and Heidi got up. On the way there,
4 went to Hardee's to get something to eat. I went to
5 report. I had to go to -- I told -- I told Greg had to go
6 to the doctor because I had a health condition. And it
7 was a hospital AnMed across the street from Eagle Eye in
8 Pickens.

9 So I went to AnMed across the street. We both got
10 medication. And the doctor told us we had to get the
11 medication from like, you know, a pharmacy. So on the way
12 home it was a Walmart five minutes away from my home. We
13 just went there to get some -- some food and a
14 prescription because you can't get medication without
15 food. You'll throw up and be sick, so have to get some
16 food with the medication.

17 And then we went in there. Heidi's mother dropped
18 the kids off because they were coming home. It was after
19 the Fourth of July, so they were coming home. It was a
20 weekend. We was getting some cereal, you know, some
21 cookies and stuff, you know what I'm saying?

22 And we got -- the first thing we did, we got our
23 prescriptions filled so by the time we was done, we could
24 get them and leave. And then we got the prescriptions
25 filled. And I told her let's just go because you can

1 probably come back, you know what I'm saying? Because
2 when you're on house arrest, you can't leave. Once you go
3 -- once you leave to report and you go in the house, you
4 can't come back out, you know what I'm saying? So while
5 we was out, we just stopped by there on the way I was out.
6 So ---

7 Q What time did you leave the house that morning?

8 A Like -- probably like 9:00, 10:00 that morning.

9 Q Do you recall what time you arrived at the Walmart?

10 A The Walmart, we was probably there like 11:30.

11 Q And how long were you in the Walmart?

12 A I went in the Walmart for like 30 minutes, you know
13 what I'm talking about? It probably took us like ten
14 minutes to get the prescription filled between both of us.
15 And then after that we went around the grocery store to
16 get some food and things. And then we were headed back to
17 the self-checkout so we could -- because I'm telling her
18 like let's get these things so I -- so we can go, you know
19 what I'm saying? The kids coming, so let's make sure we
20 all, you know, can get out of here safe and, you know,
21 just make sure everything okay, you know what I'm saying?

22 So after that, I'm at the self-checkout. My son,
23 he's on a buggy, you know. He's excited.

24 Q Let me stop you real quick. You said that your kids
25 were dropped off at the Walmart?

1 A Yes.

2 Q Okay. Who dropped the kids off?

3 A Yvonne Johnson.

4 Q Who is that?

5 A Heidi's mother.

6 Q Okay. And how long had y'all been at the Walmart
7 before the kids got dropped off?

8 A Probably like five, ten minutes.

9 Q Okay.

10 A She was getting her hair done, so she said I'm just
11 going to take them on the way while you're getting y'all
12 groceries.

13 Q Okay. Did you run into anybody else at the Walmart
14 while you were there?

15 A Yes. I ran into Stinson Ruth.

16 Q Okay. How do you know Mr. Ruth?

17 A I know Ruth -- Stinson Ruth through someone named
18 Danny Asept [phonetic] I met like years ago. And like I
19 say, it was just a casual acquaintance, you know what I'm
20 saying? And, you know, other things got complicated
21 throughout the time. But that's how I know Stinson.

22 And then, you know, when I seen him, he was with his
23 son and I was with my kids and we was talking about being
24 on house arrest. And I said, "Well, it's good seeing you.
25 Happy Fourth of July," you know what I'm saying? This is

1 the day after Fourth of July. And I just went on grocery
2 shopping like it was nothing ever the matter.

3 Q And then how long before -- how long after you spoke
4 with Mr. Ruth did you go to check out?

5 A I seen Stinson actually after I got my prescriptions
6 filled, and then we went to the other side by like, I
7 think, the produce section. Because when you go in
8 Walmart, you go in on the -- on the left side of Walmart,
9 but I think in the back by the mechanic space, that's
10 where they've got the prescriptions being filled. So we
11 had to walk across the Walmart to the produce where the
12 food was at, and that's when I saw him. So I would say
13 probably like about 10, 15 minutes. And then after that,
14 that's when we started grocery shopping.

15 Q Let me back up just for a second. You said that you
16 and Heidi and the kids lived together. Where did you
17 live?

18 A I lived in Dixie Estates on White Horse Road.

19 Q Okay. Is this the Walmart that's closest to your
20 residence?

21 A Yes, sir. Actually, it's the closest -- it's the
22 closest Walmart -- it's on the same road I lived on, and
23 there's no other Walmart closer to me. You've got one on
24 Woodruff Road, you've got some in Easley, you've got some
25 in Wade Hampton. But I didn't want to do all that. I

1 didn't want to be all over the world while I'm on house
2 arrest. And plus you've got to be in by 5:00 no matter
3 what, so I'm trying to go to Walmart, get the things I
4 need and go back home with the kids so we can just enjoy
5 life.

6 Q So at some point you begin to check out from the
7 Walmart with your -- the stuff that you had purchased.

8 A Yes, sir.

9 Q Okay. Go ahead.

10 A When I went to the self-checkout to start purchasing
11 my things, I say my son was on a buggy. He was excited.
12 And I'm just trying to get him down for a second. And I'm
13 scanning. I'm scanning, still trying to find the bar.
14 And then I look to my left and I see Deck. And I see
15 Deck ---

16 Q Hold on just a second. When you say "Deck," who are
17 you referring to?

18 A Michael Jason Deck.

19 Q And he is the deceased in this case?

20 A Yes, sir.

21 Q Okay. Now, where were you in relation -- like if
22 you're in the -- are there two self-checkouts that are
23 right next to each other on one side and two
24 self-checkouts on the other?

25 A It's like -- it's like a box. And it's like when you

1 walk into the self-checkout, a cashier will point you to
2 the one you go to. So when I -- when I stood there, she
3 said, "Go to the one over here." So I went over there to
4 the one she said go to.

5 Q Now, was it to your right?

6 A It was to my right, yes, sir.

7 Q Okay. Now, if you're standing at that checkout, is
8 the exit directly in front of you?

9 A If you're standing in self-checkout, you look to your
10 left, it's a exit. But when you come in, it's a sign that
11 say you've got to like go through these -- these things to
12 go inside Walmart. Basically, like it keeps the traffic
13 from -- people bumping into each other coming and going,
14 you know. So if you ---

15 Q I'm just trying to get an orientation of like if
16 you're where you were standing, to exit out of the store,
17 you would go straight ahead and to the right?

18 A I would scan my things and go -- yes, sir. Straight
19 ahead. Straight to the right.

20 Q Okay. All right. Go ahead. And at some point you
21 had seen Mr. Deck.

22 A Yes, sir. I looked to my left, and I seen Mr. Deck
23 approaching with his hand in his pockets, and he had the
24 devil in his eye. So ---

25 Q Hold on one second. Let me back up from there.

1 Now, how do you know Michael Jason Deck?

2 A I know Michael Jason Deck through a guy named Tim
3 Davis.

4 Q Okay. And what was your relationship with Mr. Deck?

5 A Mr. Deck used to send me merchandise like flat screen
6 TVs, hoverboards, power wheels, diapers, baby clothes,
7 sometimes food like steaks, salmon and stuff like that.
8 And he'll give me an unbeatable price. So, I mean, I buy,
9 you know what I'm saying? And then if I don't buy, I
10 might know somebody that want to buy it, so he'll come,
11 I've got these TVs, can you get them -- can you -- you
12 know anybody that want them? And I'm like, yeah, give me
13 about an hour. I can get them gone for you. So that'd be
14 like a favor for a favor, just somebody who -- you know,
15 that's how -- that's how we did, you know what I'm saying,
16 pointers with each other.

17 Q And how long had you known Mr. Deck?

18 A About like a -- about a year.

19 MR. GAMBRELL: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes, sir.

22 BY MR. GAMBRELL:

23 Q These are the documents that you brought with you
24 today. If you could, find the text messages.

25 A Yes, sir.

1 MR. MILLER: Your Honor, after he finds the document
2 he's looking for, I would hope the State would get a
3 chance to review what we're about to talk about.

4 THE COURT: Okay.

5 BY MR. GAMBRELL:

6 Q Did you find the document?

7 A Yes, sir.

8 Q What is that document?

9 A Do you want to start where he began?

10 Q No. I'm just asking what is it. What did I hand
11 you? What did you find?

12 A You handed me the text message from my cell phone.

13 Q So it's a printout. It's a hard copy on paper.

14 A Yes, sir.

15 Q And at the top it states what on the first page?

16 A At the top it said "Extraction report, Apple IOS
17 four-five, system Cellebrite."

18 Q Okay. And underneath that it has two phone numbers.

19 A Yes. It has ---

20 MR. MILLER: Your Honor, I'm going to object to
21 hearsay on this. This wouldn't be a party against
22 interest for his own words. That would be his own hearsay
23 as well as just overall hearsay.

24 THE COURT: All right. What exceptions to the
25 hearsay rule do you assert?

1 MR. GAMBRELL: I'm not understanding what hearsay is,
2 Judge. Which part of this is hearsay?

3 MR. MILLER: I'd say all of it.

4 MR. GAMBRELL: I mean, he can testify to his own text
5 messages, and then he can testify as to the text messages
6 he received from Mr. Deck. He just has to authenticate
7 it.

8 MR. MILLER: Judge, that's hearsay. It's an
9 out-of-court statement being offered for the truth of the
10 matter asserted. He is not a party opponent to himself.
11 I haven't said one exception or exemption to hearsay.
12 Just saying we can read these out-of-court statements.

13 THE COURT: Well, his text messages that he made,
14 obviously, is not hearsay, the ones that he made. But
15 what your argument is is the ones that he received?

16 MR. MILLER: Well, Your Honor, I also am also
17 wondering if he's saying the text messages he said are
18 going to fall under self-serving statements, because he's
19 also -- the State's not putting this in. So it wouldn't
20 be hearsay if the State was doing it because that would be
21 a statement by a party opponent. So 801(D) does not apply
22 here. So they are offering all these statements as
23 out-of-court statements for the truth of the matter
24 asserted which would fall under hearsay. But also, we
25 believe, under State vs. Cheeseboro, this is starting to

1 look like it's going to be self-serving statements, which
2 if the State isn't doing it, then it's a self-serving
3 statement on there.

4 THE COURT: What do you say, Counsel?

5 MR. GAMBRELL: Judge, I would say this. I'm not sure
6 that we're offering it for the truth of the matter
7 asserted, but I would say that they go to his state of
8 mind as to what he perceived was being communicated to
9 him. And I do have a case, it was the State v. Fabian
10 Green case, as far as to allow messages go in. If you'll
11 just allow me to beg the Court's indulgence I'll find it.
12 This was a case out of the Court of Appeals.

13 THE COURT: Fourth Circuit?

14 MR. GAMBRELL: No. I'm sorry. The South Carolina
15 Court of Appeals, State v. Fabian Green. It was a case
16 where Fabian and his girlfriend -- off-and-on girlfriend
17 and his cousin had lured the victim to her house, and
18 Fabian was convicted of murdering him.

19 There was Facebook messages that were between Fabian,
20 the girlfriend and the victim, and the State tried to
21 introduce those messages, and the defense objected to it.
22 And the Court says that, of course, all evidence must be
23 authenticated. And in this case they were -- you know,
24 it's a messaging system on Facebook where you can message
25 back and forth with each other.

1 The proponent needs only to make a prima facie
2 showing that the true author is the proponent -- is who
3 the proponent claims to be. Rule 901 SCRE does not care
4 what form the writing takes, be it a letter, telegram,
5 postcard, fax, email, text, graffiti or billboard. All
6 that matters is that it can be authenticated, you know.
7 And the easiest way to do that under 901 is having someone
8 with personal knowledge about the writing testify the
9 matter is what it claims to be.

10 And so we're simply -- you know, these were texts
11 that were taken off my client's phone between him and
12 Mr. Deck. They were made into a format that is in a hard
13 copy paper. He can authenticate them because he's the one
14 that had the conversation. And, again, it would go to
15 what his state of mind was as to what he perceived from
16 this conversation.

17 I'm not trying to prove that Mr. Deck, anything that
18 he said was true. I'm just saying I'm going to be asking
19 my client, based on those text messages, what was his
20 state of mind.

21 THE COURT: Give me the cite on that case.

22 MR. GAMBRELL: It's State v. Green.

23 THE COURT: Fabian.

24 MR. GAMBRELL: Yes, sir. Fabian Green is his name.
25 830 S.E.2d 711. It's a South Carolina Court of Appeals

1 case from 2019.

2 THE COURT: All right. What are you getting ready to
3 say, Mr. Miller?

4 MR. MILLER: Your Honor, he's talking about
5 authentication versus admissibility. And also in that
6 case, as we said, that is the State introducing statements
7 which would fall under Rule 801 as a statement by a party
8 opponent. Mr. Morris is not a party opponent to himself.
9 So that case seems to be talking about authentication, not
10 admissibility, which are two separate issues. The
11 objection here is we're talking about hearsay, he's not a
12 party opponent to himself, not whether or not he can
13 authenticate, but whether or not there's any exception
14 that would apply.

15 MR. GAMBRELL: And, again, we're not offering it for
16 the truth of the matter asserted. I'm not suggesting that
17 any of the statements that Mr. Deck made are true or that
18 he's making assertion about something that is true. I'm
19 eliciting those statements because they go straight to my
20 client's state of mind of when he read them and perceived
21 them as to what, you know, a potential threat Mr. Deck
22 made to him and his family. So it goes to my client's
23 state of mind. I'm not offering them to prove that
24 whatever Mr. Deck said was true. I'm offering them so
25 that Mr. Morris can testify as to what his state of mind

1 was when he read them.

2 MR. MILLER: Judge, I would say if you're offering it
3 to prove a state of mind, you have to then -- underlying
4 that is saying that you are offering it for the truth of
5 what they say to say this is your state of mind. That is
6 just going back. You are offering for what they are for
7 the truth of what they say to then say what your reaction
8 is to it. That is going back to offering it just for the
9 truth of the matter asserted.

10 THE COURT: I think in that case the State introduced
11 that and the Courts rejected it?

12 MR. GAMBRELL: The Court allowed it, and then the
13 defense appealed it on that issue.

14 MR. MILLER: And, Your Honor, again, if the State's
15 entering a defendant's statement, it's Rule 801. If the
16 person is trying to enter their own statement, they're not
17 a party opponent, then we're talking about hearsay.

18 THE COURT: I know all that. I know all that. But
19 what I'm trying to get at is the state-of-mind argument.
20 I don't -- I'm not buying what you're saying, Mr. Miller.
21 I think he can -- if the purpose is for the state --
22 whatever the state of mind of the defendant at the time
23 was, I think in this court's estimation, I think he can do
24 that.

25 MR. MILLER: I think if we're talking about at the

1 time and you were talking about present sense impression,
2 it would have to be what is going on presently, and you'd
3 have to be right at that time of the incident of July 5,
4 2019. Otherwise, I don't see how your present sense
5 impression.

6 MR. GAMBRELL: Judge, the last conversation occurs
7 just two days before, and it's the last conversation that
8 they had.

9 THE COURT: All right. I'm going to go ahead and
10 allow it. Your objection is noted for the record.

11 Go ahead.

12 MR. GAMBRELL: Thank you, Your Honor.

13 BY MR. GAMBRELL:

14 Q Mr. Morris, do you recognize the telephone numbers
15 that are listed at the top of the page?

16 A Yes, sir.

17 Q [REDACTED]-6455?

18 A That's Michael Deck.

19 Q And [REDACTED]-0920?

20 A That's Braylon Morris.

21 Q Okay. Now, the first text message is from you to
22 him?

23 A Yes, sir.

24 Q And what does it read?

25 A "Death before dishonor 424 universal logic."

1 Q Okay. And why did you send him that text?

2 A Just to give him a truth or a peace saying I -- I'll
3 never betray our friendship, you know what I'm saying?
4 Tell him that I have no problems with you and everything
5 good.

6 Q Okay. And what was his response?

7 A "Hey bro I put it on my 6 I'm going to make this
8 right somehow." So I comprehended he's saying he's trying
9 to fix a problem that he's guilty of or something that I'm
10 accusing him of.

11 Q And then what's the next text that he says?

12 A He says -- he says, "I kno where he's at. I found
13 out where he's staying."

14 MR. MILLER: Judge, I would say there's a text
15 message here that was skipped over of what Braylon Morris
16 said.

17 MR. GAMBRELL: I missed that. I'm sorry.

18 MR. MILLER: And if you look at the -- I'll just
19 clarify for the Court, if you look at the documents in a
20 different way, I've showed -- it's an emoji with a hand
21 going like this (demonstrating).

22 THE WITNESS: That's "okay."

23 THE COURT: Whoa.

24 MR. MILLER: Mr. Morris says that. So there is a
25 response to what he just said. If you take that ---

1 THE COURT: Can I see that? I don't have any of
2 that.

3 MR. MILLER: --- we're now going out of context.

4 MR. GAMBRELL: I don't have that on mine, Judge. It
5 didn't show up on my printout.

6 THE COURT: Y'all got the same printout?

7 MR. GAMBRELL: No. There isn't.

8 MR. MILLER: There's a different printout for emojis.
9 It's been provided in the phone dump to discovery, so the
10 defense does have it.

11 THE COURT: All right. Tell me what's the difference
12 between what he has and what you just gave me.

13 MR. MILLER: So, Your Honor, the third text, as they
14 went from what did Michael Jason Deck say, and he said --
15 Mr. Morris gave his testimony, then they just went, "What
16 did Mr. Morris say next?" and just made it sound like that
17 was the end of that part of the conversation when actually
18 there's a response from Mr. Morris of holding up fingers
19 like this (demonstrating), which Mr. Morris I believe just
20 said means that's okay, or something like that. Whatever
21 the testimony was.

22 THE COURT: Right.

23 MR. MILLER: But if we're not going to include that
24 there, then we're not going through the rule of
25 completeness and putting everything in there and we're

1 just kind of picking and choosing what we want to say.

2 MR. GAMBRELL: And that was a mistake, Judge. That's
3 not on my -- the copy that I have. It's not -- doesn't
4 show up. So I don't -- it was my mistake. I just don't
5 -- didn't see it here because it's not printed on my
6 paper.

7 THE COURT: All right. But you've got a copy of
8 this. You've seen it?

9 MR. GAMBRELL: I have not seen that particular copy.
10 The only copy that I have is the one that looks like it's
11 printed out as to the text.

12 THE COURT: You need this back?

13 MR. MILLER: Yes, sir. That is -- that was -- for
14 the record that was provided in discovery. And they have
15 it because when you provide the entire phone dump, that's
16 provided within the phone dump.

17 THE WITNESS: I never seen it.

18 THE COURT: All right.

19 MR. GAMBRELL: If I run across any of those that I
20 can't make out, I'll ask to see the other one to make sure
21 there's nothing that I'm missing.

22 THE COURT: You don't have that in your discovery
23 materials, Mr. Gambrell?

24 MR. GAMBRELL: I have not seen this one, no, sir,
25 Your Honor. I mean, the phone dump that I had is an

1 incredibly large file. I mean, it may be in there. I
2 just haven't seen it.

3 MR. MILLER: When the entire phone dump was provided,
4 there's a separate format you have to open to show it, but
5 it's provided in the entire phone dump when the entire
6 phone dump is provided.

7 THE COURT: Okay.

8 MR. MILLER: But I'm fine with Mr. Gambrell using
9 that copy during his direct. I just may need it back for
10 cross.

11 THE COURT: All right. Y'all can share it.

12 Okay. Go ahead, Mr. Gambrell.

13 MR. GAMBRELL: Thank you, Your Honor.

14 BY MR. GAMBRELL:

15 Q So after his first response to you, you sent an
16 emoji.

17 A "Okay."

18 Q And what was his response after that?

19 A "Hey I know where he's at. I found out where he's
20 staying."

21 Q What did that mean to you?

22 A I didn't -- I didn't even -- I didn't even see it
23 till days after. When I seen it, my mind was going if you
24 know where he's at, where he's staying, why are you
25 telling me and what are your intentions? What -- what are

1 you trying to lure me into? Because I just said -- I just
2 said we okay, and you said you're going to make it right.
3 I said okay. Now you're telling me you know where he's
4 at. So I feel like if you're telling me that, you're
5 trying to manipulate me into falling into your -- you know
6 what I'm saying? -- your rabbit hole because I'm trying to
7 understand what's your intention. That's why I said
8 what's good and why you look for me. Because if you know
9 I don't see eye to eye with someone, why would you try to
10 tell me where he's at. I'm on house arrest. I can't go
11 looking for him.

12 Q So that message was sent when?

13 A It was sent -- that message he sent was on the 27th.
14 So I didn't even open it up. Because I just said "okay."
15 After he said he's going to make it right, I said "okay."
16 He said that on the 3rd. I checked because I looked
17 through my phone. I say, "Why -- why you look for me?
18 What's good?" Why ---

19 Q So what's the next day that you respond to him?

20 A The next day he -- he -- when he said -- like okay.
21 When I said the "okay" emoji, that was on the 27th. When
22 he said, "Hey, I know where he's at. I found out where
23 he's staying," that was on the same day, but I didn't
24 check it until the 3rd of July. So I'm looking like --
25 you know, I -- I just said, "We okay." I mean ---

1 Q What is your text to him on the 3rd of July?

2 A It's, "What's good? Why you look for me?"

3 Q Was there a response to that?

4 A What -- what happened was I said, "What's good? Why
5 you look for me?" I called him. He answered the phone,
6 but he didn't say nothing so I hung up. And I said, "So
7 basically, all y'all muthafuckas the police," meaning I
8 don't associate with the police, you know what I'm saying?
9 And I'm angry because I'm feeling like why -- like why is
10 you playing this game with me? Why is you bringing drama
11 my way? Why you bringing problems my way? If you know I
12 don't see eye to eye with someone, why you trying to tell
13 me where he's at, where he's staying? And then I just
14 told you that you've got my best interest at heart, I
15 never betray our friendship, but you're bringing me
16 problems.

17 Q What was the next text after that?

18 A I said, "Fuck 12." That means I don't associate with
19 the police.

20 Q And then the next text after that?

21 A I said, "You fake as fuck," meaning like you're not a
22 real friend. You're a liar. Because you can't be friends
23 with my enemy, you know what I'm saying? And then you
24 trying to play me close. And, again, I say, "You fake as
25 fuck," meaning you ain't even real. Then I say, "You the

1 police too," because I'm angry now. I said, "You the
2 police too."

3 Q And then did you send another ---

4 A I don't remember what the emoji was, but I don't
5 remember it being no threat and no harm.

6 MR. GAMBRELL: It was -- may I approach the witness,
7 Judge?

8 THE COURT: Uh-huh.

9 THE WITNESS: "Okay." Yeah. "Okay." So the message
10 I sent saying, "You the police too," that's like okay.

11 BY MR. GAMBRELL:

12 Q And then what's the next message he said?

13 A "Look here bro. I done told u where he's at and even
14 though I introduce y'all I ain't responsible for what his
15 faggot ass does. I done my fuckin part. Now do yours and
16 go fuckin get him and don't be calling me no fuckin 12
17 cause I'm a 9 till I die."

18 MR. MILLER: Your Honor, I'm going to object real
19 quick because I think saying "I'm a 9 till I die," I think
20 that's getting into a part that, one, isn't going to be
21 relevant. I preserve that for the record. I'm fine for
22 purposes of this hearing, but if we get to trial, just
23 know that will be an objection.

24 THE COURT: All right.

25 MR. MILLER: Saying "I'm a 9 till I die" is probably

1 an objection.

2 THE COURT: All right. And that objection is noted
3 for the record when the matter goes to trial.

4 BY MR. GAMBRELL:

5 Q And that was on that same day, correct?

6 A Yes, sir.

7 Q What was your impression of what he was trying to
8 communicate with you?

9 A Basically, he's denying being the police, and he's
10 just admitting to the part his friend plays in. He's
11 admitting to everything. Scotty Pope is a known informant
12 for the police, and he's been a known informant for over
13 15 years. And he's telling me -- you know what I'm
14 saying? -- he just don't want to take accountability for
15 it, but I said I had a problem. I -- I can't blame him
16 for the action his friend does or takes upon himself, but
17 I can say don't bring no problems to me, though.

18 Q So what was the text after that?

19 A "I ain't got shit to say b. I ain't no fuckin 12."
20 He's angry because I called him the police, you know what
21 I'm saying? But he's best friends with him. So then he
22 say, "Ask any -- ask any fuckin body."

23 So instead of going back and forth and instead of
24 trying to make a bad situation worse, I say, "Pick up your
25 phone," so I can make an apology about insulting him,

1 calling him the police, you know. So I said, "Pick up
2 your phone." Then I say, "I ain't tripping about you,"
3 meaning I have no problem with you. I ain't even tripping
4 about you.

5 I continue to say, "I'm pissed about that
6 muthafucka." And that means the person that gave Deck my
7 number. It was a guy named Tim Davis, when I guess
8 whenever they seen each other somewhere, Deck forced him
9 to get me on the phone. He made him give him my number.
10 And I'm mad because if I wanted Deck to have my number, I
11 would have gave it to him. But if I know the company
12 Michael Deck keeps, why would I want to be involved with
13 Deck, period? I don't want -- I don't want to be involved
14 with none of them at all.

15 So I just told him, "I ain't tripping about you,"
16 man. I'm just pissed about that motherfucker. Then
17 he ---

18 Q His response was what?

19 A He continues to say, "Yes. What the fuck ever. I
20 done 5 fuckin bids. Never had a fuckin seat belt charge
21 dropped. So fuck who ever say I'm 12. I got 12 big boy
22 charges and attempted murder and know that they're going
23 to career me out when it goes down. I'm shooting it out
24 with them bitches. Ain't -- ain't shit none of y'all can
25 do to me. I ain't that pussy boy Scotty so fuck y'all and

1 this fuckin life."

2 Q And what did you take from that?

3 A I took basically he said, man, ain't shit nothing
4 y'all can do to me. When he said "them" meaning me and my
5 family, you know what I'm saying, he's going to shoot it
6 out with, he said fuck our life.

7 Q What was your response to that?

8 A "I don't give a fuck about none of that," meaning I
9 don't give a fuck about none of that. I mean, I ain't
10 hiding from you.

11 And I continue to say, "Since you're talking shit and
12 can't pick up the phone, you're fake," meaning like we
13 ain't got to go back and forth for no texting and saying
14 we're going to hurt each other and our families. We can
15 talk about this like men and make this right, because I
16 ain't done nothing to you and proclaim you done it to me.
17 So why are we having a problem? Who's sending you -- why
18 you let him send you to me? Because that's what they're
19 doing. They're sending him to me.

20 So I said, "You know where I'm at. Pull up."

21 And he says, "Really b. Is that what you want?"

22 So he basically telling me if you want me to kill
23 your family then? Because I'll pull up, basically.

24 So I says, "You fake," you mean you're not a real
25 friend. Then I say, "Pull up."

1 Then he say, "Over Scotty." So he's saying basically
2 he going to kill me and my family over Scotty Pope.

3 Q That's what you took from that conversation.

4 A That's what I took from it.

5 Q And that whole conversation lasted approximately how
6 long?

7 A Man, I ain't going lie. I don't know how long that
8 back and forth went with him. But I was just like I'm
9 done. I done try to make my peace with this man and I'm
10 done.

11 Q Okay. And was that the last conversation you had
12 with Mr. Deck?

13 A Yes, sir.

14 Q So what did you think his intentions were going
15 forward?

16 A I think his intentions now is ---

17 MR. MILLER: Objection, Your Honor. That's
18 speculation.

19 THE WITNESS: He ---

20 THE COURT: Hold on. Hold on one second.

21 I'm going to sustain his objection. Do you want to
22 rephrase your question?

23 MR. GAMBRELL: Yes, sir, Your Honor.

24 BY MR. GAMBRELL:

25 Q Based on that conversation, did you -- how did you

1 feel?

2 A I feared for the sake of my life as well as my
3 family.

4 Q What did you think could happen?

5 A I think he is a very violent person, and he -- and I
6 -- and once he said what he said, I was not going to
7 underestimate him or take his threats lightly. So now I'm
8 on house arrest, so it's not like I can do anything but
9 just sit in this house like a sitting duck. And then my
10 kids could be outside playing. Our girl, she could be
11 driving down the street. I mean, all the things going
12 through my mind of what he can do to people that I can't
13 save and protect because I'm on house arrest.

14 Q Now, that was two days before you were in Walmart.

15 A Yes, sir.

16 Q Okay. So take me back to Walmart when you're
17 checking out and you see -- what do you see?

18 A Well, I'm at Walmart. I'm scanning groceries. And
19 I'm just looking -- you know, just looking both ways as in
20 being perceptive of my surroundings. And when I see Deck,
21 he's approaching me with his hand in his pocket. So I
22 move away from my children to get away from them. Then
23 once he got up to me, I shot him. And I shot him again.
24 I left out because I know if the police would have found
25 me with a gun, they would have killed me.

1 Q Why did you feel like you had to shoot him?

2 A Because he told me he was going to kill my family
3 when he see me. And once he got close to me, I felt I had
4 to protect my life as well as my family's.

5 Q Did you ever see him with a gun?

6 A I seen -- I seen him reach in his pocket when he came
7 to me. I have seen him in -- I have seen guns with him in
8 the past, so I assume when he reached in his pocket
9 approaching me, he had a gun on him.

10 Q And then why did you shoot him twice?

11 A I shot him to make sure that the threat ended. I
12 made sure that he couldn't come back and hurt my family or
13 anything.

14 Q And then what did you do?

15 A I left Walmart.

16 Q You left your kids there?

17 A My -- my wife was with them so they were safe. I
18 made sure they weren't harmed by him anymore.

19 Q And where did you go?

20 A I went to Long John Silver parking lot.

21 Q And that's where you were apprehended?

22 A Yes, sir.

23 Q So is it your testimony that when you're checking out
24 at Walmart and you see Mr. Deck, based on the previous
25 conversations that you had, that you were in fear for your

1 life?

2 A I was in fear for my life as well as my family's.

3 Q And you also testified that you believed that he was
4 armed.

5 A I believe he's armed.

6 Q You believe you acted in self-defense.

7 A I believe I acted in self-defense and also in defense
8 of others.

9 Q If you hadn't have done what you did, what do you
10 think could have happened?

11 A I could be dead or a tragic -- my -- my family's my
12 future so I had to protect my family. And I felt like
13 when he was approaching me with his hand in his pocket, he
14 had the devil in his eye, he was going to carry out his
15 contract, keep his word of saying what he was going to do.

16 MR. GAMBRELL: Thank you, Mr. Morris. That's all the
17 questions I have for you.

18 THE COURT: All right. Cross-examination,
19 Mr. Miller.

20 CROSS EXAMINATION

21 BY MR. MILLER:

22 Q Mr. Morris, your testimony is that you killed Jason
23 Michael Deck.

24 A Excuse me?

25 Q You killed Jason Michael Deck on July 5, 2019, at

1 Walmart on White Horse Road; isn't that true?

2 A Out of self-defense.

3 Q Is it true that you killed him?

4 A I shot him fatally.

5 Q So you killed him.

6 A Okay. Yes.

7 Q Yes. Okay. And you shot him twice.

8 A Yes.

9 Q Okay. Now, I want to talk about these text messages
10 a little bit you've got in front of you.

11 A Okay.

12 Q First text you sent to him. Jason Deck didn't text
13 you. You sent the first text, right?

14 A Yes.

15 Q "Death before dishonor."

16 A Uh-huh.

17 Q Right? Meaning that you have death before you have
18 dishonor, right?

19 A It means I will never betray you. Before I dishonor
20 you, I would rather die before I dishonor you.

21 Q So there's death before dishonor, right?

22 A Death before dishonor, it means I will never betray
23 you.

24 Q So you agree there's death before dishonor.

25 A No. It means I will never betray you.

1 Q Okay. I think you said yes in there, so I was asking
2 yes. But death comes before dishonor because that's what
3 that says, right? I'm just reading what you said.

4 MR. GAMBRELL: Judge, I think he's tried to answer
5 the question. I'm not sure how else he can answer.

6 THE COURT: I'm going to let him answer the question.
7 Go ahead and answer the question, sir.

8 THE WITNESS: He said "death before dishonor," is it
9 death before dishonor. And it means I'm telling him I
10 will die before I betray you. I'll never betray our
11 friendship. And Deck never replied with a threat, he
12 never replied angry, he never replied in any defense.
13 That was ---

14 BY MR. MILLER:

15 Q All right. Let's go down to where you talked about I
16 believe it is on page 4, it says page 6 where you talk
17 about you say you believe them, let's talk about your
18 family. I didn't think it sounded too clear for the
19 record so I want to read it and if you agree with what it
20 says.

21 A Okay.

22 Q "Yes. What the fuck ever. I done 5 fuckin bids and
23 never had a fuckin seat belt charge dropped. So fuck who
24 ever says I'm 12. I got 12 big boy charges and attempted
25 murder and know they gonna try and career me but when it

1 goes down I'm shooting out with them bitches. Ain't shit
2 none of y'all can do to me. I ain't that pussy boy Scotty
3 so fuck all y'all and this fuckin life." That's what it
4 says, right?

5 A Yes.

6 Q Seems like Jason Deck says he's going to shoot it out
7 with the police. He never says your family.

8 A He said "them" meaning multiple people. And he said
9 y'all, all of y'all, meaning me and my family. That's
10 what I comprehended. When he said "when it goes down" --
11 let me rephrase. He said, "I got 12 big boy charges and
12 attempted murder and know they going to try to career me
13 but when it goes down I'm shooting it out with them
14 bitches. Ain't shit none of y'all can do to me." None of
15 y'all. "I ain't that pussy boy Scotty so fuck all y'all
16 and this fuckin life." So when he said "y'all" meaning
17 you and others, meaning me and my family.

18 Q You then you then responded a little bit later, and
19 you said, "You know where I'm at" and to "pull up." You
20 told him to come to you.

21 A That means I'm not hiding from you. I'm not hiding
22 from you. You threaten to kill my family, you know I'm on
23 house arrest, I'm not hiding from you. I'm not afraid of
24 you. I'm not hiding from you.

25 Q Okay. But you told him to come. And then he said

1 that's really what you want. You want him to come up
2 there to your house. That's what he said.

3 And then you said you're fake, and you told him to
4 pull up again, right? Second time, right? I mean, you've
5 got to answer, not nodding your head, so the court
6 reporter can take it down. You told him to come to your
7 house a second time, didn't you?

8 A No. I just said, "Pull up," meaning do what you say
9 you're going to do.

10 Q But you told him to come to you again.

11 A That don't mean -- I mean, that don't mean nothing.

12 Q You told him to pull up again.

13 A I didn't come to him.

14 Q You told him to pull up again.

15 A "Pull up."

16 Q And you said it a second time, right?

17 A Yes.

18 Q Yes. Okay.

19 He said, "Over Scotty," and then you didn't reply,
20 correct?

21 A Correct.

22 Q Okay. And you said earlier that Scotty Pope was a
23 known confidential informant.

24 A Yes.

25 Q Yes.

1 So you're telling him to pull up to your house over
2 Scotty Pope, because you're talking about Scotty Pope.

3 A No.

4 Q You never said ---

5 A It had nothing to do with Scotty Pope. It was over
6 the threat he made to me.

7 Q You never ---

8 A And when I said, "Pull up," it can still be we can
9 resolve this. But he's still saying, "Is that what u
10 want?" He didn't pick up the phone. He didn't call me.
11 So his whole mindset is you heard what I -- you see what I
12 said, that's what I'm going to do. That's how I
13 comprehended it.

14 Q Okay. We'll come back to that in a minute.

15 So I want to talk to you about a couple other things.
16 This isn't the only time you spoke about this. You spoke
17 with Investigator Antonio Bailey, didn't you?

18 A Yes.

19 Q You did.

20 Okay. You spoke with him on July 5th of 2019,
21 correct?

22 A Correct.

23 Q Okay. And you wanted to talk to him heart to heart,
24 correct?

25 A No. I told him I wanted to talk to my lawyer, but if

1 I am going to talk to you, it will be heart to heart. But
2 I wanted my lawyer. That's the first thing I said to him.

3 Q That's the first thing you said to him. Really?
4 That's the first thing you said. You don't remember
5 saying to him, "All right. I don't want to sign, but we
6 can still talk, though."

7 A I didn't want to seem guilty or anything.

8 Q Do you agree that you told Investigator Bailey, "I
9 don't want to sign, but we can still talk, though"?

10 A I said, "I don't want to sign anything."

11 Q Investigator Bailey said to you he was going to read
12 this to you, and if you don't want to sign, you still want
13 to talk to me, we will do that, but that he has procedures
14 to follow.

15 And you said, "All right. I don't want to sign, but
16 we can still talk, though." Do you agree?

17 A Can I see the video footage of me saying that?

18 Q Yes.

19 (WHEREUPON, Court's Exhibit Number 7, a video, was played
20 in open court.)

21 BY MR. MILLER:

22 Q Okay. You see that? You said, "We can still talk,
23 though."

24 A Okay.

25 Q All right. And ---

1 A Can you play the video all the way through to the
2 beginning so I can know how the whole thing, how the
3 timeline and everything led up to me saying that? Because
4 I do remember saying I want to speak to my lawyer before
5 we even got to that part of the conversation. So can I
6 see the beginning of the video, please.

7 Q No. That's not the part I'm asking you about. You
8 didn't say that there.

9 A But it's -- but it's -- but it's going to be a
10 half-truth or you're trying to cover up something that can
11 be revealed. So if I could see the whole video, I can
12 comprehend up to the question where we got to this event.

13 Q Mr. Morris ---

14 A I'm not going to comprehend to answer your question
15 if I can't see the beginning of the footage, sir.

16 Q Mr. Morris, again, I am showing you that that's what
17 you said because you asked can I see if that's what I
18 said. I ---

19 A But I remember telling him I want to talk to my
20 lawyer. And if I can see the beginning of the footage, I
21 can be able to verify that I asked for my counsel. And I
22 asked can I please see the beginning of the footage to
23 verify me asking for my counsel so I can know this video
24 hasn't been manipulated.

25 MR. MILLER: Your Honor, I'd like to ---

1 THE WITNESS: Why is it being denied?

2 THE COURT: Hold on. Hold on. Hold on.

3 MR. MILLER: Can we instruct there are procedures I
4 have to follow under the rules as far as impeachment go,
5 and that I'm following those rules now and that's why it's
6 done the way it's done?

7 THE COURT: All right. I understand that, Counselor,
8 and I totally agree.

9 That's the way it's done, Mr. Morris.

10 THE WITNESS: He's dancing around the video footage
11 instead of playing everything to comprehend what ---

12 THE COURT: Well -- well, that's not what he's doing.
13 That's not what he's doing. So I'm going to let him
14 continue.

15 THE WITNESS: Okay.

16 THE COURT: Do you want to say something,
17 Mr. Gambrell?

18 MR. GAMBRELL: No. I would just -- you know,
19 obviously, we get a chance to redirect afterwards, and if
20 there's anything that Mr. Morris needs to address, then we
21 can do it at that time.

22 THE COURT: Right.

23 MR. GAMBRELL: I'm not sure he's aware of that,
24 Judge.

25 THE COURT: Your lawyer's going to have an

1 opportunity on redirect to address any issues that you
2 raise, those issues that you're raising. So just calm
3 down. Your lawyer will have an opportunity to address
4 those by way of redirect on his examination. All right.

5 THE COURT REPORTER: Judge, can I request that only
6 one person speak at a time?

7 THE COURT: All right. The court reporter has to
8 take down everything someone says, so when two or three
9 people are speaking at the same time, it's very difficult
10 for her to do that. So please, please not two people
11 speak at the same time.

12 Go ahead, Mr. Miller.

13 MR. MILLER: Thank you, Your Honor.

14 BY MR. MILLER:

15 Q Do you also remember Investigator Bailey asking you,
16 "What brought this on? Do you know this guy"?

17 A I don't remember any of that.

18 Q Okay. And do you remember your response was, for the
19 most part, "I thank God that I was allowed to get a bond
20 and get out of jail"?

21 A I don't understand. I was thinking I was out -- get
22 out of jail.

23 Q Do you remember that was in response to the question,
24 "Do you know this guy"?

25 A No. I don't remember that.

1 (WHEREUPON, Court's Exhibit Number 7, a video, was played
2 in open court.)

3 BY MR. MILLER:

4 Q Did you hear that?

5 A Yes.

6 Q Okay. So when you're asked do you know him, you just
7 said you were glad to get a bond to be able to get out of
8 jail.

9 A Yes. I didn't answer -- I didn't even comprehend
10 anything about him saying anything about do I know this
11 guy. I just said, "I just thank God to be out of jail."

12 Q Okay. And you were out on -- you got out on bond ---

13 A Yes.

14 Q --- on a trafficking case out of Pickens.

15 A No. Out of a trafficking case in Greenville as well.
16 Because the trafficking started in Greenville that I
17 wasn't convicted of, and it was used against me in Pickens
18 illegally because it was a nonconviction case. And I have
19 the tracking sheet right here to show you that the
20 whole ---

21 THE COURT: Go ahead. Just answer his question.

22 THE WITNESS: Okay.

23 THE COURT: Just answer the question.

24 THE WITNESS: It was -- it was a trafficking in
25 Greenville. It was a trafficking charge in Greenville.

1 The first trafficking was in Greenville.

2 BY MR. MILLER:

3 Q Greenville and Pickens.

4 A No. Greenville which led to Pickens. Greenville was
5 where the first trafficking occurred which I got out on
6 house arrest.

7 Q Both counties, Greenville and Pickens, out on bond.

8 A But it started from Greenville. To answer your
9 question correctly, sir, it was Greenville.

10 Q Is that a "yes," both counties?

11 A Yes.

12 Q Okay. Do you remember -- do you remember then
13 saying, "With me knowing him and all that, that's going to
14 be -- that can make my murder charge go any kind of way"?
15 Do you remember saying that?

16 A Can you play the footage?

17 Q Yes, sir.

18 (WHEREUPON, Court's Exhibit Number 7, a video, was played
19 in open court.)

20 BY MR. MILLER:

21 Q All right. And then again ---

22 A Do you want to know what I meant by that?

23 Q I'm just asking if you remember saying that.

24 A Do you want to know what I meant by it or you're just
25 asking if I said it?

1 THE COURT: All right. Just answer his question.

2 THE WITNESS: Okay. I'm sorry.

3 THE COURT: All right.

4 THE WITNESS: I was trying to understand what he was
5 saying. I'm sorry.

6 BY MR. MILLER:

7 Q Then do you remember Investigator Bailey asking him
8 again -- asking you again, "Did you know him," and you
9 remember saying, "I thought I knew the motherfucker. I
10 didn't know him. I thought I knew him"?

11 MR. GAMBRELL: Judge, I just need to clarify
12 something. I think these are statements that were all
13 made pre-Miranda.

14 MR. MILLER: They weren't, Your Honor. And also ---

15 THE WITNESS: I never waived my rights.

16 THE COURT: Hold on.

17 MR. MILLER: And also, Your Honor, I would say with
18 Miranda, Miranda does not bar a prior statement from being
19 used for impeachment purposes. It could be a bar for
20 introduction of evidence, but is not a bar for
21 cross-examination and impeachment.

22 MR. GAMBRELL: I just wasn't sure where this was in
23 the video. I've watched the video, but -- because there's
24 a conversation that takes place prior to him being
25 mirandized.

1 THE COURT: You think it's this conversation?

2 MR. MILLER: Your Honor, Miranda starts at eight
3 minutes and 50 seconds and it's read at ten minutes and 40
4 seconds.

5 THE COURT: So it's after the Miranda warnings.

6 MR. MILLER: This is 14 1/2.

7 MR. GAMBRELL: I just wanted to clarify that because
8 I -- you know, I wasn't sure.

9 THE COURT: You saw the video.

10 MR. GAMBRELL: I have, yes, sir.

11 THE COURT: All right.

12 THE WITNESS: I haven't saw it.

13 BY MR. MILLER:

14 Q Do you remember making that statement, Mr. Morris?

15 A I remember -- I remember what the video just showed.
16 I can't remember everything because you're not showing me
17 everything.

18 (WHEREUPON, Court's Exhibit Number 7, a video, was played
19 in open court.)

20 BY MR. MILLER:

21 Q All right. Do you then remember being asked by
22 Investigator Bailey asking you, "When you say he's
23 threatening, tell me, what did he say to you?" and your
24 response was, "I done heard stories about this
25 motherfucker"? Do you remember saying that?

1 A Could you play it?

2 Q Yes.

3 (WHEREUPON, Court's Exhibit Number 7, a video, was played
4 in open court.)

5 BY MR. MILLER:

6 Q Do you agree you said that?

7 A Yes.

8 Q Okay. Do you then remember saying, "When speak to my
9 actions, I fucked up big time. I'm still thinking like
10 what the fuck was I thinking"? Do you remember saying
11 that to Investigator Bailey?

12 A I don't remember. Can you play it?

13 Q Yes, sir.

14 (WHEREUPON, Court's Exhibit Number 7, a video, was played
15 in open court.)

16 THE WITNESS: You want me to answer that question
17 what I meant by that?

18 BY MR. MILLER:

19 Q That's what you said, right?

20 A But do you want me to answer what do I mean by it or
21 what -- what -- I mean, because are you asking me did I
22 say this, but it's proven that it's said. But I'm trying
23 to get what -- you're trying to get a comprehension of
24 what it means or was it just said? Because it can mean
25 that I didn't pick my company correctly. So I'm trying to

1 understand what is the meaning that you're trying to get
2 out of this question you're asking me. Are you asking me
3 did I fuck up by picking the wrong company or did I fuck
4 up by something -- by incriminating myself? What -- what
5 are you asking me?

6 Q I was asking you if that refreshed your memory that
7 you said that. Does it?

8 A About picking the company I keep, that's what you're
9 saying? Did I fuck up by the company I keep, picking --
10 picking the wrong company?

11 Q Well, I think ---

12 A Picking people that are real friends, just CIs trying
13 to trap you into something that ain't even real, that's
14 what I say. I fucked up big time by that. But I didn't
15 -- I didn't try to say I fucked up by the actions that
16 occurred because I had to protect my family. So when I
17 was saying I fucked up big time meaning that I fucked up
18 by befriending the wrong people, being too gullible and
19 trusting the wrong people.

20 Q I think you gave your explanation if I did ask it, so
21 we'll move on. But you agree you said that. You've given
22 your explanation, but you agree you said that, right?

23 A Is that what the video footage say?

24 Q You just watched it.

25 A All right then. I agree.

1 Q Okay. And you said that you left right after you
2 shot Jason Deck, correct?

3 A Yes.

4 Q Okay. And you said you went to Long John Silver's.

5 A Yes.

6 Q You didn't really take a direct route to Long John
7 Silver's, did you?

8 A I can't remember how I got there.

9 Q You don't remember walking down the road right before
10 it, walk through the parking lot over by ---

11 A I don't remember anything.

12 THE COURT: Hold on. Let him ask you the question,
13 Mr. Morris.

14 Go ahead, Mr. Miller.

15 BY MR. MILLER:

16 Q You don't remember walking around through the parking
17 lot of the old Bi-Lo, and then ---

18 A No.

19 Q --- walking, and then starting to run, and then
20 walking into the drive-through of the Long John Silver's?

21 A I remember walking across the street behind the old
22 Bi-Lo, then walking up to the drive-through.

23 Q And into the drive-through. That's where you were
24 actually detained, right?

25 A Yes.

1 Q Okay. So you didn't walk straight down the sidewalk
2 of White Horse Road to get to Long John Silver's, did you?

3 A I can't remember exactly how I got there. But I
4 remember there were so many cop cars and cars parked, I
5 just got to Long John Silver's the best way I could.

6 Q Okay. But you just said you went through the old
7 Bi-Lo parking lot.

8 A Behind the old Bi-Lo parking lot.

9 Q So you weren't walking straight down White Horse
10 Road.

11 A I can't even remember.

12 Q Okay. I think geography answers that.

13 When you were detained, you no longer had on your red
14 hat and you no longer had the gun, right?

15 A No.

16 Q Both of those were gone.

17 A Yes.

18 Q And when you ran out of the store or when you ran out
19 of Walmart, your red hat stayed on your head.

20 A I don't remember.

21 Q Okay. We'll get back to that.

22 But Investigator Bailey asked you about where's the
23 gun, and you said you -- essentially, you got rid of it,
24 right? And they were asking -- they didn't want a kid to
25 find it. And do you remember saying that no child or an

1 adult that's dumb is going to find it, and that was your
2 word?

3 A Is that on video?

4 Q It is.

5 A Could you play it?

6 Q Yes.

7 (WHEREUPON, Court's Exhibit Number 7, a video, was played
8 in open court.)

9 BY MR. MILLER:

10 Q You said, "No one's going to find it," right?

11 A Yes.

12 Q Okay. So you got rid of it.

13 A I lost it.

14 Q You just lost it in a way that ---

15 A I just lost it.

16 Q --- that no kid or adult ---

17 A I lost it and I can't find it.

18 Q Okay. Let me ask my question. Your testimony is
19 that you just lost the gun, but you can give your word
20 that no adult that's dumb or kid was going to find it.

21 A I lost it and I can't find it. And if I can't find
22 it, I can't find it.

23 Q And you agree you didn't just tell Investigator
24 Bailey there that you lost it, though. What you're saying
25 now is different than what you said on July 5th of 2019.

1 A No. I said that I don't -- they won't find a gun. I
2 mean, I lost it.

3 Q You didn't tell him you lost it.

4 A What did I tell him?

5 Q Okay. You later said you can't recall where you put
6 it.

7 A So, I mean, I lost it. If I can't recall where I put
8 it, I lost it. It's misplaced. It's the same thing. If
9 I can't recall something, it's a lost memory, that means I
10 lost where I found something.

11 Q Well, let's talk about what you told Investigator
12 Bailey.

13 A Okay.

14 Q He asked, "Could you tell me where you put it?"

15 You said, "I can't recall that."

16 Investigator Bailey asked, "Did you throw it?"

17 And you said, "Right now my mind is circles right
18 now, man. I'm trying to figure out how this thing is
19 going to go."

20 A Yes. I was under duress. And he's coercing me in
21 questions after I told him I wanted counsel. My mind --
22 like you said, my mind's in circles. That means I'm under
23 duress right now.

24 Q So you're ---

25 A I was in an -- I did not commit an unlawful act, and

1 I'm under duress right now, and I'm being forced to answer
2 questions in a custodial interrogation by the police. I
3 didn't waive my rights, and I didn't say I didn't want a
4 lawyer. I want a lawyer. And I didn't get to even prove
5 that because we haven't played the video from the
6 beginning up to the event.

7 THE COURT: Just answer his questions, Mr. Morris.

8 THE WITNESS: I'm sorry.

9 THE COURT: All right.

10 BY MR. MILLER:

11 Q So, Mr. Morris, you were at Walmart on July 5, 2019,
12 and I believe you testified earlier that you said you
13 couldn't see Jason Deck's hands.

14 A I said he had his hands in his pocket when he was
15 coming towards me.

16 Q Okay. But you went towards him too, didn't you?

17 A No.

18 Q You didn't walk towards him?

19 A No, I did not.

20 Q Okay. Let's play the video.

21 (WHEREUPON, Court's Exhibit Number 6, a video, was played
22 in open court.)

23 BY MR. MILLER:

24 Q So you didn't take one step towards Jason Deck.

25 A No. I stepped in the middle of the self-checkout so

1 my kids couldn't be near him.

2 Q That's you in the red hat, correct ---

3 A Correct.

4 Q --- down in the bottom right corner?

5 Okay. And then Jason Deck is going to walk up
6 towards the top of the screen.

7 (WHEREUPON, Court's Exhibit Number 6, a video, was played
8 in open court.)

9 BY MR. MILLER:

10 Q What's in your left pocket?

11 A Excuse me?

12 Q What's in your left pocket?

13 A A firearm.

14 Q And at this time you had been convicted of attempted
15 armed robbery, correct?

16 A I was convicted of attempted armed robbery.

17 Q Which was a felony offense and classified as a
18 violent crime. And you weren't supposed to even have a
19 firearm, were you?

20 A I was in unlawful possession of a weapon. I can
21 admit that. But I can still use self-defense if I have to
22 lawfully use it.

23 Q Okay. You ---

24 A So unlawful possession of a firearm doesn't foreclose
25 self-defense.

1 THE COURT: Hold on, hold on. Just answer his
2 question.

3 BY MR. MILLER:

4 Q So you agree by even carrying that firearm at all you
5 were violating the law.

6 A Was I?

7 Q You just said you were in unlawful possession, so I
8 guess you agree you're in unlawful possession.

9 All right. Let's take a look. It looks like you
10 also approached Jason Deck there, doesn't it?

11 A No.

12 Q No. You didn't walk towards him?

13 A No.

14 Q You stood still.

15 A I just shove my kids out of the way.

16 Q But you walk towards him.

17 A I walk to the middle of the self-checkout.

18 Q Towards Jason Deck, because that's where he was,
19 right? Correct?

20 A Excuse me?

21 Q You walked to where Jason Deck was, correct?

22 A No. Deck, if you see, coming towards me in the
23 middle of self-checkout. I walked to the middle to tell
24 my kids to get out of the way.

25 Q You walked ---

1 A I didn't walk towards him. I walked to the middle of
2 self-checkout. He came towards me.

3 Q Mr. Morris, please remember Judge Kinlaw has asked us
4 to speak one ---

5 A I'm answering the question. He's approaching me.

6 THE COURT: Hold on. Hold, hold, hold. Mr. Morris,
7 please do not -- let Mr. Miller ask the question, you
8 answer it, okay?

9 THE WITNESS: All right.

10 THE COURT: Don't talk at the same time when he's
11 talking, all right? You got that?

12 THE WITNESS: Yes, sir.

13 THE COURT: All right.

14 BY MR. MILLER:

15 Q My question, Mr. Morris, is you walked in the
16 direction towards Jason Deck.

17 A The answer to your question is no.

18 Q All right. And at this moment, Mr. Morris, are both
19 of Jason Deck's hands out of his pockets?

20 A Looking at it -- looking at in the sky, yes. But
21 when -- still when I was looking at him eye to eye,
22 standing eye to eye with his hands in his pockets.

23 Q So you weren't looking at his hands?

24 A When he came in, I was looking at his hands.

25 Q Okay. So you didn't -- you stopped looking at his

1 hands then.

2 A Yes.

3 Q You were no longer looking at his hands, but you were
4 looking at them earlier.

5 A Yes.

6 Q And you thought you were looking at him for a weapon
7 to get pulled. That's what you told your lawyer.

8 A Yes.

9 Q But then you stopped looking at his hands?

10 A I stopped looking because I was preparing myself to
11 defend myself.

12 Q So you stopped looking at the area where you
13 perceived the threat to be.

14 A When he came approaching me with his hands in his
15 pocket, I looked at him, he had the devil in his eye, and
16 I was locked in on his eyes.

17 Q So you stopped looking at the area where you
18 perceived the threat to be.

19 A I perceived the threat all up and down.

20 Q You testified earlier it was his hand in his pocket
21 that worried you. So you stopped looking at his hands
22 then.

23 Now, looking at this, is Jason Deck holding a gun?

24 A When I was looking at him eye to eye like he had it
25 behind his back.

1 Q That's not the question.

2 A To answer your question, when I was looking -- like
3 when you look at this video footage, you're looking in the
4 sky, like a -- like a bird in the sky. But when you're
5 standing eye to eye with someone, I seen his arm was
6 behind his back, so I'm thinking he's trying to pull it
7 behind his back.

8 Q You thought he was going behind his back. Okay.
9 (WHEREUPON, Court's Exhibit Number 6, a video, was played
10 in open court.)

11 BY MR. MILLER:

12 Q There's the first shot. You saw earlier, right?
13 We'll back it up. Again, his hands aren't behind his back
14 now, are they?

15 A Looks like his hand in his pocket now.

16 Q No, they're not.

17 A Well, I thought it was in his pocket.

18 Q That was where you first shot him. And Jason Deck is
19 going to fall to the ground, isn't he?

20 A Could you play it?

21 (WHEREUPON, Court's Exhibit Number 6, a video, was played
22 in open court.)

23 BY MR. MILLER:

24 Q So watching that, he never put his hands behind his
25 back, did he? He actually put them out in front of his

1 stomach.

2 A He had his -- he had his hand in his pocket.

3 Q But then he took them out of his pocket ---

4 A I didn't see that.

5 THE COURT: Hold on. Hold on. Let him ask the
6 question, then you answer.

7 BY MR. MILLER:

8 Q Before you shot Jason Deck, his hands were out of
9 his pockets and in front of him with nothing in them,
10 correct?

11 A When -- when that event occurred, I didn't view -- I
12 didn't appear to see it. His hands were in his pocket
13 when I -- when I appeared to see him. I didn't see his
14 hand in front of him.

15 Q So you stopped looking at the area where you
16 perceived the threat to be, which was his hand in his
17 pocket, correct?

18 A I looked and seen the devil in his eye. And his
19 hands -- when I looked in his eyes, my mind still would
20 project his hands were still in his pocket.

21 Q So you just stopped paying attention.

22 A Because I was in imminent fear of my family's life so
23 I couldn't completely focus.

24 (WHEREUPON, Court's Exhibit Number 6, a video, was played
25 in open court.)

1 BY MR. MILLER:

2 Q So there's the first shot. And you tried to shoot
3 again there and the gun jammed, didn't it? And you
4 reloaded the gun after that, didn't you?

5 A I didn't reload the gun.

6 Q You didn't? Did you ever reload the gun on July 5,
7 2019?

8 A Could you play me reloading the gun?

9 Q Reracked the gun.

10 A Oh, you said reload, though.

11 Q Okay. Rerack.

12 A So you -- you ---

13 THE COURT: Hold on, hold on.

14 THE WITNESS: He ---

15 THE COURT: I understand that, but don't argue.

16 THE WITNESS: Yes, sir.

17 THE COURT: Just answer the question.

18 THE WITNESS: Yes, sir.

19 He said did I reload the gun. I said no.

20 THE COURT: All right. Well, you've answered the
21 question.

22 MR. MILLER: I'll rephrase, Your Honor.

23 THE COURT: All right.

24 BY MR. MILLER:

25 Q After you shot Jason Deck the first time, the gun

1 jammed and you reracked the gun.

2 A I didn't know that's what rerack mean.

3 Q It sounded like you just did.

4 A I didn't see.

5 Now you're making assumptions out of what I'm saying.

6 You're trying to manipulate what I'm saying.

7 Q The gun jammed and you ---

8 A See? You say ---

9 THE COURT: Don't talk. I already told you seven
10 times not to talk ---

11 THE WITNESS: Yes, sir.

12 THE COURT: I'm going to let you ---

13 THE WITNESS: Sir ---

14 THE COURT: --- testify, whatever you want, but
15 answer the question. I don't want to continue to tell you
16 not to do that.

17 THE WITNESS: Yes, sir. Can I see ---

18 THE COURT: Let him ask the question, you answer.

19 THE WITNESS: He ---

20 THE COURT: What? He hasn't asked you a question
21 yet.

22 THE WITNESS: Well, when I ---

23 THE COURT: Let him ask you a question, then you
24 answer, all right?

25 Go ahead, Mr. Miller.

1 MR. MILLER: Thank you, Your Honor.

2 (WHEREUPON, Court's Exhibit Number 6, a video, was played
3 in open court.)

4 BY MR. MILLER:

5 Q So you shoot there, and then Jason Deck is falling
6 and you just tried to shoot again, correct?

7 A Yes.

8 Q But the gun did not fire, did it?

9 A I can't remember.

10 Q You just tried to shoot again there, and the gun did
11 not fire, did it?

12 A It happened so fast I can't even remember every
13 single detail of that event right there that occurs. I
14 just remember shooting twice. That's it.

15 Q And when you shoot Jason Deck the second time, he is
16 lying on the ground motionless, isn't he?

17 A No. Because he's reaching in his pocket again.

18 (WHEREUPON, Court's Exhibit Number 6, a video, was played
19 in open court.)

20 BY MR. MILLER:

21 Q When you shot him, he wasn't moving his hands. He
22 was lying on the ground motionless, wasn't he?

23 A No. He was reaching in his pocket when I shot him
24 again. So I think he's going to try to aim at anyone he
25 possibly can or even me, so I shot him again.

1 Q But I thought you stopped looking at his hands.

2 A I began to look at them when he -- when he laid down.

3 (WHEREUPON, Court's Exhibit Number 6, a video, was played

4 in open court.)

5 BY MR. MILLER:

6 Q As you run out, the red hat doesn't come off your

7 head, does it? It stayed on, didn't it?

8 A That's what the video shows.

9 Q Okay. It's on your head again there, isn't it?

10 A I can't see now. Looks like it's off.

11 (WHEREUPON, Court's Exhibit Number 6, a video, was played

12 in open court.)

13 BY MR. MILLER:

14 Q Saw it on your head there?

15 A Yes.

16 Q Okay. So it didn't fly off while you were running,

17 did it?

18 A I'm not sure.

19 Q Okay. Well, when you were detained by Sergeant

20 McCalmont, you didn't have the red hat on your head, did

21 you?

22 A I don't remember.

23 Q You took the red hat off your head, didn't you,

24 because you wanted to change your appearance so that you

25 wouldn't be found, right?

1 A I don't remember.

2 MR. MILLER: Your Honor, is it -- I believe
3 Mr. Gambrell previously was okay with coming to assist to
4 switch over to this system.

5 THE COURT: Yes.

6 BY MR. MILLER:

7 Q Mr. Morris, while you were in the detention center,
8 you used the kiosk for jail mail, correct?

9 A Yes, sir.

10 Q Do you remember on July 20th of 2019 sending a
11 message, you said, "No. It was self-defense. That pussy
12 muthafucka text messaged me threats. Don't create chaos.
13 The confidential informant is still alive. If you want to
14 help you know what can be done."

15 A Could you show me?

16 Q That's from your account to Tiara John Phillips.

17 A Okay.

18 Q And you said that, that the confidential informant is
19 still alive. If someone needs to help, you know what can
20 be done, right?

21 A That's what it says.

22 Q Yeah.

23 A Do you want to know what it means?

24 Q That you wanted to kill the confidential informant?

25 A No. It does not mean that. It means that you can

1 come forth and be a witness that he text messaged me
2 threats.

3 Q Now, do you remember on July 30th, ten days later,
4 sending a message to Adriane Hammond? You said, "I know
5 baby. I've been on my case doing research and it looks
6 like I can beat if off of self-defense."

7 A Could you show me?

8 Q That doesn't say it was self-defense. That says,
9 "I've been doing research and it looks like I can beat it
10 off of self-defense," correct?

11 A It says, "I know baby. I've been on my case doing
12 research and it looks like I can beat it off self-defense
13 because it's all on camera, me being watched then
14 violently approached for me to save my life and not to
15 risk losing my life and my children beside me too."
16 That's what it says.

17 Q So you agree it says, "It looks like I can beat it
18 off of self-defense."

19 A It's not about me saying I'll beat it. It's about me
20 proving my innocence. The word "beat" means prove
21 innocence. It don't mean about getting off or beating the
22 system. It means I can win an unjust situation.

23 Q You agree that's what it says. You gave your
24 explanation, but you agree that's what it says, correct?

25 A Okay. But I'm asking -- can I ask -- you asked me --

1 can I ask you a question?

2 You asked me a question is that what it says, but do
3 you -- are you trying to get what -- are you trying to
4 manipulate what it says or are you trying to get me to
5 testify what it means?

6 THE COURT: Mr. Morris, he's just asking you what ---

7 THE WITNESS: What it says.

8 THE COURT: --- what it says.

9 THE WITNESS: Okay. I'm just trying to make sure ---

10 THE COURT: It's either yes or no, is that what it
11 says.

12 THE WITNESS: All right. It says, "I can beat it off
13 of self-defense."

14 THE COURT: Your lawyer will have an opportunity on
15 redirect to ask you any questions.

16 THE WITNESS: I just don't want to be manipulated
17 into saying the wrong answers.

18 THE COURT: That's what ---

19 THE WITNESS: I don't want perjury.

20 THE COURT: Don't talk at the same time, Mr. Morris.

21 THE WITNESS: Yes, sir.

22 MR. MILLER: Your Honor, may Mr. Cartee approach to
23 switch back over?

24 THE COURT: Yes.

25 MR. MILLER: Thank you.

1 BY MR. MILLER:

2 Q Your middle name is Lamar, correct?

3 A Yes.

4 Q Last name Morris?

5 A Yes.

6 Q Do you remember making a jail call on May 30th of
7 2020, from a Tasoai Charles Wakefield's account about 7:30
8 at night to number [REDACTED]-6599?

9 A No, sir.

10 Q So do we need to refresh your memory?

11 A Yeah, please.

12 Q All right. We'll play for you on this call where you
13 say on your Facebook that you're Lamar Morris.

14 (WHEREUPON, Court's Exhibit Number 8, an audio recording,
15 was played in open court.)

16 BY MR. MILLER:

17 Q Do you remember on this call saying to the person on
18 the line, "The whole situation is you've got to make him
19 the aggressor"?

20 A I don't remember saying anything about that. And if
21 I said it, it had nothing to do with the situation at
22 Walmart at all.

23 Q All right.

24 A It's a conversation probably we was having about
25 something in our own personal life. It ain't got nothing

1 to do with what happened at Walmart.

2 Q Just because you don't remember saying it, we're
3 going to play it.

4 A I don't remember.

5 (WHEREUPON, Court's Exhibit Number 8, an audio recording,
6 was played in open court.)

7 BY MR. MILLER:

8 Q So you're telling the person, "The whole situation
9 is you've got to make him the aggressor." Did you hear
10 that?

11 A I hear it.

12 Q You heard it.

13 A But that doesn't have nothing to do with what
14 happened at Walmart.

15 Q You were in jail at this time for being charged with
16 the murder ---

17 A But it has nothing -- sorry. Go ahead.

18 Q You were in jail at the time on the charges of murder
19 and possession of a weapon during the commission of a
20 violent crime for the murder of Jason Michael Deck on
21 July 5, 2019, in Walmart, right? That's what you're in
22 jail on.

23 A I'm in jail for what you just said. But every
24 conversation I have on my phone has nothing to do with
25 what happened at Walmart at all. So we're talking, and it

1 has nothing to do with Walmart. We had -- it had nothing
2 to do with anybody in particular that has anything against
3 me. And whatever they're telling me, it's about whatever
4 going on in their life.

5 Q Do you remember ---

6 A That means if I said that they are the -- you make
7 them the aggressor meaning that you don't start the fight,
8 you just make sure you check yourself in.

9 Q Do you remember early in the call saying, "The
10 motherfucker I killed"?

11 A I don't remember that.

12 Q Okay.

13 (WHEREUPON, Court's Exhibit Number 8, an audio recording,
14 was played in open court.)

15 BY MR. MILLER:

16 Q "The motherfucker I killed," did you hear that?

17 A I hear it.

18 Q Okay. It was there.

19 Do you also remember saying that the gun you used is
20 a 9 millimeter, it doesn't connect nobody to nothing, they
21 don't even have the murder weapon?

22 A It was a 9 millimeter, but I still don't remember
23 anything else you said.

24 Q Okay. We'll play it.

25 A All right.

1 (WHEREUPON, Court's Exhibit Number 8, an audio recording,
2 was played in open court.)

3 BY MR. MILLER:

4 Q "They don't even have the murder weapon." You said
5 that, correct?

6 A (No answer.)

7 Q And this time you were in jail, again, on the charges
8 of murder for the incident at Walmart, right?

9 A Yes.

10 Q Okay. This also isn't the only time you called it
11 murder, is it?

12 A I don't remember.

13 Q You don't remember? We'll come back to that.

14 A I just called it -- I just called it what the charge
15 has been. That's all. So when you say "murder," that's
16 what I'm charged with. I wish I called it self-defense.
17 I wouldn't be in jail. But I've got to call it what it's
18 charged.

19 Q You didn't say all that on that phone call, though,
20 right there, did you?

21 A Because I'm trying to get you to understand what I
22 said. I'm charged with murder, so that's what I'm saying,
23 murder. But it's not a murder. And in my text messages,
24 I said "self-defense" multiple time.

25 Q In your text messages?

1 A The ones you presented to the Court.

2 Q Oh, your email. Okay. We'll come back to that real
3 quick.

4 You said you saw Stinson Ruth in Walmart.

5 A Yes.

6 Q And you said it was you just kind of knew him from
7 somebody?

8 A Yes.

9 Q You weren't provided with the packet that shows he
10 was the person that bought drugs from you in Greenville
11 and Pickens?

12 A I'm convicted of that, and that's all I can answer
13 it.

14 Q You were shown that packet, though.

15 A But I was not convicted of the Greenville charge
16 where it stemmed from.

17 Q That wasn't ---

18 A The Greenville investigation, it got dismissed. So
19 the question you asked me, it's a nonconviction case.

20 Pickens is a separate case, and I didn't get a full
21 details to prove at my trial that I was -- that I was
22 found guilty of that I was innocent of the situation.

23 They used inadmissible evidence ---

24 THE COURT: Hold on, hold on. That's not answering
25 his question.

1 THE WITNESS: Okay.

2 THE COURT: Answers his question.

3 THE WITNESS: What is your question?

4 BY MR. MILLER:

5 Q That you saw the packet that Stinson Ruth bought
6 drugs from you.

7 A I just saw that packet.

8 Q Okay. And when you saw him in Walmart that day, you
9 told him, "I'm going to wet him up."

10 A No.

11 Q Okay. Now, also, when you were roadside in a patrol
12 car and Investigator King came to talk to you, you told
13 Investigator King, "Man, I think I've probably already
14 said too much. Check the cameras in the store. And,
15 again, I told -- and, man, I was set up. That's why I got
16 this ankle monitor. I know I went about it the wrong way
17 and I know I'll probably never see the light of day" ---

18 A I never said that.

19 THE COURT: Hold, hold.

20 THE WITNESS: Sorry. Sorry, sir.

21 BY MR. MILLER:

22 Q You said that to Investigator King?

23 A I don't remember saying anything to -- I never
24 remember saying anything to Investigator King. Anything.

25 Q He also asked you about the gun, and you said, "No

1 kid will find it," correct?

2 A I said, "No one will find it."

3 Q Okay. And after you were placed under arrest and you
4 were taken to the Greenville County Detention Center, you
5 were up for a bond hearing in front of Judge Peden.

6 A Yes.

7 MR. GAMBRELL: Judge, I just want to make sure that
8 our previous objections are made in pretrial.

9 THE COURT: Noted for the record.

10 BY MR. MILLER:

11 Q And Judge Peden told you that you have the right to
12 remain silent, that anything that was said could be used
13 against you in a proceeding or your trial.

14 A I was under duress, and I don't remember him saying
15 any of that to me. I just remember him saying, "State
16 your name." That's it.

17 (WHEREUPON, Court's Exhibit Number 5, a video, was played
18 in open court.)

19 BY MR. MILLER:

20 Q So he advised you of those rights to an attorney and
21 you can be silent, didn't he?

22 A At that moment in time, I can look in my eyes and
23 tell I wasn't paying attention to nothing he said. I've
24 got what you call ADHD, and sometimes I can -- you can
25 talk to me and I'm on a drift off, so what -- everything

1 he was saying was going in one ear, out the other.

2 Q He also informed you that you were charged with
3 murder and possession of a weapon during the commission of
4 a violent crime.

5 A Again, I only remember him saying, "State your name."
6 I don't remember anything else.

7 Q So you wouldn't have responded to any type of
8 question then because it was in one ear and out the other,
9 right?

10 A Excuse me?

11 Q You -- if someone -- you said everything was in one
12 ear and out the other, so you wouldn't have responded to a
13 question because then you wouldn't have known somebody
14 asked you a question.

15 A Sometimes you can listen to people and don't hear
16 them. So when he was talking, I wasn't paying attention.
17 My mind was so shell-shocked about what's been going on
18 the whole time, my mind really so traumatized, I'm not
19 even focused on every detail of what's going on inside
20 this bond hearing. I'm not paying attention to nothing
21 that Peden is saying to me.

22 Q So you didn't respond to any type of question at all.

23 A If I did respond, it was just to continue to get out
24 of there.

25 Q Okay. So you don't remember ---

1 A I don't remember.

2 Q You're going to let me ask the question?

3 A You said you don't remember. I said I don't
4 remember.

5 THE COURT: Let him ask the question.

6 BY MR. MILLER:

7 Q I wasn't done.

8 You don't remember telling the Court in response to
9 the victim's father's question the reason why I murdered
10 your son.

11 A I don't even know what "murder" mean.

12 Q Well, going back to you, though, you said you did
13 research, you said you could beat it on self-defense.

14 A That was after, not before the bond hearing.

15 (WHEREUPON, Court's Exhibit Number 5, a video, was played
16 in open court.)

17 BY MR. MILLER:

18 Q You seem to answer that question pretty well. You
19 said, "Can I tell him why?" didn't you?

20 A I was trying to give him closure.

21 Q Okay. And you also said you weren't going to be
22 ignorant and disrespectful and you're trying to give him
23 closure. So do you remember what you said to give him
24 closure?

25 A No.

1 Q Okay. Well, let's play it.

2 (WHEREUPON, Court's Exhibit Number 5, a video, was played
3 in open court.)

4 BY MR. MILLER:

5 Q You gave him his closure because you murdered him
6 because he introduced you to Scotty Pope.

7 A No. It wasn't about Scotty Pope. It was about the
8 threats he made to kill my family. I told him in a text
9 message I have no problem with you over and over. I'm not
10 tripping about you, I have no problem with you. And I've
11 been trying to give this man peace. I said Scotty Pope
12 was the dispute we had amongst each other, and he kept
13 trying to intervene bodily like he was going to step in
14 Scotty Pope's shoes and try to come after me. It wasn't
15 about -- anything about him. I had no malice, no hate
16 towards Michael Deck at all.

17 Q So now -- you're saying now Scotty ---

18 A I was saying then and now that I never had a problem
19 with Michael Deck. Scotty Pope was the person I had a
20 dispute over that I have not threatened, went after or
21 anything. People can have disputes with each other.

22 But when Michael Deck tend to threaten me and my
23 family, that's when it became a problem right then and
24 there. And that's why I explained to his father your son
25 was a stand-up dude, man, that's where he was talking to

1 me. We did have a good friendship. But when he chose
2 sides to intervene with a person that did not have my best
3 interest and didn't have the safety of my family and
4 respect and he threatened to kill my family, that's why we
5 had a problem and that's why -- that's what I'm trying to
6 explain of the situation to kill all the confusion.
7 Because it's like -- it's like Scotty Pope has not been
8 attacked, has not been harmed or anything. And it's like
9 the blame -- since Michael Deck has been fatally shot, the
10 blame's put on him. It's not about that. It's about the
11 threats that he made.

12 And I said -- if you play the rest of the video, I
13 said he threatened my life. I said in that same video
14 that you're playing back and forth skipping over. If you
15 keep playing it will say he threatened my life.

16 Q You said right there, "The reason why I murdered" ---

17 A I didn't know what "murder" mean.

18 THE COURT: Mr. Morris, stop it.

19 THE WITNESS: Yes, sir.

20 THE COURT: Let him ask the question.

21 And I'm going to tell you, I said this about 10,
22 20 times. I'm getting fed up telling you the same thing
23 over and over again, okay?

24 THE WITNESS: Yes, sir.

25 THE COURT: You have the right to testify,

1 absolutely. But Mr. Miller has the right to be heard and
2 ask questions.

3 THE WITNESS: Yes, sir.

4 THE COURT: But you continuously interrupt him.

5 THE WITNESS: I'll wait till he's finished this time.

6 THE COURT: He doesn't interrupt you.

7 THE WITNESS: I'll wait till he's finished.

8 THE COURT: I've already told you that 20 times and
9 my patience is running thin with you.

10 THE WITNESS: Yes, sir. I'd be thinking he done, and
11 he not done.

12 THE COURT: I understand that. But I'm trying to be
13 fair to both sides.

14 THE WITNESS: Yes, sir.

15 THE COURT: I'm letting you tell him whatever you
16 want to say.

17 THE WITNESS: Yes, sir.

18 THE COURT: But I cannot allow you to continue to
19 talk over the other side because the court reporter can't
20 take that down.

21 THE WITNESS: Yes, sir.

22 THE COURT: I don't know how many times I've said
23 that to you.

24 THE WITNESS: Yes, sir. I'm sorry.

25 THE COURT: Any part of that you don't understand?

1 THE WITNESS: I'm comprehending now, because I need
2 that in the record.

3 THE COURT: Any part of that you don't understand ---

4 THE WITNESS: I understand ---

5 THE COURT: --- what I just said?

6 THE WITNESS: I understand everything.

7 MR. MILLER: Thank you, Your Honor.

8 BY MR. MILLER:

9 Q I believe you just said that Jason Deck stepped into
10 the shoes of Scotty Pope? That's what you thought, right?

11 A Are you finished asking me a question?

12 Q That was the question.

13 A Okay. I said that Scotty Pope was sending Deck to
14 me, and Deck was stepping in a dispute between me and
15 Scotty Pope violently. That's what I was saying.

16 Q And you told -- you say to Deck's father at that bond
17 hearing, "The reason why I murdered your son." You said
18 that, yes or no?

19 A Can you rephrase the question?

20 Q Do I need to replay the video to refresh your memory?

21 A I need you to rephrase the question because I don't
22 know what "murder" means.

23 Q I'm asking what you said, not what it means.

24 A Oh, well, I said something that I didn't have the
25 full understanding of what I was saying.

1 Q Let's appreciate this. You are in jail, correct?

2 A Yes.

3 Q On the charges of murder, correct?

4 A Yes.

5 Q At your bond hearing for the murder charge, correct?

6 A Yes.

7 Q And you said, yes or no, "The reason why I murdered
8 your son," correct?

9 A I don't know -- I did not know what "murder" mean
10 when I said it.

11 Q That was not the question.

12 A Well, that's not -- I don't know what "murder" mean.

13 Q I'm asking you is that what you said?

14 A But you're making me answer a question that I didn't
15 have the definition when I said it.

16 MR. MILLER: Judge, if you'd please instruct ---

17 THE COURT: Mr. Morris, answer the question. The
18 video was played. You saw it. Mr. Miller is asking
19 you is that what you said, did that come out of your
20 mouth.

21 THE WITNESS: That's what came out of ---

22 THE COURT: You saw the video. You heard it. The
23 question is, is that what came out of your mouth?

24 THE WITNESS: That's what came out of my mouth, the
25 charges.

1 BY MR. MILLER:

2 Q And then you said because he introduced you to a
3 poisonous motherfucker named Scotty Pope, correct?

4 A Correct.

5 Q And then you said, "So that's why he's dead,"
6 correct?

7 A Correct.

8 Q You didn't end with murder, did you?

9 A Excuse me?

10 Q You didn't -- the last word you said about that
11 wasn't, "That's why he was murdered." You said, "So
12 that's why he's dead."

13 A Out of self-defense, yes.

14 Q And you said, "So that's why he's dead," just before
15 you said, "The reason why I murdered your son," correct?

16 A Out of self-defense, yes.

17 Q So the answer is "yes."

18 A Out of self-defense. I'm answering your question.
19 Out of self-defense, yes. I can't just say "yes." It's
20 out of self-defense.

21 Q But the reason you did kill Jason Deck is because he
22 introduced you to Scotty Pope.

23 A No.

24 Q Do I need to refresh your memory on that?

25 A No. Because even if you play this video footage,

1 that's not what -- you're -- let me answer your question
2 since I have -- you asked me a question. Let me answer
3 it. I never had a problem with Michael Jason Deck. I had
4 a dispute with Scotty Pope. I never accused him of
5 anything in these text messages about I'm going to do
6 something to him because he introduced me to him.

7 THE COURT: That's not what he's asking you,
8 Mr. Morris.

9 THE WITNESS: What is he asking me?

10 THE COURT: Repeat your question, Mr. Miller.

11 BY MR. MILLER:

12 Q You killed Jason Deck because he introduced you to
13 Scotty Pope, correct?

14 A Out of self-defense, yes.

15 Q And you said, "Scotty Pope is a confidential
16 informant," correct?

17 A Correct.

18 Q And you said "death before dishonor," correct?

19 A Out of context. It had nothing to do with that right
20 there. That's a whole other conversation.

21 Q You said "death before dishonor" ---

22 A You're mixing the conversations up. First, you say
23 the bond hearing, now you're saying the text messages. I
24 never said "death before dishonor" in this bond hearing.

25 THE COURT: Mr. Morris ---

1 THE WITNESS: I said -- I'm answering his question.

2 THE COURT: I want you to let him ask the question.

3 BY MR. MILLER:

4 Q You said "death before dishonor" in that text, and
5 you said it is "universal logic," correct?

6 A In the text messages?

7 Q Yes.

8 A In the text message, yes.

9 Q That sounds like that's a credo. Is it? That's what
10 you live by.

11 A I don't even know what "credo" mean.

12 Q That's a principle you live by, right?

13 A Nope.

14 Q Something you believe in.

15 A I mean -- see, no. I meant I'll never betray our
16 friendship. When I mean death, I mean my death, my death
17 before dishonor, not yours. Mine.

18 Q That's not what you said, is it?

19 A I said "death before dishonor." Death is first
20 meaning me saying to you my death before dishonor. You
21 say credo was a principle. I'm telling you it's my death
22 before dishonor meaning I would never betray our
23 friendship. My death before dishonor means loyalty. It
24 doesn't mean no threat, it doesn't mean no type of
25 insinuation of harming you in no type of way. Because

1 when he reply, he said, "Hey bro I put it on my 6 I'm
2 going to make this right somehow." He didn't feel
3 threatened. He didn't say -- he didn't say nothing about
4 shoot it out with my family, killing us and all this, and
5 I got 12 people, charged with attempted murder. That was
6 not what that's about. We had a dispute because he's
7 telling me he know of someone that I don't see eye to eye
8 with, and then I asked him why -- why are you looking for
9 me?

10 THE COURT: Mr. Morris, you've already covered that.

11 THE WITNESS: Okay. I'm sorry.

12 THE COURT: Next question, Mr. Miller.

13 MR. MILLER: Judge, at first I thought he answered
14 that that's what it says.

15 BY MR. MILLER:

16 Q That's what the text said.

17 A Are we talking about the text message or the bond
18 hearing?

19 Q The text message says ---

20 A Okay.

21 Q --- "Death before dishonor, universal logic."

22 A Okay. That's what it says.

23 Q And that -- there was not a text from Jason Deck to
24 you that that was responding to. That was the first text
25 message, wasn't it?

1 A Yes. After our conversation on the phone.

2 Q Okay. And the reason why you killed Jason Deck is
3 because he introduced you to Scotty Pope.

4 A Nope, no. The reason why Michael Deck was fatally
5 shot, because he threatened to kill my family. It had
6 nothing to do with Scotty Pope. I never went looking for
7 Michael Jason Deck. I never threatened to kill Michael
8 Jason Deck.

9 Q At the bond hearing, you said that he introduced you
10 to a poisonous motherfucker Scotty Pope, and that's why
11 he's dead.

12 A Out of self-defense.

13 Q Yes or no, is that what you said?

14 A Out of self-defense.

15 THE COURT: Answer the question, Mr. Morris. Yes or
16 no, did you say that or not?

17 THE WITNESS: Yes. And I also said he threatened my
18 life.

19 THE COURT: Well, I'm just asking you ---

20 THE WITNESS: I'm sorry. Yes, sir.

21 THE COURT: --- did you say what Mr. Miller asked
22 you?

23 THE WITNESS: He asking me a half-truth.

24 THE COURT: Well, now he asked you what -- did you
25 say that. That's a yes or a no.

1 THE WITNESS: I said that.

2 THE COURT: All right.

3 THE WITNESS: I said that, and I said he threatened
4 my life. So he's asking an incomplete question. I'm
5 trying to complete the question he's asking me.

6 THE COURT: Well, he's the one asking the question.
7 You don't need to complete his question. You just need to
8 answer ---

9 THE WITNESS: I'm trying to give him a complete
10 answer.

11 THE COURT: You -- hold on. You just need to answer
12 his questions. And that's a yes or no. Did you say that?
13 Did you say that, yes or no?

14 THE WITNESS: But can I say something? Can I reply
15 to what you're saying?

16 THE COURT: No, no. You don't need to reply to what
17 I'm saying.

18 Next question, Mr. Miller.

19 MR. MILLER: No more questions at this time, Judge.

20 THE COURT: All right, Mr. Gambrell.

21 MR. GAMBRELL: Thank you, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. GAMBRELL:

24 Q Braylon, you saw the video from Walmart. It was a
25 very -- over a very short period of time where you all

1 were standing with your kids at the self-checkout and
2 Mr. Deck comes walking in. That whole interaction takes
3 place over how much time?

4 A Like 30 seconds.

5 Q You think it's even that long?

6 A Not even that. Probably like 10.

7 Q As I was watching -- as Mr. Miller was asking you
8 questions and he was stopping the video and asking you
9 specifically as to what you were seeing, it appeared that
10 that interaction with him only took place over maybe three
11 or four seconds. Is that your recollection or do you have
12 a different recollection of that?

13 MR. MILLER: Objection. Leading.

14 THE WITNESS: I -- I have no recollection. It
15 happened so ---

16 THE COURT: Sustained.

17 Hold on. Hold on.

18 The objection was leading?

19 MR. MILLER: Yes, sir.

20 THE COURT: Sustained. Let him -- don't lead him,
21 Mr. Gambrell.

22 THE WITNESS: I have no recollection. It happened so
23 fast I really can't calculate how fast it was.

24 BY MR. GAMBRELL:

25 Q But let me ask you this. So when the video is slowed

1 down and stopped and we all have the advantage of looking
2 at it as a still frame, is it fair to say that you didn't
3 -- you looked longer at this video today than you looked
4 at him in that store that day?

5 A Yes, sir.

6 Q Okay. The only other thing I wanted to ask you about
7 was when you met with Investigator Bailey and he read you
8 your Miranda rights, what is the -- do you recall the
9 first thing that you told him with regard to why this
10 occurred?

11 A I don't recall. I just told him that -- the first
12 thing I remember telling Bailey is I want to talk to my
13 lawyer. That's the first thing I said.

14 Q Do you recall telling him that Mr. Deck had
15 threatened to kill your kids?

16 A Yes.

17 Q Okay. And had said things like, "When I see you I'm
18 going to kill your kids," because he had already done ten
19 years in prison and he didn't care nothing about him?

20 A Yes. Yes, sir.

21 Q And that was the first time that you had answered
22 that question.

23 A Yes, sir.

24 Q All right. And that's your version of what happened
25 as it stands today.

1 A Yes, sir.

2 MR. GAMBRELL: All right. Thank you.

3 THE COURT: All right. Anything on recross?

4 MR. MILLER: No, Your Honor.

5 THE COURT: All right. Sir, you can step down.

6 Who's your next witness, Mr. Gambrell?

7 MR. GAMBRELL: Judge, that's the defense's motion.

8 THE COURT: Anything from the State?

9 MR. MILLER: Your Honor, can we have a brief recess?

10 THE COURT: Yes. About -- let's do about a 15,
11 20 minute recess.

12 MR. MILLER: Thank you, Your Honor.

13 THE COURT: All right. We're down for about 15,
14 20 minutes.

15 (WHEREUPON, a recess is taken at 12:38 p.m.)

16 THE COURT: Mr. Miller, have y'all got anything?

17 MR. MILLER: Your Honor, at this time we would like
18 to submit for court's exhibits the videos, text messages,
19 the calls, everything referenced in the defense's part of
20 the case as court's exhibits.

21 THE COURT: All right. Any objection, Mr. Gambrell?

22 MR. GAMBRELL: No objection, Your Honor.

23 THE COURT: All right.

24 MR. MILLER: And also, Your Honor, the text messages,
25 I believe, Madam Court Reporter may have a picture of

1 them. I can provide a copy that I have as well and I can
2 have that be okay with Mr. Gambrell. They do have copies
3 of the emails that are referenced, and we ask that those
4 also be submitted as court's exhibits as well.

5 THE COURT: Any objection?

6 MR. GAMBRELL: What was the copy? What was the first
7 copy?

8 MR. MILLER: Of the text messages.

9 MR. GAMBRELL: Oh, yes. That's fine.

10 MR. MILLER: But I just want to clarify with you,
11 Michael, because my copy -- find the right tab. Your
12 Honor, here's a copy. I deferred with defense counsel,
13 and they are in agreement and no objection to the copies
14 I've submitted.

15 THE COURT: Is that right, Mr. Gambrell?

16 MR. GAMBRELL: That's correct, Judge.

17 (Pause in proceedings.)

18 MR. MILLER: Your Honor, the copies of the emails,
19 Mr. Gambrell has indicated he's fine with those copies for
20 court's exhibits.

21 THE COURT: Okay. All right.

22 Mr. Miller, have you got some more stuff? I'm trying
23 to figure out whether we need the court reporter to mark
24 them now or later.

25 MR. MILLER: We will need to mark them, Your Honor.

1 We can say Court's Exhibit 1 is the July 30th email,
2 Court's Exhibit 2 will be the July 20th email, Court's
3 Exhibit 3 -- 3 and 4 -- so 3 can be the text messages with
4 the bubbles, and 4 the text messages that show the emojis.

5 THE COURT: Okay. 5, 6, 7, 8?

6 MR. MILLER: 5, 6, 7, 8. Exhibit 5 would be the bond
7 hearing, 6 will be the surveillance footage from Walmart,
8 7 is the interview of the defendant with Investigator
9 Bailey, and 8 is the jail call.

10 (WHEREUPON, State's Exhibit Numbers 1 through 8 were
11 marked for identification.)

12 THE COURT: Is the State going to call any witnesses?

13 MR. MILLER: Your Honor, I believe at this time the
14 State is not intending to call witnesses.

15 THE COURT: What I normally do, Counselors, is I will
16 give both sides -- just give me a little brief argument.
17 And I can start with you, I guess, Mr. Gambrell, then I'll
18 hear from Mr. Miller.

19 MR. GAMBRELL: Thank you, Your Honor. If the Court,
20 please, obviously, we moved for this hearing under
21 16-11-440, Protection of Persons and Property Act.

22 You know, obviously, this incident did not occur in a
23 home or dwelling or a vehicle, so we weren't here to argue
24 the presumption of reasonable fear of imminent peril. I
25 think that bumped us down into 440(C).

1 THE COURT: Can you hear him?

2 THE COURT REPORTER: I can.

3 MR. GAMBRELL: I'll speak louder, Judge.

4 A person who was not engaged in an unlawful activity
5 who is attacked in another place where he has a right to
6 be, including but not limited to his place of business,
7 has no duty to retreat, has the right to stand his ground,
8 meet force with force including deadly force if he
9 reasonably believes it's necessary to prevent death or
10 great bodily injury to himself or another person or to
11 prevent the commission of a violent crime.

12 And what (C) is, my understanding is essentially
13 removes the element of the duty to retreat from the
14 defense of self-defense. And therefore, we have the
15 burden of showing, of proving each element of self-defense
16 other than that element by a preponderance of the
17 evidence.

18 The first element would be that Mr. Morris was not at
19 fault for bringing on the difficulty. You know, he was at
20 the Walmart that day with his girlfriend and their
21 children. You know, it wasn't a situation where he was
22 looking for Mr. Deck. And I would say that the text
23 messages between Mr. Deck and Mr. Morris would actually
24 put that burden on Mr. Deck.

25 And, again, Mr. Morris testified that he was on an

1 ankle monitor, so he knew that his whereabouts were being
2 supervised and accounted for at all time.

3 He took the text to him to mean that Mr. Deck had
4 made a threat to him. That's what he testified to. And
5 that was the last time that they had spoken. That was two
6 days prior to July 5th. And he testified that he
7 perceived that to be a threat to his person and his
8 family, his girlfriend, his children. And so, you know,
9 our position would be that he has shown that he is not the
10 person that brought about the difficulty by a
11 preponderance of the evidence.

12 The second element would be that he either has to be
13 in imminent danger or he has to believe he's in imminent
14 danger. And in this case because Mr. Deck was unarmed, we
15 believe that he did have a belief of imminent danger based
16 on the text messages. That was the last time that they
17 had spoken.

18 You know, he perceived -- he testified that the words
19 that Mr. Deck used in his text messages to him was
20 basically, you know, "F" everybody, "F" y'all, you know,
21 he was coming after him. So in his mind that was a direct
22 threat to him and his kids, and that is enough to get to
23 that second prong of self-defense based on a preponderance
24 of evidence. The subpart of that is that a reasonable
25 person would have to believe that also.

1 And I would say this, Judge, that, you know, if
2 someone texted you that, you know, they've caught multiple
3 bids, they, you know, have something pending for attempted
4 murder, that would certainly communicate to a reasonable
5 person that that person is a dangerous person. But when
6 they say that they, you know, are going to go down -- I
7 can't remember the exact words that were used. "But when
8 it goes down I'm shooting out with them bitches. Ain't
9 shit none of y'all can do to me.... So fuck y'all and
10 this fuckin life." I mean, you know, coming from a person
11 who had pending attempted murder charges, I think that a
12 reasonable person would also believe that if that person
13 -- if those words were directed to them, that a reasonable
14 person would believe that their life could be in imminent
15 danger as well.

16 When he comes into the store, it's interesting that
17 he doesn't come in through the entrance to where you --
18 the normal customers come in through the gates where they
19 sort of herd you through, but that he comes in directly to
20 the self-checkout.

21 You know, Mr. Morris had no idea he was going to be
22 there that day. And, in fact, it's just serendipity that
23 he and his family were there. They had gone and gotten a
24 prescription and then needed -- needed it filled. And so
25 just happened to go to Walmart where they get their

1 prescription filled. So it's really a situation that was
2 a random strike of misfortune that they were both there on
3 the same day.

4 But if you look at the video, you can see that as
5 soon as Mr. Morris sees Mr. Deck, he immediately moves, as
6 he said, in the direction to the middle of the
7 self-checkout. And there's a stand there in the middle so
8 has to sort of come up above that.

9 And Mr. Deck does have something in his pocket. And
10 he testified that he perceived that to be potentially a
11 weapon. And so added to that the fact that he -- you
12 know, their previous conversation was that, you know, he
13 had threatened his family and his kids, he felt his life
14 or his children's life were in imminent danger. And so I
15 believe at that point he's able to act on appearances.
16 And if you go back to the case law such as Jackson, it
17 states that, you know, you have to take all the
18 circumstances into account to determine whether someone's
19 actions are reasonable.

20 But if this is a person who has pending charges for
21 attempted murder, who has previously levied a threat
22 against him, he testified that he knew that he had
23 previously carried a weapon, you know, he is allowed under
24 the law to act on those appearances to protect himself and
25 his family.

1 And so when you look at each of those three initial
2 factors, without the exception of the duty to retreat, we
3 believe that we have submitted sufficient evidence to meet
4 our standard under the preponderance of evidence standard,
5 and we would ask the Court to grant Mr. Morris's motion
6 today.

7 Thank you, Your Honor.

8 THE COURT: All right. Mr. Gregory.

9 MR. GREGORY: Judge, may it please the Court. Just
10 briefly, I do take exception to Mr. Gambrell said that the
11 testimony was that there was something in his pocket. I
12 don't think there was any testimony to that whatsoever,
13 that there was something in Michael Deck's pocket. I
14 think the testimony was his hand was in his pocket when he
15 was coming into the door.

16 Judge, as far as the elements of self-defense, I'm
17 sure you're very well aware of the elements that we have
18 to meet, and the first one is be without fault. You can't
19 bring the matter on. And that's exactly what this video
20 shows is him reaching in his pocket going right at Michael
21 Deck as Michael Deck's walking into the store. And even
22 if you look at the video, Michael Deck is looking the
23 complete opposite way not even realizing Braylon Morris is
24 there yet.

25 As soon as he approaches him, his hands come out.

1 You can see him in the video in the -- where we stopped
2 it, his hands were right in front of him. If he truly was
3 in imminent threat -- and imminent means it's about to
4 happen, it's immediate, that I've got to take action now
5 or something's going to happen -- he's going to look at
6 his hands. There is no gun in his hands. He's not found
7 with a gun. He is completely unarmed.

8 The only person that's armed there that day was
9 Braylon Morris. He's the one that's armed, Judge, there
10 with a prior conviction of attempted armed robbery. He's
11 not even entitled to have a gun there. He has no CWP.
12 Can't have a CWP because he's got that prior conviction,
13 Judge. He had no business having a gun there that day at
14 all. And for him to be able to take a gun into Walmart, a
15 public place, loaded with a gun, he's bringing about the
16 problem, he's bringing about the incident, the force, the
17 death that occurred, Judge, in an unlawful activity, an
18 unlawful way.

19 The imminent threat, they're relying on these text
20 messages, Judge, the text message about, let's see, "Yes.
21 What the 'F' ever. I done 5 fuckin bids. Never had an
22 'F'n' seat belt charge dropped." He's talking about all
23 these things that have happened, that he is not the
24 police. This whole thing was -- Braylon Morris thought he
25 was the confidential informant. He thought he was the

1 snitch. And he's saying, "That's not me. I'm not that.
2 I don't help the police. I'm not going to help the
3 police." And he says, "If they come after me," the "they"
4 and "them" all referring to the police, Judge.

5 This is not an imminent threat to Mr. Morris. He
6 didn't even believe that.

7 Furthermore, it has to be an imminent threat right
8 there at the scene. We're talking July 5th in Walmart,
9 middle of the day. Where's the imminent threat with
10 nothing in his pockets, nothing in his hands? He's coming
11 right at him. There's not an imminent threat, and a
12 reasonable person would not even believe there was.
13 There's plenty of ways to get out of that situation
14 without bringing the force.

15 And for him to say that I have no other way but to
16 attack him and shoot at him, Judge, is just not -- is not
17 accurate based on that video that we saw today.

18 He brought about force. There was not that imminent
19 threat. There was -- and a reasonable person would not
20 consider that to be an imminent threat, Judge. And we ask
21 you to deny this motion.

22 I'm sorry. And, Judge, also to the bond -- between
23 the bond video, the statements to police at the scene all
24 indicate that this was more than just a self-defense.
25 This was the reason I murdered your son was because he

1 introduced me to the real CI. That's what this was about.

2 And then the jail call and making him the aggressor,
3 this was all just trying to set up a self-defense, Judge.
4 Based on the video that you saw before you this morning, I
5 do not think it falls within the category that would allow
6 him to have immunity.

7 THE COURT: All right. Anything else from either
8 side?

9 MR. GAMBRELL: No, Your Honor.

10 THE COURT: All right. The Court made the -- in
11 other words, the Court looked at Section 16-11-440 which
12 talks specifically about immunity and that which is
13 commonly known as stand-your-ground law in South Carolina,
14 and the Court also examined the case law that was cited by
15 counsel during the course of this hearing and made a
16 mental note of that and also examined the findings in both
17 of those cases. And I think a couple of those cases I
18 think were from the defense standpoint.

19 And the defendant argued the State vs. Manning case
20 -- I mean Fabian Green case. The Court looked at that.
21 Also, the State looked at -- I mean the Court looked at
22 State vs. Manning. But more importantly, the Court
23 listened to the testimony of both sides. The Court
24 listened to both sides. The Court listened to the
25 testimony presented. And the Court is not moved that this

1 defendant is entitled to immunity. The Court makes a
2 finding that this defendant was at fault for bringing
3 about the confrontation with Mr. Deck. The Court also
4 makes a finding that this defendant was not presented any
5 imminent danger or threat by Mr. Deck, the deceased, and
6 so you don't get to the whole issue of self-defense. You
7 don't even get to that plateau.

8 So based on that, the motion for immunity on behalf
9 of the defendant is hereby denied.

10 And I want Mr. Miller or you, Mr. Gregory, to prepare
11 an order that spells out those findings and submit it to
12 me. Send a copy to Mr. Gambrell before you send it to me.

13 And I will note, Mr. Gambrell, your objections for
14 the record as well as in this proceeding.

15 MR. GAMBRELL: Thank you, Your Honor.

16 MR. MILLER: Thank you, Your Honor. We'll get that
17 order prepared.

18 THE COURT: All right. Okay. Thank you. Good luck.

19 MR. MILLER: Your Honor, one other matter the State
20 would like to discuss is as this motion was brought up for
21 the first time on the day of trial this week Monday, the
22 State would like to -- while we're here on the record, are
23 there any other matters that we need to schedule in
24 advance of the next trial date so that we don't run into
25 and then we have to delay, reschedule the trial again,

1 that we can get that scheduled in advance and taken care
2 of? Is there anything else that we need to do?

3 THE COURT: Excellent observation, Mr. Miller,
4 because I was the trial judge that was ready to try this
5 case I think it was the first part of this week, wasn't
6 it?

7 MR. MILLER: Yes, Your Honor. We were picking a jury
8 Monday.

9 THE COURT: We were picking a jury Monday.

10 And I will tell you, Mr. Gambrell, I know you're
11 going to represent Mr. Morris, that this matter is going
12 to be high up on the trial docket because we're going to
13 have a status conference probably that week and it's going
14 to be high. When I say high, real high. And I'm not
15 going to allow any continuances of any kind. So I think
16 Counsel's observation is a good one.

17 Is there anything at all that we need to address? I
18 don't know if I'll be the trial judge. I may or may not
19 be. I'm not sure. But anything we need to address before
20 next week?

21 MR. GAMBRELL: Judge, we were ready to try the case
22 this week. And, again, you know, I've asked other
23 attorneys that I've worked with, Rauch Wise who's probably
24 practiced law more than everybody in this room combined,
25 whether or not I was required to give notice about this

1 hearing. And he couldn't think of a single rule, statute
2 or any other thing that would make me -- require me to
3 give notice. I'm not trying to pull -- I didn't want this
4 thing delayed. But certainly -- and I'm not -- I can't
5 think of any other additional matters that would need to
6 be heard that far out that couldn't be heard during the
7 week of trial. I can't think of anything at this moment.

8 THE COURT: Mr. Gambrell ---

9 MR. GAMBRELL: I'm going to continue to work with
10 Mr. Morris. And certainly, if something like that does
11 arise, I will file a written motion.

12 THE COURT: I think that Mr. Wise is a learned
13 counsel. Got a lot of respect for Mr. Wise. But in this
14 court, my court, I agreed with the State. I thought
15 notice was sufficient. And I'm not disrespecting
16 Mr. Wise. He has his opinion. But -- and he's learned
17 counsel and very skilled. But I think in the 13th
18 Judicial Circuit, and we talked about that, what was done
19 in the 8th Circuit, but in this circuit I think it's very
20 important that in a stand-your-ground immunity case that
21 the State gets the notice. So that's what we do here in
22 the 13th Circuit. I don't care what Mr. Wise does in the
23 8th Circuit.

24 MR. GAMBRELL: Well, and I have no problem with that,
25 Judge. Like I said, this was just the first time that

1 I've ever run up against that.

2 THE COURT: Now you know what the rules are.

3 MR. GAMBRELL: Absolutely. Going forward, I would
4 absolutely know ---

5 THE COURT: All right.

6 MR. GAMBRELL: --- let them know that we intend
7 to ---

8 THE COURT: When you're in the 13th Circuit, notice
9 is required.

10 MR. GAMBRELL: Yes, sir.

11 THE COURT: Okay. Anything else?

12 MR. MILLER: No, sir. Thank you, Your Honor.

13 (WHEREUPON, proceedings concluded at 1:23 p.m.)
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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 16th day of February, 2023.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 February 26, 2023
19

20
21 Cheryl A. Smith

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

STATE OF SOUTH CAROLINA)

) COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE)

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
19-GS-23-07279

BRAYLON L. MORRIS,)

DEFENDANT.)

April 3-6, 2023
Greenville, South Carolina

B E F O R E :

THE HONORABLE ALEX KINLAW, JR., JUDGE;
AND JURY

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

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Circuit Court Reporter
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STATE'S:

No.	Description	ID/EVD
1	DVD-911 call	157/158
2	DVD-Surveillance footage	159/160
3	DVD-Compilation video	167/168
4	DVD- In-car camera-McCalmont	192/201
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13	Photograph	265/266
14	Photograph	265/266
15	Photograph	265/266
16	Photograph	265/266
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18	Shell casings	269/270
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31	Photograph	337/338
32	Photograph	337/338
33	Photograph	337/338
34	Photograph	337/338
35	Photograph	337/338
36	Photograph	337/338
37	Photograph	337/338
38	Photograph	337/338
39	Photograph	337/338

1 DEFENDANT'S:

2	No.	Description	ID/EVD
3	1	Text messages printout	437/437

5 COURT'S:

6	1	7/30/19 email	
7	2	7/20/19 email	
8	3	Text messages	
9	4	Text messages w/emojis	
10	5	DVD-Morris bond video	
11	6	DVD-Walmart video	
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1 THE COURT: Let's go on the record on
2 preliminary matters in the interest of the State v.
3 Braylon Morris, which is indictment number
4 2019-GS-23-07279. The State is present represented
5 by Mr. Gregory and Mr. Miller. Mr. Gambrell is here
6 on behalf of the defendant. Let the record note
7 that the defendant is also present.

8 Gentlemen, logistically, this is what
9 we're going to be doing. I instructed Jennie --
10 Janine, to bring a panel of 40 to me around 2:00,
11 okay. So it's 2:00 we're going to move forward with
12 the trial. A couple of preliminary, preliminary
13 things, I got a meeting with the solicitor there and
14 another group at 11:30. This is about 20-minutes --
15 I mean, 20-minutes from now, and that'll probably
16 take about 30-minutes give or take. What I'd like
17 to do is hear the motions, or motion, that you
18 filed, Mr. Miller, at that time around -- not at
19 that time, immediately around right before 2:00.
20 I'm anticipating looking at probably 1:30, 1:30,
21 probably around that time. And I know we've got a
22 couple of, with Denno.

23 MR. MILLER: Yes, sir, a couple of Denno.
24 Mr. Gambrell mentioned earlier and I don't know
25 where it stands now if -- I believe new term of

1 court it'd have to be consent if we needed to redo
2 the same Denno hearings that we did two-months ago
3 that have already been ruled upon or if he's had a
4 chance to speak with his client about it. They
5 would consent that we've gone through the Denno. It
6 would be, I would anticipate, substantially the same
7 testimony that the Court heard the first time that
8 has been previously ruled upon. I don't know where
9 that stands with Defense at this time, but that's
10 sort of the update for the Denno hearings. But I
11 would anticipate those three matters in total.

12 THE COURT: All right. And correct me if
13 I'm wrong, sort of bring me up to date. When we
14 started this trial before ---

15 MR. MILLER: Yes, sir.

16 THE COURT: --- and we were doing the
17 Jackson v. Denno hearing, was it during that hearing
18 that we, I think, Mr. Gambrell, or something came up
19 in which we -- a stand-your-ground hearing was
20 required? Was it -- was it during that hearing or
21 was it after that hearing, because somewhere there
22 we -- we -- that came up and we had to deal with it.
23 When was that?

24 MR. MILLER: It was -- we did the first --
25 we did Tracy King's Denno hearing and then we did

1 Judge Peden's Denno hearing and then we addressed
2 the stand-your-ground and we then continued the
3 matter and scheduled the stand-your-ground for
4 Thursday of that week and had the hearing on that
5 Thursday. The rulings were made on the hearings in
6 regard to Tracy King and Judge Peden, and the
7 rulings were that those statements were admissible
8 under Denno.

9 THE COURT: All right. So, Mr. Gambrell,
10 what -- what will be gained by redoing this?

11 MR. GAMBRELL: Well, and I haven't talked
12 to Mr. Morris about consenting to that, Judge; but
13 again, and then I don't want to muddy the record at
14 all either. I know that there was an order that was
15 issued from the state your ground hearing ---

16 THE COURT: Yes.

17 MR. GAMBRELL: --- that I received a copy
18 of.

19 THE COURT: Right.

20 MR. GAMBRELL: The other ones were, I
21 believe, on the record. I don't believe there were
22 written orders from those.

23 THE COURT: No, there weren't.

24 MR. GAMBRELL: But, you know, and my just
25 estimation of being -- of representing Mr. Morris, I

1 don't believe that he would consent. Now I don't
2 know because I haven't had a chance to talk to him
3 about that but. And we also had a motion at that
4 time for Your Honor to recuse himself based on some
5 past representations of Mr. Morris' family and the
6 fact that you were the trial judge on this case over
7 in Pickens County that he was convicted on that you
8 were the sentencing judge in that case.
9 Respectfully, Your Honor.

10 THE COURT: So, I mean, I think those --
11 those matters I still got to deal with? Because
12 obviously I was -- as relates to the latter matter,
13 I mean, I was the assigned trial judge on the case
14 in Pickens. There was no -- no indication that
15 during that trial there was a conflict of any kind,
16 at least it wasn't raised at all. And did you
17 represent him over in Pickens?

18 MR. GAMBRELL: I did not. I believe it
19 was Mr. Randy Chambers who represented him.

20 THE COURT: I think Mr. Chambers, and I
21 don't recall that Mr. Chambers expressing any
22 conflict. I was the assigned trial judge, I heard
23 the case, jury rendered a verdict, and then I was
24 the sentencing judge. Now, as far as my
25 representation, I'm assuming when I was a lawyer or

1 I ---

2 MR. GAMBRELL: Correct.

3 THE COURT: --- was practicing?

4 MR. GAMBRELL: That's correct.

5 THE COURT: And after, you know what -- as
6 I said last time, Mr. Gambrell, I just don't, you
7 know, I don't remember back that far. You know,
8 if -- did you give me some specific names last time
9 of people that I represented ---

10 MR. GAMBRELL: I did.

11 THE COURT: --- that would present a
12 conflict?

13 MR. GAMBRELL: It was family members of
14 Mr. Morris.

15 THE COURT: In a -- what kind of matter?

16 MR. GAMBRELL: One was a divorce matter,
17 Chrissy Brooks, which is his aunt. You represented
18 Ms. Brooks. And then the other one was an insurance
19 matter. You didn't represent Ms. Morris, but you
20 were the judge on the insurance case that she had
21 also. And then the judge in the trial in Pickens
22 County.

23 THE COURT: Mr. Gambrell, it's hard to see
24 why -- how my representation of somebody who's a --
25 you said it was a cousin of his?

1 MR. GAMBRELL: An aunt.

2 THE COURT: An aunt ---

3 MR. GAMBRELL: Yes, sir.

4 THE COURT: --- of his would have anything
5 to do with him. I don't -- as a matter of fact, I
6 don't even know this person that you're talking
7 about.

8 MR. GAMBRELL: Correct.

9 THE COURT: It's been so long ago.

10 MR. GAMBRELL: Well, one other thing that
11 I forgot, Judge, at some point they -- when
12 Mr. Morris was younger, they brought him to you to
13 represent on a case. They met with you with
14 Mr. Morris; but I don't think they retained you on
15 that case, but they did meet ---

16 THE COURT: When you say "younger," how
17 long are you talking about?

18 MR. GAMBRELL: I believe he was 17 or 18
19 years old.

20 THE COURT: How old is he now?

21 MR. GAMBRELL: 38.

22 THE DEFENDANT: 37.

23 MR. GAMBRELL: 37, so about 20 years ago.

24 THE COURT: About 20 years ago.

25 MR. GAMBRELL: Yes, sir. I -- Your Honor,

1 I mean, I'm not making any implication whatsoever.
2 I'm just bringing the facts ---

3 THE COURT: I understand. I understand,
4 Mr. Gambrell. I -- you know, I don't -- I don't
5 see -- first of all, let the record be clear. I do
6 not know -- I'm not saying that I did not represent
7 the folks that you're talking about because I was in
8 private practice for well over 20 some odd years and
9 I represented hundreds and hundreds and hundreds of
10 people during that period of time and I couldn't
11 call up the names of ten of them so I don't
12 remember. But if I handled something in a family
13 court matter for the aunt and it was a divorce case,
14 I don't see how that representation by myself would
15 have anything to do with him. I didn't know him,
16 didn't know really her, and wouldn't know her if she
17 walked in through that door so I -- and I don't
18 recall. The second thing is, him coming in 20-years
19 ago to see me -- you say he came in to see me, I
20 wasn't retained, which means I didn't have a whole
21 lot of conversation with whoever brought him in so I
22 don't see where it would be any kind of conflict at
23 all in that regard. I think you brought these
24 matters up last time as well.

25 MR. GAMBRELL: I think I did, other than

1 the one -- and I'm not sure if I remembered this or
2 not at the time, Judge. Other than the one where
3 that they brought him to come see you, I can't
4 remember if I brought that up or not; but his mom
5 reminded me of that this morning. And I, to be
6 honest with you, if I can just put on that -- put
7 that on the record. I don't anticipate Your Honor
8 changing his ruling on that. I'm just trying to
9 protect Mr. Morris' record going forward.

10 THE COURT: Well, I think -- I think we
11 addressed that, is that right, last time?

12 MR. MILLER: Yes, Your Honor. I believe
13 all of those issues were raised in February.

14 THE COURT: Yeah. Yeah, I don't think my
15 ruling is gonna change. I think I did -- I issued a
16 ruling that we were going to move forward and I
17 think that would be the ruling today. What I really
18 want you to talk to your client about, obviously I
19 think he wants to move the matter along and I'm
20 pretty sure both sides wants to move the matter
21 along; but to have a duplicative Jackson v. Denno
22 hearing, although, you know, you got to talk to him,
23 I guess. I don't know -- statutorily I don't
24 believe we got to get him -- you need his consent?

25 MR. MILLER: Well, I don't know

1 absolutely. It's just that's a new term of court.
2 I mean, the State would ask that we have recently
3 heard these motions two-months ago or just within
4 two-months, would anticipate substantially the same
5 testimony before. It'd be the same witnesses, the
6 same statements that were just recently ruled on,
7 and I can't think of anything that would be
8 different.

9 THE COURT: And for appellate purposes,
10 you know, on either side, the State side or the
11 Defendant's side, the transcript will be readily
12 available.

13 MR. MILLER: And we could get the
14 transcript from the prior and make it a -- not --
15 have an order get it done to have it then be part as
16 a court's exhibit for this case as well if we needed
17 to do that so we could have that transcript with all
18 the testimony and the rulings.

19 MR. GAMBRELL: And I'll talk to Mr. Morris
20 about that, Your Honor, but my intention throughout
21 this will be to make sure that he does not, you
22 know, waive any opportunity for him to have an
23 opportunity to be heard on any matter in this court.
24 Even if we're overruled or if we object and we're
25 overruled, as long as it's placed on the record what

1 our intention is moving forward. We'll abide by
2 whatever the Court's rulings.

3 THE COURT: Okay. Well, I've got this
4 meeting in about 10-minutes so I'm gonna give you an
5 opportunity to talk to him and then just let me know
6 at 1:30 what you decide.

7 MR. GAMBRELL: Yes, sir.

8 THE COURT: In terms of whether or not
9 we're gonna do that. And I guess, in the event that
10 there's not a consent on that side, I guess the
11 witnesses Mr. Peden and Mr. King will just have to
12 come back at 1:30 just in case we have to travel
13 that -- that road.

14 MR. MILLER: Yes, sir.

15 THE COURT: Let's see, anything else that
16 we need to cover before we break and then we'll get
17 back together at 1:30 and then we'll hear your
18 motion, your exclusionary motion at 1:30, and then
19 I'll deal -- you'll let me know your client's
20 position regarding the stand-your-ground hearing
21 that were held already before the court.

22 Now the only other thing that you
23 mentioned was that the defendant thought that there
24 was a conflict with me serving as a trial judge over
25 in Pickens over a drug -- I think it was drug

1 offenses, right?

2 MR. GAMBRELL: That's correct, Your Honor.

3 THE COURT: Is that -- tell me why that
4 would be a conflict.

5 MR. GAMBRELL: He just ---

6 THE COURT: How -- how it would be, I
7 mean.

8 MR. GAMBRELL: Well, I just -- he probably
9 feels as though the fact that you've already
10 adjudicated the case that he was the defendant on
11 and had sentenced him to a lengthy term of prison,
12 he feels as though you have -- maybe have, you know,
13 predetermined in your mind some of the rulings in
14 this case that could potentially prejudice against
15 him and that you've, you know, it could potentially
16 affect anything that the Court would have to do in
17 its discretion as it involves Mr. Morris.

18 THE COURT: Well, you know, Mr. Gambrell,
19 as I tell everybody and I'll tell you, there are two
20 judges in the court. There's the judge of the facts
21 and then there's a judge of the law. In Pickens we
22 had 12 people over there that made the decision.
23 They adjudicated the facts, they weighed the facts,
24 and they weighed the credibility of the witnesses,
25 so they -- they did that. I ruled on issues of law

1 that came up which I'm mandated and required to do
2 so. And statutorily, upon the conviction of the
3 defendant over in Pickens County, the court followed
4 what the sentence -- well, gave -- followed the
5 range of the sentences that I can impose. So while
6 I hear what you're saying is, I personally did not
7 see a conflict with me and I'm gonna -- not gonna --
8 the Pickens County case will have absolutely nothing
9 to do with the trial in this case, absolutely
10 nothing to do. And I can assure you that. As a
11 matter of fact, I don't -- I remember very little
12 about that case because I've tried probably many
13 cases since then so I remember very little about
14 your case so. And I'm saying this in front of your
15 client, the defendant, that my assessment of the law
16 which I'm required to do, will not have anything to
17 do with this case. The jurors are going to be the
18 fact finders, just as the jurors were the fact
19 finders over in Pickens. They'll be the fact
20 finders in this trial so I -- but what I do intend
21 to do to make sure that both sides get a fair and
22 impartial trial, that's my -- that's my obligation.
23 That's all I can tell you and tell Mr. Morris. And
24 he's sitting right here and that's what I'm telling
25 him.

1 MR. GAMBRELL: Yes, sir.

2 THE COURT: All right. Anything else?

3 MR. GAMBRELL: No, sir. I will just --
4 just ask to be allowed to, you know, at least make
5 sure that that's protected on the record and then
6 ---

7 THE COURT: So it's -- it's so noted on
8 the record and I think it was noted on the record
9 the last time that we -- we convened so.

10 MR. GAMBRELL: Yes, sir.

11 THE COURT: And you have complete access
12 to the transcript from that, that previous Jackson
13 v. Denno hearings we did; and also, you got -- you
14 can access to the transcript from the
15 stand-your-ground hearing we did. All that's
16 available to you.

17 MR. GAMBRELL: Yes, sir.

18 THE COURT: All right. Anything else?

19 MR. MILLER: Nothing from the State, Your
20 Honor.

21 THE COURT: Okay. And I've got -- let me
22 ask this. I've got voir dire questions from -- from
23 the defendants. Have y'all reviewed his proposed --
24 look at it and then if you got any questions or
25 issues about it, let's jump into that on -- at 1:30.

1 MR. MILLER: Yes, sir.

2 THE COURT: Okay. And Mr. Miller, you got

3 ---

4 MR. MILLER: Yes, sir.

5 THE COURT: You got ---

6 MR. MILLER: We do not ---

7 THE COURT: You got ---

8 MR. MILLER: --- anticipate calling that
9 number of witnesses, but those were all the people
10 that were within the incident reports and we wanted
11 to be cautious and make sure we included all the
12 names; but we anticipate still two-and-a-half days
13 and do not anticipate calling 142 witnesses.

14 THE COURT: Let's go off the record, Madam
15 Court Reporter.

16 (WHEREUPON, there was an off-the-record
17 discussion.)

18 THE COURT: All right, let's go on the
19 record. This is in the interest of State of South
20 Carolina v. Braylon Lamar Morris, indictment number
21 2019-GS-23-07279. All parties are present.
22 Counsel, I defer to you. I'll start with you,
23 Mr. Gambrell. Is there any movement on the Denno
24 motions? What's your client's position?

25 MR. GAMBRELL: His position was, Judge,

1 that he wasn't gonna consent to the previously
2 rulings, that he would like to have the hearings
3 again.

4 THE COURT: He would like to have the
5 hearings again?

6 MR. GAMBRELL: Yes, sir.

7 THE COURT: All right. Mr. Miller.

8 MR. MILLER: Your Honor, I did a little
9 research. I didn't find anything directly on point,
10 but I did look at -- I've handed these cases to
11 Defense counsel about res judicata and these are the
12 cases, Your Honor. And they talk about just what
13 the elements of res judicata are. And under res
14 judicata is that a matter will not be re-litigated
15 and requires the identical parties or their privies,
16 the identity of the subject matter and adjudication
17 of the issue on a former suit previously. Your
18 Honor, on February 13th on the record -- we could
19 get the transcript to be a part of it -- it would be
20 the identical witnesses for the identical subject
21 matter and there has been a ruling on the issue.
22 And because I don't believe that we can rule again,
23 that this has been decided under res judicata and
24 that this will just be a repeat of what is already
25 on the record from February 13th of this year. And

1 that this could be made as part of a court's
2 exhibit, the prior record, the prior record to be
3 made a part on the transcript, the order, and
4 brought in on these issues of these two Denno
5 hearings that within two- months ago have already
6 been adjudicated.

7 THE COURT: All right. Mr. Gambrell, you
8 want to respond to that?

9 MR. GAMBRELL: Yeah, just briefly, Your
10 Honor. You know, it's my understanding for res
11 judicata to apply there has to be some sort of a
12 final determination. Usually, it's with a cause of
13 action that prohibits it being re-litigated. You
14 know, under the circumstances I don't think that,
15 you know, either one of these hearings will take too
16 much time with the Court. They didn't take up too
17 much time last time. I would just think under
18 abundance of caution is a continuity of this trial
19 starting anew that it would be, you know, it
20 wouldn't be an inconvenience to have those hearings
21 again. And I don't think res judicata applies under
22 these circumstances. That's to a case that's
23 already been -- had a final adjudication. You
24 cannot come back and re-litigate the issues from
25 that previous adjudication. You know, this case,

1 taken as a whole, we haven't reached a verdict yet
2 so it hasn't really come to a final adjudication.
3 You know, the only analogy I can think of would be
4 in a case that had started and then was dismissed
5 under 41-J and then re-brought, brought later at
6 some other time. Certainly at that point you would
7 probably have those, any pretrial or any matters
8 really heard again and started anew because it's a
9 new trial. That would be our position on it, Judge.
10 The res judicata doesn't apply. It's not a burden
11 for the Court or an inconvenience.

12 THE COURT: All right. Mr. Miller, the
13 two cases that you gave me, both of them speak to
14 res judicata and both of them refer to the court
15 making a final determination of a matter. I think
16 in the one case, the case you gave me, RIM
17 Associates v. Blackwell, which is found in 339 SC
18 170, it's 170 which is a 2004 case. In the
19 footnotes the court -- and this is a court of a --
20 Supreme Court case. I think the -- it states to
21 establish res judicata defendant must prove the
22 following three elements. The identity of the
23 parties, we know who the identity of the parties are
24 here. Identify the subject matter, we know what the
25 subject matter is here. And the adjudication of the

1 issue in the former suit. Direct prior to that,
2 here's the language that I think we need to pay
3 particular attention to. A case that is dismissed
4 with prejudice indicates an adjudication on the
5 merits and pursuant to res judicata prohibits
6 subsequent litigation to the same extent as if the
7 action had been tried by a final adjudication. I
8 think in both of these cases, I hadn't read the
9 second case Venture Engineering case which is also
10 cited as Venture Engineering v. Tishman Construction
11 Corporation. These are both civil cases, the Court
12 would note. And this case is found in 360 SC 156
13 2004. Both of these cases talk about civil matters
14 that were litigated on the merits, and the court in
15 both of these cases say you can't go back and
16 re-litigate the case.

17 Now in this particular case we've not had
18 a final adjudication on the merits. Even though
19 this is a criminal case, there hadn't been a final
20 determination made so you couldn't really utilize
21 this case. I think Mr. Gambrell's argument is good
22 in one sense in the fact that res judicata is in in
23 this arena talks about a case that had been
24 adjudicated on the merits. Here we got a criminal
25 case that we here had a -- I mean, it's Jackson v.

1 Denno hearings at the beginning. So I don't know --
2 I would hope that -- that counsel thought that the
3 matter were litigated before in terms of those
4 particular hearings; but in the event to be fair to
5 both sides, I don't see any way around having the
6 hearings again. I just don't see any way out. I
7 don't see any case law that -- that's on point that
8 specifically states that if you, if you have motion
9 hearing at a previous trial, the trial was continued
10 for whatever reason, that the defendant is bound to
11 the, you know, to the ruling of the court. So
12 because I don't see that and because there were two
13 civil cases cited which are on point if this was a
14 civil matter, but I don't -- I haven't been able to
15 see, find any cases. And I looked as well, and I
16 didn't see any cases on point in the criminal arena
17 that would give me some -- some leeway to do that.
18 So I think we're going to have to -- we're just
19 gonna have to have the hearings heard again.

20 All right, so, and my recollection is that
21 the hearings did not last a long period of time,
22 Mr. Gambrell. I don't, I don't think there's going
23 to be any -- anything any different; is that
24 correct?

25 MR. GAMBRELL: That would be my

1 understanding.

2 THE COURT: And you got the same witnesses
3 that you had last time; is that right?

4 MR. MILLER: Yes, sir, Your Honor.

5 THE COURT: Okay. You want -- let -- I
6 see...

7 PROSPECTIVE JUROR: We're ready to kind of
8 get going or you do whatever you need to do and then
9 we'll slide in whenever you finish.

10 THE COURT: All right. What I'm gonna do
11 is I wanna go -- I want to take up a matter, a plea
12 matter for a second so we're going to go off the
13 record in just a minute in this matter and be right
14 back 'cause I don't want to start it, then have to
15 stop.

16 (WHEREUPON, a recess was taken from the
17 proceedings.)

18 THE COURT: Okay. We're going to do the
19 Jackson v. Denno hearing first, hearings first?

20 MR. MILLER: Yes, sir.

21 THE COURT: Okay, let's get started.

22 MR. MILLER: May it please the Court, Your
23 Honor, the State calls Tracy King.

24 THE COURT: Ms. King, come on up to be
25 sworn.

JACKSON V. DENNO

1 WHEREUPON,

2 **TRACY KING,**

3 having been duly sworn by the clerk, testified
4 as follows:

5 THE CLERK: Thank you. Please state your
6 full name for the record.

7 THE WITNESS: Alvin Tracy King.

8 **DIRECT EXAMINATION**

9 BY MR. GREGORY:A

10 Q Tracy, where are you employed?

11 A Right now I am employed with Shinette
12 Construction Company.

13 Q How long have you held that position or
14 been employed there?

15 A A year and probably two weeks now.

16 Q Prior to that, were you employed?

17 A I was employed with the Greenville County
18 Sheriff's Office?

19 Q How long were you employed at the
20 Greenville County Sheriff's Office?

21 A Two months shy of 27 years.

22 Q And in what capacity were you employed
23 there?

24 A At this time I was a investigator in the
25 homicide unit

JACKSON V. DENNO

1 Q As an investigator in homicide unit what
2 were your duties and responsibilities?

3 A Basically followup and investigate any
4 type of homicides, attempted homicides. We also
5 investigated what turned out to be natural deaths,
6 overdoses, basically deaths.

7 Q Did you have opportunity to become
8 involved in this case?

9 A Yes, sir.

10 Q Were you the lead investigator in this
11 case?

12 A No, sir.

13 Q And during your investigation and your
14 involvement in this case, you had opportunity to
15 speak to this defendant?

16 A I did, yes, sir.

17 Q What day did you speak with him?

18 A That was on Friday. I believe it was
19 July the 5th of 2019.

20 Q Do you remember where you came in contact
21 with him?

22 A It was in the back or side parking lot of
23 the Long John Silver's on White Horse Road.

24 Q And what county is that located in?

25 A Greenville County.

JACKSON V. DENNO

1 Q You say that was July 5th, 2019?

2 A Yes, sir.

3 Q How'd you -- how'd you get there? Tell us
4 how you respond to that scene.

5 A Myself and Sergeant Hammett had just
6 finished lunch, and we were leaving the parking lot
7 of the Big Clock of Berea, which is also just north
8 of this location on White Horse Road when the tones
9 came out and the call for service came out basically
10 letting everybody know that there was a shooting
11 that had just occurred at the Walmart, the incident
12 location, so we responded to the scene with lights
13 and sirens.

14 Q Where was the defendant when you first
15 made contact with him?

16 A He was in the back seat of a patrol car.

17 Q And what type of day did you first come in
18 contact with him?

19 A It was right around lunch time, a little
20 after.

21 Q Was he in handcuffs?

22 A Yes, sir.

23 Q Was the defendant under arrested at that
24 time?

25 A Yes, sir.

JACKSON V. DENNO

1 Q Was he free to leave?

2 A No, sir.

3 Q Who else was present when you spoke to the
4 defendant?

5 A There were multiple deputies around but
6 not right there with me inside. Read him his
7 rights.

8 Q So you were by yourself when you read him
9 his rights?

10 A That's correct.

11 Q What were you wearing when you read him
12 his rights?

13 A If I recall, I can't remember if I had a
14 shirt tie on that day or it may have been one of our
15 polo shirts that's got the Greenville County badge
16 on it. But I also had my badge and my firearm on
17 the side.

18 Q And those are visible?

19 A Yes, sir.

20 Q How long did you speak with him at this
21 time?

22 A It was -- it was brief, a couple of
23 minutes.

24 Q Did you have any difficulty communicating
25 with him?

JACKSON V. DENNO

1 A No, sir.

2 Q Did he appear to be under the influence of
3 any drugs or alcohol?

4 A No, sir.

5 Q Was he able to answer your questions?

6 A Yes, sir.

7 Q And did you ask him any questions?

8 A I did.

9 Q Prior to asking any questions, what did
10 you do?

11 A I advised him of his Miranda rights.

12 Q All right. What are these Miranda rights?

13 A Basically -- of course I don't have it
14 with me, but at the time I had a card that was
15 issued. Basically advising him of his rights that
16 he could either talk to me or you can talk with an
17 attorney present or you don't have to talk to me at
18 all.

19 Q And you read him all his rights?

20 A I did.

21 Q Did he appear to understand his rights.

22 A Yes, sir.

23 Q Did he have difficulty communicating with
24 you at that time?

25 A No, sir.

JACKSON V. DENNO

1 Q And you said you read it from a card?

2 A That's correct.

3 Q Is that your standard procedure?

4 A Yes, sir.

5 Q Did he ask any questions about his rights?

6 A No, sir.

7 Q Did he have any trouble at all

8 communicating with you at that time?

9 A No.

10 Q Did you do anything to coerce him to get
11 him to waive his rights?

12 A No, sir.

13 Q Did you have him fill out a piece of paper
14 or sign anything?

15 A No, sir.

16 Q This was done, you said, in the back of a
17 patrol car?

18 A That's correct.

19 Q Did you have body cam on at the time?

20 A No, sir, I was not issued a body camera.

21 Q Did he do anything to indicate that he did
22 not understand those rights?

23 A No, sir.

24 Q All right. Were there any threats or
25 promises made in order to get him to waive his

JACKSON V. DENNO

1 rights?

2 A No, sir.

3 Q Did you intimidate him in any way to get
4 him to waive his rights?

5 A No, sir.

6 Q And did the defendant waive his rights?

7 A He did.

8 Q Did he ask at any time for an attorney?

9 A No, sir.

10 Q Did he at any time ask or suggest he
11 wished to remain silent?

12 A No, sir.

13 Q And did he make a statement? Did he
14 answer your questions?

15 A He did.

16 Q How many questions did you ask him
17 roughly? Do you remember?

18 A I was basically concerned at that point in
19 time about the firearm. I believe that was the
20 primary, primary question at that time.

21 Q And when you were asking him questions,
22 it's still on the scene, correct?

23 A That's correct.

24 Q It's contemporaneous plea with the actual
25 reading of rights?

JACKSON V. DENNO

1 A That's correct.

2 Q You did not take him back to the law
3 enforcement for this?

4 A No, sir.

5 Q So he was still restrained, correct?

6 A Correct.

7 Q Did he make any request before answering
8 any questions?

9 A No, sir.

10 Q All right. Did you deny him anything
11 before asking him questions?

12 A I did not.

13 Q Were -- were you still the only one
14 present at the questioning?

15 A That's correct.

16 Q Did he appear to understand your
17 questions?

18 A He did.

19 Q Were his responses logical, logical
20 responses to your questions?

21 A Yes, sir.

22 Q Did he appear to have any trouble at all
23 with understanding what was going out there that
24 day?

25 A No, sir, not at all.

JACKSON V. DENNO

1 Q Did you do anything to coerce him to
2 giving a statement?

3 A No, sir.

4 Q Any threats made by anybody at the scene?

5 A No, sir.

6 Q To your knowledge, was defendant's
7 statement given freely and voluntarily?

8 A To my knowledge, yes, sir.

9 Q Was the statement written down?

10 A No, sir.

11 Q Was it recorded in any manner?

12 A Other than documenting myself a incident
13 report, no.

14 Q And you made that at the same time of the
15 incident or shortly thereafter?

16 A Shortly thereafter, correct.

17 Q Please answer any questions the Defense
18 has for you.

19 THE COURT: Cross-examination.

20 MR. GAMBRELL: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY MR. GAMBRELL:

23 Q Mr. King, you testified that you had been
24 previously was with Greenville County Sheriff's
25 Office almost 27 years, correct?

JACKSON V. DENNO

1 A Yes, sir.

2 Q And during that time, I assume you've
3 written hundreds of incident or supplemental
4 incident reports?

5 A Yes, sir.

6 Q Do you have a copy of your incident report
7 with you?

8 A I do.

9 Q Okay. And the reason -- and this incident
10 occurred on July 5th, and do you know what the date
11 of your incident that was ---

12 A That's ---

13 Q (indiscernible) recordings?

14 A Yes, sir, it's 7/18.

15 Q Okay. So that's within a couple of weeks
16 of the incident?

17 A Yes, sir.

18 Q And the reason you do that is so that --
19 because the information is still fresh in your
20 memory?

21 A Well, at the time, what I would do is
22 basically use the Word program, write down the
23 documentation, and it could take a couple of days to
24 document, type up what I had fresh in my memory at
25 that point in time. 'Cause it was several days of

JACKSON V. DENNO

1 me basically typing prior to actually submitting the
2 report, yes, sir.

3 Q Okay. And do you take notes when you're
4 in the field, like, with a note pad or?

5 A On that particular day I did not.

6 Q Okay. And so how soon after this incident
7 did you start committing your memory to notes?

8 A That would have probably been in the
9 following week.

10 Q Okay. So about a week later then?

11 A Yes, sir.

12 Q And the reason why you made supplemental
13 reports is, is because why?

14 A To document exactly what occurred.

15 Q And contemporaneous or as close as
16 contemporaneous to the incident as possible?

17 A Well, as far as trying to document what
18 I -- so that I don't lose the memory of that,
19 correct.

20 Q Correct. And this was in 2019?

21 A That's correct.

22 Q And we're in 2023?

23 A That's correct.

24 Q And sometimes your memory will have
25 faltered over those years as to what happened in

JACKSON V. DENNO

1 2019?

2 A It's possible, yes.

3 Q Okay. So I'm just trying to get to the
4 point of why we -- why you write things down in a
5 supplemental report.

6 A Correct.

7 Q Because it's -- it's more fresh in your
8 memory then than it would be now almost four years
9 later.

10 A That's correct.

11 Q Okay. If you could, if I could refer you
12 to your report, sir. It just -- after at the bottom
13 of that first page -- and you are Alvin King,
14 correct?

15 A Yes, sir.

16 Q Okay. "at this point we continued
17 straight on White Horse Road and pulled into the
18 parking lot of Long John Silver's." Next page, "I
19 approached the subject and I read and explained to
20 his Miranda rights which he stated he understood
21 while I was reading them to him, and I asked him if
22 he was willing to talk to me and he stated that it
23 was all captured on video." If you go down to the
24 bottom of that next paragraph, that last sentence.
25 Could you read that for me? Starts with suspect

JACKSON V. DENNO

1 Morris.

2 A "Suspect Morris was in place in the back
3 seat of the marked patrol vehicle off scene and I
4 responded to the incident location."

5 Q Okay. So you testified earlier that when
6 you were questioning him he was inside the vehicle.

7 A When I first made contact with him, yes,
8 sir.

9 Q Okay. But here it says that you -- after
10 you spoke to him, then he was placed inside of the
11 vehicle?

12 A That's correct.

13 Q Okay. So you're saying that he was placed
14 in the vehicle, he got out of the vehicle, and he
15 then he went back into the vehicle?

16 A At some point during the questioning, yes,
17 sir.

18 Q Okay. And when exactly did that occur?

19 A As far as him exiting the vehicle?

20 Q Yes, sir.

21 A I do not know.

22 Q Okay. So you're saying that before you
23 spoke to him -- well, let me ask you this. Why did
24 you get him out of the vehicle?

25 A I do not recall.

JACKSON V. DENNO

1 Q Did you get him out of the vehicle?

2 A I don't know if I actually physically got
3 him out of the vehicle or if he stood up on his own.
4 He would have had to have stood up on his own.

5 Q Is it possible that you spoke to him
6 before he was placed into the vehicle?

7 A No, sir.

8 Q Okay. And why do you know that for
9 certain?

10 A Because when I arrived on scene he was in
11 the back seat of the patrol vehicle.

12 Q You're positive about that?

13 A As far as I remember, yes, sir.

14 Q Okay. And so when you -- when you
15 approached the vehicle, did you open the door or was
16 the door already open?

17 A The -- I don't recall if it was open or by
18 if I opened it. I don't recall.

19 Q Do you recall whose patrol vehicle it was?

20 A I don't, but I later learned that it was
21 actually a warrants car.

22 Q What do you mean ---

23 A But I don't know ---

24 Q --- by that?

25 A I couldn't tell you whose car it was, no,

JACKSON V. DENNO

1 sir.

2 Q When you say a "warrants car," what do you
3 mean by that?

4 A A unit that's assigned to serve warrants.

5 Q Okay. So I'm just -- well, I'm curious
6 'cause in your -- in your incident report you don't
7 state that you get him out of the vehicle, but you
8 state that after you finished talking to him that he
9 was placed in the back seat of the vehicle.

10 A Correct.

11 Q Okay. So your testimony is when you came
12 to the scene he was in the vehicle, you don't know
13 who got him out of the vehicle, you didn't get him
14 out of the vehicle; but at some point he got out of
15 the vehicle after you spoke to him?

16 A It was more than likely while I was
17 speaking to him.

18 Q While you were speaking to him what?

19 A Is when he got out of the vehicle.

20 Q Okay. Why would that have been? Why
21 would you have gotten him out of the vehicle at that
22 point?

23 A It could be numerous reasons.

24 Q Do you recall?

25 A No, sir, I do not recall.

JACKSON V. DENNO

1 Q And you did not -- you did not indicate
2 that in your report?

3 A No, sir.

4 Q Okay. And you don't indicate in your
5 report that you ever got him out of the vehicle?

6 A No, sir.

7 Q In fact, your report states that when you
8 got -- when you pulled into the parking lot you
9 approached the subject and read and explained to him
10 his Miranda rights.

11 A That's correct.

12 Q But you don't explain that he was in the
13 vehicle at the time. How did you know which vehicle
14 he was in when you got there?

15 A Well, there was only one subject in
16 custody at that scene.

17 Q Uh-huh. And that was apparent from when
18 you pulled up to the scene?

19 A Yes, sir.

20 Q Okay. How many cars were on the scene at
21 that time ---

22 A Multiple cars.

23 Q Okay. And so how did you know which one
24 he was located in?

25 A By vision. I mean, you visually see him

JACKSON V. DENNO

1 sitting at that car.

2 Q There weren't tinted windows on the -- on
3 the vehicle?

4 A No, sir

5 Q Okay. At that point did you -- now when
6 you spoke to him, did you go in to the front door or
7 the back door?

8 A Back door.

9 Q Now did you ever enter the vehicle or did
10 you just lean into the vehicle?

11 A No, I didn't. No, I never entered the
12 vehicle.

13 Q Okay. So you opened the door and spoke to
14 him?

15 A Yes, sir.

16 Q And then at some point -- and this is what
17 I don't understand is, is that in your report you
18 state that, you know, you asked questions and he
19 gave answers and gave responses. And then you say
20 at the end of there "Suspect Morris was then placed
21 in the back seat of the marked patrol vehicle on the
22 scene."

23 A That's correct.

24 Q So at some point while you were
25 questioning him you got him out of the vehicle?

JACKSON V. DENNO

1 A Again, I don't -- I don't recall that,
2 that aspect of the interview.

3 Q Would there be any reason to get -- to ask
4 him to get out of the vehicle while you were
5 questioning him?

6 A Other than to check his clothing.

7 Q You didn't have -- no one checked his
8 clothing previously?

9 A No, as far as -- no, I'm talking about as
10 far as actually for me to actually visually see what
11 he was wearing.

12 Q Oh, I see. And why would you have done
13 that?

14 A Because I've -- following up on this I
15 would be going down to look at the store
16 surveillance.

17 Q Did you speak with any of the deputies who
18 were present?

19 A I'm sure I did.

20 Q Okay. Did you ask them how it was that
21 they put him in the back of this vehicle?

22 A No, sir.

23 Q How long -- you said it was less than two
24 minutes?

25 A I expect it probably a few minutes.

JACKSON V. DENNO

1 Q And there was no other deputies around
2 when you were speaking with him?

3 A Well, they were around, yes, but not right
4 there involved in the interview, no.

5 Q Did you speak to any deputies after you
6 spoke to him to tell him what he had said to you?

7 A I do not recall. I'm sure I probably did,
8 but I don't recall.

9 Q Do you know if at the time that you got
10 there that they knew that this was the -- that they
11 thought that Mr. Morris was the suspect from Walmart
12 or had they figured that out yet?

13 A We were still working on that aspect of it
14 'cause we were pretty sure at that point that it
15 was, in fact, him.

16 Q So do you think it would have been
17 important to have told some -- one of the other
18 officers whether what he had disclosed to you during
19 that conversation?

20 A We had the man in custody, so.

21 Q It was your understanding that they
22 were -- that they were certain that that was him and
23 they were not looking for anybody else?

24 A Well, that's what we were -- we were
25 basically working on to make sure that we weren't

JACKSON V. DENNO

1 looking for a second or third individual involved in
2 the situation.

3 Q When is the next time that you told
4 someone about what Mr. Morris had disclosed you?

5 A I'm sure it was probably pretty quick, but
6 I don't recall.

7 Q Do you recall who that was?

8 A I would probably be communicating with the
9 other investigators and more than likely some of the
10 deputies that were involved in the trying to secure
11 the location, trying to secure the patrons from the
12 Walmart.

13 Q Did you ever communicate that to Detective
14 Bailey?

15 A I'm sure I did at some point, yes.

16 Q Thank you. That's all the questions I
17 have.

18 THE COURT: Redirect.

19 MR. GREGORY: Just briefly, Your Honor.

20 **REDIRECT EXAMINATION**

21 BY MR. GREGORY:

22 Q The report that you made as dated
23 July 18th, that's for the entire investigation,
24 correct?

25 A From my -- from my involvement, yes, sir.

JACKSON V. DENNO

1 Q And it's given over -- it's not just for
2 you, it's also for the lead investigator, correct?

3 A That's correct.

4 Q So you would have passed that on to the
5 lead investigator?

6 A That's correct.

7 Q Now the vehicle, you say it was
8 potentially a warrants vehicle. Not all warrants
9 vehicles are used for transport; isn't that correct?

10 A That's correct.

11 Q All right. So a lot of times transport
12 shows up, you transport the individual from the
13 location to the law enforcement center, correct?

14 A That's correct.

15 Q That's because it's more of a secured car.
16 It's got a cage in it. Numerous reasons, correct?

17 A That's correct.

18 MR. GREGORY: I have nothing further, Your
19 Honor.

20 THE COURT: Anything on recross?

21 MR. GAMBRELL: No, sir, I don't have any
22 recross.

23 THE COURT: Sir, you can step down.

24 MR. GREGORY: Judge, we have no further
25 witnesses for this Jackson v. Denno hearing.

JACKSON V. DENNO

1 THE COURT: All right. Anything before we
2 decide? No? We got another one?

3 MR. MILLER: Yes, Your Honor.

4 THE COURT: All right. We'll follow that.

5 MR. MILLER: Your Honor, at this time the
6 State calls the Honorable Seldon Peden.

7 WHEREUPON,

8 **SELDON PEDEN,**

9 having been duly sworn by the clerk, testified
10 as follows:

11 THE CLERK: And please state your name for
12 the record.

13 THE WITNESS: Seldon Jermaine Peden.

14 **DIRECT EXAMINATION**

15 BY MR. MILLER:

16 Q Judge Peden, where are you employed?

17 A Greenville County.

18 Q And what is your role in Greenville
19 County?

20 A Magistrate judge currently in the
21 Greenville County bond court.

22 Q What are your responsibilities?

23 A To preside over criminal bond hearings
24 within 24 hours of individual -- individual's
25 arrest.

JACKSON V. DENNO

1 Q Did you preside over Braylon Morris' bond
2 hearing?

3 A Yes, sir.

4 Q What is your process at a bond hearing as
5 you go through it?

6 A I read to them what their rights are based
7 on a checklist provided by South Carolina Court
8 Administration. I call them up individually. Once
9 I finish with that particular bond, I ask them if
10 they have any questions, issues, or concerns, let
11 them know what their bond is at the time of
12 paperwork.

13 Q And what are those rights that you review?

14 A I feel (ph) them all. You have the right
15 to remain silent. You have the right to an
16 attorney. You have the right to a trial. You have
17 a right to a preliminary hearing. You -- I explain
18 to them different types of bonds, what my
19 responsibilities are. And some of those I've gone
20 into more specific detail, but those are the rights
21 that I remind them of, again.

22 Q And did you advise Mr. Morris of those
23 rights?

24 A Yes, sir.

25 Q Did Mr. Morris make a statement at the

JACKSON V. DENNO

1 bond hearing?

2 A Yes.

3 Q Did he appear lucid or under the influence
4 of any drugs or alcohol at the bond hearing?

5 A He did not appear under the influence of
6 anythings.

7 Q Did he appear to understand what was going
8 on?

9 A Yes, sir.

10 Q Did he appear to understand what you were
11 saying to him?

12 A Yes, sir.

13 Q Did he respond -- respond appropriately to
14 what was said to him?

15 A He did.

16 Q When he gave his statement, who prompted
17 him giving the statement, if anybody?

18 A He was responding to a statement from the
19 victim's father.

20 Q And so not -- and you're not law
21 enforcement?

22 A No, sir.

23 Q And so only you and the victim's father
24 spoke to Mr. Morris at the bond hearing?

25 A We spoke to each other. The victim's

JACKSON V. DENNO

1 father and I spoke to each other.

2 Q And then you relayed that to Mr. Morris?

3 A Mr. Morris heard him.

4 Q Heard him? And was he forced or forced to
5 give any statement?

6 A No, sir.

7 Q Did he freely and voluntarily give a
8 statement?

9 A Yes, sir.

10 Q Okay. Where was the statement given?

11 A In the -- we have a county bond court
12 where the -- those who have been charged stand
13 during a hearing.

14 Q Was he threatened or coerced to give a
15 statement?

16 A No, sir.

17 Q Was he promised anything to give a
18 statement?

19 A No, sir.

20 Q Okay. Did he give the statement after you
21 made him aware of his rights?

22 A Yes, sir.

23 MR. MILLER: Your Honor, the -- I believe
24 the Clerk has the previous disk that was entered at
25 the last hearing as the disk of the statement.

JACKSON V. DENNO

1 BY MR. MILLER:

2 Q Were there cameras present at this bond
3 hearing?

4 A There were.

5 Q Okay.

6 (WHEREUPON, State Exhibit No. 30 was
7 marked for identification only.)

8 BY MR. MILLER:

9 Q Showing you from our last hearing on
10 February 16th of 2023, this was Court's Exhibit No.
11 5 at the time. You recognize this?

12 A Yes, sir.

13 Q What is it?

14 A It's a DVD of the video from the hearing
15 that I initialed the bond.

16 Q And is it a fair and accurate
17 representation?

18 A Yes, sir.

19 Q Okay. Did it appear, otherwise, for any
20 court rulings to be tampered with in any way?

21 A No.

22 MR. MILLER: Your Honor, we'd like to
23 admit that as an exhibit for this hearing.

24 THE COURT: Any objection?

25 MR. GAMBRELL: No objection, Your Honor.

JACKSON V. DENNO

1 THE COURT: All right. So entered without
2 objection.

3 (WHEREUPON, State Exhibit No. 30 was
4 admitted into evidence.)

5 BY MR. MILLER:

6 Q So, again, no law enforcement officer
7 questioned Mr. Morris at this hearing at any time?

8 A No, sir.

9 Q Okay. Please answer any questions
10 Mr. Gambrell has.

11 A Yes, sir.

12 MR. GAMBRELL: Thank you, Your Honor. May
13 it please the Court.

14 **CROSS-EXAMINATION**

15 BY MR. GAMBRELL:

16 Q Judge Peden, typically at a bond hearing
17 when -- when deputies bring folks from the detention
18 center, are they in custody at that time?

19 A Deputies don't bring them, the jail staff
20 brings them.

21 Q Okay.

22 A So I guess they're being custody of the
23 Greenville County jail.

24 Q Any question that Mr. Morris was in
25 custody at that time?

JACKSON V. DENNO

1 A No.

2 Q Okay. Was he handcuffed or shackled?

3 A I believe possibly he may have been. He
4 was at the end, I think, jail out there.

5 Q The jumpsuit?

6 A Jumpsuit, yes, sir.

7 Q And that would indicate to you what?

8 A That he was now in custody of the
9 Greenville County jail.

10 Q Okay. Was he accompanied by any sheriff's
11 deputies?

12 A No sheriff deputies.

13 Q Okay. Now at a -- at a bond proceeding, a
14 bail proceeding when you're setting bond, the types
15 of questions you typically ask are, how would you
16 character it?

17 A We don't ask questions. I let them know
18 what my responsibilities are. I remind them of the
19 rights that they have. I let them know of some
20 procedures that they would have to go through. So
21 there really isn't questions. Kind of me telling
22 them, you know, what's going on.

23 Q So you're not seeking to get any
24 information from them?

25 A No, sir.

JACKSON V. DENNO

1 Q And certainly you're not asking or trying
2 to gather any evidence ---

3 A No, sir.

4 Q --- or ask any questions that would be
5 related to the prosecution of that particular
6 defendant?

7 A Correct.

8 Q Do you typically allow victims families to
9 speak to defendants during the bond hearings?

10 A Not to them. I asked Mr. -- if there's
11 anything they would like to share with me so they
12 would share with me whatever they choose to say.

13 Q And in that particular hearing that
14 Mr. Deck's father had asked you, he wanted to know
15 why.

16 A He told me he wanted to know why, yes,
17 sir.

18 Q And what was your response to that?

19 A I didn't have a response.

20 Q Okay. What would you normally respond to
21 them?

22 A I just listen.

23 Q Would you tell them that's not proper for
24 you to give that type of response?

25 A No. I let them share with me what they

JACKSON V. DENNO

1 want to. They may say they want to ask questions.
2 They may tell me what they feel. I just take it in
3 and move forward with the hearing.

4 Q And do you ever allow them to ask
5 questions of the defendant?

6 A No.

7 Q Okay. Were you aware at the time that
8 Mr. Morris had invoked his right to counsel?

9 A No.

10 Q What, if anything, would you have done
11 differently had you known that Mr. Miller had
12 invoked his right to counsel?

13 MR. MILLER: Objection, Your Honor. Also
14 he made him aware he had the right to counsel and
15 that comes into play when there's questioning from
16 law enforcement. This is not questioning from law
17 enforcement so that's not invoked.

18 THE COURT: I sustain your objection.
19 BY MR. GAMBRELL:

20 Q At that time you did not know he had
21 invoked his right to counsel?

22 A No, sir.

23 Q Would you agree that the defendant doesn't
24 have to say anything at a bond?

25 A Absolutely.

JACKSON V. DENNO

1 Q And that it's not, certainly not the
2 magistrate's court at the time of setting the bond,
3 to gather any evidence for the prosecution?

4 A Correct.

5 Q Thank you very much.

6 A Yes, sir.

7 THE COURT: All right. Yes, sir.

8 MR. MILLER: No more questions, Your
9 Honor. At this time the State would move that both
10 statements made to Investigator King, as well as to
11 Judge Peden, be admitted under Denno and
12 specifically in regards to the statement made to
13 Judge Peden under State v. Curtain as we argued back
14 in February which, again, I have a few copies of
15 that that we submitted last time. Under State v.
16 Curtain this was a statement at a bond hearing made
17 by defendant after advised of Miranda. The court
18 actually found that Miranda did not even apply
19 because there was no questioning by law enforcement
20 and that the warning mandated by Miranda was meant
21 to preserve the privilege during incommunicado do
22 interrogation of individuals in a police dominated
23 atmosphere in that Curtain was not subjected to
24 custodial interrogation at his bond hearing even
25 though he was in custody at the time. And there is

1 no evidence that he was questioned -- questioning by
2 law enforcement or any other interrogation such that
3 the requirement to provide Miranda warnings
4 attached.

5 The evidence of both statements, Your
6 Honor, shows that they were made freely and
7 voluntarily without any threat or coercion with
8 knowledge, both statements after Miranda was given
9 to the defendant that he waived those rights and
10 made the statements that he made. And, Your Honor,
11 that under the case of State v. Parker, which is 381
12 SC 68, which states that the burden of proof on the
13 State in Denno hearing is by a preponderance of the
14 evidence and that the State believes regards to both
15 statements, we have met that burden.

16 THE COURT: All right. Mr. Gambrell.

17 MR. GAMBRELL: Your Honor, specifically
18 with regard to the statements made at the bond
19 hearing in Mr. Morris had previously requested by
20 law enforcement and during that questioning at hand
21 waived his right to counsel. At that time they
22 stopped his questioning. And I would say that his
23 right to counsel continues after that if there's no
24 dispute that he's in custody at this point. You
25 know, a bond proceeding is a judicial proceeding.

1 It's a proceeding where law enforcement is present.
2 You know, the fact that there was a question allowed
3 that was evidentiary in nature, it was probative of
4 what the prosecution would try to seek against my
5 client after he has invoked his systematic right to
6 counsel. We believe that if -- it would be
7 violation of Miranda. You know, we -- he has a
8 right to counsel and, you know, had he had counsel
9 there, obviously his lawyer would have advised him
10 not to respond to anything. It is a coercive
11 environment. He is shackled; he's handcuffed. You
12 know, I -- we just believe that it's a -- it's a
13 clear violation of Miranda because he's previously
14 invoked his, his right to counsel.

15 And with regard to Mr. -- statements to
16 Mr. King, I just don't see that there's any
17 additional reliability. I mean, there's no
18 memorializations of this statement that was made by
19 Mr. Morris, nor than were around to hear it. There
20 was a camera that it was caught on. It wasn't
21 memorialized in a statement that was written. It's
22 obviously very inculpatory and had, you know,
23 Mr. King, you know, stopped at that time and had him
24 say again on camera or say it again or written it in
25 a statement and have him sign where he waives his

1 rights. You know, all that we have is the testimony
2 of a sergeant on the scene where there are
3 multiple -- other deputies who could have and should
4 have heard his statement, could have had it repeated
5 to them or had him also witness the statement.
6 There just isn't the indicative of liability that we
7 typically rely upon when we're admitting statements
8 made by individuals who have -- who are in custody
9 and are subject to custodial interrogation so we
10 would -- we would ask that that not be allowed.

11 MR. MILLER: Brief response, Your Honor.
12 In regards to about the bond hearing being coercive
13 environment if he's handcuffed, that goes to his
14 being in custody. That does not by definition mean
15 coercion. State v. Curtain is directly on point,
16 Your Honor. It's the same situation other than
17 that. The judge at the bond hearing was going
18 through what was required for the bond hearing. He
19 was acting in the duties and then the person made a
20 statement of their own free will and voluntarily did
21 it while lucid and knowing what was going on. And I
22 believe Curtain is directly on point to that issue.

23 In regards to the argument made to
24 Investigator King, I think to talk about whether
25 it's reliable as a question of for the jury, do they

1 want to rely on it or not; but I believe it meets
2 the bar of admissibility by a preponderance of the
3 evidence that the statement was freely and
4 voluntarily and knowingly given. And to say that
5 we'll now put a camera on you and say repeat what
6 you just said, I don't think to say that's reliable
7 to say that that's what happened, that a person
8 would just go and say I'll repeat what I just said
9 or I'll now go down to the law enforcement center
10 and sign a form and say it again. You know,
11 officers cannot create the situation all the time,
12 especially out in a field as to when they say a
13 person will freely give a statement. I believe
14 under the preponderance of the evidence, they're
15 both are freely and voluntarily given under State v.
16 Parker; and State v. Curtain is directly on point
17 with the statement made at the bond hearing.

18 THE COURT: All right.

19 MR. MILLER: And, well, just reiterating
20 for the record, Judge, that we did previously argue
21 these two motions on February of 2023. I believe it
22 was February 13th, 2023 on trial court and as, you
23 know, argued in front of Your Honor, and they were
24 deemed admissible under Jackson v. Denno.

25 THE COURT: Anything else, Mr. Gambrell?

1 MR. GAMBRELL: Nothing further, Your
2 Honor.

3 THE COURT: All right. The Court having
4 heard argument from counsel for both sides, the
5 Court also having looked at and read both of these
6 cases, State v. Curtain, as well as State v. Parker,
7 the Court, again, rule in the same manner that the
8 Court did back in February of this year. The Court
9 found that the statements under Jackson v. Denno
10 was -- was freely and voluntarily given as relates
11 to both statements.

12 And I apologize, Mr. Peden, I could have
13 told you to step down but you can while I'm talking.

14 THE WITNESS: All right.

15 THE COURT: The statements are freely and
16 voluntarily given and deemed to be admissible under
17 Jackson v. Denno. And I think the cases of State v.
18 Curtain, which is found in SC -- 33-1 SC 7 as well
19 as State v. Parker found in 381 SC 68, I think both
20 of those cases are spot on in terms of the issue
21 that not only involve in the first motion, but also
22 the second motion involving the bond hearing. Okay.

23 The only other hearing motion I think I
24 want to hear from you, Mr. Miller, is motion in
25 limine to exclude the testimony regarding victim's

1 toxicology results.

2 And Mr. Gambrell, I think what I want you
3 to do for me and, of course, I've got the written
4 motion, it's pretty straight forward. I want -- I
5 just want you to tell me -- and not rushing you in
6 any manner at all -- but counsel for the State, it
7 is known in his motion cited at case 2018 case,
8 South Carolina case, State v. Washington, that goes
9 to that issue so. But I'll let counsel handle it in
10 any way you want to, I'm just saying I think it
11 would be productive, Mr. Gambrell, for me to hear
12 from you regarding how your position 'cause I really
13 think it boils down to a 401 or 403 analysis,
14 particularly 403.

15 MR. GAMBRELL: Well, I would say, Judge.
16 You know, as I read Washington, the reason the court
17 did not find the trial court's ruling to withhold
18 that evidence was not an abuse of discretion was
19 because they could not determine the relevance of
20 it; and if they did, that it was outweighed by the
21 prejudicial effect. But I think, you know, the --
22 what I read from it was in the case that there was
23 no testimony as to the intoxication of the victim in
24 that case. There was testimony that he'd been
25 drinking, but the defendant did not have specific

1 knowledge of the victim's intoxication, and
2 therefore, was relevant to his claim. But I think
3 in this case -- and I'm not assuming that any of the
4 State's witnesses would be able to produce evidence
5 for us, but certainly the defense witnesses may be
6 able to produce evidence to where the toxicology
7 report becomes relevant because, ultimately, if
8 we're trying to establish a defense of self-defense,
9 one of the factors is, is that, you know, Mr. Morris
10 must have believed that he was in imminent danger.
11 And so, if the evidence shows that, you know,
12 obviously you sat through the immunity hearing so
13 you know some of the evidence that he's claiming ---

14 THE COURT: Right.

15 MR. GAMBRELL: --- these text messages
16 that were sent days prior.

17 THE COURT: Right.

18 MR. GAMBRELL: If there's testimony from
19 him with regard to his knowledge of the defendant
20 using methamphetamine and fentanyl on a daily basis,
21 that it would go to his state of mind as to when he
22 next saw him of how, what sort of danger he was
23 particularly in. If he received those threats and
24 in his mind he knows that this individual is
25 typically under the influence of methamphetamine and

1 fentanyl, that I think it goes to whether or not his
2 belief was reasonable; and, if so, then the
3 toxicology report would certainly corroborate that.
4 And that's how I do believe it's relevant.

5 THE COURT: That's a stretch,
6 Mr. Gambrell, but I heard your argument. Go ahead,
7 Mr. ---

8 MR. GAMBRELL: And I would just say this
9 and, again, I know if, like, if they called the
10 pathologist, if we're able to answer that, we may
11 have to wait until we put on our evidence so then we
12 call the pathologist to make it relevant.

13 THE COURT: Mr. Miller.

14 MR. MILLER: Your Honor, I believe
15 Mr. Gambrell here is kind of the cart before the
16 horse is the one that they talk about in Washington
17 is the relevance of it and we're talking about in
18 each of the Washington cases, as well as the State
19 v. Drayton case and the motion is that on the
20 cross-examination of the forensic pathologist is
21 they were trying to get directly into the toxicology
22 report of the victim. And the Court in both those
23 cases, one, established they didn't believe there
24 was relevance from that testimony coming in through
25 the forensic pathologist because they couldn't

1 testify to any type of effect it would have on a
2 person or anything like that or how they would act.
3 That would cause confusion to the jury. So I --
4 what my motion is directed towards is that on
5 cross-examination of the forensic pathologist,
6 there's Dr. Wassum in this case, is that the Defense
7 would not be allowed to cross-examine regarding the
8 toxicology report because there would be no
9 foundation laid for it whatsoever. And under
10 Washington and Drayton, especially Washington, the
11 court, I believe, is on point on this issue that
12 they would not be allowed to cross-examine forensic
13 pathologist on the toxicology report.

14 THE COURT: Mr. Gambrell, you want to
15 respond?

16 MR. GAMBRELL: And I understand that,
17 Judge, because at that point there may not be -- it
18 may not be relevant, but I think we've reserved the
19 right to be able to re-call them on the defense,
20 during the defense, if we put up sufficient evidence
21 to make it relevant.

22 THE COURT: We'll see. I guess we would
23 have to cross that bridge when we get to it.

24 MR. GAMBRELL: Correct.

25 THE COURT: All right. You agree with

1 that, Mr. Miller? I mean, and I think your argument
2 regarding the State v. Washington case I think
3 that's spot on. I think that's covered it, but, you
4 know, I don't know which path the case is going in
5 terms of the pathology report. I guess we have to
6 just kind of deal with that when we get to it and
7 maybe do a proffer or something.

8 MR. MILLER: Yes, sir.

9 THE COURT: All right. What else you have
10 for me?

11 MR. GAMBRELL: Judge, I just want to just
12 briefly make sure that we've preserved our previous
13 motion and respectfully to ask Your Honor to reduce
14 (indiscernible) ---

15 THE COURT: Right.

16 MR. GAMBRELL: --- in this case. I just
17 want to make sure that's preserved.

18 THE COURT: Yeah, all -- all that is
19 preserved for the record and even the motion
20 regarding my having represented an aunt almost 25/30
21 years ago, that's preserved too. And also, well,
22 also preserved some 20 some odd years ago that
23 somebody brought your client in my office for
24 potential representation, that's preserved. I think
25 that's everything that I did in the past. Isn't

1 that right, Mr. Gambrell, allegedly did?

2 MR. GAMBRELL: I believe that is, Your
3 Honor.

4 THE COURT: Okay. I don't remember any of
5 it, but it's all preserved for the record. And also
6 your -- the Court's ruling on the Jackson v. Denno.
7 Your objection to that ruling is also preserved for
8 the record as to both motions. Okay.

9 MR. MILLER: Judge, I have one other
10 question just briefly before the jury gets in.
11 Since that video is gonna be shown from the bond
12 hearing, it's my understanding that that video was
13 also published through various news outlets.

14 THE COURT: Were they?

15 MR. MILLER: It was.

16 THE COURT: Since the last hearing?

17 MR. MILLER: I -- no, not since the last
18 hearing, but I think when this initially happened,
19 and I would just ask that if -- if Your Honor would
20 be willing to voir dire the jury whether or not they
21 have any knowledge or recollection from that hearing
22 because it had been published on just about every
23 news channel that there was in the area.

24 MR. GAMBRELL: I think that would be
25 covered they just -- the question they've

1 acknowledged about the case when we read out the
2 indictment. And, Your Honor, I would say that I do
3 have some issues with some of the ---

4 THE COURT: Voir dire.

5 MR. GAMBRELL: --- voir dire which are
6 similar to what was provided back in February so.

7 THE COURT: Let's just go through it. Is
8 it ---

9 MR. MILLER: Well, he didn't -- these are
10 aware we landed back in February so I just think we
11 need to go through them again.

12 THE COURT: Let me ask you this. I think
13 we went through potential voir dire back in
14 February, and I think we -- I thought we sort of
15 worked it out in terms of what was acceptable, what
16 wasn't acceptable. So Mr. Gambrell, is this the
17 same exact sheet you presented last time that we
18 took all that time going through?

19 MR. GAMBRELL: I pulled it from his file,
20 Judge. It certainly was the same one. Now there
21 may have been -- we may have parsed it down last
22 time, but I, I didn't edit it based on those
23 productions.

24 THE COURT: Well, y'all -- I thought
25 Mr. Miller and Mr. Gambrell had some objections last

1 time. Are these the same objections you had last
2 time?

3 MR. GAMBRELL: I'd have to look at the
4 exact transcript exact, but I'm pretty sure it's
5 gonna be the same objections I have because these
6 appear to be the same questions going down to number
7 11 saying woman instead of man. So these are ---

8 THE COURT: Yeah. I did not, you know, I
9 did not keep my sheet from the last time. But I
10 thought, Mr. Gambrell, I'm pretty sure we went
11 through all these voir dire questions but we -- I
12 guess we can do them right quickly. You got about
13 2--- yeah, I know we did because you had about 20
14 some odd. Yeah, I know exactly we did this. So
15 somebody should have kept some notes in order for me
16 to decide as to which ones we accepted, which ones
17 we rejected, or he wants to go through all them
18 again, Mr. Gambrell.

19 MR. GAMBRELL: I did not keep those notes,
20 Judge. I mean, I know that there were some -- some
21 of the, you know, victims advocacy groups we had
22 agreed to eliminate. I do recall that.

23 THE COURT: Yeah. I'm just, I'm just
24 trying to move this along.

25 MR. MILLER: I looked for mine in my

1 notes, Judge, and I couldn't find my copy where we
2 went through and struck and exact wrote down. I
3 looked for at lunch.

4 THE COURT: All right. Let's see if we
5 can quickly go through this.

6 MR. MILLER: Yes, sir.

7 THE COURT: On the first one, does any
8 potential juror otherwise know any of the
9 potential -- okay, I think I got No. 1 squared away.

10 MR. MILLER: I think -- yeah, I believe
11 No. 1 we just landed on just if they knew anybody,
12 that we didn't need to do A and B.

13 THE COURT: We didn't need to do A and B?

14 MR. GAMBRELL: I don't think so. I think
15 we just ---

16 THE COURT: No, that's right.

17 MR. MILLER: If we knew anybody.

18 THE COURT: You following us, Mr.

19 Gambrell?

20 MR. GAMBRELL: Yes, sir.

21 THE COURT: So we're just talking about
22 reading the first statement, did not mediate A and
23 B.

24 MR. GAMBRELL: Yes, I understand.

25 THE COURT: You good? Okay. No. 2.

1 MR. MILLER: You know, did No. 2. I mean,
2 anybody. And then it also mentions Pickens County
3 and then in any capacity. It just seems overbroad.

4 THE COURT: Do you know anyone who works
5 with the 13th Circuit Solicitor's Office or any law
6 enforcement agency in Greenville County or Pickens
7 County. Can we stop there?

8 MR. GAMBRELL: I don't -- I mean, this
9 case is only in Greenville County.

10 THE COURT: You want to stop at Greenville
11 County and then not read A because we're sort of
12 doing the same thing we're doing in 1.

13 MR. MILLER: The word there any capacity
14 because that just gets confusing, like, how broad
15 are we getting there.

16 THE COURT: No, I'm just saying does
17 anyone know anyone works with the 13th Circuit
18 Solicitor's Office or any law enforcement agency in
19 Greenville County. I'm stopping there.

20 MR. MILLER: Yes, sir. No. 3, have you
21 ever campaigned or made a contribution to the
22 sheriff or Walt Wilkins, you know I think we're
23 getting outside ---

24 THE COURT: I think we scratched that last
25 time, Mr. Gambrell. I do remember that. You

1 following me?

2 MR. GAMBRELL: I'm following.

3 THE COURT: Okay.

4 MR. MILLER: Then I believe on No. 4,
5 again, we talked about these groups. MADD is
6 Mother's Against Drunk Driving. I don't think we
7 ever figured out what CAVE or SADD were, and I don't
8 think MADD has really any relevance in this case.
9 We're not dealing with felony DUI or any kind of
10 DUI. I'm still not sure what CAVE or SADD are, and
11 we don't know what they are. I don't ---

12 THE COURT: What do these organizations
13 have to do with this case, Mr. Gambrell?

14 MR. GAMBRELL: They're just victims
15 advocacy groups.

16 THE COURT: Yeah, but typically you're
17 talking about in alcohol related cases. This is not
18 that.

19 MR. GAMBRELL: All right. You can take
20 out everything after a member of a victim's advocacy
21 group. I'm fine with it.

22 MR. MILLER: Yeah, I -- closely with
23 relative or friend. I don't know if we need to go
24 down the spider web of everybody's web of family and
25 friends and...

1 THE COURT: Well, you know ---

2 MR. MILLER: We're talking about these
3 jurors.

4 THE COURT: I'm gonna ask the question,
5 has any potential juror ever been -- I'm gonna leave
6 out family member, relative, or friend -- ever been
7 or is currently a member of a victim's advocacy
8 group. I'm gonna stop there.

9 MR. MILLER: You know, 5 and 5, gun
10 prevention groups, the NRA, I think we're still
11 getting overbroad. We might have pared those down
12 some. I don't remember how, but I remember having
13 issue with those and also thinking they were, I
14 don't know, asking the same thing a little bit
15 different ways.

16 MR. GAMBRELL: I do recall you asking
17 those last time, Judge, 'cause there were several
18 folks that stood.

19 MR. MILLER: I don't know if we talked or
20 named the NRA specifically. I think -- because
21 there's a question later, I think, about second
22 amendment I think. I think, you know, we're
23 starting to ask the same thing three or four times,
24 different words.

25 THE COURT: Well, what I'll probably ask,

1 I'll say is any member of the jury panel a member of
2 any gun violence prevention organization, stop right
3 there. And then I'm gonna scratch No 6.

4 MR. MILLER: Has any member of the jury
5 panel had any experience with substance abuse.
6 Judge, that is starting to go into the purview of
7 what we just talked about, the toxicology report,
8 which is where we have to see where it goes so I
9 don't think that would really be appropriate in voir
10 dire because we're starting to touch on facts with
11 that.

12 THE COURT: I'm gonna leave that out just
13 for right now, Mr. Gambrell. 8 ---

14 MR. MILLER: And 8, again, the same thing
15 but instead of saying substance abuse it's saying
16 mental illness.

17 THE COURT: What does that -- where does
18 that come in in this case?

19 MR. GAMBRELL: Judge, it's just one of the
20 typical voir dire questions that I ask to try to ---

21 THE COURT: You ask that in every kind of
22 case you try? Yeah, you ask that in a shoplifting
23 case?

24 MR. GAMBRELL: Every case ---

25 THE COURT: You ask that in a grand

1 larceny case?

2 MR. GAMBRELL: Yes, sir.

3 THE COURT: That ain't true. You know I
4 accept it ---

5 MR. GAMBRELL: Every single ---

6 THE COURT: You use boilerplate voir dire
7 questions. I understand they're out there, but you
8 got to look at your case and see whether they fit
9 your cases. That's not just send them in.

10 MR. GAMBRELL: It provides a lot of
11 information for me, Judge, so. That's why I'm
12 asking ---

13 THE COURT: No, I'm just asking the
14 connection between mental illness in this case.

15 MR. GAMBRELL: Well, I'm looking for
16 connection to jurors.

17 THE COURT: You're trying to find out
18 jurors who had some mental illness.

19 MR. GAMBRELL: I'm asking -- when I ask my
20 voir dire questions, I'm -- I ask ---

21 THE COURT: No, I understand why you're
22 asking them. I'm saying this particular question
23 right here, No. 8, tell me how this is relevant to
24 this case.

25 MR. GAMBRELL: Well, it's relevant to

1 every case that I ask. I ask that in every single
2 case.

3 THE COURT: Well, we're not gonna ask it
4 in this case. Let's go to No. 9.

5 MR. MILLER: NO. 9 and 10 also appear to
6 be same type of question. You know, been a victim
7 of a serious crime. And then No. 10 asks about been
8 affected by a crime. You know, I think those two
9 are duplicative. I think they're also both a little
10 broad. I think we reworked the wording on it last
11 time, but I -- I don't believe that was exactly how
12 we went with it.

13 THE COURT: I think what, I mean, trying
14 to do here Mr. Miller is ask 9 and leave out
15 subsection A.

16 MR. MILLER: And ---

17 THE COURT: Well, I'm gonna take out a
18 friend.

19 MR. MILLER: Yes, sir.

20 THE COURT: I'm gonna take out friend.
21 No. 10 is, I think -- I think when you -- so here's
22 the deal. What's gonna happen when I ask 10, what
23 I'm gonna do is, what's gonna happen is you're gonna
24 have jurors, the same jurors who jumped up the first
25 time jumping up again, and they're gonna be

1 repeating the same thing that they did the first
2 time so. I think -- I think No. 9 puts us in the
3 ballpark other than I think we're not -- I'm gonna
4 do No. 10.

5 MR. MILLER: No. 11, it's a man that is
6 the victim in this case, not a woman. You know, Mr.
7 Gambrell and I talked about No. 11 after our trial a
8 couple of weeks ago. You know, there might be a
9 good way to talk about if somebody, so the topic of
10 murder, I don't know if that will be covered in our
11 reading of the indictment if it comes through that
12 way; but it could be, you know, if somebody is so
13 affected just by the charge of the crime being
14 murder that they cannot be fair and impartial to the
15 Defense or the State.

16 THE COURT: You know, when an indictment
17 is read, I think the indictment is going to
18 specifically talk about shooting. They're gonna use
19 the word "shooting." As a matter of fact, the
20 sentence is that Braylon Lamar Morris did in
21 Greenville County on or about the 5th day of July
22 2019 unlawfully and with malice aforethought kill
23 Michael Deck by means of shooting Michael Jason Deck
24 and Michael Deck died as a proximate result thereof.
25 So when you ask the question feel this is so

1 violent, that's kind of broad. What should you put
2 on that, Mr. Gambrell? Do you have any?

3 MR. GAMBRELL: Well, I just think that
4 there's some jurors, Judge, that, you know -- I use
5 these in CSC cases as well, but sometimes the
6 subject matter is such that they -- that they do
7 have a preconceived bias.

8 MR. MILLER: I think that can get covered
9 in reading the indictment if somebody is -- hears
10 the indictment and if anybody has a reason they get
11 covered that way. I don't know if we need to be
12 duplicative with it.

13 THE COURT: We're gonna scratch off the
14 first sentence in No. 11. We're gonna scratch off
15 the third sentence in No. 11, and then I'll just
16 read does any potential juror feel this subject is
17 so violent it would affect your ability to be fair
18 and impartial. And the reason I'm gonna ask that
19 question, and I think -- you're not familiar with
20 this, Mr. Gambrell, but I think -- and this has
21 nothing to do with this case. But these two
22 gentlemen were before me a short time ago, and we
23 did have a potential juror that raised that issue
24 with me after jury selection that -- and I don't
25 think -- I think counsel will very well remember

1 that she couldn't look at pictures of the deceased.
2 You know, it's not your case, it's another case.
3 And, but she was retained on the jury; and during
4 the period of time that I think she sat, any time
5 that picture of the deceased was on the screen she
6 didn't look at it, she kept her head down. So I
7 think that question for that reason would really
8 benefit the State, as well as the Defendant, to know
9 that you don't have another duplication of that same
10 type juror that you're gonna not use a potential
11 strike on I think so. That's why I think I'm gonna
12 read the second sentence. No. 12 says has any
13 potential juror or close friend ever been a civilian
14 or military law enforcement. What does that have to
15 do with anything, Mr. Gambrell? Military law
16 enforcement, what does that have to do with
17 anything?

18 MR. GAMBRELL: Usually folks who are
19 related to or?

20 THE COURT: Military?

21 MR. GAMBRELL: Sorry?

22 THE COURT: Go ahead, I'm finished.

23 MR. GAMBRELL: Yeah. They typically have
24 a bias towards the State.

25 THE COURT: Bias towards what?

1 MR. GAMBRELL: Towards the State.

2 THE COURT: Who has the bias towards the
3 State? The people in the military?

4 MR. GAMBRELL: Yes, sir. Well, it says
5 military law enforcement officer.

6 THE COURT: A military law enforcement,
7 okay. You know, I think -- I think in the
8 qualifications one time I think we asked is
9 anybody -- about law enforcement. I don't know if
10 that's a -- what I want to ask. What's your
11 thoughts on it, Mr. Miller?

12 MR. MILLER: Your Honor, I think it's
13 overbroad. I think it's covered, I think, you know,
14 we asked about all the standard questions that come
15 up. I just don't think this would be appropriate.

16 THE COURT: I don't think I'm gonna ask
17 that one. Let's go to No. 13.

18 MR. MILLER: I think this gets covered
19 when we question ask if they have any knowledge of
20 allegations previously. I think this is, again,
21 just asking if they already know anything about the
22 case coming into it.

23 THE COURT: Yeah, that's a generic
24 question I'll ask. You heard the defendant and then
25 ---

1 MR. MILLER: I think No. 14 gets covered
2 when Your Honor tells the jury about what the
3 indictment is, that it's not evidence. That's
4 covered there. And 15 and 16, those get covered in
5 jury charges about a person does not need to
6 testify, the burden is solely on the State. I think
7 that gets covered by His Honor.

8 THE COURT: I think so. 17, -- and I'm
9 not excluding you, Mr. Gambrell, if you want -- got
10 a position, please jump in.

11 MR. GAMBRELL: Obviously, Judge, I'm a
12 proponent for all of these, and I respectfully
13 (indiscernible) as to each one.

14 THE COURT: All right. If a witness cried
15 during this, would you be able to put aside -- I'm
16 not gonna ask 17. Has any member of the jury panel
17 read about this case in newspaper, I think I covered
18 that already. I will cover that in my instructions
19 to them. And 19, has any member of the jury panel
20 liked or followed the following Facebook pages, I
21 remember we talked about that.

22 MR. MILLER: If I recall, Your Honor, I
23 think this, we covered this. We talked about if
24 they are a member of or affiliated with victim's
25 advocacy group.

1 THE COURT: All right.

2 MR. MILLER: Also, subsection 8 is about
3 criminal domestic violence.

4 THE COURT: Right, right. I think we
5 covered that when we did that before. No. 20, does
6 anyone have a strong belief about a person having
7 the right to defend themselves from loss of life, if
8 so, please stand.

9 MR. MILLER: Your Honor, I believe in this
10 case that is going to what a -- what is or what
11 would not be a jury charge as to whether or not even
12 a charge of self-defense is appropriate so I think
13 we're ---

14 THE COURT: I think so.

15 MR. MILLER: --- ringing a bell and
16 putting something into a juror's head before we even
17 have opening statements.

18 THE COURT: I agree with that. Any
19 potential juror -- you know, this next question, we
20 didn't -- in talking about the previous case --
21 we -- counsel will very well remember that we had a
22 juror who had seated in that case who brought to our
23 attention, the court's attention, and they went to
24 school or something with the victim's brother or
25 something to that effect. And I think one of my

1 questions at the front end of that was, we asked
2 about the -- any affiliation with the defendant or
3 witnesses, I mean, attorneys and all that. But we
4 didn't ask about the deceased, did anybody know the
5 deceased. And perhaps if we had done that, that
6 particular juror would have stood and given that
7 information so I think it's important to ask 21.
8 I'm gonna ask -- depends on what they tell me. If,
9 you know, my standard question is if they say they
10 know them, I'm just gonna ask them can they be fair
11 and impartial in the trial of this case and I think
12 that will cover it.

13 And then on question 22 would be have you
14 formed an opinion recording this case based on
15 reading of the indictment. Well, I'm gonna cover
16 that because I'm gonna tell them the indictment is
17 not evidence and that you should not form an opinion
18 at this juncture based on not -- at any juncture,
19 clear that record up. At any juncture regarding the
20 indictment 'cause the indictment is not evidence of
21 anything.

22 MR. MILLER: For clarification, Your
23 Honor, No. 21, are we just reading the question and
24 not A & B? I assume we would ---

25 THE COURT: Yeah. I'll just read the

1 question ---

2 MR. MILLER: --- talk, talk to them.

3 THE COURT: Not A & B. If they brought
4 it, bring it out, then I'll ask them in what
5 capacity if they feel comfortable telling me. All
6 right. Okay. Let me see the schedule before we
7 bring this panel in for jury selection so you
8 need -- you need to be ready to go. What we're
9 gonna do is, we're going to pick the jury and we're
10 gonna swear the jury in. I'm gonna say some
11 remarks, what I normally say to the jury, and after
12 that we're gonna get into opening statements. So
13 you got to be ready to pull the trigger on that.
14 Don't use the word "trigger," Madam Court Reporter.
15 Be ready. Y'all gonna be ready?

16 MR. MILLER: Yes, sir, I will be, Your
17 Honor. I just would ask that after you swear the
18 jury and before we do openings so I can just run to
19 the restroom and at some point ---

20 THE COURT: We'll try to fit that in.

21 MR. MILLER: Appreciate it.

22 THE COURT: All right. Okay. Bring them
23 in. Let's...

24 MR. MILLER: Your Honor, briefly.

25 THE COURT: Uh-huh.

1 MR. MILLER: If possible, just after,
2 well, the trial we had last time, if we can have
3 three alternates and the alternates not be released
4 at the conclusion and stay in case something comes
5 up later while the jury is deliberating and we need
6 an alternate, that they would stay. And if we could
7 have three ---

8 THE COURT: I wonder why you're asking me
9 that. Let me tell you why I guess why you're asking
10 me. You want three alternates this time?

11 MR. MILLER: Well, I'd say that as we are
12 also the only trial going on this week as well so I
13 ---

14 THE COURT: I don't have a problem unless
15 Mr. Gambrell has a problem.

16 MR. GAMBRELL: We don't.

17 THE COURT: Yeah, we can get three
18 alternates.

19 MR. MILLER: Thank you, Your Honor.

20 (WHEREUPON, the jury was returned to the
21 courtroom and the following proceedings commenced in
22 open court.)

23 THE COURT: All right. Ladies and
24 gentlemen of the jury panel, we are about to select
25 a jury in the case of the State of South Carolina v.

1 Braylon L., Braylon Lamar Morris.

2 Mr. Morris, would you please stand for me.

3 All right. You can have a seat.

4 All right. This is the State of South
5 Carolina v. Braylon Lamar Morris. This is
6 indictment number 2019-GS-23-007279. This
7 indictment states the following: That Braylon Lamar
8 Morris did in Greenville County on or about the 5th
9 day of jail of 2019 unlawfully and with malice
10 aforethought kill Michael Deck by means of shooting
11 Michael Jason Deck and that Michael Deck died as a
12 proximate result thereof. This being in violation
13 of Code Section 16-3-0010 of the South Carolina Code
14 of Laws as amended.

15 The indictment also charges Mr. Braylon
16 Lamar Morris with possession of a weapon during the
17 commission of a violent crime. The indictment
18 states that Braylon Lamar Morris did in Greenville
19 County on or about the 5th day of July of 2019,
20 possess or visibly displayed a firearm during the
21 commission or attempted commission of a violent
22 crime, to wit, murder. This is in violation of Code
23 Section 16-23-0490 of our South Carolina Code of
24 Laws. Let me just say this to you, I've read --
25 what I've read to you was off this sheet of paper,

1 and this sheet of paper is called an indictment and
2 the way I normally explain an indictment is if you
3 go to a movie theater, in order to see the movie
4 you've got to have a ticket. You won't get in to
5 see the movie unless you have a ticket. Well, why
6 am I saying that? The only way that matters come
7 before the Court of General Sessions is by way of an
8 indictment which is the ticket. And the reason I
9 also say that is, this indictment, it does not in
10 any way indicate any guilt on behalf of the
11 defendant. This indictment is purely the vehicle by
12 which it comes to the court of General Sessions and
13 gives me jurisdiction to hear the case. That's all
14 this piece of paper is, and you may hear me say that
15 again at the conclusion of the trial that it's not
16 evidence of guilt.

17 In this case the -- in a criminal case,
18 which is the court of General Sessions, many of you
19 may have or you may have not had a chance to serve
20 in the Court of Common Pleas, which is civil court.
21 The burden of proof in a civil court is dramatically
22 different from the burden of proof in criminal
23 court. And in civil court you may heard -- hear the
24 term that the moving party, the plaintiff, has to
25 prove his or her case by a greater preponderance of

1 the evidence. That's in a civil case. In a
2 criminal case, the State represented through the
3 Solicitor's Office, has the burden of proving this
4 defendant's guilt beyond a reasonable doubt. The
5 State has to prove every element of the offense upon
6 which the defendant is charged and that proof must
7 be beyond a reasonable doubt. In other words, the
8 burden of proof in a criminal case lies squarely on
9 the shoulders of the State. So I want it to be
10 that -- make that clear.

11 Now I am going to do a few things. The
12 first thing I'm gonna do is -- and I'm gonna go to
13 the State's side first. And pay no attention the
14 reason, the order that I'm doing that, I'm just,
15 where I'm looking. I'm gonna ask the State to
16 introduce -- the attorney for the State to introduce
17 themselves or anyone else that's at counsel's table
18 to the jury. I'll let you do that as well.

19 MR. MILLER: Yes, sir, Your Honor. May it
20 please the Court. My name is Walker Miller. I'm
21 assistant solicitor of the 13th Circuit Solicitor's
22 Office. To my left, this is Jon Gregory. He is
23 co-counsel. He's also a solicitor in the office.
24 This is Sonya Browning. She's an investigator that
25 we work with. And this is Investigator Antonio

1 Bailey. He recently had a surgery on his foot so
2 it's more difficult for him to stand up as well, and
3 he's the lead investigator on the case. All right.

4 THE COURT: Now turning to the Defense
5 counsel.

6 MR. GAMBRELL: Good afternoon. My name is
7 Michael Gambrell. I solo practice here in
8 Greenville, South Carolina. I provide and I
9 (indiscernible). And, of course, you met Braylon
10 Lamar Morris. He goes by Lamar. Thank you.

11 THE COURT: All right, now, the first
12 question that I'm gonna ask you, the panel, of
13 course, if you have an answer to any of these
14 questions regarding anything that I'm asking to you,
15 I want you to follow the same procedure we did
16 downstairs. You give -- you stand up. You give me
17 your juror number and you give me your name. This
18 time you have to speak loud because the court
19 reporter is in the courtroom. That's the young lady
20 that's sitting in front of me. And a lot of people
21 think that the judge with the black robe is the most
22 important person in the courtroom, but I'm not. The
23 most important person in the courtroom is this young
24 lady sitting right in front of me because her job
25 is, she has to take down everything anybody says in

1 the courtroom and that's gonna to be a difficult job
2 but that's what -- and she's good at what she does.
3 But anyway, does any member of the jury panel -- I'm
4 gonna go to the State side first. Does any member
5 of the jury panel know Mr. Walker Miller, have
6 you -- okay, you've seen him before, been -- went
7 both to the Y with him, work out with him, or any
8 capacity at all. I see one juror standing. Give me
9 your juror number and name.

10 PROSPECTIVE JUROR: 191, John Taylor.

11 THE COURT: How do you know Mr. Miller?

12 PROSPECTIVE JUROR: Mr. Miller is a friend
13 of mine.

14 THE COURT: He's a friend of yours. Is he
15 a good friend?

16 PROSPECTIVE JUROR: I would say he's a
17 good friend.

18 THE COURT: All right. Okay, all right.
19 Now by virtue of him being a good friend of yours,
20 do you think you can still be fair and impartial in
21 the trial of this case? And this is to both sides.

22 PROSPECTIVE JUROR: I will be unbiased,
23 so, yes.

24 THE COURT: Okay, all right. Okay. Have
25 a seat.

1 Anyone else know Mr. Miller?

2 (There was no response.)

3 (There was no response.)

4 THE COURT: All right. Let's go to
5 Mr. Gregory, Jon Gregory. Anybody know Mr. Jon
6 Gregory? You know him in any capacity at all seen
7 him before, saw him at the Walmart, Piggly Wiggly,
8 any place like that?

9 (There was no response.)

10 THE COURT: All right. And ---

11 MS. BROWNING: Sonya Browning.

12 THE COURT: Browning. Does anybody know
13 Ms. Browning, ever seen her before, any capacity?
14 Please stand. Okay.

15 (There was no response.)

16 THE COURT: What about Detective Antonio
17 Bailey, anybody seen him before?

18 (There was no response.)

19 THE COURT: Okay. All right, now let's go
20 over to the Defense side and let's ask you some
21 questions about Mr. Gambrell. Has anybody ever seen
22 Mr. Gambrell before in any capacity? Seen him at
23 the Publix, Cracker Barrel?

24 (There was no response.)

25 THE COURT: All right. Now, Mr. Morris,

1 can I get you to stand again for me, sir.

2 Does any member of the jury panel know
3 Mr. Morris, ever seen him before, have you ever laid
4 eyes on him in any capacity? If so, please stand.

5 (There was no response.)

6 THE COURT: All right, Mr. Morris, you can
7 sit, have a seat.

8 All right, now, what I'm gonna ask you
9 before I get into potential witnesses on the State's
10 side as well as the Defendant's side, I'm gonna ask
11 you some, what's termed, voir dire questions. Now
12 if I ask you a voir dire question, you would stand,
13 give me your juror number and name. Now, if the
14 question I'm asking you would cause some
15 embarrassment to you or you feel uncomfortable --
16 I'll use that word -- you feel uncomfortable
17 answering the question with all these people that
18 you don't know, I'll give you the same opportunity
19 to ask me that, to answer that question at the
20 conclusion of my remarks to -- at the beginning.

21 So, first question is -- and speak loud
22 enough so I can hear you. Do you know anyone that
23 works in the 1st Circuit Solicitor's Office or any
24 law enforcement agency in Greenville County?

25 I think that's you, sir, is that correct?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: And your answer still remains
3 the same, fair and impartial; is that correct?

4 PROSPECTIVE JUROR: Correct.

5 THE COURT: All right. Anyone else?

6 (There was no response.)

7 THE COURT: Has any potential juror ever
8 been or is currently a member of a victim's advocacy
9 group? You're a member of any kind of organization
10 that's deemed to be a victim's advocacy group, if
11 so, please stand.

12 (There was no response.)

13 THE COURT: Is any member of the jury
14 panel a member of any gun violence prevention
15 organization? You're a member of any organization
16 like that, please stand.

17 (There was no response.)

18 THE COURT: Has any potential juror, close
19 family member, or relative ever been a victim of a
20 serious crime? If so, please stand. All right,
21 give me your juror number and name.

22 PROSPECTIVE JUROR: 174, Stephanie
23 Shaffer.

24 THE COURT: All right, Ms. Shaffer, which
25 family member? Was it a relative?

1 PROSPECTIVE JUROR: My husband's father.

2 THE COURT: Okay. Was that quite some
3 time ago or recently?

4 PROSPECTIVE JUROR: It was back in '81.

5 THE COURT: All right. Do you think you
6 still can be fair and impartial, look at both --
7 listen to both sides and ---

8 PROSPECTIVE JUROR: I'm not sure because
9 it's unsolved.

10 THE COURT: I hear you. You're not sure.

11 PROSPECTIVE JUROR: I'm not sure because
12 the murder is unsolved.

13 THE COURT: It's unsolved. It's still
14 pending? Is that what you're telling me? Okay. So
15 you're not saying you can, you're saying you can't,
16 you just don't know.

17 PROSPECTIVE JUROR: Right.

18 THE COURT: Okay. We'll, I'm gonna let
19 you have a seat right now, okay. Thank you, ma'am,
20 for sharing.

21 Anyone else?

22 (There was no response.)

23 THE COURT: All right. Juror number and
24 name.

25 PROSPECTIVE JUROR: 157, Stacy Pierson.

1 THE COURT: All right. Were they ---

2 PROSPECTIVE JUROR: Oh, I got two cousins
3 that were murdered.

4 THE COURT: Two cousins? Was ---

5 PROSPECTIVE JUROR: One is the aunt,
6 different generation.

7 THE COURT: All right.

8 PROSPECTIVE JUROR: But it was years --
9 years ago.

10 THE COURT: Years ago? Is that -- you
11 said years ago. So even though it happened on ---

12 PROSPECTIVE JUROR: '68 and mid '80s.

13 THE COURT: Okay. All right. You know,
14 I'm sorry about that. But you still think -- in
15 this case you think listen to both sides and be fair
16 and impartial to both the State, as well as the
17 Defendant?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: All right. Thank you, ma'am,
20 for that. Anybody else? Anybody else?

21 (There was no response.)

22 THE COURT: All right. Does any potential
23 juror feel that this subject matter is so violent
24 that it would affect your ability to be fair and
25 impartial?

1 (There was no response.)

2 THE COURT: Anyone falls in that category
3 please stand.

4 (There was no response.)

5 THE COURT: Okay. Does any potential
6 juror know the family of the victim in this case
7 Michael Jason Deck? Anybody know family? If so,
8 please stand.

9 (There was no response.)

10 THE COURT: Any exceptions to voir dire by
11 the State?

12 MR. MILLER: No, Your Honor.

13 THE COURT: Any exceptions voir dire by
14 the Defense?

15 MR. GAMBRELL: Just the ones we previously
16 raised, Your Honor.

17 THE COURT: All right, so noted for the
18 record.

19 All right. Ladies and gentlemen of the
20 panel, I am going to now read you the names of
21 potential witnesses for the State and potential
22 witnesses for the Defense. If you happen to
23 recognize any of those names, please, ma'am, please,
24 sir, please stand and let me know. So please,
25 ma'am, pay attention. And I've got several names

1 that I need to go through so let me start with the
2 potential witnesses for the State. And if you
3 recognize any of these names, I'm not gonna say each
4 time please stand. I'm gonna go through the list
5 and wait for you to stand if you know any of these
6 people. Antonio Bailey with the Greenville County
7 Sheriff's Office, and that's this gentlemen we just
8 referred to a minute ago. Alvin King with the
9 Greenville County Sheriff's Office, Taylor East with
10 the Greenville County Sheriff's Office, Chris
11 McCalmont -- M-C-C-A-L-M-O-N-T -- with the
12 Greenville County Sheriff's Office, Joshua Campbell
13 with the Greenville County Sheriff's Office, Jeremy
14 Jones with the Greenville County Sheriff's Office,
15 Isaac Henderson with the Greenville County Sheriff's
16 Office, Ramon Rivera with the Greenville County
17 Sheriff's Office, Charles Boone with the Greenville
18 County Sheriff's Office, Harry McConnell with the
19 Greenville County Sheriff's Office, G. Grimstad with
20 the Greenville County Sheriff's Office, Ryan Hamberg
21 with the Greenville County Sheriff's Office, Chris
22 Hammett with the Greenville County Sheriff's Office,
23 Tim Brochin -- B-R-O-C-H-I-N -- with the Greenville
24 County Sheriff's Office, Kyle Price with the
25 Greenville County Sheriff's Office, Jonathan

1 Davenport with the Greenville County Sheriff's
2 Office, Bryan Leppard -- L-E-P-P-A-R-D -- with the
3 Greenville County Sheriff's Office, Thomas Mitchell
4 with the Greenville County Sheriff's Office, John
5 James with the Greenville County Sheriff's Office,
6 Matthew Lovelace with the Greenville County
7 Sheriff's Office, Aaron Skinner with the Greenville
8 County Sheriff's Office, Johnathan Howard with the
9 Greenville County Sheriff's Office, James Perry with
10 the Greenville County Sheriff's Office, Joshua
11 Pierce with the Greenville County Sheriff's Office,
12 Robert Grubbs with the Greenville County Sheriff's
13 Office, Dustin Woodall with the Greenville County
14 Sheriff's Office, Quincy Greene with the Greenville
15 County Sheriff's Office, Craig Hawkins with the
16 Greenville County Sheriff's Office, Lieutenant C.
17 Miller with the Greenville County Sheriff's Office.

18 MR. MILLER: Judge ---

19 THE COURT: All right, I'll back up a
20 second.

21 Juror No. and name.

22 PROSPECTIVE JUROR: 156.

23 THE COURT: Your name?

24 PROSPECTIVE JUROR: Kelly Phillips.

25 THE COURT: Which name did you recognize?

1 PROSPECTIVE JUROR: Quincy Green.

2 THE COURT: Quincy Green, okay. How do
3 you know Mr. -- Officer Green?

4 PROSPECTIVE JUROR: His children go to the
5 day care that I work at.

6 THE COURT: All right. And that's the
7 only relationship you know?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: You still think you can be
10 fair and impartial in the trial of this case and
11 listen to both sides/

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: All right. Thank you, ma'am.

14 Craig Hawkins with the Greenville County
15 Sheriff's Office, Lieutenant C. Miller with the
16 Greenville County Sheriff's Office, Justin Lanford
17 with the Greenville County Sheriff's Office, William
18 Brewer with the Greenville County Sheriff's Office,
19 Lieutenant B. Duncan with the Greenville County
20 Sheriff's Office, Corey Chadwick with the Greenville
21 County Sheriff's Office, Benton McBride with the
22 Greenville County Sheriff's Office, Cody Mitchell
23 with the Greenville County Sheriff's Office, Breanna
24 Dowaleski -- D-O-W-A-L-E-S-K-I -- with the
25 Greenville County Sheriff's Office, Joshua Pierce

1 with the Greenville County Sheriff's Office, Nicole
2 Bracken with the Greenville County Sheriff's Office.
3 Blake Wolfe, forensics; Lieutenant Lendway,
4 forensics; Sergeant Jonathan Hamilton, forensics;
5 Ashley Guinn, forensics; Amber Thomas, forensics;
6 Christopher Gary; Kara Bennic, property and
7 evidence; Major Stowers; Lieutenant J. McCombs;
8 Charles Moore; Tirissa Johnson; Gary Sessions of the
9 coroner's office; Deputy Coroner Allen -- Coroner
10 England; Ellis with the Coroner's Office; John
11 Wassum, M.D.; Robert Trusty, BFD; John Arrowood,
12 DFD; Ryan Johnson, BFD; Jeremy Poole, BFD. SLED
13 Agent Kindley, SLED Agent Slizewski, SLED Agent
14 Drake, SLED Agent Joy, The Honorable Seldon Peden,
15 Julie Anderson with Fox Carolina, Henry Deck,
16 Stinson Rush (sic), Hazen George, Anthony King,
17 Barbara Byrum, Heidi Meriweather, Tamana Goss,
18 Stephen Cook, Anthony Dubose, Joey Cloninger, Lisa
19 Wilson, Amanda Alderman, Mary Eckard, Anamaria
20 Cortez, Scotty Pope, Ocie Hawkins, Annette Torre,
21 Kelsey McLaurin, Jackie Rillo, Richard Sean McGuire,
22 Ronald D. Lemley, Dalton Moore (sic), Tiffany D.E.
23 Walker, Ashlee M. Weary, Dalesa L. Peterson, Lois J.
24 Tinsley.

25 Juror number and name.

1 PROSPECTIVE JUROR: 158, Emily Pollak.

2 Did you say Jackie Rillo?

3 THE COURT: Let me go back. Jackie Rillo,
4 R-I-L-L-O.

5 PROSPECTIVE JUROR: Okay. I don't know if
6 it's the same one. I have a best friend Jackie
7 Rillo.

8 THE COURT: Lives here in Greenville?

9 PROSPECTIVE JUROR: She's moved to Easley.

10 THE COURT: All right. Just in case
11 that's the same person, you still think you can be
12 fair and impartial?

13 PROSPECTIVE JUROR: Yes. I don't think
14 it's her. She's never said anything to me about it
15 so I'm assuming if it was her she would have said
16 something.

17 THE COURT: All right.

18 PROSPECTIVE JUROR: Okay?

19 THE COURT: Okay. Dalton Moon, Tiffany
20 D.E. Walker, Ashley Weary, Dalesa Peterson, Lois
21 Tinsley, Barbara Franklin, Nancy Brown, Linda
22 Underwood, Charlotte Smith, Cantrell Starr -- oh,
23 Contrell Starr. James Gregory, Terry Bryson, Debra
24 Johnson.

25 Juror number and name.

1 PROSPECTIVE JUROR: 176, Thelma Slagle.

2 THE COURT: Which -- who do you know?

3 PROSPECTIVE JUROR: Linda Underwood.

4 THE COURT: Linda Underwood. Yes, how do
5 you know Ms. Underwood?

6 PROSPECTIVE JUROR: It's my daughter's
7 mother-in-law.

8 THE COURT: All right.

9 PROSPECTIVE JUROR: But I ---

10 THE COURT: You like her?

11 PROSPECTIVE JUROR: Yeah.

12 THE COURT: All right.

13 PROSPECTIVE JUROR: But I can be -- I can
14 be ---

15 THE COURT: You still can be fair and
16 impartial in the trial of this case?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you, ma'am. All right.

19 Charlotte Smith, Con-- Terry Bryson, Debra
20 Johnson, Christian L. Parker, Jacquet Boyd, Margarie
21 Rodriguez, Alicia Willis, Charles Shipman, Tyler
22 O'Neil, Wanda Foster, Christine Butler, Cynthia
23 Goodine, Nancy Cox, Jim Bentley, Terry Foster,
24 Sherri Winn, Warren Uhl. Uhl is spelled U-H-L.
25 Braylon Scott, Shari -- S-H-A-R-I -- Fowler, Ishmael

1 Cousar, Tom Tanner, Karen Smith, James Stevens,
2 Shannon Willis, Taylor King, Kendra Evans, Nikia
3 Garrett, Elizabeth Martinez, Brandi Cash, Carol
4 Ross, Matthew Knight, Teresa Smith, Brany Sevak --
5 S-E-V-A-K. Sandra Baviria, B-A-V-I-R-I-A. Monica
6 Visaino, V-I-S-A-I-N-O. Shaquilla,
7 S-H-A-Q-U-I-L-L-A Smith. Douglas Mann, Sovia
8 Rotsios, R-O-T-S-I-O-S. Tammy Lusk, Heaven Peden,
9 Tony Fincanoon, F-I-N-C-A-N-O-O-N. Henry Shephard,
10 Geraldine Hooker, Janice Uli, U-L-I. J. Chappell
11 with EMS, Caleb Moore with EMS. And lastly, M
12 Thompson of EMS. These are all potential witnesses
13 for the State.

14 The potential witnesses for the Defense:
15 Aryn Revis, A-R-Y-N R-E-V-I-S; Tylor Mobley,
16 T-Y-L-O-R; Karen Morris; Azzelee Owens,
17 A-Z-Z-E-L-E-E; Carmen Sprouse, C-A-R-M-E-N. These
18 are potential witnesses for the Defense, and I've
19 already read to you potential witnesses for the
20 State.

21 Any additions from the State?

22 MR. MILLER: None, Your Honor.

23 THE COURT: Any additions from the
24 Defense?

25 MR. GAMBRELL: None, Your Honor.

1 THE COURT: All right. Ladies and
2 gentlemen of the jury panel, we are now going to
3 move directly into jury selection.

4 MR. MILLER: Your Honor, can we approach
5 real quick?

6 THE COURT: Yes.

7 (WHEREUPON, counsel approached the
8 bench for an off-the-record discussion.)

9 THE COURT: Counsel brought to my
10 attention that I -- on a potential witness for the
11 State, I mispronounced the last name. The name is
12 Stinson and I said Stinson Rush, and it's Stinson
13 Ruth, R-U-T-H, so I wanted to be clear on that.

14 All right, Madam Clerk, I think I'm gonna
15 turn it over to you.

16 THE CLERK: Thank you. All right, ladies
17 and gentlemen, as I call your name and number,
18 please stand and wait for further instructions.
19 Joanie A. Sparks, 181 (white female). What says the
20 State?

21 MR. MILLER: Please seat, Ms. Sparks.

22 THE CLERK: What says Defense?

23 MR. GAMBRELL: Please excuse Ms. Sparks.

24 THE CLERK: Ms. Sparks, you may be seated.
25 Jesse Buchanan, 22 (white male).

1 MR. MILLER: Please excuse Mr. Buchanan.

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

3 Johnnie M. Mattison, 130 (black female).

4 What says the State?

5 MR. MILLER: Please seat Ms. Mattison.

6 THE CLERK: What says Defense?

7 MR. GAMBRELL: Please seat Ms. Mattison.

8 THE CLERK: Ms. Mattison, you get your
9 belongings and come this way. You'll be having a
10 seat in the jury box. Just follow over to the
11 bailiff.

12 David D. Mitchell, 138 (white male). What
13 says the State?

14 MR. MILLER: Please seat Mr. Mitchell.

15 THE CLERK: What says the Defense?

16 MR. GAMBRELL: Please seat Mr. Mitchell.

17 THE CLERK: Mr. Mitchell, if you will
18 please come this way. Have a seat in the jury box.

19 Nicholas P. Suydam, 188 (white male).

20 MR. MILLER: Please seat Mr. Suydam.

21 THE CLERK: What says Defense?

22 MR. GAMBRELL: Please excuse Mr. Suydam.

23 THE CLERK: You may be seated.

24 Juror No. 110, Lori L. Kovich (white
25 female).

1 MR. MILLER: Please seat Ms. Kovich.

2 THE CLERK: What says Defense?

3 MR. GAMBRELL: Please seat Ms. Kovich.

4 THE CLERK: Ms. Kovich, if you would bring
5 your things and have a seat in the jury box.

6 Juror No. 157, Stacy S. Pierson (white
7 female.) What says the State?

8 MR. MILLER: Please seat Ms. Pierson.

9 THE CLERK: What says Defense?

10 MR. GAMBRELL: Please excuse Ms. Pierson.

11 THE CLERK: You may be seated, Ms.
12 Pierson.

13 Juror 49, Samuel B. Dougherty, II (white
14 male). What says the State?

15 MR. MILLER: Please seat Mr. Dougherty.

16 THE CLERK: What says Defense?

17 MR. GAMBRELL: Please seat Mr. Dougherty.

18 THE CLERK: Come this way, Mr. Dougherty.

19 Juror No. 67, Elizabeth W. Forbes (white
20 female.) What says the State?

21 MR. MILLER: Please seat Ms. Forbes.

22 THE CLERK: What says Defense?

23 MR. GAMBRELL: Please excuse Ms. Forbes.

24 THE CLERK: You may be seated, Ms. Forbes.

25 Juror No. 171, Elizabeth Sawyer (white

1 female). What says the State?

2 MR. MILLER: Please seat Ms. Sawyer.

3 THE CLERK: What says Defense?

4 MR. GAMBRELL: Please seat Ms. Sawyer.

5 THE CLERK: Thank you.

6 Juror No. 26, Jason M. Callon (white
7 male). What says the State?

8 MR. MILLER: Please seat Mr. Callon.

9 THE CLERK: What says Defense?

10 MR. GAMBRELL: Please seat this juror.

11 THE CLERK: Come this way, Mr. Callon.
12 Have a seat in the jury.

13 Juror No. 137, Lester Miranda (Hispanic
14 male). What says the State?

15 MR. MILLER: Please seat Mr. Miranda.

16 THE CLERK: What says Defense?

17 MR. GAMBRELL: Please excuse Ms. Miranda
18 -- Ms. Miranda.

19 THE CLERK: You may be seated where you
20 were at, sir.

21 Juror 156, Kelly Phillips (white female).

22 MR. MILLER: Please seat Ms. Phillips.

23 THE CLERK: What says the Defense?

24 MR. GAMBRELL: Please excuse Ms. Phillips.

25 THE CLERK: You may be seated.

1 Juror No. 202, Justin Watkins (white
2 male). What says the State?

3 MR. MILLER: Please excuse Mr. Watkins.

4 THE CLERK: You may be seated.

5 Juror 41, Corinne Davis (white female).
6 What says the State?

7 MR. MILLER: Please seat Ms. Davis.

8 THE CLERK: What says Defense?

9 MR. GAMBRELL: Please excuse Ms. Davis.

10 THE CLERK: You may be seated.

11 Juror 174, Stephanie Shaffer (white
12 female). What says the State?

13 MR. MILLER: Please seat Ms. Shaffer.

14 THE CLERK: What says Defense?

15 MR. GAMBRELL: Please excuse Ms. Shaffer.

16 THE CLERK: Thank you.

17 Juror 32, Kenneth Clark (white male).
18 What says the State?

19 MR. MILLER: Please seat Mr. Clarke.

20 THE CLERK: What says Defense?

21 MR. GAMBRELL: Please seat Mr. Clarke.

22 THE CLERK: Come this way, Mr. Clarke.

23 Have a seat in the jury.

24 Juror No. 94, Leonel Ibarra (Hispanic
25 male). What says the State?

1 MR. MILLER: Please seat Mr. Ibarra.

2 THE CLERK: What says Defense?

3 MR. GAMBRELL: Plead seat Mr. Ibarra.

4 THE CLERK: This way Mr. Ibarra. Have a
5 seat in the jury.

6 Juror 173, Angela Sevigny (white female).
7 What says the State?

8 MR. MILLER: Please seat Ms. Sevigny.

9 THE CLERK: What says Defense?

10 MR. GAMBRELL: Please seat Ms. Sevigny.

11 THE CLERK: Come this way. Have a seat in
12 the jury panel.

13 Juror 87, Danny Hansford (white male).
14 What says the State?

15 MR. MILLER: Please excuse Mr. Hansford.

16 THE CLERK: You may be seated,
17 Mr. Hansford.

18 Juror 191, John Taylor, Jr. (white male).
19 What says the State?

20 MR. MILLER: Please seat Mr. Taylor.

21 THE CLERK: What says Defense?

22 MR. GAMBRELL: Please excuse Mr. Taylor
23 please.

24 THE CLERK: You may be seated.

25 Juror 176, Thelma Slagle (white female).

1 What says the State?

2 MR. MILLER: Please seat Ms. Slagle.

3 THE CLERK: What says Defense?

4 MR. GAMBRELL: Please seat Ms. Slagle.

5 THE CLERK: Come this way, Ms. Slagle.

6 Juror 83, Ryleigh Gregory (white female).

7 What says the State?

8 MR. MILLER: Please excuse Ms. Gregory.

9 THE CLERK: Thank you.

10 Juror 112, Thomas Lafaver (white male).

11 What says the State?

12 MR. MILLER: Please seat Mr. Lafaver.

13 THE CLERK: What says Defense?

14 MR. GAMBRELL: Please seat Mr. Lafaver.

15 THE CLERK: Come this way, sir. Just have
16 a seat in the jury.

17 Juror 168, Sherry Rowen (white female).

18 What says the State?

19 MR. MILLER: Please seat Ms. Rowen.

20 THE CLERK: What says Defense?

21 MR. GAMBRELL: Please excuse Ms. Rowen.

22 THE CLERK: Thank you.

23 Juror 93, Bryant Hyatt, Jr. (black male).

24 What says the State?

25 MR. MILLER: Please excuse Mr. Hyatt.

1 THE CLERK: Okay. Juror 18, Jill Borish
2 (white female). What says the State?

3 MR. MILLER: Please seat Ms. Borish.

4 THE CLERK: What says Defense?

5 MR. GAMBRELL: Please seat Ms. Borish.

6 THE CLERK: That's 12.

7 THE COURT: We're doing three alternates?

8 MR. MILLER: We have enough remaining
9 jurors, Your Honor.

10 THE COURT: You got any objection to that,
11 Mr. Gambrell?

12 MR. GAMBRELL: I don't. How many -- I
13 can't recall the strikes that we had.

14 MR. MILLER: Alternate one and two for
15 alternate, Your Honor.

16 THE COURT:

17 THE CLERK: All right. Juror 162, Charles
18 Raymond (white male). What says the State?

19 MR. MILLER: Please seat Mr. Raymond.

20 THE CLERK: What says Defense?

21 MR. GAMBRELL: Please seat Mr. Raymond.

22 THE CLERK: Okay, Mr. Raymond.

23 Juror No. 189, Frank Tamberello (white
24 male). What says the State?

25 MR. MILLER: Please seat Mr. Tamberello.

1 THE CLERK: What says Defense?

2 MR. GAMBRELL: Please excuse Mr.

3 Tamberrello.

4 THE CLERK: You may have a seat.

5 Juror No. 193, Leslie Townsend (black
6 female).

7 MR. MILLER: Please seat Ms. Townsend.

8 THE CLERK: What says Defense?

9 MR. GAMBRELL: Please seat Ms. Townsend.

10 THE COURT: Please have a seat in the jury
11 box.

12 Juror 215, David Williamson (white male).
13 What says the State?

14 MR. MILLER: Please seat Mr. Williamson.

15 THE CLERK: What says Defense?

16 MR. GAMBRELL: Please seat Mr. Williamson.

17 THE CLERK: Right this way,
18 Mr. Williamson. That's it.

19 THE COURT: All right. Any exceptions to
20 the jury selection from the State?

21 MR. MILLER: None from the State, Your
22 Honor.

23 THE COURT: Any exceptions from Defense?

24 MR. GAMBRELL: Judge the only thing I have
25 is I have one brief matter I need to take up before

1 you swear the jury. It'll be very brief.

2 THE COURT: In the presence or out of the
3 presence?

4 MR. GAMBRELL: Out of the presence of the
5 jury, yes, sir.

6 THE COURT: All right. Before I do that
7 and before swearing the jury in, Juror No. 26,
8 that's you. I need you to exchange seats. Well,
9 no, we got three alternates this time so. Sir,
10 you -- you are the foreman. I've just appointed you
11 foreman of the jury, all right, so you will always
12 have -- occupy that seat. So when the jury comes to
13 and fro, you will always sit there, okay. We hadn't
14 sworn the jury in yet, but you're responsible -- and
15 I hate to put it this way, but you're responsible
16 for keeping 11 or 12 other people that you don't
17 know in check, okay. And what that means
18 essentially is that you got to make sure that no one
19 talks about the case to each other. No one talks
20 about the case at all. As a matter of fact, even
21 though you hadn't been sworn and I got to tell you
22 that. We're gonna swear you in in just a minute.
23 And alternates one, two and 3, those three seats are
24 designated for the three of you. Now y'all can
25 change, interchange however you like. The two

1 jurors right behind you and you are the seated
2 alternates so you guys will occupy those three seats
3 in any manner that you want to, okay. And the rest
4 of you can sit anywhere you want to as we go to and
5 fro. So I'm gonna send you back to the jury room
6 for just a second and then I'm gonna give you some
7 instructions on where we go from here. I'll bring
8 you back in about -- about five minutes as soon as I
9 confer with these attorneys. I'll bring you right
10 back here. Okay, just follow the bailiff.

11 (WHEREUPON, the jury was removed from the
12 courtroom at 4:23 p.m., and the following
13 proceedings commenced in open court.)

14 THE COURT: Mr. Gambrell, you know, I
15 don't know what Mr. Gambrell is getting ready to ask
16 me but, Juror No. 130, during the qualification
17 process, she indicated that she had a doctor's
18 appointment on Wednesday. And I prefer to deal with
19 these things on the front end as opposed to having
20 disrupt the trial, then have to deal with it
21 somewhere in the middle 'cause -- and then secondly,
22 I wanted to tell you was, we're probably not going
23 to start today. I'm probably just gonna swear the
24 jury in and then we're gonna probably start promptly
25 at 9:30 in the morning after I get -- I just think

1 that's a better time, framework to work with. So
2 let's deal with jurors -- let me hear from
3 Mr. Gambrell first.

4 MR. GAMBRELL: Thank you, Your Honor. I
5 will do this as briefly as possible and I had spoke
6 to Mr. Morris about this. I just have a, I guess an
7 objection to the overall jury pool, and it's based
8 on the fact that of the 79 jurors that showed this
9 morning, 11 were African-American. My client is
10 obviously African-American also.

11 THE COURT: So you're making a -- you're
12 making a motion?

13 MR. GAMBRELL: I am. I'm objecting to the
14 makeup of the jury pool and the ones that were
15 selected for this trial prior to jury selection,
16 forty that was drawn for this, for this trial.

17 THE COURT: Batson is the word I'm looking
18 for. You're making a Batson motion.

19 MR. GAMBRELL: Well, and I'm not
20 specifically saying that the State has, you know,
21 disqualified ---

22 THE COURT: Could you repeat that motion
23 again?

24 MR. GAMBRELL: Yeah. My motion is simply
25 I'm objecting to the makeup of the jury pool, the

1 whole venire, and the ones that were drawn, the 40
2 that were drawn for this particular case from the
3 entire pool that was brought in earlier.

4 THE COURT: Well, ---

5 MR. GAMBRELL: It's a due process issue
6 that I'm arguing; and if I can just put it on the
7 record, I'll respect Your Honor's ruling obviously.

8 THE COURT: Well, you know, and I thought
9 it was a Batson motion, but apparently it's not a
10 Batson motion. You're -- you're objecting to the
11 makeup of the entire pool.

12 MR. GAMBRELL: That's correct.

13 THE COURT: And which means the process by
14 which the potential jurors are selected.

15 MR. GAMBRELL: Correct.

16 THE COURT: -- now you do know, Mr.
17 Gambrell that when the Clerk's Office -- and if I'm
18 misspeaking, let me know from the Clerk's Office --
19 that a significant number of subpoenas are sent out
20 to a ton of people and you don't get but a certain
21 percentage of it back.

22 MR. GAMBRELL: I understand that.

23 THE COURT: So it's kind of hard to -- for
24 me to think that of all these inquiries to get
25 jurors, that some of those ones that maybe perhaps

1 didn't send them back weren't African-American. I
2 hear your argument. Your argument is a due process
3 argument.

4 MR. GAMBRELL: Correct.

5 THE COURT: And not necessarily a Batson
6 argument 'cause I didn't see a -- I didn't see a
7 Batson.

8 MR. GAMBRELL: There was one
9 African-American that was struck, but there was two
10 that were seated so I don't think that I ---

11 THE COURT: Now I think that kind of puts
12 you out on Batson.

13 MR. GAMBRELL: Correct. I guess my
14 overall objection is to the makeup of the pool
15 itself. If you look at Greenville County,
16 statistically, African-Americans makeup almost
17 20-percent of this county. The 11 of the 79 that
18 were pooled this morning is much, much less than
19 that. It's about 11 percent. Of the 3 that was in
20 the 40 that came up today, that's 7.5 percent, which
21 is completely under representative of what the
22 makeup of the county is. And my client is -- has a
23 right to a jury of his peers. Now I'm not saying
24 that he wants every single African-American on the
25 jury or we don't want any other ethnicity on or off

1 the jury, but certainly the jury pool ought to
2 reflect the demographics of the county within which
3 he lives. He's an African-American. And when I
4 look out at this pool of 40 that was pulled up here
5 for the jury selection today, there were 3 out of
6 40, which is 7.5 percent which is way underneath
7 what this county represents as it's demographic of
8 African-Americans and so I do have an issue with
9 that. I take issue that that's a due process
10 violation, that he's not able to get a fair
11 selection of jurors that reflect him in this
12 community and that's my objection, Your Honor.

13 THE COURT: What do you say, Mr. Gregory
14 or Mr. Miller?

15 MR. MILLER: Your Honor, it's a completely
16 random process as to even initially knew the
17 subpoenas go out to in the first place. And then
18 it's who sends the information back, it is then who
19 shows up and then it's a random process of who comes
20 up here to be part of the jury selection. I think
21 Mr. Gambrell is alluding to some things we know we
22 need to go hand pick who would come to even be
23 involved in qualification and pool versus doing a
24 random process and bringing in people randomly to
25 serve as jurors and then, also, for who to come up

1 to be in the jury selection pool from the
2 qualification pool. I don't believe there's been a
3 violation of due process rights, I guess, on behalf
4 of the Clerk's Office who sends out the notices. I
5 don't believe there's any showing of that and
6 disagree with his motion.

7 MR. GAMBRELL: Judge, and I'm not saying
8 that there was anything intentionally done by the
9 Clerk's office. They send out the summons and who
10 shows up, shows up. But as a prac-- as a factual
11 matter, you know, as the -- just the way that it is.
12 Of those that show up today and the ones that came
13 up here today, as a -- just as a matter of fact,
14 it's not a correct representation of what Greenville
15 County is. Now that's not the fault of the Clerk's
16 Office. That's just the way that this process is.
17 It's unfair if we don't have some representation of
18 the makeup of the county so that my client can have
19 a jury of his peers.

20 THE COURT: Well, let me just put this on
21 the record, Mr. Gambrell. I've been advised by the
22 Clerk's Office that 221 summonses were sent out.
23 146 sent the response back. 79 showed up. You see
24 what I'm saying?

25 MR. GAMBRELL: I do. And it used to be

1 that they -- in some counties they would send out
2 the Sheriff's Department to find out why these
3 people didn't show up for jury duty.

4 THE COURT: Well, they -- I'm gonna let
5 Mr. Miller ---

6 MR. MILLER: Whether or not the Sheriff's
7 Office gets sent out doesn't towards that whether
8 it's a violation of due process rights in that this
9 is sent out, this is who came back. Because then it
10 was to say, well, you didn't come up, we're gonna
11 have you arrested for not coming up; and we're also
12 going to say we're gonna put you on the jury, I
13 think is -- that's a troubling say of events there.

14 THE COURT: Yeah.

15 MR. MILLER: If you're gonna say, well,
16 now we're gonna put you on a jury, we just had you
17 arrested, we're gonna sit you right here. I think
18 here this is a completely random process with who
19 the summons are sent to, who responds, and who comes
20 back and then random who comes up to be in the jury
21 selection pool.

22 THE COURT: All right. No, I think it's
23 interesting, Mr. Gambrell, and I certainly
24 understand what you're saying. We have -- and it's
25 not necessarily generic to Greenville County, but

1 across the state from my conversations with other
2 folks of other places, what has happened a lot of
3 times is that -- I agree with you, back in the old
4 days and I say old days back when I practiced and
5 that wasn't a long, long time ago, there was some
6 fear among the elect-- I mean, the folks, the
7 population, that if you did not appear for jury duty
8 whether it was on the state level, national level,
9 federal level, someone would knock on your door.
10 Greenville County, along with several of the other
11 counties, have experienced general difficulty in
12 getting jurors to show up. As you can see, you got
13 221 responses sent out. 146 sent in a response, but
14 only 79 physically showed up. And I think in
15 Pickens County on last week when I was there, we
16 were -- we had two trials scheduled. We didn't get
17 to either one of them. Pickens County had a record
18 96 people showed up out of 100 and some odd. So it
19 just -- and even in that demographic, even in
20 Pickens County, in that pool of the 96 that showed
21 up -- and I'm just saying this because you raised
22 the issue, not because I got an opinion one way or
23 the other 'cause I don't. There were, I think,
24 three African-Americans in that pool. That was in
25 Pickens County. I understand that. But Richland,

1 Spartanburg, all these counties, Charleston, all of
2 them have the same issue; but I think your -- your
3 concern is more administrative in nature, and I
4 think that we are trying to come up with ways to
5 address that. I signed an administrative order
6 about a month ago increasing the number of jurors by
7 50, 50, to summon 50 more than what was usually done
8 in the past to see if we can get more. And, you
9 know, it just depends. I think in case, recent
10 case, I'm not get into the name of it, but I think
11 you'll know who I'm talking about. The case in
12 Colleton County that drewed someone's attention.
13 Thousands, I forgot the amount of summonses that
14 went out, but they only got back a third of those.
15 They had to send out a ton to get 900 or whatever
16 they got back and in that county, so it's been a
17 problem, I agree. And it's -- but I don't know if
18 it's an issue that would affect Mr. Morris' ability
19 to get a fair and impartial trial which I, you know,
20 it's a standard I haven't utilized, but I don't
21 know -- since it's not a Batson motion and I'm not
22 addressing it as a Batson motion, so I don't know as
23 a trial judge in this case whether or not I have any
24 jurisdiction to try to correct something
25 administratively. I don't think that that's

1 something that I could address. I've tried to, you
2 know, explain it. I try to address your concern,
3 but I don't know if there's a ruling, specifically
4 ruling I can make on it except acknowledge it; but I
5 don't think it effects the ability of Mr. Morris to
6 get a fair trial.

7 MR. GAMBRELL: Thank you, Your Honor. If
8 I understand your ruling, it would be that it does
9 not violent his due process rights to get a fair and
10 impartial trial.

11 THE COURT: That's exactly what I said.

12 MR. GAMBRELL: Okay. Thank you. As long
13 as I got that on the record, I ---

14 THE COURT: All right. Okay. Now I was
15 gonna what are we gonna -- do y'all -- what are we
16 gonna do about the juror that has a 2:00
17 appointment, particularly since we got three
18 alternates. I don't want that to come up Wednesday.
19 If he says -- I think her appointment is 2:00 on
20 Wednesday?

21 (Judge and clerk confer.)

22 MR. MILLER: I believe it was at 8 a.m. on
23 Wednesday morning.

24 THE CLERK: Eight.

25 MR. MILLER: Was her doctor's appointment.

1 So I wonder if, you know, if we could start at 9:30
2 and when she gets here we can get going 'cause her
3 appointment ---

4 THE COURT: Okay.

5 MR. MILLER: --- is at 8 a.m. It's pretty
6 early.

7 MR. GAMBRELL: I think I remember Your
8 Honor telling her to show up at seven.

9 MR. MILLER: For the appointment ---

10 MR. GAMBRELL: Right.

11 MR. MILLER: Yeah.

12 MR. GAMBRELL: So.

13 THE COURT: All right. You said the
14 appointment was at 8:00?

15 MR. MILLER: Yes, sir. I have the note
16 down that says 8 a.m. ---

17 THE COURT: All right.

18 MR. MILLER: --- Wednesday morning.

19 THE COURT: Then I think we'll be good.

20 We'll just start -- I figure if we start on
21 Wednesday by 9:30, 9, maybe 10, depending on where
22 we're going, she should be fine.

23 MR. MILLER: I think Your Honor told her
24 to get to the doctor's office at seven.

25 THE COURT: I did.

1 MR. MILLER: Remind her to do that.

2 THE COURT: Probably did. Told her to sit
3 in the parking lot. Okay, so what I'm gonna do is
4 I'm gonna bring the jury back out. I'm gonna let
5 madam clerk swear them in and then I'm gonna send
6 them home for the evening. I'm gonna let them
7 report back here at 9:30 in the morning. And at
8 9:30 in the morning, if we don't have any issues,
9 you know, raised on either side, then we should
10 get -- we should get going pretty quickly.

11 MR. MILLER: I would just ask make sure
12 we're done with all pretrial matters that we're
13 gonna be swearing the jury.

14 MR. GAMBRELL: We don't have any other
15 pretrial motions to make at this time.

16 THE COURT: Very good.

17 MR. MILLER: Thank you.

18 THE COURT: Okay, bring them in.

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 4:38 p.m., and the
21 following proceedings commenced in open court.)

22 THE COURT: All right. Madam Clerk, I'm
23 going to let you swear the jury in.

24 THE CLERK: Ladies and gentlemen, please
25 stand and raise your right hand. The correct

1 response to the oath is "I will".

2 (WHEREUPON, the jury was sworn at 4:39 p.m.)

3 THE CLERK: Thank you and you may be
4 seated.

5 THE COURT: All right, ladies and
6 gentlemen of the jury, logistically what we're gonna
7 do is this. It is 20 minutes to 5. I'm gonna excuse
8 you for the evening. Please, ma'am, and please,
9 sir, do not discuss the case with anyone. You
10 cannot discuss the case with your spouse. You
11 cannot discuss the case with your children. You
12 cannot discuss the case with your friends. You
13 cannot discuss the case with anyone. And I'm gonna
14 ask that you report to your jury room tomorrow
15 morning at 9:30. And 9:30 is not 9:35 or 9:36. So
16 9:30 is when I want you to be there and then we'll
17 get started in the morning and I want you to have a
18 good evening.

19 And when you come back, Mr. Foreman, you
20 will have that seat and the alternates will have
21 those three seats, okay. So I'll see y'all tomorrow
22 morning at 9:30. Have yourself a wonderful evening,
23 okay?

24 (WHEREUPON, the jury was removed from the
25 courtroom at 4:42 p.m.)

1 THE COURT: Okay. Gentlemen, anything
2 else before we adjourn for the evening?

3 MR. MILLER: Nothing from the State, Your
4 Honor.

5 MR. GAMBRELL: Nothing from the Defense,
6 Your Honor.

7 THE COURT: All right. We'll see you
8 tomorrow morning around 9:29.

9 (Court was adjourned and resumed on April 4, 2023.)

10 THE COURT: Okay. Gentlemen, we're --
11 let's get off the record for a minute.

12 (Off-the-record discussion.)

13 THE COURT: Gentlemen, if all lines are
14 clear, ready to go, bring them in.

15 (WHEREUPON, the jury was returned to the
16 courtroom at approximately 9:45 a.m., and the
17 following proceedings commenced in open court.)

18 THE COURT: All right. Good morning. Is
19 everybody well rested, ready to go? Okay, Madam
20 Court Reporter, let's go on the record. This is in
21 the interest of State v. Braylon Lamar Morris. This
22 is indictment number 2019-GS-23-07279. Ladies and
23 gentlemen of the jury, you were sworn in on
24 yesterday and Madam Clerk issued the oath to you, so
25 I'm gonna say a few things to you before we get

1 started. Please, ma'am, please, sir, what I want
2 you to do for me for the next few days is to listen
3 very intently to everything that's presented to you,
4 whether it comes from me or whether it comes from
5 these lawyers or whether it comes from these
6 witnesses. And what I'm asking you to do is, I need
7 your A game in terms of paying attention and
8 listening to everything. I really need you to do
9 that for me because this is important to the State
10 and this is important to the Defense; and I know
11 you're gonna do that because you took an oath to do
12 that. So please, ma'am, please, sir, do that for
13 me.

14 All right. Now, so any time you have a
15 jury trial I always tell jurors there are two judges
16 in the courtroom. There's a judge of the law, then
17 there's a judge of the facts. I'm the judge of the
18 law and you're the judge of the facts. In other
19 words, you get an opportunity to review the facts
20 and determine the credibility of the evidence that's
21 presented to you which I'll talk to you about in
22 just a minute. Now the way I describe my role, and
23 I try to make it very simplistic if I can. My role,
24 if you're at a baseball game, you know, and the guy
25 stands behind the plate, he's called the umpire and

1 he calls the balls and strikes. And the simplistic
2 definition of my role is, I call the balls and
3 strikes. I'm the umpire that sits behind the batter
4 calling balls and strikes, and you'll see how ties
5 in in just a minute. Now it may -- I know -- and
6 let me just be clear on the record, I know
7 absolutely nothing about the case, know absolutely
8 nothing. And if there's any indication, if you feel
9 any indication that I say or the way I look or
10 something I did that would give you any indication
11 that I know anything about the facts of the case,
12 just disregard it 'cause I do not. I am not
13 permitted or allowed to comment on the facts of the
14 case, have an opinion whatsoever, so I do not have
15 an opinion. I leave that within your purview.

16 Now in during the course of the case --
17 and I wanna tell you this -- a party may object to
18 something a witness may say or an exhibit that comes
19 into evidence. We're gonna talk about that in just
20 a minute. If there's an objection made on the
21 evidence, one of my jobs as the judge of the law is
22 to rule on whether or not that evidence is
23 admissible or not. Now, you may get your exercise
24 today. As a matter of fact, well, you will get your
25 exercise today because there are going to be times

1 when I'm gonna have to send you out and bring you
2 back, send you out and bring you back.

3 Mr. Foreman, it's your responsibility to
4 make sure during those breaks that you, along with
5 none of the jurors, talk about the case or anything
6 of that nature, so in other words, that's your job
7 during those breaks, if you would, sir, please, sir.

8 So, oftentimes if there's an objection
9 made and there's an issue of law I can rule on the
10 spot, but if -- either sustain the objection or
11 overrule the objection. You may hear me say that
12 from time to time; but if I don't do it on the spot,
13 then I may have to send you out so I can rule on the
14 admissibility or inadmissibility of the evidence.
15 Now your job is to be the judge of the facts, as
16 I've said. And when it comes to what the facts are,
17 I'm not going to comment on the facts or indicate in
18 any way what I think your verdict should be or what
19 the facts are in this case. This is your job. And
20 under our constitution and system of justice, the
21 jury and the jury along with you, determine what the
22 facts are in the trial so please don't interpret
23 anything, like I said a minute ago, or any
24 suggestion as to what I think the facts are because
25 I don't have an opinion one way or the other.

1 Now as the judge of the facts you must
2 determine those facts are -- what the facts are in
3 this matter and part of the reasons we need a jury
4 is because there's some dispute about what the facts
5 are. That's why we're because there's some dispute
6 about what the facts are. So how you decide what
7 the facts are? You do that by weighing and
8 evaluating the evidence you're going to hear during
9 this trial.

10 Evidence can come in two forms. It can
11 come in the form of witnesses that testify from this
12 witness stand or it can come in the form of any
13 videos that you may see or it may come in the form
14 of any exhibits that you may see. I do not know
15 whether or not there will be any expert witnesses
16 presented in this case; there very well could be.
17 But that's the evidence. So you got -- all you can
18 have such as photographs. You can have sketches.
19 Anything like that is considered evidence. Why is
20 that important? Because you, the jury, attach
21 whatever credibility you think deserve -- is
22 deserving of that evidence that's presented. In
23 other words, you determine the believability of the
24 witnesses that testify, and you also -- and
25 believability is almost synonymous with credibility

1 and that kind of thing; but you determine the
2 credibility and believability of the, not only
3 witnesses but also the evidence. You can attach
4 whatever weight that you decide you want to attach
5 to it. You can believe some of what a witness said,
6 none of what a witness says, all of what a witness
7 says and you use that same standard when you view
8 the evidence that's presented as the judge of the
9 facts.

10 An exhibit is simply a physical tangible
11 object. It might be a map or a photograph, I said,
12 or something of that nature. But if you'll know
13 it's an exhibit and therefore evidence you can use
14 to determine the facts because it will be back in
15 the jury room. Any exhibits or any photographs or
16 anything of that nature will be back in the jury
17 room at the time that you go back in for
18 deliberations.

19 So as we go through the trial, remember
20 there are only two things that you use to determine
21 what the facts are: Sworn witnesses' testimony,
22 their exhibits, unless I tell you otherwise. Now as
23 the judge of the facts you will have to by necessity
24 determine the credibility of the evidence so that
25 means for every witness who steps into the box and

1 their exhibit is admitted, you will have to gauge
2 whether they're worthy, worthy of belief when I told
3 you that just a minute ago. As you can do that, if
4 you can do that a witness who testifies by using
5 certain -- you can do that by using certain
6 guidelines you may or may not find useful. You may
7 consider whether the witness had an opportunity to
8 observe the things that they're here to tell you
9 about. You may consider whether the witness has
10 some interest in the outcome of the case. That is,
11 whether the bias or prejudice, reward, or some issue
12 involved in the case. You may consider the witness'
13 testimony stacks up, of how the witness' testimony
14 stacks up against the other evidence that's
15 presented in the case. You may consider the
16 demeanor of the witness who testifies. You
17 certainly may use whatever you use in your
18 day-to-day life, and all of you have day-to-day life
19 experiences, to determine when someone is
20 believable. You can use your common sense. And all
21 of you walked into that door on yesterday with your
22 common sense because it did not suddenly leave you
23 when you came in here. Your common sense is with
24 you as you sit in this jury box.

25 Now some evidence can be used for limited

1 purposes, and I'll tell you more about that later.
2 But simply because something comes in evidence for
3 one purpose doesn't mean you use it -- doesn't mean
4 you can use it for another purpose, so bear that in
5 mind. And let me tell you just how important your
6 job is as the judge of the facts. You may see from
7 time to time or read, read in the paper, or see in
8 the news where a case is reversed on appeal; and we
9 all know what happens from that time. When that
10 happens, that means the judge made a mistake about
11 the law; that's me. Almost invariably when a case
12 is reversed, it means the judge made a mistake on
13 the law. If I make a mistake, it can easily be
14 corrected on appeal. But if you, the jury, make a
15 mistake about what the facts are, it can almost
16 never be corrected so bear that in mind as you
17 listen to this trial.

18 And I know it's hard to sit in a spot for
19 long periods of time and listen to testimony and
20 other aspects of the case, but this is extremely
21 important to both sides so that's why I said that to
22 you a little minute -- little while ago so we'll,
23 we'll take breaks. If you got -- yo u need a break,
24 bathroom break, or just something comes up, you need
25 a breather, whatever it is, you let the bailiff know

1 that you need a break and I'll accommodate you,
2 whatever. Y'all just -- what that issue is.

3 Now, and as I told you, this is a criminal
4 case. As I told you earlier during my remarks
5 earlier, there are certain principles that are
6 fundamental in criminal trials that you need to know
7 about. The first thing is the mere fact that the
8 defendant was indicted -- and I talked about that
9 earlier about this being akin to a ticket at a movie
10 theater. The usher gives you a ticket to get in the
11 movie theater. This indictment is not evidence of
12 anything. It's just a ticket by which it comes
13 before me, gives me jurisdiction to hear the matter.
14 Anyone charged with a crime under our system of
15 justice is presumed innocent of that crime. In
16 addition to that, the defendant does not -- doesn't
17 have to prove his innocence or prove he's not
18 guilty. The burden is not on the defendant. The
19 burden is squarely on the shoulders of the State to
20 prove the guilt of the defendant beyond a reasonable
21 doubt. The State must prove the elements of the
22 offense upon which the defendant is charged. So at
23 the end of the case you will hear me talk about what
24 the law, applicable laws in the case and what's the
25 elements that you must consider in that particular

1 offense under our statutory laws so be -- make sure
2 you remember that.

3 And as part of your job, in addition to
4 being the judge of the facts, is to determine
5 whether the State has met its burden of proof.
6 That's on -- that's your job. And that burden of
7 proof must be beyond a reasonable doubt. The only
8 way the defendant can be convicted and that presum--
9 the only way the defendant can be convicted and that
10 presumption of innocence removed is if, you the
11 jury, unanimously find that the State has proven
12 every element of the crime charged beyond a
13 reasonable doubt.

14 And I don't know how many of you have
15 served on a criminal case before, but I always say
16 this because I think in this day and time people
17 confuse what happens in here to what happens on
18 television. There's a distinct difference.
19 Television is entertaining, and you need to remember
20 that. This is not entertainment. This is serious
21 business. All right. So in a moment you're gonna
22 hear the opening statement from the Solicitor and
23 then you will also hear the opening statement from
24 Defense counsel as well. State -- opening statement
25 by the State, the opening statement from Defense

1 counsel, is not to be considered evidence. The
2 best way to describe it is, both sides are gonna
3 give you an opening statement to give you an idea of
4 which way they think the evidence will navigate
5 their -- in other words, their summary of the case.
6 And there at the end, after all the evidence is
7 presented, then they will give a summation of where
8 they thought the evidence took and then you would --
9 then it would be up to you to make the -- your
10 decision regarding whether or not the State has met
11 this burden of proof. After you've heard all the
12 State's evidence, the Defense will have the
13 opportunity. But, again, the obligation to present
14 any evidence that they wish -- that the State may
15 then confront. And then after you've heard all the
16 evidence, we will have what is called closing
17 arguments through the attorney where they will tell
18 you, like I said, what they think the evidence
19 showed and what your verdict should be. Then I'll
20 give you the instructions on the law. And you are
21 to consider the law as I give it to you, now as what
22 you think it should be or what do you think -- you
23 can't change it. You got to consider the law
24 exactly, exactly as I get it to you and so I -- and
25 I underlined exactly because I wanted you to make

1 sure you understood that.

2 Now until we reach that point, ladies and
3 gentlemen, where you are collectively deliberating
4 with your jury, do not talk about this case with
5 anyone. Don't say anything outside of the
6 investigation and continue to keep an open mind.
7 Both sides expect you to be fair and impartial, that
8 you took an oath to do so. So having said that, I
9 am now gonna turn it over to the State for opening
10 statements and then after that, Mr. Gambrell, you'll
11 have the opportunity to.

12 Mr. Gregory.

13 MR. GREGORY: Thank you, Judge. May it
14 please the Court.

15 THE COURT: Yes, sir.

16 MR. GREGORY: Mr. Gambrell. On Friday,
17 July 5th, 2019, Michael Deck walked into the Walmart
18 on White Horse Road here in Greenville County.
19 Before he could even make it fully into the store,
20 he was confronted at the self-check out area and he
21 was shot twice. The first shot hit in the torso.
22 As he was laying on the floor, the second shot went
23 through his head. That's why we're here, ladies and
24 gentlemen. This defendant, Braylon Morris, is
25 charged with murder, possession of a weapon during

1 the commission of a violent crime. In South
2 Carolina murder is defined -- you'll hear the judge
3 explain to you what the elements of murder are at
4 the end; and whatever he says, that's what we use.
5 But I think what we say and what the judge says is
6 gonna line up just right. Murder is the unlawful
7 killing of another with malice aforethought. Malice
8 is ill will, it's hatred. Aforethought is just a
9 kind of malice. That malice has to be in your mind
10 for no specific period of time, but before the
11 incident and at the time the incident occurs. So
12 that's murder.

13 Possession of a weapon during the
14 commission of violent crime, South Carolina has
15 defined murder as a violent crime. If you're in
16 possession of a weapon during a murder, there's
17 another charge that comes with it, possession of
18 weapon during the commission of a violent crime. So
19 those are the elements that we have to prove. And
20 as the judge said previously, the burden is squarely
21 on this table. It is our job during the course of
22 this trial to meet that burden, burden of proof
23 beyond a reasonable doubt. I'm sure, as the judge
24 says, many of you have watched TV. You have heard
25 beyond a reasonable doubt. What does that mean?

1 South Carolina says that we don't have to prove it
2 within 100 percent certainty. It's not proof beyond
3 all doubt. That's not what the rules require.
4 There's very few things in life we know with 100
5 percent certainty. But the standard is beyond a
6 reasonable doubt. It has to be a doubt and that
7 doubt has to be reasonable. So courts previously
8 have said that that can be defined as firmly
9 convinced. Firmly convinced. After hearing all the
10 evidence are you firmly convinced of this
11 defendant's guilt. So during the course of this
12 trial, keep that to yourself, am I firmly convinced
13 'cause that equal is beyond a reasonable doubt. If
14 you are firmly convinced that we've met our burden
15 of proof. So that is the burden of proof and it's
16 the highest burden of proof in criminal cases
17 because someone's liberty is at stake. There's no
18 higher burden of proof in a courtroom.

19 So how are we gonna meet this burden of
20 proof? As the judge, Judge Kinlaw just said
21 previously, you're gonna hear people take the stand.
22 You're gonna hear them give testimony. The majority
23 of the evidence that you're gonna hear is
24 testimonial in nature. You're gonna hear from law
25 enforcement, the law enforcement officers that

1 responded to the scene at the Walmart on White Horse
2 Road. You're gonna hear from customers at Walmart
3 that were there that saw the incident. You're gonna
4 hear from the lead investigator. You're gonna hear
5 from a forensic pathologist. Those are the kinds of
6 testimony that you're gonna hear and everything that
7 the testimony will come from that stand. All the
8 evidence will come from there. Nothing that I say,
9 nothing Defense says either in openings or closings
10 is evidence. So everything comes from there. And
11 as the judge says, it's your job to decide: Is it
12 reliable? Is it credible? Should I believe it?
13 You can believe all of what a witness says, part of
14 what a witness says, or none of what a witness says,
15 and that's your job.

16 Our system works because of you. Our
17 system would not work if we did not have jurors come
18 in and do this job and be the fact finders because
19 as the judge says, there's a dispute. There's a
20 dispute as to what we think the facts show, and it's
21 your job to tell us what the facts show. And we
22 didn't select you because you have some great
23 knowledge in the criminal justice system or because
24 you have any knowledge of this case whatsoever. You
25 were chosen because we think you can be fair and

1 impartial and listen to both sides and render a
2 verdict, a verdict that speaks the truth.

3 As the judge previously said, you come in
4 here with life experiences and common sense. That
5 is not something that you check at the door; it goes
6 back with you in the deliberation room. Use your
7 common sense once you see the evidence. We make
8 decisions every day on credibility of people.
9 That's what you're here for. That's what you will
10 do. You also heard a long list of potential
11 witnesses that the State's gonna call. And let me
12 rest -- let me rest assured, we're not gonna call
13 every single one of them, all right. We don't
14 anticipate it being a very lengthy trial at all to
15 be honest with you, but it's a very important trial,
16 just like the judge said. Not only is it important
17 to the defendant Mr. Morris, but it's very important
18 to the family of Michael Jason Deck. It's important
19 to the State of South Carolina.

20 Thank you for your time. Thank you for
21 your patience. And there'll be a lot of up and
22 down, in and outs. We thank you. We thank you for
23 your attention. At the close we will come back and
24 ask you to find this defendant guilty of murder,
25 possession of a weapon in the commission of a

1 violent crime.

2 THE COURT: Mr. Gambrell.

3 MR. GAMBRELL: Thank you, Your Honor. May
4 it please the Court.

5 THE COURT: Yes, sir.

6 MR. GAMBRELL: Good morning. I will
7 start, let me just say that, I'm gonna make mistakes
8 in this trial. I'm gonna misspeak sometimes. I'm
9 gonna talk too fast, I'm gonna talk too slow, too
10 quietly. I'll probably make objections that Judge
11 Kinlaw will overturn, but please don't hold any of
12 those mistakes against Lamar. You can hold those
13 against me; I'm perfectly fine with that. This is
14 not a case about who done it. It's a case about
15 why. The government has charged Lamar with murder,
16 and we anticipate the forensic pathologist to
17 testify that Mr. Deck's death was a homicide, but
18 not all homicides are murder. In fact, when a
19 person commits a homicide during self-defense, that
20 ---

21 MR. GREGORY: Objection, Your Honor. This
22 is outside the scope of opening statement.

23 THE COURT: All right, I'm gonna sustain
24 the objection.

25 MR. GAMBRELL: Lamar sits in this

1 courtroom as innocent as any of us. He doesn't have
2 to prove his innocence in this case at all, just as
3 Judge Kinlaw previously stated. The presumption of
4 innocence that comes from the due process clause of
5 our Constitution is the bedrock of our judicial
6 system. It means the State has to prove, like Judge
7 Kinlaw just stated, every element of the offense to
8 you beyond a reasonable doubt, and it also means
9 that the State has to prove that Lamar did not
10 commit self-defense.

11 MR. GREGORY: Objection, Your Honor. My
12 same objection.

13 THE COURT: All right, sustained. Ladies
14 and gentlemen, I'm gonna send you to your jury room
15 just for a second. Please, ma'am, and please, sir,
16 do not talk about the case with each other. I'll
17 bring you back in in about five minutes.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 10:08 a.m.)

20 THE COURT: All right. Counsel, I've been
21 doing this a long time, long, very long time, and
22 one of the things that I learned sometime ago is
23 that lawyers have an understanding of, is if at all
24 possible, you don't want to interrupt counsel. I
25 understand you have a right to do it Mr. Gregory. I

1 understand that; I understand that completely. But
2 we need to deal with that issue because, you know --
3 let me just finish my statement. Is that obviously
4 if the content of the opening statement or closing
5 arguments of counsel is objectionable, there's
6 obviously you have the right to do that and I am not
7 in any way saying you shouldn't do that. What I am
8 saying is, is that I'll address it. The reason I
9 took -- sent the jury out before any evidence, I
10 don't think it's good for either side at the
11 beginning to jump up and down back and forth. So we
12 take this time to resolve what issues. You made the
13 objection so go into it.

14 MR. GREGORY: Judge, I object to any type
15 of self-defense argument at this point. Even
16 letting it -- there's nothing in the record of
17 self-defense and for him to even put it in the mind
18 of the jury right now is, it's inappropriate.

19 MR. GAMBRELL: Judge, now we haven't even
20 started taking evidence yet. We have an opportunity
21 to present our side of the case. If we present our
22 evidence and Your Honor decides we have not
23 presented sufficient evidence to get a charge, I
24 won't be able to argue it. But at the beginning of
25 the case, our presumption is we're gonna be able to

1 argue self-defense; and to not be able to mention
2 that to the jury, I ---

3 THE COURT: Mr. -- Mr. Gregory, you tell
4 me -- if their theory, defendant's theory of the
5 case is self-defense, I know we had the
6 stand-your-ground hearing, I understand all that.
7 But tell me what, what -- you give me some reasons
8 why the defendant cannot move forward with their
9 theory of the case. If that's their theory of the
10 case, they're entitled to assert their theory of the
11 case.

12 MR. GREGORY: I -- you're correct, Your
13 Honor.

14 THE COURT: That's -- the State has their
15 theory of the case the State can assert, the
16 Defendant also as well, so tell me why they're not
17 able to assert their theory of the case.

18 MR. GREGORY: I ---

19 THE COURT: Give me the case law to back
20 up what you're saying.

21 MR. GREGORY: Judge, I don't have any case
22 law ---

23 THE COURT: You -- that's just what you
24 think. But I'm saying give me some case law to back
25 up that the defendant in a trial of this magnitude

1 does not have the right to assert his or her theory
2 of the case. Tell me what you're basing that on.

3 MR. GREGORY: Judge, it -- I'm not basing
4 it on any case law.

5 THE COURT: You're just basing it on how
6 you feel.

7 MR. GREGORY: Based on the fact that this
8 -- the opening statement is just the -- Judge, I
9 just feel it's inappropriate that we bring
10 self-defense into this when it hasn't even been --
11 there's nothing brought up yet. I think that's more
12 appropriate for a closing argument than it is for an
13 opening statement.

14 MR. GAMBRELL: There's been no evidence of
15 murder yet, Judge.

16 THE COURT: There's been no evidence of
17 murder that you brought up.

18 MR. GREGORY: Yes, Judge.

19 THE COURT: What's the difference between
20 what you're doing, what he's doing?

21 MR. GREGORY: 'Cause that's the charge,
22 Your Honor. It was brought up in the indictment
23 everything we've said up to this point.

24 MR. GAMBRELL: The indictment is not
25 evidence.

1 THE COURT: Indictment -- exactly right.
2 Here's the thing, Mr. Gregory, Mr. Gambrell. I'm
3 gonna tell you this right now. The jury -- the jury
4 does what they do. They're the judge of the facts.
5 But in my courtroom this week, it's going to be a
6 level playing field.

7 MR. GREGORY: Yes, sir.

8 THE COURT: It is what it is. But if you
9 brought up the indictment, I think that's an
10 excellent point by Mr. Gambrell is that the
11 indictment is not evidence but you were allowed to
12 tell the jury that this is murder and this is --
13 this is what the State is going to prove; that's the
14 State's position, all right. This Defendant has --
15 the burden is on the State.

16 MR. GREGORY: Yes, sir.

17 THE COURT: This defendant says -- has his
18 theory of the case is self-defense so I don't see
19 what puts you, puts the State in a posture any
20 different from what the defendant is. So I'm gonna
21 note your objection on the record, but I'm not gonna
22 have you jumping ---

23 MR. GREGORY: Yes, sir.

24 THE COURT: --- up and down like you did
25 before. I'm not gonna have that in front of this

1 jury ---

2 MR. GREGORY: Yes, sir.

3 THE COURT: ---jumping up and down like
4 that. We're gonna get through this opening
5 statement and then you put your witnesses up, you
6 prove what you present and you prove what you prove.

7 MR. GREGORY: Yes, sir.

8 THE COURT: Let the jury make that
9 decision. But that's how, that's how it's going to
10 be. It's not gonna be an unlevel playing field.
11 I'm gonna give everybody a fair trial. That's just
12 how it's gonna happen in here.

13 MR. GREGORY: Yes, sir.

14 THE COURT: Did I make myself clear?

15 MR. GREGORY: Yes, sir.

16 THE COURT: All right. Bring the jury
17 back. And your objection is noted for the record.

18 MR. GREGORY: Thank you, Judge.

19 THE COURT: Noted for the record.

20 (WHEREUPON, the jury was returned to the
21 courtroom at approximately 10:15 a.m., and the
22 following proceedings commenced in open court.)

23 THE COURT: All right, Mr. Gambrell.

24 MR. GAMBRELL: Thank you, Your Honor.

25 I have to keep notes. I sometimes get

1 confused on where I stopped and started. But as I
2 was saying, you know, Lamar doesn't have to prove
3 that he's innocent in this case and he doesn't have
4 to prove that he acted in self-defense. If we put
5 sufficient evidence into the record, then the State
6 will have to disprove that he acted in self-defense.
7 And that's a very important distinction that a lot
8 people usually don't know when they come in to
9 criminal court. And those are two things I want to
10 hold with you as you hear the evidence presented in
11 this case, that the burden is not on Lamar. He
12 doesn't have to prove his innocence. He doesn't
13 have to prove he acted in self-defense.

14 We anticipate that he's going to testify
15 as well, and you're gonna hear some evidence with
16 regard to him. He's been convicted of drug charges.
17 This does not make him a murderer, and it does not
18 mean that he cannot act in self-defense. The
19 government intends to present a video of what
20 happened at the Walmart that day, and it could be
21 kind of shocking when you look at it. And the
22 relationship that is, is because there's no context
23 to that video, there's no sound. It's a very short
24 clip of what those particular moments visualize.
25 The evidence, we believe, will provide necessary

1 context to that video. Lamar came to the Walmart
2 with his girlfriend. They had just left the ER.
3 They came to get some prescriptions and shop. At
4 some point his girlfriend's mother drops off her
5 kids. They are in the checkout line. And several
6 days before that, Mr. Deck had sent Lamar some text
7 messages that he felt, Lamar felt, were very
8 threatening towards him and his girlfriend and her
9 kids. He was there for a while before Mr. Deck ever
10 got there. Mr. Ceck comes in and instead of going
11 through the normal entrance through Walmart where
12 you go through the metal doors, he comes straight to
13 where Mr. Morris is with her kids as they're
14 checking out. Lamar has a belief that his life and
15 the life of her kids and his girlfriend are at
16 imminent risk, and you'll hear him testify to that;
17 and he acted in a belief that he was in imminent
18 danger. And one question I need you to ask you is
19 to think about why Mr. Deck came to the Walmart that
20 day when you hear the evidence. Why was he there?
21 What was his motivation to be there that day? And
22 the government is gonna troub-- obviously paint
23 Lamar as a murderer, but the evidence will show he
24 acted in self-defense and he was justified in his
25 actions. I just ask that you keep an open mind as

1 you hear all the evidence. Listen to all the
2 testimony. Once you all -- once you've all heard
3 all the evidence, you know, you will not be firmly
4 convinced that Lamar -- or that the government has
5 proven that Lamar did not act in self-defense and
6 that he committed murder against Mr. Deck. And then
7 at the end of the -- at the end of the case and when
8 appropriate, murder will be that you find him not
9 guilty. Thank you.

10 THE COURT: All right. State's ready to
11 proceed. Call your first witness.

12 MR. MILLER: Yes, Your Honor.

13 THE COURT: All right. Call your first
14 come forward.

15 MR. MILLER: The State calls Anthony
16 Dubose.

17 THE COURT: Please come forward to be
18 sworn.

19 THE CLERK: Please place your left hand on
20 the Bible, raise your right.

21 WHEREUPON,

22 **ANTHONY DUBOSE,**
23 having been duly sworn by the clerk, testified
24 as follows:

25 THE CLERK: Go ahead and have a seat.

SW - A. DUBOSE - DIRECT

1 And please state your full name for the record.

2 THE WITNESS: Anthony Allen Dubose.

3 **DIRECT EXAMINATION**

4 BY MR. MILLER:

5 Q Mr. Dubose, could you please say your name
6 again.

7 A Anthony Allen Dubose.

8 Q Where are you employed?

9 A At Walmart.

10 Q Which Walmart?

11 A Currently at the Greer Walmart.

12 Q What is your role at the Greer Walmart?

13 A Sir?

14 Q What is your job?

15 A Asset protection.

16 Q What is asset protection?

17 A My job is to catch internal/external theft
18 compliance, like the fire doors, stuff like that.

19 Q Okay. Have you always been at the Greer
20 Walmart?

21 A No, sir. I started out at Taylors and
22 then I went to White Horse Road.

23 Q Were you working at White Horse Road on
24 July 5th of 2019?

25 A I was.

SW - A. DUBOSE - DIRECT

1 Q What county is that Walmart in on White
2 Horse Road?

3 A Greenville.

4 Q What time did you get to work that day?

5 A Approximately 1:25, 1:30.

6 Q When you arrived, what did you do?

7 A I usually go to the bathroom, get a cup of
8 coffee, walk the floor, see what's going on, see the
9 attitude in the store.

10 Q Now asset protection, do you ever become
11 familiar with people?

12 A People that I deal with on a daily basis,
13 yes. People that are repeat shoplifters, we usually
14 try to remember who they are so.

15 Q So when you say "try to remember who they
16 are," what does that mean?

17 A Usually when we catch somebody
18 shoplifting, we trespass them, especially if it's
19 more than one time. We try to remember what they
20 look like and whether or not we trespassed them so
21 they shouldn't be in the store, or whether we have
22 to watch them because they do come in and steal and
23 our job is to try to catch them.

24 Q Okay. And do you remember seeing anybody
25 on July 5th of 2019?

SW - A. DUBOSE - DIRECT

1 A On July the 5th, 2019, I came in. I'd
2 gone to the restroom. When I come out, I saw Jason
3 come in the store and like, oh, boy, I got to follow
4 him again.

5 Q Why would you need to follow him?

6 A Jason was a known shoplifter. I had met
7 Jason probably two months before that, actually, by
8 accident. I was following his girlfriend. I didn't
9 know she was with him. He approached me, wanted to
10 get all out, told me I was profiling because he had
11 tattoos. I told him if I had a problem with him I'd
12 call Greenville County. After that, every time he'd
13 come in the store, usually if he saw me he would
14 speak to me.

15 Q So after that he was just kind of fine?

16 A Sir?

17 Q After that he was just fine with you?

18 A Yes, sir.

19 Q Okay. Now you said you had to follow him.
20 Would he always come in the store the same way?

21 A No, sir. He'd come in different doors.
22 Sometimes he went across the front of the registers.
23 Sometimes he went in the GM door. It just depended
24 on what he wanted to do I guess.

25 Q So he never really had one standard way of

SW - A. DUBOSE - DIRECT

1 going in the store?

2 A No, sir.

3 Q Okay. When you saw -- now you're saying
4 Jason. He's a male?

5 A Sir?

6 Q Is he a male? Jason?

7 A Yes, sir.

8 Q And what's his race?

9 A He's Caucasian.

10 Q When you saw him walk in the store, what
11 did you see?

12 A When I saw him walk in the store that day,
13 he turned in front of the registers. Actually, I --
14 I really don't remember what he was doing, but he
15 was walking into the store at which point I heard a
16 gunshot. I saw Jason fall. I saw a black male
17 approximately late twenties, early thirties, go up
18 and approach him, tried to shoot him. He cleared
19 the gun when the gun jammed. And then he took the
20 second shot and shot him in the head, said something
21 to his girlfriend and run out of the store.

22 Q Now when Jason was shot in the head, where
23 was he?

24 A He was laying on the floor on his right
25 side.

SW - A. DUBOSE - DIRECT

1 Q How close was the male who shot him to
2 Jason when he shot him in the head?

3 A He was probably less than -- the gun was
4 less than a foot from his head.

5 Q Okay. Then did you call 9-1-1 after?

6 A I did.

7 (WHEREUPON, State Exhibit No. 1 was
8 marked for identification only.)

9 BY MR. MILLER:

10 Q Mr. Dubose, I'm showing you what's been
11 marked as State's Exhibit 1. Do you recognize this?

12 A I do.

13 Q What is it?

14 A It is a video of the 9-1-1 call.

15 Q An audio?

16 A Yes, sir.

17 Q Okay. How do you recognize it?

18 A Because I listened to it, verified it,
19 signed it, and dated it.

20 Q And is it a true and accurate copy of your
21 call?

22 A It is.

23 MR. MILLER: Your Honor, at this time the
24 State would move into evidence the 9-1-1 call of
25 Anthony Dubose.

SW - A. DUBOSE - DIRECT

1 THE COURT: All right. Any objection?

2 MR. GAMBRELL: No objection.

3 THE COURT: It's admitted without
4 objection. It will be State's Exhibit No. 1?

5 MR. MILLER: Yes, sir.

6 (WHEREUPON, State Exhibit No. 1 was
7 admitted into evidence.)

8 THE COURT: All right.

9 MR. MILLER: And I believe we'll be
10 wanting to play it from.

11 THE COURT: All right.

12 (State's Exhibit No. 1 was played for the jury.)

13 BY MR. MILLER:

14 Q So, Mr. Dubose, after the shooter shot
15 Jason, what did the shooter do?

16 A After he shot him the second time, turned
17 around and said something to the lady that was with
18 him and then he exited the store and run across the
19 parking lot.

20 Q So he left the store?

21 A Yes, sir.

22 Q And you said the GM door, what is the GM
23 door?

24 A GM door is general merchandise. The other
25 door is the grocery door.

SW - A. DUBOSE - DIRECT

1 Q Now you also mentioned you have to pull
2 video. Did you -- are you familiar with the video
3 system at Walmart at that time?

4 A I am.

5 Q How did that system work?

6 A Basically for 90-days it records. We have
7 the ability to watch the camera live. We have the
8 ability to pull the video for up to 90-days usually.
9 The only thing we can do with it is view it and
10 record it; that's it.

11 Q And are you familiar with that from your
12 job in asset protection?

13 A Yes, sir.

14 (WHEREUPON, State Exhibit No. 2 was
15 marked for identification only.)

16 BY MR. MILLER:

17 Q Mr. Dubose, I'm showing you what's been
18 marked a State's Exhibit 2. Do you recognize that?

19 A Yes, sir.

20 Q What is it?

21 A It's a video of -- it's a surveillance
22 video at the store that I have reviewed for July the
23 19th -- or July the 5th, 2019.

24 Q Of this incident?

25 A Yes, sir.

SW - A. DUBOSE - DIRECT

1 Q Is it a true and accurate ---

2 A Yes.

3 Q --- copy of the events that occurred?

4 A Yes, it is.

5 MR. MILLER: Your Honor, at this time the
6 State moves to enter into evidence exhibit No. 2.

7 THE COURT: Any objection from Defense?

8 MR. GAMBRELL: No objection, Your Honor.

9 THE COURT: All right, so it is entered as
10 State's No. 2 without objection.

11 (WHEREUPON, State Exhibit No. 2 was
12 admitted into evidence.)

13 BY MR. MILLER:

14 Q And I believe on the 9-1-1 call you said
15 that she was wearing a red shirt?

16 A Yes, sir.

17 Q Was that before or after you saw the video
18 footage?

19 A That was before I saw the video.

20 Q And after you saw the video, what color
21 shirt was the person wearing?

22 A After I watched the video, he was wearing
23 a red hat, a white T-shirt, blue jean shorts, and
24 red tennis shoes.

25 Q And was all that happening very fast?

SW - A. DUBOSE - CROSS

1 A To be honest with you, I was trying to get
2 management up front. I was trying to keep the
3 customers away from the victim. I was trying to
4 clear the store as per protocol and get police
5 officers. Yes, sir, it was all in a matter of a
6 couple of seconds.

7 Q Please answer any questions Mr. Gambrell
8 has.

9 A Yes, sir.

10 THE COURT: Cross-examination.

11 MR. GAMBRELL: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MR. GAMBRELL:

14 Q Mr. Dubose, you testified that Mr. Deck
15 was a known shoplifter?

16 A Yes, sir.

17 Q Was he on trespass at that Walmart and on
18 White Horse Road?

19 A No, sir.

20 Q Okay. Where -- where were you standing
21 when he came in to the Walmart?

22 A I was probably about 30-feet from him
23 maybe. I'd come out of the bathroom 20, 30-feet
24 from him

25 Q If you could orient me for just a second.

SW - A. DUBOSE - CROSS

1 If you're looking at the front doors facing out.

2 A Facing out?

3 Q Yes, sir.

4 A It would be on the right-hand side of the
5 store.

6 Q Okay. The bathrooms are over there?

7 A The bathrooms are in the middle.

8 Q Are in the middle?

9 A Yes, sir.

10 Q So they would be, if you're looking out,
11 out to the parking lot, the bathrooms are to the
12 right of the doors?

13 A If you're looking out the door into the
14 parking lot, the bathroom is in the center of the
15 store. The GM door is on the right-hand side.

16 Q I'm sorry, what was on the right-hand
17 side?

18 A The GM door. The general merchandise door
19 that he came in.

20 Q Okay. So when he comes into the store --
21 let me ask you this another way. When he comes in
22 to the store, are the bathrooms to the left then?

23 A When he comes into the store, the
24 bathrooms would be on the right.

25 Q On the right, okay.

SW - A. DUBOSE - CROSS

1 A Yes, sir.

2 Q And that's where you were standing?

3 A Yes, sir.

4 Q Okay. And where is the self-check out?

5 A The self-check out would be right inside
6 the door. You come in the door, go to the
7 vegetable. As soon as you went to the vegetables,
8 the GM self-checks is right there.

9 Q So when he came in, he came in from your
10 left?

11 A Yes, sir.

12 Q Okay. And you were to the right of
13 self-check out?

14 A Actually, I was in the center of the
15 action aisle in front of the registers.

16 Q Okay. At some point you must have
17 diverted your attention because you heard a shot?

18 A That's correct.

19 Q Okay. And at that point you were still
20 standing in the same place?

21 A Yes, sir.

22 Q Okay. Did you -- were you the one who
23 collected the video for law enforcement?

24 A I help review it when my boss pulled it.

25 Q Okay. Who is your boss?

SW - A. DUBOSE - REDIRECT

1 A Lisa Wilson.

2 Q And when did you review that?

3 A Sir?

4 Q When did you review that?

5 A While she was pulling it.

6 Q And that was that same day, on July 5th?

7 A That was within minutes.

8 Q Okay. Did you ever take possession of
9 those videos?

10 A No, sir.

11 Q Okay. You just reviewed them?

12 A Yes, sir.

13 Q Do you know who Ms. Wilson gave those
14 videos to?

15 A I have no idea.

16 Q Okay. All right. Thank you, Mr. Dubose.

17 THE COURT: Anything in redirect?

18 **REDIRECT EXAMINATION**

19 BY MR. MILLER:

20 Q Does the video line up with what you
21 saw?

22 A Yes, sir, it does.

23 Q Are they true and accurate?

24 A Yes, sir, it is.

25 Q Thank you.

1 THE COURT: All right. Anything on
2 recross?

3 MR. GAMBRELL: Nothing further, Your
4 Honor.

5 THE COURT: All right, sir. You can step
6 down.

7 This witness permitted to leave?

8 MR. MILLER: Please, Your Honor.

9 THE COURT: All right. Any objection?

10 MR. GAMBRELL: No objection, Your Honor.

11 THE COURT: Sir, you're free to go. Thank
12 you for coming.

13 MR. MILLER: Thank you, Judge.

14 THE COURT: All right. The State calls
15 next witness.

16 MR. MILLER: Your Honor, at this time the
17 State calls Quincy Greene.

18 THE CLERK: Please pause at the Bench.
19 Lay your left hand on the Bible and raise your right
20 hand.

21 WHEREUPON,

22 **QUINCY GREENE,**
23 having been duly sworn by the clerk, testified
24 as follows:

25 THE CLERK: Thank you. Go ahead and have

SW - Q. GREENE - DIRECT

1 a seat. And please state your full name for the
2 record.

3 THE WITNESS: Deputy Quincy Greene.

4 **DIRECT EXAMINATION**

5 BY MR. MILLER:

6 Q Deputy Greene, where are you employed?

7 A Greenville County Sheriff's Office.

8 Q How long have you been with the Sheriff's
9 Office?

10 A Seven years.

11 Q What's your role within the Sheriff's
12 Office?

13 A I work in the technical services unit.

14 Q What do you do in that unit?

15 A Part of what we do is video analysis and
16 sequencing video.

17 Q Can you explain a little more about what
18 that is that you do. Like, what practically -- so
19 if you sequence a video, what does that mean?

20 A In a case or investigation like this,
21 oftentimes you'll have a scene that has multiple
22 cameras; and when those videos are pulled or
23 extracted from the system, the files correspond with
24 the cameras and for viewing purposes it makes it
25 difficult because each separate camera produces a

SW - Q. GREENE - DIRECT

1 separate video. So in order to watch a scene that
2 is captured on multiple cameras, you would have to
3 open and close separate videos which would make it
4 difficult for viewing. So what I do is I sequence
5 the video so, through editing software, I create a
6 timeline and sequence a video together to have one
7 cohesive video.

8 Q Do you change any of the video that you
9 sequence together?

10 A I do not.

11 Q I want to show you what's been entered
12 into evidence as State's Exhibit 2. Are you
13 familiar with that?

14 A I am.

15 Q How do you know you're familiar with it?

16 A I viewed it and I signed it and dated it.

17 Q And is that the video footage from
18 Walmart?

19 A Yes, sir, it is.

20 Q Okay.

21 (WHEREUPON, State Exhibit No. 3
22 was marked for identification only.)

23 BY MR. MILLER:

24 Q I'm going to show you what's been marked
25 as State's Exhibit 3. Are you familiar with that?

SW - Q. GREENE - DIRECT

1 A Yes, sir, I am.

2 Q What is it?

3 A This is a video of that is sequenced.

4 Q That gives the clear timeline?

5 A Yes, sir.

6 Q Is that a true and accurate copy?

7 A Yes, sir, it is.

8 Q Okay.

9 MR. MILLER: Your Honor, at this time the
10 State would move to enter into evidence State's
11 Exhibit 3.

12 THE COURT: Any objection?

13 MR. GAMBRELL: No objection, Judge.

14 THE COURT: All right. State's Exhibit
15 No. 3 is so entered without objection.

16 (WHEREUPON, State Exhibit No. 3 was
17 admitted into evidence.)

18 MR. MILLER: Your Honor, we're going to
19 play the video.

20 THE COURT: All right.

21 (State's Exhibit No. 3 was played for the jury.)

22 BY MR. MILLER:

23 Q Now does that encompass every camera angle
24 that will be provided from Walmart?

25 A Yes, sir, it does.

SW - Q. GREENE - CROSS

1 Q Would there be other ones available where
2 you just piece together a timeline?

3 A Not that capture anything in the incident,
4 no.

5 Q All right. Please answer any questions
6 Mr. Gambrell may have.

7 THE COURT: Cross-examination.

8 MR. GAMBRELL: Thank you, Your Honor.

9 **CROSS-EXAMINATION**

10 BY MR. GAMBRELL:

11 Q Mr. Greene, do you recall when you
12 received the videos?

13 A Are you asking me, like, the actual
14 original files?

15 Q Yes.

16 A I didn't receive the original files.

17 Q What did you receive?

18 A I received a copy of the files at the
19 conclusion of the investigation.

20 Q And you received those from whom?

21 A From the Solicitor's Office.

22 Q Do you all -- did you sign anything that
23 said that you were taking possession of those
24 videos?

25 A No, because it was a copy. It wasn't the

SW - Q. GREENE - CROSS

1 original evidence.

2 Q Did you ever look at the originals at any
3 time?

4 A I did look at the originals because we
5 also have a backup drive that contains videos point
6 of server, so I viewed them on the server, but not
7 the actual hard copy DVD that was in evidence.

8 Q I'm just trying to understand it. I'm not
9 very tech savvy, but. When they receive a copy they
10 upload it to the server?

11 A Um, when ---

12 Q When the Solicitor's Office ---

13 A --- the investigators, when they're
14 investigating a case, we download hard copies and
15 place them in property in evidence.

16 Q And that would be ---

17 A We au---

18 Q --- typically on a CD or DVD?

19 A Yes, and as a backup those files are also
20 stored on an internal server.

21 Q Okay. And so you didn't look at the
22 original DVDs?

23 A I did not.

24 Q You looked at what was uploaded to the
25 server?

SW - Q. GREENE - CROSS

1 A Correct.

2 Q Now was that before or after you received
3 a copy of the videos from the Solicitor's Office?

4 A The first time I reviewed them was before.

5 Q Okay. Now did you look at all the videos?

6 A I am -- that I can't recall. I mean,
7 there could be -- sometimes when we pull videos,
8 there may be issues with time stamps so we just
9 download every single video that's available for
10 that time period. I'm not certain as I didn't pull
11 the video if that's what happened in this
12 investigation or not.

13 Q So you, you essentially just go in and
14 look for what you're looking for?

15 A Well, when you're sequencing a video you
16 look for video that captures the actual incident or
17 something that you would think is relevant to the
18 incident.

19 Q And so you might not necessarily watch the
20 whole video once you -- once you see what you think
21 is relevant?

22 A You have to watch all the cameras because,
23 you know, if someone moves out of camera you don't
24 know essentially what camera they could have
25 appeared. You have to watch all of it to know where

SW - Q. GREENE - CROSS

1 they went, so to speak.

2 Q For that period of time?

3 A For that period of time.

4 Q Do you watch -- how long do you watch
5 before that?

6 A Before the -- it just depends on the
7 investigation.

8 Q In this case how long did you watch it
9 before then?

10 A From what I remember, I believe if I'm
11 correct, my memory serves correct, I started
12 watching as soon as the suspect approached the
13 checkout counter. I believe that's about where I
14 started watching. I can't remember if I saw it like
15 when he first came in the store. I can't remember.

16 Q And you didn't review any of the videos
17 while he was in the store prior to that?

18 A Not that I remember.

19 Q Okay. How about after, how long after
20 things went?

21 A I, I remember watching it till he went out
22 of camera view.

23 Q I recognize that there was a timestamp on
24 the video. How does that camera keep time?

25 A In a store big as Walmart it's

SW - Q. GREENE - CROSS

1 basically -- it's not linked to like a satellite.
2 You have to manually enter the time. And also, a
3 lot of times when servers that have that many
4 cameras, there's more than one DVR so you may not
5 have a continuous time flow from DVR to DVR.

6 Q Do you know how many DVRs Walmart -- that
7 Walmart was using?

8 A As I did not actually pull the video, I'm
9 not sure, but I can make a educated guess that most
10 likely there was more than one.

11 Q And so the accuracy of the time, you can't
12 testify to?

13 A I, I don't think I would -- you'd have to
14 speak to, like, the manufacturer of the actual DVR.

15 Q You can have some cameras from one DVR,
16 some cameras from a different DVR, and they contain
17 different timestamps based on whatever that DVR has
18 outputted?

19 A That's correct.

20 Q Okay. Do you know if the videos that you
21 put together were from the same or different DVRs?

22 A I don't know for certain.

23 Q Okay.

24 A I can make educated guess, but I don't
25 know for certain.

SW - Q. GREENE - REDIRECT

1 Q I prefer you not to guess, thank you.

2 A Okay.

3 Q So when we see the different video shots,
4 the time itself may not necessarily be correct
5 between shot to shot? I mean, it may not be in sync
6 is what I'm asking.

7 A That's correct.

8 Q Okay. Thank you very much.

9 THE COURT: Redirect.

10 MR. MILLER: Briefly.

11 **REDIRECT EXAMINATION**

12 BY MR. MILLER:

13 Q Deputy Greene, since you viewed the
14 original and you viewed the disk in evidence, are
15 they true and accurate, the same thing?

16 A Yes, they are.

17 Q I'm sorry, I was coughing. I couldn't
18 hear you.

19 A Yes, they are.

20 Q Okay. So that is the video from Walmart
21 true and accurate, what was provided to you, copies
22 of the original what you saw?

23 A That's correct.

24 Q Thank you.

25 THE COURT: All right. Anything else, Mr.

SW - H. GEORGE - DIRECT

1 Gambrell?

2 MR. GAMBRELL: Nothing further, Your
3 Honor?

4 THE COURT: All right. Sir, you can step
5 down. You're free to go.

6 MR. MILLER: Yes, sir, Your Honor.

7 THE COURT: Any objection?

8 MR. GAMBRELL: No objection.

9 THE COURT: Sir, you're free to leave if
10 you so desire.

11 Next witness.

12 MR. GREGORY: Your Honor, the State calls
13 Hazen George.

14 THE CLERK: Can you stop at the Bible.
15 Please place your left hand on the Bible, raise your
16 right hand. Raise your right hand.

17 WHEREUPON,

18 **HAZEN GEORGE,**
19 having been duly sworn by the clerk, testified
20 as follows:

21 THE CLERK: Thank you. If you would,
22 please state your full name for the record.

23 THE WITNESS: Hazen Ramines (ph) George.

24 THE COURT: Go ahead.

25 MR. GREGORY: Thank you. May it please

SW - H. GEORGE - DIRECT

1 the Court.

2 **DIRECT EXAMINATION**

3 BY MR. GREGORY:

4 Q Ms. George, how old are you?

5 A 79.

6 Q And you live in the Greenville area? Do
7 you live in Greenville area?

8 A Yes, sir. In the Brio area.

9 Q The Brio area?

10 A Yeah.

11 Q How long have you lived in the Brio area?

12 A Well, we married in -- when was the -- I
13 been (indiscernible) this year so ever since I was
14 about 16-years old.

15 Q Okay. And you say -- are you still
16 married?

17 A My husband passed away.

18 Q When did he pass away?

19 A 2020.

20 Q And do you have any children?

21 A I have -- I had three sons and six months
22 after my husband passed away my oldest son passed
23 away.

24 Q I wanna take you back to July 5th of 2019.
25 Do you remember that day?

SW - H. GEORGE - DIRECT

1 A We went to -- we always, my husband and I,
2 always went to Walmart and he would get my little
3 electric cart and drive through; and at that time
4 the on the exercise I got was holding on to the
5 buggy trying to walk around at Walmart to get some
6 exercise. We had went to Walmart to pick up a few
7 things. He was out riding in there.

8 Q All right. He was in the store riding
9 around?

10 A (No verbal response.)

11 Q Is that a "yes"? I'm sorry.

12 A He got one of those -- he got the electric
13 cart and I just got one of those little carts that
14 you push.

15 Q Okay.

16 A And I, I got -- what I did, I -- I got --
17 I had to pick up a few things like dish detergent
18 and I picked some something for us to fix a sandwich
19 with. And what I did, I went through on the
20 self-checkout.

21 Q Yes, ma'am.

22 A And I, I got -- I checked my stuff out and
23 then I always sit on the bench there at the
24 hairdresser's to rest until he came. And I sat
25 there waiting for him and I seen this commotion and

SW - H. GEORGE - DIRECT

1 what I just -- I, you know, you can't help but look.
2 Of course, I was facing there anyway and I seen
3 these two men and over wrestling with one another.
4 And then next thing I know, one shot the other and I
5 seen the smoke come out of the gun and never in my
6 life have I seen anything like it.

7 Q And how far away were you from this
8 incident, Ms. George?

9 A Well, I was trying to turn to hairdresser
10 and they came through the self-check out so it
11 wasn't far at all.

12 Q Okay. And after you saw the smoke come
13 out of the gun, what happened?

14 A When the guy fell on the floor and I
15 just -- when I -- you know, you just say Lord help
16 him. Next I just sat there and everybody else was
17 trying to leave. Well -- and I can't get up and
18 just walk like everybody else and I couldn't so I
19 just sat there waiting for my husband and he never
20 did come. Because I did not want him to see this
21 going on and then after he shot, he shot again, and
22 I just, I asked the Lord to not let him start toward
23 me and he fell toward facing the other way. And I
24 -- this man came out, he was running out, and he
25 looked at me in the face and I thought when he did

SW - H. GEORGE - DIRECT

1 it, one, you better not move, lady, you better sit,
2 so I sit there and he went out.

3 Q Okay. And were you able to see what he
4 looked like, the individual that ran out?

5 A He had a red hat on, a white shirt, and
6 blue jean shorts.

7 Q And do you remember what his race was?

8 A No.

9 Q Did you give a written statement to the
10 police at the time? Do you remember?

11 A If I ---

12 Q Did you give a statement to the police at
13 that time?

14 A I seen a policeman. There was a man came
15 in and he sit out there, and I finally prayed for
16 Larry to come out and he didn't and so I just got
17 finally got enough nerve to stand up and get out of
18 the buggy and walk out to the car and I waited for
19 Larry. I thought, well, he'd be there, but the
20 police then came and I tell them what I had seen.

21 Q Okay.

22 A And so I said I can't get nowhere until I
23 find my husband and ---

24 Q All right. So you told the police what
25 you saw, correct?

SW - H. GEORGE - DIRECT

1 A Yes, I did.

2 Q All right. I want you to take a look at
3 this and see if this refreshes your memory. Is that
4 the statement you gave to police?

5 A Yes.

6 Q Is that your signature on the bottom of
7 it?

8 A Yes.

9 Q And take a second to review that and see
10 if -- did you tell the police what race the victim
11 was?

12 A I don't understand.

13 Q The individual that ran past you out the
14 store, did you tell the police what race he was?

15 A I told them, yeah.

16 Q And what was that?

17 A I told them -- well, they get me too. I
18 followed the police up to the police place.

19 Q Yes, ma'am.

20 A And we went in and I told the man what I
21 seen.

22 Q Okay. And were you able to see the race
23 of the individual that left the store?

24 A Yes.

25 Q And what was his race?

SW - H. GEORGE - DIRECT

1 A I don't know.

2 Q If you'll just review that, the statement
3 that you gave to police, I'm sorry. Are you able to
4 read that?

5 A Yeah.

6 Q Okay.

7 A You want me to read it?

8 Q Does that help refresh your memory?

9 A Yeah. I mean, I ---

10 Q Okay.

11 A I don't have to have this to refresh ---

12 Q Yes, ma'am

13 A --- my memory ---

14 Q Yes, ma'am.

15 A --- 'cause when you close your eyes and
16 open your eyes, you see it all over again.

17 Q Yes, ma'am.

18 A That day. It just -- when II had heard a
19 gun, I seen him shoot him twice.

20 Q Yes, ma'am.

21 A One time he was standing up and then the
22 next time he was laying down.

23 Q Yes, ma'am.

24 A But...

25 Q And the person leaving the store, did you

SW - H. GEORGE - DIRECT

1 tell police what race he was?

2 A I did. When I walked out, I told them.
3 And the police was out there and I told them what I
4 had seen.

5 Q Yes, ma'am.

6 A And they wanted me to go to the police
7 station.

8 Q Yes, ma'am. Yep.

9 A And we did.

10 Q Okay. And I'm gonna direct your attention
11 just to the bottom right here. This, the last --
12 second to last sentence there.

13 A He ran out and he did look at me.

14 Q He did look at you, yes, ma'am. Yes,
15 ma'am.

16 A He looked at me in the eye.

17 Q Yes, ma'am.

18 A Really, and just -- I was trying to count
19 when he shot him.

20 Q Yes, ma'am, all right. And you, you said
21 you were sitting on the ---

22 A I was sitting on the bench.

23 Q Is that bench close to the exit of
24 Walmart?

25 A It's right there at the exit, right there

SW - H. GEORGE - CROSS

1 at the hairdresser place.

2 Q Thank you. Please answer any questions
3 the Defense has for you.

4 THE COURT: Cross-examination, Mr.
5 Gambrell.

6 **CROSS-EXAMINATION**

7 BY MR. GAMBRELL:

8 Q Good morning, Ms. George. Did you hear
9 any words that were exchanged between the two
10 individuals?

11 A I heard some words but to put them in, no,
12 I didn't.

13 Q Okay.

14 A I mean, you could hear it, but when you
15 sitting there and all these commotion going on,
16 you -- you don't hear what they say. You, you see
17 what you see with your eyes and you know what you
18 seen. They were kind of scuffling with one another.

19 Q Yes, ma'am. I think you said -- you
20 testified that they were wrestling with one another.

21 A No, they were trying to -- well, the one
22 guy that got shot, he was trying to get away from
23 the other one.

24 Q Uh-huh.

25 A And he grabbed a hold of him and then shot

SW - C. BOONE - DIRECT

1 him.

2 Q But you, you heard him have a conversation
3 but you don't know what they said?

4 A I don't know what they said.

5 Q Okay. Thank you, ma'am.

6 A I just know that it happened.

7 Q Yes, ma'am. Thank you.

8 THE COURT: Anything on redirect?

9 MR. GREGORY: No, Your Honor.

10 THE COURT: All right. Thank you, Ma'am.
11 Appreciate you coming. We'll give you a few minutes
12 to get down.

13 May this witness be excused?

14 MR. GREGORY: Yes, Your Honor, please.

15 THE COURT: Any objection?

16 MR. GAMBRELL: Without objection, Your
17 Honor.

18 THE COURT: All right. The State will
19 call its next witness.

20 MR. GREGORY: May it please the Court, the
21 State calls Deputy Boone.

22 THE COURT: All right.

23 THE CLERK: Please pause at the stand.

24 WHEREUPON,

25 **CHARLIE BOONE,**

SW - C. BOONE - DIRECT

1 having been duly sworn by the clerk, testified
2 as follows:

3 THE CLERK: Thank you. You may be seated.
4 Please state your full name for the record.

5 THE WITNESS: Master Deputy Charlie Boone.

6 **DIRECT EXAMINATION**

7 BY MR. GREGORY:

8 Q Deputy Boone, where are you
9 employed?

10 A Greenville County Sheriff's Office.

11 Q And how long have you been employed there?

12 A About ten years.

13 Q What is your current role there?

14 A I'm a master deputy in the warrants
15 services division.

16 Q And what is your duty and responsibilities
17 as a master deputy?

18 A Primarily training new deputies.

19 Q What kind of education and experience have
20 you received to become master deputy?

21 A Time with an agency, inner agency courses
22 training, leadership courses.

23 Q And were you still employed at the
24 Greenville County Sheriff's Office on July 15th,
25 2019?

SW - C. BOONE - DIRECT

1 A I was.

2 Q What was your position at that time?

3 A I was the master deputy uniform patrol
4 training a new deputy. He was in -- currently in
5 training; I don't remember what phase. He was
6 riding with me that day.

7 Q And as uniform patrol, what are your
8 duties?

9 A Primarily calls for service, 9-1 calls,
10 things of that nature.

11 Q Are you assigned to certain area of town
12 to patrol?

13 A Correct. I was working -- I was working
14 West Greenville. I'm not sure exactly what beat
15 area, but of the four B areas of West Greenville.

16 Q Did you have an opportunity to become
17 involved in this case?

18 A I did.

19 Q How did you become involved in the case?

20 A That afternoon on July 5th, 2019,
21 dispatch broadcast out that there was a shooting in
22 progress at the Walmart on White Horse, which is in
23 Greenville County. I was about maybe a
24 mile-and-a-half away. I Responded lights and siren.
25 Got to the scene. I could -- there was people

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1 running everywhere, running out to their cars
2 coming, out both doors. I saw a group in the upper
3 area of the parkings lot where you normally wouldn't
4 see people congregate, did not know if that --
5 whoever the shooter was was there. Kind of paused
6 there for a second, realized they were. Pulled up
7 the front building at the -- I think it's labeled
8 the home side and went straight in. employees were
9 saying that the victim was deceased. I was asking
10 where the shooter was. They said he left. I went
11 around the corner just in front of the U-scan. I
12 saw a white male laying on his right side, a pool of
13 blood around his head, and it was obvious he was
14 beyond any medical help. I advised dispatch to get
15 EMS into the scene. EMS, fire arrived, and they
16 determined that he was deceased.

17 Q What time did you receive the call?

18 A It was around 1:30 in the afternoon.

19 Q And how long did it take you to respond to
20 the actual scene?

21 A Don't know for sure. Less than a couple
22 of minutes. I mean, I was -- I was at a park down
23 the street so, I mean, I was just a mile or two
24 away.

25 Q Were you the first deputy on scene?

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1 A That's correct.

2 Q And as first deputy on scene, what are
3 your duties, responsibilities?

4 A First obviously is to eliminate or stop
5 any active threat. Once I found out the shooter was
6 not there, there was no threat, immediate threat in
7 that area that I could deal with, it was to find,
8 locate, and treat the victim or any victims that
9 were there, which I did.

10 Q And do you also secure the scene?

11 A Correct. First is threat, the victim
12 obviously. Then it's kind of in stages, start
13 securing the scene. Once, you know, I had -- my
14 role, I had a lot of things I needed to do at one
15 time. So once I kind of was checking the boxes,
16 then we started to secure the scene with tape and
17 vehicles. And still had a lot of customers in the
18 store, employees, we were trying to get all them
19 out.

20 Q What's the purpose of securing the scene?

21 A For evidence purposes, mostly evidence and
22 anything to contaminate the crime scene area.

23 Q And did you do anything to manipulate the
24 body ---

25 A No.

SW - C. BOONE - DIRECT

1 Q --- touch the victim at all?

2 A No.

3 Q Do you keep a log of who all goes in to
4 the crime scene?

5 A I would, but my trainee actually did it
6 that day. That was a task I gave to him was to keep
7 a crime scene log of everybody that was there. So I
8 didn't personally do it, but I had him do it.

9 Q And that would have been in your report as
10 well, ---

11 A Yes.

12 Q --- correct?

13 A Yes.

14 Q Were you there when the EMS arrived?

15 A I was.

16 Q And that would be part of your report as
17 to who all came to the crime scene as well?

18 A Correct. Yeah, anybody -- anybody that
19 would have been there would be documented.

20 Q Did you do anything to locate anything of
21 evidentiary value on the scene?

22 A No, there was nothing obvious that stood
23 out. There was no weapon laying there, nothing that
24 I could see so it wasn't -- as far as going into
25 that, there wasn't anything to really do.

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1 Q Okay. You said there was no -- you didn't
2 see any weapon laying near the victim?

3 A I did not.

4 Q Did you see a weapon or see anything in
5 his pocket or anything?

6 A I did not.

7 Q Please answer any questions the defense
8 has for you.

9 THE COURT: Cross-examination,
10 Mr. Gambrell.

11 **CROSS-EXAMINATION**

12 BY MR. GAMBRELL:

13 Q Deputy Boone, how long did you stay at the
14 scene?

15 A Several hours.

16 Q While you were there, did you happen to
17 recognize whether Detective King came to the scene?

18 A I believe so. I believe I remember seeing
19 him or he was on the log that was there.

20 Q Do you recall how long after you arrived
21 there that he arrived there?

22 A I do not.

23 Q Thank you.

24 THE COURT: All right. Anything on
25 redirect?

1 MR. GREGORY: No, Your Honor.

2 THE COURT: All right. Thank you, sir.

3 You can step down.

4 All right. Can this witness be excused?

5 MR. GREGORY: Please, Judge.

6 MR. GAMBRELL: No objection.

7 THE COURT: No objection from either side.

8 Sir, you're free to go if you so desire.

9 THE WITNESS: Thank you, Judge.

10 THE COURT: All right. The State call its
11 next witness.

12 MR. MILLER: Your Honor, the State calls
13 Sergeant Chris McCalmont.

14 THE COURT: All right. Before we do that
15 we're going to take about a seven minute break,
16 maybe seven-and-a-half. Ladies and gentlemen, I'm
17 gonna send you back to your jury room. Please,
18 ma'am, and please, sir, do not talk about the case
19 to each other. And if you need a bathroom break,
20 this is the time. I don't know if we've got any
21 smokers in the group, but I'll let you know when you
22 get a smoke break, if we do have anybody that has to
23 have a break. Okay, go back.

24 (WHEREUPON, the jury was removed from the
25 courtroom at 11:11 a.m. and a recess was

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1 taken from the proceedings.)

2 THE COURT: Everybody ready?

3 MR. MILLER: Yes, sir.

4 THE COURT: Bring the jury back.

5 (WHEREUPON, State Exhibits Nos. 4, 5, 6,
6 and 7 were marked for identification
7 only.)

8 (WHEREUPON, the jury was returned to the
9 courtroom at approximately 11:23 a.m., and the
10 following proceedings commenced in open court.)

11 MR. MILLER: Thank you, Your Honor. The
12 State calls Sergeant Chris McCalmont.

13 THE COURT: All right. Come on back, sir.

14 THE CLERK: Please pause at the Bible.
15 Lay your left hand on the Bible.

16 WHEREUPON,

17 **CHRIS MCCALMONT,**
18 having been duly sworn by the clerk, testified
19 as follows:

20 THE CLERK: Thank you. You may have a
21 seat. And please state your full name for the
22 record.

23 THE WITNESS: My name is Christopher John
24 McCalmont.

25 **DIRECT EXAMINATION**

SW - C. MCCALMONT - DIRECT

1 BY MR. MILLER:

2 Q Sergeant McCalmont, where are you
3 employed?

4 A The Greenville County Sheriff's Office.

5 Q How long have you been with the Sheriff's
6 Office?

7 A Nearly 18 years.

8 Q What's your current role at the Sheriff's
9 Office?

10 A I am a supervisor within our school
11 enforcement unit, specifically the supervisor over
12 the high school SROs.

13 Q How long you been in that? Ole.

14 A About 2-and-a-half years.

15 Q What other positions have you had at the
16 Sheriff's Office?

17 A Starting off my career I started at the
18 uniform patrol division responding to emergency and
19 nonemergency calls for service. While in uniform
20 patrol I was promoted to the rank of master deputy
21 which changed the role slightly, mainly a field
22 training officer for new hires. I then transferred
23 into the criminal investigation division
24 predominantly assigned to work an armed robbery
25 investigations; and from there, I transferred to our

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1 school enforcement unit where I was the school
2 resource officer at Brio Middle School and then a
3 roaming school resource officer and then promoted to
4 sergeant as the supervisor of the high school SROs.

5 Q And do you recall what your position was
6 in July of 2019?

7 A I was a master deputy, specifically a
8 roaming school resource officer.

9 Q Were you working on July 5th of 2019?

10 A I was.

11 Q How did you become involved in this case?

12 A I was in between duties as the roaming
13 school resource officer. I was around the
14 Cherrydale area of Greenville when I heard dispatch
15 give out information that there was a shooting
16 occurring at the Walmart on White Horse Road.

17 Q What county is that in?

18 A Greenville.

19 Q So when you got that call, what action did
20 you take/

21 A I turned on my emergency equipment.
22 Naturally that's a pretty big emergency and
23 responded towards the Walmart with my lights and
24 sirens activator.

25 Q Okay. How do you respond? With your

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1 lights and sirens, how are you driving?

2 A Obviously exceeding the speed limit. A
3 lot of the times we're allowed to proceed through
4 red lights using caution and basically getting there
5 as quickly as possible.

6 Q And from the information you had, did you
7 have any type of initial descriptions that the
8 person left on foot or in a vehicle or anything like
9 that?

10 A I don't recall receiving any information
11 about whether they left on -- I know they left the
12 foot on store. From there, I don't recall having
13 any information if they got into a vehicle or not.
14 The description that I remember having of the
15 shooter was a black male. At that time the
16 information that I had was a black male wearing a
17 red shirt is the information that dispatch replayed
18 to us.

19 Q And can you tell us a little bit initial
20 descriptions. Are they always correct?

21 A I wish, but no. I would say equally as
22 much they are not correct as they are correct.

23 Q So as you're driving you're going towards
24 the scene, what are you looking for?

25 A So one of the first things that I'm

SW - C. MCCALMONT - DIRECT

1 looking for in a situation like this is, is there
2 even a deputy at the scene yet. By the time I made
3 it there, there was some deputies closer than I was
4 and they had made it to the scene. It seemed like
5 they had what needed to be under control, control
6 there at the scene, so I made a decision not to
7 respond directly to Walmart. But when I reached an
8 area close to Walmart, start looking for the suspect
9 at issue.

10 Q And you're familiar with that area?

11 A Yes, sir.

12 Q Okay. I'm gonna show you what's been
13 premarked as State's Exhibit 6. Do you recognize
14 this?

15 A I do.

16 Q What is it?

17 A This is a satellite map image of the area
18 of the Walmart on White Horse Road in Borie.

19 Q Is it a true and accurate representation?

20 A It is.

21 MR. MILLER: Your Honor, at this time the
22 State would move Exhibit 6 into evidence.

23 THE COURT: Any objection?

24 MR. GAMBRELL: No objection, Your Honor.

25 THE COURT: Exhibit 6 is so entered

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1 without objection.

2 (WHEREUPON, State Exhibit No. 6 was
3 admitted into evidence.)

4 BY MR. MILLER:

5 Q If you could turn around and point out to
6 the jury, just everything we're looking at here on
7 this map?

8 A Sure. May I stand up? Is that okay?

9 Q Yes.

10 A So as you drive White Horse road here,
11 you're heading north on White Horse Road going this
12 direction. This is the Walmart and the strip mall
13 complex that sits basically on the same property.
14 One block this way is Stanford Road and then this is
15 the major intersection of White Horse Road, Highway
16 25 and Highway 253 to west Blue Ridge.

17 Q And as you were approaching in that area,
18 where did you go?

19 A I was coming from Cherrydale, which is
20 further down west Blue Ridge this way so I was
21 traveling this direction and then I would have made
22 a right on White Horse Road.

23 Q Did you go to the Walmart?

24 A I did not.

25 Q Where did you go?

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1 A About the time that I was coming up to
2 White Horse Road here I realized that they had
3 manpower at Walmart so I decided to -- about the
4 time that I was turning on to White Horse Road and
5 started to go north, I turned off my siren. I left
6 my blue lights flashing and was just gonna probably
7 the area for -- waiting for updated description and
8 just look for the suspect in the shooting.

9 Q Okay. I'm gonna show you what's been
10 marked as State's Exhibit 7. Do you recognize this?

11 A I do.

12 Q What is it?

13 A Once again, a satellite image that's
14 zoomed in closer to a specific intersection of White
15 Horse Road and Stanford Road.

16 Q Is it true and accurate?

17 A It is.

18 MR. MILLER: Your Honor, at this time the
19 State would move State's Exhibit 7 into evidence.

20 THE COURT: Any objection?

21 MR. GAMBRELL: Without objection, Judge.

22 THE COURT: State's No. 7 is so admitted
23 without objection.

24 (WHEREUPON, State Exhibit No. 7 was
25 admitted into evidence.)

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1 BY MR. MILLER:

2 Q And if you'll just give a little lay of
3 the land here.

4 A All right. So what you can't see on the
5 map is, once again, White Horse Road going north in
6 this direction. Walmart is further up here. This
7 is, at least at the time when this incident
8 happened, this was a Title Loan business. I'm not
9 sure what it might be, what it might be right now.
10 This is Stanford Road and then this is the Long John
11 Silver's.

12 Q Okay. So this is zoomed in this area down
13 here. This is the Long John Silver's and the
14 TitleMax there?

15 A Yes, sir. The map we just looked at is
16 zoomed in of this area right here.

17 Q And you said you were looking for a
18 possible shooter. As you were driving towards the
19 Walmart, did you notice anybody that could have been
20 a possible suspect?

21 A I did.

22 Q Where did you see that person?

23 A When I first saw them, they were on the
24 property in the parking lot area of this Title Loan
25 right around in this general area.

SW - C. MCCALMONT - DIRECT

1 Q And you said you had your lights and
2 sirens going?

3 A About -- about the time that I saw this
4 person, I was turning my siren off but I left the
5 blue lights on.

6 Q Okay. And does your car, was it equipped
7 with a dash camera?

8 A Yes, sir. At the time my car that I had
9 at that time was, yes.

10 Q Handing you what's been premarked as
11 State's Exhibit 4, do you recognize that?

12 A I do.

13 Q What is it?

14 A This is the video from the in-car camera
15 of the car that I was driving that day.

16 Q And have you reviewed it?

17 A I have.

18 Q Is it true and accurate? Is it a true and
19 accurate copy of your in-car camera?

20 A It is.

21 Q Other than any potential edits to comply
22 with court rulings or rules of evidence, has it been
23 tampered with in any way?

24 A No.

25 Q Okay.

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1 MR. MILLER: Your Honor, at this time the
2 State would move State's Exhibit 4 into evidence.

3 THE COURT: Any objection?

4 MR. GAMBRELL: No objection.

5 THE COURT: So entered without objection.

6 (WHEREUPON, State Exhibit No. 4 was
7 admitted into evidence.)

8 MR. MILLER: And, Your Honor, we'll
9 publish to the jury.

10 (State Exhibit No. 4 was published for the jury.)

11 BY MR. MILLER:

12 Q If you'll tell the jury a little bit about
13 what's going on right now.

14 A So this is -- obviously I was originally
15 heading south on Pleasantburg Drive there. What you
16 don't hear is the first video records for a
17 predetermined amount of time. It keeps it in memory
18 so when the video first starts there's no audio
19 because the system hadn't been actually activated
20 yet. When you turn on the blue lights of the car,
21 the vide automatically activates, which is when you
22 heard the audio kick on. And at this point I've
23 made a u-turn on Pleasantburg Drive and I'm going
24 through the intersection basically where Blue Ridge
25 and that main intersection right there at Cherrydale

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1 and Blue Ridge, Poinsett Highway and all that's
2 coming together and I'm headed towards where the
3 Walmart on White Horse Road.

4 Q We'll probably play a little and scrub it.
5 (Publishing of video continued.)

6 BY MR. MILLER:

7 Q Where are we now, Deputy?

8 A This is the intersection of White Horse
9 Road and west Blue Ridge Drive, specifically it
10 looks like I'm turning into the parking lot of the
11 KFC that sits at that intersection.

12 (Publishing of video continued.)

13 BY MR. MILLER:

14 Q Can you tell the jury what we're looking
15 at now?

16 A Yeah. So, this is the intersection of
17 Stanford Drive, the same road that we're looking at
18 on the map earlier. This is the Title Loan store
19 that I was talking about. This is the parking, part
20 of the parking lot of the Long John Silver's. And
21 if you can see, that's the person that I originally
22 was talking about what I saw in that parking lot.

23 Q What road are you turning on?

24 A Stanford.

25 (Publishing of video continued.)

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1 BY MR. MILLER:

2 Q Deputy McCalmont, as it was said earlier,
3 the original description you had of a red shirt, why
4 did you look towards the person who had on a white
5 shirt?

6 A Once again, those initial descriptions
7 that we get are not always accurate. And in this
8 particular case I actually did not decide to
9 immediately stop this person or try to question them
10 or anything. I was actually, my plan was to just --
11 they were in the area so in the allotted amount of
12 time since dispatch gave us the information until it
13 took me to get to this location, somebody on foot
14 from the Walmart, the suspect, could have made it to
15 that location. So it was reasonable to assume that
16 this person, that they could have made that distance
17 from the Walmart to where I was at; and because this
18 didn't meet the exact description, I made the
19 decision I'm just gonna follow this person for a
20 little bit, see how they act, and give the deputies
21 on scene more time to try to give out an updated
22 description.

23 Q And let me go ahead and play. If there's
24 something you'd like me to pause for anything, just
25 ask me to pause and I'll hit pause.

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1 A Okay. Do you want me to explain as it's
2 playing or?

3 Q You can just tell me to hit pause.

4 A Okay.

5 (Publishing of video continued.)

6 THE WITNESS: All right, so, if you can --
7 at one point if you look ---

8 BY MR. MILLER:

9 Q Would you like me to back it up?

10 A Sure, just until probably about when that
11 person walking IS maybe right about in this area.
12 Pause it right there. All right. So him and I,
13 what you can't tell -- obviously you can't see me.
14 Him and I make eye contact right now at this point
15 in the video. It's not really difficult to explain.
16 It might be difficult to understand, but I remember
17 feeling just unexplained anxiousness when him and I
18 made contact. I had -- I mean, obviously there's a
19 heightened sense of awareness of mine because
20 there's just been a shooting happened. But outside
21 of that in this moment, there was no reason -- I
22 didn't see -- there was no conversation between him
23 and I. I didn't see him, obviously, with any
24 weapons or anything like that. But in the moment
25 that him and I made eye contact, I had unexplained

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1 anxiousness. But that's, that's what's going
2 through my mind in this moment in the video.

3 (Publishing of video continues.)

4 THE WITNESS: If you want to pause it
5 again real quick. It's hard to tell on the video,
6 but what I noticed in realtime there, this person
7 was also breathing heavy and they weren't exactly
8 wearing what I would consider workout clothing so it
9 didn't seem -- had unexplained anxiousness and this
10 person's breathing had me, which the heavy breathing
11 to me was a physical indicator of why is there
12 breathing heavy if they're just walking from point A
13 to point B leisurely.

14 BY MR. MILLER:

15 Q At this point have you decided that you're
16 going to talk to this person or are you gonna
17 continue observing him?

18 A No. My -- my thought process right now is
19 I'm just gonna continuing to observe this person.

20 (Publishing of video continued.)

21 THE WITNESS: And then pause right here.
22 It was very quick, but there was, what I would
23 describe, as a skip step taken by this person as
24 though you're walking fast and maybe you're thinking
25 about going a little bit faster or almost breaking

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1 into a jog. You might take a skip step or two. He
2 does that right there and he -- go ahead and play
3 the video. I don't want to misspeak.

4 (Publishing of the video continued.)

5 THE WITNESS: There's another one, another
6 one. And then as I -- as I round the corner here,
7 it's gonna be hard -- the camera's fixed. It
8 doesn't rotate. It's fixed in front position. What
9 I can see right now is not on video is this person's
10 speed is noticeably faster. Pause. All right.

11 BY MR. MILLER:

12 Q Is that why you sped up?

13 A I'm sorry?

14 Q Is that why you sped up?

15 A So why I sped up in this exact moment
16 right here is at this point this person is actually
17 running. They have broken into a run. There's a
18 brush line. You can see the last tree of the brush
19 line right here. There's a brush line here that run
20 -- that separates -- this is the old, if you're
21 familiar with the area, this used to be a BI-10.
22 It's not a BI-10 anymore. And up this direction is
23 the Long John Silver's. So what we're seeing right
24 now in my mind is this person was originally walking
25 the general direction of south on White Horse.

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1 They're in the parking lot of the Title Loan
2 business. They turned on to Stanford and went down
3 Stanford going away from White Horse. Now they've
4 circled behind the tree line, the brush line, behind
5 Long John Silver's and is going back up towards
6 White Horse Road basically making a big circle. It
7 didn't seem logical that this person would travel
8 that route. And in this exact moment they are
9 physically running. They have broken into a run at
10 this point. He ran for...

11 (Publishing of video continued.)

12 THE WITNESS: All right, go ahead and
13 pause it.

14 BY MR. MILLER:

15 Q Is that the parking lot that you
16 originally saw the person in, in the cross?

17 A This is. That is the parking lot that I
18 originally saw him. We are physically in the Long
19 John Silver's parking lot right now. Now what, once
20 again, because the camera is fixed, what you don't
21 see is he -- he physically ran for I won't say a
22 long distance. I'd say 20 to 50-feet they actually
23 broke out into a sprint, a run, and then as I
24 accelerated they stopped running and began walking
25 at this pace again. Now I've made the decision at

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1 this point when he started running and making that
2 basically a circle right back to where he started, I
3 made the decision that I was going to try to stop.

4 (Publishing of video continued.)

5 BY MR. MILLER:

6 Q So what is going on at this moment?

7 A I have gotten out of my patrol car. This
8 person has kind of gotten in between the drive-thru
9 traffic in the Long John Silver's. They went around
10 one or two cars and was coming in between two of
11 them back towards me. When I got out of my patrol
12 car, I drew my pistol and kept it what we call a low
13 ready, immediately back. It wasn't necessarily
14 pointed at anybody, but I had it out and ready to
15 use it should the need arise. This person was
16 compliant and followed my directions in this moment.

17 Q And where was that person located at that
18 time?

19 A Basically in between two cars in front of
20 one and behind another in the drive-thru lane.

21 Q Now did you also have body camera on at
22 the time?

23 A I did.

24 Q I want to show you what's been premarked
25 as State's Exhibit 5. Do you recognize that?

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1 A I do.

2 Q What is it?

3 A This is video from the body worn camera
4 that I was wearing this day.

5 Q And have you reviewed it?

6 A I have.

7 Q Is it a true and accurate representation?

8 A It is.

9 Q Other than any edits or needing for court
10 rules or evidence rules of evidence, is it true and
11 accurate copy or been tampered with in any way?

12 A Yes. It has not been tampered with. It
13 is true and accurate.

14 MR. MILLER: Your Honor, at this time the
15 State moves State's Exhibit 5 into evidence.

16 THE COURT: Any objection to State's No.
17 5?

18 MR. GAMBRELL: No objection, Your Honor.

19 THE COURT: It's entered without
20 objection.

21 (WHEREUPON, State Exhibit No. 5 was
22 admitted into evidence.)

23 BY MR. MILLER:

24 Q What's the date and time on your body
25 camera there?

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1 A July 5th, 2019, currently at 1:37 p.m.

2 (Publishing of video continued.)

3 BY MR. MILLER:

4 Q Is this person under arrest at this point
5 in time?

6 A No, sir.

7 Q What's the status?

8 A So, we call this investigative detention
9 meaning that we either -- we suspect this person is
10 engaging in or has just engaged in criminal
11 activity, and we've reached an evidence level to
12 make us think that that's the case but not an
13 evidence level that would ride to the point of
14 actually arresting this person. Kind of like we
15 think -- we think that they're involved but we don't
16 have enough to arrest him, but we need some time to
17 figure it out.

18 (Publishing of video continued.)

19 BY MR. MILLER:

20 Q So while you're at the scene, did anybody
21 else come to the scene?

22 A At the Long John Silver's?

23 Q Yes.

24 A Yes. There were several people there.

25 Q Did -- well, who else came to the scene?

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1 Did the other female arrive?

2 A Eventually, yes, a female did arrive.

3 Q Okay. And did you ever find out who that
4 female was?

5 A I was told that it was Braylon Morris's
6 girlfriend.

7 Q And how did she arrive?

8 A In a car.

9 Q Okay, what kind of car? Do you recall?

10 A No, sir, I'm sorry, I don't. I believe, I
11 believe it was a sedan of some sort. I don't even
12 want to speculate on what color it was, I don't
13 recall.

14 Q That's ---

15 A Dark. Dark color maybe.

16 Q It may just be.

17 (Publishing of video continued.)

18 BY MR. MILLER:

19 Q What's going on on the radio right now?

20 A So, what just happened is a deputy at the
21 scene is giving that updated description of what I
22 was looking for. Trying to wait for, before I
23 decided if I was going to detain this person or not.
24 Naturally when he took off running, I didn't want to
25 wait any longer so I went ahead -- we went ahead and

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1 moved forward with detaining him, but the
2 description that the deputy on scene just gave out
3 was the exact description of the fella we have in
4 the car right now.

5 Q And the person in the car right now that
6 you followed and detained at Long John Silver, do
7 you see him in the courtroom today.

8 A Yes, sir

9 Q Where is he located?

10 A He's sitting at the defense table wearing
11 a long sleeved button up light pink shirt.

12 (Publishing of video continued.)

13 BY MR. MILLER:

14 Q Do you recall what the description coming
15 over the radio, how much that person is sitting at
16 defense table fit the description?

17 A Exactly.

18 Q And I believe it's everything but a hat?

19 A Correct.

20 Q Okay.

21 (Publishing of video continued.)

22 BY MR. MILLER:

23 Q Where are you going now?

24 A I'm gonna go to the Walmart and watch the
25 surveillance video to compare that to the person

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1 that we have in the car.

2 Q Is that why you just took the photo?

3 A That's correct.

4 Q What office are you walking into?

5 A This is, it's like one of their -- I'm
6 sure they have multiple, but this is one of the
7 security rooms, specifically one where -- where a
8 lot of their camera equipment is located at.

9 Q And what are you doing at this moment in
10 time?

11 A Asking them to playback the video so I can
12 watch it from the shooting.

13 Q Were you able to watch the video?

14 A I was.

15 Q Were you able to see the person who
16 committed the shooting?

17 A Yes.

18 Q Did that person match the person you had
19 on Long John Silver's?

20 A Yes, it did.

21 Q And that person at Long John Silver's,
22 what was their -- what was that person's name?

23 A Braylon Morris.

24 Q Okay. The person that you saw on the
25 video at Walmart, you see that person in the

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1 courtroom today?

2 A Yes.

3 Q And where is that person located?

4 A The same, same gentleman at the defense
5 table wearing the button up light pink shirt.

6 Q And that's Braylon Morris?

7 A That's correct.

8 Q Okay. After you took this step, what
9 other step did you take?

10 A So, while I was at Walmart I learned that
11 the person, at least to the point we didn't have any
12 evidence they had gotten into a car so assuming they
13 had made it from the Walmart to the Long John
14 Silver's or at least the Title Loan parking lot
15 where I first saw them on foot, and I came to
16 realize they had passed by a few, several, a few
17 trash cans in the Walmart parking lot, kind of the
18 cart returns. All the Walmarts have trashcans
19 there. And I checked those trashcans. Braylon did
20 not have a gun on him that we found when he was
21 detained so naturally we wanted to find that so I
22 checked those trashcans to see if -- if maybe a gun
23 had been put in the trashcans, but I did not find
24 one.

25 Q Did you have any other action in this

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1 case after that?

2 A No, sir.

3 Q Please answer any questions Mr. Gambrell
4 has.

5 THE COURT: All right. Cross-examination.

6 MR. GAMBRELL: Thank you, Your Honor. May
7 it please the Court.

8 **CROSS-EXAMINATION**

9 BY MR. GAMBRELL:

10 Q Is it Sergeant?

11 A Currently, yes, sir.

12 Q Okay. With regard to the body worn camera
13 and the dash worn cameras in your car and on your
14 person, did the timestamp on those sync up with each
15 other?

16 A No, sir, not automatically they do not
17 sync up with each other, not on this system. And
18 even currently, I don't think that they sync up
19 together.

20 Q Okay. So how does the -- how does the
21 body worn camera keep time?

22 A The body worn camera keeps time, you dock
23 it in a dock and when it needs to receive updates,
24 such as software updates, time changes for daylight
25 savings time, that system when it's docked in the

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1 dock will update the cameras. It's not anything
2 that we can manually -- at least I don't, if -- I
3 can't manually manipulate it. It's all done
4 automatically through the dock.

5 Q So it receives -- whenever it's charging
6 it receives some sort of signal that tells it what
7 time it is?

8 A That's my understanding of how it works,
9 yes, sir.

10 A Okay. And it's your understanding is that
11 your body cam, worn camera, may be different from
12 someone else's body worn camera as far as time goes?

13 A I would imagine only if -- only if it had
14 been -- only if they had it docked since maybe the
15 time change or something would be the only way I
16 know of that that could happen.

17 Q So when I asked you before did they sync
18 up, as long as they're charged are they synced to
19 the same time?

20 A I'm sorry, I might have misunderstood the
21 question. I thought you meant did the in -- did my
22 in-car camera and my body camera sync up together.
23 The answer to that is no.

24 Q it was probably a poor question. I should
25 separate those two out. Does your body cam worn

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1 camera have the same times as other body worn
2 cameras with the Sheriff's Department?

3 A If they've been -- if they've been docked
4 after the time change, yes, they should.

5 Q When you say "time change," are you
6 talking about spring forward fall back?

7 A That's correct.

8 Q Okay.

9 A That's my understanding of how they work.
10 Now I'm not intimately familiar with how all that
11 works. I just know that I have it docket certain
12 times to get those updates.

13 Q So in July could you say that certainly
14 your body worn camera had been updated?

15 A It seems as so, yes, sir.

16 Q How often do you have to charge it?

17 A That depends on usage. There's some
18 people might have to charge them more often. Like,
19 for instance, deputies in uniform patrol, I would
20 assume have to charge theirs way more often than
21 what someone who doesn't have quite as an active
22 role, maybe more of an office job would have to
23 charge theirs.

24 Q And so the only difference would be that
25 it would be an hour off if it hadn't changed since

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1 the time change?

2 A Based on what I know about them, yes, but
3 once again, I'm -- I'm -- please excuse me, I'm
4 just -- I'm an end user. They tell me how to turn
5 it on and turn it off and docket to charge it and
6 upload it, but the -- other than that...

7 Q Yeah, and I'm just asking you based on
8 your ten years of experience with the Sheriff's
9 Department.

10 A Yeah. The only other exception would be,
11 that I can think of, would be if a different deputy
12 might not have the same make or model body cam as
13 mine and I'm not sure -- I just -- I know what I'm
14 issued. I'm not sure what -- what other deputies
15 might have. So if they're issued a different make
16 or model, then the time might be different on that
17 one, I'm not sure.

18 Q Okay. Thank you. I want to -- I guess
19 I'm gonna have to try to hook up my computer somehow
20 to this long cord.

21 MR. MILLER: Your Honor, I don't know if
22 some of these ought to be shown to the jury if it's
23 something that's not in evidence or ---

24 MR. GAMBRELL: It's State's ---

25 MR. MILLER: --- where we're going at the

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1 moment.

2 MR. GAMBRELL: I'm just gonna ask him
3 questions about the video we just saw. I believe
4 it's already been entered into evidence.

5 THE COURT: So you -- that's the same
6 video you're showing?

7 MR. GREGORY: Yes, sir.

8 MR. MILLER: Well, this one had moots as
9 you could tell ---

10 MR. GAMBRELL: I'm not gonna play the
11 sound.

12 MR. MILLER: The rules, okay.

13 THE COURT: You're not gonna play the
14 sound? But it's the same video?

15 MR. GREGORY: It is.

16 THE COURT: Okay. That's body cam?

17 MR. GREGORY: Yes, sir.

18 THE COURT: Okay.

19 BY MR. GAMBRELL:

20 Q Sergeant, could you -- I guess I'm gonna
21 have to come up here.

22 MR. GAMBRELL: May I approach the witness,
23 Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. GAMBRELL:

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1 Q Could you identify these three individuals
2 for me?

3 A The one in the blue shirt here, I believe,
4 is Master Deputy Leppard, and I apologize, I don't
5 know the names of the other two

6 Q Okay. You're not familiar with them?

7 A No, I wouldn't say that. I recognize
8 them. I just, I can't, I don't recall their names
9 right now, sorry.

10 Q Is that the same two individuals there?

11 A Yes, sir, minus Master Deputy Leppard.
12 That is the same two.

13 Q Do you recognize any of the individuals in
14 that picture?

15 A This person here is Investigator Tracy
16 King.

17 Q That's all these ---

18 A Oh, yes, sir, I'm sorry.

19 Q That's fine. Do you recognize the person
20 in the middle of that shot?

21 A I recognize -- this person?

22 Q Yes, sir.

23 A Yes, sir. That's -- at the time that --
24 his rank was lieutenant. His name is Bobby Duncan.

25 Q Do you recognize that person to the

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1 left -- to the right, I'm sorry?

2 A This one?

3 Q Yes, sir.

4 A Well, I know by name badge, excuse me, I
5 guess. I recognize him, but I can tell you that his
6 name is Clanton now that I can see, Deputy Clanton,
7 now that I can see the name tag.

8 Q And that's Investigator King standing
9 behind him?

10 A This person, yes, sir.

11 Q And do you know who is in the background
12 behind Investigator King?

13 A I'm fairly certain without seeing his face
14 that this is Sergeant Billy Brewer.

15 Q And you do not recognize that person?

16 A I, I'm sorry, I -- just to clarify, I do
17 recognize him. I do not recall his name, no, sir.

18 Q You remember the officer to the far right?

19 A Yes, sir. Once again, that's Billy Brewer
20 and then Investigator King and then Bobby Duncan.

21 Q Okay. Do you know about how many officers
22 were on that scene with you that day?

23 A Only at the Long John Silver's?

24 Q Yes, sir. I know you said there was a
25 Master Sergeant Leppard, Investigator King.

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1 Lieutenant Duncan.

2 A I, I would say at the high end maybe ten,
3 low end maybe six or seven I would say. Probably
4 between 7 and 15 to estimate. I would say under 15,
5 maybe 7 at the minimum.

6 Q And about the same amount of squad cars
7 there also?

8 A That would probably be a reasonable
9 statement, yes, sir. I -- without knowing certainly
10 if anybody was riding two deputies in the same car,
11 I would say that's a reasonable assumption, yes.

12 Q Thank you.

13 MR. GAMBRELL: No more. No more
14 questions, Your Honor.

15 THE COURT: Mr. Miller.

16 **REDIRECT EXAMINATION**

17 BY MR. MILLER:

18 Q Sergeant McCalmont, do you recall what
19 time you responded to Walmart July 5th, 2019?

20 A Initial response was probably 1:30 give or
21 take and then arriving on scene 1:35ish, 1:36, 1:37,
22 in there.

23 Q And I notice that your body camera didn't
24 start at the same time your dash-cam started. Did
25 you have to turn it on?

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1 A I had to -- I had to activate the
2 recording feature. The power to itself would have
3 been on, but I had to activate -- I had to tell it
4 to actually start recording.

5 Q And do you recall for that time every
6 deputy or investigator of the Sheriff's Office was
7 issued a body worn camera?

8 A No, sir, not every deputy and investigator
9 is -- was issued one at this time.

10 Q And are -- is every squad car, sheriff's
11 office car, does everyone have a dash-cam?

12 A No, sir, not everyone does.

13 Q No more questions.

14 THE COURT: Mr. Gambrell.

15 MR. GAMBRELL: Nothing further.

16 THE COURT: Sir, you may step down.

17 THE WITNESS: Thank you.

18 THE COURT: All right. Who is your next
19 witness?

20 MR. GREGORY: Your Honor, the State calls
21 Tracy King.

22 THE COURT: Okay. Come on up.

23 WHEREUPON,

24 **TRACY KING,**

25 having been duly sworn by the clerk, testified

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1 as follows:

2 THE CLERK: Thank you. You may be seated.
3 Please state your full name for the record.

4 THE WITNESS: Alvin Tracy King.

5 **DIRECT EXAMINATION**

6 BY MR. GREGORY:

7 Q Tracy, where are you employed?

8 A I'm employed with the Shannon Construction
9 Company.

10 Q And what do you do there?

11 A I am a price -- PCDL driver. I drive a
12 dump truck.

13 Q How long have you held that position/

14 A A year and probably a couple of weeks.

15 Q Prior to that job what did you do?

16 A I was employed with the Greenville County
17 Sheriff's Office and I worked in the homicide unit.

18 Q How long were you employed at the
19 Greenville County Sheriff's Office?

20 A Two months shy of 27 years.

21 Q You said you were -- the last position you
22 had was in the homicide unit?

23 A Yes, sir.

24 Q What were your duties and responsibilities
25 in the homicide unit?

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1 A We investigated, conducted death
2 investigations, and that ranged from homicides,
3 overdoses, just a full array of deaths.

4 Q How long were you an investigator in the
5 homicide unit?

6 A Right at five years.

7 Q How many homicides did you investigate in
8 your career?

9 A Quite a few.

10 Q More than ten?

11 A Yes, sir.

12 Q All right. Did you become involved in
13 this case?

14 A I did.

15 Q When did you become involved in the case?

16 A July the 5th of 2019 after lunch.

17 Q What time did you get called?

18 A I don't know the exact time, but it would
19 have been -- it was after 1:00 in the afternoon.

20 Q And where were you that day?

21 A I was actually in lunch at the Big Clock
22 in Berea.

23 Q Was that on White Horse Road?

24 A Yes, sir.

25 Q Once you received the call what did you

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1 do?

2 A I responded to -- in the direction of
3 White Horse Walmart which is located within
4 Greenville County, by lights and sirens; and while
5 in route I heard the radio traffic that sergeant
6 McCalmont had located a -- possibly located a
7 suspect and he was in the parking lot of Long John
8 Silver's.

9 Q And did you respond to Long John Silver's
10 initially?

11 A I did.

12 Q Did you have any body cam?

13 A I did not. My -- never been issued a body
14 cam.

15 Q That's because investigators don't have
16 body cams, correct?

17 A Correct.

18 Q What about a dash-cam?

19 A No, sir.

20 Q Once you arrived on scene, who was there?

21 A Sergeant McCalmont, there were warrant
22 deputies. There were several, several deputies
23 present.

24 Q And you were just in the courtroom. we
25 saw the body cam, correct?

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1 A That's correct.

2 Q Was that a fair and accurate
3 representation of the scene?

4 A Yes, sir.

5 Q When you arrive on scene like that, what
6 are your duties as a homicide investigator?

7 A Basically to try to figure out exactly
8 what's going on trying to determine, you know, if
9 this is the person, if this is in fact the person
10 where's the firearm, try to gather information.

11 Q And what did you do in this case to gather
12 information?

13 A Initially, until we -- you know, we were
14 getting conflicting descriptions, physical
15 descriptions, clothing descriptions and stuff; but
16 once we had units on scene and were able to view the
17 video, we were, you know, determined that that was,
18 in fact, the person we were looking for. I made
19 contact with him, read him his rights.

20 Q Okay. Where was he when you made contact
21 with him?

22 A To the best of my knowledge he was in the
23 back seat of the patrol car.

24 Q And we saw you on that video, correct?

25 A Yes, sir.

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1 Q What were you wearing that day?

2 A I was wearing a -- my golf shirt that had
3 the Greenville County sheriff's badge on it, my
4 badge and my firearm all in clear view.

5 Q Where was your badge located?

6 A It was on my belt on my hip.

7 Q And as a investigator for homicide, you
8 don't wear the uniform, correct?

9 A Correct.

10 Q And you said -- where was the defendant
11 when you first encountered him?

12 A When, of course, on the scene -- of
13 course, he was outside of the patrol car; however,
14 when I went to make contact with him he was in the
15 back seat of the patrol car.

16 Q Did you speak to him?

17 A I did briefly.

18 Q Was he in custody at that time?

19 A He was detained in custody.

20 Q He was not free to leave though; is that
21 correct?

22 A That's correct.

23 Q Were you able to easily communicate with
24 him?

25 A Yes, sir

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1 Q Any difficulty in him communicating with
2 you?

3 A No, sir.

4 Q Did he appear to be under the influence of
5 alcohol or drugs at that time?

6 A He did not.

7 Q Did he answer any questions you had?

8 A Somewhat, yes.

9 Q Okay. Who else was present when you spoke
10 with the defendant?

11 A At that point in time my primary objective
12 was to try to locate the firearm in question. It
13 was a field interview. This was not a controlled
14 get-all-the-facts inter-- type interview. So there
15 was dep-- several deputies around the area, however,
16 I was face to face with the defendant.

17 Q Okay. And before you started asking
18 questions, what did you do?

19 A I read him his Miranda rights.

20 Q When you say "Miranda rights," what do you
21 mean?

22 A Basically they call them Miranda rights.
23 Some people call them Miranda warnings. It
24 basically informs a person of their rights, their
25 criminal investigation to let them know that they do

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1 not have to talk to us and if they do choose to talk
2 to us, they have the right to have an attorney
3 present. Basically lets them know that the
4 information that we obtain can be used against them
5 in court.

6 Q And you gave him all of those rights at
7 the scene?

8 A Yes, sir.

9 Q What time did you give him those rights?
10 Did you make note of that?

11 A I did not. It was ---

12 Q Do you remember what time you arrived on
13 scene?

14 A I don't know the exact time, but it would
15 have probably been around 1:30, 1:40 maybe. I'm not
16 sure.

17 Q Did the defendant appear to understand his
18 rights?

19 A He did.

20 Q Did he ask you any questions about his
21 rights?

22 A No, sir.

23 Q Did he appear to be intoxicated at that
24 time?

25 A No, sir.

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1 Q Did he have any trouble communicating with
2 you at all?

3 A He did not.

4 Q Did he ask for a lawyer at that time?

5 A He did not.

6 Q And did you coerce him in any way to get
7 him to answer any of your questions?

8 A No, sir, I did not.

9 Q Did you make any threats to him?

10 A No, sir.

11 Q Did the defendant waive his rights
12 voluntarily and agree to speak to you?

13 A He did.

14 Q Did you memorialize that in writing or
15 anything?

16 A I basically documented my supplemental
17 report.

18 Q Did he indicate that he wished to remain
19 silent that time?

20 A No, sir.

21 Q Did he do anything to invoke his rights at
22 that time?

23 A he did not.

24 Q All right. After that what did you do?

25 A Basically I was actually informed that the

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1 firearm ---

2 MR. GAMBRELL: Your Honor, I'm gonna renew
3 our objection from our pretrial motion that we made.

4 THE COURT: Noted for the record. All
5 right.

6 THE WITNESS: Asked him where the firearm
7 was at.

8 BY MR. GREGORY:

9 Q And why is that important to you as a
10 homicide investigator?

11 A Numerous reasons. Primarily to match up
12 the firearm that was used during the -- this
13 incident. Also to make sure that the firearm
14 doesn't fall into someone else's hands. We had a
15 lot of stuff going on that day. Obviously with the
16 Walmart people exiting the Walmart, we didn't want
17 someone else to locate or find that weapon.

18 Q Did he indicate to you where that firearm
19 was located?

20 A He did not. He just stated that ---

21 MR. GAMBRELL: And, Judge, I just to make
22 clear that my objection would be to all the
23 statements that Mr. King is gonna testify to with
24 regard to my client.

25 THE COURT: All right. It is so noted as

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1 done in pretrial; is that correct?

2 MR. GREGORY: Absolutely. Absolutely.

3 THE COURT: All right.

4 THE WITNESS: Basically stated that the
5 firearm was not gonna be located.

6 BY MR. GREGORY:

7 Q And that was his response to you; is that
8 correct?

9 A Yes, sir.

10 Q Did you ask him anything else?

11 A Primarily, this was dealing with the
12 firearm itself. Again, I was trying to -- trying to
13 locate it. I explained to him several times that I
14 was trying to find the gun and that, you know, I
15 didn't want people -- a lot of people walk that area
16 and I didn't want the wrong person to find it.

17 Q And did you find a gun on him at that
18 time?

19 A No, sir.

20 Q And did he say anything to you about the
21 cameras or anything at Walmart?

22 A He did. As soon as -- as soon as I read
23 him his rights and he stated that he understood, I
24 asked him if he was willing to talk to me and he
25 stated that it was all captured on video. He

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1 stated, he says, I know I went about it the wrong
2 way, I know I probably never see the light of day
3 again. And I explained this to him at that point
4 that, again, my concern was the firearm. I told him
5 that I didn't want, you know -- again, I emphasized
6 the fact that a lot of people walk that area. I
7 told him I didn't want, you know, any kids to find
8 the gun. he replied, man, he says, I think I
9 already said too much. He said check the cameras in
10 the store. And I, again, told him I was concerned
11 about the firearm, didn't want anybody to locate or
12 find the firearm itself, and he said no kid will
13 find it and then he stated that -- about he was
14 concerned about getting his, his girlfriend money
15 and his cellphone.

16 Q And how long did this interaction take?

17 A A few minutes. It didn't -- it wasn't
18 long.

19 Q And did you record it in any way?

20 A Just through my supplemental report.

21 Q Okay. By writing it down. You didn't
22 audio record it or video record it, ---

23 A No, sir.

24 Q --- correct?

25 A No, sir.

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1 Q And you made a supplemental report when?

2 A The supplemental report was submitted on,
3 I believe, 7/18 of 2019.

4 Q When you say you submitted the
5 supplemental report, what does that mean?

6 A That -- in other words, it was practice
7 for us at the time we would use -- use our computer
8 program to basically go in document, type up. We'd
9 start document using the Word program, document our
10 supplemental reports, and then when it was time
11 to -- once we got it all completed because obviously
12 later on I spoke to several people that day in a
13 different role. Once the whole report was
14 completed, I basically copied and pasted it, this
15 information on to the supplemental report, and then
16 submitted the supplemental report itself.

17 Q Do you remember when you actually wrote
18 down what was said in this interview?

19 A That would have started on that Monday the
20 following week because this, obviously, went into
21 the late that Friday afternoon.

22 Q So July 5th was a Friday afternoon?

23 A Correct.

24 Q So that following Monday is when you would
25 have written it down?

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1 A That's when I started the -- started
2 the -- started on the report.

3 Q Was it common practice during the course
4 of your investigation for homicides to take
5 interviews like that?

6 A Yes, sir.

7 Q Who was the lead investigator on the
8 scene?

9 A The lead investigator was Investigator
10 Antonio Bailey.

11 Q And did he ask you to do anything else
12 during the course of this investigation?

13 A I was directed to respond to the gas pump
14 area which was closer to the White Horse Road, the
15 road itself; and we had where they had actually
16 separated and had people, we had people located at
17 different, different areas, and I responded there to
18 document their names.

19 Q And when you say "people," you mean
20 customers of Walmart at that time?

21 A Customers, employees, yes, sir.

22 Q You gathered personal information from
23 them, correct?

24 A That's correct.

25 Q Did you gain anything of evidentiary

SW - T. KING - CROSS

1 value during the course of your interviews?

2 A I did not.

3 Q The firearm, did you the anything else to
4 attempt to locate the firearm?

5 A We -- there were several of us that
6 actually walked the parking lot itself and checked.
7 We all checked trashcans, tried to check the area
8 best we could which would -- would have been after
9 the video, the store surveillance was viewed, and we
10 knew the path that was taken. We tried to check,
11 check that area best we could. And I know that
12 there was other units brought in and other efforts
13 made as well.

14 Q Did you locate a firearm?

15 A No, sir.

16 Q Please answer any questions the Defense
17 has for you.

18 THE COURT: All right. Cross-examination,
19 Mr. Gambrell.

20 MR. GAMBRELL: Thank you, Your Honor. May
21 it please the Court.

22 **CROSS-EXAMINATION**

23 BY MR. GAMBRELL:

24 Q Mr. King, your supplemental report, you
25 drafted it sometime or began drafting it sometime on

SW - T. KING - CROSS

1 the morning of the 8th?

2 A That sounds about right, yes, sir.

3 Q And then it was formalized in the
4 supplemental report on the 18th?

5 A It was submitted or turned in on the 18th,
6 correct.

7 Q Okay. And the reason why you do that is
8 so that you can capture what you saw, what you
9 heard, what you did on that same and in close
10 proximity of time to when it happened?

11 A That's correct.

12 Q And it's -- it's a memorialization of your
13 recollection of what you did on that incident date
14 at this time?

15 A Yes, sir.

16 Q Okay. And the reason why you do that is
17 so that, you know, four-years later if you have to
18 come and testify and your memory is not as good as
19 it was as it was more closer to the incident, you
20 can refer to your supplemental report?

21 A Yes, sir.

22 Q Okay. And do you have a copy of your
23 report with you?

24 A I do.

25 Q Okay. And in your report at the bottom of

SW - T. KING - CROSS

1 the first page, just the first letter really, it
2 says I, and approached the subject and read and
3 explained to him his Miranda rights. Now you
4 testified in an earlier hearing that when you first
5 got to the scene that he was in the vehicle.

6 A That's correct.

7 Q And that you had recognized him as being
8 in the vehicle because he was sitting in the back of
9 a patrol car.

10 A That's correct.

11 Q And that there were no tinted windows?

12 A To the best of my knowledge, no.

13 Q Correct. And but when you watch the
14 video, you see that when you first arrived to the
15 scene that he's not in the car, he's actually out in
16 the parking lot.

17 A That's correct.

18 Q Okay. So did you just leave that out of
19 your report or why did you testify yesterday that
20 when you came to the scene that you approached him
21 in the vehicle?

22 A The testimony is when I made contact with
23 him and read him his rights, he was in the back seat
24 of the patrol vehicle.

25 Q Okay. And you saw him get put into the

SW - T. KING - CROSS

1 vehicle?

2 A Yes, sir.

3 Q Okay. Yesterday you testified that you
4 recognize it was him because he was setting in the
5 back of the vehicle.

6 A That's correct.

7 Q But you actually saw him get in the
8 vehicle?

9 A Yes, sir.

10 Q Okay. So you recognized him before you
11 saw him in the vehicle?

12 A Looking at, looking at what I saw today,
13 yes, sir.

14 Q Okay. And then at the end of that, your
15 incident report at the end of the second paragraph,
16 the last sentence says "Suspect Morris was then
17 placed in the back seat of the marked patrol vehicle
18 on scene and then you responded to the incident
19 location."

20 A Yes, sir.

21 Q So he's in the vehicle when you have your
22 conversation with him and then you bring him out of
23 the vehicle?

24 A Again, I don't -- I do not recollect
25 whether or not he was moved into a separate vehicle.

SW - T. KING - CROSS

1 I don't recall if I had him stand up. I may have
2 had him stand up.

3 Q You don't recall if he stood up or not?

4 A No, sir.

5 Q Where were you?

6 A At the -- in the door, door frame.

7 Q In the door jamb. what would have been
8 the purpose of having him stand up?

9 A More than likely to look at his clothing,
10 look at what he was wearing.

11 Q To get a statement from him?

12 A No, sir, I wasn't taking a statement at
13 that point.

14 Q But you were asking him questions?

15 A Yes, sir. This was a field interview.

16 Q Right. You were trying to locate the
17 weapon?

18 A That's correct.

19 Q Okay. And you knew he had been patted
20 down before placed in the vehicle?

21 A That's correct.

22 Q Okay. So there was no need to pat him
23 down?

24 A No, sir.

25 Q Okay. So how would standing him up aid

SW - T. KING - CROSS

1 you in locating this weapon?

2 A Again, we were getting the information as
3 far as the description, clothing description, so
4 that would -- I had a couple of things going on at
5 one time. But my primary reason for interviewing
6 was to locate the firearm. But as you heard, it
7 went over the radio, we had the updated clothing
8 description, a physical description, coming over the
9 radio the same time.

10 Q And did you hear -- were you there when
11 Sergeant, I believe it's McCalmont, said that he
12 believed that was him and then came over and took a
13 picture of him?

14 A Yes, sir.

15 Q Okay.

16 A I don't know -- I know I was there but I
17 don't know if that's something that I heard or saw;
18 but I know that I was present when that occurred.

19 Q Okay. So I'm just trying to -- I'm just
20 trying to make sure I get this straight. So not
21 only were you concerned about the weapon, but you
22 were also concerned about the description?

23 A That's correct.

24 Q Okay. What did you do when the
25 description -- after you stood him up to look at

SW - T. KING - CROSS

1 him, what did you with that information?

2 A That's something I stored in my memory.

3 Q And did you put it in your supplemental
4 report?

5 A No, sir.

6 Q Okay. Would you think that would have
7 been important if you -- if you stored in your
8 memory an accurate description of his appearance to
9 put that in your supplemental report?

10 A No, sir.

11 Q Okay. And you said that no one else
12 witnessed you having this conversation with
13 Mr. Morris?

14 A That's correct.

15 Q And of the 7 to 15 other offices there,
16 none of them were in the vicinity to hear this
17 conversation?

18 A They -- I can't testify as far as what
19 they heard or what they saw, but they were
20 definitely around while I was inter-- or had that
21 brief interview with him.

22 Q Do you know of any other deputy that did
23 hear your conversation?

24 A I do not.

25 MR. GREGORY: Objection, Your Honor.

SW - T. KING - CROSS

1 That's speculation.

2 THE COURT: Sustained.

3 BY MR. GAMBRELL:

4 Q And you're not aware of any body worn
5 camera that captured this conversation?

6 A No, sir. I'm not aware of that, no, sir.

7 Q Or any dashboard camera that captured this
8 conversation?

9 A No, sir.

10 Q Okay. And of the 7 to 15 patrol cars out
11 there, you're not aware of any of those that may
12 have had a body-- or a dashboard camera that would
13 have captured this?

14 A No, sir. That was not my concern at that
15 time, no, sir.

16 Q You're just not aware of it?

17 A That's correct.

18 Q Okay. Your testimony is, is that he was
19 out of the car, he got placed into the car, you had
20 a conversation that no one else saw, and then you
21 got him out of the car to look at his clothes and
22 then put him back in the car?

23 A Well, I don't know if he was put back in
24 the same car or not, I don't know. I think he was
25 transferred to a separate vehicle for transport at

SW - T. KING - CROSS

1 some time so.

2 Q Where did -- where did you put him when
3 you left?

4 A He was inside the patrol car.

5 Q So you got him out and put him back in the
6 same patrol car?

7 A I'm -- and I don't -- I can't say that it
8 was the same patrol car, no.

9 Q But you were standing there; weren't you?

10 A Yes, sir.

11 Q Okay. Well, was it the same car that you
12 got him out of?

13 A Again, it very well could have been. I'm
14 not sure.

15 Q I mean, I don't understand. Was it
16 another car pulled up that you could have possibly
17 put him in?

18 A It's possible.

19 Q That separate patrol car would have pulled
20 up?

21 A It's very possible, yes, sir.

22 Q And you would have not known whether it
23 was the same car or not?

24 A It's -- I would have known but I don't
25 think that's something that I would have done. That

SW - T. KING - CROSS

1 would have been uniform patrol or warrant deputies
2 that transferred him.

3 Q Okay. When you said in your report that
4 suspect Morris was placed back in, into the back
5 seat of the marked patrol car.

6 A That's correct.

7 Q That was by you?

8 A Yes, sir.

9 Q But you don't know if it was the same
10 vehicle that you got him out of?

11 A It more than likely was the same vehicle,
12 yes, sir.

13 MR. GAMBRELL: I don't have any further
14 questions.

15 THE COURT: Anything further?

16 MR. GREGORY: No, Your Honor.

17 THE COURT: All right. Sir, you may step
18 down.

19 All right. Officer can be excused if he
20 so desires; is that correct?

21 MR. GREGORY: Yes, please, Your Honor.

22 THE COURT: All right. Without objection,
23 Mr.?

24 MR. GAMBRELL: No objection.

25 THE COURT: All right. Ladies and

SW - T. KING - CROSS

1 gentlemen of the jury, what we're gonna do is we're
2 gonna take a lunch break. It is approximately
3 12:35. I need you back in your jury room at 2:15.
4 And please, ma'am, please, sir, do not talk about
5 the case with each other or talk about the case with
6 anyone, and I'll see you back in your jury room
7 about 2:15, okay. All right.

8 (WHEREUPON, the jury was removed from the
9 courtroom at 12:35 p.m.)

10 THE COURT: Anything before we adjourn for
11 lunch?

12 MR. MILLER: Nothing from the State, Your
13 Honor.

14 MR. GAMBRELL: Nothing from the Defendant.

15 THE COURT: All right. Let's go off the
16 record for a second.

17 (Whereupon, a lunch break was taken.)

18 (WHEREUPON, the jury was returned to the
19 courtroom at approximately 2:33 p.m., and the
20 following proceedings commenced in open court.)

21 THE COURT: All right. Ready to go back
22 on the record in State v. Braylon Morris. Defendant
23 ready -- I mean, State ready to proceed?

24 MR. MILLER: Yes, Your Honor.

25 THE COURT: State -- I mean, Defendant

SW - A. ALDERMAN - DIRECT

1 ready to proceed?

2 MR. GAMBRELL: Yes. That's got to be set
3 back up.

4 (Pause.)

5 THE COURT: All right, State ready to
6 proceed?

7 MR. MILLER: Yes, Your Honor.

8 THE COURT: State call its next witness.

9 MR. MILLER: May it please the Court, the
10 State calls Amanda Alderman.

11 THE CLERK: Please come to the end of the
12 bench. Place your left hand on the Bible, raise
13 your right hand.

14 WHEREUPON,

15 **AMANDA ALDERMAN,**
16 having been duly sworn by the clerk, testified
17 as follows:

18 THE CLERK: Thank you. Go ahead and have
19 a seat. Please state your full name for the record.

20 THE WITNESS: Amanda Nicole Alderman.

21 **DIRECT EXAMINATION**

22 BY MR. MILLER:

23 Q Amanda, how old are you?

24 A I'm 32 years old.

25 Q Are you employed?

SW - A. ALDERMAN - DIRECT

1 A Not currently.

2 Q What are you doing currently?

3 A I just took my state exam for my CODA
4 license.

5 Q And what is that?

6 A A certified occupational therapy assistant.
7 I just finished school for it.

8 Q How long is that schooling?

9 A I've been in school since 2019.

10 Q Prior to schooling, where did you work?

11 A I worked at Walmart.

12 Q Which Walmart did you work at?

13 A Walmart on White Horse Road.

14 Q How long did you work there?

15 A Over a year. A year and two months I
16 think.

17 Q What was your position there?

18 A I was a cashier.

19 Q Were you at that position on July 5th,
20 2019?

21 A Yes, sir.

22 Q Do you remember that day?

23 A Yes, sir.

24 Q Were you working that day?

25 A Yes, sir.

SW - A. ALDERMAN - DIRECT

1 Q Where specifically were you working that
2 day inside the store?

3 A I was working at the self-checkout.

4 Q What is the self-checkout?

5 A That's where customers check themselves
6 out.

7 Q Is it a big area?

8 A It's a square.

9 Q Are you the only Walmart representative in
10 that area?

11 A I had just taken over, taken over from
12 someone. I'm not sure if -- I don't think there was
13 anyone else there.

14 Q Was ---

15 A I was working by myself, yes.

16 Q So you had just taken over before this
17 incident occurred?

18 A Uh-huh.

19 Q What time did you take over?

20 A Either 11 or 1. Our shifts kind of
21 changed.

22 Q Okay.

23 A I'm not sure.

24 Q Will you tell the jury what you saw that
25 day.

SW - A. ALDERMAN - DIRECT

1 A So, I -- okay, do I -- do I, like, really
2 details?

3 Q Yes, ma'am.

4 A Okay.

5 Q Tell us everything you saw.

6 A So I was -- if you're looking at the GM
7 doors, the self-checkout you have three registers on
8 each side, and I'm at the cashier spot towards the
9 back and that's where I was. I remember seeing
10 Braylon? Is that ---

11 Q The defendant?

12 A Yes.

13 Q You recognized him?

14 A Yeah.

15 Q Okay.

16 A And I believe he had a woman with him.

17 Q Okay.

18 A Walk in front of me and we were checking
19 out, and I'd seen the other man coming up and
20 walking up to him.

21 Q And what did the other man look like?

22 A He was white. I had recognized him 'cause
23 I've seen him there before.

24 Q Did you know his name?

25 A It was Jason.

SW - A. ALDERMAN - DIRECT

1 Q Okay.

2 A Uh-huh. And I believe he was -- I thought
3 he was saying -- I'm -- I thought he was gonna say
4 he was sorry. At least that's, like, what I believe
5 he was about to say and maybe, like, put his hand
6 out. And then Mr. Braylon pulled a gun out of his
7 pocket and shot him in the stomach.

8 Q How close were you to the defendant when
9 this occurred?

10 A I was standing behind him.

11 Q And how close were you to the victim
12 Michael Deck? Or Jason Deck as you know him?

13 A I mean, so, I guess it was kind of like
14 they were right here and I'm back behind them.

15 Q But you had a good ---

16 A Yes, sir.

17 Q --- vision? Did you see -- you said Jason
18 held out his hand. Did you see anything inside his
19 hand?

20 A No. I'm not sure how far. He got, like,
21 I just know that I thought he was apologizing.
22 Like, his demeanor, it wasn't like a, I don't know,
23 you know. I, like I said, I recognized them so I
24 was kind of paying attention while also trying to
25 pay attention to all the other customers.

SW - A. ALDERMAN - DIRECT

1 W Was it unusual to see Jason come in
2 through the self-checkout area?

3 A I mean, maybe. I'm not really sure. I
4 know -- I mean, I've always seen him checking out.

5 Q Okay.

6 A I've seen him walk into the store plenty
7 of times and he -- I've checked him out several
8 times so.

9 Q Okay. And you said that -- you said he
10 was shot?

11 A Yes, sir.

12 Q All right. How many times was he shot,
13 did you see?

14 A He was shot in the stomach and he was on
15 the ground; and Mr. Braylon, I believe, took a
16 couple of steps and then shot him again.

17 Q Okay. And after that what did you do?

18 A I froze. I just stood there.

19 Q All right.

20 A I can remember.

21 Q And did you eventually leave the store?

22 A Eventually I walked away.

23 Q Okay. And where did you go?

24 A Out the very far side door. I just kind
25 of -- it was just a straight shot for me to just

SW - A. ALDERMAN - CROSS

1 turn around, and I kind of just walked away.

2 Q And did you see what defendant did after
3 shooting him the second time?

4 A No, sir.

5 Q All right. please answer any questions
6 the Defense has for you.

7 THE COURT: Cross-examination.

8 **CROSS-EXAMINATION**

9 BY MR. GAMBRELL:

10 Q Amanda, do you remember meeting with law
11 enforcement that day?

12 A Yes, sir.

13 Q Do you remember who you met with?

14 A No, sir. I don't know his name now.

15 Q Do you remember giving a written
16 statement?

17 A Yes, sir.

18 Q Okay.

19 MR. GAMBRELL: May I approach the witness,
20 Judge?

21 THE COURT: Yes.

22 BY MR. GAMBRELL:

23 Q Is that a -- is that a copy of your
24 statement?

25 A Yes, sir.

SW - A. ALDERMAN - CROSS

1 Q That has your name on the top?

2 A Yes, sir.

3 Q And if you could read where it says
4 starting with that. Is that your handwriting or
5 someone else wrote it for you?

6 A Someone else wrote it. I started ---

7 MR. MILLER: Judge, I ---

8 THE COURT: What I want you to do -- you
9 can't hear, right?

10 MR. MILLER: I can hear her, Judge, but I
11 object to the impeachment process. I think she
12 should get the opportunity to refresh her memory
13 with it prior to reading it.

14 THE COURT: Well, let me ask you a
15 question. I know you got that on your laptop, Mr.
16 Gambrell. Is that available in written form?

17 MR. GAMBRELL: It is, Your Honor.

18 THE COURT: I think it's gonna be easier
19 for her just to look at the written copy. That way
20 she can speak directly into the microphone. So I
21 appreciate you having it on your laptop, but I think
22 it's going to be probably easier for her to read
23 from that written copy.

24 Ma'am, what I want you to do is turn
25 around and speak into that microphone so I can make

SW - A. ALDERMAN - CROSS

1 sure all the jurors hear you.

2 THE WITNESS: Okay. "I saw the -- the
3 white guy started talking and may have gotten out a
4 few words. I think he started with, hey, man. The
5 black man then pulled out a gun and shot the white
6 man again. They weren't far from each other when
7 the first shot went off. I think he was closer when
8 he shot the second time. I froze when I heard the
9 shots. Then I ran away with the other people in the
10 store. I remember hearing another customer tell a
11 lady that they had to run."

12 BY MR. GAMBRELL:

13 Q You had testified earlier that it appeared
14 to you that you felt as though Mr. Deck was
15 apologizing?

16 A Yes.

17 Q But ---

18 A I mean, and I could be wrong. I don't,
19 you know, obviously I don't know but I just remember
20 the ---

21 Q Well, you thought it was ---

22 A It wasn't like a ---

23 Q You thought it was important to tell the
24 jury today about that.

25 A Uh-huh.

SW - A. ALDERMAN - CROSS

1 Q Correct?

2 A I mean, I guess just ---

3 THE COURT: Be sure you say yes or no.

4 THE WITNESS: Oh, yes, I'm sorry.

5 BY MR. GAMBRELL:

6 Q And my -- I guess my point is that you did
7 not put that in your statement though; is that
8 correct?

9 A That is correct.

10 Q Okay. Thank you very much. That's all
11 the questions I have.

12 THE COURT: All right. Anything on
13 redirect?

14 MR. MILLER: No, Your Honor.

15 THE COURT: All right. Thank you, ma'am.
16 You can step down.

17 Can this witness also be excused?

18 MR. MILLER: Yes. Please, Judge.

19 THE COURT: Any objection?

20 MR. GAMBRELL: No objection.

21 THE COURT: All right, ma'am, you're free
22 to go. Thank you. Just leave it up there.

23 All right. State ready to call its next
24 witness.

25 MR. MILLER: Your Honor, at this time the

SW - C. KORN - DIRECT

1 State calls Caleb Korn.

2 THE CLERK: Please stop here at the end of
3 the bench. Lay your left hand on the Bible, raise
4 your right hand.

5 WHEREUPON,

6 **CALEB KORN,**

7 having been duly sworn by the clerk, testified
8 as follows:

9 THE CLERK: Thank you. You may have a
10 seat. And please state your full name for the
11 record.

12 THE WITNESS: My name is Caleb Burt Korn.

13 **DIRECT EXAMINATION**

14 BY MR. MILLER:

15 Q Mr. Korn, where are you employed?

16 A Greenville County EMS.

17 Q How long have you been with EMS?

18 A Ten years this year.

19 Q What are your responsibilities with EMS?

20 A I'm currently an assistant shift
21 supervisor.

22 Q What does that job entail?

23 A That job entails coordinating personnel on
24 the shift, responding to calls and backing up the LS
25 crews.

SW - C. KORN - DIRECT

1 Q What type of calls do you respond to?

2 A Anything from a fall to a cardiac arrest.

3 Q Did you respond to a call to Walmart on
4 White Horse Road on July 5th of 2019?

5 A I did.

6 Q Do you recall approximately what time you
7 responded?

8 A I believe the chart -- I have to find it,
9 sir. About 1:40 in the afternoon.

10 Q When you arrived on scene, what did you
11 do?

12 A When I arrived on scene we were let in by
13 the Sheriff Office. We went in, found the patient,
14 assessed him, and pronounced him dead.

15 Q Where was the patient located?

16 A In the self-checkout.

17 Q What steps did you take in order to be
18 able to pronounce him dead?

19 A We checked to see if he was breathing, if
20 he had a pulse. Then we placed him on our cardiac
21 monitor and declared him dead.

22 Q Did you notice any injuries?

23 A I recall a gunshot wound to the head and
24 his back as well.

25 Q Did you notice any weapons or any items

SW - C. KORN - CROSS

1 around the patient?

2 A I did not.

3 Q Please answer any questions Mr. Gambrell
4 has.

5 THE COURT: Mr Gambrell,
6 cross-examination.

7 **CROSS-EXAMINATION**

8 BY MR. GAMBRELL:

9 Q Mr. Korn, when you got there was there
10 anyone else on the scene?

11 A The Sheriff's Office.

12 Q How many sheriff deputies were there?

13 A I do not recall.

14 Q I'm sorry?

15 A I don't recall.

16 Q More than one?

17 A Many.

18 Q Okay. Were there any civilians there?

19 A They were outside the Walmart.

20 Q Okay. So by the time you got there they
21 had cleared area of civilians?

22 A Yes, sir.

23 Q And you said you got there about 1:40?

24 A I do believe so.

25 Q Okay. Thank you.

SW - B. WOLFE - DIRECT

1 A Yes, sir.

2 THE COURT: Anything on redirect?

3 MR. MILLER: No, Your Honor.

4 THE COURT: All right. Sir, you can step
5 down.

6 Any objection to this witness being
7 excused?

8 MR. MILLER: None from the State.

9 MR. GAMBRELL: No, Judge.

10 THE COURT: All right, sir, you're free to
11 go. Thank you for coming.

12 THE WITNESS: Thank you.

13 THE COURT: All right. State's next
14 witness.

15 MR. GREGORY: May it please the Court, the
16 State calls Blake Wolfe.

17 THE CLERK: Please pause at the bench.
18 Lay your left hand on the Bible, raise your right
19 hand.

20 WHEREUPON,

21 **BLAKE WOLFE,**
22 having been duly sworn by the clerk, testified
23 as follows:

24 THE CLERK: Thank you. You may be seated.
25 And please state your full name for the record.

SW - B. WOLFE - DIRECT

1 THE WITNESS: Blake Edward Wolfe.

2 **DIRECT EXAMINATION**

3 BY MR. GREGORY:

4 Q Blake, where are you employed?

5 A The Greenville County Sheriff's Office.

6 Q In what capacity are you employed there?

7 A I'm a homicide investigator.

8 Q How long have you been a homicide
9 investigator for the Sheriff's Office?

10 A I've been on the homicide unit for a
11 little over a year.

12 Q How long have you been in law enforcement?

13 A Ten years.

14 Q Prior to being a homicide investigator,
15 what did you do?

16 A I worked for Greenville County forensics.

17 Q And what is Greenville County forensics?

18 A It falls under the Department of Public
19 Safety. I was on the crime scene unit so I would go
20 to various crime scenes, including murder, to
21 document the scene and collect evidence.

22 Q So what are your duties as a forensic
23 officer, forensics?

24 A Document the crime scene, locate evidence,
25 document the evidence, and then properly collect it.

SW - B. WOLFE - DIRECT

1 Q What kind of training, education did you
2 for forensics?

3 A So, I took several classes. The FTA
4 program there is a year long. As far as education,
5 I have a bachelor's in criminal justice.

6 Q How crime scenes did you process during
7 your time ---

8 A I don't have the exact number. I know it
9 was a little over 2,000.

10 Q Did you do any homicide crime scenes?

11 A Yes, sir.

12 Q How many approximately did you -- homicide
13 crime scenes did you process?

14 A I believe it was 34.

15 Q Have you ever testified in court before to
16 your findings?

17 A Yes, sir.

18 Q Okay. How many times?

19 A I don't have an exact number.

20 Q I take you back to July 5th, 2019. Do you
21 remember that day?

22 A Yes, sir.

23 Q Did you have an opportunity to become
24 involved in this case?

25 A Yes, sir, I did.

SW - B. WOLFE - DIRECT

1 Q How did you become involved in the case?

2 A I was at the crime scene office, and I
3 received a call there had been a murder at the
4 Walmart on White Horse Road and then I responded
5 with several other crime scene deputies.

6 Q How long did it take you to get to the
7 scene? Is that your report that you created?

8 A It is.

9 Q Does that help refresh your memory?

10 A Yes, sir. So, it took me 14-minutes from
11 the time I was called to get there.

12 Q Do you have the time of arrival on your
13 sheet?

14 A Yes, sir.

15 Q What exact time was that?

16 A My time of arrival was 1454. That's
17 2:54 p.m.

18 Q When you arrived, what did you do?

19 A First thing I did when I got there is I
20 spoke with Sergeant Hammett. He was in charge of
21 the homicide unit at the time, and he passed some
22 information along about what they knew at that time.

23 Q Now was law enforcement on scene?

24 A Yes, sir.

25 Q And then once you received that

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1 information, what did you do with it?

2 A At that point I walked through crime scene
3 and then I watched some security video from Walmart.

4 Q When you walked through the crime scene,
5 what are you looking for, anything particular?

6 A Yes, sir. Anything of evidentiary value.
7 Like, you know, since it's a shooting I'm obviously
8 looking for cartridge casings, any extra bullets,
9 things like that.

10 Q What'd you do to document the crime scene?

11 A So we start with photographs. After I
12 took the initial photographs, my lieutenant at the
13 time Robin Wade (ph), he did 3D scans using a
14 machine called a FARO.

15 Q What is a 3D scanner?

16 A So the 3D scanner is just a -- it's a
17 laser measured by -- that creates a 3D image of the
18 room and then it also takes 360-degree photos of
19 wherever it's at so. It's almost like a Google
20 street name for a crime scene.

21 Q And you took photos of this crime scene,
22 correct?

23 A Yes, sir.

24 (WHEREUPON, State Exhibits Nos. 8 through
25 17 were marked for identification only.)

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1 BY MR. GREGORY:

2 Q All right. Blake, I'm gonna show you
3 what's been marked State's Exhibits 8 through 17.
4 Let's take a look at those please. Do you recognize
5 those?

6 A Yes, sir.

7 Q How do you recognize those?

8 A I took these photos.

9 Q Are they a fair and accurate
10 representation of the scene?

11 A Yes, sir.

12 Q Have have been altered in any way?

13 A No, sir.

14 MR. GREGORY: Your Honor, at this time the
15 State would seek to introduce State's Exhibits 8
16 through 17 into evidence.

17 THE COURT: Any objection?

18 MR. GAMBRELL: No objection, Your Honor.

19 THE COURT: All right, without objection
20 so entered.

21 (WHEREUPON, State Exhibits Nos. 8 through
22 17 were admitted into evidence.)

23 BY MR. GREGORY:

24 Q Blake, before we look at this, this is
25 State's Exhibit No. 8.

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1 A Yes, sir. So this is the left entrance to
2 Walmart. You can see evidence placards 1, 2 and 3
3 that I put down to mark evidence that other deputies
4 had already located. They marked them. That's
5 where we're using the black pieces of paper.

6 Q And as you say, you see 1, 2, and 3,
7 correct?

8 A Yes, sir.

9 Q What's State's Exhibit No. 9.?

10 A That is a cartridge casing that I
11 collected.

12 Q And you said this weight teepee looking
13 thing, who put that down?

14 A That is there -- a deputy put it down
15 before I arrived there.

16 Q Just to identify potential ---

17 A Yes.

18 Q --- evidence? And the placard is what you
19 put up down, correct?

20 A Yes, sir.

21 Q Again, this is just a closure of the shell
22 casing, correct?

23 A Yes, sir.

24 Q What is a shell casing?

25 A The shell casing is what holds the metal

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1 projectile bullet after you fire the gun, the bullet
2 comes out end, the shell casing is ejected.

3 Q Off of a semiautomatic; ---

4 A Yes, sir.

5 Q --- is that correct? All right. This
6 is -- just shows the different angle of No. 2 and 3,
7 correct?

8 A Yes, sir.

9 Q What is number -- I'm sorry, what's
10 State's Exhibit No. 12? And it's your placard No.
11 2.

12 A Yes, sir. That's a metal projectile.

13 Q So this is the actual thing that comes out
14 of the casing, the jacket, correct?

15 A Yes, sir.

16 Q This is No. 3, what we saw earlier ---

17 A Yes.

18 Q --- up by the bench? It's a shell casing
19 as well, correct?

20 A Yes, sir.

21 Q How many shell casings did you collect
22 from the scene?

23 A Two.

24 Q How many projectiles did you collect from
25 the scene?

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1 A Two.

2 Q Tell the jury what we're looking at in
3 this picture.

4 A That is a picture of the eyeglass store
5 inside Walmart. Plaque card No. 6 marks the second
6 projectile that I collected.

7 Q Can you tell the jury based on this
8 picture kind of where the eyeglass store is located?

9 A It's going to be to the right side.

10 Q All right. So you're talking about it
11 goes to the right?

12 A Yes, sir.

13 Q And that's your 6, correct?

14 A Yes, sir.

15 Q And what is that?

16 A A metal projectile.

17 Q Now after you photographed these items,
18 what did you do with them?

19 A We collect and package them. The metal
20 projectiles are put in actual containers made for
21 them so you don't damage any of the striations. The
22 cartridge casings, we'll just drop in paper bags.

23 Q And did you do that in this case?

24 A Yes, sir.

25 (WHEREUPON, State Exhibits Nos. 18, 19, 20

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1 and 21 were marked for identification only.)

2 BY MR. GREGORY:

3 Q All right. Blake, I'm gonna show you
4 what's been marked State's Exhibit 18, 19, 20 and
5 21. Do you recognize those?

6 A Yes, sir.

7 Q How do you recognize them?

8 A They have my signature on the back

9 Q And what is your sig---

10 A My initial, excuse me.

11 Q What is -- your initials represent?

12 A So after we seal the evidence, we put our
13 initials and the date we submit it.

14 Q And has that been altered with in any way?

15 A No, sir.

16 Q Is it fair and accurate from the last time
17 you saw it?

18 A Yes, sir.

19 Q Was it in your possession the whole time,
20 the time you collected it to the time you dropped it
21 off property notice?

22 A Yes, sir.

23 MR. GREGORY: Your Honor, at this time the
24 State will seek to introduce State's Exhibit 18
25 through 22 into -- 21.

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1 THE COURT: All right. Any objection from
2 Defense?

3 MR. GAMBRELL: Without objection.

4 THE COURT: All right. So in without
5 objection.

6 (WHEREUPON, State Exhibits Nos. 18 through
7 21 admitted into evidence.)

8 BY MR. GREGORY:

9 Q Blake, what is State's Exhibit No. 18?

10 A 18 is a cartridge casing head stamp WIN
11 9mm Ruger.

12 Q That -- did you number that BW?

13 A Yes, sir, that'd be BW-3.

14 Q BW-3. And that relates to the same
15 placard; is that correct?

16 A Yes, sir.

17 Q So that's the one that was collected from
18 back up in here, correct?

19 A Yes, sir.

20 Q All right. And what about 19, what's
21 State's Exhibit No. 19?

22 A That's the cartridge casing head stamp,
23 another cartridge casing head stamp, one 9mm Ruger.
24 It's Item No. W-1.

25 Q And you said these are -- that's -- is

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1 that correct?

2 A Yes, sir.

3 Q And you say they're head stamped. What do
4 you mean by head stamped?

5 A So at the end of the cartridge casing near
6 where the firing pin strikes the primer, you have
7 the manufacturer, just, and the caliber so.

8 Q And what caliber was this, did you say?

9 A 9mm.

10 Q And then 20 and 21, if you'll look at
11 those please.

12 A 20 is metal project-- another metal
13 projectile. It would have been photographed with
14 placard No. 2.

15 Q Both?

16 A Yes, sir. And then 21 is the other metal
17 projectile that I collected in the eyeglass store.

18 Q Okay. When you're processing the scene,
19 did you do anything with the victim? Was the victim
20 still there?

21 A Yes, sir, he was.

22 Q And what did you do to do any processing
23 around the victim or to the victim himself?

24 A So, I took photographs of him and his
25 injuries. We put -- I put hand preservation bags

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1 over his hands so the evidence there can be
2 collected at autopsy.

3 Q What are hand preservation bags?

4 A So these, these are just bags to make sure
5 anything that are -- that's on his hands, stays
6 there.

7 Q Did you notice any trauma to the victim?

8 A Yes, sir.

9 Q What did you notice?

10 A I noticed a gunshot wound to his face and
11 then to his upper stomach, just kind of below the
12 chest area.

13 (WHEREUPON, State Exhibit No. 22 was
14 marked for identification only.)

15 BY MR. GREGORY:

16 Q I'm gonna show you what's marked as
17 State's Exhibit No. 22. You recognize that?

18 A Yes, sir.

19 Q How do you recognize that?

20 A It's evidence that I collected, and my
21 initials are on the back of this as well.

22 Q So is it a fair and accurate
23 representation?

24 A Yes, sir.

25 Q Has it been altered in any way?

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1 A No, sir.

2 MR. GREGORY: Your Honor, at this time the
3 State would seek to introduce State's Exhibit No. 22
4 into evidence.

5 THE COURT: All right. Any objection to
6 State's Exhibit No. 22?

7 MR. GAMBRELL: Without objection, Your
8 Honor.

9 THE COURT: All right. So entered without
10 objection.

11 (WHEREUPON, State Exhibit No. 22 was
12 admitted into evidence.)

13 BY MR. GREGORY:

14 Q Blake, what is State's Exhibit No. 22

15 A So this is a live WIN 9mm Ruger round.

16 Q When you say "live," what do you mean?

17 A An unfired bullet.

18 Q Okay. Did you do anything after the
19 victim was removed from the scene?

20 A Yes, sir. So, after the body was removed,
21 we photographed the area where the victim had
22 previously been and then we dried up some of the
23 blood and we found an impact mark, or mark that
24 appears to be an impact mark from the bullet. That
25 mark would have been under where the victim's head

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1 was lying on the floor.

2 Q Okay. I'm gonna show you what's been
3 previously entered as State's Exhibit No. 17. You
4 recognize this?

5 A Yes, sir.

6 Q Is this the impact mark you were talking
7 about? You might be able to -- it'd be best if you
8 just stood up and kind of pointed it out to the
9 jury. It's kind of tough to see.

10 A Here.

11 Q And the circle and the arrow drawn on it,
12 did you do that?

13 A No, sir. Robin Wade did I believe.

14 Q Somebody else from forensics?

15 A Yeah.

16 Q And you photographed it?

17 A Yes, sir.

18 Q Okay. Did you have any other involvement
19 in this case?

20 A Yes, sir. The vehicle Mr. Deck drove to
21 Walmart was outside. I sealed that vehicle so it
22 could be towed. And then on the 10th I was called
23 back to Walmart to help search for a firearm.

24 Q And what did you do to search for the
25 firearm?

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1 A So I used a metal detector in some bushes.
2 The gentleman, the subject in this case, was seen
3 walking towards some bushes and they thought he
4 might have thrown the firearm in the bushes.

5 Q And did you locate anything?

6 A No, sir.

7 Q After you took the evidence back to the --
8 I guess you took it to forensic department, correct?

9 A Yes, sir.

10 Q How is it sealed there? How is it stored?

11 A So, it would already have been in these
12 bags. We go ahead and we seal them up and then I
13 had a evidence locker where I can store all of my
14 evidence until I take it to property and evidence.

15 Q All right. And who has access to that?

16 A Just myself.

17 Q Did you do anything with the live round
18 and the spent shell casings?

19 A So, I photographed them back at the
20 office. Again, just at my office in a controlled
21 environment.

22 Q Was that the same day?

23 A It was two days later on the 7th.

24 (WHEREUPON, State Exhibits Nos. 23 through
25 28 were marked for identification only.)

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1 BY MR. GREGORY:

2 Q Take a look at State's Exhibits 23 through
3 28 please. Do you recognize those?

4 A Yes, sir.

5 Q How do you recognize them?

6 A These are the photographs that I took.

7 Q Are they a fair and accurate
8 representation?

9 A Yes, sir.

10 Q Have they been altered in any way?

11 A No, sir.

12 MR. GREGORY: Your Honor, at this time the
13 State would seek to introduce State's Exhibits 23 to
14 28 into evidence.

15 THE COURT: Any objection?

16 MR. GAMBRELL: No objection.

17 THE COURT: Exhibits 23 through 28 by the
18 State is so admitted without objection.

19 (WHEREUPON, State Exhibits Nos. 23 through
20 28 were admitted into evidence.)

21 BY MR. GREGORY:

22 Q All right. Is this the picture that you
23 took back at the crime scene?

24 A Yes, sir.

25 Q All right. It's just of the head stamp,

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1 correct?

2 A Yes, sir.

3 Q And each one has a placard on top of BW-1,
4 what is that?

5 A That's the evidence item number that I
6 used. That cartridge casing would have been
7 photographed on scene with placard No. 1.

8 Q BW-3 with the closeup. And this is the
9 live round we were just talking about, correct?

10 A Yes, sir.

11 Q With a closeup of the head stamp, correct?

12 A Yes, sir.

13 Q Do you have any other involvement in this
14 case?

15 A No, sir.

16 Q Please answer any questions the Defense
17 has for you.

18 THE COURT: Cross-examination.

19 MR. GAMBRELL: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 BY MR. GAMBRELL:

22 Q Mr. Wolfe, do you know if any other
23 additional testing was conducted on either of the
24 cartridges that you found?

25 A I do not.

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1 Q Okay. Do you typically -- are you
2 typically involved in that?

3 A No, sir.

4 Q Okay. You simply just put them in the
5 sealed envelope and do what with them?

6 A I take them to photograph them and to take
7 them to property and evidence.

8 Q Okay. After that you don't have any
9 further involvement with it?

10 A No, sir.

11 Q Okay. Does that go for, also, the metal
12 projectiles?

13 A Yes, sir.

14 Q And the live round?

15 A Yes, sir.

16 Q Okay. You also collected a Winston
17 cigarette lying on the floor. Did you do anything
18 with that?

19 A I just put it in the property and
20 evidence.

21 Q Okay. Is there anything else that you
22 collected?

23 A I took blood swab from where the victim
24 had been laying.

25 Q And what did you do with it?

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1 A Put it in property and evidence.

2 Q Okay. You also sealed the vehicle?

3 A Yes, sir.

4 Q And but you also took photographs. Did
5 you take photographs inside the vehicle?

6 A I would have photographed through the
7 window best of my ability, but we wouldn't have went
8 inside the vehicle at that time.

9 Q So you did not go into the vehicle?

10 A No, sir.

11 Q Okay. How many photographs did you take?

12 A I would have taken at least four.

13 Q Did you identify any evidentiary items
14 inside the vehicle?

15 A No, I didn't go inside the vehicle. I
16 didn't -- I don't remember seeing any through the
17 window.

18 Q And then you sealed them with what?

19 A It's similar to our evidence packages
20 here. We put red evidence tape on the doors, the
21 trunk, and the hood, and then we mark it with our
22 initials and the date.

23 Q Thank you, Mr. Wolfe. That's all the
24 questions I have.

25 THE COURT: Anything on redirect?

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1 MR. GREGORY: No, Your Honor.

2 THE COURT: All right. Sir, you can step
3 down. Thank you, sir.

4 Any objection to this witness being
5 excused?

6 MR. GREGORY: Not from the State, Your
7 Honor.

8 THE COURT: Defendant?

9 MR. GAMBRELL: No objection.

10 THE COURT: All right, sir, you're excused
11 without objection.

12 All right. The State's ready to call its
13 next witness.

14 MR. GREGORY: Yes, Your Honor. The State
15 calls Dr. Wassum.

16 THE CLERK: Please pause at the end of the
17 bench. Lay your left hand on the Bible, raise your
18 right hand.

19 WHEREUPON,

20 **JOHN WASSUM, M.D.**

21 having been duly sworn by the clerk, testified
22 as follows:

23 THE CLERK: Thank you. You may be seated.
24 Now please state your full name for the record.

25 THE WITNESS: It's Dr. John Wassum,

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1 W-A-S-S-U-M.

2 **DIRECT EXAMINATION**

3 BY MR. GREGORY:

4 Q Dr. Wassum, where are you employed?

5 A I'm employed at Pathology Associates of
6 Greenville.

7 Q And how long have you been employed there?

8 A Almost four years.

9 Q And what is pathology?

10 A So pathology is the study, basically, of
11 diseases in the human body. Pathologist in the
12 hospital use tissue samples and blood samples and
13 things like that to identify different types of
14 disease. And so our aspects of it is forensics and
15 we use an autopsy to determine how cause of death
16 occurs.

17 Q You call it forensic pathology, correct?

18 A Yes, sir.

19 Q And what is forensic pathology?

20 A So, forensic is basically trying to
21 identify how an individual died. We use an autopsy.
22 We use some of the same procedures that some of the
23 pathologists in the hospital use to try to evaluate
24 organs. We look for injuries, toxicology, to put it
25 all together to determine cause of death and manner

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1 of death.

2 Q And how many medical examiners do we have
3 in Greenville County?

4 A Medical examiners, I think it's just
5 Dr. Ward; but forensic pathologists, there are four
6 of us here.

7 Q And what is your educational background
8 becoming a forensic pathologist?

9 A So I went to Eastern Virginia Medical
10 School in Norfolk, Virginia and then I did a
11 four-year anatomic clinical pathologist residency at
12 the Medical University of South Carolina and I
13 stayed an extra year to do a forensic pathology
14 fellowship.

15 Q Are you licensed?

16 A I am.

17 Q Where are you licensed in?

18 A South Carolina.

19 Q And do you have any other certificates by
20 any boards?

21 A So board certified in anatomic clinical
22 and forensic pathology.

23 Q And have you ever performed a forensic
24 autopsy before?

25 A Thousands.

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1 Q Have you ever testified at trial as to
2 your findings?

3 A I have.

4 Q How many times have you testified at trial
5 before?

6 A Over fifty times in Georgia and just once
7 over in South Carolina.

8 Q And how many times have you been qualified
9 as an expert?

10 A Every time.

11 Q Have you ever not been qualified as an
12 expert ---

13 A I have not.

14 Q --- either in Georgia or South Carolina or
15 any court?

16 A No, sir.

17 MR. GREGORY: Your Honor, at this time the
18 State moves to have Dr. Wassum qualified as an
19 expert in forensic pathology.

20 THE COURT: All right. Any objection?

21 MR. GAMBRELL: Without objection.

22 THE COURT: All right, he's so qualified
23 let the record reflect.

24 BY MR. GREGORY:

25 Q Dr. Wassum, you were asked to perform a

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1 forensic autopsy in this case?

2 A Yes, sir.,

3 Q And when did you do that?

4 A If you don't mind me...

5 Q Yes. Do you have a report that you wrote?

6 A I do.

7 Q And would that help refresh your memory?

8 A It would. July 6, 2019.

9 Q Do you remember what day of the week that
10 was?

11 A I -- it had to be a Saturday.

12 Q And why did it have to be a Saturday?

13 A I usually do autopsies in Spartanburg
14 County, but we do a rotation of Saturdays where we
15 cover both places.

16 Q Do you know where you conducted the
17 autopsy?

18 A Greenville Memorial.

19 Q And who was present during the autopsy?

20 A One of the techs.

21 Q Okay. Was there any forensics there as
22 well?

23 A There were because we transmitted -- we
24 transferred evidence to them.

25 Q Okay. And that's common to have a

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1 forensic tech there as well?

2 A Correct. From the police or county, yes.

3 Q What were the physical dimensions of
4 Mr. Deck's body at autopsy?

5 A He is 72-inches tall and 230-pounds.

6 Q Were you able to determine an age?

7 A It was reported to me that his age was
8 45-years old.

9 Q And was he dressed at that time?

10 A He was.

11 Q What was he wearing?

12 A He was wearing a white short-sleeved
13 T-shirt, a gray camouflage shorts that had a white
14 belt around it, and two white sneakers.

15 Q During the course of your autopsy, did you
16 find any evidence of trauma?

17 A I did.

18 Q What did you find?

19 A He had two gunshot wounds to his body.

20 Q During the course of your autopsy, do you
21 make a diagram?

22 A I do.

23 Q And what's the purpose of that diagram?

24 A For me, the purpose is to help me when I
25 go back to transcribe for my report, it gives me an

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1 idea of where the injuries are on the body and
2 things to not forget to include in the report.

3 (WHEREUPON, State Exhibit No. 29 was
4 marked for identification only.)

5 BY MR. GREGORY:

6 Q I'm gonna show you what's marked as
7 State's Exhibit No. 29. Do you recognize that
8 exhibit?

9 A I do.

10 Q How do you recognize it?

11 A This is my handwriting and it's the
12 notations of the injuries and identifying marks on
13 the body.

14 Q Is that a fair and accurate
15 representation?

16 A It is.

17 Q Has it been altered in any way?

18 A It has not.

19 MR. GREGORY: Your Honor, at this time the
20 State would seek to introduce State's Exhibit No. 29
21 into evidence.

22 THE COURT: Any objection?

23 MR. GAMBRELL: No objection.

24 THE COURT: Exhibit No. 29 is so entered
25 without objection.

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1 (WHEREUPON, State Exhibit No. 29 was
2 admitted into evidence.)

3 BY MR. GREGORY:

4 Q All right. You talked about trauma. You
5 said it was two gunshots. Now are those noted on --
6 let me back up a little bit for you. Again, this is
7 the diagram that you made, correct?

8 A Yes, sir.

9 Q Where were the notations of the gunshots
10 that you observed?

11 A So the gunshots, if I just point out.

12 Q It might be best if you just stand up. I
13 apologize.

14 A That's alright.

15 Q I'll give you a pointer.

16 A So I've marked the entrance and exit
17 wounds. One of the entrance wounds is on the upper
18 aspect of the abdomen, lower part of the chest, and
19 the other is in the back or occipital part of the
20 head. and then the exit wounds corresponding where
21 the lower part of the back, left side of the back,
22 and the right side of the head.

23 Q And do you number the gunshot wounds?

24 A Not in a case like this generally. I
25 mean, I do for the diagnosis purposes but not on the

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1 ---

2 Q Correct. for your diagnosis purposes you
3 do gunshot one, gunshot two. Doesn't have anything
4 to do with the order they were shot, correct?

5 A It does not.

6 Q So let's take in order based on your
7 report, I believe gunshot wound one, which one was
8 that?

9 A That's the one on the back of the head.

10 Q Okay. Can you tell the Court just a
11 little bit about that wound. What kind of wound is
12 that?

13 A So that's a gunshot entrance wound. I'm
14 not sure what specifically...

15 Q Were you able to determine how close a
16 distance that would be?

17 A Yes. So this wound had stippling. Look
18 on my notes ---

19 Q Yes.

20 A --- for this. So when a gunshot occurs,
21 the powder is the first thing that ignites and it
22 burns and it doesn't burn cleanly so a lot of things
23 exit the end of a barrel of a gun other than just
24 the projectile itself. There's soot, smoke, burning
25 and unburned gunpowder and sometimes filler in the

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1 powder, and it's coming out at a high velocity. And
2 we use those things in certain times to help
3 determine range of fire if it deposits on the skin.
4 And so, in this case around this wound there is
5 amount around of stippling, which is sort of like a
6 tattoo ink. It can't be wiped off the skin. It's
7 those pieces of burning and unburned gunpowder that
8 are actually deposited in the skin so they break the
9 surface of the skin around the entrance wound. That
10 helps us to determine range of fire.

11 Q And that would be a close range shot,
12 correct?

13 A So, this is intermediate. If there were
14 soot on there, it would be close range. The soot is
15 extremely fine material that -- that just deposits
16 on the surface of the skin and can be wiped away,
17 and that occurs generally about 3 to 6-inches away
18 from the end of the barrel to the skin. And outside
19 that 6-inch range is where you lose the soot and
20 just have stippling out to about 18, 24-inches
21 depending on the type of gun and ammunition used.

22 Q And are you able to determine the type of
23 ammunition used based on your autopsy?

24 A I'm not, no. Not on the autopsy.

25 Q So when you do an autopsy, you have that

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1 injury, what do you do? What's your process?

2 A So it helps to be one of the clues that
3 can determine that it's an entrance wound that
4 shouldn't occur on the other side of the body where
5 the bullet exits. We'll measure the size of the
6 entrance wound and we'll measure the distance out
7 from the edge of the wound to where the stippling
8 stops in four different directions.

9 Q And did you do that in this case?

10 A I did.

11 Q Are you also doing a path of the
12 projectile?

13 A Yes.

14 Q And how do you do that?

15 A So that is mainly looking at the entrance
16 and exit wounds and determining the path through the
17 organs and tissues in the body.

18 Q And what kind of damage did this wound or
19 this projectile produce?

20 A So it, it went through basically all the
21 structures of the head. Skin subcutaneous tissue
22 goes through the skull. This one entered low so it
23 got the lower part of the brain, the cerebellum, and
24 then through the brain stem itself and through the
25 other side of the main part of the brain, the

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1 cerebral cortex before exiting the other side of the
2 skull.

3 Q And that area controls everything,
4 correct?

5 A It does, brain stem especially.

6 Q Okay. The -- oh, did -- so -- went
7 through the other side so you did not recover a
8 projectile from this autopsy?

9 A I did not.

10 Q Let's talk about the second wound to the
11 torso. Where was the entrance wound to that?

12 A So this is the upper aspect of the
13 abdomen. Like, you can see it's just the circle
14 right here and the upper part of the abdomen where
15 it meets the chest.

16 Q Were you able to determine the distance of
17 that shot ---

18 A Yes.

19 Q --- based on stippling?

20 A Yes, sir. Sorry to interrupt. This is
21 also an intermediate one. This one had some -- a
22 bit sparser stippling which can also happen from the
23 clothing which can affect our estimation of range of
24 fire, but it's still within that 6 to about 18-inch
25 range.

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1 Q Were you able to determine direction of
2 travel for the projectile?

3 A Yes.

4 Q And what was that?

5 A So this one is front to back, a little bit
6 right to left, and a little bit downward.

7 Q And did that -- did the direction of
8 travel mean anything to you during the course of
9 your autopsy? Can you get any information from
10 that?

11 A I basically can determine that how the
12 bullet travels through the body. I can't really
13 tell how the body is positioned or where the shooter
14 is at the time of the incident.

15 Q Right. The -- that wound path, what did
16 it hit?

17 A That injured -- so, part of the left
18 kidney and it damaged the liver so it didn't strike
19 the liver directly. Basically the shock waves of
20 the bullet traveling through the body caused some
21 liver lacerations, and there's a decent amount of
22 hemorrhage in the abdomen cavity.

23 Q And if that was the only trama that Mr.
24 Deck received, would that be he could survive?

25 A With immediate surgical treatment. It

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1 still would be lethal if untreated.

2 Q Okay. Were you able to form an opinion
3 within a reasonable degree of medical certainty as
4 to the cause of Mr. Deck's death?

5 A Yes, sir.

6 Q And what was that?

7 A Gunshot wounds of the head and torso.

8 Q Were you able to form an opinion with a
9 reasonable degree of medical certainty as to the
10 manner of death?

11 A Yes, sir. Homicide.

12 Q And what is homicide?

13 A So, we have some manners of death that we
14 can choose from: Accident, natural, homicide,
15 suicide, and undetermined. And homicide in the
16 forensic pathology world means that at least part of
17 the cause of death is attributable to somebody
18 else's actions.

19 Q And combined is both gunshots were fatal,
20 correct?

21 A Yes, sir.

22 Q And gunshot 1 by itself would have been
23 fatal; is that correct?

24 A Which one?

25 Q Gun-- the one to the head. I think you

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1 called it No. 1.

2 A The one shot, No, 1, the one to the head
3 would be immediately fatal.

4 Q Okay. Please answer any questions the
5 Defense has for you.

6 THE COURT: Cross-examination,
7 Mr. Gambrell.

8 MR. GAMBRELL: Thank you, Your Honor.
9 Judge, may I approach the witness?

10 THE COURT: Yes, sir.

11 **CROSS-EXAMINATION**

12 BY MR. GAMBRELL:

13 Q Good afternoon. Doctor, on your diagram
14 you have something circled here and I can't decipher
15 your notes. Can you decipher those for us?

16 A That's identification band that was placed
17 on the body, I'm assuming, by the coroner's office.

18 Q So what is that? what do your notes read
19 right there?

20 A ID band.

21 Q Okay. What about that? Is that
22 pertaining to that or is that from something else?

23 A That's part of my description of the
24 gunshot entrance wound of the abdomen. Below that
25 band it's one-and-a-half inches right at midline and

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1 21-and-three-quarter inches below the top of the
2 head.

3 Q And is that from the front or the back?
4 Is that the entrance wound or exit wound?

5 A That's the entrance wound.

6 Q Okay. I think you described in your
7 report that it was 21 and three-quarter inches below
8 the top of the head?

9 A Yes, sir.

10 Q Okay. And when you say one-and-a-half
11 inches right of the midline, is that the midline of
12 the person?

13 A It is.

14 Q Okay. And you testified that there was, I
15 think you called it sparse. Is it stippling?

16 A Yes, sir.

17 Q And at your estimation, what is the
18 outward range? Like, what is the longest range you
19 would see stippling from typically?

20 A Generally, it's up to about 24-inches but
21 that varies by the type of weapon.

22 Q Which type of weapon would leave a greater
23 amount of stippling?

24 A It can vary by ammunition, but a lot of
25 the long guns like rifles can leave a longer amount.

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1 Q Does it -- does it depend on the caliber
2 of the -- of the bullet?

3 A It can. It can depend on how much
4 gunpowder is in an individual round. It can depend
5 on round to round.

6 Q And the wound to the torso, I think you
7 said that it did damage the left kidney?

8 A Yes, sir.

9 Q And what kind of damage was that to the
10 kidney?

11 A So, any type of damage from a gunshot
12 wound is just disruption of the tissue, so just
13 tearing the tissue apart basically.

14 Q Okay. And in your report you mentioned
15 that it -- there were associated injuries including
16 lacerations to the liver, but those not caused by
17 direct contact from the -- from the round?

18 A No, sir. As a bullet enters tissue, even
19 if you see videos of ballistic gel, the energy
20 transfer from the bullet to the tissues causes shock
21 waves and that -- the liver's an organ that's very
22 susceptible to damage from those shock waves.

23 Q Did it sever any major arteries or?

24 A I mean, there are pretty significant
25 vessels around the kidney and liver itself, but none

1 on the large major ones that we would document right
2 here.

3 Q Could you tell whether or not there was
4 significant internal bleeding?

5 A There was an excessive amount of blood in
6 the abdominal cavity from the damage to the kidney
7 and muscle and liver.

8 Q I think you said that this type of wound
9 could be survivable if there was an immediate
10 response from an emergency medical service?

11 A With emergency surgery. I mean, not just
12 having EMS there but very quick surgical
13 intervention.

14 Q Okay, all right. Thank you.

15 THE COURT: Anything else?

16 MR. GREGORY: Not from the State, Your
17 Honor.

18 THE COURT: All right. Sir, you can step
19 down.

20 Any objection to this witness being
21 excused?

22 MR. GREGORY: No, Your Honor.

23 MR. GAMBRELL: No, sir.

24 THE COURT: Sir, you're free to go. Thank
25 you for coming.

1 Everyone okay over there?

2 Call your next witness.

3 MR. MILLER: Can we approach, Your Honor.

4 THE COURT: Yes, sir.

5 (WHEREUPON, counsel approached the
6 bench for an off-the-record discussion.)

7 THE COURT: Ladies and gentlemen, we're
8 gonna take about a ten-minute break in anticipation
9 of the next witness so, give you time to stretch
10 your legs, take a bathroom break, or meditate. But
11 you can't talk to each other about the case. All
12 right, bring you back in shortly.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 3:30 p.m. and a break was
15 taken.)

16 THE COURT: Let's go back on the record,
17 State v. Braylon Morris. Bring me Juror No. 130.

18 (Juror No. 130 is returned to the courtroom.)

19 THE COURT: Ma'am, stand right here.
20 Ma'am, it's been brought to my attention that during
21 the lunch break that you had a conversation with the
22 -- a gentleman. Did you have a conversation with
23 anybody during the lunch break at all? Remember,
24 you took an oath to be -- before you got on this
25 jury. It's been brought to my attention you had a

1 conversation with a gentleman who could have been
2 related to this defendant. Is that true?

3 JUROR: I ran into a gentleman on my way
4 out and ---

5 THE COURT: Who was that gentleman? Who
6 was the gentleman?

7 JUROR: Mr...

8 THE COURT: Describe him.

9 JUROR: He looked like he cut grass, had
10 on orange shirt.

11 THE COURT: You talked to him about --
12 what'd you talk to him about?

13 JUROR: No. I told him I was here for
14 jury duty. And he was like, what is the case about
15 and I said I can't talk about it.

16 THE COURT: Who else did you talk to?

17 JUROR: That's it.

18 THE COURT: Did you talk to anybody else?

19 JUROR: Huh-uh.

20 THE COURT: All right. What about the
21 gentleman of SLED or something like this? Did you
22 talk to him? The gentleman that was on SLED, black
23 gentleman on SLED? Did you have a conversation with
24 him?

25 JUROR: No, I didn't talk to anybody else.

1 I was on my phone.

2 THE COURT: All right. But you did talk
3 to this person in the landscape outfit?

4 JUROR: On my way out the door.

5 THE COURT: All right. And what was that
6 conversation about?

7 JUROR: We were asking how one another
8 were doing because we knew one another from our old
9 neighborhood. And he asked me what I was doing here
10 and I said I'm on jury duty, and he asked me what
11 was it about and I said I can't talk about it.

12 THE COURT: All right. That's ---

13 JUROR: And then we departed.

14 THE COURT: That's the only person you had
15 a conversation with?

16 JUROR: Yes, sir.

17 THE COURT: All right. Well, you know, I
18 really was very serious ---

19 JUROR: Uh-huh.

20 THE COURT: --- when I said earlier that
21 you can't have a conversation with anyone so I
22 hear -- if you're not being truthful with me, then I
23 need to know that.

24 JUROR: I was on my cellphone.

25 THE COURT: Doing what?

1 JUROR: Talking on my way all the way
2 walking to my car ---

3 THE COURT: So you ---

4 JUROR: --- and walking back.

5 THE COURT: --- never -- you never
6 interacted with anybody else except this gentleman
7 in the landscaping?

8 JUROR: Correct.

9 THE COURT: So you're saying you had no
10 conversation with anybody else at all?

11 JUROR: No, I did not.

12 THE COURT: Okay.

13 JUROR: I mean, I was walking by somebody
14 right there at the light, but I didn't know them.
15 It may appear that I was talking to them, but I was
16 holding my phone like this.

17 THE COURT: Who was you walking by? Who
18 was that?

19 JUROR: Oh, I don't know. I don't know.
20 I wasn't really paying attention.

21 THE COURT: Okay. All right, you can go
22 back.

23 (Juror No. 130 was removed from the courtroom.)

24 THE COURT: All right. Gentlemen, we're
25 still on the record. I only know what she said. So

1 what's the State's position?

2 MR. MILLER: Judge, I don't believe that
3 exactly wind up with what the bailiff relayed to the
4 Court, that it was a two or three-minute
5 conversation, that it was more than one person. And
6 I just have a lot of concern about that with the
7 jury. We do have three alternates and I believe we
8 could err on the side of caution here.

9 THE COURT: What's your position,
10 Mr. Gambrell?

11 MR. GAMBRELL: Judge, I would be against
12 dismissing this juror obviously. You know, I'm not
13 saying that, you know, the bailiff didn't see what
14 he saw. She claims to have been talking on her
15 phone. I don't know if they were inside or outside.
16 I didn't really get the full scope of the
17 description. If they were standing next to each
18 other, it may have appeared that they were talking
19 on the phone -- or may appeared they were talking to
20 each other. And also, you know, I -- and she's
21 not -- she's not prohibited from talking to people.
22 She just can't talk about this case, and I think
23 that's the important thing. You know, that would
24 mean she wouldn't be able to talk to a lot of people
25 that we're just sitting in the gallery just

1 observing or any of the State's 192 witnesses.
2 Just, you know, as long as she doesn't talk about
3 the case, I don't think that there is an impropriety
4 that rises to a level of dismissing her from the
5 jury.

6 MR. MILLER: Your Honor, it's that they
7 cannot talk with people because you could just go
8 try and have a conversation. I can't go talk to
9 anyone on the jury about the national championship
10 games that were just played. And just having a
11 conversation where you don't talk about the case but
12 yet, kind of connect a little bit or something that
13 could form and do it that way. It's that the
14 province of the jury is that they are to stay, the
15 jury, by themselves so that they can judge facts. I
16 mean, even start getting interactions and without
17 talking directly about the case, it could cause a
18 certain process under they're not just evaluating
19 the evidence. Again, we do have three alternates
20 and just feel that we could err on the side of
21 caution because it seems like the province of the
22 jury got breached here.

23 THE COURT: Where did this gentleman --
24 this gentlemen that she allegedly talked, where is
25 he at now?

1 MR. GAMBRELL: He had a -- he left to go
2 to the doctor I think. I, I talked to his parents
3 on the way out and actually, I was -- I had gone to
4 my car. I forgot my key. He was coming back in.
5 They were headed out so it was about 12:35, 12:40,
6 and they were by themselves. I did not see this
7 juror. When I got past them as I was coming back to
8 the courthouse, he was -- he told me to tell his son
9 that he had an appointment at 1:00 and he wouldn't
10 be back this afternoon.

11 MR. MILLER: And, Judge, I think we could
12 try and see if we could pull video from the
13 courthouse and see if we have video footage and we
14 could see it. We could see it. That'd be seriously
15 if we could talk to Sergeant Maine, take a look.

16 THE COURT: Yeah, I don't want to
17 obviously pick the bailiff, you know. If there's
18 footage out there and that wouldn't take but a hot
19 second to determine because where that took place.
20 'Cause, quite frankly, I think if this footage and
21 she told me that she did not speak with anybody but
22 the landscape person. That would shows that she
23 spoke to with somebody else, it would be an easy
24 decision for me because she wasn't truthful when she
25 stood before me 'cause I asked her. I asked her to

1 be truthful. If there's a video or footage that
2 shows she was talking to this gentleman that you're
3 talking about who is related to this defendant, then
4 it's an easy decision for me based upon her not
5 being truthful when I asked her. 'Cause her -- what
6 she said and then counsel heard her say she only
7 spoke with this landscape guy and the landscape guy
8 asked her, you know, they knew each other. He asked
9 her what you doing up here and she said she's on
10 jury duty and then the next question she said he
11 asked her was, what's the case, what was the case
12 about? And she said I can't talk to you about it
13 'cause I'm on jury duty. And I asked her, did you
14 talk to anybody else, did you have a conversation
15 with anybody else. And you know, body language is
16 important, Counsel. She didn't immediately say, no,
17 I didn't talk to anybody else. She hesitated when
18 she responded to my question. She says, no, I just
19 was talking on my phone. If you recall, that's the
20 body language that she gave so that's problematic to
21 me. A case of this magnitude, we just need to make
22 sure that because, you know, that's the whole reason
23 that we -- we err on the side of caution in this
24 case to make sure we have enough alternates. We got
25 three alternates, but I want to know how long it

1 will take us to get that footage or to look and see
2 if that ---

3 UNIDENTIFIED: Your Honor, I've got
4 Sergeant Maine coming up right now. He can give you
5 that answer when he steps in here.

6 THE COURT: Okay, all right. Well, if
7 that's the case, if she was, Mr. Gambrell, I think
8 it's an easy ---

9 MR. GAMBRELL: Well, if she was dishonest
10 with the Court, I -- there's nothing I can say about
11 that, Judge.

12 THE COURT: She was talking to this
13 gentleman when she -- then that's easy answer, easy
14 answer for me so. I'm assuming he'll be up in about
15 a couple of minutes, right?

16 (Pause.)

17 THE COURT: All right, let's go on the
18 record. The ---

19 MR. GAMBRELL: Judge, can I wait for my
20 client?

21 THE COURT: Oh, okay, I'm sorry. I didn't
22 look up.

23 (Pause.)

24 THE COURT: All right. Let's go on the
25 record. And, Ms. Blackmon, let me know if I

1 misstate. All right, we took a break and the
2 bailiff Ms. Blackmon, and as well as Ms. Maine, they
3 looked at the video. And apparently what -- what
4 happened is, it does show this particular juror
5 speaking to a gentleman that had a landscape shirt
6 on, that he apparently greeted her and she greeted
7 him. A conversation was relatively short so and so
8 that person obviously had no dealings with this --
9 with this matter that's before the Court so
10 apparently what she said was apparently what he said
11 was apparently could be accurate. She greeted him
12 and that was it. The gentleman that in the
13 wheelchair under SLED, the gentleman in the
14 landscaping shirt was talking to him. He came up
15 while she was -- while after she admittedly talked
16 to this guy in the landscaping shirt. He came up
17 and was talking to the guy in the landscaping shirt.
18 So her story pretty much coincides with what she
19 said. There was no -- there was no footage of her
20 talking directly to the gentleman under SLED, no
21 footage showed that. If that footage had showed
22 that, then I think it would be problematic, but
23 there was no footage that showed her speaking
24 directly to the gentleman that was under SLED. The
25 footage showed her having a very brief -- I

1 underline the word "brief" -- interaction with the
2 gentleman in the landscaping shirt who apparently
3 she indicated that she knew, they exchanged
4 greetings. He asked her why was she here. He said
5 she said that she was here for jury duty, and he
6 asked her what the case was about and she said that
7 she couldn't say nothing, say anything about that.
8 So that's consistent what I think what the video
9 showed; but more importantly, there was nothing that
10 indicated that she had a direct conversation with
11 the gentleman who was under SLED or the handicapped,
12 so I'm going to make a finding that there was --
13 that she did nothing, I thought, was violating my
14 order, you know. I think that's -- sometimes we
15 have to use our common sense. You know, if you're a
16 juror and you walk out the courthouse and see
17 somebody you know and they're gonna speak to you.
18 They don't know the rules. The people you're
19 speaking to don't know the rules. The juror know
20 the rules but you -- how you conduct yourself in
21 that regard is that she -- she indicated, she said
22 well, I, I just can't talk to you about the case.
23 So I'm, I'm satisfied that I think she -- she
24 complied with the rules of the Court, and I don't
25 think that the violation prejudiced the State and I

1 don't think it was prejudicial to the Defense so --
2 that's -- that's where I am with it.

3 Of course, did I say everything correctly
4 about?

5 UNIDENTIFIED: You did.

6 THE COURT: And that was what the officer
7 said, again, when he came back and looked at it. So
8 that's where we are, Gentlemen.

9 MR. MILLER: Thank you, Judge. Thank you
10 for looking into it. Could it be clarified for the
11 jurors that neither the State nor the Defense was
12 who brought this to the Court so there's not any
13 question either way that it was either of either
14 sides in the case that did it.

15 THE COURT: You think -- glad you brought
16 that up 'cause what I intend to do is to bring the
17 juror back out because I don't want in her mind to
18 think that somebody was singling her out and then
19 that may over -- that may go into her mindset during
20 the deliberations. So I'm gonna come out and tell
21 -- I'm not gonna tell her we went out and did all
22 this investigation. I'm just gonna come out and
23 tell her I'm satisfied with her response and that
24 she can continue to serve on the jury. That's all
25 I'm gonna say. I don't want her to think or to know

1 that -- even though that's what we did, but I'm just
2 trying to make -- to say something to her that's
3 going to be fair to the State and fair to the
4 Defense, and I think the proper thing to say is that
5 I'm satisfied with her response and she can continue
6 to serve on the jury and please do not talk with
7 anybody about the case. That's what I think.

8 MR. MILLER: Well, and I would say this,
9 Judge, maybe if not, you know, when the whole panel
10 comes back out or maybe at the end of the day just
11 remind them that it's not just to not talk about the
12 case, but anybody that could be affiliated with the
13 case and ---

14 THE COURT: You would rather do that than
15 me just ---

16 MR. MILLER: Well, no, I think, I do think
17 it's appropriate to speak to her individually 'cause
18 we did bring her in here, but I think just a
19 reminder to the whole jury that ---

20 THE COURT: That at the end of the day
21 when the panel leaves and goes home I'll tell them
22 that and I'll also reiterate that tomorrow as well.

23 MR. MILLER: Yes, sir.

24 THE COURT: All right. So something else
25 you got to put -- to do. So bring them back out

1 just for the hot sake. Juror No. 130.

2 (Juror No. 130 is returned to the courtroom.)

3 THE COURT: All right, ma'am, a couple of
4 things. I'm satisfied with your responses to my
5 question that I asked you a minute ago, and I want
6 you to still exercise your duty as a juror. You
7 understand that?

8 JUROR: Yes, sir.

9 THE COURT: And also, continue not to talk
10 with anybody about the case no matter who it is,
11 okay?

12 JUROR: Yes, sir.

13 THE COURT: All right. Now the second
14 thing I'm gonna ask you while you're here, you
15 informed us during qualification you have a 8:00
16 doctor's appointment.

17 JUROR: Yes.

18 THE COURT: Correct? I intend to start
19 the case tomorrow at 10. Does that give you enough
20 time to -- remember I told you to be in the parking
21 lot at 7 spot. I told you to be there ---

22 JUROR: I'm gonna try my best.

23 THE COURT: Where you --

24 JUROR: My appointment is on Pelham Road.

25 THE COURT: Okay.

1 JUROR: So hopefully, they will be able to
2 start at 8:00.

3 THE COURT: All right.

4 JUROR: The procedure is supposed to be
5 between 15 and 30 minutes so.

6 THE COURT: You're going to be okay to
7 come in here after that?

8 JUROR: I suppose. I mean, with lunch,
9 you know.

10 THE COURT: Okay, all right. Well, we're
11 going to start at 10:00 give you an opportunity so
12 8:00, you need to have your door on the doctor's
13 office door walking in there so you can get here
14 10:00. Okay.

15 JUROR: Yes, sir.

16 THE COURT: All right. I want you to
17 continue to serve, follow my instructions. All
18 right?

19 JUROR: Yes, sir.

20 THE COURT: All right, yes, ma'am. Okay.

21 (Juror No. 130 was removed from the courtroom.)

22 THE COURT: Okay. Gentlemen, while we --
23 anything -- let's look at the, logistically where we
24 are, Mr. Miller, Mr. Gregory, were are you witness
25 wise? How many more witnesses you have?

1 MR. MILLER: Either two or three, Your
2 Honor.

3 THE COURT: Two or three. All right.
4 Long, short, or in between?

5 MR. MILLER: I would say one short, the
6 other two in between the long.

7 THE COURT: Okay. All right. So it's
8 about 10 after 4. We'll go and get the other
9 witness in. Now Mr. -- let me ask you this, Mr.
10 Gambrell. I notice that you didn't put the
11 defendant's name on your witness list. Is that
12 still being debated whether or not he's gonna
13 testify?

14 MR. GAMBRELL: I'm gonna leave that up to
15 Mr. Morris, sir. We'll take about that, you know.
16 And, of course, you have your speech that you give
17 to him ---

18 THE COURT: Right.

19 MR. GAMBRELL: --- with regard to that on
20 records so.

21 THE COURT: Okay.

22 MR. GAMBRELL: We'll talk to him. I'll
23 talk to him about that.

24 THE COURT: Just let me know tomorrow.

25 MR. GAMBRELL: Yes, sir, Judge. The other

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1 thing, you know, we're just gonna do maybe one more
2 witness today.

3 THE COURT: I think so.

4 MR. GAMBRELL: Okay, that's great. I
5 just, I had gotten a text that my son had gone to
6 Urgent Care. I don't think it's any emergency, but
7 I just want to be able to run by and pick him up on
8 the way out if I could.

9 THE COURT: You sure?

10 MR. GAMBRELL: Yes, sir. It's not an
11 emergency. He was feeling ill and, luckily, my
12 neighbor was able to take him there today so.

13 THE COURT: We'll do this. But if you get
14 a call in between this witness, let me know, okay.

15 MR. GAMBRELL: He should be fine. I
16 appreciate it. Thank you.

17 THE COURT: All right. So we'll go ahead
18 and do this last witness. Let's bring them in.

19 (WHEREUPON, the jury was returned to the
20 courtroom and the following proceedings commenced in
21 open court.)

22 THE COURT: All right, the State will call
23 its next witness.

24 MR. MILLER: State calls the Honorable
25 Seldon Peden.

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1 WHEREUPON,

2 **SELDON PEDEN,**

3 having been duly sworn by the clerk, testified
4 as follows:

5 THE CLERK: Thank you. And please state
6 your full name for the record.

7 THE WITNESS: Seldon Tremaine Peden.

8 **DIRECT EXAMINATION**

9 BY MR. MILLER:

10 Q Judge Peden, where are you employed?

11 A Greenville County.

12 Q And in what capacity?

13 A Magistrate judge, bond set unit. Bond
14 court.

15 Q How long have you been in -- serving in
16 that capacity?

17 A I've been a magistrate since 2014, bond
18 court since 2017.

19 Q What are your responsibilities in the bond
20 court?

21 A Upon individuals arrest to have -- preside
22 over bond hearing within 24 hours.

23 Q And could you tell the jury a little bit
24 about the process of a bond hearing?

25 A Bond hearing is essentially where we

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1 determine if they be released or under what
2 conditions. During that process I let them know
3 what their current rights are and let them know what
4 the process would be. Inform them of the -- inform
5 them of the different types of bonds and then let
6 them know what their bond is.

7 Q What are those rights in making a person
8 aware of?

9 A Right to remain silent and right to an
10 attorney, right to a trial by a judge and jury
11 depending on whether it's a felony or a misdemeanor
12 or a high pro crime. Their right to a preliminary
13 hearing, what the process is to obtain a preliminary
14 hearing. What circumstances they may have
15 expungement if they're found not guilty or it's not
16 prosecuted.

17 Q Are you interrogating a person at all?

18 A No, sir.

19 Q Are -- you're giving information, but do
20 you see if there's anybody present that would ever
21 like to give a statement to you as part of the bond
22 hearing?

23 A Correct. If there's a victim or a
24 victim's family member, there's a South Carolina
25 victims right act, rights act, which allows them to

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1 be heard. During that process I'll ask them if
2 there's anything they would like to share with me
3 during that process.

4 Q And did you preside over the bond hearing
5 of Braylon Lamar Morris?

6 A Yes, sir.

7 Q Do you see Mr. Morris in the courtroom
8 today?

9 A I do.

10 Q Where is he located?

11 A At the table in the pink shirt.

12 Q Now did you go through that process with
13 Mr. Morris and making him aware of the rights and, I
14 guess, we call it the procedure moving forward?

15 A Yes, sir.

16 Q At any point in time did Mr. Morris appear
17 to understand what you were telling him?

18 A He did. Do you feel you understand it,
19 yes, sir.

20 Q Did he appropriate respond to you when
21 needed?

22 A Yes.

23 Q Did he appear to be under the influence of
24 any alcohol or drugs?

25 A No, sir.

SW - S. PEDEN - DIRECT

1 Q Did he appear to be clear minded and
2 lucid?

3 A Yes, sir.

4 Q And where does this bond hearing take
5 place?

6 A At the Greenville County Law Enforcement
7 Center to an area designated as the court.

8 Q And the person would be in custody at the
9 time, correct?

10 A Yes.

11 Q But you're not a law enforcement officer?

12 A No. No.

13 Q And when Mr. Morris gave -- did Mr. Morris
14 gave a statement or make a statement the bond
15 hearing?

16 A He made a statement.

17 Q Did he make that statement of his own free
18 will?

19 A Yes, sir.

20 Q Did anybody threaten him to make a
21 statement?

22 A No.

23 Q Did anybody promise him anything in return
24 for the statement?

25 A No, sir.

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1 Q Did anybody coerce him to make a
2 statement?

3 A No.

4 Q Judge Peden, I'm showing what's been
5 previously marked as State's Exhibit 30.

6 A Okay.

7 Q Do you recognize that?

8 A Yes, sir.

9 Q What is that?

10 A It's a DVD that I watched and initialed.

11 Q Is that a recording of Braylon Morris'
12 bond hearing?

13 A Yes, sir, it is.

14 Q Other than any mutes or edits to comply
15 with rules of evidence or court rules, has it been
16 tampered with in any way?

17 A No, sir.

18 Q Is it a true and accurate copy of the bond
19 hearing of Braylon Morris?

20 A It is.

21 MR. MILLER: Your Honor, at this time the
22 State would move Exhibit 30 into evidence.

23 THE COURT: Any objections?

24 MR. GAMBRELL: Just our previous objection
25 that we noted.

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1 THE COURT: Objection so noted. It will
2 be entered subject to the objection of the
3 Defendant.

4 (WHEREUPON, State Exhibit No. 30 was
5 admitted into evidence.)

6 MR. MILLER: Court's indulgence, Judge,
7 just having some technical issues.

8 (Pause.)

9 MR. MILLER: Judge, I apologize, would you
10 like me to see if we can get the IT person up here?
11 Maybe we can test it and have it run into it ---

12 THE COURT: Tell you what, Mr. Miller, I
13 think, they probably got a better idea is them. I'm
14 gonna let you fix it by in the morning. What I'm
15 gonna do is, I'm going to stand Mr. -- Judge Peden
16 down.

17 And Peden, you available first thing in
18 the morning?

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. We're gonna start
21 at 10:00 so we're gonna ask you to come back at
22 10:00 and then hopefully overnight we'll get the
23 situation rectified. So you can step down.

24 And ladies and gentlemen of the jury, I've
25 given you an early, little early break, to go home.

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1 It's around 4:30. We're gonna start at 10:00. So
2 please, ma'am, and please, sir, be in your jury room
3 at 10:00. Now please, ma'am, and please, sir, do
4 not speak with anyone about the case and that
5 includes family members, friends, relatives, pastor
6 of your church. I don't care who it is. You can't
7 talk to anybody about this case, talk about anything
8 at all about this case. The kids ask you anything
9 about it, you can't speak to them about it. Nobody.
10 Absolutely no one. So we're gonna ask you to report
11 to your jury room at 10:00 sharp and then we'll
12 resume the testimony in the morning. Okay, have a
13 good evening.

14 (WHEREUPON, the jury was removed from the
15 courtroom at 4:27 p.m.)

16 THE COURT: All right, gentlemen, we're
17 going to adjourn for the day. Feel free to stick
18 around where you got your IT people here, get
19 everything squared away. But I'm gonna disappear
20 through the back door. I'll see you tomorrow
21 morning.

22 (Court was adjourned and resumed on April 5, 2023.)

23 THE COURT: All right, Madam Court
24 Reporter, let's go back on the record. This is the
25 State v. Braylon Lamar Morris, indictment number

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1 2019-GS-23-007279. All parties are present,
2 including the defendant. The State ready to
3 proceed?

4 MR. MILLER: Yes, Your Honor.

5 THE COURT: Defense ready to proceed?

6 MR. GAMBRELL: We are, Your Honor.

7 THE COURT: All right. Anything, any
8 matter before I bring the jury out?

9 MR. MILLER: None from the State.

10 MR. GAMBRELL: None from the Defense.

11 THE COURT: All right. Bring them in.

12 (WHEREUPON, the jury was returned to the
13 courtroom at approximately 10:06 a.m., and the
14 following proceedings commenced in open court.)

15 THE COURT: All right, Madam Court
16 Reporter, let's go back on the record. This is the
17 State v. Braylon Lamar Morris, indictment No.
18 2019-GS-23-007279. All parties are present,
19 including the defendant. Is the State ready to
20 proceed?

21 MR. MILLER: Yes, Your Honor.

22 THE COURT: Defense ready to proceed?

23 MR. GAMBRELL: We are, Your Honor.

24 THE COURT: All right. Any preliminary
25 matters before I bring the jury out?

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1 MR. MILLER: None from the State.

2 MR. GAMBRELL: None from the Defendant.

3 THE COURT: All right. Bring them in.

4 (WHEREUPON, the jury was returned to the
5 courtroom at approximately 10:06 a.m., and the
6 following proceedings commenced in open court.)

7 THE COURT: Good morning. How's
8 everybody? Okay, State's ready to call its next
9 witness?

10 MR. MILLER: Your Honor, we'll be
11 re-calling the Honorable Seldon Peden back to the
12 stand.

13 THE COURT: That's right. And I think
14 Ms. -- and I think where we were, you were getting
15 ready to show his video ---

16 MR. MILLER: Of the bond hearing.

17 THE COURT: --- of the bond hearing. Is
18 that where we are?

19 MR. MILLER: Yes, sir.

20 THE COURT: All right. Come on up, Judge.
21 Have a seat there. You're still under oath.

22 THE WITNESS: All right.

23 THE COURT: Okay.

24 BY MR. MILLER:

25 Q Judge Peden, thank you for coming back

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1 this morning.

2 A Yes, sir.

3 Q And I'm showing you what was admitted in
4 evidence yesterday as State's Exhibit 30.

5 A Uh-huh.

6 Q And is that the bond hearing of Braylon
7 Morris that you presided over?

8 A It is, yes, sir.

9 Q And that is a true and accurate copy of
10 the bond hearing, except for any mutes or edits for
11 court rules and rules of evidence?

12 A Yes, sir.

13 (State's Exhibit No. 30 was published to the jury.)

14 BY MR. MILLER:

15 Q Please answer any questions Mr. Gambrell
16 has.

17 A Yes, sir.

18 THE COURT: Mr. Gambrell,
19 cross-examination.

20 MR. GAMBRELL: Thank you, Your Honor. May
21 it please the Court.

22 **CROSS-EXAMINATION**

23 BY MR. GAMBRELL:

24 Q Judge Peden, you typically don't allow an
25 exchange or conversation between the defendant and a

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1 victim's family, do you?

2 A Typically I do not.

3 Q Okay. Any reason why you allowed it under
4 these circumstances?

5 A Once the victim's father indicated that he
6 wanted to hear what Mr. Morris was stating, I
7 allowed it.

8 Q Okay. But typically you do not allow any
9 interaction between a defendant and s victim's
10 family?

11 A So no. Normally once I ask the victim or
12 the victim's family if they want to share anything
13 with me, and in most cases that's kind of where it
14 ends.

15 Q And you don't have an opinion as to
16 whatever Mr. Morris has said in there. Does that
17 make any sense to you? You don't know who Scotty
18 Pope is?

19 A Oh, no, not at all.

20 Q So the information that he gave, you don't
21 have any information about that?

22 A No, sir.

23 Q Thank you very much.

24 THE COURT: Mr. Gregory or Mr. Miller.

25 MR. MILLER: No, Your Honor.

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1 THE COURT: All right. You may step down.

2 Can Judge Peden be excused?

3 MR. MILLER: Please, Your Honor.

4 THE COURT: All right, without objection.

5 Judge, you're free to go. Take care of yourself.

6 All right. The State's ready to call its
7 next witness?

8 MR. MILLER: The State calls Investigator
9 Bailey.

10 THE COURT: All right.

11 THE CLERK: If you would, pause right
12 there at the Bible. Place your left hand on the
13 Bible, raise your right hand.

14 WHEREUPON,

15 **ANTONIO BAILEY,**
16 having been duly sworn by the clerk, testified
17 as follows:

18 THE CLERK: Thank you. If you would,
19 please provide your full name for the record.

20 THE WITNESS: Antonio Lee Bailey.

21 **DIRECT EXAMINATION**

22 BY MR. MILLER:

23 Q Investigator Bailey, where are you
24 employed?

25 A In Greenville County, Sheriff's Office.

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1 Q How long have you been with the Sheriff's
2 Office?

3 A I've been with the Sheriff's Office
4 roughly 28 years.

5 Q What is your role at the Sheriff's Office?

6 A Currently I'm a sergeant with the Office
7 of Professional Standards, commonly known as
8 internal affairs.

9 Q Have you always been in that role?

10 A No, sir. I've been in that role probably
11 about two-and-a-half years. Prior to that I was in
12 homicide for a total of 18-years.

13 Q And as a homicide investigator, what are
14 your job responsibilities?

15 A Here in Greenville our homicide unit
16 responsible for all the deaths, either attended or
17 unattended deaths in South Carolina but in
18 Greenville County. Our unit consists of three
19 people -- I'm sorry, six. There were six
20 investigative homicide unit. We have -- each one of
21 us had a on-week on-call, and we attend autopsies
22 and, again, any unattended death in Greenville
23 County.

24 Q And do y'all work together on cases at
25 all?

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1 A We do. The call week, the week that
2 you're on-call dictates how we get out call
3 assignment so if you're on-call that particular
4 week, that's what indicates whether or not you're
5 going to be a lead investigator on any deaths that
6 come in during that week.

7 Q And were you the lead investigator on this
8 case?

9 A I was.

10 Q How did you first become involved?

11 A Back on July 5th of that year, I received
12 a call from my sergeant, Sergeant Hammett,
13 indicating there had been a shooting at Walmart on
14 White Horse Road. It was in reference to a
15 individual had been shot, and it was dispatched as a
16 shooting in progress.

17 Q And what county is that Walmart in?

18 A It's in Greenville County.

19 Q Okay. So if it's a dispatch as a shooting
20 in progress, what does that mean for you as an
21 officer and what steps are taken?

22 A Basically, any time you get that type of
23 call, any and everybody in that area is gonna
24 respond to it. As an investigator, we would
25 normally respond but we would not actually get to

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1 the scene until actually the scene is secure.

2 Q What does it mean for the "scene to be
3 secure?"

4 A Scene secure is basically whenever we have
5 an active shooter like we indicate like what's
6 happened that particular day and from my role
7 purposes, the scene is secured to suspect's no
8 longer there or suspect's been taken in custody and
9 pretty much the incident has already occurred.

10 Q Why do y'all wait for the scene to be
11 secure?

12 A 'Cause that's pretty much when my role
13 starts. My role, basically, is to piece together
14 what actually happened. In addition to that, it's
15 to direct manpower where to see fit.

16 Q And what steps did you take in this case
17 to piece together what happened?

18 A One of the first things that we do, again,
19 once I -- once I got there and noticed that the
20 scene had been secured, the -- in this particular
21 incident as in most of them, scene was secured in
22 that the entire area was roped off with crime scene
23 tape. Deputies were in the process, along with
24 store employees, ushering customer out of the store.
25 Once the scene is secured, that's basically corded

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1 off with crime scene tape and usually come in and do
2 what we call a walk-around. Walk-around is
3 basically exactly what I said. You walk in, you
4 look around to get a feel for what actually occurred
5 or what's actually there, and then you back out.
6 Back out basically means I leave the area and then I
7 allow my forensics units to come in, and they're
8 gonna process it. They process the scene in terms
9 of taking photographs, diagrams and video
10 recordings.

11 Q Will they collect any evidence they would
12 find?

13 A They would.

14 Q And would you conduct any interviews with
15 any potential witnesses?

16 A That particular day when I arrived, I
17 believe I met with a Deputy Boone. He indicated to
18 me that there were two, two customers that were in
19 the store ---

20 MR. GAMBRELL: Judge, I'm gonna object to
21 hearsay.

22 THE COURT: Sustained.

23 THE WITNESS: I did.

24 BY MR. MILLER:

25 Q And witnesses were interviewed and that

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1 information is gathered?

2 A Yes, sir.

3 Q Okay. And was, in this case, was the
4 victim deceased when you arrived?

5 A When I arrived the -- as I walk through
6 the -- as I walked in the main door near the
7 checkout area, I was met by two paramedics as they
8 were leaving. They indicated to me that the victim
9 was, in fact, de--

10 MR. GAMBRELL: Judge, again, I'm gonna
11 object to hearsay. He can't testify as to what
12 somebody else told him.

13 MR. MILLER: I believe he's testifying to
14 what he learned as the lead investigator of the
15 State ---

16 THE COURT: I'm gonna sustain his
17 objection.

18 But I'll allow you, Counselor, to rephrase
19 your question.

20 BY MR. MILLER:

21 Q When you arrived on scene, did you learn
22 whether or not that the victim was deceased?

23 A I did.

24 Q And was the victim deceased?

25 A When I walked over I looked at the victim.

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1 He was not -- not breathing. He was nonresponsive.

2 Q Okay. And did you see any weapons or any
3 items around the victim?

4 A I did not.

5 Q As part of your investigation, did you
6 determine whether or not the victim had any weapons
7 on his person at all?

8 A None whatsoever.

9 Q Okay. No weapons on the victim?

10 A No, sir.

11 Q Now also as part of this case, did you
12 pull any video surveillance as the lead
13 investigator?

14 A I did.

15 Q Okay. And you pulled that from Walmart?

16 A That's correct.

17 Q And was that video surveillance put
18 together in a stream of different camera angles as
19 part of the case?

20 A It was eventually, but I actually saw the
21 raw footage as well.

22 Q Okay. And I'm showing you what's been --
23 appears to have been marked as State's Exhibit 3.
24 And that's the Walmart footage?

25 A Yes, sir.

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1 Q And I just want to play it and have you
2 identify who the people are in the video.

3 (State's Exhibit No. 3 was published to the jury.)

4 MR. MILLER: The person in the white
5 T-shirt and white pants is the -- is the victim
6 Jason Deck.

7 BY MR. MILLER:

8 Q Right. Is that the person on the screen
9 we're looking down right now?

10 A Yes, sir.

11 Q I see that you very recently had operation
12 done?

13 A I did. I broke my ankle.

14 Q If you press this green button, hopefully
15 it will show up on the screen a little bit. It can
16 be hard to see, but that green button can be a
17 pointer for the TV screen. Hard to see. So is it
18 this person right here we're talking about?

19 A It is. It's not showing up on that
20 screen, sir.

21 Q This is the Walmart on White Horse Road?

22 A Yes, sir.

23 Q Is there anybody you recognize on the
24 screen right now?

25 A The person in the red cap and white

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1 T-shirt is actually the defendant.

2 Q So the bottom right corner in the red hat.

3 A Yes, sir. His back is facing us right --
4 standing right in front of the shopping cart.

5 Q Do you see that person in the courtroom
6 today?

7 A Yes, sir.

8 Q Where is that person located?

9 A Sitting at defendant's table.

10 Q You recognize anybody else on the screen?

11 A The lady who just walked up is -- last
12 name is Meriweather.

13 Q And what kind of clothing is she wearing?

14 A Looks like a striped pants and short pants
15 and a strap, some type of gym suit, dress jumpsuit.

16 Q Had purple and black stripes?

17 A Right.

18 Q Okay. And what is her relation in this
19 case?

20 A That's her -- Braylon Morris's girlfriend.
21 The two kids that you also see belong to
22 Ms. Meriweather.

23 Q Got you. Who is that running?

24 A Braylon Morris.

25 Q Okay. So after the shooting from view of

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1 the footage, what did Braylon Morris do?

2 A He ran out the store. Ran out of the
3 store and the last I -- last I could tell from the
4 video footage, he ran through the parking lot toward
5 White Horse Road.

6 Q You said you also saw the raw footage. Is
7 this a true and accurate representation of the raw
8 footage that's put together?

9 A It is.

10 Q Was Braylon Morris detained and
11 apprehended on the same day?

12 A He was.

13 Q Do you recall where he was detained?

14 A I believe he was detained in the Long
15 John -- Long John Silver's parking lot.

16 Q I'm showing you what's been entered into
17 evidence as State's Exhibit 6. You recognize that?

18 A I do.

19 Q What is it?

20 A It's an aerial photo of a area
21 encompassing the White Horse Road area, White Horse,
22 6134 White Horse Road, which is the Walmart, the
23 TitleMax and the Long John Silver.

24 MR. MILLER: Judge, if we can switch over
25 to the...

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1 THE COURT: Okay.

2 MR. MILLER: Zoom that a little bit.

3 BY MR. MILLER:

4 Q So this would be the Walmart here; is that
5 correct?

6 A Yes, sir.

7 Q And he was found apprehended in this Long
8 John Silver's here?

9 A Yes, sir.

10 Q All right. Was it a short time after the
11 shooting?

12 A It was. I was actually -- I was actually
13 in the store talking to various people when I heard
14 the radio traffic indicating that they had got up
15 with a possible suspect.

16 (WHEREUPON, State Exhibits Nos. 31 through
17 39 were marked for identification only.)

18 BY MR. MILLER:

19 Q Investigator Bailey, I want to show you
20 what's been marked as State's Exhibit 31 through 39.
21 If you could take a look. You recognize those
22 items?

23 A I do.

24 Q What are they?

25 A It's a picture -- first, the first

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1 photograph that you showed me, it's a picture of the
2 intersection that encompasses the TitleMax and the
3 Li'l Cricket.

4 Q And the second set?

5 A I have to look at it. The second set is
6 basically a pair of red and white tennis shoes that
7 appear to be the same thing as being one that we saw
8 on video.

9 Q Are they true and accurate
10 representations?

11 A It is.

12 Q Do they appear to be tampered with in any
13 way?

14 A No, sir.

15 MR. MILLER: Your Honor, at this time the
16 State will move Exhibits 31 through 39 into
17 evidence.

18 THE COURT: Any objection?

19 MR. GAMBRELL: Without objection, Your
20 Honor.

21 THE COURT: All right. So entered without
22 objection.

23 (WHEREUPON, State Exhibits Nos. 31 through
24 39 were admitted into evidence.)

25 BY MR. MILLER:

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1 Q Investigator Bailey, when Mr. Morris was
2 detained at the Long John Silver's parking lot, was
3 he wearing the red hat we saw on video?

4 A No, sir.

5 Q Would you tell the jury what we're looking
6 at here?

7 A That's the -- it looks like it's a picture
8 of the Long John Silver's that's off camera right
9 next door to of this Li'l Cricket. Across the
10 street, of course, is the Dollar General. If you
11 look upward, the Walmart is headed in that
12 direction. That appears to be the same hat that's
13 being worn by Braylon while he was in the store as I
14 saw in the video.

15 Q Closeups of the hat.

16 A Pretty much the same. I didn't actually
17 see the front of it, but it appears to be the same
18 type of hat that was wore that I saw on the video.

19 Q That's about it.

20 A The red and white tennis shoes that I saw
21 on the video at the store.

22 Q And was Mr. Morris wearing these shoes?

23 A He was.

24 Q Okay.

25 A That's the same picture, just a different

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1 angle.

2 Q So what other steps did you take as part
3 of your investigation? We've gone through, I guess,
4 where the point where Mr. Morris had been detained.
5 Was there anything else y'all were looking for?

6 A We were actually looking for the firearm,
7 the gun.

8 Q Okay. What steps were taken to locate the
9 firearm?

10 A After I -- after I left the store and
11 after seeing the video, I actually rode through the
12 parking lot to get a visual of the person that they
13 believe was the possible suspect. After I got there
14 and noticed that it appears to be the same person, I
15 requested canines. Canines came and, again, we
16 tried to track the path that Mr. Braylon took from
17 the Walmart to Long John Silver parking lot. So I
18 called canine. I called the fire department, and I
19 requested our drone operator. Fire department was
20 called because we had a restaurant and a couple of
21 routes that we wanted, that I wanted to get checked.
22 In addition to that, we called out the drone. We
23 flew the drone, didn't find anything that particular
24 day. Had scores of deputies actually walk the
25 perimeter in terms of there's a wood line between

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1 the Walmart parking lot and the Long John Silver's
2 so we had people on foot. We had the tracking team,
3 the drone, and the fire department all were asked to
4 come look for that gun.

5 Q And did y'all look more than one day?

6 A I looked over the course of -- course of
7 two or three days, in addition to going back the
8 couple of days after the incident with the dogs.
9 There's a retaining pond that's located behind the
10 Walmart so I requested a dive team to come out and
11 would actually -- actually dove in that pond to look
12 for the gun.

13 Q And I take it you're looking for the gun
14 because the gun was not on Mr. Morris when he was
15 detained?

16 A It wasn't on his person when he was
17 detained and didn't want anybody else to get a hold
18 of it, mainly a child.

19 Q Okay. And were you ever able to locate
20 the handgun?

21 A No, sir.

22 Q Okay. And I believe there were cartridges
23 found in this, this case -- shell casings were
24 found?

25 A There were two cartridges and one

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1 projectile.

2 Q Okay. Were those sent off for any type of
3 testing?

4 A It was.

5 Q Okay. What kind of testing?

6 A Because we did not have the gun, it could
7 not be tested for ballistics to try to get a
8 identification on whether or not these projectiles,
9 these cartridges, were actually fired from a
10 particular gun 'cause we didn't have the gun. So I
11 took the -- I took the two cartridges and the
12 projectile down to SLED, and they entered into a,
13 for lack of a better word, it's called Nyegers. You
14 put the projectile and the cartridge in the system.
15 It's a state wide, country wide, data base. And
16 what that data base does is it just continuously
17 runs on a computer; and what it's looking for, it's
18 looking for a gun. Whether it be a gun that was
19 involved in another incident or found and entered
20 into Nyegers, it would hit on that gun.

21 Q Without the gun, you can't compare the
22 shell casings to the firearm?

23 A That's correct.

24 Q And around -- you recall about what time
25 you arrived on scene?

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1 A I think in my report indicated it was
2 sometime around 1:30, give or take.

3 Q And I want to show you a document. You
4 recognize this?

5 A It's the first pape of my report.

6 Q And what time does it say you arrived on
7 scene?

8 A 1530.

9 Q And why would that say 1530 but you
10 believe that you arrived closer to 1:30?

11 A 'Cause it's made a mistake. It's 1530.
12 It's 3:30.

13 Q Yes, sir. Please answer any questions,
14 Mr. Gambrell has.

15 THE COURT: All right. Cross-examination.

16 MR. GAMBRELL: Thank you, Your Honor. May
17 it please the Court.

18 **CROSS-EXAMINATION**

19 BY MR. GAMBRELL:

20 Q You go by investigator?

21 A Sir?

22 Q Is investigator your title?

23 A It's actually sergeant.

24 Q Sergeant. Sergeant Bailey, did you -- did
25 you know who the first law enforcement to respond to

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1 the scene was?

2 A No, sir. Only thing I can tell you is the
3 first person I came in contact with was Deputy
4 Boone.

5 Q Okay. And so he was there prior to you
6 being there?

7 A Yes, sir.

8 Q Okay. Did you review his report?

9 A I believe I did. I'm showing the course
10 of -- in the course of this whole thing I probably
11 read it.

12 Q Did you realize that the time on the -- he
13 indicated that he arrived was at 1:30?

14 A I did not.

15 Q Okay. I mean, I'm sorry, 1:33?

16 A Okay.

17 Q Sir?

18 A I did not. I can look at the copy of it
19 to verify it.

20 MR. GAMBRELL: May I approach the witness,
21 Your Honor?

22 THE COURT: Yes.

23 BY MR. GAMBRELL:

24 Q Does the report indicate what time that he
25 arrived?

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1 A They have incident date and time is 7/15
2 at 1330, which is 1:30.

3 Q Does it say what time he arrived though?

4 A His arrival time was 1333.

5 Q Which would be 1:33?

6 A 1:33.

7 Q Okay. If he was there before you and he
8 indicated that he arrived there at 1:33, you would
9 have had to arrive sometime after that?

10 A Yes, sir.

11 Q All right. When you arrived, what had law
12 enforcement done to secure the scene?

13 A When I arrived there were several people
14 to include Walmart employees ushering customers out
15 of the store. The scene was taped off. EMS, EMS
16 was leaving. Firearm department was still inside.
17 And there was scores of people still coming to --
18 well, coming to Walmart.

19 Q Coming in or coming out?

20 A They were coming in as far as help was
21 concerned because there were close to 75, 80
22 customers in the store.

23 Q Okay. Now you reviewed all the evidence
24 that was brought to you in this case?

25 A Yes, sir.

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1 Q You reviewed the bond video that we just
2 watched a few minutes ago?

3 A I did.

4 Q Okay. Did you ever talk to Mr. Scotty
5 Pope about this case?

6 A I did not.

7 Q Okay. You didn't think that was
8 important?

9 A At the time, no, sir.

10 Q Okay. You -- you reviewed all the
11 supplemental reports that are given to you in this
12 case?

13 A Mostly, yes, sir.

14 Q Okay. And you reviewed Investigator
15 King's report?

16 A I did.

17 Q And in that report -- and he testified
18 that he had taken a statement from Mr. Morris?

19 A I believe he said that he spoke with
20 Mr. Morris, yes, sir.

21 Q And you reviewed all of the body-worn
22 camera and dash cameras in this case?

23 A Most of it. The part that I palled, most
24 of it.

25 Q How many different camera videos did you

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1 receive?

2 A I can't give you an exact figure. I would
3 say more than 10, less than 15.

4 Q The Defense was given 24. Would you have
5 reviewed least the ones that were given to us?

6 A I would think so.

7 Q Okay. In any of those videos, did you
8 ever see the conversation that took place between
9 Investigator King and Mr. Morris?

10 A I don't believe I actually saw that video
11 until I saw it in court.

12 Q You actually saw a video of them having a
13 conversation?

14 A Conversation that we played in court.

15 Q Between who?

16 A The video that was shown in court, I
17 believe, yesterday.

18 Q Was with -- the conversation was between
19 who?

20 A The conversation that I saw that was being
21 had on the video yesterday.

22 Q Between who?

23 A If memory serves me correctly, I think I
24 heard King in the background, I think. It's been
25 tons of -- it's been tons of videos and tons of

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1 testimony. I can't exactly remember.

2 Q Okay. I think you're referring to Officer
3 McCalmont?

4 A Yes, sir.

5 Q Okay.

6 MR. MILLER: Judge, I just understand -- I
7 think he's probably going to Sergeant McCalmont's
8 video. I just want to make sure that we're not
9 going outside of what's been admitted into evidence
10 but what copy he's gonna be going through.

11 MR. GAMBRELL: I could ---

12 THE COURT: Have y'all seen -- have y'all
13 looked at the video between each other?

14 MR. MILLER: I don't know what's coming.
15 I just want to make sure ---

16 MR. GAMBRELL: It's the same ---

17 MR. MILLER: --- we're not going outside
18 evidence.

19 MR. GAMBRELL: It's the same one that I
20 showed yesterday, Judge, but I'll, I'll
21 (indiscernible).

22 THE COURT: I know yesterday both had
23 similar videos so you wind up using theirs, but
24 you -- Mr. Miller, you hadn't seen the one he has?

25 MR. MILLER: Well, yesterday he used the

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1 copy on his computer. It didn't have audio. There
2 were mutes made on the one Sergeant McCalmont's
3 'cause there was -- at that certain point when we
4 started getting hearsay and wouldn't have been
5 admissible under the rules so I just want to make
6 sure that we didn't go beyond what's been admitted.
7 I'm fine if he's using his copy. I just don't want
8 to go beyond.

9 THE COURT: I'm just assuming, Counsel,
10 that you guys had a conversation about, in discovery
11 process, about videos and he saw yours and you saw
12 his. That's not true?

13 MR. MILLER: I made all of mine available
14 and, but I have not seen everything in Defense
15 counsel's file or what, you know, he's gonna play in
16 the video, but I -- maybe ---

17 THE COURT: I'll be glad to send the jury
18 out and we can deal with that and look at the video.
19 Is that what -- is that what you desire,
20 Mr. Gambrell?

21 MR. GAMBRELL: I'm trying to use -- I
22 can -- I have a video player that I can use that
23 I'll just use to play the video.

24 THE COURT: Well, I think ---

25 MR. GAMBRELL: If you'll just ---

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1 THE COURT: Well.

2 MR. GAMBRELL: If I can beg the Court's
3 indulgence.

4 THE COURT: Ladies and gentlemen of the
5 jury, I'm gonna send you back to your jury room for
6 just a minute. I'll bring you back in in just a
7 second. Please, ma'am, please, sir, do not talk
8 about the case to each other. I'll bring you back
9 in in just a minute.

10 (WHEREUPON, the jury was removed from the
11 courtroom at 10:44 a.m.)

12 THE COURT: All right. So the video,
13 Mr. Gambrell, that you have, is it different than
14 the video that the State has? Is that what we're
15 ---

16 MR. GAMBRELL: There's, there's been
17 redacted as to the time and there's some ---

18 THE COURT: What is the video of what?
19 What are you -- what kind of video?

20 MR. GAMBRELL: It's at the scene. It's --
21 Mr. McCalmont's body-worn camera. I wasn't planning
22 on showing any audio. I won't play the audio. I
23 don't think that there is ---

24 THE COURT: So it's going to be different
25 than the body -- body cam from yesterday?

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1 MR. GAMBRELL: Well, I mean, I -- the part
2 that I would show is not gonna be different. My
3 version is a little bit longer 'cause they edited
4 theirs down for time, but I don't mind using theirs
5 as long as I get the same to work.

6 MR. MILLER: Judge, we didn't edit down
7 for time; we just muted it off.

8 THE COURT: Okay.

9 MR. MILLER: It still plays, but we just
10 muted off the end 'cause we just thought we got into
11 a lot of hearsay and ---

12 THE COURT: Yeah.

13 MR. MILLER: --- and some other people
14 talking, so we just cut it.

15 THE COURT: So your video, Mr. Gambrell,
16 is longer than the one the State had?

17 MR. GAMBRELL: Well, no. If they say they
18 didn't edit it down for time, then it's the same
19 one. It's the exact same one.

20 MR. MILLER: If he's not planning on
21 playing any audio, then I wouldn't really see any
22 issue with it 'cause the concern is how long the
23 audio would go.

24 MR. GAMBRELL: Yeah, I won't play ---

25 THE COURT: We're not playing any audio?

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1 MR. GAMBRELL: I don't need to play the
2 audio.

3 THE COURT: With the -- him not being --
4 playing any audio, the State's good with that?

5 MR. MILLER: Yes, sir, Your Honor.

6 THE COURT: Okay. All right, bring them
7 back.

8 (WHEREUPON, the jury was returned to the
9 courtroom at approximately 10:46 a.m., and the
10 following proceedings commenced in open court.)

11 THE COURT: All right, Mr. Gambrell.

12 MR. GAMBRELL: Thank you, Your Honor.

13 BY MR. GAMBRELL:

14 Q Sergeant Bailey, is this the video that
15 you were referring to from yesterday?

16 A Yes, sir.

17 Q And you recognize the people that are in
18 this frame?

19 A Braylon Morris and two other deputies who
20 I've seen before, but I don't know their names.

21 Q And is that Investigator King that just
22 came into the frame?

23 A Yes, sir, in the black shirt.

24 Q Is that him at the end that just came back
25 into the frame?

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1 A Yes, sir.

2 Q And you don't recognize who that is?

3 A No, sir.

4 Q Is that a body-worn camera that the
5 individual on the left is wearing?

6 A On the left?

7 Q Yes, sir, this deputy right here?

8 A Yes, sir.

9 Q And you don't recognize who that is?

10 A No, sir.

11 Q I think at this point is when that deputy
12 leaves the scene. At any time during that video,
13 did you see Investigator King have a conversation
14 with Mr. Morris?

15 A No, sir.

16 Q Okay. Did you review any other body-worn
17 camera video where it showed Investigator King
18 having a conversation with Mr. Morris?

19 A No, sir.

20 Q Did you review any body-cam video that
21 showed Investigator King getting Mr. Morris out of
22 that vehicle that he was already in?

23 A No, sir.

24 Q And did you review any video that showed
25 Investigator Morris putting him into that, or any

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1 other vehicle?

2 A No, sir.

3 Q Okay. Did you review the video of the
4 officer that you couldn't identify? Did you review
5 his body-cam video?

6 A I don't recall whether or not I looked at
7 that that was one of the videos I actually saw or
8 not.

9 Q If it was submitted to you, you would have
10 reviewed it?

11 A Not necessarily.

12 Q Okay. Even though it was a part of this
13 case?

14 A That's correct.

15 Q Okay. So you don't review all the
16 evidence that was submitted in the case?

17 A Not all of it.

18 Q Okay. You reviewed all the supplemental
19 reports that were written and given to you in this
20 case?

21 A Sir?

22 Q Did you -- do you review all the
23 supplemental reports that were written and given to
24 you in this case?

25 A I'm sure I received copies of them, yes,

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1 sir.

2 Q And you reviewed them?

3 A I would have eventually read them, yes.

4 Q Okay. Now you also spoke with a -- an
5 individual by the name of Stinson Ruth about this
6 case; did you not?

7 A I did.

8 Q Did you ever ask him for his telephone?

9 A I don't recall if I asked for a phone or
10 not.

11 Q Did you receive his phone?

12 A I'm not sure. I don't remember it. I
13 remember speaking with him, but I do not remember
14 getting any information about a phone.

15 Q Did you ever do a followup on his phone?

16 A I don't remember getting his phone.

17 Q Okay. So you don't -- you don't recall
18 him ever having his phone at all?

19 A Not that I can recall, no, sir.

20 Q Okay.

21 MR. GAMBRELL: That's all the questions I
22 have, Your Honor.

23 **REDIRECT EXAMINATION**

24 BY MR. MILLER:

25 Q Sergeant Bailey, how big is the Greenville

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1 County Sheriff's Office?

2 A Currently close -- probably close to 450,
3 500 sworn.

4 Q And does everybody who initially swears in
5 as a deputy stay with the Sheriff's Office their
6 whole career?

7 A No, sir.

8 Q Do you meet every deputy that is really
9 sworn in or ever sworn in?

10 A No, sir, the only -- the only deputies I
11 really meet is when I get called out to homicide
12 scenes, persons likely there.

13 Q And you, you don't control who is going to
14 respond to a scene, it'd be who's on duty, right?

15 A That's correct.

16 Q Okay. And we heard from Sergeant
17 McCalmont those body-worn cameras at the time they
18 had to be activated. Do you have any control or
19 knowledge of whether or not who had one on and had
20 the one activated?

21 A No, sir.

22 Q Okay. And you said that you did not
23 review all body-worn camera on here. Can you tell
24 the jury why not?

25 A Because in this particular case I was

1 actually in the store. I actually saw the raw video
2 footage myself. After seeing the raw video footage,
3 I actually went to where the deputies had
4 Mr. Braylon in the parking lot. After I went to the
5 parking lot you saw, Mr. Braylon, it wasn't a doubt
6 in my mind that it was the same person.

7 Q Okay. And when we watched -- we just
8 watched on Sergeant McCalmont's body-cam, was that
9 before you arrived at Long John Silver's?

10 A That would have been before, yes, sir.

11 Q Thank you.

12 **RECROSS-EXAMINATION**

13 BY MR. GAMBRELL:

14 Q Sergeant Bailey, you testified that you
15 don't know all the deputies but you do try to know
16 the ones that are working on your case?

17 A I eventually -- I eventually get state --
18 I get supplemental reports from everyone who was on
19 the scene; but to answer your question as to whether
20 or not I know every deputy that responds to a scene,
21 no, sir.

22 Q Okay. I'm sorry, I just lost my train of
23 thought.

24 MR. GAMBRELL: That's all the questions I
25 have, Judge. Thank you.

1 MR. MILLER: Nothing further from the
2 State, Your Honor.

3 THE COURT: All right. You can step down.
4 Take your time.

5 He's allowed to be excused if he wants to;
6 is that correct?

7 MR. MILLER: Yes, sir, Your Honor.

8 THE COURT: All right.

9 MR. MILLER: Your Honor, can we approach
10 for one second?

11 THE COURT: Yes.

12 (WHEREUPON, counsel approached the
13 bench for an off-the-record discussion.)

14 THE COURT: Mr. Miller.

15 MR. MILLER: Your Honor, at this time
16 Prosecution rests.

17 THE COURT: All right. Okay. Ladies and
18 gentlemen of the jury, we're going to do this. I
19 know it's just about maybe 10 minutes after 11. I'm
20 gonna give you early break, but you're gonna come
21 back a little earlier than you were -- hold on one
22 second. Come here.

23 (WHEREUPON, counsel approached the
24 bench for an off-the-record discussion.)

25 THE COURT: All right. Ladies and

1 gentlemen of the jury, we -- the State has rested
2 its case and it's possibly 10 minutes after 11. I
3 am going to give you what I deem is an extended
4 break and tell you to come back -- I don't want you
5 to get lost because it's -- I'm asking you to come
6 back at 2:00. That's a -- that's a long period of
7 time, 11 and 12, 12 and 1, 2. That's enough time to
8 drive down to Charleston, but I don't want you to do
9 that. I just want you to stay -- I want you to stay
10 local for me. So please, ma'am, and please, sir,
11 don't talk about the case. If you got an errand, a
12 couple of errands to run, go do that. If you want
13 to get your exercise in, get that in and then get
14 lunch in, so you got a lot of time to do a lot of
15 stuff. So I want you back in here at 2:00 if you
16 will, okay. All right, don't talk about the case.
17 See you at 2:00.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 11:11 a.m.)

20 THE COURT: All right. The Court will
21 hear any motions at this time.

22 MR. GAMBRELL: Judge, may it please the
23 Court. The Defense at this time would move for a
24 directed verdict in its favor. Obviously, the State
25 of its -- sufficiency of the evidence, any evidence.

1 Your Honor, you've the testimony from the witnesses
2 from the State. It would be our position that they
3 do not meet that standard, and we would simply move
4 for you to direct a verdict in Mr. Morris' favor.

5 THE COURT: Mr. Miller.

6 MR. MILLER: Your Honor, there's evidence
7 of the video of the murder that, I believe, speaks
8 for itself where the defendant shot the victim
9 twice, the second shot while the victim is laying
10 motionless on the ground, shot him in the head.
11 There is testimony from witnesses saying that the
12 victim was trying to get away. There is also the
13 bond hearing statements we just heard where the
14 defendant said "the reason why I murdered your son."
15 I believe that in the light viewed most favorable to
16 the State, we have met the burden of murder. And
17 also, on the video you can see that a firearm was
18 used, as well as the testimony from Dr. Wassum that
19 it was homicide by a gunshot wound so I believe we
20 also met the burden towards possession of a weapon
21 during the commission of a violent crime.

22 THE COURT: All right. I think there's
23 more than ample evidence for the submission of this
24 matter to the jury so I'm gonna deny your motion.

25 MR. GAMBRELL: Yes, sir, Your Honor.

1 THE COURT: All right, any other motions?
2 That's it?

3 MR. GAMBRELL: No, sir, not from the
4 Defense.

5 MR. MILLER: Not at this time from the
6 State.

7 THE COURT: Just, just administratively,
8 when we come back at 2:00 we'll -- you're gonna let
9 me know the position of the defendant at that time
10 ---

11 MR. GAMBRELL: Yes, sir.

12 THE COURT: --- and I'll address that
13 accordingly depending on what you tell me. The
14 other thing is, I want your office, Mr. Miller, to
15 prepare a verdict form because what I want to do is,
16 I want counsel to be prepared for this. We're
17 not -- I don't want to waste, you know, that's a bad
18 choice of words. I want to utilize the time very
19 wisely so when we come back after you've presented
20 your case, I want counsel to be ready to get going
21 to closing arguments when you -- is that gonna be a
22 stretch to ask you?

23 MR. MILLER: Your Honor, it would not be a
24 stretch to ask to go into close. I would, as we
25 spoke at the bench, if the State felt the need for

1 any rebuttal evidence ---

2 THE COURT: Yeah.

3 MR. MILLER: --- that that right would be
4 preserved.

5 THE COURT: Yeah. And, of course, that --
6 the record is so noted for that. But if there's
7 not, and would counsel be ready to get into closing
8 arguments or you need time to do that?

9 MR. MILLER: The most I would normally
10 need, just a few minutes if I needed to update
11 anything, but I'd be ready to go.

12 MR. GAMBRELL: Yes, sir, it's about 15
13 minutes usually just to make sure that I'm fine on
14 my notes.

15 THE COURT: All right. And we'll have --
16 we'll have a conversation about charges, you know,
17 at the appropriate time. Of course, you know, we'll
18 talk about that 'cause I think I understand that you
19 may ask for a charge and we may have to have a
20 discussion about the charges on both sides.

21 MR. MILLER: Yes, sir.

22 MR. GAMBRELL: Yes, sir.

23 MR. MILLER: We would request a charging
24 conference prior to close.

25 THE COURT: Yeah, we'll do that.

1 MR. MILLER: And also, we could -- the
2 jury's coming back at 2:00. Dependent upon whether
3 or not Mr. Morris decides to testify, I've talked to
4 Mr. Gambrell about this and we talked about it at
5 the hearing back in February. There is a portion of
6 the text messages which I object to, and I've gone
7 over this with Mr. Gambrell. I have provided
8 proposed -- the proposed redactions and also provide
9 a proposed copy of that to the Court. It would be
10 dependent upon if Mr. Morris decides to testify, but
11 it is taking out one statement and part of the
12 victim's testimony, we believe, would be
13 inappropriate at the appropriate time we need to
14 argue. I do have supporting case law, but I think
15 it would also open another door to cross-examination
16 for the State towards the defendant as well. And
17 I've reviewed all of this with Mr. Gambrell already
18 as to what that information would be. As well as
19 providing a copy of the proposed redaction.

20 THE COURT: All right, okay. All right,
21 we'll cross that bridge when we get to it so.
22 Anyway, we're going to be down until about 2:00.
23 I'll probably come back in here maybe about five
24 minutes, ten minutes till to see where we are, okay.
25 All right. Be at ease.

1 (Whereupon, a lunch break was taken.)

2 THE COURT: All right, let's go back on
3 the record. State v. Braylon Lamar Morris, this is
4 indictment, Indictment No. 2019-GS-23-007279.
5 Before lunch break, my understanding the State has
6 rested. The Court heard motions, a motion from the
7 Defense. Court respectfully denied the motion for
8 directed verdict. The Court notes for the record
9 any objections that the Defense had during the
10 course of the trial. That's noted for the record.
11 Same is noted for the State in the event there were
12 any objections noted for the record.

13 So before we bring the jury back,
14 Mr. Gambrell, let me ask you, have you made inquiry
15 of the defendant whether or not he will be
16 testifying on his own behalf?

17 MR. GAMBRELL: I have, Your Honor, and I
18 believe he does intend to do that. I think we would
19 like to put up one witness prior to that.

20 THE COURT: All right.

21 MR. GAMBRELL: May be a brief ---

22 THE COURT: And just for the record,
23 Mr. Gambrell, I'm assuming that you had a very
24 robust and thorough conversation with Mr. Morris
25 about testifying in his behalf understanding, and

1 you went over the risks and benefits of doing that
2 with him; is that correct?

3 MR. GAMBRELL: We've before talking about
4 it for months, Your Honor.

5 THE COURT: All right. So you feel
6 comfortable -- Mr. Morris, would you stand up for
7 me.

8 All right, your attorney has indicated on
9 the record that you have made a decision to testify
10 on your own behalf. Is that your decision? Is that
11 correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Did you make that decision
14 after consulting with your lawyer as often, as long
15 enough, as long as you wanted to?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you need any additional
18 time to speak with your lawyer about that decision?

19 THE DEFENDANT: No, sir.

20 THE COURT: So you're telling me in open
21 court that you weren't coerced in any manner by your
22 lawyer, you're completely satisfied with your
23 lawyer's services at this juncture in the case; is
24 that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You don't have any complaints
2 whatsoever to make against your lawyer?

3 THE DEFENDANT: No, sir.

4 THE COURT: All right. Okay, have a seat.

5 All right. We'll have a charging
6 conference at the appropriate, you know, at the
7 appropriate time. So you got one witness plus the
8 defendant, is that right, Mr. Gambrell?

9 MR. GAMBRELL: That's right, Judge, and
10 we're probably gonna have to have a pretrial hearing
11 on my witness's proposed testimony.

12 THE COURT: Do you want to do that now?

13 MR. GAMBRELL: We can do that now.

14 THE COURT: All right, tell me about it.
15 What's the witness's name?

16 MR. GAMBRELL: His name is Taylor Mobley.

17 THE COURT: What's the ---

18 MR. GAMBRELL: Tylor Mobley.

19 THE COURT: What's the issue?

20 MR. GAMBRELL: Well, he's prepared to
21 testify with regard to two things that we believe
22 are relevant. One would be a statement made by
23 Jason Dent -- Jason Deck, that we would be trying to
24 get under a disability -- under the hearsay
25 exception under 804(b) (3).

1 THE COURT: 804(b)(3).

2 MR. GAMBRELL: Yes, sir.

3 THE COURT: Let me get to that and then
4 we'll talk about it. All right, let me hear from
5 you.

6 MR. GAMBRELL: Mr. Mobley will testify
7 that sometime in the week of July 4th, 2019, that he
8 met with Mr. Deck to buy a TV and that they met at
9 the Walmart parking lot in Easley; and at that time
10 he, being Mr. Deck, told Mr. Mobley to tell Braylon
11 the next time that he sees him, that he was gonna
12 kill him and his family.

13 THE COURT: Repeat that again.

14 MR. GAMBRELL: Yes.

15 THE COURT: Repeat that statement again.

16 MR. GAMBRELL: Mr. Deck told Mr. Mobley to
17 tell Braylon that the next time that Mr. Deck saw
18 him, that he was gonna kill him and his family. And
19 it would be our contention that that statement comes
20 under the exception under (b)(3), which would be a
21 statement against interest, specifically criminal
22 liability interest or civil liability interest.

23 THE COURT: Let me read that into the
24 record, then I'm gonna hear from counsel. The
25 hearsay exception that you're asking the Court to

1 consider is 804(b) (3). (B) (3) states as follows: A
2 statement which was at the time of its making so far
3 contrary to the declarant's pecuniary or proprietary
4 interest or so far tended to subject the declarant
5 to civil or criminal liability or to render invalid
6 a claim by the declarant against another that a
7 reasonable person in the declarant's position would
8 not have made the statement unless believing it to
9 be true. A statement tending to expose a declarant
10 to criminal liability and offered to exculpate the
11 accused is not admissible unless corroborating
12 circumstances clearly indicate the trustworthiness
13 of the statement.

14 What do you say about that, Mr. Miller?

15 MR. MILLER: Your Honor, I don't think it
16 falls under 804(b) (3) at all.

17 THE COURT: I'm trying -- I'm trying to
18 see -- give me, give me, Mr. Gambrell -- I'll wait
19 till you turn around.

20 MR. GAMBRELL: Yes, sir, I'm listening.
21 I'm sorry.

22 THE COURT: Give me some more specificity
23 as to how that falls under 804(b) (3).

24 MR. GAMBRELL: Well, I ---

25 THE COURT: Take me on that road.

1 MR. GAMBRELL: No, our contention is that
2 it's a declaration against his interest that would
3 subject him either to civil or criminal liability,
4 the fact that he made a statement that he was gonna
5 kill someone we think.

6 MR. MILLER: Your Honor, just saying mere
7 worlds alone like that is not a crime, so it wasn't
8 exposed to criminal liability, and I just fail to
9 see how this fails under 804(b)(3). And, you know,
10 again, the rule you read is also under State v.
11 McDonald 343 SC 319.

12 THE COURT: All right.

13 MR. MILLER: That the statement exposed
14 the declarant to criminal liability. That statement
15 alone did not expose Mr. Deck, if it was even made,
16 to criminal liability by saying that to someone.
17 Essentially, that would mean that this statement
18 alone exposed you to getting arrested and charged
19 'cause that would be the exposure to criminal
20 liability that these words, this one statement on it
21 own, would lead to an arrest.

22 THE COURT: Uh-huh.

23 MR. MILLER: And I don't see how this, it
24 comes anywhere close to that bar.

25 THE COURT: Uh-huh. you got any case law

1 backing up what you said, Mr. Gambrell?

2 MR. GAMBRELL: I don't have the specific
3 on that.

4 MR. MILLER: And, Judge, I also say -- I
5 don't know when this statement came about but, you
6 know, we filed reciprocal discovery under Rule 5 a
7 long time ago in this case, and I also have a rule 5
8 objection for this as well.

9 MR. GAMBRELL: Well, here's the deal with
10 that, Judge. He recently contacted me.

11 THE COURT: Who?

12 MR. GAMBRELL: Mr. -- Mr. Mobley.

13 THE COURT: When?

14 MR. GAMBRELL: Within probably the last
15 month or so.

16 THE COURT: Did you let the State know?

17 MR. GAMBRELL: Well, at that time I hadn't
18 spoken with him. It took me a while to ---

19 THE COURT: When did you speak with him?

20 MR. GAMBRELL: I spoke with him fully this
21 week.

22 MR. MILLER: And Judge, this will be the
23 first I'm hearing about it is right before they're
24 about to start their case.

25 THE COURT: You didn't let the State -- I

1 mean, you talk -- you talked to him this week, why
2 didn't you let the State know that?

3 MR. GAMBRELL: Well, I mean, we put him on
4 our witness list, Judge. I hadn't had a chance to
5 thoroughly vet everything that he was potentially
6 gonna say 'cause I didn't have a chance to meet with
7 him fully.

8 THE COURT: This case has been -- this
9 case has been pending for quite some time.

10 MR. GAMBRELL: In fact, we just met -- we
11 more recently as of this afternoon. I just met with
12 him in my office a couple of days ---

13 THE COURT: Even though this case has been
14 pending for all this time, and this is the first
15 time many you met with this Mr. Mobley. You know
16 this case has been pending for --

17 MR. GAMBRELL: We've talked ---

18 THE COURT: --- several months.

19 MR. GAMBRELL: ---a few times, but yeah, I
20 wouldn't -- I wouldn't have wanted -- I put him on
21 the witness list as a potential witness in case we
22 needed him. But I have spoken to him on the phone
23 prior, we just haven't had -- out schedules would
24 never matched up to be able to meet.

25 THE COURT: In several months your

1 schedule wasn't able to met? Mr. Gambrell, that's
2 hard to believe.

3 MR. GAMBRELL: Well, just in the last
4 month-and-a-half. Judge, this is the fourth circuit
5 court jury trial I've had this year.

6 THE COURT: I understand that, but that's
7 unacceptable Mr. Gambrell. I don't believe that.
8 I'm not gonna believe that you didn't have time to
9 talk to this gentleman in all these months. You
10 know, that's -- that's not believable.

11 MR. GAMBRELL: We talked on the phone; we
12 did.

13 THE COURT: Yeah, but I'm think-- but
14 here's, here's the thing. We don't -- I don't --
15 from the State or Defense perspective, I don't -- I
16 don't like trial by ambush when you come in with a
17 witness that, you know, the State hadn't had the
18 opportunity to vet. You vetted him, but the State
19 hadn't. Apparently you said you vetted him in the
20 last week. They don't know anything about this guy.
21 Let me ask you this, let me flip the shoes. The
22 State presents a witness the day of trial, you
23 didn't know anything about it, what would you be
24 doing? What would you be doing? Let's flip the
25 script. They present a witness that you didn't know

1 anything about until the day of trial. What would
2 you be doing?

3 MR. GAMBRELL: Well, I'm not sure they're
4 required to give me their witness list before trial.

5 THE COURT: I didn't ask you that. I said
6 what would you be doing?

7 MR. GAMBRELL: I -- some of the ones on
8 the witness that I don't -- I didn't know anything
9 about.

10 THE COURT: And you still didn't answer my
11 question. What would you be doing? You know what
12 you'd be doing.

13 MR. GAMBRELL: I'll be trying my case.

14 THE COURT: Well, you'd be arguing that
15 the fact that they provided this witness and you
16 didn't have an opportunity to defend-- to vet the
17 witness. That's what you'd be doing. That's the
18 truth of the matter.

19 MR. GAMBRELL: I've never gotten a witness
20 list prior to trial in any criminal case that I
21 defended. We always get the witness list the day of
22 trial. We try to anticipate which witnesses they're
23 gonna call. But if they -- I try my case whatever
24 list they give.

25 THE COURT: Well, I hear you,

1 Mr. Gambrell, but it's certainly hard for me to
2 fathom that you wouldn't have had opportunity to
3 talk to this witness ahead of time and provide the
4 name of that witness to the State. It's hard for me
5 to fathom that.

6 MR. GAMBRELL: They don't provide that to
7 me, Judge.

8 MR. MILLER: Judge, I would say that the
9 names on the witness list came from the file
10 provided in discovery. This is completely different
11 because this name is nowhere in any of the
12 discoverable materials. The first time I knew of
13 this name is on the witness list and the first time
14 I knew, I guess, part of the possible testimony
15 would be right now. That is completely different
16 than we provided a potential witness list when ours
17 come from discoverable materials that were
18 originally provided to Defense's first counsel who
19 was not Mr. Gambrell back in 2019.

20 THE COURT: And Mr. Gambrell, we had a
21 stand-your-ground hearing. You didn't bring this
22 name up at the stand-your-ground hearing.

23 MR. GAMBRELL: I had not talked to
24 Mr. Mobley at that time, Your Honor.

25 MR. MILLER: And Judge, I would also add

1 under the Rule 804 part, that statement has to be
2 able to corroborated as another part under
3 804(b) (3). And I'm looking at statement tending to
4 expose declarant criminal liability offer to
5 exculpate the accused is not admissible unless
6 corroborating circumstances clearly indicate a
7 trustworthiness of the statement. The cite on that
8 is State v. Staten, S-T-A-T-E-N, 364 SC 7.

9 THE COURT: Get that -- read the cite
10 again.

11 MR. MILLER: That will be 364 SC 7, 610
12 S.E. 2d, 823 -- I have that as an Appellate Court
13 decision in 2005. I believe this part is still good
14 case law. As part of the case was they gave -- now
15 part, the cite for that is 374 SC 9 and that's 2007
16 from the Supreme Court.

17 MR. GAMBRELL: Well, Judge ---

18 MR. MILLER: And also, State v. Wannamaker
19 346 SC 495, a 2001 Supreme Court case. And that is,
20 again, 346 SC 495. And then State v. Kinloch,
21 K-I-N-L-O-C-H, 338 SC 385, a 2000 case, state the
22 same thing, Your Honor. So I still have issue with
23 it under Rule 5. I have issue with it meeting bar
24 corroborating under Rule 804. Judge, it ---

25 MR. GAMBRELL: And I'm reading it's Rule 5

1 right now, Judge. Where does it say in Rule 5 that
2 I'm required to disclose the names of the witnesses
3 that I intend to use. It says under (b) (1) (a) the
4 disclosure by evidence by the defendant, documents
5 and tangible objects. Under (b), it's reports of
6 examinations and tests.

7 THE COURT: With the corroborating
8 circumstances, Mr. Gambrell.

9 MR. GAMBRELL: Sir?

10 THE COURT: The corroborating
11 circumstances that's required under ---

12 MR. GAMBRELL: I think that ---

13 THE COURT: --- 340 (b) (3) .

14 MR. GAMBRELL: That that goes to -- and
15 just give me a second, Judge. Let me pull that rule
16 back up please.

17 THE COURT: It says the State intending to
18 expose a declarant to criminal liability and offered
19 to exculpate the accused is not admissible unless
20 corroborating circumstances could indicate the
21 trustworthiness of the statement.

22 MR. GAMBRELL: Well, and I would say that
23 I'm not, you know, ---

24 THE COURT: I'm just asking you what the
25 corroborating circumstance are ---

1 MR. GAMBRELL: Right, but I'm not sure ---

2 THE COURT: --- pursuant to the rule.

3 MR. GAMBRELL: --- that specifically
4 applies, but you know mit doesn't completely
5 exculpate my client. It's just -- and it's ---

6 THE COURT: So you're saying the rule
7 doesn't apply?

8 MR. GAMBRELL: That particular part of the
9 rule. I mean, I think if there is a statement ---

10 THE COURT: So part of the rule applies
11 and part of the rule doesn't apply. You can't have
12 it both ways.

13 MR. GAMBRELL: Well, it doesn't say it
14 tends to exculpate; it says that it has to
15 exculpate.

16 THE COURT: That's -- my question is,
17 though, Mr. Gambrell, is it says that it's not
18 admissible unless corroborating circumstances
19 clearly indicate -- and I'm just trying to figure
20 out what's the corroborating circumstances that
21 you're able to proffer at this time?

22 MR. GAMBRELL: Well, I -- and I can't
23 think of any off the top of my head, Judge, because
24 I don't ---

25 THE COURT: Because you got to have -- but

1 you got to have that to comply with the rule.

2 MR. GAMBRELL: Well, that particular part
3 of the rule.

4 THE COURT: But you're relying on the rule
5 from this exception. You cited this exception.

6 MR. GAMBRELL: There's multiple parts of
7 that (b) (3) .

8 THE COURT: But Mr. ---

9 MR. GAMBRELL: It can be -- it can be a
10 statement against pecuniary interest, proprietary
11 interest, and then it goes on to say a statement
12 tending to expose the declarant to criminal
13 liability and offer to exculpate the accused. And
14 I'm saying that this statement doesn't
15 necessarily -- I mean, it could be exculpatory. It
16 certainly lends towards his defense, but it doesn't
17 necessarily exculpate Mr. Braylon entirely.

18 THE COURT: So what is it being offered
19 for?

20 MR. GAMBRELL: It's being offered to
21 corroborate his testimony, first of all.

22 THE COURT: But you don't have any
23 corroborating ---

24 MR. MILLER: Judge, that's witness
25 bolstering. And also, the corroborating -- it

1 states under Kinloch, it's not exculpatory and it
2 wouldn't be relevant under 401. Then there's
3 nothing to corroborate the circumstances that fails
4 under 804 and the surrounding case law which
5 includes Kinloch, State v. Kinloch as we cited
6 earlier, 338 SC 385. That is, however, offered to
7 exculpate the accused in a criminal trial they're
8 admissible only if corroborating evidence clearly
9 indicates the trustworthiness of the statement.

10 THE COURT: And that's, and that's where I
11 am because that's the -- that's the bedrock of that
12 particular rule, the last sentence, Mr. Gambrell. I
13 still don't think you can get around that portion of
14 the rule even though you're relying on the first
15 portion of the rule; but I don't think you can get
16 around that portion 'cause you don't -- you just
17 told me a minute ago you don't have any, or
18 Defendant doesn't have any.

19 MR. GAMBRELL: Well, this is a
20 conversation that took place in a parking lot of a
21 Walmart. I mean, I don't know how I can corroborate
22 that.

23 THE COURT: Well, if you can't, you can't,
24 and then you can't -- you can't rely on the rule.

25 MR. GAMBRELL: All I can offer is ask that

1 the Court allow us to make a proffer of his
2 testimony for the record.

3 THE COURT: I'll reserve my ruling and let
4 you do that. I'm just interested to see what the
5 witness will say, but I'm just saying my inclination
6 right now is that it's not exception under
7 804(b) (3) .

8 MR. GAMBRELL: I understand that.

9 THE COURT: But I'm, you know, to be fair
10 I'll let you put him up and let me see.

11 MR. GAMBRELL: The other statement that we
12 would -- testimony that we would try to have Mr.
13 Mobley testify to would be under Rule 406, habit of
14 a person. That comes from State v. Brown.

15 THE COURT: All right. Rule 406, habit,
16 routine practice: Evidence of a habit of a person
17 or of the routine practice of an organization,
18 whether corroborated or not, and regardless of the
19 presence of eyewitnesses is relevant to prove that
20 the conduct of the person or organization on a
21 particular occasion was in conformity with the habit
22 or routine practice. Tell me how you, how you
23 relate it to. Mr. Mobley is going to testify to
24 what?

25 MR. GAMBRELL: Just a second, Judge. I'm

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1 rereading that as you just said. Actually, he's not
2 gonna be able to testify to that.

3 THE COURT: I don't think this rule
4 applies.

5 MR. GAMBRELL: In the circumstances ---

6 THE COURT: Yeah, I don't think this rule
7 applies in this setting.

8 MR. GAMBRELL: Yeah.

9 THE COURT: No, not in this setting.

10 MR. GAMBRELL: Not under these facts.

11 THE COURT: No.

12 MR. GAMBRELL: But, you know, I would
13 actually have to -- ask him to be able to proffer to
14 the statement that was made to him.

15 THE COURT: Under 804(b) (3)?

16 MR. GAMBRELL: Correct.

17 THE COURT: I'll let you proffer that.
18 Let's see, you got him here?

19 MR. GAMBRELL: Yeah.

20 THE COURT: Bring him out, let's see.

21 MR. GAMBRELL: He was supposed to be here.

22 THE COURT: But I'll -- you understand
23 I'm gonna let you do it but just see, see where it
24 goes.

25 MR. GAMBRELL: Okay.

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1 THE COURT: State will have an opportunity
2 to cross-examine. Bring him in.

3 (Pause.)

4 THE COURT: Sir, come forward.

5 THE CLERK: If you would, stop here at the
6 Bench. Place your left hand on the Bible, raise
7 your right hand.

8 WHEREUPON,

9 **TYLOR MOBLEY,**
10 having been duly sworn by the clerk, testified
11 as follows:

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

13 THE COURT: All right. Let the record
14 reflect, this is proffered testimony subject to
15 cross-examination by the State. We'll ---

16 THE CLERK: And please state your full
17 name for the record.

18 THE WITNESS: Okay. My name is Tylor
19 Allen Mobley.

20 THE COURT: All right, you can begin the
21 proffer right now. Go ahead.

22 MR. GAMBRELL: Thank you, Your Honor. May
23 it please the Court.

24 **P R O F F E R E X A M I N A T I O N**

25 BY MR. GAMBRELL:

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1 Q Mr. Mobley, how old are you?

2 A I am 31.

3 Q And where are you from?

4 A I am born, raised in Simpsonville.

5 Q How far did you go in school?

6 A Till the eleventh grade, but I'm about to
7 get my GED. I just got to complete math.

8 Q Where do you work?

9 A I work at Dolvalene (ph) Instant Wool.

10 Q And how long have you worked there?

11 A I think four months.

12 Q Okay. And how do you know Braylon Morris?

13 A I met him through a friend of mine.

14 Q And what was your relationship with
15 Braylon?

16 A We were just friends, you know, friends
17 and, you know, sometimes I got stuff from him.

18 Q And you're here to tell the truth so when
19 you say "stuff," what are you referring to?

20 A Drugs.

21 Q Okay.

22 A Yes.

23 Q And how old -- when did you meet him?

24 A When did I meet him? Probably, let me
25 see. Two or three years before 2019, maybe even

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1 longer than that, maybe four. I can't remember
2 exactly.

3 Q So maybe 2016, 2017?

4 A 2017.

5 Q Okay. And do you know Mr. Michael Jason
6 Deck?

7 A Well, I met him through a friend, Ethan
8 Long. He has since passed away; but I've only met
9 Michael Deck maybe a handful of times, five.

10 Q And how long had you -- how long had you
11 known him?

12 A Michael Deck?

13 Q Yes.

14 A Maybe a year-and-a-half before 2019.

15 Q Okay. And then you had met him the week
16 of July 4, 2019; is that correct?

17 A Yes.

18 Q And tell me about that.

19 A Well, I heard he had a TV for sale, and I
20 needed one for my apartment and so I met up with him
21 and bought the TV.

22 Q Where did you go?

23 A Where did I go? I think Walmart on
24 Walmart in Easley or White Horse. I think Easley.

25 Q And what were you going to -- you were

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1 gonna buy a TV or he was buying a TV from you?

2 A I was gonna buy a TV. I bought the TV.

3 Q I gotcha. And did he, in fact, meet you
4 there?

5 A Yes.

6 Q And tell me about that exchange.

7 A We just talked for a minute and, you know,
8 I bought the TV from him for, like, I think \$60.
9 And then he started telling me that him and Braylon
10 ---

11 MR. MILLER: Your Honor ---

12 THE WITNESS: --- had some ---

13 THE STATE: I'm gonna ---

14 THE COURT: Hold, hold.

15 MR. MILLER: I'm gonna object. I know
16 we're here for proffer, but I'm objecting under
17 hearsay as to what he is saying.

18 THE COURT: Well, I'm gonna sustain the
19 objection. You know, he ---

20 THE WITNESS: Okay. So I don't
21 understand.

22 MR. GAMBRELL: We're simply offering it
23 for the -- for the proffer, Judge. I understand
24 your ruling, but I would like ---

25 THE COURT: He's going to say what

SW - T. MOBLEY - PROFFER

1 somebody else said?

2 MR. GAMBRELL: Yeah. And I -- we're
3 asking for that to be allowed under that hearsay
4 exception. I understand that your ruling is to not
5 allow it, but for the ---

6 THE COURT: I hadn't ruled yet.

7 MR. GAMBRELL: --- in order to protect the
8 record.

9 THE COURT: I -- Mr. Miller, what do you?

10 MR. MILLER: He would have to lay the
11 foundation for an exception before he can say what
12 somebody else said.

13 THE COURT: You want to lay the foundation
14 and get into your question.

15 MR. GAMBRELL: I'm simply doing this to
16 protect the record 'cause I understand you're not
17 gonna allow it in front of the jury.

18 THE COURT: Well, I mean, I hadn't ruled
19 yet. I hadn't made a decision yet, but I'm allowing
20 you to proffer to see whether that is going to
21 change my mind.

22 MR. GAMBRELL: Well, Judge, this goes back
23 to what I'd already ---

24 THE COURT: Go ahead and ask the question.
25 I'm gonna let you ask the question. Go ahead and

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1 ask the question you were getting ready to ask.

2 BY MR. GAMBRELL:

3 Q You had a conversation with Mr. Deck?

4 A Yes. After I bought the TV we hung around
5 the car for maybe five minutes and I can't ---

6 Q Let me ask you this.

7 A Yes.

8 Q Did he -- did you know that he knew
9 Braylon?

10 A Yes.

11 Q And did you know that he -- you can go
12 ahead.

13 A Yes.

14 MR. MILLER: Your Honor, that's gonna be
15 speculation. He's asking what he knew he knew. I
16 mean, he's ---

17 MR. GAMBRELL: Had y'all ---

18 MR. MILLER: --- gotta lay more foundation
19 to get through speculation for that.

20 THE COURT: All right, rephrase your
21 question.

22 BY MR. GAMBRELL:

23 Q Had y'all talked about Braylon before?

24 A Yes.

25 Q Okay. And then what ---

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1 A Well, actually, let me take that back.
2 We talked to him about that day, about ---

3 Q That's the first time you talked to him
4 about it?

5 A Yes.

6 Q Okay. And what did he say to you?

7 MR. MILLER: Your Honor, again, he's got
8 to lay the foundation under hearsay exception. I
9 understand we're here for proffer.

10 THE COURT: He say he talked to him one
11 time, Mr. Gambrell. I think that's what he said.

12 THE WITNESS: Yes. Well, about Braylon
13 that one time when I bought the TV.

14 THE COURT: So that -- what -- where are
15 you going with this?

16 MR. GAMBRELL: I'm simply asking for
17 purposes of protecting the record would he be
18 allowed to testify as to what he would testify if
19 you were gonna allow it in under the exception. I
20 that you're not.

21 THE COURT: All right. What's your next
22 question? Go ahead.

23 BY MR. GAMBRELL:

24 Q My next question is, what did he tell you?

25 A Well, pretty much he told me that Braylon

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1 and him had some sort of beef. He didn't tell me
2 exactly what it was, but he did tell me that next
3 time he saw Braylon that he was gonna hurt him and
4 his family.

5 Q And how long -- how much longer did you
6 stay with him after that?

7 A After that maybe a minute and then I got
8 in my car and left.

9 Q And then what, what did you do after that?

10 A Well, ---

11 Q Did you ever convey that information to
12 anybody else?

13 A I did not, no.

14 Q Okay.

15 A Well, I did tell Braylon, excuse me. Yes,
16 I did tell Braylon what he said.

17 Q And do you remember when that was?

18 A That day when I bought the TV.

19 Q And when after that, did you speak to
20 Braylon at all, if at all?

21 A If at all? Well, after that, I mean, I
22 don't think I talked to him again ---

23 Q Okay.

24 A --- because shortly after that, you know,
25 whatever happened happened.