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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANA ANDREW BUTLER, JR.,

APPELLANT

APPELLATE CASE NO. 2024-000343

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) THE FIFTH JUDICIAL CIRCUIT
 2) 2022-GS-40-3746; 3747; 3749
)
 3 COUNTY OF RICHLAND)

4
 5 STATE OF SOUTH CAROLINA,)
)
 6)
) Plaintiff,)
 7)
) TRANSCRIPT OF RECORD
 8 vs.)
)
 9 DANA BUTLER, JR.,)
)
 10 Defendant.)

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February 12, 13 & 14, 2024
 Columbia, South Carolina

B E F O R E:

HONORABLE ROBERT E. HOOD, JUDGE

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Lisa G. Amick
 Official Court Reporter

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1 THE COURT: When your name is called, if you will
2 gather all of your belongings, I want you to walk down this
3 center row right there, and then you'll come down front and
4 then we'll ask each side if they want to keep you or excuse
5 you. Each side gets to get rid of so many people, what I call
6 for free, and there's a fancy legal term for that, but that's
7 the easiest way to analyze it. So if either side excuses you,
8 don't let your feelings be hurt, okay? They have a myriad of
9 reasons for excusing people for all kinds of different reasons,
10 and so no need for your feelings to be hurt. If you'll just
11 walk back to the back of the Courtroom and have a seat.

12 Alright. Everybody good? Alright. Ms. Browder, are you good?

13 MS. BROWDER: Yes, sir.

14 THE COURT: Ms. Bruck, are you good?

15 MS. BRUCK: Yes, sir.

16 THE COURT: Molly, are you good?

17 CLERK: Yes, Your Honor.

18 THE COURT: Okay. Here we go.

19 CLERK: Juror number 327.

20 THE COURT: And you can call out their names.

21 CLERK: Okay.

22 THE COURT: Yes. Michael Vidal. Alright. Thank you
23 very much Mr. Vidal.

24 MR. VIDAL: Yes, sir.

25 THE COURT: Right there. Good job.

1 CLERK: What says the State?

2 MS. BROWDER: Please strike this juror.

3 CLERK: Please have a seat at the back of the
4 Courtroom. Juror number 62, James Cushing. What says the
5 State?

6 MS. BROWDER: Please seat this juror.

7 CLERK: What says the Defense?

8 MS. BRUCK: Please excuse Mr. Cushing.

9 CLERK: Please have a seat at the back of the
10 Courtroom. Juror number 50, Mavis Cagle. What says the State?

11 MS. BROWDER: Please seat this juror.

12 CLERK: What says the Defense?

13 MS. BRUCK: Please seat Mr. Cagle.

14 CLERK: Please have a seat in the jury box. Juror
15 number 87, Deborah Felder. What says the State?

16 MS. BROWDER: Please seat this juror.

17 CLERK: What says the Defense?

18 MS. BRUCK: Please excuse Ms. Felder.

19 CLERK: Please have a seat at the back of the
20 Courtroom. Juror number 346, Frances Winburn. What says the
21 State?

22 MS. BROWDER: Please seat this juror.

23 CLERK: What says the Defense?

24 MS. BRUCK: Please excuse Ms. Winburn.

25 CLERK: Please have a seat at the back of the

1 Courtroom. Juror number 188, Alyssa Markheim. What says the
2 State?

3 MS. BROWDER: Please excuse this juror.

4 CLERK: Please have a seat at the back of the
5 Courtroom. Juror number 98, Felicia Frederick. What says the
6 State?

7 MS. BROWDER: Please seat this juror.

8 CLERK: What says the Defense?

9 MS. BRUCK: Please excuse Ms. Frederick.

10 CLERK: Please have a seat at the back of the
11 Courtroom. Juror number 227, Mark Nuovo. What says the State?

12 MS. BROWDER: Please seat this juror.

13 CLERK: What says the Defense?

14 MS. BRUCK: Please excuse Mr. Nuovo.

15 CLERK: Please have a seat in the back of the
16 Courtroom. Juror number 91, Steven Foote. What says the
17 State?

18 MS. BROWDER: Please seat this juror.

19 CLERK: What says the Defense?

20 MS. BRUCK: Please seat Mr. Foote.

21 CLERK: Please have a seat in the jury box. Juror
22 number 73, Robert Doyle. What says the State?

23 MS. BROWDER: Please seat this juror.

24 CLERK: What says the Defense?

25 MS. BRUCK: Please excuse Mr. Doyle.

1 CLERK: Please have a seat at the back of the
2 Courtroom. Juror number 54, Deborah Caulder. What says the
3 State?

4 MS. BROWDER: Please seat this juror.

5 CLERK: What says the Defense?

6 MS. BRUCK: Please seat Ms. Caulder.

7 CLERK: Please have a seat in the jury box. Juror
8 number 121, James Hall. What says the State?

9 MS. BROWDER: Please seat this juror.

10 CLERK: What says the Defense?

11 MS. BRUCK: Please excuse Mr. Hall.

12 CLERK: Please have a seat at the back of the
13 Courtroom. Juror number 284, Cory Smith. What says the State?

14 MS. BROWDER: Please excuse this juror.

15 CLERK: Please have a seat at the back of the
16 Courtroom. Juror number 312, Loronda Thompson. What says the
17 State?

18 MS. BROWDER: Please seat this juror.

19 CLERK: What says the Defense?

20 MS. BRUCK: Please seat Ms. Thompson.

21 CLERK: Please have a seat in the jury box. Juror
22 number 270, Kate Shelton. What says the State?

23 MS. BROWDER: Beg the Court's indulgence. Please
24 seat this juror.

25 CLERK: What says the Defense?

1 MS. BRUCK: Please seat Ms. Shelton.

2 CLERK: Please have a seat in the jury box. Juror
3 number 311, English Thomas-Payne. What says the State?

4 MS. BROWDER: Please seat this juror.

5 CLERK: What says the Defense?

6 MS. BRUCK: Please seat Mr. Thomas-Payne.

7 CLERK: Please have a seat in the jury box. Juror
8 number 22, Terell Barnaby. What says the State?

9 MS. BROWDER: Please seat this juror.

10 CLERK: What says the Defense?

11 MS. BRUCK: Please seat Mr. Barnaby.

12 CLERK: Please have a seat in the jury box. Juror
13 number 134, Breanna Henry. What says the State?

14 MS. BROWDER: Please seat this juror.

15 CLERK: What says the Defense?

16 MS. BRUCK: Please seat Ms. Henry.

17 CLERK: Please have a seat in the jury box. Juror
18 number 192, James Massey. What says the State?

19 MS. BROWDER: Please excuse this juror.

20 CLERK: Please have a seat at the back of the
21 Courtroom. Juror number 97, Harry Fox. The State has used
22 four strikes, and the Defense has used seven. What says the
23 State?

24 MS. BROWDER: Please seat this juror.

25 CLERK: What says the Defense?

1 MS. BRUCK: Please seat Mr. Fox.

2 CLERK: Please have a seat in the jury box. Juror
3 number 64, Crystal Davis. What says the State?

4 MS. BROWDER: Please seat this juror.

5 CLERK: What says the Defense?

6 MS. BRUCK: Please excuse Ms. Davis.

7 CLERK: Please have a seat at the back of the
8 Courtroom. Juror number 202, Jeri ---

9 THE COURT: Hang on one second. Mr. Coker, did we
10 find a wallet or something.

11 MR. COKER: I did.

12 THE COURT: Does it have any money in it? I'm just
13 kidding. Can y'all check your pants or your jackets and make
14 sure you have your wallet or ID.

15 MR. COKER: It has a VISA card. First name, James D?

16 THE COURT: There we go. I was joking about the
17 money. I'm sorry, let's see, we're on?

18 CLERK: Jeri Knight.

19 THE COURT: Jeri ---

20 CLERK: Juror 202.

21 THE COURT: Thank you, Ms. Edwards.

22 CLERK: What says the State?

23 MS. BROWDER: Please seat this juror.

24 CLERK: What says the Defense?

25 MS. BRUCK: Please seat Ms. Knight.

1 CLERK: Please have a seat in the jury box.

2 Number 176, Ernest Legette. What says the State?

3 MS. BROWDER: Please seat this juror.

4 CLERK: What says the Defense?

5 MS. BRUCK: Please excuse Mr. Legette.

6 CLERK: Please have a seat at the back of the
7 Courtroom. Juror number 277, Miquel Sligh. What says the
8 State?

9 MS. BROWDER: Please seat this juror.

10 CLERK: What says the Defense?

11 MS. BRUCK: Please seat Mr. Sligh.

12 CLERK: Please have a seat in the jury box. Juror
13 number 114, Jakob Gravely. What says the State?

14 MS. BROWDER: Please seat this juror.

15 CLERK: What says the Defense?

16 MS. BRUCK: Please seat Mr. Gravely.

17 CLERK: Please have a seat in the jury box.

18 THE COURT: Alright. We'll pick two alternates;
19 strikes will be one and two on each alternate.

20 CLERK: Juror number 195, Jonathan Mayhak. What says
21 the State?

22 MS. BROWDER: Please seat this juror.

23 CLERK: What says the Defense?

24 MS. BRUCK: Please seat Mr. Mayhak.

25 CLERK: Please have a seat in the jury box.

1 Juror number 253, Andrew Reed. What says the State?

2 THE COURT: Is this guy's name Andy Reed?

3 CLERK: Andrew Reed.

4 THE COURT: No relation? No one gets my joke? Super
5 Bowl?

6 CLERK: I do.

7 THE COURT: Monday after the Super Bowl, you don't
8 get the joke? Andy Reed is the coach. Did you get it, Mr.
9 Reed?

10 MR. REED: I got it.

11 THE COURT: Okay. Thank you.

12 CLERK: What says the State?

13 MS. BROWDER: Please seat this juror.

14 CLERK: What says the Defense?

15 MS. BRUCK: Please excuse Mr. Reed.

16 CLERK: Please have a seat at the back of the
17 Courtroom. Juror number 138, Jennifer Holleman. What says the
18 State?

19 MS. BROWDER: Please seat this juror.

20 CLERK: What says the Defense.

21 MS. BRUCK: Please excuse Ms. Holleman.

22 CLERK: Please have a seat at the back of the
23 Courtroom. Juror number 353, Rhonda Meisner. What says the
24 State?

25 MS. BROWDER: Please excuse this juror.

1 CLERK: Please have a seat at the back of the
2 Courtroom. Juror number 133, Norman Hennessy. Does the State
3 challenge for cause?

4 MS. BROWDER: No.

5 CLERK: Does the Defense challenge for cause?

6 MS. BRUCK: No.

7 CLERK: Please have a seat in the jury box.

8 THE COURT: Alright. Any exception to the jury
9 selection process from the State?

10 MS. BROWDER: No, sir.

11 THE COURT: From the Defense?

12 MS. BRUCK: No, Your Honor.

13 THE COURT: Okay. Alright. Ladies and gentlemen, if
14 you're in the audience, congratulations, you did not make it on
15 this jury. You will be on a call back number for the rest of
16 the week. So you will head back down to the jury assembly
17 room, they'll give you that information, I will probably not
18 see any of you for the rest of the week. So I do want to say
19 thank you for being here and being willing to serve. But if
20 you'll head back downstairs to the jury assembly room for your
21 final instructions for the day, thank you.

22 (Non-jurors exiting Courtroom.)

23 THE COURT: Let me get them out of the room then I'm
24 going to give you about 10 minutes worth of information then
25 you're going to be done for the day, okay?

1 (Off the record.)

2 THE COURT: Okay. Alright. Ladies and gentlemen, if
3 you will give me 10 minutes of your undivided attention, I'm
4 going to give you some rules and a frame work of how things are
5 going to work and then I'm going to show you where your jury
6 room is, show you how to come in, show you how to go out and
7 then you're going be done for the day, okay? So you are now
8 the jury in this case, and I need to explain to you what I
9 would call the rules and the guidelines that are going to be in
10 place. When you come back tomorrow morning, I'm going to give
11 you more detailed set of rules, but from this point forward,
12 the rules I'm about to give you are in place, okay? Let's
13 start with who is who in the room, okay? So my name is Robert
14 Hood, I will be your Judge over the case, I will tell you when
15 you should show up, when you're free to leave, all those good
16 things. From now on you listen to me for when you're supposed
17 to be here and when you're supposed to be back and all that
18 good stuff, okay? Right over here to my right, this is Ms.
19 Lisa Amick, she is our Court reporter, she is taking down every
20 single word we say in the Courtroom, so she is very important
21 to what we are doing here, this is what we call a Court of
22 record where everything is taken down. And so if during the
23 trial you see me referee people or referee attorneys, or
24 sometimes I'll say shhh, or stop talking. Everybody will get
25 an opportunity to speak, but we can't all speak at the same

1 time. She can only take down one voice at a time. We want her
2 record of what occurs in here to be as accurate as humanly
3 possible, so if you see me kind of referee people, I'm not
4 trying to cut them off nor am I trying to keep them from
5 speaking, I'm just trying to keep everybody from speaking at
6 one time because that's impossible to take down, okay? Right
7 down below me, this is Ms. Edwards, she's with the clerk's
8 office, this is Molly, she'll be swearing in witnesses and
9 helping with the exhibits and those kind of good things.
10 Normally, I have a law clerk next to me who is someone who's
11 graduated from law school and taken the bar exam and then they
12 work for me for a year. She is not here this week, so I am law
13 clerk-less which means I may have to actually turn on the
14 computer and figure out how to do some things which is its own
15 challenge in and of itself, so just bear with me. I usually
16 don't have a computer or anything with me because I have a law
17 clerk that does all that stuff, so if I look like I'm trying to
18 figure out where something is that's because I'm law clerk-
19 less. While this case is going on, I'm also the Chief
20 Administrative Judge for the entire circuit which means I have
21 responsibility for some, whole lot of cases, too many to count,
22 so while this is going on, there's a hundred other fires that
23 need my attention and things that need my signature and people
24 that are waiting on me to sign something or waiting on me to
25 get to something. And so, you know, that's just kind of part

1 of it, and just how it works, so you don't need to read
2 anything into that. Your bailiffs for this proceeding, right
3 here is Ms. Sutton, Ms. Sutton, raise your hand, this is Mr.
4 Smith right here, Mr. Coker, raise your hand, and then Mr.
5 Bowen in the back, okay? This is the only time all four of
6 them will be awake, okay? I'm just kidding, I'm kidding. They
7 pick on me, I pick on them, we have a very deep love for each
8 other because we do this every single week. They're going to
9 take good care of you, they'll show you how to come in, they'll
10 show you how to go out, they're going to take your phones from
11 you during the day, they'll give them back to you for lunch and
12 for overnight. They'll also collect your phone numbers for
13 you, and that's not for public dissemination, that's just in
14 case we can't find you for some reason, we're going to start
15 calling you, so we'll need the best number for you. That
16 number isn't for anybody else to see other than us for the
17 purposes of trying to find you. Okay. Rule number one, most
18 important rule, if you haven't been listening to me, now is the
19 time to start listening. I'm going to start with this rule
20 because while it is the number one rule and it is the most
21 important rule, it is the most confusing rule, so that's why
22 we're going to start with that. And that is this, every single
23 one of you, all 14 of you have told me you don't know anything
24 about this case, and you don't know anyone involved in the
25 case, okay? And when you come back tomorrow morning, I want

1 you the same way, okay? So we have these rules that we put in
2 place, sometimes people need to understand why do we have these
3 rules, that's why we have these rules. So you are not allowed
4 to talk about this case or discuss this case with anyone and
5 that includes each other, okay? You all can talk about how
6 awesome the Gamecock Women's Basketball Team is, you can talk
7 about how amazing the men's basketball team is doing this year,
8 you can talk about the weather, you can talk about your kids,
9 you can talk about school, you can talk about your jobs, you
10 can talk about whatever you want to talk about, just don't talk
11 about this case and don't let anybody talk to you about the
12 case, okay? Now, you all don't know anything about the case,
13 okay? So when you come back tomorrow morning, I want you the
14 same way, okay? So don't talk about the case, and that
15 includes Facebook, text message, some kind of app, some kind of
16 blog, whatever, any of that stuff, I don't even know what it
17 is. No communication about the case with anyone. You can tell
18 people you're on a criminal case and you're here for jury duty,
19 but nothing else about the case. When I was in Darlington a
20 few weeks ago, I give this same spiel every time, right? I
21 gave them the same spiel. The next morning a juror came in and
22 says, I went to see my mom at the nursing home, and I told her
23 I was on a jury, and this is who the Defendant was, and her
24 main nurse is the Defendant's mother, right? So boom, there we
25 are, I have a whole issue I've got to deal with because if she

1 had just done what I told her to do which is don't discuss the
2 case with anybody, it would have never been an issue, okay? So
3 don't discuss the case with anybody in any way, shape, or form.
4 Number two, don't do any research on the case, okay? Now, when
5 I started trying cases 20 years ago, and a little bit longer
6 than 20 years ago, but 20 years ago, this wasn't an issue,
7 right? Because you didn't have a computer in your phone or in
8 your purse that you were carrying around with you everywhere
9 that had access to anything in the world that you can imagine,
10 okay? But in today's world, we live in a world where Dateline
11 NBC is on 24-7. Some podcaster is doing a podcast about some
12 crime somewhere in Iowa and people get invested in those cases,
13 and people listen to the podcast, and they read books about it
14 and it's like they become their own investigator in the case,
15 okay? That is not what we are doing here. You are a juror,
16 you're going to hear whatever they want for you to hear from
17 the witness stand, from the evidence in the case. And so you
18 shouldn't be out investigating the case or trying to figure out
19 the case or, you know, I tell people in car wreck cases, don't
20 even drive by the intersection where it occurred. Why?
21 Because you don't know that what that intersection looks like
22 today is what it looked like on the date of the accident,
23 right? Trees get cut down, trees grow, things get
24 reengineered, all kinds of things can happen. So we don't want
25 any outside influences to be influencing you in this matter.

1 Now, there's no news media in the Courtroom, so you're welcome
2 to watch the local news tonight if you want to, but you
3 shouldn't be doing any historical news searches on this case or
4 trying to figure out what the news says. And I say that as
5 someone who's in the news media all the time, okay? I was in
6 the news media a lot when I was a trial lawyer and I've been in
7 the news media as a Judge more than I care to remember, and
8 very rarely is the news media's recitation of what happened in
9 Court actually what happened, okay? And so you're going to
10 have an eyewitness seat to the testimony and the evidence in
11 the case, you don't need to be looking up the news media
12 accounts about this case. And again, there's no news media in
13 here, so I don't expect it to be the lead story on the nightly
14 news or anything like that. If that changes, I'll let you know
15 and I'll tell you not to watch the local news, but you
16 shouldn't be doing any historical search on the case. Next
17 thing is you shouldn't have any contact with anybody involved
18 in the case, okay? So all the lawyers and all the witnesses
19 are going to be told to ignore you, they shouldn't even be
20 saying hi to you or hello to you, they should act like you
21 don't exist. So if you see somebody and they ignore you,
22 they're not being rude, they're just merely following my
23 instructions. So no contact with anybody involved in the case.
24 And the last thing, or almost the last thing is this, I need
25 you to be on time, okay? Some of you may have a reputation in

1 your family of being perpetually late where people say things
2 like we need to lie to him about what time things start so we
3 can start on time or she'll be late to her own funeral, okay?
4 If you're one of those people, this is your week to turn over a
5 new leaf, okay? So I promise to make the best and the most
6 efficient use of your time possible, but that all starts with
7 all 14 of you being here. So if one of you decides not to come
8 on time, the other 13 of you are sitting here plus all the
9 Court staff, plus all the lawyers, plus all the witnesses. So
10 you're literally making about 35 people wait on you, and I
11 can't do anything until you all get here, okay? So I need you
12 all to be here and be on time, okay? And that is very
13 important. So I'm going to release you for the evening. You
14 are not to talk about the case with anyone, you are not to do
15 any research on the case, okay? When you come back, enjoy your
16 Monday night, do whatever it is you normally do on Monday
17 night, when you come back tomorrow, I want you the same way.
18 Generally speaking, Court will run from 9:30 till about 5. If
19 we get to 5 and the next witness is short, we'll do the next
20 witness. If we get to 5 and the next witness is long, we'll
21 stop and go home for the day and start the next morning. The
22 only exception to that is if we are deliberating. So if you
23 start deliberating in the afternoon then I usually will keep
24 you here into the evening so you can go ahead and finish
25 deliberating and not have to come back for a next day. And

1 I'll give you warning on that so you can call home and let
2 people know where you are, okay? So tomorrow morning, we're
3 going to start at 9:30, 9:30, that means you all to be on time.
4 Where is Ms. Shelton? Okay. Ms. Shelton, you're going to be
5 the foreperson of this jury. You don't get paid any extra and
6 your vote doesn't count any more, but somebody's got to be in
7 charge of communicating with me. So when we come in in the
8 morning, you need to be seated where Mr. Cagle, Mr. Cagle,
9 raise your hand, you two in the morning, not right now, you sit
10 in that seat. The rest of you can sit anywhere on the front
11 three rows that you want. My two alternates always need to be
12 on the back row, okay? Courthouse temperatures, okay? They're
13 a very confusing process, okay? I never know whether I'm going
14 to be freezing to death or burning up, okay? And as crazy as
15 it sounds, no one in the building has any control over it, they
16 control it in Atlanta. Don't ask me, I don't make the rules.
17 But if you feel like you need to bring a coat or you want to
18 bring like something to wrap around your shoulders if you're
19 cold, that's fine, you bring it, you can use it, if you don't
20 need it, that's fine, too. But I have little control over
21 Courthouse temperatures, okay? Everybody with me? Okay. So
22 we're going to start tomorrow morning at 9:30, please be on
23 time. You're going to head out this door right here, follow
24 Mr. Bowen, and we'll see you at 9:30. Thank you very much.

25 (Jurors exiting Courtroom.)

1 THE COURT: Alright. Y'all want to take a short
2 break and then we'll do pretrial?

3 MS. BROWDER: That's fine.

4 THE COURT: Good?

5 MS. BROWDER: Yes, sir.

6 THE COURT: Good?

7 MS. BRUCK: Yes, sir.

8 THE COURT: Okay. Let's take about a 10-minute
9 break, and then we'll come back in and knock out pretrial
10 motions.

11 (Off the record.)

12 THE COURT: Alright. Any pretrial that we need to
13 take up from the State?

14 MS. BROWDER: Thank you, Your Honor. A couple things
15 I think we've agreed upon is settling the record of the State's
16 witnesses. The only one that has a record that will be
17 testifying will be Benjamin Green. And I've spoken with Ms.
18 Pringle, we agree that a 2012 ABHAN, discharging a firearm into
19 a dwelling, possession of a weapon during a violent crime, and
20 2016 contraband should be admissible.

21 THE COURT: Okay.

22 MS. BROWDER: We'd also like to renew all Rule 5 and
23 specifically Rule 5 discovery motions. We have handed over
24 everything to the Defense. As we have spoken with witnesses,
25 we have continued to supplement that with anything they may

1 have added or that had changed. We have not received anything
2 from the Defense at this point, so if there is anything, maybe
3 we should be entitled to it.

4 THE COURT: Okay. Ms. Bruck?

5 MS. PRINGLE: Your Honor, we recognize and
6 acknowledge, of course, our obligations under Rule 5, we don't
7 have anything.

8 THE COURT: Okay. Alright.

9 MS. BROWDER: We've also stipulated to chain, Your
10 Honor. There is a video of the incident from SCDC, my
11 understanding the Defense is stipulating to the chain on that
12 so that we would not have to call those witnesses. In
13 addition, we have stipulated to photographs that the Defense
14 has taken from SCDC, so they do not have to call the witness to
15 testify they took the pictures.

16 THE COURT: Okay.

17 MS. BROWDER: And then lastly from the, I guess we
18 can deal with the Defendant's prior convictions later, but we
19 do understand, I guess, we need to discuss his current status.
20 He's currently still in SCDC, he is at Alvin Glenn Detention
21 Center now for purposes of trial. He is in on a murder
22 conviction, Your Honor. I'm not going to sit here and pretend
23 to try to say that we should be able to get the murder
24 conviction in in our case in chief. Obviously, they're going
25 to know he's an inmate, but if he does take the stand, we would

1 like to be able to ask him you're, or you have a conviction for
2 a violent felony because I do believe that should be admissible
3 as to his prior record. We wouldn't be able to say murder
4 because that would be prejudicial since this is also a murder
5 case, Your Honor. However, if the door were to be open if he
6 were to take the stand, this is self-defense or his
7 peacefulness or something of that nature, we believe we should
8 be able to get into it at that point, but I believe we can take
9 that up at that time.

10 THE COURT: Alright. Right now, we're not, no one
11 from the State is saying he's in on a murder charge?

12 MS. BROWDER: Correct.

13 THE COURT: Okay.

14 MS. BROWDER: And I believe the Defense was asking
15 earlier whether we were going to talk about that he is still
16 incarcerated or not. In our case in chief we don't intend to,
17 however, as they start to lean toward, like, I don't know what
18 their defense is going to be, but if they start to lean toward
19 he's not a bad guy, that sort of thing, or he hasn't had any
20 disciplinaries since this happened, I believe we should be able
21 to get into it because that would open the door as to relevancy
22 as to him still being in ---

23 THE COURT: Right now, the State has no intention of
24 saying he's still in custody ---

25 MS. BROWDER: Correct.

1 THE COURT: --- unless somebody opens the door?

2 MS. BROWDER: Yes, sir.

3 THE COURT: Got it.

4 MS. BROWDER: At this time, Your Honor, we would
5 ask that the victim's prior record not be allowed to be told to
6 the jury. I don't believe it would be relevant at this point
7 unless the Defense lays a foundation for it that the Defendant
8 actually knew what his prior record was and it caused some sort
9 of, I don't know what the defense is, but until the proper
10 foundation's laid, I don't believe the victim's prior record
11 should be given to the jury.

12 THE COURT: Okay. What is the victim's prior
13 record?

14 MS. BROWDER: He was there, I believe, Your Honor, on
15 armed robbery and something else, he was doing life in prison
16 for armed robbery, and I believe ABHAN or attempted murder.
17 And Your Honor, in State versus McCrae, testimony about the
18 victim's criminal record was not relevant for the State and did
19 not open the door regarding his character on testimony as
20 either situation specific and not related to the victim's state
21 of mind at the time or was not so closely connected to the
22 homicide to admit it because the Defendant was not aware of the
23 victim's behavior. So if the Defendant was not aware of what
24 his prior record was, I don't believe it should be able to come
25 in, they would have to lay a foundation for that. And it was

1 assault and battery with intent to kill, Your Honor, kidnapping
2 and strong-armed robbery.

3 THE COURT: Okay. What's Defense's thoughts on
4 that?

5 MS. PRINGLE: With respect to victim's prior record,
6 we don't have any problem with not going into it in State's
7 case in chief. Should that change, we will be sure to alert
8 the Court and make our argument at that time.

9 THE COURT: Yeah. If that changes, then just say,
10 hey, let's take a time out and we can discuss it, just, let's
11 don't just blurt it out, okay?

12 MS. PRINGLE: We'll do that.

13 THE COURT: Okay.

14 MS. BROWDER: And then finally, Your Honor, based on
15 the Defense witnesses that they have handed up, several of them
16 work at McCormick, which is where previously the Defendant, I
17 believe, was, not, the victim was never housed there. Anytime
18 that the Defendant was, I'm not even sure the victim was ever
19 housed there, but of course I'm speculating here because I
20 don't know what their defense will be, but my guess is it would
21 go into the fact that the Defendant had been stabbed previously
22 at McCormick, it had nothing to do with this particular victim.
23 We don't believe they should be able to get into that until
24 it's maybe relevant, until they lay the foundation for why that
25 is relevant, that was in 2016, it was in a different

1 institution, and it had nothing to do with our victim, Your
2 Honor.

3 THE COURT: Okay. And Mr. Doyle was never at
4 McCormick?

5 MS. BROWDER: Correct.

6 THE COURT: Okay.

7 MS. PRINGLE: Judge, we understand, we're well aware
8 that we would have to lay a foundation for the relevance with
9 any of that type of information or testimony. Same thing, I
10 don't see any reason why that would come up during the State's
11 case in chief, should that change, we will be sure to alert the
12 Court if it does change.

13 THE COURT: Okay. Anything else from the State?

14 MS. BROWDER: No, sir.

15 THE COURT: And did y'all agree on Mr. Green's
16 record?

17 MS. PRINGLE: We did, and I can go ahead and say that
18 if you'd like.

19 THE COURT: She said 2012 ABHAN, discharging a
20 firearm, possession of a weapon during a violent crime, and a
21 2016 contraband?

22 Ms. PRINGLE: You got it.

23 THE COURT: Okay. Perfect. I just didn't hear a
24 response to that, so I was just double checking. Okay. Any
25 further pretrial motions from the State?

1 MS. BROWDER: Beg the Court's indulgence. No, sir,
2 that's it.

3 THE COURT: Okay. And pretrial motions from the
4 Defense?

5 MS. PRINGLE: Just very briefly, Judge. We have
6 agreed to most of the issues, as you can see. We do renew our
7 Rule 5 motion at this time as well and request for information
8 under Brady versus Maryland and Riddle v. Osmint. I know Ms.
9 Bruck and Ms. Browder and I as well have met and gone over
10 everything, but we just want to ensure that is an ongoing
11 obligation for the record.

12 THE COURT: Alright. That is an ongoing obligation
13 and I believe the State understands that?

14 MS. BROWDER: Yes, sir.

15 THE COURT: Okay.

16 MS. PRINGLE: Number two on our list has been
17 covered. Our understanding it's just Mr. Green.

18 THE COURT: Okay.

19 MS. PRINGLE: Number three, we would just ask that
20 the witnesses be sequestered.

21 THE COURT: Okay. And would the State like that
22 to be reciprocal?

23 MS. BROWDER: Yes, sir, Your Honor. And with
24 the exception of our chief investigator, Laura
25 Cesares.

1 THE COURT: Okay. And next?

2 MS. PRINGLE: The other two things are really the
3 things that Ms. Browder already addressed that we agreed to.
4 That no mention that he is still incarcerated, no mention of
5 prior disciplinaries, and no mention of his, the conviction
6 that he had at that time, of course, don't ask for murder and
7 armed robbery during the case in chief. I understand that that
8 can change, but unless that were to change ---

9 THE COURT: And the State has no intensions of
10 introducing that in the, in your ---

11 MS. BROWDER: Correct ---

12 THE COURT: --- case in chief? And if something does
13 change, we'll have a conversation about it before we say it?

14 MS. BROWDER: Yes, sir. And just, I guess, I feel
15 like this would be obvious, but obviously, we can say he was an
16 inmate at that time, but ---

17 THE COURT: Right. But not, he was, not what he was
18 in for.

19 MS. BROWDER: Correct.

20 MS. PRINGLE: And finally ---

21 THE COURT: But it's not going to be a secret that
22 this occurred at the prison, right?

23 MS. BROWDER: Right.

24 THE COURT: Okay.

25 MS. PRINGLE: We're not seeking to exclude that.

1 THE COURT: Okay.

2 MS. PRINGLE: Judge, just to put on your radar, I
3 mean, we anticipate, I'm not making this motion at this moment,
4 but just to put on the radar of the Court that we are going to
5 ask, we think, that the jury be permitted to visit the scene.
6 It is a dorm, Monticello unit out at Broad River. We have
7 visited it, found it to be extremely interesting and
8 informative. There's a video that will be very central to this
9 case and the video and the scene, the interplay between those
10 two things, we think that we may be asking for that, I just
11 kind of wanted to put it on your radar.

12 THE COURT: Okay. If that's a consideration,
13 somebody's going to have to get on the phone with somebody
14 really important at the department of correction and somebody's
15 going to have to get on the phone with the captain here. I
16 mean, doing that is a colossal undertaking, it's not going to
17 happen in a matter of hours, that's going to take days of
18 preparation.

19 MS. PRINGLE: And we, that's why I thought I would go
20 ahead and say that. We did, when we visited the scene, we were
21 with Christina Bigalow, I don't know if ---

22 THE COURT: Right. I know, the general counsel for
23 SCDC.

24 MS. PRINGLE: Yes, sir. And the warden, Kenneth
25 Nelson, was with us. We did have an informal conversation with

1 Ms. Bigalow about how that would transpire, what they would
2 need, and her response was, if we have a Court order, we'll
3 make it happen. Obviously, that was an informal conversation,
4 but we just wanted to put that on your radar.

5 THE COURT: If y'all are really considering that,
6 y'all need to be on the phone with them today.

7 MS. BROWDER: And Your Honor, we would be objecting
8 to this, I think a decision would need to be made as to that.

9 THE COURT: What's the objection?

10 MS. BROWDER: Your Honor, we don't believe it's
11 necessary. Jury during the crime scene is handled by statute
12 14-7-1320, it says the jury in any case may be taken to view
13 the place or premises in question, etcetera, etcetera, when it
14 appears to the Court that such view is necessary to a just
15 decision. It's our position it's not necessary for several
16 reasons, Your Honor. Under State v. McHoney, there was a
17 murder prosecution, the Judge denied the jury visiting the
18 crime scene, even though the jury wanted to see the scene,
19 because, indicating it was unnecessary. There were photographs
20 of the area admitted into evidence that indicated what they
21 wanted to see and what witnesses testified regarding what they
22 wanted to see. In this particular case, there are pictures,
23 there's also a video, Your Honor, and people will be testifying
24 as to the area. In addition, in State v. Brown which is 389
25 S.C. 84 the trial court did not abuse its discretion by

1 refusing to permit a jury a view of the crime scene, namely the
2 house where the Defendant lived with his mother and his
3 stepfather whom he killed. The State had introduced a diagram
4 and pictures that showed the home, the jury knew the diagram
5 was not drawn to scale, but it portrays the layout of the house
6 and thus the jury was not misled or confused regarding the
7 layout of the area. In addition, Your Honor, just regarding
8 the logistics of it, the pure logistics would be a nightmare
9 between getting the jurors there, getting the jury through
10 security. The question would then be would the inmates be
11 there. If they were not there, where are they going to move
12 all those inmates to.

13 THE COURT: Okay. Where did the crime allegedly

14 ---

15 MS. BROWDER: Monticello dorm, B side.

16 THE COURT: So it occurred in a dorm?

17 MS. BROWDER: Yes, sir.

18 THE COURT: At Broad River Correctional ---

19 MS. BROWDER: In the main area.

20 THE COURT: But not on the yard? Not in a medical
21 facility? Inside of a dorm that normally houses more than 50
22 people?

23 MS. BROWDER: Yes, sir. And at that time ---

24 THE COURT: Did it happen in a room?

25 MS. BROWDER: No, sir. It was in the main area,

1 what they call ---

2 THE COURT: In the main ---

3 MS. BROWDER: --- a block.

4 THE COURT: --- congregating area?

5 MS. BROWDER: Yes, sir.

6 THE COURT: Okay.

7 MS. BROWDER: In addition, if the inmates are there,
8 you know, obviously, they're going to be in cells, and to be
9 frank, I mean, I've been in a prison ---

10 THE COURT: I've been inside a prison plenty of
11 times.

12 MS. BROWDER: Right. And when women go inside a
13 prison, some men tend to get excited about that and that would
14 not ---

15 THE COURT: Alright. Do you have McHoney and Brown?

16 MS. BROWDER: I don't have them printed for you, Your
17 Honor.

18 THE COURT: Okay. If you could print those for me
19 and print that statute for me, too.

20 MS. BROWDER: And then also State v. Spinks, Your
21 Honor, I'll print that as well ---

22 THE COURT: Okay. Print anything you want me to read
23 on it.

24 MS. BROWDER: Okay.

25 THE COURT: And same for the Defense. Print

1 anything you want me to read on it for tonight and just slide
2 it under the door in the morning.

3 MS. BROWDER: And then just, Judge ---

4 THE COURT: I don't know that I can make a decision
5 until I see what the other evidence is, and how it, how it
6 processes through things, but ---

7 MS. BROWDER: And then just the last thing, Your
8 Honor. We don't believe it would be the same as the scene on
9 that day, that day inmates were around. Nothing's changed
10 between then and now as to what the scene looks like, it's
11 still the same dorm in the pictures, and video will show that,
12 and we don't believe it's necessary to take them out there.

13 THE COURT: Okay. Alright. But I'm not going to
14 rule on it until I see how the evidence plays out but get me
15 those cases. Is there any other cases or statutes you want me
16 to read?

17 MS. BROWDER: No, sir.

18 THE COURT: Alright. What else from the Defense?

19 MS. PRINGLE: I believe that's it.

20 THE COURT: Okay. Alright. A couple things, I don't
21 know who the witnesses are, so if somebody walks in the back
22 room and they're not supposed to be here, somebody tell me or
23 somebody tell one of the bailiffs so we can set them outside.
24 I don't think I recognize hardly any name on the witness list
25 at all, so y'all need to help me with that. Some of you have

1 tried a case with me before, some of you have not, so let's go
2 over just some basic ground rules. You're welcome to move
3 around the Courtroom as you need to, if you want to use the
4 podium, use the podium, if you don't want to use the podium, it
5 doesn't bother me. We do need to make sure that the Court
6 reporter can hear you and the jury can hear you. You don't
7 need to ask my permission to approach a witness, if you need to
8 approach a witness, just do it. If you need to take a moment
9 to talk with co-counsel at the end of questioning, that's fine,
10 just say, you know, Judge, can I have just a second, there's no
11 problem with that. You know, we don't need to make it some,
12 we're all adults, we all know what we're doing, I'm not saying
13 to be informal, I'm just saying, you know, if you need to get
14 up to move to see a picture, get up and move to see a picture,
15 you don't have to ask me 17 times to do that. I want you to
16 feel free to move around the Courtroom as you need to. If you
17 need to approach, just say, hey, can we approach real quick.
18 And all that will be perfectly fine. Okay. Anything else from
19 the State?

20 MS. BROWDER: No, sir.

21 THE COURT: Anything else from the Defense?

22 MS. BRUCK: No, Your Honor.

23 THE COURT: Alright. And you'll have your witnesses
24 ready to role in the morning?

25 MS. BROWDER: Yes, sir.

1 THE COURT: Okay. 9:30, 9:30, 9:30. Thank you.

2 (Whereupon the hearing ended at 4:12 pm.)

3 **DAY TWO OF STATE V. BUTLER - FEBRUARY 13, 2024**

4 THE COURT: Alright. Good morning, everyone. We're
5 on the record in the State versus Dana Bulter, Jr. Is there
6 anything from the State before we get into opening statements?

7 MS. BROWDER: Yes, sir. Yesterday when we
8 sequestered witnesses, I spoke with the Defense. They're okay
9 with our in-house investigator, Nikki Acerra also being in the
10 Courtroom ---

11 THE COURT: Okay.

12 MS. BROWDER: --- in addition to Investigator
13 Cesares, so I just want to put that on the record because she
14 will be in and out of the Courtroom.

15 THE COURT: Okay.

16 MS. BROWDER: And then also, I know we had stipulated
17 yesterday with the photographs that the Defense had taken, we
18 have not received those photographs, so if they intend to put
19 them in either in their case in chief or during our case, I
20 feel like we should have the opportunity to see those and have
21 those before that happens.

22 THE COURT: Okay. What's the plan for the photos?

23 MS. BRUCK: We will get those to them on a break. It
24 wouldn't be early in the case.

25 THE COURT: Okay. Anything else from the State?

1 MS. BROWDER: No, sir.

2 THE COURT: Anything from the Defense before we
3 start?

4 MS. BRUCK: No, Your Honor.

5 THE COURT: Okay. Alright. Very good. Alright. If
6 you're in the Courtroom, welcome, I'm glad you're here, happy
7 for you to be here. I need you to make sure your phone is on
8 off or on silent. If your phone goes off during Court, we will
9 take it from you, and you will not have it for at least the
10 rest of that day, so please double check right now. This case
11 is very important, there are interested parties here, we don't
12 want the jury to have the distractions of your phones going off
13 while you're in the Courtroom, so make sure they are on off or
14 silent, if they go off, we will take them from you. Okay.
15 Let's bring them in, Mr. Coker.

16 BAILIFF: Yes, sir.

17 (Jury entering Courtroom.)

18 THE COURT: If you're in here now, I would ask that
19 you stay in here through the conclusion of the opening
20 statements, it's very distracting when people in the audience
21 get up and leave, the jurors just turn their heads. So if
22 you're in here to watch opening statements, that's great, I'm
23 happy for you to be here, just wait till both of them have
24 finished and then if you want to slide out, that would be the
25 appropriate time, okay? Please.

1 BAILIFF: Jurors are seated, Your Honor.

2 THE COURT: Alright. Thank you, Mr. Coker. Alright.
3 Good morning, ladies and gentlemen, thank you very much for
4 being on time, that is much appreciated. We are here and ready
5 to go this morning. We did some work yesterday on the case
6 after you all went home, so I try to do as much work that I
7 need to do outside of your presence on other things that come
8 up so that we can be more streamlined when things are here in
9 Court. So we did finish out the day on some work on the case,
10 and so the first thing you're going to do this morning is
11 you're going to be sworn in. Now, yesterday you took an oath,
12 that oath was to tell me the truth. Today you're going to take
13 an oath, and this oath is different, this oath is your promise
14 to me, to yourselves, to each other, to the lawyers, to the
15 parties that you will try this case fairly and impartially
16 without any biased or any prejudiced towards either side, so if
17 you will please stand and raise your right hand. And at the
18 end of this oath, if you accept it, if you'll please state I
19 do. You may swear in the jury.

20 CLERK: Do you swear or affirm that you shall well
21 and truly try, and true deliverance make between the State of
22 South Carolina and the Defendant at bar whom you shall have
23 been charged and a true verdict give according to the law and
24 evidence so help you God?

25 JURORS: I do.

1 CLERK: Thank you. Please have a seat.

2 THE COURT: Alright. Thank you very much. So before
3 we begin the actual trial of the case, I thought it might be
4 helpful to you to explain to you how a trial will work. So
5 first, the State or the solicitor's office will be allowed to
6 make an opening statement. Now, opening statements are not
7 evidence, they're just outlines to help you understand what
8 that party expects the evidence will show. The Defendant may
9 make an opening statement if he chooses to, but he does not
10 have to for reasons that I'm going to explain to you in just a
11 moment. Following the opening statements, you will hear the
12 testimony and the evidence in the case. This will consist of
13 testimony from the State's witnesses as well as any physical
14 exhibits which may be introduced into evidence. Following the
15 completion of all of the testimony, the attorneys will again
16 have an opportunity to come before you and make what are called
17 closing statements or closing arguments. And this is an
18 opportunity for the attorneys to summarize the case from their
19 respective points of view. Again, opening statements, closing
20 arguments are not evidence. At the end of that, I will then
21 explain the law to you as it applies to the issues that have
22 arisen during this case. Once I have done that, at the very
23 end of the case, I will give you a very specific sign that
24 triggers when you can start deliberating and talking about the
25 case. Now, you are the jury in this case, and I need to make

1 sure you understand your job or your duties. And so at the end
2 of the case, I will give you a more detailed set of
3 instructions and those instructions will help control your
4 deliberations. So what's your duty? It's your job or your
5 duty to decide from the evidence what the facts are. You and
6 you alone are the judges of the facts, so you will hear the
7 evidence or if it's an exhibit you may see it or hear it. You
8 will then decide what the facts are and then you will apply
9 those facts to the law that I give you, and that's how you'll
10 reach a verdict. In doing so, you must follow the law that I
11 give you whether you agree with it or not. So what is
12 evidence? Evidence will consist of the testimony of the
13 witnesses and any documents or exhibits or anything else
14 received into evidence as an exhibit and any facts on which the
15 lawyers agree or anything that I tell you you must accept. Do
16 not take anything that I do or that I say as indicating what I
17 think of the evidence or what I think your verdict should be.
18 So this is a criminal case, as I told you yesterday, brought by
19 the State of South Carolina, they have charged the Defendant
20 with three charges. The first is murder, the second is
21 carrying a concealed or concealing a weapon by an inmate, and
22 the third is possession of a weapon during the commission of a
23 violent crime. Now, I read these indictments to you yesterday,
24 it's a reminder that these indictments are not evidence of
25 anything, they're not proof of anything, they're simply the

1 documents which give this Court the authority to hear this
2 case. The Defendant has pled not guilty to these charges, and
3 he is presumed innocent unless and until proven guilty beyond a
4 reasonable doubt. So what is proof beyond a reasonable doubt?
5 Proof beyond a reasonable doubt is proof that leaves you firmly
6 convinced of the Defendant's guilt. A Defendant has a right
7 not to testify and never has to prove innocence or present any
8 evidence at all. The burden of proving this case is upon the
9 State of South Carolina. Now, in this trial, you are going to
10 hear things and you are going to see things which appear to be
11 evidence, and they're not really evidence, so let's go over
12 what is not evidence. The statements and the arguments of the
13 attorneys are not evidence. The questions that they ask and
14 the objections that they raise are not evidence, and number
15 three, anything that I tell you to disregard. So what happens
16 sometimes is somebody says something that they weren't supposed
17 to say, and what I say is disregard what she just said,
18 whatever it is, okay? And I struggled with this as a lawyer,
19 like, how are the jurors supposed to erase it from their mind,
20 you don't have, there's not a backspace button in your brain to
21 kind of remove whatever you just saw or whatever you just
22 heard. And I really struggled with it for a long time because
23 it's, like, you can't undo it, okay? Here's the difference,
24 you don't have to erase anything that I tell you to disregard
25 from your mind, but when it comes time to decide your verdict,

1 whatever that statement is or whatever that exhibit showed that
2 I told you to disregard, that's not part of the equation, okay?
3 So you don't have to erase it, it's just not a factor to be
4 considered by you during your deliberations. So there's two
5 kinds of evidence that you may hear, direct evidence and
6 circumstantial evidence. Direct evidence is what somebody saw,
7 heard, did, touched, sensed by smell, something of that nature.
8 Circumstantial evidence is indirect evidence, that is it is
9 proof of one or more facts from which you can then find another
10 fact. The law allows you to consider both direct evidence and
11 circumstantial evidence, you're allowed to give equal weight to
12 both of those. Now, throughout this trial there are rules that
13 govern everything that we do, okay? So rule book number one,
14 right? When I go teach law students, I say we don't go to
15 Court, any Court, without this book, okay? This is the rules
16 of Court, so this has all the rules of criminal procedure, all
17 the rules of evidence in it, we don't go anywhere without this
18 book, okay? And I then have my own evidence book which I've
19 created over the years, and every time I go to a class and
20 learn something new, it goes in this book, it's got tabs all
21 over it, it's got handwritten notes all over it. Okay. These
22 two books control everything that we're doing in this
23 Courtroom, okay? I'm not just making this up, okay? There's
24 an order to who goes first, who goes second, who gets to go
25 last, all those good things have rules that apply to them,

1 okay? So here's what happens, when a lawyer asks a question of
2 a witness or let's say they offer an exhibit, for example, a
3 picture and a lawyer on the other side says to themselves, I
4 don't think that's allowed under the rules, okay? So that
5 lawyer can stand up and say, objection. Now, you've seen this,
6 right? In movies, in TV, or you've read it in books, okay?
7 They'll say objection, and they'll call out a rule number, they
8 may call out, they may say, hearsay, they may say relevance,
9 they may say, 403, they may say, 404(b), all these rules have
10 numbers, right? And that's why I keep the books with me
11 because I'm not just going from my memory as we process through
12 these things. So here's what happens, if I sustain that
13 objection, then the witness is not allowed to answer the
14 question or if it's an exhibit, you're not allowed to see the
15 exhibit. If I overrule the objection, then the witness is
16 allowed to answer the question, or if it's an exhibit, you're
17 allowed to see it, okay? Here's what you can't do, any time
18 that I keep a witness from saying something or I keep you from
19 seeing an exhibit, you can't guess or speculate what the
20 exhibit would have been or what the person would have said,
21 okay? There are rules that govern everything that we do, and
22 we all know what the rules are and we're all playing by those
23 rules, okay? Now, there will be occasions when certain legal
24 issues come up, the law says that I have to decide those issues
25 without you in the room. So a lawyer may stand up and say, we

1 have a matter of law we'd like to take up outside the presence
2 of the jury, okay? This happens in almost every single trial.
3 When that happens, I'll send you back to your jury room, I'll
4 figure out the legal issue then I'll bring you back in.
5 Nobody's trying to keep anything from you or hide anything from
6 you, but the law requires that certain issues I have to decide
7 without you being in the room. Now, I give this analogy and an
8 analogy makes a lot of sense to me, and I do a lot of mock
9 trials because I do a lot of mock trials for lawyers across the
10 state. I actually created my own mock trial that I do here in
11 this Courthouse where we bring in jurors and we get to watch
12 jurors deliberate and it's a lot of fun. And so the feedback,
13 one of the feedbacks that I've gotten from that is, we don't
14 understand your analogy, okay? But I'm hoping that some of you
15 do, okay? So the best analogy I can give you for the rules is
16 baseball, okay? In baseball there's a set of rules and the
17 umpires are managing those rules, right? The rule is three
18 strikes and you're out. The exception to that rule is if the
19 third strike is a foul ball, then you're not out, you get to go
20 again, right? The rule is the visiting team bats first, the
21 home team bats last. The rule is the game is nine innings, the
22 exception to that rule is if the game is tied, it goes on into
23 extra innings, right? There's all these rules and the players
24 all know what the rules are, the coaches all know what the
25 rules are, and the umpires are the one calling balls and

1 strikes and calling people safe or out and they're managing the
2 rules. And that's a lot like what we're doing in here. I'm
3 the umpire, I'm calling balls and strikes and everybody knows
4 what the rules are because we're all playing under the same set
5 of rules, okay? Does that make sense? Okay. Now, so to
6 decide the facts of this case, you have to figure out which
7 witnesses to believe, and which witnesses not to believe, we
8 call this the credibility of the witnesses. So here are the
9 rules, you can believe every single thing a witness says, you
10 could believe absolutely nothing that the witness says, you can
11 believe part of what the witness says and reject the remaining
12 part of the same witness. Here are some things you may
13 consider, but you're not limited to, what was the witness's
14 ability to see, hear, or know what he or she testified to, how
15 good was their memory, what was their manner or their demeanor
16 like while testifying, do they have an interest in the outcome
17 of the case or any motive or any biased or any prejudice. Were
18 they contradicted by something they said or wrote before the
19 trial or by other evidence, how reasonable was the witness's
20 testimony when considered in light of the other evidence that
21 you believe. Here's the bottom line, you judge people's
22 credibility all day long. You do it so much you don't even
23 realize you're doing it anymore, okay? And years ago, when my
24 children were younger, I like this example, right before we
25 went to the bus stop, right? As we're getting ready to leave

1 the house in the morning to head to the bus stop, I would say,
2 did you brush your teeth, right? And that male child would
3 give me this resounding yes, full of confidence, right? I
4 mean, a confident, yes, dad, and I could see all the cereal in
5 his teeth, right? And at that moment I chose to determine that
6 he was not telling me the truth, right? And I judged his
7 credibility, and you judge people's credibility all day long.
8 When the server tells you they're out of a certain item, you
9 choose to believe them or you choose to go, or not to believe
10 them, but you judge people's credibility all day long. You do
11 it with your common sense, just use your common sense in
12 determining people's credibility. Now, some things I went over
13 with you yesterday I need to reiterate. You're not allowed to
14 talk about this case with anyone, that includes discussions
15 that are face to face, by telephone, email, text message, blog,
16 Facebook, twitter, Instagram, some kind of app that I don't
17 even know what it is, you can't use it to get information or
18 send information about the case. You can't discuss the case
19 with anyone, that includes each other. You also can't let
20 anybody talk to you about the case, alright? You're not
21 allowed to do any research about the case, you shouldn't be
22 looking up things. Even if you hear a word today and you don't
23 know what it is, you shouldn't be getting on your phone and
24 Googling that word to try to figure out what it means. No
25 research about the case, no news media about the case just like

1 I told you yesterday. Once the case is submitted to you, you
2 must discuss it in the jury room, that's at the very end, I
3 will give you a very specific sign. All the lawyers and
4 parties have been told not to have any contact with you so if
5 they don't say hello, they're not being unfriendly, they're
6 just following my instructions. It's important that you keep
7 an open mind, you should not be deciding any issue in this case
8 until all of the evidence has been presented, the parties have
9 made their closing arguments and I've instructed you on the
10 law. It is your responsibility to determine the guilt or the
11 innocence of the Defendant, and your verdict must be based
12 solely upon the evidence that is presented to you and on the
13 law that I give you at the close of the trial. Alright.

14 Madame forelady, it will be your responsibility to communicate
15 with me about any issues, and I need my alternates to always
16 sit on the back row. Last thing is I get a lot of questions
17 about taking notes. I do not allow jurors to take notes, I'm
18 going to tell you why. So number one, the only official record
19 of what occurs in here lies with Ms. Amick, okay? So the fact
20 that you wrote something down doesn't make it the record of
21 what the person said or didn't say, that's number one. Number
22 two is in my life I have, I did three, three weeklong trials as
23 a lawyer, I did, I'm on three, three weeklong trials as a
24 Judge, okay? So that's six three weeklong trials in my life,
25 not one of those jurors ever took a note and they all did

1 perfectly fine, okay? You're going to do fine, just stay
2 awake, keep your eyes open, if you feel like you're kind of
3 heading off to sleep, just stand up against the wall and watch,
4 that's perfectly fine. We'll take a morning break, we'll take
5 a lunch break, we'll take an afternoon break, just pay
6 attention, and follow along and you'll do just fine, okay?
7 Alright. Is the State ready to proceed with their opening
8 statement?

9 MR. MCGLOTHIN: Yes, Your Honor.

10 THE COURT: Okay. Mr. McGlothlin, the floor is yours.

11 MR. MCGLOTHIN: Thank you, Your Honor. May it please
12 the Court? You may have heard that a picture is worth a
13 thousand words. So today I ask you what is the value of a
14 video? What is the value of seeing exactly what happened with
15 your own eyes? That's why we're here today. We're here today
16 because on August 5th, 2019, Dana Butler, the Defendant,
17 stabbed the victim, Damon Doyle, in the neck and in the back
18 twice. And you will see this happen, you will see it happen
19 because it's caught on video, and you will see that video. And
20 I ask you to believe what you see with your own eyes. My
21 name's Sam McGlothlin and along with my co-counsel, Anna
22 Browder, we represent the State of South Carolina in this case.
23 And as assistant solicitors for Richland and Kershaw County,
24 it's our job to prosecute those individuals who are charged
25 with crimes within our jurisdiction. And today we're here

1 because Dana Butler is charged with the murder of Damon Doyle,
2 as well as carrying a weapon as an inmate, and possession of a
3 weapon during a violent crime. Now, as the State we carry the
4 burden, you just heard Judge Hood tell you that. And that
5 means we must prove each of these charges against Dana Butler,
6 and we must do so beyond a reasonable doubt. And you heard,
7 you've heard this word a few times now, or this phrase, and you
8 may be wondering kind of what that means. Now, the State
9 doesn't have to prove everything beyond all doubt. The law
10 says that beyond a reasonable doubt is that which leaves you
11 firmly convinced of the Defendant's guilt. And that's a high
12 burden, but we gladly accept it in this case. The evidence
13 will show you that on August 5th, 2019, Dana Butler and Damon
14 Doyle were both inmates at the Broad River Correctional
15 Institution. Now, that's a state prison located here in
16 Richland County, and they were both housed in what's called
17 Monticello dorm, which is one of nine housing units there on
18 the property. And on that day, you will see that Mr. Butler
19 initiates an argument and comes across the room and starts into
20 an argument with Mr. Doyle, and you'll see kind of back and
21 forth. And you'll see Mr. Butler start to get a little, a
22 little hyped up until another inmate, Benjamin Green, comes
23 over and pulls him back and he walks him back to Green's cell
24 where he stays, you'll see them go inside, and he'll stay there
25 for about a minute. And then you'll see Butler come back out

1 with his hands in his pockets, and you'll see him calmly walk
2 directly towards where Doyle is standing until he gets close
3 enough to strike. He'll stab Doyle repeatedly, you'll see
4 this, you'll see him chase him around the room until, again,
5 Green takes him, backs him up, and Doyle's able to get out the
6 dorm room. You'll hear from a correctional officer who finds
7 Doyle outside the room collapsed to the ground covered in
8 blood. You'll hear from a nurse there at the medical facility
9 who will say they did everything they could to try to save his
10 life, all while Doyle is begging her not to let him die. And
11 you'll hear from Dr. Darren Monroe, the pathologist who will
12 tell you that he died from those stab wounds. This is the
13 evidence and that is what it will show you. Now, as Judge Hood
14 has already told you, as jurors, it is your job to decide what
15 the facts are in this case, and luckily each one of you has
16 brought with you exactly what you need, and that's just your
17 common sense. That intuition built from your various life
18 experiences, and it will guide you through your decision in
19 this case. This case is about the murder of Damon Doyle, this
20 case is about Butler coming across that room and attacking
21 Damon Doyle. This case isn't about what SCDC may have done or
22 may not have done, this case is about Dana Butler's actions.
23 And justice doesn't stop at the prison wall, Damon Doyle's life
24 is worth the same as anyone else walking out on the street. I
25 want you to keep that in mind, I want you to stay focused on

1 that. We are here because Butler chose to arm himself that day
2 before he came out of that cell, we're here because he went
3 directly towards Doyle when he came out, we're here because he
4 chose to strike. A picture is worth a thousand words, so
5 again, I ask what is the value of a video? What is the value
6 of seeing exactly what happened? And I can stand here, and I
7 can speak a thousand words, I can do two or three if you let
8 me, but that won't change what you will see with your own two
9 eyes, what you will see on that video. We believe that will
10 leave you firmly convinced that Dana Butler is guilty of
11 carrying a weapon as an inmate, that Dana Butler is guilty of
12 possession of a weapon during a violent crime, and that Damon
13 Doyle, excuse me, Dana Butler is guilty of the murder of Damon
14 Doyle. Thank you.

15 THE COURT: Thank you, Mr. McGlothlin. Would the
16 Defense like to make an opening statement?

17 MS. MYERS: Yes, Your Honor.

18 THE COURT: Alright. Ms. Myers, whenever you're
19 ready, ma'am.

20 MS. MYERS: Thank you, Your Honor. Your Honor, may
21 it please the Court?

22 THE COURT: Yes, ma'am, whenever you're ready.

23 MS. MYERS: This is a case about fight or flight,
24 when flight is not an option. On August 5th of 2019, Mr. Dana
25 Butler was an inmate at Broad River Correctional Institution,

1 and he was forced into a situation where he had to defend
2 himself. Members of the jury, prison is a different world,
3 it's a world in which when you are threatened, unfortunately,
4 flight is not an option. On August 5th, not only did Mr. Doyle
5 threaten Mr. Butler, but he had been threatening him in the
6 days and the weeks leading up to August 5th. In this trial,
7 you'll hear how Mr. Butler noticed that Mr. Doyle began to
8 spend more time with a certain group of people, and it was the
9 same certain group of people that had done Mr. Butler harm in
10 this same prison. And after Mr. Doyle started associating with
11 those people, he became more threatening, more hostile, and
12 more aggressive. You will hear how Mr. Butler knew that Mr.
13 Doyle had a knife and carried a knife because Mr. Doyle
14 sharpened his knife in the common space of their dorm publicly
15 for everyone to see. You heard the State mention that there
16 will be a video of the fight and you'll see that video, and in
17 that video, you'll see Mr. Butler defend himself. But in a
18 two-minute video what you won't see is the days and the weeks
19 of threatening behavior, attitude, and words of Mr. Doyle
20 towards my client, Mr. Butler. In that video, you heard the
21 prosecutor say my client gets hyped up, but I'm going to give
22 you another interpretation of that behavior. You see my client
23 afraid for what Mr. Doyle might do. In that video you will see
24 Mr. Doyle make a hand gesture and you'll hear throughout the
25 trial what that gesture meant and how it articulated the

1 threat. On the video, you'll also see that Mr. Doyle reaches
2 for that knife that Mr. Butler knew that he had, and it is at
3 this point after all the threats, after Mr. Butler is afraid of
4 what Mr. Doyle may be capable of doing inside of a locked dorm,
5 that he was faced with a decision of fight or flight, and for
6 Mr. Butler, flight was not an option. You'll see in that video
7 that Mr. Butler is fast, he decided to defend himself and it
8 happens in a flash of a moment, the fight with Mr. Doyle is
9 over in seconds, and you'll see both men walk away from that
10 fight. Ladies and gentlemen of the jury, this is a case about
11 self-defense in prison where flight is not an option. This is
12 not murder. We ask that you find Mr. Dana Butler not guilty.
13 Thank you.

14 THE COURT: Alright. Thank you, Ms. Myers. The
15 State may call their first witness.

16 MS. BROWDER: The State calls Nolita Belser.

17 BAILIFF: Face the clerk, raise your right hand.

18 MS. BELSER: Okay.

19 CLERK: Do you swear or affirm that the testimony
20 you're about to give in this case to be the truth, the whole
21 truth, and nothing but the truth so help you God?

22 MS. BELSER: Yes.

23 CLERK: Thank you. Please have a seat on the witness
24 stand. State your name for the record, and please spell your
25 first and last name.

1 MS. BELSER: Nolita Belser.

2 CLERK: And can you spell your name, please?

3 MS. BELSER: Yes. N-o-l-i-t-a, Belser, B-e-l-s-e-r.

4 DIRECT EXAMINATION

5 BY MS. BROWDER:

6 Q Ms. Belser, what do you do for a living?

7 A I'm a nurse, a registered nurse.

8 Q And how long have you been a registered nurse?

9 A For about 28 years now.

10 Q And being a nurse, what types of environments have you
11 worked in?

12 A The majority of my care has been in corrections. I've
13 done a little dialysis, but mostly in corrections.

14 Q Okay. And when you say it's in corrections, where does
15 that mean you work?

16 A I've worked in prisons; I'm currently working in the jail
17 environments right now.

18 Q And in August of 2019, where were you working?

19 A I was employed with the South Carolina Department of
20 Corrections at Broad River.

21 Q Okay. And were you there at Broad River on August 5th,
22 2019?

23 A Yes.

24 Q And when you were employed as a nurse there, what is
25 your role there as a nurse? Do you go to the different

1 dorms or are you in just the medical facility?

2 A I did just about everything, so I was out in the
3 dorms as well as in the medical unit.

4 Q And on August 5th, where were you working within Broad
5 River?

6 A I was in the medical unit.

7 Q Okay. And before we get to that day, in general, when
8 there's a medical emergency at the prison, what is the
9 procedure of that medical emergency if that person comes to the
10 medical unit?

11 A Typically, we are notified, made aware of any emergencies
12 by security, and based on their assessment of a situation,
13 that's how we move as far as the medical.

14 Q Okay. And when you get a call that somebody is coming to
15 medical for a medical emergency, what do you do?

16 A We go ahead and prepare our medical supplies which
17 included gauzes, saline, suture kits, things of that nature,
18 and if there was a medical provider, we make them aware as well
19 so they can be on standby.

20 Q Now, on August 5th, 2019, do you remember an inmate by the
21 name of Damon Doyle coming into the medical unit?

22 A Not specifically, but per my notes.

23 Q Okay. And when a patient comes into the medical facility,
24 do you document that in any way?

25 A Yes, we do.

1 Q Okay. And how do you document that?

2 A We have progress notes that we document on that are
3 official SCDC documentation.

4 Q And what is the purpose of that?

5 A Just to make sure that we're following the proper
6 procedure with the care of any inmate that came up to the
7 medical unit.

8 Q And how many inmates do you work on in a year as a
9 patient, approximately?

10 A Hundreds. Because, you know, we had other sick calls and
11 things of that nature, so it'd be plenty of folks coming
12 through.

13 Q And did you do notes in this particular case for Damon
14 Doyle?

15 A Yes, I did.

16 Q And does that help you refresh your recollection ---

17 A Yes.

18 Q -- as to what happened that day?

19 A Yes.

20 Q Now, when Mr. Doyle came into the facility, how did he
21 come into the facility, was he walking?

22 A It says here that he was in a wheelchair, and he came over
23 with security.

24 Q And before I forget, are those notes written by you ---

25 A Yes.

1 Q --- or somebody else?

2 A Yes.

3 Q Those are your notes?

4 A Yes.

5 Q Alright. So he came in via wheelchair?

6 A (Nonverbal response).

7 Q What did he look like? What was his demeanor like? What
8 did you see when he came in?

9 A Per my notes, there were multiple stab wounds and large
10 amounts of red blood draining from his left neck area. All of
11 his clothes were saturated with lots of blood and then clots,
12 red clots on his clothes.

13 Q And when somebody comes in, when Mr. Doyle came in with
14 these wounds, what do you do to try to alleviate that bleeding?

15 A Well, we first have to find out where the bleeding's
16 coming from, so whether that's cutting their uniforms off just
17 to, and we're actually asking them if they're able to tell us,
18 where the injuries are. That's the first process is finding
19 out where all this blood is coming from.

20 Q And did you find out where his blood was coming from?

21 A Yes.

22 Q Okay. And where was his blood coming from?

23 A There were several areas. It looks like per my notes, it
24 was red blood draining from his left neck area, and area to the
25 neck was immediately dressed with saline pressure dressings.

1 Body assessment completed which I, you know, that's just a
2 generalized thing that we do. There were several lacerations
3 times two that we noticed, and dressings were applied and
4 secured to those areas as well.

5 Q Okay. And where were those two lacerations?

6 A To his back.

7 Q Okay. So he had two on his back and one to his neck?

8 A Right.

9 Q Do you remember was it to the front of his neck or to the
10 back of his neck?

11 A The left neck, the left neck area.

12 Q And were you able to stop the bleeding?

13 A Once we put pressure dressings on, after photos are taken,
14 the pressure dressings are purposed to slow the bleeding down,
15 hopefully to stop the bleeding, but it just, you know, once we
16 dress it and put that pressure dressing on, you know, it's, we
17 can't really determine, you know, outside of maybe bleeding,
18 you know, the dressing that we're putting on becomes saturated.

19 Q Okay. And was Mr. Doyle, could you tell if Mr. Doyle was
20 aware of what was going on?

21 A At first when he came to the unit, he was able to follow
22 simple commands because, you know, of course, like I said, we
23 were asking, we always ask the victim, you know, what's going
24 on, you know, can you tell me, you know, where your injuries
25 are, where are you hurting, things of that nature. So at first

1 he was able to follow simple commands, okay, I need you to put
2 your hand down, you know, things like that. So at first, you
3 know, during the first few minutes of the assessment he was
4 conscious and able to.

5 Q And did he at some point, so he was speaking to you?

6 A Yes.

7 Q Okay. And was he able to tell you where his wounds were?

8 A I can't really remember.

9 Q Okay. Were you working on him the whole time or were
10 there times when other people were working, and you were just
11 there?

12 A No, I was there working on him.

13 Q Did he say anything to you?

14 MS. PRINGLE: Objection, Your Honor. I know what the
15 answer is based on opening, 401 and 403.

16 THE COURT: Alright. Overruled. She can answer.

17 Q Did he say anything to you?

18 A He was just asking me, ask the nurse to make sure that he
19 was going to be okay.

20 Q And were you touching him in any way when he was asking
21 you that?

22 A Yes.

23 Q How were you touching him?

24 A I was gripping his hand at that point.

25 Q And was he holding your hand back?

1 A Yes.

2 Q And at some point, you said earlier that he was conscious
3 and was able to follow commands.

4 A (Nonverbal response).

5 Q Did he eventually become unconscious?

6 A No, he didn't become unconscious.

7 Q Okay. Did at any point y'all need to start CPR on him?

8 A Yes. He became a little combative.

9 Q Okay. And maybe this is a dumb question because I'm a
10 lawyer and not in the medical field. Would you have to do CPR
11 on somebody if they're conscious or would they have to be
12 unconscious?

13 A They'd have to be unconscious.

14 Q Okay. So he did eventually become unconscious?

15 A (Nonverbal response).

16 Q Okay. And you had to start CPR?

17 A Right. But by then, EMS was coming in as well.

18 Q That was going to be my next question is how does EMS get
19 there? Who calls EMS?

20 A Medical or security has that ability to initiate the call.

21 Q And do you remember approximately how long it took EMS to
22 get there once Mr. Doyle was back in the medical unit?

23 A I don't.

24 Q And when y'all handed Mr. Doyle off to EMS, was he
25 conscious?

1 A He was, because I have here noted that EMS was
2 called and activated and that his breath sounds were decreased
3 at that time and CPR was initiated.

4 MS. BROWDER: Beg the Court's indulgence.

5 Q And in your role as the nurse who was working on Mr.
6 Doyle, did you follow all the protocols to try to save his
7 life?

8 A Yes, ma'am.

9 Q Okay. Is there anything you feel you could have done
10 differently that would have changed his outcome?

11 A No.

12 MS. BROWDER: No further questions, Your Honor.

13 THE COURT: Cross examination.

14 MS. PRINGLE: May it please the Court?

15 CROSS EXAMINATION

16 BY MS. PRINGLE:

17 Q Good morning, Ms. Belser.

18 A Good morning.

19 Q Very briefly, just one question.

20 A Yes.

21 Q Regarding the way that the facilities are laid out at
22 Broad River, you said that he had come from Monticello unit,
23 correct?

24 A I'm not. It doesn't say here which unit he came from.

25 Q Are you aware of Monticello unit and where that is?

1 A Yes, I'm familiar, yes.

2 Q The medical unit is not in the same building as
3 Monticello?

4 A No.

5 Q Correct. And in fact, the medical unit, there's a
6 sidewalk, a walkway between Monticello and the medical unit?

7 A Correct.

8 Q And you may not know exactly how many feet, but it is a
9 good little walk from Monticello to the medical unit?

10 A Walking, yes.

11 Q Okay. Thank you.

12 MS. PRINGLE: No further questions.

13 THE COURT: Redirect?

14 MS. BROWDER: No, sir.

15 THE COURT: Ms. Belser, thank you very much. Have a
16 nice day.

17 MS. BELSER: Thank you.

18 THE COURT: The State may call their next witness.

19 MR. MCGLOTHIN: The State calls Geraldine Chandler.

20 THE COURT: Can you give me the name one more time?

21 MR. MCGLOTHIN: Geraldine Chandler.

22 THE COURT: Thank you. Ladies and gentlemen, the
23 witnesses are sequestered and what that means is they're all
24 outside of the Courtroom, they're not allowed to be in here
25 until after they testify, and so we have to go outside and get

1 them and bring them in. So it's not an issue of anybody's not
2 prepared, we just keep the witnesses sequestered so it takes
3 just a second to get them.

4 CLERK: Do you swear or affirm that the testimony
5 you're about to give in this case to be the truth, the whole
6 truth, and nothing but the truth so help you God?

7 MS. CHANDLER: Yes, I do.

8 CLERK: Thank you. Please have a seat on the witness
9 stand. State your full name for the record and can you spell
10 your first name?

11 MS. CHANDLER: Good morning. My name is Geraldine
12 Chandler-Badger and I work for the South Carolina Department of
13 Corrections and I'm currently a finance officer.

14 MR. MCGLOTHIN: Thank you.

15 **DIRECT EXAMINATION**

16 BY MR. MCGLOTHIN:

17 Q Could you please spell your first name?

18 A Oh, G-e-r-a-l-d-i-n-e.

19 Q Thank you, Ms. Chandler. Is it Chandler or Badger, is it
20 hyphenated or ---

21 A Yes, it's hyphenated.

22 Q Okay. I think I called you Ms. Chandler, I ---

23 A That's fine, that's fine.

24 Q --- apologize. And I think you just mentioned this, but
25 where do you currently work?

1 A South Carolina Department of Corrections.

2 Q Okay. And what is your job there?

3 A Mental health officer.

4 Q Okay.

5 A I used to be a lieutenant.

6 Q Okay. And so how long have you been with SCDC in total?

7 A This coming April will be 17 years.

8 Q Okay. And back in 2019, what was your job?

9 A I was a housing lieutenant in the Monticello unit.

10 Q Okay. Is that at Broad River?

11 A Yes, Broad River, I'm sorry, at Broad River.

12 Q Okay. And is, what is Broad River?

13 A Broad River's a correctional institution that house level

14 three inmates.

15 Q Okay. And is that here within Richland County?

16 A Yes, it's in Richland County.

17 Q Okay. And so you said you were a housing lieutenant.

18 What does that mean?

19 A A housing lieutenant is when you the supervisor of that

20 dorm, you supposed to make sure security is going well within

21 that unit, get the things that the inmates need. And just have

22 control, custody, and order in your dorm.

23 Q Okay. And you said that was what you were doing in August

24 of 2019 ---

25 A Yes.

1 Q --- and you were just over Monticello specifically?

2 A Yes, just Monticello.

3 Q Okay. So would each of the different housing units have
4 their own housing lieutenant?

5 A That's true, that's correct.

6 Q Okay. And so tell me a little bit about Monticello, is it
7 one big building or is it subdivided or ---

8 A It's a big unit divided into two sections. You got the A
9 side, and you got the B side.

10 Q Okay. And so, you know, I think you're aware of what
11 we're here for today. On August 5th of 2019, how did you first
12 become involved in the incident?

13 A An incident occurred, and so at the given time, I was not
14 in the dorm, all housing lieutenants when it's time for your
15 dorm to go to the cafeteria, we have to escort our unit to the
16 cafeteria. So after we, I found out about that incident after
17 I came back from the cafeteria.

18 Q Okay. And when did you, did you ever see Mr. Doyle?

19 A Yes, I seen him in the unit.

20 Q Okay.

21 A But I didn't know that incident was going to take
22 place.

23 Q Well, when you returned, did you see from ---

24 A Oh, yes, he came to me, I was in the breezeway.

25 Q Okay. And where is that?

1 A The breezeway when you coming inside, when you're entering
2 back into the unit, it's like a sidewalk ---

3 Q Okay.

4 A --- we say breezeway, but the sidewalk when you're coming
5 back in entering into that unit.

6 Q Alright. I'm going to show you State's Exhibits 1 through
7 12. Alright. I'm going to hand you these --

8 MR. MCGLOTHIN: May I approach, Your Honor?

9 THE COURT: Yes, of course.

10 Q I'm going to hand you those, and you just take a look
11 through those real quick for me and then tell me if you
12 recognize what you see?

13 A Yes, I do. This is, at the top, this is a picture of
14 Broad River Correctional Institution and when the incident
15 occurred it's at Monticello unit.

16 Q Okay. And does that fairly and accurately depict the
17 Broad River Correctional Institution as seen from, as it would
18 be seen from above?

19 A Yes.

20 Q Okay. And then take a look at those other ones. And just
21 tell me if you recognize those other photographs as well.

22 A Okay. You talking about the ones behind this one?

23 Q Yes, ma'am, all of them.

24 A All of them. Okay. This one right here, the second one,
25 this is the picture ---

1 Q Well, don't show anybody yet. Just take a look at them --
2 -
3 A I gotcha.
4 Q --- to yourself and let me know if you recognize them.
5 A Okay. I recognize this is the outside gate of Monticello
6 ---
7 Q Okay.
8 A --- before you enter inside Monticello.
9 Q Okay. And that's State's 2, it's got a little 2 there ---
10 A Oh, the next one?
11 Q Oh, excuse me, go on to the next one.
12 A This is also, this here is what's called the sidewalk or
13 either the breezeway entering into Monticello.
14 Q Okay.
15 A The next one?
16 Q Just go ahead and look at them all.
17 A Okay.
18 Q And you don't need to tell me what they are quite yet ---
19 A Oh, okay.
20 Q --- we'll go through that, okay?
21 A You say you don't want me to tell you what ---
22 Q You don't need to tell me quite yet.
23 A Okay. I gotcha. Alright.
24 Q Alright. After looking at all those, do you recognize all
25 those photos?

1 A Yes.

2 Q Okay. Do they fairly and accurately depict Broad
3 River Correctional Institution and the Monticello dorm,
4 specifically as it would have been seen that day?

5 A Yes.

6 Q Okay.

7 MR. MCGLOTHIN: State would enter State's 1, 1
8 through 12, I believe it was, 1 through 12.

9 THE COURT: Any objection?

10 MS. BRUCK: No, Your Honor.

11 THE COURT: State's 1 through 12 admitted without
12 objection.

13 (Whereupon photos were submitted as State's Exhibit
14 Numbers 1 through 12 for identification and entered into
15 evidence.)

16 MR. MCGLOTHIN: Thank you. And permission to publish
17 as well?

18 THE COURT: Sure. So ladies and gentlemen, whenever
19 something's admitted into evidence as an exhibit, while they're
20 getting this thing set up, some lawyers show you the picture,
21 some lawyers put them up on a big board, some lawyers never
22 show them to the jury for some unknown reason to me. Some
23 lawyers pass them out and let you see them, and then some
24 lawyers blow them up on big screens like this so you can see
25 them, okay? There's no right way or wrong way to do it is what

1 I'm trying to say, and I don't tell them how to do it, okay?
2 But I want you to know that any exhibit that's in evidence, if
3 you feel like you didn't get to see it long enough, or you want
4 to see it longer later, during your deliberations you'll have
5 all the exhibits with you so you can spend as much time looking
6 at them as you need to, okay?

7 MR. MCGLOTHIN: Beg the Court's indulgence just a
8 moment. Alright. And I'm going to go through these on here so
9 everybody can see them. Can everybody see everything alright?
10 Alright.

11 Q So I'm showing you State's 1, and I believe you've got a
12 copy of it up there. Can you see that alright from there?

13 A Yeah, I can see it from here.

14 Q Okay. Great. And so I think you already mentioned what
15 this is, but can you tell the jury again what it is now that
16 they can see it?

17 A Yes. That is the Monticello unit where the incident
18 occurred.

19 Q Okay. And Monticello is marked on here ---

20 A Yes.

21 Q --- as Monticello, right?

22 A That's Monticello right there.

23 Q Okay. And is the medical unit marked on there as well?

24 A Medical is going to be down a little further.

25 Q Right here?

1 A There you go, yes.

2 Q Okay. But overall, this is the full Broad River?

3 A Yes.

4 Q Okay. And so then I'm going to show you starting with
5 State's 2. What is that showing?

6 A That's the outside of the building.

7 Q Okay. At Monticello?

8 A At Monticello.

9 Q Okay.

10 A Which incurs the rec field on the side, and then the
11 sidewalk and that gate right there where you would enter inside
12 of Monticello.

13 Q Okay. And so what are you seeing here?

14 A That's the breezeway outside, we say breezeway in the
15 institution, but that's the sidewalk leading into the
16 Monticello building.

17 Q And you said that's where you first came upon Mr. Doyle?

18 A Yes. He ran outside when I was coming back from the
19 cafeteria.

20 Q Okay. And then what was that interaction like when you
21 saw him?

22 A Oh, that's, that's traumatic.

23 Q Okay. Why was it traumatic?

24 A I mean, because to see blood, you know, gushing from him
25 and it all coming from him.

1 Q Okay. What was his kind of demeanor at that point?

2 A Well, I guess he was trying to get some help. And so our
3 captain, she was, I called for the captain and she and the
4 sergeant they came and they escorted him to the medical.

5 Q Okay. Was he, did you see him run out ---

6 A Yeah ---

7 Q --- to you?

8 A Well, he came out the unit.

9 Q Okay. And was he able to walk the entire time you were --
10 -

11 A He walked out of the unit and then he collapsed.

12 Q Okay.

13 A And then we got the stretcher and then they escorted him
14 to medical.

15 Q Okay. Did he say anything to you?

16 A No. I guess, you know, he probably couldn't, probably
17 gasping for air, or whatever, he couldn't talk.

18 MS. BRUCK: Objection. Speculation.

19 THE COURT: You can't speculate, ma'am.

20 Q Alright. And so you already said you called the captain -
21 --

22 A My supervisors.

23 Q Your supervisors, okay. And you said they took him to
24 medical, is that right?

25 A Yeah, they escorted him to medical.

1 Q Okay. And then what was kind of your next step ---

2 A My next step, just to go and secure that, secure the dorm

3 which entails we have to lock that unit down.

4 Q Okay.

5 A And once we, once I got inside to lock the unit down, it

6 was just chaotic, it was a mess, it was a whole lot of inmates

7 refusing to go back in because they was after, they said, the

8 one that did it. So it was just chaotic, so I, I also radioed

9 again and told them I need additional staff to get help to get

10 this unit locked down.

11 Q Okay. And did they send that additional help to come

12 ---

13 A They did.

14 Q Okay. And so I'm going to show you State's 4. What am I

15 looking at here?

16 A Okay. That's entering inside of Monticello ---

17 Q Okay.

18 A --- on the B side, on the B wing.

19 Q Okay. That's on the B wing? And is that to your

20 knowledge where this incident occurred?

21 A Yes. It's supposed to been occurred on the B wing.

22 Q Okay. And I'm going to show you State's 5. What are we

23 looking at there?

24 A You're looking at the common area inside of Monticello on

25 the B wing.

1 Q Okay. So is this, compared to State's 4 what we just
2 looked at, is this kind of looking back at that same door
3 but from the inside?

4 A Yes.

5 Q Okay. And then State's 6, again, what am I looking at
6 here?

7 A Okay. You're looking at the common area, that's where
8 they sit and watch TV in that area right there, we call that a
9 common area.

10 Q So that's the main area ---

11 A Yes.

12 Q --- of the B side?

13 A Yes.

14 Q Okay. And you said there's an A and B side. What is, is
15 the A side just kind of a mirror ---

16 A The A side is the same way the B side is.

17 Q Okay. And this is State's 7, again, is that just ---

18 A Common area ---

19 Q --- that common area?

20 A --- where they sit, like in those little seats you see,
21 that's where you sit and watch TV at.

22 Q Okay. And then, you know, this may be obvious, but what
23 are these kind of gray doors that you can see ---

24 A Those are the living area; those are the cells.

25 Q Okay. So is that where individual inmates are housed ---

1 A Yes.

2 Q --- where they sleep?

3 A That's where they sleep.

4 Q Okay. And is everybody assigned to one of these ---

5 A Yes. Classification assigns them into their rooms, their
6 cells.

7 Q Okay. And again, here, are we in the main area, we're
8 just looking off to one side?

9 A Yes.

10 Q Okay. And is there another name for -- let me go back to
11 State's 7, is there another name for this area?

12 A Well, we just call it the open, you know, it's not a day
13 room because they do have a small day room, so we just call
14 that the common area.

15 Q Okay.

16 A You know, just a sitting area.

17 Q Okay. And here's State's 9. Is that just the stairs
18 there again ---

19 A Yes to go to the top tier.

20 Q Okay. So just to be clear, is there kind of three tiers
21 of where the cells are ---

22 A Kind of because you got to go down then you go back up, so
23 really, we call it two tier ---

24 Q Okay.

25 A --- you know, top and bottom.

1 Q So you've got this, now, just as an example, you've got
2 this tier where these cells are ---

3 A Yes.

4 Q --- the second floor which is up on here, but then you've
5 actually kind of got this ---

6 A The bottom, we call that a flood zone ---

7 Q Okay.

8 A --- in the bottom.

9 Q But there are actual cells down there?

10 A Cells, yes.

11 Q So that was State's 7, 8, and 9. And this is another shot
12 kind of that lower area on 10, correct?

13 A Yes.

14 Q Okay. And it's just another small set of stairs that
15 leads back to kind of, not a hallway, but ---

16 A Yeah, that's right, to some cells, to some cells down
17 there.

18 Q And as State's 11, is this, standing next to, you can kind
19 of see here, those stairs off to the side that we were just
20 looking at, looking out into the main room, right?

21 A Yes.

22 Q Okay. And then, okay. You said when you came back, you
23 began locking everything down and making it secure, is that
24 right?

25 A Yes. When I came back, came back from the cafeteria ---

1 Q Right, right.

2 A --- then the next proper procedure is to do, is to get
3 that dorm secured ---

4 Q Okay.

5 A --- so that another incident wouldn't happen.

6 Q Okay. And so what does it entail to make it secure? When
7 you say secure, what does that mean?

8 A To get all the inmates locked behind the door safely as
9 possible.

10 Q Okay. And when you say the doors, there's a lot of doors
11 there, we're talking about their cells?

12 A Yeah, their cell doors.

13 Q Okay. And was it your job to investigate what happened?

14 A No, no, sir.

15 Q Okay. Did you talk to anybody about what happened?

16 A We talked to, after we get everything secured, then
17 you get with your supervisors, and then we'll go over
18 everything.

19 Q Okay.

20 A It's like a debriefing after everything that happened.

21 Q Okay. I mean, did you talk to any of the inmates to see
22 what happened or collect any evidence?

23 A Well, at the moment when something happens like that, we
24 just got to lock down and then you got to, it's chain of
25 command, like a captain and above, they give me the orders what

1 to do. Because like I said, we have to get the dorm, you know,
2 back running up and then the operation is over.

3 Q Okay. And at this time, back in 2019, was it normal for
4 individuals who are in B side to be over on A side or A side to
5 be over on B side in Monticello?

6 A No, it's not normal. You got some officers, even though
7 we give them directives not to let anybody cross over or
8 whatever, some officers behind our back, they would do it
9 anyway.

10 Q Okay. So sometimes that would happen?

11 A Yeah, sometime that will happen ---

12 Q Okay. So ---

13 A --- but it's not supposed to.

14 Q Okay. Alright. Ms. Chandler, thank you very much.

15 Please answer any questions that the Defense may have for you.

16 THE COURT: Cross examination.

17 MS. BRUCK: May it please the Court?

18 THE COURT: Yep.

19 **CROSS EXAMINATION**

20 BY MS. BRUCK:

21 Q Good morning, Ms. Chandler.

22 A Good morning, how are you?

23 Q Doing well, thanks. Thanks for being here. So just to
24 lay this out again. We talked about how there are three
25 levels, correct?

1 A Yes. It's three, even though we say two tiers, but
2 they got the bottom it would be three, like, but we mostly
3 just say two, two tier.

4 Q And you call this lowest level the flood zone, correct?

5 A Yes. That'd be on the bottom.

6 Q So when you went back, when you went into Monticello to
7 try to lock the unit down, you had some difficulty doing that?

8 A Yes.

9 Q People were pretty hyped up?

10 A Oh, yes.

11 Q And there was a crowd ---

12 A Yes.

13 Q --- from in the flood zone, correct?

14 A A crowd of inmates, yes.

15 Q And that was right outside of 174 dorm?

16 A Yes.

17 Q And they refused to go back to their own living area?

18 A They was refusing to go back into their rooms and once
19 they refused to go back, I radioed for the A team, and then the
20 A team quickly responded and came on in.

21 Q And they were essentially trying to fight, was that what
22 it looked like?

23 A Yes. They was trying to get at the Defendant.

24 Q They were trying to get him?

25 A Yes.

1 Q And so during this time, nothing was locked down?

2 A We was getting to that, that's what we were doing.

3 Some of the inmates was going, but a large mass of them was
4 not, they was refusing to go because of the situation.

5 Q And of course, they had been moving around the dorm freely
6 until you even attempted to lock them down ---

7 A Yes.

8 Q --- correct?

9 MS. BRUCK: Court's indulgence. Okay. Thank you,
10 Ms. Chandler, I have nothing further.

11 THE COURT: Redirect?

12 MR. MCGLOTHIN: No further questions of Ms. Chandler-
13 Badger, thank you.

14 THE COURT: Okay. Have a nice day, ma'am, thank you.
15 You may call your next witness.

16 MR. MCGLOTHIN: The State calls Christine Titus.

17 CLERK: Do you swear or affirm that the testimony
18 you're about to give in this case be the truth, the whole
19 truth, and nothing but the truth so help you God?

20 MS. TITUS: Yes.

21 CLERK: Thank you. Please have a seat on the witness
22 stand. State your full name for the record and please spell
23 your last name.

24 MS. TITUS: T-i-t-u-s.

25 DIRECT EXAMINATION

1 BY MR. MCGLOTHIN:

2 Q Good morning, Ms. Titus. Could you please tell the
3 jury where you are employed?

4 A At Broad River Correctional Institution.

5 Q Okay. And is that the South Carolina Department of
6 Corrections?

7 A Yes, I apologize.

8 Q No, that's fine. And is that normally, I mean, is that
9 normally called SCDC?

10 A Yes.

11 Q Okay. And how long have you been with SCDC?

12 A I was with them for about five years.

13 Q Okay. And what was your job with SCDC?

14 A I was a correctional officer, but I worked in the
15 intelligence contraband area.

16 Q Okay. And so was it your job to kind of be familiar with
17 all the inmates there at the facilities?

18 A Yes.

19 Q Okay. And did you know Mr. Butler prior to this incident?

20 A Yes.

21 Q Okay. And was that just through your work?

22 A Just through daily interactions, going down into the dorm,
23 conversations, passing by, just regular daily behaviors,
24 interactions.

25 Q So you were regularly in Monticello back in 2019?

1 A In all of the dorms.

2 Q Okay. And so back in, on August 5th, 2019, specifically
3 when this incident occurred, kind of what was your first
4 involvement?

5 A My first involvement was that a situation had taken place
6 in the dorm, and it was kind of, it became an all-hands-on deck
7 being involved in, I believe I went into medical.

8 Q Okay. When you first went to medical, I'm going to show
9 you State's 1. So this is the full Broad River Correctional
10 Institute, is that correct?

11 A Yes.

12 Q Okay. And so when you say you were at medical, you're
13 down here, is that ---

14 A Correct.

15 Q --- right? And so what, when you got there, what did you
16 observe?

17 A I noticed Doyle had injuries, I noticed medical staff
18 working on him trying to stop the bleeding, they did their
19 medical stuff, did all of the pressure, the machine that makes
20 the chest rise and, I don't know the ---

21 Q You're not a medical professional ---

22 A Right. I don't know the actual name of it, but it was the
23 machine that makes the chest rise and lower. Waiting on EMS --
24 -

25 Q When you say, Doyle, you're referring to Damon Doyle?

1 A Correct.

2 Q Okay. And you said you observed his injuries. Could you
3 tell what the injuries were?

4 A I honestly couldn't because there was a lot of blood.

5 Q Okay. And so could you tell, you know, other than the
6 blood what kind of condition he was in, what his, you know,
7 mannerisms were?

8 A He was fighting, he was fighting to talk, and they kept
9 telling him to stop and just relax because he was getting, he
10 was trying to verbalize, and he couldn't.

11 Q Okay. When you say he was fighting do you mean he was
12 trying to physically assault the medical staff ---

13 A No, no, no.

14 Q --- or fighting for his life?

15 A Fighting for his life ---

16 Q Okay.

17 A --- and fighting to get words out that weren't, he wasn't
18 vocal.

19 Q Okay. And you said you aren't a medical professional.
20 You didn't provide any ---

21 A No, sir ---

22 Q --- medical care?

23 A --- I let them do what they were doing, and I was standing
24 in the back letting medical do their job and just observing,
25 documenting, and things like that.

1 Q Okay. So it's part of your job to document what you were
2 seeing there?

3 A Correct.

4 Q Okay. And then so where did you go? Did you stay there
5 the whole time, or did you go anywhere else?

6 A I was in there a while. At one point in time, I went down
7 to the dorm and then at one point in time went and watched the
8 cameras to see what took place.

9 Q Okay. We'll start with when you're at the dorm. Could
10 you kind of describe the state of it when you arrived?

11 A There was a lot of movement, a lot of people were cleaning
12 up, so to speak.

13 Q What do you mean by cleaning up? And who do you mean when
14 you say people?

15 A The inmates.

16 Q Okay.

17 A Normally when instances happen, there's, everybody has a
18 job, per se, in the dorm and there's people that are lookouts,
19 there's people that clean up, there's people that have
20 different tasks, and there was a lot of people out and making
21 it look like nothing took place.

22 Q And you're familiar with these sorts of situations in your
23 experience and your time there at SCDC ---

24 A Correct.

25 Q --- is that right? And so you said after, after you

1 were in the dorm, you went and checked the video?

2 A (Nonverbal response).

3 Q Is that a normal part of your job as well?

4 A Yes. Some days I would even watch the video, watch the
5 cameras just because.

6 Q Okay. But in the sense of following up on an incident
7 like this, why do you go check the videos?

8 A To see who was where, to see who was out, to see who did
9 what, to see, to visualize what took place.

10 Q Okay. I'm going to show you State's 13.

11 MR. MCGLOTHIN: May I approach, Your Honor?

12 THE COURT: (Nonverbal response).

13 MR. MCGLOTHIN: Thank you.

14 Q I'm going to show you State's 13. Do you recognize that
15 item?

16 A Yes, sir.

17 Q Okay. And what is that item?

18 A That's a disc of the cameras from that day.

19 Q Okay. And do those videos, do those cameras, does it
20 include the recordings of the time of the incident?

21 A Correct.

22 Q Okay. And how do you know that that's the disc that shows

23 ---

24 A I viewed the disc and initialed and dated it.

25 Q Okay. And so your initials are there on the disc?

1 A Correct.

2 Q Okay.

3 MR. MCGLOTHIN: State would request to enter State's
4 13 at this time.

5 THE COURT: Any objection?

6 MS. BRUCK: No objection.

7 THE COURT: State's 13 admitted without objection.

8 (Whereupon a disc was submitted as State's Exhibit Number
9 13 for identification and entered into evidence.)

10 MR. MCGLOTHIN: And I'd like to go ahead and publish
11 as well if that's alright?

12 THE COURT: Yes, sir.

13 MR. MCGLOTHIN: Thank you.

14 Q Okay. So I'm going to pull up those videos. And so what
15 are we, are you familiar with the Monticello dorm ---

16 A Yes.

17 Q --- I think you kind of already mentioned that. So what
18 are we kind of looking at here?

19 A That's what is referred to as the rock, it's kind of like
20 a common area.

21 Q Okay. You said it's the rock?

22 A The rock.

23 Q Okay. And so if you see somebody you recognize, can you
24 see alright from right there? I know it's kind of small.

25 A It's a little far out.

1 Q If you want to, you can step down and you can kind of
2 point things out if you'd like. If you want to get a little
3 closer, just make sure you speak in this direction so the Court
4 reporter can hear you, is that alright? And is there a pointer
5 back here? So I'm going to go ahead and let this run, if you
6 see somebody you recognize, let me know.

7 (Video playing.)

8 A Okay.

9 Q Go ahead and point them out so we'll know who they are.

10 THE COURT: Okay. Let's put her on the other side so
11 her voice is coming this way.

12 MR. MCGLOTHIN: Yes, sir.

13 THE COURT: You stay where you are Sam, I mean, Mr.
14 McGlothlin, I'm sorry. Ms. Titus, if you could go to the other
15 side ---

16 MS. TITUS: Okay.

17 THE COURT: I need you to speak loud.

18 MS. TITUS: Of course.

19 THE COURT: Okay. Thank you, that's perfect right
20 there.

21 A There's Butler there.

22 Q Okay.

23 A And that's Green.

24 Q Okay. Is he another inmate here in Monticello?

25 A Correct.

- 1 Q And they both left the picture now?
- 2 A Right.
- 3 Q Is that right?
- 4 A (Nonverbal response).
- 5 Q Let's skip ahead. So do you know where the next bit of,
- 6 you can just kind of point to the next bit of interesting ---
- 7 A In this area.
- 8 Q Okay. Thank you.
- 9 A And then you see Butler stabbing Doyle.
- 10 Q Okay. Is that still Butler, they're coming in and out of
- 11 the edge ---
- 12 A Yes. He doesn't have orange on.
- 13 Q Okay. The white shorts ---
- 14 A Correct. Right here.
- 15 Q I'm going to show you this angle as well. Can you kind of
- 16 describe, kind of orient us a little bit here?
- 17 A The doors to exit are through there, so there's the steps
- 18 that we saw on the other camera, and there's the benches and
- 19 then TVs are up here.
- 20 Q Okay. So our other view was on this side looking this
- 21 direction ---
- 22 A Correct.
- 23 Q --- is that correct? And so who is that?
- 24 A Right there, that's Butler.
- 25 Q Okay.

1 A And then Green is behind.

2 Q There in the orange pants?

3 A Correct.

4 Q And we're going to see him come in and out of this view,
5 is that right?

6 A Yes.

7 Q So is that them coming back in the photo ---

8 A Yes.

9 Q --- or in the video, excuse me.

10 A Yes.

11 Q Do you know what these white boxes are that are just kind
12 of sitting in the wall?

13 A It would have been inmate communication, food, it could
14 have been anything.

15 Q Okay. So who's that coming out of the ---

16 A In the white, Butler.

17 Q Okay.

18 A And -- may I speak?

19 Q Absolutely.

20 A You can see the shank is right in his hand right there.

21 Q Okay. Did you see that previously and I wasn't quick ---

22 A Yes.

23 Q --- enough? Okay. Let me go back and you can point it
24 out, you tell me when you can see it, okay? And I'll try to be
25 quick.

- 1 A Right, as soon as he starts there.
- 2 Q Alright. Let me see if I can get this. I may not be able
3 to go quite that ---
- 4 A Slow.
- 5 Q --- slow, but we can watch it again.
- 6 A As soon as he ---
- 7 Q Right there?
- 8 A Yeah. As soon as he takes off.
- 9 Q And again, this is Butler?
- 10 A That's Butler and that's Doyle.
- 11 Q Is that Doyle you see leaving?
- 12 A Trying to leave, yes, sir.
- 13 Q Okay.
- 14 A And then Butler's still walking around. And then you'll
15 notice they're cleaning up.
- 16 Q Okay. And that's what you were talking about earlier
17 ---
- 18 A Right.
- 19 Q --- everybody's got a job ---
- 20 A Right.
- 21 Q --- I think is how you put it.
- 22 A Yes.
- 23 Q You can go ahead and sit down.
- 24 A Thank you.
- 25 Q You talked about your familiarity with inmates and

1 how that's part of your job. Do you see Dana Butler here in
2 the Courtroom today?

3 A I do.

4 Q Okay. Can you point him out for us?

5 A He's in the blue shirt.

6 Q Okay. Over here?

7 A Correct.

8 Q Thank you. And that's the man we see on the video ---

9 A Correct.

10 Q --- stabbing Mr. Doyle?

11 A Yes.

12 Q Okay. One quick thing, I'm going to go back just a minute
13 here.

14 A Okay.

15 Q So if you need to come back up, let me know, maybe you can
16 see it. You tell me, okay? And so this, you previously
17 mentioned, is Mr. Doyle, is that right?

18 A Yes.

19 Q Okay. Are you able to see if he has a weapon on that
20 video?

21 A In, when he's holding his neck, it looks like that there's
22 something hanging from his hand.

23 Q Right there? Is that, you can kind of see that little,
24 it's a dark section on his ---

25 A Yes.

1 Q --- shirt? Okay. And again, that's him heading out?

2 A Yes.

3 Q And this is Mr. Butler pacing around down here, I
4 guess?

5 A Correct.

6 Q Okay. Thank you.

7 MR. MCGLOTHIN: No further questions. Please
8 answer any the Defense may have.

9 THE COURT: Cross examination.

10 CROSS EXAMINATION

11 BY MS. BRUCK:

12 Q Good morning, Ms. Titus.

13 A Good morning.

14 Q So as far as surveillance video goes, you're pretty
15 familiar with it, correct?

16 A Yes.

17 Q You review it a lot, or you did review it a lot as part of
18 your job in 2019?

19 A Yes.

20 Q And there is no angle that captures every relevant piece
21 of this fight, correct?

22 A No. I watched every camera, every angle, figured out
23 where bodies were and who was doing what when.

24 Q And there are some areas of this dorm that don't have any
25 security footage, right?

1 A If I'm not mistaken, it's more towards the exit door, as
2 opposed to the ---

3 Q So it's here?

4 A Towards the door, like, in that area.

5 Q Okay.

6 A But as far as the rock having cameras, they do, they're
7 not in the rooms and they're not in the showers as of 2019
8 when I was there.

9 Q And this occurred around, I mean, according to this, it
10 occurred at 5:07, correct?

11 A Yes.

12 Q And in your experience, was that, did you know that to be
13 a mealtime?

14 A Meals could vary daily depending what was taking place,
15 events or if they were feeding in the cafeteria, if they were
16 feeding in the dorm, it all depends.

17 Q It could be mealtime at 5:07 ---

18 A It could be.

19 Q --- it's not out of the realm of possibility? And in
20 watching, in watching this video, I mean, there's a good deal
21 of people milling about?

22 A (Nonverbal response).

23 Q At any given point, you think it's safe to say 15 people
24 out on the rock?

25 A Easily, if not more.

- 1 Q Yeah. At least 15?
- 2 A Correct.
- 3 Q And let me just play this. If you want to come down ---
- 4 A Okay.
- 5 Q --- feel free.
- 6 (Video playing.)
- 7 Q Okay. So what did you just see? Let me back up. Okay.
- 8 This is Mr. Doyle, correct?
- 9 A Yes.
- 10 Q And did you see that exchange?
- 11 A Yeah. He was shoving him out.
- 12 Q Okay. He had returned from going towards the exit,
- 13 correct?
- 14 A He went towards the exit door and came back in ---
- 15 Q I can back it up.
- 16 A --- don't quote me a hundred percent, but I think he, the
- 17 doors were locked, and he couldn't get out and he was trying to
- 18 get out. And because there was an incident, they were pushing
- 19 him out, they didn't want him in the dorm.
- 20 Q Well, let me just ask you what we're looking at. He's by
- 21 the exit door?
- 22 A Yes.
- 23 Q And he's, now he's walking back into the dorm?
- 24 A Yes.
- 25 Q He's having an exchange with ---

- 1 A Green. Green's shoving him out.
- 2 Q And what did you just see Doyle do?
- 3 A Drop his shank.
- 4 Q And he would have dropped his shank because he was leaving
5 the dorm?
- 6 A Yes.
- 7 Q And he would have gotten in trouble for having a shank?
- 8 A Considering the circumstances it wouldn't have been a
9 factor, but normally yes.
- 10 Q And this keeps the shank in the dorm?
- 11 A (Nonverbal response).
- 12 Q I think we're done with that.
- 13 A Okay.
- 14 Q Thank you. And just as far as your experience in this
15 dorm after this incident, I think you said the dorm was mayhem?
- 16 A No. There was just a lot of people out.
- 17 Q Do you recall having a meeting with the solicitor's office
18 around, oh, I think it was January 23rd?
- 19 A I don't remember the date, but I remember having a phone
20 conversation.
- 21 Q Would it surprise you if you had in that conversation
22 called the situation mayhem?
- 23 A No.
- 24 Q There were a lot of people out?
- 25 A There was a lot of people out.

1 Q And ---

2 A No staff.

3 Q There were people, there were inmates just moving things
4 around?

5 A Just, them themselves just standing there moving about
6 doing what they do on a daily basis.

7 Q Cleaning up evidence?

8 A That, cooking, doing business, doing anything.

9 Q And when you came in, the dorm hadn't been locked
10 down at all?

11 A I don't remember exactly.

12 Q There's no correction officer throughout this entire video
13 until the end, is that correct? Or I can play it for you.

14 A That's fine.

15 Q You haven't seen one up to this point?

16 A Correct.

17 Q Do you know who this is?

18 A Not from here I don't.

19 Q Do you want come ---

20 A Sorry. Martin.

21 Q Officer Martin?

22 A Yes.

23 Q And he's the first correctional officer you've seen in
24 this scene?

25 A Yes.

1 Q The first person to arrive. And you've reviewed this
2 video, I can replay it if you'd like, but do you see Officer
3 Martin do anything to stop any of this evidence destruction?

4 A He didn't know about it because he wasn't on the floor at
5 the time. I don't even know where he was when Doyle left out.

6 Q And there was no one on the floor?

7 A Not when the incident took place, no.

8 Q You didn't see that, that gentleman cleaning up blood?

9 A Rewind it back. Can you rewind it back ---

10 Q To the very beginning?

11 A Yeah. When he walked in with the guy in the wheelchair.
12 And what was your question?

13 Q I mean, does it appear to you from having reviewed the
14 video that Officer Martin would have seen ---

15 A I can't speak ---

16 MR. MCGLOTHIN: Your Honor, I'm going to object
17 because it does call for speculation as to what the other
18 officer saw.

19 THE COURT: Sustained.

20 Q Alright. Thank you, Ms. Titus. I just have, it won't
21 involve the video.

22 A Okay.

23 Q Just one quick thing. Involving the layout, there was
24 only one way for Mr. Doyle to leave that dorm, right?

25 A Correct. There's one way in, one way out.

1 Q And so Officer Martin was coming in the same way that Mr.
2 Doyle was exiting?

3 A I can't speak on when Doyle got out to Martin coming in
4 the dorm, I can't speak on that timeframe and where Martin was.

5 Q My question is just does Officer Martin enter the same way
6 Mr. Doyle ---

7 A Yes.

8 Q --- would exit? Okay. Thank you.

9 MS. BRUCK: Nothing further.

10 THE COURT: Redirect?

11 MR. MCGLOTHIN: No, Your Honor.

12 THE COURT: Thank you, Ms. Titus, you may step down.

13 MS. TITUS: Thank you.

14 THE COURT: Alright. Ladies and gentlemen, we're
15 going to take our morning break at this time. Now, human
16 nature is to go back in that room and say, did you hear what
17 she said, did you see that, did you see this, did you pick up
18 on that, right? That's what we as normal people want to do.
19 We're going to go against human nature, we're not going to talk
20 about anything that's been discussed this morning, we're not
21 going to talk about the case at all. You can talk about
22 whether or not we're having another fake spring or not or
23 whether it's going to get cold or whatever else you want to,
24 but nothing about the case. We'll take our full morning break;
25 we'll start back in 15 minutes. Do not discuss the case, keep

1 an open mind, we'll see you back in 15 minutes, thank you.

2 Everyone else stay seated, please.

3 (Jurors exiting Courtroom.)

4 THE COURT: Anything from the State before we break?

5 MS. BROWDER: Not at this time, Your Honor.

6 THE COURT: From the Defense?

7 MS. BRUCK: No, Your Honor.

8 THE COURT: Alright. 15 minutes.

9 (Off the record.)

10 THE COURT: Anything we need to take up?

11 MS. BROWDER: Yes, sir, Your Honor. Two things, one,
12 logistically, we have one more witness that we have ready
13 before lunch. Our next witness is an inmate from SCDC, he's
14 not here yet, we've confirmed that he's on the way. He would
15 be here and ready to go at 2:00 and Dr. Monroe will be at 2:00,
16 we would rest this afternoon, Your Honor.

17 THE COURT: Okay.

18 MS. BROWDER: So we would ask after CSI Miller goes
19 that we take a lunch break if possible. And I believe they
20 have, Mr. McGlothlin and the Defense have an issue with one of
21 the pictures.

22 THE COURT: Okay.

23 MR. MCGLOTHIN: I can explain it if you'd like me to,
24 Your Honor. Basically, we, it's my intention to enter this
25 photograph, it's a pair really of photographs of Mr. Butler on

1 the date of the incident that Agent Miller from SLED took. And
2 I believe, if my understanding's correct, the Defense has an
3 issue with him handcuffed is the basis.

4 MS. MYERS: Are you ready for our response, Your
5 Honor?

6 THE COURT: (Nonverbal response).

7 MS. MYERS: Okay. So we're objecting to this photo
8 being entered into evidence under Rule 403 as it's our position
9 that showing it to the jury is substantial and prejudicially
10 probative, having him handcuffed, having his SCDC outfit,
11 having him face the wall. And I guess what they want to
12 demonstrate to the jury can be done through testimony, this
13 isn't the only way to do it through a picture of him, I guess,
14 essentially like his booking photo that they did at SCDC.

15 MR. MCGLOTHIN: Our purpose, just in very brief
16 reply, in showing these photos is these were taken directly
17 after the incident and show that he does not have any wounds or
18 anything indicating anything else which goes against the
19 Defense's defense of self-defense. And that would be the only
20 purpose of there being an incident injury, I think that's
21 extremely probative.

22 THE COURT: Who's going to put them in?

23 MR. MCGLOTHIN: The SLED analyst who photographed the
24 scene.

25 THE COURT: Is that the next witness?

1 MR. MCGLOTHIN: Yes, sir.

2 THE COURT: Okay. Anything else?

3 MS. MYERS: Your Honor, I would just also state that
4 in establishing self-defense, we don't have to establish
5 incident wounds, but the law requires us to establish immanent
6 threat that my client felt that he was in danger of his life or
7 serious bodily injury and that he acted accordingly, and he
8 acted quickly.

9 THE COURT: Alright. They're admitted. They go
10 directly to the issues in the case, they go directly to the
11 presentation of the State's case. Any prejudicial, I mean,
12 he's an inmate, this is not a secret, I mean, to think that the
13 jury thinks that no inmate's ever in handcuffs is kind of
14 ridiculous, of course they do. And so any prejudicial effect
15 is clearly outweighed by the probative value based upon the
16 Defense's opening statement.

17 MS. MYERS: Yes, Your Honor.

18 MR. MCGLOTHIN: Thank you, Your Honor.

19 THE COURT: Alright. Bring them in.

20 (Jurors entering Courtroom.)

21 BAILIFF: Jury's seated, Your Honor.

22 THE COURT: Alright. Welcome back. You may call
23 your next witness.

24 MR. MCGLOTHIN: Thank you, Your Honor. The State
25 calls Jennifer Miller.

1 CLERK: Do you swear or affirm that the testimony
2 you're about to give in this case to be the truth, the whole
3 truth, and nothing but the truth so help you God?

4 MS. MILLER: I do.

5 CLERK: Thank you. Please have a seat on the witness
6 stand. State your full name for the record.

7 MS. MILLER: My name is Jennifer Hunton, H-u-n-t-o-n.

8 **DIRECT EXAMINATION**

9 BY MR. MCGLOTHIN?

10 Q Good morning, Ms. Hunton. I apologize, I think I called
11 you Jennifer Miller, is that your ---

12 A That was my maiden name.

13 Q Thank you. Could you please tell the jury where you are
14 employed.

15 A I'm employed with the South Carolina Law Enforcement
16 Division, also known as SLED.

17 Q Okay. And what do you do for SLED?

18 A I am a senior special agent assigned to the crime scene
19 investigations unit.

20 Q And how long have you been there?

21 A I've been there for the past nine years.

22 Q Alright. And so what kind of are your duties in that
23 role?

24 A So SLED is an assisting agency. Any county or any prison,
25 college campus' if they have a death, they have the ability to

1 request us for crime scene investigation assistance. We go
2 out, we document the scene and collect any evidence.

3 Q Alright. And were you called out to the scene for the
4 incident which we're here for today that occurred on August
5 5th, 2019?

6 A Yes, sir.

7 Q Did you go to Broad River first?

8 A We went to the Prisma Health Richland Hospital first where
9 the patient was located.

10 Q Okay. And what did you do while you were there?

11 A We documented him with photographs and collected his
12 buccal swabs which are to gather the DNA from his
13 mouth, fingernail scrapings, and his fingerprints.

14 Q Is all that the normal part of your investigation ---

15 A Yes.

16 Q --- in these sorts of instances?

17 A Yes.

18 Q Okay. And then so did you go to Broad River itself after
19 that?

20 A Yes, sir.

21 Q Alright. Can you kind of walk me through your process
22 when you got there?

23 A When we arrived, we met with the lead investigator and
24 they pretty much direct us through the prison to where the
25 incident was located.

1 Q Okay. And do you remember where this took place?

2 A The Monticello pod.

3 Q Okay. And so what did you do when you got there?

4 A We took photographs.

5 Q Alright. I'm going to hand you State's 14 through, 14
6 through 19.

7 MR. MCGLOTHIN: May I approach, Your Honor?

8 THE COURT: Yes, of course.

9 Q If you could please take a look at those and just tell me
10 if you recognize them.

11 A Yes. These are photographs that we took.

12 Q Okay. Those are photographs you took on the 5th, August
13 5th, 2019?

14 A Yes.

15 Q Okay. And do they fairly and accurately depict the scene
16 there when you observed it?

17 A Yes, sir.

18 MR. MCGLOTHIN: The State would move State's 14
19 through 19 into evidence.

20 MS. MYERS: Your Honor, objections as far as 18 and
21 19 under Rule 403.

22 THE COURT: Okay. Are those the same ones we
23 discussed earlier?

24 MS. MYERS: Yes, sir.

25 THE COURT: Alright. So it's 14, 15, 16, 17, 18,

1 and 19?

2 MR. MCGLOTHIN: Yes, sir.

3 THE COURT: Okay. 14 through 17 is admitted without
4 objection, 18 and 19 are admitted over Defense's objection.

5 MS. MYERS: Yes, Your Honor.

6 (Whereupon photos were submitted as State's Exhibit
7 Numbers 14 through 19 for identification and entered into
8 evidence.)

9 MR. MCGLOTHIN: Thank you. And permission to publish
10 to the jury?

11 THE COURT: Yes, sir.

12 Q So I'm actually going to start with State's 5. Do you
13 recognize this photo?

14 A The Monticello pod, inside.

15 Q Okay. And is this as you saw it that day?

16 A Yes, sir.

17 Q Okay. And again, State's 6 is just another kind of a flip
18 view of what we just saw?

19 A Yes, sir. We photograph it from all angles.

20 Q Okay. Can you kind of tell me about how that process
21 works while I flip through State's 6 through 14? How do you
22 decide what to take pictures of and what not to.

23 A So we generally start with overall photographs. Depending
24 what our scene is, obviously, it's this pod, so we're going to
25 try to capture it from every different angle that we can taking

1 the overall photographs. Then we get into midrange
2 photographs, those are objects in relation to other objects
3 within the scene or cells so you can better see where you are
4 and if need be, closeup photographs of particular items.

5 Q Okay. So as you get to State's 14, is this kind of what
6 you would describe as an intermediate photograph?

7 A Yes.

8 Q Okay. And in relation to State's 15, does that kind of
9 help you understand the context of State's 14?

10 A Yes. It's a closer photograph that's outside of cell 197.

11 Q Okay. And then so as you're describing, you get
12 closer, State's 16 would be, and you tell me, is that standing
13 kind of in the door of 197?

14 A Yes, sir.

15 Q Okay. And then what is State's 17?

16 A That is out in the common area, it is a bucket and a mop
17 and a trash can, or not trash can, I'm sorry, trash bag.

18 Q And do you know how long it took from when you were called
19 to when you responded to this scene?

20 MS. HUNTON: Your Honor, may I refer to my
21 report?

22 THE COURT: You may.

23 A We got the call at 7:06 pm and we arrived, we went to the
24 hospital first, we arrived at 8:05 pm and we arrived at the
25 prison at 9:24 pm.

1 Q Okay. And when you are working inside a correctional
2 facility like this, do you go through security just like
3 everybody else?

4 A Yes, sir.

5 Q Okay. So it kind of takes, is it fair to say that it
6 takes a minute to get from the parking lot into wherever you're
7 going?

8 A Yes, sir.

9 Q Okay. And did you have any idea of any actions that had
10 been taken by anyone to change the scene from when they gave
11 you the call or when the incident occurred until when you
12 arrived?

13 A The information that we were provided was that
14 inmates were cleaning the common area and moving items in and
15 out of the cells.

16 Q Okay. And did you try and document anything you saw
17 relevant there inside the Monticello dorm?

18 A Yes. With photographs.

19 Q Okay. And then did you take any photo documentation of
20 any people while you were there?

21 A Yes, sir.

22 Q Okay. Did you photograph Dana Butler?

23 A Yes. He was one of them.

24 Q Okay. I'm going to show you State's 18, is that Mr.
25 Butler?

1 A Yes, sir.

2 Q And is that as you photographed him on that day?

3 A Correct.

4 Q Okay. And why do you sometimes take photographs of
5 individuals involved?

6 A So based on information that we receive from the
7 investigator, they will request us to document those
8 individuals to see if they have any injuries or any blood or
9 anything on them, so we just document them with photographs.

10 Q Okay. And I'm going to show you 18, again, is this the
11 photo you took of Mr. Butler for that same purpose of
12 documenting ---

13 A Yes, sir.

14 Q Okay. And do you remember seeing any injuries on Mr.
15 Butler at that time?

16 A No, I did not.

17 Q If you had seen them, would you had taken more in-depth
18 photographs kind of as you described earlier, those
19 intermediate shots and those closeups?

20 A Yes, sir.

21 Q Okay. Other than photographing, I think earlier you
22 mentioned you did some buccal swabs and fingernail scrapings
23 when you were at the hospital. Did you do any of that while
24 you were at Broad River?

25 A No.

1 Q Okay. And why not?

2 A We, based on the information that we were provided, so
3 it's standard practice for us to do it for all victims and
4 until it's further requested based on information that they had
5 to obtain those kind of things, like DNA from an individual,
6 until we get that permission and stuff, we don't go through
7 with that.

8 Q Okay.

9 MR. MCGLOTHIN: Beg the Court's indulgence for just a
10 minute.

11 THE COURT: Okay.

12 Q Thank you, Ms. Hunton. Did I get it right that time?

13 A Yes.

14 Q Okay. Thank you.

15 MR. MCGLOTHIN: I have no further questions. Please
16 answer anything that the Defense may have for you.

17 THE COURT: Cross examination.

18 MS. MYERS: Thanks, Your Honor.

19 CROSS EXAMINATION

20 BY MS. MYERS:

21 Q Good afternoon, special agent, is it Hudson?

22 A Hunton. Good afternoon.

23 Q Hunton. How are you today?

24 A Good. How are you?

25 Q Good. My name's Katherine Myers and I represent

1 Mr. Dana Butler. I want to just kind of start with reviewing
2 some of the testimony that you gave today. So you said this
3 picture is to highlight whether or not my client received any
4 injuries?

5 A Yes. We document them overall, individuals, just like we
6 do scenes.

7 Q Okay. And so on this photo, what if anything did you
8 conclude about Mr. Butler's injuries?

9 A Nothing.

10 Q Okay. So that means just that you did not see any
11 injuries on the back of his arms?

12 A Correct.

13 Q And you didn't see them on the inside of his hands?

14 A Correct.

15 Q And that also means that you didn't see any injuries on
16 his neck?

17 A Correct.

18 Q And that you didn't see any injuries on his face?

19 A Correct.

20 Q But to be clear, are you able to tell us from your report
21 the time that the incident took place?

22 A I don't have the incident time.

23 Q Okay. But you know that you arrived after 9 pm?

24 A Correct.

25 Q Okay. And from the time this incident occurred,

1 to the time that you arrived, 9 pm, you don't know if there's
2 any cuts, scrapes, or bruises on Mr. Butler's chest?

3 A That's just how he, the condition he was when we saw him.

4 Q But based on your investigation which included taking this
5 picture of his injuries, this does not show you whether or not
6 he had any cuts, abrasions, contusions, or bruises on his
7 chest, correct?

8 A Correct.

9 Q And it doesn't show you any injuries to his stomach,
10 potential injuries to his stomach, correct?

11 A Correct.

12 Q Or to his thighs?

13 A Correct.

14 Q Or to the back of his thighs?

15 A Correct.

16 Q In part of your investigation, did you review the video
17 surveillance?

18 A No, I did not.

19 Q Okay. So you don't know if these were the same clothes
20 that Mr. Butler had on at the incident location?

21 A No, I do not.

22 Q And so you wouldn't have any need to look below his knees
23 for any injuries either, right?

24 A No. Just how they were, we wanted to document as they
25 were.

1 Q You testified that you took a picture of room or cell 197?

2 A Yes, ma'am.

3 Q And why was 197 important to your investigation?

4 A Based on the information that the investigators gave us,
5 they said inmates had been going in and out of that cell, it
6 was a cell in question they wanted us to document and search
7 it.

8 Q And did you learn that Mr. Butler had been in cell 197?

9 A I'm not sure, that's just one that they wanted us to
10 document.

11 Q Did you know who was assigned to cell 197?

12 A No, ma'am.

13 Q And taking this photo, this also shows cell 197, correct?

14 A I can't see from here, but if 197 is above the door ---

15 Q Well, if you don't mind, you could step down, I do want to
16 make sure we're being accurate.

17 THE COURT: I need you to use the exhibit numbers
18 when you're discussing the exhibits.

19 MS. MYERS: Okay. This is Exhibit 14 that we're
20 talking about now. Previously when we talked about cell 197,
21 that was State's Exhibit 15. When we were talking about
22 injuries, we were talking about State's Exhibit 18 and State's
23 Exhibit 19.

24 THE COURT: Thank you, Ms. Myers.

25 MS. MYERS: Thank you, Your Honor.

1 MS. HUNTON: May I step down, Your Honor?

2 THE COURT: Yes, ma'am.

3 A Yes. That's 197.

4 Q And again, was your purpose of taking this picture to show
5 this cell or was there another purpose in your investigation?

6 A Just to lead into where we're going.

7 Q Okay. And are you able to identify what this object is on
8 the far-left side?

9 A I'm not sure.

10 Q Okay. And are you able to tell what dorm this is?

11 A 161.

12 Q And we're looking at State's Exhibit 11. So in
13 orientation wise, are you able to tell that cell 161 is on the
14 opposite side of 197?

15 A If there were more, I ---

16 Q So this exhibit ---

17 A I think I have a diagram, too that might be labeled on
18 there, but other pictures were taken in between this.

19 Q Okay.

20 A Right now I could just see the outside, I'm not sure which
21 side of the pod they're on.

22 Q Okay. What about this angle? Looking at the numbers,
23 this is State's Exhibit 8, looking at the numbers on the
24 cell and that weird object again, are you able to tell what
25 side of the pod we're on?

1 A I'm not sure. Just that 197 was here, 196, 195, it
2 continues to go down that way.

3 Q Okay. Well, let's back up a little bit. This would be
4 the view after walking, and this is State's Exhibit 7, this is
5 the view when you walk inside Monticello dorm, right?

6 A Yes.

7 Q So your back is to the door?

8 A Correct.

9 Q From this angle, are you able to tell whether the incident
10 happened on the left side or the right side?

11 A I'm not sure.

12 Q Okay.

13 A Looking at this.

14 Q Well, from your investigation, do you remember being able
15 to tell what side the incident occurred on?

16 A I would have to see my diagram.

17 Q Okay. And again, this is just that same angle, the
18 entryway's to our back?

19 A Yes.

20 Q You have the left side and the right side?

21 A Yes.

22 Q But just from looking here, you're not able to tell us the
23 incident location?

24 A No.

25

1 Q Alright. So that's all the questions I have about the
2 dorm.

3 MS. MYERS: Let the record reflect that I'm
4 approaching the witness.

5 Q So special agent Hunton, do you recognize what I've handed
6 you?

7 A Yes. This is my diagram.

8 Q Okay. And when we were standing up a little earlier
9 today, is that the same diagram you were referring to?

10 A Yes.

11 Q And is that the diagram that you created in the course of
12 your investigation of the August 5th, 2019 incident?

13 A Yes.

14 Q Does that appear to be a fair and accurate copy?

15 A Yes.

16 Q Does it appear to be changed or altered in any way?

17 A Just the exhibit sticker on it, but ---

18 Q And does that appear to be your work product?

19 A Yes. So the second set of initials you'll see on here is
20 by the person I was training at the time, they're able to go
21 through our pictures and our diagrams so that they get their
22 time in creating stuff like this, and then I go through it as
23 well, so that's why both of our initials are on there.

24 MS. MYERS: Your Honor, at this time, the Defense
25 moves into evidence Exhibit 1.

1 THE COURT: Any objection?

2 MR. MCGLOTHIN: Beg the Court's indulgence. Can I
3 just see ---

4 THE COURT: Sure.

5 MR. MCGLOTHIN: Defense's exhibits?

6 THE COURT: Yes, you may.

7 MR. MCGLOTHIN: Without objection, Your Honor.

8 THE COURT: Defendant's Exhibit Number 1 is admitted
9 without objection.

10 (Whereupon a diagram was submitted as Defendant's Exhibit
11 Number 1 for identification and entered into evidence.)

12 MS. MYERS: We're going to try to use some new
13 technology, Your Honor. While we're getting that set up, let
14 the record reflect that I'm approaching the witness with
15 another piece of paper.

16 Q Special agent Hunton, do you recognize this?

17 A Yes, ma'am.

18 Q Okay. And does it appear to be a fair and accurate copy
19 of what it is?

20 A Yes.

21 Q Does it appear to be a document that you created?

22 A Yes. My initials are on it.

23 Q Okay. And this is the document that you created as part
24 of your investigation of the incident that happened on August
25 5th, 2019?

1 A Yes.

2 Q And does it appear to be altered in any way?

3 A No, ma'am.

4 MS. MYERS: Your Honor, at this time, the Defense
5 enters into evidence exhibit 2 which I need to show the State.

6 MR. MCGLOTHIN: No objection, Your Honor.

7 THE COURT: Defendant's 2 admitted without objection.

8 (Whereupon a diagram was submitted as Defendant's Exhibit
9 Number 2 for identification and entered into evidence.)

10 Q Okay. So special agent Hunton, I think you can see it
11 over there and the jury can see it over here. Okay. You have
12 it right there in front of you. So I want to try to match up
13 this diagram with this photo, was that your intention with this
14 diagram?

15 A Yes.

16 Q So this diagram is the Monticello pod or dorm?

17 A A rough interpretation of it, yes. It just supplements
18 our photographs.

19 Q So on this photo that we're looking at, a diagram on the
20 bottom, that is the entry and exit, the only entry and exit to
21 the pod, right?

22 A Yes.

23 Q And then on this photo, we're standing in the only entry
24 and exit to the pod, right?

25 A Yes.

1 Q Okay. And it shows that there's a set of steps on the
2 left and on the right in the diagram, correct?

3 A Yes.

4 Q And also here in the picture there's a set of steps on the
5 left and the right?

6 A Yes.

7 Q Okay. I think what's also helpful is on your diagram you
8 show benches, it's a total of five benches, but there's two and
9 then one bench by itself which is closest to the rails in the
10 back in the diagram, right?

11 A Yes.

12 Q And that mirrors what we see here in the picture. We have
13 five benches, two sets of two and then the one closest to the
14 rails in the back?

15 A Yes, ma'am.

16 Q Okay. In your diagram, cell 197, and we're walking
17 into the pod, is on our right, correct?

18 A Yes.

19 Q Okay. When you look at this photo, 197 would be to our
20 right?

21 A Yes, ma'am.

22 Q Okay. Looking at your photo, cell 174, I'm not sure we
23 talked about that one, but whose cell is that?

24 A I'm not sure.

25 Q Okay. Why is it indicated on your diagram?

1 A That was another cell that they requested us to document
2 and search.

3 Q Okay. And you took a picture of that cell?

4 A Yes.

5 Q Okay.

6 MR. MCGLOTHIN: No objection.

7 MS. MYERS: Let the record reflect I'm approaching
8 the witness.

9 Q So special agent Hunton, do you recognize this picture?

10 A I can tell you it's of a bed that appears to be in one of
11 the cells, I just don't know exactly which one.

12 Q Right. But how many pictures did you take that day?

13 A I'm not sure an exact number.

14 Q Okay.

15 A But we, usually they're in at least the one hundreds
16 somewhere and can go up from there.

17 Q Alright. Well, this is a lot of pictures. I submit to
18 you that that's a picture taken inside of cell ---

19 MR. MCGLOTHIN: Objection, Your Honor.

20 THE COURT: Sustained, you can't testify.

21 MS. MYERS: Okay.

22 Q So this, you do not recognize this picture, so you don't
23 know what cell it is, right?

24 A I'm not sure which cell it's from.

25 Q Okay. And so in your diagram, cell 174, you're not

1 able to testify today to the significance of that cell?

2 A Just that it was one that they wanted us to, requested us
3 to document with photographs and search.

4 Q So cell 197, you're just acting under direction of what to
5 take pictures of and where to put it on a diagram?

6 A Yes, ma'am.

7 Q Okay.

8 A Because we get called on the back end, so, and we have to
9 get let into all these places, so it's at their request based
10 on information we have.

11 Q Okay. Before we, I want to talk to you about where you've
12 marked is the approximate area of the incident, but I want to
13 discuss something else first. So this is your notes that
14 created your polished diagram, correct?

15 A Yes. So with the final diagram itself, this gets used
16 along with our photographs.

17 Q And so from these handwritten notes that you took, I'm
18 assuming, did you take these on scene?

19 A Yes.

20 Q So you were looking at the pod when you created this
21 diagram?

22 A Yes, I was standing within it.

23 Q And so where it says Monticello pod at the top, that would
24 be the back of the pod, correct?

25 A Yes. Where the two side stairs are and then it drops

1 to like a lower, lower level.

2 Q In this drawing, you see the stairs on the left and the
3 right, but you've indicated four sets of, two sets of stairs
4 this time, two pairs because there's stairs that go upstairs
5 and there's stairs that go downstairs, right?

6 A Yes.

7 Q Okay. And again, you've indicated in your drawing the
8 benches?

9 A Yes.

10 Q And they have the same orientation as the benches in the
11 picture?

12 A Approximately, yes.

13 Q Okay. Thank you. So I know you testified that you didn't
14 know the significance of 197 or the significance of 174. Can
15 you please tell us in the course of your investigation, how did
16 you conclude that the approximate area of the incident was on
17 the left side of the pod when you walk in?

18 A That was information that we were given by investigators
19 saying they reviewed the video footage, and it happened
20 approximately in that area.

21 Q Okay. So just to be clear, you did not review the video
22 footage in this case?

23 A No, ma'am.

24 Q Then someone else reviewed the video footage?

25 A Correct.

1 Q And they told you that this incident occurred on the left
2 side of the dorm?

3 A Yes. Where it has approximate area of incident, that's
4 what we were told.

5 Q Okay. So special agent Hunton, I wanted to ask you about
6 your investigation beyond photos. Part of your investigation
7 was to speak with individuals, correct?

8 A No.

9 Q So you didn't ---

10 A It depends on what you mean, like, investigators, yes, but
11 we don't interview anybody, we don't interview, interrogate, or
12 anything like that.

13 Q Okay. So August 5th, 2019, when you arrived at 9 pm, you
14 did not interview any of the other inmates in that dorm?

15 A No, ma'am.

16 Q Okay. What about employees of SCDC, did you interview
17 anybody that worked that pod?

18 A No, ma'am. As our job in crime scene, we're requested to
19 come out and document and that's where ours stop.

20 Q Okay. So would it be fair to say you did not reach a
21 conclusion based on your investigation about what happened and
22 why it happened or exploring motives ---

23 A No.

24 Q --- or things like that?

25 A No, ma'am.

1 Q Thank you.

2 MS. MYERS: No further questions. Thank you, Your
3 Honor.

4 THE COURT: Redirect?

5 MR. MCGLOTHIN: Yes, sir.

6 REDIRECT EXAMINATION

7 BY MR. MCGLOTHIN:

8 Q Just very briefly because I think we covered most of this,
9 but I do want to make sure I get this right. You're an
10 employee of the South Carolina Law Enforcement Division, is
11 that correct?

12 A Correct.

13 Q And when you receive a call to go to any correctional
14 institution for an investigation, who does that come through?

15 A So whatever agency requests us goes through our dispatch
16 and they contact the on-call crime scene team.

17 Q And I guess my question is really, does it come from
18 another investigating agency?

19 A Yes.

20 Q Okay. And in this case, do you remember who that agency
21 would be that would have been directing the investigation?

22 A The South Carolina Department of Corrections Police
23 Services.

24 Q Okay. So is it fair to say that your job with SLED is
25 just to assist them in collecting evidence?

1 A Correct. And documenting.

2 Q And documenting, excuse me. So you weren't the end all be
3 all of this investigation, is that fair to say?

4 A No. They, SCDC Police Services, were the lead on this
5 investigation, we were just there to assist and take
6 photographs, document as you saw.

7 Q Okay. And they were, were they, and I think you may have
8 already said this but, kind of telling you what they believed
9 to be important at that time to document?

10 A Yes.

11 Q And there was a lot of talk about Defense's 1 and 2, those
12 diagrams you drew?

13 A Yes.

14 Q Okay. And in looking at Defendant's Exhibit 1, does it
15 say it's not to scale?

16 A Yes, sir.

17 Q Okay. Does it say all measurements are approximate?

18 A Yes, sir.

19 Q Okay. And again, did you see the video prior to
20 documenting any of this evidence?

21 A No.

22 Q Okay. Is it typical when you do these investigations, and
23 this is kind of to go to my last point, is it typical that you
24 don't interview individuals as part of your job when you arrive
25 on the scene as an assisting agency?

1 A Yes. So SLED, we are just assigned to the crime scene
2 portion. The investigating agency, they either have their own
3 investigators or if it is a SLED case, we have our
4 investigators, but I'm just assigned to the crime scene unit,
5 so we just, interviews and interrogation isn't a part of our
6 duties.

7 Q Thank you.

8 MR. MCGLOTHIN: No further questions.

9 THE COURT: Recross?

10 MS. MYERS: No, Your Honor.

11 THE COURT: Thank you, special agent Hunton. You may
12 step down. Alright. And do y'all need a break here? Is that
13 right? So what time do you want to start back?

14 MS. BROWDER: The next witnesses will be available at
15 2.

16 THE COURT: At 2? Okay. Alright. Ladies and
17 gentlemen, we're going to go ahead and take our lunch break at
18 this point in time. We're going to take it, it's going to be a
19 little bit longer than normal just because we have some
20 witness, coordinating witness time issues, so we'll start back
21 at 2:00. I want you to enjoy your lunch break, you're not to
22 talk about the case, you're not allowed to let anybody talk to
23 you about the case, you shouldn't be doing any research on the
24 case. It's not your job to go out and do your own Google
25 investigation into the matter. I want you to enjoy your lunch

1 and we'll start back at 2:00. If everyone else will stay
2 seated, we'll see you back at 2:00, thank you.

3 (Jurors exiting Courtroom.)

4 THE COURT: Alright. Who all do y'all have left?

5 MS. BROWDER: We have Benjamin Green, Your Honor, Dr.
6 Monroe, and Justin Martin, and potentially our investigator.

7 THE COURT: And is Dr. Monroe the pathologist?

8 MS. BROWDER: Yes, sir.

9 THE COURT: Alright. And anything else from the
10 State?

11 MS. BROWDER: No, sir.

12 THE COURT: From the Defense?

13 MS. BRUCK: Nothing, Your Honor.

14 THE COURT: Okay. I need to see the photos that
15 have been admitted into evidence. Somebody get me a copy of
16 them.

17 MS. BROWDER: And I don't know if you want to take it
18 up now or, it is going to be a photo I believe they might
19 object to with Dr. Monroe. I don't know if they're objecting
20 to it or not. If they want to take it up now or right before
21 lunch?

22 THE COURT: Let's take it up now. I need to see the
23 photos; I need to see the photos that are already admitted
24 including the two Defense Exhibits.

25 MR. MCGLOTHIN: Do you want your own copy?

1 THE COURT: No, just give me the real copy, the real
2 ones so I can look at them.

3 MS. BROWDER: Here are those photographs, Your Honor,
4 and I'm handing up, State's Exhibit 20, this is the one, the
5 only photo that we would seek to put in through Dr. Monroe to
6 show the injuries and the depth of the injury on the neck to go
7 against malice.

8 THE COURT: Okay.

9 MS. PRINGLE: Judge, we just would object to that
10 under Rule 403 in the State versus Carmie Josette Nelson. I
11 think the primary argument is that there's very little
12 probative value to that. So while I recognize that there are
13 far worse autopsy photographs, not only from this case but that
14 we've all seen. That type of photograph the jurors have never
15 seen anything like that. And so I think you can't
16 underestimate the impact of the gruesomeness to them of that
17 type of photograph. The question is to what is it probative
18 and I think that the Nelson case has been instructive and
19 helpful in setting forth an autopsy photo should not be
20 introduced if there is no disputed fact as to, for instance,
21 cause of death. There is no disputed fact as to cause of
22 death. This is clearly a stabbing; we know who it is. The
23 only dispute at issue in this case is whether or not it was
24 justified in self-defense. Dr. Monroe can certainly testify,
25 he has diagrams, he can put all of that information regarding

1 those wounds in great detail put into evidence through his
2 testimony. That would be the extent of our argument.

3 MS. BROWDER: And Your Honor, under State versus
4 Rosemont, autopsy pictures, even if they're very graphic in
5 nature can be used to illustrate the number and location of
6 injuries and the manner in which they were committed. Dr.
7 Monroe will testify as to the neck injury and how deep it was
8 and how different it was from the back ones, and that's the
9 first shot that he gets is the neck injury, Your Honor. We
10 have to show malice and under State v. Hawes, Your Honor, H-a-
11 w-e-s, pictures of a stabbed and naked victim were relevant
12 because they established the circumstances of the scene and
13 established the wounds that were inflicted on the victim which
14 went to the issue of malice which we have to prove beyond a
15 reasonable doubt, Your Honor. So we'd ask that that one be
16 involved, it's not bloody, it's not gory, it doesn't show any
17 private parts, it just shows the wounds.

18 THE COURT: Okay. I'll rule on it after lunch.

19 MS. BROWDER: Thank you, Your Honor.

20 THE COURT: Anything else from the Defense?

21 MS. BRUCK: No, Your Honor.

22 THE COURT: Okay. 2:00.

23 (Off the record.)

24 THE COURT: Anything from the State before we start?

25 MS. BROWDER: No, sir.

1 THE COURT: From the Defense?

2 MS. BRUCK: No, Your Honor.

3 THE COURT: Is the pathologist first?

4 MS. BROWDER: No, sir. Benjamin Green is first, he's
5 in the D cell.

6 THE COURT: Okay. Alright. Let's go ahead and bring
7 them in.

8 BAILIFF: Yes, sir.

9 (Jurors entering Courtroom.)

10 BAILIFF: Jury's seated, Your Honor.

11 THE COURT: Alright. Welcome back, ladies and
12 gentlemen, we will continue now with the presentation of the
13 State's case. You may call your next witness.

14 MS. BROWDER: Thank you, Your Honor. The State calls
15 Benjamin Green.

16 THE COURT: Alright.

17 CLERK: Do you swear or affirm that the testimony
18 you're about to give in this case to be the truth, the whole
19 truth, and nothing but the truth so help you God?

20 MR. GREEN: I do.

21 CLERK: Thank you. Please have a seat on the witness
22 stand. State your full name for the record.

23 MR. GREEN: Benjamin Green.

24 MS. BROWDER: You're going to have to speak up just a
25 little bit, okay?

1 MR. GREEN: Benjamin Green.

2 DIRECT EXAMINATION

3 BY MS. BROWDER:

4 Q Thank you, Mr. Green. Are you an inmate at the South
5 Carolina Department of Corrections?

6 A Correct.

7 Q Okay. And where do you, since you are there, obviously,
8 what are you in on, what charges are you in on?

9 A ABHAN, attempted murder.

10 Q And ABHAN, just because everybody might not know, means
11 assault and battery of a high and aggravated nature?

12 A Correct.

13 Q Okay. And it's fair to say you don't want to be here
14 today, correct? You're only here because we've compelled you
15 to be here under subpoena?

16 A Correct.

17 Q Back in August of 2019, where were you housed, Mr. Green?

18 A Broad River.

19 Q At Broad River? Okay. And what dorm were you in?

20 A Monticello.

21 Q Is there two sides to Monticello?

22 A Yes.

23 Q Okay. What are they called?

24 A A side, and B side.

25 Q Okay. And which side were you on?

1 A I don't remember.

2 Q Okay. Is it fair to say you were in Monticello, though?

3 A Correct.

4 Q Okay. Do you know, or did you know Damon Doyle?

5 A Barely.

6 Q Barely. You knew who he was?

7 A Correct.

8 Q And did you know who Dana Butler was?

9 A Correct.

10 Q Okay. And do you see Dana Butler in the Courtroom today?

11 A I do.

12 Q Okay. Can you tell the jury what color shirt he's
13 wearing?

14 A I don't know.

15 Q You don't know what color shirt he's wearing? You can't
16 see that far?

17 A (Nonverbal response).

18 Q If you got a little bit closer, could you see what color
19 he was wearing?

20 A Light blue.

21 Q Light blue? Okay. Thank you.

22 MS. BROWDER: Let the record reflect he identified
23 Mr. Butler as wearing a light blue shirt.

24 THE COURT: So reflected.

25 Q So you said, how well did you know Mr. Butler?

- 1 A I know him.
- 2 Q You know him better than Mr. Doyle?
- 3 A I know them both for a while.
- 4 Q Okay. And how did you know them?
- 5 A Prison.
- 6 Q From prison? Okay. And are y'all all from the same area?
- 7 A Correct.
- 8 Q Okay. And where is that?
- 9 A Charleston.
- 10 Q Charleston? Okay. I'm going to take you back to August
- 11 5th, 2019. Do you remember seeing Damon Doyle and Mr. Butler
- 12 in an argument that day?
- 13 A I don't.
- 14 Q You don't?
- 15 A (Nonverbal response).
- 16 Q Do you remember meeting with myself, Mr. McGlothin, and
- 17 our investigator, Niki Acerra on January 23rd, 2024, a couple
- 18 weeks ago?
- 19 A Yes.
- 20 Q And do you remember telling us that you saw them in an
- 21 argument but didn't know what it was about?
- 22 A I don't.
- 23 Q Okay. Do you deny saying that?
- 24 A I said I don't remember saying that, I don't know who
- 25 nobody was arguing.

1 Q Okay. At some point did you see Mr. Butler and Mr. Doyle
2 with each other?

3 A No.

4 Q Do you remember watching a video and saying that was you
5 on the video and seeing them?

6 A I remember watching the video.

7 Q Do you remember seeing on the video on January 24th, or
8 January 23rd, 2024, that that was them in an argument that you
9 saw?

10 A I don't.

11 Q Do you remember telling us and Investigator Acerra that
12 you were trying to calm down Mr. Butler?

13 A I remember seeing me grab him in the video, I remember
14 that.

15 Q Do you remember doing it that day?

16 A I don't, I don't remember exactly.

17 Q And do you remember why you were grabbing him?

18 A (Nonverbal response).

19 Q Okay. And you don't remember telling us it was because
20 you were trying to calm him down?

21 A I do.

22 Q You do remember saying that?

23 A I remember trying to deescalate the situation.

24 Q Okay. And why were you trying to deescalate the
25 situation?

1 A That's what I always do.

2 Q That's what you always do because you want to keep peace
3 in the dorm?

4 A Correct.

5 Q And where did you take Mr. Butler when you were trying to
6 calm him down?

7 A In my room.

8 Q In your room? Okay. And that was on the B side or
9 wherever it was, you don't remember which side it was, but to
10 your room?

11 A Correct.

12 Q And when you were in the room with him, what was his
13 demeanor, what was he acting like?

14 A I can't remember.

15 Q Do you remember telling us on January 23rd, 2024, that he
16 was hyped up and you were trying to calm him down and he was
17 still agitated?

18 A I don't.

19 Q And did you actually see the murder happen?

20 A No.

21 Q Okay. Where were you when it occurred?

22 A In my room.

23 Q In your room? And then at what point did you come out of
24 your room?

25 A After.

1 Q After?

2 A Yeah.

3 Q And what did you do when you came out after?

4 A I don't remember.

5 Q Do you remember telling us on January 23rd, 2024, that you
6 saw the aftereffects and you were trying to keep Butler away
7 from Doyle?

8 A I don't.

9 Q Do you remember trying to direct Doyle towards the exit
10 towards medical?

11 A I remember seeing that in the video.

12 Q Okay.

13 (Video playing.)

14 Q Do you remember watching this video with us, and I'll
15 pause it right here. Who is this?

16 A I can't see.

17 Q You want to step off the --

18 MS. BROWDER: Your Honor, can you please direct him
19 to step off the stand so he can see?

20 THE COURT: Step down and get close enough to the
21 screen to where you can see it.

22 Q This person right here, is that you?

23 A It looks like it.

24 Q Okay. And who is that with the gray shorts on? This is
25 Exhibit 13.

1 A I'm not sure.

2 Q You're not sure? You don't remember telling us on January
3 23rd, 2024, that that's Dana Butler?

4 A No.

5 Q Okay. I'm going to let it play a little bit. Is this
6 your cell right here?

7 A Correct.

8 Q Okay. And that's you and Dana coming back, right?

9 A Right.

10 Q You said right? I'm sorry, she just asked me what you
11 said. Now, right here. What are you doing right there?

12 A Walking with Mr. Butler.

13 Q What?

14 A Walking with Mr. Butler.

15 Q Walking with Mr. Butler, okay. And are you trying to keep
16 him away from something that was happening over here?

17 A Correct.

18 Q Okay. And that was with Mr. Doyle?

19 A I don't know who it was with.

20 Q Okay. And then you take him into your cell?

21 A (Nonverbal response).

22 Q I'll fast forward it a little bit. That's Mr. Butler,
23 right? In the gray shorts?

24 A (Nonverbal response).

25 Q This is you coming out of your cell, right?

1 A (Nonverbal response).

2 Q Is that you?

3 A (Nonverbal response).

4 THE COURT: Speak up, please.

5 A Yes.

6 Q And was that you pushing, or directing Mr. Butler away
7 from the victim, Damon Doyle?

8 A I don't know.

9 Q You can take a seat then.

10 MS. BROWDER: The State has no further questions,
11 Your Honor.

12 THE COURT: Cross examination.

13 MS. BRUCK: Thank you, Your Honor, may it please the
14 Court?

15 THE COURT: Yep.

16 CROSS EXAMINATION

17 BY MS. BRUCK:

18 Q Hey, Mr. Green. So you've been in prison for about 12
19 years at this point, is that right?

20 A Correct.

21 Q And you're projected for release in 2028?

22 A Correct.

23 Q You've done a lot of time, I mean, not as much as some
24 people, but you've done a good chunk of time, right?

25 A Correct.

1 Q And you've seen a lot in prison?

2 A Correct.

3 Q And you've learned about how prison works?

4 A Correct.

5 Q And you were, you didn't have any problems with Damon
6 Doyle, right?

7 A No.

8 Q And on August 5th when this happened, did you get involved
9 at all in the verbal argument between the two men?

10 A No.

11 THE COURT: Ms. Browder, can you help her get that
12 pulled up?

13 MS. BROWDER: Yes, sir.

14 (Video playing.)

15 Q Okay. Is that you, Mr. Green?

16 A Yes.

17 Q And is that you? Do you know where to be looking? I can
18 point it out for you.

19 A Yes.

20 Q Okay. So I'm going to ask, you know, I'm not saying it
21 was a huge role, but did you get involved in that situation at
22 all? Did you stand there and go back to the room with Dana?

23 A Correct.

24 Q And you were, you'd been through the Lee County riots not
25 too long before this incident, correct?

1 MS. BROWDER: Objection, Your Honor. Relevance.

2 THE COURT: Relevance?

3 MS. BRUCK: I'll move on.

4 Q You considered yourself kind of a peacemaker in your dorm,
5 is that fair to say?

6 A Correct.

7 Q And why did you take on that role?

8 A Seem like the right thing.

9 Q Do you have respect in your dorm?

10 A You could say that, yeah.

11 Q And Dana was a friend of yours, right?

12 A Correct.

13 Q You've known him for a while?

14 A Correct.

15 Q And you and Dana were both from the Lowcountry, right?

16 A Correct.

17 Q Mr. Doyle was too?

18 A Correct.

19 Q But of the two men that were having words back and forth,
20 Dana and Mr. Doyle, you were going to approach the person you
21 were closest to, right?

22 A I didn't know who was having words, I just...

23 Q It wasn't a concern for you to approach Dana?

24 A Correct.

25 Q He wasn't so agitated that you wanted to back off, right?

1 A Correct.

2 Q That doesn't necessarily, or that doesn't mean that he was
3 the aggressive one in that group of people?

4 A Correct.

5 Q When you are acting as a peacemaker, you're going to
6 approach people you know if they're having issues, right?

7 A Correct.

8 Q And we're going to talk a little bit about how the social
9 structure of prison works. You're not in a gang?

10 A No.

11 Q And Dana's not in a gang?

12 A No.

13 Q And people tend to group together along some lines, is
14 that fair to say?

15 A Correct.

16 Q And why do they do that?

17 A Security, protection.

18 Q Security? I mean, you're safer if you have someone have
19 your back?

20 A Correct.

21 Q And were you aware that Dana had previously been
22 stabbed?

23 A Correct.

24 Q Do you know where that happened?

25 A I don't.

1 Q Were you aware of ongoing concerns that Dana had at Broad
2 River at this time?

3 A Somewhat.

4 Q Were you aware that there was talk about having him moved
5 out of the dorm?

6 MS. BROWDER: Objection, Your Honor. Hearsay.

7 THE COURT: Sustained.

8 A Correct.

9 THE COURT: Disregard his answer, ladies and
10 gentlemen.

11 Q What safety concerns were you aware of?

12 A I just know how he wasn't feeling comfortable in the unit.

13 Q Wasn't feeling comfortable? And why is that?

14 MS. BROWDER: Objection, Your Honor. It's hearsay
15 again. It's not a statement of a party client, she's
16 soliciting him.

17 MS. BRUCK: He's, these are his own perceptions.

18 THE COURT: Yeah, but they're based upon other
19 people's statements. Sustained.

20 Q Do you know, did you ever tell Dana to make any kind of
21 formal request to get out of the unit?

22 A No.

23 Q And why is that?

24 A That'll make you a target.

25 Q I'm sorry?

1 A That can make you a target.

2 Q How does that make you a target, or how could that make
3 you a target?

4 A In prison it's called, like checking out, sort of like
5 when you do things like that, everybody start looking at you
6 like you weak, and you become a target.

7 Q And tell me, is checking out just when you request a
8 transfer?

9 A Correct.

10 Q You know Mr. Doyle, did you know Mr. Doyle to carry a
11 weapon?

12 A Yes.

13 Q What was that weapon?

14 A People had plenty weapons; he had a knife.

15 Q And how did you know he had a knife?

16 A He used to have it every day.

17 Q In your experience at SCDC, is it common to pull a knife
18 out on another inmate?

19 A Not unless you plan on using it.

20 Q Not unless you plan on using it?

21 A Correct.

22 Q And so what would it mean if someone grabbed their knife
23 out?

24 A They plan on using it.

25 Q And you said it's not uncommon for inmates to have knives?

1 A No.

2 Q Do you know how many people lived in Monticello at the
3 time?

4 A Over a hundred, 120.

5 Q 120? And what percent of them carried knives?

6 A All of them.

7 Q Now, you just reviewed the video. After you came out of
8 your room, did you have to physically intervene in any way?

9 A No.

10 Q Between Dana and Mr. Doyle?

11 A (Nonverbal response).

12 Q You didn't have to put your hands on Dana?

13 A No.

14 Q You didn't have to really approach Dana?

15 A No.

16 Q And you saw Mr. Doyle heading towards the exit, right?

17 A Correct.

18 Q And as he's almost at the exit, he turned back around.
19 Why did he turn around?

20 MS. BROWDER: Objection, Your Honor. Speculation.

21 THE COURT: Sustained.

22 Q Did he do anything of note when he turned around?

23 A No.

24 Q Would watching the video again refresh your memory?

25 A I'll watch the video again.

1 Q Okay.

2 (Video playing.)

3 Q Did you see what he did?

4 A Yes.

5 Q And what's that?

6 A He came back and spoke to me.

7 Q Anything else?

8 A He was just trying to tell me, like, dress his wounds, I
9 couldn't do that.

10 Q And why would someone want their wounds dressed in a dorm
11 by you?

12 A Because he didn't want to leave.

13 Q Why wouldn't he want to leave?

14 A I, I don't know ---

15 MS. BROWDER: Objection, Your Honor. Speculation.

16 THE COURT: Sustained.

17 Q And Mr. Green, you were living right there at the time,
18 correct? In this room.

19 A Correct.

20 Q And that's the middle floor ---

21 A Correct.

22 Q --- and the other floor is the flood zone, the lower
23 floor?

24 A Correct.

25 MS. BRUCK: Court's indulgence.

1 Q I'm going to show you a couple of pictures. Do you
2 recognize these?

3 A Yes.

4 Q What do they portray?

5 A The hole in the flood zone.

6 Q The hole in the flood zone?

7 A Correct.

8 Q And does this look the same as the last time you saw it?

9 A Correct.

10 MS. BRUCK: At this time, I move to enter Defense
11 Exhibit 3 and 4 ---

12 MS. BROWDER: It would be 4, Your Honor, because 3's
13 already ---

14 THE COURT: It's 4 and 5.

15 MS. BRUCK: 4 and 5.

16 MS. BROWDER: No objection.

17 THE COURT: Defendant's 4 and 5 are admitted without
18 objection.

19 (Whereupon photos were submitted as Defendant's Exhibit
20 Numbers 4 and 5 for identification and entered into evidence.)

21 Q And was the hole on the same floor as Dana's room?

22 A Correct.

23 Q Okay. So what are we looking at here?

24 A The hole in the flood zone.

25 Q And is that how it would normally appear to you?

- 1 A Yes.
- 2 Q Okay. And then is that the same ---
- 3 A Correct.
- 4 Q --- depiction of the hole and general area?
- 5 A Correct.
- 6 Q And what would it mean if someone asked you to go into
7 this area?
- 8 A If they asked you to go into the hole?
- 9 Q (Nonverbal response).
- 10 A Could mean a bunch of things, but nine times out of 10,
11 it's either a fight or things along that line. In the hole,
12 the cameras can't see you. If you ask me to go in the hole,
13 it's something more than likely of a violent nature.
- 14 Q And why, why is that?
- 15 A Cameras can't see the hole, it see everywhere else except
16 that.
- 17 Q And just to be clear, Mr. Doyle left the dorm without your
18 intervention, correct?
- 19 A Correct.
- 20 Q He tried to come back, but you said, no, go on ahead?
- 21 A Correct.
- 22 Q And why did you say that to him?
- 23 A Because he was bleeding bad.
- 24 Q And then the last thing you saw Mr. Doyle do was throw his
25 knife?

1 A Correct.

2 MS. BRUCK: Court's indulgence.

3 Q Thank you, Mr. Green.

4 MS. BRUCK: I have nothing further.

5 THE COURT: Redirect?

6 REDIRECT EXAMINATION

7 BY MS. BROWDER:

8 Q Mr. Green, you stated on cross examination right now that
9 you don't pull out a weapon unless you plan on using it,
10 right?

11 A Correct.

12 Q In that video that you just saw, Mr. Butler pulled out his
13 knife and he used it on Mr. Doyle, right?

14 A I don't see that.

15 Q Do you remember Mr. Butler having a shank?

16 A I don't.

17 Q And you're better friends with Mr. Butler, correct?

18 A I'm friends with both of them.

19 Q Okay. And you indicated that everybody carried knives in
20 Monticello, right?

21 A Correct.

22 Q That would include the Defendant, Dana Butler?

23 A If he had one right then, but it's common for everybody to
24 have one on level three.

25 Q Okay. And on the video that you watched, right here

1 where she asked if you touched Mr. Butler to intervene. He's
2 following Damon Doyle right now, correct?

3 A (Nonverbal response).

4 Q Mr. Doyle's walking away from him, and you touched him
5 right there to push him away, didn't you?

6 A Yeah.

7 MS. BRUCK: Objection. Characterization,
8 leading.

9 THE COURT: Overruled.

10 Q And you said that Damon Doyle asked you to dress his
11 wounds up. Why couldn't you do that?

12 A Because he was bleeding bad.

13 Q He was bleeding bad?

14 A Correct.

15 Q And last question. You testified on cross examination it
16 wasn't a concern for you to approach Damon Doyle, right? That
17 he wasn't being aggressive.

18 A I said it wasn't a concern for me to approach Dana.

19 Q To approach Dana?

20 A Correct.

21 Q And then you also testified that it wasn't a concern for
22 you to approach Doyle either, correct?

23 A It wasn't.

24 Q Okay. And that he wasn't the one being aggressive?

25 A I couldn't call either one aggressive.

1 Q Okay. But you remember Butler being agitated and hyped up
2 in your cell?

3 A I don't.

4 MS. BROWDER: No further questions, Your Honor.

5 THE COURT: Recross?

6 MS. BRUCK: No, Your Honor.

7 THE COURT: Alright. Thank you very much, sir. You
8 may step down. Alright. You may call your next witness.

9 MS. BROWDER: The State calls Investigator Niki
10 Acerra.

11 CLERK: Do you swear or affirm that the testimony
12 you're about to give in this case to be the truth, the whole
13 truth, and nothing but the truth so help you God?

14 MS. ACERRA: I swear.

15 CLERK: Thank you. Please have a seat on the witness
16 stand. State your full name for the record and spell your last
17 name.

18 MS. ACERRA: Full name, Susan Nicole Acerra, A-c-e-r-
19 r-a.

20 **DIRECT EXAMINATION**

21 BY MS. BROWDER:

22 Q And where are you employed?

23 A With the solicitor's office here in Richland County.

24 Q Okay. And what are your job duties with the solicitor's
25 office?

1 A So I'm an investigator which means that I help get cases
2 ready for trial whether that be serve subpoenas, read reports,
3 locate witnesses, victims, things of that nature.

4 Q And how long have you been in law enforcement?

5 A Roughly 25 years.

6 Q Okay. And you're the in-house investigator on this
7 particular case against Dana Butler?

8 A Yes, ma'am.

9 Q Do you remember meeting with Benjamin Green on Tuesday,
10 January 23rd, 2024?

11 A Yes, ma'am.

12 Q Okay. And can you tell the jury what he told you
13 regarding what he saw happen?

14 A He said that initially there was an argument between Mr.
15 Butler and Mr. Doyle, and he went to intervene holding Mr.
16 Butler away, taking him into his cell to calm him down because
17 he was what he told us was agitated and hyped. Took him into
18 his cell for a minute and a half, two minutes, somewhere
19 roughly about ---

20 MS. BRUCK: Objection. Hearsay.

21 THE COURT: 613(b). Go ahead, overruled.

22 A And at that point, Mr. Butler exited the cell to which Mr.
23 Green stayed behind and he came out after the incident.

24 Q And what did he tell you about after the incident what he
25 was trying to do?

1 A During the, after the incident he said that he was trying
2 to keep Mr. Butler and Mr. Doyle separated.

3 MS. BROWDER: No further questions, Your
4 Honor.

5 THE COURT: Cross?

6 MS. BRUCK: No questions.

7 THE COURT: Thank you, ma'am. You may step down.
8 Alright. You may call your next witness.

9 MS. BROWDER: The State calls Dr. Darren Monroe.
10 Your Honor, may we approach?

11 THE COURT: Yeah.

12 (Off the record.)

13 THE COURT: Give me the witness' name, I'm sorry.

14 MS. BROWDER: Darren Monroe.

15 THE COURT: Thank you.

16 CLERK: Do you swear or affirm that the testimony
17 you're about to give in this case to be the truth, the whole
18 truth, and nothing but the truth so help you God?

19 DR. MONROE: I do.

20 CLERK: Thank you. Please have a seat on the witness
21 stand. State your full name for the record.

22 DR. MONROE: Darren Monroe.

23 **DIRECT EXAMINATION**

24 BY MS. BROWDER:

25 Q Dr. Monroe, where are you employed?

1 A I'm employed at a private physician group in town called
2 Professional Pathology Services.

3 Q And what is Professional Pathology Services? What do they
4 do?

5 A So we are medical doctors who specialize in pathology and
6 that is basically the diagnosis and study of disease.

7 Q Okay. And do you perform autopsies there?

8 A Yes, I do.

9 Q And explain to the jury how you become a pathologist, your
10 education and background.

11 A So a pathologist is a medical doctor. We go to medical
12 school for four years and then we do a residency in pathology
13 and that's where we specialize in pathology which is another
14 four years. And then to do forensic pathology, which is what I
15 do, there is a one-year fellowship after all of that. And that
16 is just one year of intense study on how to perform autopsies.

17 Q And how long have you been a forensic pathologist?

18 A Since 2014.

19 Q So approximately 10 years?

20 A Yes.

21 Q And approximately how many autopsies have you done; do you
22 know?

23 A Several thousand.

24 MS. PRINGLE: Your Honor, we're happy to stipulate
25 to qualifications of Dr. Monroe in the area of forensic

1 pathology if that would be assistance to the Court.

2 THE COURT: Alright. You can keep going or stop.

3 MS. BROWDER: I can finish my questions with him,
4 Your Honor.

5 THE COURT: Okay.

6 Q Have you ever testified as an expert witness before?

7 A Yes, I have.

8 Q Approximately how many times?

9 A About 20, 25.

10 Q Okay. And are you board certified? Is that a thing in
11 forensic pathology?

12 A Yes, it is.

13 Q Okay. And are you certified?

14 A I am.

15 Q And since when have you been certified?

16 A Since 2014, as well.

17 Q And do you do continuing education and make sure you're
18 up to date on the newest technology and I guess pathology
19 topics?

20 A We do continuing medical education every year.

21 Q Okay.

22 MS. BROWDER: At this time, Your Honor, we'd offer
23 Dr. Monroe as an expert in the field of forensic pathology.

24 THE COURT: Any voir dire or objection?

25 MS. PRINGLE: No objection.

1 THE COURT: Alright. So ladies and gentlemen,
2 normally when a person testifies, they're not allowed to give
3 their opinion. Normally when a person testifies, they have to
4 testify as to what they saw, they heard, they did, they
5 touched, they sensed by smell something of that nature.
6 However, there's an exception under the rules when someone is
7 qualified because of education or experience, that person is
8 permitted to give their opinion in certain areas if the Court
9 qualifies them in that way. So Dr. Monroe will be qualified as
10 an expert in the area of forensic pathology, he will be allowed
11 to give opinion testimony in that area. Now, that doesn't mean
12 that you have to accept his opinion, but it's evidence for you
13 to use in any way that you see fit, and you give it the weight
14 and the credibility that you believe is appropriate just as you
15 should be doing with each and every witness that appears before
16 you.

17 MS. BROWDER: Thank you, Your Honor.

18 Q Tell the jury what an autopsy is.

19 A An autopsy is an examination of the outside and the inside
20 of a body to determine the cause of death.

21 Q And in general when you perform an autopsy, what is the
22 course of action you take, how do you start?

23 A We start with what's called the external examination and
24 that's where we look over the outside of the body, document
25 normal things like height, hair color, and such, and also any

1 sorts of injuries or disease processes that you can see from
2 the outside.

3 Q And after you do the external examination, you said
4 there's an internal examination as well?

5 A Yes.

6 Q Okay. And what does that entail?

7 A That entails opening the body and examining all the
8 insides and all the organs to document the same things, any
9 diseases and injuries and such.

10 Q And did you become involved in this case to perform an
11 autopsy on Damon Doyle?

12 A Yes, I did.

13 Q Okay. And what date was that?

14 A The date of the autopsy was August 6th, 2019.

15 Q Okay. And approximately how tall when you did your
16 external examination was Mr. Doyle?

17 A He was 69 and a half inches, so that's 5'9 and a
18 half.

19 Q 5'9 and a half? Okay. And before you start an autopsy,
20 do you receive any background information about the patient?

21 A Yes.

22 Q Okay. And did you receive any in this case?

23 A Yes, I did.

24 Q Okay. And how do you identify the body and make sure
25 you're autopsying the right person?

1 A The coroner's office is the group responsible for scene
2 investigations and they will go to the scene wherever the body
3 is, so you know, it could be at the hospital, or it could be at
4 the residence or wherever. And they will look over the scene,
5 they will, it's their responsibility to identify the body,
6 occasionally I will help, but it's usually them.

7 Q In this case you were autopsying Damon Doyle?

8 A Yes.

9 Q Okay. When was his date of birth? I guess before you
10 answer that, I see you're looking at notes, do you do a report
11 in every case that you are involved in?

12 A Yes, I do.

13 Q And why do you do that?

14 A So I don't have to remember ---

15 Q Okay.

16 A --- so it's documented.

17 Q Okay. So it's documented. And did you do a report in
18 this case to document your autopsy of Mr. Doyle?

19 A Yes, I did.

20 Q Is that what you're referring to to refresh your
21 recollection?

22 A Yes.

23 Q And what is the date of birth of Mr. Doyle?

24 A I have his date of birth as [REDACTED], I'm sorry, [REDACTED]

25 [REDACTED] [REDACTED].

1 Q Okay. And then what was his date of death?

2 A August 5th, 2019.

3 Q That made him how old?

4 A 43.

5 Q Okay. And when a body's brought to you to perform an
6 autopsy, are you given any background of the term of death
7 whether it was an incident or whether it was natural so you
8 kind of have an idea of what you're looking for?

9 A The amount of information we get from the coroners varies
10 depending on the case. We usually get at least a general
11 description, there might have been an incident, or this seems
12 like a natural death, those sorts of things.

13 Q Okay. And for Mr. Doyle, please describe for the jury how
14 you proceed with an external examination and what you do.

15 A So the external examination just starts with documenting,
16 you know, the characteristics of the body, height, weight, hair
17 color, those sorts of things. We look for identifying marks,
18 tattoos, scars, anything like that. I mean, basically go over
19 the body from head to toe, front and back, and just document
20 everything that we can.

21 Q And when you did the external examination of Mr. Doyle,
22 what did you find?

23 A So of note, he had multiple injuries to his body.

24 Q Okay. And we'll go through them in more detail in a
25 minute, but what, in general what injuries did you see?

1 A In general, he had three stab wounds and a, two small
2 contusions or bruises.

3 Q Okay. And when you see these wounds, do you document them
4 in any way or any format?

5 A Yes, I do.

6 Q And how do you do that?

7 A I will diagram and draw a diagram of them and also make
8 notes about the various characteristics of the wounds.

9 Q I'm going to show you what's marked as State's Exhibit 21
10 and 22. Do you recognize these?

11 A Yes, I do.

12 Q And what are those?

13 A These are copies of two of the diagrams from this autopsy.

14 Q And do they fairly and accurately represent the diagram
15 for Mr. Doyle's injuries that you saw on him?

16 A Yes.

17 Q Okay.

18 MS. BROWDER: At this time, Your Honor, we'd like to
19 enter State's Exhibit 21 and 22.

20 THE COURT: Any objection?

21 MS. PRINGLE: No objection.

22 THE COURT: 21 and 22 are admitted without objection.

23 (Whereupon two diagrams were submitted as State's Exhibit
24 Numbers 21 and 22 for identification and entered into
25 evidence.)

1 Q Alright. First, I'm showing you what is State's 21. What
2 is that diagram?

3 A This is a diagram of the side aspect of the head.

4 Q Okay. And on the bottom right or, bottom right, you have
5 something diagramed on it and some notes. What is the
6 significance of that and what were you noting?

7 A This is a diagram of a stab wound on the back left neck.

8 Q On the back of his neck?

9 A It's towards the back, yes.

10 Q Towards the back, okay. And approximately how deep was
11 that stab wound?

12 A It was at least two and a half inches.

13 Q Okay. And what is the significance of that depth when it
14 comes to cause of death?

15 A So this stab wound caused a lot of major injuries. The
16 neck has a lot of large blood vessels going through it and this
17 injured, transected some of them and caused a massive amount of
18 bleeding.

19 Q And with this type of injury and a massive amount of
20 bleeding, would you die immediately?

21 A Not immediately.

22 Q Okay. Approximately how long do you believe it would take
23 based on your observation of the injury?

24 A It could be a couple of minutes.

25 Q Okay. Did it hit any of the major arteries?

1 A So the biggest artery going through your neck is called a
2 corroded, it did not hit that one. There are other larger
3 arteries in the neck around it and it hit some of those, as
4 well as veins.

5 Q Okay. And what was the direction of the stab wound that
6 you could tell from your observation?

7 A So the stab wound was going back to front, left to right,
8 and down slightly.

9 Q So you said he was 5'9 and a half?

10 A Yes.

11 Q Okay. So if it was going down and from the back, either
12 he would have had to be bent over or somebody taller than him
13 would have had to have done it?

14 A It, those are possibilities.

15 Q Okay. Other than the neck stab wound, what other stab
16 wounds did you find?

17 A He also had two stab wounds on his back.

18 Q Okay. And where was the first one located?

19 A One of them was located on the mid-aspect of the back,
20 very close to midline, actually.

21 Q And I'm going to show you what's been entered as State's
22 Exhibit 22. Where on the left side when you see the back is
23 that stab wound located?

24 A So that stab wound is diagramed, it's very close to the
25 center line on the back there.

1 Q This one here in the middle?

2 A That's correct.

3 Q And approximately how deep was that stab wound?

4 A That stab wound is fairly superficial, it's one, one and a
5 half inches deep.

6 Q So would that be a stab wound that would cause somebody to
7 die?

8 A That's not fatal, no.

9 Q And then what is the third stab wound?

10 A The third stab wound is on the left upper back diagramed
11 as letter B up there. That was also a fairly superficial
12 wound. It's basically going just below the skin, not very deep
13 at all.

14 Q And what were the trajectory of those two stab wounds in
15 the back?

16 A The trajectory of A which is the one in the center of the
17 back area, that's just going back to front, kind of just
18 straight in the back. B is going left to right and down.

19 Q And you said both of those are fairly superficial and
20 would not have caused death?

21 A Correct.

22 Q Okay. I'm going to show you what's been marked as State's
23 Exhibit 20. Do you recognize that?

24 A Yes.

25 Q And what are those?

1 A This is a photograph of his back and neck showing all
2 three injuries.

3 Q It is a fair and accurate representation of those
4 injuries?

5 A Yes, it is.

6 Q And would it help show the jury to you the difference
7 between the neck wound and the two back wounds?

8 A It would.

9 Q Okay.

10 MS. BROWDER: At this time, we enter State's Exhibit
11 20, Your Honor.

12 THE COURT: Is this the one we talked about?

13 MS. BROWDER: Yes, sir.

14 MS. PRINGLE: We renew our prior objection.

15 THE COURT: Okay. And I'll rule on that, read the
16 basis on the record for that at the next break. State's
17 Exhibit Number 20 is admitted over the Defense's objection.

18 (Whereupon a photo was submitted as State's Exhibit Number
19 20 for identification and entered into evidence.)

20 Q Of these injuries, explain to the jury the difference
21 between the ones in the back and the one up there on the neck.

22 A So again, like the injuries to the back, the stab wounds
23 to the back are superficial. They're only going into basically
24 skin and the soft tissues and muscle underlying right under the
25 skin. There's no major blood vessels in that area. The stab

1 wound of the neck is going very deep into the neck and it's
2 injuring a lot of blood vessels and it's causing a lot of
3 bleeding.

4 Q And can you tell from this picture that the one on the
5 neck is deeper than the two in the back?

6 A Not necessarily just from this picture, no.

7 Q But from your examination, the one in the neck is at least
8 one and a fourth inches more than the back, correct?

9 A Approximately.

10 Q And in your examination external and internal, did you
11 find any natural cause of death for Mr. Doyle?

12 A There was no natural cause of death.

13 Q Was there any disease?

14 A The only natural disease finding was this dark pigment in
15 the lungs from smoking and pollution and that kind of thing.

16 Q And did that contribute to his death?

17 A No.

18 Q Based on your autopsy examination, what was his cause of
19 death?

20 A His cause of death was a stab wound of the neck.

21 MS. BROWDER: Beg the Court's indulgence.

22 THE COURT: Yes, ma'am.

23 MS. BROWDER: No further questions, Your Honor.

24 THE COURT: Alright. You can take that picture down.

25 MS. BROWDER: Yes, sir.

1 THE COURT: And cross examination?

2 MS. PRINGLE: May it please the Court?

3 THE COURT: Yes, ma'am.

4 CROSS EXAMINATION

5 BY MS. PRINGLE:

6 Q Good afternoon, Dr. Monroe.

7 A Hi.

8 Q I have just a couple of quick questions for you. Just to
9 reiterate, the two wounds to the back not the neck you said
10 were purely superficial, correct?

11 A Define purely, but they were relatively superficial, yes.

12 Q And what that means is that they penetrated, I think that
13 you told me before the fatty tissue and ---

14 A Some, yes.

15 Q --- did not penetrate any major blood vessels or organs,
16 things like that?

17 A Correct.

18 Q And you can't say with respect to, I was going to ask you
19 a question about the order of these wounds. You can't say as a
20 pathologist looking at a body and injuries such as this, you
21 can't say the order of those wounds, which one came first,
22 second, third?

23 A I can't say anything about the order that they were
24 inflicted.

25 Q And you can't say just looking at the injuries

1 whether the individual would have been moving or still when
2 they occurred, those injuries?

3 A I can't say, no.

4 Q Or whether they were bent over or standing?

5 A Correct. I, there's no way to tell that.

6 Q Alright. And I think that you have said previously the
7 most you can say is it is consistent with an individual with
8 three stab wounds?

9 A It is definitely an individual with three stab wounds.

10 Q But you can also say it's not inconsistent with a struggle
11 or fight?

12 A Correct.

13 Q And finally, Dr. Monroe, you referenced a forearm
14 contusion and a thigh contusion?

15 A Yes.

16 Q And you can't age wounds like that, can you?

17 A Not contusions, no.

18 Q And what I mean by age is you can't say when those
19 injuries were incurred?

20 A Correct.

21 Q And because of that, you couldn't say whether those
22 injuries were incurred in this altercation or another
23 altercation?

24 A Correct.

25 Q And in fact, they could have been incurred in

1 another fight earlier in the day for instance?

2 A Potentially.

3 Q Thank you so much.

4 MS. BROWDER: One question, Your Honor.

5 **REDIRECT EXAMINATION**

6 BY MS. BROWDER:

7 Q Do you have to be in a fight to get a bruise?

8 A No.

9 Q Okay.

10 MS. BROWDER: No further questions, Your Honor.

11 THE COURT: Any follow up?

12 MS. PRINGLE: No, sir.

13 THE COURT: Okay. Thank you, Dr. Monroe. You may
14 step down. Alright. You may call your next witness.

15 MR. MCGLOTHIN: The State calls Justin Martin.

16 CLERK: Do you swear or affirm that the testimony
17 you're about to give in this case to be the truth, the whole
18 truth, and nothing but the truth so help you God?

19 MR. MARTIN: I do.

20 CLERK: Thank you. Please have a seat on the witness
21 stand. State your full name for the record.

22 MR. MARTIN: Justin Andrew Martin.

23 **DIRECT EXAMINATION**

24 BY MR. MCGLOTHIN:

25 Q Good afternoon, Mr. Martin, how are you?

1 A I'm well, how are you?

2 Q I'm good. Could you please tell the jury where you work?

3 A I work for the Fifth Circuit Solicitor's Office as a video
4 analyst.

5 Q Okay. And what does it mean to be a video analyst with
6 the Fifth Circuit Solicitor's Office?

7 A I help collect bodycam surveillance video from all of our
8 law enforcement agencies within our district and make sure that
9 the correct, appropriate staff within our office has access to
10 it, I help disseminate that information to Defense attorneys
11 and public defenders. I help create demonstrative evidence for
12 trials, particularly with video to help clear up any cutouts of
13 unnecessary video that might be included with the evidence of a
14 case but has absolutely no value to the case whether it be, we
15 might sometimes get a voluminous amount of video evidence that
16 doesn't show any action regarding an incident, so we cut that
17 out. Sometimes I create demonstrative evidence to show if like
18 a piece of video might have an incident on it, I might, if it
19 only occupies a small amount of space on the video, I might
20 expand that out so it's a little easier to see on the screens
21 in the Courtroom. Troubleshoot some different issues regarding
22 play back of video evidence if those should arise.

23 Q Okay. And were you asked to prepare any video evidence
24 for this case?

25 A Yes, sir.

1 Q Okay. I'm going to show you what's been marked as State's
2 23. Could you please tell me if you recognize that?

3 A I do.

4 Q Okay. And what is that?

5 A This is a disc containing three videos that I produced
6 using some evidence that we received regarding a case with a
7 Defendant named as Dana Butler. Those are videos that were,
8 surveillance videos out of the detention center or out of the
9 jail, not the jail, I apologize, the department of corrections.

10 Q And so you mentioned that contains three different videos,
11 is that correct?

12 A Yes. Using two of the provided videos from the department
13 of corrections I created three videos that would either slow
14 down some of the evidence so that you might be able to see the
15 evidence a little more clearly or blow them up and put them
16 side by side. The video evidence that we received from the
17 prison, there were four videos, one of them was, does not
18 capture any of the action of the incident. Two of them capture
19 some of the incident and one of them captures just a tiny
20 amount. But the way that the cameras are placed within that
21 cell, or that block or whatever term they use to describe that
22 area, there's a camera that faces the entrance of the area,
23 there's a camera that faces the right and the left, and then
24 there's a closeup. So the wide angle looking at the entrance
25 of the block, if you will, faces this way, and then another

1 camera faces this way. So you see, the view of this camera can
2 see approximately this much and this camera can see this much,
3 and then the incident occurs on both cameras in-between. There
4 is a blind area in the middle, the further away from the
5 cameras that you go, the larger the blind area expands, roughly
6 about 10 feet I would estimate.

7 Q Okay. And so can you briefly tell us what those three
8 videos that you created was individually, I believe there's
9 three different ones, you said?

10 A Yeah. So because of the angle of the cameras, they were
11 roughly 90 degrees, or pointing 90 degree angles from each
12 other. So if this one's pointing this way, the other one's
13 pointing roughly this way. So all three of them use those two
14 camera angles. One of them is just an extreme wide blow up in
15 slow motion of the angle that faces to the left of the entrance
16 where you see the initial, I guess you would say confrontation
17 of the two inmates. It's slowed down to 15 percent of its
18 normal speed just so you'd have more time to see the action
19 taking place from that camera angle. And then the other two
20 videos are of both angles with the video expanded so that the
21 action occurring in the video of the Defendant and the victim
22 are taking up more of the screen so that you can see more of
23 it, and it puts them side by side so that you can see the
24 continuity between the two different camera angles. You can
25 see subjects moving from one camera angle into the other, it

1 gives the viewer a better opportunity to understand the
2 placement and the space in the area of the dorm of that space
3 in the prison.

4 Q Okay. And when you created these three videos, did you
5 change the actual substance of what is shown in each of these
6 videos?

7 A The substance, the action that occurs has not been
8 altered. I would say that I changed some things to help direct
9 the eye to the Defendant and to the victim so that they're more
10 clear as there are a lot of different people in the area at the
11 time, but I did not make any substantive changes to the action
12 that occurred.

13 Q Okay. Thank you.

14 MR. MCGLOTHIN: At this time, the State would enter
15 State's 23.

16 MS. BRUCK: No objection.

17 THE COURT: Alright. 23's admitted without
18 objection.

19 (Whereupon a Disc was submitted as State's Exhibit Number
20 23 for identification and entered into evidence.)

21 MR. MCGLOTHIN: We request to publish as well.

22 THE COURT: Okay.

23 (Video playing.)

24 Q Alright. So to kind of describe, you've already
25 described a few different methods, which one of these

1 three was this video that I'm showing in State's 23?

2 A This is a side by side I created. I was looking at
3 different ways to try to show both angles at the same time
4 since they're such drastically different angles, it makes it
5 difficult. On this one, I tried to rotate the left angle video
6 feed that you will see on the left side of that screen.

7 Q Right here?

8 A That's correct.

9 Q Okay.

10 A That side of the video from it's original is blown up to
11 385 percent, so what you're seeing on that left triangle
12 represents maybe about 10 percent of what came on the original
13 video. So it's on the very top right corner of that original
14 video and it's rotated a little bit to try to get it more in
15 alignment. As you can see the area, the walkway above the main
16 ground area there, it doesn't quite line up. That would, in
17 real life those black lines and those white lines would line up
18 and be consistent with each other, but because of the strong
19 angles from the originating videos doing so does not create a
20 very reasonable transition. So this cuts off a little bit of
21 the real estate on the bottom left of the entrance feed as the
22 feed on the right. So you can see the individual in the white
23 shorts and then you'll see him enter onto the left screen
24 headed away from the camera, they'll walk into, back toward a
25 door on the very left side of the screen there. It appears

1 there's some sort of discussion going on between him and the
2 other gentleman. And another inmate brings him away, you'll
3 see there's a few seconds in between when we zoom, visible on
4 that side until he appears, there he is now entering the door
5 there. So you can see for consistency the individual in the
6 center of the screen on the very bottom of the frame is also on
7 the left, that's right, those are the two same individuals.

8 Q And I'm just going to let this play but let me know if
9 there's another piece of that of what you have altered in here.

10 A Yeah, yes, sir. Alright. You can see him exit the door,
11 approach, that's when the altercation occurs in between the two
12 camera angles largely. You can see some of the blood, on this
13 angle you can see some of the blood coming out of the victim.

14 Q Now, I'm going to show you the second of the three. Can
15 you briefly describe how this varies from what we just saw?

16 A Absolutely. They're, both sides are scaled, again, the
17 one on the left is scaled to 385 percent of the original video,
18 the one on the right's scaled to 195 percent, so they're a
19 little larger than the original videos that we received. It's
20 also not rotated. There is some action that occurs in the
21 bottom left of the feed on the right that you will be able to
22 see in this one, but this also has duplicated layers to
23 highlight the Defendant and the victim as they travel through
24 the space. If you have a little trouble ---

25 Q Is that what we see here?

1 A Yes, sir.

2 Q How that's white and then what we see around it?

3 A That's right I made a duplicate layer and made it the
4 normal brightness and then I made the original layers darker to
5 just highlight the areas of the victim and the Defendant.

6 Q Alright. I'm going to let this play, again, let me know
7 if there's another piece that, of that kind of highlighting the
8 alteration of the actual video.

9 A And you can see it passes through a little more smoothly
10 on this one. See, it's just the side and then the highlight
11 will expand to include both the Defendant and the victim. And
12 he comes back over and enters the door, again, on the wall,
13 both the victim and the Defendant stay in their perspective, I
14 assume those are cells. Because of the way these aren't
15 rotated, you see more of the actual space in between. When
16 you're close to the camera, they actually overlap at the bottom
17 of the frame, the camera feeds overlap, but up against the
18 wall, there is about a, I think, approximately a 10-foot space
19 that is not under video surveillance.

20 Q And we can see that in play as we watch these individuals
21 walk through. When they walk closer up here, you're saying
22 there's that ---

23 A There's a period of time ---

24 Q But if you see them here, they're crossing pretty
25 rapidly.

1 A Yes. They can exist in both frames at that bottom corner,
2 the Defendant exits, they're both outside of their cells.

3 Q Alright. I'm going to show you the third of these three.
4 And can you tell me, well, let it play. Can you tell me what
5 changes you made to this?

6 A So this one's also scaled up to 385 percent, this is a
7 full view of it, though, that you can fit so it's not doubled
8 up, this is only one camera feed that you're seeing here. It's
9 slowed down to 15 percent, normal speed, these cameras generate
10 19 frames a second, so every second you're looking at about two
11 and a half pictures per second, it just slows it down enough so
12 you can see the action a little more clearly and evaluate it
13 for yourself.

14 Q Alright. Mr. Martin, other than these videos you were
15 just shown, did you create any other materials for this trial
16 from these, from the videos that you received from Broad River?

17 A Yes. While I was putting together these videos, I
18 occasionally go through videos frame by frame, and during that
19 I found a frame that it was very clear that the Defendant was
20 holding something, perhaps maybe four to six inches and pointy.

21 Q Okay. I'm going to show you State's 24. Do you recognize
22 that?

23 A I do.

24 Q Is that the still frame that you just referenced?

25 A Yes.

1 MR. MCGLOTHIN: At this point, the State would
2 request to enter Plaintiff's 24.

3 THE COURT: Any objection?

4 MS. BRUCK: No objection.

5 THE COURT: 24 without.

6 (Whereupon a photo was submitted as State's Exhibit Number
7 24 for identification and entered into evidence.)

8 Q Alright. Now I'm going to show you State's 24. So this
9 is State's 24?

10 A Yes, sir.

11 Q Okay. And as you mentioned, this is just a still frame
12 from the video, the second video we just watched?

13 A That's right, that's correct.

14 Q And you mentioned the visible, I think you said pointy
15 object?

16 A Yeah. You can see there that the, there's a sharp object,
17 a pointy object in his left hand.

18 Q Thank you.

19 MR. MCGLOTHIN: No further questions. Please answer
20 any questions the Defense may have.

21 THE COURT: Cross examination?

22 MS. BRUCK: Thank you, Your Honor. May it please the
23 Court?

24 CROSS EXAMINATION

25 BY MS. BRUCK:

1 Q Mr. Martin --

2 MS. BRUCK: May I approach?

3 THE COURT: (Nonverbal response).

4 Q Do you recognize this?

5 A I do.

6 Q And I'm handing up a disc marked, trimmed Butler, how do
7 you recognize it?

8 A We looked at it previously just a few minutes ago, a few
9 hours ago.

10 Q And this is just a shorter portion of your edit, your slow
11 motion edit, is that correct?

12 A That's correct. It is a couple of second long clip lifted
13 out of the slow-motion clip that I created.

14 Q And nothing was edited or changed from the editing you
15 have done?

16 A No, ma'am, no. Outside of it being lifted directly out,
17 that clip is exactly as I have designed it.

18 Q Thank you.

19 MS. BRUCK: At this point I move to admit ---

20 THE COURT: 6.

21 MS. BRUCK: --- Defense 6 into evidence, Your Honor.

22 MR. MCGLOTHIN: No objection.

23 THE COURT: 6 without.

24 (Whereupon a Disc was submitted as Defendant's Exhibit
25 Number 6 for identification and entered into evidence.)

1 MS. BRUCK: And I have nothing further. Thank you.

2 THE COURT: Redirect?

3 MR. MCGLOTHIN: No, Your Honor.

4 THE COURT: Thank you. You can step down. State may
5 call their next witness.

6 MS. BROWDER: Your Honor, at this time the State
7 rests.

8 THE COURT: Okay. Y'all approach real quick. Y'all
9 stand up, stretch, twist, turn while I have a conversation with
10 the lawyers.

11 (Off the record.)

12 THE COURT: Alright. Ladies and gentlemen, we're
13 going to go ahead and break there for the day. I have some
14 issues I need to take up with the lawyers outside of your
15 presence. As I release you for the evening, do not discuss the
16 case, do not do any research on the case, do not sit around on
17 your phone or your computer or your iPad or your whatever it
18 may be and do your own investigation. You should not have any
19 contact with anybody involved in the case, there's no news
20 media in here, so you're welcome to watch the nightly news if
21 you want to. Tomorrow morning, we will start at 9:30, if
22 you'll be in your jury room and ready to go at 9:30, thank you
23 very much. Everyone else stay seated.

24 (Jurors exiting the Courtroom.)

25 THE COURT: Alright. Let's take about 10

1 minutes, use the restroom, get a drink of water and we'll come
2 back and put motions on the record, put a couple other things
3 on the record and all that good stuff. 10 minutes.

4 (Off the record.)

5 THE COURT: Okay. Let me go ahead and put my basis
6 for the ruling on State's Exhibit Number 20 which was the
7 autopsy photo. I found State's Exhibit Number 20 to be
8 admissible over the Defense's objection under 401, 402, 403, it
9 goes directly to the issue of malice and the stab wound to the
10 neck and therefore the probative value of it is outweighed by
11 any prejudicial effect. On top of that, in the history of
12 crime scene photos and autopsy photos, it wasn't that bad. You
13 could see worse on the TV at night than you can in that
14 picture. It wasn't very gory, it wasn't very bloody, it wasn't
15 anything that, what I would call shocked my conscience so much
16 that it was out of control, and that's why I allowed State's
17 Exhibit Number 20 to be admitted over the Defense's objection.
18 Okay. Alright. Mr. Butler, stand up for me -- oh, let's do
19 motions. The Defense can go ahead with their motions. Does
20 the State have any motions ---

21 MS. BROWDER: No, sir.

22 THE COURT: --- at this time?

23 MS. BROWDER: No, sir.

24 THE COURT: Okay. And the Defense can go ahead with
25 their motions.

1 MS. BRUCK: Thank you, Your Honor. At the close of
2 the State's case, we do move for a directed verdict taking the
3 evidence in the light most favorable to the State. They failed
4 to prove beyond a reasonable doubt evidence sufficient to
5 convince a reasonable juror of guilt in this matter.

6 THE COURT: Alright. Ms. Browder?

7 MS. BROWDER: Your Honor, we ask that you deny that
8 motion. We put in a video, we put in testimony regarding the
9 state of mind being agitated and hyped up. Also, evidence that
10 he had a weapon during this incident, and he was an inmate,
11 there's jurisdiction and ID, we believe it's a matter for the
12 jury in the light most favorable to the State and we'd ask that
13 you deny the motion.

14 THE COURT: Alright. The standard before the Court
15 is Rule 19 of the South Carolina Rules of Criminal Procedure.
16 The standard is the existence of the evidence and not the
17 weight of the evidence. In considering the evidence in the
18 light most favorable to the nonmoving party which is the State,
19 the State has provided sufficient evidence through their eight
20 witnesses that the Defendant committed the offense, that the
21 Defendant was an active participant in the offense, that it
22 occurred in Richland County and that it meets the elements of
23 murder, possession of a weapon during the commission of a
24 violent crime, and carrying a concealed weapon as an inmate.
25 And based upon the testimony of all the witnesses and the video

1 and photographic evidence of the incidents, the Defense's
2 motion is denied. Okay. Alright. Mr. Butler, if you would,
3 stand up for me. And raise your right hand. Do you swear or
4 affirm the information you're going to give me to be the truth?

5 MR. BUTLER: I do.

6 THE COURT: Alright. Speak up.

7 MR. BUTLER: I do.

8 THE COURT: Okay. you can put your hand down, thank
9 you. How old are you?

10 MR. BUTLER: 32.

11 THE COURT: 32. And how far did you go in school?

12 MR. BUTLER: 9th grade.

13 THE COURT: Okay. Do you have a GED?

14 MR. BUTLER: No, sir.

15 THE COURT: Okay. And have you understood me okay
16 throughout this trial?

17 MR. BUTLER: Can you say that again?

18 THE COURT: Have you understood me okay throughout
19 this trial?

20 MR. BUTLER: Yes, sir.

21 THE COURT: So we need to have a conversation, I'm
22 going to explain some of your rights to you. If you don't
23 understand something I say, just let me know. If you want to
24 talk to your lawyers about it some more, just let me know. And
25 if you want me to explain something in greater detail, just let

1 me know, none of that's going to bother me, you just need tell
2 me if you're not understanding what I'm saying, okay?

3 MR. BUTLER: Yes, sir.

4 THE COURT: Alright. Great. So at this time, I'm
5 going to explain some of your rights to you, if you don't
6 understand anything I say, please just let me know. If you
7 want me to explain anything in more detail, again, please just
8 let me know, I'd be happy to do that. Do you understand what
9 I've said so far?

10 MR. BUTLER: Yes, sir.

11 THE COURT: Great. So we have now reached the stage
12 of the trial where you may present your defense. You have the
13 right to claim the protections that are given to you by the
14 Fifth Amendment to the Constitution of the United States. This
15 amendment states that no person shall be compelled in any
16 criminal case to be a witness against himself. What this means
17 is that you cannot be required to testify in this case. You
18 have the right to testify on your own behalf, however, no one
19 can make you testify. This is a personal right, and nobody can
20 waive or give up this right except for you. If you decide to
21 testify, you'll be subject to the same rules that govern all
22 the other witnesses, you may be examined and cross examined on
23 any relevant issue in this case. In addition, if you have a
24 conviction that involves dishonesty or false statements or for
25 crimes punishable by imprisonment for more than one year, and I

1 determine that the probative value of admitting this evidence
2 outweighs its prejudicial effect to you, the Solicitor will be
3 able to introduce your record to attack your credibility. If
4 you decide to testify, this decision on your part must be made
5 freely, voluntarily, and intelligently with the knowledge of
6 protections given to you by the Fifth Amendment and the
7 consequences of your decisions to testify. If you decide not
8 to testify, I will instruct the jury that they cannot give the
9 fact that you did not testify any consideration whatsoever and
10 that there is to be absolutely no prejudice to you because you
11 did not testify. It is left entirely up to you whether or not
12 you testify. You may talk with your lawyers or your family,
13 but the final decision is entirely yours. Do you understand
14 what I have explained to you so far?

15 MR. BUTLER: Yes, sir.

16 THE COURT: Okay. Do you have any questions about
17 what I just explained to you?

18 MR. BUTLER: No, sir.

19 THE COURT: And would you like some more time to
20 discuss this issue with your lawyers?

21 MR. BUTLER: No, sir.

22 THE COURT: Okay. And so do you need to talk to your
23 lawyers any more at this time?

24 MR. BUTLER: No, sir.

25 THE COURT: Okay. And do you wish to testify?

1 MR. BUTLER: I do.

2 THE COURT: Okay. Very good. Okay. Thank you, you
3 may be seated. Okay. So what's the plan for the witnesses the
4 Defense is calling tomorrow?

5 MS. BRUCK: There may be a couple very short ones and
6 the vast majority will be Mr. Butler.

7 THE COURT: Okay. And then who would the short ones
8 be if they're called?

9 MS. BRUCK: It would be Christopher Watkins just for
10 some photo video, David Anatra for the same, and I'm sorry, I
11 don't have my witness list right in front of me at the moment.

12 THE COURT: James Parrish, Lolita Henderson, somebody
13 from SCDC?

14 MS. BRUCK: Yes. It would be a social worker from
15 SCDC, Ms. Brown, I think ---

16 THE COURT: Tomechie Brown?

17 MS. BRUCK: Yes, yes, sir. And that's likely it
18 unless something unexpected comes up.

19 THE COURT: Okay. So you're going to have all those
20 people here in the morning?

21 MS. BRUCK: Yes.

22 THE COURT: Okay.

23 MS. BRUCK: But all of them I expect to be brief.

24 THE COURT: Alright. They need to be here and ready
25 to go at 9:30.

1 MS. BRUCK: Yes, sir.

2 THE COURT: Okay. What's the State's thoughts on his
3 criminal history and how to approach that if he does testify?

4 MS. BROWDER: I think right now we would ask that we
5 just be able to say you were in prison for a violent felony ---

6 THE COURT: Okay.

7 MS. BROWDER: --- but depending on his testimony
8 depends on whether I think that they open the door for the fact
9 that it's murder.

10 THE COURT: Okay.

11 MS. BROWDER: Same thing regarding the
12 disciplinaries, Your Honor. A lot depends on his testimony and
13 what he says. We would like to ask him ---

14 THE COURT: Do they have a copy of his disciplinary
15 record?

16 MS. BROWDER: Yes, Your Honor.

17 THE COURT: Okay.

18 MS. BROWDER: There will also be phone calls we would
19 like you to listen to if he's going to deny saying certain
20 things that we believe is relevant as to him being scared and
21 motive and intent since they are claiming self-defense. And if
22 he does deny those, I don't believe they come into evidence,
23 but we do have a computer and headphones ready for him to
24 listen to those phone calls that the Defense does have. I
25 don't know how to phrase that if they don't want me to discuss

1 the fact that he's currently in prison because they are phone
2 calls he made from prison on January 24th of this year. So I
3 guess that's something we need to think about. And then also,
4 I don't know if we need to proffer his testimony, but regarding
5 the victim's prior record and whether he knew what the victim's
6 prior record was or not because at this point, we've asked that
7 the victim's prior record is not relevant unless they have laid
8 the foundation and that the Defendant knew what the victim's
9 prior record was and it affected him in some way.

10 THE COURT: Okay.

11 MS. BRUCK: We agree regarding the Defendant's prior
12 record that the only thing that's relevant is what Mr. Butler
13 actually knew.

14 THE COURT: You mean the victim's prior record?

15 MS. BRUCK: Yes.

16 THE COURT: Okay. So what's his testimony going to
17 be in light of that?

18 MS. BRUCK: He knew that he was serving a life
19 sentence and that's it, that, no other detail, he will not
20 testify to what his criminal record was because, and we agree
21 that is not relevant.

22 THE COURT: Okay.

23 MS. BRUCK: And regarding Mr. Butler's record, of
24 course, we understand that he can open the door and things can
25 come in through impeachment, but I don't, I'm objecting to the

1 State saying that he's in prison for a violent felony. I don't
2 see the relevance.

3 MS. BROWDER: Your Honor, we're allowed to go into
4 anything that he's in for over one year on, and I do believe
5 the fact that murder is prejudicial, but I should be able to
6 say clearly, you're in prison for a felony, correct.

7 MS. BRUCK: My response to that is that it's, it's
8 extremely prejudicial without being probative in any sense.
9 The other thing is, I don't know, the rule just becomes very
10 strange when the period of time is so lengthy. He was
11 convicted of this charge for which he's in prison over 10 years
12 ago, and I understand that, you know, the rule says after date
13 of release or 10 years after conviction, whichever is after,
14 but I just, I want Your Honor to consider just how great of a
15 length of time it has been since his original conviction.

16 THE COURT: Well, I don't know, no one's ever told
17 me.

18 MS. BROWDER: Your Honor, we weren't planning on
19 going into the amount of time, but the fact is he's still in
20 prison and it's over one year ---

21 THE COURT: I still, I mean, she's still making an
22 analysis that I don't have any information on. So I don't know
23 when he was originally convicted.

24 MS. BRUCK: He was convicted in March of 2013, Your
25 Honor.

1 THE COURT: And what was he convicted of in March of
2 2013?

3 MS. BRUCK: Murder.

4 THE COURT: And what did he receive for that?

5 MS. BRUCK: 30 years.

6 MS. BROWDER: 30 years.

7 THE COURT: Okay. So the rule under 609 says that
8 the time limit is since the date of conviction or the release
9 from confinement imposed for that conviction. So he's not
10 released, so the 10 year rule's not in effect. The only thing
11 is a 403 analysis.

12 MS. BROWDER: And Your Honor, we believe that it
13 would not be prejudicial because clearly, he's in prison, so
14 they know he was convicted of something, so I don't believe it
15 would be prejudicial to say he was in prison for a felony. We
16 won't go into how long or anything like that unless he opens
17 the door to that, but I mean, I don't think it's prejudicial
18 because they clearly know he's an inmate and he was at that
19 time.

20 THE COURT: Alright. What else, Ms. Bruck?

21 MS. BRUCK: Your Honor, I have just something on 609
22 to pass up to exclude, it goes into a little bit more detail on
23 our reasoning for excluding mentioning his prior convictions.

24 THE COURT: Pass it up.

25 MS. BROWDER: Can we ask what it is, just ---

1 MS. PRINGLE: Yes. For some reason I think my copies
2 are on my desk, may I run, Your Honor, and get the copies for
3 Ms. Browder?

4 THE COURT: Sure. Do we have a clean computer for
5 the jury?

6 MS. BROWDER: Yes, sir.

7 THE COURT: So your intent is to say you're
8 incarcerated on what?

9 MS. BROWDER: I would like to say violent felony
10 because he's made a self-defense claim at this point, I think
11 would go towards his fear, his scaredness, being in prison,
12 that sort of thing.

13 THE COURT: And unless he opens the door, you don't
14 plan on saying he's convicted of murder or armed robbery?

15 MS. BROWDER: No, sir.

16 THE COURT: He was convicted of murder and armed
17 robbery in 2013 and received a 30-year sentence, is that
18 correct?

19 MS. BROWDER: Yes, sir.

20 THE COURT: So under Rule 609(b), the 10 year time
21 limit doesn't apply because he hasn't been released from that
22 sentence. The second prong of 609(b) is that it be 10 years
23 from the date of the conviction or date of the release from the
24 confinement imposed for that conviction which hasn't occurred
25 yet, so the 609(b) 10-year rule's not in effect, it's simply a

1 403 analysis. So what do you want to be, what else in the 403
2 analysis? They're not going to say murder unless he opens the
3 door.

4 MS. PRINGLE: With respect to the remoteness, we have
5 struggled with that analysis because the point of 609, of
6 course as you're well aware, is, the question is whether or not
7 the prior conviction is probative of truthfulness and
8 credibility. So if you think about a person who, if you're
9 sentenced to life or you're sentenced to 30 years as he is,
10 it's an interesting analysis to think that you would never
11 become so remote in time that that would not be considered not
12 probative of truthfulness, and that's purely because he's never
13 been released. I just don't think that that's the intent of
14 the rule, it's not clear. I will tell you I have looked
15 ---

16 THE COURT: I mean, the rule is clear as day.

17 MS. PRINGLE: I've looked for support for this kind
18 of situation for someone who is in ---

19 THE COURT: That's because people normally with
20 murder and armed robbery convictions don't testify.

21 MS. PRINGLE: That is true, that is probably why
22 there's not a lot of case law on that.

23 THE COURT: Right.

24 MS. PRINGLE: But that was the basis for the
25 argument. I think it is an interesting, academically

1 interesting to think about why that would even be probative of
2 truthfulness for him.

3 THE COURT: Well, it may be academically interesting,
4 but the rule could not be any clearer. Alright. So I'm going
5 to allow you to say violent felony, nothing more, okay? Not,
6 nothing into how long he's in for, how long he's been in for,
7 when he got there, any of that other kind of stuff. If you
8 believe he opens the door on his direct then let's stop after
9 the direct, and we'll have a conversation about whether or not
10 the door's been opened or not and go forward. I think, and it
11 goes directly towards his credibility, I'm happy to give a jury
12 charge that says, hold on, let me pull it up. If the Defense
13 wants a jury, an instruction, there's an instruction that I can
14 give, hold on, that says the evidence of any prior conviction
15 that the Defendant may have is only to be considered on the
16 issue of his credibility as a witness and not upon the question
17 of his guilt. I'm happy to give that jury charge if the
18 Defense would like for me to. I'm also happy to tell them that
19 after he testifies if the Defense would like me to, but I think
20 it fits squarely under 609 and the jury knows he's in prison,
21 right? At this point, the jury knows he's in prison, the jury
22 knows he's in a level three facility, right? In a dorm where,
23 basically, everybody's armed. So I don't really know what the
24 prejudicial effect that he's in on a violent felony is really
25 going to have on the situation, it's not like he's at the Alvin

1 S. Glenn Detention Center on a speeding ticket, you know, kind
2 of thing. So I'll allow you to say that, but if you want to go
3 any further than that, we need to have a conversation about it
4 before you do it.

5 MS. BROWDER: Yes, sir.

6 THE COURT: Alright.

7 MS. PRINGLE: Your Honor?

8 THE COURT: (Nonverbal response).

9 MS. PRINGLE: If I could ask that the motion to
10 exclude these prior convictions argument included therein be
11 made a Court's exhibit. I understand you have ruled, so I'm
12 not going to belabor the point that we've made in this motion,
13 but I would like to preserve the record and have them included.

14 THE COURT: Okay. That's great.

15 (Whereupon a motion was submitted as Court's Exhibit
16 Number 1 for identification and entered into evidence.)

17 THE COURT: Alright. What else from the Defense?

18 MS. PRINGLE: We do want to at this time formally
19 move pursuant to South Carolina Code 14-7-1320 for a jury view
20 of the scene of the crime.

21 THE COURT: Okay. And the State's position on that
22 is still the same?

23 MS. BROWDER: Yes, sir, Your Honor. The only other
24 thing I would want to add to that is I believe it would be
25 prejudicial as to some of the jurors may be uncomfortable being

1 in there. They've never been in a prison, and it worries me
2 that they might be trying to go to the fear of the jurors when
3 the Defendant and the victim have been in there for years, that
4 is a different state of mind for them versus a juror walking in
5 there for the first time in addition to all the other arguments
6 that I made the other day. And I don't believe it's necessary
7 because we have pictures, a diagram, they've put in pictures,
8 there's a video, I believe it's very clear from the case law
9 and from the evidence that we've put in that it's not necessary
10 to go to the scene.

11 THE COURT: Okay.

12 MS. PRINGLE: If I may be heard, please? Your Honor,
13 you have had an opportunity at this point to look at the
14 photos, the video, you've heard the testimony. Ms. Browder
15 just mentioned that a diagram was put in, the diagram is
16 actually in error in terms of where the incident took place.
17 The photos and the video and the testimony, if you consider
18 them all together, it's our position that it is confusing.
19 There are areas that are not shown on the video, the nature of
20 the angle of the video, the edited video by Mr. Martin are, to
21 me is still confusing, and I have been out there. If you look
22 at the video, what prompted this request from us was after
23 watching this video a hundred times over, going out there and
24 looking at it, we realized immediately that this space was much
25 smaller than it seemed in the video. It appears once you've

1 seen it in person that the camera angle is a wider type of lens
2 which makes sense to encompass the full, you know, extent of
3 the rock, the cell, everything that it can encompass.
4 Obviously, the size of the space is significant to self-defense
5 claim. The orientation is significant. It's hard to tell from
6 these pictures where those two cells are, where 197 is, where
7 174 is, it's confusing, almost impossible. With respect to the
8 law and yes, of course, it is fully in your discretion, the
9 question under 14-7-1320 is is it necessary for the jury to
10 reach a just decision. And again, this is a life without
11 parole case, it's a very serious case, it would certainly be
12 helpful, it is not going to detract from the information that
13 the jury has, but it's only going to add to the information
14 that the jury has. With respect to the case law that was
15 raised by Ms. Browder yesterday, I just wanted to respond
16 briefly. State versus McHoney was a case where the jury asked
17 to see the scene in the dark during deliberations was a
18 situation where there was a single eyewitness who had an
19 encounter, it was dark, while they were deliberately, the asked
20 to go out there and look at it. They upheld it because there
21 was a photo that was introduced that showed a streetlight, and
22 because the witness who was, the eyewitness said he could see,
23 that there was enough light. This case is a whole lot more
24 complicated, it's a much larger space that we're talking about,
25 multiple areas that we're talking about. Orientation is

1 important with these multiple areas. That was not present in
2 McHoney. In Spinks, the Defendant had a knife in prison, and
3 it was just a possession, a contraband type of charge. They
4 upheld it because they said that the scene was fully described
5 by the witnesses, and the testimony was supported by an
6 accurate and correct diagram. It's unclear even from reading
7 that why the scene was that important in a possession of
8 contraband case. Obviously, again, this is much different,
9 this is a struggle, a fight, there are multiple events that
10 lead up to this. There will be other, after he testifies,
11 there will be information that has, is not referenced, is not
12 talked about, is not seen that's important for the jury to see.
13 With respect to the diagram, the diagram we have, the only
14 diagram we have is incorrect. Finally, with respect to State
15 versus Brown, the issue in that case was the diagram was not
16 drawn to scale and that, the claim was that the diagram misled
17 or confused the jury regarding the layout of the house. They
18 upheld it based on testimony of the size of the home, and that
19 there were very accurate photos drawn to scale. We don't have
20 those photos drawn to scale, we don't have any measurements, we
21 don't have the correct diagram to support the testimony. With
22 respect to logistics, Judge, if you were to order it, we have
23 spoken to Ms. Bigalow who's spoken to the warden, she indicates
24 that a Court order will permit access just as we had access.
25 There will be officers throughout, the dorm would be locked

1 down, they can do it whenever your order says you needed done.
2 With respect to transport, I've communicated with the clerk's
3 office, Ms. Belcher indicates that Lieutenant Dobbs, Sheriff's
4 Department would be responsible for that and that they could do
5 it tomorrow or the next day.

6 THE COURT: Okay. We're not going to the scene under
7 any circumstances, okay? And I didn't let a jury go see the
8 Walmart on White Horse Road in Greenville where a rape occurred
9 because it was too dangerous. And certainly taking 14 citizens
10 who did not volunteer to be here and are basically here by the
11 order of the Court inside a maximum-security prison where we
12 now have testimony that the majority of the people inside that
13 dorm have weapons is not happening. But let me put my basis,
14 my explanation on the record. So the exercise of discretion is
15 not just making a decision. The Court has a responsibility of
16 discretion. It has to exercise a clear understanding of the
17 law and the analysis of the situation, and then rule and follow
18 the law supported by the facts and circumstances. So the law
19 on the issue is found in 14-7-1320 and probably the most
20 important word at this point is may, the jury in a case may at
21 the request of either party be taken to view the scene. The
22 next most important word is necessary, or necessary to a just
23 decision. The case law on the issues are McHoney and Brown and
24 this case from 1973, Spinks. In McHoney, one of the jurors
25 asked to go to a gas station at night and the Court said even

1 though a juror made the request, even if a party had made the
2 request, it was not necessary to make a decision. There was a
3 photo introduced and there was witness testimony. In Brown,
4 the trial Court even acknowledged that the diagram was
5 misleading and had serious concerns with the diagram until the
6 pictures were introduced and then a clear impression was given
7 of the crime scene, and they were not taken to the crime scene
8 in Brown as well. They were also not taken to the scene of the
9 incident in Spinks, which is a 1973 case. So in this case, I
10 have seen all of the pictures that have been introduced, I have
11 also watched all the videos that have been introduced, I have
12 also seen the two different diagrams which have been introduced
13 as well, some of that by the State and some of that by the
14 Defense. Basically, the majority of the incident as portrayed
15 by the State is on video, it's a very clear video, it's not a
16 very difficult video to follow or to follow what is going on.
17 There's also pictures of the scene, there's also diagrams even
18 though the person making the diagram clearly put whichever side
19 the incident occurred on in the wrong spot, but there is
20 pictures upon pictures upon pictures of the inside of this
21 dorm. There's also a video of, displaying what is going on,
22 the way people are moving around, what the steps look like,
23 what the area looks like, and there's just more than sufficient
24 information on the record to create a situation where the jury
25 is able to determine the facts and circumstances of the case

1 based upon the videos and the photographs which have been
2 introduced into evidence. State's 1 through 12, State's 13,
3 State's 14 through 19, State's 23, 24, Defense Exhibit Number
4 1, Defense Exhibit Number 2, all go into play into the
5 analysis. I just do not see a reason to put a situation where
6 we have to take 14 jurors, Court staff, lawyers, and deputies
7 go out there, go through security at SCDC which I have been in
8 probably more than 15 or 20 prisons in this State which is an
9 act of Congress itself just to get inside the facility much
10 less what they're going to have to do to create a situation
11 where, I guess they're going to lock down everybody on the dorm
12 and then we're going to walk in there and they're all going to
13 be screaming and yelling at us because I've lived through that
14 before, too, multiple times. It's just not, it's not necessary
15 and the Court has discretion over it, there's a reason the
16 statute says may, there's plenty of information, and whatever
17 else Mr. Butler or these other witnesses want to say about the
18 scene or whatever the circumstances may be, you know, they will
19 be allowed to say. So at this point in time, we are not doing
20 a view of the crime scene under 14-7-1320 and the Court's
21 exercising its discretion understanding the law and analyzing
22 the situation and then supporting it with the facts and
23 circumstances that have been introduced into evidence
24 throughout the presentation of the State's case. Alright.
25 Anything else from the State before we break for the night?

1 MS. BROWDER: No, sir.

2 THE COURT: From the Defense?

3 MS. BRUCK: No, Your Honor.

4 THE COURT: Okay. Alright. I need any jury charges
5 that you're interested in emailed to me, not to my clerk, email
6 to me tonight in word format so I can look at them. And we
7 start at 9:30.

8 MS. BROWDER: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (Whereupon the hearing ended at 4:11 pm.)

11 **DAY THREE OF STATE V. BUTLER - FEBRUARY 14, 2024**

12 THE COURT: Okay. One thing, good morning. One
13 thing we need to take up prior to the jury coming in is the
14 Defendant's shackles and how we're going to deal with that
15 when he takes the witness stand. So the way I've done it,
16 one of the ways I've done it before is we've put the
17 Defendant on the witness stand when the jury's not in the
18 room and then we take him off the witness stand when the
19 jury's not in the room. The only issue with that is if
20 somebody's going to ask him to get down to demonstrate what
21 happens.

22 MS. BROWDER: And, Your Honor, I actually brought
23 this up with Defense earlier before you took the bench. I do
24 anticipate asking him to come off the stand for purposes of
25 video and some other reasons. I don't have a problem if he

1 doesn't have shackles on during his examination, but I do
2 anticipate asking him to come off the stand.

3 THE COURT: Okay.

4 MS. BRUCK: Your Honor, we would request that
5 shackles come off, he be called from here and walk to the
6 witness stand as well.

7 THE COURT: Kelly?

8 OFFICER KELLY: I say the leg irons stay on, we'll
9 take the belly chains off.

10 THE COURT: Has he had any issues this week?

11 OFFICER KELLY: No.

12 THE COURT: No problems?

13 OFFICER KELLY: No.

14 THE COURT: No misbehaving?

15 OFFICER KELLY: No.

16 THE COURT: None of that?

17 OFFICER KELLY: No. He's been cooperative.

18 THE COURT: Okay. Alright. Mr. Butler, listen to
19 me, okay? You hear me? Can you hear me?

20 MR. BUTLER: Yes, sir.

21 THE COURT: Okay. I'm going to allow them to remove
22 your handcuffs and your leg shackles so you can walk to the
23 witness stand and testify like any other witness, okay?

24 MR. BUTLER: Yes, sir.

25 THE COURT: Ther is going to be security around

1 you. Just understand that if something happens, the trial is
2 going forward. So if something happens or if you decide to
3 show out or you decide to do something other than answer
4 questions or ask the lawyers to do what they're asking you to
5 do, the case is going to keep moving forward regardless of
6 that. Do you understand all that?

7 MR. BUTLER: Yes, sir.

8 THE COURT: Now, I have no information that your
9 behavior's been anything other than exemplary this week. I
10 certainly haven't seen you behave in any inappropriate manner;
11 you've been very polite; you've been very respectful with me.
12 I see that you've been communicating with your attorneys and
13 getting along with them and so I don't expect any issues. But
14 just understand that, you know, all of that, all of what you do
15 on the witness stand will be a part of the equation that the
16 jurors put in their mind as to them determining whether or not
17 you're credible which is going to be a major issue in the case.
18 Do you understand all that?

19 MR. BUTLER: Yes, sir.

20 THE COURT: Okay. Do you have any questions about
21 any of that?

22 MR. BUTLER: No, sir.

23 THE COURT: Okay. And do you understand what I'm
24 saying?

25 MR. BUTLER: Yes, sir.

1 THE COURT: And which number of witnesses is he?

2 MS. BRUCK: He's first, Your Honor.

3 THE COURT: He's first, okay. Alright. So we'll get
4 that set up before they come in and, alright, what else do we
5 need to take up from the State before we start?

6 MS. BROWDER: Nothing, Your Honor.

7 THE COURT: From the Defense?

8 MS. PRINGLE: Just very briefly for the record.
9 Judge, in our objection and argument yesterday regarding the
10 prior conviction and their proposal and the ruling that they
11 would be allowed to use the term conviction of a violent
12 felony. I don't know that we actually properly preserved our
13 objection to the use of that particular term. For the record,
14 I wanted to state that one of the control factors, the
15 impeachment value of that, under State versus Black, State
16 versus Robinson, crimes of violence doesn't, generally do not
17 relate to credibility. Our Court has held in State versus
18 Black it indicates that manslaughter convictions are not
19 particularly probative of truthfulness. Obviously, this will
20 lead the jury to speculate, I'm not sure that calling it a
21 violent felony decreases the similarity sufficiently or if it
22 were reduced to felony but calling it a violent felony makes
23 clear that it's something similar to murder which is what he's
24 currently charged with. I think the other factors are probably
25 relevant.

1 THE COURT: Okay. You want to respond to that?

2 MS. BROWDER: Your Honor, again, like I mentioned
3 yesterday, everybody knew he was in prison, he's an inmate,
4 class 3 classification, so I don't think it is prejudicial to
5 say violent felony.

6 THE COURT: Okay. My ruling upon that will be the
7 same as yesterday, thank you. Alright. Let's bring them in.
8 Oh, go ahead and take them off, Kelly.

9 (Jury entering Courtroom.)

10 BAILIFF: Jury panel seated, Your Honor.

11 THE COURT: Oh, jury panel seated, is that what you
12 said, Mr. Bowen?

13 BAILIFF: Yes, sir.

14 THE COURT: Alright. Good morning, ladies and
15 gentlemen. Thank you very much for being on time. Happy
16 Valentine's Day, there you go. And so I appreciate you being
17 on time and being ready to go this morning. When we left
18 yesterday the State had rested their case. The Defense now has
19 an opportunity to put on a case if they want to, they do not
20 have to because as I explained to you in the beginning, the
21 burden of proving the case lies with the State. But we always
22 give the Defense an opportunity to call witnesses if they would
23 like to, it's completely and totally their decision. And Ms.
24 Bruck, would you like to call any witnesses?

25 MS. BRUCK: Yes, Your Honor.

1 THE COURT: Alright.

2 MS. BRUCK: Defense calls Dana Butler.

3 THE COURT: Alright. Come on up Mr. Butler and
4 please be sworn in.

5 BAILIFF: Come forward and be sworn. Face the clerk,
6 place your left hand on the Bible and raise your right.

7 CLERK: Do you swear or affirm that the testimony
8 you're about to give in this case to be the truth, the whole
9 truth, and nothing but the truth so help you God?

10 MR. BUTLER: I do.

11 CLERK: Thank you. Please have a seat on the witness
12 stand. State your full name for the record.

13 MR. BUTLER: Dana Butler, Jr.

14 DIRECT EXAMINATION

15 BY MS. BRUCK:

16 Q Good morning, Mr. Butler.

17 A Good morning.

18 Q Can you introduce yourself to the jury?

19 A Dana Butler, Jr.

20 Q And how old are you?

21 A 32.

22 Q Where are you from, Dana?

23 A Ravenel, South Carolina.

24 Q And where is Ravenel?

25 A In the country part of Charleston.

1 Q Country part of what?

2 A Charleston.

3 Q Okay. Make sure to speak up, alright? Small town?

4 A Yes, ma'am.

5 Q And is that where your family lives?

6 A Some of them, yes, ma'am.

7 Q Who are you close within your family?

8 A My mother's side, my mother's side of the family.

9 Q How are you feeling today?

10 A Nervous.

11 Q It's okay, I am too. Where were you living on August 5th,
12 2019?

13 A Broad River Institution, Monticello unit.

14 Q Monticello unit?

15 A Yes, ma'am.

16 A And that's the South Carolina Department of Corrections,
17 right?

18 A Yes, ma'am.

19 Q And did you meet Damon Doyle there?

20 A I did.

21 Q And did he arrive before or after you?

22 A After.

23 Q After? Tell me a little bit about Mr. Doyle.

24 A He was always a loud person, tried to be intimidating,
25 just always had something to say.

- 1 Q Did you spend a good deal of time with him?
- 2 A No, ma'am.
- 3 Q Now, do you know where he was from?
- 4 A He was from Waterboro.
- 5 Q Also low country, Charleston area, right?
- 6 A Yes, ma'am.
- 7 Q And did that mean anything kind of socially at Broad
8 River?
- 9 A Yes. I mean, typically you would hang with people from
10 your area.
- 11 Q Your geographic area?
- 12 A Yes, ma'am.
- 13 Q And so was he considered part of your geographic area?
- 14 A Yes, ma'am.
- 15 Q Did you spend one on one time with him?
- 16 A No.
- 17 Q And when he first arrived, did you have any major issues
18 with him?
- 19 A No, no.
- 20 Q At some point did you ever see Mr. Doyle with a weapon?
- 21 A I have.
- 22 Q Can you tell me about that?
- 23 A In the dorm the stairs is where inmates would sharpen
24 their knives, and I've seen him sharpen his knife when he first
25 got there.

1 Q When he first got there?

2 A To the dorm.

3 Q And did you know what Mr. Doyle's sentence was?

4 A Yeah. I know he had a life sentence.

5 Q And how do you know that?

6 A He would say it.

7 Q He would say it?

8 A Yes, ma'am.

9 Q Can you kind of describe the context he would bring that
10 up in?

11 A Like when he got in verbal arguments with people, he would
12 let it be known that he had a life sentence, and he wasn't
13 never going home.

14 Q So what did that mean?

15 MS. BROWDER: Objection, Your Honor. What a life
16 sentence means is not something he would necessarily know to
17 Mr. Doyle.

18 THE COURT: Speculation?

19 MS. BROWDER: Yes, sir.

20 Q What would it mean in the context of an argument when said
21 in prison?

22 A I would say basically trying to intimidate an individual
23 by letting them know about a life sentence. I guess you don't
24 care, that's what I would say.

25 Q Had you ever seen Mr. Doyle get in a fight?

1 MS. BROWDER: Objection, Your Honor. Relevance to
2 Mr. Butler when he's in an altercation with somebody else.

3 MS. BRUCK: State of mind.

4 THE COURT: Sustained.

5 Q Did you notice any change with Damon Doyle after you'd
6 been there for a while?

7 A Yeah. He started hanging with a group of individuals that
8 I previously was stabbed by.

9 Q That you previously were stabbed by?

10 A Yes, ma'am.

11 Q And did you notice any changes in his demeanor towards
12 you?

13 A Yes. He, I mean, he always was a loud person, always was,
14 like I say, he just always had something to say like he seemed
15 like he was more aggressive towards me and the things that he
16 would say and just his words, his choice of words that he would
17 say, he just seemed more aggressive towards me.

18 Q Did he seem more aggressive towards you or more aggressive
19 generally?

20 A I would say towards me.

21 Q Towards you. And these individuals that he was dealing
22 with, can you kind of delve into that a bit more? What do you
23 mean by dealing with?

24 A I mean just day to day, like his day-to-day interactions,
25 you know, like I said typically you would only hang with or

1 really have dealings with individuals from your area, like, you
2 wouldn't go outside that. So you know, when he, when I started
3 noticing that he was, had dealings with these individuals, and
4 I was previously stabbed by these, a group of individuals at
5 the same institution, I mean, it was, I mean, I was concerned.

6 Q And were these people that Doyle had started spending more
7 time with, were they people who had stabbed you or were they
8 people associated with them?

9 A People who associated with them.

10 Q And how were they associated with them?

11 A They were in the same gang.

12 Q What gang is that?

13 A Blood gang.

14 Q The blood gang?

15 A Yes, ma'am.

16 Q And had you and Mr. Doyle had any other issue that you can
17 think of to explain this heightened aggression towards you?
18 Any other arguments, anything like that?

19 A Earlier, well, before the incident, he came to inmate
20 Green's room and me and Green were in the room, and he asked me
21 and Mr. Green if ---

22 MS. BROWDER: Objection, Your Honor. Hearsay.

23 MS. BRUCK: I'll back up.

24 Q So Dana, this stabbing by the bloods, where did that
25 happen?

1 A At Broad River.

2 Q In what year?

3 A 2017, I believe.

4 Q And do you know why it happened?

5 MS. BROWDER: Objection, Your Honor. Speculation.

6 THE COURT: Sustained. You can rephrase the
7 question.

8 Q What happened in that stabbing?

9 A I was, I got out the shower, going to my room to, you
10 know, put on lotion or whatever, and three individuals came in
11 my room and stabbed me several times. When those three
12 individuals walked out, two more individuals came in and
13 stabbed me a few more times and one of the individuals who came
14 in the room was, he said ---

15 MS. BROWDER: Objection, Your Honor. Hearsay.

16 THE COURT: Sustained.

17 Q Without saying what they said, just describe the incident.

18 A I was stabbed like eight times, had a punctured lung.

19 Q Did you have to go to the hospital?

20 A Yes.

21 Q And had you had any other issues with the bloods prior to?

22 A Yes.

23 Q Where?

24 A At McCormick.

25 Q Is that another SCDC facility?

1 A Yes.

2 Q And when did that happen?

3 A In 2016.

4 Q 2016?

5 A Yes, ma'am.

6 Q And tell us about that incident.

7 A Four individuals came in my room and I was stabbed several
8 times and they took my TV, a pair of shoes, and some canteen I
9 had.

10 Q They robbed you?

11 A Yes.

12 Q And what was the connection between these two incidents?

13 A They were bloods, blood members.

14 Q And after you were stabbed by blood members in 2017, did
15 you stay at Broad River?

16 A No.

17 Q Where did you go?

18 A To Perry Institution.

19 Q And how was Perry?

20 MS. BROWDER: Objection, Your Honor. Relevance as to
21 how a different institution is.

22 MS. BRUCK: I'm just allowing him to tell his story -

23 --

24 THE COURT: Sustained.

25 MS. BRUCK: --- to lay out for history.

- 1 Q Did you get stabbed at Perry?
- 2 A No, ma'am.
- 3 Q And at some point, were you moved out of Perry?
- 4 A Yes.
- 5 Q And where did you go?
- 6 A Back at Broad River.
- 7 Q And what year was that?
- 8 A 2018.
- 9 Q And that was the same Broad River facility that you had
10 previously been stabbed at?
- 11 A Yes.
- 12 Q Just a year prior?
- 13 A Yes.
- 14 Q Did you want to go back to Broad River?
- 15 A No.
- 16 Q And why is that?
- 17 A Because, I mean, it was still, you know, it's the same
18 environment, individuals who knew of my past stabbings were at,
19 still at Broad River so I just, just, I didn't want to go back.
- 20 Q Did you make any formal request to move?
- 21 A I did.
- 22 Q You did?
- 23 A Formal as in writing?
- 24 Q Yes.
- 25 A No, ma'am.

1 Q Did you talk to anyone?

2 A I did.

3 Q Who did you tell your concerns to?

4 A I spoke to the LT over the dorm at the time, and I spoke
5 to the contraband officer at the time, and I told Green, inmate
6 Green, and I spoke to my mother.

7 Q And what happened as a result of you bringing your
8 concerns to authorities?

9 A Nothing.

10 Q Nothing?

11 A (Nonverbal response).

12 Q Did you tell the higher ups at Broad River that it was the
13 bloods in particular ---

14 A No.

15 Q --- that were a problem? And why is that?

16 A I mean, because at the time it was said that authority, I
17 mean, officers were, I guess, working with the bloods, so I
18 didn't want to tell them specifically and it get back to them.
19 So no, I didn't specifically say.

20 Q And is that why you didn't write any written request or
21 complaint?

22 A At Broad River at the time, writing a request form, you
23 would never get a response back, like, they wouldn't even
24 respond back, so I didn't, I didn't, I didn't write one.

25 Q When you got to Broad River the second time,

1 how were things generally when you arrived?

2 A It was I guess normal.

3 Q You weren't facing violence from blood members when you
4 first got there?

5 A No.

6 Q And why was that?

7 A Well, the individuals who were there that were blood
8 members wasn't aware of where I was, so once blood members who
9 were aware of my past stabbings came that's when whispers
10 started because they didn't want me in the dorm ---

11 MS. BROWDER: Objection, Your Honor. Hearsay.

12 THE COURT: Sustained.

13 Q So as, later on to your time, the second stint at Broad
14 River, people came who were aware of your past incidents?

15 A Right.

16 Q Your past issues with the bloods?

17 A Right.

18 Q And you said Mr. Doyle hanging out with those people made
19 you concerned. Was he a blood member?

20 A No, he wasn't.

21 Q And why, was it unusual that he would be hanging out with
22 them then?

23 A No.

24 Q Are you in a gang, Dana?

25 A No, ma'am.

1 Q And can you explain to the jury kind of why this social
2 group that you mentioned is necessary? Why people hang with
3 their, with people who are close to them geographically?

4 A Typically, it's just for safety, protection.

5 Q And so I'm going to bring you up to, to August 5th, 2019,
6 Dana. Now, you've seen the security footage of this incident,
7 correct?

8 A I have.

9 Q Can you tell me what, oh, sorry, this is State's Exhibit
10 13, I believe, that we're looking at. Can you tell me whose
11 room that is?

12 A Green's.

13 Q And how did, bring us back a little bit. What was going
14 on before this video even started?

15 A Me and Green was in his room and Doyle came to the room
16 wanting molly and he was told that we didn't have any molly,
17 and he left out the room. Came back five, 10 minutes later
18 asking the same question for molly, he was told we didn't have
19 any and he was like come on man, don't do me like that, I know
20 y'all got some molly in here, like he was trying to send some
21 money for the molly, and ---

22 Q Let me just stop you there one second. Molly is like
23 ecstasy, MDMA, drugs?

24 A Yes, ma'am.

25 Q Did Mr. Doyle use drugs?

1 A Yes.

2 Q How often would you say?

3 A Whenever he could.

4 Q Whenever he could? Until this moment had this been an
5 exceptional day? Had it been normal? How would you describe
6 it?

7 A It was normal.

8 Q And how were you feeling during this time?

9 A Frustrated.

10 Q And why is that?

11 A Just, just the picking back and forth with Doyle and the
12 idle threats that he was making. Just, yeah, just that.

13 Q So you were talking about Doyle, Mr. Doyle coming back a
14 second time to Mr. Green's room. What happened after that?

15 A He left out the room and he went down by the microwave ---

16 Q And is any of what you just described on video?

17 A No.

18 Q Okay. I'm going to play you another, another video from
19 State's Exhibit 13. And can you see the microwave here?

20 A No.

21 Q Where is it?

22 A To, to the right.

23 Q Top screen to the right?

24 A Yes, ma'am.

25 Q And is that you?

1 A Yes, ma'am.

2 Q Okay. Tell me about what's going on here.

3 A Me and Mr. Doyle are having words.

4 Q So you walked out of Mr. Green's room?

5 A I did.

6 Q And why was that?

7 A Because of the things Mr. Doyle was saying.

8 Q What was he saying?

9 MS. BROWDER: Objection. Hearsay.

10 MS. BRUCK: It goes to state of mind, I mean, it's
11 all part of this exact incident. I mean, and it's also to show
12 what he did.

13 THE COURT: Alright. Ladies and gentlemen, step back
14 to your jury room, don't discuss the case, be back with you in
15 a few moments. Everyone else stay seated.

16 (Jury exiting Courtroom.)

17 THE COURT: So the response is state of mind.

18 MS. BROWDER: Your Honor, he's just stated his state
19 of mind was frustrated and that's what the victim was saying, I
20 think he can characterize it as threatening or he was aggressive
21 with him, but the actual substance of what he's saying would be
22 hearsay.

23 MS. BRUCK: Your Honor, his testimony was that his
24 general feeling during that time period was frustration. Right
25 now, he's explaining why he left the room and approached Mr.

1 Doyle. So it's for state of mind it's not for the truth of the
2 matter asserted, it's to show what he did next and to create a
3 foundation for his actions to allow him to present a complete
4 defense. I can just say was he threatening you and what were
5 those threats, but I prefer to tell the whole story.

6 THE COURT: So now the response is it's not offered
7 for the truth of the matter asserted.

8 MS. BROWDER: Well, I still think he can just say
9 what the general tone of them were because it does go to the
10 truth of the matter asserted as whether it's self-defense or
11 not and what the victim's saying which is something they have
12 to prove and then we disprove beyond a reasonable doubt.

13 MS. BRUCK: Your Honor, would you like us to proffer
14 it?

15 THE COURT: Sure.

16 MS. BRUCK: I don't want to get caught in sending
17 them in and out.

18 **PROFFER TESTIMONY**

19 BY MS. BRUCK:

20 Q So Dana, why did you walk out of Mr. Green's room?

21 A I seen one of the blood members come downstairs and
22 approach Doyle ---

23 Q I mean right here.

24 A Why did I walk out the room?

25 Q So we're up to, you had testified that he came

1 by your room, asked for drugs twice and left. This is
2 afterwards, correct?

3 A Correct.

4 Q And what's going on here?

5 A We having, we exchanging words.

6 Q With Mr. Doyle?

7 A Yes.

8 Q And what did you say?

9 A He made the comment that, he said he would rob, or he
10 should rob, or we should get robbed, meaning me and Mr. Green,
11 and he said ---

12 THE COURT: Keep going.

13 A He said ---

14 THE COURT: As long as you're quoting somebody, you
15 can say something that you normally wouldn't say, do you
16 understand the difference?

17 MR. BUTLER: Yes, sir.

18 THE COURT: Okay. So if you're telling me what he
19 said and he used some form of inappropriate language, feel free
20 to say it, it's okay.

21 A He said pussy mother fuckers don't deserve to have
22 nothing. And he made the comment that people didn't want me in
23 the dorm.

24 Q Made a comment that people didn't want you in the dorm.
25 How did that make you feel?

1 A It shook me a little.

2 Q And why is that?

3 A I mean, at this time, blood members who are aware of my
4 past stabbings with the bloods are in the dorm, so they know
5 who I am. I know that's what he was referring to, they was who
6 he was referring to.

7 MS. BRUCK: There's more things he says, but ---

8 THE COURT: Let's get to them.

9 MS. BRUCK: Okay.

10 Q And Dana, who else was there?

11 A Price and one of the blood members.

12 Q And at some point, Mr. Green comes out and y'all walk back
13 to his room, correct?

14 A Correct.

15 Q Did mister, what were you, did you and Mr. Green have any
16 conversation in that room?

17 A We didn't have a conversation, when I left out the room
18 for the last time, Green made the statement, he was like, watch
19 them boys.

20 Q And what was he referring to?

21 A I believe he was referring to just Doyle and his
22 associates.

23 Q And when you were in the room, what were you looking at?

24 A I was standing to the door looking at the rock.

25 Q And why is that?

1 A I was just watching to see what was going on.

2 Q And where had you been the previous times you've been
3 stabbed?

4 A In my room.

5 Q And at that moment you were in Green's room, correct?

6 A Correct.

7 Q And why did you walk out of the room?

8 A Because I see one of the blood members approaching and
9 they exchange words, so I just wanted to be able to keep an eye
10 on them. From my vantage point in the room, they were standing
11 out by the microwave, I couldn't see them, so that's why I came
12 fully out the room.

13 Q And what did you see when you walked out of Green's room?

14 A I see Doyle, Price, and the blood member down by his room.

15 Q And what did Doyle do?

16 A He's just pacing back and forth with his hand in his
17 pants, and he's just pacing back and forth.

18 Q What did he say to you?

19 A He told me that, I mean, he just kept saying I was a pussy
20 and he called me a bitch nigger and told me that individuals
21 didn't want me in the dorm.

22 Q When you left out of Green's room for the last time, what
23 did Doyle say to you?

24 A He told me to come in the hole.

25 Q Did he say anything else?

1 A He was just, no.

2 MS. BRUCK: That's all the hearsay.

3 THE COURT: Okay.

4 MS. BROWDER: Your Honor, a couple things. Regarding
5 being in a room just waiting, I don't believe anything that
6 Green said should be able come in because that's hearsay. Then
7 regarding Mr. Doyle, none of those things, I mean, are threats,
8 he's calling him names, but that doesn't, I don't think that
9 rises to the level of a threat, it does not go to the truth of
10 the matter asserted. But I think everything that he says is
11 hearsay at this point and shouldn't be entered.

12 THE COURT: Okay. Alright. So the rulings going to
13 be the statements that Green makes are out, they're hearsay and
14 Green's been here, he could have been asked about them while he
15 was on the witness stand. But the statements that he says that
16 Mr. Doyle made based upon what he said today, I'll allow him to
17 say because I think it goes to his state of mind in his self-
18 defense case. Alright. We have two notes from the jury.
19 Number one, we can't hear the lawyer, number two, we can't hear
20 the Defendant. So I need you both to speak up so people can
21 hear you, okay? This is your chance to be heard, when you sit
22 back like this, that far away from the mic, people can't hear
23 you. Do you understand?

24 MR. BUTLER: Yes, sir.

25 THE COURT: Ms. Bruck, you need to enunciate and

1 speak up, okay?

2 MS. BRUCK: Yes, sir.

3 THE COURT: Alright. Bring them in.

4 (Jury entering Courtroom.)

5 BAILIFF: Jurors are seated, Your Honor.

6 THE COURT: Alright. Welcome back, ladies and
7 gentlemen. And I got both of your notes, I've asked Ms. Bruck
8 to speak up, I've also asked Mr. Butler to speak up, so if you
9 can't hear, somebody wave at me, okay? Wave at me, do
10 something so I can get your attention. The goal is, obviously,
11 so you can hear, right? It's not to keep you in the dark, so
12 if you can't hear, give me some kind of sign and we'll ask the
13 lawyer and or the witness to speak up. Okay. And you may
14 continue, Ms. Bruck.

15 MS. BRUCK: Thank you, Your Honor.

16 **DIRECT EXAMINATION (cont'd)**

17 BY MS. BRUCK:

18 Q So when we left off, Dana, you're over there?

19 A I am.

20 Q And who else is here?

21 A Price, and one of the blood members.

22 Q Price?

23 A Yes.

24 Q Who is that? An inmate?

25 A Yes.

1 Q And why were you engaging with Mr. Doyle in that
2 moment?

3 A Price was basically telling both us that we were better
4 than that and we shouldn't be I guess going at each other, and
5 he was basically saying, you know, y'all, y'all need to talk it
6 out.

7 Q And just to be crystal clear, when Doyle, when Mr. Doyle
8 walked away from Mr. Green's room, what did he say?

9 A He said pussy mother fuckers didn't deserve to have
10 nothing and he said that we should get robbed.

11 Q He said you should get robbed?

12 A Yes.

13 Q Did Mr. Doyle have a weapon on him at that time?

14 A Yes.

15 Q And during this argument, safe to say, would you call it
16 an argument?

17 A No, I wouldn't call it an argument.

18 Q What would you call it?

19 A I would call it a verbal, verbal altercation, I wouldn't
20 say argument.

21 Q Neither of y'all pulled a knife out, right?

22 A Right.

23 Q And at some point, Mr. Green comes and walks you to his
24 room, y'all walk together to his room, right?

25 A Right.

1 Q Did Mr. Doyle say anything else to you during this verbal
2 altercation?

3 A Yeah, he was telling me to come in the hole.

4 Q Did he say anything more than that he would rob you and
5 that you were faking?

6 A Yes.

7 Q What did he say?

8 A He said that pussy mother fuckers didn't deserve to have
9 nothing, and he said that we should get robbed.

10 Q How did that make you feel?

11 A It shook me a little, of course it was frustrating.

12 Q And what were you thinking about Mr. Doyle at this time?

13 A I mean, I really just wanted to be left alone. I never
14 had no beef with Doyle.

15 Q You never had any beef with him?

16 A No.

17 Q Previously you've testified that something had changed
18 recently, a shift in Doyle?

19 A Yes.

20 Q And did anything he say, did anything he said at the time
21 make you concerned about that shift?

22 A Yeah. He made the statement that individuals didn't want
23 me in the dorm.

24 Q That individuals didn't want you in the dorm?

25 A Yes.

1 Q And what does that mean in the context of being in prison?

2 A It means that people want me out the dorm.

3 Q Why did it matter if an inmate wants you out of the dorm?

4 A Because it could end up with you leaving in a violent
5 manner.

6 Q How's that? What would happen?

7 MS. BROWDER: Objection, Your Honor. Speculation.

8 Q Have you seen ---

9 THE COURT: Sustained.

10 Q --- it happen?

11 THE COURT: Sustained.

12 Q Mr. Bulter, have you seen people moved out of the dorm?

13 A Yes.

14 Q Tell me about that.

15 A I mean, typically a group of individuals will come to your
16 room and tell you to leave, tell you to pack up.

17 Q And then what would the person do?

18 A The individual who's getting told to leave?

19 Q Yes.

20 A It, I mean, it varies, like, it depends on the individual,
21 I mean, you know, you could leave peacefully or by force, I
22 mean, it really just depends on the individual.

23 Q Have you seen violence be used in trying to move someone
24 out of the dorm?

25 A I have.

1 Q Is that something you were concerned about at the time?

2 A Yes.

3 Q And why is that?

4 A I mean, because I was already told that individuals didn't
5 want me in the dorm.

6 Q Who?

7 A The blood members.

8 Q So when Mr. Doyle said people don't want you in the dorm,
9 what did that mean?

10 A It mean ---

11 Q Or exactly who was he referring to?

12 MS. BROWDER: Objection, Your Honor. Speculation.

13 THE COURT: Sustained.

14 Q Okay. So you and Green go back into his room, right?

15 A Correct.

16 Q And what were you thinking about as you went back in that
17 room?

18 A I mean, honestly, I mean, me leaving the dorm, that
19 thought did cross my mind.

20 Q Leaving the dorm?

21 A Yes. But I mean, I didn't do nothing for one, for
22 individuals to want me out the dorm. For two, at the time at
23 Broad River, inmates trying to check out the dorm or leave the
24 dorm, it was a impossible to do because you could literally go
25 to an officer and tell them I want to leave the dorm for this,

1 that, and the third, and they would literally tell you in so
2 many words, you're in prison, they wasn't letting inmates leave
3 the dorm. The only way you was leaving a dorm at Broad River
4 Institution at that time was if you were bloody. I literally
5 seen officers handcuff inmates and carry them back in the dorm
6 because they were trying to leave the dorm. So me going to an
7 officer and telling the officer, well, I don't want to be in
8 the dorm or I don't feel safe, nothing would have come of that.

9 Q And you said that Mr. Doyle had also called you, I mean,
10 the equivalent of what some people might just call an insult or
11 a slur, right?

12 A Correct.

13 Q Is that common in prison?

14 A No.

15 Q Tell me about that.

16 A I mean, in prison it's just certain things you don't say,
17 you don't say that to other inmates, just certain things you
18 don't do. Yeah, it's just, to people in society an individual
19 calling you a pussy boy or calling you a bitch, I mean, it's,
20 it's, an individual in society could easily just brush it off a
21 shoulder, but you know, in prison, that's a threat. An
22 individual calling you a pussy boy or a bitch nigger, that's a
23 threat.

24 Q How did that make you feel?

25 A It was frustrating.

1 Q And what can you see when you're in Green's room?

2 A I can't see nothing, I just see the rock, the common
3 area.

4 Q So let me show you from the first video of State's Exhibit
5 13. Where were you looking out of Green's door?

6 A You say where was I looking?

7 Q Yes.

8 A I was inside the room.

9 Q Okay. And what were you looking at?

10 A I seen, you talking before I came out the room?

11 Q Yes.

12 A I seen Doyle, I mean, I seen one of the blood members come
13 down the stairs and approach Doyle.

14 Q And what?

15 A Approach Doyle.

16 Q Approach him. And did you see anything else when you were
17 in Green's room?

18 A No.

19 Q Did you have a clear view of the rock from inside of that
20 room?

21 A Yes. Except from where, from where Doyle and Price were
22 standing, I couldn't see them from inside the room.

23 Q Except for where Mr. Doyle was standing?

24 A Correct.

25 Q And why did you, why did you walk out of that room?

1 A I mean, at that time, I seen him and one of the blood
2 members conversing and me and Doyle just had a, just exchanged
3 words, so I didn't know what him and the blood member were
4 talking about, so I just wanted to be able to keep an eye on
5 him, Doyle.

6 Q And what was your concern about just keeping an eye on
7 things from inside the room?

8 A I mean, I was already, on two different occasions, I was
9 stabbed inside my room, so, I mean, the rock where the cameras
10 are at, you would think that that's a safe place, so I didn't
11 want to sit in a room because typically, that's where violence
12 happens.

13 Q Violence typically happens inside of the rooms?

14 A I mean, out of view of the cameras and eyes in the dorms.

15 Q So what did you see happen when you walked out of Mr.
16 Green's room?

17 A I see Doyle down by the microwave, kind of walking in
18 circles with his hands in his pants and ---

19 Q Did he say anything?

20 A Yeah. He's, basically, still saying or making statements
21 about me being a pussy, and things like that.

22 Q Was he doing anything?

23 A Yeah. He was walking back and forth, and he had his hands
24 in his pants.

25 Q He had his hands in his pants?

1 A He had one hand in his pants on the side.

2 Q And did he ask you anything?

3 A No.

4 Q So what did you do?

5 A I mean, he was telling me to come in the hole, so I was --

6 -

7 Q Well, let's stop there for a second. He was telling you
8 to come in the hole?

9 A Yes.

10 Q And what is the hole?

11 A It's an area in the dorm where it's no cameras and it's
12 like a dark hallway basically.

13 Q I'm going to show you what's been entered into evidence as
14 Defendant's Exhibit 6. Okay. Where, Dana, do you want to come
15 down here real quick? If you could just stand by me real
16 quick.

17 THE COURT: Alright. Mr. Butler, I'm going to need
18 you to keep your voice up so everybody can hear you, okay,
19 please?

20 MR. BUTLER: Yes, sir.

21 THE COURT: Thank you.

22 Q Who's this?

23 A That's Doyle.

24 Q Okay. And where is the hole in relation to where he's
25 standing?

1 A Those stairs behind him, down.

2 Q These stairs?

3 A Yes.

4 Q Down?

5 A Yeah, going down.

6 Q Okay. And can you tell me what you were saying right
7 here?

8 A He's telling me to come in the hole, making gestures with
9 his hands.

10 Q And then what's he doing there?

11 A Going for his knife.

12 Q Okay.

13 BAILIFF: They can't hear you. That guy right here
14 can't hear you, if he can't hear you, he don't know what you're
15 saying.

16 THE COURT: Mr. Bowen, that's enough.

17 BAILIFF: Sorry, Your Honor.

18 Q You stated at the end of this, so that hand gesture, he's
19 saying come to the hole it was right behind him ---

20 A Correct.

21 Q --- and down the stairs? Just to make sure the jury heard
22 you. What's he doing right there?

23 A Going for his knife.

24 Q And did you see his knife?

25 A I did.

1 Q Did he pull it out completely?

2 A No, he didn't.

3 Q And when you left out of Green's room, why didn't you go
4 to your own room?

5 A I mean, I didn't want to be in no room, I wanted to be out
6 on the rock.

7 Q What did you do when you saw Mr. Doyle's knife?

8 A I just, I just reacted.

9 Q And what did you do?

10 A I ran towards him and swung at him.

11 Q What?

12 A I swung at him.

13 Q Did you have a knife?

14 A I did.

15 Q Had you pulled it on Mr. Doyle at any point earlier that
16 day?

17 A No, I didn't.

18 Q Why did you take out your knife?

19 A I mean, at that point, everything that was transpiring for
20 the last couple of years, you know, I, I just, I just reacted.

21 Q Do you remember how long y'all were engaged for?

22 A About five seconds.

23 Q It was fast?

24 A It was.

25 Q Did you see his knife during the fight?

1 A I did.

2 Q What did he do when you approached him?

3 A I think he tried to, I don't know if he was trying to
4 scoop me ---

5 Q To what?

6 A Slam me on the ground or if he was, I guess, ducking.

7 Q What did you do with his body, I guess?

8 A When I ran towards him?

9 Q When y'all made contact. You said swoop, something like
10 that and I just want it to be clear what you mean.

11 A He tried to grab my legs from up under me and slam me.

12 Q Slam you down?

13 A Right.

14 Q And again how long did that physical altercation last?

15 A I don't think no more than five seconds.

16 Q And what did you do with your knife during it?

17 A During the altercation?

18 Q Yes.

19 A I swung at Doyle.

20 Q You swung it at him?

21 A Yes.

22 Q What happened when you broke apart?

23 A He ran past me, and I turned around because he ran back
24 behind me, and I turned around and took like four or five steps
25 toward him.

1 Q And why did you do that?

2 A I mean, at that time, you know, my adrenaline is still
3 pumping, I just, I mean, I was still in fight or flight mode,
4 I guess. I just ---

5 Q And did he still have his knife on him?

6 A Yes.

7 Q Did you see where he went?

8 A I guess he, I think he walked toward the front
9 door.

10 Q The exit of the door?

11 A Yes.

12 Q Did you pursue him?

13 A No.

14 Q Did you try to keep him from leaving?

15 A No.

16 Q And why not?

17 A I mean, at that time, I didn't see him as a threat
18 anymore, I mean, he was bleeding and, I mean, I didn't want him
19 to die, so I had no further desire to hurt him or cause him any
20 kind of harm.

21 Q You said you didn't want him to die, why did you stab
22 him?

23 A I mean, I felt like if I didn't react, what I did or when
24 I did, the roles could have easily been reversed.

25 Q And what made you think that?

1 A He was going for his knife, I mean, I'm talking with the
2 words, the things he was saying, you know, I mean, at that
3 moment, yeah, I just, I just, I just reacted.

4 Q Did you feel like you had an option?

5 A No.

6 MS. BRUCK: Court's indulgence.

7 Q Okay. Thank you, Dana.

8 MS. BRUCK: I have nothing further, and please answer
9 any questions that the State may have for you.

10 THE COURT: Okay. Ladies and gentlemen, we're going
11 to go ahead and take our morning break at this time. I know
12 you all took a little break earlier, but we did not, so Court
13 staff has not gone to the restroom, got a drink of water,
14 anything like that, so we're going to take our morning break at
15 this time. Now, Mr. Butler, during this break, you are not
16 allowed to talk to anyone and that includes your lawyers about
17 your testimony. There is to be absolutely no conversation with
18 anyone in any way, shape, or form including all of your lawyers
19 about your testimony, do you understand that?

20 MR. BUTLER: Yes, sir.

21 THE COURT: Okay. Thank you very much. Alright.
22 We'll take a morning break, we'll see you back in about 10
23 minutes, ladies and gentlemen, thank you very much. Everyone
24 else remain seated.

25 (Jurors exiting Courtroom.)

1 THE COURT: Alright. Let's take about a 10-minute
2 break.

3 (Off the record.)

4 THE COURT: Alright. Bring them in.

5 (Jurors entering Courtroom.)

6 BAILIFF: Jurors seated, Your Honor.

7 THE COURT: Alright. Welcome back, ladies and
8 gentlemen. We will continue now with Mr. Butler's cross
9 examination. And Mr. Butler, do you understand that you're
10 still under oath?

11 MR. BUTLER: I do.

12 THE COURT: Thank you very much.

13 MS. BROWDER: Thank you, Your Honor.

14 **CROSS EXAMINATION**

15 BY MS. BROWDER:

16 Q Mr. Butler, when you just testified on direct you admitted
17 to having a knife, correct?

18 A I did.

19 Q And you admit you were an inmate at Broad River
20 Correctional Institute?

21 A I was.

22 Q And so you're admitting on the stand right now that you
23 are guilty of carrying and concealing a weapon while ---

24 MS. BRUCK: Objection.

25 THE COURT: Overruled.

1 A Yes.

2 Q Okay. And Mr. Butler, you were in Broad River
3 Correctional Institution for a violent felony, correct?

4 A Correct.

5 Q And ---

6 MS. BRUCK: Objection. Renew under 609.

7 THE COURT: Alright. Noted for the record.

8 Q And that knife that you had that day, where did you get
9 that knife from?

10 A I bought it.

11 Q You bought it?

12 A From an individual.

13 Q How much did it cost?

14 A I gave him some food items for it.

15 Q Okay. And how long had you had that shank?

16 A Since I been there.

17 Q And how long have you been there at that point? Since
18 2018, is that right?

19 A Correct.

20 Q You had it for approximately a year?

21 A Correct.

22 Q And where did you keep that shank every day?

23 A In my room.

24 Q In your room? Did you carry it around with you every day?

25 A I did.

1 Q And with that shank, you said everybody had weapons in the
2 dorm, correct?

3 A I didn't say that.

4 Q You said everybody would sharpen their weapons on the
5 stairs.

6 A Everyone who had them.

7 Q Okay. Did you ever sharpen your shank on the stairs?

8 A No, I didn't.

9 Q Where did you sharpen your shank at?

10 A In my room.

11 Q In your room. Okay. And after you stabbed Mr. Doyle,
12 where did you put your shank?

13 A I gave it to an individual in the dorm.

14 Q Who'd you give it to?

15 A In each dorm you have what we call a hold man.

16 Q And what is that?

17 A They hold contraband.

18 Q Okay. So everybody kind of has a role in the dorm,
19 correct?

20 A You could say that.

21 Q And you've seen incidents before of violence in the
22 dorm?

23 A I have.

24 Q And there's certain people that are tasked with cleaning
25 up any incidents?

1 A Not really, I mean, depending on who, the situation is,
2 who's involved in the situation will depend on who does what.

3 Q Okay. So who's the hold man that you gave your shank to?

4 A A guy named Brian.

5 Q Brian?

6 A Yes, ma'am.

7 Q Where was his cell in comparison to yours?

8 A Directly across from my room.

9 Q How long did you hold on to your shank before you gave
10 that to Brian?

11 A You mean after the incident?

12 Q Yes.

13 A Maybe about seven, eight minutes.

14 Q Okay. And where was Brian when you gave him the shank?
15 Did he come into your room?

16 A He was in his cell.

17 Q Okay. So you went to his room to give it to him?

18 A Correct.

19 Q Now, Mr. Butler, if this was self-defense and you knew you
20 did nothing wrong, why get rid of the evidence?

21 A I mean, because of the incident I know security staff is
22 coming to the dorm, so me having a weapon, it's, it's trouble.
23 I mean, I could be charged with this weapon, yeah, I could be
24 charged with it, so I didn't want to be charged with a
25 weapon.

1 Q So it's fair to say you do what you have to do so you
2 won't get in trouble?

3 A I mean, who wants to be in trouble.

4 Q That would be the same as today, you don't want to be in
5 trouble here today? Do you lie to keep yourself out of
6 trouble?

7 A No, I don't.

8 Q Now, let me go through what you went through with Ms.
9 Bruck. When you arrived at Broad River Correctional, you said
10 you had no issues when you arrived there, correct?

11 A That's correct.

12 Q Okay. And you sharpened your knife in your cell?

13 A Okay.

14 Q And you indicated that you had no beef with Mr. Doyle,
15 right?

16 A That's correct.

17 Q When you were stabbed the first time, was Mr. Doyle in
18 that facility with you?

19 A He wasn't.

20 Q Okay. And the second time you were stabbed, Mr. Doyle
21 wasn't in the facility with you, was he?

22 A No.

23 Q He had nothing to do with any of those prior things,
24 correct?

25 A That's correct.

1 Q And he's not a blood member, right?

2 A He's not.

3 Q And the bloods are the ones that have the problem with
4 you, right?

5 A That's correct.

6 Q Okay. Now, Ms. Bruck asked you if you had made any
7 request to move and you said no, right?

8 A I didn't make any written requests to move.

9 Q Okay. So when you told the lieutenant, you told a
10 contraband officer, and Green, and your mother, did they
11 respond to you in any way? And how did you tell them? When
12 did you tell them?

13 A The LT over the dorm and the contraband officer were in
14 the sally port, what they call in the hallway, and something
15 happened on the other side of the dorm and that's why
16 contraband was down there, and I just told the LT that I was
17 stabbed here previously, and I was, I wanted to move out the
18 dorm.

19 Q And did that mean Monticello or just A side or B side?

20 A Monticello.

21 Q Okay. Now, let me take you to August 5th, 2019, you said
22 that was a normal day, right?

23 A Yes.

24 Q Okay. But you were feeling frustrated?

25 A I was.

1 Q Okay. And you said you were feeling frustrated because
2 picking back and forth and idle threats. So picking back and
3 forth, so that means you were making comments and picking back
4 at Mr. Doyle, too, right? It wasn't just Mr. Doyle making
5 comments to you?

6 A When I said the back and forth, I mean just him picking.
7 Of course, I said -- yes, I did respond to some of his
8 words.

9 Q And what were your responses to those words?

10 A I mean, I don't specifically remember ---

11 Q You can remember his specific words, but you can't
12 remember what you said back to him?

13 A I mean, I, if I had to say I would say basically just
14 repeating some of the same things he said.

15 Q So you would call him a pussy mother fucker too then,
16 right?

17 A I mean, yeah. It's possible.

18 Q You would call him a bitch nigger too, right?

19 A It's possible.

20 Q And idle threats, idle threats just make you frustrated
21 and mad, right? As you were that day? Idle threats don't mean
22 anything, do they?

23 A It was his actions along with what he was saying.

24 Q And you agree actions speak louder than words, right?

25 A In some situations.

1 Q Okay. So prior to, and we'll get to the video in a
2 minute, but prior to the video starting, when y'all had words
3 earlier in the day and he came to the cell, you said that he
4 came to the room asking you for molly, right?

5 A That's correct.

6 Q Why would he come to ask you for molly?

7 A I mean, he came to the room, I mean ---

8 Q Well, you and Green were in the room, right?

9 A Correct.

10 Q So why would he come and ask you and Green for molly?

11 A I guess because he believed we could have some.

12 Q Because what?

13 A I guess he believed that we could have had some.

14 Q Why did he believe you could have had some and not
15 somebody else?

16 A Because I sold him molly before.

17 Q You sold him molly before? Okay. And that would go along
18 with you two getting along, correct? Having no beef with each
19 other if he's coming to you for molly?

20 A I mean, yeah, I never, I never had no beef with him.

21 Q Okay. And how much does molly cost these days in the
22 prison?

23 A I mean, it depends on ---

24 Q The amount? What's the smallest amount, how much does
25 that go for?

1 A \$10.00.

2 Q Is that called a dime?

3 A Yes.

4 Q If somebody dimes you, what does that mean?

5 A Somebody dimes you?

6 Q Yes.

7 A You mean tell on you?

8 Q I'm asking you. What does dime, somebody dimes you, what
9 does it mean?

10 A I don't know.

11 Q You've never used that term before?

12 A Somebody dimed me?

13 Q Yes.

14 A No. I don't believe I have.

15 Q Do you remember any phone call January 24th, 2024 of this
16 year to a friend of yours?

17 MS. BRUCK: Objection. Relevance.

18 THE COURT: Overruled.

19 A I don't specifically remember that day, I mean, I make
20 phone calls, so I don't specifically remember that day, no.

21 Q Do you remember ever telling one of your acquaintances on
22 that day I chopped up one of those boys who dimed me?

23 A No.

24 Q Would hearing it refresh your memory as to whether you
25 said it or not?

1 A Yes.

2 MS. BROWDER: Beg the Court's indulgence.

3 Q Here are the headphones. I'm going to let it start, let
4 me know if it's too loud before we get to the part, okay?
5 Because I don't want to blow your ears out. Is it alright?
6 Can you hear?

7 A It's good.

8 Q Okay.

9 (Audio playing through headphones.)

10 Q Does that refresh your recollection of the fact that you
11 told him you chopped up one of those boys who dimed you?

12 A That's what the call, that's what it sounds like in the
13 call, but I don't, I have no idea what ---

14 Q That was your voice that said it, right?

15 A Yes, it was.

16 Q Okay. And on August 5th, 2019, you stabbed somebody, and
17 he had just asked you for a dime of molly, right?

18 A No. I never said he asked me for a dime of molly. I said
19 he asked me for molly, he didn't, he never gave a specific
20 amount because we told him we didn't have any molly, so he
21 never got the opportunity to say how much molly he wanted.

22 Q So what did that statement, I chopped up a boy who dimed
23 me mean?

24 A I do not, I have no idea what dime, the only thing I can,
25 dime, when someone tells on you, that's the only thing I can, I

1 know the call now, specifically, but I don't know if some way,
2 some how that was put in there. I never, I don't know what
3 that means, I don't even, someone dined me, I don't talk like
4 that.

5 Q But that was you that said it, right? You're saying
6 somebody placed that in there to somehow catch you in a lie on
7 the stand?

8 A I don't know what that means.

9 Q Okay. Now, if I could get you to step down and we'll go
10 through this video. Before I do this, approximately how tall
11 are you?

12 A 6'1.

13 Q 6'1? And how much taller are you than Mr. Doyle?

14 A According to testimony from I guess the doctor, I think he
15 was 5'9, something ---

16 Q 5'9?

17 A I'm not sure.

18 Q Okay. But you conversed with him a lot, right? You were
19 taller than he was? Approximately? I'm 5'5 with three-inch
20 heels, I'm about 5'8, so about the same difference right here?

21 A Yeah.

22 Q Okay. And you're considerably younger than him, correct?

23 A Yeah.

24 Q How young are you?

25 A 32.

1 Q 32? Okay. Now, come over here so the jury can see.

2 MS. BROWDER: Court reporter, let me know if you
3 can't hear me, please.

4 Q So you said that's Benjamin Green's room, right?

5 A Correct.

6 Q And before we go on, this is the B side, correct? Of the
7 dorm?

8 A I believe so.

9 Q And there's an A side?

10 A Yes.

11 Q And were inmates allowed to go back and forth between the
12 two sides?

13 A They wasn't supposed to, but it happened.

14 Q Okay. So you knew it was possible to go over to the A
15 side?

16 A Yes.

17 Q Okay. So right here, that's Green and that's you,
18 correct?

19 A Yes.

20 Q At this point, do you have the shank with you?

21 A (Nonverbal response).

22 Q Okay. Where is it?

23 A In my pocket.

24 Q And why is he pushing you away over here?

25 A Trying to diffuse the situation.

1 Q Alright. And what situation would that be?

2 A Me and Doyle.

3 Q Okay. So you and Doyle. So we're going to watch right
4 here. Is that Doyle going back that way? Is he one of those
5 back in that corner?

6 A Yes, ma'am.

7 Q Okay. And you were frustrated with Doyle, right? Is this
8 after he had come ask you for molly the second time?

9 A Yes.

10 Q Okay. And why were you frustrated with him?

11 A Because of his words and things he was saying.

12 Q Alright. So you're frustrated with him, but you go back
13 in the corner with him anyway, right? You go to him, he's
14 minding his business back in the corner and you go to him,
15 correct?

16 A Yes.

17 Q And then when you go over there, what are you doing with
18 your hands right there and what are you saying?

19 A I believe that's, I believe I'm telling him that I'm not
20 going to leave the dorm and I believe I asked him who wanted me
21 out the dorm.

22 Q So you knew it wasn't him, he was saying they wanted you
23 out the dorm, not him, right?

24 A He said mother fuckers don't want you in the dorm
25 anyway.

1 Q He didn't say he didn't want you in the dorm because you
2 were his drug dealer, right?

3 A No. I wouldn't say I was his drug dealer.

4 Q But he came to you for drugs?

5 A He did.

6 Q Alright. So when you're going back there, you're yelling
7 at him and doing your hands like that, correct?

8 A (Nonverbal response).

9 Q And you're agitated, aren't you?

10 A Somewhat.

11 THE COURT: Speak up, please.

12 A Somewhat.

13 THE COURT: Thank you very much.

14 Q And that's Benjamin Green having to get you back? What
15 you doing with your pants right there? What does that mean
16 when you do that with your pants?

17 A Pulling them up.

18 Q Okay. And that's Benjamin Green pushing you back right
19 there?

20 A Yes.

21 Q Okay. Now, it then moves to you coming back right here.
22 You're still talking over there, aren't you, back towards that
23 way? And he's pushing you away, right?

24 A Correct.

25 Q What are you saying then?

1 A I can't specifically say what I was saying, I mean, I just
2 moved and the discussion or in the verbal altercation we had, I
3 was saying that I wasn't going to leave out the dorm and at
4 some point in the conversation I did ask him what was his
5 problem with me. And ---

6 Q And that made you mad that you were having to deal with
7 this situation?

8 A I wouldn't say mad, I wouldn't say mad, I mean, no one
9 wants to be called names or harassed or bullied or, I wouldn't
10 say mad ---

11 Q Frustrated?

12 A Yeah, I'd say frustrated.

13 Q But you said you were calling him names, too, right?

14 A It's a strong possibility.

15 Q We're just going to watch this view of the video and then
16 we'll get to the incident, okay?

17 (Video playing.)

18 Q So right now you're back over here at, the incidents going
19 on over here, and there's Green coming to get you, right?

20 A (Nonverbal response).

21 Q What are in those little black things right there? Is
22 that food?

23 A Yes.

24 Q So that's him taking you into his cell, right?

25 A Correct.

1 Q So at that point, you aren't near Damon Doyle, right?

2 A Correct.

3 Q You consider Benjamin Green a friend?

4 A Correct.

5 Q He would have your back if something happened, right?

6 A I hope so.

7 Q Okay. You were in there approximately a minute, right?

8 A Give or take.

9 Q You still mad while you're in there and frustrated?

10 A (Nonverbal response).

11 Q Is that a yes?

12 A Yes. I am frustrated, I am agitated.

13 Q Now, you're coming out of the door, and you said -- before
14 I play this. You were looking out the window, right? Seeing
15 what was going on? Watching everything, right?

16 A I was watching what I could see.

17 Q Okay. And you didn't walk out of that room, and I'll do
18 the split screen in a second, but you didn't walk out of that
19 room until Damon Doyle came into view downstairs, right?

20 A (Nonverbal response).

21 Q We'll pull the split screen up. Okay. And then you're
22 out there, you go into the cell, and all these guys are just
23 milling around, right? Doing their own thing. Here comes
24 Damon Doyle right there, he comes and starts going down the
25 stairs minding his own business and only then after he was

1 already going down the stairs, that's when you come out of your
2 cell, right?

3 A I mean, he's, he's saying things to me ---

4 Q How do you know he's ---

5 A He's saying things ---

6 Q --- saying -- what's he saying?

7 A He's telling me to come in the hole.

8 Q And so you decide to walk out and say okay, I'm going to
9 come fight you?

10 A I mean ---

11 Q He wasn't trying to get to you in the cell, was he?

12 A He wasn't.

13 Q So you were safe in the cell, right?

14 A Man, I'm in prison, I wouldn't say I was safe.

15 Q But he was going down the stairs and that's when you
16 decided to come out and say, yeah, I'll come follow you?

17 A (No response).

18 Q Correct?

19 A I wouldn't say that, I ---

20 Q So then why come out of the cell? If he says come to the
21 hole, let's go down there and you know that means let's fight,
22 why come out of the cell and go towards him and follow
23 him?

24 A I didn't want to be in the room.

25 Q So you'd rather go down the hole with him?

1 A I'm not saying that. I just didn't want to be in the
2 room.

3 Q Okay. So you don't want to be in the room, you know he
4 has a knife, instead of going this way over here towards the
5 kiosk, towards the exit where you could get over to A side, or
6 over to your room, or to anybody else who are your friends in
7 there, you go the only way is towards him instead of any other
8 possible way away from him, right?

9 A All my friends are in that small area.

10 Q What small area?

11 A Where he's at.

12 Q So your friends are there, why are you worried about being
13 stabbed by him? If your friends are there, they're going to
14 protect you, right?

15 A I mean, individuals just don't jump in front of knives to
16 save, that doesn't happen in prison, like, if me and you are
17 having words, no one is just going to jump in front of a knife
18 to save me or to, that doesn't happen.

19 Q So is it fair to say that none of those men would jump in
20 front of Damon Doyle if you pulled out a knife and went towards
21 him, right?

22 A Jump in front of him ---

23 Q (Nonverbal response).

24 A --- if I pulled a knife on him?

25 Q Your friends would kind of make a little circle,

1 make a way to let you go towards him, right?

2 A I mean, his friends are my friends so to speak. We all
3 deal with the same individuals, so ---

4 Q But you just said earlier he had a change, and he was
5 hanging with different guys than the bloods, the ones that
6 don't like you, so was he hanging with them or was he hanging
7 with your friends?

8 A I'm saying at this particular time we deal with typically
9 the same people besides the bloods, so of course, I don't deal
10 with them.

11 Q Okay. So you said you saw him go towards the stairs. Who
12 is this right here? Do you know who that was? Do you remember
13 who that was? I know it's hard to see, it's blurry. But do
14 you remember who that was?

15 A I believe that's one of the blood members.

16 Q Okay. And who is this over here? Do you remember who was
17 standing over to the side?

18 A Price was over there, and ---

19 Q And who is Price to you?

20 A A friend.

21 Q Okay. And you don't see those two talking right there, do
22 you? I'll back it up a little bit. Because you said you saw
23 them conversing as he was coming to the stairs.

24 A No. That's a different individual.

25 Q So where is that individual in this whole thing?

1 A (Nonverbal response).

2 Q That guy who walked away? But Damon Doyle came from back
3 here, he wasn't standing right there.

4 A He walked from back there to the microwave, to that area.
5 He walked from back there, from ---

6 Q And you said that was Price who's your friend, right?

7 A Yes.

8 Q Okay. And he's walking away, he's not even anywhere near
9 Doyle right now, right?

10 A Yes.

11 Q Doyle comes out, as he's going to go down the stairs, he's
12 not even looking towards your cell until you come out, right?
13 He was looking over here.

14 A The hand gesture he's telling me ---

15 Q Let's go to the hole?

16 A Yes.

17 Q And you come toward him and say okay, right? Instead of
18 going that way?

19 A I mean, where I'm going to go, the door is locked.

20 Q Was it? Because he ran out, or Damon Doyle ran out and
21 collapsed on the sidewalk, he was able to get out, and y'all
22 are able to go to the A side, so you're able to go to the A
23 side, so clearly the door's not locked, right?

24 A After the incident Doyle was still in the dorm, the door
25 was still locked.

1 Q So how did he get out if the door was locked?

2 A I'm saying at this time the door is locked, after the
3 incident, after he's stabbed, the door's still locked, the door
4 doesn't open as soon as the incident happens.

5 Q So how do the doors open in the prison?

6 A They have keys to open the door.

7 Q But nobody found Doyle until he was by himself leaning on
8 the ground when Ms. Chandler was coming back from the
9 cafeteria, so that would indicate the door was unlocked,
10 correct?

11 A I guess someone told Officer Martin, he was working in the
12 dorm at the time, what was going on. But if you play the
13 video, he comes back because the door's locked, he comes back
14 in the common area, throws his knife by 197, he still couldn't
15 get out because the door's locked.

16 Q Alright. So right here, he tells you go to the hole, you
17 talk to him and say okay. I want you to watch. Right here,
18 just a second. Your knife came out right there before he even
19 came towards you, didn't it?

20 A Yes.

21 Q So you drew your knife first? Before going to the hole
22 because you wanted to jump on him, right?

23 A No, I didn't.

24 Q Then why pull out your knife? If he didn't have his knife
25 out, you drew yours first, he was intending to go down to the

1 hole and fight. You wanted to win and make a name for
2 yourself, and you finally snapped because he'd been calling you
3 a pussy mother fucker, right?

4 A They have a slow motion of the video, correct?

5 Q This is not a slow motion ---

6 A I'm saying ---

7 Q --- there is a slow motion, but you just admitted that
8 your knife came out first, right?

9 A (No response).

10 Q You can't see that side from over here.

11 A (Nonverbal response).

12 Q He says, come, let's go to the hole, he's going back
13 towards the hole, and this is when you start running towards
14 him. So you're already running towards him and your knife is
15 out, right?

16 A What is he doing?

17 Q He's pulling out his knife to protect himself against you
18 because you pulled your knife out and started coming for him
19 instead of going down in the hole with him.

20 A Or did, I reacted because he was reaching for his knife.

21 Q You just admitted on the stand he did not have his knife
22 in his hand when you stabbed him, right?

23 A He was going for his knife, Ms. Browder, that's why ---

24 Q But you ---

25 A --- I did ---

1 Q You were agreeing to fight with him because you were
2 agreeing to go down the hole, right?

3 A I didn't agree to fight him.

4 Q Then why go towards him? Why not go the other way? Why
5 not go to where your friends were? Why not stay in the cell?
6 Why not go to the A side? Why go towards him to the one place
7 that you wouldn't want to go if you didn't want to fight him?
8 You can sit back down by the way. Why not go any other way
9 than towards him, towards the hole where you knew that he
10 wanted to fight?

11 A Man, there was nowhere for me to go, where ---

12 Q You could have stayed in the cell, right?

13 A Yeah, I mean, that's a possibility, but ---

14 Q It's a yes or no question, could you have stayed in the
15 cell?

16 A Yes, I could.

17 Q Could you have gone to your cell? Yes or no.

18 A Yes.

19 Q Could you have gone to A side? Yes or no.

20 A The door was locked.

21 Q Okay. Could you go to the other side of the rock where he
22 wasn't? Yes or no.

23 A Yes.

24 Q Could you have gone to the front entrance to be away from
25 him? Yes or no.

1 A Yes.

2 Q There's the flood zone, the second row, and the top row.
3 He was going down the stairs, you could have gone to the top,
4 correct? Yes or no.

5 A That's correct.

6 Q Okay. So there were lots of places you could have gone
7 other than towards him to the hole where you had just been
8 calling him a pussy mother fucker, he had just been calling you
9 a pussy mother fucker and you wanted to fight him?

10 A I never said I called him a pussy mother fucker. I don't
11 specifically remember what I said to him, I said that's a
12 possibility that I could have said those words to him
13 ---

14 Q But you admitted you were calling him names?

15 A It's, it's, yes, it's possible.

16 Q Okay. And it's been told about people don't want you in
17 the dorm, there's ways to leave the dorm, you were very
18 specific about this. One, you said you had no beef with Doyle,
19 right? You said when people move out of the dorm, it all
20 depends on the individual, correct?

21 A And the individuals who want you out the dorm.

22 Q Okay. You said there's a couple ways, you can pack up,
23 and it varies depending on the individual, you can leave
24 peacefully, right? So you had the option to leave peacefully
25 if that's what you thought, right?

1 A In 2019 at Broad River inmates were not checking out the
2 dorm, it's, it's, leaving the dorm, checking out, officers,
3 administration was not allowing inmates to leave the dorm. If
4 you wasn't beaten or bloody with a noticeable injury, you, you,
5 they would not allow you to leave the dorm.

6 Q You said the only other way to leave the dorm is if you
7 left bloody, right?

8 A Yes.

9 Q Damon Doyle left the dorm bloody that day, didn't he?

10 A He did.

11 Q And he died because of what you did stabbing him, right?

12 A He did.

13 Q Okay. And you stated on direct that there's certain
14 things you don't say and certain things you don't do in prison.
15 What are those things?

16 A I mean, calling people, I mean, the pussy, the pussy, the
17 bitch word ---

18 Q But you did that, correct? Or it's possible, you said
19 it's possible you called him those names, too, correct?

20 A It's, it is.

21 Q Okay. What else don't you do in prison?

22 A You don't reach for your knife or if you and an individual
23 are having a heated conversation, you don't make any gestures
24 like you have a weapon or, or, or that you are going for a
25 weapon, things like that.

1 Q Okay. And I'm going to show you State's 24, it's a still
2 shot of that, you already have your knife out right here,
3 correct? And that's when he reaches for his knife because you
4 already have yours out?

5 A No. At that moment, I'm in motion.

6 Q Right. You're in motion and already have yours out,
7 right?

8 A And what, what ---

9 Q I see him reaching for his there, yes. But you already
10 have yours out.

11 A I'm in motion at this time.

12 Q So you started moving and took yours out, that's when he
13 reached for his.

14 A He's already doing that.

15 Q Is he though, if yours is already out?

16 A He's already reaching for this knife.

17 Q Okay. And you said in society there's certain things you
18 can't do, you're not allowed to kill someone in society for
19 calling you a bad name, are you?

20 A Yeah, that's correct.

21 Q That's right? So you're allowed to kill somebody in
22 prison for calling you a bad name?

23 A No.

24 Q No? Same thing? Okay. I'm glad we can agree on that.

25 And you said when you went towards him with the knife, he tried

1 to scoop you, he didn't have a shank in his hand, right? And
2 you stabbed him?

3 A He did have his knife in his hand.

4 Q No. Let's watch the video again. Right here, as you were
5 going for him, he reaches for it, but it never comes out, does
6 it? Because both of his hands are empty right there, right?

7 A Yes, that's correct.

8 Q That's correct?

9 A Yes.

10 Q So you are stabbing him while he is unarmed without a
11 knife in his hand in the back?

12 A At the time when he's reaching for his knife, going for
13 his knife, I'm already in motion, so I don't know what he got
14 in his hand, I'm not, this, everything happened fast, like ---

15 Q Because you moved fast, right? Isn't that what Ms. Myers
16 said in open that you're fast?

17 A I mean, what else, what else, in that instant, I was
18 supposed to let him pull his knife?

19 Q Well, I don't know, you were going down the hole with him,
20 weren't you? Weren't you planning on having a knife fight down
21 there?

22 A No, I didn't plan on having no knife fight with Mr. Doyle,
23 no, I did not.

24 Q Then why did you have your shank out?

25 A For protection.

1 Q But you stated you carried it all the time, it wasn't
2 specific to that day.

3 A For protection.

4 Q For protection for a fight that you were willing to go do
5 down in the hole.

6 A I was, I didn't come out the room with intentions on going
7 to the hole to fight Mr. Doyle.

8 Q But you just, you just testified that he was saying things
9 to you like come to the hole and that's why you walked out the
10 door because you heard him talking to you and you didn't want
11 to be in the cell, correct?

12 A I didn't specifically come out the room because he was
13 saying go to the hole, I came out the room because I didn't
14 want to be in the room.

15 Q Even though he was going the opposite way away from you?

16 A He wasn't going the opposite way.

17 Q He was going down the stairs, right? And you just
18 testified, I said, what was he saying right there, why did you
19 come out, and you said, he was telling me to come to the hole.
20 And you started walking that way with him, right? Or are you
21 changing your testimony now?

22 A If Mr. Doyle wanted to go down the stairs, he could have
23 went down the stairs, I didn't ---

24 Q But you could have gone the other way, right?

25 A Yeah, I could have.

1 Q Okay.

2 MS. BROWDER: Beg the Court's indulgence.

3 Q So on August 5th, 2019, you admit you had a knife as an
4 inmate, correct?

5 A I did.

6 Q Okay. And you admit that you stabbed Damon Doyle,
7 correct?

8 A I did.

9 Q Okay. And you admit that you came out of your cell, and
10 you went straight for Damon Doyle instead of going another way,
11 correct?

12 A I wouldn't say I went straight for him; I wouldn't say it
13 like that, I wouldn't say I went straight for him. I came out
14 the room ---

15 Q And turned right right towards where he was and yelling at
16 you you said, correct?

17 A Yes.

18 Q Okay. On August 5th, 2019, you admit you stabbed him in
19 the neck and in the back twice, correct?

20 A That's correct.

21 Q And then you got rid of your shank, right?

22 A That's correct.

23 Q Okay. And that he died because you stabbed him,
24 right?

25 A That's correct.

1 Q And after you stabbed him instead of going the other way
2 after you stabbed him as somebody you were worried was going to
3 hurt you, as he is bleeding and running, you follow him,
4 correct? And keep going towards him acting, what are you doing
5 with your pants there, they're not falling down, you're
6 taunting him, aren't you?

7 A I mean, at that time my adrenaline is still pumping, you
8 know, you, it's not a turn off switch to your, your adrenaline,
9 like, if you ever been in a fight, even after the fight is over
10 with, it's, you just don't turn off, like it's, it's still,
11 your heart is racing, you know ---

12 Q I get that. But why keep following a man that you think's
13 going to hurt you and trying to make him leave the dorm while
14 doing your pants at him like come on? Do you have a reason for
15 that? Until Benjamin Green pushes you away and says stop. You
16 don't have a reason for that, do you?

17 A I mean, like, I stated my reason.

18 MS. BROWDER: No further questions, Your Honor.

19 THE COURT: Redirect.

20 **REDIRECT EXAMINATION**

21 BY MS. BRUCK:

22 Q Dana, why did you go towards Damon Doyle when you came out
23 of Benjamin Green's room?

24 A I mean, if me and an individual, we having words, why
25 would I come out the room and turn my back on him, why would I

1 come out the room and, you know, put my back towards him. If
2 we already, you know, exchanging words and threats are being
3 made, why would I turn my back on him.

4 Q And is your room close to Mr. Green's room?

5 A No. My room is, no, it's, no, it's on the other side of
6 the dorm, like, no, it's not close.

7 Q And is it on the same floor as Mr. Green's room?

8 A No, it's not.

9 Q This whole A side, B side thing, can you always just
10 freely walk back and forth?

11 A Not always.

12 Q And what did you, you said that you did not see Damon
13 Doyle pull his knife out, what did you see him do regarding
14 that knife?

15 A He was going for his knife.

16 Q Did you see ---

17 A Yes, I did, yes, I did.

18 Q How much of it?

19 A I seen the silver part of the blade.

20 Q And what did you do in response?

21 A I defended myself.

22 Q And after Mr. Green, after Mr. Doyle left Mr. Green's
23 room, before this video even starts, what brought you outside?

24 A When I seen one of the blood members come down the stairs
25 and walk towards him and they was having a conversation.

1 Q Could you hear anything?

2 A No, I couldn't.

3 Q Before this video starts?

4 A Could I hear anything before the video starts?

5 Q Right.

6 A No, I couldn't. You saying can I hear anything from the
7 conversation that he's having with the blood member or are you
8 saying ---

9 Q Did you hear Mr. Doyle say anything?

10 A Oh, yes, yes, yes.

11 Q And why did you leave that room?

12 A I mean, because I didn't want to be in the room, if I am
13 aware of a situation that's happening in the dorm, I have been
14 stabbed twice in my room on two different occasions, I don't
15 want to be in the room.

16 Q Did you stab Mr. Doyle because he said insulting words?

17 A No, I did not.

18 Q Did you stab Mr. Doyle because of drugs?

19 A No, I did not.

20 Q Why did you stab him?

21 A Because at that moment in time, after everything that was
22 going on for the past couple days, at that time, I felt like if
23 I didn't react the way I did, if he was given the opportunity
24 to stab me, I feel like he would have. At that particular
25 time, after everything that was said, the gestures with, you

1 know, weapons or whatever, the threats, I feel like if I didn't
2 react the way I did, he would have, the roles could have easily
3 been reversed.

4 MS. BRUCK: Nothing further, thank you, Your Honor.

5 THE COURT: Nothing?

6 MS. BROWDER: No, sir.

7 THE COURT: Okay. Alright. Mr. Butler, you may step
8 down. And the Defense may call their next witness.

9 MS. MYERS: Your Honor, the Defense calls Chris
10 Watkins.

11 THE COURT: Okay.

12 CLERK: Do you swear or affirm that the testimony
13 you're about to give in this case to be the truth, the whole
14 truth, and nothing but the truth so help you God?

15 MR. WATKINS: Yes, I do.

16 CLERK: Thank you. Please have a seat on the witness
17 stand. State your name for the record.

18 MR. WATKINS: My name is Christopher James Watkins.

19 **DIRECT EXAMINATION**

20 BY MS. MYERS:

21 Q Good afternoon, Mr. Watkins. Can you tell us where you
22 work?

23 A Yes. I work at Certified Computer Forensics here in
24 Columbia.

25 Q And what is your position there?

1 A I'm a part owner of the company, and I'm a digital
2 forensic analyst.

3 Q And can you tell the jury what is a digital forensic
4 analyst?

5 A So my company is a private investigation company, we
6 specialize in digital forensics. Digital forensics is the area
7 of forensic science that encompasses the acquisition of
8 securing preservation of data from digital devices, whether
9 that be a cell phone, a tablet, computer, anything that
10 contains data. Then the data is processed, analyzed, put into
11 a report format to get insights about that data. Usually in,
12 for preparation for some type of litigation.

13 Q So Mr. Watkins, how long have you been a digital forensic
14 analyst?

15 A I've been doing it since February of 2010, professionally.

16 Q And can you tell us how you became involved in this case?

17 A Certainly. So I received contact from Richland County
18 Public Defender's Office, Attorney Zoe Bruck, she asked me to
19 look at some video files that were captured from the Broad
20 River Correctional Facility to look at those and examine them,
21 see if I could enhance them in any way to focus on particular
22 subject matter.

23 Q So Mr. Watkins, after reviewing the video clips from the
24 incident in this case, were you able to digitally enhance or
25 alter those videos?

1 A Yes. So what I did with the video is I zoomed in on a
2 couple of the subjects that are featured in the video with the
3 interest of just focusing in on those particular individuals,
4 zooming in enough to centralize the focus on them, to add
5 tracking so that video pans with that individual, slow it down
6 at some portions or employ a freeze frame so it freezes in on a
7 particular subject matter. And done so so that we don't lose
8 too much of the quality because whenever we're zooming in or
9 making any kind of changes to digital video, we do run the risk
10 of reducing the quality, and that's because of the nature of
11 the pixels that make up that picture. If you zoom in to that
12 content, the pictures have to take up a wire space which can
13 then in turn make those pixels look blocky or blurry.

14 Q Okay. So Mr. Watkins, we've seen a lot of video in this
15 case, but you did mention some freeze frames. Did you create
16 any freeze frames for this case?

17 A Yes. In the form of snap shots, they've been provided to
18 your office, and I understand that we've got some printed out
19 as well.

20 MS. MYERS: Let the record reflect that I'm
21 approaching the witness.

22 Q Mr. Watkins, without saying what you're looking at, do you
23 recognize what I've handed you?

24 A Yes, I do.

25 Q Does it appear to be a fair and accurate copy

1 of the freeze frames that you mentioned?

2 A Yes.

3 Q Okay. And do any of these freeze frames appear to be
4 substantively altered in any way?

5 A Did you say substantively altered?

6 Q Right.

7 A No. The information that's in the original video is still
8 maintained in these photos.

9 Q And what alterations if any did you digitally make to
10 those freeze frames?

11 A What you'll see in these pictures is a zoomed in portion
12 of the video that I received and it's essentially a screen shot
13 of an area focus in the video.

14 Q And does this appear to be a fair and accurate copy of
15 those freeze frames?

16 A Yes.

17 MS. MYERS: Your Honor, at this time the Defense
18 moves into evidence Defense Exhibits 6, 7, 8, 9, 10, and 11.

19 MS. BROWDER: Your Honor, I believe there's already a
20 number 6.

21 THE COURT: 6 is already in evidence.

22 MS. MYERS: Okay. So we'll start at 7.

23 THE COURT: So what are the numbers?

24 MS. MYERS: 7, 8, 9, 10, and 11.

25 THE COURT: Any objection?

1 MR. MCGLOTHIN: No objection.

2 THE COURT: Without objection.

3 MS. BRUCK: Permission to publish?

4 THE COURT: Defendant's 7, 8, 9, 10, 11 admitted
5 without objection.

6 MS. MYERS: Thank you, Your Honor.

7 (Whereupon photos were submitted as Defendant's Exhibit
8 Numbers 7, 8, 9, 10, and 11 for identification and entered into
9 evidence.)

10 Q Okay. Mr. Watkins, I'm going to attempt to pull up the
11 digital version of the freeze frames. Does that appear to be
12 Defense Exhibit 7?

13 A Yes, it does.

14 Q Okay. Can you tell the jury, what did you attempt to
15 capture with this freeze frame?

16 A If you see on the right portion of the photo, the subject
17 that is more so facing the camera, you'll see there's another
18 subject there facing away from the camera, we're focused on the
19 one where we can see the full body facing the camera. Focusing
20 in on this individual's right arm, his right hand is positioned
21 by his waistline near his waist or pocket area.

22 Q Okay. So Mr. Watkins, when you were working this case,
23 were you made aware of who was the Defendant in this case and
24 then who was the victim in this case?

25 A I was, yes.

1 Q Okay. So looking at this picture, are you able to tell
2 who the victim is?

3 A Yes. The individual that I've just indicated facing the
4 camera.

5 Q Okay. Would you be able to step down and point to that
6 individual for us?

7 A Sure, be happy to. It would be this individual right
8 here.

9 Q Okay. And what did you say this picture, this freeze
10 frame captures?

11 A So we're focusing on the fact that the individual has his
12 right arm down by his side near his waist or pocket area.

13 Q And from your watching of the video and knowledge of this
14 case, are you able to tell us if this freeze frame is before or
15 after the altercation in this case?

16 A This freeze frame occurs before the altercation happens.

17 Q Okay. And we'll go through the next... And Mr. Watkins,
18 does this appear to be the same as Defendant's Exhibit 8?

19 A Yes.

20 Q Okay. So what does this show?

21 A So here we're, again, same individual, arm is down by his
22 right side. It appears that he is clasping his hand onto
23 something, some type of object here in this picture.

24 Q And are you able to tell that, is it based off like a
25 difference in the way his arm is positioned?

1 A When you watch the video play out, you get a little more
2 detail, here we're focusing in on one frame. But you do see
3 the movement of the hand as indicating towards an object that
4 appears to be either on the waistband or a pocket.

5 Q Okay. And just, again, to be clear for the jury, based on
6 your review of this video, is this freeze frame before or after
7 the altercation?

8 A This is before the altercation.

9 Q And I believe this is the same picture, Mr. Watkins, does
10 it appear to be the same thing?

11 A This could very well be the next frame in sequence, but it
12 does depict the same thing that we just talked about.

13 Q Okay. And can you tell the jury what, who and what does
14 this depict?

15 A So this picture is zoomed in from the portion of the video
16 indicating the same individual that we just saw in the other
17 pictures. We are seeing this individual, this occurs after
18 this altercation, moving this direction and holding the object
19 in his right hand.

20 Q And that would have been the same as Defense Exhibit
21 Number 9, correct?

22 A Yes.

23 Q Okay. And this next picture appears to be the same as
24 Defense Exhibit 10?

25 A That's correct.

1 Q And can you tell the jury what and who this depicts?

2 A Same individual, we're a few frames later, of course, in
3 the video. The individual is still holding this object in his
4 right hand and moving in the direction that we see.

5 Q And finally, Mr. Watkins, does this appear to be Defense
6 Exhibit 11?

7 A Yes.

8 Q Okay. And can you tell the jury what and who this
9 depicts?

10 A We're looking at the same individual there in the video,
11 he is standing, as we can clearly see, he's standing, he
12 appears to be gripping towards his chest or neck area. That
13 object that he was holding in his right hand is displayed,
14 being held in that right hand.

15 Q Thank you, Mr. Watkins, you may take your seat. Thank
16 you, Mr. Watkins.

17 MS. MYERS: No further questions, Your Honor.

18 MR. MCGLOTHIN: No questions from the State, Your
19 Honor.

20 THE COURT: Thank you, have a good day. Call your
21 next witness.

22 MS. BRUCK: Your Honor, the Defense rests.

23 THE COURT: Alright. Ladies and gentlemen, the
24 Defense has rested their case. Y'all stand up and stretch for
25 just a second. Will the lawyers come up front, please.

1 (Off the record.)

2 THE COURT: Alright. Ladies and gentlemen, you can
3 have a seat for just a second. Your lunch is here, so we're
4 going to go ahead and take a lunch break at this point in time.
5 It's going to be a little shorter than our normal lunch break
6 since we had lunch brought in for you today, so this is going
7 to be a one-hour lunch break. Once everyone has eaten, if some
8 of you want to go outside or go outside and stretch your legs
9 or go outside and smoke a cigarette or that kind of thing, the
10 bailiffs can assist you with that. We'll take a one-hour lunch
11 break, we'll be back at 1:30 and ready to go. Do not discuss
12 the case, keep an open mind about the case and we'll see you
13 back at 1:30. Enjoy your lunch.

14 (Jurors exiting Courtroom.)

15 THE COURT: Okay. Any motions from the State?

16 MS. BROWDER: Not from the State, Your Honor.

17 THE COURT: Any motions from the Defense?

18 MS. BRUCK: Thank you, Your Honor. We would renew
19 our motion for directed verdict at this time. I don't believe
20 that the State has demonstrated guilt beyond a reasonable doubt
21 specifically in regards to the, to the duty to retreat in a
22 place that they established quite a bit that Mr. Butler lived
23 in. So we renew that motion.

24 THE COURT: Okay. And you renew all your previous
25 motions?

1 MS. BRUCK: Yes.

2 THE COURT: Okay. Alright. And my ruling upon that
3 would be the same as before. There's sufficient evidence for
4 the case to go forward considered in the light most favorable
5 to the nonmoving party and considering the existence of the
6 evidence and not the weight of the evidence which is distinctly
7 before the Court at this point in time.

8 MS. BRUCK: Thank you, Your Honor.

9 THE COURT: Okay.

10 MS. BRUCK: We also renew all prior objections and
11 motions specifically in regards to our 403 objection.

12 THE COURT: Okay. I find those are noted for the
13 record and my ruling upon them will be the same. Alright.
14 Does the Defense have any jury charges they want me to look at?

15 MS. PRINGLE: Judge, we're going to ask that you
16 charge self-defense, I think that your standard charge is
17 sufficient. May we be able to review it?

18 THE COURT: Sure. It being, self-defense has about
19 27 different subparts, so we have to go over the subparts ---

20 MS. PRINGLE: Yes, sir.

21 THE COURT: --- to make sure we know what we're
22 talking about. I received the request to charge from the
23 State.

24 MR. MCGLOTHIN: And Your Honor, just briefly. This
25 wasn't included in the State's proposed instructions, but I

1 think based on testimony today we would request a mutual combat
2 charge and I think your normal charge on that is fine with the
3 State.

4 THE COURT: You want a mutual combat charge?

5 MR. MCGLOTHIN: Yes, sir.

6 THE COURT: Okay. Hold on. Okay. So the mutual
7 combat charge says if the Defendant voluntarily participating
8 in mutual combat for purposes other than protection, the
9 killing of the victim would not be self-defense. This is true
10 even if during the combat the Defendant feared death or serious
11 bodily injury, however, if before the killing is committed, the
12 Defendant withdraws and tried in good faith to avoid further
13 conflict in either by word or act makes that known to the
14 victim, he would be without fault in bringing on the
15 difficulty. For mutual combat, there must be a mutual intent
16 and willingness to fight; this intent may be shown by the acts
17 and conducts of the parties and the circumstances surrounding
18 the combat. In addition, it must be shown that both parties
19 were armed with a deadly weapon. So the State's requesting
20 that charge?

21 MR. MCGLOTHIN: Yes, sir.

22 THE COURT: Okay. What's the Defense's position on
23 that?

24 MS. PRINGLE: We object to that. I recognize that
25 Ms. Browder attempted to get him to say that he came out to

1 engage in that, but he repeatedly said when he was able to that
2 he was not coming out to go to the hole, he was not intending
3 to go down the hole, he was not intending to come out to fight
4 him. I think his testimony was consistent on that, she crossed
5 him, she tried, but he never stated that that was his intent at
6 all.

7 THE COURT: Alright. The State's response?

8 MR. MCGLOTHIN: Your Honor, I think the video itself
9 whether or not his testimony goes to it, although I think the
10 testimony does go to the fact that he came out of the room and
11 went over to Mr. Doyle who he said was basically telling him to
12 go back in the hole to fight him and making hand gestures, hey,
13 come on, and the fact that he went towards him armed with a
14 knife and then attacked him does go to the fact that he
15 intended to fight him. So I do think there's sufficient
16 evidence, and obviously, they were, the Defense just made a
17 point to show that even the victim was armed during the
18 conflict.

19 THE COURT: Alright. I agree. I think there's
20 sufficient evidence in the record to charge mutual combat.
21 Alright. I see the State's requested charge number one on
22 reasonable doubt is what I normally charge. Your request in
23 charge number two is prior inconsistent statements, is there
24 any objection to that from the Defense?

25 MS. PRINGLE: Are you waiting on me?

1 THE COURT: (Nonverbal response).

2 MS. PRINGLE: Oh, I'm sorry.

3 THE COURT: We're on State requested charge number
4 two.

5 MS. PRINGLE: I thought you were reading.

6 THE COURT: No.

7 MS. PRINGLE: On prior inconsistent statements?

8 THE COURT: Yep.

9 MS. PRINGLE: It just seems to me that that's covered
10 under credibility of witnesses' charge.

11 THE COURT: Okay. Alright. I mean, it's an accurate
12 statement of the law, I'll put it after creditability of the
13 witnesses.

14 MR. MCGLOTHIN: Thank you.

15 THE COURT: State's requesting charge number three, a
16 commonsense charge? Where did that come from?

17 MR. MCGLOTHIN: I believe I pulled it out of one of
18 the various prior used ones.

19 THE COURT: Alright. I usually tell them to use
20 their common sense and ---

21 MR. MCGLOTHIN: Anything to that effect is ---

22 THE COURT: --- going to the credibility of the
23 witnesses. Alright. Prior record of witnesses, any objection
24 from the Defense as to request charge number four?

25 MS. PRINGLE: No objection.

1 THE COURT: Okay. Alright. And then it looks like
2 the rest of them are self-defense, we'll come back to those.
3 Okay. Alright. So going through the charge from the
4 beginning, we're going to start with this is what he's charged
5 with, the indictments are not evidence, I'm the judge of the
6 law, they're the judge of the facts, they have to follow the
7 law that I give them whether they agree with it or not. All
8 this is stuff I say every single case. He's presumed to be
9 innocent, it's like a robe of righteousness, all that good
10 stuff. Reasonable doubt, I charge the firmly convinced from
11 Victor versus Nebraska, I explain to them what is not evidence,
12 I give the newest version of the direct and circumstantial
13 evidence charge which says all of the circumstances must be
14 consistent with each other. Credibility of the witnesses which
15 is the standard one, I'll add in prior inconsistent statements
16 at that point, I'll add in prior record of a witness at that
17 point and give a charge on experts since we had doctor, he can
18 put me to sleep, I can't remember his last name. What's his --
19 -

20 MR. MCGLOTHIN: Monroe, Your Honor.

21 THE COURT: There you go, Dr. Monroe. Sorry. I've
22 never seen a riveting pathologist. Dr. Monroe, correct, I'm
23 sorry. Alright. Then I explain criminal intent, then I give
24 the standard murder charge, can be expressed malice, it can be
25 expressed or implied, malice aforethought doesn't require that

1 it exists for any particular time before the act is committed.
2 Express and infer don't mean different things. Malice, the
3 only malice, inferred malice charge is malice may be inferred
4 from conduct that shows a total disregard for human life.
5 Alright. Possession of a weapon during a violent crime, I took
6 out all the stuff about a gun, there's no evidence of a gun.
7 The State must also prove that he was in possession of a knife
8 or physically displayed what appeared to be a knife, a knife is
9 defined as an instrument or tool with a sharp cutting blade,
10 whether or not fastened to a handle which can be used to
11 inflict a cut, slash, or wound. They have to first find that
12 he's guilty of murder before they can get to that charge and
13 that the weapon further advanced or helped in the commission of
14 a crime. Carrying or concealing a weapon, the Defendant's also
15 charged with carrying or concealing a weapon by an inmate. The
16 State must prove beyond a reasonable doubt that an inmate of a
17 state correctional facility or of a local detention facility
18 carried on his person or had in his possession the dirk, razor,
19 or an object homemade or otherwise that may be used for the
20 infliction of personal injury on another person or for an
21 inmate to willfully conceal any weapon within the department of
22 corrections facility or other place of confinement. Anything
23 else anybody wants on that, from the State?

24 MR. MCGLOTHIN: No, Your Honor.

25 THE COURT: From the Defense?

1 MS. PRINGLE: No.

2 THE COURT: Okay. Then we'll come back to self-
3 defense because that's going to take a second. And then I tell
4 them their verdict can't be based upon sympathy, passion, or
5 prejudice, then I kind of walk through how they should be
6 deliberating. For the verdict form, I have, they have to find
7 by unanimous consent as to the charge of murder either not
8 guilty or guilty, only if they find the Defendant guilty can
9 they go to question 2 which is possession of a weapon during a
10 violent crime and then now proceed to question three, as to the
11 charge of carrying or concealing a weapon, not guilty or
12 guilty, and a place for the foreperson to sign. Okay. So
13 let's go back to self-defense for a second. So we're clearly
14 not in the situation where it's defense of others. Does
15 everybody agree with that?

16 MR. MCGLOTHIN: Yes, sir.

17 THE COURT: Does the Defense agree with that?

18 MS. PRINGLE: Yes.

19 THE COURT: Okay. Alright. So the Defendants raised
20 the defense of self-defense, it's a complete defense, and if
21 established you must find the Defendant not guilty. The State
22 has the burden of disproving self-defense by proof beyond a
23 reasonable doubt. The State has the burden of proving, or
24 disproving self-defense and this burden is carried by
25 disproving any one of the four elements by proof beyond a

1 reasonable doubt. The following elements are required to
2 establish self-defense without fault, the Defendant must be
3 without fault in bringing on the difficulty. If the
4 Defendant's conduct was the type which was reasonable
5 calculated to and did provoke a deadly assault, the Defendant
6 would be at fault in bringing on the difficulty and would not
7 be entitled to an acquittal based upon self-defense. I'll add
8 the mutual combat paragraph in at that point in time. The next
9 option is for something called contemptuous language. What it
10 says is self-defense is not available to a person who uses
11 language which is so contemptuous that a reasonable person
12 would expect it to bring on a physical encounter and which did
13 actually contribute to the physical encounter. What's the
14 State's thought on that?

15 MR. MCGLOTHIN: I think just based on testimony
16 regarding the words back and forth between the Defendant and
17 the victim that that does apply here, specifically because the
18 Defendant testified that certain words in prison you can't say
19 and that was a part of his fear. And then he also agreed that
20 he was repeating those words back to the victim, so I think
21 that that would go to what was testified to.

22 THE COURT: Alright. What's the Defense's thought on
23 contemptuous language?

24 MS. BRUCK: I mean, I think that's the law and it
25 came out in testimony. And I don't know if you have something

1 on point with this, but I just wanted to mention I think it
2 should be accompanied with something, some instructions about
3 words and hostile acts ---

4 THE COURT: Yeah, we're not there yet.

5 MS. BRUCK: I'm sorry, thank you, Your Honor.

6 THE COURT: The second element of self-defense is
7 that the Defendant was actually in imminent danger of death or
8 serious bodily injury or that he actually believed he was in
9 imminent danger of death or serious bodily injury. If the
10 Defendant was in actual imminent danger, it must be shown that
11 the circumstances would have warranted a person of ordinary
12 firmness and courage to strike the fatal blow. If he believed
13 he was in imminent danger of death or serious bodily injury, it
14 must be shown that a reasonably prudent person of ordinary
15 firmness and courage would have had the same belief. In
16 deciding this, you should consider all the facts and
17 circumstances surrounding the crime including the physical
18 condition and characteristics of the Defendant and the victim.
19 The next option is for something called the right to act on
20 appearances. The Defendant does not have to show that he was
21 actually in danger, it is enough that the Defendant believed he
22 was in imminent danger and a reasonably prudent person, blah,
23 blah, blah, blah would have the same belief. The Defendant has
24 the right to act on appearances even though his beliefs may
25 have been mistaken. It is for you to decide whether the fear

1 of death or serious bodily injury was reasonable and would have
2 been felt by an ordinary person in the same situation. What's
3 the State's thought on that?

4 MR. MCGLOTHIN: Your Honor, I think that the evidence
5 goes to show, at least some evidence goes to that, and we don't
6 have any issue.

7 THE COURT: Okay. Any objection from the Defense?

8 MS. BRUCK: No objection.

9 THE COURT: Okay. The next option is for something
10 called words accompanied by hostile acts. This says words
11 accompanied by hostile acts may, depending upon the
12 circumstances, establish self-defense. Any objection from that
13 from the State?

14 MR. MCGLOTHIN: Beg the Court's indulgence.

15 THE COURT: Okay.

16 MR. MCGLOTHIN: Yeah, I mean, I think, I really don't
17 think there was evidence of a hostile act accompanied with
18 words, I don't think that this incident regarding Mr. Doyle
19 holding his arm to his waist is a hostile act. But I can
20 understand that ---

21 THE COURT: Okay.

22 MR. MCGLOTHIN: --- Defense is probably going to
23 argue against that.

24 THE COURT: I assume the Defense wants that in?

25 MS. PRINGLE: Yes.

1 THE COURT: Okay. Alright. The next one, on the
2 next option is on prior difficulties. Evidence of prior
3 difficulties between the Defendant and the victim may be
4 considered in deciding whether a threat existed, whether the
5 Defendant had a reason to believe a threat existed and how
6 serious that threat was. What's the State's thought on that?

7 MR. MCGLOTHIN: Your Honor, I don't think there's
8 anything in testimony or evidence that supports any prior
9 difficulties. Mr. Doyle or excuse me, Mr. Butler was very
10 clear he had no prior beef with Mr. Doyle, they exchanged in
11 business exchanges, he came to him, Mr. Butler specifically
12 said that his issues were with the other blood members.

13 THE COURT: Alright. What's the Defense's thought on
14 that?

15 MS. PRINGLE: We don't disagree.

16 THE COURT: Okay.

17 MS. PRINGLE: I'm sorry, we do disagree.

18 MS. BRUCK: I apologize, Your Honor. There was
19 testimony about prior difficulty and even difficulty in a short
20 span before one count.

21 THE COURT: Okay. I'm not charging that. I mean, he
22 said on the witness stand and said it at least three times, I
23 had no issue with the victim, there was no prior, there was no
24 previous interactions, I mean, he said, I have no beef with the
25 victim, it was all about he was hanging out with this other

1 group of people that didn't get along with me. Alright. Size
2 and age, the relative sizes and ages and weights of the
3 Defendants and the victim may be considered in deciding the
4 apparent or actual need. The State wants that, is that
5 correct?

6 MR. MCGLOTHIN: Yes, sir.

7 THE COURT: Alright. Any objection from the Defense?

8 MS. BRUCK: No, Your Honor.

9 THE COURT: Okay. The next option is threats made by
10 the victim. Threats made by the victim may be considered in
11 determining whether the Defendant was or actually believed he
12 was in imminent danger. Any objection to that from the State?

13 MR. MCGLOTHIN: No, Your Honor.

14 THE COURT: Okay. Any objection to that from the
15 Defense?

16 MS. BRUCK: No, Your Honor.

17 THE COURT: Okay. Alright. And then the last
18 element is there is no other way to avoid the danger in order
19 to satisfy the fourth element. There must be evidence that the
20 Defendant had no other probable means of escape except to take
21 the life of the assailant, or stated another way, that he had
22 no other probable means of avoiding the danger of losing his
23 own life or sustaining serious bodily injury than to act as he
24 did in a particular instance. Any objection to that from the
25 Defense?

1 MS. BRUCK: Oh, sorry, I thought you asked the State,
2 Your Honor. We would ask that be stricken from instructions
3 because in this circumstance Mr. Butler lived where this
4 incident happen, he had no duty to retreat ---

5 THE COURT: Do you have some law that says that?

6 MS. BRUCK: That you have no duty to retreat
7 somewhere where you are lawfully?

8 THE COURT: Yes. In prison.

9 MS. BRUCK: We'll look on that, Your Honor.

10 THE COURT: We'll look? It's Wednesday, the looking
11 should have occurred about three to four weeks ago on that
12 issue. Y'all didn't know you were going to argue that he
13 didn't have a duty to retreat? What's the State's position on
14 duty to retreat?

15 MR. MCGLOTHIN: Your Honor, I think he clearly had a
16 duty to retreat. I think if there was any notion by the
17 Defense that he did not have a duty to retreat we should have
18 been here under the Protection of Persons and Properties Act
19 which is Stand Your Ground, and we're not. I don't think
20 there's a duty to retreat while he's in prison. He is not in
21 his cell, he is in a common area, so I don't, I think he does
22 have a duty to retreat here.

23 THE COURT: Okay. The next one is degree of force.
24 You don't have to make an exact calculation as to the amount of
25 force used. Any objection to that from the State?

1 MR. MCGLOTHIN: No, sir.

2 THE COURT: And continuing until the threat of harm
3 has ended. Any objection to that from the State?

4 MR. MCGLOTHIN: No, Your Honor.

5 THE COURT: Alright. I'm going to take out the
6 language about shooting people in that one. Okay. So I'm
7 going to take out the continuing to shoot and just change it to
8 if the Defendant is justified in defending himself then the
9 Defendant is also justified in continuing to defend himself
10 until it is apparent that the danger has completely ended.

11 Alright. Let's see. Alright. The word, the State's
12 requesting charge number eight, words alone are not enough. I
13 don't know, that's a 1951 case that y'all are quoting. I don't
14 know how that coincides with the words and hostile acts charge.

15 MR. MCGLOTHIN: Your Honor, you're asking how you
16 could charge both of those?

17 THE COURT: Yeah. I'm just, words alone are not,
18 what is says is where death is caused by a deadly weapon, words
19 alone however opprobrious, which is another word for offensive,
20 are not sufficient to constitute a legal provocation.

21 MR. MCGLOTHIN: Yes, sir, and I think that is a valid
22 statement of thought. And here it is the State's position that
23 there was not a hostile act to go along with his words, and
24 therefore there is sufficient evidence that words alone were
25 stated.

1 THE COURT: Alright. What's the Defense's position
2 on that?

3 MS. PRINGLE: Judge, just factually, I mean, he
4 testified repeatedly that he saw him reaching for his knife, he
5 saw him pulling out his knife, that he had a weapon. I'm not
6 sure it's applicable.

7 THE COURT: Okay. Would the State like to respond to
8 that?

9 MR. MCGLOTHIN: I don't have a response to that, just
10 that I think there was in looking at the video, it's State's
11 position there was not a hostile act. There may have been
12 acts, but there was no hostile act.

13 THE COURT: Do you have any objection to me changing
14 the word opprobrious to offensive?

15 MR. MCGLOTHIN: Not at all, Your Honor.

16 THE COURT: Okay. Alright. I've added that one in.
17 Alright. Any further request to charge from the State?

18 MR. MCGLOTHIN: No, Your Honor. I believe that
19 covers everything.

20 THE COURT: Okay. Any further request to charge from
21 the Defense?

22 MS. PRINGLE: In light of the testimony of Mr. Butler
23 that if he didn't act when he did, that he felt certain that he
24 was going to be attacked by Mr. Doyle, I would just ask that
25 you consider charging that he does not have to wait, the

1 language about not having to wait until the assailant gets the
2 drop on him. He has the right to act under the law of self-
3 preservation to prevent the assailant from getting the drop on
4 him.

5 THE COURT: Is somebody going to send me that?

6 MS. PRINGLE: Yes.

7 THE COURT: Where is that found?

8 MS. PRINGLE: This is citing, this is in State v.
9 Starnes, 340 S.C. 312, and they cite in that opinion or that
10 language I just quoted State v. Rash, 182 S.C. 42, Starnes is -
11 --

12 THE COURT: Alright. Somebody send me that language
13 in a word document.

14 MS. PRINGLE: Yes, sir.

15 THE COURT: What's the State's position on that? You
16 want to look it up?

17 MR. MCGLOTHIN: Beg the Court's indulgence while we
18 check that.

19 THE COURT: Okay.

20 MR. MCGLOTHIN: Your Honor, can we get the citation
21 one more time?

22 THE COURT: Sure.

23 MR. MCGLOTHIN: Ms. Pringle?

24 MS. PRINGLE: Yes.

25 MR. MCGLOTHIN: Can you give me the cite for

1 Starnes one more time?

2 MS. PRINGLE: Yes. 340 S.C. 312 in 2000.

3 MR. MCGLOTHIN: Thank you. I believe the State
4 doesn't have an objection to that based on the testimony, and
5 it does appear to be a valid statement of the law. We'll just
6 make sure we can see exactly what language the Defense is
7 requesting, but I think if it's the section I see here at 322
8 start the B section then the second sentence, I think that's,
9 we don't have an objection to that.

10 MS. PRINGLE: Do you want to come look at this real
11 quick?

12 MR. MCGLOTHIN: Yeah, absolutely. We don't have an
13 objection to the language.

14 MS. PRINGLE: Do you want me to leave the cites in or
15 just take it out?

16 THE COURT: Just send me the language you want. We
17 got a clean computer?

18 MS. BROWDER: Yes, sir.

19 THE COURT: Okay. Did y'all send that yet?

20 MS. PRINGLE: It's coming right now.

21 THE COURT: Did you send it to rhooj?

22 MS. PRINGLE: I thought so. I don't know if, I'm
23 remoting in and so that might be slowing it down.

24 THE COURT: There it is, got it. Alright. Anything
25 further from the State?

1 MR. MCGLOTHIN: No, Your Honor.

2 THE COURT: Anything further from the Defense?

3 MS. BRUCK: Your Honor, just briefly regarding the
4 duty to retreat. It doesn't appear that it's, that it's been
5 taken up in the context of prison, so I'm objecting to it just
6 on the grounds that the two individuals were co-occupants and
7 had the same right to be in the same place.

8 THE COURT: Okay. Alright. Does the State want to
9 be heard on that?

10 MR. MCGLOTHIN: I would simply argue that that would
11 fall under the Persons and Properties Act, if Defense wanted to
12 move forward with that, but we're clearly in a self-defense
13 hearing.

14 THE COURT: Okay. I'm putting the drop on him
15 language in there. Okay. Alright. At this point I think the
16 fourth element of self-defense applies, he has a duty to
17 retreat there inside a facility, the incident occurred in a
18 common area in the facility. He also admitted there were
19 multiple other places he could have gone to, he wasn't inside
20 his room, that may be a different analysis, that's for a
21 different Court on a different day, that's not the situation
22 that we have here. Okay. Alright. I'm going to email y'all
23 this verdict form and this jury charge. Okay. I'm sending it
24 to Ms. Browder, Ms. Bruck, Mr. McGlothlin, and Ms. Pringle.
25 Okay. It's 1:10, we'll start at 1:45. Thank you.

1 (Off the record.)

2 THE COURT: Anything from the State before we bring
3 in the jury?

4 MS. BROWDER: No, sir.

5 THE COURT: From the Defense?

6 MS. BRUCK: No, Your Honor.

7 THE COURT: Alright. Let's bring them in.

8 (Jurors entering Courtroom.)

9 BAILIFF: The jury's seated, Your Honor.

10 THE COURT: Alright. Thank you very much. And
11 ladies and gentlemen, when we last left, the Defense had rested
12 their case, the State now has an opportunity to put on any
13 reply testimony if they would like to. Would the State like to
14 call any witnesses?

15 MS. BROWDER: No, sir.

16 THE COURT: Okay. So at this point in time, ladies
17 and gentlemen, we will move on to what are known as closing
18 arguments. This is the attorneys' final opportunity to come
19 before you and summarize the case from their respective points
20 of view. As with everything that we do in this Courtroom,
21 there's a rule that determines how everything works, so the
22 State will be allowed to go first, the Defense will be allowed
23 to go second, then the State will be allowed to make a reply
24 argument. Once all three of those arguments have occurred, I
25 will then instruct you on the law as it pertains to the issues

1 in this case. Now, you all have done an excellent job during
2 this trial of staying awake, paying attention to the witnessès,
3 paying attention to the lawyers, paying attention to me and I
4 thank you for that, and I know they are all very appreciative
5 of that as well. I do now ask that you give the attorneys your
6 undivided attention as they come before you for their closing
7 arguments. And who's closing for the State?

8 MS. BROWDER: I am, your Honor.

9 THE COURT: Alright. Ms. Browder, the floor is yours
10 whenever you're ready, ma'am.

11 MS. BROWDER: Thank you, may it please the Court?

12 THE COURT: Yes, ma'am.

13 MS. BROWDER: In 1960, President JFK quoted an
14 established author, Ralph Waldo Emerson, and what he said rang
15 as true in 1960 as it does today in 2024. He said, what you do
16 speaks so loudly, I cannot hear what you say. In other words,
17 actions speak louder than words. And on August 5th, 2019, the
18 Defendant sat here, and he told you he was frustrated, that he
19 was defending himself. But, ladies and gentlemen, his actions
20 speak louder than his words because on August 5th, 2019, he was
21 frustrated. When he went down the hallway, he went and
22 approached Damon Doyle and got into it, and you see him using
23 his hands, yelling at him, he was frustrated. But he then went
24 back to his cell, or to Benjamin Green's cell, he was hyped up,
25 he said he was agitated, he was still frustrated, he made sure

1 he had his shank, and then on August 5th, 2019, Dana Butler
2 said he was frustrated, and he was watching out the window to
3 see what was happening. And then in that same day he was
4 frustrated and as Damon Doyle was about to walk down the
5 stairs, at that exact moment is when Dana Butler decided to
6 come out of that cell and go towards him with a knife. He
7 could have walked the other way, he could have done any number
8 of things, he could have stayed in his cell. But Dana Butler
9 who was frustrated, he came out with his hands in his pockets
10 where that shank was, he walked slowly, slowly, slowly until he
11 got right to the point where he could strike because he wanted
12 to be the one that struck first because he was mad and
13 frustrated. And then he was so frustrated, he then chased him
14 and taunted him after he stabbed him because he was not done,
15 he wanted to finish the job that he had started. He wasn't
16 running the other way at that time, he wasn't retreating, he
17 was following and then Damon Doyle went out dying and bleeding
18 on the sidewalk outside Monticello. What was Dana Butler
19 doing? And I'll show you the video again in a minute to remind
20 you. He was walking around the rock still, showing everybody
21 that he was the big dog, that he was making a point, and he was
22 making a name for himself. He wasn't scared. And I want you
23 to notice one thing, ladies and gentlemen, when he sat here on
24 the stand, not once did he use the word and say he was scared,
25 not one time. He admitted he was frustrated, he admitted he

1 was agitated, he admitted he was saying the words back to Damon
2 Doyle that Damon Doyle was saying to him. He had no beef with
3 Damon Doyle, he only had beef with other people who were not
4 the ones that had anything to do with the stabbing of him. He
5 was frustrated, he was not scared. He came out to have a fist
6 fight, or a knife fight with Damon Doyle and he made sure that
7 he won that fight. You sat here for the past couple of days
8 and you've listened to a lot of testimony, you've seen a lot of
9 pictures, heard things you probably never had to really hear
10 that happen in real life, just what you see on TV, and most
11 people wouldn't fathom having to do that, especially, here on
12 valentine's day, we probably have other plans. But Mr.
13 McGlothlin and I want to thank you for sitting and listening,
14 and I'm sure Ms. Pringle and the Defense and Ms. Bruck and Ms.
15 Myers thank you as well because, ladies and gentlemen, it's
16 important what you saw and what you heard. And as you sit here
17 now, I want you to remember why you're here. You're not here
18 because of bloods who were in different facilities, you're not
19 here because of SCDC, you're not here because of Damon Doyle.
20 You're here because Dana Butler's action, Dana Butler's words,
21 and Dana Butler taunting and trying to finish the job that he
22 started. Now, before I get to the evidence and the witnesses,
23 I need to talk to you a little bit about the law. So bear with
24 me a little bit because it's our proof to prove to you beyond a
25 reasonable doubt one hundred percent that Dana Butler is

1 guilty. Now, if anything I say right now is different from
2 what Judge Hood tells you at the end of this, listen to him
3 because he's the most, he's the smartest person in the room as
4 to the law so you listen to him if you think there's anything
5 different. But beyond a reasonable doubt is proof that leaves
6 you firmly convinced of the Defendant's guilt. There's very
7 few things in life we know for sure. We know the sun rises, we
8 know the sun sets, we know a mother gives birth to a child.
9 There's nothing you can prove one hundred percent for the most
10 part in this world. And we don't have to prove beyond every
11 doubt, just beyond a reasonable doubt, what would a reasonable
12 person think. And if you find you're firmly convinced of his
13 guilt you have to find him guilty, ladies and gentlemen. Now,
14 he is charged with a group of other things, so I'm going to
15 start with the first one because this is easy and it's
16 something I wouldn't even come back to. He's charged with
17 carrying or concealing a weapon by an inmate. That means he
18 had a weapon, he's an inmate in a state facility and he had it
19 on his person. He sat there on the stand, he admitted he was
20 guilty of that, ladies and gentlemen, so there's no other
21 verdict you can come to for that charge other than guilty. He
22 sat there and he told himself he was guilty of that. The next
23 is possession of a weapon during a violent crime, and this is
24 somewhat easy too, so I won't come back to this one. He
25 possessed or displayed a knife, which is a weapon, and he

1 admitted he had a knife, it's on the video, it's in a picture
2 where you can see the knife, it's not an issue that he had a
3 knife. The question for you is going to be where it comes down
4 to murder. Murder is considered a violent crime in South
5 Carolina, so if you find him guilty of murder, you have to find
6 him guilty of that as well. Now, murder, and this is what we
7 have to focus on, ladies and gentlemen. Murder is the killing
8 of another person, which he sat there, and he agreed that he
9 killed Mr. Doyle, so that's not an issue, with malice
10 aforethought, which means, there's expressed malice, which
11 means if you have a weapon, that would imply that you mean to
12 kill somebody or infer, you know, the total disregard for human
13 life. You disregard human life when you go at somebody and try
14 to stab them, when you stab them in the neck, in the back
15 twice, and then you chase after them and you try to keep doing
16 it. And aforethought means you planned it beforehand. And
17 I'll get to a little bit more later, but think about it, ladies
18 and gentlemen, if you were standing looking out of a cell,
19 looking for one particular person and you see that one
20 particular person, you're agitated, you're hyped up, you're mad
21 he's been calling you names, you see him by himself about to go
22 down the stairs, that's when you choose to come out the cell
23 and go straight for him, acting like nothing's going on ready
24 to pounce and ready to carry out your plan. But he didn't
25 expect that Mr. Doyle was going to turn around and then he had

1 to go sooner than he thought he needed to, he sat there in
2 wait, he waited for Mr. Doyle to be his prey so that he could
3 come out of the cell and follow him and kill him. Now, we put
4 up eight witnesses and numerous exhibits and videos to prove to
5 you beyond a reasonable doubt that he is guilty of murder. And
6 I kind of like to say it's like a puzzle, each piece is its
7 own, or each witness and exhibit is its own piece, by itself it
8 may not make any sense, but when you put them all together, it
9 shows the big picture. And most all this comes back to the
10 video and the relationship each person has in this video. Now,
11 Ms. Belser, she really doesn't have anything to do with the
12 video, but she was the first person to work on Mr. Doyle and
13 she said he knew he was dying, he was begging for his life, and
14 they noticed stab wounds in his back and in his neck and that
15 they were profusely bleeding, there's nothing that they could
16 do to stop it. Ms. Chandler was the first person to find Mr.
17 Doyle, and this is significant for a couple of reasons. One,
18 he was outside of the dorm on the sidewalk, so he was able to
19 get outside of the dorm which means that dorm was opened,
20 people were allowed to come in and out. Two, the Defense wants
21 you to believe that it's fight or flight, that there was no way
22 out, but again, the door was open, there was a way out and Mr.
23 Doyle got out. And the Defendant wants you to believe that,
24 well, it was locked, he got out because the guard opened it.
25 So the guard just opened the door and let Mr. Doyle collapse on

1 the sidewalk by himself and say I'm going to go back in there
2 and not help this man who's dying on the ground? It doesn't
3 make sense, ladies and gentlemen. And Ms. Myers said that both
4 men walked away from this fight, both men walked away, in her
5 opening statement. Ms. Chandler made it very clear that Mr.
6 Doyle did not walk away from this, he collapsed on the
7 sidewalk, he had to be taken by wheelchair to the medical room
8 and then he died. There was no walking away from this for Mr.
9 Doyle. But guess who did walk away and he walked up here to
10 the stand and walked back down there to the Defense table?
11 Dana Butler. He's the only person who walked away from this,
12 ladies and gentlemen. Now, CSI Miller got up and her job is to
13 purely document the scene. You heard her testify there really
14 wasn't much to document because you heard Mr. Butler get up
15 there and say everybody has a role, they were cleaning up the
16 evidence, there was nothing to try to determine at that point.
17 They couldn't tell where anything was, they didn't know where
18 blood was because it had all been cleaned up, and you can watch
19 the video, we really didn't get into that, but on the video, it
20 shows people using rags to wipe up blood, mops to mop up the
21 blood, they were getting rid of the scene. And guess who else
22 helped get rid of evidence? Dana Butler. He got rid of the
23 shank, the murder weapon that killed Damon Doyle because he
24 didn't want to get in trouble, he said, I don't want to get in
25 trouble. Well, ladies and gentlemen, he doesn't want to get in

1 trouble here today either, so that's why he got up there,
2 except not once did he say he was scared. But they want to
3 make a big deal about this diagram that they put in and wasn't
4 exactly right. Who cares. You still have the video, you know
5 exactly where it happened, you get to see it with your own
6 eyes. So that is really not a point that should be significant
7 or anything that has to do with what you decide because the
8 video is what happened. You are an eyewitness to this because
9 you get to see the video, you don't get to see that very often,
10 ladies and gentlemen. And then for the video, I'm going to use
11 Mr. Green here real quick before we get started, but you saw
12 Mr. Green on the stand, he clearly didn't want to be here, you
13 get to determine, you heard Judge Hood's statement; he'll tell
14 you again credibility of the witnesses. You get to hear what
15 they say, you get to determine whether they're telling the
16 truth or not telling the truth. You get to look at their
17 demeanor. You think about Mr. Green, he didn't want to be
18 here, but it didn't matter because you can see everything that
19 happened with him on the video. He got up here and said he
20 couldn't recall telling our office and our investigator things
21 all of a sudden even though he did a couple weeks ago on
22 January 23, 2024. He all of a sudden magically couldn't
23 remember. So ladies and gentlemen, the video corroborates what
24 he told us on that day and what Investigator Acerra talked
25 about. So you determine whether he sat there and told the

1 truth that day or whether what he told us a couple weeks ago is
2 the truth.

3 (Video playing.)

4 MS. BROWDER: So right here, he is, let me go back
5 real quick. I want to start with, right here. So Mr. Butler,
6 this will come into play later when we get to self-defense
7 because I'm going to go through everything in self-defense to
8 show that this was not self-defense. But watch this back here.
9 Mr. Butler goes to Mr. Doyle, this man that he supposedly
10 thinks is going to kill him, this man who's been calling him
11 names, and he starts putting his hands up, he's made, he's the
12 one that's doing this, he's the one that's pissed off. And
13 he's over there, and the only way he leaves from over there is
14 because Benjamin Green comes over there and says, man, back up,
15 you're going to get yourself in trouble, let's go over here,
16 I'm going to take you to my cell. He's over there, he's
17 agitating Mr. Doyle over there, he's the one starting this
18 whole verbal altercation, it wasn't an argument, it was a
19 verbal altercation according to Mr. Butler. And Mr. Green
20 says, man, I try to be the peacemaker, you heard him say that,
21 because it's the right thing to do to be the peacemaker, he
22 takes him away. So then Mr. Green takes him over here to the
23 cell, the cell where, let's not forget, Mr. Doyle came earlier
24 to ask Mr. Butler if he had some molly because Mr. Butler would
25 routinely sell him drugs, Mr. Butler admitted to that. If

1 you're scared of this man, if you had a beef with this man
2 which the Defendant said, I have no beef with this man, why
3 would he come to your cell and ask you for drugs? If you're
4 worried he's going to kill you because he's associating with
5 some people in the jail, but even though he also said, yeah,
6 he's my friend, why is he coming to the cell to ask him for
7 molly? Because they get along, they know each other. Ladies
8 and gentlemen, remember, and I'll get to this in a minute, the
9 lowest part of molly you can buy for \$10.00, a dime bag,
10 chopped up somebody who dimed me. So he comes back to the cell
11 after he gets in an altercation over here after Mr. Green came
12 over there to get molly, or Mr. Doyle came over there to get
13 molly from him. This is when he's going over here, watch his
14 hand gestures. Mr. Doyle's trying to back away over here, he's
15 talking, staying where he is, turning his back on Mr. Butler,
16 trying to say, hey, man, don't talk to me anymore, back is to
17 him. He's doing this again like he did afterwards with his
18 pants like, come on, let's go. Mr. Green says, I'm going to
19 take you, you got to calm down, they go into the cell, he'll be
20 in there for a minute. And Mr. Green, what he had told us was
21 that he was trying to calm him down, he was agitated, he was
22 hyped up. He didn't say that he was scared or worried about
23 getting stabbed. He said he was agitated, mad, hyped up. And
24 as he's sitting there, you hear Mr. Butler testify he's looking
25 out this door, he's looking out of his window. Why would

1 somebody be looking out that window? Think about that. As
2 he's looking out of the window, because the timing is very
3 important, ladies and gentlemen, here comes Damon Doyle, he's
4 turning right to go down the stairs, his back, again, is turned
5 to Mr. Butler, he's turning his back, he's not looking for Dana
6 Butler, he's turning his back right there, and that's when Dana
7 Butler comes out of the cell. And he's turning his back and
8 about to go down the stairs and he sees him coming out of the
9 cell. But that's the moment he decides to come out when Damon
10 Doyle isn't back there with these people anymore but when he's
11 by himself because he knew he could take him when he was by
12 himself because he's 6'1, 6'2, he's about a decade younger, he
13 could take him at that point. Why? Because he dined me even
14 though Mr. Butler didn't want to tell you what that meant or
15 couldn't understand what that meant or maybe just didn't want
16 to tell you what that meant because he got caught in a lie on
17 the stand. He comes out, he walks slowly, slowly, slowly until
18 he gets there and maybe he's reaching for something, I don't
19 know, that's for you to determine, ladies and gentlemen. But
20 the fact is, he came out there with a plan, he came out there
21 to go to Mr. Doyle. And based on what Mr. Butler said, Mr.
22 Doyle said come on, let's go to the hole, so he is voluntarily
23 walking that way, if you want to believe Mr. Butler, to go
24 towards the hole. He's planning on a knife fight, and when you
25 plan on a knife fight with somebody, you don't plan on a knife

1 fight to just scare them or to let's graze them a little bit
2 and maybe they'll bleed, you plan to kill somebody when you're
3 in a knife fight. He's pissed of at that point, he's been
4 calling him a pussy mother fucker, he's been calling him a
5 little bitch and he's mad and he's finally decided I had enough
6 of this, I'm going to show them who I am, I'm going to prove
7 myself. And his knife comes out right there. I'll play it
8 back, and you can play it back in slow-mo because you will have
9 it, and his knife comes out right here before he ever gets
10 anything out. He's slow, slow until he gets close enough and
11 there's his knife right there, he pulled his knife. And during
12 that whole altercation over here, you'll see, not once did Mr.
13 Doyle have a knife in his hand. He is ducking, you remember
14 what Mr. Butler said, he was ducking to get away, he was
15 ducking. And what did he do, he stabbed him in the neck which
16 when you watch the video, you'll see that was the first shot,
17 the kill shot was the next shot, that's the first one that he
18 made, he intended to kill him. And then he stabbed him in the
19 back, and only then is when his knife comes out, and you'll see
20 it in the other one. But he's running, he's squirting blood,
21 and what is Mr. Butler doing, he's taunting him, he's trying to
22 get close to him so he can finish the job. He's not
23 retreating, he's not trying to get away, he's doing exactly
24 what he was trying to do until Mr. Green, again, the peacemaker
25 says, man, you got to back up, stop. The only person anybody's

1 ever been trying to pull back in this video is Mr. Butler.
2 Never once did you see anybody try to hold Mr. Doyle back
3 because he wasn't threatening anybody, he was minding his own
4 business down in the corner where Mr. Butler wouldn't see him,
5 he was minding his own business when he was about to go down
6 the stairs and his back was turned, and Mr. Butler came out of
7 that cell. And then he just continues, you'll see him, ladies
8 and gentlemen, on the other video, he continues to strut around
9 for the entire time until the video ends because he wants to
10 make sure everybody knows in that prison dorm that he's not
11 somebody to be messed with. He's strutting, he's taunting with
12 his pants, like, yeah, I still got my knife, don't come near
13 me, I'm going to do it again. This was a message, ladies and
14 gentlemen, it wasn't self-defense. Now, for self-defense, you
15 know, I have to, I don't know what the Defense is going to say
16 when they come up here, of course, I get to reply, but I kind
17 of want to address some things I think they're going to say.
18 It's up to us to prove beyond a reasonable doubt that this was
19 not self-defense. The last witness they put up, Mr. Watkins,
20 he showed some pictures of the victim with his shank pulled out
21 which of course didn't get pulled out until he'd been stabbed
22 in the neck, and you'll see that when he starts running, that's
23 when he pulled it out to protect himself because he had nothing
24 in his hands when he was being stabbed. But there's a whole
25 bunch of still shots of that knife. What didn't they show you?

1 There's no still shots in there of the Defendant with his knife
2 out because they want you to forget that he pulled his knife
3 first. They want you to forget that he was the one at fault in
4 this and he was the one that brought it on. So for self-
5 defense, and the Judge is going to tell you all of these, but
6 there's four different elements, okay, four. We only have to
7 disprove one of them. I submit to you we can disprove all
8 four, but we only had to disprove one of them for him not to be
9 able to claim self-defense. Number one, Dana Butler is without
10 fault in bringing on the difficulty, right there, ladies and
11 gentlemen, that's number one. He had a contraband shank, he's
12 at fault for that, he even admitted he had that. He started
13 the altercation in the back hall, he was pushed away. He
14 stayed in that cell, and instead of staying in the cell, he
15 came out when Mr. Doyle was going down the stairs and went
16 towards Mr. Doyle, so he is not without fault for bringing on
17 this confrontation. He admitted he was saying names back and
18 forth, he all of a sudden couldn't remember what names he was
19 saying, just what the victim was saying, so that was
20 convenient. But he admitted he was saying names back to him.
21 He had language, contemptuous language, which the Judge will
22 charge you on, that he was part of this as well. So there's
23 number one, he brought on this difficulty, he armed himself, he
24 started the altercation and then he went after Doyle. So
25 that's one and that's enough. We don't have to prove to you

1 anymore, but we will. Two, he actually believed he was in
2 eminent danger of losing his life or sustaining bodily injury.
3 He didn't believe this, ladies and gentlemen. He was in a cell
4 with a shank, armed, he didn't have to come out. And the key
5 word here is eminent, he wasn't in eminent danger because he
6 was not anywhere near Mr. Doyle until he made himself near Mr.
7 Doyle as he went to stab him, but he was not in eminent danger.
8 And then after he stabbed him, he continued to chase him,
9 continued to taunt him. If you're in eminent danger of
10 somebody killing you, at that point, you'll see on the thing,
11 yes, Mr. Doyle had his knife out, at that point he was in
12 eminent danger at that point potentially, but what did he do?
13 He kept following him, he didn't go away, he kept following
14 him. So he didn't believe he was in eminent danger, he thought
15 he had the upper hand because he had stabbed him. So that's
16 now two elements that's disproved. But guess what? There's a
17 third that we can disprove. A reasonable prudent person of
18 ordinary firmness and courage would have entertained the same
19 belief. This is where you get to use your common sense, ladies
20 and gentlemen, and the Judge will tell you about your common
21 sense. Would a reasonable person entertain the same belief he
22 was going to die? No. They would have stayed in that cell,
23 they would have gone the other way, they wouldn't have gone to
24 fight somebody they were supposedly scared of, even though he
25 never once said he was scared of Mr. Doyle. There's number

1 three. And number four, he had no other probable means of
2 avoiding the danger, he had no duty to retreat, no other way to
3 get away from Mr. Doyle. Ms. Myers talked about fight or
4 flight. There's plenty of ways to fly away from Mr. Doyle, or
5 from Mr. Butler. And he sat there, and he agreed to everyone
6 when I asked. Could you have stayed in the cell? Yes. Could
7 you have gone to the A side? Potentially, yes. Could you have
8 gone out the door like Damon Doyle, he said he couldn't, but
9 that door was open because Damon Doyle got out of that door.
10 Could you have gone to your own cell? Yes. Could you have
11 gone upstairs instead of downstairs where Mr. Doyle was going?
12 I could have. Could you have gone to the other side of the
13 rock and hung out over there? Yes. That's at least six or
14 seven places right there he could have gone instead of right to
15 this person he supposedly thought was going to kill him.
16 Common sense, ladies and gentlemen. And then after the danger,
17 was running away from him to get away from him, he followed him
18 instead of going to one of those other six places. He was
19 never trying to retreat from Mr. Doyle even though he had the
20 ability to. So right there, we've disproved all four of them.
21 But if you believe we just disproved one, he can't claim self-
22 defense, ladies and gentlemen, you have to find him guilty of
23 murder. Now, when he took the stand, you get to determine his
24 credibility, just like the Judge told you, you saw him, you saw
25 how he answered the questions and his demeanor. He couldn't

1 really answer the questions without having to think really hard
2 about those answers, ladies and gentlemen. This was one of the
3 days supposedly he was scared for his life, one of the days you
4 should remember without a doubt every little detail. And
5 magically, he could remember every little detail about the
6 victim, Damon Doyle, but he couldn't remember anything about
7 what he did because he doesn't want you to know what he really
8 did because if he admitted to that, he knows you would have to
9 find him guilty of murder. I want to go through a couple
10 things that he said. He said he was calling him names as well,
11 he said he had no beef with the victim, none whatsoever. So
12 there's no reason this whole thing about I've been stabbed
13 twice before by the bloods should have anything to do with
14 anything because Mr. Doyle, he said, was not a blood, he was
15 one of his friends, actually, they hung out some times, he sold
16 him drugs. This wasn't a man that he thought was going to kill
17 him, I mean, this was a normal day, he was going back and forth
18 with him, both of them were going back and forth and yelling at
19 each other. He got rid of the evidence, he admitted to that,
20 that isn't an action of somebody who says he was trying to
21 defend himself; he was getting rid of what was going to prove
22 what he did. He admitted he had ways to leave, and, ladies and
23 gentlemen, he said I wasn't trying to kill him. Why use a
24 knife if you're going slowly after him and then going towards
25 him with it? If you're not trying to kill him, you don't need

1 a knife, again, you don't use a knife to just scare somebody
2 and give them a little graze, you use a knife to go at somebody
3 and kill them. And certainly, you don't stab somebody who
4 doesn't have a knife in his hand and then continuing to chase
5 him and want to finish the job until another person tries to
6 back you away from him and says get away so he can go to
7 medical. He intended to kill him to prove a point. And his
8 first shot, the shot to the neck, that was the kill shot. You
9 heard him say I swung at him, watch it again, he didn't swing
10 at him, he went straight out, and he went straight down as he
11 ducked. That's not a swing, a blind swing like I'm trying to
12 defend myself, that was execution of his plan. And I thought
13 it was funny, ladies and gentlemen, he didn't even want to
14 admit to you what chopped up one of those boys that dimed me
15 meant. He tried to say I don't remember saying that, I don't
16 know what dimed me meant, what does that mean, I don't know.
17 And then be confronted with it with the phone call and he heard
18 it, yeah, he's like, yeah, that's my voice, yeah, I recall that
19 phone call now, I don't remember saying that, it must have been
20 put there. So now everything's everybody else's fault, people
21 magically creating evidence against him, saying things that he
22 really didn't say, and so he says, well, I did say it. But it
23 all makes sense, ladies and gentlemen, he just went and asked
24 him for molly, \$10.00 is what a bag of molly goes for in the
25 jail, and then he chopped up, stabbed, killed somebody, one of

1 those boys who dined me. So you think about that, that's a
2 motive. He's mad he's calling him names, then Doyle dines him,
3 whatever that meant, then he chopped him up. It wasn't self-
4 defense. He laid in wait, he watched out that window until
5 Damon Doyle was by himself, and he came out, he executed his
6 plan. As human beings, this world is full of complex problems,
7 ladies and gentlemen. We all have heartbreak, pain,
8 frustration, and we all deal with those in different ways.
9 Murder is not one of those ways to deal with frustration.
10 Damon Doyle, despite being an inmate, is a human being just
11 like everybody else who deserves justice just like everybody
12 else. And sometimes what we really need is to see justice
13 reached where we don't think it reaches. Prison may be a
14 different world, but it doesn't mean that the law stops when
15 you go in prison. You don't deserve to be murdered in prison.
16 Dana Butler sat there and agreed that the law's the same out
17 here in society as it is in prison. Nobody should be murdered
18 over being called names. It's as simple as right and wrong,
19 ladies and gentlemen, what the law is and what the law isn't.
20 You can't murder someone no matter what they say to you, no
21 matter what you think a good reason might be. At the beginning
22 of this, Mr. McGlothlin asked you a question. If a picture's
23 worth a thousand words, what's the worth of a video? If a
24 picture is worth a thousand words, the video is worth just one,
25 ladies and gentlemen, guilty.

1 THE COURT: Is that all, Ms. Browder?

2 MS. BROWDER: Yes, sir.

3 THE COURT: Thank you, Ms. Browder. And who's
4 closing for Defense?

5 MS. BRUCK: I am, Your Honor.

6 THE COURT: Alright. Ms. Bruck, whenever you're
7 ready.

8 MS. BRUCK: Dana was a man trapped. Damon Doyle's
9 escalating threats and his eminent use of a knife forced Dana
10 to act to save his own life, and had Dana not acted as quickly
11 as he did, he could very well be dead. He would have been
12 stabbed by the knife that Damon Doyle carried, the knife that
13 you've heard Damon Doyle made known to have carried and the
14 knife that Dana saw immediately before he rushed him in self-
15 defense. Dana told you a little bit about his relationship
16 with Mr. Doyle and it's a bit more complicated than what the
17 State's trying to portray it as. They were not friends, but
18 they didn't have a beef. He was trying, Dana was making it
19 known that things shifted over the time that Mr. Doyle was at
20 Broad River. They were okay, they had mutual friends, they
21 were acquaintances, they didn't have any major issues, and then
22 Mr. Doyle started hanging out with members of the blood gang.
23 He became more aggressive; he became more pointed in his verbal
24 attacks. And understandably, that put Dana on guard. Dana had
25 been through two stabbings before, and we're not saying that

1 it's Mr. Doyle's fault, that he was responsible for those other
2 two stabbings, we're not saying that anything is just because
3 Mr. Doyle was associating with blood members. But Dana knew
4 the signs, Dana saw the increased aggression, Dana saw himself
5 being singled out by Mr. Doyle and that caused him
6 understandable concern and understandable fear. On August 5th,
7 those aggressive words became threats, and those threats became
8 the flash of a knife being pulled in a split-second realization
9 that Dana had to react to defend himself. And we've seen
10 Doyle, Mr. Doyle gestures on camera to come to the hole, and
11 there's photos for y'all to look at. And you heard from Mr.
12 Green what that meant. You don't ask someone to go to a dark,
13 unsupervised area of the dorm, a place that has no
14 surveillance, certainly at a time when no COs are around unless
15 you mean to cause them serious harm. You also heard from both
16 Mr. Green and Dana that a lot of people in this dorm had
17 knives, but you didn't pull it out, you didn't pull the knife
18 unless you meant serious harm, unless you meant to use it.
19 Now, at the end of all of this, Doyle is holding on to his
20 neck, instead of walking straight out of the dorm, he circles
21 back around, then it looks like he's trying to give the knife
22 to someone for safe keeping. You heard from Mr. Green that he
23 had asked, can you just patch me up to avoid going to medical
24 at all, to avoid leaving the dorm, but if he had to go, he
25 wanted to make sure that he could keep that knife, and that's

1 where his thoughts were in that moment The State has talked to
2 you quite a bit about the value of the video and although
3 they've called a few other witnesses, they do essentially rest
4 their case on what a four-minute video shows. They've made no
5 effort to provide further context. They've made no effort to
6 frame these four minutes within the lives of the people
7 portrayed therein. You see dozens of men in that dorm, many of
8 whom witnessed the assault. The didn't call these men, they
9 called Mr. Green, but he was in his dorm when it happened, or
10 in his room when it happened. They didn't call any
11 eyewitnesses, they didn't call anyone who interviewed these
12 men, and they didn't even call their lead investigator because
13 it benefits the State to keep this case small, it benefits them
14 for you to just look at the video. And I'm asking you to
15 acknowledge and to consider that this video does not and cannot
16 tell the entire story. This is the final event in a series of
17 escalating threats and danger posed by Damon Doyle towards Mr.
18 Butler. And just as an example of that, when Dana and I went
19 over Mr. Doyle gesturing for him to come to the hole, I'm sure
20 some of you noticed that, I'm sure some of you didn't. Those
21 things can be so easily overlooked in a video, and that is why
22 Dana's testimony is the most important evidence that you have.
23 I'm going to touch on evidence again, circle back to that, but
24 I do want to talk about a couple of legal concepts that you'll
25 hear from Judge Hood later and I just want you to keep those in

1 mind. Self-defense requires a reasonable person in the same
2 situation would believe that they were in eminent danger. And
3 throughout this, preparing for this trial and conducting it,
4 I've been thinking a lot about, I'm sure y'all have heard the
5 term a jury of your peers. And what's interesting is this all
6 takes place within a prison, that context is, obviously, very
7 important. No one who can serve on a jury has been to prison.
8 The world that Dana is describing is foreign, it's different
9 than what any of us have experienced. But your duty as jurors
10 is to consider it, is to think of the world in this prison and
11 to use the information that you've been able to glean
12 throughout this trial and put yourself in the shoes of someone
13 in prison facing this same situation. The second area of law
14 is that you don't have to wait for an individual to get the
15 drop on you, meaning Dana didn't have to wait until Mr. Doyle
16 had fully pulled out his knife, he didn't have to wait until he
17 charged him, he didn't have to wait until it was pointed at
18 him. He can take action based on his totality of the
19 circumstances as long as that is reasonable. Dana acted
20 because he had to, Dana acted as soon as he saw the knife, and
21 he was, he was fast, we're not denying that. But that video is
22 not going to show that Dana had pulled the knife out in
23 anticipation of stabbing Mr. Doyle, it's going to show a
24 reaction. The last piece of law I'm going to talk about is
25 proof beyond a reasonable doubt. And the State has mentioned

1 this a little bit, but I find it easier to kind of frame it in
2 this way, you must ask yourself has the State proved that
3 Dana's guilty beyond a reasonable doubt. And in a self-defense
4 case, you must take that one step further and ask yourself am I
5 convinced beyond a reasonable doubt that Dana was not acting in
6 self-defense when this occurred. Proof beyond a reasonable
7 doubt is the highest standard in our nation's justice system,
8 it's a higher standard than to win a multimillion-dollar
9 lawsuit, it's a higher standard than what's required to take a
10 child away from their parents. And it's so high because this
11 is a decision that can't be taken back a month from now, a year
12 from now you can't come back and say I think I got it wrong.
13 This is a decision that will last a lifetime. So the video.
14 If the State had witnesses who would say that Dana wasn't
15 acting in self-defense, you would have heard from them. And
16 they've shown you a four-minute video, and I'm not saying
17 ignore the video, I'm not saying it's not important, but listen
18 to what Dana Butler said that gives context and history to this
19 video. It shows you a brief mutual argument, it doesn't show
20 you what happened before where Mr. Doyle came to Mr. Green's
21 room not once but twice, each time acting more aggressively.
22 You can't hear Mr. Doyle's menacing words, the threat about
23 having Dana moved out the dorm. And the video does show Mr.
24 Doyle gesture towards the hole and very clearly reach in his
25 waistband. It only shows you the gesture in the reaching,

1 though, it doesn't show you what he was saying, it doesn't show
2 you the vantage point that Dana had and that he saw his knife
3 visible and only at that time did he make the split-second
4 decision to act. And again, if the State had a witness to
5 dispute self-defense, they would have called them. When I sit
6 down, the State will have a chance to argue to you once again
7 and if they feel that they haven't yet met their burden,
8 they'll do that. I unfortunately won't have a chance to
9 respond to any of that and I know as soon as I sit down, I'll
10 think of 15 more things that I wish I'd told you. So that's
11 why I'm counting on each of you. This video has no sound, I
12 need you to fill it with your voices, with your discussions
13 because I won't be back in the jury room, neither will Dana,
14 and I'm counting on each and every one of you to bring what
15 you've learned to the table, to work together, and if you do
16 that, you'll ultimately render a verdict of not guilty. Thank
17 you.

18 THE COURT: Alright. Thank you very much, Ms. Bruck.

19 MS. BROWDER: Thank you, Your Honor. There was a
20 witness that disputed self-defense, Mr. Butler. He didn't say
21 he was scared, he didn't say he wanted to get away from Mr.
22 Doyle, he said he had multiple ways to get away from Mr. Doyle,
23 he could have gone upstairs, he could have stayed in his cell.
24 Mr. Butler by himself is the witness that disputes self-
25 defense. He agreed he had other places he could go other than

1 towards Damon Doyle. He agreed that he was the one that went
2 down that hallway and started gesturing to Mr. Doyle. He
3 agreed he was the one standing at the door looking out the
4 window and then didn't come out until Mr. Doyle was about to go
5 down the stairs. He is the witness that disputes self-defense.
6 Ms. Bruck talked to you about we didn't call all these other
7 inmates, we didn't call the lead investigator. Why? Why would
8 we need to call them, ladies and gentlemen? The video is very
9 clear, it shows exactly what happened. Why do we have to call
10 all these other people to say what you can watch for yourself?
11 Why would we have to call Investigator Cesares when the
12 investigation created that video and was able to pull it for
13 you to watch it yourself? What's the point in wasting your
14 time for something you can see with your own two eyes? And why
15 did we call Benjamin Green, why is he the one that we called?
16 Because he's the one that creates the fact that Mr. Butler was
17 agitated, he was mad, he was hyped up, because we have to prove
18 malice aforethought to you, he was mad, he was hyped up, he was
19 agitated. He had to push Mr. Butler away from Mr. Doyle. He,
20 again, after Mr. Butler stabbed Mr. Doyle, had to continue to
21 push Mr. Butler away from Mr. Doyle. We called him because he
22 helps establish malice aforethought, that's why he's important.
23 All the other inmates who were out there were not in that cell
24 with Benjamin Green and Dana Butler, only Mr. Green was in that
25 cell, that's why we called Mr. Green. Otherwise, what's the

1 point in calling other inmates who could say exactly what you
2 can watch yourself? There is none, ladies and gentlemen. We
3 only called eight witnesses, so what. We have to prove to you
4 beyond a reasonable doubt, not beyond a reasonable doubt with a
5 hundred witnesses, do it with what we have to show you. I
6 thought it was funny all these escalating threats. You didn't
7 hear Mr. Butler talk about escalating threats, he didn't say
8 anything about threats by Mr. Doyle, he said other people
9 wanted him out the dorm, not Mr. Doyle. He said Mr. Doyle was
10 calling him names, he was also calling Mr. Doyle names, and
11 guess what? He took pride even though he didn't want to admit
12 it to you right there when he was on the stand, that he chopped
13 up one of those boys who dined him, this wasn't self-defense.
14 Ms. Bruck said he rushed him in self-defense. If it's self-
15 defense, you're not rushing somebody, you're trying to get
16 away, you're trying to prevent them from getting to you. He
17 came, he watched Mr. Doyle, he laid in wait, and he went after
18 him. Your voice when you go back there should be the voice
19 that comes back with guilty because Mr. Butler is the one that
20 admits he was not scared on the stand. Thank you.

21 THE COURT: Alright. Let's all stand up, stand,
22 stretch, twist, turn. If you don't want to stay for my jury
23 charge, out the back door, otherwise, we're locking it.
24 Alright. Here we go. Now, listen, this is the point of the
25 trial where I explain the law to you that pertains to issues

1 that have arisen in this case. It's impossible for me to make
2 this exciting, or riveting, or really that engaging, okay?
3 Reading the law, you know, that's just not where it takes you,
4 but it's very important because this is the law that you have
5 to apply in this case, so I ask that you please give me your
6 undivided attention. So the indictments have charged the
7 Defendant with three different offenses. The first is murder,
8 the second is possession of a weapon during the commission of a
9 violent crime, and the third is carrying or concealing a weapon
10 by an inmate. I remind you that the fact that the Defendant
11 was arrested or charged or indicted in this case is not
12 evidence of anything and it can't be considered by you as
13 evidence. These documents, meaning the indictments, are simply
14 the formal written instruments which contain the charges made
15 against the Defendant. They are the formal documents by which
16 the case is brought into this Court. Now, as I told you when
17 we started, you and I have different duties to perform. It's
18 my job to preside over the trial and to rule upon the
19 admissibility of the evidence offered. You are to consider
20 only the competent evidence before you. If there was anything
21 that I ordered stricken, you must disregard it. You are to
22 consider only the testimony which has been presented from the
23 witness stand and the exhibits which have been made a part of
24 the record in the case. I have the additional job to charge
25 you on the law in this case, I am the sole judge of the law,

1 it's your duty to accept it and apply the law as I now give it
2 to you. If you have an idea as to what you think the law is or
3 what you think the law ought to be and it doesn't agree with
4 what I now tell you the law is, you must abandon your own idea
5 because you have been sworn in to accept the law and apply it
6 exactly as I give it to you. You and you alone are the sole
7 and exclusive judge of the facts. I'm not allowed to make a
8 comment about or make any statement to you or answer any
9 questions about the facts in the case. You are the sole judges
10 of the facts, you should not infer from anything that I have
11 said during the trial in ruling upon the admissibility of
12 evidence or otherwise, or anything that I say now that I have
13 an opinion about the facts in this case. The law does not
14 allow me to have an opinion about the facts, this is for you to
15 determine. It's your job to determine the effect, the value,
16 and the weight of the evidence that has been presented. Now,
17 to these charges, the Defendant has pled not guilty. That plea
18 places the burden of proving the case on the State of South
19 Carolina. A person charged with committing a criminal offense
20 in South Carolina is never required to prove himself innocent.
21 This is an important rule of law that the Defendant in a
22 criminal trial, no matter what the seriousness of the charge
23 may be, will always be presumed to be innocent of the crime for
24 which the indictment was issued unless guilt has been proven by
25 evidence that satisfies you of that guilt beyond a reasonable

1 doubt. This presumption of innocence doesn't end when you
2 begin your deliberations, but it accompanies the Defendant
3 throughout the trial until you reach a verdict of guilt based
4 upon evidence that satisfies you of that' guilt beyond a
5 reasonable doubt. The presumption of innocence is like a robe
6 of righteousness placed about the shoulders of the Defendant
7 which remains with the Defendant until it has been stripped
8 from the Defendant by evidence that satisfies you of the
9 Defendant's guilt beyond a reasonable doubt. The presumption
10 of innocence is not just some mere legal theory that we say,
11 it's not just some legal phrase that we use in this country.
12 This is a substantial right to which every single Defendant is
13 entitled unless you are satisfied from the evidence of the
14 Defendant's guilt beyond a reasonable doubt. So that kind of
15 begs the question, what does beyond a reasonable doubt mean?
16 So the State has the burden of proving the Defendant guilty
17 beyond a reasonable doubt. Now, some of you may have been
18 jurors in civil cases where you were told that it is only
19 necessary to prove that a fact is more likely true than not
20 true, such as by the greater weight of the evidence. In
21 criminal cases, the State's proof must be more powerful than
22 that, it must be beyond a reasonable doubt. Proof beyond a
23 reasonable doubt is proof that leaves you firmly convinced of
24 the Defendant's guilt. There are very few things in this world
25 that we know with absolute certainty. In a criminal case, the

1 law does not require proof that overcomes every possible doubt.
2 If, based upon your consideration of the evidence, you are
3 firmly convinced that the Defendant is guilty, you must find
4 the Defendant guilty. If on the other hand you think there is
5 a real possibility that the Defendant is not guilty, you must
6 give him the benefit of the doubt and find him not guilty.
7 Now, as I told you early in the trial, there are things that
8 are going to appear to be evidence and at first glance, you
9 think they are evidence, but they're not really evidence.
10 Let's make sure we understand what is not evidence. Number
11 one, the statements that the lawyers make and the arguments
12 that they make are not evidence. Number two, the questions
13 that they ask or any legal objections that they raise are not
14 evidence. And number three, anything that I've told you to
15 disregard is not evidence. Now, there are two kinds of
16 evidence which you may have heard during this trial, direct and
17 circumstantial. You're allowed to give equal weight to both
18 direct evidence and to circumstantial evidence. Direct
19 evidence directly proves the existence of a fact and doesn't
20 require any deduction. Circumstantial evidence is proof of a
21 chain of facts and circumstances that then indicate the
22 existence of a fact. So crimes may be proven by circumstantial
23 evidence, the law makes no distinction between the weight or
24 the value to be given to either direct or circumstantial
25 evidence. However, to the extent that the State relies on

1 circumstantial evidence, all of the circumstances must be
2 consistent with each other and when taken together, point
3 conclusively to the guilt of the accused beyond a reasonable
4 doubt. If these circumstances merely portray the Defendant's
5 behavior as suspicious, the proof has failed. The State has
6 the burden of proving the Defendant guilty beyond a reasonable
7 doubt, this rests with them whether they rely on direct
8 evidence or circumstantial evidence or some combination of the
9 two. Now, I told you in the beginning, you have to figure out
10 the credibility of the witnesses. Credibility's just another
11 way to say believability. It's your duty to analyze and to
12 evaluate the evidence. So to determine this, you may believe
13 one witness over several or several over one. You may believe
14 a part of the testimony of a witness and reject the remaining
15 part; you may believe the witness entirely or reject their
16 testimony entirely. You may consider whether they exhibited to
17 you any interest or bias or prejudice or motive in the case.
18 You may also consider their demeanor while on the witness
19 stand. I probably gave you some example like you judge
20 people's credibility all day long, you do it so much you don't
21 even really realize you're doing it anymore, you do it with
22 your common sense throughout your day and your interactions
23 with people, you didn't leave your common sense at the metal
24 detector when you came in this morning, okay? You brought it
25 with you, that's why they picked you, just use your common

1 sense in determining the credibility of the witnesses. Now, in
2 this case there has been evidence presented that the witnesses
3 had made prior statements which are not consistent with the
4 witnesses' present testimony. You may use this evidence to
5 decide whether or not to believe the witness. You may also use
6 the evidence of the earlier contradictory statements to
7 determine the truth of those statements. It's up to you to
8 decide whether or not to believe the earlier statements or the
9 testimony at trial. If a witness is shown to have knowingly
10 testified untruthfully concerning any material matter, you may
11 consider this in determining whether to trust the witnesses'
12 testimony as to other matters. You may reject all the
13 testimony of that witness or give all or part of the testimony
14 the weight that you believe it deserves. Now, a person who has
15 a past criminal record is competent to testify during a trial,
16 a past record does not affect the ability of the person to
17 testify. This past record may only be considered by you, if at
18 all, in determining the witnesses' believability. You are the
19 sole judges of the facts of the case and of the believability
20 of all of the witnesses. Now, in this case, we had an expert
21 witness testify. If you'll remember that I told you normally
22 when a person testifies, they can't give their opinion or their
23 conclusion. There's an exception for witnesses that we call
24 experts. This is somebody who because of education or
25 experience has become an expert in some art or science or

1 profession and they're allowed to give their opinion and the
2 basis for their opinion. So you should consider any expert
3 opinion received into evidence, and like any other piece of
4 evidence, you give it the weight that you believe it deserves.
5 If you decide that the opinion of the expert isn't based upon
6 sufficient education and experience or if you conclude that the
7 reasons given in support of the opinion are not sound, or that
8 the opinion is outweighed by other evidence, you may disregard
9 the opinion entirely. An expert's testimony is to be given no
10 greater weight of all the other witnesses simply because we
11 call them experts. You are not required to accept an expert's
12 opinion even though it is not contradicted. Okay. We're going
13 to switch gears and we're going to move into talking about the
14 elements of the individual crimes, okay? In order to do that,
15 we have to start with the element that requires intent, okay?
16 So in order to establish criminal liability, criminal intent is
17 required. For example, the mental state might be purpose or
18 intent or knowledge or recklessness. Criminal intent must be
19 proven by the State beyond a reasonable doubt. And criminal
20 intent is always a matter that must be determined by the jury
21 from the circumstances surrounding the situation. There's no
22 way to prove criminal intent to a mathematical certainty.
23 There's no way that we can open up a person's brain and dissect
24 it and say this is exactly what this person had in mind at this
25 moment. So the law says that you can infer intent from the

1 circumstances surrounding the situation. And that's how you'll
2 make a determination of whether or not the element that
3 requires intent was present. It isn't necessary to establish
4 intent by direct and positive evidence, but it may be
5 established by inference in the same way as any other fact by
6 taking into consideration the acts of the parties and all the
7 facts and circumstances of the case. Criminal intent is a
8 mental state, it is a conscious wrongdoing. It's up to you to
9 determine what the Defendant intended to do based upon the
10 circumstances shown to have existed. It can arise from an
11 action or a failure to act; it can arise from negligence,
12 recklessness, or an indifference to duty, or to consequences
13 that are considered by the law to be the equivalent of criminal
14 intent. So the first charge, and these are in no order, okay?
15 The first charge is murder. So the Defendant is charged with
16 murder. So what does the State have to prove? The State must
17 prove, and remember the standard is beyond a reasonable doubt,
18 that the Defendant killed another person with malice
19 aforethought. So we're going to talk about what malice means,
20 and we're going to talk about what aforethought means. So
21 malice is hatred, ill will, or hostility towards another
22 person. It is the intentional doing of a wrongful act without
23 just cause or excuse and with the intent to inflict an injury
24 or under circumstances where the law will infer an evil intent.
25 Malice aforethought does not require that the malice exists for

1 any particular time before the act is committed, but malice
2 must exist in the mind of the Defendant just before and at the
3 time the act is committed. There must be a combination of
4 previous evil intent and the act. Malice aforethought may be
5 expressed or inferred, these don't mean different kinds of
6 malice, but merely the manner in which the malice is shown to
7 exist. This is either by direct evidence or by inference from
8 the facts and circumstances which have been proven. Express
9 malice is shown when a person speaks words which express hatred
10 or ill will for another, or when the person prepared beforehand
11 to do the act which was later accomplished. Malice may be
12 inferred from conduct that shows a total disregard for human
13 life. If facts are proved beyond a reasonable doubt sufficient
14 to raise an inference of malice to your satisfaction, this
15 inference would simply be an evidentiary fact to be considered
16 by you along with the other evidence and you may give it the
17 weight you believe it should receive. The second charge is
18 possession of a weapon during the commission of or attempt to
19 commit a violent crime. So the Defendant is charged with
20 possession of a weapon during the commission of a violent
21 crime. So what does the State have to prove? The State must
22 prove, and the standard is beyond a reasonable doubt that the
23 Defendant was in possession of a knife or visibly displayed
24 what appeared to be a knife during the commission of a violent
25 crime. So what does a knife mean? A knife means any

1 instrument or tool with a sharp cutting blade whether or not
2 fastened to a handle which can be used to inflict a cut, a
3 slash, or a wound. So in order to find the Defendant guilty of
4 possession of a weapon during the commission of a violent
5 crime, you must first find the Defendant guilty of either
6 committing a violent crime or attempting to commit a violent
7 crime. Under our laws, murder is defined as a violent crime.
8 The State must prove beyond a reasonable doubt that the weapon
9 further advanced or helped in the commission of the crime. The
10 third charge that the Defendant is charged with is carrying or
11 concealing a weapon by an inmate. So what does the State have
12 to prove? So the State must prove beyond a reasonable doubt
13 that an inmate of a state correctional facility or at a local
14 detention facility carried on his person or had in his
15 possession a dirk, a razor, or an object, homemade or otherwise
16 that may be used for the infliction of personal injury upon
17 another person or for an inmate to willfully conceal any weapon
18 within the department of corrections facility or other place of
19 confinement. Okay. Now, we're going to switch gears a little
20 bit because we're going to talk about self-defense, okay? And
21 self-defense has multiple parts so we're going to go through
22 each part of self-defense. So the Defendant has raised the
23 defense of self-defense. Self-defense is a complete defense
24 and if it's established, you must find the Defendant not
25 guilty. The State has the burden of disproving self-defense by

1 proof beyond a reasonable doubt. So if you have a reasonable
2 doubt of the Defendant's guilt after considering all the
3 evidence, including the evidence of self-defense, you must find
4 the Defendant not guilty. On the other hand, if you have no
5 reasonable doubt of the Defendant's guilt after considering all
6 the evidence, including self-defense, then you must find the
7 Defendant guilty. The State has the burden of disproving self-
8 defense, and this burden is carried by disproving any one of
9 the four elements of self-defense by proof beyond a reasonable
10 doubt. So the following elements are required to establish
11 self-defense. The first one we refer to as without fault,
12 okay? So what does this mean? First the Defendant must be
13 without fault in bringing on the difficulty. If the
14 Defendant's conduct was the type which was reasonably
15 calculated to and did provoke a deadly assault, the Defendant
16 would be at fault in bringing on the difficulty and would not
17 be entitled to an acquittal based upon self-defense. Still
18 under the category of without fault, we have something called
19 mutual combat. So if the Defendant voluntarily participated in
20 mutual combat for the purposes other than protection, the
21 killing of the victim would not be self-defense. This is true
22 even if during the combat the Defendant feared death or serious
23 bodily injury. However, if before the killing is committed,
24 the Defendant withdraws and tried in good faith to avoid
25 further conflict and either by word or act makes that fact

1 known to the victim, he would be without fault in bringing on
2 the difficulty. For mutual combat, there must be a mutual
3 intent and willingness to fight. This intent may be shown by
4 the acts and conduct of the parties and the circumstances
5 surrounding the combat. In addition, it must be shown that
6 both parties were armed with a deadly weapon. Still under
7 without fault, we have the idea of contemptuous language. So
8 self-defense is not available to a person who uses language
9 which is so contemptuous that a reasonable person would expect
10 it to bring on a physical encounter and which did actually
11 contribute to the physical encounter. Now, where death is
12 caused by the use of a deadly weapon, words alone, however
13 offensive, are not sufficient to constitute legal provocation.
14 The second element of self-defense is called eminent danger.
15 So the first is being without fault, the second is eminent
16 danger. The second element of self-defense is that the
17 Defendant was actually in eminent danger of death or serious
18 bodily injury or that the Defendant actually believed he was in
19 eminent danger of death or serious bodily injury. If the
20 Defendant was actually in eminent danger, it must be shown that
21 the circumstances would have warranted a person of ordinary
22 firmness and courage to strike the fatal blow to prevent death
23 or serious bodily injury. If the Defendant believed he was in
24 eminent danger of death or serious bodily injury, it must be
25 shown that a reasonably prudent person of ordinary firmness and

1 courage would have had the same belief. In deciding whether
2 the Defendant actually was or believed he was in eminent danger
3 of death or serious bodily injury; you should consider all the
4 facts and circumstances surrounding the crime including the
5 physical condition and the characteristics of the Defendant and
6 the victim. Now, the third element really, when you read it as
7 many times as I've read it in my life, the third element and
8 the second element kind of mesh together, okay? But
9 technically, this is the third element. So the Defendant does
10 not have to show that he was actually in danger; it is enough
11 that the Defendant believed he was in eminent danger and a
12 reasonably prudent person of ordinary firmness and courage
13 would have had the same belief. The Defendant has the right to
14 act on appearances even though his beliefs may have been
15 mistaken. It is for you to decide whether the Defendant's fear
16 of immediate danger of death or serious bodily injury was
17 reasonable and would have been felt by an ordinary person in
18 this same situation. Words accompanied by hostile acts may,
19 depending upon the circumstances, establish self-defense. The
20 relative sizes, ages, and weights of the Defendant and the
21 victim may be considered in deciding the apparent or actual
22 need for force and self-defense and the amount of force needed.
23 Threats made by the victim may be considered in determining
24 whether the Defendant actually was or believed he was in
25 eminent danger. Once the right to act in self-defense arises,

1 a Defendant is not required to wait until his adversary is on
2 equal terms or until he has aimed his weapon in order to act.
3 The accused doesn't have to wait until his assailant gets the
4 drop on him, he has the right to act under the law of self-
5 preservation and prevent his assailant from getting the drop on
6 him. So the fourth element, so let's go back through them
7 again. Number one is being without fault, okay? Number two is
8 being in eminent danger, number three, number two and three
9 kind of go together, three is basically the right to act on
10 appearances, right? And then number four is there's no other
11 way to avoid the danger, okay? And we call this the duty to
12 retreat. So in order to satisfy the fourth element of self-
13 defense, there must be evidence that the Defendant had no other
14 probable means of escape except to take the life of his
15 assailant, or stated another way, that he had no other probable
16 means of avoiding the danger of losing his own life, or
17 sustaining serious bodily harm than to act as he did in the
18 particular instance. Now, a person is not required to make an
19 exact calculation as to the degree or the amount of force which
20 may be needed to avoid death or serious bodily harm.
21 Therefore, under self-defense law, the Defendant has the right
22 to use the force needed to avoid death or serious bodily harm.
23 The force used in self-defense does not have to be limited to
24 the degree or the amount of force used by the victim. The
25 Defendant has the right to use so much force as appeared to be

1 necessary for complete self-protection in which a person of
2 ordinary reason and firmness would have believed to be needed
3 to prevent death or serious bodily harm. If the Defendant is
4 justified in defending himself, then he is also justified in
5 continuing to defend himself until it is apparent that the
6 danger of death or serious bodily injury has ended. Alright.
7 I'm almost done. So a verdict in this case cannot be based
8 upon sympathy, passion, prejudice, or emotion, or something not
9 found in the evidence. Let's talk about deliberating. Most of
10 you have probably never deliberated before, so let's talk about
11 what that should look like. The word deliberation is defined
12 as a careful consideration weighing up with a view to a
13 decision. The genius of this system is that it allows 12 good
14 men and women from 12 totally different backgrounds, life
15 experiences, and perspectives to consider the evidence, talk
16 about it, and reach a verdict. We call them deliberations for
17 a reason. You are to consider the evidence in this case
18 carefully and deliberately and you should be discussing it in a
19 calm, thorough, and courteous manner. You are not a partisan,
20 nor are you an advocate, you are a judge, you're a judge of the
21 facts. Listen to each other's views and to each other's points
22 of view and talk through and discuss the evidence. Remember if
23 you're doing something deliberately, you're not in a hurry, and
24 you should not be in a hurry here. This case is very important
25 to both sides, this is their only day in Court to resolve this

1 matter. You should discuss the case to reach agreement if you
2 can. Your verdict must be unanimous, that means you all 12
3 must agree, but each of you must decide the case for yourself
4 after you have impartially considered the evidence, discussed
5 it fully with everyone, and listened to each other's views.
6 Don't be afraid to change your opinion if the discussion
7 persuades you that you should, but don't come to a decision
8 simply because, well, everyone else thinks it's right. It's
9 important to reach a unanimous verdict, but only if each of you
10 can do so after having made your own decision. Do not change
11 an honest belief about the weight and the effect of the
12 evidence simply to reach a verdict, in other words, don't
13 change your opinion solely for the sake of reaching a unanimous
14 verdict. Okay. I'm about to send you back to your jury room,
15 you're still not allowed to deliberate, okay? I got to check a
16 couple things with the lawyers. The sign that you can start
17 deliberating is when the exhibits come in the room, okay? So
18 when the bailiffs pass you the exhibits, you may start
19 deliberating. Okay. This is what I call a clean computer,
20 okay? So there are videos in the case, y'all have seen them
21 throughout here. Are all the videos on these discs, is that
22 right?

23 MS. BROWDER: Yes.

24 THE COURT: Okay. The videos are on the disc,
25 there's a DVD player attached to it. If somebody's familiar

1 with computers, try to get it set up and moving in the right
2 direction. If you hit a snag and you can't do it, just send
3 out a note, I'll find somebody to send in and help you play it.
4 But the goal is that you can play the videos, look at the
5 pictures, look at the things for as long or as, and whatever,
6 back up, go forward, you know what I mean. Okay. And so
7 that's why we've given you this, this is just an empty computer
8 that doesn't have anything else on it, okay? Does that make
9 sense? Okay. The next thing is you all have to be in the room
10 to deliberate, okay? So if somebody needs to smoke, somebody
11 needs to use the restroom, somebody needs to step outside and
12 call home for something, deliberations stop unless all 12 of
13 you are in the room. Okay. Your verdict must be unanimous,
14 that means you all 12 must agree. In that same thought
15 process, don't tell me the count, okay? You never need to send
16 me a note that says the count is X to Y, okay? The count is
17 your count, you don't ever need to report that to me. Okay.
18 So what I have done for your verdict is created a verdict form
19 and all the lawyers have seen this, okay? It's very simple,
20 this is all the case captioned at the top, we, the jury by
21 unanimous consent, meaning all 12 of you agree, as to the
22 charge of murder, not guilty or guilty, okay? There's no
23 reasoning for not guilty being first and guilty being second, I
24 switch them every single trial, so it's just luck of the draw,
25 okay? Only if you find the Defendant guilty of question one

1 are you allowed to proceed to question two because question two
2 is possession of a weapon during the commission of a violent
3 crime, okay? And then we will proceed to question number three
4 regardless of what happens with one and two, okay? And that's
5 on carrying a concealed weapon, you'll check those boxes, and
6 then, madame forelady, there's a place for you to sign and
7 date, you may take that with you. Okay. I'm going to send you
8 back to your jury room. The sign that you can start is when
9 all of these exhibits come in, until then, just hold in place,
10 okay? Thank you very much.

11 (Jurors exiting Courtroom.)

12 THE COURT: Alright. Any exceptions to the charge
13 other than those previously stated?

14 MS. BROWDER: No, sir.

15 MS. BRUCK: No, Your Honor.

16 THE COURT: Okay. Alright. So here's what we're
17 going to do. I need the lawyers to get with Molly and Ms.
18 Amick and make sure the exhibits are the correct exhibits, make
19 sure the computer is the right computer. And I need all the
20 lawyers to make sure you give Molly your phone numbers, and
21 good job. Thank you very much.

22 MS. BRUCK: Thank you.

23 (Off the record.)

24 BAILIFF: Court come to order.

25 THE COURT: Alright. We got a question that

1 says can we get the explanation of the four elements of self-
2 defense; I marked it as a Court's Exhibit.

3 (Whereupon a note was submitted as Court's Exhibit Number
4 2 for identification and entered into evidence.)

5 THE COURT: Does the State have an opinion?

6 MS. BROWDER: We don't have an objection to them
7 getting the charge, but I think if they want that, you send the
8 whole charge back in its entirety instead of just that
9 specifically.

10 THE COURT: Alright. Does the Defense have a
11 position?

12 MS. BRUCK: No, Your Honor.

13 THE COURT: Okay. Alright. Usually what I do in
14 this scenario is just give them the whole charge and that way
15 they can pass it around, if somebody's sitting there thinking
16 we want to see something else or instead of them sending out 17
17 notes asking for different parts of it, that way it's not just
18 emphasizing one part, I almost read pretty close to verbatim
19 from it, I don't really go off script that much. And so I'll
20 mark the charges a Court's Exhibit and send it back. Any
21 objection from the Defense?

22 MS. PRINGLE: No.

23 THE COURT: Any objection from the State?

24 MS. BROWDER: No, sir.

25 THE COURT: Alright. Anything else y'all need

1 me to take up?

2 MS. BROWDER: No, sir.

3 THE COURT: Okay. We'll mark the charge as the next
4 item.

5 (Whereupon the charge was submitted as Court's Exhibit
6 Number 3 for identification and entered into evidence.)

7 (Off the record.)

8 BAILIFF: Remain seated and come to order.

9 THE COURT: Thank you, keep your seats. Let's go
10 ahead and bring them in.

11 BAILIFF: Alright, sir.

12 (Jurors entering Courtroom.)

13 BAILIFF: Jury's seated, Your Honor.

14 THE COURT: Alright. Madame forelady, it's my
15 understanding there's a verdict, is that correct?

16 MADAME FORELADY: Yes, sir.

17 THE COURT: Could you hand the verdict form to the
18 bailiff, please. Alright. I find the verdict is in its proper
19 form, and the clerk may publish.

20 CLERK: Yes, Your Honor. Indictment numbers 2022-GS-
21 40-03747, 2022-GS-40-03746, 2022-GS-40-03749, the State of
22 South Carolina versus Dana Butler, Jr. We the jury by
23 unanimous consent find the Defendant, Dana A. Butler, Jr., as
24 to the charge of murder on indictment 2022-GS-40-03746, guilty.
25 Only if you find the Defendant guilty of question one, proceed

1 to question two. As to the charge of possession of a weapon
2 during the commission of a violent crime on indictment 2022-GS-
3 40-03749, guilty. Now proceed to question three. As to the
4 charge of carrying or concealing a weapon by an inmate on
5 indictment 2022-GS-40-03747, guilty. Signed juror number 270
6 as forelady. Madame forelady, is this your verdict and the
7 verdict of the entire jury?

8 MADAME FORELADY: Yes.

9 CLERK: Thank you.

10 THE COURT: Does the State request polling?

11 MS. BROWDER: No, Your Honor.

12 THE COURT: Does the Defense request polling?

13 MS. BRUCK: No, Your Honor. Oh, we request it, yes,
14 sir.

15 THE COURT: Okay. You may poll the jury.

16 CLERK: Ladies and gentlemen of the jury, I'm going
17 to ask you two questions relating to your verdict. As I call
18 your number, please answer yes or no to both questions. Juror
19 number 270, was this your verdict?

20 JUROR 270: Yes.

21 CLERK: Is this still your verdict?

22 JUROR 270: Yes.

23 CLERK: Juror number 50, was this your verdict?

24 JUROR 50: Yes.

25 CLERK: Is this still your verdict?

1 JUROR 50: Yes.

2 CLERK: Juror 91, was this your verdict?

3 JUROR 91: Yes.

4 CLERK: Is this still your verdict?

5 JUROR 91: Yes.

6 CLERK: Juror 54, was this your verdict?

7 JUROR 54: Yes.

8 CLERK: Is this still your verdict?

9 JUROR 54: Yes.

10 CLERK: Juror 312, was this your verdict?

11 JUROR 312: Yes.

12 CLERK: Is this still your verdict?

13 JUROR 312: Yes.

14 CLERK: Juror 311, was this your verdict?

15 JUROR 311: Yes.

16 CLERK: Is this still your verdict?

17 JUROR 311: Yes.

18 CLERK: Juror 22, was this your verdict?

19 JUROR 22: Yes.

20 CLERK: Is this still your verdict?

21 JUROR 22: Yes.

22 CLERK: Juror 134, was this your verdict?

23 JUROR 134: Yes.

24 CLERK: Is this still your verdict?

25 JUROR 134: Yes.

1 CLERK: Juror 97, was this your verdict?

2 JUROR 97: Yes.

3 CLERK: Is this still your verdict?

4 JUROR 97: Yes.

5 CLERK: Juror 202, was this your verdict?

6 JUROR 202: Yes.

7 CLERK: Is this still your verdict?

8 JUROR 202: Yes.

9 CLERK: Juror 277, was this your verdict?

10 JUROR 277: Yes.

11 CLERK: Is this still your verdict?

12 JUROR 277: Yes.

13 CLERK: Juror 114, was this your verdict?

14 JUROR 114: Yes.

15 CLERK: Is this still your verdict?

16 JUROR 114: Yes.

17 CLERK: The jury's been polled, Your Honor.

18 THE COURT: Alright. Thank you very much. Alright.

19 Ladies and gentlemen, I want to say thank you very much for
20 your service this week. You are completely and totally done,
21 you do not need to call back, you do not need to come back, you
22 are completely released from your jury service this week. You
23 have a jury exemption for the rest of this year and for the
24 following, the two years that follow that, so if you get called
25 for jury duty, just tell them that you served with me for this

1 week. If you need a work excuse, we can provide you a written
2 work excuse, that's no problem. And then how do they get their
3 paychecks, is it by debit card or how is it working now?

4 CLERK: On Friday y'all will get your funds loaded on
5 to your debit card.

6 THE COURT: Okay. And we'll have that available for
7 you this Friday. You're free to discuss the case with anyone
8 you want to and in any way that you want to now. The
9 prohibition on discussing with people outside of the case is
10 lifted upon you, so you're welcome to discuss the case with
11 anybody that you want to. And you'll head back to your jury
12 room, they'll collect your badges, and release you. Thank you
13 very much.

14 (Jurors exiting Courtroom.)

15 THE COURT: And do we have anybody here from Mr.
16 Doyle's family that's going to need to speak?

17 MS. BROWDER: No, sir.

18 THE COURT: Okay. And do they need to be here?

19 MS. BROWDER: No, sir.

20 THE COURT: Okay. Let's take about five minutes, get
21 the paperwork together and I'll come back in for post-trial
22 motions and sentencing.

23 (Off the record.)

24 THE COURT: Alright. Any post-trial motions by
25 Defense?

1 MS. BRUCK: Your Honor, at this point Defense would
2 move for a new trial just based on all cumulative effects of
3 prior rulings.

4 THE COURT: Okay. And do you renew your previous
5 motions?

6 MS. BRUCK: And we renew all of our previous
7 objections and motions.

8 THE COURT: Alright. I find that the verdict was
9 proper based upon the evidence that's been presented. Your
10 motion for a new trial is respectfully denied. And do we have
11 sentencing sheets?

12 MS. BROWDER: They're on their way, Your Honor.

13 THE COURT: Okay. And did I ask this earlier, does
14 anybody from Mr. Doyle's family need to speak?

15 MS. BROWDER: No, sir.

16 THE COURT: There were some people here earlier in
17 the week but ---

18 MS. BROWDER: His daughter was here yesterday.

19 THE COURT: Okay. But she doesn't need to be here or
20 ---

21 MS. BROWDER: No, sir.

22 THE COURT: Okay. Alright. Let's bring Mr. Butler
23 on up for sentencing. Okay. Ms. Browder, you may go ahead.

24 MS. BROWDER: Thank you, Your Honor. I don't know if
25 you have a copy of it or not, so I can hand it up if you need

1 one, but we served life without parole on Mr. Butler on January
2 29th of this year. I can hand them all up.

3 THE COURT: Okay. Thank you.

4 MS. BROWDER: His prior record, Your Honor, is a 2011
5 unlawful carrying of a pistol, murder, and armed robbery with a
6 deadly weapon, and that would be the basis for his prior strike
7 for life without parole. And that's his only record, Your
8 Honor.

9 THE COURT: Okay. And then what, the law says the
10 possession of a firearm is supposed to run concurrent or ---

11 MS. BROWDER: The possession of a weapon during a
12 violent crime, I believe if it's life without parole doesn't
13 apply.

14 THE COURT: Okay.

15 MS. BROWDER: But the possession of a weapon by an
16 inmate is 10 years consecutive.

17 THE COURT: Okay. So I technically don't have to
18 sentence him on the weapon during a violent crime?

19 MS. BROWDER: I don't think so.

20 THE COURT: Okay. I haven't done that research.

21 MS. PRINGLE: I think that's correct.

22 THE COURT: Okay.

23 MS. PRINGLE: I think it just gets him ---

24 THE COURT: Ma'am?

25 MS. PRINGLE: I think it just gets him ---

1 THE COURT: Yeah. Is that what you think, too?

2 MS. BROWDER: Right, yes, sir.

3 THE COURT: Okay. I'm sorry, it's just a, very
4 limited times do I check all those boxes at one time. Okay.
5 And nobody from Mr. Doyle's family needs to speak, is that
6 correct?

7 MS. BROWDER: That's correct, Your Honor. His
8 daughter, Kamari Doyle, was here yesterday and we've spoken
9 with her previously and she had just wished that any time that
10 he got would be consecutive to what he was already doing.

11 THE COURT: Okay. And Ms. Bruck, would you like to
12 say anything, ma'am?

13 MS. BRUCK: Thank you, Your Honor. May it please the
14 Court. I just want to point out that Dana's mother, Casey
15 Jenkins, has been in the Courtroom every single day accompanied
16 by multiple family members. Family is something that's
17 extremely important to Dana and he didn't have a lot of great
18 options and was hoping to be able to see them. The only other
19 thing I'll add, and I know you don't have discretion over the
20 sentence here, so I won't belabor the point. When I was
21 talking to Dana about this trial, this wasn't in response to a
22 particular question, he said, after this incident he learned
23 that Mr. Doyle had a daughter, and he learned that Mr. Doyle
24 had been raised by his grandmother, and he expressed remorse
25

1 for them having to go through anything caused by his death. I
2 think that's a testament to who he is as a man.

3 THE COURT: Okay. And I appreciate you telling me
4 that. And Mr. Butler, I give everybody the opportunity to
5 speak if they want to, you don't have to say anything, I'm not
6 trying to make you say anything, but I let everybody who's in
7 front of me whether it's via a plea or a trial say something if
8 they would like to, and if you would like to, now would be the
9 time to do so, but you don't have to say anything at all, okay?

10 MR. BUTLER: (Nonverbal response).

11 THE COURT: That's okay. Alright. And you need to
12 make sure that you discuss your appellate rights with Ms.
13 Bruck, all those things have timing mechanisms inside of them
14 and those rules are usually enforced fairly strictly, so you
15 need to make sure that you and Ms. Bruck understand what those
16 rules are and that she understands what your intentions are in
17 regard to any appeal. Do you understand all of that?

18 MR. BUTLER: Yes, sir.

19 THE COURT: Okay. And I do wish the best for you,
20 Mr. Butler, I appreciate that you have a family that's shown up
21 this week, these two ladies that have been here for the
22 majority of the trial, they obviously love you and care about
23 you, and I appreciate that it's very hard. I also understand
24 that you being in SCDC is a thing that a lot of us in the
25 Courtroom just really can't understand what's really going on,

1 so I appreciate, I've been inside of Broad River more times
2 than I care to remember, so I can't completely understand the
3 environment that you're in, but I understand that it's
4 different than, than being in a bar or somebody saying
5 something to you in a bar. And so I do appreciate all, taking
6 all that into consideration in your case. And so the sentence
7 on the murder on 2022-GS-40-3746 is that you be sentenced to
8 the state department of corrections for a period of life
9 without the possibility of parole. On the carrying a concealed
10 weapon by an inmate which is 2022-GS-40-3747 the sentence is 10
11 years which is consecutive to the murder charge. And then the
12 unlawful possession of a weapon during the commission of a
13 violent crime is consumed into the murder charged based upon
14 the statute, so I do not need to sentence you on that. And
15 best of luck to you, Mr. Butler. Thank you very much.

16 (Whereupon the hearing ended at 5:12 pm.)

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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
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COUNTY OF RICHLAND)

I, the undersigned Lisa G. Amick, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Richland, South Carolina, on the 12th day through the 14th day of February 2024.

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

June 11, 2024

Lisa G. Amick

Lisa G. Amick

Court Reporter

My commission expires: June 30th, 2025

CERTIFICATE OF COUNSEL FOR APPELLANT

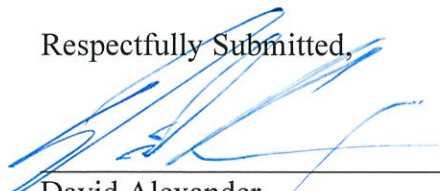
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

Dec 12 2024

SC Court of Appeals

Respectfully Submitted,



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 12th day of December, 2024.

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Dec 12 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DANA ANDREW BUTLER, JR.,

APPELLANT

APPELLATE CASE NO. 2024-000343

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 Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Dana Andrew Butler, #354755, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 12th day of December, 2024.



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT