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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TREVOR ANTHONY IRVIN,

APPELLANT

APPELLATE CASE NO. 2023-001075

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #65-67 (SURVEILLANCE VIDEOS)**

1 Q. And at any point, you -- well, let me ask you
2 this, you know Mr. Jones had a gun out there that day, didn't
3 -- I mean Mr. Irvin had a gun out there that day, didn't you?

4 A. Yes, ma'am.

5 Q. And you knew that because he was flashing it
6 wasn't he?

7 A. No, ma'am. He carries a gun every day.

8 Q. Okay. And on this day he was flashing it towards
9 Mr. Jones when he would come over there, wasn't he?

10 A. I never seen him pull out his gun on no day.

11 Q. Did you see him pull up his shirt towards Mr.
12 Jones?

13 A. No, ma'am.

14 Q. Did you see him point at the gun when Mr. Jones
15 was over there?

16 A. No, ma'am.

17 Q. So you didn't see anything that Mr. Irving was
18 doing, did you?

19 A. Not aggressive towards him. No, ma'am.

20 Q. So all your attention on -- was on what? Ms. --
21 was -- Mary was doing? Or Mr. Jones was doing; is that your
22 testimony?

23 A. I was watching both of them.

24 Q. But you wasn't watching Island Boy?

25 A. Yes, ma'am.

1 Q. And you wasn't there when the shooting occurred,
2 were you?

3 A. No, ma'am.

4 Q. But you heard about it, didn't you?

5 A. Yes, ma'am.

6 Q. And isn't it true you and Super Dave rode by the
7 parking lot after the shooting?

8 A. Yes, ma'am.

9 Q. And you saw law enforcement there, didn't you?

10 A. Yes, ma'am.

11 Q. And you didn't bother to stop and tell them what
12 you've testified to today, did you?

13 A. No, ma'am.

14 Q. And even after that day, you didn't bother to tell
15 law enforcement anything that you testified today?

16 A. I went to his lawyer's office.

17 Q. To his lawyer's office? Mr. Mobley's office?

18 A. Yes -- yes, ma'am.

19 Q. And when did you go and talk to him?

20 A. I'm not sure exactly.

21 Q. Was it before this week?

22 A. Yes, ma'am.

23 Q. Was it before he was incarcerated?

24 A. Yes, ma'am.

25 Q. And you gave him a statement?

1 A. Talking about after the incident happened?

2 Q. Yes.

3 A. Yes, ma'am. It was after the incident happened.

4 Q. So you told his attorney the aggressive behavior
5 that you witnessed from Mr. Jones and Mary in the parking lot
6 on June 24, 2021?

7 A. Yes, ma'am.

8 Q. Right after this happened?

9 A. Yes, ma'am.

10 MS. PATTERSON: Beg the Court's indulgence. Your
11 Honor, may we approach?

12 THE COURT: Sure.

13 We're -- we're going to step outside. We will return.
14 Wait a minute. Do we need to -- somebody needs to take a
15 break? You all wait just a minute. I'm going to let the
16 jury -- one goes, we all go. We're going to take a 15 minute
17 break. I need to take up a matter with the attorneys.

18 All right. Let me ask, can I let this witness off the
19 stand while we discuss this?

20 MR. MOBLEY: Sure, Your Honor.

21 MS. PATTERSON: Yes, ma'am.

22 THE COURT: Okay. I'm going to let you off the stand,
23 Mr. Jones. That doesn't mean you're excused yet. I'm just
24 going to put you in the back. All right. Let me hear from,
25 Ms. Patterson.

1 MS. PATTERSON: Yes, ma'am. Reciprocal Rule 5 was
2 filed in this case, Your Honor. If Mr. Jones went to Mr.
3 Mobley's office sometimes -- sometime in 2021, right after
4 this happened and provided him with a statement, we are
5 entitled to at least a summary of that report, even if he
6 didn't give a written statement. And certainly now that he
7 has called him as a witness, I need that information in order
8 to properly and thoroughly impeach him on information that he
9 may have reported at that time, but that he's now testifying
10 differently to on this day.

11 THE COURT: Okay. On the Reciprocal Rule 5, let me
12 hear from you, Mr. Mobley.

13 MR. MOBLEY: Well, Your Honor, I mean, and I don't have
14 a copy with me, but Rule 5 states I have got to disclose
15 documents and tangible evidence that I plan introducing my
16 case in chief, none of which I have. And that's regarding
17 this witness. And it does discuss reports regarding experts.
18 He's not an expert. He's a fact witness that came to my
19 office and -- and met with us. And I took notes of my
20 conversation with that individual. Did not entitled to that.

21 THE COURT: Anything else, Ms. Patterson?

22 MS. PATTERSON: Nothing that I haven't already stated,
23 Your Honor. I think Reciprocal Rule 5 entitled as to a
24 summary of that conversation that he had with him, now that
25 he is a witness, and has been called as a witness.

1 THE COURT: He doesn't have a summary, that's his
2 testimony.

3 MS. PATTERSON: Well, he should have provided us with a
4 summary.

5 THE COURT: Okay. But he doesn't have one. Anything
6 else?

7 MR. MOBLEY: Your Honor ---

8 MS. PATTERSON: Beg the Court's indulgence.

9 THE COURT: All right. Do I need to ---

10 MS. PATTERSON: Nothing.

11 THE COURT: Okay. I'm going to put Mr. Jones back on
12 stand. Do you have any redirect, Mr. Mobley?

13 MR. MOBLEY: Yes, Your Honor.

14 MS. PATTERSON: Oh, I'm not finished. I have a couple
15 more questions.

16 THE COURT: You're not finished?

17 MS. PATTERSON: Yes.

18 THE COURT: Okay. We're going to put Mr. Jones back
19 in. Do you all need a quick break right quick?

20 MS. PATTERSON: Yeah.

21 THE COURT: Okay. Let's take -- also everybody, I know
22 the jury needed a break. Let's take a quick 10 minute break.
23 We'll come back, put Mr. Jones on the stand, and we'll
24 continue.

25 (Off the record.)

1 THE COURT: Ready.

2 MS. PATTERSON: State's ready.

3 MR. MOBLEY: Yes, Your Honor.

4 THE COURT: Let's bring the jury back in. All right,
5 Mr. Foreman, Jury ready?

6 THE FOREMAN: Yes, ma'am.

7 THE COURT: Please be seated. Mr. Jones, I want to
8 remind you, you're still under oath. All right, Ms.
9 Patterson.

10 MS. PATTERSON: Thank you.

11 BY MS. PATTERSON:

12 Q. Mr. Jones. Just let me be clear, your testimony
13 is you never saw Trevor Irvin shadow boxing over there by
14 your car?

15 A. No, ma'am.

16 Q. You never saw him slapping his face or making
17 motions towards Mr. Jones?

18 A. No, ma'am.

19 Q. And when he was standing on top of your red SUV,
20 you never saw him holding his arms up?

21 A. No, ma'am.

22 Q. Okay. And you say that you knew he had a gun out
23 there that day, correct?

24 A. Yes, ma'am.

25 Q. Because you said he always carried his gun, didn't

1 he?

2 A. Yes, ma'am.

3 Q. And he made it known to people that he had a gun,
4 didn't he?

5 A. I don't know if the plant -- people inside the
6 plant knew that he had a gun.

7 Q. What? He carry his gun inside the plant?

8 A. I mean, I rode with him occasionally, so I always
9 know he kept his -- his firearm with him.

10 Q. Okay. Did he have it while he worked inside the
11 plant?

12 A. Some days.

13 Q. Some days. In fact, he bragged about having a
14 gun, didn't he?

15 A. I'm not going to say brag. He -- I'm not going to
16 say he bragged about having a gun. No, ma'am.

17 Q. But he would tell people he had a gun, didn't he?

18 A. Yes. I mean, people that was in his circle knew
19 that he had a gun. Yes, ma'am.

20 Q. And he would brag about having a CWP, wouldn't he?

21 A. I wouldn't say brag.

22 Q. But he told people he had a CWP, didn't he?

23 A. People knew that he had a permit to carry.

24 Q. Okay. And he would tell people that he could have
25 a free body because of the CWP, didn't he?

1 A. No, ma'am.

2 Q. You never heard him say that?

3 A. No, ma'am.

4 Q. And again, when you rode by and you saw all those
5 law enforcement cars out there in the parking lot, you never
6 stopped and told them what you just had saw, your friend
7 being threatened by Mary and Mr. Jones, did you?

8 A. No, ma'am, because I wasn't there for the
9 incident.

10 Q. But you never told them what you saw prior to you
11 leaving, did you?

12 A. No, ma'am.

13 Q. You didn't think that was important for them? No?

14 A. Not at the time. I didn't -- I wasn't thinking
15 about it.

16 Q. Okay. You didn't find it important until you went
17 and talked to Mr. Mobley, did you?

18 A. Yes, ma'am. I mean, all of the supervisor at the
19 job was saying that you all should go and let them -- let his
20 lawyer know.

21 Q. Okay. And they also told you, you should go and
22 let law enforcement know, didn't they?

23 A. No, ma'am.

24 Q. They didn't encourage you to talk to law
25 enforcement about what you knew?

1 A. No, ma'am.

2 MS. PATTERSON: No further questions.

3 THE COURT: Okay. Mr. Mobley, any redirect?

4 MR. MOBLEY: Just briefly, Your Honor.

5 RE-DIRECT EXAMINATION

6 BY MR. MOBLEY:

7 Q. Ms. Patterson asked you about the -- the
8 conversation, the back and forth between Daniel Fresh and Mr.
9 Irvin after they got back from the parking lot -- I mean the
10 -- the gas station. And what did you say Fresh said, do you
11 ---

12 MS. PATTERSON: Objection.

13 MR. MOBLEY: He already testified to it.

14 MS. PATTERSON: Objection.

15 MR. MOBLEY: In response to her question.

16 THE COURT: What's the objection?

17 MS. PATTERSON: Hearsay.

18 MR. MOBLEY: He testified to it under her direct, but
19 she can object to it. He testified to it. It's in the
20 record.

21 THE COURT: Well, let me hear the question first.

22 BY MR. MOBLEY:

23 Q. When you observed the conversation and the
24 statements that Fresh was making toward Trevor, did Fresh
25 make a statement regarding the gas station?

1 A. Yeah, he said that I spit in your face ---

2 MS. PATTERSON: Objection. Objection.

3 MR. MOBLEY: He said that on direct and it was in
4 evidence already. I'm repeating -- I'm repeating what's in
5 evidence.

6 THE COURT: Well, then you're going to have to find
7 another way to say it because that is hearsay.

8 MR. MOBLEY: All right, Your Honor ---

9 THE COURT: --- tell the jury to disregard.

10 BY MR. MOBLEY:

11 Q. Now, she asked you about Mr. Irvin carrying a
12 handgun at work -- to the job. Was he the only person that
13 carried a handgun? That -- that worked that carried a
14 handgun?

15 A. No, sir.

16 Q. Did other employees carry firearms?

17 A. Multiple employees on the line had guns and
18 knives.

19 Q. Okay. And this happened in June of 2021, about
20 two years ago. Have you had any conversation with Trevor
21 Irvin since then?

22 A. No, sir.

23 Q. He hadn't come visit you in jail?

24 A. No, sir.

25 MR. MOBLEY: Okay.

1 THE COURT: Thank you, Mr. Mobley. Anything else?

2 MS. PATTERSON: Nothing from the State.

3 THE COURT: Okay. May I let -- and excuse Mr. Jones?

4 MR. MOBLEY: Yes, Your Honor.

5 THE COURT: Mr. Jones, thank you.

6 MR. MOBLEY: At this time the Defense call Ms. Sabrina
7 Buteler.

8 THE COURT: Okay.

9 THE CLERK: Would you please raise your right hand and
10 place your left on the Bible.

11 SABRINA BUTELER,
12 being first duly sworn, testifies as follows:

13 THE CLERK: Thank you. Would you please have a seat in
14 the witness box. State your full name and spell your last
15 for the record.

16 THE WITNESS: Sabrina Patrice Buteler, B-U-T-E-L-E-R.

17 DIRECT EXAMINATION

18 BY MR. MOBLEY:

19 Q. Good morning, ma'am.

20 A. Good morning.

21 Q. And Ms. Buteler, where are you employed?

22 A. Columbia Farms House of Raeford.

23 Q. Okay. And how long have you been working there?

24 A. For about 11 years.

25 Q. In what capacity, ma'am?

1 A. I am the second processing manager.

2 Q. Okay. Would that be a supervisory position?

3 A. Manager over the department.

4 Q. Okay. And were you working there in June of 2021?

5 A. Yes.

6 Q. Okay. Now, were you working there when there was
7 an incident and a shooting related to the death of Daniel
8 Jones?

9 A. Yes.

10 Q. Do you know Daniel Jones?

11 A. Yes.

12 Q. Okay. And what'd you know him as?

13 A. He was one of my shoulder cutter.

14 Q. Okay. Do you know him by another name?

15 A. Fresh.

16 Q. Okay. Do you normally call him Fresh or Daniel?

17 A. Fresh.

18 Q. Okay. And was Mr. Irvin working there at the same
19 time?

20 A. Yes.

21 Q. Okay. And at the time did, did Fresh have a
22 girlfriend?

23 A. Yes.

24 Q. What was her name?

25 A. Mary.

1 Q. Okay. Was she working there?

2 A. Yes.

3 Q. Okay. And was an individual by the name of Stacey
4 Jameson (ph) working there?

5 A. Yes.

6 Q. Okay. Now, do you recall whether or not you were
7 working on the day of the shooting?

8 A. Say that again.

9 Q. Now, were you working on the day of the shooting?

10 A. Yes.

11 Q. Okay. So on that day, did you receive any reports
12 from Mary Geiger that Trevor Irvin had threatened to do harm
13 or to shoot her boyfriend?

14 A. No.

15 Q. Okay. Did you receive any reports from Stacey
16 Jameson that Trevor Irvin had threatened to shoot or do harm
17 to -- to Fresh?

18 A. No.

19 MR. MOBLEY: Okay. That's all I have.

20 THE COURT: Ms. Patterson.

21 MS. PATTERSON: No questions, Your Honor.

22 THE COURT: Okay. Now, let Ms. Buteler be excused
23 then.

24 MR. MOBLEY: Yes, Your Honor.

25 THE COURT: Ms. Buteler, thank you for coming. You may

1 be excused.

2 THE WITNESS: Thank you.

3 THE COURT: You may call your next witness.

4 MR. MOBLEY: All right. All right. This time the
5 Defense calls Trevor Irvin.

6 THE CLERK: Please raise your right hand and place your
7 left on the Bible.

8 TREVOR IRVIN,
9 being first duly sworn, testifies as follows:

10 THE CLERK: Thank you. Would you please have a seat in
11 the witness box. State your full name and spell your last
12 for the record.

13 THE COURT: (Inaudible) make sure you pull that
14 microphone up to you, so the jury can hear you.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Good. That's all. Thank you.

17 THE WITNESS: Good morning. My name is Trevor Anthony
18 Irvin. Last name I-R-V-I-N.

19 DIRECT EXAMINATION

20 BY MR. MOBLEY:

21 Q. All right, Mr. Irvin, you a little nervous?

22 A. No. Excuse me.

23 Q. And is there anything you want to say to the
24 family of Daniel Jones?

25 A. Yes, definitely. I want to tell them ---

1 MS. FULLER: Objection, Your Honor. This is not
2 appropriate.

3 THE COURT: Let's move on, Mr. Mobley.

4 BY MR. MOBLEY:

5 Q. Okay. So where you from Trevor?

6 A. I'm from the US Bridge and Islands St. Croix.

7 Q. Okay. And the time you were arrested, well, where
8 were -- where were you working?

9 A. I was at the Columbia Farm House of Raeford.

10 Q. Okay. And what capacity did you work there?

11 A. I was a -- a line lead.

12 Q. Okay. Did they have a nickname for you at work?

13 A. They called me Island Boy because I'm from the
14 Virgin Island.

15 Q. Did anyone else call you that outside of work?

16 A. No, no, no. That's (inaudible) Island, said you
17 were Island Boy.

18 Q. And how long have you been working there before
19 you got promoted to the lead position?

20 A. Couple years.

21 Q. Okay. And I believe you have a concealed weapon
22 permit; is that correct?

23 A. Yes, sir.

24 Q. Why'd you get one?

25 A. I was interested in purchasing a firearm and I

1 wanted to have it on it, you know, carry it legally. Just do
2 things the right way.

3 Q. When you got your conceal weapon permit, did you
4 even own a handgun at the time?

5 A. No, no. When I was taking my classes, I was using
6 whatever they provided.

7 Q. And did you take your gun to work?

8 A. Yeah, wherever I go.

9 Q. And what did you do with your gun you got to work?

10 A. I normally I leave it in my car.

11 Q. And the day of the shooting before that, had you
12 ever had a chance the opportunity to shoot at someone?

13 A. No. Never, never.

14 Q. And the person you ended up shooting, Daniel
15 Jones, do you know Daniel?

16 A. Yes, I do.

17 Q. Do you know him by a nickname?

18 A. They call him Fresh.

19 Q. Okay. And do you know his girlfriend?

20 A. That's Mary.

21 Q. And do you pretty much only know him through work?

22 A. Yeah, just strictly work.

23 Q. Now, I'm going to talk to you and ask you a
24 question about the day of the shooting, okay?

25 A. Yes, sir.

1 Q. So why don't you take the jury through that day.

2 What time do you get to work that day?

3 A. Since I am a line lead, I got to be there
4 sometimes half an hour or 15 minutes early, just (inaudible)
5 all days when we having meetings. So we know the line starts
6 up at 11:00 at night, so I'd be there 10:30 or maybe 10:45ish
7 (inaudible).

8 Q. And what time did you see Daniel that day? Or
9 Fresh that day?

10 A. Fresh had came to work a couple hours late.

11 Q. Okay. Did you say anything to him?

12 A. Not -- not then, you know, everybody got late and
13 we all been late before.

14 Q. But did you say something to him eventually?

15 A. Yes, sir.

16 Q. Okay. Now, tell the jury about that.

17 A. All right. So I -- there's no way we could have
18 the -- the diagram that shows the -- the plant in the cones?

19 Q. All right, give me a minute. And I am going ---
20 all right. And let -- I've got -- I'm holding State's
21 Exhibit 4 and 5. I'm going to put them on the Elmo. You
22 tell me which one you want to use. You see which one you
23 want to use?

24 A. The -- let's use ---

25 Q. That one? All right, just so we're clear, I have

1 -- I'm using State's Exhibit Number 5. So why don't you use
2 State's Number 5, talk to us about what happened?

3 A. All right. So I'm a line lead, so I don't
4 necessarily have to be on the line. We run a production line
5 and every cone that you see, normally a chicken would be on a
6 bird. We call it, you know, chicken would be on cones. And
7 right now we are looking at -- at three lines. So if the
8 line to the far right, would be, say that's number five. The
9 line to -- right there, is four and then three. And then it
10 would be two, one; because it has five lines.

11 Q. Okay. Just so we are clear, would you rather do
12 it this way or actually come down and hold the photo and use
13 it?

14 A. Can -- can I point and --

15 Q. The judge said this is okay.

16 THE COURT: He can come down and point.

17 MR. MOBLEY: All right.

18 THE WITNESS: I just want to explain it. So ---

19 THE COURT: Don't turn your back to the jury because
20 they're not going to be able to hear you.

21 THE WITNESS: Okay. So if this is four or five, this
22 is normally the area where I be working, but I could still
23 see what's going on -- on line three. You see this right
24 here would be line -- line three, on that. On the night of
25 the incident where Daniel was lit, we was slow, so it wasn't

1 that much chicken on the lines. Normally, every single line
2 -- every single cone that you see, would have a bird on it.
3 So normally, it would be full. But this night it wasn't --
4 it wasn't that full.

5 So I got coworkers that work on both areas. Normally,
6 if the line's full or whatever, we would have to get on and
7 help. So, but we was off the line. So I was off the line.
8 So basically, I could've -- I could've wrong. But I could
9 still see what's going on on this line. And the lines moved
10 this way, right? The lines been moving this way. So on that
11 night, Daniel was already late, and coworkers on my side, he
12 was passing birds. Passing birds meaning, so if this line,
13 if I'm standing right here, cutting -- I'm a shoulder cutter
14 and it's a -- it is a -- it's like a chain reaction. I got
15 to cut this piece. The other person got to cut that piece.
16 The other person got to cut that piece. It -- it works as a
17 -- as a team. You know, so -- so if he passes a bird, it's
18 going to affect the person down and from doing they job.

19 So what caught my attention was I see one of my
20 coworkers from this side reaching over, because there's no --
21 there's nothing that's blocking from you grabbing the bird,
22 you know. And Daniel, he's not on -- he's not where he's
23 supposed to be. He's on the other -- he's on the other line
24 and he's come sit in with other employees like passing --
25 passing bird. So I was trying to tell him, hey, if you could

1 pay attention on your bird, you already came to work late,
2 you know. He got, kind of, frantic. I can sit back down
3 now?

4 THE COURT: Go back, sit down.

5 THE WITNESS: So -- so when I told him that he was
6 passing birds and you don't pay attention, he got real
7 frustrated and he, you know, started telling me, man I'm the
8 only one that said -- saying stuff to him just because --
9 leave him alone. He got very, like, angry and started
10 calling me names. I'm a B word, F word. He tell me, I don't
11 know nothing. So, and then I told him, you know, like, okay,
12 well, you know, you -- you supposed to be a man, but you, you
13 know, this lady is taking care of you, you know, so we had
14 some exchange of words right then -- right then and there.

15 But see it was getting too -- like, it was getting loud
16 and disruptive on the line. So I'm standing on this side, he
17 on the other side and, you know, we going back, it is getting
18 disruptive, right? So basically, I don't have the -- the
19 authority to discipline nobody. So it is not a discipline
20 thing, but I do have the right to send him off the line. If
21 he's making and disrupting other employees, he -- he needs to
22 come off the line.

23 So I go around to take his partner. In order for this
24 to work, I have to now put myself on the line, so he could
25 get off and go down to the bottom of the line where the

1 supervisor would now see that, okay, he's out of place. What
2 -- what's the problem? He would then address the -- this --
3 he would then -- they would then address the problem, what's
4 going on and gives the employee time to blow off whatever
5 steam. And it gives the work area a more -- a clean
6 environment, like without disruption and -- and loud
7 vulgarness.

8 So -- so I'm going to get him off the line. And it
9 does have -- we -- we normally have leads on every line, but
10 sometimes, you know, they get caught up doing, you know,
11 whatever and moving around, you know, every job has somebody
12 that's doing more work, you know. Might be lazy or whatever.
13 But it being that I'm the one having the issue, I got to take
14 him on. So when -- when he -- when they done addressing his
15 situation, he could come -- they come and get me, and then
16 they ask me what was going on. Like, you know, so we both --
17 we both get talked to.

18 So I was coming now and tell him, man, you know, he
19 needs to come off the line. You being too -- too -- what's
20 the word? Irritated. Irritated; just you doing too much.
21 So I'm coming around, Stacey stops with me, he says, hey man,
22 I -- I got it, you know, is his line. He -- that's his
23 employee. He normally works around him most of the time. So
24 I said, all right, cool. I go down and I address the
25 situation to my superior. I said, hey, you know, Daniel's

1 down there being destructive, you know -- you know, they
2 like, you know, typical, you know, that's Daniel. You know,
3 again, because you -- you just going to have some employees
4 that's, you know, rough around in the job, in that type of
5 environment. You know, we -- we have, you know, people
6 that's -- it's -- it is a very rough environment.

7 BY MR. MOBLEY:

8 Q. All right. Let's kind of just -- okay. Kind of
9 focus on -- on the incidents, what happened.

10 A. Okay, all right. Okay, all right. So when I am
11 coming, you know, to try to get him off the line, you know,
12 he, you know, going back and forth with me and stuff, coming
13 -- he's getting very aggressive. He has a knife in his hand,
14 too. And you know, he -- he walks kind of close up, you
15 know, they see, they like, you know, take me away from the
16 situation. Don't want to blow up to make it any -- any
17 worse. I addressed the situation. I -- I tell my
18 supervisor, he says, leave it alone. I'll leave it alone.

19 Q. All right. Let me -- let me stop you there for a
20 second. When you and -- and Fresh were having that heated
21 exchange ---

22 A. Yes, sir.

23 Q. --- did you ever threaten to shoot him?

24 A. No, no, sir. No.

25 Q. Did you ever tell him you wanted to fight him?

1 A. No, no, sir. I never -- never, never. That was
2 not the case. It was strictly just work related.

3 Q. So was that the end of the altercation, that
4 happened at the ---

5 A. Yes, sir.

6 Q. --- that day?

7 A. I -- I -- after that it was no more issues until I
8 got off of work.

9 Q. Okay, let's talk about that.

10 A. All right, so ---

11 Q. So you got off work?

12 A. Yeah. So typically, what would happen is, like I
13 said, this is -- this is an early day now. So everything has
14 a different dynamics to it now. Normally, we would get off
15 at 7:00 or -- or 7:00 or 8:00. But this day had a -- a
16 breakdown. So we was getting off earlier. So when they --
17 when we left the line, lot of employees leave, we had to stay
18 behind and clean up and prepare for the other shift. So they
19 would already be outside, you know, they going to go get
20 something to eat, something to drink. If they going to go
21 home, they can, you know, while we got to stay back. And,
22 you know, we, like I said, we come here early and we leave
23 late. We don't -- we don't move on regular time.

24 So when I -- when I, you know, come outside of work,
25 you know, I normally, you know, mingle with friends. I -- I

1 go to my car and ---

2 Q. Who's there? Who's out there?

3 A. Everybody was out there because we already had
4 left -- let the -- the employees leave. So basically,
5 everybody was out there (inaudible) that was on the line.
6 The whole ---

7 Q. Was (inaudible) Jones out there?

8 A. Jones was out there.

9 Q. Okay.

10 A. Jones was out there.

11 Q. So you hanging out with these coworkers ---

12 A. Yeah.

13 Q. --- and talk about, did you see Fresh at all
14 during that time period?

15 A. During that time period? I -- no, I ain't pay
16 attention for Fresh. No, I never seen Fresh, no.

17 Q. All right. Were you even thinking about Fresh at
18 that point?

19 A. I wasn't even thinking about Fresh, no.

20 Q. All right. So what did you do at that point?

21 A. At that point I turned around and I seen Super
22 Dave and he was -- he normally owns his scooter.

23 Q. And who's Super Dave?

24 A. It is a -- it is a coworker.

25 Q. Okay, so you see Super Dave and his scooter?

1 A. Yeah. And I asked him to borrow the scooter to go
2 to the gas station. So I go to the gas station and I want
3 to, you know, use the ATM, get me something to eat and I just
4 finished.

5 Q. Is anybody there when you in the gas station?

6 A. Yes, I see some other females or female coworkers
7 now that were sitting in their car. Looked like they was in
8 the store getting some supplies or whatever they was getting.
9 So I stopped.

10 Q. Do you know the names? Their names?

11 A. I know one is Tanera (ph) because she was a line
12 worker. She worked on my corner. We work the deboning area,
13 but it's like the whole plant got different areas where we
14 turned the -- the -- a live chicken into a box -- in the box
15 to -- and then it goes to produce to where you could cook it.

16 You know, like, so I see her and, you know, talking,
17 you know, we just talking about, you know, regular stuff and,
18 you know, I -- I remember because I know she -- she was a
19 hard worker too, so I was telling her like, you know, she got
20 potential. This is -- this is a girl that actually could go
21 down there with the -- with the fellas and cut, you know, cut
22 bursts. I said, you know, you got potential, you know, I,
23 you know, you could definitely have potential of moving to --
24 to the next level, and I see that she wants it. So we was
25 having that conversation and I see the -- the go car that

1 Mary Geiger drives. But it's -- it is Daniel that -- I -- I
2 normally never see Daniel drive in the car. So I see him
3 come and he comes, he got, you know, he got plenty different
4 parking spaces. I -- I mean, like, I'm here in the parking
5 lot. I'm talking to -- to these lady. I got scooter up in
6 the middle ---

7 Q. Hold on. Let me -- let me stop you right there,
8 Daniel. I'm showing you State's Exhibit Number 12. Now,
9 explain to the jury what you mean about the parking spaces.

10 A. So ---

11 Q. Now, what shirt are you wearing in that photo?

12 A. I'm in the blue shirt.

13 Q. And what shirt -- what color is Daniel shirt?

14 A. He in a red shirt.

15 Q. Okay, so now who -- who drove this car?

16 A. Daniel.

17 Q. Okay. Now, when he pulled up, was this space
18 free?

19 A. That was -- space was free.

20 Q. Okay. How about this space over here? Was that
21 space free?

22 A. That space was free.

23 Q. And where were you standing when he pulled up?

24 A. I was standing right by the car window on the
25 passenger side, to the vehicles right next to the -- the

1 (inaudible).

2 Q. All right. So he pulled up right next to you?

3 A. He pulled up right next to me.

4 Q. Instead of parking there, go over there, he pulled
5 up right next to you.

6 A. And -- and when he came out the car, he came
7 straight at me. So I know, you know, just figuring he's --
8 he's still mad, you know.

9 Q. So what'd he say to you? He say anything to you?

10 A. Yeah, he -- he wants to fight me. He wants to
11 fight me. You know, he telling me that, you know, I'm going
12 to beat you up. You know -- you know, what's up now and, you
13 know, I got you -- like I got you now. You off work. You
14 not protected by the job, you know, because, you know, in the
15 -- he in the real world and, you know, he has this over like,
16 you know, he's that type of person. He knows like, I ain't
17 -- I don't really be having no issues, don't want no issues.
18 I just come to do my job.

19 Q. Did you want to fight him?

20 A. Huh?

21 Q. Well, did you want to fight him?

22 A. No, I didn't want to find him at all.

23 Q. Okay. And what were you saying to him?

24 A. So I was telling him like, you know, asking him to
25 leave me alone. And I know -- you know, you see me showing

1 my firearm. So first, he -- he spits on me. He spits on me.

2 Q. Where?

3 A. It -- it landed me right here. So he almost
4 spitted on me in my face. But, so since he -- he spits on
5 me, I react and I -- and I threw a jab. So I jab him and I
6 hit -- I hit him in the mouth. I honestly speaking, but he
7 spit on me. It was a reaction. So when he -- he -- then I
8 hit him and then he brushed his hand. So I showed him my
9 firearm. I said, listen man, I -- I do not want no issues.
10 You know, you -- you spit on me. You know what I'm saying?
11 It -- why would you even have to go to this extent off a -- a
12 work issue? I wasn't ---

13 Q. Okay, let me ask you this. When you showed him
14 your firearm, was he deterred to -- to maybe not try to fight
15 you?

16 A. Oh -- oh, no. He -- he was like -- he didn't care
17 that I had a firearm. He mentioned saying stuff like, you
18 not the only one that has a gun, that he owns guns. He's
19 going to get a gun and be able to come -- come back to me
20 with, you know, and saying that, man, I -- I take your gun,
21 take your scooter, you know. Probably like, stuff like that
22 he was telling me, you know.

23 Q. And tell the jury of the attempts you made to try
24 to avoid the altercation.

25 A. So, you know, I see him, he grabs -- he grabs my

1 scooter -- well, it's not my scooter. But he grabs the
2 scooter and he starts to take it like he about to run over
3 it. But this is not -- it's not my property, you know -- you
4 know, I said, man. I sit there and I don't want to get too
5 close to him or none of that because I could tell he already
6 is -- is very -- very emotional.

7 So I wait, see what he do. He looks like he's about to
8 get in the car. And -- and like he was about to run over it,
9 but he popped the trunk. He popped the trunk of the car and
10 he takes the scooter and he puts it -- puts it in the trunk,
11 and then he tries to go back around the front. So I see him
12 when he moving, I take the scooter out the -- out the trunk.

13 Q. Now, let me stop you there. Now, are the other
14 people there when this is going on?

15 A. Yeah, yeah.

16 Q. And what are they doing?

17 A. They looking and, you know, telling -- saying man,
18 you know, just, you know, chill, telling him, man, you know,
19 man, you know, leave him alone. Tell -- you know, leave me
20 alone. You know, just like chill -- chill out.

21 Q. Is anybody trying to restrain either one of you?

22 A. They was holding -- holding him back because at --
23 at one point, you know, he -- he tried to kick me and he
24 tried to spit on me one more again. And ---

25 Q. During this time frame, did you ever turn your

1 back to him or hold your hands up at all?

2 A. Oh, yeah. I kept -- I kept doing like this.
3 Because I remember telling him like, hey, listen, man, it is
4 -- I'm at the gas station. I know it got a camera out here.
5 You -- they going to see you messing with me like this, you
6 know, leave me alone man. You know, leave me alone.

7 Q. And did you show him your gun multiple times?

8 A. I did, but I only did it to try to deter him,
9 hopefully that he would leave me alone. Normally, if you
10 show a person a firearm -- but I don't -- I'm just expecting
11 that if he seen that I had a firearm, he would leave me
12 alone. He would go the other way. But he didn't want to
13 leave me alone. Even like, I had a firearm, he did not care.
14 I did not point it -- I did not point my firearm at him in no
15 disrespectful manner. I was just showing him like, listen
16 man, leave me alone. Like, I have a firearm. Why -- why are
17 you coming? I do not want no problem. And then I left.

18 Q. And how'd you leave?

19 A. How did I leave?

20 Q. Yes.

21 A. I got back on the scooter and I left. But when I
22 -- I got by this corner and I was leaving, he was saying
23 stuff like, oh, it's not over. I'm going to get you. I'm
24 come to get you. You know, stuff like that. So I was like,
25 man, like man, like man, why -- why would you just not just

1 leave me alone. Leave it -- leave it be. It's a
2 work-related issue. I don't have no problems with you, you
3 know. Can you just leave me alone.

4 Q. So you were -- so you went to the gas station
5 first?

6 A. Yeah.

7 Q. He came after you?

8 A. Yeah.

9 Q. And then you retreated from the gas station?

10 A. Yes.

11 Q. Okay. And so you went back to the parking lot and
12 -- and did you see anybody, talk to anybody?

13 A. Yes. So I was out there with some coworkers. I
14 had to give Super Dave back his scooter. And I was
15 explaining to them what just took place at the gas station.
16 And, I guess, that's when you see me I was on the car and
17 stuff. And you know ---

18 Q. Whose -- whose vehicle was that?

19 A. I -- it -- it is Mr. Jones vehicle, I guess. But
20 I -- I don't know his real name. You know, we call him by
21 something else, you know. So his real name, I guess, is
22 Jones. So -- so, you know, I'm explaining to him the
23 situation and, you know, I get on top of the vehicle
24 (inaudible) why?

25 Q. So let me ask you about that.

1 A. Yes.

2 Q. I mean, when you came back to the parking lot,
3 were you making any -- any verbal or physical gestures to --
4 to taunt or try to engage Fresh?

5 A. Oh, no, no, no. It was no -- no taunting going on
6 to -- to Mr. Jones. And in fact, Mr. Jones was trying to get
7 me to engage with him, but I wouldn't.

8 Q. Okay. How was he trying to get you to engage with
9 him?

10 A. He was, you know -- you know, yelling across like,
11 you know, I spit on you and ---

12 Q. Okay. So let me -- let me stop you right there.
13 So, at this point, where's Mr. Jones?

14 A. At that point ---

15 Q. Is he -- is he -- he's come back from the gas
16 station?

17 A. Well, at -- at that exact point, I didn't know
18 where he was, you know, at that -- at that point. I'm
19 talking in reference to another point where he was about
20 across. He see me and he tell me, you know, I spit on you,
21 stuff like that. But I pay him no mind.

22 Q. Okay. Did he ever come up to -- to where you
23 were?

24 A. In the parking lot?

25 Q. Yes.

1 A. Several times he approached me.

2 Q. Let's talk about the first time. What happened
3 the first time he approached you? On that day, in the
4 parking lot, after the gas station?

5 A. He approached me, again and he was basically
6 trying to still fight and trying to still stir up trouble.
7 And I'm basically telling him, man, I don't want no trouble.
8 Every time he would come in -- in my direction or towards me
9 or try to egg me on to fight him, I would leave. I was just,
10 man, I'm going all the way. I'm going all the way, you know.
11 So I -- I -- every time I just avoided him.

12 Q. Okay. Was he -- was he making any threats to you
13 at all?

14 A. So right before, you know, I go, I was chilling
15 with a couple -- a couple employees and then I go to my car
16 and then, you know, I see my -- the supervisor that I told
17 you, I reported the incident to that -- that day at the job.
18 So I went over there and I told him, hey, listen, this is
19 what just happened at the gas station. I'm explaining the
20 situation to him now, too. So he was telling me, okay, well,
21 as soon as we get at the work, he's going to address it, you
22 know, because, you know, now it's a real issue. He said he's
23 going to address it. He said ---

24 Q. So you told -- you -- you told your supervisor.
25 What did Daniel do next?

1 A. So when I was over there, you know, I talked to my
2 supervisor and then I -- I was talking to another employee
3 after he said, okay, he going to address it. I went; I
4 talked to another employee. And when I was talking to him,
5 next thing you know, I see in my peripheral vision Mr. Jones
6 comes with an object in his hand and put it to the back of my
7 head. It was at a wallet or a -- a cell phone.

8 Q. Okay. It wasn't a gun, right?

9 A. No. No, because I seen him when he put it down,
10 but I didn't -- I didn't see exactly, you know, if it was a
11 wallet or -- or a phone.

12 Q. I'm showing you this Exhibit Number 1. And you
13 recognize this?

14 A. Yeah.

15 Q. Okay. And you see a -- a cd, this cd recently,
16 with a photo on it?

17 A. Yeah.

18 Q. Okay. And are your initials right here?

19 A. That's my initial.

20 Q. Okay. And what you saw on the cd, was it -- was
21 it a steel shot, the photo?

22 A. I believe so.

23 Q. Was it -- was it -- did it accurately show what
24 was going on that day?

25 A. Yes. It shows (inaudible).

1 Q. All right. Hold on. Let's -- let's put it in.

2 THE CLERK: Do you mark that?

3 MR. MOBLEY: Oh, I'm sorry.

4 THE CLERK: Do you need me to mark?

5 MR. MOBLEY: I'm sorry. It's been pre-marked.

6 THE CLERK: Oh, okay. That's fine.

7 THE COURT: Any objection?

8 MS. FULLER: No, Your Honor.

9 THE COURT: Submitted. Marked (inaudible).

10 (Defense Exhibit 1 was marked for identification.)

11 MR. MOBLEY: That is correct.

12 THE COURT: Thank you.

13 BY MR. MOBLEY:

14 Q. Why don't you set that off the jury box and when
15 the photo comes up -- come on down. All right. Why don't
16 you walk up to that and take a look and make sure you don't
17 block the jury. Do -- do you see yourself and -- and Fresh
18 in the photo?

19 A. This is Daniel and this is me.

20 Q. Okay.

21 A. Can -- can you -- you can't blow it up. So you
22 see this is his arm right here extended -- can -- you can't
23 blow it up anymore other than that? This would be his arm,
24 right here, doing like this to the back of my head, it's
25 right here. You see him standing, right there.

1 Q. Okay. Thank you. Now, when he made that gesture
2 and put his hand in your head ---

3 A. Yes, sir.

4 Q. --- did he say anything?

5 A. He was saying like, you know, I'm going to catch
6 you and, you know, I'm catch you, when you, you know, least
7 expect and blow you brains out.

8 Q. All right. When he said catch you, what do you
9 think he meant?

10 A. And my -- what I took from that was being that,
11 you know, how he surprised me like that, he's like, okay,
12 he's going to surprise me like that. You know, when he --
13 when he, I guess, gets his -- gets his firearm, surprise me.
14 I mean, I'm going to get you, like he showing me how he going
15 to do it, you know.

16 Q. Did he say anything else besides I'm going --
17 beside I'm going catch you, did he say anything else?

18 A. You know, basically, he said, like, he blow my
19 brains out.

20 Q. Okay. Did he make any references to your gun?

21 A. You know, previously he -- he said he -- he would
22 take my gun, take the scooter, you know, references like
23 that. But at that time he was, you know, gesturing, like
24 showing me like, okay -- he like saying, okay, it's not
25 finished. When I -- when I catch you, this is what's going

1 to happen to you.

2 Q. Okay. And was -- was Fresh's girlfriend in the
3 vicinity?

4 A. I believe she was, but I -- I had no idea exactly
5 what location she was.

6 Q. Did -- did you have an opportunity to ever see her
7 demeanor?

8 A. No, no, sir. I -- I really wasn't paying
9 attention to him or his girlfriend.

10 Q. Okay. So when he came up to you and held
11 something to the -- to the back of your head, was that the
12 first time or the second time he came up to you in the
13 parking lot?

14 A. That would be -- I think that would be the second
15 time.

16 Q. Okay. And did he -- did he leave after that?

17 A. I left. I -- I walked off and I was like, man,
18 listen man, I -- I don't want no problems. He -- he followed
19 me and then he acted like he was, you know, walking off and
20 he turned back around again.

21 Q. Okay. Why did he turn back around?

22 A. I don't -- I'm not sure why he turned back around.
23 I'm -- I'm thinking you know, he just wasn't ready to let it
24 go, you know.

25 Q. And when he was being aggressive to you in the

1 parking lot, what kind of things were you saying to him?

2 A. I wasn't saying nothing. No -- nothing aggressive
3 to him, to make him want to come to me like that. I'm
4 telling him, listen man, leave me alone. You know, every
5 time he put himself in my -- in my presence doing justice
6 like that, I would walk away. He -- he -- I turn around, I
7 sat down on the back of my car and I was like, just doing
8 like this. Like -- like you really serious. Like just, I
9 don't see how the issue got you like this, you know.

10 Q. All right. Did you want to fight him at all?

11 A. No, I didn't -- didn't want to fight him at all.

12 Q. So tell the jury what happened next?

13 A. So I'm sitting down on the back of my car,
14 basically shaking my head, disbelief. And he acts like he's,
15 you know, walking away again. So I, you know, come up the --
16 the rear end of my vehicle and I proceed back to him.
17 Because my supervisor is still in that area, you know, so he
18 -- he can you -- can you blow up the -- the picture one more
19 again, because it is -- I don't know. It is a -- it is a --
20 his car is right there where I parked my car.

21 Q. Sure.

22 A. So he's in the area. So when I come off of him
23 and I'm going back to him, I'm telling -- I'm about to tell
24 him what happened, you know, I'm like, man, I put my hands up
25 like this and my back is turned. He comes back to me again.

1 He approaches me again.

2 Q. Okay.

3 A. And I had my -- my back ---

4 Q. I'm -- I'm putting Defense Number 1 back in
5 (inaudible) steel photo. All right. Do you want go down and
6 use it again?

7 A. Yes, sir. So ---

8 Q. Is that sound appropriate?

9 A. You all can see fine? The jury, you all can see?
10 So this is my car right here, right? My supervisor car is
11 right here. You see this? You see this car right here?

12 Q. Which supervisor are you referring to?

13 A. I'm -- I'm referring to -- his name is Jarrell.
14 We call him Jarrell.

15 Q. Okay.

16 A. And so the -- the lady that was -- you see came in
17 not too long ago. She is over -- she's plant manager. So
18 she has higher authority than Jarrell. Jarrell is the
19 supervisor, because we just a lead. Then they got
20 supervisor, then over supervisor is the management position.
21 And then over there would be anybody that's -- that would
22 like technical ---

23 Q. Okay. That's fine. Thank you.

24 A. Yeah, but I'm basically showing you this and I sat
25 down in the trunk of my vehicle and then I came this way. So

1 when I came this way to, you know, basically tell him like,
2 hey, he still -- he's still antagonizing me. By the time I
3 make any move, he right there on me again, you know.

4 Q. All right. So what did you do?

5 A. So when he comes -- when he comes to me, you know,
6 I turn around and physically because I don't want to have no
7 (inaudible) to confront him. So he -- he turns around and --
8 I mean, I turn around to him. He calling me names, calling
9 me names and, you know, saying, man, you know -- you know
10 what I'm going to do you, you know, you -- this and that.

11 Q. I need you to speak up, so the jury can hear you,
12 what you're saying, okay?

13 A. Basically, saying like, calling me B word -- B
14 word. Telling me F me, you know. And, you know ---

15 Q. (Crosstalk) any threats?

16 A. He -- at that point he was like, you know, I
17 should -- I should, you know, I should take your -- I should
18 take your -- take your thing from you. I should take your
19 joint from you, referring to my -- my firearm. So he was
20 like, I should take it from you, you know what I'm saying?
21 Then he reaches for it. He -- he grabs me. He like, he
22 grabs me. So I back up right there. So I'm making sure he
23 don't grab me. As soon as he starts to -- to reach, you
24 know, I grab my firearm, I back up. So I back it up and my
25 back hits my car. Like, so back boom, hits the car. And

1 then he tries to ---

2 Q. Let me stop you here now. So you backed up and
3 you couldn't move any further?

4 A. No, I -- I would forward as back I could have had.
5 And so he was shocking me down. So when he shock me down, he
6 tried to take me down to the ground like a -- like a lift and
7 drop me. So I feel my legs start to lift from under me. You
8 know, being that I was already busted like this, I kind of
9 shock from the hip, you know, I'm ---

10 Q. Let me stop you here.

11 A. I was here.

12 Q. You have a concealed weapons permit, correct?

13 A. Yes, sir.

14 Q. Did you have training to get that concealed weapon
15 permit? Did it train you for a situation like this?

16 A. No, sir. Nothing like this.

17 Q. Okay. So you grabbed your gun, when you grabbed
18 your gun, what was going through your head?

19 A. Basically, I know if he gets my gun, he's going to
20 use it. He comes back to me several times. I tried to get
21 away from him. He making gestures and -- and showing me this
22 is what he wants to do to me. If he takes me to the ground
23 and gets my firearm, I could be shot and killed, you know.
24 So I -- I got -- I was afraid. I was scared. So I shot -- I
25 shot as fast as I could.

1 Q. So the -- the first shot, you recall when the --
2 the first shot where your gun was facing, the first shot?

3 A. So may I -- may I stand up?

4 Q. Sure.

5 A. So when my back hits the -- hits the car and he --
6 down on the legs, he's trying to take me down through the
7 first shot came right there, from this angle, boom. And then
8 I continued just firing as fast as I could.

9 Q. All right. Let me ask you about that. When you
10 start to find your weapon, you're pretty clear that you had
11 15 round clip in that gun. Did -- and you emptied that
12 magazine. Did you make a conscious choice to shoot him 15
13 times?

14 A. No, I was just -- I was just shooting as fast as I
15 can in his direction. I didn't count how many shots. I
16 didn't -- I know where the -- the trajectories was going or
17 the bullet was, you know, I was just shooting in his
18 direction. I was -- I was scared. I was in fear. So -- so
19 much adrenaline hits you. You fight -- fight kicks and you
20 -- you -- I don't know, like just shooting.

21 Q. Now, at some point, did you have an opportunity to
22 see the video of the altercation?

23 A. Yes, yes.

24 Q. And in the video it shows you, I think you'd
25 agree, does the video show you moving toward him?

1 A. Yes.

2 Q. Did you recall doing that? Do you recall moving
3 toward him like that when you fired?

4 A. No. At the time of the -- of the -- I was so -- I
5 was so afraid, like so much frightening this was going, boom.
6 I was just terrified of life. I was -- I just reacted.

7 Q. Now, in the video, I mean, it looked pretty
8 graphic. Looks like you're standing over him, too. Do you
9 recall doing that?

10 A. No.

11 Q. When was the first time you realized you had moved
12 toward him and -- and stood over him?

13 A. When I -- when I watched the video and I -- and
14 I'm going to be -- I'm going to be completely -- completely
15 honest. I did not want to do this. Right. Every time I see
16 the video, it's haunting to me. Because I had to live
17 through that, that trauma. You understand? Like it's hard
18 going through that. Oh, yesterday, the video, I didn't get
19 no sleep. I couldn't even sleep. It's hard to see. I
20 hardly me reliving this situation. It's a terrifying
21 situation. Nobody should ever be in, you know.

22 Q. Did you -- did you plan to shoot him that day?

23 A. No, I never planned to. I try to avoid him. Some
24 of the time, all the gestures he make, him spitting on me,
25 trying to kick me, taking my stuff, never ever tried to -- I

1 was avoiding. I always avoided it. And every time he came
2 back around me, I tried to get away.

3 Q. When you fired your weapon, were you angry at him
4 or mad him?

5 A. No. (Inaudible) angry. I -- it was -- I was in
6 fear. I was in fear, but I was scared for real. Like, I
7 could die. I could've been dead. I could've been dead.

8 Q. So you shot Fresh, so after the -- you shot him
9 and emptied the clip, what happened next?

10 A. See, on video, it looks like, you know, you see me
11 like kind of frantic, (inaudible) shot.

12 Q. Speak to the microphone, please, sir.

13 A. On the video it looks like you see me, you know,
14 walking back and forth. You know, I'm -- I'm in disbelief
15 this -- something like this just -- just happened. And I
16 remember his -- his girlfriend, come, come, come. She came
17 over there. She came over and she was -- she was crying.
18 She was crying. She was crying at me, you know, I -- I can't
19 believe just happened, you know, so (inaudible).

20 Q. I'm sorry. So I want to make sure that you
21 understand what you just said. People were saying what?

22 A. Like, I should leave, like go. Like, you know,
23 you get away from here, you know. I -- I get to the car.
24 And so -- so I called -- I called my brother -- I called my
25 brother, right? Because my brother (inaudible). He's my

1 older brother, you know what I'm saying? (Inaudible). I
2 just, I didn't know what to do. Like, you know, so I called.
3 I said, man, I tell him, bro -- bro, I shot somebody, you
4 know, like he can lose something. He tried to attack me,
5 (inaudible) self-defense, you know, I defend myself.

6 Q. Don't tell us what he said. Just you can tell him
7 what you told -- tell the jury what you told him, but don't
8 say what he said to you. So you told him you shot someone in
9 self-defense?

10 A. Yes, sir.

11 Q. And after you got the telephone with your brother,
12 what'd you do next?

13 A. I called 911.

14 Q. Okay. And do you recall what you said?

15 A. I called 911. (Inaudible) I think I just, you
16 know, shot somebody. You know, I tell them the location that
17 it was at. Tell them that, you know, it was self-defense,
18 you know, I was -- I was (inaudible).

19 Q. Okay. And have you heard the 911 tape?

20 MR. MOBLEY: I'm sorry, I'm going to mark this, excuse
21 me, Defense Exhibit 2. It's a cd, the 911 recording, and
22 it's already marked as an exhibit.

23 BY MR. MOBLEY:

24 Q. Have you heard yourself -- have you listened to
25 that 911 call?

1 A. Yes, I did.

2 Q. Okay. Did it accurately reflect your conversation
3 when you made the 911 call?

4 A. Yes, (inaudible).

5 MR. MOBLEY: Okay. I'd like to offer this as Defense
6 Number 2, Your Honor.

7 (Defense Exhibit 2 was admitted into evidence.)

8 THE COURT: Any objection?

9 MS. FULLER: No, Your Honor.

10 THE COURT: Go ahead, Mr. Mobley.

11 (Video played.)

12 BY MR. MOBLEY:

13 Q. That was your voice?

14 A. Yes, sir.

15 Q. So tell the jury, what was your state of mind like
16 when you were making that call?

17 A. Sprinkling everywhere. You could -- you could
18 hear me saying, you know what I'm saying? You know what I'm
19 saying? You know what I'm saying? (Inaudible). Just trying
20 to get brain to function, but correctly, you know, I was in
21 the state of shock, state of, like, disbelief that this just
22 happened.

23 Like I -- I never -- I never been in no trouble and
24 never been in no situation where I had to defend myself. I
25 never shot nobody. I never seen nobody on -- on the ground

1 like that. I never -- I never seen that. So just going
2 through that experience, very -- it was traumatized.

3 Q. And when you headed back to the parking lot, what
4 was your intention?

5 A. To turn myself in to the police and basically, the
6 situation that happened.

7 Q. And so tell the jury what you did when you got
8 there. What happened? What was going on? What was the
9 environment like?

10 A. Well, it was a whole bunch of cops there and
11 people was everywhere.

12 Q. And did the cops approach you or did you approach
13 the officers?

14 A. I went to the officer.

15 Q. All right. And what'd you say you went to the
16 officer?

17 A. I told the officer that I'm the one who did the
18 shooting. Tried to tell him that, you know, he attacked me.
19 (Inaudible) I'm fully cooperate with them to resolve the
20 issue.

21 Q. Okay. And just so we're clear, when you told the
22 officers that you was shot Fresh, did you volunteer that
23 information or did they ask you what happened?

24 A. I -- I volunteered.

25 Q. So you -- you told the police that you shot and

1 killed a man?

2 A. Yes, sir.

3 Q. Without being asked?

4 A. Yes, sir.

5 Q. Okay. And the juries, have you seen the -- the
6 footage of yourself from the body cams from the officers?

7 A. Yes. (Inaudible).

8 Q. And you look pretty calm.

9 A. It looks -- this even from the outside, but inside
10 is something I got to deal with for the rest of my life.
11 It's very traumatizing. (Inaudible).

12 Q. So when you talked to the officers and told them
13 that you had shot and killed the man, did you give them your
14 firearm?

15 A. Yes.

16 Q. Okay. And when they took you into custody, did
17 you try to resist at all?

18 A. No.

19 Q. All right. Were you compliant?

20 A. Yes, I was.

21 Q. Okay. And did you also indicate to them when
22 happened when you shot him?

23 A. Yes. I was fully -- fully cooperative. I tried
24 to comply with everything he -- he said, even though I just
25 worked out, let's say about maybe about seven hours, and

1 going through that -- that trauma, seeing that how everything
2 I want to -- I wanted to comply with the police.

3 Q. So you had just shot and killed a man, someone you
4 knew?

5 A. Yeah.

6 Q. Being arrested, being taken into custody, were any
7 people out there saying anything to you?

8 A. In the parking lot when I came?

9 Q. Yeah, when you were being taken into custody?

10 A. No, I remember like when I was walking, I was in
11 handcuffs. One guy was like, you know, that's the guy,
12 that's the guy, you know. But I wasn't -- I wasn't try to
13 run away from -- from the cops, you know, I was trying to
14 basically go to him and tell him what that took place.

15 THE COURT: Mr. Irvin, pull that microphone up a little
16 bit closer to you because I -- I'm having (inaudible).

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Thank you.

19 BY MR. MOBLEY:

20 Q. All right. So you got taken into custody, they
21 put you in the back of the car. What happened next?

22 A. He transported me to the police station.

23 Q. Okay. And what happened there?

24 A. He questioned me verbally, and then I had to write
25 a statement.

1 Q. And were you cooperative?

2 A. Yes.

3 Q. And did you write a statement?

4 A. Yes.

5 Q. And let me ask you this, you know ---

6 A. The best way I could have.

7 Q. Okay, but what do you mean the best way you could
8 have?

9 A. Because being that I was in a (inaudible) arrest
10 and trauma and shock and everything that was going on, it was
11 just like -- it was a surreal type of thing, but I wanted to
12 cooperate with the -- the police. Anything he asked me to
13 do, what I wanted to do for him. So I grabbed (inaudible).
14 I shaped it, but I tried to write as best as I could and most
15 I could remember and details and everything. I gave it
16 straight to anything they wanted me to do. I do.

17 Q. And did you tell the police that you shot Fresh in
18 self-defense?

19 A. Yes, sir.

20 Q. And just so we are clear, everything you said
21 today exactly the way you said it, it's all that in your
22 statement you gave to the police?

23 A. Well, it is the same, but a few more details added
24 as far as when you could see -- you could see like
25 (inaudible) because let's think about yesterday. If you know

1 exactly everything you did yesterday, you might not -- can't
2 write up right now. I did this, everything yesterday, but if
3 you see a video that said, oh, oh, you did this, you did that
4 yesterday, and you know, okay, yes, I did that and what I was
5 thinking when I did this. And ---

6 MR. MOBLEY: Beg the Court's indulgence, Your Honor.

7 All right. I believe we are at number 3.

8 (Defense Exhibit 3 was introduced into evidence.)

9 THE CLERK: Yeah.

10 BY MR. MOBLEY:

11 Q. All right. This has been marked as Defense Number
12 3 in this case for identification at this stage. I'm showing
13 you this exhibit. Sir, do you recognize number 3?

14 A. My (inaudible).

15 Q. I'm sorry, your what?

16 A. My CWP.

17 Q. No. Okay. See I repeat that -- that document on
18 the front, but okay. Just so we are clear, State Number 3 is
19 a document that consists of 1, 2 ---

20 A. My written statement, that's what it looks like.

21 Q. --- 4, 5, 6, 7, 8, 9, 10 pages. Make sure the
22 record reflects that. All right. So the 10 pages and it's
23 Defense Number 3. What is that? The entire document?

24 A. It's my written statement. The first picture I
25 got my -- it looks like my driver's license. Sorry, I missed

1 it.

2 Q. Okay. Your handwriting on some of this?

3 A. Yeah, everything is signed by me.

4 Q. Okay. This time I offer this as Defense Number 3
5 in evidence.

6 MS. FULLER: Objection.

7 THE COURT: It's admitted.

8 MR. MOBLEY: All right.

9 MS. FULLER: His written statement?

10 THE COURT: Is that what you said no objection?

11 MS. FULLER: I said objection.

12 THE COURT: Yeah, then let me see the lawyers. Out in
13 the hall, please.

14 MS. FULLER: Your Honor, a juror is raising a hand.

15 THE COURT: You all need a break, too. All right,
16 let's take a 15 minute break. Let me talk to the lawyers.

17 All right, let me hear from you.

18 MS. FULLER: Your Honor, my understanding is he's
19 trying to introduce the Defendant's out of Court statement.
20 That's not permissible.

21 THE COURT: I -- I don't see where it comes in Mr.
22 Mobley, unless he done something different.

23 MR. MOBLEY: Well, some of it is inconsistent with his
24 testimony.

25 MS. FULLER: So he's impeaching his own witness, is

1 that what he's saying.

2 MR. MOBLEY: Inconsistent with the Beckman's testimony.

3 THE COURT: I'd be glad to hear from you on that, Ms.
4 Fuller.

5 MS. FULLER: Your Honor, it's still self-serving. The
6 statement, the written statement is not admissible and I
7 object.

8 THE COURT: Not that I know of either. I'm going to
9 deny that being -- you can use it to refresh his memory or
10 anything else. But for evidence purposes, I don't believe
11 it's allowed.

12 MR. MOBLEY: Thank you, Your Honor.

13 THE COURT: Okay.

14 (Off the record.)

15 THE COURT: Can I see the lawyers just for one second.

16 MR. MOBLEY: I'll give you two minutes, Judge. I'll
17 give you two minutes.

18 THE COURT: All right. You all ready for me to bring
19 the jury back in?

20 MS. FULLER: The State's ready, Your Honor?

21 MR. MOBLEY: Yes.

22 THE COURT: Okay, let's bring the jury in.

23 All right. Mr. Foreman, jury ready?

24 THE FOREMAN: Yes, ma'am.

25 THE COURT: All right. Please be seated and let's

1 proceed. I'm going to remind you, Mr. Irvin, that you are
2 still under oath?

3 THE COURT: Yes, Your Honor.

4 BY MR. MOBLEY:

5 Q. All right. Mr. Irvin, and believe the last time
6 we talked about, you indicated you had cooperated with law
7 enforcement and you gave a statement.

8 A. Yes, sir.

9 Q. Okay. I'm going to ask you about that a little
10 bit. What you -- when you cooperated and you talked with
11 them, I mean, you said you told them what happened?

12 A. Yes sir.

13 Q. Okay. And I -- and I asked you just to make the
14 jury kind of know where we left off, if you, what you told
15 them with everything you said today when you testified was
16 included in your statement to the police?

17 A. Like today has more details as -- as it was
18 previous regarding certain situation -- remember details that
19 (inaudible) at that -- at that time, especially going through
20 -- especially going through something -- something like that.
21 (Inaudible) the best of my ability (inaudible).

22 Q. And they asked you some questions, didn't they?

23 THE COURT: I didn't hear any question.

24 THE WITNESS: Excuse me?

25 BY MR. MOBLEY:

1 Q. Did they -- did they ask you a lot of questions?

2 A. Oh, yes.

3 Q. Did you try to answer their questions to the best
4 of your ability?

5 A. Oh, yes, sir.

6 Q. Let me ask you, did they ever specifically ask you
7 if Fresh had threatened you?

8 A. No.

9 Q. Back to Elmo, refresh your memory. Take a look at
10 your statement to refresh your memory. Take a look at the
11 bottom. Does it have a question they asked you?

12 A. At the bottom?

13 Q. Yes, sir.

14 A. Oh, yes, they did.

15 Q. What'd they ask you?

16 A. Did Fresh ever threaten you with a knife; for me
17 any attempt to assault you with it? It says, did Mr. Jones
18 ever threaten me or attempt to -- attempt to (inaudible).

19 Q. Did they ever ask you about any other threats he
20 made to kill you that day?

21 A. No, they had never -- nothing else. I think they
22 -- because I wrote it down in the statement. Is what they
23 asked me about.

24 Q. Did you tell them you shot him in self-defense?

25 A. Yeah, I think I did, yeah.

1 Q. Did you tell them you were afraid for your life?

2 A. Yeah.

3 Q. At any time that day, was it your intent or your
4 plan to shoot Fresh?

5 A. No sir.

6 Q. Was it your intent or your plan to do any harm
7 toward him?

8 A. No sir.

9 Q. Did you have any malice toward him?

10 A. No, I tried to avoid him every chance I get.

11 Q. Did you want him to die?

12 A. No, I didn't want him to die.

13 Q. Did you want to kill him?

14 A. No.

15 Q. When you fired your weapon in his direction, did
16 you fire the weapon in anger?

17 A. No.

18 Q. When you fired your weapon at Fresh, why did you
19 fire your weapon?

20 A. I was in fear that he would take me down and get
21 my weapon, Kill me.

22 MR. MOBLEY: I beg the Court's indulgence, Your Honor.

23 THE COURT: Take your time.

24 MR. MOBLEY: All right. Mr. Irvin, you've been up
25 there for a while, but it's not over. One of these very,

1 very nice ladies is going to ask you some questions, so
2 please answer them to the best of your ability.

3 THE WITNESS: Yes, sir.

4 THE COURT: Thank you, Mr. Mobley. Ms. Fuller?

5 MS. FULLER: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. FULLER:

8 Q. Now, just to go over a few things -- well, quite a
9 few things. Just to make sure I heard your testimony
10 correctly, you started out by saying you took your gun to
11 work. Is that correct?

12 A. Yes, Ms. Fuller.

13 Q. Your answer was, you leave it in your car
14 normally. Do you ---

15 A. Normally.

16 Q. Normally; so sometimes you actually take it into
17 the job?

18 A. Sometimes I do, Ms. Fuller.

19 Q. And you know you're not allowed to, correct?

20 A. Sometimes I just forget because I might be late or
21 I might be rushing, you know. I just might forget it's on
22 (inaudible).

23 Q. And when you say it's on you, is it in a book bag?

24 A. You know, it being -- it is on -- on my
25 possession.

1 Q. Where?

2 A. On my person.

3 Q. Exactly where?

4 A. I carried on my waist.

5 Q. On your waist?

6 A. Yes, ma'am.

7 Q. Around here?

8 A. On my -- on my side.

9 Q. On your side. How do you forget that the gun is
10 on your side?

11 A. If you -- if you carry it all day, like say I wake
12 up in the morning and I put my pants on, I brush my teeth,
13 put it on me and I'm everywhere with it. I'm on my moves,
14 I'm doing -- I got it on me. It is -- it just comes normal
15 that you sometimes you don't even feel it is right there.

16 Q. You went through a CWP class, correct?

17 A. Correct.

18 Q. And the class told you if there's a sign that says
19 you're not allowed to carry it, you -- you're not allowed to
20 carry it, correct?

21 A. Yes, ma'am.

22 Q. So you did learn that, correct?

23 A. Yes, ma'am.

24 Q. Okay. Now, you talked about the incident on the
25 lines, correct me if I'm wrong, you were on line four,

1 correct?

2 A. At the time, yes, ma'am.

3 Q. Okay. Not a trick question, just try to go back
4 over what you talked about.

5 A. Yes, ma'am.

6 Q. And Fresh was not on line four, correct?

7 A. No.

8 Q. Okay.

9 A. He was on -- on line three, but you could see his
10 ---

11 Q. Completely understand that.

12 A. Yes, ma'am.

13 Q. So he was not on your line, correct?

14 A. No, ma'am.

15 Q. And you took it upon yourself to leave your line
16 and walk up his line to talk to him; is that correct?

17 A. And we was going back and forth, so as a line
18 leader, I could actually go on any line if need be, you know,
19 because I could rover, you know, I don't necessarily have to
20 stay on my line, but I could rover. So being that I wanted
21 to remove Fresh from the line, from being disruptive to other
22 employees and really, I guess, take a little time
23 (inaudible).

24 Q. Okay. So you took it upon yourself to leave the
25 line you were on and go to line three, correct?

1 A. Yes, ma'am.

2 Q. Okay. And you testified on direct that that is
3 usually Stacey's line and I think you said that Stacey's
4 employee. Is that what you said on Direct?

5 A. Yes, ma'am.

6 Q. So why didn't you just leave it in Stacey's hands?
7 Why did you have to get involved?

8 A. So how it works, right? If -- let's say by
9 surprise, if Stacey ends up in a verbal dispute with a
10 coworker on my line, he ---

11 Q. I don't mean to cut you off, but I'm just want to
12 make sure you understand my question. On June 24th ---

13 A. Yeah.

14 Q. --- when that was happening, why did you go to
15 that line?

16 A. I was trying to get Mr. Jones off the line.

17 Q. Okay. But Stacey was there, correct?

18 A. Yeah.

19 Q. Okay. If this -- you testified on direct that
20 this was all work related, correct?

21 A. Yes, ma'am.

22 Q. And you said that you all were going back and
23 forth across the line.

24 A. Yes, ma'am.

25 Q. And I couldn't hear you clearly, so I want to make

1 sure I understand what you said. Was your testimony that you
2 made reference to him, to Daniel about Mary? About
3 controlling his life? Is that what you were saying?

4 A. Yes, ma'am.

5 Q. What does that got to do at work?

6 A. It wasn't -- I mean, it wasn't the right thing to
7 say because it made him -- made him furious.

8 Q. That you disrespected his woman, you disrespected
9 him. Is that correct? It's a yes or no.

10 A. He was ---

11 Q. It's a yes or no.

12 MR. MOBLEY: Your Honor, I would ask the witness be
13 allowed to complete his answer.

14 MS. FULLER: I would ask that he answer my question
15 first.

16 THE COURT: All right. But the -- let -- you need to
17 answer the question, yes or no, and then you can explain it.
18 And I need you to talk into that microphone. I am having a
19 tough time hearing you. Can the jury hear?

20 MULTIPLE SPEAKERS: No.

21 THE COURT: Okay. They need to hear.

22 THE WITNESS: So you can repeat the question, please.

23 BY MS. FULLER:

24 Q. You disrespected his woman and you disrespected
25 him; yes or no?

1 MR. MOBLEY: I object to that question because it's
2 argumentative, Your Honor.

3 THE COURT: Well, it is kind of argumentative. Ms.
4 Fuller?

5 MS. FULLER: I'll move on, Your Honor.

6 THE COURT: How about -- yeah, move on or just rephrase
7 it.

8 BY MS. FULLER:

9 Q. You brought his -- his relationship into a work
10 dispute, correct?

11 A. Yes.

12 Q. And -- but your testimony was this was only about
13 work, correct?

14 A. Yeah.

15 Q. Okay. Now, also want to confirm, at the gas
16 station, you're -- and some of this is because I had a hard
17 time understanding you.

18 A. I understand.

19 Q. When the car pulled up, was it your testimony that
20 you recognized it to be Mary's car?

21 A. Yes.

22 Q. Okay. And you testified that Daniel said to you
23 in that moment that he wants to beat me up, wants to fight
24 you. Is that correct?

25 A. Yeah.

1 Q. That's what you said?

2 A. Yeah, he wants to fight me.

3 Q. So your testimony is as soon as he got out the
4 car, those are the words he said to you?

5 A. Yeah -- yeah.

6 Q. Okay. And you testified saying, "You see me
7 showing my firearm." Is that correct?

8 A. You see me showing my firearm? Rephrase the
9 question. Like we say it to -- I was saying that to ---
10 THE COURT: Now, you can't ask her to rephrase the
11 question. You -- that's my job.

12 THE COURT: Okay. Sorry.

13 THE COURT: Now, you can ask her to repeat it if you
14 didn't understand it, but you don't get to tell her to
15 rephrase it.

16 THE WITNESS: I'm sorry, Your Honor.

17 BY MS. FULLER:

18 Q. On direct, in response to your attorney's
19 question, did you say "You see me showing my firearm"? Is
20 that correct? Is that what you said on direct testimony?

21 A. I didn't -- I didn't tell Mr. Jones that, but I
22 was referencing, like he sees me showing my firearm and it
23 doesn't like deter him from.

24 Q. Oh, okay. So let me make sure.

25 THE COURT: All right. Hang -- you all, hang on just a

1 second. I can tell from Mr. Foreman, he can't understand him
2 and hear. Mr. Irvin, you need to speak loud and into that
3 microphone.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Mr. Foreman, can you hear now?

6 THE FOREMAN: I can now.

7 THE COURT: All right. Stay there, so they can hear
8 you. It's important. If any member of the jury cannot hear
9 the testimony, please raise your hand, so I will know and I
10 can stop and have them repeat it for you. All right? Thank
11 you.

12 BY MS. FULLER:

13 Q. So what I was asking was to clarify something I
14 wrote down. I'm -- I'm talking about what you testified to
15 just moments ago. Okay?

16 A. Yes, Ms. Fuller?

17 Q. I'm literally trying to make sure I got it right
18 before I ask you anything wrong. You got me?

19 A. Yes, Ms. Fuller.

20 Q. Was it your testimony on direct that "You see me
21 showing my firearm"?

22 A. Yes, Ms. Fuller.

23 Q. Okay. And then was it your testimony on direct
24 that Daniel spit on you first and then you hit him? Was that
25 your testimony?

1 A. Yes, ma'am. Yes, ma'am.

2 Q. Okay. And was it your testimony that Daniel said
3 to you, I guess after you hit him, that he's going to go get
4 a gun?

5 A. Oh, yes, ma'am. He -- when he see my firearm, he
6 was telling me that I'm not the only one who has a gun. You
7 know, he owes one. He going to get one for me.

8 Q. Okay.

9 A. Yes, ma'am.

10 Q. And he said that to you at the gas station?

11 A. Yes, ma'am.

12 Q. And your testimony on direct, did you, in response
13 to a question, say you were trying not to get too close to
14 Daniel, was that your testimony?

15 A. Yes, ma'am because I see like he was -- was taken
16 by my -- the scooter and I didn't want to be too close to
17 him. I just didn't want no altercation.

18 Q. Okay. But, so that is your test -- that's your
19 statement and your testimony, correct?

20 A. Yeah.

21 Q. And you testified that you threw your hands up?

22 A. Yeah.

23 Q. Okay. Okay. So going through this here, that's
24 you, correct? On the video?

25 A. Yes, that is me.

1 Q. Okay. And your testimony is that you went to the
2 store to go inside and purchase something; is that correct?

3 A. Yes, I was going to get something to eat and use
4 the ATM machine.

5 Q. Okay. And it was your testimony that you told
6 Super Dave that you were going to the store?

7 A. I asked him to use the scooter. I never told him
8 where I was going.

9 Q. But on direct, I'm -- I wrote down that your
10 testimony was that you asked Super Dave to borrow the scooter
11 to go to the store. So that's not true?

12 A. Yeah, I wanted to go to the store, but I asked --
13 I asked to borrow the scooter. But I was going to the store,
14 yeah.

15 Q. Okay. So I'm going to pause this right here.
16 Because your testimony is as soon as Daniel gets out the car,
17 you say that he jumps out and says, I want to beat you, I
18 want to fight you. Is that your testimony?

19 A. Yeah.

20 Q. Okay. So right there is your testimony, is that's
21 when he said it, correct?

22 A. To say like -- to say exactly like he said it,
23 like right there in that instant, you know, because ---

24 Q. Let -- let me tell you why I'm asking. Because
25 your shirt's going up and you're going towards your gun

1 already, as soon as he got out the car.

2 A. I don't ---

3 Q. That's correct, right?

4 A. I don't know, because ---

5 Q. We can back it up.

6 MR. MOBLEY: All right. He was -- yeah, let -- please
7 finish your answer.

8 THE COURT: Let -- let him answer.

9 BY MS. FULLER:

10 Q. Is that not you taking your gun out your pants?

11 A. It looks like -- it looks like it.

12 Q. And your hand is on your gun right now, right?

13 Correct?

14 A. Yeah, it looks like it.

15 Q. And Daniel was walking towards the store, correct?

16 A. No, he walking towards me.

17 Q. Oh, I will back it up. And sorry, I have to keep
18 moving back and forth. I don't want to block the jury. So
19 he's walking towards the store there, correct? And you are
20 getting close to him, correct?

21 A. He walking towards me.

22 MS. FULLER: I will move as soon as I get it where I
23 need it, Your Honor. I know I'm blocking the jury. I'll
24 pause it.

25 BY MS. FULLER:

1 Q. Is that not Daniel facing the store? Yes or no?

2 A. Yeah. (Inaudible).

3 Q. Okay.

4 A. Yeah.

5 Q. And clearly, please, I can't understand you.

6 A. I said, yeah, he's moving, yeah.

7 Q. Okay. And is that you getting close to Daniel?

8 A. We were already close.

9 Q. The reason why I'm asking is, on direct, you said,
10 "I was trying not to get too close to him." Wasn't that your
11 direct testimony?

12 A. Yeah, that's after, you know, all of this, when it
13 was getting, kind of, he -- he see me back away.

14 Q. For the record, right here, Daniel's walking to
15 the store ---

16 A. Right here we close.

17 Q. Okay. And your hand is on your gun, correct?

18 A. I don't -- I'm not right there. I don't see my
19 hand on it because in a way, but I do just (inaudible) to
20 show him that I have a firearm.

21 UNKNOWN FEMALE: I couldn't hear the answer.

22 THE WITNESS: I do -- I do just (inaudible) to show him
23 that I have a firearm and I, you know, don't want no physical
24 altercation, which you don't, you know, physically try to
25 deter him to leave me alone.

1 BY MS. FULLER:

2 Q. Got it. And now we're going to go step by step.
3 Right here, I backed it up, you and Daniel are face to face,
4 correct? Yes or no?

5 A. Yeah.

6 Q. Okay. Next frame. Daniel is walking away from
7 you, yes or no?

8 A. It appears so.

9 Q. Daniel's walking towards the store, yes or no?

10 A. But you -- can you see his turn -- he turned back
11 towards me just (inaudible).

12 THE COURT: Speak into the microphone.

13 THE WITNESS: He just turned -- he just turned back
14 towards me.

15 BY MS. FULLER:

16 Q. Okay. Do you see where your hand is?

17 A. Yeah.

18 Q. And your hand is on your gun, correct?

19 A. Yeah.

20 Q. And you are following Daniel towards the store,
21 correct?

22 A. No, I'm not following him. I'm, you know, we have
23 ---

24 Q. Okay, we'll move on. Now. You're in front of
25 him, correct?

1 A. Yeah.

2 Q. Now, Daniel can't walk to the store, correct?

3 A. He -- he can go around me, but --

4 Q. He can go around you?

5 A. Yeah.

6 Q. Okay.

7 A. He follows me right there.

8 Q. So your hand just went up, correct?

9 A. It appears so.

10 Q. And your testimony on direct was that he spit on
11 you first and then you hit him?

12 A. Yeah.

13 Q. But your hand goes up first? Yes or no?

14 A. You mean ---

15 Q. Yes or no?

16 A. Yeah, but I don't hit him though. Not right
17 there.

18 Q. Is that not your hand hitting his face?

19 A. No, that's -- that -- I -- I threw a jab, but he
20 doesn't hit him.

21 Q. Okay. So you did throw the first jab? Yes?

22 A. No -- it appears so.

23 Q. I'm going to ask it again because I don't know
24 what the answer is and I'm not being funny. I just don't
25 know the answer. Did you throw the first jab based on what

1 we just watched in this video?

2 A. Yeah.

3 Q. Okay. You threw the first jab, then Daniel
4 motions into you, correct? Is that what we just saw?

5 A. Yeah.

6 Q. And then you hit him again, correct?

7 A. Yeah.

8 Q. So what you testified to on direct is not true?

9 A. I see where you coming from, but I just go off of
10 what I could remember.

11 Q. But you -- we watched this video yesterday,
12 correct?

13 A. Yeah. But now that you freeze it and then slow it
14 down, like how you did, you see more detail.

15 Q. Okay. And now your shirt is up, you're going for
16 your gun again, correct?

17 A. Yeah.

18 Q. And this is after you've hit him?

19 A. Yes.

20 Q. Okay. And this is all -- I think later on you
21 testified that you're just all in disbelief when you go back
22 about what happened. Was that your testimony?

23 A. Yeah.

24 Q. And your testimony is that you're not saying
25 anything aggressive here to him?

1 A. Right then we probably saying words, but I don't
2 recall, you know.

3 Q. So that you don't recall?

4 A. He -- he approached me, Ms. Fuller.

5 Q. I'll leave that alone. I'll -- we'll move on. So
6 looking at your body language, you're doing things like this,
7 and watch me when I do this, please. You're like this. Is
8 that you being peaceful?

9 A. No.

10 Q. Okay. So you were being aggressive, correct?

11 A. That's -- I wouldn't say aggressive, but
12 definitely out of character.

13 Q. It was what?

14 A. Definitely out of character

15 THE COURT: You need to speak into the microphone. I'm
16 telling you the jury cannot hear you.

17 THE WITNESS: Yes, I was definitely out of character.

18 THE COURT: Okay. Keep it right there.

19 BY MS. FULLER:

20 Q. So what you testified to on direct is not true?
21 Yes or no?

22 A. I mean it does have -- it is true, but like I
23 said, more detail, you know -- you know, you see more
24 details.

25 Q. Mr. Irvin, this isn't about more detail, this is,

1 you sat here for an hour and said you were being in
2 disbelief, trying to avoid the situation, that you didn't
3 confront Daniel. But here you grabbed your gun as soon as he
4 pulled up; did you not?

5 A. It appears so.

6 Q. And you swung at him first, correct?

7 A. It appears so.

8 Q. And now your testimony was Daniel got in the car
9 as if he was going to run him over. When did he ever go in
10 the car as if he was going to run it over?

11 A. So this -- this -- at this point, he takes the
12 scooter and he puts it behind, like he about to get in the
13 car and -- because I see him open the door, I'm thinking,
14 man, he about to get in the car and run it over, but he pops
15 the trunk.

16 Q. And now when you throwing your hands up on direct,
17 you testified as if that was all peaceful surrender. Is that
18 what we see in that video?

19 A. Basically, I put my hands up like telling him, you
20 know, I didn't want no trouble because he taking my scooter
21 now. I mean like, man, you know.

22 Q. Your hands on your gun, correct?

23 A. I put it back.

24 Q. You're moving around.

25 A. I just put it back.

1 Q. And you're saying, doing this, is I don't want no
2 trouble.

3 A. Basically, I'm telling him ---

4 Q. You weren't like this. You were like this; did
5 you not?

6 A. It depends on how you might look at it, but I -- I
7 went up like this. See, adjusted there again. Put my hands
8 (inaudible).

9 Q. And that's you throwing the scooter on the ground,
10 right?

11 A. Yeah, the scooter's on the ground.

12 Q. But you went back and told everyone that Daniel's
13 the one that caused the damage to the scooter, correct?

14 A. I didn't say he damaged the scooter. I said he
15 was trying to take the scooter, like he was going to roll it
16 over or he -- then he popped the trunk. He was going to put
17 it in his truck.

18 Q. The scooter ended up damaged, correct?

19 A. I don't -- not to my knowledge, the scooter was
20 damaged.

21 Q. You didn't tell Super Dave that Daniel broke his
22 scooter?

23 A. I tell him he was trying to get.

24 Q. Did you end up telling him that you're the one
25 that broke his scooter? Yes or no?

1 A. I didn't -- I didn't know the scooter was broken,
2 ma'am

3 Q. Is that you going for your gun again? Now, you
4 get on your scooter and you ride back towards Daniel; is that
5 correct?

6 A. I'm passing.

7 Q. Your testimony on direct was you grabbed your
8 scooter and you went back to the parking lot. Wasn't that
9 your testimony?

10 A. I did a circle. I said I did a circle because
11 when I was about to ride away, he was saying that it's like
12 not over.

13 Q. So he's threatening you and you ride towards him?

14 A. No one out. He (inaudible) me. Go some more.

15 Q. I'm sorry. I'm the prosecutor.

16 A. Sorry.

17 Q. Okay. So he just threatened you, is your
18 testimony, and you ride towards him. Is that your testimony?

19 A. I ride past him.

20 Q. You would agree that if you wanted to leave, you
21 would've gone this way, where my mouse is going, correct?
22 That would've been the way to avoid going past Daniel,
23 correct?

24 A. It appears so, yeah.

25 Q. I didn't hear the answer.

1 A. I said yes, it appears so.

2 Q. Okay. Now, you circle around and get back off
3 that scooter, is that correct?

4 A. Yes.

5 Q. And your testimony was that he came at you?

6 A. That's the part where I -- I was asking before if
7 he could -- because when I was leaving, you see him turn
8 around and he started making threats to me saying that it
9 wasn't over (inaudible). So I come back like, you know, why,
10 like ---

11 THE COURT: Okay. The microphone.

12 THE WITNESS: I was asking him, basically why, you know
13 -- you know, why we can't just leave and let it be.

14 BY MS. FULLER:

15 Q. So you're saying how you aggressively jumped off
16 that scooter while it's still in motion --

17 MR. MOBLEY: I object to characterization, Your Honor.

18 THE COURT: Rephrase it, Ms. Fuller.

19 BY MS. FULLER:

20 Q. The way you -- the way you jumped off that scooter
21 after circling around, you're saying that's your way to
22 peacefully handle the situation?

23 A. (Inaudible)?

24 Q. While the scooter's still in motion? I didn't get
25 an answer yet.

1 THE COURT: Please answer the prosecutor.

2 THE WITNESS: If you can repeat the question, please.

3 BY MS. FULLER:

4 Q. The way you just circled around Daniel, while
5 looks like you were making comments, and then jumped off of a
6 moving scooter, was your way of peacefully handling the
7 situation? It's a yes or no ---

8 MR. MOBLEY: I object. That's an argument question,
9 Your Honor.

10 MS. FULLER: He -- that's what he testified to. I'm
11 asking him a question.

12 THE COURT: He needs to answer the question, please.

13 THE WITNESS: I wouldn't say it was ---

14 THE COURT: Talk into the microphone.

15 THE WITNESS: I said, okay, I wouldn't say is a
16 peaceful way to -- to jump on or jump off a -- a scooter.

17 THE COURT: Okay. (Inaudible) answer that. Move on,
18 Ms. Fuller.

19 BY MS. FULLER:

20 Q. Now, you did speak with law enforcement, correct?

21 A. Oh, yes, ma'am.

22 Q. And as it relates to this gas station, do you
23 recall telling the officer that he took the scooter -- no,
24 no. I'll start from the top. Went to the store on the
25 scooter. Daniel tried to grab me. He took the scooter. I

1 grabbed the scooter and went back to the parking lot. Do you
2 recall making that statement to law enforcement?

3 A. If it is written, then I did -- I did make it.

4 Q. You did tell the police officer that?

5 A. If it is -- if it is in back (inaudible) I -- I
6 did everything they asked me to do. They asked me a series
7 of questions. I can't remember exactly how every question
8 that was asked -- asked and how -- I could tell you, frankly,
9 like I would -- I would answer each question.

10 Q. And when you talked to them, you left all of this
11 out, correct?

12 A. Well, I did say that at the time being the whole
13 situation, it wasn't as much detail that I could get. And,
14 you know.

15 Q. The -- so this isn't about detail, this is about
16 you said, he tried to grab me. That's not about a detail.

17 A. Yeah.

18 Q. You said he tried to grab you at the gas station.
19 Where on this video did that happen? Because it didn't
20 happen.

21 A. Okay.

22 Q. No, I need you to answer the question. It didn't
23 happen, correct?

24 A. If it -- if it is not there, then it didn't
25 happen.

1 Q. Are you telling me it did happen?

2 A. I'm telling you that when I was making the
3 statements to the officers, I tried to do it the best that I
4 can to remember it the best way I could. So if it's not up
5 fully correct, I'm going to go off of what I see. I'm going
6 to be honest and say if I did or did not.

7 Q. Then after that, you were called telling the
8 officer, you went back to the parking lot. Daniel came back
9 over to the parking lot. Daniel came back to me and tried to
10 scoop me up. He grabbed my legs and I moved him off. After
11 he grabbed me, I was scared, so I defended myself. Do you
12 recall telling the police officer that?

13 A. No, I don't recall. I recall telling that he
14 attacked me and tried to take me down to the ground, and
15 stuff like that to the officer.

16 Q. Do you recall ever telling the officer that this
17 incident and when Daniel came over to you, and you said
18 grabbed your legs, was over what? 25 minutes apart?

19 A. If you could repeat the question.

20 Q. Did you ever tell the officer that this happened
21 25 minutes before the shooting?

22 A. Yes, I tell him -- I did tell him about the gas
23 station incident, that's (inaudible).

24 Q. But isn't it true that you told them that after
25 you left the gas station, Daniel came back over to you, came

1 to you directly and tried to scoop you up, immediately after
2 this incident?

3 A. I wouldn't say I said immediately, but after I
4 left the gas station and I went back to the parking lot,
5 Daniel, Mr. Jones keep coming towards me.

6 Q. Okay. The question was, back then, how much time
7 it went by between these incidents, and you said not much.
8 Are you saying you didn't say that to the police officer or
9 are you saying that you did?

10 A. It -- if it is -- if it is in my statement, I said
11 it.

12 Q. And that's you having to be pushed away, correct?
13 Yes or no?

14 A. Yeah, that's me. That's me.

15 Q. Okay. Now, going back to the parking lot. On
16 direct testimony, I got a little bit confused. Defense
17 counsel asked you, "When was the first time Daniel approached
18 you?" And then you said, "Trying to fight. You went over to
19 talk to another employee and Daniel came over with cell phone
20 or wallet to the back of his head -- to the back of your
21 head." And then later on you were asked if that was the
22 second time. So based on this, this is after you all are
23 back at the parking lot. When exactly did Daniel come over
24 to you?

25 A. (Inaudible).

1 Q. What'd you say?

2 A. I said can you show me where I (inaudible).

3 THE COURT: All right ---

4 MS. FULLER: I can't understand.

5 THE COURT: --- (crosstalk) if you don't talk into the
6 microphone. I'm going to tell you right now, we're going to
7 take a break. I'm going to let the jury go to lunch. We'll
8 pick this back up. Please don't talk about this case amongst
9 yourself or with anyone else. Okay? We're going to come
10 back. Be back at the jury room at 2:15, please. All right.
11 Everyone else Court's in recess; 2:15.

12 (Off the record.)

13 THE COURT: You all ready to proceed?

14 MR. MOBLEY: Yes, Your Honor.

15 MS. FULLER: State's ready, Your Honor.

16 THE COURT: Okay. Did you talk to Mr. Irvin?

17 MR. MOBLEY: Yes, Your Honor.

18 THE COURT: Mr. Irvin, this is your day. You're one
19 day in Court. You just got to be heard. If you'll come up
20 to the stand , I'm going to tell you, you're still under
21 oath.

22 THE WITNESS: Okay. Yes, Your Honor.

23 THE COURT: You can be seated and we're going to pick
24 up right where we left off.

25 THE WITNESS: Yes, Your Honor.

1 THE COURT: You ready, Ms. Fuller?

2 MS. FULLER: Beg the Court's indulgence. I need 60
3 seconds, Your Honor. Now, it's 6:45. I'm trying to just
4 transfer something, so I don't have to, like, keep loading
5 all the discs. Trying to go a little faster.

6 THE COURT: I'm (inaudible) you doing that?

7 MS. FULLER: 10 seconds.

8 THE COURT: Can I bring the jury in?

9 MS. FULLER: Okay.

10 THE COURT: Bring the jury in. All these discs that
11 you all put into evidence, there's nothing else on it. I
12 keep seeing all this other stuff on some of them. I wanted
13 to make sure there's not anything else on it because if it
14 gets sent back to the jury ---

15 MS. FULLER: Say it one more time?

16 THE COURT: Sometimes when you all pull up those discs,
17 I see like 1, 2, 3 things.

18 MS. FULLER: So this is my flash drive. I loaded the
19 contents on the disk that I plan to use on the flash drive.
20 So I'm ---

21 THE COURT: That's what probably got me stuck.

22 MS. FULLER: So I'm not -- it's going to take so much
23 longer to, like, take the disc out, load it and all that. So
24 I transferred it to a flash drive, but it's the exact same
25 thing that's already in evidence.

1 THE COURT: That -- what's on the disk is just what
2 it's supposed to be.

3 MS. FULLER: Yes, Your Honor.

4 THE COURT: That's what's messing me up ---

5 MS. FULLER: And I do want to ---

6 THE COURT: --- I keep seeing that and I'm like, okay,
7 we're sending this back to the jury.

8 MS. FULLER: But also, keep in mind, I didn't publish
9 everything. So the entire raw footage is in evidence. And
10 so if you see something new, it is on a disc in evidence. I
11 just didn't publish everything.

12 THE COURT: But the entire wall thing is a Court's
13 exhibit, isn't it?

14 MS. FULLER: No, it's in evidence

15 THE COURT: For the jury to see?

16 MS. FULLER: Uh-huh. I moved it in.

17 THE COURT: Okay. All right, Mr. Foreman, are we
18 ready?

19 THE FOREMAN: Yes, ma'am.

20 THE COURT: Thank you. Please be seated. Hope you all
21 enjoyed lunch. All right, we're going to pick up where we
22 left off. Make sure you speak into that mic.

23 THE WITNESS: All right. Yes, Your Honor.

24 THE COURT: Okay. Thank you. All right, Ms. Fuller,
25 you may continue.

1 MS. FULLER: Thank you, Your Honor.

2 BY MS. FULLER:

3 Q. Picking up in the parking lot, Mr. Irvin, here you
4 testified -- we left off clarifying your direct testimony
5 still. Defense counsel asked you describing the first time
6 approach and then mentioned the second time. So this is what
7 we're about to look at here and I want to clarify a few
8 things. Is that correct? Do you remember discussing the
9 first time he approached you as well as the second time?

10 A. I remember the question.

11 Q. Okay. All right.

12 MS. PATTERSON: If you go ahead and play it.

13 MS. FULLER: And then zoom in that area.

14 BY MS. FULLER:

15 Q. Okay. So here you see the Burgundy SUV there?

16 A. Yes, ma'am.

17 Q. And that is Rasheed Jones car that you were
18 talking about, correct?

19 A. It appears to be so, yeah.

20 Q. And I believe on direct you said you didn't know
21 his name, correct?

22 A. No, I didn't know his real name.

23 Q. Okay. Now, in -- behind the car, do you see
24 yourself there? Walking, moving around, turning there?

25 A. Which one?

1 Q. Right here.

2 A. Oh, that's me? Okay.

3 Q. I -- I'm asking, is that you?

4 A. I can't see clearly.

5 Q. Okay. Look at that. Do you need to step down to
6 come look at it?

7 A. I don't -- I don't mind. I will. If you -- if
8 you'd like me to.

9 Q. Okay. I -- I want to make sure that you -- if
10 that's not you, I need to know.

11 A. All right.

12 THE COURT: Will you step down and go look at the
13 screen? Did you pause it? Did you pause it?

14 MS. FULLER: Yes, Your Honor.

15 THE COURT: Thank you.

16 MS. FULLER: Well, Justin did it. Yes, Your Honor.

17 THE WITNESS: This right here?

18 BY MS. FULLER:

19 Q. Do you recognize yourself in this video footage?

20 A. It might be this guy, right here.

21 THE COURT: I've gotten.

22 MS. FULLER: Okay. Thank you.

23 THE COURT: -- come back to the witness stand, please.

24 BY MS. FULLER:

25 Q. Thank you. And to be clear, this is after you

1 left the gas station, correct?

2 A. Yes, ma'am.

3 Q. Okay. And we'll go ahead and play it. And
4 there's someone else on the scooter. Is that Super Dave?

5 A. I don't know who is that on the scooter.

6 Q. Okay. But you're no longer on the scooter,
7 correct? You pointed yourself out?

8 A. Yes, I guess -- yeah.

9 Q. Okay. And you'll pause it here. And you saw the
10 individual walking across the parking lot, right here?

11 A. Yeah.

12 Q. And is that Daniel Jones? You recognize that to
13 be Daniel Jones?

14 A. Yeah, he looks like him.

15 Q. And when you were testifying about the first
16 approach, is this what you're talking about?

17 A. I believe so.

18 Q. Okay. And we'll go ahead and play it all. And do
19 you see yourself walking by Daniel and now Daniel walking
20 away from you?

21 A. Yes.

22 Q. And what are you doing here?

23 A. Basically just walking.

24 Q. In the direction of Daniel?

25 A. I'm going in the direction by the -- by the

1 vehicle.

2 Q. When I initially asked you the question, what
3 direction were you walking in? And we can do -- how -- hold
4 on. Let's pause it and back it up for a second. What
5 direction are you walking in now?

6 A. Right side -- to the right.

7 Q. And that's towards Daniel? Towards the direction
8 Daniel was walking?

9 A. Yeah, he was walking -- yeah. Yes, ma'am.

10 Q. Thank you. And that's essentially it, correct?

11 A. It is -- yeah, it appears so.

12 Q. So when you testified about the first approach
13 that he came up and he was trying to fight you, where did
14 that happen on this video?

15 A. When he came up, he was still asking to fight, and
16 I was denying. I didn't want to, you know, fight.

17 Q. Okay. So your testimony is, trying to fight does
18 not mean physically engaging, you're saying that means by
19 words he was saying ---

20 A. Verbally -- verbally, yeah.

21 Q. But here he didn't come up behind you, correct?

22 A. No, no.

23 Q. He didn't put anything to your head here, correct?

24 A. No.

25 Q. In fact, you started walking towards him, correct?

1 A. It appears so.

2 Q. On direct you suggested, and I could be wrong, so
3 you correct me if I'm wrong ---

4 A. Yes, ma'am.

5 Q. --- as if you were trying to get away from him,
6 away from the situation. Was that your testimony on direct
7 or did I hear incorrectly?

8 A. I said that I -- I tried to avoid him. Yes,
9 ma'am.

10 Q. But you would agree that you did not correct?

11 A. I -- I cannot agree and say that I didn't avoid
12 him there because I was -- I was there, he came to me, we had
13 conversation. I keep telling him that I -- I do not want any
14 trouble, and he couldn't get what he wanted. He left and I
15 turned back around. I went back in the direction of the
16 vehicle.

17 Q. So understand your response, but would you agree
18 that if you were trying to avoid him, you would not walk with
19 him, correct?

20 A. I wasn't walking with him because I turned around,
21 and basically, when you see me moving, you, like you say in
22 his direction, it wasn't in no manner to do anything. I just
23 telling him like, I don't -- I don't want no trouble, please
24 leave me alone, last words. And you know, I turn back
25 around.

1 Q. So is your testimony is, he's walking away
2 threatening to fight you and you're just walking with him
3 like, hey, just leave it alone, and that's why you're walking
4 with him?

5 A. He was trying to fight and I wasn't walking with
6 him, but I was expressing to him that I don't want no trouble
7 and I was asking the police to leave it alone.

8 Q. Okay. We'll move on. Continue, please. And do
9 you see yourself pacing around the car or standing around the
10 car?

11 A. Yes.

12 Q. Okay. And on direct, when you testified that you
13 were talking to a supervisor, is this where you were talking
14 to a supervisor?

15 A. No.

16 Q. Okay. And you indicated this is not -- this is --
17 you indicated the supervisor was Jarrell. Is Jarrell in this
18 area right now?

19 A. Right now? He's not in this area right now.

20 Q. So when you testified on direct that you went over
21 there, went back to the parking lot -- and I could be wrong,
22 but I wrote it down here -- he was walking away from you,
23 again. So maybe this is later on. Is that what you were
24 talking about?

25 A. Yeah. Later on, you would see when I got into my

1 vehicle and I drove, I saw my supervisor, so I parked and I
2 was telling my supervisor about the situation.

3 Q. Okay.

4 A. I parked close by him.

5 Q. Thank you for clarifying that. So we'll get to
6 that on this video shortly. So here it's hard to see, but we
7 are three minutes and 23 seconds into this footage. And this
8 is the 22 minute footage here. Do you see yourself climbing
9 on top of Rasheed's car or SUV?

10 A. It looks like ---

11 Q. Right here.

12 A. Okay, I see. Yes -- yes, ma'am.

13 Q. That's you climbing on top of his car, correct?

14 A. Yes, ma'am.

15 Q. And the purpose of climbing on top of his car is
16 to do what?

17 A. I was just horsing around with -- with she.

18 Q. And -- and you're still talking about what
19 happened at the gas station, correct?

20 A. It is unclear exactly what I'm telling Rasheed,
21 but me and him was conversating.

22 Q. Can you explain that to me when you say it's
23 unclear?

24 A. I mean, like, to the -- the conversation that me
25 and was having at that time, I don't recall the full instance

1 of -- of what they continue.

2 Q. So that's what you mean by unclear? Is that you
3 -- when you say something is unclear is because you're saying
4 you don't remember it?

5 A. The conversation?

6 Q. Yes.

7 A. Yeah, I don't remember what we was talking about,
8 no.

9 Q. Okay. And so you're just on top of the car -- and
10 we'll continue to play. And you described this as just horse
11 playing?

12 A. Yeah.

13 Q. And pause it right here, please. It's hard to see
14 through the trees and so we'll back it up. When you're
15 throwing your hands up and moving around on top of the car,
16 is that part of your horse playing?

17 A. Horsing around -- not horsing around, just like --
18 I guess you could say so, yeah.

19 Q. Say -- say what?

20 A. Yes -- yes.

21 Q. Yes what?

22 A. Yes you could say it is horsing around, meaning
23 like really just horsing around me and Rasheed.

24 Q. Okay. And so your testimony is while you're on
25 there, moving around the vehicle, looking towards Daniel's

1 direction, you are not motioning and throwing your hands up
2 and doing stuff towards Daniel, you're doing that to Rasheed?

3 A. No. And not -- not nothing towards Daniel.

4 Q. But you would agree you're facing his direction
5 when you're moving around, correct?

6 A. Well, I'm going this way and that way. So and --
7 and it is unclear where Daniel is at -- at that point, so I
8 can't say that I was facing his direction.

9 Q. Okay.

10 A. But we know he went that way. So obviously you
11 trying to make it seem like, you know, I'm facing him, but it
12 is -- I don't know where is Daniel at that moment.

13 Q. Okay. I'll ask it this way. We saw Daniel walk
14 towards the right of the screen, correct?

15 A. Yes -- yes.

16 Q. And when you're pacing on top of the car, you're
17 going left and right, correct?

18 A. Yeah.

19 Q. And would you agree that when you're going towards
20 the right, you're facing Daniel's direction? It's not a
21 trick question, I promise.

22 A. Well, yeah. What he would presume to be, but when
23 he goes to the right, there is no telling if he is -- is gone
24 somewhere else. Is -- is he -- is he there or not? You
25 know, when it is a lot of places that he could be ---

1 Q. Correct, because we're watching video, but you
2 were there. So you're saying you don't remember where he was
3 ---

4 A. No.

5 Q. --- while you were on top of the car?

6 A. Uh-uh.

7 Q. Okay. Did he leave the parking lot?

8 A. I'm not sure.

9 Q. Okay. And we'll keep playing. And you see
10 yourself jump off of the car?

11 A. Yes, ma'am.

12 Q. And you're walking and you're doing things with
13 your hands. Is that horse playing?

14 A. No, it don't look like horse playing. It just
15 look like a hand gesture, like ---

16 Q. And -- and who are you making that hand gesture
17 towards?

18 A. It don't -- it don't necessarily have to be
19 nobody. I just making a hand gesture to be, you know.

20 Q. Okay.

21 A. Going through such a situation like that it's like
22 ---

23 Q. Going through what situation?

24 A. Situation where a guy keeps coming back and forth,
25 kind of antagonizing me, kind of like, you know.

1 Q. Okay. So you were still talking about Daniel when
2 you were doing the hand gestures?

3 A. No -- no, I wasn't talking about him, but I'm just
4 saying that hand gestures could have meant that me feeling,
5 like, the situation petty and bringing extra.

6 Q. So same question.

7 A. Yeah.

8 Q. You're still talking about the situation at the
9 gas station; yes or no?

10 A. No, I wouldn't say I was talking about the
11 situation.

12 Q. Okay. And now we are about -- so, no, I can't see
13 it past this part. It's five minutes and 18 seconds in.
14 Okay. You see yourself walking towards the direction that
15 Daniel left often about two minutes ago, correct?

16 A. Yes, I go that direction.

17 Q. Okay. And we'll zoom. And you're walking past
18 where Mary's car was parked now, correct? Through the trees?

19 A. I don't ---

20 Q. You remember Mary's car being parked there?

21 A. No.

22 Q. Okay. Right here, more hand gestures. And you're
23 doing that towards who?

24 A. It's unclear. I can't see.

25 Q. Do you remember?

1 A. Oh, what? Okay. So I guess between this truck,
2 right here, it's our individuals, more coworkers, I think I
3 stopped and I talked to them at that -- at that truck right
4 there.

5 Q. So you were throwing the hand gestures towards
6 those individuals?

7 A. It could be a possibility that we were
8 communicating and talking like, hey, what's up? You know,
9 come over here. You know, just -- just -- it could be a
10 possibility, but I don't -- I don't see Daniel nowhere there,
11 you know. We just know he went that way. But we don't know
12 where is -- where -- where is Mr. Jones?

13 Q. All the camera angles are in evidence.

14 A. Okay.

15 Q. Okay. All right. We'll keep playing. And that's
16 you just hanging out there, correct?

17 A. Yes, It has, I think, like two or three guys.

18 Q. And we're now six minutes and 37 seconds in. So
19 when you talked about, on direct, the second time, the way
20 your testimony flowed suggested as if he came right back
21 over, that's not what happened, correct?

22 A. No, because I'm sitting there. I'm talking, and I
23 know once I finished talking, I go to my car and I go to --
24 across. But my -- when my supervisor -- well -- well,
25 because he had got out at that time.

1 Q. Did you call your supervisor on the phone earlier
2 to ---

3 A. No, I happen to see his car and I -- I drove up
4 right almost beside him.

5 Q. So now we're going to jump ahead a little bit.
6 And -- and now for the record, we are 12 minutes and 25
7 seconds into this. And the second time Daniel -- you say
8 Daniel approached you, it hadn't happened yet, correct?

9 A. No, no, Ms. Fuller.

10 Q. And you see your car parked there under that old
11 bank?

12 A. I do see my car present.

13 Q. You don't?

14 A. I do see ---

15 Q. You do.

16 A. I do see my car present.

17 Q. I apologize. And you're -- I don't know if you
18 can tell, we can pause it. The car door just opened and so
19 we back it up two seconds. It's not the best video, so you
20 just got to watch for the motion. And let me know when you
21 notice the -- your car over here and the car door open.

22 A. Okay, I see some moving. I see some.

23 Q. Okay. And you would be the only person driving
24 your car, correct?

25 A. Oh yeah, definitely.

1 Q. Okay. And now at this time, where is your gun?

2 A. My gun is (inaudible).

3 Q. Okay. So we know you had your gun at the gas
4 station. I know you testified sometimes your gun's in your
5 car, sometimes it's on you. This day, when you were at work,
6 did you have your gun with you at work?

7 A. I have my gun with me all the time.

8 Q. Okay. So on June 24th, when you went into the
9 plant and clocked in, was the gun on you or was the gun in
10 the car?

11 A. I think it was with me. It might have been in the
12 car, probably was with me.

13 Q. So the gun was on your person when you went into
14 the plant that day?

15 A. It might have been. It's possibility. Sometimes
16 I do carry it inside just by, you know, (inaudible)
17 sometimes.

18 THE COURT: Yeah, Mr. Irvin, if you don't know, it's
19 okay to say I don't know.

20 THE WITNESS: I -- I don't know ---

21 BY MS. FULLER:

22 Q. Okay.

23 A. --- Ms. Fuller.

24 Q. So it's one of two things, the gun is either on
25 you when you're at work and when you get off, or the gun was

1 in your car, correct?

2 A. Yes, Ms. Fuller.

3 Q. And so if the gun was in the car and not on you
4 that day, do you remember -- did you go to your car first to
5 get the gun and then go to the gas station?

6 A. I don't remember every exact move, but if you
7 could show me that, I will tell you. If -- if you could show
8 me I will tell you.

9 Q. I don't know. I'm asking.

10 A. I just going to tell this. Like two years ago, so
11 I'm going off of everything I see on -- on video.

12 Q. Okay. So let me clarify this then. Your direct
13 testimony, is it based on what you remember or based on what
14 you watched on video?

15 A. It's based on -- on both what I remember and --
16 and details that I seen on video, too.

17 Q. Okay. So now we are 12 minutes and 51 seconds in.
18 And you agree the car door had opened and there's a figure
19 there and you said you would be the only person driving your
20 car?

21 A. Yeah -- yeah, definitely some movement around the
22 vehicle. And -- you say you see me entering, so if there's
23 anybody entering it, it would be me.

24 Q. So we'll play it from here. And we're watching
25 your vehicle here. Let me ask you this, while we are

1 watching your car, at this time while you're at your car ---

2 A. Yes, ma'am.

3 Q. --- is this where you're in fear for your life?

4 A. When I'm at my car?

5 Q. Uh-huh.

6 A. No, ma'am.

7 Q. How about earlier when he first approached you,
8 were you in fear for your life?

9 A. No, ma'am.

10 Q. At the gas station, were you in fear for your
11 life?

12 A. No, ma'am.

13 Q. Can you pause it for a second. Now, do you see --
14 oh, sorry. Now, do you see your car moving, right here?

15 A. Yes, ma'am.

16 Q. And this is 14 minutes and 23 -- no, 14 minutes
17 and 53 seconds in. So that's approximately two minutes, if
18 my math is right, yeah. Little over that, that you're over
19 there at your car; is that correct?

20 A. Yes, ma'am.

21 Q. And then you decide to drive back into the parking
22 lot?

23 A. I -- my supervisor is on that direction, and I'm
24 already technically, kind of, in the parking lot.

25 Q. Well, you sat in your car for two minutes. What

1 are you doing in your car for two minutes?

2 A. So that car, it has a terminal issue. So what it
3 is is it is like an electrical, the battery -- the battery
4 drains. So in order for me to crank the car, I have to pop
5 the hood, put my terminal back on, because if I leave it on
6 overnight, it will drain the battery. So I take my terminal
7 off. So -- so it don't drain the battery when -- when my car
8 is there, but when it's time to -- if I need to crank, I make
9 sure I put it on, I crank it and then I can drive. It runs
10 and drives along. It's -- it's connected, but ---

11 Q. Okay. So -- so there we saw your hood open. Is
12 that -- is that what you're saying? That you're -- you were
13 ---

14 A. Yeah, you see me messing up with -- with my car,
15 yeah.

16 Q. But that's -- that's what you were doing?

17 A. Yeah.

18 Q. Okay. Okay. And then you decide to drive -- we
19 can keep playing. And your testimony is, you don't know
20 where Daniel is right now?

21 A. No, ma'am. And my supervisor is in that silver
22 car.

23 MS. FULLER: If --- if Your Honor, can you step down
24 and point it out? I'm not sure which one he's referring to.

25 THE COURT: Sure, you can step down, Mr. Irvin?

1 THE WITNESS: Yes, Your Honor. This way.

2 BY MS. FULLER:

3 Q. I couldn't see, I'm sorry. You ---

4 A. This way.

5 Q. Okay. And he wasn't there before; is what you
6 were saying?

7 A. No, I didn't see him. His car might have been
8 there, but he might not have been in the -- in the car at the
9 time. Because he did come out after -- after we come out.

10 Q. Okay. So after you move your car here -- and your
11 testimony is the purpose of moving your car here is to talk
12 to your supervisor about what happened at the gas station?

13 A. Yes, I feel like it was best to mention it to him
14 because I already had mentioned it before. So he knew about
15 the issue, so we could address it and get it completely
16 squashed.

17 Q. And this is first is just going home, correct?

18 A. Well, I probably would've went home if I didn't
19 see him. And I see him; I wanted to talk to him about that
20 -- the issue.

21 Q. And -- and even after the gas station, you
22 could've just gone home, correct?

23 A. Technically, I could have, we got off early, so I
24 figured I could, you know, mingle with the employees for a
25 little bit.

1 Q. The employees?

2 A. Coworkers.

3 Q. And this is when you -- so this is what you're
4 testifying on direct. You said the second approach happened,
5 correct?

6 A. Yes, ma'am. Right around in this area is when he
7 comes back and approaches me.

8 Q. And this is when you say, but this is while you're
9 talking about Daniel?

10 A. Can you repeat the question?

11 Q. This is -- you're over here talking about Daniel,
12 correct?

13 A. Yeah, but it's right -- this is my supervisor. I
14 talked to him, he said he is going to handle it and I end up
15 going -- I think I talked to the guy in the gold car, ended
16 up talking to him and then we, kind of, you know, walking in
17 the middle of the cars or whatever because, you know, we got
18 a group of people over there, we, you know, talking or you
19 can see me just talk to -- yeah, you see me talk to him.
20 Then I go.

21 Q. And this is, you're talking to him about what
22 happened at the gas station?

23 A. Yeah, because I -- I spoke to him previously about
24 it, so he knows about the issue because you're supposed to --
25 you're supposed to report any issue you having. And because

1 I'm not in the job at that time, I still want him to
2 understand that the job issue is now spilling outside the job
3 and he's still coming towards me.

4 Q. And then did you also tell your supervisor what
5 you did?

6 A. I don't -- I don't think I did.

7 Q. Okay. And the person ---

8 A. Not to the full extent though, but I did tell him,
9 you know, we had an altercation.

10 Q. And the person in the gold car, is that also a
11 supervisor while you're talking to him about it too?

12 A. No -- no.

13 Q. You were just still talking about it?

14 A. I wasn't talking about that to the guy in the gold
15 car, he like dogs and I like dogs and we -- we talked about
16 dogs and stuff like that. He -- he a cool guy.

17 Q. And at this time, you indicated that you don't
18 know where Daniel is, correct?

19 A. That's correct.

20 Q. Because you're -- you -- because you're not
21 concerned about -- you're not concerned about him anymore,
22 correct?

23 A. That's correct.

24 Q. But you're still talking about him? I just want
25 to make sure I understand that.

1 A. At that point, I was not talking about him. I
2 mentioned it to my supervisor, but I was not talking --
3 talking about, you know, telling everybody that this is what
4 happened. I just -- I talked to my supervisor about it
5 because he already knew that it was a previous issue and I
6 wanted him to get to the bottom of it. Normally -- normally,
7 instead of having a -- a verbal, I want him to actually, you
8 know, get to the bottom of it, sit us down, we talk about
9 this, so that he make the write up if he feel it's necessary
10 or, you know, so we can just continue to work as coworker.

11 Q. Okay. So your testimony is, you saw your
12 supervisor from across the parking lot, correct?

13 A. I saw him when I was driving across the parking
14 lot. I didn't see him from afar, but when I was driving --
15 crossing the parking lot, I noticed him, that he's in his
16 vehicle; I need to talk to him about this issue.

17 Q. Okay. So now that's a little different. And I'm
18 glad you clarified that. So there are exits to leave the
19 parking lot by the bank, correct?

20 A. Yeah, there's plenty of ways to enter, exit.

21 Q. You -- you can exit the parking lot before driving
22 all the way over here, correct?

23 A. Yeah.

24 Q. And so your testimony is, you didn't see your
25 supervisor from across the parking lot, but you chose to

1 drive across the parking lot, then you happened to see him
2 and that's why you stopped?

3 A. Yeah.

4 Q. Is that your testimony?

5 A. Yeah.

6 Q. Okay. And when you saw him, your testimony is you
7 intended to talk to him about the situation with Daniel,
8 correct? That's your testimony, right?

9 A. Yes, Ms. Fuller.

10 Q. And your testimony in the same breath is, even
11 though that was your intent, you did not see where Daniel was
12 at that time. Is that your testimony?

13 A. Yes, Ms. Fuller, I didn't know where Daniel was.

14 Q. So the man that you were in fear of -- well, you
15 actually -- you end up saying that you weren't in fear,
16 correct?

17 A. Not at that moment. I wasn't, no.

18 Q. Okay. So even though earlier you said you were in
19 fear because of the threats, now your testimony is, at that
20 time, you were not in fear for your life?

21 A. Right then and there I wasn't in fear.

22 Q. So what happened at the gas station meant nothing,
23 correct? That's your testimony now? Because you were not in
24 fear.

25 A. I -- I said I wasn't in fear at the gas station,

1 too, though. I ---

2 Q. Correct, you did.

3 A. Okay.

4 Q. So -- okay. And so when you're driving across the
5 parking lot, you don't care where Daniel is because you're
6 not concerned with him, correct? Is that your testimony?

7 A. Yes, Ms. Fuller.

8 Q. And because you were not in fear for -- fear of
9 him?

10 A. No, not at that time, no.

11 Q. Okay. We're now 20 minutes, 49 -- 50 seconds in.
12 And your testimony is you are not talking to Daniel,
13 nothing's going on here, correct?

14 A. No. No, it just seems like regular -- regular
15 mingling.

16 Q. Okay. So this is Daniel coming across the parking
17 lot now, correct?

18 A. Yeah.

19 Q. So what you described, this is the second
20 encounter, right?

21 A. Yeah. See, did you see that?

22 Q. You asking me a question?

23 A. Sorry, ma'am.

24 Q. Okay. So this is the second encounter you're
25 talking about, correct?

1 A. Yes, ma'am.

2 Q. And this is where you testified that he put
3 something to the back of your head?

4 A. Yes, ma'am.

5 Q. And you saw that just now in this video?

6 A. Yes, ma'am.

7 Q. You -- you -- back it up, just to right before
8 Daniel walks to him. Just maybe five -- 10 seconds. And
9 pause it. Okay. So it's paused here, but you're saying
10 that's your back to Daniel?

11 A. Yeah.

12 Q. Okay, we'll -- we'll back it up and play it. And
13 this is Daniel's hand, correct?

14 A. Yeah.

15 Q. Pointing where?

16 A. Like this.

17 Q. This hand right here, you're saying is pointing
18 straight out? This right here? Is that your testimony?

19 A. It is -- can you make it bigger, so I see it.

20 Q. Okay. So you're saying that hand going up was
21 that way, is your testimony?

22 A. His hand was behind my head. (Inaudible).

23 Q. And your testimony is, that's the back of your
24 head?

25 A. It looks like he's going straight up, right there.

1 Q. And -- okay. And setting the video aside --

2 A. Yeah.

3 Q. -- your memory is, with your back towards him, you
4 could see his hand going to the back of your neck?

5 A. Yes, ma'am. Because, see, I'm sitting, I'm right
6 -- I'm by the -- by this car. And in the car you could see
7 the reflection from the window was coming from behind. So
8 when I'm seeing -- I'm seeing him approaching me, when he
9 gets close and I, kind of, do this, and see him coming like
10 that to me.

11 Q. So you saw his hand in the reflection of the car,
12 is your testimony?

13 A. No, I saw him -- his presence and then when I
14 turned around, his arm was gesturing to the back of my head.

15 Q. But you would agree that that arm looks like it's
16 pointing up to the sky, correct?

17 A. It looks like it.

18 Q. And then we'll back it up 10 seconds and we'll
19 watch it. So that's -- that's what you're describing is to
20 the back of your head, your neck?

21 A. So ---

22 Q. Yes or no?

23 A. Yes, at one point his hand was to the back of my
24 head, ma'am.

25 Q. Okay. You can zoom out and -- and pause it right

1 there. And Daniel started to walk away, correct?

2 A. It appears so.

3 Q. And you walked towards him, correct?

4 A. I walked past him and I'm going -- I'm going to my
5 car.

6 Q. Is that a -- a two-door or a four-door?

7 A. My car?

8 Q. Uh-huh.

9 A. It's a four-door.

10 Q. It's a four-door. And when you say going towards
11 your car, you're saying you were trying to go inside your
12 car?

13 A. No, I said towards my car.

14 Q. Okay. So you were just walking to your car for no
15 reason?

16 A. At one point in time I sat on the trunk of my car.

17 Q. Okay. And then we'll pause it here. And you're
18 not in fear for your life here, correct? No?

19 A. No.

20 Q. This is where, I think, you testified. You said
21 you're sitting down on the back of your car in disbelief. Is
22 that what that's -- is this what's happening here?

23 A. Yeah, because ---

24 Q. Okay.

25 A. --- like he was saying, the situation has already

1 ended. It has been a sufficient amount of time has passed,
2 and he still -- he's following me wherever I go, everywhere I
3 go.

4 Q. Well -- well, you're still talking about it, too.

5 A. No, I wasn't talking about it. I said, I
6 mentioned it to my -- my supervisor.

7 Q. Okay. And ---

8 A. Well, I wasn't talking about the situation.

9 Q. And your head is towards Daniel, right here, and
10 Daniel's back is to you. He's trying to walk away, correct?

11 A. Right then and there?

12 Q. Yes -- yes or no?

13 A. I don't know.

14 Q. No, okay. Now, Daniel starts to walk away and you
15 get off your car, correct? And we're going to pause it right
16 when you're jumping off the car. You're about to jump off
17 the car, correct? You see yourself jump off the car?

18 A. Yeah, I see.

19 Q. And then -- and do you see what you're doing with
20 your hands?

21 A. It's unclear what I'm doing. I can't see.

22 Q. We'll back it up two ---

23 A. No -- no.

24 Q. We'll back it up two seconds. You see what your
25 body's doing?

1 A. What -- what was it?

2 Q. You tell me, and don't ask me questions, please.

3 A. Sorry. I -- I couldn't see no -- nothing.

4 Q. Isn't it correct that you jumped off your car, you
5 twisted your body and you're throwing air punches?

6 A. No, I didn't see that.

7 Q. Okay. We'll go to the next one.

8 THE COURT: Let's move on.

9 BY MS. FULLER:

10 Q. Okay. All right. So I want you watch yourself as
11 you're jumping off the car, and please tell me what you're
12 doing.

13 MR. MOBLEY: Objection, Your Honor. He's asked to
14 answer this question.

15 THE COURT: I agree. Let's move on. We've already
16 seen it. He's answered it. Let's move on.

17 MS. FULLER: I apologize, Your Honor. He said he
18 didn't see the clips. I was trying to play it, so he could
19 ---

20 THE COURT: He said he didn't remember that's what he
21 had done, when I heard the testimony. I -- we're not going
22 to do this two or three times. He's asked, answered, let's
23 go on.

24 BY MS. FULLER:

25 Q. Okay. Pause it. Right there your hands are

1 moving. Do you see that?

2 A. Yeah.

3 Q. And they're moving towards Daniel, correct?

4 A. No, I'm -- I'm doing this. I'm trying to explain
5 the situation, like I don't want any trouble.

6 Q. Okay. And on direct, you testified that this
7 encounter, you said Daniel made the statement, "I should take
8 it from you." And you indicated he reaches for your firearm?

9 A. Yes, ma'am.

10 Q. And when does that happen? And you'll just tell
11 me when to pause it.

12 A. (Inaudible) down. Back it up some. So he reaches
13 for it.

14 Q. That's where you say he's reaching for it?

15 A. Oh, you got to back it up just -- just a little
16 bit because he -- he -- when he reaches for it, I start
17 backing out to get up out -- to get out the way. And then he
18 tries to take me down, too. So, but he reached for it first
19 and that's why I started backing up because I'm too close to
20 him and ---

21 Q. So -- okay, so your -- your testimony now, and on
22 direct, was he reaches for the firearm, you said your back
23 hits the car. Do you remember saying that?

24 A. Yeah.

25 Q. And then you said, then he tries to take me down.

1 So it's two different actions, correct?

2 A. Two different actions, yeah. He try to reach for
3 it ---

4 Q. And so I'm asking ---

5 A. --- he try take me out.

6 Q. Okay. So I'm asking for the first one when he
7 tried to reach for it and ---

8 A. It would be somewhere right in between there and I
9 stopped backing up out the way.

10 Q. So right there is your -- your testimony is that
11 in that time there, he's reaching for your firearm, you back
12 up, then he drops down to try to take you down.

13 A. Yes, ma'am.

14 Q. And you would agree that we don't see that on that
15 video, correct?

16 A. It's hard to see because the cars is -- the cars
17 are blocking it.

18 Q. Let me ask you this, where was your firearm?

19 A. On my waist, ma'am.

20 Q. And your shirt was covering it, correct?

21 A. Yeah.

22 Q. And so would you agree that to reach for your
23 firearm, I would have to go underneath your shirt, correct?

24 A. He grabbed ---

25 Q. Would you ---

1 A. --- towards -- towards my hip.

2 Q. Would you -- I hear that, but my question is,
3 would you agree to reach for your firearm, he would have to
4 go towards your waistline, under your shirt, correct?

5 A. To reach for it, you don't -- he don't have to go
6 under my shirt, you know, but he can still reach for it from
7 me.

8 Q. Okay. Agree. You can reach for something. Got
9 it. To actually grab your firearm, will he have to go under
10 your shirt and get it out your waistband? Your waist? Yes
11 or no?

12 A. Technically, yeah.

13 Q. Your testimony on direct, I believe was the first
14 shot came from your waist. Is that your testimony? Was that
15 your testimony or did I hear you wrong?

16 A. I said from the hip because you could -- when he
17 start reaching, I start backing up in protection of my
18 firearm, and then he -- he tries to take me -- take me down,
19 and then I -- I shoot.

20 Q. So you're saying your hand is down here when you
21 deliver the first shot?

22 A. Yes, ma'am.

23 Q. You would agree that your arm was extended
24 correct?

25 A. So ---

1 Q. Yes or no?

2 A. Oh, my arm was extended.

3 Q. Okay. And you would agree that you're walking
4 towards Daniel as you're shooting, correct?

5 A. Yeah, it appears so, yes.

6 Q. And your testimony is, as you're -- your testimony
7 on direct was as you're walking towards him shooting, you
8 were not angry?

9 A. No, it wasn't me.

10 Q. That wasn't your testimony or you were not angry?

11 A. I was not angry, Ms. Fuller.

12 Q. On direct, we listened to your 911 call. You
13 remember that?

14 A. Yes, Ms. Fuller.

15 Q. And on that call, you never mentioned to
16 dispatcher that Daniel tried to take your gun, correct?

17 A. I don't know, Ms. Fuller.

18 Q. Okay. On that call, you indicated that he
19 attacked you, correct?

20 A. Yes -- yes, Ms. Fuller.

21 Q. Now, when you were -- when you first came back to
22 the scene, do you recall telling law enforcement, I got
23 self-defense, he attacked me first? Do you remember saying
24 that?

25 A. I remember saying, it was self-defense. He

1 attacked me.

2 Q. That he attacked you. Do you also recall being
3 interviewed by the police? I asked you about that earlier
4 when you went to West Columbia Police Department, correct?

5 A. Yes, Ms. Fuller.

6 Q. And do you recall telling the -- that police
7 officer that he -- he attacked you first, but then later on
8 saying he tried to attack you? Do you remember that?

9 A. No, I don't remember exactly the full -- what I
10 know, I tried to collaborate with the law enforcement as much
11 as I could.

12 Q. Fully understand that. I'm just -- the rules
13 require me to ask you those questions the way I'm asking?

14 A. Yes, ma'am. Yes, ma'am.

15 Q. So I just need a yes or a no, if you remember.

16 A. I'm sorry.

17 Q. Now, after the shooting, you agree you left the
18 scene, correct? You testified to that?

19 A. Yes, ma'am.

20 Q. And your testimony was that you called your
21 brother, correct?

22 A. Yes, ma'am.

23 Q. Now, you didn't call your brother immediately,
24 correct?

25 A. Immediately, like when I left the scene? It was

1 not long after. I don't -- immediately, it would be like
2 right like that. So it wasn't like (inaudible), no.

3 Q. Would you disagree with the records and evidence
4 that it took you about four minutes before you made a phone
5 call?

6 A. I don't know. At that time, I don't know how long
7 it was before I made a call. I know I said what had just
8 happened. It was still playing in my head right there.

9 Q. But you wouldn't disagree with records that show
10 that you didn't call anyone immediately?

11 A. If it is -- if it is valid records, I -- I can't
12 disagree with it.

13 Q. And you wouldn't disagree that with the fact that
14 it took you about approximately eight minutes before you even
15 called 911?

16 A. If that's on record, because I don't -- I can't --
17 I don't know the exact time. But if -- if that's the record,
18 that's the record. I -- I ---

19 Q. And you have your CWP, correct?

20 A. Yes, ma'am.

21 Q. And in your CWP class, they teach you about
22 reporting, correct?

23 A. Yes, ma'am, to report.

24 Q. And it says you're supposed to report immediately
25 after discharging a firearm, correct?

1 A. Yes, ma'am.

2 Q. Now, I'm going to ask you a series of questions.
3 Do you recall during the interview when talking about Daniel
4 and your work, telling law enforcement that you get paid by
5 the chicken, and this was in reference to Daniel being late.
6 Do you recall that?

7 A. I don't even recall me saying that because we
8 don't get paid by the chicken, Ms. Fuller.

9 Q. Okay. Do you recall stating that that later on,
10 that "I had the gun at the gas station too. I thought about
11 using it at the gas station"? Do you recall stating that?

12 A. I think I -- I think is in my -- what you -- my
13 statement. He asked me ---

14 Q. When asked whether or not you had the gun at the
15 gas station ---

16 A. Yeah.

17 Q. --- do you recall telling the police officer that
18 you thought about using it at the gas station, too?

19 A. Yeah, I tell -- I tell him that.

20 Q. But your testimony in court was that you were in
21 fear -- you were not in fear for your life at the gas
22 station. Wasn't that your testimony a few moments ago?

23 A. Yeah.

24 Q. Okay. When asked about how much time passed
25 between the gas station and Daniel getting back to the

1 parking lot, you recall saying not much, correct?

2 A. To law enforcement?

3 Q. Yes. Talking about your interview with police,
4 these are all the questions from there.

5 A. Okay. See, I don't -- I don't recall.

6 Q. Okay. You don't recall. All right. Do you --
7 and then in the next (inaudible), you said he pulled into the
8 parking lot and came straight to me. Do you remember saying
9 that.

10 A. I think I do.

11 Q. Okay, but that's not what happened, correct?

12 A. Moments (inaudible), but I'm trying to -- I was
13 trying to give law enforcement as much as I could give them
14 at the time, being under so much.

15 Q. One hundred percent understand that. And I'll
16 take that as a response with all my questions, okay?

17 A. Yes, ma'am.

18 Q. We're on the same page. I hear that that's your
19 testimony now. Do you recall telling the police that I felt
20 my feet lift and I got scared?

21 A. Yeah, I think I told them something like that.

22 Q. But that's not true, correct?

23 A. That is true.

24 Q. Your -- Daniel lift you up off the ground.

25 A. I felt -- see, it's unclear because you can't see

1 what he was doing to me when (inaudible).

2 Q. Understand that. Forget the video. Asking you a
3 question. Your -- is your testimony that Daniel lift you off
4 the ground?

5 A. I said I felt my feet about to leave off the
6 ground.

7 Q. Your testimony now, but do you recall telling the
8 police that you felt your feet lift -- leave the ground?

9 A. If it is -- if it is in -- if it that's what I
10 told the police -- that's what I told the police, Ms. Fuller.

11 Q. But now what you were trying to explain was,
12 you're saying that you believed or you felt like your feet
13 was going to leave the ground?

14 A. Yes, Ms. Fuller, my feet -- he was trying to
15 exclude me. You could see -- you could see it clearly on the
16 thing he take -- tried to take me down.

17 Q. Do you recall telling the -- the police officer,
18 initially in the interview, that Daniel left the job first
19 and -- and quote, "Was waiting for me to come outside." Do
20 you recall stating that to the police officer?

21 A. Yes, Ms. Fuller.

22 Q. And then do you recall later on in the same
23 interview stating, "I didn't know where Daniel was until I
24 saw him at the gas station"? Do you recall making that
25 statement?

1 A. Yes, Ms. Fuller.

2 Q. Which one is it?

3 A. Can you repeat the question?

4 Q. You made both of those statements, they don't go
5 together, which one is true?

6 A. When I got out there, I didn't know exactly where
7 he was, but obviously, like, when I came out and even when I
8 got my moods together, I moved, he followed me straight.
9 Like he -- he knew I was -- I didn't know he was.

10 Q. I'll move on. Do you recall telling the police
11 officer that after you left work you went to your car first
12 and grabbed your gun?

13 A. I don't recall.

14 Q. So no? You don't recall that?

15 A. I mean, if it is there -- if I (inaudible).

16 Q. So the rules of evidence require me to ask you, so
17 I need a yes or a no?

18 A. Yeah.

19 Q. Okay. So you do remember telling the police
20 officer that, or you don't?

21 A. I don't remember telling them.

22 Q. You don't. Okay. Now, we talked -- you talked
23 about on direct giving a written statement. In your written
24 statement, didn't you indicate that fresh pulled up at the
25 gas station and charged at you? Is that correct? Isn't that

1 what you told the police and wrote in your statement? Yes or
2 no?

3 A. Yes.

4 Q. Okay. Do you recall writing that he pushed you
5 when he pulled up and you pushed him back? Is that what you
6 -- do you recall writing that?

7 A. I don't recall writing that.

8 Q. You recall stating, "He followed me to the parking
9 lot; he came up to me and tried to attack me"? You recall
10 stating that?

11 A. Yeah.

12 Q. But that's not what happened, correct?

13 A. That's what did happen.

14 Q. That he followed you, came up to you and attacked
15 you immediately?

16 A. Not immediately, but everywhere I was, he would
17 come and tried to get me to engage with him.

18 Q. Do you recall stating, "Every time I ran away, he
19 followed me, he grabbed me, and lift me up"?

20 A. He was trying to lift me up.

21 Q. Yes or no.

22 A. I don't recall stating something like that, but
23 --- technically.

24 Q. Do you recall stating, "I had no way to run. He
25 came attacking me. He was strong and I was scared. Every

1 chance I got, I tried to avoid him"?

2 A. Yeah.

3 Q. But that's not true?

4 A. It is true, Ms. Fuller.

5 Q. Okay. You recall stating, "He insisted on picking
6 trouble with me, so I had to use my firearm"? You recall
7 stating that?

8 A. A lot of -- a lot of it I -- I don't recall, Ms.
9 Fuller.

10 Q. Okay.

11 A. A lot of it's -- it was long ago, so.

12 Q. Now, before I ask the next question, how long have
13 you been working at the chicken plant?

14 A. For a couple years. I worked on day shift and
15 night shift.

16 Q. Okay. And you're familiar with the location of
17 the West Columbia Police Department?

18 A. No, ma'am.

19 Q. You don't know where it is?

20 A. No, ma'am.

21 Q. Okay. You know it's in West Columbia?

22 A. No, ma'am. I -- I really stay on -- Two Notch
23 Road. And if you go up Two Notch Road, where some -- I know
24 it's a -- a police station right there, but I'm not familiar
25 because I'm -- I'm really not born and raised over there. I

1 just got job, work, work, work, and I go home.

2 Q. But you've lived here for how long?

3 A. I live here ---

4 MR. MOBLEY: Your Honor, she -- he's answered the
5 question.

6 THE COURT: He's answered the question. He said he
7 doesn't know. Let's move on, Ms. Fuller.

8 BY MS. FULLER:

9 Q. How long have you lived here?

10 MR. MOBLEY: Objection, Your Honor. We -- we're kind
11 of going down the same road. He doesn't know where the
12 police department is.

13 MS. FULLER: Oh, I asked a new question.

14 THE COURT: I'll allow it, Ms. Fuller, but ---

15 MS. FULLER: Thank you, Your Honor.

16 THE COURT: --- I have told you he's asked and answered
17 about the police department.

18 MS. FULLER: Right. I've moved on from that, Your
19 Honor.

20 THE COURT: Okay.

21 MS. FULLER: I'm asking how long has he lived here?
22 He's saying he's not from here.

23 THE COURT: Go ahead.

24 THE WITNESS: Maybe 11 years.

25 BY MS. FULLER:

1 Q. Now, when you recall the officer asking you, "Why
2 didn't you call the police?" Do you remember asking -- them
3 asking you that?

4 A. No, but I did call the police, Ms. Fuller.

5 Q. Sorry, I apologize. After the gas station
6 incident, they asked you why you didn't call the police. Do
7 you remember being asked that?

8 A. No, Ms. Fuller.

9 Q. Okay. So you don't remember stating, "I felt the
10 police was not going to be there fast enough to help me"?
11 You don't remember stating that?

12 A. (Inaudible).

13 Q. Okay. Now, there were no disagreements with you
14 and Daniel prior to this day. Is that a true statement or
15 not?

16 A. I would say just simple issues like if you want to
17 go to the bathroom or -- just work related, but nothing -- no
18 altercations, no -- nothing outside the job. It was none of
19 that.

20 Q. So no altercations, nothing like that between you
21 and Daniel before this day?

22 A. I would say no because we never had nothing
23 besides work-related issue. And it wouldn't just be Daniel,
24 it would be any employee that would be disruptive. Any one
25 employee would not -- would, you know, not -- not compliant.

1 Q. Okay. Now, when you go to the Valero, you never
2 go inside the store, correct?

3 A. No, Ms. Fuller, I never got a chance to.

4 Q. And we talked about Stacey earlier, but I have a
5 question. You work with Stacey, correct?

6 A. That's correct, I do.

7 Q. And no problems with Stacey, correct?

8 A. No -- no problems with Stacey.

9 Q. Okay. When -- before the shooting, you're
10 familiar with your firearm, correct? The gun that you used
11 in this case?

12 A. Yeah.

13 Q. Okay. Prior to the shooting, when did you turn,
14 disengaged the safety?

15 A. Sometimes it depends on how I carry -- most --
16 some -- most firearms might not have a safety, most firearms
17 -- some firearms might have. So I don't know if it was on or
18 off. I normally don't use it. I try not to use it because
19 that's another action that you going to have to do and it
20 might prevent you from actually having to (inaudible).

21 Q. Can you repeat that last?

22 A Yeah. So basically, what I'm saying is, I -- I
23 try without the safety on, even though there is a safety on
24 my firearm or (inaudible) off just in case. Because if -- if
25 you -- anytime you do need to use your firearm, any

1 situation, you wouldn't want to have -- to have an extra
2 action that would prevent you from saving (inaudible). You
3 (inaudible) with the safety, you know, might be a rob come
4 and get, you, you know. So most of firearms that I'm
5 accustomed to, I do not have no safety. So if I carry, I
6 don't carry with the safety mechanism.

7 Q. Okay. So on June 24th before you actually pulled
8 the trigger, is it your testimony that the -- you -- the
9 safety -- you were just carrying the gun without the safety
10 engaged?

11 A. Yes, Ms. Fuller.

12 Q. Okay.

13 A. But my firearm, you could carry without safety
14 because it has what you call the hammer. It goes down and,
15 you know, that makes it more safe when you carry. So in
16 other words, you are not going to bump into nothing and it's
17 going to fire. You're not going to, you know.

18 Q. So at the gas station when you presented your
19 firearm, the safety was not on it.

20 A. I don't use a safety, so it's never -- never
21 (inaudible) any time in my life.

22 THE COURT: Let me, Ms. Fuller, ask Jury, you all okay?
23 You may need to take a break. Okay, go ahead. It's been
24 about an hour and 15 minutes. Want to make sure --- court
25 reporter needs to break. One of us goes. We all got to go.

1 So let's take a quick break.

2 (Off the record.)

3 THE COURT: All right. Mr. Foreman. You all ready?

4 THE FOREMAN: Yes, ma'am.

5 THE COURT: Please be seated. All right. You may
6 continue, Ms. Fuller.

7 MS. FULLER: Thank you.

8 BY MS. FULLER:

9 Q. Believe it or not, I only had two more questions.
10 So on direct, correct me if I'm wrong, but your testimony was
11 that Daniel said to you that "I'm going to catch you when you
12 least expect it and blow your brains out." That was your
13 testimony today, correct?

14 A. Yeah, he said something -- something like that.

15 Q. But blow your brains out, correct?

16 A. Yeah.

17 Q. And you never told law enforcement that he said
18 that, correct?

19 A. No, I never

20 Q. You never told law enforcement that he said, I'm
21 going to kill you, correct?

22 A. It was so long. I didn't -- I never read the
23 report, so I can't tell you everything that I said to law
24 enforcement, but if it's not in the -- in the -- in my -- in
25 my statement, then I'm going to say -- say it.

1 Q. But you never said, on the 911 call, that he was
2 going to blow your brains out, correct?

3 A. No, I never said that on 911 call.

4 Q. And when I -- when I said law enforcement, I was
5 talking about when you first walked back to the scene,
6 correct? You never said it then?

7 A. No, ma'am.

8 Q. When you went for the interview at the police
9 department, you never said it then, correct?

10 A. No, ma'am.

11 Q. And in your written statement, you never said it
12 then, correct?

13 A. I'm -- I'm not sure if it's in a written
14 statement.

15 Q. Do you need to review it?

16 A. My written statement?

17 Q. Yes.

18 A. Okay. Yeah, I haven't seen it since two years
19 ago, so it's hard to -- to know everything that was in there,
20 you know, that was asked (inaudible).

21 Q. Okay. And I'll just -- you don't remember if you
22 said that? Is that your testimony?

23 A. In my -- in my written statement?

24 Q. Yes.

25 A. I don't remember. I don't remember if I said it

1 in my written statement.

2 Q. Okay. And then just so we're clear, outside of
3 not remembering in your statement, you can say for sure, you
4 never told the police when you walked on scene or in the
5 interview, but today in Court is when you're saying it,
6 correct?

7 A. Yes, sounds correct.

8 Q. That -- that he was going to blow your brains out?

9 A. Yes, ma'am.

10 MS. FULLER: Okay. No further questions.

11 THE COURT: Any redirect, Mr. Mobley?

12 MR. MOBLEY: Just briefly, Your Honor. Would I please
13 the Court?

14 THE COURT: Yes, sir.

15 RE-DIRECT EXAMINATION

16 BY MR. MOBLEY:

17 Q. All right, Mr. Irvin, just a few questions for
18 you. Okay, sir?

19 A. Yes, sir.

20 Q. When you spoke to law enforcement and you gave
21 your written interview, how long had it -- how much time had
22 elapsed since you had just been involved in a -- a situation
23 when you killed a man?

24 A. I don't even think it was an hour. I -- I don't
25 think it was an hour because as soon as I got back on scene,

1 they took me straight to the police precinct and we got right
2 into it. So I think she said that was eight minutes behind
3 or something like that. When I got -- got back, we went
4 straight in and we start asking me question.

5 Q. And when you showed up and had your first -- and
6 when you called 911 ---

7 A. Yes, sir.

8 Q. --- you were on the phone with 911 ---

9 A. Yeah.

10 Q. --- did you say that you killed a man?

11 A. Yeah.

12 Q. And when you went back to the parking lot, you
13 walked up to the police, did you -- were you trying to be
14 honest and just say, I just shot a man?

15 A. Yeah, I was telling him.

16 MS. FULLER: Objection, Your Honor. Leading.

17 THE COURT: Okay. Rephrase, Mr. Mobley, Please.

18 BY MR. MOBLEY:

19 Q. When you -- when you went to be interviewed by the
20 investigators and you gave your statement, were you trying to
21 give them enough information -- let me rephrase the question.
22 I want you to -- I'm going to ask you a question, if you
23 can't remember, I'm going to ask you to look at your
24 statement and refresh your memory. Okay? They asked you
25 questions, correct?

1 A. They asked me questions.

2 Q. Did they ever ask you if ---

3 MS. FULLER: Objection, Your Honor. Leading.

4 MR. MOBLEY: What's the leading? Did they ask him if?

5 MS. FULLER: That's a yes or a no?

6 MR. MOBLEY: I didn't ---

7 THE COURT: I -- I'm going to allow it only because
8 it's his statement. The questions are written out, is my
9 understanding. Go ahead.

10 BY MR. MOBLEY:

11 Q. Did they ask you any questions about any threats
12 that Fresh made to you in there? They -- they wrote down all
13 the questions. Did they ask you at any point in time about
14 any specific threats he made to you?

15 A. I think I told them at the -- at the -- the job
16 with the knife situation.

17 Q. Okay. But did they -- and take a look, did they
18 ask you to tell you any verbal threats that he may have made
19 to you? They start asking you questions on like the third or
20 fourth page. They write the questions and write your answer.
21 Take your time.

22 A. Yeah. Billy (ph) never asked me anything.

23 Q. Okay. When they asked you questions, they play
24 for you frame by frame, enhanced video of what happened in
25 the parking lot?

1 A. I don't know.

2 Q. When they asked you questions, did they pay --
3 play for you frame by frame, enhanced, zoomed in videos of
4 the shooting?

5 A. No, sir.

6 Q. When they asked you questions ---

7 MS. FULLER: Okay, Your Honor.

8 BY MR. MOBLEY:

9 Q. --- did they show you any videos whatsoever ---

10 MS. FULLER: Objection. This is the third leading
11 question.

12 THE COURT: I'm all out. Go ahead.

13 MR. MOBLEY: Thank you.

14 BY MR. MOBLEY:

15 Q. When they asked you questions, did they show you
16 any videos whatsoever?

17 A. No, sir.

18 Q. In fact, they write a -- do they end up write a
19 "Q" every time they -- they have a question on here?

20 A. Yes.

21 Q. How many questions do they ask you according to
22 your statement? Count -- count Q, count the questions. How
23 many questions did they ask you?

24 A. Approximately about 13 questions.

25 Q. All right. So you -- you shot a man to death, you

1 cooperated, and they asked you 13 questions the entire time?

2 A. Yeah.

3 MS. FULLER: Objection, Your Honor. That's -- it's --
4 it's not true.

5 MR. MOBLEY: You're welcome to talk to him about it on
6 redirect.

7 THE COURT: You can do it on cross.

8 BY MR. MOBLEY:

9 Q. The last question I have is, have you tried to
10 give honest answers today?

11 MS. FULLER: Objection, Your Honor.

12 THE COURT: Excuse what? I -- I can't even hear.
13 Would you repeat the question, please?

14 BY MR. MOBLEY:

15 Q. Did you try to give honest answers today?

16 A. Yes, sir.

17 MR. MOBLEY: Thank you, Your Honor.

18 THE COURT: All right. Anything else, Ms. Fuller?

19 RE-CROSS EXAMINATION

20 BY MS. FULLER:

21 Q. They asked you if Daniel threatened you, correct?

22 A. I think.

23 Q. I apologize if you're about to answer.

24 A. No, go ahead. Sorry.

25 Q. They asked you if Daniel threatened you, correct?

1 A. Can I -- can I read it? (Inaudible).

2 Q. It was the same question your defense attorney
3 just asked you.

4 MR. MOBLEY: I must have it over here. My bad.

5 MS. FULLER: Yeah.

6 MR. MOBLEY: Sorry.

7 BY MS. FULLER:

8 Q. Right there. They asked you if he threatened you,
9 correct?

10 A. Yeah.

11 Q. With the knife or attempt to assault you with it,
12 correct? And you -- yes or no?

13 A. Yeah. It says ---

14 Q. Yes. And you only chose to answer and talk about
15 the incident and said that he did not swing it at me,
16 correct?

17 MR. MOBLEY: Objection, Your Honor. She
18 mischaracterizing. Let him read the whole question.

19 THE COURT: (Inaudible) read it into the record. Let
20 him read it into the record.

21 THE WITNESS: The question, it says, "Did Fresh ever
22 threaten you with the knife or made an attempt to assault you
23 with it?" So I said, "He didn't swing it at me --" the -- my
24 answer was, "He didn't swing it at me, but he charged -- he
25 charged at me with it."

1 BY MS. FULLER:

2 Q. So there was a conversation about threats he made,
3 correct?

4 A. This right here was referring to just the knife.

5 Q. But there was a conversation ---

6 MR. MOBLEY: Asked and answered, Your Honor. It's
7 clear ---

8 MS. FULLER: He didn't answer the question.

9 BY MS. FULLER:

10 Q. There was a conversation about threats he made,
11 correct?

12 A. With the knife.

13 THE COURT: Answered. --- move on.

14 BY MS. FULLER:

15 Q. So with that conversation, you never said or
16 mention any other threats he made, correct?

17 A. They didn't ask me about any other -- didn't ask
18 me about the knife, Ms. Fuller.

19 Q. In that conversation, just so it's a yes or no,
20 you never mentioned any other threats that Daniel made,
21 correct?

22 A. In my -- in my written statement?

23 Q. In -- when you walked on the scene, during your
24 interview, and during your written statement?

25 A. I don't think -- I don't think so, but if there's

1 any that I -- that's on record that I did make, I made it
2 because I've been trying to be cooperative from day one. I
3 never tried to be not helping or comply to the police, not
4 trying to make their job difficult. I'm not trying to make
5 your -- your job difficult. I'm just trying to explain what
6 -- what happened.

7 MS. FULLER: No further questions.

8 THE COURT: All right. May I excuse Mr. Irvin from the
9 stand, please?

10 MR. MOBLEY: Yes, Your Honor.

11 MS. FULLER: Yes, Your Honor.

12 THE COURT: Mr. Irvin, thank you. You be excused.
13 Step back now -- the table.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: All right. State can call the next
16 witness.

17 MR. MOBLEY: The Defense will call ---

18 THE COURT: I mean state --- I'm sorry, the defense.

19 MR. MOBLEY: Jarrell Johnson.

20 THE COURT: Mr. Johnson, I'm going to ask you to come
21 up to the clerk over here and she'll swear you in and then
22 you can take the stand.

23 THE CLERK: Would you please raise your right hand and
24 place your left on the Bible?

25 JARRELL JOHNSON,

1 being first duly sworn, testifies as follows:

2 THE CLERK: Thank you. Would you please have a seat in
3 the witness box. State your full name and spell your last
4 for the record.

5 THE WITNESS: Jarrell Johnson, J-O-H-N-S-O-N.

6 DIRECT EXAMINATION

7 BY MR. MOBLEY:

8 Q. Good afternoon, Mr. Johnson. And I'm going to ask
9 you speaking to the microphone, okay? Just like to make sure
10 everybody can hear you. And I don't want -- I don't want
11 fussing at you. All right? How -- how are you employed,
12 sir?

13 A. I work for a private medical company right now.

14 Q. Okay. What's your educational background?

15 A. High school, some college, three years at the end
16 of the day.

17 Q. Okay. And what'd you study there?

18 A. Criminal justice.

19 Q. Okay. And before your current job, where were you
20 working?

21 A. I was a supervisor at the House of Raeford.

22 Q. And how long did you work there, sir?

23 A. From 2012 until 2022 in January.

24 Q. And as a supervisor at the House of Raeford, did
25 you have the opportunity to have interaction with Trevor

1 Irvin?

2 A. Yes -- yes.

3 Q. And they call him Island Boy sometimes?

4 A. Yes, that's what his -- his nickname they gave
5 him.

6 Q. Did you have the opportunity to interact with
7 Daniel Jones?

8 A. Yes.

9 Q. And what did they call him?

10 A. Fresh.

11 Q. And did Fresh have a girlfriend?

12 A. Yes.

13 Q. What was her name?

14 A. Mary.

15 Q. And they all worked there at the same time?

16 A. Yes.

17 Q. Now, were you working -- you were aware there's an
18 incident where Trevor shot Fresh?

19 A. Yes, I was working that day.

20 Q. Okay. And earlier that day -- and as you
21 indicated, you were a supervisor?

22 A. Yes.

23 Q. And any time earlier that day, did Mary Geiger
24 come to you and state or did you receive information from
25 Mary Geiger that on that day Trevor threatened to shot Fresh?

1 A. No.

2 Q. And did a gentleman by the name of Stacey Jameson
3 worked there?

4 A. Yes.

5 Q. On that day, did you receive any information from
6 Stacey Jameson indicating that Trevor Irvin threatened to
7 shoot Fresh?

8 A. No.

9 Q. At any point that day, did Fresh come to you and
10 say, hey, Trevor's threatened to shoot me?

11 A. No.

12 Q. Okay. Now, once you got off work, did you hang
13 out in the parking lot at all?

14 A. That morning? No.

15 Q. Okay. What'd you do after work?

16 A. I was getting in my car to go home.

17 Q. Okay. And when you got in the parking lot, who'd
18 you see?

19 A. I seen Trevor, I seen Fresh, and I seen -- I heard
20 Mary and that's really all you could hear coming from
21 upstairs.

22 Q. Okay. Explain that.

23 A. You could hear her yelling and screaming at him.
24 I guess telling -- yelling and screaming at Daniel to go
25 approach Trevor. So the back and forth I was -- as all of us

1 was coming downstairs going to our cars.

2 Q. Okay. So let's talk about what Trevor was doing.
3 Were you talking to Trevor at all?

4 A. No.

5 Q. Okay. Did you have an opportunity to -- to see
6 Trevor

7 A. As I approached my car, yes.

8 Q. Okay. And when you approached your car, did you
9 start having any kind of dialogue with Trevor?

10 A. No.

11 Q. Okay. Did you see Fresh?

12 A. Yes.

13 Q. Okay. Did you observe Trevor and -- and Fresh
14 interaction?

15 A. Yes.

16 Q. Okay. Why don't you describe for the jury what
17 you observed about the interaction?

18 A. As I was going to my car, all you could hear was
19 Mary yelling at -- for us to tell him to go back and approach
20 him.

21 MS. PATTERSON : Objection; hearsay.

22 THE WITNESS: Excuse me.

23 BY MR. MOBLEY:

24 Q. Okay. How -- how about this?

25 THE COURT: (Inaudible) on it.

1 MR. MOBLEY: All right.

2 THE COURT: I'm just going to tell you Mr. Johnson, you
3 can't repeat what somebody else said.

4 BY MR. MOBLEY:

5 Q. Okay. So just to try to (inaudible) know you're
6 not a lawyer, so I want to try to make sure this goes
7 smoothly. If you want to say she's yelling, I don't think
8 the judge the problem with that. Just don't say what she was
9 saying. Okay?

10 A. Okay.

11 Q. So you can describe her demeanor. You can say if
12 she was loud, but don't say fact what she was saying. Okay?

13 A. Okay.

14 Q. All right. So what was Mary doing?

15 A. Instigating.

16 Q. Okay. And what was Trevor doing?

17 A. Standing by his car.

18 Q. Okay. And what was Fresh doing?

19 A. Approaching him.

20 Q. Okay. Was -- was Fresh making any comments toward
21 Trevor?

22 A. I couldn't -- I couldn't understand if he was
23 saying anything.

24 Q. Okay. What was -- what was Fresh's demeanor of
25 the body language like?

1 A. Aggressive.

2 Q. What was Trevor's?

3 A. It was like hands up. Like he didn't want to have
4 a conversation at that time.

5 Q. So when Fresh walked up to Trevor, did he walk up
6 there and stay or did he walk up there and turn around and
7 leave?

8 A. Walk left, walk left, as I was going to my car.

9 Q. Okay. And what would happen when he would come
10 back? What would he do?

11 A. They were in each other's face.

12 Q. Okay. And how would you describe Trevor's
13 demeanor? Did Trevor seem like he wanted to fight?

14 A. No.

15 Q. Did Daniel seem like he wanted to fight?

16 A. From -- from what I was seeing, yes.

17 Q. Now, did you ever see Fresh make any kind of
18 gestures with his hand or his arm?

19 A. Yes.

20 Q. Okay. Why don't you describe that for the jury?
21 And feel free to demonstrate so they understand.

22 A. From what I seen it -- like Trevor's hands was up
23 like this and when Daniel approached him it was like this,
24 the side of his face.

25 Q. Okay. So I want the record to reflect when the

1 witness indicated and describe Fresh's hand, he outstretch
2 his arm and cocked his -- his thumb and had his first two
3 fingers out and his bottom ---

4 MS. PATTERSON: Objection, Your Honor.

5 MR. MOBLEY: That's what he did.

6 MS. PATTERSON: Objection. Well, have him describe
7 what he saw. Don't -- it's improper for Mr. -- Mr. Mobley to
8 try to put on a record -- put -- put in the record what Mr.
9 Johnson is here testifying about. He can describe what he
10 saw ---

11 THE COURT: Well, let Mr. Johnson -- get him to
12 describe it, Mr. Mobley, for the jury and the record.

13 MR. MOBLEY: Thank you.

14 BY MR. MOBLEY:

15 Q. Mr. Johnson, please describe in more detail
16 exactly what Fresh did, how he held his arm, how he held his
17 hand.

18 A. From my standpoint, all I seen was Island Boy's
19 hands up like this. When Daniel approached him, his hand was
20 just sitting up. I'm at the back of them, so I can't see
21 around the side of the front to actually see how his fingers
22 or hands were, but that's what I seen.

23 Q. So at that point, did Fresh stay or did Fresh
24 leave?

25 A. He left.

1 Q. Okay. Now, did he -- once he left, did he ever
2 come back?

3 A. Yes.

4 Q. And what happened when he came back?

5 A. When he came back I was already in my car and then
6 I heard gunshots.

7 MR. MOBLEY: Beg the Court's indulgence. I don't have
8 any further questions. Thank you so much, Mr. Johnson.

9 THE COURT: Thank you, (inaudible).

10 CROSS-EXAMINATION

11 BY MS. PATTERSON:

12 Q. So Mr. Johnson, you and Mr. Irvin, you all were
13 line leads together, correct?

14 A. No, he was a line lead. I was a supervisor.

15 Q. You was a supervisor?

16 A. Yes.

17 Q. And there are several supervisors in the deboning
18 division, correct?

19 A. Yes.

20 Q. So you wouldn't be the only supervisor that
21 someone could come and report an issue to, correct?

22 A. Correct.

23 Q. And isn't it true that Mary actually had reported
24 an issue about Trevor Irvin to you, correct?

25 A. Yes, she has.

1 MR. MOBLEY: Objection, Your Honor.

2 MS. PATTERSON: What's the objection?

3 MR. MOBLEY: Those are previous issues. We asked about
4 -- asked him about the events of that day. I was very clear
5 on that based on a lot of the issues and concerns that came
6 up about things like that. He -- he specifically asked about
7 the events of that day.

8 THE COURT: All right. Ms. Patterson.

9 BY MS. PATTERSON:

10 Q. And Mary and Daniel, they didn't work on the line
11 with Trevor, did they?

12 A. At times they did.

13 Q. But on June 24th, the day that Trevor shot Daniel
14 Jones, that wasn't working on that line, were they?

15 A. No, we wasn't working at all.

16 Q. But earlier that day, you all had been working,
17 correct?

18 A. They didn't get to work until four hours into the
19 shift. They were late. We were already broke down, so they
20 never got a chance to get on the line at work because we were
21 not working.

22 Q. So you don't remember Mary actually working that
23 day?

24 A. No, they never worked that day. When they came to
25 work, we were all standing off the line, on the side, waiting

1 on them to figure out if the part was going to come in to get
2 the linebacker running again. We was down. We was down up
3 until they let us go.

4 Q. Okay. And so your testimony is you don't remember
5 Mary or Daniel actually working that day?

6 MR. MOBLEY: Objection.

7 THE WITNESS: They didn't work that day.

8 BY MS. PATTERSON:

9 Q. Okay.

10 A. They came but they did not work,

11 Q. But they didn't work that day. And as a manager
12 you would not have left the same time Mary or Daniel would
13 have left?

14 A. No.

15 Q. You would have left later, right?

16 A. Correct.

17 Q. So at what point did you hear Mary making all this
18 noises that were coming down the stairs?

19 A. As I was coming down the stairs from the office,
20 going to my car.

21 Q. But isn't it true Mary would have already left,
22 the hourly employees would've already left by the time you
23 got off, right?

24 A. They left the plant, but if they didn't leave the
25 parking lot, they didn't leave the parking lot.

1 Q. Okay. And so when you got to the parking lot, you
2 already saw Island Boy in the parking lot?

3 A. Yes. You could see everybody coming down from
4 upstairs.

5 Q. Okay. So ---

6 A. You could see the whole inside parking lot coming
7 outside.

8 Q. Okay. So you went actually across the street to
9 the parking lot, correct?

10 A. Yes, that's where my car is parked.

11 Q. Okay. And you saw Island Boy when you got across
12 the street, right?

13 A. Yes.

14 Q. And he didn't tell you about anything that
15 happened at the Valero gas station, did he?

16 A. No.

17 Q. He didn't tell you anything at all about that, did
18 he?

19 A. No.

20 Q. And so what you testified about was just things
21 that you observed when you was in the parking lot with Island
22 Boy and Daniel Jones?

23 A. Yes.

24 Q. And it's your testimony that you only heard Mary
25 yelling, correct?

1 A. Yes.

2 Q. And you didn't hear Island Boy saying anything
3 back to Daniel Jones, right?

4 A Not directly to him.

5 Q. Okay. Did you ever see him air punching towards
6 Daniel Jones?

7 A. No.

8 Q. Did you ever see him smacking his face towards
9 Daniel Jones?

10 A. No.

11 Q. Did you ever see him standing on top of Rasheed
12 Jones' car?

13 A. No.

14 Q. Okay. So that was done before you came out of the
15 plant. And so you said you were sitting in your car when you
16 heard gunshots, correct?

17 A. I was -- my car was in reverse. I was trying to
18 leave the parking lot.

19 Q. So you were leaving the parking lot when you heard
20 gunshots?

21 A. Yes.

22 Q. So you didn't see what happened before the
23 gunshots were fired, did you?

24 A. The last time he walked up on him, it looked as if
25 he was trying to grab him. And when I put my car in reverse

1 and looked back up, there was gunshots was already going off.

2 Q. And so, but that's not what you testified to on
3 direct, right? You said you were in your car when you heard
4 the gunshots, correct?

5 A. Yes, I was already in my car.

6 Q. And you never described anything you saw prior --
7 immediately prior to the gunshots?

8 A. That's what I said.

9 Q. Okay. So now you're saying that you actually saw
10 who -- who try to grab who?

11 A. When he asked me what was all that I see, that's
12 what -- that's all that I seen.

13 Q. And what specifically did you see?

14 A. That of him walking back and forth, approaching
15 him back and forth across the parking lot.

16 Q. And who is he?

17 A. Daniel.

18 Q. Saw him approaching who?

19 A. Daniel approaching Trevor.

20 Q. Okay. And you didn't hear gunshots at that time,
21 did you?

22 A. No.

23 Q. Because you got in your car, you was about to
24 leave, correct?

25 A. Yes.

1 Q. And then you heard the gunshots, right?

2 A. Yes.

3 Q. So you didn't see what happened immediately before
4 the gunshots were fired, did you?

5 A. No.

6 MS. PATTERSON: Beg the Court's indulgence.

7 BY MS. PATTERSON:

8 Q. And after you heard the gunshots, you left the
9 scene, didn't you?

10 A. Yes, I went home.

11 Q. You went home. And so you didn't report anything
12 that you've just testified to to law enforcement, did you?

13 A. No.

14 Q. And you heard that Island Boy had shot Daniel
15 Jones, didn't you?

16 A. Yes, everybody heard that.

17 Q. Okay. And you didn't think that this information
18 was important to go to law enforcement and report?

19 A. It was enough people in the parking lot. I --when
20 I seen what I saw, I got them -- I continued on going home.

21 Q. But wouldn't you think it was important for you to
22 tell what you saw or heard?

23 A. At that time, no.

24 Q. But somebody died, right?

25 A. Yes.

1 Q. And isn't that important?

2 A. That is important.

3 Q. But you didn't go to law enforcement?

4 A. No, I didn't.

5 Q. You kept on going and went home.

6 MS. PATTERSON: Thank you. No further questions.

7 THE COURT: Thank you, Ms. Patterson. Any redirect?

8 MR. MOBLEY: No, Your Honor.

9 THE COURT: All right. May I -- I'll let Mr. Johnson
10 be excused. Anybody need Mr. Johnson before I excuse him.

11 MS. PATTERSON: Oh, no ma'am.

12 THE COURT: Mr. Johnson, thank you for coming. You may
13 be excused. All right. Let me see the lawyers just for a
14 moment. All right. Mr. Foreman, jury -- okay, to -- let me
15 -- I've got to take up one legal issue with the lawyers and
16 it's probably going to take me about 15 minutes. I'm trying
17 really hard to make the schedule work that I'm finishing this
18 tomorrow. So if you all will give me about 15 minutes, let
19 me take up this matter and then I'm going to have you back in
20 there. It might be -- I can't let you go right at 5:00 today
21 and we might have to stay a little bit later to make it work.
22 Okay? Thank you all. You all have been wonderful. Remember
23 no talking about this case just yet.

24 Okay. Mr. Mobley, will you call for your expert. So
25 if you'll call your expert.

1 MR. MOBLEY: All right, Mr. Scott Ballard.

2 THE CLERK: Would you please raise your right hand and
3 please your left on the Bible.

4 SCOTT BALLARD,
5 being first duly sworn, testifies as follows:

6 THE CLERK: Thank you. Would you please have a seat in
7 the witness box. State your full name and spell your last
8 for the record.

9 THE WITNESS: My full name is Scott Allen Ballard,
10 B-A-L-L-A-R-D.

11 DIRECT EXAMINATION

12 BY MR. MOBLEY:

13 Q. All right. Mr. Ballard, how are you employed,
14 sir?

15 A. I'm sorry, I -- I didn't hear you.

16 Q. How are you employed?

17 UNKNOWN MALE: (Inaudible) mark this as a Court
18 exhibit.

19 MS. FULLER: I need to mark it as a Court exhibit.
20 Thanks.

21 THE COURT: You're going to make this a Court's
22 exhibit?

23 THE CLERK: What are we up to now, Judge?

24 MR. MOBLEY: I think 4.

25 MS. FULLER: It should be a 6. Four?

1 THE CLERK: Yeah.

2 MS. FULLER: Five or six.

3 THE CLERK: I didn't write them down on my page.

4 MS. FULLER: It should be six.

5 (Court's Exhibit 6 was marked for identification.)

6 BY MR. MOBLEY:

7 Q. Mr. Ballard, I'm showing you Court's Exhibit
8 Number 6. Do you recognize that, sir?

9 A. Yes, sir.

10 Q. Okay. And what's that?

11 A. This is my resume, basically.

12 Q. Okay. Your curriculum vitae, as it's called?

13 A. Yes.

14 Q. Okay. Is it -- is it basically accurate? Well,
15 I'm assuming it's (inaudible).

16 A. Yeah, sir.

17 Q. All right.

18 A. Yes it is.

19 MR. MOBLEY: And I want to make sure the Court has a
20 copy. I'll review with counsel (inaudible) copy prosecution.

21 BY MR. MOBLEY:

22 Q. So let's kind of start a little bit about -- talk
23 about how you employed right now?

24 A. I'm sorry, I -- if I ---

25 Q. How are you employed?

1 A. I -- I currently work as a consultant for use of
2 force and firearm, self-defense, as well as I own a private
3 security company that does global recovery.

4 Q. Okay. And what kind of education do you have?

5 A. I have a bachelor's degree in criminal psychology.

6 Q. Okay. Have you served in the military?

7 A. I did. I was in the Navy for six years.

8 Q. Okay. And what division?

9 A. I worked for the Office of Naval Intelligence.

10 Q. Can you generally describe for the Court what you
11 did in the Navy?

12 A. I was a behavioral analyst. I predicted
13 behavioral modeling, would be the best way to describe it.

14 Q. Okay. Did those investigations and cases involve
15 the use of force?

16 A. In some cases, yes.

17 Q. Okay. And tell the Court about your employment in
18 the private sector.

19 A. Once I moved out of the Navy, I went to the
20 private sector, worked for a family owned company called
21 Seven P International (ph). I started out as a protective
22 driver, worked my way up through and became the director of
23 training and operations.

24 Q. Okay. And what was Seven P International?

25 A. Seven P International was a protective security

1 company that recruited, trained, and installed private
2 security personnel in protective roles around the world.

3 Q. And how long did you work there?

4 A. Twenty something years. It was quite a while.

5 Q. Okay. And where'd you work after that?

6 A. I went to work for the Sig Sauer Academy.

7 Q. Okay. And -- and just -- how -- most people
8 probably know, but just what kind of company is Sig Sauer?

9 A. Sig Sauer makes firearms. Primarily, military law
10 enforcement firearms.

11 Q. And what'd you do at Sig Sauer?

12 A. I was a senior instructor and armor instructor.
13 And I was also a master firearms instructor there. I did
14 everything from teach classes to civilians, to -- I was sent
15 around the world to work with different countries when they
16 bought new pistols or new rifles. Doing transition training
17 as well as helping them with develop their documentation and
18 their programs.

19 Q. So were you certified as a master instructor?

20 A. I was certified by Sig Sauer as a fire -- master
21 firearms instructor, yes.

22 Q. Okay. And tell the Court about the process
23 require for you to obtain that certification?

24 A. So the process involves becoming certified as an
25 instructor in pistol rifle, shotgun and force on force, and

1 then becoming master pistol, rifle and shotgun and force on
2 force training. And then once you complete all those levels,
3 you can test out to become a master firearms instructor at
4 their, you know, at their standard.

5 Q. And what's force on force training?

6 A. Force on force is scenario-based training and
7 stake real world scenarios. We've done after-action reports.
8 And we use that and recreate those with people to help them
9 get a better understanding of what they were going to be
10 experiencing during an actual event. And it's -- so like I
11 said, it's based on real life. It uses what's called a
12 simunition or a marking cartridge, which is -- it is not an
13 actual firearm, but it -- it's a device that alters the
14 firearm. They have actual force on force pistols, but it
15 fires a marking cartridge that is basically a -- a small fast
16 moving paintball. So what it does is it gives a positive
17 reinforcement and negative feedback.

18 Q. Okay. And that basically used to simulate live
19 combat situations or live fire situations?

20 A. Exactly. Is what we would do, based on. And what
21 that does is that forces decision making.

22 Q. Okay. And once you become a master instructor,
23 you have to get re-certified.

24 A. The requirements were every three years we'd have
25 to recertify.

1 Q. And in your capacity with Sig Sauer and use of
2 force training, did you work with private citizens that are
3 non-law enforcement?

4 A. Yes, quite a bit. They offer -- it was one of the
5 few places in the country at that time that offered force on
6 force to private citizens. It's since opened up quite a bit.

7 Q. And about how many private citizens would you say
8 you've had the opportunity to -- to be involved with and
9 train regarding force on force training?

10 A. Been force on force classes over the years.
11 Probably five to 600.

12 Q. And do you have experience investigating incidents
13 involving shootings?

14 A. Yeah, that was part of my responsibilities with
15 both in the Navy because behavioral analysis, we were
16 investigating shootings and use of force, as well as when I
17 was working at Seven P. One of the primary functions of
18 being the director of training was to review all after action
19 reports to verify whether or not the use of force was in
20 compliance with company standards.

21 Q. Okay. And you mentioned the -- the live fire
22 training and a special kind of ammunition, you have to be
23 certified to use that ammunition?

24 A. Yes, you do. So live fire is different than --
25 than what we're talking about the -- the scenario-based

1 training. So the -- the scenario-based training was
2 simunitions, the company ATK, they were the ones who required
3 us to be certified by them in order to teach it. And it was,
4 you know, to ensure safety in as well as proper use.

5 Q. Okay. Have you made any publications of training
6 manuals or lesson plans for use of firearms and deadly force
7 situations?

8 A. Not for the United States, no.

9 Q. Okay. But for other countries?

10 A. Yeah.

11 Q. Good. And you understand what a concealed weapon
12 permit is, correct?

13 A. Yes.

14 Q. And to be fair to say that what you do in your
15 skillset set is substantially more extensive than concealed
16 weapon permit training?

17 A. Absolutely, yes.

18 Q. In the -- in the field of use of force, are there
19 national standards and accepted principles regarding firearm
20 safety and use of force?

21 A. Absolutely. There are guidelines that we follow.
22 On the civilian side, they're administered by people like the
23 NRA, they -- they -- which follow along closely with IALEFI
24 and -- and International Chiefs of Police Association.

25 THE CLERK: Can you slow down please?

1 THE WITNESS: I'm sorry.

2 THE CLERK: Thank you.

3 THE COURT: He has to take down every word.

4 THE WITNESS: Yes, I get that. Sorry.

5 BY MR. MOBLEY:

6 Q. So, go ahead, sir.

7 A. We follow along with, you know, not only the NRA,
8 but also with United States Concealed Carry Association.
9 There are instructor -- organizations run through places like
10 gun site and other elite academies where we do come together
11 usually at shot show or at the NRA convention and compare
12 notes and talk about strategies and things like that. Plus
13 the, you know, what we're talk -- discussing with our
14 students to make sure we're all just basically on the same
15 page. In the firearms industry when it comes to training,
16 there's nothing new. Nobody invents anything new, so.

17 Q. And -- and what's a deadly force situation?

18 A. A deadly force situation as we've defined it is,
19 is anything that involves the application or use of deadly
20 force. So meaning the -- the imminent and unavoidable risk
21 of grave bodily injury or death to a person or innocent
22 persons.

23 Q. And are there -- in your industry, are they
24 accepted principles regarding psychological --physiological
25 effects on individuals in deadly force situations?

1 A. Well, there's -- there's accepted principles with
2 regards to how people are going to react. We -- we can
3 predict that behavior when they're placed under those severe
4 levels of stress, yes.

5 Q. You indicated you've been involved in a
6 substantial number of -- of investigations involving
7 shootings yourself personally, correct?

8 A. I personally, yeah, 147 of them. When working
9 with Seven p.

10 Q. And your findings and your opinions, are they
11 consistent with what those -- the -- the accepted
12 publications and principles that you've learned in the field?

13 A. Yes.

14 Q. Okay. Have you ever testified as an expert and
15 been qualified as an expert in a Court of law in the United
16 States?

17 A. I'm sorry, I didn't hear the question.

18 Q. Have you ever been qualified as an expert in a
19 Court of law in the United States?

20 A. Yes, sir.

21 Q. Okay. And have you ever testified and been
22 qualified as an expert here in South Carolina?

23 A. Yes, sir.

24 Q. Okay. And what areas are -- have you been
25 qualified and certified as an expert in?

1 A. Firearms, use of force, self-defense, external and
2 internal ballistics, and, you know, the psychology of the --
3 of the gunfight. What happens? What goes on in the person's
4 head? Decision making? You know, based on what we train
5 people to do, in -- in those situations. Not -- not offering
6 opinions based on what somebody was thinking, but what we
7 have garnered from people's behavioral analysis, so that we
8 know that humans are humans, and they are going to act a
9 certain way when placed under severe levels of stress.

10 Q. Okay. So are you qualified based on your
11 experience and your training and your education to express
12 professional opinions on the physiological effects on an
13 individual in a deadly force situation as it relates to their
14 decision making?

15 A. Yes.

16 MR. MOBLEY: Okay. That's all I have, Your Honor.

17 Ms. Patterson. I'm sorry.

18 CROSS-EXAMINATION

19 BY MS. PATTERSON:

20 Q. Good afternoon, Mr. Ballard. Can you hear me?

21 A. Yes, ma'am.

22 Q. And Mr. Ballard, I think you have experienced
23 teaching -- based on what I could research of you, you have
24 experienced teaching high value, high risk protective
25 security details in -- on -- in corporate security teams,

1 correct?

2 A. Yes, I have experience in that.

3 Q. And with your background, your main target is
4 tasked with training people who have a duty to act, meaning
5 they have a duty to protect others under extreme
6 circumstances, correct?

7 A. They -- they're private citizens who have a duty
8 to act, yes, based on their employment.

9 Q. And in doing this, you do teach the law on use of
10 force, correct?

11 A. We teach compliance with the general rules of use
12 of force as well as we have advisory councils, local lawyers
13 who advise regarding the local laws. We don't teach law.

14 Q. And again, this is something that you teach to
15 people who have protective roles -- security roles,
16 protective security roles?

17 A. Would be working -- would be working in closely
18 with protection security, yes.

19 Q. And this would be different than what you would
20 teach a private citizen, correct?

21 A. Yes. In some -- actually, let me rephrase that.
22 In some cases, yes. In others there're still private
23 citizens acting in a certain way.

24 Q. So you do teach use of force to private citizens
25 to act in a certain way. Again, that's like in a duty to act

1 role, correct?

2 A. I'm not following the duty to act role. Private
3 citizens have no duty to act.

4 Q. Private citizens have no duty to act. But say
5 like law enforcement, they have a duty to act?

6 A. Yes.

7 Q. And use of deadly force, correct?

8 A. Yes, the law enforcement has a different mission
9 than a private citizen.

10 Q. Right. And so does military -- the military,
11 correct?

12 A. By a very different set of rules, yes.

13 Q. As a matter of fact, when you hear the phrase "use
14 of force," it usually is referring to cases involving law
15 enforcement officers in determining if the amount of force
16 they use on a civilian was reasonable under the circumstances
17 to accomplish a lawful objective, correct?

18 A. No, that's not how I -- I -- when I hear use of
19 force, I hear most of the time it's referring to civilian use
20 of force these days.

21 Q. But wouldn't that be self-defense?

22 A. It can be.

23 Q. And wouldn't that be, I think you said a deadly
24 force situation?

25 A. Not limited to deadly force. Civilians do not --

1 they're not obligated to only use deadly force.

2 Q. Okay.

3 A. They have the same options available to them in
4 most places that law enforcement have.

5 Q. So in -- if I research the phrase "use of force,"
6 I'm going to also be able to obtain situations which is
7 private citizens, maybe in a situation in which they use
8 deadly force.

9 A. I'm not sure what you would find if you were to
10 search for something, no.

11 Q. Okay. And so is there research out there with the
12 term use of force that refers to civilians?

13 A. Sure.

14 Q. Okay. And again, this wouldn't be called
15 self-defense?

16 A. There's -- there's use of force for self-defense,
17 but self-defense doesn't mean that you used force.

18 Q. That you used force. Okay. And I'm just trying
19 to understand because I know this is your expertise and I
20 know ---

21 A. But the -- the two terms are actually separate.

22 Q. They're separate. And you teach CWP classes, but
23 you don't teach any in South Carolina, do you?

24 A. No.

25 Q. Okay. So you don't know what's taught in South

1 Carolina CWP classes, do you?

2 A. No, I've attended quite a few of them. I had a
3 partner down here in Chesterfield County that I was with him
4 on the range most, you know, most of the time when he was
5 teaching them. So I understand what's going on with him. I
6 understand, you know, South Carolina, what we used primarily
7 was the State v Fuller decision.

8 Q. Okay. And I think you talked about you do conduct
9 force on force training with civilians, correct?

10 A. Yes.

11 Q. And with this force on force training, it's based
12 on simulation studies, correct? Am I hearing you correctly?

13 A. No, it is simunition-based training using real
14 world scenarios that we've drawn from using police reports
15 and after action reports and debriefing of citizens who've
16 been actually involved in them. So what happened? How did
17 it happen? What led up to it? We recreate those situations
18 for other people, so that they can learn and benefit.

19 Q. So you recreate actual situations, but they're not
20 involved in a situation in which they really could be killed
21 or suffer great bodily injury, correct?

22 A. That's the artificiality of the training. So it's
23 -- it's very difficult to put people in those situations.
24 The simunitions gives immediate painful feedback and it's
25 enough to make you realize that you've -- you've done

1 something wrong.

2 Q. With the luxury of knowing that they wouldn't
3 actually be killed or suffer great bodily injury, correct?

4 A. They know that, yes.

5 Q. Okay.

6 A. That's the artificiality of training.

7 Q. And you said you also study incidents involving
8 shootings while you were in the Navy, correct?

9 A. Yes.

10 Q. And this would be use of force to make sure that
11 the type of force that was used in a situation was in
12 compliance with the standards, correct?

13 A. That's not what I did.

14 Q. Okay. So what did you do?

15 A. It was behavioral analyst. I worked for the
16 Office of Naval Intelligence. That's about the extent of
17 what I can discuss.

18 Q. Okay. And you would agree that people react
19 differently in deadly situations, correct?

20 A. Absolutely.

21 Q. So it's not just like a -- a fine line that
22 everybody would act the same depending on their background,
23 correct.

24 A. So you're talking about the factors that affect
25 people making decisions?

1 Q. Yes.

2 A. Okay. So a lot of things go into that, yes.

3 Q. So a lot of things are -- could affect the way a
4 person make a decision, correct?

5 A. Sure.

6 Q. And it also could affect the way a person react
7 after being in a situation in which they use deadly force,
8 correct?

9 A. Yes.

10 Q. And you have not developed any training --
11 training manual for the United States; is that what you said?

12 A. Not developed any training manuals for the United
13 States government, no.

14 Q. For the United States government.

15 A. Yeah.

16 Q. But you do develop your own training manual for
17 the training that you conduct?

18 A. For the training I've conducted, I wrote classes
19 while at Sig Sauer and I did other offshore work where I
20 produce documents that are in use today.

21 Q. And what's the most recent manuals that you have
22 developed?

23 A. The Use of Force Guidelines for the Columbia
24 National Police.

25 Q. And again, that would be for law enforcement,

1 correct?

2 A. Yes.

3 Q. And again, they are tasked with having to -- the
4 duty to act and protect, correct?

5 A. It doesn't work that way in Columbia.

6 Q. Oh, okay.

7 A. So they -- they have a duty to serve, but they
8 don't -- they're not obligated to protect. In other words,
9 they're not obligated to put themselves in the line of -- of
10 great bodily injury or death. They also have to pay their
11 own court fees and their own lawyers when they do use force.

12 Q. But they're law enforcement officers?

13 A. They're -- the Columbia National Police, they're
14 not law enforcement like you're thinking. They're not like
15 American law enforcement as much as they'd like to be.
16 They're not.

17 MS. PATTERSON: All right. Beg the Court's indulgence.
18 Your Honor, that's all I have this time.

19 THE COURT: All right. Go ahead, Mr. Mobley.

20 MR. MOBLEY: Thank you, Your Honor. Please the Court.
21 I respectfully request that the Court qualify Mr. Ballard an
22 expert in firearms, use of force and allow him to testify
23 regarding the physiological effects on individuals in deadly
24 force situations as it relates to their decision making.

25 THE COURT: Well, I have no doubt that he's an expert,

1 but what I want to hear is what is it that he offers to this
2 case that's not going to be confusing to this jury. This is
3 a shooting in a parking lot.

4 MR. MOBLEY: Okay.

5 THE COURT: On video I'm -- I'm just wondering -- I'm
6 trying to ---

7 MR. MOBLEY: I can ask him some more questions.

8 THE COURT: --- that testimony if you would, so I could
9 decide whether it applies to this case.

10 MR. MOBLEY: Okay. And basically, Your Honor, we can
11 -- and I can try to summarize it and if you want to voir dire
12 the witness some more, we can do it that way. Whatever makes
13 work -- what is easy for you, Your Honor. But basically this
14 witness ---

15 THE COURT: I want to hear what he's going to testify
16 to.

17 RE-DIRECT EXAMINATION

18 BY MR. MOBLEY:

19 Q. Okay. Mr. Sauer -- I'm sorry, Mr. -- not Sauer.
20 Mr. Ballard. Sig Sauer. Okay. Please explain to the Court
21 the physiological effects on an individual in a daily force
22 situation and how it affects the decision making in that
23 situation.

24 A. So the deadly force situation is an extreme that
25 draws back to basic human instincts for self-preservation.

1 It's primal instinct. So what happens with that is, is that
2 they become singularly focused on the threat, the individual
3 thing that's happening to them, that is causing them to
4 believe that they could be losing their life. Now, that
5 creates a lot of issues with regards to how the body
6 responds. It responds with auditory exclusion. It responds
7 with elevated heart rate. It responds with, you know, high
8 levels of blood pressure that if they were sustained, the
9 person would probably blackout or suffer a stroke.

10 It has tremendous impact on decision making, which
11 leads to you know, a whole host of problems where now we're
12 getting back to, you know, how the decisions are made, what
13 we talk about with Boyd's Loop, which is a loop that was
14 developed. It's a loop of thinking by Colonel John Boyd, an
15 Air Force ---

16 Q. Okay. I'm going to stop you right there and make
17 sure the judge can follow you. So when a person is under --
18 make sure I understand, and I don't think they'll mind me
19 leading you at this stage -- a person in a -- in a deadly
20 force situation, their body responds under that kind of
21 stress, correct?

22 A. Yes.

23 Q. Okay. And that stress, does it affect the ability
24 -- does it impact the ability to observe the situation in
25 this -- in their surroundings?

1 A. Yes, because that stress level is going to cause
2 them to have tunnel vision.

3 Q. Okay. Does that stress impact the ability to
4 process information they're receiving?

5 A. Yes, it -- it -- if it's -- the -- the brain
6 starts to go into self-preservation mode, and so they -- they
7 start to perceive things. Some people have said that they
8 perceive it in a compressed time format. Other people said
9 that it happened so fast they couldn't keep up. You know,
10 that's the individuality. The feedback we get from force on
11 force, for example, is that it happened so fast, I didn't
12 know what happened.

13 Q. And how do those factors impact that person when
14 they're trying to make a decision?

15 A. Well, what happens is, is they start to think
16 about too many things and they end up with a basically what
17 we call analysis paralysis. There's too many things going
18 on. The stress won't let them calm down enough to actually
19 think. And it interferes with what we call the (inaudible)
20 with their decision making functions.

21 Q. And does that affect the final act that's
22 committed by the person?

23 A. Yeah, absolutely. But most people revert back to
24 one basic instinct, which is self-preservation. So whatever
25 it is that they can do to keep themselves alive, a lot of

1 times that's where they get stuck. And the observe -- the
2 orientation part is slowed down because the body and the mind
3 think they're doing the right thing. So there's a lag in
4 that response. So when we talk about the OODA loop, observe,
5 orient, decide, and then act, a lot of times the body's still
6 acting, but it's getting new information. The brain just
7 isn't processing it as fast as the body's reacting.

8 MR. MOBLEY: I think that's all I have at this point,
9 Your Honor.

10 THE COURT: Ms. Patterson?

11 MS. PATTERSON: I'm just ready to argue, Your Honor.

12 THE COURT: Okay. Let -- let me just ask you a
13 question about a person who's unarmed and then all this
14 happens in three minutes. Are they at least in a deadly
15 force situation that all this is going to happen?

16 THE WITNESS: So if a person is unarmed in -- it
17 depends on the situation. What is that person who is unarmed
18 doing? And does that person have the means opportunity in
19 jeopardy, even though they're not armed in the traditional
20 sense? Do they have the means, opportunity, and do they show
21 jeopardy, in other words, the summation of their actions, so
22 that they're going to commit an act that could cause great
23 bodily injury or death?

24 THE COURT: Now, I'm going to be honest with you, I've
25 never had this come up. An expert in the self-defense case,

1 but I found a case where one of the very, very few cases that
2 an expert was allowed. And it dealt more with -- with -- in
3 this particular case, the person was charged with
4 manslaughter and was from Iraq. It's almost like PTSD and how
5 he -- with his experiences and how people think he was still
6 working in Iraq when it all happened, with his experiences
7 there, how he dealt with and perceived self-defense. I guess
8 what he was taught. I just don't know how it applies to an
9 ordinary citizen.

10 This isn't a -- a somebody who's a police officer or a
11 soldier or a private investigator or somebody being placed in
12 a wartime country or anything like that. This is (inaudible)
13 South Carolina.

14 THE WITNESS: Okay. So police officers are human
15 beings.

16 THE COURT: I -- I have no problem with that.

17 THE WITNESS: And private citizens are human beings.
18 When faced ---

19 THE COURT: But they're trained totally different.

20 THE WITNESS: Some are, yes.

21 THE COURT: One has training and one doesn't.

22 THE WITNESS: One has the training to -- to effect an
23 arrest, and the other has the training to defend themselves
24 or other innocent party. But either way, they're going to be
25 reacting in a very similar manner. Police officers have the

1 benefit of that training, which we refer to as stress
2 inoculation, which means we hold them to a higher standard
3 because they have more training and they should be able to
4 think better under pressure. Whereas a private citizen
5 doesn't have the benefit of all of that training, even though
6 it's available, it's extremely expensive and it's very
7 difficult for people to get the time and have the financial
8 resources to get that kind of training.

9 MR. MOBLEY: And I think what he's seeing, Your Honor
10 -- let -- let me ask him, are the physiological effects that
11 result from a daily force situation the same for the majority
12 of humans and people?

13 THE WITNESS: Yes, it, it is. Vocation doesn't matter.

14 MR. MOBLEY: And I -- I guess the difference is, law
15 enforcement has training to get used to that stress. So
16 private citizens who don't have that training will not be as
17 used to the stress or I guess argument's going to affect them
18 a lot more than somebody who's been through stress
19 acclimation.

20 THE WITNESS: Yes.

21 MR. MOBLEY: All right.

22 MS. PATTERSON: And -- and Your Honor, I guess one of
23 my main objections is the -- he keeps calling it a deadly
24 force situation. In order for Mr. Ballard to testify and
25 comment on a lot of the -- the studies he's found and a lot

1 of the -- the studies that he teach, he will be comment on
2 the ultimate issue. It is for the jury to decide if this was
3 a deadly force situation.

4 THE COURT: Well, I'm just wondering, I have no -- no
5 qualms about Mr. Ballard being an expert, none.

6 MS. PATTERSON: I don't either.

7 THE COURT: I just don't know where it fits into this
8 case.

9 MS. PATTERSON: It -- it doesn't.

10 THE COURT: Because I -- I'm -- what I'm scared of is
11 that it's just going to totally confuse this jury. This is
12 an argument that happened at a workplace over somebody being
13 late to work and maybe a little bit of, if I believe the
14 testimony, maybe some slight disagreements in the past that
15 turns into, unfortunately, a shooting that's caught on video.
16 All that happened in less than a minute, is the bottom line.

17 So right now I'm just -- I don't want anything that's
18 going to confuse the jury. I certainly not going to allow
19 any testimony that might go to the Defendant's state of mind
20 at the time, or his actions or his behavior. That's kind of
21 on video. That's for the jury to decide. I just don't know
22 how it's going to help. This testimony is going to help them
23 determine the facts of this case. I -- I think the case is
24 pretty -- this is isn't a who done it. The facts are pretty
25 well laid out on video, but I'll be glad to hear from you,

1 Mr. Mobley.

2 MR. MOBLEY: Oh, Your Honor, (inaudible) the Court, I
3 -- I believe that this testimony, how a person responds under
4 the stress of a deadly force situation.

5 THE COURT: But what is the deadly force situation?

6 MR. MOBLEY: All right. Let me ---

7 THE COURT: What is the deadly force? Because I have
8 an armed man and I have an unarmed man.

9 MR. MOBLEY: Okay. I can ask him the question.

10 Mr. Ballard, can an armed individual be with an unarmed
11 individual and it become a deadly force situation for the
12 armed individual?

13 THE WITNESS: I'm sorry.

14 THE COURT: (Inaudible) going to become any known facts
15 ---

16 MR. MOBLEY: That's why I didn't want get to that.

17 THE COURT: --- of this case and I -- and that I cannot
18 let happen.

19 MR. MOBLEY: But that's why I didn't ask that before.
20 But I was only trying to -- I'm -- I'm not trying to argue
21 what you -- what you said was you don't understand how an
22 armed person -- an unarmed person can be a deadly force
23 situation. I deliberately and specifically did not go there
24 with this witness because I did not want to even suggest that
25 I might try to get him to express an opinion back to this

1 case. However, in response to the statement that the Court
2 made, I asked him to answer that question. Now, if you don't
3 want him to answer that question, that's fine, but that's the
4 only reason I was asking that question, Your Honor. And
5 that's why I didn't even go into it before because I know the
6 answer to it, but I was trying to stay away from it. But you
7 can decide if you want him answer that question outside of
8 the fact.

9 THE COURT: I'm just trying to -- to figure out
10 because, I mean, it just seems to me like you'd have to
11 comment on somebody's state of mind.

12 MR. MOBLEY: And what he would say, Your Honor, is
13 basically in a situation -- if an -- if an unarmed person
14 tries to arm himself with the armed person's weapon, that
15 becomes a deadly force situation for the armed person. Now,
16 I want to be clear, I had no intention of trying to get that
17 testimony out during the jury. I'm only bringing that out
18 because you queried that at the conclusion, you know, during
19 your -- your discussion of your -- your thoughts. So that's
20 why it's a deadly force situation.

21 THE COURT: All right, but that's what you all keep
22 talking about. It's deadly force situation ---

23 MS. PATTERSON: Which is the ultimate issue.

24 THE COURT: Which is the issue in this case.

25 MS. PATTERSON: Which the jury ---

1 THE COURT: And that is, either the jury is going to go
2 with self-defense and believe that they tried to take the gun
3 away from you or they're not. That is the ultimate issue in
4 this case.

5 MR. MOBLEY: However, and I just want to make sure
6 we're clear and I -- I want to make sure everything's on the
7 record, Your Honor. The Defendant shot an unarmed man a
8 substantial number of times. Okay? This testimony would
9 help the jury understand how something like that could
10 happen, because the -- on one hand it might be perceived that
11 this individual was making conscious and deliberate malicious
12 choices. On the other hand, if he is under the stress of a
13 deadly force situation and all these factors, the stress of
14 the situation are affecting what he's observing, his decision
15 making and how that's being processed in this short time
16 period, that's would be helpful for the jury to understand
17 what was going on at the time, and would explain possibly why
18 this individual was moving forward and why he was continuing
19 to fire on somebody that was unarmed.

20 MS. PATTERSON: And that would -- that would be
21 commenting ---

22 THE COURT --- state of mind.

23 MS. PATTERSON: --- commenting on his state of mind.

24 MR. MOBLEY: It would be a general. He wouldn't be
25 talking about this case, but he would talk about those

1 effects on a person in general, Your Honor.

2 MS. PATTERSON: But he's here to testify on this case.
3 That's the logical connection, and that's what we've got to
4 avoid, Your Honor. That's -- that will be improper testimony
5 in this case.

6 MR. MOBLEY: And I -- and I believe that's the ---

7 THE COURT: All right, may I let Mr. Ballard down?

8 MR. MOBLEY: Yes, Your Honor.

9 THE COURT: Mr. Ballard, thank you.

10 THE WITNESS: Thank you, ma'am.

11 MR. MOBLEY: I'm sorry (inaudible).

12 THE COURT: I still want to keep him up there. Let me
13 talk to the lawyers. And -- and private out in the hall,
14 please.

15 (Jury leaves the courtroom)

16 THE COURT: All right. We just proffered the testimony
17 of Mr. Scott Ballard, who was going to be an expert in the
18 matter of a deadly force situation. After listening to the
19 testimony, I believe that it's going to be -- I'm not going
20 to allow the testimony under the rules of evidence. I -- I
21 think it's going to be absolutely confusing to the jury. I'm
22 also -- when he was talking about the behavior of people's
23 blood pressure -- I think I wrote it down -- heart rate, I --
24 I don't know that -- I don't see anything where he has any
25 medical training whatsoever at all.

1 But I'm also not convinced that he wouldn't be stepping
2 into the state of mind of the Defendant and the victim in
3 this case. So under the rules of evidence for that, I do
4 think it's going to be confusing to the jury. And for the
5 reasons that I laid out and the testimony that we heard I'm
6 not going to allow it.

7 MR. MOBLEY: Thank you, Your Honor.

8 THE COURT: Thank you, Mr. Mobley. It was an
9 interesting issue though. Very interesting. It got the
10 Court's attention. Anyway, Mr. Mobley, how many more
11 witnesses do you have?

12 MR. MOBLEY: At this time, the Defense rest, Your
13 Honor.

14 THE COURT: All right. I've got the jury still here.
15 It's 5:30. It's late in the evening. I'm going to bring the
16 jury in. I'm going to let you rest on the record and then
17 I'm sending them home. I'd like to start at 9:00 in the
18 morning. Each one of you all have a copy of my jury charges.
19 I have them on my computer, so I can change anything. Please
20 look at them tonight. They're pretty straightforward. You
21 want anything added, please be prepared to tell me what it
22 is. I have it on the computer and I certainly don't mind
23 talk about it and we can certainly change anything.

24 MS. FULLER: The only thing is terms of the criminal
25 intent charge. In my last murder case with you, you didn't

1 charge it. So this one was new to me, so I wasn't sure. Is
2 this the standard charge?

3 THE COURT: That's standard.

4 MS. FULLER: Okay.

5 THE COURT: Standard. I charge it in every case unless
6 I have a known intent. Seems like I did have one.

7 MS. FULLER: I guess in the last murder one, I don't
8 remember a separate intent charge that's covered in the
9 murder statute, like the malice and there. And so, but I
10 could be wrong, but I just didn't -- it looked -- it read new
11 to me.

12 THE COURT: Well, you know what? I might not have. If
13 I have it -- you all want to look at it and we'll talk about
14 it in the morning?

15 MS. FULLER: Yes, ma'am. Just want to bring that one
16 to your attention.

17 THE COURT: Okay. I think I did though. I just don't
18 remember because usually I have another charge with it. I'll
19 go back. You remember the case name? I'll look.

20 MS. FULLER: On quarter. I just don't remember on
21 quarter.

22 THE COURT: On quarter.

23 MS. FULLER: Yeah.

24 THE COURT: I'll go back and look.

25 MS. FULLER: I'll double check, too.

1 THE COURT: All right. You all look at it, we'll talk
2 about it in the morning. You talked about a reply witness?

3 MS. FULLER: Yes, Your Honor.

4 THE COURT: You are definitely calling (inaudible)
5 reply witness?

6 MS. FULLER: Yes, Your Honor.

7 THE COURT: All right. Let's bring the jury in. Will
8 this reply witness be short?

9 MS. FULLER: Yes, Your Honor.

10 MR. MOBLEY: I'm sorry, I didn't hear the question,
11 Judge.

12 THE COURT: I was asking if the reply witness is going
13 to be short because I'm going make straight in that closings.

14 All right, Mr. Foreman, (inaudible) be seated. All
15 right. Mr. Mobley, call your next witness.

16 MR. MOBLEY: May I please Court, Your Honor. At this
17 time, the Defense rest.

18 THE COURT: Okay. All right, ladies and gentlemen of
19 the jury, Mr. Foreman, the Defense has rested. They -- just
20 to kind of keep you up with the schedule, they're telling me
21 there might be a reply witness we'll see in the morning. I'm
22 going to ask that you all come early. If everybody could be
23 in the jury room at a quarter to 9:00; I plan to start right
24 at 9:00. Then we will do closing arguments and then I will
25 charge you on the law in this case and then you all can

1 deliberate. That is the plan.

2 So please remember, we're almost there. Don't talk
3 about this case, don't read anything, do any research, not
4 anything. With that, you all have a good evening. I know
5 you all had a long day today. You all have been troopers.
6 It's been a long day. I know you're tired, but thank you for
7 your service and your patience and all the attention that
8 you've given this case. I really do appreciate it. Hope you
9 all have a great evening.

10 JUROR: You too.

11 THE COURT: All right. Let me just -- while I've got
12 the lawyers here, have you all even looked at my murder
13 charge?

14 MS. FULLER: Yes, Your Honor.

15 MR. MOBLEY: I haven't, Judge.

16 THE COURT: That's my standard murder charge.

17 MS. FULLER: I'll look at it.

18 THE COURT: Do you have any objection to it?

19 MS. FULLER: No, Your Honor.

20 THE COURT: It's my standard.

21 MS. FULLER: Yes, Your Honor.

22 THE COURT: Did you look at the self-defense?

23 MS. FULLER: I did.

24 THE COURT: That's my standard.

25 MS. FULLER: Yes, Your Honor. I think -- think is

1 appropriate, what you have.

2 THE COURT: I've charged that, I can't tell you how
3 many times.

4 MS. FULLER: Yes, Your Honor.

5 THE COURT: Because I thought I looked at it and my
6 charges looked a little short, but it's because the Defendant
7 did testify, so I didn't have to put that two-page charge in
8 there. Mr. Mobley, if you will look at -- I even put in here
9 the prior record of witness, which was one of the witnesses.
10 I forgot. I think both of them ---

11 MR. MOBLEY: Two of them.

12 THE COURT: --- that testified on the record.

13 MS. FULLER: Both SEDC.

14 THE COURT: Both of them SEDC.

15 MR. MOBLEY: Great place to work.

16 THE COURT: So I put that in there.

17 MR. MOBLEY: And (inaudible) carried a gun.

18 New Speaker:

19 I've got my expert witness. Mr. Mobley, if you will
20 look at the self-defense. I laid out the four elements that
21 need to be made and I did my sympathy charge. I charge that
22 in every case I have. It is a standard for me. So if you
23 look at those, if you could think of anything else I need to
24 add, and if you all look at it tonight, please email me. I
25 will have my computer. I will be working. And I'll be more

1 (inaudible) to have it fixed and ready to go by in the
2 morning.

3 MR. MOBLEY: Thank you, Your Honor.

4 MS. FULLER: Thank you, Your Honor. If you're finished
5 with that, I had one thing to put on the record to make sure
6 we're all on the same page.

7 THE COURT: Okay.

8 MS. FULLER: In opening statement Defense counsel
9 referenced the prior incident and looping it together with
10 this fear going into the immediate action. He referenced
11 saying that the State only -- only wants us to focus on the
12 shooting incident and ignore the gas station incident as it
13 relates to self-defense. Just so we're on the same page, I
14 believe his client testified that he was not in fear for his
15 life at the gas station, even after receiving those threats.
16 And so in terms of summation and argument, just confirming
17 that that is no longer going to be part of Defense counsel's
18 argument, because I don't want to object to it because it's
19 not going to be something in evidence.

20 THE COURT: You mean as far as self-defense ---

21 MS. FULLER: The fact that that went to his state of
22 mind because he's been added to his fear for his life,
23 because his testimony was that he was not in fear for his
24 life.

25 THE COURT: Well, he didn't say that about the two

1 times that he came over to the parking lot.

2 MS. FULLER: Correct. I was just ---

3 THE COURT: The parking lot is -- and I understand what
4 you're saying, but you -- I'll be glad to hear from you, Mr.
5 Mobley.

6 MR. MOBLEY: You know, I do believe that the Defendant
7 testified that in the gas station, the -- the deceased made a
8 statement about getting his firearm and -- and getting the
9 gun and shooting him. So, I mean, I -- I'm not -- I'm not
10 sure what she's saying.

11 THE COURT: Well, and -- and that's true. He did
12 testify to that. However, on cross he testified that he
13 wasn't scared at that time.

14 MR. MOBLEY: At that time he was not scared.

15 THE COURT: I don't know that. Are you asking that he
16 keep all the gas station out?

17 MS. FULLER: No, nope. Just in terms of the argument
18 towards self-defense. Because, you know, it's a -- what the
19 jury is to consider there is the reasonable is the imminent
20 fear. And part of what he argued in opening was saying that
21 the State wants us to ignore the gas station as part of his
22 fear, when his client essentially ignored it too. And so ---

23 MR. MOBLEY: Your Honor, and that -- and that -- that's
24 not appropriate, Judge, because at the time, number one, the
25 deceased did make a threat to his life. And he stated at

1 that second -- and it didn't matter that at that minute he
2 was not fearful for his life because he -- that's not when he
3 shot him. But he makes the threat to ---

4 THE COURT: That is an incident that happened before.
5 I'm with you, Mr. Mobley. And I think you can go into that.
6 I just don't think you can say that he was scared to death
7 from the gas station.

8 MS. FULLER: That's it.

9 THE COURT: At the gas station, because your client
10 said he wasn't.

11 MR. MOBLEY: Oh, no.

12 THE COURT: I think that started it.

13 MR. MOBLEY: Yeah.

14 THE COURT: And then it carried over to the parking lot
15 because he testified that he was scared during those visits
16 over and back and -- and then the shooting occurs. What she
17 wants you to do is not say anything about being scared at the
18 gas station.

19 MS. FULLER: It sounds like we're on the same page.
20 That's all I wanted to confirm, based on the testimony.

21 THE COURT: Yeah, they just appeared to me it started
22 at the gas station. He might not have been scared, but it
23 set that tone. Then it got into the parking lot, and then
24 his testimony, your own client's testimony, is that he was
25 scared.

1 MR. MOBLEY: Yeah, I think the only thing -- I think
2 the only thing that matters is, was he afraid when he shot
3 him. I mean, if he was afraid at the gas station and not
4 afraid when he shot him, so I'm like, I don't need to see the
5 relevance of bringing that argument up. But ---

6 THE COURT: You're exactly right. But everything about
7 the gas station is fair game to talk about.

8 MR. MOBLEY: Yes, Your Honor.

9 MS. FULLER: That's fine, Your Honor. I was just based
10 on what he said in opening statement.

11 THE COURT: Okay. Now, let me ask you, since the
12 State's rested, so I won't forget to do this. Any motions,
13 Mr. Mobley?

14 MR. MOBLEY: Yes, Your Honor. At this time, the
15 Defense would renew our motion for a directed verdict of not
16 guilty on the -- on the murder. I do not believe the -- the
17 State has this proven reasonable doubt -- I'm sorry,
18 self-defense beyond all reasonable doubt as a matter of law.
19 And I would ask the Court directed verdict of not guilty.

20 THE COURT: Thank you. Anything from the state?

21 MS. FULLER: I doubt my previous argument.

22 THE COURT: Okay. And I'm going to deny it. Thank
23 you, Mr. Mobley.

24 MR. MOBLEY: Thank you, Your Honor.

25 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

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CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11 of Lexington County, South Carolina, on the 22nd Day of June, 2023.

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

November 8, 2023

Natasha Barrientos

Transcriber

1 CONTINUATION OF PROCEEDINGS - JUNE 23, 2023

2 THE COURT: Good morning.

3 THE JURY: Good morning.

4 THE COURT: I'm sorry (inaudible). I apologize for
5 being late. I had a status conference, and Mr. Mobley, I
6 read your jury charges.

7 MR. MOBLEY: And, actually, Your Honor, I realized -- I
8 was reminded apparently I did not attach the document. The
9 language form requested charged, which I apologize. So I did
10 not realize it.

11 THE COURT: That's what I've been doing this morning.

12 MR. MOBLEY: Oh.

13 THE COURT: Is getting that. So I brought you all a
14 copy.

15 MR. MOBLEY: Ah, okay.

16 THE COURT: The only thing, Mr. Mobley, if I could not
17 -- if you all come up and get me (inaudible) if you will --

18 MR. MOBLEY: (Inaudible) I don't have a lot of time.

19 MS. FULLER: (Inaudible) sorry.

20 THE COURT: Oh, I'm sorry. I'm just not used to this
21 court (inaudible).

22 MS. FULLER: Thank you.

23 MR. MOBLEY: Thank you.

24 THE COURT: Was your last -- let me go over the
25 self-defense with you all because I put it in the category

1 that it belonged. I thought I did (inaudible). All right.
2 On page 18, it starts as self-defense. First element without
3 fault, second element imminent danger, and number 3, the
4 reasonableness of that imminent danger.
5 Then there's the right to act on appearances, and any words
6 accompanied by hostile acts. I did prior difficulties and
7 then I ended it with no other element. Number 4, no other
8 way to avoid danger. I -- Mr. Mobley, on the last one that
9 you wanted, I thought, and I'll be glad to hear from the
10 state. I am assuming I don't have a jury charge for what you
11 wanted. I'm assuming what you -- you are asking is
12 propensity for violence and --

13 MR. MOBLEY: I'm -- I'm sorry, let me --

14 THE COURT: I don't have your email so (inaudible).

15 MR. MOBLEY: Okay.

16 THE COURT: Your email listed --

17 MR. MOBLEY: Oh, I'm sorry. Are you referring to the
18 last paragraph?

19 THE COURT: Oh, I didn't change that yet. No, the
20 charges that you wanted.

21 MR. MOBLEY: For -- for number 3, not at the ethic
22 words accompanied, I'm -- I'm not seeing propensity for
23 violence.

24 THE COURT: What was the very last one?

25 MS. FULLER: Words accompanied by hostile acts.

1 THE COURT: I got that in here.

2 MR. MOBLEY: Yeah.

3 THE COURT: I thought --

4 MS. FULLER: That's it.

5 MR. MOBLEY: Yeah.

6 MS. FULLER: That's all he asked for, Your Honor.

7 MR. MOBLEY: Yeah, the only other thing was in that
8 last paragraph I asked the Court is --

9 THE COURT: Again, it's like my duty to wait.

10 MR. MOBLEY: Oh.

11 MS. FULLER: Doesn't have to wait to act.

12 MR. MOBLEY: Yeah. Doesn't have to wait to act.

13 THE COURT: And I didn't -- I don't have -- I've even
14 looked through the book ---

15 MS. FULLER: That ties into your appearances charge.

16 THE COURT: All right. Let me go through and make sure
17 that we've covered it.

18 MR. MOBLEY: Yeah. And -- and the document that I
19 meant to attach, I actually put it all and the -- and the
20 prosecutor has a copy and -- and I ---

21 THE COURT: I didn't get a copy, I'm sorry.

22 MR. MOBLEY: I -- I thought I sent it with the email,
23 but I was advised I did not. I am -- which I take
24 responsibility for, but I included it in that subsection.

25 MS. FULLER: And also, Your Honor, just to be clear,

1 when it comes to the right to act on appearances charge, it
2 goes to element number 2, imminent danger, and so does prior
3 difficulties and words accompanied by hostile acts. It
4 doesn't go towards the element 3.

5 THE COURT: Well, it's imminent danger and the
6 reasonableness of imminent danger. And that's why I stuck it
7 as to right of appearances because if you read
8 reasonableness, that's just my title for me. So I know where
9 I'm, I don't say that to the jury, but the defendant was
10 actually -- if the defendant was actually in imminent danger,
11 it must be shown that the circumstances and it goes on, and
12 that they need to decide whether, so then I put white deck on
13 appearances afterwards. If you want me to change them, and
14 put it under imminent danger, I would. I could do that.
15 That's not a big deal. I could put right to act appearances.
16 Now, does that cover ---

17 MR. MOBLEY: I -- I don't believe it covers. It
18 doesn't have to wait to act.

19 THE COURT: Yeah, (inaudible) my book.

20 MR. MOBLEY: Yeah, that's the document (inaudible).

21 MS. FULLER: Your Honor, I just noticed the imminent
22 danger charge that I have is -- I just noticed it's different
23 and that's probably why. Okay. I'll just hand it to you
24 what, but I -- this is the imminent danger charge I have, and
25 then from the bench book I used to use and then the right to

1 act on appearances comes under that section if appropriate.

2 THE COURT: Let me show you something with what I'm
3 trying to tell you. It is the exact words that I have.

4 MS. FULLER: It's just in a different place
5 (crosstalk).

6 THE COURT: It's just -- I -- I need to take out a
7 reasonableness for you all because ---

8 MS. FULLER: Oh, because it doesn't go there.

9 THE COURT: --- (crosstalk) the second element ---

10 MS. FULLER: Uh-huh.

11 THE COURT: --- if the defendant was actually in.
12 That's what I'm telling you.

13 MS. FULLER: So -- so ---

14 THE COURT: It's back up. It's the same.

15 MS. FULLER: Oh, it is. I see it now. Okay. So
16 that's where right to act ---

17 THE COURT: Exactly.

18 MS. FULLER: Because this part is not part of the third
19 element, it's part of the second element. So that's probably
20 why I got confused.

21 THE COURT: Right. Yes.

22 MS. FULLER: Okay.

23 THE COURT: It was my note for reasonableness ---

24 MS. FULLER: But ---

25 THE COURT: -- that I -- that I was trying to tell you

1 all. I do not say that to the jury. Just a note for me when
2 I'm doing ---

3 MS. FULLER: Because it's -- it's just confusing.

4 THE COURT: --- things. Then I go, are -- everybody
5 with me? If you bring me your copy, I'll ---

6 MR. MOBLEY: I think I gave it to you.

7 THE COURT: No.

8 THE COURT: The copy that I gave to you.

9 MR. MOBLEY: Oh, I'm sorry. What page?

10 THE COURT: I want to make sure we get it right.

11 MR. MOBLEY: So you want this back?

12 THE COURT: I -- I kind of separated it so I ---

13 MS. FULLER: I'm tracking.

14 THE COURT: You would be. I want to get Mr. Mobley on
15 ---

16 MS. FULLER: I'm on the same page.

17 THE COURT: --- on the same page with me.

18 MR. MOBLEY: Let me get my glasses.

19 THE COURT: Okay. I'm just going to mark out
20 reasonableness so you all will know what I'm doing here.
21 Okay. Because I'm doing imminent danger. I think that threw
22 her off. And then I'm doing the right to appearance so its
23 words accompanied, prior difficulties, and then I'm going to
24 add what you want. But I'm trying to figure out.

25 MS. FULLER: And then, Your Honor, just handing up what

1 I just noticed as state's request or (inaudible) state's
2 request.

3 THE COURT: Well, I circled that, and I circled another
4 one because I was going to get to that because I think I need
5 to end with that after I do the self-defense.

6 MS. FULLER: Okay.

7 THE COURT: But let me ask both of you all. He wants
8 me to add in here. He does not have to wait to act if he
9 believed he was in such danger, and a reasonable prudent
10 person of ordinary firmness and courage would've entertained
11 the same belief.

12 MS. FULLER: Well, Your Honor, I believe -- I don't
13 believe that natural -- actual language is appropriate. I
14 think sticking to the standard right to act on appearances
15 covers that because ---

16 THE COURT: Because ---

17 MS. FULLER: --- it says the defendant does not have to
18 show that he was in actual danger. And so I think that
19 covers it. And then also what's here is missing the
20 standard, that it's not just any danger. It has to be great
21 bodily harm or death. And what he proposed doesn't include
22 that.

23 THE COURT: Well, I've got a serious bodily injury in
24 mine.

25 MS. FULLER: You do.

1 MS. PATTERSON: Everything in yours, yes.

2 MS. FULLER: Uh-huh.

3 MR. MOBLEY: Yeah. I don't have any problem with that
4 as long as you have the language that I requested, Your
5 Honor.

6 THE COURT: Okay, but where -- where is that coming
7 from?

8 MR. MOBLEY: What?

9 THE COURT: Do you have case law on that?

10 MR. MOBLEY: Yeah, Nichols -- give me one second, Your
11 Honor.

12 THE COURT: Because I -- no, I don't know, if he's
13 saying he doesn't have to wait. There's no duty retrieve at
14 all.

15 MS. FULLER: it -- it'll be contradictory.

16 MR. MOBLEY: And I'll ---

17 MS. FULLER: It's like (crosstalk).

18 MR. MOBLEY: --- it's value a copy of State versus
19 Nichols, which I'm looking at. But now, Your Honor, if I can
20 approach.

21 THE COURT: Sure.

22 MR. MOBLEY: Just for the record I'm reading from state
23 ---

24 THE COURT: Ensure that state has a copy.

25 MR. MOBLEY: Yes. I provided them a copy first, Your

1 Honor.

2 THE COURT: Okay.

3 MR. MOBLEY: State (inaudible).

4 MS. FULLER: (inaudible).

5 MR. MOBLEY: Okay. I'm going to just put ---

6 THE COURT: Oh, okay. Sorry.

7 MR. MOBLEY: --- put the cite on the record first, Your
8 Honor, State versus Nichols, 481 S.E.2d 118, 325. S.C. 111,
9 S.C. 1996, State versus Nichols. I'm going to turn to page
10 2, and look at the first paragraph. Midway through. "Father
11 appellate was entitled to a charge that he did not have to
12 wait before acting in self-defense."

13 MS. FULLER: Well, that doesn't apply to (inaudible).

14 THE COURT: Well, I read that this morning because I
15 read your case and I looked at that. And in that -- that
16 case it's a little bit different. He saw a gun in this case,
17 there wasn't. The other person -- the victim wasn't armed,
18 and they're saying he didn't have to wait for him to fire or
19 aim it at him. In this case, it's different in that your
20 client's alleging that he tried to scoop him up and go for
21 his gun. One thing seeing a weapon and -- and ---

22 MR. MOBLEY: It's totally different, Your honor.

23 THE COURT: -- and another one ---

24 MR. MOBLEY: But I -- but I believe ---

25 THE COURT: --- in making an act --

1 MR. MOBLEY: But I believe that's a -- a question for
2 the jury, Your Honor. Those are arguments that be made for a
3 jury, but that's a question for the jury.

4 THE COURT: Well, you don't think the --

5 MS. FULLER: Right.

6 THE COURT: -- the right to act on appearances covers
7 that more efficiently because -- and -- and the right to
8 appearances it is enough that the defendant believed he was
9 in imminent danger, and a reasonably prudent person of
10 ordinary firmness and courage would've had the same belief.
11 And -- and the testimony that's been presented here, is that
12 your client believed he was going for his gun, and that's the
13 right of appearance. I -- I think that covers that. And I
14 thought the testimony followed that.

15 MR. MOBLEY: But of course -- I'm sorry.

16 THE COURT: In this case entitled to a charge that he
17 did not have to wait. That's almost saying he didn't have to
18 wait for him to come for his gun. He could just go ahead and
19 charge. I think the right to appearance is a more
20 appropriate charge for the testimony that's been given in
21 this case. I'll let you all argue.

22 Well, Ms. Fuller, I'll be glad to hear from you.

23 MS. FULLER: Well, Your Honor, you -- you said exactly
24 what I was going to argue and my concern there would be -- it
25 would be -- you would be almost commenting on the facts, just

1 how defense counsel, that'd be a jury issue. That's exactly
2 why we probably shouldn't go that specific. Because if he's
3 alleging that he didn't have to wait for him to get his gun,
4 that's not what the law says. And I think the right to act
5 on appearances sufficiently covers his argument. He can
6 still make his argument under to -- right to act on
7 appearances.

8 THE COURT: Because (crosstalk).

9 MS. FULLER: Because that's a disputed fact.

10 THE COURT: Yeah.

11 MS. FULLER: That's a disputed issue for the jury ---

12 THE COURT: That's the whole issue in this case.

13 MS. FULLER: Uh-huh.

14 THE COURT: Sees him going for the gun.

15 MR. MOBLEY: But there's also the argument by the state
16 that even if he was going for his gun, my client could've
17 exercised a number of other options before firing.

18 MS. FULLER: Well, that's the law.

19 MR. MOBLEY: You know, regarding, you know, so my point
20 is, he doesn't have to hesitate to act if he believes he's in
21 imminent danger. If he -- once he has that belief, he does
22 not have to hesitate. The law does not require that. They
23 can argue that, you know, whatever. But the jury needs to
24 understand that if he believed he's in imminent danger at
25 that point, he did not have to hesitate. And that kind of

1 goes to the imminent, you know, imminent danger though. And
2 just for you, Your Honor, I also want to just kind of refer
3 to ---

4 THE COURT: I don't -- he said he did not have to
5 (inaudible).

6 MR. MOBLEY: And in the rash opinion, the defendant's
7 assailant did not have a -- a firearm, he had a knife, but he
8 said he wasn't sure if he had a knife. And that was the fact
9 scenario for the Court rule ---

10 THE COURT: Well, and -- and I think what the Court in
11 those cases are saying is when both are armed you don't have
12 to wait. It's the way I read it.
13 Ms. Fuller, I'll be glad to hear (crosstalk).

14 MS. FULLER: No, that's exactly how I read it. I don't
15 want to try this case twice. So I wouldn't -- I wouldn't ---

16 THE COURT: I don't either.

17 MS. FULLER: --- be objecting to it if I didn't think
18 it was ---

19 THE COURT: And other than ---

20 MS. FULLER: --- I wasn't appropriate.

21 THE COURT: --- other than that I mean the right to
22 appearance mistaken or not ---

23 MS. FULLER: It's charged.

24 THE COURT: --- is -- is his belief. That's up to the
25 jury to decide. But if he believed that the victim was going

1 for his gun, then he had a right

2 MS. FULLER: To act on appearance?

3 THE COURT: --- to act on it. I think that covers it.

4 And that's what I'm charging.

5 MR. MOBLEY: All right. Thank you Your Honor.

6 THE COURT: All right. So are we okay now, Ms. Fuller,
7 with -- I'm -- on page 19?

8 MS. FULLER: We're on the same page now.

9 THE COURT: Going ---

10 MS. FULLER: That just ---

11 THE COURT: --- with imminent, didn't mean to mess you
12 all up.

13 MS. FULLER: No -- no. It's ---

14 THE COURT: Then go to right to appearances, words
15 accompanied by hostile acts, prior difficulties, no other way
16 to avoid danger, and then these states requested this ---

17 MS. FULLER: The consumption language.

18 THE COURT: --- the contemptuous language, which I'm
19 going to add right after this. Okay.

20 MR. MOBLEY: I'm sorry.

21 THE COURT: On page 21. Okay. So let me ask ---

22 MR. MOBLEY: I'm sorry, (inaudible) the State's
23 requesting ---

24 THE COURT: Contemptuous language. Self-defense is not
25 available to a person who uses language, which is so

1 contemptuous that a reasonable person would expect it to
2 bring on a physical encounter in which did actually
3 contribute to the physical encounter. I think we've had that
4 testimony in this case. So I'm going to add it. Now, any
5 other changes? I know Mr. Mobley, there was something on one
6 page on your note.

7 MR. MOBLEY: Yes, Your Honor. Please, the Court, on
8 page 20 you make reference to ---

9 THE COURT: On page 20?

10 MR. MOBLEY: Yes.

11 THE COURT: Okay. Let me get it with you. Okay. Go
12 ahead.

13 MR. MOBLEY: The first sentence, the circumstances
14 surrounding the crime by telling the jury a crime has been
15 committed, it's inappropriately suggestive. It's an act in
16 it's event whether or not it was a crime of a jury issue.
17 And I would ask if that word be removed from the -- from the
18 charge.

19 THE COURT: Okay. What would you -- how would you like
20 it to read?

21 MR. MOBLEY: I mean, it can read the event, the
22 circumstances, you know, and that's -- and that's in my ---

23 THE COURT: You should consider -- you should consider
24 all the facts and circumstances, including the physical
25 condition and characteristics of the defendant and the

1 victim.

2 MR. MOBLEY: I would say the parties, because I object
3 to him being referred to the victim.

4 THE COURT: Characteristics of the parties ---

5 MR. MOBLEY: Thank You, Your Honor.

6 THE COURT: --- involved.

7 Any objection to that, Ms. Fuller?

8 MS. FULLER: No position, Your Honor.

9 THE COURT: Okay. I don't mind changing it. All
10 right. Anything else anybody would like added, deleted,
11 amended to the jury charges?

12 MS. FULLER: No, Your Honor.

13 THE COURT: Mr. Mobley?

14 MR. MOBLEY: No, Your Honor. Thank you.

15 THE COURT: Okay. All right, ma'am, let's take up the
16 rebuttal witness.

17 MS. FULLER: Reply, yes, Your Honor.

18 THE COURT: Yeah, you call it reply or rebuttal. That
19 just shows my age, probably my mistake.

20 MS. FULLER: The state is ready, Your Honor.

21 MR. MOBLEY: Your Honor, well, yeah, I would just ask
22 that, you know, the -- the court hear the testimony before
23 determining whether or not it's appropriate for the jury to
24 hear the reply testimony.

25 MS. FULLER: Uh-huh.

1 THE COURT: Do we even know who the witness is?

2 MR. MOBLEY: No, that's -- that's the whole thing. I
3 -- I think it's --

4 THE COURT: I think she can call her rebuttal witness.
5 I'm going to let her do that. If at any time you want to
6 object, stop. And if we need the proper, I'll be more than
7 happy to do that.

8 MR. MOBLEY: Thank you, Your Honor.

9 THE COURT: Okay. Let's bring the jury. Did I -- did
10 I do something?

11 MS. FULLER: No, ma'am. It's my co-counsel, it's --
12 it's really her fault. She just knows me too well. She
13 doesn't allow me to just make comments (inaudible) anymore.

14 THE COURT: Oh, let me -- let me just share this with
15 you all too. I looked at this Rule 5 issue that we talked
16 about earlier in this (crosstalk).

17 MS. FULLER: Your Honor, that would -- we're fine --
18 we're fine.

19 THE COURT: They don't have to (crosstalk).

20 MS. FULLER: We're fine. We don't have to make any
21 more record of that. We're fine

22 THE COURT: (Crosstalk) at all. Just for future
23 reference.

24 MS. FULLER: Nope.

25 MR. MOBLEY: I've always known that, that was the first

1 time I ever had anybody say that.

2 MS. FULLER: It was just when he said he wrote a -- I
3 thought he said he wrote a statement, and it was new, and I
4 went to the document section in my brain that was my fault.

5 THE COURT: Got it. And -- well, I mean, it happened.

6 MS. FULLER: That was my fault.

7 THE COURT: I just wanted to let you all know I was
8 paying attention.

9 MR. MOBLEY: Appreciate the Court's dealing with this,
10 Your Honor.

11 THE COURT: Let's -- all right. Mr. Foreman (ph), jury
12 is ready?

13 MR. FOREMAN: Yes, ma'am.

14 THE COURT: Please be seated. All right. Ladies and
15 gentlemen of the jury. Morning question. Have you talked to
16 anyone about this case? Has anyone tried to approach you
17 about this case, or have you done any research about any
18 issues that's been presented in this case, or anything that
19 you thought might -- would be helpful in deciding this case,
20 or have you seen anything in the newspapers or watched
21 anything on TV about this case? If so please raise your
22 hand. Thank you.

23 All right. Anything else from the State?

24 MS. FULLER: Yes, Your Honor. We have reply.

25 THE COURT: Okay.

1 MS. FULLER: The -- the state calls Tyler Thompson to
2 stand.

3 THE COURT: Mr. Thompson, if you step over to the clerk
4 and (inaudible) hand.

5 THE CLERK: Please raise your right hand and place your
6 left on the Bible.

7 DAVID TYLER THOMPSON,
8 being first duly sworn, testifies as follows:

9 THE CLERK: Thank you. Would you please have a seat in
10 the witness box? State your full name and spell your last
11 for the record.

12 THE WITNESS: My name is David Tyler Thompson. Last
13 name is spelled T-H-O-M-P-S-O-N.

14 DIRECT EXAMINATION

15 BY MS. FULLER:

16 Q. And where are you employed?

17 A. I'm employed at the West Columbia Police
18 Department.

19 Q. And how long have you been employed there?

20 A. Approximately five years.

21 Q. In what capacity?

22 A. I currently serve as a special crimes investigator
23 where I investigate crimes involving gangs, guns, and
24 narcotics.

25 Q. Okay. As it relates to this case, back in June of

1 2021, you were employed at the West Columbia Police
2 Department?

3 A. Correct.

4 Q. And did you respond to the scene of the shooting
5 at the Capital Square parking lot?

6 A. I did respond.

7 Q. And did you later relocate to the West Columbia
8 Police Department?

9 A. I did.

10 Q. And what was the nature of doing that?

11 A. I relocated so that we could interview myself and
12 Investigator Mark Jones so that we could interview Mr. Irvin.

13 Q. Okay. And you're calling it an interview, is that
14 essentially what it was?

15 A. Correct.

16 Q. Okay. Would you characterize it as an interview
17 or an interrogation?

18 A. It was an interview. Most of the time when we
19 interviews people involved in crimes, there's an interview
20 and interrogation portion to it. This was purely an
21 interview. There's no interrogation. We didn't really have
22 to pry anything out of Mr. Irvin.

23 Q. Okay. How would you describe his demeanor during
24 this interview?

25 A. He was calm. He felt like he was right.

1 Q. Okay. Did he appear nervous or shaking in any
2 way?

3 A. No.

4 Q. Did you provide Miranda?

5 A. We did.

6 Q. And what is Miranda

7 A. Miranda is where you advise the defendant of their
8 rights as far as the right to remain silent and having
9 counsel present for the interview.

10 Q. Okay. And was he willing to speak with you guys?

11 A. He was.

12 Q. Did he speak pre and post Miranda?

13 A. He did. I have some notes in front of me that I
14 took while we were interviewing him, and I have notes prior
15 to us issuing the Miranda rights form where he had begun to
16 talk to us before we were even able to give him Miranda.

17 Q. And since he was detained in headquarters at this
18 point, it was important to Mirandize him first prior to
19 questioning him, correct?

20 A. Correct.

21 Q. And what time did the interview start?

22 A. I have marked on my notes at 8:36 a.m.

23 Q. Okay. Now, during the interview you covered a
24 number of things, correct?

25 A. Correct.

1 Q. We're just going to go over certain things today
2 in court. Do you recall starting the interview talking about
3 Daniel Jones?

4 A. I do.

5 Q. And during that conversation he talked about the
6 issue at work, correct?

7 A. Correct.

8 Q. And did he talk about the something on the job
9 relating to their pay?

10 A. Yes, he did. Mr. Irvin stated that they get paid
11 by the chicken.

12 Q. Okay. Later on in the conversation did he talk
13 about Daniel Jones as it relates to when Mr. Irvin got off
14 work?

15 A. He did. Mr. Irvin stated that, he referring to
16 Mr. Jones, left first and was waiting for me to come outside.

17 Q. Later on in the conversation. Did he talk about
18 what happened at the gas station?

19 A. He did.

20 Q. And what did he say?

21 A. Mr. Irvin stated, Daniel tried to grab me and I
22 jumped off of the scooter. He took the scooter to the back
23 of the car, I grabbed the scooter, and went back to the
24 parking lot and rode off on the scooter.

25 Q. And then did you talk about what happened at the

1 parking lot?

2 A. We did.

3 Q. And what did he say about what happened next at
4 the parking lot?

5 A. Mr. Irvin stated Daniel came back to me, and tried
6 to scoop me up. He grabbed my legs, and I moved him off.
7 After he grabbed me, I was scared, so I defended myself.

8 Q. Between the incident at the gas station and the
9 parking lot, did he suggest any degree of separation and time
10 between those two incidents happening?

11 A. It -- it was implied that it was a short period of
12 time.

13 Q. Okay. During the conversation about the gas
14 station at that portion, did he indicate that he and Daniel
15 Jones got into an altercation?

16 A. He did not.

17 Q. And during that -- during the conversation about
18 the gas station, did he indicate to you that Daniel
19 threatened to kill him?

20 A. No, he did not.

21 Q. Did he indicate that Daniel threaten to take his
22 gun?

23 A. He did not.

24 MR. MOBLEY: Your Honor, objection to leading this
25 witness.

1 THE COURT: All right. Rephrase it.

2 MS. FULLER: Thank you, Your Honor.

3 BY MS. FULLER:

4 Q. Later on in the conversation, did you eventually
5 ask him what happened during the shooting?

6 A. We did.

7 Q. And do you recall asking him when he came back
8 from the gas station, did he have his gun on him?

9 A. I did.

10 MR. MOBLEY: Again, she's continuing to lead the
11 witness. I just ---

12 BY MS. FULLER:

13 Q. And what did he say?

14 MR. MOBLEY: --- object to it.

15 THE COURT: Okay. He's objecting, Ms. Fuller?

16 MS. FULLER: Your Honor, I'm -- I'm leaning, based on
17 my cross yesterday, I'm going pointed places and request some
18 latitude to ask him the specific question he asked him. So
19 -- so we don't try and fray of any of the rules. So I am
20 requesting latitude to ask him if he remembered asking him
21 this question and then telling me what he said.

22 THE COURT: You mean from the written statement?

23 MS. FULLER: From his interview.

24 THE COURT: Which is on the written statement, right?

25 MS. FULLER: It was prior to the written statement.

1 THE COURT: Okay.

2 MR. MOBLEY: I mean, I don't have any problem her
3 asking him what she asked him, what he said, but I -- it's
4 not really necessarily heard of ask him about specific things
5 that he has not testified to. That's the leading part. Ask
6 him what he said and what he told him. That's -- that's all
7 needs to do.

8 THE COURT: Okay. You need to stay within the
9 boundaries of what's already been testified. This is a reply
10 witness.

11 MS. FULLER: And that's what I'm doing, Your Honor.
12 And that's why it's -- requesting I be allowed to be narrowly
13 focused so we can stay within the boundaries.

14 THE COURT: (Inaudible).

15 MS. FULLER: Thank you.

16 THE COURT: What's been testified to?

17 MS. FULLER: Thank You, Your Honor.

18 BY MS. FULLER:

19 Q. And regarding the gun, what did he say?

20 A. Mr. Irvin stated, yeah, I had it at the gas
21 station too. I thought about using it at the gas station. I
22 pulled the gun out there and told him to leave me alone.

23 Q. Do you recall asking him about the time that
24 passed?

25 A. I do.

1 Q. And what did he say?

2 A. He said not much. And then that Daniel had pulled
3 into the parking lot and come straight to him

4 Q. Later on, do you recall asking him a question
5 regarding the shooting and what took place after -- after the
6 shooting?

7 A. Yes. We asked him, "When you shot him, did he
8 fall or keep trying to fight?" He said, "I felt my feet lift
9 and I got scared."

10 Q. So he didn't answer that question, but that was
11 the statement he made in response, correct?

12 A. Correct.

13 Q. Later on in -- do you recall asking him another
14 question and him responding regarding when he saw Daniel?

15 A. I recall Mr. Irvin saying, I didn't know where
16 Daniel was until I saw him at the gas station.

17 Q. And did you eventually ask him when he got his
18 gun?

19 A. We did. We asked, "When did you get your gun?"
20 And Mr. Irvin's response was, "Whenever I come out of the
21 job, I stopped by my car, I got my pistol when I got in my
22 car."

23 Q. I'm going to approach and show you a portion of
24 this written statement, and down here. Do you recall asking
25 him about threats -- or -- or asking him why he didn't call

1 the police?

2 A. I do. In the statement I asked a written
3 question, "Why did you not call the police or leave the area
4 after having pulled the weapon out of the gas" -- "at the gas
5 station?" Mr. Irvin's reply was, "I felt the police was not
6 going to be there to help me fast enough because when I
7 avoided he come right back for trouble. I left the area
8 because I didn't want no trouble."

9 Q. And how far is the police station approximately
10 from Capital Square?

11 A. It's about a mile.

12 Q. And during the interview, do you recall asking him
13 or having a conversation about threats made by the victim?

14 A. I do recall asking that question.

15 Q. And during that conversation about threats, was
16 there any mention of Daniel threatening to kill Mr. Irvin?

17 A. Yes. We asked, "Did Daniel ever threaten you with
18 the knife or make an attempt to assault you with it?" To
19 which he replied, "He didn't swing it at me, but he charged
20 me with the knife."

21 Q. Okay. And that's the only thing he mentioned
22 regarding any threats?

23 A. Correct.

24 Q. And this was at the plant, was it your
25 understanding?

1 A. That's correct.

2 Q. During the interview pre-Miranda and post Miranda
3 in the written statement, do you recall whether or not he
4 ever indicated to you that Daniel said he would blow his
5 brains out?

6 MR. MOBLEY: Objection, Your Honor. She's continuing
7 to lead the witness. I mean, I tried to give her some
8 latitude, but every question is leading question.

9 THE COURT: All right. There's -- you don't need to be
10 leading and so rephrase it, please.

11 BY MS. FULLER:

12 Q. Do you recall whether or not the defendant told
13 you that Daniel said that he would blow his brains out?

14 A. Absolutely not.

15 MS. FULLER: Okay. (Inaudible) Court's indulgence.

16 THE COURT: Okay.

17 BY MS. FULLER:

18 Q. Like one more. During the interview, can you tell
19 me whether or not the defendant indicated that during --
20 prior to the shooting, Daniel was going for his gun?

21 A. No, he never spoke of that.

22 MS. FULLER: Okay. No further questions at this time.

23 THE COURT: Mr. Mobley?

24 MR. MOBLEY: Just got a few questions for you,
25 Detective. I'm sorry. I want -- I like to make sure I -- I

1 get everyone's position right (crosstalk).

2 THE WITNESS: It's investigator not detective.

3 MR. MOBLEY: Investigator.

4 THE WITNESS: Mr. Thompson.

5 CROSS-EXAMINATION

6 BY MR. MOBLEY:

7 Q. All right. And -- and just so we're clear, what
8 was your role in this case?

9 A. I was one of the responding investigators to the
10 scene.

11 Q. Okay. And as the investigator, what's kind --
12 what's your job?

13 A. Our job is to process crime scenes, to speak to
14 witnesses, to do interview and interrogations with people
15 involved in the crime.

16 Q. Okay. So when you do a -- you conduct interviews
17 with witnesses, correct?

18 A. Correct.

19 Q. And suspects?

20 A. Correct.

21 Q. To obtain information?

22 A. Correct.

23 Q. It's relevant to the case?

24 A. Correct.

25 Q. And just so we clear on job and responsibility, is

1 it the suspect's job to figure out what's relevant and tell
2 you, or is it your job to determine what's relevant and
3 obtain the information from the suspect or the witness?

4 A. We use that interview and question and answer
5 system. So, essentially, when we first speak with a suspect,
6 we ask them to tell us what happened, where they'll tell us
7 the story and then we develop our questions. And
8 (crosstalk).

9 Q. I -- I'm sorry. And I -- I understand, but this
10 -- and I'm -- I'm not trying to be rude to you, sir. I just
11 want to make sure you understand my questions.

12 A. Uh-huh.

13 Q. Whose job is it to make sure you have relevant
14 information? Is it your job to get it or their job to figure
15 out what you need to know and tell it to you?

16 A. I would say if you're being charged with a crime,
17 it would be your job to tell the investigators that are
18 looking at you for the crime about what happened accurately.

19 Q. Oh, really. So it's not -- the investigator has
20 no responsibility (crosstalk).

21 A. We have a responsibility ---

22 Q. And -- and so you don't have any responsibility to
23 get the relevant facts and information. It's all on the
24 person you're interviewing, whether it's a witness or a
25 suspect. They don't know the law. They don't know

1 (inaudible) to the crime. They don't know what's important.
2 But it's their job to figure out what you need to know, and
3 tell you without you having to ask it. Is that what you're
4 saying? Is that what you're telling this jury? Is that how
5 you conduct interviews, sir?

6 A. That's not what I'm saying.

7 Q. Okay. Well tell the jury what you are saying when
8 it comes to whose responsibility it is to obtain the relevant
9 information, when you're interviewing anybody whose job is
10 that?

11 A. I'm stating that when we interview somebody, we
12 ask them to tell us their side of the story. Usually the
13 truth lays somewhere in between what happened and what they
14 tell us. Our job, once they tell us their side of the story,
15 is to develop the questions to figure out what actually
16 occurred.

17 Q. Okay. Just so we are clear, are you telling this
18 jury it is not your job to obtain relevant information when
19 you conduct witness interview?

20 MS. FULLER: Objection, Your Honor. Asked and
21 answered.

22 MR. MOBLEY: He did not answer it, he said (crosstalk).

23 MS. FULLER: Asked and answer. And (inaudible).

24 MR. MOBLEY: I'm asking him what his job is.

25 THE COURT: All right. I'm -- Go ahead, Mr. Mobley.

1 BY MR. MOBLEY:

2 Q. I just want to make sure the jury understands your
3 answer because I did not, and I don't think it's a terribly
4 complicated question. Is it your job to get relevant
5 information from a witness or not?

6 A. My job is to be a fact finder.

7 Q. Okay. Thank you, sir. And how do you find facts

8 A. Asking questions, and --

9 Q. How many questions did you ask Mr. -- Mr. Irvin?
10 How many?

11 A. In the interview or the written statement?

12 Q. I -- I'm -- the written statement that he signed.
13 Did you write down the questions you asked him?

14 A. I did write those.

15 Q. Okay. Do you have that with you?

16 A. I do not.

17 Q. Let me take a hold for a second.

18 A. All right.

19 Q. Just give me a minute, sir.

20 A. Yes, sir.

21 Q. I apologize. I want to make sure I got all the
22 pages. If you get today I did this and I left the page off,
23 so bear with me, okay? 6, 7, 8. It's amazing that I could
24 find this. I'm going to show you what was identified as
25 Court's -- defense Exhibit number 3. That's not in evidence.

1 It's -- it's an exhibit. Take -- take a look at it, sir.

2 And I'm -- I want to make sure you're clear. I'm not trying
3 to banter you. I'm going to give you all the time you need
4 to respond to my question, okay?

5 A. Okay.

6 Q. So if you believe you need more time, please let
7 me know.

8 A. All right.

9 Q. So what I'd like you to do is please take all the
10 time you need to review that document and determine whether
11 or not it's authentic and complete.

12 A. Okay.

13 MS. FULLER: Your Honor, may we approach briefly? Just
14 briefly?

15 BY MR. MOBLEY:

16 Q. All right, sir, have you had adequate time to
17 review that document?

18 A. I have.

19 Q. Can you please tell the jury what it appears to
20 be?

21 A. This is a copy of the defendant's driver's
22 license, a copy of the Miranda, and a copy of his written
23 statement.

24 Q. All right. Is that the statement that you took?

25 A. It is.

1 Q. Okay. And is it complete what I gave you?

2 A. Yes. It looks like all pages are in there.

3 Q. Okay. And does that document contain all the
4 questions -- does it have the questions that were asked and
5 the answers?

6 A. This are the questions that were asked while
7 obtaining the statement.

8 Q. Okay. So -- so my client -- he's -- he's charged
9 with murder. He comes to you, wants to cooperate, and -- and
10 again, like you indicated, it's your job to get information,
11 right?

12 A. Correct.

13 Q. How many questions does it indicate that he was
14 asked?

15 A. Appears to be approximately 15 questions.

16 Q. Okay. So you asked him 15 -- well, how many --
17 well, give me an exact number there. You write a queue down
18 every time, right?

19 A. Correct.

20 Q. So how about the exact number? Not the appear to
21 be number.

22 A. Okay.

23 Q. Just count the queues.

24 A. Can I write on this?

25 Q. No, it's a court exhibit. You can -- I can -- we

1 can count on that one. That helps me.

2 A. I have 16.

3 Q. Okay. So you asked him 16 questions?

4 A. Correct.

5 Q. And who decided what question was going to be
6 asked, Mr. Irvin or you?

7 A. Me.

8 Q. So you decided the question you were going to ask,
9 right?

10 A. Correct.

11 Q. Now the information you were just asked about by
12 the prosecutor, he didn't say this, he didn't say that, that
13 information. Do you think that information would've been
14 important to you during the interview?

15 A. I don't understand your questions.

16 Q. She asked you if he told you certain information,
17 right?

18 A. Correct.

19 Q. The information that she asked you that he didn't
20 tell you about those -- that information those facts?

21 A. Correct.

22 Q. Do you believe that information was important?

23 A. I do.

24 Q. Then why did you not ask him?

25 A. I can ask somebody a question, but I can't force

1 them to answer it.

2 Q. Did you ask those specific questions, though?

3 A. We did during the interview process which is here
4 in the notes.

5 Q. But you wrote the questions down, the -- the
6 things that she asked you about, all those -- did you -- did
7 you write down that you asked him those questions? Am I ---

8 A. The questions that are written are the questions
9 that I could get answers to?

10 Q. The things that she asked you. She asked you if
11 he told you certain information about whether the guy, what
12 the -- what Fresh told him about blowing his brains out. Did
13 you ask him if the guy said, "Hey, did he say he is going to
14 blow your brains up?" Did you ask him that?

15 A. I believe there's a question about being
16 threatened.

17 Q. There's a question about being threatened with a
18 knife.

19 A. The question that was asked, "Did Fresh ever
20 threaten you with a knife or make an attempt to assault you
21 with it," to which he responded.

22 Q. Okay. So just so we're clear, the question was
23 whether or not Fresh attempted to assault him with a knife --
24 -

25 A. Correct.

1 Q. --- correct? That was the question.

2 A. Correct.

3 Q. Did he answer the question?

4 A. He stated he didn't swing it at me, but he charged
5 me with the knife.

6 Q. Okay. Did you ask him all this other stuff that
7 she's telling you he didn't tell you?

8 A. About the gun?

9 Q. All the questions, every single thing she asked
10 you about that she says you didn't know about, did you
11 specifically ask him about those things?

12 A. We did during the interview portion.

13 Q. Did you write that down that you asked him those
14 questions?

15 A. Did I ask him about the (crosstalk).

16 Q. Did -- did you write the -- the things that you
17 were saying you asked him. You just told the jury that the
18 questions you asked were written in that statement.

19 A. That's not what I said.

20 Q. Oh, so you're saying you asked him questions that
21 are not in that statement?

22 MS. FULLER: Yes.

23 THE WITNESS: Correct. During the interview process.

24 BY MR. MOBLEY:

25 Q. Okay. Did you write those questions down?

1 A. I did in my notes.

2 Q. Okay. So let's take a look. I'm sorry. Slow
3 down, sir. Can I take a look at your notes? Thank you very
4 much.

5 All right. How they get paid? Okay. So the question
6 about -- I'm sorry, I'm not trying to be crispy. I'm just
7 trying to give you a document back.

8 A. No problem.

9 Q. I apologize. Okay. Did you ask him specifically
10 about any attempts Fresh made to take his weapons?

11 A. I would have to read through the statement.

12 Q. Take your time, sir.

13 A. The question about Daniel taking Mr. Irvin's gun
14 was not asked specifically due to the fact that in his
15 written statement he said, "I had no way to run. He came
16 attacking me, he was strong, and I was scared, didn't want my
17 problems. Every chance I got I" ---

18 MR. MOBLEY: Objection, Your Honor. This is where
19 we're at, I -- I just asked him whether or not he asked him
20 that question. Now he's just trying to read the defendant's
21 statement and not answer.

22 BY MR. MOBLEY:

23 Q. I mean, but I think that you said it, you didn't
24 ask him that question?

25 A. I didn't ask him about the gun.

1 Q. Okay -- okay.

2 A. Because the victim didn't have a gun.

3 Q. Okay. But he did tell you he was scared, correct?

4 A. He said he was scared.

5 Q. He told you he defended his life, correct?

6 A. That was his response.

7 Q. And you asked him about whether he -- whether
8 during a time period -- whether or not he continued to shoot.

9 MS. FULLER: Objection. This is reply. We're limited
10 to what I laid foundation further impeachment.

11 BY MR. MOBLEY:

12 Q. Did he tell you that Fresh ---

13 MS. FULLER: Objection.

14 THE COURT: Hang on, let me -- I -- I'm not real sure I
15 know what -- what he ---

16 MR. MOBLEY: I'll move on.

17 THE COURT: --- asking.

18 MR. MOBLEY: I'll move on to the next question.

19 MS. FULLER: He's asking something that is -- we are
20 limited to reply.

21 THE COURT: (Inaudible).

22 MR. MOBLEY: I'll move on to the next question.

23 THE COURT: So ---

24 MR. MOBLEY: But ---

25 THE COURT: --- hang on Mr. Mobley and then Ms. Fuller,

1 if you need to object, let him complete the question.

2 BY MR. MOBLEY:

3 Q. Isn't it true that during that interview he told
4 you that at the gas station, Fresh said -- told him he was
5 lucky to have his gun?

6 MS. FULLER: Objection. This is outside (crosstalk).

7 MR. MOBLEY: That's the whole point of what she was
8 asking him.

9 MS. FULLER: This is ---

10 THE COURT: Is this in the statement?

11 MR. MOBLEY: That's in the statement in the
12 handwritten.

13 MS. FULLER: This is outside ---

14 THE COURT: In the statement. I'm going to allow it
15 because he questioned about the statement. Go ahead, Mr.
16 Mobley.

17 MS. FULLER: Your Honor, may we -- may we approach?

18 THE COURT: You may.

19 (Counsel confer)

20 BY MR. MOBLEY:

21 Q. All right, sir, last question for you.

22 A. Yes.

23 Q. Referring to Mr. Irvin's handwritten signed
24 statement, page 7, does he state -- did he tell you that
25 during the gas station altercation ---

1 MS. FULLER: Objection. It's hearsay.

2 THE COURT: Let him finish the question. I haven't
3 heard the whole question yet.

4 BY MR. MOBLEY:

5 Q. Didn't the defendant state to you that Fresh said
6 that you -- he was lucky to have his gun?

7 MS. FULLER: Objection.

8 MR. MOBLEY: That's in his statement.

9 THE COURT: (Inaudible) or hearsay?

10 MS. FULLER: Yes.

11 THE COURT: All right. Both of you all let's get out
12 the hall. We will be right back.

13 All right. Continue on, Mr. Mobley.

14 MR. MOBLEY: Thank you, Your Honor. If I may please
15 the Court?

16 BY MR. MOBLEY:

17 Q. Detective, nice to see you again.

18 A. Yes, sir.

19 Q. All right. And I'm sure you're tired to look at,
20 so I'm going to ask you one more last question. Okay, sir?

21 A. Okay.

22 Q. If you refer to page 7 of my client's statement of
23 the interview as you describe it. Did he state to you that
24 during the gas station altercation, Fresh said to him that he
25 was lucky to have his gun? Since he would do him wrong?

1 A. Yes. Mr. Irvin writes, "I was lucky to have it
2 because he was good" -- "going to do me wrong."

3 MR. MOBLEY: Thank you.

4 THE COURT: Thank you, Mr. Mobley.

5 Ms. Fuller?

6 MS. FULLER: Your Honor, for rule of completeness, I'm
7 going to here.

8 RE-DIRECT EXAMINATION

9 BY MS. FULLER:

10 Q. Looking at that, the question that was asked for
11 that question was, describe what occurred in as much detail
12 as possible; is that correct?

13 A. That's correct.

14 Q. And prior to that sentence, is there 10 lines of
15 him describing in detail what happened?

16 A. Thirteen lines?

17 Q. I apologize. And prior to that, what did he say
18 in response to the question?

19 A. The full answer to the question was, "Was to a two
20 female Tamara and a other female when Fresh pull up in a
21 Honda right beside me, he got out of the car and charged me.
22 He said he was going to beat me up, he pushed me, I pushed
23 him back. He then tried to take a swing, so I reached and
24 got him off me. He then tried to take my scooter and I run
25 it over. Then he was trying to steal, but before when he

1 swung on me, I pulled my gun out and him not to hit me. He
2 said I was lucky to have it because he was going to do me
3 wrong."

4 Q. And that's the full answer.

5 A. That's the full answer.

6 Q. Now, at the time of this interview, the defendant
7 was not charged with murder; is that correct?

8 A. That's correct.

9 Q. And at this time of this interview you described
10 it as not an interrogation interview crew; is that right?

11 A. That's correct.

12 Q. Prior to -- on direct, we went through the
13 interview prior to the statement. You remember that?

14 A. Correct.

15 Q. And during -- how many pages of notes do you have
16 from that interview?

17 MR. MOBLEY: Your Honor, I object. I think she -- I
18 mean, she's kind of going through this witness extensively.
19 She's trying to ---

20 MS. FULLER: He asked the number of questions. I'm
21 clearing up the number of questions asked, Your Honor.

22 MR. MOBLEY: It's in the record whatever his answer
23 was.

24 THE COURT: And let me tell both of you. In rebuttal
25 may only be you can introduce stuff, ask stuff about to

1 counter new facts presented in the defendant's case in chief.
2 That's it. When you don't get to retry your case. And both
3 of you all have rested.

4 MS. FULLER: Yes, Your Honor.

5 THE COURT: Wrap it up.

6 MS. FULLER: Yes, Your Honor.

7 BY MS. FULLER:

8 Q. Prior to the written statement, there was an
9 interview that took place.

10 A. Correct.

11 Q. And approximately how many questions were asked in
12 that portion?

13 A. There's seven pages worth of notes.

14 Q. And how many questions?

15 A. Multiple questions. I can count them, but ---

16 Q. Please.

17 A. I count 26 at this time.

18 Q. And then he wrote his statement, correct?

19 A. Correct.

20 Q. And then you asked him additional questions?

21 A. Correct.

22 MS. FULLER: That was it, Your Honor.

23 THE COURT: Thank you.

24 May I let Investigator Thompson get down, please?

25 MS. FULLER: No objection.

1 MR. MOBLEY: No objection from the defense, Your Honor.

2 THE COURT: Okay. Mr. Foreman, ladies, and gentlemen
3 of the jury, I'm going to excuse you to your jury room for
4 just a moment. When you come back in, we'll do closing
5 arguments, okay?

6 Remember, it's not time to talk about this case just
7 yet, even amongst yourselves we're getting close, but not
8 yet. Thank you.

9 All right. Anything else from the state?

10 MS. FULLER: Your Honor, if so -- if it's okay if I can
11 make a record of what we discussed in the hall. I just want
12 the record to be complete in terms of the state's intent.

13 THE COURT: Sure. Go ahead.

14 MS. FULLER: So during this witness's testimony, we
15 approached a couple times. The reason being was defense
16 counsel was going into portions of the written statement that
17 was not covered in the state's reply. The state's intent for
18 calling this witness was to address the statements,
19 specifically the statements.

20 I believe it was seven or eight that were asked to the
21 defendant on cross-examination yesterday afternoon that he
22 denied making or did not give a clear response if he recalled
23 making those statements to law enforcement. That was the
24 limited.

25 In addition to defense counsel on cross -- direct of

1 his client, talked about two statements -- two questions
2 asked in the written statement. And I brought those up to
3 clarify as well as he talked about the time of when the
4 interview took place, and that was the sole intent of the
5 state's.

6 The sole reason why the state called this witness was
7 to clear up those issues that the defendant -- which were in
8 defendant's cross. There were statements that I asked the
9 defendant on cross-examination yesterday that he remembered
10 and admitted to making.

11 Therefore they're in evidence. And I did not go over
12 them again with this officer. The ones that I asked him
13 about that he denied are not in -- in evidence because
14 questions are not in evidence. And I was wanted them in for
15 my closing argument. And so that's where we are.
16 My objection was based on the self-serving hearsay, going
17 outside of the scope of reply. Things that I hadn't had an
18 opportunity to question his client on that did not come up in
19 their case in chief. And I was not trying to run about the
20 Court's order or any rule or case law in the state. I was
21 very focused and limited to what came up yesterday during the
22 defendant's testimony.

23 THE COURT: All right. Mr. Mobley, you need to state
24 your side.

25 MR. MOBLEY: I'm not sure I have a side.

1 THE COURT: I think I'd be more than lenient with the
2 testimony that's been presented for a rebuttal witness.
3 Okay. Anything else from the state?

4 MS. FULLER: Nothing, Your Honor.

5 THE COURT: Anything else from the defense?

6 MR. MOBLEY: No, but you might actually find this
7 interesting. I hope not. During the Murdaugh trial when
8 they were going back and forth the rebuttal (inaudible)
9 pulled out some case and talked about the -- the defendant's
10 right to serve rebuttal. And I thought about saying, Your
11 Honor. I -- I waived my right to serve rebuttal in this
12 case. I never heard a serve rebuttal.

13 THE COURT: I heard that too, but I -- I'm going to
14 tell you, I think I was more than lenient in letting you all
15 go. It's an important case. I've been lenient to both
16 sides.

17 All right, are -- are ready for closing argument or do
18 you all need a little bit of time?

19 MS. FULLER: The state's ready.

20 MR. MOBLEY: Defense is ready.

21 THE COURT: Okay.

22 (Counsel confer)

23 THE COURT: All right, Mr. Rentier, can I see you just
24 for a moment?

25 MR. RENTIER: Yes, ma'am.

1 THE COURT: We are closing.

2 MS. FULLER: State's ready, Your Honor.

3 THE COURT: All right. And how about the defense?

4 MR. MOBLEY: The defense is ready, Your Honor.

5 THE COURT: Okay. I'm going to tell you my plan is to
6 let you all close and I'm going to go straight into charges.
7 We've arranged to have the jury some lunch. (Inaudible)
8 exhibits together (inaudible) let them start deliberating.
9 Okay?

10 MS. FULLER: Thank you, Your Honor. Just to confirm,
11 the State's opening in full and then reply response to
12 defense closing, correct?

13 THE COURT: Yeah, I do it the old school way.

14 MS. FULLER: Thank you, Your Honor.

15 THE COURT: Any objection Mr. Mobley?

16 MR. MOBLEY: No objection.

17 THE COURT: Some of the new lawyers got a new way of
18 doing this stuff. I do the old school way. It's fine by me.
19 Let's bring the jury in.

20 Anthony, this is a copy for you. Ms. Sutania, let me
21 give these three to Ms. Patterson, give one to Mr. Mobley.

22 MS. PATTERSON: Yes.

23 MR. MOBLEY: Thank you, Ms. Patterson.

24 THE COURT: Oh, wait a minute. I got one for you too.

25 JURORS: Thank you, Your Honor.

1 THE COURT: Yeah, we got one for each one of you all.

2 JURORS: Thank you, Your Honor.

3 THE COURT: I'm sorry.

4 JURORS: Thank you again.

5 THE COURT: All right, Mr. Foreman, are jury ready?

6 MR. FOREMAN: Yes, ma'am.

7 THE COURT: All right, we're going to -- you may be
8 seated and we're going to proceed with closing arguments.
9 Let me call the state.

10 MS. FULLER: Thank you, Your Honor. May I please the
11 Court.

12 THE COURT: Yes, ma'am.

13 MS. FULLER: "I will kill you. I will F you up in the
14 parking lot. I will kill you. I will F you up in the
15 parking lot". Those were that man's words on June 24, 2021.
16 "I will F you up in the parking lot". That was the mission.
17 Mission completed. That I submit to you. What's the
18 mission? He did exactly what he said he was going to do just
19 two hours prior to doing it. I asked you not to lose sight
20 of that. You cannot taunt someone, bait them into a fight,
21 act like you're going to fist fight, square up, put no
22 peaceful gesture. So it's what you going to do?
23 He was giving him a reason to do something. Why he turned
24 his back? To set it up. For who? For you all. That's what
25 he did. This wasn't, hey, I'm peaceful, no. You all get to

1 judge that. The judge is the law -- is the judge of the law.

2 You all determine the facts, you all.

3 You all get to say what happened in this case. Not the
4 state, not the defense, not even the Judge with no
5 disrespect. Only you all. Now there's going to be some
6 things that we don't know, but you all get to say what
7 happened. You all get to fill in those gaps. There is no
8 perfect case and I'll tell you that.

9 But when he said "I'll kill you, I'll F you up in the
10 parking lot." He meant it. You know how we know he meant
11 it? Because he did it. There is no greater proof of a man's
12 intent to do something than when he actually does it.
13 You can't dissect someone's brain. But when they act and
14 carry out their words, those evil words as if life's not
15 fragile, he didn't care over work, work. It was a unique
16 case he took the stand. And not only are you guys a judge of
17 the facts, you all get to determine who's credible and who's
18 not.

19 You'll determine who's believable and who's not. You
20 all, nobody else. But he took the stand and he downplayed
21 what he did. Even when confronted with the video, it wasn't.
22 Promise wasn't trying to be difficult. So if you all hate
23 me, don't hold what happened to Daniel against me just trying
24 to get him to answer the question. But what came out while
25 he was on the stand, I wonder if you all caught this was who

1 he is.

2 He needs to be in control. Didn't catch that until he
3 was on the stand. Even on direct, he's asked the question,
4 is not his courtroom, he's asked the question and his blue
5 hat kicked in. Can you -- can you put up -- can you put up
6 that -- that picture? Oh, can you do this? Oh, can you ask
7 the question differently? Who do you think you're? But if
8 he did that, so soft spoken here in the courtroom. What'd
9 you think he was saying walking around the parking lot?
10 What'd you think he was saying walking around the gas
11 station?

12 You may not have heard his words, but look at his body
13 language, his demeanor, and what he was doing. That man
14 right there was team no fair fight. That's who he was. If
15 Daniel wanted to fight, he was looking for a fair fight. You
16 can see it on the camera.

17 He testified and told you all that Daniel spit on him
18 and he reacted. Okay. Let's go through the video, show us
19 show you all where that happened. His hand goes up first.
20 That's something that -- that is something. When you got
21 something on video and you still telling me the sky is
22 orange? You all can see it for yourselves.

23 So then mumbling, he finally conceded. I threw a jab
24 but I didn't hit him. Well, you throw a jab at -- throw a
25 jab at someone. Daniel reacted, can't really see. I'll tell

1 you that the video ain't the greatest. You can't see what he
2 does. But you can see him go forward a little bit. But
3 where his hands, they're down. And then what does he do? He
4 swims. That's what he does.

5 Now to start this trial, you heard from David Rush,
6 he's a complex manager, didn't see anything but was just
7 setting the stage. What was important about what he told you
8 all that the lines were broken down that day. He said they
9 kept the employees around in the event they can start
10 working. So please tell me, when did Mr. Blue hat need a
11 help production, when there was no production? When he
12 walked 100 feet.

13 All right. 47 plus 47 maybe 94 feet. When he walked
14 94 -- 94 feet, I'm going to say 100 or possibly 100 feet.
15 There was no production. And you know who was told you all
16 that? Their witness, the supervisor. He said they weren't
17 working. They were dressed, standing in position. But I
18 think David's testimony was something about -- something
19 broke on the shift before and they were waiting on a part,
20 but they kept the employees there. They get paid by the hour
21 to honor their pay.

22 So he made Daniel showed up late not to work and what?
23 Is it your business? Mind your business, mind your business.
24 It did impact production because there was nothing to
25 produce. But it -- and what? So what? People are late.

1 All the time. Like who cares? Deal with it. Life is too
2 short. But he left his line finally admitted that because
3 they were -- he was trying to address him here to get him off
4 the line. Get him off the line for what?
5 What shoulder are you cutting? There was no shoulders to
6 cut. But you decided to leave your line, and cut up his line
7 to confront him.

8 And then you heard from Stacey. Stacey's a little
9 older than them. Stacey's been working there for a while.
10 He said that was his line. Why are you there anyway?
11 But what did he say when he testified? He said he had no
12 problems with Stacey. So what motive would Stacey have to
13 come up here and say while he's trying to move him off the
14 line, move him away. That he heard that man threaten Daniel
15 Jones' life.

16 And then like I said, you all judge his credibility and
17 believability. But he repeated some words he needed to seem
18 comfortable to say. I don't even know if he looked at you
19 all. He's like -- like you heard, he had to say it. But he
20 heard what he heard. He heard that man threaten Daniel
21 Jones' life.

22 He said after the break, after 5:00 a.m. 911 call 7:07,
23 no greater evidence than man's intent to do something than
24 when he does what he says he will do. Just after 5:00 a.m.,
25 he threatened to kill Daniel. He said "I'll F you up in the

1 parking lot" and by 7:07 police are called.

2 You heard from Mary. Now, Mary is Daniel's girlfriend.

3 Not only did you get to hear from her, but you also got to

4 see her on scene on that body cam. You all have it. She has

5 to look good seeing and holding. She testified she tried to

6 do CPR. She even -- if you look at her on that thing,

7 holding on to hope that he was going to be transported.

8 Now Taylor, I get it. How do you tell someone he had 15

9 gunshot wounds in him. Fifteen every which direction he was

10 running away. They want to say it was just five seconds.

11 Five seconds? Okay? Five seconds. Let's see -- five seconds.

12 It went over to 0.93. But five seconds.

13 A middle scholar or a high scholar can get halfway down

14 a football field, maybe five flat high school. I can only do

15 six flats. But you can move. Some even faster than five

16 seconds. Yeah, may have happened quick, but five seconds

17 real time? But you remember everything else that you want to

18 remember. Oh, I don't remember that. You don't -- you don't

19 remember what you did at every moment of that day that you

20 took someone's life?

21 How dare you? Yes, you remember. That's something you

22 shouldn't forget. He testified while crying, saying that he

23 got back to the scene, and he saw Mary -- no -- no, before he

24 left the scene. After he did it, he didn't realize it was

25 hanging over the mission he completed.

1 And he says he -- he sees -- Mary came over, his
2 girlfriend was -- his -- I think he said his girlfriend. And
3 I think his testimony was that she was crying and he started
4 thinking it said it affected him. Okay. All right. He just
5 didn't show it. Because I'm going to show you all what he
6 said to Mary when he got back to the scene and you all judge
7 if he really felt anything like he testified to.

8 Mary own her words. She said she didn't want to -- she
9 tried to get Daniel to stop, but that man kept going,
10 throwing his hands up airplane. But he didn't see that in
11 the video. Okay, you all judge, why are your hands even
12 doing this? Why are you jumping off going like this? Why?
13 It's the bait and switch. Oh, I'm going to give a reason.
14 I'm -- I'm going to keep turning my back so I can say it's
15 self-defense.

16 He needed a reason to shoot. But you know what's
17 interesting about his reason? You all have the gas station
18 footage, and I'm going to walk through it. I specifically
19 asked him if he was in fear for his life. You all remember
20 that? I said, were you in fear for your life at the gas
21 station? Why was I asking him that, right? Why? Because
22 what happened at the gas station lasted almost two to three
23 minutes where he talking about these 10 seconds in the
24 parking lot. He narrowed his fear all the way down, all the
25 way down to -- he said two things happened.

1 He reached for his firearm, and he said he backed up
2 against the car. You all see -- you all determined if you
3 all see that. And he backed up against the car and then he
4 got him off him. That was his testimony. Then he tried to
5 come scoop him and then he pulled his gun. He said he shot
6 from the waist. Video ain't the best. I get it. But it's
7 there. What you need to look for is the shadows. You look
8 for what's moving and put it in.

9 You see that man's elbow go up and extend and walk
10 towards Daniel. If you're in fear for your life, are you not
11 retreating? Forget what the law says, if you -- you got a
12 retreat, okay? But if you're in fear for your life, you're
13 going towards the threat. If you're in fear for your life,
14 you don't go home. But you had the opportunity to when you
15 left work. But what did he tell the police initially though?
16 What did he tell the police? He did not say, oh, it was 25
17 minutes prior to the gas station. He made it seem like
18 Daniel left the gas station, immediately pulled up in the
19 parking lot, came at him and he had to defend himself. I
20 know you all like, why are we sitting for 22 minutes in
21 silence? Because we need to feel it.

22 You need to feel what 22 minutes feels like and you all
23 determine if it's reasonable that you're cutting off left.
24 You need to feel that 22 minutes. Mary testified they didn't
25 know where he -- they thought he left. They thought he left.

1 But what does he do? He drives back. Oh, and what's so
2 great about him driving back? I asked the question four
3 different ways if you all were counting. So when you drove
4 across the parking lot, you were going to talk to your
5 supervisor. Okay? But then later on he said, no -- no, he
6 said I was driving across the parking lot, then I saw him.
7 So that's why I stopped. Well, what'd the supervisor say?
8 When the supervisor was testified on direct. It was probably
9 about the second question I asked. I realized, oh, the
10 supervisor wasn't even there when he initially drove across
11 the parking lot. Because what did he testify to? His
12 vantage point was he was coming down the steps and he said he
13 heard Mary and he saw island boy Fresh out there and he got
14 in his car.

15 So what does that mean? He drove across the parking
16 lot before the supervisor got outside. Then he was asked on
17 cross. Did that man tell him what happened at the gas
18 station? He said no, because it didn't happen.
19 Why did he stop? Because he wasn't done. He hadn't
20 completed the mission. He was lurking over there. He walked
21 by -- by Fresh. Well, I don't know where he was it's a
22 possibility. It's a possibility you were there. It means a
23 possibility. You asking me you were there. This man,
24 because initially you were so -- you were so scared of him.
25 I need to go tell the supervisor, but you don't know where he

1 is. You got your hand on your gun and you don't know where
2 the man is that you were thinking about shooting at the gas
3 station? Really? Does that make any sense?

4 You keep your eyes on your opponent. That's simple.
5 You heard from Chris Karen who was across the street. What
6 did I want to argue about putting him up, okay? Habit, that
7 man is a creature of habit. So exactly where he carried his
8 gun is where he put it back. Now I'm show you shortly why
9 that's important. Because as soon as he finished shooting,
10 he put the gun right back where he normally keeps it.

11 You see, Daniel was shot multiple times at a downward
12 angle front to back, back to front. You heard that what the
13 doctor saw in the shooting and what he found at autopsy
14 consistent with what happened. You are accountable for every
15 pull of that trigger.

16 Forget the safety wasn't on, okay? It had a second
17 safety maintenance, but he had to pull the trigger 15 times.
18 I think the testimony was 6.4 or six and a half pounds, maybe
19 trigger pull. You all remember what you remember. But he
20 had to pull that every time. And if it was a double action
21 over 10 pounds. He wasn't there, he was angry.
22 Now, I was probably like, why are you talking about the times
23 so much? I'm going to show you all why we're talking about
24 the times because it's important when you determine and what
25 -- what he did was reasonable.

1 So 6:36, he's right on that scooter. And make sure
2 they can see. And he's heading to the gas station, 6:37:18
3 he's pulling up there and you all saw the video. He never
4 goes inside but you have a car, you -- you have a car. But -
5 - okay, he's there. Anybody can do whatever they want. So
6 6:37:52, 6:37:18, Daniel is already starting to head to the
7 gas station.

8 Now, Mary testified she sent him there when she told
9 him to go. She saw the defendant still riding around on the
10 scooter in the parking lot. She said she didn't know that
11 the defendant was going to go to the store too.
12 So they both end up here, but who's the only one that goes
13 inside? The victim. So this is 6:38:14, 6:38:27, 14
14 seconds. His hands on his gun. He told the officer he
15 thought about using it at the gas station. What about that
16 encounter put you in fear of serious bodily harm or death
17 that you should reach for gun.

18 Daniel's trying to go but what did he tell you all? He
19 said he tried to avoid him. I think that was his words. But
20 you all remember what you remember. He said he did his best
21 to try to avoid him. Who is in front of who? Who's touching
22 their gun? Whose hands are down? Daniel's.

23 But even though this happened and for how long it
24 happened, he told you all he wasn't in fear for his life.
25 But you remember now by this point his testimony was he had

1 already threatened to kill -- he already threatened to kill
2 him at work and threatened him with the knife.

3 Then he said he threatened him here. Remember that.
4 But then he said he wasn't in fear for his life. So he had
5 no business pulling out the gun. You know right. And again
6 and again and now it's out. We're at 6:39. He wasn't being
7 peaceful. He was taunting him. When you watch the video and
8 he's walking with his back turn, oh because he wants in it.
9 He wants it to be as if he was trying to come get him from
10 the back.

11 You have people to get involved but he said he was not
12 in fear for his life in this -- in in this exchange. That
13 was his testimony. We're at 6:40, and then he's back at the
14 parking lot on that scooter by 6:41. After that exchange, he
15 was fine he says.

16 Daniel leaves at 6:43. So I'm going to go back
17 6:41:53, Daniel goes inside the store. So he goes back, he's
18 back at the parking lot by 6:43:38. And you remember from
19 testimony the Rashid's guy, the burgundy cars took over there
20 to the right -- well, to the left if you're looking at the
21 screen.

22 And that's where the defendant is. And by 6:47 he's
23 standing on the car. But his testimony is he's just horse
24 playing with Rashid. You all give that the way you believe.
25 It took him forever to just concede that as he's walking,

1 he's facing Daniel's direction.

2 And now at 6:47 and this is where it gets important --
3 really always important. But this is where, so by 6:49:37,
4 he's already started to walk by and he's thrown his hands up.
5 He says the possibility it's to the group he was walking
6 towards. So he's over there. I'd ask him, well where was
7 Daniel? Remember all the video clips are in evidence. So
8 this is 6:49:37, he's over here, now it's the other camera
9 angle and you see where Daniel is.

10 So let's go back when he's walking by he walked right
11 by him. He wasn't scared. He was looking for trouble, he
12 wasn't scared, he was looking for trouble. So now at this
13 point, let's say he was in fear, he could have left. He said
14 every time he moved around Daniel -- remember that Daniel
15 kept coming at me. Where? It never happened.
16 By 6:58, let's go back 6:50 now that's where Daniel is. By
17 6:58, man, Daniel ain't coming after me. I'm still here in
18 the parking lot. Daniel ain't coming. He's not taking my
19 bait. So what does he do? Well, I'll just drive back over
20 there and talk about what happened some more.

21 So now by 7:07 this is where it starts. And if you
22 look and you can look at it closely later there's -- there's
23 printouts. And you can see the motion he's making. And
24 Daniel is standing straight up. Daniel was not going for his
25 gun. I'm going to show you why he couldn't have gotten and

1 you all seen video of this man. He's quick on his feet. You
2 all saw how he jumped off of that scooter. He didn't even
3 trip, he didn't even trip. He just jumped off and kept
4 walking. He didn't miss a beat. Is it reasonable that
5 someone dropping down simple assault, if it's that where you
6 have baited a fight is not ground for killing someone?
7 Daniel is moving away. And watch the size of this circle
8 because the distance increases. He follows him, he follows
9 his body movement with his hands as he's shooting him. And
10 he -- you're responsible for each shot. The distance between
11 them continues to grow and he continues to shoot until his
12 gun is empty. Mission completed, and then he stands over
13 him. We're going to talk about the law, but that is evil.
14 That is evil. That's evil.

15 Now, after the shooting, he want to make this deal
16 about calling 911. Just how I told you five seconds is a
17 long time. I'll tell you four minutes is a longer time. He
18 leaves the scene, he doesn't report what happened, didn't do
19 anything, he's just driving and then he makes his first phone
20 call at 7:11.

21 Then he talks for about three minutes, gets off the
22 phone, waits another minute and then calls 911. Why? He
23 need to get his story straight. Then he can't even keep it
24 together. But he need to get his story straight. And if
25 there was no video this would be even harder. But then he

1 calls 911.

2 So then he comes back at 7:19. And what's important
3 about this shot when you're deciding on self-defense. Look
4 at all of those exit points and I submit to you the direction
5 you went to the gas station was also another exit point. He
6 had an opportunity to leave. He has a duty to leave if he
7 really believed his life was threatened. Deadly force is not
8 the answer and then he begins to walk.

9 Murder, it's the killing of any person with malice.
10 That's what's required. And I submit to you, we have proven
11 that and I'll talk about beyond a reasonable doubt for CNA.
12 And malice can be expressed or implied. Now what's malice?
13 Malice is hatred, ill will, hostility, hatred, ill will,
14 hostility towards another. It is the intentional doing of a
15 wrongful act, that's malice. The important thing to remember
16 about the law, it does not require that you sit at home,
17 draft this plan and execute it. That's not what the law
18 requires. It's instant. It can be the exact moment you
19 decide to act. But in this case, two hours before he had
20 threatened to kill him. And I submit to you all of his
21 actions prior to the death was him building up to do exactly
22 what he said he would do.

23 It can be expressed or inferred and it can be shown.
24 Express malice can be shown by the actual words that come out
25 your mouth. I will kill you is express malice. I will F you

1 up in the parking lot is express malice. I jumped ahead.
2 Malice, I will kill you. I will F you up in the parking lot.
3 He retrieved a gun after the altercation.

4 Now let's talk about that. There's one of two things.
5 He either had a loaded gun at work when he wasn't supposed to
6 indoor or not indoor or he went outside to his car like he
7 told the police officer he did and then got his gun.
8 Okay, so let's talk about that. Daniel supposedly threatened
9 to kill you that Mary didn't hear, Stacey didn't hear. But
10 let's say that happened. You all leave work and then you go
11 get your gun. So we can start the analysis there. That
12 means you did what? If you went and got your gun? You went
13 to your car. And I'll show you what self-defense requires or
14 says, no other problem means to avoid. Why submit to you
15 before 6:38 a.m. He could have left, don't get me wrong.
16 We all wish Daniel went home. Daniel could have gone home.
17 So no one's standing here to say Daniel wasn't there. Maybe,
18 you know, willing to fight too. You all have the video he
19 never said that. Daniel wanted a fair fight not caught
20 slipping.

21 At the gas station, safety being on and off. Okay, I
22 get it, you got a gun. Some people keep the safety off.
23 That's not the thing, but he presented it. That's evil
24 because anybody knows even if the extra safety, obviously he
25 pulled the trigger even with the double safety on it, he

1 still pulled the trigger. But anything could have happened
2 in that moment.

3 And the biggest thing Daniel Jones was not armed. His
4 own words on direct tells you that I thought he was going for
5 my gun. Yeah, right? Then he leaves the scene and comes
6 back calm and nonchalant and talks about what happened at
7 work while Daniel is on the ground not even covered yet with
8 a pink sheet.

9 He's talking about doing wrong. Is that a reason to
10 kill someone? To that man it is. Then he continued to pull
11 the trigger. When I was in artfully trying to ask the
12 pathologist this question, I wanted to account for every
13 scenario because with the video you still see Daniel moving.
14 But we know he sustained a fatal head wound. But what I
15 gleaned from that is that he was still able to continue to
16 move from that because he said very few shots will require
17 instant. Like you're not going to collapse immediately. I
18 -- I think he said he used some medical term but something
19 about the back of the head I think. But he was still able to
20 move even after sustaining that shot. He was still able to
21 turn but he said he wouldn't be able to I think run a mile
22 maybe or get too far.

23 So based on the video that first shot had to be very
24 early. It had to be while he was either ducking or turning
25 to run. But then after that you still shot another 12, 13,

1 14 times after you shot someone in the head. That's brutal.
2 No, Daniel Jones did not deserve to feel the impact of that
3 many shots hitting his body in five seconds.

4 And then you heard Shumpert (ph) when he first
5 approached and mind you, his response time was three minutes.
6 He said Daniel still had agonal breathing and by the time he
7 went back to his patrol car and come back he couldn't find
8 the pulse. So you know what that means? Daniel felt
9 everything. That man decided because he is a blue hat that
10 he could be judged during an executor because he was late to
11 work. You calling him out on a day that there was no
12 production?

13 Fifteen shots is malice. That is an evil depraved
14 heart. No matter how you cut slice it, that is evil. So
15 malice written out in the law, hatred, ill will, or hostility
16 towards another. That's what Trevor Irvin, that's his heart.
17 The intentional doing of a wrongful act without just cause or
18 excuse, and with an intent to inflict an injury or under
19 circumstances that the law will infer an evil intent.
20 This is not self-defense, when you look at the law on
21 self-defense that is an and. And so when it's an and that
22 means everything needs to be present. If it was an or then
23 it's one of the elements. That's how -- that's how the law
24 is. Don't even start reading the statutes of state but, it's
25 and/or sometimes. But this is an and. So you can't be

1 without fault -- The defendant was without fault in bringing
2 on the difficulty.

3 He baited him to a fight, baited him. We only wished
4 Daniel was strong enough. Sticks and stones can break my
5 bones, but words will never hurt me. We only wish Daniel
6 could have recited that on that day. But he didn't. And it
7 caused him because that man was taunting him. He even
8 disrespected Mary. What does Mary running his life got to do
9 with him? It ain't none of his business. You don't judge
10 how someone's household is set up. It ain't none of your
11 concern, it ain't none of your concern. And you brought it
12 to the workplace? Mind your business.

13 He orchestrated this, he did everything to use his CWP to try
14 to get away with this. Mary said, I'm going to get a free
15 body. And he did -- he played all the parts. Oh, I'm
16 throwing my hands up. Oh I'm walking away. But he didn't
17 tell the police that was 22 minutes before. The defendant
18 must have actually believed he was in imminent danger.
19 Remember that's an objective standard. That's for you all to
20 decide a reasonable person. Was it reasonable?

21 And when you all are talking about that, consider this.
22 This isn't in a situation where it's two strangers in a
23 parking lot and someone's running at you -- trying to deck
24 you. This is someone where I think he said I've been working
25 with for two years. You all remember what you remember.

1 So this isn't someone who he -- I think he also said didn't
2 have any disagreements with prior to that day or something
3 like that. This is someone he knew by his nickname. You
4 don't call someone their nickname unless you good with them.
5 So this is someone he knew. That's important when you're
6 considering reasonableness, it is this isn't a random
7 stranger that you don't know what's about to happen in that
8 moment. Then add on the fact that he threatened to kill him
9 and then on add on the fact that he baited him, and I'll slow
10 down. I'm sorry.

11 Then add on the fact of him presenting his gun seven
12 times. Then add on the fact of all the words he was saying,
13 calling him him a P word, calling his girl B, disrespecting
14 everybody. But he wants to be soft spoken in court, get out
15 to here. And no other probable means to avoid the danger. I
16 didn't read the third one, but it's all about reasonableness.
17 No other problem means that means you have a duty to leave to
18 avoid it. The law doesn't say, oh, you can just kill for
19 free. It don't work that way. So your summary, when did --
20 when could he have left? Before we even started.

21 When could he have left? Right here. Okay, how about
22 here? Oh, how about when you did leave? Oh, but then you
23 moved your car back -- but you moved your car back. Plenty
24 of opportunity and time to avoid this encounter. Even at
25 7:07 as he's, huh, doing stuff to his face maybe not fully

1 touching him. He started that. So what does that take you
2 back to? The first element. You can't start something and
3 then try to make up an excuse when you finish it. Why not
4 self-offensive? Why not reasonable?

5 So we put in three different angles of his arrest.
6 Probably wonder why. Here is why. Watch where his gun is.
7 Have it, watch how long it took the officer. You can count,
8 I'll play it twice. You can count it, to remove his gun from
9 his waist belt where he always kept it. And factor in how
10 long it took him while two other officers are holding his
11 hand behind his back.

12 (Video played.)

13 MS. FULLER: And let's play it again. Give you all
14 opportunity to count how long that took. But he claims it's
15 doing, well, we don't see the first incident on video that
16 he's talking about happened that he reached for the gun
17 because Daniel's hands are down. But let's say we're
18 factoring in this scoop because he's doing air punches and
19 he's -- let's say we factor that in. His gun wasn't at his
20 ankle. He put it back exactly where it was.

21 And why is he a creature of habit? Because look at
22 where he parked when he came back. He didn't drive straight
23 to the blue lights. He went to his parking spot. That's not
24 his parking spot but it's his parking spot. Oh, he was
25 hanging with the employees. Oh, coworkers. He's entitled.

1 He needs to be in control. That's what that is.

2 (Video played.)

3 MS. FULLER: A police officer with how many years of
4 training could not remove that gun in a second, a split
5 second. Daniel wasn't going for his gun. And when he was
6 asked to detail what happened? That would've been a good
7 time to mention that because he wasn't charged yet. He
8 didn't say that till today, well, yesterday. So not, not,
9 does not apply.

10 You all try to listen here too. I'm going to play
11 these gunshots over the video. He is circling him
12 (inaudible).

13 (Video played.)

14 MS. FULLER: And he testified he saw his girlfriend
15 walk up and that really bothered him, but he left. And when
16 he came back, this is what he had to say to Mary.

17 (Video played.)

18 MS. FULLER: This man ain't no soft spoken.

19 (Video played.)

20 MS. FULLER: That's what he says to the man's
21 girlfriend that he just killed. Because she's standing right
22 there and you all got to see the whole -- in the beginning
23 interaction, she was still in shock. But that's another
24 thing about him. So entitled, you just killed this man. And
25 granted maybe -- maybe Taylor was the first officer he saw,

1 but dug on it take a long way to another one. How dare you?
2 Not only just walk up by her, but he had to walk in between
3 two cars. But he's literally standing and she's turning
4 like, what? Ain't no way fair way. Like are you serious
5 right now? That shows you his heart, that shows you who he
6 is, selfish coward man.

7 The elements of murder the state has to prove to you
8 beyond a reasonable doubt. And you heard it in opening, it's
9 not proof beyond all doubt, it's proof that leaves you firmly
10 convinced of his guilt. You can consider direct evidence and
11 circumstantial evidence, but you all are the backfires. You
12 all are the judges of the credibility and believability of
13 each witness that took this stand. You all are a judge of
14 video, photos, everything. When it comes to self-defense, we
15 have to disprove it beyond a reasonable doubt.

16 You can't start a fight, you can't threaten to kill
17 someone, then do it and then ask you all to say it was in
18 self-defense that it was reasonable. You can't. Trevor
19 Irvin did exactly what he said he would do. And I ask that
20 you find him guilty.

21 THE COURT: Mr. Mobley?

22 MR. MOBLEY: Thank you, Your Honor, my I please the
23 court?

24 THE COURT: Yes, sir.

25 MR. MOBLEY: I will need to ---

1 MS. FULLER: Turn you back on. Your Honor, can I have
2 five minutes to get our (inaudible)?

3 THE COURT: Sure. Would jury like a quick break before
4 we come back? And then we'll hear this (inaudible) charge.
5 And I have -- we've ordered you lunch ---

6 JUROR: (Inaudible).

7 THE COURT: --- today.

8 JUROR: Thank you.

9 THE COURT: You're welcome.

10 (Off the record.)

11 THE COURT: All right. Mr. Mobley, you got everything?

12 MR. MOBLEY: Yes, Your Honor.

13 THE COURT: Can I bring the jury in then?

14 MR. MOBLEY: Yes, Your Honor.

15 THE COURT: Bring them in. I don't have to bail. You
16 want to bring the jury in?

17 All right, Mr. Foreman, jury ready?

18 MR. FOREMAN: Yes, ma'am.

19 THE COURT: Please be seated.

20 Mr. Mobley, you may proceed.

21 MR. MOBLEY: Thank you, Your Honor. May I please the
22 court?

23 THE COURT: Yes, sir.

24 MR. MOBLEY: Ladies and gentlemen of the jury on behalf
25 of myself and my client, Trevor Irvin, I'd like to thank you

1 for the opportunity to address you and with the attention
2 you've given to the case. As I indicated in the outset, I
3 mean, you -- you're being taken away from your everything in
4 your life, your family, your job, your --your activity to be
5 here.

6 And I will try not to keep you up 2:50 long. You know,
7 we're not giving a closing argument. It's not my style to
8 yell, scream, or get hysterical. And I don't like to go tit
9 for tat on -- on details because I truly believe that, you
10 know, you've all seen the evidence in this case. You've
11 heard the witnesses, you've heard the testimony, you've seen
12 the -- the videos. And I -- I trust your judgment regarding
13 what you believe happened in this case.

14 So I want to be -- make sure I understand what the
15 prosecutor is saying. And two years ago this month, Trevor
16 Irvin was so upset with Fresh for being late to work that he
17 devised a master plan to get off work, ride a scooter over to
18 the gas station, wait for Fresh to follow him, wait for Fresh
19 to pick up the scooter and try to attack him. Somehow
20 persuade everyone at the gas station to hold Fresh back so he
21 doesn't fight him.

22 He leaves the gas station knowing in the back of his
23 mind that Fresh is going to follow him. And he goes back and
24 he shut up on down car like by King Kong and shadow box and
25 lock Muhammad Ali all so he could bake Fresh and antagonized

1 Fresh. By the way, he's also saying he didn't want to fight
2 Fresh.

3 He's standing by his friends, but that's part of his
4 plan because he knows all these cameras are around and he
5 knows the camera is going to see him holding his hand up and
6 turning his back to Fresh. And he's going to wait for just
7 the right opportunity because he knows eventually Fresh is
8 going to go his gun and that's going to be his chance. That
9 is exactly what she says. That is exactly what she says
10 happened.

11 And ladies and gentlemen of the jury, if that is what
12 you believe, then yes, conviction, if that's what you
13 (inaudible). I'm asking you, the person you saw on this
14 witness stand for two days. The person you saw in this video
15 minding his own business, trying to avoid an altercation, the
16 person that called 911 and said, I shot and killed the man.
17 This is where someone needs to go.

18 The person that walks up to the police and confesses,
19 they don't have to ask any questions. He confessed on the
20 spot, the person that goes to the police department and
21 writes down everything about what happened and admits doing
22 it. Is that who you think this person is? The person that's
23 going to do all that stuff? Have you seen anything to
24 indicate that in this trial? And -- and Judge again
25 (inaudible) I trust your judgment, I don't think you've seen

1 anything to indicate that's who that person is. You know,
2 it's funny. That's the world we live in right now. Am I
3 blocking anybody?

4 JUROR: Yes, you are.

5 MR. MOBLEY: I'm sorry.

6 That's the world we live in right now.

7 MS. FULLER: Objection, Your Honor.

8 MR. MOBLEY: What? It's a bunch of cameras?

9 MS. FULLER: It's not in evidence.

10 MR. MOBLEY: It's an exhibit. It's exhibit --
11 demonstrative exhibit. I mean, I'm not ---

12 THE COURT: Wait a minute. What -- what are we
13 objecting to?

14 MS. FULLER: Explain this, Your Honor.

15 MR. MOBLEY: I don't see an objection to demonstrative
16 exhibit. It's not supposed to be -- doesn't have to be in
17 evidence.

18 THE COURT: What's the basis?

19 MS. FULLER: This is not in evidence.

20 MR. MOBLEY: A demonstrative exhibit does not need to
21 be in evidence.

22 THE COURT: I'm -- I'm going to allow. Go ahead.

23 MR. MOBLEY: Thank you, Your Honor.

24 This is the world we live in now. Cameras everywhere,
25 everywhere we go, everything you do is somewhere is being

1 recorded. And I think it's kind of interesting to see what
2 happens when the state decides to focus their resources on
3 one person.

4 When you see what they can do. You saw a lot of video
5 footage in this trial that was manipulated and yes,
6 manipulated, they might say enhanced, but it was manipulated.
7 They zoomed something, they change the lighting, they slow it
8 down and it appears in a way to you that it not -- did not
9 appear in real life.

10 Something that's obscure is now Friday's day.
11 Something that took a couple of seconds last me turner. And
12 you can zoom on it and you can enhance it, and you can twist
13 the angle and you can slow it down. I'm Surprised we didn't
14 get a satellite into. What happened? (Inaudible) done,
15 that's what they've done. That's the energy and effort they
16 put in trying to convict my client.

17 Just play the videos. Trust you to use your own eyes
18 and your own judgment to determine what happened. And the
19 funny thing about these -- these videos is, you know, when my
20 client testified, and like we all say, you judge for
21 yourself.

22 You heard him try to answer questions, but she is
23 asking him questions about events that occurred two years
24 ago, detail for detail. And she studied these videos for
25 hours and freeze framing and slows them down and magnifies

1 it. And if he is off, if he does not remember it exactly the
2 way it happened on that enhanced video, then bally golly he
3 must be a liar. How can he not remember that? How can he
4 not remember that he walked two feet past Fresh that day?
5 How can he not remember that he was facing some direction
6 that fresh might have gone in? At some point in time when
7 he's off the camera. He's a liar. There's no way he could
8 not remember that. How dare he not know where the West
9 Columbia Police Department is? That's what he endured.
10 You know, and the -- the thing about the videos, they didn't
11 just manipulate the images. They manipulated the time. You
12 read the testimony when they got the videos, all the -- the
13 timestamps didn't line up. So what'd they do? They tell you
14 what they did. No problem. We just changed the times.
15 Let's line them up the way we want it to line up.
16 They manipulated the videos, they put time on the videos.
17 And they're so detailed about all these times, the times that
18 they set, you know how to manipulate those things so they
19 manipulate, show you the videos, show them how they appeared,
20 show them the timestamps. Trust your judgment to determine
21 the truth.

22 But I do believe that the unedited unenhanced videos
23 tell the story. We all saw them, and those videos tell the
24 story that on that day, only one person was the bully. Only
25 one person was the threat. Only one person was the

1 aggressor. And that was fresh, I mean, and you can enhance,
2 and you can freeze frame it, and rewind it, and play it back
3 and forth from different angles. All you want to, we all saw
4 those videos. There was only one person that was aggressive
5 that day, that was creating conflict and that was
6 (inaudible).

7 And maybe he was stirred up by his girlfriend. You
8 know, it's kind of interesting because during the argument
9 they had the work at the plant. And yes, it may have been
10 inappropriate, but that's life. What did -- (inaudible)?
11 Are you letting that woman run your life? And I think based
12 on what you saw, you see why I saw that. She was getting
13 stirred up the instigator.

14 I want to talk about the house of rape a little bit.
15 And that is a probably a rough place to work. You know, you
16 hear two of the former employees that testified one -- one of
17 ours -- one of our witnesses in the Department of Correction
18 for crimes of violence. You got people carrying guns there.
19 Not just my client, all these people on the floor carrying
20 knives. If I work there I'd carry a gun too. And I want to
21 talk about my client carried a gun. You know, there are all
22 these questions. Why do you carry a gun? Why don't you have
23 it on safety? Why do you put it here? Why do you keep it
24 here? It's not a crime to possess a firearm. A person's not
25 a criminal because they possess a firearm. That is a right

1 contrary to what some people may like. That is a right that
2 is guaranteed by the second amendment of our constitution.
3 And Trevor Irvin lawful exercised his right. He did
4 everything the right way. He applied for a concealed weapons
5 permit. He obtained the permit. He showed it to the
6 officers. He had every right to protect himself and carry
7 his firearm. And any implication that that makes him a
8 criminal, or a bad person, or a thug, or somebody waiting to
9 shoot somebody is distasteful.

10 You know, Trevor, I think you would -- he have an
11 interesting job because he's a line leader. And as you heard
12 from the gentleman that -- that testified, and I forgot his
13 name, he's a line leader. He's got like 50 rules, he's got
14 to remember.

15 Now, interestingly enough, the guy that kind of help
16 run the company can't remember all the rules either, but
17 those are rules he got to remember. And what I remember I
18 thought was interesting is that he has all this
19 responsibility for everybody on the line, for everybody. You
20 know, somebody who has plays, it's his fault, it's his
21 problem, his fault. They don't have good production. That's
22 his responsibility. If they're allowed, it's his
23 responsibility.

24 But by the way, you got no authority. You can't
25 discipline anybody. You can't do anything. But it's all

1 your responsibility. Crazy. Can you imagine what it's like
2 for a line leader to manage employees like Mary Geiger and
3 Fresh (ph), even Stacey Jones bear witness, even Stacey Jones
4 said that they keep Fresh and Mary from working together
5 because they would just argue and fight and get disruptive?
6 But they want to tell you that my client is bringing --
7 getting to their personal life, they're bringing their drama
8 to work. And Ms. Geiger, Professor Hart, I think every job,
9 every place of employment has somebody like Mary Geiger,
10 people who show up late to work, create drama, complain about
11 being harassed for showing up late and not taking breaks.
12 And that is what they do. There just people that are like
13 that. That's their witness. That's who they want you to
14 embrace. The instigator. And what's interesting is that,
15 you know, Mary Geiger or Geiger, I want to make sure I
16 pronounce the name right. She got up there and said, my
17 client went to shoot Fresh, threaten to take his boyfriend.
18 I'll ask you this. Do you believe that Mary Geiger heard my
19 client threatening to kill her boyfriend she should have run
20 and told the supervisor and reported him. Of course she
21 would have. She could purport them for not getting a
22 bathroom break. But you heard two different level
23 supervisors testify that were working that day. They know
24 Trevor, they know Fresh, they know Mary, the instigator.
25 Neither one had any indication or any idea or any information

1 that that ever happened. And do you know why? Because it
2 never happened. I'm certain, and you can be certain that my
3 client had threatened his life. She would've said something
4 to somebody. She would've tried to get him fired and
5 probably have a lawsuit or something.

6 That's going to -- gas station. They can say what they
7 want about the gas station. I'll tell you what I think and
8 of course you can decide for yourself. Mary says she told
9 Fresh, go to the gas station to get some black and mild or
10 something like that. I don't think that's what happened.
11 I'm pretty sure she told Fresh, go to the gas station and you
12 go beat Trevor's behind. That sounds a little more likely.
13 But when he comes in --- let's kind of go to the next screen
14 and play it. Look at how he comes in. He speeds up when he
15 sees Trevor. He comes in and he speeds up right up next to
16 him, makes a beeline to him and get to his face.

17 Keep in mind, Trevor's already there. Trevor's minding
18 his own business. You know, you see, I mean who does that?
19 Who -- who talks right next to a person like that? There's a
20 space right here. There's a space over here. And you know,
21 one image that I recall that was kind of telling that they
22 played during the trial was Trevor on the scooter. This guy
23 didn't have a care in the work. He would just own that
24 scooter. He got off work, he was going to the gas station.
25 You saw what happened, he got to the gas station, he saw some

1 people there, he's talking to him, they're laughing,
2 everything -- everything's fine.

3 And I want to address something else about him being at
4 the gas station because she kept saying over and over, Trevor
5 should have left. Trevor should have left. Trevor should
6 have left. I want to be clear. Two things; number 1, Trevor
7 was there first. Daniel came up to him, he actually
8 approached him.

9 Number two, Trevor had every right to be there. This
10 is not Fresh's world. He had every right to be at the gas
11 station. He was minding his own business. He was not
12 thinking about Fresh. When he was sitting there talking to
13 people, did he appear to be stalking -- stalking Fresh. Is
14 that what he's doing? Is he trying to get him to come over
15 and pull up next to him? Is that his fault too? Is that
16 what he made Fresh feel? Was this part of his master plan?
17 Is that what happened? And, again, like I said, you know, I
18 might show clips, but I'm not going to do this freeze frame
19 in hand. I mean the video speaks for itself, if you watch
20 it.

21 Let's go to the next clip. Look at what -- look at
22 what Fresh is doing. I just -- I mean, I guess that's part
23 of Trevor's master plan for Fresh to take the scooter. So he
24 could build a case to kill him. I don't know. I -- and --
25 but you see him, and -- and he's got a right to ask

1 questions.

2 He's got a right to say man why are you bothering me?
3 What is -- what is with you? And you -- the funny thing is
4 -- and -- and Trevor tries to get the scooter back. And what
5 did Fresh do, he takes it again. He's got a right to ask
6 questions. He's got a right to say, man, why are you
7 bothering me? Why can't you let your issues go? Everything
8 is fine.

9 Let's play the next slide. I guess Trevor's plan is
10 working because Fresh is chasing him on his scooter. He
11 walked between the cars. Who's following? I guess his
12 master plan is working.

13 Let's play the next slide. Let's going on. I've never
14 seen that. I don't even know what to say. I mean, he picks
15 up a scooter and tries to hit another man with a scooter.
16 But I guess Trevor's master plan is working, I guess, you
17 know, because Fresh is certainly trying to get at him. He
18 spits on him, he kicks him, you see he him spit him again.
19 Let's -- let's take a look there. All the people that are
20 there, who are they restraining? Who's being restrained?
21 Let's take a look. And of course, Hey, if I -- if I'm saying
22 it wrong, use your own judgment. Looks like sheriff's back
23 here and everybody's trying to hold back Fresh, you know.
24 And again, think about what was happening before Fresh pulled
25 up. Everything was fine -- everything was fine. He would --

1 Trevor was talking to a few coworkers and people, and -- and
2 within a minute of him being there, this is what happens.
3 This is the scene, this is the chaos. And there are
4 unfortunately, we all know people like that in our lives.
5 You know, a friend, a relative, a coworker that everywhere
6 they go they create chaos, and drama, and conflict. We all
7 know people like that. God bless them. For some people that
8 is all they know. That is what they do.

9 And you can see from this video and all the videos.
10 Fresh and Mary, that is who they are. Create the drama. You
11 heard what Joel called Mary, instigator. And yeah, Trevor
12 got mad. God forbid a man that can get upset because
13 somebody spits on him, and gets in his face, and threatens to
14 kill him. He's minding his own business. You can imagine
15 what he's thinking, why is this happening? I'm minding my
16 own business. I don't have a care in the world. And this
17 dude shows up, spits in my face, threatened to kill me,
18 calling me all kind of names, which I'm not going to repeat
19 then yeah, he -- he reacted a little bit.

20 Now keep in mind he was there first, but what does he
21 do in the end? He retreats. He was at a place he had the
22 right to be. He retreated to get away from Fresh. And I
23 guess he might tell you that was all part of the master plan.
24 See because he knew the more he tried to get away from Fresh,
25 pressure keep coming.

1 But he did show Fresh his gun. Probably not the best
2 idea, you know, to let somebody know you have a weapon. But
3 when he left, Fresh remembered where that gun was, and he was
4 not afraid. I mean -- and I think you -- you heard Trevor
5 talk about it. I would -- I mean I -- yeah, I've never been
6 in that situation, but I would probably think the same thing
7 today. You think by showing somebody a gun trying to avoid a
8 fight, maybe they'll back off because they think you got a
9 gun, or they know you have a gun, but Fresh deterred it off
10 by the fact that Trevor had a gun.

11 That's -- that tells you something. That tells you
12 something. When you show a man, a man is trying to assault
13 you, who threatened to kill you, you show him that you have a
14 firearm in an effort to get him to back away and to leave you
15 alone. And that man looks at your gun and is not deterred
16 and tells you he will kill you.

17 So we go to the parking lot, I guess again, when Trevor
18 goes to the parking lot, he's hanging out with his buddies.
19 He's just trying to relax and yeah, he's thinking what is up
20 with this guy? Now, what happened at this point is fairly
21 from a factual standpoint -- a physical standpoint, fairly
22 clear. Even though Trevor has retreated from the gas station
23 and gone to the parking lot, yes he has a right to be in the
24 parking lot. He doesn't have to drive home. He left the
25 situation. He had a right to go back to the parking lot and

1 hang out and walk some steam with some buddies and talk about
2 dogs and horse around. He can do that.

3 Now Mary Geiger would have me believe that when Daniel
4 Fresh came back, he was just there, he just couldn't
5 understand why him and Trevor Bruce couldn't get along, and
6 he decided he could go talk to Trevor and have a pleasant
7 conversation to see if they could resolve their differences.
8 That is what she testified to. I'm asking you, every one of
9 you, do you believe that? Do you believe her when she says
10 that?

11 I will tell you what happened. Daniel came back from
12 the gas station, and not only did he not beat up Trevor, but
13 he had a busted lip. Trevor gave him, and I'm guarantee you
14 Mary did not like that. She told him to go beat Trevor's
15 ass, and he came back with a busted lip. So you know what
16 she was saying. You heard the testimony of the witnesses.
17 She even admitted it. She told him, you go beat his ass, you
18 get back over there and you go beat his. That's not even a
19 dispute. Everybody admits that.

20 And he approaches Trevor, the people that were there
21 all say the same thing. Trevor didn't want to bite him. You
22 see and you saw the video and missed, and I guess again
23 probably maybe part of the master plan is when Trevor knew
24 the cameras were there and he knew that one day you got to
25 see the video and can see his hands up in the air. You know,

1 and I guess the manufacturer this is -- is claiming
2 self-defense. But you see it on the video, man, why are you
3 bothering me? I'm not even thinking about you. I'm - I'm
4 over here with my friends. I just left you and now you're
5 bothering me again.

6 And he goes back, Fresh turns around, goes back what is
7 -- what happens every time he goes back, instigator is in the
8 background, the woman who Trevor says, controls Fresh's life,
9 you better get back over there. You better knock him out,
10 you better beat his ass. So he goes back there, and it is
11 every -- every time he goes back the threats escalate because
12 he's not going to let Mary think he's pumped.

13 The threats get worse. I'll blow your brains out. I
14 won't even wait to get my gun. I'll kill you with your own
15 gun. You heard the other two witnesses. And just so we
16 clear, they didn't hear exactly, they were honest with you.
17 You know, they didn't hear exactly what Fresh was saying, but
18 they all say the same thing. He was being aggressive. He
19 was making aggressive statements, aggressive conduct toward
20 Trevor time and time again.

21 And this is the time when he walks up, you see it,
22 extended his hand like that. You saw it in the video.
23 Trevor said it. Joel -- and just so we clear about Joel --
24 Joel didn't even see the shooting. He didn't even see the
25 shooting. The other witness, Rashid, he's one of those guys

1 who even saw the shooting. Fresh saw it. But he did see
2 Trevor walk up to Fresh, extend his arm, cock his thing like
3 a gun and put it through his head.

4 I guess that's part of Trevor's master plan. They
5 tried to attack Joel. I don't know what reason they would
6 happen to lie. He didn't see the shooting but I guess they
7 tapped in because once he hears shots fired, that can turn
8 around and go back toward the gunshots. I don't understand
9 that. If I'm in my car and gunshots are that way, I'm going
10 another way. I'm not going to turn around and go to gunfire.
11 But if that's, you want to hold that against him, I will let
12 you decide that's what you want to do. Do you think that
13 affects his credibility that he'd turn around and go on the
14 gunfire? No, I trust your judge, but it's clear. So at this
15 point -- and keep in mind it's clear that these are all
16 choices Fresh is making.

17 I mean he's making these choices and I said it in my
18 opening statement (inaudible) Fresh made a lot of bad choices
19 that day. A series of them. He's threatening Trevor, and I
20 didn't even mention, he pulled the knife on him at work
21 earlier, pulled the knife on him, threatened to kill him,
22 threatened to blow his brains out, threatened to shoot him
23 with his own gun, threatened to take his gun from him and
24 takes his hands and put it -- puts it to his head like that.
25 Come back again. What does Trevor do? Come on man. Well,

1 we got to do this. I mean again, play it. Trevor -- Fresh
2 has continued to approach Trevor. Trevor is staying over
3 here with his buddies. He keeps going back to him. And I
4 guess again, they would have you believe that that's part of
5 Trevor's master plan. That some camera would see him with
6 his hands up like that, the day that Fresh is harassing him.
7 And now the last time he comes over, that's what he does.
8 Now, again, he's threatened to kill him. He told him he'll
9 take his own gun from him and kill him with his own gun.
10 Tells him he'll blow his brains out, holds his hands to his
11 head, like a gun and then makes a (inaudible) for Trevor's
12 gun. I'll tell you what I told you in the open statement. A
13 man is trying to kill you, trying to take your weapon. You
14 cannot let that man take your weapon. And contrary to what
15 some individual might want you to believe, you cannot sit
16 there and figure out all the different options. Like you
17 slow mode on a video and freeze frame it and looking at all
18 your options and looking at all the angles and enhancing the
19 lighting. That is not real life.

20 At that point he was focused on one thing, the threat.
21 The man who threatened to blow his brains out with his own
22 gun, who was reaching for his gun. And you heard from
23 Trevor, you saw the video, he backed away, he tried to get
24 away. But what happened when he backed up, he backed into
25 his car. I guess somebody might want you to think that

1 Trevor should maybe freeze frame the scene and look for
2 another way to -- to get around and maybe jump over the car
3 or -- or something like that.

4 But that's not real life. Once he backed into his car
5 and had no way to retreat, at that point, a man has right to
6 stand his ground. And tragically, when it becomes necessary
7 to fire your weapon in self-defense, there's one thing to do.
8 You aim sent your mess and you fire until the threat has
9 ceased.

10 And the real world, if someone like Fresh is still on
11 his feet, if you were being attacked by someone who has
12 threatened your life, who has expressed intent to kill you
13 with your own weapon, if he is still on his feet, then he is
14 still a threat. And make no mistake about that because as
15 long as you're attacker is on his feet, he can get to you.
16 Your attacker does not cease to be a threat until he's on the
17 ground. And that is a reality of life. That is not
18 something you can enhance from the digital image. And you
19 can freeze frame and expand and rewind and slow mode. That
20 is not real life. And when you judge my client's actions,
21 judge it based on real life, not some manufactured modified
22 altered version of reality that they've showed you during the
23 course of the trial.

24 Also I want to talk about pathologist's testimony.
25 It's quickly indicated that a person can receive gunfire,

1 bullets, bullet wounds that hold and are fatal but still be
2 standing. So if you're firing someone and, you know, I think
3 we all know anybody who owns a gun though that you can fire
4 something and don't even know if you hit it. The first --
5 the first time I went to the range I fired like you know, 10
6 tail, 12 shots and didn't hit the target. But you can fire
7 at something and don't even know if you've hit it or not.
8 But what you do know is what you're firing at is still
9 standing. And if you firing at someone trying to take your
10 life and they're still standing, what are you going to do?
11 Are you going to stop firing? No, you going to keep firing,
12 you going to keep pulling that trigger until that person goes
13 down and that's what he did. And yes.

14 Let's go to the next one. Good.

15 (Video played.)

16 Five seconds. That's how quickly we all (inaudible).
17 I asked you this, if he can fire -- if that weapon can fire
18 15 shots in five seconds, what do you think might have
19 happened if Trevor Irvin waited a couple seconds to do
20 anything? There was no other way for him to avoid that
21 situation. And I want to be clear, and I'm not trying to be
22 disrespectful of fact -- fact that a life was lost, but
23 Trevor Irvin did not create that situation. Fresh made a
24 series of choices throughout that day. He created that
25 situation, he created an impossible situation for himself and

1 Trevor Irvin, those are his choices.

2 And for this individual to want you to believe that
3 this is all part of some master plan on behalf of my client,
4 that was his plan. Again, I (inaudible) judgment that
5 statement. I want to talk to you a little bit about some
6 legal concepts. First about the law of self-defense. One of
7 the things that is important is self-defense under the law in
8 our state, gives a person the right to act on appearances
9 even if ultimately the person has made a mistake. So what
10 that means is even if arguably Fresh wasn't going for
11 Trevor's gun, if Trevor had a -- a reasonable basis to
12 believe that's what Fresh is doing, then he was justified.

13 You don't have to wait to figure it out if you have a
14 reasonably -- a reasonable basis to believe that's what's
15 happening. And we have every reason to believe that. I also
16 want to talk about criminal intent. In order to be guilty of
17 murder, you've got to find that when Trevor shot Fresh, he
18 acted with malice. That's what they've got to prove. If
19 they don't prove he acted with malice, then your inquiry is
20 open because malice is the intent they have got to prove
21 beyond all reasonable doubt.

22 So let's take a look at the definition. Malice is
23 hatred, ill will, or hostility towards another person. Evil
24 intent. Based on what you've seen in this trial, based on
25 the demeanor of Trevor Irvin, based on the testimony of all

1 the witnesses in this case, is there any occasion that this
2 man acted announced? He calls 911. He confesses and --and
3 just so we're clear, you heard that 911 tape from me, not
4 from them.

5 Well, they -- they loved manipulating images, and
6 enhancing, and doing all that kind of stuff. But the real
7 stuff that you can't change, that you can't alter the raw
8 truth. That's not what they want you to see. I played the
9 911 tape for you. He called 911 and yes, he called his
10 brother first. There is no manual for how to act after you
11 shoot and kill someone. There is just not, everyone's going
12 to act differently and handle things differently.
13 Some people call their parent, some might call their spouse,
14 some might call their best friend, some might sit in the car
15 and cry. There is no manual for that.

16 In any argument you can judge him for how he handled
17 that. That is just asinine. There's no one right way to act
18 in a circumstance like that. There's no one right way to
19 act. Once you've actually shot somebody, do you stand? You
20 walk over here, what are you supposed to do? What is the
21 rule on that? I'm not familiar with it. I've never learned
22 that. But you heard people tell me, need to leave, you need
23 to go, just go. And that's what he did.

24 But he called 911, and he came back, and submitted to
25 the authority, the officers. You saw the video, he told the

1 officers, I shot him, volunteered. I shot him. I shot for
2 self-defense. He came at me. What's interesting is that you
3 know, you heard the testimony that my client went to the
4 police department and sat down and spoke to the detectives,
5 signed the confession and gave you a written statement --
6 gave them a written statement. They never put it into
7 evidence.

8 So let's keep this straight. A man shoots a man to
9 dead, goes to the police department, signs an eight page
10 confession saying what happened and they don't want to show
11 it to you. Well, you know why, they can't manipulate that?
12 They can't erase letters, change the words around on a piece
13 of paper, but they can a digital image like that 911 paper.
14 That's just raw footage. That's just a raw document. It
15 says what it says.

16 And this investigator with all respect to that
17 investigator, for him not to look at you and tell you that
18 it's his job to ask the right question when he is
19 interviewing the suspect is asinine. That makes no sense
20 whatsoever. He asked him 12 questions, and now somebody
21 wants to get up here and complain that Trevor didn't give him
22 all the right information. That was Trevor's job, you see.
23 That was Trevor's job to figure out what was important in
24 this case.

25 It's Trevor's job to know the elements of the crime,

1 what's important in the investigation, the elements of the
2 law, and figure out all the questions this investigator needs
3 to ask. That's his job. And if he didn't tell him something
4 in that statement that he didn't ask, then guess what? More
5 coop, he's a liar. Just like he didn't remember what
6 happened on frame 25 at eight and a half seconds at 7:15
7 p.m., because he's lying to you, his master plan is messed up
8 now. You caught him.

9 Trevor Irvin's got nothing to hide, he's got nothing to
10 hide. He's been consistent from the beginning. And the
11 reality in life is every person that gets arrested and that
12 gets prosecuted is not always the most articulate. They do
13 not, real People don't spend hours preparing it. They tell
14 the truth. He did that. Has there ever any indication I'm
15 asking you, has there ever been any indication that he was
16 acting duplicity or deceitful trying to hide something? He's
17 got nothing to hide. If he had something to hide he wouldn't
18 have called 911. If he had something to hide, he wouldn't
19 have came back and told the investigators that he just shot a
20 man without being asked. If he had something to hide he
21 wouldn't have gone down there and waived his right to a
22 lawyer.

23 If he had something to hide, he wouldn't have written
24 down a statement and answered all their questions. He's
25 trying to tell everything the way he knows it. Keep in mind

1 he did shot him to dead. And yes, while it's tragic, it's
2 tragic for the person as well that person is -- is suffering
3 some degree of shock. But they expect him to get up in the
4 morning, work at 10 or 12 hour shift, I guess unexpectedly
5 kill a man. But that perfect recall every detail of every
6 second. And if it's something the investigator needs to
7 know, well he needs to figure that out too and know his job
8 better than his job. That's what she wants you to believe.
9 That is what he's up against.

10 When you're trying to decide whether or not what Trevor
11 did was reasonable, you can take into account all the threats
12 that Fresh made to him, all the statements, all that's
13 relevant, all that goes to the nature of the threat. Please
14 keep that in mind. And I'm going to ask you again the person
15 you saw in this witness stand, the person you saw on the raw
16 unaltered video, hatred ill will, evil intent. Is that what
17 you saw?

18 Now I know that somebody is trumping the bid to respond
19 to what I'm saying, and there's a real possibility you're
20 going to see a pretty good show. Some videos and some
21 enhancements, some freeze frames and some timestamps. And
22 I'm certain to be very entertaining. I will ask one thing if
23 you see anything at all like that. Keep in mind that when
24 this happened, that is not what Trevor Irvin saw. I'm asking
25 you to let your verdict speak the truth. Please find my

1 client not guilty. Thank you.

2 THE COURT: Thank you Mr. Mobley.

3 Ms. Fuller?

4 MS. FULLER: Thank you, Your Honor.

5 Allow me to reintroduce myself. My name is Sutania
6 Fuller. This is Rhonda Patterson. We the state called for
7 trial, Trevor Irvin, under an indictment for murder. Don't
8 want to talk about what I want you to believe. I want you to
9 believe that you have eyes to see and that you have ears to
10 hear. I want you to believe that you all -- all sat through
11 this trial, and saw everything for yourself and heard
12 everything for yourselves.

13 I want you to believe that you have all the video in
14 evidence because you do. I want you to believe that Trevor
15 Irvin killed Daniel Jones. Period. That's what I want you
16 to believe. Sutania Fuller is not on trial. Rhonda
17 Patterson is not on trial. Daniel Jones was a life that was
18 brutally and violently taken without just cause. I want you
19 to believe that that is Judge McCaslin, and she's the judge
20 of the law, and she's going to charge you with the law of
21 this case.

22 I want you to believe that this is Bethany, and she's
23 the court reporter, and she took down everything the witness
24 said. So I want you to believe that if whatever you heard in
25 the defense's closing argument, something new and something

1 you did not hear during this trial, that you can ask her to
2 play it for you or read it back. That's what I want you to
3 believe.

4 Self-defense is not available to a person who uses
5 language, which is so contentious that a reasonable person
6 would expect it to bring on a physical encounter, and which
7 did actually contribute to the physical encounter. I told
8 you guys when I got up for closing that there's going to be
9 some things that we don't know, and you guys can determine
10 that. If there was more to it as to why that man took that
11 man's life. We don't know. Only he knows, only he knows.
12 Evidence that you -- they introduced the 911 call. It didn't
13 help them. He didn't tell them. He didn't tell the 911
14 caller that this man tried to take his gun or that he
15 threatened him, he said he was going to blow his brains out.
16 There are threats that were made supposedly by Daniel that
17 only Trevor heard nobody else but Trevor.

18 But you guys get to determine that. Also for the
19 entertainment part. He said he did everything right, he did
20 nothing right. And you know what Jarrell proved their final
21 witness when they arrested, when he proved, and I think you
22 all caught it quickly that that man's a liar. That's what I
23 want you to believe. Thank you.

24 THE COURT: Thank you, Ms. Fuller.

25 Mr. Foreman and ladies and gentlemen of the jury, I'd

1 like to charge you. It's going to take me probably about 20
2 minutes everybody, okay? I'll ask that the door -- if
3 there's anybody in the gallery that needs to leave, it's time
4 to leave now because the doors will be locked during
5 charging. Ladies and gentlemen back in before I start.
6 All right. Ladies and gentlemen of the jury, I'm now going
7 to charge you on the law applicable to this case. You must
8 consider the charge as a whole and not focus on some portions
9 to the exclusion of others. The indictment charges the
10 defendant with murder.

11 I remind you that the fact the defendant was arrested,
12 charged, and indicted in this case is not evidence in this
13 case and cannot be considered by you as evidence of guilt in
14 this case, nor does it create any presumption or inference of
15 guilt. This document is simply the formal written instrument
16 which contains the charge made against the defendant.
17 This is a formal document by which this case is brought into
18 court. The following things are not evidence, and you must
19 not consider them as evidence in deciding the facts of this
20 case. Statements and arguments of the attorneys, questions
21 and objections of the attorneys, and testimony that I have
22 instructed you to disregard. All of these things are not
23 evidence.

24 I remind you during the trial you and I have certain
25 duties to perform. As a trial judge, it is my responsibility

1 to preside over the trial of this case and I also have the
2 duty to rule on the admissibility of the evidence offered.
3 You are to consider only the competent evidence before you.
4 If there was any testimony ordered stricken from the record
5 in this case, you must disregard that testimony. You are to
6 consider only the testimony which has been presented from
7 this witness stand and any exhibits which have been made part
8 of the record in this case, and any stipulations of counsel.
9 I have the additional duty to charge you the law applicable
10 to this case.

11 As a presiding judge, I am the sole judge of the law of
12 this case, and it is your duty as jurors to accept and apply
13 the law. As I now stated to you, if you already have an --
14 an idea as to what the law is or what the law ought to be,
15 and it does not agree with what I now tell you, the law is
16 you must abandon this idea because you are sworn to accept
17 and apply the law exactly as I stated to you.

18 In every case tried in this court before a jury, the
19 jury becomes the sole and exclusive judge of the facts in a
20 case. A trial judge cannot state, comment on, or make any
21 statement to a trial jury about the facts in a case. Since
22 you the jury are the sole judge of the facts of the case, you
23 are not to infer from what I have said during the progress of
24 this trial in ruling upon the admissibility of evidence or
25 otherwise or anything that I say now during the course of

1 this instruction to you that I have any opinion about the
2 facts in this case.

3 The law does not allow me to have an opinion about the
4 facts in this case. This is a matter solely for you, the
5 jury to determine.

6 As jurors, it is your duty to determine the effect,
7 value, and weight of the evidence presented during this
8 trial.

9 The defendant has pled not guilty to this indictment,
10 and that plea puts the burden on the state to prove him
11 guilty. A person charged with committing a criminal offense
12 in South Carolina is never required to prove himself
13 innocent. I charge you that it is an important rule of the
14 law that the defendant in a criminal trial, no matter what
15 the seriousness of the crime may be, will always be presumed
16 to be innocent of the crime for which the indictment was
17 issued. Unless guilt has been proven by evidence satisfying
18 you of that guilt beyond a reasonable doubt.

19 This presumption of innocence does not end when you begin
20 your deliberations, but it accompanies the defendant
21 throughout the trial unless you reach a verdict of guilt.
22 Based on the evidence satisfying you of that guilt beyond a
23 reasonable doubt.

24 The presumption of innocence is like a robe of
25 righteousness placed about the shoulders of the defendant,

1 which remains with the defendant unless it has been stripped
2 from the defendant by evidence satisfying you of the
3 defendant's guilt beyond a reasonable doubt.

4 The presumption of innocence is not a mere legal
5 theory. It is not just a legal phrase. It is a substantial
6 right to which every defendant is entitled to unless you the
7 jury are satisfied from the evidence of the defendant's guilt
8 beyond a reasonable doubt, the state has a burden of proving
9 the defendant guilty beyond a reasonable doubt. Some of you
10 may have served as jurors in civil cases where you were told
11 that it is only necessary to prove that a fact is more likely
12 true than not true, such as by the greater weight of the
13 evidence. We call that the preponderance of evidence
14 standard.

15 In criminal cases, the state's proof must be more
16 powerful than that. It must be beyond a reasonable doubt.
17 Proof beyond a reasonable doubt is proof that leads you
18 firmly convinced of the defendant's guilt. There are very
19 few things in this world that we know with absolute
20 certainty.

21 And in criminal cases, the law does not require proof
22 that overcomes every possible doubt. If based on your
23 consideration of the evidence, you are firmly convinced that
24 the defendant is guilty of the crime charged, you must find
25 him guilty. If on the other hand you think that there is a

1 real possibility that the defendant is not guilty, you must
2 give the defendant the benefit of the doubt and find him not
3 guilty.

4 Now there are two types of evidence which are generally
5 presented during a trial, direct evidence, and circumstantial
6 evidence. Direct evidence proves the existence of a fact and
7 does not require deduction. Circumstantial evidence is proof
8 of a chain of facts and circumstances indicating the
9 existence of a fact. Crimes may be proven by circumstantial
10 evidence.

11 The law makes no distinction between the weight or
12 value to be given to either direct or circumstantial
13 evidence. However, to the extent the state relies on
14 circumstantial evidence, the circumstances must be consistent
15 with each other and when taken together point conclusively to
16 the guilt of the accused beyond a reasonable doubt.

17 If these circumstances merely portray the defendant's
18 behavior as suspicious, the proof has failed. The state has
19 the burden of proving the defendant guilty beyond a
20 reasonable doubt and this burden rests with the state
21 regardless of whether the state relies on direct evidence,
22 circumstantial evidence or some combination of the two.
23 Criminal intent is a state of mind which operates jointly
24 with an act or omission in the commission of a crime.
25 Criminal intent is a mental state of conscious wrong doing.

1 Criminal intent includes those consequences which represent
2 the very purpose for which an act is done or are known to be
3 substantially certain to the result regardless of one's
4 desire. Intent may be shown by acts and conduct of the
5 defendant, and other circumstances from which you may
6 naturally and reasonably infer intent.

7 Criminal intent must be proven by the state beyond a
8 reasonable doubt. You must determine the credibility -- the
9 credibility of the witnesses who have testified in this case
10 and the evidence presented. Credibility simply means
11 believability. It becomes your duty as jurors to analyze and
12 to evaluate the witnesses and the evidence, and determine the
13 credibility of the witnesses and the evidence.

14 In determining the credibility of witnesses who have
15 testified. You may believe one witness over several
16 witnesses or several witnesses over one witness. You may
17 believe a part of the testimony of a witness, and reject the
18 remaining part of the testimony of that same witness.
19 You may believe the testimony of a witness in its entirety,
20 or reject the testimony of a witness in its entirety. You
21 may consider whether any witness has exhibited to you any
22 interest, bias, prejudice, or other motive in this case.
23 You may also consider the appearance and manner of a witness
24 while on the witness stand. The rules of evidence ordinarily
25 do not permit a witness to testify to opinions or

1 conclusions.

2 An exception to this rule exists for witnesses we call
3 expert witnesses. We had several in this case.

4 A witness who by education and experience has become an
5 expert in some art, science, profession, or calling, may
6 state an opinion as to relevant and material matter in which
7 the witness claims to be an expert, and may also state the
8 reasons for the opinion.

9 You should consider any expert opinion received into
10 evidence in this case, and like any other evidence, give it
11 the weight you think it deserves. If you decide that the
12 opinion of an expert witness is not based on sufficient
13 education and experience, or if you conclude that the reasons
14 given in support of the opinion are not sound or that the
15 opinion is outweighed by other evidence, you may disregard
16 the opinion entirely. An expert witness's testimony is to be
17 given no greater weight than that of any other witness simply
18 because that witness is an expert.

19 Further, you are not required to accept an expert's
20 opinion even though it is not contradicted. A person who has
21 a past criminal record is competent to testify during a
22 trial. A past record does not affect the ability of that
23 witness to testify. The past record may only be considered
24 by you if at all in determining the witness's believability.
25 Remember, you are the sole judges of the facts in the case

1 and of the believability of any and all of the witnesses. A
2 statement alleged to have been made by the defendant has been
3 admitted into evidence in this case, while the Court has
4 determined that the statement is admissible, I instruct you
5 that the ultimate decision of whether or not the defendant
6 made the statement.

7 If the defendant did make the statement, you must
8 determine whether the statement was made by the defendant
9 voluntarily and of his own free will. This means that the
10 statement was not caused by pressure, force, fear, threats,
11 coercion, or intimidation, or by ,or a promise of leniency,
12 or a reward of any kind.

13 The defendant is charged with murder. The state must
14 prove beyond a reasonable doubt that the defendant killed
15 another person with malice of forethought. Malice is hatred,
16 ill will, or hostility towards another person. It is the
17 intentional doing of a wrongful act without just cause or
18 excuse, and with an intent to inflict an injury or under
19 circumstances that the law will infer an evil intent.

20 Malice of forethought does not require that malice
21 exists for any particular time before the act is committed,
22 but malice must exist in the mind of the defendant just
23 before and at the time the act is committed. Therefore,
24 there must be a combination of the previous evil intent and
25 the act.

1 Malice of forethought may be expressed or inferred.
2 These terms express and inferred do not mean different kinds
3 of malice, but merely the manner in which malice may be shown
4 to exist. That is either by direct or by inference from the
5 facts and circumstances which are proved.

6 Express malice is shown when a person speaks words
7 which express hatred or ill will for another, or when the
8 person prepared beforehand to do the act which was later
9 accomplished.

10 Malice may be inferred from conduct showing a total
11 disregard for human life. If facts are proof beyond a
12 reasonable doubt sufficient to raise an inference of malice
13 to your satisfaction, this inference would be simply an
14 evidentiary fact to be considered by you along with the other
15 evidence in the case. And you may give it the weight you
16 decide it should receive.

17 The defendant has raised the defense of self-defense.
18 Self-defense is a complete defense, and if it is established,
19 you must find the defendant not guilty. The state has a
20 burden of disproving self-defense by proof beyond a
21 reasonable doubt.

22 If you have a reasonable doubt of the defendant's guilt
23 after considering all of the evidence, including the evidence
24 of self-defense, then you must find the defendant not guilty.
25 On the other hand, if you have no reasonable doubt of the

1 defendant's guilt, after considering all of the evidence,
2 including the evidence of self-defense, then you must find
3 the defendant guilty.

4 The elements of self-defense are as follows. First,
5 the defendant must be without fault in bringing on the
6 difficulty. If the defendant's conduct was a type which was
7 reasonably calculated to and did provoke a deadly assault,
8 the defendant would be at fault in bringing on the difficulty
9 and would not be entitled to an acquittal based on
10 self-defense.

11 The second element of self-defense is that the
12 defendant was actually in imminent danger of death or serious
13 bodily injury, or that the defendant actually believed he was
14 in imminent danger of death or serious bodily injury.
15 If the defendant was actually in imminent danger, it must be
16 shown that the circumstances would've warranted a person of
17 ordinary firmness and courage to strike the fatal blow to
18 prevent death or serious bodily injury.

19 If the defendant believed he was in imminent --
20 imminent danger of death or serious bodily injury, it must be
21 shown that a reasonably prudent person of ordinary firmness
22 and courage would've had the same belief. In deciding
23 whether the defendant actually was or believed he was in
24 imminent danger of death or serious bodily injury. You
25 should consider all the facts and circumstances surrounding

1 the crime, including the physical condition and
2 characteristics of the parties involved.

3 The defendant does not have to show that he was
4 actually in danger. It is enough if the defendant believed
5 he was in imminent danger. And a reasonably prudent person
6 of ordinary firmness and courage would have had the same
7 belief.

8 The defendant has a right to act on appearances. Even
9 though the defendant's beliefs may have been mistaken. It is
10 for you to decide whether the defendant's fear of immediate
11 danger of death or serious bodily injury was reasonable and
12 would've been felt by an ordinary person in the same
13 situation.

14 Words accompanied by hostile acts may, depending on the
15 circumstances, establish self-defense. Evidence of prior
16 difficulties between the defendant and the victim may be
17 considered in deciding whether a threat existed, whether the
18 defendant had a reason to believe a threat existed and how
19 serious that threat was.

20 The final element of self-defense is that the defendant
21 had no other probable way to avoid the danger of death or
22 serious bodily injury than to act as the defendant did in
23 this particular instance.

24 Self-defense is not available to a person who uses
25 language which is so contemptuous that a reasonable person

1 would expect it to bring on a physical encounter and which
2 did actually contribute to the physical encounter.

3 A verdict in this case cannot be based upon sympathy,
4 passion, prejudice, or emotion, or some other consideration
5 not found in the evidence. Let me say something about your
6 deliberations. Deliberation is defined as a careful
7 consideration weighing up with a view to decision.

8 The genius of our jury system is that it allows 12 good
9 men and women from 12 different backgrounds, life experiences
10 and perspectives to consider the evidence, talk about it, and
11 ultimately reach a verdict. We call them deliberations for a
12 reason.

13 You are to consider the evidence in this case carefully
14 and deliberately, and discuss it in a calm and thorough and
15 courteous manner. Listen to the views of all your fellow
16 jurors. Consider other people's points and points of view
17 and talk through and discuss the evidence.

18 And remember, if you are doing something deliberately,
19 you are not in a big hurry and you should not be in a hurry
20 here. This case is very important to both sides and this is
21 their only day in court. When you retire to the jury room,
22 again, discuss the case with your fellow jurors to try to
23 reach an agreement if you can do so.

24 Your verdict must be unanimous. Each of you must
25 decide the case for yourself, but you should do so only after

1 you have impartially considered all of the evidence,
2 discussed it fully with the other jurors and listen to the
3 views of your fellow jurors.

4 Do not be afraid to change your opinion if the
5 discussions persuade you that you should but do not come to a
6 decision simply because other jurors think it is right.
7 Again, it's important that you attempt to reach a unanimous
8 verdict, but again, only if each one of you can do so after
9 having made your own decision. Do not change your opinion
10 solely for the sake of reaching a unanimous verdict.

11 Now there are two possibility -- two possible verdicts
12 for each charge -- for this charge, which you may find in
13 this case. There is no significant whatsoever in the order
14 in which I state these possible verdicts. It is simply that
15 one must be stated first.

16 Mr. Foreman, when the jury agrees on the verdict, you
17 will initial on the line next to the verdict on the verdict
18 form for the charge and sign your name as foreperson. Then
19 informed the bailiff that you have reached a verdict, and at
20 that time I will receive you back into the courtroom.
21 I'm going to ask that you return to your jury room, but do
22 not begin deliberations until you are told to by the clerk or
23 the bailiff to do so. There are some matters that I need to
24 discuss with the attorneys before you begin your
25 deliberations.

1 I'll tell you Mr. Foreman, in the event that during
2 your deliberations there is a split in the vote, the court
3 does not at any time want to be informed of the actual split
4 by number in the vote, if one exists. I'll tell you, Mr.
5 Foreman, if the jury has any questions or they'll supply you
6 with paper and pen.

7 You may write a note if you have a question. It must
8 be in writing, okay? I'll tell you. I know I've got two
9 alternates. The alternates cannot be in the jury room when
10 deliberations begin. I know I have lunch bag there. It's
11 going to take us a little bit of time to get all the
12 exhibits.

13 I need to make sure that they have -- the jury has a
14 computer clean that I can send back for you all so it's going
15 to take us just a little bit. But before deliberation we
16 need to take out the two alternate jurors.

17 I'll also tell you, Mr. Foreman, when the jury begins
18 deliberating, all 12 jurors must be in the room. If a juror
19 excuses himself to go to the restroom, deliberation stop.
20 All 12 must be in the room when you're deliberating.
21 Okay, thank you very much. I'm going to let you go to your
22 jury room.

23 All right. At this time let me turn (inaudible) the
24 state needs any exceptions to the jury instructions?

25 MS. FULLER: None from the state, Your Honor.

1 THE COURT: Any from the defense?

2 MR. MOBLEY: None from the defense, Your Honor.

3 THE COURT: All right. We are in recess. I am going
4 to do probation reps. So you might not want to leave. You
5 might want to move your stuff over to the bench. I don't
6 think anybody's going to be on that bench.

7 Mr. Rentier ---

8 MR. RENTIER: Yes, ma'am.

9 THE COURT: --- I've got to give these ladies a quick
10 ---

11 MR. RENTIER: Yeah, absolutely. Your Honor. I need to
12 set up too, so.

13 (Off the record.)

14 THE COURT: All right. All right. The jury passed up
15 a note, now today, listen, we would like to have the full
16 self-defense requirements for the law signed by the foreman.
17 I'm going to bring the jury in. I will read them the
18 self-defense charge again, unless there's any objection to
19 that.

20 MS. FULLER: No, Your Honor. Just confirm you don't
21 send your charge back, right?

22 THE COURT: No.

23 MS. FULLER: Okay. That's right.

24 THE COURT: I did -- I do, if both sides agree, and if
25 it's a really complicated case.

1 MS. FULLER: I -- I have no objection to it going back,
2 but your -- whatever Your Honor is more comfortable doing.

3 MR. MOBLEY: I'm fine with the charge, Your Honor.

4 THE COURT: Charging them in person?

5 MR. MOBLEY: Yes.

6 THE COURT: Okay. Because if somebody objects, I don't
7 do it because I have a charge that I read jury when I send
8 the charge back and then I make 12 copies for everybody
9 because I don't want one juror taking control of the jury
10 room telling somebody what the law is.

11 MR. MOBLEY: Getting (inaudible).

12 THE COURT: You're (inaudible). It's just that one
13 side to start reading. You're stuck.

14 MR. MOBLEY: Yeah, (inaudible) moving. Can't get my --
15 unplug me.

16 MS. FULLER: Oh, which one are you? Pull it. Thank
17 you. Yeah, I was trying to figure out which one it was.

18 MR. MOBLEY: You got it.

19 MS. FULLER: And, Judge, to confirm, are you reading
20 the entire self-defense charge or just the full elementary?

21 THE COURT: I'm reading the whole thing.

22 MS. FULLER: Okay.

23 THE COURT: I'm going to -- I'm not going to read just
24 part of it. They got to take the law as a whole.

25 MS. FULLER: Yes, ma'am.

1 THE COURT: Is -- is what I think.

2 MS. FULLER: I think so too.

3 THE COURT: I in fact (inaudible) the contemptuous ---

4 MS. FULLER: Contemptuous.

5 THE COURT: --- contemptuous language at the end that
6 I'm reading all of it that concerns self-defense. Here's the
7 -- don't forget these.

8 MR. MOBLEY: Anything else left.

9 MS. FULLER: So don't try to get -- don't try to get
10 out of here. I'm not saying it.

11 THE COURT: Here's (crosstalk).

12 MR. MOBLEY: Judge, thank you.

13 THE COURT: No, thank you.

14 MR. MOBLEY: Uh-huh.

15 MS. FULLER: (Crosstalk).

16 THE COURT: The one that we've got -- the one that we
17 need (inaudible). Okay. Is the jury coming? Yeah. You
18 want to bring jury?

19 MS. FULLER: I don't think -- I don't think he was
20 standing right there when I (crosstalk).

21 THE COURT: What time did they start deliberating?

22 MS. FULLER: 1:55 is whenever they finished eating and
23 got all the stuff and ---

24 THE COURT: Thank you.

25 MS. FULLER: --- everybody separated.

1 THE CLERK: I put the official time as 1:39.

2 MS. FULLER: Well, that's because ---

3 THE CLERK: Yeah, I'm just --

4 MS. FULLER: --- they're two alternates.

5 THE CLERK: Right. I understand that.

6 MS. FULLER: Yeah.

7 THE CLERK: I was just letting you all know. That's
8 what I put.

9 THE COURT: How long can (inaudible).

10 All right, Mr. Foreman, ladies and gentlemen, please be
11 seated.

12 Mr. Foreman, I got the note. We would like to have the
13 full self-defense requirements for the law.

14 MR. FOREMAN: Yes.

15 THE COURT: So I'm going to read to you again the
16 self-defense. Okay. The defendant has raised the defense of
17 self-defense. Self-defense is a complete defense, and if it
18 is established, you must find the defendant not guilty. The
19 state has the burden of disproving self-defense by proof
20 beyond a reasonable doubt. If you have a reasonable doubt of
21 the defendant's guilt after considering all of the evidence,
22 including the evidence of self-defense, then you must find
23 the defendant not guilty.

24 On the other hand, if you have no reasonable doubt of
25 the defendant's guilt, after considering all of the evidence,

1 including the evidence of self-defense, then you must find
2 the defendant guilty. The elements of self-defense are as
3 follows: First, the defendant must be without fault in
4 bringing on the difficulty. If the defendant's conduct was
5 the type which was reasonably calculated to and did provoke a
6 deadly assault, the defendant would be at fault in bringing
7 on the difficulty, and would not be entitled to an acquittal
8 based on self-defense.

9 The second element of self-defense is that the
10 defendant was actually in imminent danger of death or serious
11 bodily injury, or that the defendant actually believed he was
12 in imminent danger of death or serious bodily injury. If the
13 defendant was actually in imminent danger, it must be shown
14 that the circumstances would have warranted a person of
15 ordinary firmness and courage to strike the fatal blow to
16 prevent death or serious bodily injury.
17 If the defendant believed he was in imminent danger of death
18 or serious bodily injury, it must be shown that a reasonably
19 prudent person of ordinary firmness and courage would have
20 had the same belief in deciding whether the defendant
21 actually was or believed he was in imminent danger of death
22 or serious bodily injury, you should consider all the facts
23 and circumstances surrounding the crime, including the
24 physical condition and characteristics of the parties
25 involved.

1 The defendant does not have to show that he was
2 actually in danger. It is enough if the defendant believed
3 he was in imminent danger and a reasonably prudent person of
4 ordinary firmness and courage would have had the same belief.
5 The defendant has a right to act on appearances. Even though
6 the defendant's beliefs may have been mistaken. It is for
7 you to decide whether the defendant's fear or immediate
8 danger of death or serious bodily injury was reasonable and
9 would've been felt by an ordinary person in the same
10 situation.

11 Words accompanied by hostile acts may, depending on the
12 circumstances, established as self-defense. Evidence of
13 prior difficulties between the defendant and the victim may
14 be considered in deciding whether a threat existed, whether
15 the defendant had a reason to believe a threat existed and
16 how serious that threat was.

17 The final element of self-defense is that the defendant
18 had no other probable way to avoid the danger of death or
19 serious bodily injury than to act as the defendant did in
20 this particular instance. Self-defense is not available to a
21 person who uses language, which is so contemptuous. Did I
22 say that right? Contemptuous, that a reasonable person would
23 expect it to bring on a physical encounter, and which did
24 actually contribute to the physical encounter that is the
25 full self-defense charge.

1 I hope that answered your question. I'm going to ask
2 you to return back to your jury room to continue
3 deliberating.

4 Anything else, Mr. Foreman (inaudible). Thank you.
5 All right.

6 Anything from the State?

7 MS. FULLER: Nothing from the state, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. MOBLEY: Nothing from the defense, Your Honor.

10 THE COURT: All right. You all don't go too
11 (inaudible).

12 MR. MOBLEY: You got (inaudible).

13 THE COURT: I've managed to get like three bites of a
14 pizza. I'll go get my other three bites.

15 MS. FULLER: Okay.

16 THE COURT: Okay. I've been informed the jury has a
17 verdict, so let me tell everybody in the gallery. I want
18 absolutely no emotion, no shouting, yelling anything in this
19 courtroom. I will give you the opportunity to get up and
20 leave if you think you can't control yourself because I won't
21 put up with it, okay?

22 All right. State ready to bring the jury in?

23 MS. FULLER: The state is ready, Your Honor.

24 THE COURT: Defense?

25 MR. MOBLEY: The defense is ready, Your Honor. Thank

1 you.

2 THE COURT: Okay. Let's bring them in.

3 All right. Mr. Foreman, I've been informed that the jury has
4 a verdict.

5 MR. FOREMAN: Yes, Ma'am.

6 THE COURT: And is it unanimous?

7 MR. FOREMAN: Yes, Ma'am.

8 THE COURT: You'd hand the verdict form to the bailiff
9 and you can be seated. I'm going to get the clerk to publish
10 the verdict.

11 Mr. Irvin, if you please stand.

12 THE DEFENDANT: Yes -- yes, Your Honor.

13 THE CLERK: Your Honor, indictment 2022-GS-32-02749,
14 the State versus Trevor Anthony Irvin -- the State versus
15 Trevor Anthony Irvin on the indictment for murder. We the --
16 we the jury find the defendant guilty. Mr. Foreman, ladies
17 and gentlemen of the jury, is that your verdict? And is that
18 still your verdict?

19 THE JURY: Yes.

20 THE CLERK: Thank you.

21 THE COURT: All right. Mr. Mobley, would you like the
22 jury polled?

23 MR. MOBLEY: Yes, Your Honor.

24 THE COURT: Call the jury, Madam Clerk.

25 THE CLERK: Juror number 118, was that your verdict,

1 and is this still your verdict?

2 JUROR: Yes.

3 THE CLERK: Juror number 234, is that your verdict, and
4 is that still your verdict?

5 JUROR: Yes.

6 THE CLERK: Juror number 66, was this your verdict, and
7 is this still your verdict?

8 JUROR: Yes.

9 THE CLERK: Juror number 79, was this your verdict, and
10 is this still your verdict?

11 JUROR: Yes.

12 THE CLERK: Juror number 217, was this your verdict,
13 and is this still your verdict?

14 JUROR: Yes.

15 THE CLERK: Juror number 140, was this your verdict,
16 and is this still your verdict?

17 JUROR: Yes.

18 THE CLERK: Juror number 245, was this your verdict,
19 and is this still your verdict?

20 JUROR: Yes.

21 THE CLERK: Juror number 99, was this your verdict, and
22 is this still your verdict?

23 JUROR: Yes.

24 THE CLERK: Juror number 184, was this your verdict,
25 and is this still your verdict?

1 JUROR: Yes.

2 THE CLERK: Juror number 256, was this your verdict,
3 and is this still your verdict?

4 JUROR: Yes.

5 THE CLERK: Juror number 237, was this your verdict,
6 and is this still your verdict?

7 JUROR: Yes.

8 THE CLERK: And juror number 182, was this your
9 verdict, and is this still your verdict?

10 JUROR: Yes.

11 THE CLERK: Is there anybody's number that I did not
12 call? Thank you. The jury has been polled, Your Honor.

13 THE COURT: Thank you. All right. Ladies and
14 gentlemen of the jury, again, I want to thank you for your
15 service. I'm going to ask you to return to the jury room.
16 I'll be back to dismiss you in about two minutes, okay?
17 All right. I want to go back, excuse the jury. I'm also
18 going to give them the opportunity to come in for sentencing
19 if they'd like. Are you all ready for sentencing?

20 MS. FULLER: Just need to -- I just got to print the
21 sentence sheet, Your Honor.

22 THE COURT: Okay. I'm going to give you all about five
23 minutes. Let me excuse them. I'll be back and we'll proceed
24 with sentencing.

25 MS. FULLER: Thank you, Your Honor.

1 (Off the record.)

2 THE COURT: There are some jurors that are coming, if
3 you all could make room for them on that back road.

4 All right. You ready?

5 MS. FULLER: The state is ready, Your Honor.

6 THE COURT: All right, let me hear from you. I'm
7 sentencing.

8 MS. FULLER: Thank you, Your Honor. First we hear
9 from, McKayla Sumter. Who's Daniel Jones niece.
10 I just need your name for the record.

11 MS. SUMTER: My name is McKayla Sumter. I am the niece
12 of Daniel Jones. I miss him a lot. It's been like two
13 years, and I haven't seen him. And it sucks because I only
14 had two uncles and now I just have one. So I -- that really
15 hits me hard. And I don't know. Every day I miss him. He
16 was a great man. I looked up to him a lot of ways and I
17 don't know.

18 I wish -- I wish his life would've taken it away from
19 him that day, but I'll be -- one day I'll see him again. But
20 for Dan, I hope -- he is resting peacefully now that he has
21 justice. And yeah, that's all I have to say.

22 THE COURT: Thank you Ms. Sumter.

23 MS. FULLER: And -- and we'll hear from Latoya Cease.
24 She is the mother of Daniel's children.

25 THE COURT: And her name again.

1 MS. FULLER: Latoya Cease.

2 THE COURT: Cease. Okay.

3 MS. CEASE: My name is Latoya Cease, me and Daniel
4 Jones had kids together, known Daniel for over 13 years. We
5 have two kids together. Three actually all together, but at
6 four months he took in my oldest son. That's his own race,
7 at his own. So that he called him father as well.
8 It is been very hard raising the kids without their father.
9 They're constantly asking me about their dad. Especially the
10 -- he was three at the time, now he's five. But so much I
11 can tell him there's, but so much I can tell out door to
12 Jade. I'm having to deal with taking him to counselling.
13 From that morning unfortunately both of us saw him laying
14 there on the ground covered in sheet, which was (inaudible)
15 for a 12 year old to have to worry about seeing.
16 A lot was taken from us because he was a caring, loving
17 father. He loved his kids, he loved his family. He was a
18 family man. And he never portrayed himself to be any
19 gangster, or bully, or anything like that. To sit here, just
20 happened to think about the kid's graduation when they
21 graduate from school.

22 My son -- our son is five years old. He started
23 kindergarten this year. He's not going to be there for that.
24 My oldest is going to high school. He wasn't there for
25 graduation for that Christmases, holidays, anything. He's

1 gone. I mean it's -- I -- I wish I could ground that time
2 and -- and it didn't happen -- and it didn't happen. And he
3 didn't deserve to suffer the way he did. He didn't deserve
4 to be shot so many times. He didn't deserve that. He -- he
5 didn't live that type of life.

6 It's been hard every day coming here to have to see it
7 here everything that happened to him. He did not deserve
8 that at all. And my kids want to know what happened. I
9 can't -- this is not something you can just explain to your
10 kids what happened to their dad.

11 There's never going to be a good time to tell them.
12 They're asking me now what's going on. I can't tell them
13 that. Like I told them, you all have to wait till you all
14 get older to ask for that because I can't. I mean, them
15 having to go through that knowing what exactly happened to
16 their father and now I have to go through it again. Hearing
17 all this in this courtroom.

18 And he -- he had a lot going for his self. Daniel had
19 a lot going for his self and he was -- that was taken away
20 from him since the spring for no -- no apparent good reason
21 at all. No one deserve it, no one -- no one on this earth
22 deserves that. And it is hard. What I want to say, I can't
23 say, but I just want everybody to know that Daniel was a good
24 man. He was a good father, he was a good uncle. He was a
25 good son.

1 And now from here on out, we -- I mean since two years
2 ago when it's not something we can't pick up a phone and call
3 him knowing that he's still alive. We can't, there's no more
4 I love yous, there's no more kisses, there's no more hugs,
5 there's no more anything. All we have is just memory, and
6 video, and pictures that I can only show to my kids.

7 And my youngest one, he didn't even get to know his
8 father that long, like the rest of the kids. And that still
9 wasn't long -- long enough.

10 THE COURT: Thank you, Ms. Cease. I'm sorry for your
11 loss.

12 MR. BONNER: Hi everybody, my name is Dante Bonner. I
13 am 37. My job title. I'm a barber and I am the former
14 boyfriend and baby Carter, Latoya Cease. And I just want to
15 say Daniel was not a gang banger. His name Fresh came from
16 him being a producer, local producer, making dope beats,
17 Fresh beats. And -- and it's kind of crazy because it's
18 hard. I couldn't imagine being a child, losing their father
19 so early, so young.

20 And as a black cycle in this world, we are losing too
21 many black men to sense of violence, stupid stuff. No
22 reason. A man didn't have a gun and you killed the man for
23 what? Like she said, like -- like she said, Stacey said, you
24 can't throw rocks and hide your hands. You can't hit
25 somebody on it when it happens you pull the dumbest stuff and

1 this is what happens. Nobody wins at the end.

2 THE COURT: Thank you.

3 MS. FULLER: And, Your Honor, just for the record,
4 Daniel has other family here, his parents, but I don't think
5 they can find the word.

6 MR. JONES: I just said (inaudible) here.

7 MS. FULLER: State your name.

8 MR. JONES: My name is Timothy Jones. I'm Daniel's
9 father and what I will say is this, nobody wins here today,
10 but my son won't have a chance anymore.

11 Mr. Irvin, you have a chance to make -- do something
12 positive for somebody in your life still. You're still here,
13 but try to think of something positive to do in your life for
14 somebody. I forgive you because I'm a Christian and I have
15 to forgive you. That's all I have.

16 THE COURT: Thank you, Mr. Jones. You could guess?

17 MS. FULLER: Yes, Your Honor.

18 THE COURT: Somebody tell me how old Mr. Jones was?

19 MS. FULLER: He was one year younger than me, so I'm
20 35.

21 THE COURT: Thirty four.

22 MS. FULLER: At the time I guess he would've been ---

23 MR. JONES: He was 33 when he -- when he was killed
24 with same age that Jesus Christ was when he died.

25 THE COURT: Okay. Thank you, Mr. Jones.

1 MS. FULLER: This case you saw all laid out. I don't
2 have any additional facts to truly add the -- I will say this
3 is the my first case and my only case, and I hope it's my
4 last case where someone has been shot 15 times. I know there
5 was another case that another prosecutor had that was 14
6 gunshots.

7 It takes a lot to pull the trigger, and we may never
8 really know the real reason why he threatened to kill them
9 and then do it, like what it really was. But we can't change
10 the fact that it happened. And you heard from Stacey
11 Jameson, and what was interesting about meeting with him, he
12 met with law enforcement that next day and told him about the
13 threats to kill that happened.

14 But even with meeting with him, for some reason he
15 still like connected with Mr. Irvin. I guess to -- they're
16 both line leads and stuff like that. And he was kind of in
17 disbelief having to repeat the words that he heard him say
18 and then he did it. This wasn't a case of self-defense, and
19 you heard the facts and I think the jury -- I think the jury,
20 I'm forgetting it right.

21 I don't know what the appropriate sentence is and I
22 know that's your decision. I never made an offer on this
23 case because what do you offer someone who shot someone in
24 cold blood 15 times. And it's not only just shot him but
25 stood over him and shot him some more while he was down on

1 the ground.

2 I meant it when I said that's evil. It's something I
3 hadn't seen before. I hadn't seen before and so I do ask for
4 the appropriate sentence. I don't know what the number is,
5 and I know you have broad latitude. I'm sure defense is
6 going to ask for the minimum. I don't think this is a
7 minimum case, with all due respect, I don't know how you can
8 gun someone down, walk up on them, and continue to shoot.
9 But law enforcement's present. Everyone's here and just ask
10 for the appropriate sentence.

11 THE COURT: All right, thank you.

12 All right. Mr. Mobley, I'll be glad to hear from you.

13 MR. MOBLEY: Thank you, Your Honor. As a preliminary
14 matter, I -- we haven't had post-trial motions, so I'd just
15 like to reserve the right to make those until we can just
16 proceed with the sentence of that.

17 THE COURT: Sure.

18 MR. MOBLEY: Okay.

19 THE COURT: Will do immediately afterwards.

20 MR. MOBLEY: Thank you, Your Honor. So I want to make
21 sure that's -- that's protected. You know, Your Honor, I
22 mean the Court's seen substantial evidence about what
23 happened in this case. I would ask the court to take into
24 account that my client has no prior criminal history. He's
25 only 30 years old. That although the jury must have found

1 that he bow some fault in the altercation. I believe the --
2 the video evidence indicate he did go through substantial
3 effort to try to avoid a confrontation with Mr. Jones, prior
4 to the final altercation.

5 And I would also ask the Court to consider that my
6 client's post shooting conduct, he did call 911. He returned
7 to the scene and voluntarily submitted to law enforcement
8 without being asked what happened, he -- he admitted his
9 conduct, he cooperated completely at the time of arrest, and
10 cooperated with the post-arrest interview, investigation by
11 law enforcement.

12 And I would ask the Court to consider all of those
13 factors and impose the minimum sentence for my client.

14 THE DEFENDANT: One second (inaudible).

15 THE COURT: This is your day, Mr. Irvin, if you want to
16 tell me anything now would be the time.

17 THE DEFENDANT: Just so (inaudible) consider -- respect
18 the decision and, you know, ask for as much sentencing as you
19 can. I want to say I'm sorry for everything that took place,
20 and I really didn't want that to happen. I'm sorry that it
21 did.

22 THE COURT: Okay. Thank you.

23 MR. MOBLEY: And I just want to see if any my client's
24 family would like to address the court.

25 THE COURT: And I would love to hear from them.

1 MR. IRVIN: My name is Melville Irvin.

2 MS. FULLER: I can't hear him.

3 MR. MOBLEY: He's (inaudible).

4 THE COURT: Mr. Irvin.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: I'm right. Okay.

7 MR. IRVIN JR: My name is Melville Irvin. My brother
8 named after my father, Melville Irvin. Our family is very
9 sorry to Daniel's family. We apologize like the father said,
10 with our dialect, nobody wins today. We are about to lose
11 something real nice, and we very -- very apologize for
12 everything.

13 We never caused no trouble, never wanted to have no
14 trouble. We come here from the Virgin Islands, we just come
15 here to -- I just came for my daughter, Spina Bifida. I came
16 here with my sister, my family, we're just loving people.
17 Just try to go to church and be good.

18 We got put in an unfortunate situation. I apologized
19 really and sincerely. I know my brother, he's not a violent
20 man. He's not like this all the time. I don't know what
21 happened today, but I'm -- I'm -- we apologize. And to his
22 parents too. I apologize because like you said, we don't win
23 here. There's nobody that went in. But that's all I have to
24 say. I'm very -- very sorry for everything that has
25 transpired.

1 THE COURT: Thank you.

2 MR. IRVIN JR: All right.

3 THE COURT: Tell me your name.

4 MR. E. IRVIN: My name is Ernest Irvin. I'm the oldest
5 brother of Trevor Irvin and Chris Irvin. I'm probably one of
6 the first to move here from the Virgin Islands in order to
7 make better lives for ourselves. Was a really sound person
8 and encouraging my brothers to move here from the Virgin
9 Islands because I've seen what they've done for me living in
10 Atlanta, my family, how we've grown, and how I've made a
11 great life for myself.

12 We did very well. I was hoping, you know, everything
13 would go good and my brother followed in our footsteps and
14 Coach Trevor to come as well and follow my footsteps as well
15 so we could continue on and make a legacy for our family.
16 My condolences goes out to the family because I got two sons
17 on my own. I wouldn't want to lose my sons. It's very, very
18 important to me. It's why I do everything. But I'm asking
19 the Court too as well to take a little bit of leniency on my
20 brother. He has -- he's really a good person.

21 He's really not the kind of person that I've heard
22 explain and talk to him, criticize and belittled. He's not
23 the person I know. I'm born and raised with these very
24 Christian people to as well, despite the look I've just got
25 here all the way down to my uncles.

1 THE COURT: You're fine.

2 MR. E. IRVIN: So, you know, I thank you again for
3 giving us the opportunity to speak and again, my condolences
4 goes up to the family. And we are losing something really
5 great in the family and part of our legacy. Thank you.

6 THE COURT: Thank you.

7 MR. IRVIN SR: Good afternoon, everybody. My name is
8 Melville Irvin, and I'm the father of Trevor and the three --
9 the two boys. Me, I take we are responsible for my son
10 actions because I teach my sons not to take, not from
11 anybody. I was raised in the projects, and that's all they
12 know. Okay. But not to be the aggressor to aggress anybody,
13 all right? But to defend themselves when people attack them.
14 So with that, I take deeply, deeply responsibility for it.
15 That's why I joined the Marine Corps. Okay. I was a trouble
16 boy, and used to get myself into a lot of stuff, and the
17 Marine Corps had turned me around. But now this happened,
18 this infraction happened. I want to say me, I take the
19 responsibility for it, and I'll apologize to the parents,
20 okay? I'm deeply sorry for what happened. I think it could
21 have been another recourse and everything and I don't know
22 what it is to lose a son. But now I got a son still alive,
23 but I don't know what's going to happen.

24 So my sincerely regret is that the course that he took,
25 he should have took it better, better action. Okay. But

1 with that I say, sorry, sorry to everybody and I respect the
2 decision you all make and being a good Christian that I am.
3 God bless you all.

4 THE COURT: Thank you.

5 MS. IRVIN: Is that okay if I turn this around and sit
6 on it?

7 THE COURT: No problem.

8 MS. IRVIN: Okay. Well, I guess I'm supposed to stand
9 and say my name.

10 THE COURT: You okay say ---

11 MS. IRVIN: I am ---

12 THE COURT: --- my mom's got one just like that.

13 MS. IRVIN: Oh, okay. Good afternoon. I am Michelle
14 Jacobs Irvin. I am Trevor's mother. I would like to also
15 express my condolences to the family. Over the past two
16 years I have prayed for the family extensively as well as,
17 you know, prayed for my son because we have, you know,
18 experienced someone else. You know, we know what it's like,
19 you know, to be able to lose someone that, you know, that
20 will -- will never get them back.

21 And so for that I am -- I, you know, have prayed for
22 them to be comforted as much as they can. And you know, it's
23 only today that I hear that his father is a Christian. And
24 so I think they kind of understand. I've also you know, to
25 give them comfort. So on behalf of my son and the rest of

1 the family, we want to give apologies for what has happened.
2 However, I also would like to -- on behalf of my son, he is
3 30 years old. The father, you know, says that, you know, he
4 has forgiven him and I guess, you know, well because he has
5 to. But he did express that he would be able to, you know,
6 be able to turn it around and do something good for someone
7 else, you know, in the future.

8 And I know Trevor has done good for a lot of different
9 people, you know, just, you know, without asking just for
10 because that person needed it, you know, that type of thing.
11 And so -- I am asking for leniency. I don't know how, you
12 know, but and also -- I don't know, I'm just going to say
13 because I have no idea. I've never been in the court, my
14 first experience.

15 But, you know, like if there's any opportunity or you
16 know, that we can at least touch him I ain't got that much,
17 you know, I don't know how many more years I have. I'm sick.
18 So it's his father's soul. I know the family has -- Daniel's
19 family has not had that opportunity so I could understand,
20 you know -- you know if that I guess type of thing is not
21 allowed because they never got that opportunity. And I
22 guess, you know, I just -- it --no, you know, nobody wins as
23 you say it thing like this I guess. Thank you.

24 THE COURT: Thank you.

25 MS. IRVIN: You say your name just came. Okay.

1 THE COURT: Okay. Anybody else?

2 Anything else from the state?

3 MS. FULLER: Nothing else from the state, Your Honor.

4 THE COURT: Anything else, Mr. Mobley?

5 MR. MOBLEY: Nothing else on sentencing, Your Honor.

6 THE COURT: Okay. All right. Mr. Irvin, if you'd
7 stand for me, but let me tell you all, you know, usually when
8 I sit up here, I don't know anything about a case of what I'm
9 going to hear, but I will tell you what I do know. Every
10 time I pick up the newspaper, every single day there's
11 somebody shooting somebody. It is like clockwork.

12 Are -- you are killing each other. This is probably
13 one of the most senseless cases I've heard. Just uncalled
14 for, uncalled for. Can't even find a really good reason for
15 it. There is no good reason for it. None. Just senseless.
16 I'd like to thank the jury. I think they got it right. I'd
17 like to thank law enforcement. I think law enforcement, you
18 did a great job. And I'm going to tell you both lawyers on
19 each side did a great job in defending their clients and
20 defending the state.

21 And I agree with Ms. Fuller. This is not a minimum
22 case. It's just not, you know, shooting somebody 15 times.
23 Murder carries 30 to life. I can't give you less than 30 and
24 you'll spend every day of what I give you. There is no good
25 time. Do you understand that Mr. Irvin?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And, you know, it's like Mr. Jones said Mr.
3 Jones, nobody wins. In fact, both sides have lost. You've
4 lost a son, and this side over here is fixing to lose their
5 son for an awfully long time. Nobody wins. Everybody loses.
6 Let me ask, does he have any credit for the time that he's
7 been in?

8 MR. MOBLEY: He's been in jail since he's been
9 arrested, Your Honor,

10 THE COURT: What date was that?

11 MR. MOBLEY: The date?

12 MS. FULLER: June 24th.

13 MR. MOBLEY: June 24th.

14 THE COURT: I don't have my computer. Anybody have a
15 ---

16 MS. FULLER: You need a number of days?

17 THE COURT: I do.

18 MS. FULLER: 365 times -- plus 364 -- 9.

19 THE COURT: You mean like tomorrow would be exactly two
20 years?

21 MS. FULLER: Yes.

22 MS. PATTERSON: 729.

23 THE COURT: How much?

24 MS. PATTERSON: 729.

25 THE COURT: And did the Jones family. I hope you

1 accept my condolences.

2 MR. JONES: Yes we do. Yes, Your Honor.

3 THE COURT: I hope you feel like you get some sort of
4 justice out of this. And you probably won't get closure
5 because you're going to think about it for the rest of your
6 life. But I hope you feel them that at least we've gotten
7 justice.

8 All right. Mr. Irvin sent it to the Court. You be committed
9 to the State Department of Corrections for a period of 45
10 years. I'll give you credit for your 729 days.
11 Court's adjourned.

12 MR. MOBLEY: (Inaudible), Your Honor.

13 THE COURT: Let me wait (inaudible).

14 MR. MOBLEY: Okay I just to make you leave.

15 THE COURT: (Inaudible). All right. (Inaudible) back
16 on. I can -- I can ---

17 MS. FULLER: I'm still on --

18 THE COURT: (Inaudible).

19 MS. FULLER: I'm still on.

20 THE COURT: Thank you. All right. Mr. Mobley, the
21 jury obviously has already come back and we've sentenced, but
22 you reminded me beforehand we have not made your post-trial
23 motions. So I'll be glad to hear you of that now.

24 MR. MOBLEY: Thank you, Your Honor. May I please the
25 court?

1 THE COURT: Yes, sir.

2 MR. MOBLEY: At this time first, on behalf of the
3 defendant after the defense renews, all prior motions and
4 objections, Your Honor. Next ---

5 MS. FULLER: Sorry. Your client.

6 MR. MOBLEY: Oh, the ---

7 MS. FULLER: His client is not in here.

8 MS. PATTERSON: They just have back ---

9 THE COURT: (Inaudible) in here.

10 MR. MOBLEY: He should be in here.

11 MS. FULLER: I just ---

12 THE COURT: Bring him back (inaudible).

13 MS. FULLER: Sorry. I ---

14 THE COURT: No, I'm glad you said something
15 (inaudible).

16 MS. FULLER: I don't want any ---

17 THE COURT: I was just trying to ---

18 MS. FULLER: I know. I just don't want any future
19 problems. I'm sorry.

20 THE COURT: Whatever -- whatever security says, I'm
21 just -- I'm going to let him hug his mom goodbye.

22 MS. FULLER: And on the father too.

23 THE COURT: Just the parents -- just the parents and
24 nobody else. Don't ask me for anything else. But the mother
25 asks for that, and I think she deserves that.

1 MR. MOBLEY: Thank you.

2 THE DEFENDANT: Thank you. I appreciate that. I
3 really (inaudible).

4 THE COURT: The Mom and Dad.

5 MS. FULLER: Just wait -- just wait.

6 THE COURT: Wait just one second. We're going to bring
7 him out because I got to put something on the record and then
8 I'm going to let him hug his mama and his daddy. They'll
9 take him to Broad River Road. You all can arrange
10 visitation.

11 MR. MOBLEY: As opposed to that.

12 THE COURT: But -- probably (inaudible). Okay. All
13 right, Mr. Irvin, we got to do a quick motion for the record
14 here. All right. We've got the defendant in the courtroom.
15 Mr. Mobley, just for the record's sake, let's start over. We
16 -- you reminded me that you did not make your post-trial
17 motions. I'm going to let you make them now for the record,
18 please.

19 MR. MOBLEY: Thank you, Your Honor. May I please the
20 court? At this time on behalf of the defendant, the defense
21 renews all prior objections and motions in this case, Your
22 Honor.

23 Additionally, Your Honor, the defense moves that the
24 Court set aside the verdict and either direct a verdict of
25 not guilty on the ground defense, insufficiency of evidence,

1 or in the alternative grant the defendant a new trial.

2 THE COURT: Okay. Anything, Ms. Fuller for the record?

3 MS. FULLER: For the record, Your Honor, I believe the
4 enough was there to submit to the jury and the jury got it
5 right.

6 THE COURT: And I -- and I agree. I'll -- I'll sit
7 here through the whole trial. So those motions are denied.
8 Thank you, Mr. Mobley.

9 Mr. Irvin, I'm also going to let you -- your mom ask if
10 she could hug good night so did your daddy. Not like a
11 goodbye. They're taking you to the Department of
12 Corrections, but I'm going to grant that motion. You can
13 give them a hug goodbye. And good luck to you.
14 All right. Court's adjourned.

15 MR. MOBLEY: Thank you.

16 MS. FULLER: Thank you.

17 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED)

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CERTIFICATE OF TRANSCRIBER

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I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 11 of Lexington County, South Carolina, on the 23rd Day of June, 2023.

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

November 8, 2023

Natasha Barrientos

Transcriber

WITNESSES

West Columbia Police Department

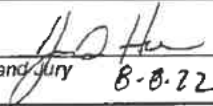
Christopher J Morris

Law Enforcement Case #: 2116645

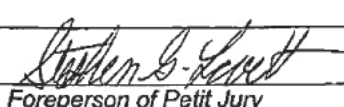
SF

ARREST WARRANT NUMBER

2021A3221100354

ACTION OF GRAND JURY**TRUE BILL**
Foreperson of Grand Jury
Date: 8-8-22

VERDICT


Foreperson of Petit Jury
Date: 6/23/23DOCKET NO. 2022GS3202749**The State of South Carolina**
County of Lexington

COURT OF GENERAL SESSIONS

AUGUST TERM 2022

THE STATE

vs.

Trevor Anthony Irvin

CDR #: 0116

Indictment for

Murder

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

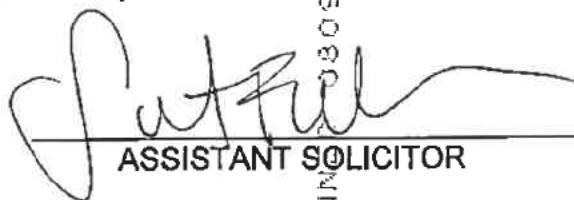
INDICTMENT FOR
 Murder

§ 16-03-0010

At a Court of General Sessions, convened on August 2022, the Grand Jurors of Lexington County present upon their oath:

That **Trevor Anthony Irvin** did, in Lexington County, South Carolina, on or about June 24, 2021, commit the offense of murder in that he did unlawfully kill one ~~Timothy Jones~~ ^{*Timothy Jones*} with malice aforethought, either express or implied, to wit: by means of shooting the victim with a firearm, in violation of section 16-3-10 of the Code of Laws of South Carolina (1976, as amended).

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


 ASSISTANT SOLICITOR

SCANNED 03082022

30 - Life

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 32 - 02749Trevor Anthony IrvinAW#: 2021A3221100354

AKA:

Date of Offense: 6/24/2021Race: Black Sex: 1 M Age: 30S.C. Code §: 16-03-0010DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0116Address: Roblox DriveCity, State, Zip: Columbia, SC 29223DL#* [REDACTED] SID# [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 100730

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 45 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.729 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Trevor Anthony Irvin INDICTMENT/CASE#: 2022 - GS - 32 - 02749

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

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

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ 100
§56-5-2995 (DUI Assessment)	\$12	\$ 12
§56-1-286 (DUI Breath Test)	\$25	\$ 25
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ 41
§50-21-114 (BUI Breath Test Fee)	\$50	\$ 50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 40
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ 500
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ 125.00

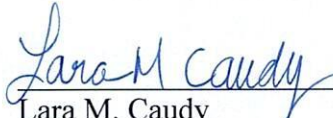
Clerk of Court/Deputy Clerk: Debra McCalister
Court Reporter: Debra McCalisterPresiding Judge: Debra McCalister
Judge Code: 27169
Sentence Date: June 23, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Dec 11 2024****SC Court of Appeals**

Respectfully Submitted,



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 11th day of December, 2024.

RECEIVED

Dec 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

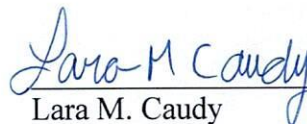
TREVOR ANTHONY IRVIN,

APPELLANT

APPELLATE CASE NO. 2023-001075

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon R. Brandon Larrabee, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 11th day of December, 2024.



Lara M. Caudy
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT