

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jan 28 2025

SC Court of Appeals

Appeal from Jasper County
Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JHARAUN WASHINGTON,

APPELLANT

APPELLATE CASE NO. 2023-000468

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBIT NOS. 9, 10, 12-14 (POSTERBOARDS), STATE’S 11 and 15
(SURVEILLANCE VIDEOS), STATE’S 16 (CRIME SCENE SKETCH) and
STATE’S 17 (OVERHEAD CRIME SCENE)**

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
COUNTY OF JASPER	2020-GS-27-00528
-----)	2022-GS-07-00079
State of South Carolina)	
Plaintiff,)	
vs.)	TRANSCRIPT OF JURY TRIAL
)	VOLUME I
)	PAGES 1 - 105
Jharaun Washington,)	
)	
)	
-----Defendant.)	

March 6, 2023
Ridgeland, South Carolina

B E F O R E:

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EXHIBIT LIST

ITEM NO.	DESCRIPTION	PAGE

(None offered in Vol I)

1 MR. HALL: That's fine.

2 THE COURT: -- so you can find that out? I
3 don't know, I'm asking.

4 MR. HALL: That's fine, Judge, that's fine.

5 THE COURT: All right, well, let's get him
6 in here and put him on the stand.

7 * * *

8 DAVID CAMERON HATFIELD

9 being first duly sworn, testified as
10 follows:

11 **

12 DIRECT EXAMINATION

13 BY MS. CAMPBELL:

14 Q. Good afternoon. Can you state your name and
15 spell it for the record?

16 A. David Cameron Hatfield, D-A-V-I-D C-A-M-E-R-
17 O-N H-A-T-F-I-E-L-D.

18 Q. Is it okay with you if I call you Cameron?

19 A. Yes, ma'am.

20 Q. All right. Did you meet with me this past
21 Friday afternoon around 2 o'clock at the Beaufort
22 County Courthouse?

23 A. Yes, ma'am.

24 Q. Is that the first time I've ever met with
25 you?

1 A. Yes, ma'am.

2 Q. All right. Do you see in this courtroom an
3 individual that you know as Jharaun Washington?

4 A. Yes, ma'am.

5 Q. All right, if you need to, I'm going to ask
6 the Court to allow you to stand up, so that you can
7 point him out for the Court and for the record.

8 THE COURT: Sure.

9 BY MS. CAMPBELL:

10 Q. And what shirt is he wearing?

11 A. White.

12 Q. Okay, and for the record he's indicated
13 Jharaun Washington seated next to Patrick Hall.

14 THE COURT: All right.

15 BY MS. CAMPBELL:

16 Q. Do you know Xavier Rivers --

17 A. I know --

18 Q. -- or Xae?

19 A. Yes, ma'am.

20 Q. All right. Do you see the person you know
21 as Xae or Finesse the courtroom today? Is that a
22 yes for the record?

23 A. Yes, ma'am.

24 Q. All right, can you tell me what color shirt
25 he's wearing?

1 A. Red.

2 Q. Kind of a reddish shirt seated next to his
3 attorney?

4 A. Yes, ma'am.

5 Q. Ms. Carmody?

6 A. I don't know who she is.

7 Q. You don't know who she is, all right, thank
8 you. All right, did you -- on April 22nd, 2020,
9 were you at Walsh Drive Apartments?

10 A. Yes, ma'am.

11 Q. All right. Prior to April 22nd, 2020, did
12 you know Xavier Rivers?

13 A. I had ran -- I ran into it with him one time
14 -- one or two times I think it was.

15 Q. Okay, when you say you ran into it with him,
16 tell the Court what happened.

17 A. I hung out with him one time at some
18 apartment complex in Beaufort, and he ended up
19 putting a pistol to my head and robbing me. He said
20 I was somebody else, but it didn't matter, he took
21 my flip phone and my ten dollars.

22 Q. Okay, did he take anything else from you
23 besides your flip phone and ten dollars?

24 A. A pistol that I had, a little green pistol
25 or something like that.

1 Q. Okay, was it -- were you in a car? Were you
2 standing on the side of the road? Were you in an
3 apartment, in a hallway? Where did this take place?

4 A. We were in my car.

5 Q. In your car?

6 A. Yes, ma'am.

7 Q. Okay, and where was Xavier Rivers in your
8 car, when he put the gun to your head?

9 A. He was in the back seat.

10 Q. In the back seat, directly behind you?

11 A. Yes, ma'am.

12 Q. All right. Who else was in the car,
13 anybody?

14 A. Another dude that came with him. I think
15 his name was like Sly or Slee, or something like
16 that, and then my brother-in-law, Dylan, was in the
17 car with me as well.

18 Q. Dylan Labar?

19 A. Yes, ma'am.

20 Q. Okay. On the front porch, on April 22nd,
21 2020, you -- you were there. Who else was there on
22 Robin Washington's front porch?

23 A. Dylan was there, Dylan Lavar, me, a guy
24 named Smoke, Jerome was there, Jerome's little
25 brother was there, Tye.

1 Q. Did --

2 A. I believe that was it.

3 Q. Okay, and -- thank you. And do you know if
4 Smoke goes by another name, or a government name?

5 A. No, I know him as Smoke --

6 Q. You know him as Smoke?

7 A. -- or Ron.

8 Q. Or Ron. Does the name Shiron Brown sound
9 like it might belong to Smoke?

10 A. It could, I don't know.

11 Q. That's fine. All right.

12 MS. CAMPBELL: Your Honor, I think I have from
13 the State's perspective addressed just the prior bad
14 act testimony.

15 I can continue into the testimony he'll be
16 giving fully on Wednesday, as to what he saw in the
17 parking lot, but I'm not sure if it's relevant to
18 the determination the Court has to make.

19 THE COURT: All right, but let me ask you this,
20 I understand that --

21 MS. CAMPBELL: Uh-huh.

22 THE COURT: -- but given the concerns that you
23 have, Mr. Hall, that you brought up just a moment
24 ago, would you like her to ask more questions, or
25 would you like to cross-examine him concerning those

1 matters?

2 MR. HALL: Well, I think there's probably some
3 cross-examination that should take place.

4 THE COURT: All right.

5 MR. HALL: And unless I was not fully listening,
6 at this point in the day, was there a timeframe
7 given for when this alleged robbery actually too
8 place? Because I don't recall him saying that, and
9 that question being asked.

10 THE COURT: The only thing I heard was he was on
11 the porch that day.

12 MR. HALL: I'm referring to this alleged
13 robbery --

14 THE COURT: Oh --

15 MR. HALL: -- by Mr. Rivers.

16 THE COURT: -- I'm sorry, the robbery, I didn't
17 hear that.

18 MR. HALL: I didn't hear a -- any specifics, as
19 to when that allegedly took place.

20 THE COURT: All right.

21 MS. CAMPBELL: I don't have any specifics.

22 THE COURT: Okay, well, you can --

23 MS. CAMPBELL: Just prior to April 22nd, 2022,
24 is the information that I have. If Mr. Hatfield has
25 further information.

1 THE COURT: Okay, thank you, Solicitor.

2 MS. CARMODY: Could I --

3 THE COURT: Any questions that you want to ask?

4 MS. CARMODY: I just wanted to cross-examine the
5 witness, Your Honor, if I could?

6 THE COURT: Go right ahead.

7 MS. CARMODY: Thank you, Your Honor.

8 **CROSS-EXAMINATION**

9 BY MS. CARMODY:

10 Q. Good afternoon, Cameron, right?

11 A. Yes, ma'am.

12 Q. Did I get that right? Okay.

13 A. Yes.

14 Q. All right. So, Cameron, you testified on
15 direct, when the Solicitor asked you questions, and
16 I'd like to get some more information about what you
17 allege had occurred. So where did this -- you said

18 actually that you had run into him one to two times,
19 and that you actually hung out with him in Beaufort,
20 correct?

21 A. Yes, ma'am.

22 Q. Okay. So where did you'all meet?

23 A. Honestly, we didn't really meet. Like, we
24 were -- it was a thing, so like he had hung out with
25 some of my friends, and I guess he was somewhere and

1 came home, and they -- maybe getting locked up, or
2 something of that nature.

3 When he came home, I was -- I met him for
4 the first time at a gas station.

5 We gave him and a few of my friends a ride
6 to the gas station. And then we were at Lafayette
7 Apartments when the incident occurred.

8 Q. Okay, so let me back up for a second. So --
9 all right, I'm a little bit confused on how you
10 actually met him, if you could elaborate on that.

11 A. I met him through friends, through friends
12 of mine.

13 Q. What friends?

14 A. Dylan Lamar and -- I don't remember who, I
15 think it was maybe -- I don't know their full names
16 like that.

17 Q. You don't know the people's names that you
18 were with?

19 A. Not the full name. I know like the street
20 name.

21 Q. I'll take anything you've got right now.

22 A. Tre.

23 Q. Tre, Lito and Pueblo?

24 A. Yes, ma'am.

25 Q. And Pueblo?

1 A. Yes, ma'am.

2 Q. Okay, and when you met Mr. Rivers, whose car
3 were you in?

4 A. I was in my car.

5 Q. Your car? Which car was that?

6 A. The silver Camry.

7 Q. Okay. And you said met Mr. Rivers at a gas
8 station?

9 A. Well, we took him to the gas station that
10 day.

11 Q. Where did --

12 A. He was with Dylan -- the Shell station at
13 Grace Hill.

14 Q. Okay, so did you meet him in Grays Hill?

15 A. Yes, ma'am.

16 Q. Were you at someone's house?

17 A. I was at Lito's house, his mother's house

18 and grandmother, wherever he was staying at the
19 time.

20 Q. Do you know the address?

21 A. It's on Caroline Avenue, I don't remember
22 the exact address.

23 Q. At Lito's house on Caroline Ave., okay. Do
24 you remember what day of the week this was?

25 A. No. This was so long ago, ma'am, I have no

1 idea. I've been --

2 Q. Well, when you talk about so long ago, how
3 long is long?

4 A. Two and a half, three years, even longer. I
5 don't even remember when this -- like there was a
6 lot of stuff going on, so I don't really -- I've
7 been through a lot since then.

8 Q. All right. Do you remember -- okay. When
9 this incident occurred, two to three years ago, and
10 you don't remember when, did you make an incident
11 report --

12 A. No, no.

13 Q. -- about a firearm that you said was stolen?

14 A. Yes, ma'am.

15 Q. Okay, did you report your firearm stolen?

16 A. I wasn't supposed to have a firearm.

17 Q. You weren't supposed to have it you said?

18 A. No, ma'am.

19 Q. Okay. Were you prohibited from having a
20 firearm?

21 A. Yes, ma'am.

22 Q. What about your cell phone? Did you report
23 that stolen?

24 A. No, ma'am, I didn't report anything stolen.

25 Q. No incident report filed?

1 A. No, ma'am, I was actually on the run.

2 Q. You were on the run you said?

3 A. Yes.

4 Q. Okay, all right. And do you recall giving a
5 statemen to SLED in this case?

6 A. No, ma'am.

7 Q. You don't recall giving a statemen to SLED?

8 A. No, ma'am.

9 Q. Okay. And let's see, do you remember an
10 incident that occurred at the Walsh Drive
11 Apartments?

12 A. Yes, ma'am.

13 Q. Okay, and you don't remember talking to any
14 police, as a result of that incident?

15 A. No, ma'am, I was on -- I was a regular drug
16 user at the time.

17 Q. Every day?

18 A. Pretty much.

19 Q. So on the day of the incident, you were
20 under the influence of drugs?

21 A. I was sort of. I wouldn't say I was under
22 the influence of drugs at the time of the shooting,
23 but I know afterwards I was pretty traumatized from
24 all the shootings, and I did indulge in a lot of
25 drugs after that.

1 Q. But you don't recall anything at all that
2 you said to SLED?

3 A. No, ma'am.

4 Q. Okay. You don't recall going to SLED,
5 meeting with them at the office?

6 A. I think I remember somebody coming to get
7 me, the police coming to get me, but I don't
8 remember anything that happened. I was under the
9 influence of a lot of things.

10 Q. Like what?

11 A. I think I was on like meth, cocaine, weed,
12 alcohol, ecstasy pills, I mean I was --

13 Q. Okay, slow down, I'm sorry. Meth, cocaine,
14 weed --

15 A. Yeah.

16 Q. -- alcohol?

17 A. Yes.

18 Q. And what else?

19 A. Ecstasy pills.

20 Q. Ecstasy pills?

21 Okay, anything else?

22 A. No.

23 Q. Okay. And let's see, do you recall having a
24 conversation -- well, first of all, let me back up
25 for a second. Do you know Heather Price from my

1 office?

2 A. Do I know her?

3 Q. Uh-huh.

4 A. I don't know her. I've actually seen her
5 for the first time today in-person, but I've talked
6 to her. She helped me get into rehab last year --
7 last year she helped me get into a rehab facility.

8 Q. And --

9 A. But I don't know her.

10 Q. But you talked to Heather a few times,
11 right?

12 A. Yes.

13 Q. Is Heather someone that you trust?

14 A. Someone that I trust?

15 Q. Uh-huh.

16 A. Yeah, I mean I don't have -- she never gave
17 me a reason not to trust her.

18 Q. Okay. Do you recall having a conversation
19 with Heather about this case?

20 A. On the phone I believe I did talk to her
21 about it.

22 Q. Okay, and let's see, do you recall like
23 Heather now, that you didn't know who was shooting?

24 A. Yes, ma'am.

25 Q. Okay. So is that -- would that be your

1 testimony that you don't know who from the car was
2 shooting?

3 A. I didn't know -- I knew that Xavier had
4 grabbed the gun, but I didn't know if he was the one
5 with a gun, or if he was the one shooting the gun.

6 Q. All right, so you said recall Xavier having
7 a gun, right?

8 A. Yes, ma'am.

9 Q. Okay. So -- one second. What date did the
10 incident happen?

11 A. Which incident?

12 Q. The shooting incident.

13 THE COURT: I'm sorry, what did you say?

14 MS. CARMODY: Oh, I'm sorry.

15 BY MS. CARMODY:

16 Q. The incident, what date did that happen; do
17 you remember?

18 A. No, ma'am, I don't.

19 Q. You don't remember what day the shooting
20 happened?

21 A. No. You'all just said it, I guess that that
22 was the day. I don't know, you know, like I said,
23 after it happened, I moved away, so --

24 Q. After it happened you moved away you said?

25 A. I moved away, and I moved to Hampton.

1 Q. Okay, all right. Okay, so just for the
2 purpose of this hearing, moving into specifics of
3 the actual incident, but for the purposes of this
4 hearing, is your testimony that the incident that
5 you're alleging occurred between you and Xavier
6 Rivers was two to three years prior to the shooting?

7 A. No, from now, it was like right before the
8 shooting, months before the shooting.

9 Q. Months before the shooting now?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. Maybe two months before the shooting.

13 Q. So in April, sorry, 22nd, 2020, you had told
14 law enforcement, Agent Johnson, that it was maybe
15 two years ago, that you didn't know his first name?

16 A. I did not know his first name. I did not
17 know his first name until Ms. Trasi came to talk to
18 me on Friday.

19 Q. Trasi told you the identity of Mr. Rivers?

20 A. No, she pulled a picture of him, and I said,
21 "That's him." I know him as Finesse. That's the
22 only thing I've ever known him as. I never knew his
23 full name.

24 Q. Okay. And you told Agent Johnson that you
25 were at Lafayette, and that Mr. Rivers had robbed

1 you for \$10. "It wasn't really like a rob. I gave
2 him \$10 as he was leaving, he never came back.
3 That's it, that's the only way I know him, that's
4 the only connection."

5 That was maybe two years ago, and you gave
6 this statement in 2020 that you did not know his
7 first name; does that ring a bell?

8 A. No, ma'am, I don't remember that.

9 Q. You also admitted to Agent Johnson that you
10 had met him through an accident, that you were just
11 going to Lafayette to get weed for someone else. He
12 was just sitting out there. You didn't want to wait
13 on the dude you were waiting for, so you said,
14 "What's up?" Gave him ten dollars, and he took off
15 with your ten dollars.

16 Does that ring a bell?

17 A. No, ma'am, I don't remember that.

18 Q. You don't remember telling him that, or you
19 don't remember that incident?

20 A. I don't remember telling him that. I don't
21 remember any of that conversation.

22 Q. Okay, all right. So we don't have -- we do
23 not have a specific date for when this alleged
24 robbery took place?

25 Have you had any conversations with Mr.

1 Rivers from that point until the shooting?

2 A. I don't remember.

3 Q. You don't remember if you had a --

4 A. I don't remember. Not no type of like
5 personal conversations, no, like no in-person
6 conversation. If there ever was a conversation
7 between the two of us, it was talking shit to each
8 other basically, that would have been it.

9 Q. Okay, so when was that?

10 A. When? I don't know. If it did happen,
11 that's when it happened.

12 Q. All right, are you saying --

13 A. So --

14 Q. -- from the time of this alleged robbery,
15 that we don't know what date it was, until the time
16 of the incident though that you all had never hung
17 out together, or never had any other interactions,

18 other than what you think might have occurred on
19 Facebook?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. CARMODY: I don't have any other
23 questions, Your Honor, but I do think that the audio
24 recording would be relevant --

25 THE COURT: All right.

1 MS. CARMODY: -- Your Honor.

2 THE COURT: Let me ask you this, do you
3 have any questions, Mr. Hall?

4 MR. HALL: Oh, yes, I do.

5 THE COURT: Mr. Hall, I'm happy to hear
6 from you, sir.

7 MR. HALL: Thank you.

8 CROSS-EXAMINATION BY MR. HALL

9 BY MR. HALL:

10 Q. Mr. Hatfield, you recall specifically, and I
11 know you've already been asked this, but I'm gonna
12 ask it again anyway. Do you recall specifically
13 what date the shooting took place?

14 A. No, sir.

15 Q. All right. Do you -- and you've already
16 stated that you don't recall speaking to an agent
17 from SLED?

18 A. Yes, sir.

19 Q. That's correct?

20 A. Yes, sir.

21 Q. You're saying you don't recall that
22 conversation at all?

23 A. I don't. I remember talking to somebody,
24 but I don't remember what all was said.

25 Q. And --

1 A. I was under the influence.,

2 Q. You were under the influence?

3 A. Yes, sir.

4 Q. All right. And did you happen to mention
5 that at all during the course of this interview,
6 that you don't remember giving on --

7 A. I do not recall.

8 Q. The date you gave the interview was April
9 22nd, the same day as the shooting --

10 A. I don't know.

11 Q. -- does that ring a bell at all?

12 A. No, sir.

13 Q. It doesn't? Okay. Can you justify at all
14 the timeframes that we're talking about here, that
15 now seems to be jumping around even more? You deny
16 remembering making a statement to a SLED agent,
17 saying that this incident happened two years ago,

18 correct?

19 A. Yes, sir.

20 Q. It's being alleged in supporting paperwork
21 that's been filed with the Court for motions, that
22 what you're referring to this with Xavier Rivers
23 thing happened two weeks before this incident. Does
24 that sound familiar to you at all? It doesn't?

25 A. I don't --

1 Q. But you testified today that you thought it
2 was a couple of months now?

3 A. Yes, sir.

4 Q. So do you --

5 A. I already told you --

6 THE COURT: Hold on, hold on, Mr. Hall,
7 just let him finish. You're about to cut him off,
8 just let him finish.

9 MR. HALL: Okay.

10 THE COURT: Go right ahead, okay?

11 BY WITNESS:

12 A. That I don't remember. Okay, this is the
13 last thing I'll say about this. Since then I've
14 watched my six-year-old child get pulled apart by a
15 Pit Bull, and I could not stop it in time from
16 getting my little boy. I do not remember any type
17 of timeframe of any of this shit that happened,
18 excuse my language. Thank you.

19 Q. Okay. So you can't pin a specific date on
20 this alleged robbery at all then?

21 A. No.

22 Q. And --

23 A. I know it happened, but, no, I can't pin a
24 date on it, and it was not long before the shooting.

25 Q. But your memory, apparently, is not very

1 good; is that what you're saying?

2 A. Yes.

3 Q. Because you've been so influenced with drugs
4 over the years --

5 A. Yes.

6 Q. -- that you don't trust your own memory?

7 A. Yes, sir.

8 Q. So the statement that you gave to SLED that
9 you don't remember, apparently, you just can't even
10 be trusted for any information at all then, can you?

11 A. It's probably true.

12 Q. So how is your memory so much clearer today,
13 almost three years later than it was on that day?
14 How is it that you're able to remember these things,
15 or kind of remember these things, as opposed to when
16 you gave a statement the day of the incident?

17 A. I don't.

18 Q. You can't explain that, huh?

19 A. No.

20 Q. Okay. All right.

21 MR. HALL: Judge, I don't have any other
22 questions, thank you.

23 THE COURT: All right, great.

24 MS. CAMPBELL: Briefly.

25 THE COURT: Yeah, go right ahead,

1 Solicitor.

2 **REDIRECT EXAMINATION**

3 BY MS. CAMPBELL:

4 Q. Cameron, how long have you been sober now?

5 A. Seven-and-a-half months.

6 Q. Okay. Seven-and-a-half months of sobriety.
7 I talked to you on Friday. You've testified to the
8 information you recall after seven-and-a-half months
9 of sobriety, and that's what you've told the Court
10 today, correct?

11 A. Yes, ma'am.

12 Q. All right.

13 MS. CAMPBELL: That's all I have.

14 THE COURT: Anything else?

15 MS. CARMODY: No, Your Honor, but I will
16 have another motion when this is done.

17 THE COURT: Well, sure, sure, but as it relates
18 to this witness --

19 MS. CARMODY: No, but I do --

20 THE COURT: Ma'am --

21 MS. CARMODY: Nothing else.

22 THE COURT: Well, congratulations on your
23 sobriety, sir.

24 All right, as it relates to the 404B, let
25 me -- anything else you want to tell me Solicitor,

1 concerning that?

2 MS. CAMPBELL: No, sir.

3 THE COURT: Anything else concerning the
4 404B from Ms. Carmody?

5 MS. CARMODY: I do have an argument, Your
6 Honor.

7 THE COURT: Yeah, I'm happy to hear from
8 you.

9 MS. CARMODY: Thank you, Your Honor. Your
10 Honor, I have handed up the Court the King case,
11 that talks about res gestae, and the temporal
12 connection required for the admissibility of
13 evidence, under Lyle under the res gestae exception.
14 Your Honor, so as the Court knows, 404B precludes
15 evidence of a defendant's prior crimes.

16 Prior bad acts to prove his guilt for the crime
17 charged. There is the exceptions under 404B for the
18 -- amongst the others, identity, as the State has
19 mentioned and res gestae as well. And the prior bad
20 act did not result in a prior conviction. The State
21 has to prove the prior bad act by clear and
22 convincing evidence. And the record also must
23 support a logical relevance between the prior bad
24 act, and the crime for which the defendant is
25 accused.

1 Then we have the 403 backstop, Your Honor, where
2 it says even if -- even though the evidence is clear
3 and convincing, it falls within the Lyle exception,
4 just be excluded if the probative value is
5 substantially outweighed by the danger of unfair
6 prejudice to the defendant. So the State wants to
7 use a 404B evidence to establish number one, res
8 gestae, and, number two, identity. First of all,
9 I'll take the identify first, Your Honor, identity
10 is not even an issue in this case. The probative
11 value of establishing a fact is not an issue, it's
12 substantially outweighed by the danger of unfair
13 prejudice.

14 Identity is not at issue. There are videos in
15 this case. Nobody is disputing that Mr. Rivers was
16 in the vehicle. Nobody's disputing that Mr.
17 Washington was on the porch. Identity is not even
18 an issue.

19 As to res gestae, Your Honor, the incident that
20 the State is alleging is inaccurate. There's no
21 logical relevance to the crime charged, and the
22 temporal connection is to attenuate it. So that
23 Cameron Hatfield, Your Honor, that told law
24 enforcement initially, that he had -- Xae had took
25 ten dollars from him. Instead of giving me his

1 marijuana two years prior to the alleged incident
2 involving Mr. Xae, Hatfield stated that this is the
3 only reason he could think of for the incident
4 occurring.

5 The act cannot be proven by clear and convincing
6 evidence. Hatfield himself couldn't recall a
7 robbery, when he spoke to law enforcement. The
8 police were never called to investigate this
9 incident. Hatfield is not specific on the date,
10 time, location of the incident.

11 No incident report was ever filed. No charges
12 were ever filed against Mr. Rivers. There's no
13 witnesses to the alleged incident, other than Mr.
14 Hatfield, who's unclear on what happened. There's
15 no report of the stolen cell phone, no report of the
16 stolen gun. There's entirely no information that
17 the State is alleging and was not part of any prior
18 incident report or conversation with law
19 enforcement.

20 Mr. Rivers doesn't recognize Mr. Hatfield. The
21 only thing this evidence tends to show is that Mr.
22 Hatfield, you know, doesn't know what he's talking
23 about today, or back when he was talking to law
24 enforcement, he'd been under the influence of drugs.
25 I do not think there is any evidence whatsoever to

1 show clear and convincing evidence, Your Honor.

2 To me it's, you know, substantially the
3 prejudicial effect is significant, by admitting
4 evidence of a robbery that we don't know when it
5 happened, it's vague, versus the probative value of
6 the State on the res gestae theory. And so I would
7 ask that it all be excluded, Your Honor, any
8 testimony regarding this alleged robbery, that we
9 don't know when it occurred. Thank you, Your Honor.

10 THE COURT: Mr. Hall? Thank you, Ms.
11 Carmody. Mr. Hall?

12 MR. HALL: Thank you, Judge. I'm not so
13 concerned about the identity aspect of this. I
14 think part of the issue here is that as long as this
15 case has gone on, there's been a search for why this
16 thing happened, but there's an incident report upon
17 incident report on how they've talked with this
18 person, they've talked with that person. I'm trying
19 to figure out exactly why this happened?

20 What precipitated it? And what we saw here
21 today was kind of a grasp at the last straw, to try
22 and put something in the record on this trial, to
23 just perhaps why this thing went off the way that it
24 did.

25 What you've got is a witness, who just

1 testified that he doesn't remember giving a
2 statement to law enforcement, and I've gone on about
3 that, about what he said in that statement about how
4 it wasn't really a robbery, that it happened two
5 years ago.

6 Then we come to find out through motions
7 that, oh, no, it didn't happen two years ago, it
8 happened two weeks ago, and it was a cell phone,
9 marijuana, money, and guns. Yet, when he's on the
10 stand he says a couple of months ago, and then says,
11 "Oh, I can't tell you, there's no way, I can't tell
12 you when it happened."

13 In order to be able to get to that point,
14 where the State's able to introduce this evidence,
15 they have to be able to show what Ms. Carmody's
16 pointed out, that it's not remote in time. There's
17 been no proof as to when it actually took place or
18 by clear and convincing evidence whether it really
19 did take place.

20 And so I'm asking, obviously, on behalf of
21 my client, that that particular line of inquiry,
22 once we do this Cameron Hatfield show for real
23 during the trial, that the State not be allowed to
24 go into that.

25 THE COURT: Solicitor, anything else you want to

1 say?

2 MS. CAMPBELL: No, your Honor.

3 THE COURT: All right, yeah, I think the
4 evidence of the prior bad act has to be clear and
5 convincing to be admissible. The record must
6 support a logical relevance between the prior bad
7 act and the crime for which the Defendant is
8 accused. The evidence of the prior bad acts is
9 inadmissible, as part of the res gestae, where the
10 record does not support any relationship between the
11 crime of the prior bad act.

12 And then, again, with the -- I think it was
13 the State v. Hughes (phonetic), talks about a
14 temporal proximity of the prior bad act be closely
15 related to the charge of the crime.

16 Mr. Hatfield, Solicitor, obviously, has
17 been through a lot. He's been through what he
18 acknowledged was the trauma of this event. He
19 obviously -- apparently lost his son to a brutal
20 attack, and to his credit he indicates that he's
21 been sober for seven and a half months, but it
22 certainly appears that Mr. Hatfield, by his own
23 admission, was under the influence of drugs, to the
24 extent that he really doesn't even remember what he
25 told the SLED Agents, which we didn't hear the

1 testimony, and I'm assuming the SLED Agent -- he may
2 have told the SLED Agent it was sometime before his
3 testimony today, and all over the place, as to when
4 it occurred.

5 He did indicate at one point, Solicitor,
6 when you redirected, I believe he did say two weeks
7 -- that it was approximately two weeks, but even
8 then I just don't think it was credible, given his
9 other admission, which was, basically, he sort of
10 adamantly told Mr. Hall that he -- the last thing he
11 was gonna say about this was that he just didn't
12 know when this happened, or words to that effect.
13 Because I recall looking at Mr. Hall when he said
14 that, because I wanted to make sure Mr. Hall
15 understood that he certainly could ask more
16 questions, and it wasn't up to the witness to decide
17 what was going to be the last question.

18 So what I would rule in this case, based on
19 all of these matters, I think that -- I don't really
20 think I have to get to the facts of 403 and the
21 prejudicial effect in this case.

22 What I would say, if all else fails, and I
23 do find it's substantially prejudicial and outweighs
24 the probative value, but I don't believe we even get
25 to there, because I think I have to look and find

1 that it was credible, and find that it was related
2 in time, and then go in and weigh that in that
3 respect, and I don't think that the evidence thus
4 far has been presented even requiring me to do that,
5 so I'm not going to allow any of that testimony into
6 this matter.

7 MS. CAMPBELL: Your Honor, thank you. And
8 for the record, when Cameron testified that he did
9 not recall giving a statement to Blake Johnson, and
10 so the State takes the position that we are allowed
11 to then present the extrinsic evidence, which is the
12 taped statement that he gave to SLED.

13 And he is not to discuss the prior robbery
14 by Xavier Rivers, he will take the stand. He will
15 say he does not recall giving the statement. We'll
16 get him off the stand, then Blake Johnson will come
17 up and testify, and we will admit the statement he
18 previously gave.

19 Thank you, Your Honor.

20 MR. HALL: Judge, assuming that they could,
21 you know, meet all of the criteria of 613,
22 obviously, but I think if part of this is going to
23 be played -- the video of the interview -- in
24 conjunction to Agent Blake Johnson testifying, that,
25 obviously, there's going to have to be some

1 redaction, based on the Court's ruling regarding the
2 404B matter.

3 MS. CAMPBELL: And I have the snips where
4 there are no matters that would fall outside the
5 Court's ruling. We have it ready to email both the
6 Court and defense counsel. You can send them the
7 snips, and then you can listen to them tonight, and
8 we'll just put that on the record in the morning.

9 THE COURT: Let's get -- she's going to get
10 to you what she's proposing to play.

11 MS. CAMPBELL: Yes.

12 THE COURT: Let's listen to it --

13 MS. CAMPBELL: Uh-huh.

14 THE COURT: -- and then we can go from
15 there, okay? Is that okay, Mr. Hall?

16 MR. HALL: That's fine, Judge.

17 THE COURT: Ms. Carmody?

18 MR. HALL: Yeah, I just --

19 MS. CARMODY: Yes, Your Honor.

20 MR. HALL: -- want to make it car.

21 MS. CARMODY: I just want --

22 MR. HALL: I just want to make it clear for
23 the record that I'm not off the top just agreeing
24 everything's great under 613, and let's do it.

25 MS. CARMODY: Right.

1 MR. HALL: Okay?

2 THE COURT: Mr. Hall, I would have never
3 thought that that would be the case, sir, and Ms.
4 Carmody, that goes for you also, okay?

5 MS. CARMODY: Thank you, Your Honor.

6 THE COURT: All right, is there anything
7 else that we need to take up before we break for the
8 evening?

9 MS. CARMODY: Briefly, Your Honor, I did --
10 before I forgot, I did want to renew our motion for
11 discovery, because, Your Honor, as Mr. Hall as also
12 let the Court know, this was new information that
13 had been provided to the State, that was not
14 provided to the defense until last night in the form
15 of a motion.

16 So if there is any other statements that
17 these witnesses have given, or any new information
18 the State has, that could be used for impeachment,
19 such as this, you know, I would -- I'm requesting
20 that the State turn that evidence over.

21 THE COURT: Okay, I think that the
22 Solicitor affirmed in my Chambers today that she had
23 no other information. Solicitor --

24 MR. HALL: And, Judge, I'm not joining in
25 that motion. The Solicitor's Office has been, and

1 Ms. Campbell, in particular, has been nothing but --

2 THE COURT: All right.

3 MR. HALL: -- forthright in getting me all
4 of the information.

5 THE COURT: Yes, sir.

6 MR. HALL: That's why I was a little
7 surprised, when I got the motion last night that was
8 the subject of this --

9 THE COURT: Yes, sir.

10 MR. HALL: -- afternoon, so --

11 THE COURT: But, Solicitor, I think you did
12 affirm in my Chambers that, in fact, you're not
13 aware of any other new information, or anything that
14 would be discoverable; is that correct?

15 MS. CAMPBELL: That is correct, Your Honor.

16 THE COURT: Thank you so much. Thank you
17 so much everyone.

18 MS. CARMDOY: Thank you, Your Honor.

19 THE COURT: All right.

20 MR. HALL: Judge, I have one additional
21 pretrial, and it's just a simple, and I'm asking for
22 sequestration of witnesses, other than the case
23 agent, and that's it.

24 MS. CAMPBELL: The State would consent and
25 agree that sequestration is absolutely --

1 THE COURT: Ms. Carmody?

2 MS. CAMPBELL: -- I would ask my case
3 agent, Ms. Merrell, would stay with me --

4 THE COURT: Yes.

5 MS. CAMPBELL: -- in the courtroom. I do
6 have one -- two matters before we conclude --

7 THE COURT: Hold on one second.

8 MS. CAMPBELL: -- for the day.

9 THE COURT: Hold on one second.

10 Ms. Carmody, as it relates to
11 sequestration, ma'am --

12 MS. CARMODY: Your Honor, as far as the
13 State witnesses, no issue, but I do have two family
14 members for Mr. Rivers' family that are coming into
15 court. They are not going to testify as witnesses,
16 but I just want to make sure they'll still be
17 allowed in court.

18 THE COURT: As long as they're not gonna
19 testify that's fine.

20 MS. CARMODY: Okay, thank you, Your Honor.

21 THE COURT: All right, yes, ma'am,
22 Solicitor?

23 MS. CAMPBELL: Your Honor, properly under
24 subpoena to appear this morning for this trial is
25 Letitia Jordan and Robin Sherell Washington.

1 objection or any omissions as it relates to the
2 statements that I made to the jury from the State?

3 MS. CAMPBELL: No, sir.

4 THE COURT: Ms. Carmody?

5 MS. CARMODY: No, Your Honor.

6 THE COURT: Mr. Hall?

7 MR. HALL: No, Your Honor.

8 THE COURT: All right, great. Well, in that
9 case, ladies and gentlemen, we're gonna start the
10 trial of this case. Solicitor, you can make your
11 opening statement.

12 **

13 **OPENING STATEMENT BY MS. CAMPBELL**

14 MS. CAMPBELL: Thank you, Your Honor. Good
15 morning. April 22nd, 2020, right down the road from
16 here in Hardeeville, South Carolina, it was just
17 like today, a bright, beautiful, sunshiny day at 11
18 o'clock in the morning.

19 Two groups of men ran into each other and
20 then they did, on that bright beautiful day in
21 Hardeeville, descended into a bloody, brutal
22 battlefield. A back-and-forth hail of bullets
23 riddled apartments, city streets, warfare, and the
24 victim, Donovan Hay, was shot in the back of the
25 head and was dead. Jharaun Washington and Xavier

1 Rivers were not toting their Glocks on them when
2 they saw one another, but when they did see one
3 another in the Walsh Drive Apartments, it was on-
4 site, it was strapping up, saddling up, loading up,
5 settling in.

6 Jharaun Washington on the porch of
7 Apartment [REDACTED], Xavier Rivers in the back of a silver
8 Chevy Malibu pulling through the parking lot at
9 exactly the same time both men went and got their
10 guns. Both now armed, fully loaded, ready to shoot
11 it out and that's just what they did on April 22nd,
12 2020. They fired their guns at each other, and
13 Donovan Hay was killed.

14 The State of South Carolina has indicted
15 both Defendants for murder. The State of South
16 Carolina has indicted both Defendants for murder,
17 under the doctrine of mutual combat. And the State
18 has the burden of proof, proof of guilt beyond a
19 reasonable doubt, to show that each Defendant, over
20 the course of this trial, engaged in mutual combat.
21 And as a result of their mutual combat, they killed
22 Donovan Hay.

23 So over the course of the trial it might be
24 helpful, if you had some understanding about exactly
25 what is mutual combat. Now, obviously, the Judge

1 will instruct you on the law at the close of the
2 case, but mutual combat in South Carolina involves a
3 mutual willingness and intent to get into that
4 fight. It involves an agreement to the fight. Both
5 sides are armed with guns, and both sides know the
6 other side is armed. And in South Carolina when you
7 engage in mutual combat, you are engaged in unlawful
8 activity.

9 When engaged in that unlawful activity, it
10 is presumed that you know and are responsible for
11 the natural consequences of your actions. Both
12 Defendants are equally guilty in the killing of
13 Donovan Hay. And remember this, as you listen to
14 the evidence in this case, it doesn't have to be
15 shown by the State, you know, it's not -- it doesn't
16 have to be like, you know, in the old west, where,
17 you know, you throw down the gauntlet or whatever,
18 just simply a positive agreement to go ahead and
19 enter that gun battle.

20 And also there will be circumstances that
21 you'll hear from the witness stand, both spoken and
22 unspoken, body movements, body language, all of that
23 plays into acting upon the impulse of the moment in
24 running into each other. You will hear testimony
25 from the Hardeeville Fire Department. You will hear

1 testimony from the Jasper County EMS. These men
2 found Donovan Hay, they assessed him, they treated
3 him, deeming him unresponsive.

4 Now, they will tell you he was unresponsive
5 to stimuli, no neurological brain pattern.

6 You will hear from the Hardeeville Police
7 Department, the officers who arrived on-scene, who
8 secured this. You will hear from an Agent from the
9 South Carolina Law Enforcement Division, commonly
10 known in South Carolina as SLED. These individuals
11 in their testimony will explain to you how they
12 located, secured, identified, preserved, and
13 collected evidence at two different crime scenes.

14 Some of that evidence that you will see on
15 our screens here is the surveillance video from the
16 Walsh Drive Apartments, that show everything
17 happening that I've just talked to you about, you
18 will have that. Other pieces of evidence that were
19 identified, preserved, and collected are all the
20 casings from the two different guns.

21 You will also have the statements from
22 witnesses and what they saw, and you will have the
23 guns they carried. You will hear testimony that --
24 and see that Jharaun Washington, the crime scene,
25 and Xavier Rivers came down off the front porch and

1 walked to the white Cadillac owned by Shiron Brown.
2 Went into the white Cadillac, pulled out a .9
3 millimeter with an extended clip, put it over the
4 top of the white Cadillac and fired Xavier Rivers.

5 At the same time you will see in the video
6 the silver Malibu stopping, Xavier Rivers getting
7 out, going into the trunk of the silver Chevy Malibu
8 and pulling out, from what people -- witnesses may
9 refer to as a Chopper, pulling out a PPU .300
10 Blackout rifle, getting back into the car, and then
11 holding that rifle out the window and shooting at
12 Jharaun Washington.

13 You will hear testimony from what, I guess,
14 some people call or refer to as a forensic expert,
15 people who look at and analyze evidence in cases.
16 Now, the State is not going to bring you unnecessary
17 cumulative evidence. This is not a whodunnit.

18 So although secured and preserved, DNA
19 evidence, Jharaun, fingerprints, those items, those
20 people who look at those particular items are not
21 necessary to the State's case, and so the State will
22 not be having that testimony. Because, again, that
23 might be where you have a situation, where you don't
24 know who it was, that's not our situation.

25 There's no mystery to solve by that

1 particular type of evidence. But you will
2 absolutely hear from Dr. Presnell, from the Medical
3 University of South Carolina, who performed the
4 autopsy for the victim, Donovan Hay. And I believe
5 that you'll hear her testify that the cause of death
6 to Donovan Hay was a gunshot wound, bullet still in
7 his head, and the manner of death was homicide. At
8 the close of this trial I will have an opportunity
9 to speak to you again, and I will say to you then
10 I'm sure, that the State of South Carolina has met
11 its burden of proof beyond a reasonable doubt.

12 That each of the Defendants engaged in that
13 mutual combat that caused the death of Donovan Hay,
14 and in South Carolina that is murder. Each of them
15 had a gun, Jharaun Washington with his .9
16 millimeter, Xavier Rivers with his rifle, and that
17 is possession of a weapon during the commission of a
18 violent crime.

19 And keep this in mind, as you listen to the
20 testimony, it's not that this Defendant's bullet, or
21 this Defendant's bullet is the bullet that went into
22 Donovan Hay's head, that's not the issue, that's not
23 the ultimate question. Because when you engage in
24 mutual combat everybody is responsible for every
25 bullet that's fired.

23 MS. CARMODY: I introduced myself
24 yesterday, but sometimes, you know, we'll forget
25 names. I'm Carolyn Carmody and I represent Mr.

1 Xavier Rivers. And it's important to remember in
2 this case that we have two separate individuals,
3 okay? We have Mr. Rivers that I defend, and Mr.
4 Hall represents Jharaun Washington. They are each
5 separate defendants, and separate burdens will be
6 required to be proven. The State gave an opening
7 statement as you heard earlier, and the State told
8 you their anticipated evidence, and it's merely the
9 State's theory of the case.

10 Why? Because you, and you alone, are the sole
11 judge of the facts. You will determine what the
12 facts are in each case.

13 Mr. Rivers also is presumed innocent. The State
14 has the burden to prove to you beyond a reasonable
15 doubt he did this murder. What is murder? Murder
16 is the unlawful killing of another person with
17 malice aforethought. You are not going to hear a
18 single witness get on that witness stand and tell
19 you that Mr. Rivers shot Donovan Hay.

20 You're not gonna see a single piece of evidence
21 that will tell you Mr. Rivers shot Donovan Hay.

22 Why? Because Jharaun Washington fired the gun that
23 shot and killed Donovan Hay. You will hear evidence
24 conclusively that will prove to you that that's the
25 shot that killed Donovan Hay. He was shot in the

1 head. But what happened?

2 So four guys threatened Donovan Hay: Javante
3 Jenkins, Daquadrae Green, Xavier Rivers, and Jharaun
4 Washington. They go to Georgia. In two days they
5 have gone, they're hangin' out, they had a cookout.
6 Daquadrae Green will tell you everything was great,
7 the guys were having fun, everything's good,
8 nobody's argument, everything is great. They're
9 heading back to South Carolina and Donovan Hay is
10 driving, and Donovan Hay decides he's gonna stop at
11 his sister's house, and his sister lives in the
12 Walsh Drive Apartments.

13 So as he's pulling into the Walsh Drive
14 Apartments, and you'll see a poster board and
15 everything, essentially, as to what the Walsh Drive
16 Apartments actually look like. So it's a square
17 apartment community, one way in and one way out.
18 You go around the square, both to come in and go out
19 to leave, and there's an exit.

20 So as they're coming to the apartment community,
21 you'll hear testimony from Javante Jenkins, as well
22 as Daquadrae Green that saw a bunch of guys out on
23 the porch of Robin Washington's home.

24 Who dropped them off? Robin Washington is
25 Jharaun Washington's mother. Who lived at this home

1 was Jharaun's mother, Robin Washington, with her 15-
2 year-old son. Jharaun Washington didn't even belong
3 there. His friends didn't belong there. His mother
4 was at work all day. His mother works six days a
5 week. The only day she takes off is to go to
6 church. Her son, Jharaun Washington, is not allowed
7 in her home. So he's outside with all his friends
8 outside, hanging out on the porch, hanging out in
9 the front yard. And you'll hear testimony Javante
10 Jenkins, as well as Daquadrae Green that when they
11 drove by that apartment, they knew the guys were
12 going to unleash fire on that property. They knew
13 they were acting in concert. They were reaching for
14 weapons, and they knew that they were going to be
15 fired upon.

16 Donovan Hay stopped the car behind the bushes of
17 the complex. He parks behind the bushes, likely not
18 thinking anyone's looking behind the bushes, and
19 he's seen behind the bushes. He pops the trunk;
20 Xavier Rivers goes to the trunk, and he retrieves
21 the weapon. And what does he do? He gets back
22 inside of that car with that gun, and they proceed
23 to drive away.

24 They're not engaging in any gun battle with the
25 guys on the porch, they're leaving the neighborhood

1 and they're on their way. As they're leaving, the
2 first shots are fired, and the first shot is fired
3 from none other than Jharaun Washington. When
4 Jharaun Washington shoots his gun, he shoots it and
5 hits the Chevy Malibu that Xavier Rivers is in,
6 Donovan Hay is driving, Daquadrae Green is in the
7 backseat, and Javante Jenkins is in the passenger
8 seat. And when he shoots that -- when he shoots
9 that car, he doesn't just shoot once and that's it,
10 he unleashes over 20 rounds at that vehicle.

11 What happens? You'll see it on video, I will
12 show it to you. Xavier Rivers jumps out of the car.
13 Daquadrae Green jumps out of the car, and Donovan
14 Hay is hit in the head. The cars are not moving,
15 because Donovan Hay can't drive the car, he's been
16 shot in the head, he can no longer drive. This car
17 -- in order to, you know, save their life, he's
18 bleeding, now he's running out of a car that's being
19 shot. And as he's fleeing, he shoots five rounds -
20 five rounds, five indiscriminate rounds.

21 And you'll hear testimony from the SLED Agent.
22 The SLED Agent will tell you that when they
23 recovered Xavier Rivers' gun, he had over 20 rounds
24 on him, he was in a gun battle, and he could have
25 kept shooting, but he didn't. He shot five rounds

1 as he was running and fleeing for the woods. Why is
2 he running from the car? You'll hear testimony,
3 because the car's being shot at.

4 The driver is now shot in the head, the car's
5 not moving, and these guys are gonna die. And then
6 Daquadra Green ran into the woods, still running for
7 their lives. Then you'll hear testimony from
8 Javante Jenkins, who has to drive that car now in
9 the passenger seat. He drives from the passenger
10 seat, and he's fleeing out of that neighborhood. He
11 ends up crashing into a building.

12 The first thing he tells the -- he runs into the
13 building, and the first thing he says when he runs
14 into the building is, "Donovan shot me and is
15 chasing us." Why did he say that? We'll tell you
16 that, because Jharaun Washington and his friends are
17 now chasing this vehicle out the same exit. They
18 didn't stay at the house, they didn't call law
19 enforcement, they're now chasing the vehicle that
20 Donovan Hay was in.

21 So I believe that you'll hear the most important
22 evidence in this case, is that the bullet that
23 killed Donovan Hay was not from Xavier Rivers.
24 you'll see it on the video. Also, you will see
25 evidence in the case that Mr. Rivers gave a measured

1 response. And a measured response is, five rounds,
2 he didn't hit anyone, he didn't kill anyone, five
3 rounds.

4 Those five rounds were shot as he's fleeing,
5 what I believe the witnesses will testify to who
6 fired. In other words, let me create enough of a
7 distraction so I can run out of here, and Daquadrae
8 Green and Javante Jenkins will tell you about that
9 as well.

10 And, lastly, what I wanted to cover, is that
11 after the car had stopped, Xavier Rivers was in the
12 back, they're trying to -- they're not trying to be
13 in the gun battle. Washington prevented that escape
14 from gunfire.

15 The evidence will show you how ten rounds,
16 there's shell casings all over the place.
17 Washington shoots Hay in the head, the car can't
18 move, and now they have to run on foot. And as
19 they're running on foot, they run into the woods,
20 and goes and meets up with law enforcement.

21 Xavier Rivers meets up with law enforcement.
22 Donovan Hay's is driving by to see if Javante
23 Jenkins was there. You'll hear testimony Jharaun
24 Washington is gone, he's fled. His friends have all
25 fled. Nobody stuck around and waited to find out

1 what happened to Donovan Hay.

2 So Mr. Rivers is on-scene. And the reason why
3 this is not murder, Xavier Rivers did not commit
4 murder.

5 As I told you in the beginning the State has to
6 prove beyond a reasonable doubt that he
7 intentionally killed another with malice and
8 forethought, and that was not the case. At the end
9 of this trial, I will come back to you, and I will
10 ask you for a verdict of not guilty.

11 THE COURT: All right, thank you, Ms. Carmody.

12 Mr. Hall, do you have an opening statement to
13 make on behalf of your client, Mr. Washington?

14 MR. HALL: I do, Your Honor.

15 THE COURT: Go right ahead, sir, yes, sir.

16 **

17 **OPENING STATEMENT BY MR. HALL**

18 MR. HALL: Good morning. I apologize in advance
19 for speaking so loudly. The reason my wife and I
20 have recently moved, and in the process of trying to
21 get the new house ready to be moved into, decided
22 there were some things in the house that perhaps I
23 could try to do by myself.

24 One of those things was renting a 150-pound
25 jackhammer, trying to get tile up off of the floor.

1 Well, that led me to realize that I probably needed
2 to wear ear protection, which I did. So in the
3 aftermath of that, we might have suffered a bit of a
4 hearing loss, and I guess I tend to speak somewhat
5 loudly now. So as opposed to standing in front of
6 you and shouting, I moved back so that I'm not
7 shouting right in your face. I briefly introduced
8 myself yesterday, I'm Patrick Hall, I'm the attorney
9 for my client, Jharaun Washington, who's seated
10 right behind me.

11 My comments to you now will be brief. Now, at
12 the end of this case there are going to be a number
13 of questions that you will have to answer; however,
14 there will be at least one question that you will
15 never get an answer to, and I'll address that during
16 my closing arguments at the end of this case.

17 Now, April 22nd, 2020, was a day like any other
18 day, at least initially, when all of a sudden it
19 wasn't. You've heard the State's opening argument,
20 of what they expect to be able to prove during the
21 course of this trial, mutual combat murder.

22 It's a seldom used legal theory here in the
23 State of South Carolina. And the State needs to
24 prove that to you-all beyond a reasonable doubt,
25 every element of that charge to you. You're going

1 to find that during this process the State has some
2 things right. That you're very likely to find that
3 they have some things wrong, important things.

4 You're gonna be presented with so much
5 information that it will likely be a bit
6 overwhelming in the end. Surveillance videos,
7 quote, unquote, "eyewitness testimony," photographs,
8 physical evidence, such as shell casings, and even
9 an actual assault rifle.

10 While I am most certainly asking you to pay
11 close attention to all of these things, I'm also
12 asking you to take careful note of things that are
13 not and cannot be explained or presented. I'm not
14 going to stand here and attempt to define my
15 client's case in this opening argument, it's simply
16 not the time or the place, that's what's cross-
17 examination is for in the trial.

18 What I will tell you is that if each of you
19 fulfill your duties as jurors, judging the evidence
20 in a fair and impartial manner, you will come to the
21 conclusion that my client, Jharaun Washington, is
22 not guilty of the mutual combat burden.

23 I look forward to speaking to you again at the
24 end of the trial. Thank you.

25 THE COURT: All right, thank you, Mr. Hall.

1 Solicitor, you can call your first witness.

2 MS. CAMPBELL: Thank you, Your Honor. The
3 State calls the Hardeeville Police Department,
4 Lieutenant Jonah Jenkins.

5 * * *

6 JONAH JENKINS

7 * * *

8 being first duly sworn, testified as follows:

9 THE COURT: Good morning.

10 WITNESS: Good morning, sir.

11 THE COURT: Your witness.

12 MS. CAMPBELL: Thank you, Your Honor.

13 **DIRECT EXAMINATION**

14 BY MS. CAMPBELL:

15 Q. Lieutenant Jenkins, would you please state
16 your name for the Court Reporter, and spell your
17 name for her, please?

18 A. Yes. It's Jonah Jenkins, J-O-N-A-H J-E-N-K-
19 I-N-S.

20 Q. Thank you. I see that you work for the
21 Hardeeville Police Department; is that right?

22 A. Yes, ma'am.

23 Q. All right, and how long have you been
24 employed with them?

25 A. So I've been working in law enforcement in

1 Jasper County since 2004. With Hardeeville, I
2 believe, was 2013 or '14 timeframe.

3 Q. All right. I am going to show you what's
4 been marked as State's Exhibit 9 and 10. Do you
5 need to see them, or do you know what they are from
6 your report?

7 A. I believe the aerials --

8 Q. Uh-huh.

9 A. -- yes.

10 Q. And I'll ask you if you can identify State's
11 Exhibit 9 and 10 for us, please?

12 A. Yes, I can.

13 Q. All right, thank you. And what is depicted
14 in State's Exhibit 9 and 10?

15 A. So one of them has depicted the Walsh Drive
16 Apartment area.

17 Q. Uh-huh.

18 A. Which is the apartment complex in
19 Hardeeville.

20 Q. Uh-huh. And then State's 10?

21 A. Is Walsh Drive Apartments.

22 Q. Okay. And you've worked in this area a long
23 time, and you're familiar with these areas; is that
24 right?

25 A. Yes, ma'am.

1 Q. Okay.

2 (Court Reporter marks State's Exhibit Number 9
3 as attached hereto.)

4 (Court Reporter marks State's Exhibit Number 10,
5 as attached hereto.)

6 MS. CAMPBELL: And, Your Honor, at this
7 time the State seeks to introduce State's 9 and 10
8 into evidence.

9 THE COURT: Any objection, Ms. Carmody?

10 MS. CARMODY: No objection.

11 THE COURT: Mr. Hall?

12 MR. HALL: None from me.

13 THE COURT: All right, admitted without
14 objection.

15 (State's Exhibits 9 and 10 admitted into
16 evidence.)

17 BY MS. CAMPBELL:

18 Q. This is State's Exhibit 10, Lieutenant
19 Jenkins, and I'd like for you to help our jury
20 become familiar with what we're speaking about.

21 All right, so, Lieutenant Jenkins, can you tell
22 me what's depicted at the bottom of State's Exhibit
23 10?

24 A. That would be the Walsh Drive area apartment
25 complex.

1 Q. Okay, and just a broad overview. Is that --
2 what apartment complex is that?

3 A. That is 705 Main Street Village, and that is
4 the location where we found the crashed vehicle.

5 Q. All right. So at 705 you found a crashed
6 vehicle. Can you tell the jury what kind of vehicle
7 you found crashed at 705 Main Street?

8 A. So I do not have a copy of the report.

9 Q. Would you like to see a copy of it?

10 A. If you don't mind, I would sure --

11 Q. Sure.

12 A. -- appreciate that.

13 Q. Absolutely.

14 A. The vehicle was a silver in color Chevrolet
15 sedan, that had a Florida tag on the vehicle at the
16 time.

17 Q. Thank you. If you could hold onto that for
18 one second.

19 A. Thank you.

20 Q. All right. Now, I'm gonna pull up State's
21 Exhibit 9, and I want to talk a little bit about, as
22 you said, you're familiar with the Walsh Drive
23 Apartments. The entrance to the Walsh Drive
24 Apartments, is that down here at the bottom of
25 State's Exhibit 9?

1 A. Correct.

2 Q. All right. And the Walsh Drive Apartments
3 is basically one way in and one way out, correct?

4 A. It is a circle. When you pull into Walsh
5 Drive you can either -- you can take a loop around
6 and come back out, but it is only one way in and one
7 way out.

8 Q. All right, thank you very much. Now, on
9 April 22nd, 2020, did you receive a call out for
10 assistance?

11 A. Yes, we did.

12 Q. All right, and where did you receive that
13 call out to?

14 A. The initial call was to Walsh Drive
15 Apartments.

16 Q. Were you able to make it to Walsh Drive
17 Apartments, or were you diverted to somewhere else?

18 A. I was diverted.

19 Q. And where were you diverted to?

20 A. So en route to the particular call at Walsh
21 Drive Apartments, or maybe we had received reports
22 that that vehicle had left, so we were currently
23 searching for that vehicle in that area, when we
24 came across the crashed vehicle.

25 Q. All right, and what condition was the

1 crashed vehicle in when you found it?

2 A. So the vehicle appeared that it had jumped
3 the curb in front of the building and went head-on
4 into the front face of that building.

5 Q. All right. I'm gonna show you what's been
6 marked as State's Exhibit 1, 2, 3, 4 and 5; do you
7 see them there? And ask if you can identify for us
8 State's 1, 2, 3, 4 and 5?

9 A. Yes, I can.

10 Q. All right, and what is depicted in those
11 exhibits that I've given to you, 1, 2, 3, 4 and 5?

12 A. These photos depict the vehicle that we
13 found at the crash scene. They also depict where
14 the driver was sitting, the blood that we located on
15 the windows, the seats, et cetera.

16 Q. Thank you.

17 MS. CAMPBELL: Your Honor, at this time the
18 State seeks to introduce State's 1, 2, 3, 4 and 5.

19 THE COURT: All right, any objection, Ms.
20 Carmody?

21 MS. CARMODY: Without objection.

22 THE COURT: Mr. Hall?

23 MR. HALL: No objection.

24 THE COURT: All right, thank you. So
25 State's 1, 2, 3, 4, 5 admitted without objection.

1 (State's Exhibits 1 - 5 admitted into
2 evidence.)

3 MS. CAMPBELL: Could we pull up State's 1,
4 please?

5 BY MS. CAMPBELL:

6 Q. All right, I'm gonna walk you through, so
7 you can help the jury understand what they're
8 seeing. What is State's Exhibit 1, Lieutenant
9 Jenkins?

10 A. So that is the silver in color Chevrolet
11 sedan with the Florida tag that we had located at
12 the crash vehicle. That particular vehicle had the
13 victim in the driver's seat of the car.

14 Q. All right.

15 MS. CAMPBELL: And State's 2, can we pull
16 that up, please?

17 BY MS. CAMPBELL:

18 Q. All right, and what is State's 2?

19 A. That would be the blood from the victim that
20 was in the driver's seat that's on the window.

21 Q. And let's talk about that. When you first
22 got on-scene and you located the victim in this
23 case, did you -- were you able to assist? Tell the
24 jury what happened when you first got there?

25 A. Whenever I first got there, I had arrived

1 on-scene, Officer Angela Wines had arrived just
2 prior to me.

3 I had observed the victim was slumped over the
4 center console. I entered the rear seat of the
5 vehicle, and attempted to provide care to him, as he
6 had an obvious gunshot wound. While providing the
7 care, I was also trying to hold and support his
8 neck, due to the collision. I was trying to locate
9 where the blood was coming from. I had asked for
10 trauma dressing to try to supply pressure to stop
11 and control the bleeding.

12 Q. Were you able to get the trauma dressing and
13 apply that?

14 A. EMS from what I had recalled arrived fairly
15 quickly. It's one of the first things we had asked
16 for, and we were able to get that pretty quickly.

17 Q. Thank you.

18 MS. CAMPBELL: Let's go to State's 3,
19 please.

20 BY MS. CAMPBELL:

21 Q. All right, tell the jury what they're seeing
22 in State's 3, please?

23 A. That would be the driver's seat in which the
24 victim was found with blood on the seat.

25 Q. And then State's 4?

1 A. That would be rear passenger side of that
2 silver Chevrolet sedan.

3 Q. And then State's 5?

4 A. That would be the passenger side seat, where
5 the victim was slumped over that center console, and
6 his head was near that area.

7 Q. Thank you, and that's what I wanted to ask
8 you about. So when you arrived, the victim was over
9 into the passenger seat; is that right?

10 A. The victim was over into the passenger seat,
11 and at that time he -- there were some respirations
12 that I could tell he was taking. He was struggling
13 to breathe at that time.

14 Q. All right, when you're in a situation like
15 this, and you know you've got the gunshot wound
16 situation going on, the call has come out, you've
17 been dispatched. Can you let EMS or the Fire
18 Department in until you have secured a crime scene?

19 A. Typically, no. Until we know that the
20 person that did the shooting, or suspects are not
21 there, it's only safe to keep them away until we
22 confirm that it's safe for them to come.

23 Q. At some point, were you able to confirm that
24 your little area was secured?

25 A. Yes, we did.

1 Q. And then were you able to have EMS and the
2 Fire Department come in?

3 A. Yes, I was.

4 Q. Thank you.

5 MS. CAMPBELL: That's all I have.

6 THE COURT: All right, Ms. Carmody, do you
7 have any cross-examination for this witness?

8 MS. CARMODY: Yes, Your Honor.

9 THE COURT: All right, yes, ma'am.

10 **

11 **CROSS-EXAMINATION BY MS. CARMODY**

12 BY MS. CARMODY:

13 Q. Good morning.

14 A. Good morning.

15 Q. I believe the State has handed you a copy of
16 your incident report?

17 A. Yes.

18 Q. And I'll refer to page two of the report,
19 and could you list who the victims are in that
20 report?

21 A. According to the Hardeeville Police
22 Department incident report, the victim's name is
23 listed as Donovan Hay.

24 Q. And what about victim number two?

25 A. That would be Javante Jenkins.

1 Q. Victim number three?

2 A. Xavier Rivers.

3 Q. And victim number four?

4 A. Daquadrae Green.

5 Q. And they also have a victim number five
6 listed. Do you know who is -- I'm sorry, who's
7 victim number five?

8 A. Harris.

9 Q. Okay. And then there's another victim
10 number six?

11 A. The name listed is Jaquira Jenkins.

12 Q. Okay. And when you were on scene, you have
13 to make sure the scene is secured for EMS, to make
14 sure that there are no suspects there?

15 A. Correct.

16 Q. And did you get any names while you were
17 there on-scene at that time?

18 A. I didn't get any names of any of the people
19 that were on the scene that day.

20 Q. Well, in the report, I would imagine, Agent
21 Wines was the first one of Officer Wines --

22 A. Correct.

23 Q. -- to arrive on-scene? So she would have
24 collected the information from those on-scene in
25 taking the report?

1 A. Correct.

2 Q. Okay, but what was seen, when you were
3 securing the scene, do you recall seeing the three
4 males there?

5 A. Yes, actually, whenever I did arrive on-
6 scene, as soon as I pulled in, I did observe Officer
7 Wines, and observed multiple black males that were
8 also on scene.

9 Q. And one of the black males identified was
10 Mr. Rivers?

11 A. That I'm aware of.

12 Q. And you -- did you attempt to move any shell
13 casings from the side of the vehicle?

14 A. No.

15 Q. Did you locate any shell casings in the
16 vehicle?

17 A. The -- what I observed in the vehicle, what
18 I explained, was the victim.

19 Q. If you had located any, it would be in your
20 report, right?

21 A. Correct.

22 Q. And Mr. Hay was slumped over in the
23 passenger seat of that car?

24 A. Yes.

25 Q. And in your opinion, at that time, he would

1 be unable to operate the car, right?

2 A. At the time that I was in the vehicle with
3 him, I would say that he would have been unable to
4 operate that vehicle.

5 Q. Do you remember speaking with Javante
6 Jenkins?

7 A. I do not.

8 Q. Do you recall the individual who was driving
9 that car in the passenger seat?

10 A. I do not.

11 Q. Did you speak with that person?

12 A. I did not.

13 Q. Then EMS drove up, right?

14 A. So I had, essentially, got into the vehicle
15 and tried to provide care to Mr. Hay is what I did,
16 and as I was doing that, the scene was secured. I'm
17 not sure which officer gave the all clear for that
18 scene, but once I was done doing what I did with Mr.
19 Hay, trying to call to and provide care.

20 At that point I kind of removed myself, and
21 that crime scene tape was being set up.

22 Q. And that's when SLED was called in?

23 A. I believe so.

24 Q. Thank you.

25 MS. CARMODY: One moment, Your Honor?

1 THE COURT: Yes, ma'am.

2 MS. CARMODY: No further questions, Your
3 Honor.

4 THE COURT: Mr. Hall?

5 MR. HALL: No cross for this witness.
6 Thank you, Judge.

7 THE COURT: Any redirect?

8 MS. CAMPBELL: No, Your Honor.

9 THE COURT: All right, thank you, sir, you
10 can be excused. You can call your next witness.

11 MS. CAMPBELL: Thank you, Your Honor. The
12 State calls the Hardeeville Fire Department,
13 Battalion Chief Jonathan Bekemeyer.

14 **

15 JONATHAN BEKEMEYER

16 **

17 being first duly sworn, testified as follows:

18 THE COURT: Good morning.

19 WITNESS: Good morning, sir.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q. Chief, would you please state your name and
23 spell it for our Court Reporter?

24 A. Yes, ma'am. Jonathan Bekemeyer, J-O-N-A-T-
25 H-A-N B-E-K-E-M-E-Y-E-R.

1 Q. Thank you. Obviously, you're employed with
2 the Hardeeville Fire Department?

3 A. Yes, ma'am, that's correct.

4 Q. All right, and how long have you been
5 employed there?

6 A. Three years.

7 Q. Did you work in any Fire Department capacity
8 before that?

9 A. Yes, ma'am, Lady's Island and St. Helena's
10 Island for nine years, Fripp Island Fire Department
11 for eight.

12 Q. So in your current situation, your
13 responsibilities or duties related to that Chief
14 position?

15 A. Battalion Chief of training.

16 Q. Back on April 22nd, 2020, were you on-scene
17 at a vehicle crash on Main Street in Hardeeville?

18 A. Yes, ma'am.

19 Q. All right, so give us your recollection and
20 your report, as to where you responded to when
21 you're called out?

22 A. Due to the nature of the call, we -- it was
23 the type of call that you standby for until the law
24 enforcement let us know that it's what's called a
25 secured scene.

1 So I, essentially, stood by in my office.
2 The initial call went out for Walsh Drive. Like
3 once the scene was secured, it was changed to 709
4 Main Street.

5 Q. And you went to Main Street once the scene
6 was secured?

7 A. Yes, ma'am.

8 Q. Once on-scene what did you observe?

9 A. When I arrived on-scene we already had one
10 of our engine companies meet me on-scene by a minute
11 or so, and the Hardeeville Police Department was
12 also on-scene. There was a patient seated in the
13 driver's seat that was being cared for -- I believe
14 cared forward.

15 Do you want me to go into further details
16 on that?

17 Q. Well, yes, so you've got a male in the
18 driver's seat area that's being cared for. What are
19 you learning about how he's responding to that care?

20 A. So the first thing we need to know is what
21 caused the injury? That -- there was a large amount
22 of bleeding in the head globe. The nature of the
23 call was a gunshot wound. So from there we're
24 concerned about the level of consciousness, and
25 whether or not the patient's responding.

1 So we found the male patient to be sitting
2 upright but unresponsive.

3 Q. Okay. Would he have been in a critical
4 state?

5 A. Yes, ma'am, he would have suffered an
6 immediate life-threatening injury.

7 Q. Was he conscious?

8 A. No, ma'am, unresponsive.

9 Q. You are trained in your field to assess a
10 gunshot wound victim? Can you explain that to us?

11 A. Yeah, so it's very quickly, obviously, when
12 you come in contact with any patient, we're
13 determining what's called a general impression. And
14 our general impression is that if we're able to
15 speak to you and hear your response, we would be
16 alert.

17 If you don't respond when spoken to and if
18 you're not -- if you don't seem to be aware of us,
19 but you're responding to us when we speak to you,
20 that's your alert to stimulus.

21 If not, then there's ankle stimulus, where
22 we'll apply pressure. If you don't respond to any
23 of that, then you're unresponsive.

24 Q. Was your patient responding to pain from
25 stimuli?

1 A. No, ma'am.

2 Q. So he did respond in any way to your alerts?

3 A. That is correct.

4 Q. Okay. So you're seeing him unresponsive due
5 to the gunshot wound to the head?

6 A. Yes, ma'am.

7 Q. What happened to him next; do you know?

8 A. The ALS transport arrived on-scene, so we
9 took care of the patient until we transferred care
10 to Jasper County Fire and Rescue for some further
11 care. They have the ambulances; but from there it
12 was also determined that we would follow through
13 with a helicopter evacuation.

14 Q. So like a level one trauma?

15 A. Yes, ma'am.

16 Q. Thank you.

17 MS. CAMPBELL: That's all I have.

18 THE COURT: Ms. Carmody?

19 MS. CARMODY: No questions, Your Honor.

20 THE COURT: Mr. Hall?

21 MR. HALL: No questions Your Honor.

22 THE COURT: Thank you, sir.

23 WITNESS: Yes, sir.

24 THE COURT: Have a great day.

25 MS. CAMPBELL: Your Honor, the State calls

1 Jasper County EMS Jason Ronberg.

2 * *

3 JASON RONBERG

4 * *

5 being first duty sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q. I see you've got the EMT or the EMS uniform
9 on. What is your certification and training in?

10 A. I'm a Firefighter/Paramedic for Jasper
11 County Fire Rescue.

12 Q. All right, and so in that capacity were you
13 called out on April 22nd, 2020, to a gunshot wound?

14 A. Yes, ma'am.

15 Q. All right. And when you got there were you
16 immediately able to assess the situation, or did you
17 have to wait for it just a minute to be yours?

18 A. Our protocol is to wait for -- to get the
19 scene secured by the law enforcement agency.

20 Q. And once secured did you go to assist the
21 victim?

22 A. Correct.

23 Q. All right. And when you came into the scene
24 there, can you, please? All right, so while you're
25 doing that, can you tell us a little bit about the

1 victim that you located, age and so forth?

2 A. I can't remember the age per se, but I know
3 it was a -- I think a 27-year-old male in the
4 driver's seat of a vehicle. The patient was
5 unresponsive at the time. Blood noted in the
6 passenger seat. There -- the Hardeeville Fire
7 Department was already wrapping the patient with
8 trauma dressing around the head to control the
9 bleeding. We extricated him out of the vehicle and
10 placed him in the back of our truck to continue with
11 care. We eventually ended up flying him out to a
12 local trauma center.

13 Q. Would it help refresh your recollection if I
14 handed you a copy of your report?

15 A. Yes, ma'am.

16 Q. Thank you. If you can, just take a moment
17 and review the first page there. Can you tell us
18 the victim's name and how old he was?

19 A. Donovan Hay, a 27-year-old male.

20 Q. Okay, thank you. So you're treating him,
21 and I just want to go over what you talked about
22 with Bekemeyer. Did you do an assessment, as well,
23 in terms of responsiveness to pain?

24 A. Yes, ma'am.

25 Q. Can you tell the jury about that, please?

1 A. So the patient was unresponsive to all
2 stimuli.

3 Q. And did you find an entrance wound to your
4 patient?

5 A. Yes, ma'am.

6 Q. And where was the entrance wound?

7 A. According to my report the left side of the
8 head.

9 Q. And no exit wound?

10 A. Due to -- I was not able to find the exit
11 wound, due to the excessive blood clotting to the
12 head.

13 Q. Did you eventually transfer care of your
14 patient to a trauma level one destination?

15 A. I transferred care to a helicopter, a flight
16 nurse and a flight paramedic.

17 Q. On his way to a trauma one center?

18 A. Correct.

19 Q. Okay, thank you.

20 MS. CAMPBELL: That's all I have.

21 THE COURT: Ms. Carmody?

22 MS. CARMODY: No questions, Your Honor.

23 THE COURT: Mr. Hall?

24 MR. HALL: No, thank you, Judge.

25 THE COURT: All right, sir, thank you very

1 much, have a good day.

2 MS. CAMPBELL: Your Honor, the State calls
3 former Hardeeville Police Department, now with
4 Jasper County Sheriff's Office, Angela Wines.

5 THE COURT: All right

6 * *

7 **ANGELA WINES**

8 being duly sworn, testified as follows:

9 THE COURT: Good morning.

10 WITNES: Good morning.

11 THE COURT: Solicitor, your witness.

12 MS. CAMPBELL: Thank you, Your Honor.

13 **

14 **DIRECT EXAMINATION**

15 BY MS. CAMPBELL:

16 Q. Could you state your name and spell it for
17 our Court Reporter?

18 A. Angela Wines, A-N-G-E-L-A W-I-N-E-S.

19 Q. I see -- are you with the Jasper County
20 Sheriff's Office?

21 A. Yes, ma'am.

22 Q. Okay, and how long have you been with them?

23 A. About two weeks.

24 Q. Okay. And prior to being at the Sheriff's
25 Office, where were you employed?

1 A. The Hardeeville Police Department.

2 Q. And how long were you employed with the
3 Hardeeville Police Department?

4 A. A little over six years.

5 Q. All right. Now, on April 22, 2020, do you
6 recall being dispatched to a location for a gunshot
7 wound to the head, or a shooting?

8 A. Yes, ma'am.

9 Q. All right. Do you recall where you were
10 dispatched to?

11 A. Yes, ma'am, it was the Walsh Drive
12 Apartments.

13 Q. On your way to Walsh Drive Apartments, did
14 you make it there, or did you get diverted?

15 A. I got diverted through the gentleman; I got
16 waved down at 705 Main Street. There was a male
17 that came out and waved me down to tell me that
18 there was a vehicle that wrecked into the building,
19 and there was injury.

20 Q. All right. So then did you pull in there
21 then?

22 A. Yes, ma'am.

23 Q. Okay. When you pulled into that area on
24 Main Street 705, I'm gonna show you State's Exhibit
25 1, and ask you -- which has previously been admitted

1 and published to the jury, but I want to ask you, if
2 you recognize that --

3 A. Yes, ma'am.

4 Q. -- scene? Okay. And then 2?

5 A. Yes, ma'am.

6 Q. And then 3?

7 A. Yes, ma'am.

8 Q. Four?

9 A. Yes, ma'am.

10 Q. And 5?

11 A. Yes, ma'am.

12 Q. Okay, so you're on-scene and you're seeing
13 this vehicle, having been waved down. Tell the jury
14 what else you saw and who else you saw in the area,
15 as you're, I guess, one of the first responders on-
16 the-scene.

17 A. Yes, ma'am. When I was going on-scene, I
18 saw the driver, I saw that he had been shot in the
19 head, and I saw blood everywhere. Not long after
20 that Lieutenant Jenkins arrived on-scene, and we
21 provided medical care until EMS came.

22 While I was there, at the time, Detective
23 Crosby asked me to collect three gentlemen's
24 information. There were three black males with the
25 names, Xavier Rivers, and Jonathan Jenkins.

1 Q. How about Javante Jenkins.

2 A. Javante Jenkins, I'm sorry.

3 Q. Do you have your report with you?

4 A. Yes, ma'am.

5 Q. Okay. So let's talk about that, so you're
6 taking down information talking to these three black
7 males, and they are listed as Javante Jenkins,
8 Daquadrae Green, or Demarcus Daquadrae Green
9 perhaps, and Xavier Rivers; is that right?

10 A. Yes, ma'am.

11 Q. Okay. And did you know anything else about
12 them, as to where they were sitting in the silver
13 Chevy Malibu during the shooting?

14 A. Yes. So Javante Jenkins says that he was
15 the passenger.

16 MR. HALL: Objection, Your Honor, hearsay.

17 THE COURT: I think -- any response to that
18 objection.

19 MS. CAMPBELL: As far as the investigation,
20 and through the investigation, it was determined
21 that these individuals were seated in any particular
22 location?

23 THE COURT: No, I think that's hearsay.
24 No, ma'am, I'm gonna sustain that objection.

25 MS. CAMPBELL: That's fine, thank you, Your

1 Honor.

2 THE COURT: Yes, ma'am.

3 BY MS. CAMPBELL:

4 Q. So after you talked to these three men,
5 Javante Jenkins, DeMarcus or Daquadrae Green and to
6 Xavier Rivers, do you recall any statements that
7 they gave? I'm not asking you what they said, but
8 were they giving statements to law enforcement?

9 A. I didn't collect any statements, I only got
10 information.

11 Q. Got it, thank you. So did you clear that
12 scene and go anywhere else or do anything else in
13 the case?

14 A. No, ma'am, just my report.

15 Q. All right, thank you so much.

16 THE COURT: All right, Ms. Carmody, any
17 cross-examination?

18 MS. CARMODY: Thank you, Your Honor.

19 **

20 **CROSS-EXAMINATION BY MS. CARMODY**

21 BY MS. CARMODY:

22 Q. Good morning. Deputy Wines, did you have
23 occasion to retrieve items from inside of the
24 vehicle?

25 A. No, ma'am.

1 Q. Thank you.

2 MS. CARMODY: That's all the questions I
3 have.

4 THE COURT: Anything else, Mr. Hall?

5 MR. HALL: Yes, just a couple of questions.

6 THE COURT: Yes, sir.

7 MR. HALL: Thank you.

8 **

9 **CROSS-EXAMINATION BY MR. HALL**

10 BY MR. HALL:

11 Q. Deputy Wines, were you involved, as part of
12 your response there with Main Street, did you
13 recover items of evidence?

14 A. Yes, sir. When I was on-scene, EMS had
15 given me a wallet they had either gotten off of him,
16 the driver, or the vehicle, I'm not sure where, but
17 someone gave me a wallet.

18 Q. And did you determine who that wallet
19 belonged to?

20 A. Yes, sir, it belonged to Donovan Hay.

21 Q. Okay, were there any other items that were
22 located that you took into evidence as well?

23 A. Yes, sir, the things that were in the wallet
24 as well.

25 Q. Well, aside from the wallet, you mentioned

1 the wallet belonging to Donovan Hay, was there any
2 other items that you recovered?

3 A. No, sir, just what was in the wallet.

4 Q. So you did not find a South Carolina
5 driver's license, Social Security card and debit
6 cards belonging to anyone else in the vehicle?

7 A. No, sir.

8 Q. Okay. Thank you very much.

9 MR. HALL: That's all I have.

10 THE COURT: Solicitor, do you have any
11 redirect?

12 MS. CAMPBELL: OH, no, sir.

13 THE COURT: Okay, great. Thank you, ma'am,
14 have a great day.

15 MS. CAMPBELL: Are we ready?

16 THE COURT: Yes, ma'am.

17 MS. CAMPBELL: Thank you. Hardeeville
18 Police Department Andrew Woods, please.

19 * *

20 ANDREW WOODS

21 being first duly sworn, testified as follows:

22 THE COURT: Good morning, sir.

23 WITNESS: Good morning.

24 **

25 DIRECT EXAMINATION

1 BY MS. CAMPBELL:

2 Q. Good morning. Could you please state your
3 name and spell it for our Court Reporter?

4 A. Deputy Woods, Andrew Woods, A-N-D-R-E-W
5 W-O-O-D-S, with the Jasper County Sheriff's
6 Department.

7 Q. I'm sorry, I called you as Hardeeville
8 Police Department, but you are now with the
9 Sheriff's Department; is that right?

10 A. That's correct.

11 Q. Okay, and how long have you been with them?

12 A. Overall, two years.

13 Q. All right. Back in April, particularly
14 April 22nd of 2020, were you employed with the
15 Hardeeville Police Department?

16 A. Yes.

17 Q. Okay. And how long had you been employed
18 with them at that time?

19 A. Around 11 years.

20 Q. Okay. Were you called out, or did you get a
21 dispatch to shots fired on April 22nd, 2020?

22 A. I did.

23 Q. Okay. And do you recall what you were
24 dispatched to do, initially?

25 A. Initially canvassing the area for a vehicle,

1 a description came out, and had it posted up at
2 Moore Avenue and Main Street, also known as Highway
3 86.

4 Q. Do you remember what sort of vehicles that
5 were posted up and you were looking for?

6 A. It was a white Cadillac and silver Malibu.

7 Q. Okay. While you were trying to locate those
8 two vehicles, were you able to look at them, or did
9 you see them?

10 A. No, ma'am.

11 Q. Having not located the other vehicles, were
12 you, or prior to, did you go anywhere else?

13 A. Yes, I was instructed to go to Walsh Drive,
14 they needed my assistance over there.

15 Q. Okay. And once you were at the Walsh Drive
16 Apartments, what did you do?

17 A. I arrived on-scene and noticed there was
18 multiple shell casings on the ground, so I parked my
19 patrol vehicle and taped off the area.

20 Q. And having -- do you call that securing the
21 scene?

22 A. Yes.

23 Q. Okay. Having secured the scene, what did
24 you do next?

25 A. I waited for SLED to arrive to relieve me.

1 Q. So you secured the scene, you stayed until
2 the South Carolina Law Enforcement Division came to
3 take over the investigation?

4 A. Yes.

5 Q. I want to show you what's been marked as
6 State's Exhibit 6, 7 and 8, and ask you, having
7 worked in law enforcement for this period of time,
8 if you could identify State's 6, 7 and 8 for me,
9 please?

10 A. Yes, these are pictures of the scene, and
11 that's my patrol vehicle there.

12 Q. Okay.

13 MS. CAMPBELL: All right, so State seeks to
14 admit 6, 7 and 8 at this time, Your Honor, and
15 publish it to the jury.

16 THE COURT: Any objection from Ms. Carmody?

17 MS. CARMODY: Without objection.

18 THE COURT: Mr. Hall?

19 MR. HALL: No objection, Your Honor.

20 THE COURT: All right, State's 6, 7 and 8
21 are admitted without objection.

22 (State's Exhibits 6 - 8 were admitted into
23 evidence.)

24 MS. CAMPBELL: If we could, for our
25 witness, pull up State's 6, please?

1 BY MS. CAMPBELL:

2 Q. And what are we seeing? Is that the
3 entrance area? What is that, State's 6?

4 A. Yeah, that's the sign to the back of Walsh
5 Drive.

6 Q. Okay, and Walsh Drive Apartments is to the
7 right, and Deer Run is to the left?

8 A. Yes.

9 Q. Okay. So in State's 7, what are we seeing
10 in State's 7?

11 A. This is the area that was taped off.

12 Q. Right.

13 A. The scene was secured.

14 Q. So from this -- on State's 7 from this
15 particular angle, is it looking out towards the
16 entrance?

17 A. Yes.

18 Q. Okay. And then in State's 8, if we could
19 pull that up. So the -- is that your patrol
20 truck --

21 A. Yes.

22 Q. -- right there? Okay, good. And then you
23 had located some evidence in front of that area?

24 A. Yes, in front of my vehicle here there's
25 multiple shell casings.

1 Q. Okay. Do you know how many approximately
2 you saw in that area?

3 A. One --

4 Q. 20ish?

5 A. Yes.

6 Q. Okay, all right, thank you.

7 MS. CAMPBELL: That's all I have.

8 THE COURT: Ms. Carmody?

9 MS. CARMODY: Thank you, Your Honor.

10 **

11 **CROSS-EXAMINATION BY MS. CARMODY**

12 BY MS. CARMODY:

13 Q. Officer Woods, your report indicates that
14 there were 21 casings outside?

15 A. Yes.

16 Q. Okay. And were you able to tell what
17 caliber weapon -- what caliber casings those were?

18 A. I didn't look at them, I just saw casings
19 and cornered off the area.

20 Q. And did you -- you didn't remove any of them
21 at all?

22 A. No.

23 Q. And -- would you be able to look at it and
24 tell me where those casings were located, if I
25 showed you State's 9?

1 A. Yes, it's gonna be on the back-end -- the
2 upper left-hand portion of it.

3 Q. Up here in this area?

4 A. A little bit further down.

5 Q. Right here?

6 A. A little bit further down. Yeah, that's
7 where my vehicle's parked, that's where I saw the
8 shell fragments.

9 THE COURT: All right.

10 BY MS. CARMODY:

11 Q. So can you see --

12 THE COURT: All right, hold on, hold on.
13 Why don't you -- because they can't see, why don't
14 you get the officer down --

15 MS. CARMODY: Yes, Your Honor.

16 THE COURT: -- and if he can identify, then
17 have him to do that, so all my jurors can see what
18 you're pointing to.

19 MS. CARMODY: Thank you.

20 BY MS. CARMODY:

21 Q. If you could show the jury where you
22 retrieved all those casings?

23 A. Yeah, so my vehicle's around here, and then
24 the shell casings were around here.

25 Q. Okay, this area here?

1 A. Yes.

2 Q. Do you know which address this is?

3 A. I don't recall.

4 Q. No? Okay, do you know who lived there?

5 A. No.

6 Q. No? Okay. All right, thank you.

7 THE COURT: All right, sir. Come on back
8 around, thank you.

9 MS. CARMODY: No further questions, Your
10 Honor.

11 THE COURT: All right, Mr. Hall?

12 MR. HALL: Just a couple.

13 THE COURT: Yes, sir.

14 MR. HALL: Thank you.

15 **

16 **CROSS-EXAMINATION**

17 BY MR. HALL:

18 Q. When you entered the Walsh Drive Apartment
19 complex -- so you're familiar with that area,
20 correct?

21 A. Yes.

22 Q. One way in, one way out, one big loop. When
23 you entered Walsh Drive, what direction did you come
24 in? Did you take the back loop around, or did you
25 take the first left?

1 A. I believe I took the back loop around. I
2 think the front was already --

3 Q. And that picture shows that's where your
4 truck's parked, where you were in the pickup truck
5 in the picture, okay.

6 Were those the only shell casings that you
7 located when you arrived there?

8 A. Yes.

9 Q. And you cornered off, it appears from the
10 other pictures, went around where those bushes are;
11 is that correct?

12 A. Yes.

13 MR. HALL: Your Honor, may I approach?

14 THE COURT: Of course.

15 MR. HALL: Thank you.

16 BY MR. HALL:

17 Q. I'm showing you what's been already admitted
18 into evidence, I believe it's State's Exhibit 7, and
19 you were asked to identify that picture. That shows
20 it going off around a set of bushes there, correct?

21 A. Yes.

22 Q. And it appears to fall just short of what
23 appears to be like an orange car in the upper left-
24 hand corner of the photo?

25 A. Yes.

1 Q. Okay.

2 MR. HALL: And, Judge, I'm just gonna -- if
3 you don't mind, I'm just gonna show the jury what I
4 was referring to with Deputy Woods.

5 MS. CAMPBELL: We can pull it up for you.

6 MR. HALL: Okay.

7 MS. CAMPBELL: Okay.

8 MR. HALL: That'd be great, thank you.

9 MS. CAMPBELL: Thank you, sure. State's 7,
10 correct?

11 MR. HALL: Yes.

12 MS. CAMPBELL: Okay.

13 BY MR. HALL:

14 Q. So what we're looking at here, obviously, is
15 the other part that was sectioned off by you for
16 securing forensics; is that correct; or did you have
17 assistance?

18 A. I think another officer set that tape up
19 over in that area.

20 Q. So you were responsible chiefly for the
21 other area that was part -- that was nearer your
22 truck --

23 A. Yeah.

24 Q. -- the one that's shown in this photo?

25 A. That's correct.

1 Q. Okay. Do you have any idea who it was from
2 your agency that would have been over there and
3 cornering off that area?

4 A. I believe Chief Woodward was over there at
5 the time. There was multiple officers over there.

6 Q. All right. And in that picture that you can
7 see there is a -- what appears to be an orangish
8 looking vehicle in the upper left-hand corner; is
9 that correct?

10 A. Yes.

11 Q. And you did not personally have anything to
12 do with being over in that area, looking for any
13 items of evidence?

14 A. No.

15 Q. Okay, thank you.

16 MR. HALL: That's all I have.

17 THE COURT: All right, thank you. Any
18 redirect, Solicitor?

19 MS. CAMPBELL: No, sir.

20 THE COURT: All right, sir, thank you very much,
21 have a great day.

22 WITNESS: You too.

23 THE COURT: All right, ladies --

24 MS. CAMPBELL: Your Honor, I think the next
25 witness --

1 THE COURT: Yeah.

2 MS. CAMPBELL: -- might be a little bit
3 long.

4 THE COURT: We're gonna take a break right
5 now. Ladies and gentlemen, we're gonna take a break
6 for a few minutes. And what I'd like you to do, if
7 you'd go back, and if you-all can decide on a
8 Foreperson, but something I forgot to tell you
9 earlier, my two alternates cannot be the Foreperson,
10 okay?

11 So the Foreperson's got to be one of the
12 12. Sorry to disappoint either one of my two
13 alternates, but if you-all could go back, we'll take
14 a break, and probably be back in about 15 minutes.
15 Thank you.

16 (Jury exits the courtroom.)

17 THE COURT: All right, anything from the
18 State before we break?

19 MS. CAMPBELL: No, sir.

20 THE COURT: Anything from defense Rivers?

21 MS. CARMODY: No, Your Honor.

22 THE COURT: Anything from defense
23 Washington?

24 MR. HALL: No, thank you.

25 THE COURT: All right, great, we'll be at

1 ease.

2 (Recess.)

3 **

4 PROCEEDINGS CONTINUED

5 BAILIFF: All rise.

6 THE COURT: All right, thank you, you can
7 be seated. All right, ladies and gentlemen, Donna
8 Rowell, I received a note Donna Rowell is gonna be
9 the Foreman, and I've got a note from them right
10 here. And so if you want to look at it you can, I'm
11 gonna make this a Court's exhibit.

12 Oh, here, I'm sorry.

13 (Court Reporter marks Court's Exhibit Number 1,
14 Jury Note, as attached hereto.)

15 COURT REPORTER: Do you want this back?

16 THE COURT: No, ma'am.

17 COURT REPORTER: Okay.

18 THE COURT: All right, anything before we
19 bring the jury in from the State?

20 MS. CAMPBELL: No, sir.

21 THE COURT: Mr. Rivers?

22 MS. CARMODY: No, Your Honor.

23 THE COURT: Mr. Washington?

24 MR. HALL: No.

25 THE COURT: All right, great, let's get the

1 jury.

2 (Jury enters the courtroom.)

3 BAILIFF: Jury's seated.

4 THE COURT: All right, thank you very much.

5 Ms. Rowell, thank you for your willingness to serve

6 as Foreperson of the jury. All right, ladies and

7 gentlemen, I believe we are ready to continue with

8 the case. Solicitor?

9 MS. CAMPBELL: Thank you, Your Honor. The
10 State calls former Hardeeville Police Department
11 Detective Charles Mitchell.

12 THE COURT: All right.

13 * *

14 **CHARLES MITCHELL**

15 **being first duly sworn, testified as follows:**

16 THE COURT: All right, your witness, yes, ma'am.

17 MS. CAMPBELL: Thank you, Your Honor.

18 **

19 **DIRECT EXAMINATION**

20 BY MS. CAMPBELL:

21 Q. Good morning. Could you state your name and
22 spell it for our Court Reporter?

23 A. Charles Mitchell, C-H-A-R-L-E-S M-I-T-C-H-E-
24 L-L.

25 Q. All right, Mr. Mitchell, back on April 22,

1 2020, where were you employed?

2 A. At the Hardeeville Police Department.

3 Q. All right, and how long had you been
4 employed there in April of 2020?

5 A. At that particular time, I was there about
6 four and a half years.

7 Q. All right. Are you currently with the
8 Hardeeville Police Department?

9 A. No, ma'am.

10 Q. Okay. Where are you working now?

11 A. I'm self-employed.

12 Q. And doing what?

13 A. I own a company called Universal Safety
14 Solutions, my --

15 COURT REPORTER: I'm sorry, say it one more
16 time.

17 BY WITNESS:

18 A. Universal Safety Solutions.

19 Q. And what does that company do?

20 A. My company installs security equipment for
21 first responder vehicles within the Low Country.

22 Q. Thank you so much. And were you called out
23 to a shooting at the Walsh Drive Apartments, or the
24 crash site on Main Street on April 22nd of 2020?

25 A. That's correct.

1 Q. When you got the call, tell the jury where
2 you went.

3 A. When I got the call, I proceeded to the area
4 where Dispatch advised that the vehicle was last
5 seen traveling, it was a white in color Cadillac. I
6 proceeded down Highway 17 to the area to take a look
7 and locate the vehicle, but I had a negative
8 contact, we did not find the vehicle.

9 Q. When I hear negative contact, you did not
10 find or see the white Cadillac?

11 A. That's correct.

12 Q. Okay. And so having not found the white
13 Cadillac, where did you go to at that point?

14 A. I then proceeded to the area of the initial
15 location where the vehicle crash site was, right
16 there on Highway 46.

17 Q. All right. At some point during this
18 investigation, did you go to the Walsh Drive
19 Apartments?

20 A. I did not.

21 Q. Okay. And during your investigation as one
22 of the detectives on this case, were you familiar
23 with the surveillance system at the Walsh Drive
24 Apartments?

25 A. I was, yes, ma'am.

1 Q. And what did you do in your role in this
2 investigation to attempt to obtain that surveillance
3 video?

4 A. Because I had previous knowledge of the
5 location of the Walsh Drive Apartments, that I had
6 an existing relationship with the surveillance
7 company, but I didn't have immediate access to the
8 camera. At that particular time, I was able to
9 leave a message for them, that they needed to return
10 my phone call. And a very short time later I
11 advised -- to ask them what assistance I would need.
12 At that time, I proceeded to tell them exactly what
13 had occurred at Walsh Drive Apartments, and I needed
14 actual video. At that time, they started doing
15 their research to locate the video footage.

16 Q. And during your investigation was the
17 surveillance video located?

18 A. Yes, ma'am.

19 Q. All right, and were you able, through this
20 investigation, to obtain a description of both
21 vehicles, or just the -- from the Walsh Drive
22 surveillance just the white Cadillac? Can you tell
23 us a little bit about that?

24 A. Yes, ma'am. From these surveillance videos,
25 I was able to observe both vehicles at the scene.

1 The one vehicle that we had already located at the
2 crash site, we had the information on that vehicle.
3 So I then requested information if they could locate
4 a tag number on the vehicle.

5 At that particular time, they could and advised
6 us of that tag number, so we could get it out to
7 other law enforcement agencies.

8 Q. So at that point, you had the tag number for
9 the white Cadillac?

10 A. Yes, ma'am. She was able to locate the tag
11 number for the vehicle, and then gave me that tag
12 number in real time.

13 Q. When you're in a situation like that,
14 sometimes it's commonly referred to as a BOLO. Did
15 you issue a BOLO to local law enforcement?

16 A. Once Dispatch provided the -- I mean once
17 the surveillance team gave me the vehicle
18 information, I then asked Dispatch to run the tag.
19 At that particular time, Dispatch provided me with
20 the information on the tag. I then advised Dispatch
21 to the issue the BOLO for the vehicle, as well as
22 the location where the vehicle was located.

23 Q. Were you able to determine where the vehicle
24 was registered and the registered owner?

25 A. Yes, ma'am.

1 Q. And where is that?

2 A. I would have --

3 Q. Well, I can tell -- refresh your memory in
4 your report, did you reference ■ Bluebird Lane, and
5 an owner of Shiron Brown? You can look for that
6 information.

7 MR. HALL: Your Honor, I'll just place an
8 objection on the record, I'm fine with the witness
9 obviously refreshing his recollection, but I would
10 have an objection to the State testifying for Mr.
11 Mitchell.

12 THE COURT: I'll sustain that objection,
13 and moving forward, Solicitor, I would appreciate it
14 if you'd just ask him non-leading questions, okay?

15 MS. CAMPBELL: Absolutely.

16 THE COURT: Thank you.

17 MS. CAMPBELL: Thank you.

18 BY WITNESS:

19 A. In my report I have it listed as a vehicle
20 registered to -- a 2001 Cadillac belonging to Shiron
21 Brown -- I mean to Shiron Joseph Brown of ■
22 Bluebird Lane, Beaufort, South Carolina.

23 Q. Okay. Over in Beaufort County?

24 A. Yes.

25 Q. And after you completed those tasks, were

1 you able to talk to any individuals at the crash
2 site?

3 A. I was getting information from my
4 Lieutenant and the Chief Deputy at the time of what
5 our responsibility was, because there were other
6 detectives already on-scene, along with -

7 MR. HALL: And, again, Judge --

8 THE COURT: You've got --

9 MR. HALL: He's going lower.

10 THE COURT: Yeah, you've just got to project
11 and --

12 BY WITNESS:

13 A. Not too close.

14 THE COURT: That's good, go right ahead. Go
15 right ahead, sir.

16 BY WITNESS:

17 A. Check, check, check.

18 THE COURT: All right.

19 BY WITNESS:

20 A. So I -- is that better?

21 MS. CAMPBELL: Yes.

22 THE COURT: Yes.

23 BY MR. SMITH:

24 Q. Okay. So when I got that information, when
25 I got on-scene, I met with my Lieutenant and the

1 Chief, where they were going to give me directions
2 on what they kind of wanted me to do.

3 However, I did not go in the crime scene at
4 that particular time, due to detectives, other law
5 enforcement personnel and Fire and EMS were on-scene
6 as well.

7 Q. Thank you. Do you recall speaking to, or
8 having a statement given to you by Xavier Rivers at
9 the crash site?

10 A. I do recall at some point. The Chief had
11 asked us to get some of the statements, and I
12 attempted to get some statements at that particular
13 time. However, when getting statements I was still
14 performing other functions at the time.

15 Q. Ultimately, was the Hardeeville Police
16 Department investigation turned over to the South
17 Carolina Law Enforcement Division?

18 A. That's correct, ma'am.

19 MS. CAMPBELL: That's all I have.

20 THE COURT: Ms. Carmody, any questions for
21 this witness?

22 MS. CARMODY: Yes, Your Honor.

23 THE COURT: Yes, ma'am.

24 **

25 CROSS-EXAMINATION BY MS. CARMODY

1 BY MS. CARMODY:

2 Q. Good morning.

3 A. Good morning.

4 Q. All right, were you ever able to locate the
5 white Cadillac that you were searching for?

6 A. That's correct, ma'am.

7 Q. You did locate it?

8 A. Yes, ma'am.

9 Q. And where did you locate the white Cadillac?

10 A. We located the vehicle at the registered
11 address.

12 Q. Okay, and the -- was the vehicle parked
13 behind the residence?

14 A. It was parked at the residence -- at the
15 registered address, yes, ma'am.

16 Q. Does it indicate in your report that the
17 vehicle was parked behind the residence?

18 A. It does not say, it just said the vehicle
19 was parked at the residence unoccupied. I stand
20 corrected, ma'am, on my report it says --

21 Q. You found it?

22 A. Yes, ma'am.

23 Q. Okay, I was just looking for it.

24 A. Yes, ma'am.

25 Q. Okay.

1 A. It was parked behind the residence, yes,
2 ma'am.

3 Q. Okay, so you were one of the officers
4 working on this investigation? You were one of the
5 officers working on the investigation?

6 A. I was one of the detectives, ma'am.

7 Q. I gotcha. And did you receive, or do you
8 know of, up until this point, did you receive any
9 telephone communication from the owner of the white
10 Cadillac?

11 A. No, ma'am.

12 Q. And isn't it true that the reason that the
13 BOLO was put out was to be on the lookout is because
14 that vehicle had fled the scene?

15 A. During the investigation, that's correct,
16 yes, ma'am.

17 Q. So it's your testimony that you had to go
18 out to Beaufort County to locate the vehicle?

19 A. That is correct.

20 Q. Okay.

21 A. When we issued the BOLO, the Beaufort County
22 Sheriff's Office, the responder at our request on
23 behalf of the Hardeeville Police Department, the
24 Beaufort County Sheriff's Office responded to that
25 address. They located the vehicle, immediately

1 informed us, told us where the vehicle was located,
2 and at that particular time that I was advised by
3 the Chief to go respond to the location of the
4 vehicle.

5 Q. Okay, so it involved Hardeeville Police
6 Department getting another law enforcement agency
7 involved in locating the white Cadillac?

8 A. That's correct.

9 Q. Thank you.

10 A. You're welcome.

11 MS. CARMODY: I don't have any other questions,
12 Your Honor.

13 THE COURT: Mr. Hall.

14 MR. HALL: Just one.

15 THE COURT: Yes, sir.

16 MR. HALL: Thank you.

17 **

18 **CROSS-EXAMINATION**

19 BY MR. HALL:

20 Q. Good afternoon, Mr. Mitchell.

21 A. Good afternoon.

22 Q. You had testified a short time ago that you
23 obtained the video surveillance from someone. Can
24 you identify the person that you obtained that
25 surveillance video from, or the still-shot?

1 A. Yes, Doris Jameson.

2 Q. Jameson?

3 A. Yes, sir.

4 Q. Okay. I think you referenced her in your
5 report as Doris Johnson, but her name is, in fact,
6 Doris Jameson?

7 A. Yes, sir.

8 Q. Okay, thank you.

9 MR. HALL: That's all I have.

10 THE COURT: Solicitor, anything else?

11 MS. CAMPBELL: No, sir.

12 THE COURT: All right, thank you, sir, you can
13 step down, appreciate it.

14 MS. CAMPBELL: The State calls Doris Jameson.

15 * *

16 **DORIS JAMESON**

17 being first duly sworn, testified as follows:

18 THE COURT: Hey, ma'am, good afternoon.

19 WITNESS: How are you?

20 THE COURT: Doing great. All right, Solicitor,
21 your witness.

22 MS. CAMPBELL: Thank you, Your Honor.

23 **

24 **DIRECT EXAMINATION**

25 BY MS. CAMPBELL:

1 Q. Good morning, Ms. Jameson, good afternoon
2 almost. Thank you for being with us today. Can you
3 state your name and spell it for our Court Reporter?

4 A. Doris Jameson, D-O-R-I-S, Jameson, J-A-M-E-
5 S-O-N.

6 Q. Thank you, Ms. Jameson. Ms. Jameson, where
7 do you currently work?

8 A. I work at South Carolina Regional Housing
9 Authority.

10 Q. And back in April of 2020 were you also
11 working there at that time?

12 A. Yes.

13 Q. All right. And how long have you had that
14 position?

15 A. 33 years.

16 Q. Okay. On April 22nd, 2020, were you
17 contacted by law enforcement about obtaining
18 surveillance video from the Walsh Drive Apartments?

19 A. Yes.

20 Q. All right. And were you able to locate that
21 surveillance video as requested?

22 A. Yes.

23 Q. All right. And did you turn that
24 surveillance video over to law enforcement?

25 A. Yes.

1 Q. All right. I'm gonna show you what's been
2 marked as State's Exhibit 11, and ask you if you can
3 identify that?

4 A. Yes, it's my initials.

5 Q. All right. And so by saying that you can
6 identify your initials, does that tell us then that
7 you have reviewed what is on State's Exhibit 11?

8 A. Yes.

9 Q. And that it is a fair and accurate depiction
10 of what you turned over to law enforcement?

11 A. Correct.

12 Q. Thank you so much.

13 MS. CAMPBELL: Your Honor, that's all I have.

14 THE COURT: Cross-examination, Ms. Carmody?

15 MS. CARMODY: Briefly, Your Honor.

16 THE COURT: Yes, ma'am.

17 **CROSS-EXAMINATION BY MS. CARMODY**

18 BY MS. CARMODY:

19 Q. Ms. Jameson, what is your job at the Walsh
20 Drive Apartments? What do you do there?

21 A. At the Housing Authority?

22 Q. Uh-huh.

23 A. My title is Director of Housing Management.

24 Q. Okay. And are you familiar with a resident
25 by the name of Robin Washington?

1 A. Yes.

2 Q. And are you familiar with which apartment
3 Robin Washington lives in?

4 A. I'm not sure about the number, but I know
5 where it was.

6 Q. ■ Walsh Drive, does that sound accurate?

7 A. Yes.

8 Q. Do you know who lives with Ms. Robin
9 Washington?

10 A. I don't know --

11 MR. HALL: Objection, relevance.

12 THE COURT: What say you to the objection?

13 MS. CARMODY: Your Honor, this is where the
14 incident occurred and who have been at the --

15 THE COURT: I'm gonna overrule that, go ahead.

16 BY MS. CARMODY:

17 Q. Do you know who lives there?

18 A. I wouldn't be able to tell you without her
19 lease.

20 Q. Okay.

21 A. But I handle properties in nine counties.

22 Q. All right. Are you aware or have you been
23 aware, if you know, whether Jharaun Washington was
24 actually living at this residence?

25 A. I don't know without seeing the lease.

1 MR. HALL: Objection, unless she has knowledge
2 that --

3 THE COURT: Well, she can -- if she knows. Go
4 ahead, ma'am, you can answer.

5 BY WITNESS:

6 A. I don't know unless I look at the lease.

7 Q. Okay. And do you handle any incident
8 reports of any incidents in the area? Do you handle
9 anything like that?

10 A. As a supervisor, I don't get the incident
11 reports. I have employees that do that, and then if
12 it's something that needs to be brought to my
13 attention, as a supervisor, that's what happens.

14 Q. Okay. And you were informed that there was
15 a shooting at [REDACTED] Walsh Drive?

16 A. Correct.

17 Q. And did you take any action against Ms.
18 Robin Washington as a result of that shooting?

19 MR. HALL: Objection, relevance.

20 THE COURT: I'm going to sustain that.

21 BY MS. CARMODY:

22 Q. Where were the cameras located?

23 A. The cameras are all over the property, from
24 the front entrance all the way around to the way out
25 to the parking lot.

1 Q. How many cameras?

2 A. I would have no idea.

3 Q. Do you know when the cameras were put up?

4 A. No, I do not.

5 Q. How long have you been working there?

6 A. 33 years.

7 Q. Would it be in the last couple years, or --

8 A. No, it's been probably about five to seven
9 years.

10 Q. Were the cameras just put up, or were they
11 put up in response to anything?

12 A. The cameras were put up on all public
13 housing properties.

14 Q. Okay.

15 A. We received a grant that allowed us to do
16 that.

17 Q. Okay. Okay, all right. And the camera
18 footage is the footage that you provided to the
19 State in this case?

20 A. Yes.

21 Q. Okay, thank you.

22 MS. CARMODY: No further questions, Your Honor.

23 THE COURT: Mr. Hall, do you have any questions?

24 MR. HALL: Yes, thank you.

25 THE COURT: Yes, sir.

1 **CROSS-EXAMINATION BY MR. HALL**

2 BY MR. HALL:

3 Q. Good afternoon, Ms. Jameson.

4 A. Good afternoon.

5 Q. Questions for you specifically about the
6 surveillance system itself, okay? You've testified
7 that you were responsible for providing that to law
8 enforcement; is that correct?

9 A. Correct.

10 Q. As part of providing that to law
11 enforcement, were you tasked, or was it part of your
12 job to ensure that the camera angles that you gave
13 them were in sync with one another timewise?

14 A. They should have been.

15 Q. Okay. So if one camera angle shows me that
16 it's April 22nd, 2020, at 11:00 a.m. or 11:40 a.m.
17 and X number of seconds, what appears on one camera
18 is going to be exactly the same that appears on
19 another camera?

20 A. No.

21 Q. And --

22 A. And the reason why is because they're
23 pointed different. The camera -- all the cameras
24 are not on one spot; they are all over.

25 Q. Correct, but I -- the -- I guess what I'm

1 trying to get to, and doing it somewhat poorly, is
2 that if one camera's over here and one camera's over
3 here, if you obtained video from both of those
4 cameras, they're going to show the same exact time.

5 A. In some instances, yes, and in some, no,
6 it's a matter of minutes -- or seconds.

7 Q. Okay.

8 A. So --

9 Q. Well, seconds being very important. So had
10 you ever provided video to law enforcement from
11 Walsh Drive from multiple angles, where the times on
12 the different cameras were not the same?

13 A. I can't -- I don't know.

14 Q. Okay. But in terms of what you've provided
15 to law enforcement in this case, it's your testimony
16 or your belief that the camera that's showing one
17 angle, a camera showing another angle they were in
18 sync, they showed the exact same time?

19 A. Yes.

20 Q. You were able to testify to that. Did you
21 verify that that was, in fact, the case?

22 A. I can't testify to that as I said earlier.

23 Q. Okay.

24 A. You're asking me the same question; I'm
25 giving you the same answer.

1 Q. Okay, very good, and perhaps I'm just, you
2 know, asking it a couple of different ways. So the
3 end result is you were unable to testify that a
4 timestamp on one camera is going to be exactly the
5 same as a timestamp on another camera?

6 A. I'm not saying that I'm unable to. If I can
7 see the film, I can look at it and know whether or
8 not the timestamps are the same or not.

9 Q. But you --

10 A. I look at film all the time, so it's
11 difficult for me to sit here and tell you it was at
12 5:45.

13 Q. Understood, but you were asked as part of
14 this, prior taking the stand, to review that
15 footage, to ensure that it was accurate.

16 A. The film is accurate.

17 Q. Okay, but you --

18 A. The time -- as far as the time, I can't
19 testify to that.

20 Q. Very good.

21 A. Because I didn't look at that time, but I do
22 know that that video is accurate.

23 Q. Very good, thank you.

24 MR. HALL: That's all I have.

25 THE COURT: All right, Solicitor, do you have

1 anything else?

2 MS. CAMPBELL: No, sir.

3 THE COURT: All right, Ms. Jameson, thank you
4 very much.

5 WITNESS: Thank you.

6 MS. CAMPBELL: The State calls Hardeeville
7 Police Chief Lawrence Wiggins.

8 * * *

9 **LAWRENCE WIGGINS**

10 * * *

11 being first duly sworn, testified as follows:

12 THE COURT: All right, your witness, Solicitor.

13 MS. CAMPBELL: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 BY MS. CAMPBELL:

16 Q. Say your name and spell it for our Court
17 Reporter.

18 A. Lawrence Wiggins, L-A-W-R-E-N-C-E W-I-G-G-I-
19 N-S.

20 Q. All right, I'm gonna say Chief Wiggins; is
21 that right?

22 A. That's correct.

23 Q. Okay. Where are you currently employed?

24 A. I'm currently the Chief of Police for the
25 Allendale Police Department in Allendale, South

1 Carolina.

2 Q. Back in April of 2020 where were you
3 employed?

4 A. I was employed at the South Carolina Law
5 Enforcement Division, commonly referred to as SLED
6 as a Special Agent in the Low Country Division.

7 Q. And as a Special Agent at that time -- and
8 how long had you been with SLED as of April 2020?

9 A. As of April 2020 I think I was in the
10 neighborhood of four and a half years.

11 Q. In that role in the Low Country as a Special
12 Agent, were you aware of, or being called out to a
13 shooting in Hardeeville, South Carolina on April
14 22nd, 2020?

15 A. Yes.

16 Q. All right. And do you recall where you
17 first went?

18 A. The first place I stopped was the scene of
19 an accident, which I -- which is where the vehicle
20 came to rest, and then I proceeded on to meet other
21 Agents over at the apartment complex.

22 Q. So first at the crash site and then over to
23 the Walsh Drive Apartments?

24 A. Correct.

25 Q. And were you tasked with any responsibility

1 during the early stages of this investigation?

2 A. Correct. During the initial stages I
3 assisted just at the scene with talking to anybody
4 who may have been around. A day or two later I
5 secured some of the video footage related from the
6 security cameras at the apartment complex.

7 Q. All right. I'm gonna show you what's been
8 marked as State's Exhibit 11, and ask you if you can
9 identify State's Exhibit 11?

10 A. Yes, this is the disk video.

11 Q. And how do you identify it?

12 A. My initials are on it.

13 Q. Which means that you have viewed State's
14 Exhibit 11?

15 A. I have.

16 Q. And you found it to be a fair and accurate
17 depiction of the surveillance video that you
18 obtained relative to this incident?

19 A. Correct.

20 Q. All right, thank you.

21 (Court Reporter marks State's Exhibit Number 11,
22 Video Disk, as attached hereto.)

23 MS. CAMPBELL: Your Honor, at this time the
24 State seeks to admit State's 11 and publish it for
25 the jury.

1 THE COURT: Ms. Carmody, any objection to
2 State's 11?

3 MS. CARMODY: May we approach, Your Honor?

4 THE COURT: Sure.

5 (Bench conference).

6 THE COURT: All right, so, Ms. Carmody, was
7 there any objection to this?

8 MS. CARMODY: No, Your Honor.

9 THE COURT: All right, Mr. Hall?

10 MR. HALL: No objection, Your Honor.

11 THE COURT: All right, so State's 11 is admitted
12 without objection. Thank you.

13 (State's Exhibit 11 admitted into evidence.)

14 MS. CAMPBELL: All right, Your Honor, at this
15 time we will publish State's Exhibit 11.

16 THE COURT: Okay.

17 BY MS. CAMPBELL:

18 Q. And while we're waiting there's four
19 different camera angles; is that correct, Chief?

20 A. Yes.

21 Q. Thank you. Chief, I'm gonna show you what's
22 been marked as State's Exhibits 12, 13 and 14, and
23 ask you if you can identify those?

24 A. These are still photos from the video that I
25 obtained.

1 Q. From the surveillance video?

2 A. Right.

3 Q. From State's Exhibit 11?

4 A. Yes.

5 Q. And do they give you a fair and accurate
6 depiction of the side-by-side action in State's
7 Exhibit 11?

8 A. Yes, they do.

9 Q. All right.

10 (Court Reporter marks State's Exhibit 12, Still-
11 Shot Photograph, as attached hereto.

12 (Court Reporter marks State's Exhibit 13,
13 Still-Shot Photograph, as attached hereto.)

14 (Court Reporter marks State's Exhibit 14, Still-
15 Shot Photograph, as attached hereto.)

16 MS. CAMPBELL: Your Honor, at this time the
17 State seeks to introduce State's Exhibits 12, 13 and
18 14 and publish to the jury.

19 THE COURT: Ms. Carmody?

20 MS. CARMODY: No objection, Your Honor.

21 THE COURT: Mr. Hall?

22 MR. HALL: I would just like to take a look at
23 them briefly.

24 THE COURT: Of course.

25 MR. HALL: Thank you. I've looked at them

1 before, I just want to see it this afternoon if they
2 are. Thank you, without objection.

3 THE COURT: All right, 12, 13 and 14 are
4 admitted without objection.

5 (State's Exhibits 11 - 14 admitted into
6 evidence.)

7 MS. CAMPBELL: All right, if we can pull up
8 State's 12, please for the jury?

9 (Video being played for the jury.)

10 BY MS. CAMPBELL:

11 Q. All right let's walk through this if we
12 could. On the side of State's Exhibit 12 that
13 depicts the Chevy Malibu, can you give us the date
14 and time?

15 A. April 22nd, 2020, at 11:09 in the morning.

16 Q. 11:09 and 19 seconds?

17 A. Correct.

18 Q. All right. And on the other side showing
19 the white Cadillac?

20 A. It is April 22, 2020, 11:09 and 19 seconds.

21 Q. All right. And what is depicted in each of
22 these frames?

23 A. In the first frame you've got an individual
24 exiting the rear of the vehicle, who eventually goes
25 to the trunk of that vehicle, retrieve the firearm,

1 and you also have an individual that goes to the
2 white Cadillac, and retrieves a firearm.

3 By watching the video, you can see just prior to
4 this one observes the other, and they kind of both
5 react.

6 MS. CARMODY: Objection

7 THE COURT: Hold on.

8 MS. CARMODY: Speculation.

9 MR. HALL: Your Honor, and I'll join the
10 objection just to the extent it appears that Chief
11 Wiggins is putting his own personal spin on what he
12 sees in the video, and that's up for the jury to
13 decide.

14 THE COURT: All right, so I'll sustain that
15 objection. Go right -- that's -- go ahead,
16 Solicitor, thank you.

17 MS. CAMPBELL: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q. The next one, please, State's Exhibit 13.
20 All right, for the record and for an explanation of
21 our times, on the silver Chevy Malibu circled in
22 yellow, something is coming out of the window. As
23 you watched the video, what did you determine in
24 your investigation that that was?

25 A. A firearm.

1 Q. All right. And that date and time is?

2 A. April 22nd, 2020, at 11:09 --

3 MR. HALL: Your Honor, that's --

4 THE COURT: Hold on, hold on. Yes, sir, did you
5 have an objection?

6 MR. HALL: Yeah, I do. I'm going to ask that
7 that last answer be stricken from the record.
8 Again, that's his interpretation of what he's seeing
9 in the photo, and I know there's no other camera
10 angles, to my knowledge, that's actually going to
11 show what that is.

12 THE COURT: All right, what do you say,
13 Solicitor?

14 MS. CAMPBELL: I think if he testifies about
15 what he sees coming out --

16 THE COURT: Well --

17 MS. CAMPBELL: -- that is admissible.

18 THE COURT: All right, I'm gonna overrule the
19 objection. I think that he testified that that's
20 what his investigation -- I don't think he's saying
21 that he just looks at it and says that's what it is,
22 I think since he said from his investigation, and so
23 I will allow that.

24 MS. CAMPBELL: Thank you, Your Honor.

25 BY MS. CAMPBELL:

1 Q. And then on the other side, the time, and
2 the date, and what is depicted there through your
3 investigation?

4 A. April 22nd, 2020, 11:09 and 38 seconds.
5 That is an individual standing outside of the white
6 Cadillac pointing a firearm back in the direction of
7 the silver Malibu.

8 Q. Thank you. And State's Exhibit 14?

9 A. All right, and, again, the silver Chevy
10 Malibu, can you give us the date and time of that
11 for the record?

12 A. April 22nd, 2020, 11:09 and 45 seconds.

13 Q. And over on the white Cadillac, the date and
14 time?

15 A. April 22nd, 2020, 11:09 and 45 seconds.

16 Q. All right. Thank you very much. Now,
17 having reviewed State's Exhibit 11, which we've just
18 published to the jury, and the still photos, were
19 you asked to use State's Exhibit 15?

20 A. Yes.

21 Q. All right, and do you recognize State's
22 Exhibit 15, and, if so, how do you recognize it?

23 A. I do, it has my initials on it.

24 Q. All right, and is it a fair and accurate
25 depiction of the surveillance video the split

1 screen, so that you can see action from both the
2 white Cadillac and the silver Chevy Malibu at the
3 same time?

4 A. It is.

5 Q. All right.

6 MS. CAMPBELL: Your Honor, at this time the
7 State seeks to introduce State's Exhibit to the
8 jury.

9 THE COURT: Ms. Carmody?

10 MS. CARMODY: Your Honor, my objection would be
11 that the -- Doris Jameson had testified that she
12 could not confirm that the times were correct, so --

13 THE COURT: All right.

14 MS. CARMODY: -- I don't know that the time is
15 right.

16 THE COURT: I'll tell you what, ladies and
17 gentlemen, let me send you back to the jury room for
18 one minute, and we'll get you right back in here,
19 thank you. Don't talk about the case.

20 (Jury exits the courtroom.)

21 THE COURT: All right, Ms. Carmody, go ahead,
22 we're just getting a little too deep for me to keep
23 them out there, go right ahead.

24 MS. CARMODY: Yes, Your Honor, I believe that
25 Doris Jameson had testified that she couldn't

1 testify that the time on the video were necessarily
2 accurate, in terms of the accuracy. I did not
3 object to the State's admission of the surveillance
4 videos in State's 11, and even still in 12, 13 and
5 14. Now I think that this is not only -- we don't
6 know if it's a fair and accurate representation of
7 the videos side-by-side because of the times, and
8 also I think we've already seen that the
9 surveillance video, as well as the still photos, I
10 think it's admissible.

11 THE COURT: Mr. Hall, do you join in, sir?

12 MR. HALL: I do. I do, Your Honor. I just
13 obviously want to make the point that Ms. Jameson,
14 with respect to the timestamp, said -- that she
15 actually covered that with Chief Williams on my
16 cross. I do have concerns and will join in the
17 objection --

18 THE COURT: Yes, sir.

19 MR. HALL: -- on lack of proper foundation, with
20 respect to the accuracy of the timestamps.

21 THE COURT: All right, Solicitor?

22 MS. CAMPBELL: Your Honor, number one, State's
23 Exhibit 11 is already in evidence, and has already
24 been published to the jury. State's 12, 13 and 14
25 are exhibits that further view that exhibit, State's

1 Exhibit 11, which is the surveillance video, still
2 photos side-by-side.

3 State's Exhibit 15 is that just in video form.
4 This is proper cause, and there is a proper
5 argument. These timestamps on the video can be a
6 matter for cross-examination, can be a matter for
7 closing.

8 THE COURT: All right.

9 MS. CAMPBELL: However, this evidence is
10 relevant and helpful to the jury to make the
11 determination they have to make.

12 THE COURT: All right. A, I agree with -- I'm
13 going to overrule your objection. I agree with the
14 Solicitor, I think it will be helpful, and, number
15 two, I think the point as it relates to hooking up,
16 and side-by-side, and whether the timing is correct,
17 I think that certainly has been made, but I think
18 that's gonna go to the weight and not the
19 admissibility, and I think certainly fertile ground
20 for cross-examination.

21 So with all due respect, sir, I'm going to deny
22 your -- and, Ms. Carmody, I'm gonna deny your
23 motion, and allow it to be admitted over your
24 objection, State's 15. Anything else we need to
25 take up before we bring the jury back in?

1 MS. CAMPBELL: No, sir.

2 THE COURT: All right, let's get the jury back
3 in, please.

4 (Jury enters the courtroom.)

5 **

6 PROCEEDINGS CONTINUED

7 BAILIFF: The jury's seated, Your Honor.

8 THE COURT: Thank you, sir. All right, Madam
9 Forelady, ladies and gentlemen of the jury, I'm
10 going to admit State's 15 over objection of the
11 defense, and I think each Defendant objected. I'm
12 gonna admit it subject to the objection. You can go
13 ahead.

14 MS. CAMPBELL: Thank you, Your Honor. So at
15 this time I'd like to publish State's Exhibit 15 for
16 the jury.

17 (State's Exhibit 15 admitted into evidence.)

18 THE COURT: Yes, ma'am.

19 MS. CAMPBELL: Thank you, Your Honor.

20 BY MS. CAMPBELL:

21 Q. Chief Wiggins, when you were involved in the
22 investigation was there an agent who took over the
23 overall running of this case for SLED?

24 A. Yes, that would be Special Agent Merrell.

25 Q. Thank you so much. And so as far as your

1 involvement that would conclude your involvement and
2 testimony today?

3 A. Correct.

4 Q. All right, thank you.

5 MS. CAMPBELL: That's all I have.

6 THE COURT: All right, Ms. Carmody, do you have
7 cross-examination?

8 MS. CARMODY: Yes.

9 THE COURT: Yes, ma'am.

10 **CROSS-EXAMINATION**

11 BY MS. CARMODY:

12 Q. Agent Wiggins, we're gonna back up to that
13 last video. First of all, before we do that, where
14 -- what are we looking at on there? So, like,
15 what's the address that we're looking at?

16 A. What's the address?

17 Q. Uh-huh.

18 A. It's an apartment complex view.

19 Q. So where is this camera -- the last camera.

20 MS. CARMODY: If we can pull it up, we can see
21 it and play it.

22 MS. CAMPBELL: State's Exhibit 15?

23 MS. CARMODY: Yes, I'm sorry.

24 MS. CAMPBELL: Okay.

25 BY MS. CARMODY:

1 Q. So the camera two on the right-hand side,
2 where is that?

3 A. That's the camera that posted looking
4 towards the direction of the camera that's on the
5 left.

6 Q. Okay, so what is the address of the
7 apartment on the left-hand side of the right -- so,
8 let's look at the video on the right, let's look at
9 that one for a moment. What is the address of that
10 apartment on the left-hand side?

11 A. Where the gentleman's running to the
12 Cadillac?

13 Q. Where have they run from to the Cadillac,
14 where's that address?

15 A. I have a copy of the investigate report, if
16 it's okay to refer to it?

17 Q. Absolutely.

18 A. The apartment where the two groups of
19 individuals run to the two cars is going to be
20 Apartment Number [REDACTED].

21 Q. Okay, and the two cars that are parked
22 outside that we're seeing right there on the camera
23 to the right, is that right one the white Cadillac?

24 A. I believe so.

25 Q. And is the other one a gray Chevy Camry, I'm

1 sorry, a Toyota Camry?

2 A. That is correct.

3 Q. Okay. And -- all right, and the camera on
4 the left, where is that camera located?

5 A. That camera is going to be on this pole, one
6 of those two poles kind of angled down right above
7 the bush.

8 Q. Okay, so in the photograph on the right, we
9 see two poles, right, or two poles sticking out from
10 the bushes there?

11 A. Correct.

12 Q. Okay, and is this camera on the left the
13 camera footage from that?

14 A. Yes.

15 Q. Okay. All right, so we're looking at a
16 downward angle now, correct?

17 A. It's kind of weird.

18 Q. The camera's high on the pole --

19 A. Correct.

20 Q. -- and we're looking downward? Okay, all
21 right. And the camera on the right is more of a
22 straight-on view, or is that one up on the pole as
23 well?

24 A. It's -- I can't attest to where it's
25 mounted. It appears to be mounted at an elevated

1 level, but it does appear to be more of a wide
2 angle, kind of just a straight shot.

3 Q. Okay, all right. And can you -- what is the
4 time on the video right now?

5 A. 11:08:53.

6 Q. Okay, and --

7 MS. CARMODY: All right, if you could play the
8 video, please.

9 (Video being played for the jury.)

10 BY MS. CARMODY:

11 Q. Okay, do you see a black car that's coming
12 around the corner?

13 A. Uh-huh.

14 Q. Okay, and then you see a gray car pulling --
15 is the gray car pulling out?

16 A. It appears to be.

17 Q. Okay.

18 MS. CARMODY: Can you back it up a little bit,
19 please?

20 BY MS. CARMODY:

21 Q. So the black car is coming around the
22 corner, and as the black car is coming around the
23 corner, do you see the Chevy Malibu taking the
24 corner, correct?

25 A. Correct.

1 Q. All right. And the individual is already
2 walking towards these vehicles?

3 A. Yes.

4 Q. Okay. And do you have an identification of
5 that vehicle, or were you able to obtain one, who
6 that is?

7 A. We did.

8 MR. HALL: Your Honor, I'm going to object.
9 There's been direct testimony to the extent of Chief
10 Wiggins' participation in this was to obtain the
11 video, and anything he learned afterwards would have
12 been from another source, and not part of his
13 investigation.

14 THE COURT: All right, Ms. Carmody, do you have
15 any response to that?

16 MS. CARMODY: No, Your Honor.

17 THE COURT: Okay, I'm going to sustain that
18 objection, based on the testimony that was elicited
19 on direct, yes, ma'am.

20 MS. CARMODY: All right, thank you, Your Honor.

21 BY MS. CARMODY:

22 Q. So the individual, can you identify what
23 he's wearing?

24 A. A white tank top and some dark-colored
25 pants.

1 Q. And the individual, would it be fair to say
2 that the individual is coming from the [REDACTED] Walsh
3 Drive to the vehicles?

4 A. Correct.

5 Q. And is it also fair to say that the Chevy
6 Malibu has not stopped?

7 A. At the location it's at right now, no, it
8 continues through, it doesn't stop there.

9 Q. Okay.

10 MS. CARMODY: Can you play that video again?

11 (Video being played for the jury.)

12 BY MS. CARMODY:

13 Q. The Chevy Malibu stops right now, right?

14 A. Correct.

15 Q. Okay.

16 MS. CARMODY: And pause it for us again.

17 BY MS. CARMODY:

18 Q. Okay, so now we see an individual on the
19 left-hand side get out of the car and he's going to
20 the trunk, right?

21 A. Correct.

22 Q. And while he's doing that, he's behind the
23 bushes, so from the vantage point of the camera on
24 the right, he's behind the bushes, correct?

25 A. Correct.

1 Q. Okay. So from this vantage point you can't
2 see what's going on with that car, correct?

3 MR. HALL: Objection, Your Honor, she's asking
4 the witness to speculate as to what the person
5 standing there could or could not see.

6 THE COURT: All right, I'm going to sustain
7 that. You need to rephrase your question, Ms.
8 Carmody.

9 MS. CARMODY: Yes, your Honor.

10 BY MS. CARMODY:

11 Q. Okay, so from the camera angle on the right-
12 hand side, again, let's go back to that camera
13 angle.

14 A. Uh-huh.

15 Q. So that camera, we're talking about a camera
16 that's down the road further.

17 A. Correct.

18 Q. Okay. So is that camera looking at the area
19 outside of [REDACTED] Walsh Drive?

20 A. It is.

21 Q. And the Chevy Malibu is parked behind the
22 bushes on the camera on the right-hand side?

23 A. That's correct.

24 Q. Okay. And from the vantage point of [REDACTED]
25 Walsh Drive, we cannot see the trunk of that

1 vehicle, correct?

2 A. On the video, no.

3 Q. Okay. Now --

4 MS. CARMODY: If you could play the video again?

5 (Video being played for the jury.)

6 MS. CARMODY: Okay, pause it.

7 BY MS. CARMODY:

8 Q. Okay, is there another individual who's
9 coming out of [REDACTED] towards the Cadillac?

10 A. There is.

11 Q. Okay. Not the same individual, this is
12 another person?

13 A. This is a different person, right.

14 Q. Okay.

15 MS. CARMODY: Play the video again.

16 (Video being played for the jury.)

17 MS. CARMODY: Okay, stop.

18 BY MS. CARMODY:

19 Q. Okay, based on what you learned from your
20 investigation, is the person in the right-hand video
21 aiming a firearm at that car?

22 A. Where the video is stopped now, I can't
23 determine that.

24 Q. Okay. From the left-hand screen though, we
25 can determine that the person who got the firearm

1 out of the trunk, the vehicle's now in motion
2 driving down the road?

3 A. That is correct.

4 Q. Okay, and the back window of that vehicle is
5 closed?

6 A. It appears that way, yes.

7 Q. Okay. And the vehicles would be heading
8 towards the area to leave the apartment community?

9 A. That's correct.

10 Q. Okay.

11 MS. CARMODY: And now play the video again.

12 (Video being played for the jury.)

13 BY MS. CARMODY:

14 Q. All right, now, okay, so the vehicle is
15 still in motion on the left-hand screen?

16 A. That is correct.

17 Q. All right, and on the right-hand screen we
18 can -- I think it's a clearer view, it's actually a
19 clearer view as well, we have the person in that
20 video. Does it appear that that gun is trained on
21 that gray Malibu?

22 A. It is pointed in that direction.

23 Q. Okay. And the person standing on -- behind
24 the Cadillac appears to be shooting at the Malibu?

25 A. In that direction, correct.

1 Q. Okay. Could you tell, based on your
2 investigation, how many shots had been fired?

3 A. That I cannot.

4 Q. Okay.

5 MR. HALL: Okay, he's answered the question.

6 THE COURT: Yes, sir.

7 MR. HALL: Thank you.

8 MS. CARMODY: Okay, all right. Now play the
9 video again.

10 (Video being played for the jury.)

11 BY MS. CARMODY:

12 Q. Okay, so the car's stopped.

13 MS. CARMODY: Move back up a little. Okay, so
14 play it forward.

15 BY MS. CARMODY:

16 Q. Okay, so the car stops there.

17 MS. CARMODY: Stop it for a moment.

18 BY MS. CARMODY:

19 Q. Okay. And the passenger side door is open,
20 correct?

21 A. Correct.

22 Q. Okay. And the vehicle is stopped, but we
23 don't know why, correct? You don't know why they're
24 stopped there?

25 A. I don't know why it stopped, that's correct.

1 Q. But it appears to be stopped on the video?

2 A. Uh-huh.

3 Q. Okay. All right, so the passenger side door
4 actually opens first.

5 MS. CARMODY: Now, can you play the video again?

6 (Video being played for the jury.)

7 MS. CARMODY: Pause right there.

8 BY MS. CARMODY:

9 Q. Okay, all right, so from this vantage point,
10 and I want to make sure that we all understand
11 what's going on. On the left-hand side the --
12 initially, that was on the corner?

13 A. Correct.

14 Q. Actually, you know what? If you could come
15 down and show that.

16 A. Sure.

17 Q. So can you be sure the jury where the car
18 had stopped in the parking lot on the left-hand
19 camera?

20 A. Back up, right --

21 Q. Okay.

22 A. -- there.

23 Q. And so that the vehicle had continued to
24 travel down the road to the exit of the apartment
25 community, correct?

1 A. Correct.

2 Q. Okay, and now the vehicle is well past these
3 apartments here on the right? These apartments --

4 A. Yes.

5 Q. -- here? Okay, and the individuals are
6 still behind this apartment building here, right?

7 A. I don't know.

8 Q. So --

9 A. I want to make sure I understand what you're
10 saying.

11 Q. Right.

12 THE COURT: Okay, and you're gonna need to speak
13 up just a little bit. I want to make sure my Court
14 Reporter hears you, okay, sir?

15 WITNESS: I apologize.

16 THE COURT: No, you're good, you're good.

17 BY MS. CARMODY:

18 Q. So when you say where the car is on the
19 left-hand video in relationship to the cars and the
20 guys on the right-hand side?

21 A. They were there, but they -- the vehicles
22 kind of come past the end point of the apartments on
23 the right, so that is almost kind of out of the
24 community.

25 Q. Okay, so this -- the Chevy Malibu, it's a

1 Chevy Malibu, right?

2 A. Correct.

3 Q. Okay, is already past the view of this
4 camera?

5 A. Correct.

6 Q. Okay. So the individuals that are shooting
7 at the Chevy Malibu are firing at an angle --

8 A. Right.

9 Q. -- toward this way, correct?

10 A. Yes.

11 Q. Would it be fair to say that they're firing
12 on this red car?

13 A. Yes, that's what it appears.

14 Q. Okay, and then this individual here he -- is
15 he firing in any particular direction?

16 A. Yes.

17 Q. Can you tell if he's firing in any
18 particular direction?

19 A. It appears the firearm's pointing in the
20 direction of the red --

21 THE COURT: I can't hear you, sir, you need to
22 speak up a little bit.

23 WITNESS: I'm sorry.

24 THE COURT: You're good, Chief.

25 BY WITNESS:

1 A. It appears that the firearm is pointed in
2 the direction of the red sedan.

3 Q. Okay.

4 THE COURT: All right.

5 BY MS. CARMODY:

6 Q. So the vehicle passed the -- passed the
7 other apartments?

8 A. It did.

9 Q. This is -- oh, I'm sorry.

10 A. I answered the question, did the Malibu
11 pass? Yes, the Malibu would be adjacent to the
12 building that's on the right.

13 Q. Okay, and the building on the right is not
14 [REDACTED] Walsh Drive?

15 A. It's not.

16 Q. Okay.

17 MS. CARMODY: All right, if you can play the
18 video again?

19 THE COURT: Hold on, hold on, are you keeping
20 him right there? Do you want your witness to
21 continue to stand right there?

22 MS. CARMODY: It'd probably be better, Your
23 Honor --

24 THE COURT: All right, that's fine.

25 (Video being played for the jury.)

1 MS. CARMODY: Pause it again. Back it up. All
2 right, thank you. Back it up just a little bit
3 more. Okay, stop it.

4 BY MS. CARMODY:

5 Q. Did the person on the left-hand side that
6 ran from that Malibu?

7 A. He did.

8 Q. Okay.

9 MS. CARMODY: And play it again.

10 (Video being played by the jury.)

11 MS. CARMODY: And stop. Back it up a little
12 bit. Okay, right there.

13 BY MS. CARMODY:

14 Q. And the other person that exited the Malibu
15 is also running from the Malibu as well?

16 A. That is correct.

17 Q. Okay. And if you play it again, when the
18 vehicle takes off, is the car door still open?

19 (Video being played for the jury).

20 A. It appears to be.

21 MS. CARMODY: No further questions, Your Honor.

22 THE COURT: Mr. Hall?

23 MR. HALL: Just a couple, Judge.

24 THE COURT: Yes, sir

25 CROSS-EXAMINATION BY MR. HALL

1 BY MR. HALL:

2 Q. Good afternoon, Chief Wiggins.

3 A. Good afternoon.

4 Q. When you obtained the surveillance videos
5 from Doris Jameson, you accepted them as is,
6 correct?

7 A. Correct.

8 Q. All right, so that was without any
9 independent verification, as to whether camera were
10 in sync with timestamps; is that correct?

11 A. Correct.

12 Q. And Ms. Carmody just had you -- and I want
13 to thank Investigator Rowell (phonetic) from the
14 Solicitor's Office for having the patience of a
15 saint going through that video and reversing it, and
16 all of that. I'm not gonna take you back through
17 that, but I do want to ask you about State's Exhibit
18 11, and that was the different camera angles showing
19 the Malibu with the Cadillac; is that correct?

20 A. Correct.

21 Q. The one with the Cadillac, just the Cadillac
22 all by itself --

23 A. Uh-huh.

24 Q. -- that appeared to have sound; did it not?

25 A. It did appear to have sound.

1 Q. So you could hear what sounded like
2 gunshots?

3 A. Correct.

4 Q. The individual videos from the Malibu, where
5 the other individual was shown firing towards where
6 the white Cadillac was, but there doesn't appear to
7 be any sounds on those videos?

8 A. That's correct.

9 Q. All right, so my question is from the
10 combined interviews -- or the combined videos that
11 show the Cadillac on one side and the Malibu on the
12 other, I heard sounds coming from what appeared to
13 be the Malibu side of the video and not from the
14 Cadillac side.

15 Did you catch that as well?

16 A. I did not.

17 Q. Okay, all right. That's fine.

18 MR. HALL: Thank you, Judge, I have no other
19 questions.

20 THE COURT: All right, Solicitor, do you have
21 any redirect?

22 MS. CAMPBELL: No, sir.

23 THE COURT: Ms. Carmody?

24 MS. CARMODY: No, Your Honor.

25 THE COURT: All right, great. Chief, thank you

1 MS. CAMPBELL: Your Honor, I'd just like to
2 place on the record that during the lunchbreak
3 defense counsel for Mr. Washington and for Mr.
4 Rivers and I, along with two SLED Agents, we have
5 secured the weapons that are going to be introduced
6 this afternoon, and ensured that they are fixed with
7 gunlocks, and everybody was present for that, and
8 everybody agreed to do that for the safety of
9 everyone in the courtroom. We separated the bullets
10 and the magazines as well.

11 THE COURT: All right. Anything else, Ms.
12 Carmody?

13 MS. CARMODY: No, Your Honor.

14 THE COURT: Mr. Hall?

15 MR. HALL: Just simply a statement for the
16 record that what Ms. Campbell has said is true. We
17 were present and witnessed the boxes being opened
18 and separately packaged and gunlocks being placed on
19 for safety for everyone in the courtroom.

20 MS. CARMODY: I concur.

21 THE COURT: All right, that sounds great. Let's
22 get the jury, please.

23 (Jury enters the courtroom.)

24 BAILIFF: We're ready, Your Honor.

25 THE COURT: All right, thank you. Madam

1 Forelady, ladies and gentlemen of the jury, I
2 believe we are ready to continue with the case.
3 Solicitor, you can call your next witness, please.

4 MS. CAMPBELL: Thank you, Your Honor. The State
5 calls SLED Special Agent Katie McCallister.

6 * * *

7 **KATIE MCCALLISTER**

8 * * *

9 being first duly sworn, testified as follows:

10 THE COURT: All right, Solicitor, your witness.

11 MS. CAMPBELL: Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 BY MS. CAMPBELL:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Could you please state your name and spell
17 it for our Court Reporter?

18 A. Yes, it's Mary Katherine McCallister, M-C-C-
19 A-L-L-I-S-T-E-R, but I go by Katie.

20 Q. Thank you. Agent McCallister, where do you
21 currently work?

22 A. I'm employed by the South Carolina Law
23 Enforcement Division, more commonly known as SLED.

24 Q. And how long have you worked for SLED?

25 A. Just over ten years.

1 Q. And what is your role at SLED? What are
2 your job responsibilities?

3 A. So I'm a Senior Special Agent in the Low
4 Country Region, we're Investigative Services. We
5 investigate all types of things, from blue collar,
6 white collar, violent crime. Any request we get
7 we'll investigate it.

8 Q. So you can receive a request from local law
9 enforcement to assist them with their investigation?

10 A. Yes, ma'am.

11 Q. All right. And on April 22, 2020, did SLED
12 receive a request, and did you respond?

13 A. We did. We received a request from
14 Hardeeville Police Department, and from there I
15 responded to Hardeeville, South Carolina.

16 Q. Okay, so you first responded to Hardeeville.
17 Do you recall where you responded to in Hardeeville?

18 A. It was the apartments on Walsh Drive, I
19 don't remember their exact names.

20 Q. And while you were on the scene at Walsh
21 Drive, do you recall if you did any particular
22 activities at Walsh Drive?

23 A. So, initially, I was there to assist Special
24 Agent Merrell, but from there I was assigned to go
25 to Beaufort County as more of a follow-up in regard

1 to this case.

2 Q. All right, and so in Beaufort County where
3 exactly did you head to? Was there an address or a
4 particular location?

5 A. Yes, I was told to go to ■ Pinecrest Lane in
6 Beaufort, South Carolina.

7 Q. All right, and when you went to ■ Pinecrest
8 Lane in Beaufort, South Carolina, did you encounter
9 any individuals at that address?

10 A. I did.

11 Q. And who did you encounter?

12 A. Once I arrived on-scene I met with Shiron
13 Brown.

14 Q. All right. And in addition to meeting with
15 Shiron Brown at that location, were there any items
16 that we've heard about in this case, like a white
17 Cadillac at that location?

18 A. Yes, his car was a white Cadillac, and was
19 on-the-scene at Pinecrest Lane.

20 Q. Did you have an opportunity to talk to Mr.
21 Brown and interview him?

22 A. I did.

23 Q. Did he consent to give you his Glock 23 that
24 he had on him?

25 A. He did.

1 Q. I'm going to show you what has been marked
2 as State's 99A, and then 99B, and just ask you to
3 take a look at those items right now, and just see
4 if you can identify them, and how you can?

5 A. Yes, I know what these items are.

6 Q. Okay, and what are these items?

7 A. So in the manilla envelope --

8 Q. Uh-huh.

9 A. -- is a magazine and several rounds that
10 were contained in this weapon. It is a Glock 23 .40
11 caliber that was given to me by Mr. Brown.

12 Q. All right, thank you. When Mr. Brown gave
13 the Glock 23, State's 99A and State's 99B, which
14 would be the magazine and the bullets, when he gave
15 those items to you, what did you do with them?

16 A. So at the time the magazine and the rounds
17 were in the weapon. I cleared the weapon, made it
18 safe for everybody to handle. I put them in a paper
19 bag, which is inside that gun box. I labeled it
20 with the date on top with my initials, and then once
21 we cleared up in Beaufort County, we went back to
22 Hardeeville, where I gave those items to our SLED
23 Crime Scene Unit, by way of a property receipt.

24 Q. And the SLED Crime Scene Unit advised
25 Special Agent Dalila -- I guess at that time Jazic

1 Cirencione; is that correct?

2 A. Yes, so she was Dalila Jazic then, but
3 currently her name is Dalila Cirencione, she got
4 married.

5 Q. All right.

6 MS. CAMPBELL: That's all I have.

7 THE COURT: All right, cross-examination, Ms.
8 Carmody?

9 MS. CARMODY: Yes, sir.

10 **CROSS-EXAMINATION BY MS. CARMODY**

11 BY MS. CARMODY:

12 Q. Good afternoon, Agent McCallister.

13 A. Good afternoon.

14 Q. When you proceeded to Beaufort County, ■
15 Pinecrest Lane, were you told to go there, or did
16 someone call you to tell you to go there?

17 A. I believe -- I'm not sure how we got the
18 information, but a vehicle had been located that was
19 rolling up to our scene, and so I was the agent
20 assigned to go.

21 Q. And that had been in response to the BOLO
22 that was put out?

23 A. Potentially.

24 Q. Okay. All right, and what day and time did
25 you arrive at the ■ Pinecrest Lane?

1 A. Judge, may I refer to my notes?

2 THE COURT: Sure.

3 BY WITNESS:

4 A. I arrived at Pinecrest Lane on April 22nd,
5 2020. Before speaking with Mr. Brown, we pulled out
6 a brief form that it is timestamped 4:30, so I
7 imagine I would have arrived on-scene somewhere
8 around 4:00 p.m.

9 Q. How long after the shooting incident at
10 Walsh Drive was it that you were at Mr. Brown's
11 address?

12 A. I do not remember the exact time of the
13 incident.

14 Q. Do you remember the date of the incident?

15 A. I believe it was April 22nd, 2020.

16 Q. Do you remember if it was morning?

17 A. I think it was somewhere around lunchtime.

18 Q. When you recovered the firearm from Mr.
19 Brown, where was it located?

20 A. It was in his room under his pillow.

21 Q. And where was the vehicle?

22 A. His Cadillac was parked at Pinecrest Lane.
23 The weapon was recovered from ■ Bluebird Lane, it's
24 kind of down the street but around the corner a
25 little bit.

1 Q. So the vehicle was recovered from a
2 different address than the weapon?

3 A. It was.

4 Q. And was the vehicle towed from the scene?

5 A. It was.

6 Q. And did Mr. Brown -- actually, I'll withdraw
7 that question.

8 MS. CARMODY: I have no further questions, Your
9 Honor.

10 THE COURT: All right, thank you, Ms. Carmody.
11 Mr. Hall, do you have any questions of this witness,
12 sir?

13 MR. HALL: I do not, Your Honor, thank you.

14 THE COURT: All right, Solicitor, do you have
15 any redirect?

16 MS. CAMPBELL: No, sir.

17 THE COURT: All right, thank you so much, Agent,
18 have a good day. Yes, ma'am?

19 MS. CAMPBELL: Thank you, Your Honor. The State
20 calls Hardeeville Police Department Aaron Ager.

21 * * *

22 AARON AGER

23 * * *

24 being first duly sworn, testified as follows:

25 THE COURT: Hey, Sarge.

1 WITNESS: How are you doing?

2 THE COURT: Good. All right, Solicitor, your
3 witness.

4 MS. CAMPBELL: Thank you, Your Honor.

5 **DIRECT EXAMINATION**

6 BY MS. CAMPBELL:

7 Q. Please state your name and spell it for our
8 Court Reporter.

9 A. Aaron, A-A-R-O-N, Ager, A-G-E-R.

10 Q. Are you with the Hardeeville Police
11 Department?

12 A. Yes, I am.

13 Q. How long have you been with them?

14 A. Eight and a half years now.

15 Q. And prior to that were you in law
16 enforcement in the area?

17 A. Jasper County.

18 Q. Okay. Do you have any particular
19 specialized training or services and
20 responsibilities at the Hardeeville Police
21 Department?

22 A. I'm currently a K9 Handler, and a supervisor
23 of the K9 Tracking Team.

24 Q. Okay, and so as -- in that role, do you have
25 a K9 that is assigned to you?

1 A. I do.

2 Q. And what is that K9's name?

3 A. His name is Bally.

4 Q. Bally?

5 A. Uh-huh.

6 Q. All right. On April 22nd, 2020, were you
7 called out to conduct an article search?

8 A. I was.

9 Q. All right, and to what location were you
10 called out?

11 A. It was near the Deer Run Apartments.

12 Q. So I'm gonna show you what has been marked
13 as State's Exhibits 74, 75, 76, 77, 78, 79, 80 and
14 81, and just ask you to take a look at these, and
15 tell me, first of all, if you can identify what is
16 in those exhibits?

17 A. I can identify all of them.

18 Q. Thank you. What, essentially, is depicted
19 in those exhibits?

20 A. The area I was called to.

21 Q. Okay.

22 A. And the rifle that was located there, as
23 well as the magazine and the rounds inside the
24 magazine.

25 Q. All right.

1 (Court Reporter marks State's Exhibit Number 74,
2 Photograph, as attached hereto.)

3 (Court Reporter marks State's Exhibit Number 75,
4 Photograph, as attached hereto.)

5 (Court Reporter marks State's Exhibit Number 76,
6 Photograph, as attached hereto.)

7 (Court Reporter marks State's Exhibit Number 77,
8 Photograph, as attached hereto.)

9 (Court Reporter marks State's Exhibit Number 78,
10 Photograph, as attached hereto.)

11 (Court Reporter marks State's Exhibit Number 79,
12 Photograph, as attached hereto.)

13 (Court Reporter marks State's Exhibit Number 80,
14 Photograph, as attached hereto.)

15 (Court Reporter marks State's Exhibit Number 81,
16 Photograph, as attached hereto.)

17 MS. CAMPBELL: Your Honor, at this time the
18 State seeks to admit State's 74 through 81.

19 THE COURT: Any objection, Ms. Carmody?

20 MS. CARMODY: Without objection.

21 THE COURT: Mr. Hall?

22 MR. HALL: Your Honor, I would just like to take
23 a look at them briefly, if I could?

24 THE COURT: Yes, sir.

25 MR. HALL: Thank you.

1 THE COURT: Mr. Hall?

2 MR. HALL: I'm sorry, Your Honor, without
3 objection.

4 (State's Exhibits 74 - 81 admitted into
5 evidence.)

6 THE COURT: Thank you, sir.

7 BY MS. CAMPBELL:

8 Q. I'm gonna show you now what's been marked as
9 State's Exhibit 83, and ask you if you can identify
10 that?

11 A. Yes, ma'am.

12 Q. And what is State's Exhibit 83?

13 A. It is bodycam that I had that night with my
14 initials and date on it.

15 Q. All right, thank you.

16 (Court Reporter marks State's Exhibit Number 83,
17 Bodycam Video, as attached hereto.)

18 MS. CAMPBELL: The State seeks to introduce
19 State's Exhibit 83, admit it and publish it for the
20 jury, Your Honor.

21 THE COURT: Ms. Carmody, any objection?

22 MS. CARMODY: Your Honor, can I see 83?

23 THE COURT: Sure.

24 MS. CARMODY: Without objection, Your Honor.

25 THE COURT: Mr. Hall?

1 MR. HALL: No objection, Your Honor.

2 THE COURT: All right, so State's 83 is admitted
3 without objection, thank you.

4 (State's Exhibit 83 admitted into evidence.)

5 MS. CAMPBELL: Thank you, Your Honor.

6 THE COURT: Uh-huh.

7 MS. CAMPBELL: So at this time I'm gonna publish
8 just a portion of 83.

9 (Video being played for the jury.)

10 MS. CAMPBELL: Thank you.

11 BY MS. CAMPBELL:

12 Q. All right, so we just seen State's Exhibit
13 83. What's happening in State's Exhibit 83?

14 A. That is the -- a portion of the officer
15 search that we conducted, and that is bodycam
16 locating the black cloth, or -- I think it was out
17 of the jacket, under a fallen tree.

18 Q. All right. How long had you been on this
19 article search at the time that the canine was able
20 to locate that article?

21 A. About 20 minutes.

22 Q. About 20 minutes, all right. I'd like you
23 to pull up State's Exhibit 79 to 74, please. And
24 when each of these come up, if you would just tell
25 the jury what they're looking at, in terms of the

1 article search.

2 A. That is the wooded area, I believe, behind
3 Apartments ■ and ■.

4 Q. Okay, I do see a brick building in this
5 particular exhibit.

6 A. Uh-huh.

7 Q. And is that Deer Run?

8 A. Yes.

9 Q. All right, and so if I were to show you
10 State's Exhibit 10, where Walsh Drive and Deer Run
11 are depicted, where, approximately, between Deer Run
12 and out this way do you know where you located it?

13 A. So where it was?

14 Q. Uh-huh.

15 A. It was --

16 THE COURT: Do you want to step down, sir? Go
17 ahead.

18 MS. CAMPBELL: All right, thank you, Judge.

19 BY WITNESS:

20 A. So this is the picture that you just showed
21 that area.

22 THE COURT: Hold on one second. Counsel didn't
23 get over there. Could you point, again, sir, for
24 them to see?

25 BY WITNESS:

1 A. Somewhere in this general area.

2 MR. HALL: Thank you, Judge.

3 MS. CAMPBELL: Thank you. If we can move to the
4 next exhibit, State's 75?

5 BY WITNESS:

6 A. That is the cloth mats found.

7 Q. And 76?

8 A. The same thing.

9 Q. All right, and 77?

10 A. The -- they are closer-up.

11 Q. And 78?

12 A. Same thing, just on a different side.

13 Q. A different side? All right, and 79?

14 A. The magazine that was inside of it.

15 Q. And 80?

16 A. The rounds that were inside of the magazine.

17 Q. And then 81?

18 A. The jacket --

19 Q. That was wrapped around the firearm?

20 A. Correct.

21 Q. Okay. All right, so since you have located
22 the rifle, I'm going to show it to you. And I'm
23 going to ask you, if you can take a look inside and
24 determine, if that's the article, the rifle that you
25 located during your article search on April 22,

1 2020?

2 A. Yes, ma'am.

3 Q. All right -- you've got it? And I'm going
4 to ask you to take a look at 100B, the rifle is
5 100A, and see if you can identify the items located
6 within 100B?

7 A. That is the magazine --

8 Q. Uh-huh.

9 A. -- as shown in the picture, and the rounds
10 inside of the magazine.

11 Q. Thank you. All right, so when you finish
12 the article search, what happened to the rifle?

13 A. It --

14 Q. Who retrieves that, in other words?

15 A. We called for a SLED Agent, who was on the
16 scene, and they came and picked it up.

17 Q. So it's turned over to SLED?

18 A. Correct.

19 MS. CAMPBELL: That's all I have, Your Honor.

20 THE COURT: Ms. Carmody?

21 MS. CARMODY: Yes, Your Honor.

22 **CROSS-EXAMINATION BY MS. CARMODY**

23 BY MS. CARMODY:

24 Q. Good afternoon.

25 A. Hello.

1 Q. I'd like to show you what's been marked as
2 State's 9. If you could come down, please? In this
3 photograph here --

4 THE COURT: Hold on one second.

5 MS. CARMODY: I'm sorry,

6 THE COURT: No, that's okay. Just let Mr. Hall
7 get over there. Go right ahead, thank you.

8 BY MS. CARMODY:

9 Q. All right, and in this photograph, which is
10 State's 9, could you please tell the jury which area
11 you were looking for the firearm?

12 A. It was -- according to this picture, it
13 would be somewhere over here, this side.

14 Q. It would be down in this vicinity here?

15 A. No, it's not in this picture at all.

16 Q. It's not in this picture at all?

17 A. No.

18 Q. Okay. Well, first let's start, what made
19 you look in this area?

20 A. So when I got there, I was told to do my
21 article search, because that was the last place,
22 they saw people running through, but it wasn't this
23 area.

24 Q. Okay, so is it your testimony that nobody
25 was running from this area here?

1 A. When I got on-the-scene the --

2 MR. HALL: Objection, Your Honor, it calls for
3 speculation.

4 THE COURT: I'm going to sustain that objection.

5 MS. CARMODY: Okay.

6 BY MS. CARMODY:

7 Q. All right, so where would you be looking for
8 that gun? In this area right here?

9 A. Uh-huh.

10 Q. Okay, so this is Walsh Drive, and I would
11 imagine this road continues under the trees?

12 A. The road goes through here --

13 Q. Yeah.

14 A. -- and cuts across that way.

15 Q. Okay, so it was located in this area, all
16 right. Thank you.

17 BY MS. CARMODY:

18 Q. All right, and when you located the firearm,
19 how many -- well, what was in the firearm at that
20 time?

21 A. What was in it?

22 Q. Uh-huh.

23 A. When I located it, I didn't do anything with
24 it.

25 Q. Did you do anything with the firearm to

1 secure it, and make sure it's safe?

2 A. No, ma'am.

3 Q. You just picked it up and do what?

4 A. I didn't touch it, period.

5 Q. Okay, so you didn't touch it at all?

6 A. No.

7 Q. Who actually retrieved it?

8 A. The SLED agent.

9 Q. Which SLED agent?

10 A. I do not know.

11 Q. You don't know?

12 A. No, I don't recall.

13 Q. All right. You don't have any -- you don't
14 remember? Do you have your report with you?

15 A. I do not.

16 Q. Officer Ager, what about Agent Merrell; does
17 that ring a bell?

18 A. No, ma'am.

19 Q. No?

20 A. No.

21 Q. Would you be able to refer to the chain of
22 custody?

23 A. No, I wouldn't, I didn't collect anything.

24 Q. Was Special Agent Jazic on the crime scene;
25 does that sound familiar?

1 A. Say it again?

2 Q. Special Agent Jazic from SLED.

3 MS. CAMPBELL: Your Honor, I'm going to object

4 --

5 BY MS. CARMODY:

6 Q. Does that sound familiar to you?

7 THE COURT: Hold on.

8 MS. CAMPBELL: -- he says he doesn't know who
9 from SLED showed up to collect the rifle.

10 THE COURT: I'm going to sustain the objection.

11 MS. CAMPBELL: Thank you, Your Honor.

12 BY MS. CARMODY:

13 Q. Officer, without your report, how are you
14 sure which area you collected it from?

15 A. Because I was there.

16 Q. Okay. Is your testimony you don't remember
17 which Agent collected it, but you remember where it
18 was collected it from?

19 A. Uh-huh, I do. There were lots of agents out
20 there, so I can't remember who all was there, and my
21 responsibility was that of an officer.

22 Q. Okay. And you walked to woods from Walsh
23 Drive Apartments all the way up 705 Main Street?

24 A. No.

25 Q. No?

1 MS. CARMODY: I don't have any further
2 questions, Your Honor.

3 THE COURT: Mr. Hall, do you have any questions,
4 sir?

5 MR. HALL: Just one.

6 THE COURT: Yes, sir.

7 **CROSS-EXAMINATION BY MR. HALL**

8 BY MR. HALL:

9 Q. Just so I'm clear, it's your testimony today
10 that upon Canine Bally finding the weapon, you stood
11 there with the weapon until someone from SLED came
12 and recovered that weapon?

13 A. Correct.

14 Q. You did not touch it at all, in any way,
15 shape or form?

16 A. No.

17 Q. Thank you.

18 MR. HALL: That's all I have.

19 THE COURT: Solicitor, anything else?

20 MS. CAMPBELL: No, sir

21 THE COURT: All right, sir, thank you so much,
22 have a great day.

23 WITNESS: All right, thank you.

24 THE COURT: All right, Solicitor, you can call
25 your next witness?

1 MS. CAMPBELL: Thank you, Your Honor. The State
2 calls SLED Special Agent Dalila Cirencione.

3 * * *

4 **DALILA CIRENCIONE**

5 * * *

6 being first duly sworn, testified as follows:

7 THE COURT: Hello.

8 WITNESS: Hi, how are you, sir?

9 THE COURT: Good. All right, Solicitor.

10 MS. CAMPBELL: Thank you, Your Honor.

11 **DIRECT EXAMINATION**

12 BY MS. CARMODY:

13 Q. Please state your name and spell it for our
14 Court Reporter.

15 A. Dalila Cirencione, C-I-R-E-N-C-I-O-N-E.

16 Q. All right, and where are you currently
17 employed?

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

20 Q. And how long have you been employed there?

21 A. Roughly seven years, and with Crime Scene
22 I've been about five and a half years, and I'm now
23 with the Behavioral Science Unit.

24 Q. Thank you. So on April 22, 2020, you were
25 assigned to the Crime Scene Unit?

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

2 Q. All right. Were you dispatched to a
3 particular location in Hardeeville, South Carolina
4 on the date?

5 A. Yes, ma'am, I was. I was dispatched to -- I
6 believe it was Main Street in regard to a shooting
7 incident.

8 Q. All right, so was there a second location
9 that you were dispatched to in addition to Main
10 Street?

11 A. Yes, ma'am, I was also dispatched to the
12 Walsh Drive Apartment Complex.

13 Q. So if I can, I will take you first to some
14 of the work that you did in this case, which is
15 State's Exhibits 16 and 17. If I could show you
16 these two exhibits, and ask you if you can identify
17 them?

18 A. Yes, ma'am, I can.

19 Q. Okay, and what is depicted in State's
20 Exhibit 16?

21 A. Is that both of them, or just one?

22 Q. No, just one.

23 A. Okay. In 16 is a diagram that was made at
24 the Walsh Drive Apartment Complex, and there is
25 yellow markers which depict cartridge cases, as well

1 as other items of evidence, and multiple vehicles
2 which were shot.

3 Q. And are you initials on that particular
4 crime scene sketch?

5 A. Yes, ma'am, they are.

6 Q. And it would be DJ, because at the time your
7 last name was --

8 A. Dalila Jazic, yes, ma'am, I got married.

9 Q. Thank you. And then in State's Exhibit 17,
10 do you recognize that, and what's depicted in that?

11 A. Yes, ma'am, I do.

12 Q. And what is that?

13 A. It's an overview from a Google Earth image,
14 and it shows the approximate location of the Walsh
15 Drive Apartment Complex, as well as the Deer Run
16 Apartment Complex, the Main Street, where one of the
17 vehicles was located, and the approximate location
18 where we located that firearm.

19 (Court Reporter marks State's Exhibit Number 16,
20 Crime Scene Sketch, as attached hereto.)

21 (Court Reporter marks State's Exhibit Number 17,
22 SLED overhead of Crime Scene Locations, as attached
23 hereto.)

24 MS. CAMPBELL: Your Honor, at this time the
25 States seeks to introduce State's 16 and 17.

1 THE COURT: All right, any objection from Ms.
2 Carmody?

3 MS. CARMODY: No objection.

4 THE COURT: Mr. Hall?

5 MR. HALL: No objection, Your Honor.

6 THE COURT: All right, so 16 and 17 are admitted
7 without objection. Thank you.

8 (State's Exhibits 16 - 17 admitted into
9 evidence.)

10 MS. CAMPBELL: Thank you, Your Honor.

11 THE COURT: Uh-huh.

12 BY MS. CAMPBELL:

13 Q. All right, so I'd like you to walk us
14 through, and start on the left-hand side. I see a
15 number of yellow squares. What is indicated by the
16 yellow squares?

17 A. Those are just markers that we placed on-
18 scene for items of evidence.

19 Q. All right. I see a marker 29 and a marker
20 30, those were located in the approximate location
21 to which apartment?

22 A. Apartment [REDACTED].

23 Q. Down by -- to the right-hand side I see
24 markers 1, 2, 3, 4 and 5. Do you have knowledge or
25 understand what those might be?

1 A. Yes, ma'am. Your Honor, may I refer to my
2 notes?

3 THE COURT: Yes, ma'am.

4 BY WITNESS:

5 A. Thank you, sir. Markers 1 through 5 are
6 cartridge cases, and they're head stamped PPU300
7 Blackout, and marker 3 is cartridge case.

8 Q. Thank you. All right, and let's move then
9 to State's Exhibit 17. All right, so I'm gonna show
10 you what's been marked as State's Exhibit 82, and
11 ask you, if you can identify that?

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

13 Q. Okay, and what is depicted in that
14 particular exhibit, State's 82?

15 A. This is one of our handheld radios and the
16 approximate GPS coordinates for where the rifle was
17 found, the AR-15.

18 Q. Okay.

19 (Court Reporter marks State's Exhibit 82,
20 Photographs, as attached hereto.)

21 MS. CAMPBELL: And so, Your Honor, at this time
22 the State seeks to introduce State's Exhibit 82.

23 MS. CARMODY: No objection.

24 MR. HALL: No objection, Your Honor.

25 THE COURT: All right, 82 is admitted without

1 objection.

2 (State's Exhibit 82 admitted into evidence.)

3 MS. CAMPBELL: Let's pull down -- well, first of
4 all, let's leave that up there.

5 BY MS. CAMPBELL:

6 Q. State's Exhibit 17. In State Exhibit 17
7 would they be the same as the GPS coordinates in
8 State's Exhibit 82?

9 A. Yes, ma'am, for the rifle.

10 Q. Okay. And so based upon the GPS location
11 here, where the rifle was recovered, that is
12 reflected in the scene in State's Exhibit 17?

13 A. Yes, ma'am, and the little yellow X.

14 Q. Thank you, all right. Now, we're gonna move
15 just a little bit away from Walsh Drive for a
16 moment, and we'll come back to that. I apologize.

17 All right, so I am going to show what's been
18 marked as State's 84, 85, 86, 87, 88, 89, 90, 91,
19 92, 93 and 94, and I'm going to ask you if you can
20 identify those?

21 A. I'm sorry. Yes, ma'am.

22 Q. In any of these State's Exhibits what is
23 depicted in terms of the crime scene location you
24 were at?

25 A. That is -- I believe it's 705 Main Street,

1 and that's the silver Chevy Malibu with a Florida
2 tag.

3 Q. All right, and are they a fair and accurate
4 depiction of what you did and what you saw on that
5 day in Hardeeville, South Carolina?

6 A. Yes, ma'am.

7 Q. Thank you.

8 (Court Reporter marks State's Exhibit 84,
9 Photograph, as attached hereto.)

10 (Court Reporter marks State's Exhibit 85,
11 Photograph, as attached hereto.)

12 (Court Reporter marks State's Exhibit 86,
13 Photograph, as attached hereto.)

14 (Court Reporter marks State's Exhibit 87,
15 Photograph, as attached hereto.)

16 (Court Reporter marks State's Exhibit 88,
17 Photograph, as attached hereto.)

18 (Court Reporter marks State's Exhibit 89,
19 Photograph, as attached hereto.)

20 (Court Reporter marks State's Exhibit 90,
21 Photograph, as attached hereto.)

22 (Court Reporter marks State's Exhibit 91,
23 Photograph, as attached hereto.)

24 (Court Reporter marks State's Exhibit 92,
25 Photograph, as attached hereto.)

1 (Court Reporter marks State's Exhibit 93,
2 Photograph, as attached hereto.)

3 (Court Reporter marks State's Exhibit 94,
4 Photograph, as attached hereto.)

5 MS. CAMPBELL: Your Honor, at this time the
6 State seeks to introduce those State's Exhibit
7 Numbers listed previously and publish to the jury.

8 THE COURT: Any objection, Ms. Carmody?

9 MS. CARMODY: No objection.

10 THE COURT: Mr. Hall?

11 MR. HALL: No objection.

12 THE COURT: All right, so that's State's Exhibit
13 84, 5, 6, 7, 8, 9, 91, 92 and 94; is that correct?

14 MS. CAMPBELL: 93.

15 THE COURT: 93, okay. Is 90 included in that
16 lot?

17 MS. CAMPBELL: 84, 85, 86, 87, 88, 89, 90 --

18 THE COURT: Okay.

19 MS. CAMPBELL: -- 91, 92, 93 and 94.

20 THE COURT: Thank you very much. All admitted
21 without objection.

22 (State's Exhibits 84 - 94 admitted into
23 evidence.)

24 MS. CAMPBELL: Thank you.

25 BY MS. CAMPBELL:

1 Q. And what we're gonna do is, we're going to
2 walk through each one of the exhibits, so that we
3 understand what we're seeing as you saw it that
4 particular day. This State's Exhibit, what can you
5 tell us that we're looking at here?

6 A. That is an Enterprise rental agreement with
7 Donovan Hay's name.

8 Q. Donovan Hay?

9 A. Yes, ma'am.

10 Q. Okay, thank you. And then let's move to
11 State's 85. All right, I see the D.J. on this,
12 explain to us what this is.

13 A. Those are my initials, so my previous -- my
14 maiden name is Jazic, and anywhere that I have
15 anything labeled we initial it, date it and put an
16 instruction on the scale tape. That's a bullet
17 defect that was on the rear driver exterior door
18 panel.

19 Q. And State's Exhibit 86?

20 A. That's also a suspect bullet defect, and
21 that is on the interior rear driver door.

22 Q. And State's Exhibit 87?

23 A. That is a trajectory rod, which is just a
24 metal rod that's placed through the suspected bullet
25 defect, to attempt to show the flight path travel of

1 a projectile.

2 Q. All right. And in State's Exhibit 87 is the
3 backseat passenger window up or down?

4 A. The rear driver window is down.

5 Q. Thank you. And in State's Exhibit 88?

6 A. And this is a photo from the windshield of
7 the Chevy Malibu, and you can see the trajectory rod
8 from the rear driver bullet defect.

9 Q. And State's Exhibit 89?

10 A. And this is a suspected blood, which is
11 labeled as Stain C, and it's got my date, initials
12 and the description of the same. It's on the center
13 console of the Chevy Malibu.

14 Q. And State's Exhibit 90?

15 A. This is a black Champion bag that was
16 located on the rear passenger floorboard within the
17 Chevy Malibu.

18 Q. And State's Exhibit 91?

19 A. Those are two black Visa cards with his name
20 on that second bottom card.

21 Q. And State's Exhibit 92?

22 A. That is just the front of the Visa cards
23 that came out of that Champion bag.

24 Q. And State's Exhibit 93?

25 A. This is a photograph of the rear passenger

1 door of the Chevy Malibu, and that is defect B from
2 the doorframe, which is another suspected bullet
3 defect that's labeled.

4 Q. Another bullet defect?

5 A. Yes, ma'am.

6 Q. Okay.

7 A. Another suspected bullet defect.

8 Q. And then, lastly, State's 94?

9 A. That is a closeup of the bullet defect to
10 the rear passenger doorframe.

11 Q. All right, now I am going to take you back
12 over to the Walsh Drive crime scene, and there are a
13 number of photograph exhibits from that scene.

14 All right, so I'll show these to you as I call
15 them out. They're State's Exhibit 18, 19, 20, 21,
16 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36,
17 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49,
18 50, 51, 52, 53, 54, 55, 56 and 57. All of those
19 State's Exhibits that I just called out for you, and
20 that you've had an opportunity to review, are they a
21 fair and accurate depiction of your work there at
22 Walsh Drive Apartments on April 22, 2020?

23 A. Yes, ma'am, they are.

24 Q. Thank you.

25 (Court Reporter marks State's Exhibit Number 18,

1 Photograph, as attached hereto.)
2 (Court Reporter marks State's Exhibit Number 19,
3 Photograph, as attached hereto.)
4 (Court Reporter marks State's Exhibit Number 20,
5 Photograph, as attached hereto.)
6 (Court Reporter marks State's Exhibit Number 21,
7 Photograph, as attached hereto.)
8 (Court Reporter marks State's Exhibit Number 22,
9 Photograph, as attached hereto.)
10 (Court Reporter marks State's Exhibit Number 23,
11 Photograph, as attached hereto.)
12 (Court Reporter marks State's Exhibit Number 26,
13 Photograph, as attached hereto.)
14 (Court Reporter marks State's Exhibit Number 27,
15 Photograph, as attached hereto.)
16 (Court Reporter marks State's Exhibit Number 28,
17 Photograph, as attached hereto.)
18 (Court Reporter marks State's Exhibit Number 29,
19 Photograph, as attached hereto.)
20 (Court Reporter marks State's Exhibit Number 30,
21 Photograph, as attached hereto.)
22 (Court Reporter marks State's Exhibit Number 31,
23 Photograph, as attached hereto.)
24 (Court Reporter marks State's Exhibit Number 32,
25 Photograph, as attached hereto.)

1 (Court Reporter marks State's Exhibit Number 33,
2 Photograph, as attached hereto.)

3 (Court Reporter marks State's Exhibit Number 34,
4 Photograph, as attached hereto.)

5 (Court Reporter marks State's Exhibit Number 35,
6 Photograph, as attached hereto.)

7 (Court Reporter marks State's Exhibit Number 36,
8 Photograph, as attached hereto.)

9 (Court Reporter marks State's Exhibit Number 37,
10 Photograph, as attached hereto.)

11 (Court Reporter marks State's Exhibit Number 38,
12 Photograph, as attached hereto.)

13 (Court Reporter marks State's Exhibit Number 39,
14 Photograph, as attached hereto.)

15 (Court Reporter marks State's Exhibit Number 40,
16 Photograph, as attached hereto.)

17 (Court Reporter marks State's Exhibit Number 41,
18 Photograph, as attached hereto.)

19 (Court Reporter marks State's Exhibit Number 42,
20 Photograph, as attached hereto.)

21 (Court Reporter marks State's Exhibit Number 43,
22 Photograph, as attached hereto.)

23 (Court Reporter marks State's Exhibit Number 44,
24 Photograph, as attached hereto.)

25 (Court Reporter marks State's Exhibit Number 45,

1 Photograph, as attached hereto.)
2 (Court Reporter marks State's Exhibit Number 46,
3 Photograph, as attached hereto.)
4 (Court Reporter marks State's Exhibit Number 47,
5 Photograph, as attached hereto.)
6 (Court Reporter marks State's Exhibit Number 48,
7 Photograph, as attached hereto.)
8 (Court Reporter marks State's Exhibit Number 49,
9 Photograph, as attached hereto.)
10 (Court Reporter marks State's Exhibit Number 50,
11 Photograph, as attached hereto.)
12 (Court Reporter marks State's Exhibit Number 51,
13 Photograph, as attached hereto.)
14 (Court Reporter marks State's Exhibit Number 52,
15 Photograph, as attached hereto.)
16 (Court Reporter marks State's Exhibit Number 53,
17 Photograph, as attached hereto.)
18 (Court Reporter marks State's Exhibit Number 54,
19 Photograph, as attached hereto.)
20 (Court Reporter marks State's Exhibit Number 55,
21 Photograph, as attached hereto.)
22 (Court Reporter marks State's Exhibit Number 56,
23 Photograph, as attached hereto.)
24 (Court Reporter marks State's Exhibit Number 57,
25 Photograph, as attached hereto.)

1 MS. CAMPBELL: Your Honor, the State seeks to
2 admit and publish the stated exhibits for the jury.

3 THE COURT: Ms. Carmody?

4 MS. CARMODY: Without objection.

5 THE COURT: Mr. Hall?

6 MR. HALL: No objection.

7 THE COURT: All right, sir. Admitted without
8 objection.

9 MS. CAMPBELL: Thank you, Your Honor.

10 (State's Exhibits 18 - 23 and 26 - 57 admitted
11 into evidence.)

12 BY MS. CAMPBELL:

13 Q. Okay, so let's pull up 18, and we're doing
14 the same thing with all of these, if you don't mind,
15 and we're just gonna walk through. And I want you
16 to explain to us what we're seeing, if you'd circle
17 back around when you're looking at the crime scene,
18 all right?

19 A. Okay.

20 Q. Okay. Help us get our bearings a little
21 bit, and if you need to reference the crime scene
22 sketch, I'm sure that's perfectly fine. Help us,
23 what are we seeing in State's Exhibit 18?

24 A. So this is the Walsh Street -- the Walsh
25 Drive Apartment Complex. Right now we're looking at

1 markers 2, 3, 4 and 5, and those are going to be in
2 between apartments [REDACTED] and Apartment [REDACTED], and it'll
3 make a little bit more sense when you see the
4 diagram. Apartment [REDACTED] is the apartment that's
5 located behind that you see the door of. Markers 2,
6 3, 4 and 5 are making the cartridge cases, which are
7 all .300 caliber, but PPU300 Blackout and .300
8 Blackout.

9 Q. Thank you. All right, so same thing with
10 State's Exhibit 19, is that just a little bit -- we
11 called it 19, is that a closer view of 2, 3, 4 and
12 5, where you might actually be able to see the
13 casings there?

14 A. Yes, ma'am. So when we take photographs, we
15 do overall photographs of the entire scene from all
16 corners, just so that you can see an overall great
17 picture.

18 And then we do mid-range photographs, meaning we
19 try to have like a reference point, or something
20 such as that apartment, Apartment [REDACTED] that you saw,
21 so you could get a better idea of where exactly
22 those cartridge cases are. And then you start to
23 slowly move more closer to those markers, so you can
24 see what the item of evidence is, and you fill the
25 frame, which means we just fill the camera lens with

1 that item.

2 So you're seeing items 2, 3, 4 and 5, as I
3 described before, just a little bit closer, so you
4 see their relation to each other.

5 Q. All right, and State's Exhibit 20?

6 A. This is markers 8 through -- it looks like
7 it's gonna be 8 through 28. So those -- Apartment
8 [REDACTED] is the apartment that you see on the -- to the
9 right of the photograph, and those cartridge cases
10 are going to be cartridge cases as seen .9
11 millimeter cartridge head stamps.

12 Q. All right, and then when we look at State's
13 21 is that one of those things where you talk about
14 seeing the markers or the scene from a different
15 angle?

16 A. Yes, ma'am, we try to get all angles all the
17 way around the scene.

18 Q. And is that true for State's 22 as well?

19 A. Yes, ma'am.

20 Q. And how about State's 23?

21 A. Yes, ma'am, that's just another angle.

22 Q. All right. So State's 26, are those the
23 closeup angle shots that you explained to us
24 earlier?

25 A. Yes, ma'am. Those are more of a mid-range,

1 yes, ma'am.

2 Q. Oh, I'm sorry, mid-range. And how about in
3 State's 27?

4 A. Yes, ma'am, it's the mid-range photographs.

5 Q. Of the .9-millimeter casings?

6 A. Yes, ma'am.

7 Q. And State's 28, same thing?

8 A. Same thing.

9 Q. All right. Now we're gonna go through the
10 markers individually, so that we know where everyone
11 was, and what was with that marker. State's 29?

12 A. That is marker one, that is one cartridge
13 case, head stamped PPU300 Blackout.

14 Q. State's 30?

15 A. That is one cartridge case, head stamped PPU
16 300 Blackout.

17 Q. At marker 2?

18 A. At marker 2.

19 Q. State's 31?

20 A. That is marker 3, one cartridge case, head
21 stamped Hornady 300 BLK.

22 Q. State's 32?

23 A. That is marker 4, one cartridge case, head
24 stamped PPU300 Blackout.

25 Q. And State's 33?

1 A. That is marker 5, one cartridge case, head
2 stamped PPU300 Blackout.

3 Q. All right. How about State's 34, what was
4 that marker 6?

5 A. That was a fired projectile.

6 Q. Okay. Can you pull up the crime scene
7 sketch for me again? I just want to know if I can
8 take a quick look at the location of that, while
9 we've got it here. Because we just went through
10 markers 1, 2, 3, 4 and 5, and so marker 6 is at --

11 A. It's at the rear bumper on the floor -- on
12 the ground -- the concrete behind the Mitsubishi
13 Endeavor, which is the white vehicle you see at the
14 bottom.

15 Q. All right, thank you. All right, and
16 State's 35?

17 A. And that is marker 8, that's marker 8, which
18 is one cartridge case, head stamped FC .9-millimeter
19 Luger.

20 Q. State's 36?

21 A. Marker 9, one cartridge case head stamped FC
22 .9-millimeter Luger.

23 Q. State's 37?

24 A. One cartridge case head stamped FC .9-
25 millimeter Luger.

1 Q. State's 38?

2 A. One cartridge case head stamped FC .9-
3 millimeter Luger.

4 Q. State's 39?

5 A. One cartridge case head stamped FC .9-
6 millimeter Luger, marker 12.

7 Q. And State's 40?

8 A. One cartridge case head stamped FC .9-
9 millimeter Luger at marker 13.

10 Q. And State's 41?

11 A. Marker 14, one cartridge case head stamped
12 FC .9-millimeter Luger.

13 Q. 42?

14 A. One cartridge case head stamped FC .9-
15 millimeter Luger at marker 15.

16 Q. State's 43?

17 A. One cartridge case head stamped FC .9-
18 millimeter Luger at marker 16.

19 Q. State's 44?

20 A. One cartridge case head stamped FC .9-
21 millimeter Luger at marker 17.

22 Q. States 45?

23 A. Marker 18, one cartridge case head stamped
24 FC .9-millimeter Luger.

25 Q. State's 46?

1 A. One cartridge case head stamped FC .9-
2 millimeter Luger at marker 19.

3 Q. State's 47?

4 A. One cartridge case head stamped FC .9-
5 millimeter Luger at marker 20.

6 Q. State's 48?

7 A. One cartridge case head stamped FC .9-
8 millimeter Luger at marker 21.

9 Q. State's 49?

10 A. One cartridge case head stamped FC .9-
11 millimeter Luger at marker 22.

12 Q. State's 50?

13 A. One cartridge case head stamped FC .9-
14 millimeter Luger at marker 23.

15 Q. State's 51?

16 A. One cartridge case head stamped .9-
17 millimeter Luger at marker 24.

18 Q. State's 52?

19 A. Marker 25, one cartridge case head stamped
20 FCS&G 9x19x19.

21 Q. And State's 53?

22 A. Marker 26, one cartridge case head stamped
23 FC .9-millimeter Luger.

24 Q. State's 54?

25 A. Marker 27, one cartridge case head stamped

1 .9-millimeter Luger.

2 Q. State's 55?

3 A. One cartridge case head stamped FC .9-
4 millimeter Luger.

5 Q. State's 56?

6 A. Marker 29 is one red in color plastic cup
7 from the front yard area of Apartment [REDACTED].

8 Q. State's 57?

9 A. Marker 31 is one cartridge case head stamped
10 FC .9-millimeter Luger.

11 MR. HALL: Your Honor, we need to approach.

12 THE COURT: Sure.

13 (Bench conference.)

14 THE COURT: Ladies and gentlemen, we're gonna
15 take a brief break, okay? And we'll try to have you
16 back in here in the next 15 minutes. Thank you very
17 much.

18 (Jury exits the courtroom.)

19 THE COURT: All right, we'll be at ease for a
20 few moments while the jury gets some fresh air.

21 (RECESS)

22 BAILIFF: All rise.

23 THE COURT: All right, thank you, be seated.

24 All right, anything from the State before we bring
25 the jury in?

1 MS. CAMPBELL: No, sir.

2 THE COURT: Ms. Carmody? Ms. Carmody, anything
3 before we bring the jury in?

4 MS. CARMODY: No, Your Honor.

5 THE COURT: Mr. Hall?

6 MR. HALL: Judge, I just want it noted for the
7 record, since this was the subject of the sidebar,
8 and I just wanted it made part of the record, that
9 there was a bench conference, I asked to approach.
10 And the reason for that bench conference was the
11 juror -- that before we broke, that had been seated
12 in the backrow on the far left side was nodding off
13 during the testimony, and the third time I saw his
14 head go down and his eyes close is when I asked to
15 approach and request a break. I'm not making any
16 motions pursuant to that, but I'm just noting it for
17 the record.

18 THE COURT: All right.

19 MR. HALL: I know this is tedious testimony, and
20 I kind of get it, but I wanted to kind of fend that
21 off at the pass.

22 THE COURT: All right, so you're not making any
23 motions, nor do you want me to question this juror?

24 MR. HALL: Not with respect to what was going on
25 at this particular point.

1 THE COURT: Right, well, I will tell you, you
2 know, Ms. Bostick indicated to me just a moment ago
3 that she didn't think he was nodding off, so
4 sometimes nodding off is in the eye of the beholder.

5 MR. HALL: And for the record, Judge --

6 THE COURT: Well, I don't -- I'm not --

7 MR. HALL: So --

8 THE COURT: And he is directly across from you
9 the way the tables are set.

10 MR. HALL: Yeah.

11 THE COURT: And I'm not doubting that that's
12 what you saw, or what you believe he was doing. I
13 just, you know, but in any event, I think it was
14 appropriate for you to approach the bench. I think
15 it was appropriate for you to tell me what you did.
16 I think it's appropriate for you to put this on the
17 record, and I think that it was appropriate to take
18 a break. So I thank you.

19 MR. HALL: And, Your Honor, just also for the
20 record, in light of the fact that the nature of the
21 testimony, had we been visiting I guess maybe a
22 different aspect of the testimony, I would be more
23 concerned, and would, potentially, have asked for
24 the juror to be removed and replaced by an
25 alternate, but because what we were going through at

1 that point was looking, literally, at a series of
2 what seems like 500 placard photos. I was not
3 overly concerned, because they had already seen all
4 of that, at that point.

5 THE COURT: All right.

6 MR. HALL: I just want to make that clear for
7 the record.

8 THE COURT: Yes, sir.

9 MR. HALL: Thank you.

10 THE COURT: All right, thank you. All right,
11 let's go ahead and get the jury in, thank you.

12 (Jury enters the courtroom.)

13 BAILIFF: The jury's seated, Your Honor.

14 **

15 **PROCEEDINGS CONTINUED**

16 THE COURT: All right, thank you very much.
17 Madam Forelady, ladies and gentlemen, we're ready to
18 continue. Solicitor, you can continue your direct
19 examination of this witness, please.

20 MS. CAMPBELL: Thank you, Your Honor.

21 BY MS. CAMPBELL:

22 Q. Let me show you what's been marked as
23 State's 63, 64, 65, 66 and 67, and ask you if you
24 can identify those exhibits?

25 A. Yes.

1 Q. And do they fairly and accurately depict
2 your work with the Crime Scene Unit at the Walsh
3 Drive Apartments on April 22nd, 2020?

4 A. Yes, ma'am, they do.

5 Q. All right.

6 (Court Reporter marks State's Exhibit Number 63,
7 Photograph, as attached hereto.)

8 (Court Reporter marks State's Exhibit Number 64,
9 Photograph, as attached hereto.)

10 (Court Reporter marks State's Exhibit Number 65,
11 Photograph, as attached hereto.)

12 (Court Reporter marks State's Exhibit Number 66,
13 Photograph, as attached hereto.)

14 (Court Reporter marks State's Exhibit Number 67,
15 Photograph, as attached hereto.)

16 MS. CAMPBELL: Your Honor, at this time the
17 State seeks to introduce those State's Exhibits and
18 publish them to the jury.

19 THE COURT: Ms. Carmody?

20 MS. CAMPBELL: Let's pull up State's 63. Oh,
21 I'm sorry, Your Honor, I didn't wait to see if there
22 are objections.

23 THE COURT: Any objection?

24 MS. CARMODY: No objection.

25 MR. HALL: No objection.

1 THE COURT: Thank you.

2 (State's Exhibits 63 - 67 admitted into
3 evidence.)

4
5 BY MS. CAMPBELL:

6 Q. State's 63 is coming up. The same thing,
7 help us understand what we're seeing in these
8 demonstrative exhibits.

9 A. This is one of the vehicles, it's a red
10 Infiniti G35 that was parked at the Walsh Drive
11 Apartment Complex.

12 Q. Now, I notice in this particular exhibit the
13 passenger door appears to have a bullet hole defect
14 in it. Do you take photos before you put your
15 markers and things on there?

16 A. Yes, ma'am. So the Crime Scene would come
17 in and do the overall photographs of everything at
18 the scene, as well as specifically each vehicle to
19 include the VIN, all four corners of the car, and
20 then if there's a bullet, blood, or any evidence
21 within the car we'll document it before we place a
22 scale tape, or any type of marking, marking on that
23 item.

24 So in this case you can't -- the vehicle has
25 multiple suspected bullet defects, that you can

1 clearly see the glass of the passenger window.

2 Q. Thank you. All right, and State's 64?

3 A. That is a suspected bullet defect on that
4 Infiniti.

5 Q. And State's 65?

6 A. That is another suspected bullet defect on
7 the Infiniti.

8 Q. And State's 66?

9 A. That is a vehicle at the Walsh Drive
10 Apartment Complex, with suspected bullet defect. I
11 believe there's one to the trunk area.

12 MS. CAMPBELL: And if we could, pull up the
13 crime scene sketch for her again, so she can show us
14 where they are in relation to the entire scene
15 there.

16 BY MS. CAMPBELL:

17 Q. All right, so we just talked about basically
18 two vehicles, I believe, the red -- did you say
19 Infiniti?

20 A. Yes, ma'am, the Infiniti G35 is the red
21 vehicle.

22 Q. And then the green --

23 A. It's an Audio A6.

24 Q. And then your crime scene sketch that you
25 did, can you help identify their locations, as far

1 as within the crime scene sketch?

2 A. Yes, ma'am, the red vehicle that you're
3 seeing is parked in front of Apartment [REDACTED], and it's
4 labeled Infiniti G35, and then the Audi, which is
5 the green vehicle, you can see it's labeled as well,
6 and it's parked in front of Apartment [REDACTED].

7 Q. Okay, thank you.

8 MS. CAMPBELL: Lastly, if you can pull up
9 State's 67.

10 BY MS. CAMPBELL:

11 Q. All right, where are we in terms -- is this
12 Walsh Drive Apartments?

13 A. Yes, ma'am, this is the Walsh Drive
14 Apartment Complex, and this is Apartment [REDACTED]. You
15 can see there's like a bullet defect to the window
16 shutter of Apartment [REDACTED], which was labeled with
17 scale tape, and with the date, initials, and I
18 believe we collected a fragment from behind that
19 windowpane.

20 Q. All right. And we're gonna pull 16 up
21 again, so that you can show us where Apartment [REDACTED]
22 is, in relation to the entire crime scene at Walsh
23 Drive.

24 A. Apartment [REDACTED] is in that bottom right
25 corner, as you can tell. It's near that -- the

1 Audi. The defects was from the shutter, which is
2 also labeled on the diagram.

3 Q. Thank you so much. I'm going to show you
4 what's been marked as State's Exhibits 58, 59, 70,
5 71, 72 and 73. I'll ask if you, first of all, can
6 identify those State's exhibits?

7 A. Yes, ma'am.

8 Q. Now, do they fairly and accurately depict
9 your time with the Crime Scene Unit on April 22nd,
10 2020, at the Deer Run Apartments?

11 A. Yes, ma'am, that is Deer Run.

12 Q. Thank you. Let's pull up State's --

13 MS. CAMPBELL: Your Honor, I can admit and
14 publish State's 58 through 73 for the jury?

15 THE COURT: Any objection?

16 MS. CARMODY: No objection.

17 THE COURT: Mr. Hall?

18 MR. HALL: No objection.

19 THE COURT: All right, admitted without
20 objection. Yes, ma'am.

21 (State's Exhibits 58 - 73 admitted into
22 evidence.)

23

24 MS. CARMODY: Let's pull up State's 58, please.

25 BY MS. CARMODY:

1 Q. Now, when you were on the Crime Scene Unit,
2 did you discover any damaged bullet defects? I'll
3 show you what's been previously admitted as State's
4 10, at the Deer Run Apartments.

5 A. Yes, ma'am, we ended up at Apartment [REDACTED]
6 within Deer Run Apartments.

7 Q. And is that what we're seeing here in
8 State's Exhibit 68, the door?

9 A. Yes, ma'am, is the exterior door of
10 Apartment [REDACTED] within Deer Run Apartment Complex.

11 Q. The individuals that were in that home, did
12 they give you permission to come on in their home?

13 A. Yes, ma'am.

14 Q. All right. And once inside their home --

15 MS. CAMPBELL: Can you move to State's Exhibit
16 69.

17 BY MS. CAMPBELL:

18 Q. Once inside their home, what were you able
19 to locate on 69?

20 A. As soon as you enter through the door that
21 you're seeing, that's the [REDACTED], the one we saw in the
22 previous picture, the wall directly to the right has
23 a suspected bullet defect, which was labeled and
24 scaled.

25 Q. And State's 70?

1 A. That is a closeup photograph of what we
2 labeled defect N of the suspected bullet defect on
3 that wall, which is the door of Apartment ■ at Deer
4 Run.

5 Q. And State's 71?

6 A. That is a projectile that was located within
7 a suspected bullet defect.

8 Q. Within Apartment ■?

9 A. Within Apartment ■, yes, ma'am.

10 Q. Okay. And State's 72?

11 A. That's a closeup of the projectile fragment
12 from the defect end within Apartment ■ at Deer Run
13 Apartment Complex.

14 Q. And State's 73?

15 A. When you walk into Apartment ■ on the right
16 is that double door. It -- we just documented that
17 the glass was shattered.

18 Q. All right. I'm going to show you what's
19 been marked as State's Exhibit 99A and 99B, and ask
20 you if you can identify these items?

21 A. On the inside?

22 Q. That's fine. What is State's 99A?

23 A. If I could --

24 Q. Oh, yeah, sorry.

25 A. This is a firearm, Glock, serial number

1 BNTN377, it contains one magazine and one cartridge
2 from the chamber, and then my initials are on there,
3 as well as signature and the date.

4 Q. So when you received this, you sealed it up,
5 taped it up, put it into evidence?

6 A. Yes, ma'am, I received it from Special Agent
7 Katie McCallister.

8 Q. Same thing for 99B, the magazine and the
9 bullets that were in the magazine?

10 A. Yes, ma'am, those came from there, yes,
11 ma'am.

12 Q. But now there is a gunlock on the Glock 23
13 now; is there now?

14 A. There is a gunlock on there. I did not put
15 the gunlock on the gun.

16 Q. All right. I'm handing you 100A and 100B.

17 A. Okay.

18 Q. I'll first hand you 100A, and ask you if you
19 can identify that?

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

21 Q. All right. And then State's 100B?

22 A. Yes.

23 Q. Uh-huh.

24 A. Yes, ma'am.

25 Q. All right.

1 A. I'm gonna put it back.

2 Q. That's fine. Contained within State's 100A,
3 what is contained in this exhibit?

4 A. This is a multi-rifle with 1156 with one
5 magazine containing multiple cartridges, and with
6 one cartridge from the chamber head stamped 300
7 blackout.

8 Q. Thank you. And your initials are on this
9 item as well?

10 A. Yes, ma'am, my initials and date are on
11 there.

12 Q. And the last one?

13 A. Right here?

14 Q. Uh-huh.

15 A. 2003878, item number 179.

16 Q. Thank you. All right, now, one of the last
17 things that we have to go through are all of the
18 casings that you collected. So it's been separated,
19 I'm gonna hand them to you, and I'm just gonna ask
20 you to take a moment and go through all of those,
21 and tell us, if you can identify them, and with the
22 Court's permission I'll call out the exhibit numbers
23 for the Court Reporter.

24 THE COURT: Yes, ma'am.

25 MS. CAMPBELL: Thank you. We can leave this up

1 here.

2 BY WITNESS:

3 A. Oh, they're so organized.

4 Q. I know you can hand them to me. I'm gonna
5 hold onto them.

6 A. Okay.

7 Q. Uh-huh. Let's just take these out. All
8 right, State's Exhibit 107 through 128, can you
9 identify these State's exhibits?

10 A. Yes, ma'am, I can.

11 Q. Okay, and how can you identify them?

12 A. It is my handwriting, as well as my
13 initials, the date, the description and it's filled
14 in with my initials and the date on each one of
15 those.

16 Q. Also on the envelopes, does it indicate from
17 which marker at the crime scene this item of
18 evidence was collected?

19 A. Yes, ma'am. Each cartridge case is
20 collected from its own marker, and it was labeled as
21 that.

22 Q. And upon collecting the 107 to 128, you then
23 put them in evidence; is that correct?

24 A. Yes, ma'am, once I went back to the forensic
25 lab.

1 Q. All right. And the lab number L20-03878 is
2 on there, along with item numbers as well for SLED?

3 A. Yes, ma'am, every item has a lab number and
4 item number attached to it.

5 Q. And for items 102 through 106 can you
6 identify those items?

7 A. Item 132 is -- do you want me to read it?

8 Q. Uh-huh.

9 A. All right, item 132 is Blackout for marker
10 1.

11 Q. Uh-huh.

12 A. Item 133 is head stamped PPU .300 Blackout
13 for marker 2.

14 Q. Uh-huh.

15 A. Item 134 is one cartridge case head stamped
16 .300 Blackout for marker 3.

17 Q. And you're reading the SLED numbers, but
18 this is State's Exhibit 102, 103 and 104, correct?

19 A. Yes, ma'am.

20 Q. Okay.

21 A. Item 135, State Exhibit 105 is one cartridge
22 case head stamped PPU .300 Blackout for marker 4.

23 Q. Uh-huh.

24 A. Item 136, State Exhibit 106, is one
25 cartridge case head stamped Blackout for marker 5.

1 Q. All right, thank you.

2 A. Okay.

3 MS. CAMPBELL: Can you pull up the crime scene
4 sketch, please?

5 BY MS. CAMPBELL:

6 Q. Items 107 through 128, those are .9-
7 millimeter casings; is that correct?

8 A. Which marker is this?

9 Q. One -- excuse me, State's Exhibit Numbers
10 107 through 128.

11 A. Yes, ma'am, I'm looking at .300.

12 Q. Eight through 28.

13 A. Eight through 28, yes, ma'am, those are
14 gonna be the .9 millimeters.

15 Q. Okay, so the items that I'm holding in my
16 right hand, State's 107 through 128, are all from
17 markers right there in front of Apartment [REDACTED]; is
18 that right?

19 A. Yes, ma'am.

20 Q. Okay. And State's 102 through 106 are
21 markers 1, 2, 3, 4 and 5.

22 A. Yes, ma'am.

23 Q. Correct?

24 A. Those are the .300s.

25 Q. The .300 Blackouts?

1 A. Yes, ma'am.

2 Q. So the .9-millimeter casings, .300

3 Blackouts, right?

4 A. Yes, ma'am.

5 Q. All right, so this is State's Exhibit 129
6 through 134. I'm gonna ask you, if you can identify
7 those State's exhibits.

8 A. Okay.

9 Q. I'll hold onto them.

10 A. Excuse me.

11 Q. So State's Exhibit 129 through 136, were
12 they collected at the Walsh Drive Apartments? Can
13 you identify these items?

14 A. Yes, ma'am, those are.

15 Q. All right.

16 MS. CAMPBELL: And if you'll pull up the crime
17 scene sketch for her one more time, she can tell us
18 where those were located.

19 BY MS. CAMPBELL:

20 Q. Would you like to hold onto the exhibits
21 while you're looking at the crime scene?

22 A. Yes, ma'am.

23 Q. All right, I figured you would.

24 A. There's quite a few.

25 Q. I know. All right, so in working the crime

1 scene there, take us through each of the State's
2 exhibits and where they were located when you
3 collected them.

4 A. For State Exhibit 136 is one fired
5 projectile fragment from the window shutter
6 recovered at [REDACTED], and that's the apartment down at
7 the bottom right-hand corner.

8 State Exhibit 135 is one fired projectile from
9 defect N, and that's actually at the Deer Run
10 Apartments from the door that we saw [REDACTED] in that
11 wall, as soon as you walk in. And that's 135.

12 State's Exhibit 134 is one fired projectile
13 fragment from the interior of the rear driver
14 quarter panel of the green Audi, and that's at the
15 bottom right, right in front of Apartment [REDACTED].
16 State Exhibit 133 is one fired projectile fragment
17 from the driver interior A-pillar from the Infiniti,
18 and the Infiniti is the red vehicle that you see in
19 front of the Apartment [REDACTED].

20 State Exhibit 132 is multiple fired projectile
21 fragments from defect N, which is in the driver
22 headrest of the Infiniti, which is the red vehicle
23 in front of Apartment [REDACTED].

24 State Exhibit 131 is one fired projectile
25 fragment from the passenger floorboard of the

1 Infiniti G35, which is still that red vehicle, that
2 was Exhibit 131.

3 State Exhibit 130 is one fired projectile from
4 the trunk of the red G35, which is associated with
5 marker J. Marker J was just a label that we labeled
6 in the vehicle.

7 State Exhibit 129 is one fired projectile
8 fragment from the passenger doorframe of the
9 Infiniti G35, still the red vehicle that you see in
10 front of Apartment [REDACTED].

11 State Exhibit 136 is one fired projectile
12 fragment from the window shutter of Apartment [REDACTED],
13 and I believe we went back to the beginning.

14 Q. Okay, thank you.

15 MS. CAMPBELL: Your Honor, may we approach?

16 THE COURT: Yes, ma'am.

17 (Bench conference.)

18 (Court Reporter marks State's Exhibit Number 99,
19 as attached hereto.)

20 (Court Reporter marks State's Exhibit Number
21 100, as attached hereto.)

22 (Court Reporter marks State's Exhibit Number
23 100A, as attached hereto.)

24 (Court Reporter marks State's Exhibit Number
25 102, as attached hereto.)

1 (Court Reporter marks State's Exhibit Number
2 103, as attached hereto.)

3 (Court Reporter marks State's Exhibit Number
4 104, as attached hereto.)

5 (Court Reporter marks State's Exhibit Number
6 105, as attached hereto.)

7 (Court Reporter marks State's Exhibit Number
8 106, as attached hereto.)

9 (Court Reporter marks State's Exhibit Number
10 107, as attached hereto.)

11 (Court Reporter marks State's Exhibit Number
12 128, as attached hereto.)

13 (Court Reporter marks State's Exhibit Number
14 129, as attached hereto.)

15 (Court Reporter marks State's Exhibit Number
16 130, as attached hereto.)

17 (Court Reporter marks State's Exhibit Number
18 131, as attached hereto.)

19 (Court Reporter marks State's Exhibit Number
20 132, as attached hereto.)

21 (Court Reporter marks State's Exhibit Number
22 133, as attached hereto.)

23 (Court Reporter marks State's Exhibit Number
24 134, as attached hereto.)

25 (Court Reporter marks State's Exhibit Number

1 135, as attached hereto.)

2 (Court Reporter marks State's Exhibit Number
3 136, as attached hereto.)

4 MS. CAMPBELL: Your Honor, thank you. And for
5 the record, at this time, having gone through
6 State's 99, 100 which is the PPU, 100A is the PPU
7 mag, State's Exhibit 102 and 106, which are the PPU
8 casings, State's Exhibit 107 and 128, which are the
9 .9-millimeter casings, State's Exhibit 129 through
10 136, which are the recovered bullets and
11 projectiles. The State would seek to then admit
12 these items into evidence at this time.

13 THE COURT: All right, any objection --

14 MS. CARMDOY: Well --

15 THE COURT: -- subject to our bench conference?

16 MS. CARMODY: Yes, Your Honor.

17 THE COURT: Subject to the bench conference, and
18 we'll allow you outside later to put on the record
19 concerning, I think, the stipulation that's been
20 agreed to; is that satisfactory?

21 MR. HALL: Exactly, Your Honor, thank you.

22 THE COURT: All right, so admitted.

23 (State's Exhibits 99, 100, 100a, 107 - 128, and
24 129 - 136 admitted into evidence.)

25 MS. CAMPBELL: Thank you, Your Honor. And at

1 this point the State has concluded our direct
2 examination.

3 THE COURT: All right. Ms. Carmody, any cross-
4 examination?

5 MS. CARMODY: Yes, your Honor.

6 THE COURT: All right, before you do that,
7 ladies and gentlemen, let me just tell you, I told
8 you at the beginning of the trial that this is a lot
9 different than movies, than the TV and books. I
10 also told you it's often a slow and deliberate
11 process, and I also told you there's really no way
12 to correct an erroneous finding of the facts, and
13 you-all are the finder of the facts.

14 So bear with us, I ask that you please pay your
15 best attention. I know that you are, but I just
16 want to let you know that that's what's going on,
17 and that's what's different than TV, and we only
18 have one shot to get this right. And so I thank you
19 for your attention. We can go ahead and proceed
20 with cross-examination.

21 **CROSS-EXAMINATION BY MS. CARMODY**

22 BY MS. CARMODY:

23 Q. Good afternoon, ma'am.

24 A. Good afternoon, how are you?

25 Q. How do you pronounce your last name?

1 A. Cirencione.

2 Q. Cirencione.

3 A. It's not that easy for my kids.

4 Q. I'm sure.

5 A. Thank you.

6 Q. So let's start with 3 Main Street, okay?

7 You processed the vehicle, and what type of vehicle
8 is that you're processing?

9 A. It was a 2019 Chevy Malibu, with a Florida
10 plate.

11 Q. All right, and isn't it true that this is a
12 vehicle that had crashed into the building?

13 A. Yes, ma'am. The front driver's side of the
14 car was partially up on the curb in front of a
15 business.

16 Q. And within that processing inside the
17 vehicle as well?

18 A. Yes, ma'am, we did.

19 Q. Did you locate any shell casings inside the
20 vehicle?

21 A. No cartridge cases were located inside of
22 the Chevy Malibu.

23 Q. And while I'm thinking of it, would you
24 please tell the jury what the difference is between
25 a shell casing and a cartridge or a projectile?

1 MS. CAMPBELL: Do we need to take a break or go
2 straight to the next one.

3 THE COURT: Let's go ahead and hear your last
4 witness.

5 MS. CAMPBELL: Are you ready?

6 THE COURT: Yes.

7 MS. CAMPBELL: Okay. The State calls Lucretia
8 Jordan.

9 * * *

10 **LUCRETIA JORDAN**

11 * * *

12 being first duly sworn, testified as follows:

13 WITNESS: I'm sorry.

14 THE COURT: That's all right. Believe me, you
15 are not the first person that has done that today,
16 okay? I promise. I think every witness has done
17 it, all right?

18 WITNESS: Okay.

19 THE COURT: Thank you, your witness.

20 MS. CAMPBELL: Thank you, Your Honor.

21 **DIRECT EXAMINATION**

22 BY MS. CAMPBELL:

23 Q. Could you please state your name and spell
24 it for our Court Reporter?

25 A. Lucretia Jordan, L-U-C-R-E-T-I-A J-O-R-D-A-

1 N.

2 Q. Ms. Jordan, were you at the Walsh Drive
3 Apartments on April 22nd, 2020, in your black
4 Nissan, in your black car?

5 A. I was in no black car; I've been in a -- I
6 have a 2019 Ford Fusion.

7 Q. Okay. Well, let's go up to State's Exhibit
8 15, and I'm gonna show you a video, and ask you if
9 you can identify your vehicle in that video, okay?

10 (Video being played for the jury.)

11 A. Yeah, I'm coming around the corner.

12 MS. CAMPBELL: Okay, stop.

13 BY MS. CAMPBELL:

14 Q. Okay, thank you, so in State's Exhibit 15
15 you can see your vehicle, as you say, come around
16 the corner?

17 A. Yes.

18 Q. Okay, perfect. When you drove into the
19 Walsh Drive Apartments on April 22nd, 2020, was
20 there anybody in their car with you?

21 A. My sister and my kids.

22 Q. Okay, and your sister's name?

23 A. Letia.

24 Q. Letia? Okay. So you and your sister and
25 the children are in that dark-colored vehicle right

1 by the bushes; is that correct?

2 A. Which is gray, yes.

3 Q. All right. As you're coming around the
4 corner, can you please tell the jury what you saw
5 happening with the silver Chevy Malibu and the folks
6 on the porch of [REDACTED]?

7 A. The silver Malibu was leaving out, and where
8 you see my car is at, I stopped to talk to the lady
9 that was on that porch. As we was getting out,
10 passing the mailbox, we got to the end of that
11 corner, where you're going to the corner of Walsh
12 Drive, and the Cadillac -- the person that was in
13 the backseat of the Cadillac got out and started
14 shooting towards the Malibu.

15 Q. All right.

16 MS. CAMPBELL: Can you play that video again?

17 (Video being played for the jury.)

18 BY MS. CAMPBELL:

19 Q. We're gonna watch your car.

20 MS. CAMPBELL: Okay, stop.

21 BY MS. CAMPBELL:

22 Q. Now, the person that you see walking towards
23 the Cadillac, can you explain what you saw that
24 person doing?

25 A. Going towards the car to get -- well,

1 actually, I couldn't see what was really going on.
2 My sister was really watching, and she said, "Oh,"

3 MR. HALL: Objection, Your Honor.

4 THE COURT: Okay, hold on.

5 MR. HALL: Hearsay.

6 THE COURT: Okay, all right. You can't say what
7 someone else said, so I'll sustain that objection.
8 Continue.

9 MS. CAMPBELL: Your Honor, I would just say that
10 for her sister calling out what -- in that excited
11 utterance moment, what she was witnessing happening,
12 trying to warn her sister would not be hearsay, it
13 would be an exception to hearsay, and so the State
14 submits it would be admissible.

15 THE COURT: What about that, Mr. Hall?

16 MR. HALL: We are also talking about -- I'm --
17 for the record I'm --

18 THE COURT: All right, let me have you-all step
19 out for one minute, I'll get you right back in here,
20 okay?

21 (Jury exits the courtroom.)

22 THE COURT: All right, what I want to do is, I
23 want to see what she was gonna say.

24 MS. CAMPBELL: Okay.

25 THE COURT: All right, let's see what she's

1 gonna say right now.

2 MR. HALL: And, Judge, I apologize, I was trying
3 to watch that objection, because I knew what she was
4 going to say, and I wanted to object
5 contemporaneously.

6 THE COURT: Oh, I --

7 MR. HALL: Yes.

8 THE COURT: I understand that. I knew exactly
9 what you were doing, but I want to hear right now
10 what she's got to say, because I think that could
11 affect my ruling, all right? So go ahead and ask
12 her the question again, ma'am, and then you can --
13 for right now you can answer however you want to
14 answer it, okay?

15 BY MS. CAMPBELL:

16 Q. You can finish your answer.

17 A. We was leaving, going around the curb, and
18 my sister said, "Oh, it looks like they're about to
19 shoot." As we get around the curb -- then got out
20 and -- well, didn't get out, but went to the car and
21 got something, a black -- well, a gun that had
22 something long on the clip, and started shooting
23 towards the Malibu.

24 MS. CAMPBELL: That's it, Your Honor.

25 MR. HALL: And so, Judge, my response to that

1 is, the State has the opportunity to call Letia
2 Jordan to testify to that directly, instead of
3 attempting to shoe word it into a hearsay exception,
4 and not calling Letia Jordan.

5 THE COURT: Well, as I understand it, the only
6 thing she's gonna say her sister said was it looks
7 like he was gonna shoot.

8 MR. HALL: Well, I --

9 THE COURT: Is that --

10 MR. HALL: It's obviously a statement. Assuming
11 that Letia Jordan doesn't testify, obviously, I'm
12 unable to cross-examine as to what Letia Jordan --

13 THE COURT: All right.

14 MR. HALL: --

15 THE COURT: All right, we'll stand down for just
16 a minute.

17 (Recess.)

18 BAILIFF: All rise.

19 THE COURT: All right, you can be seated. All
20 right. All right, I think for a statement to fall
21 within the excited utterance exception to the
22 hearsay rule, the statement must relate to a
23 startling event or condition. I think that this
24 does, with someone pointing a gun at 11:30 in an
25 apartment complex out in public, the statement must

1 have been made while the declarant was under stress
2 of excitement.

3 I think that is the case. I think the witness
4 has indicated that. The stress and the excitement
5 must be caused by the startling event or condition.
6 I also think that the law looks to the Court to
7 examine the totality of the circumstances, when
8 determining whether a statement falls within the
9 excited utterance exception to hearsay, and I
10 believe given the information that's been provided,
11 I believe I'm going to deny your motion, sir, I'm
12 going to allow her to testify to that.

13 MR. HALL: Just for the record, I believe the
14 context within that statement within which that
15 statement was made.

16 There's been no other explanation for it. I
17 think there's been no context given, as to did this
18 person that we're attributing this hearsay statement
19 to, actually see people with guns in their hands, or
20 any person with a gun in their hand, ready to shoot,
21 or was it situation where, from this other witness,
22 this hearsay statement, this other witness believed
23 that these people were about to shoot, based on what
24 she was seeing was an excited utterance. You can
25 have an excited utterance in the instance, where

1 she's observing people shooting at each other, but
2 then the statement itself doesn't make sense.

3 Well, it implies that the shooting hasn't begun
4 yet, so I'm not sure exactly what the startling
5 event would be at that point, that would qualify
6 this as an excited utterance.

7 THE COURT: Well, I think it's -- the witness
8 testifies that as she says it, she sees the -- as
9 her sister says it, she sees him pointing a gun in
10 the middle of the day; is that not a startling
11 event?

12 MR. HALL: I don't --

13 THE COURT: I mean I'm -- that's what I'm
14 hearing, sir.

15 MR. HALL: I don't believe that's what her
16 testimony was. If I'm in error on that, then that's
17 my fault.

18 THE COURT: Solicitor, what do you recall her
19 testimony to be?

20 MS. CAMPBELL: I believe that she testified that
21 upon seeing the two groups and what they were doing,
22 her sister says to her -- the witness is shaking her
23 head in agreement with me that viewing what was
24 happening with them, she said her sister -- "They're
25 about to shoot." In other words, --

1 THE COURT: All right, I note your exception for
2 -- or your objection for the record. I'm gonna
3 allow it in. All right, anything before we bring
4 the jury back?

5 MS. CARMODY: No, Your Honor.

6 THE COURT: All right.

7 MR. HALL: Yeah, actually, there is a couple of
8 matters --

9 THE COURT: Yes, sir.

10 MR. HALL: -- like the cross-examination, and
11 the State's kind enough, obviously, to provide that
12 for citizen witnesses, and if I so choose, I just
13 wanted to make sure that everyone is aware that Ms.
14 Jordan appears to have a conviction on her record
15 for breach of trust with fraudulent intent.
16 Pursuant to 609 would be the crime of dishonesty,
17 and I'd be able to question her as to that offense.

18 MS. CAMPBELL: That's correct.

19 THE COURT: Ms. Carmody?

20 MS. CARMODY: No objection, Your Honor. I just
21 wanted it on the record now that the jury is out.

22 THE COURT: All right, we had a conference, and
23 the conference was concerning the admission of
24 evidence, the last batch of evidence that was
25 entered into.

1 MS. CAMPBELL: Thank you, Your Honor.

2 BY MS. CAMPBELL:

3 Q. So, Ms. Jordan, we were talking about you
4 and your sister in your car, with the children in
5 your car. In this particular frame you're sort of
6 between the white Cadillac and the silver Chevy
7 Malibu. What is going on, and what is your sister
8 saying to you that's alarming?

9 A. It just looked suspicious in the Cadillac;
10 it just looked suspicious. Never seen a Cadillac
11 around there in that area.

12 THE COURT: Well --

13 BY WITNESS:

14 A. But this thing looked suspicious.

15 Q. And --

16 MR. HALL: Objection.

17 THE COURT: Okay, all right, all right. Counsel
18 approach.

19 (Bench conference.)

20 THE COURT: All right, so I'm going to sustain
21 your objection, Mr. Hall.

22 MR. HALL: Thank you.

23 THE COURT: Yes, sir.

24 BY MS. CAMPBELL:

25 Q. Latisha -- Lucretia --

1 A. I'm not Latisha.

2 Q. I can't -- that is your vehicle at the Walsh
3 Drive Apartments, right?

4 A. Yes.

5 Q. All right, and your sister's in the car with
6 you, and the children are in the car with you,
7 right?

8 A. And I was pregnant at the time, so, yes.

9 Q. Okay, all right, and you're pregnant. And
10 so did you see anything happening? Did you see
11 anything happening with the black male and the white
12 Cadillac? And, if you did, tell the jury what you
13 saw.

14 A. Him going towards the car to get something.

15 Q. To get something out. And did you see him
16 retrieve a handgun?

17 A. A black gun with like a clip on it.

18 MR. HALL: Objection, Your Honor, leading.

19 BY MS. CAMPBELL:

20 Q. A black gun?

21 THE COURT: All right, let's try not to lead as
22 much. I'm going to overrule the objection, but,
23 Solicitor, in the future let's try to rephrase your
24 questions.

25 BY MS. CAMPBELL:

1 Q. All right, so, Lucretia, what, if anything,
2 did you see in the black male's hand at the white
3 Cadillac?

4 A. A gun.

5 Q. A gun? All right. And what kind of clip
6 was on the gun?

7 A. Oh, I don't -- I don't know my guns, so I
8 don't know.

9 Q. Okay, all right. Do you recall giving a
10 statement on April 24, 2020, to SLED Agent Richard
11 Johnson and SLED Agent Natasha Merrell?

12 A. Yes.

13 Q. Do you recall giving that statement?

14 A. Yes.

15 Q. All right. And do you recall when you gave
16 that statement that you said the black male got a
17 black gun with a long clip out of the white

18 Cadillac? Do you recall making that statement?

19 A. Yes, ma'am.

20 Q. All right, thank you.

21 A. Uh-huh.

22 Q. Now, the people in the Chevy Malibu what
23 were they doing?

24 A. One was going toward the car, and the other
25 one was like on the porch.

1 Q. Okay, in the Chevy Malibu what were --

2 A. Oh, they wasn't even out of it, they were
3 just riding through, leaving out.

4 Q. Riding through, leaving out. Did you see
5 anything happen with this Chevy Malibu, in terms of
6 any shooting or anything?

7 A. No.

8 Q. All right. Again, on April 24th, 2020, to
9 SLED Agent Richard Johnson and Natasha Merrell, do
10 you recall telling them on that date that the Chevy
11 Malibu --

12 MR. HALL: Your Honor, perhaps instead of Ms.
13 Campbell providing testimony to Ms. Jordan, if she
14 wants to have her recollection refreshed, maybe she
15 could look at her statement and see if that
16 refreshes her recollection, instead of asking her
17 on this day --

18 THE COURT: All right.

19 MR. HALL: -- when you talked to these people,
20 did you say this?

21 THE COURT: Hold on, ma'am, hold on. All right,
22 all right. I'm gonna let her go ahead and continue
23 doing what she's doing.

24 BY MS. CAMPBELL:

25 Q. So do you recall making the statement to

1 those SLED Agents that the people in the Chevy
2 Malibu were shooting back at the people in the white
3 Cadillac?

4 A. No.

5 Q. All right.

6 MS. CAMPBELL: I can provide her with her
7 statement, Your Honor, or --

8 THE COURT: All right.

9 MS. CAMPBELL: -- I can play it, whichever one.

10 THE COURT: Well, do whatever you want,
11 Solicitor.

12 MS. CAMPBELL: All right.

13 (Video being played for the jury.)

14 THE COURT: Hold on, hold on, hold on. Yes,
15 sir?

16 MR. HALL: I think there needs to be some
17 accommodation here. That she just popped up on a

18 video and is playing it, I don't think there's been
19 any foundation laid, as to who's present on the
20 video, who's actually in the video.

21 THE COURT: Okay. Well, if you want to -- all
22 right, counsel approach.

23 (Bench conference.)

24 THE COURT: All right, I'll sustain the
25 objection. Go ahead, Solicitor.

1 MS. CAMPBELL: Thank you, Your Honor.

2 BY MS. CAMPBELL:

3 Q. All right, Ms. Jordan, will you please take
4 a look at the screen? Okay, is that you?

5 A. Yes.

6 Q. Okay. All right, and this is the statement
7 that you gave to Natasha Merrell and Richard Johnson
8 with SLED?

9 A. Correct.

10 Q. All right, thank you.

11 MS. CAMPBELL: All right, if I may, Your Honor?

12 THE COURT: Yes, please.

13 MS. CAMPBELL: Thank you.

14 (Video being played for the jury.)

15 BY MS. CAMPBELL:

16 Q. And when you're talking about Ms. Robin's
17 son, who are you talking about?

18 A. The lady that stays out there.

19 Q. Right, and her son is who?

20 A. Oh, I don't know the sone like that.

21 Q. Right, but in your interview did you not
22 tell the SLED Agents that you saw her son at the
23 white Cadillac with a big black gun?

24 A. Yes.

25 Q. Okay, and that that person had been out

1 there at the Walsh Drive Apartments the night
2 before?

3 A. Yes.

4 Q. And that's how you recognized him, and knew
5 him as Robin's son?

6 A. 'Cause I know that he stays next door to his
7 mom, yes.

8 Q. Right, okay. Thank you.

9 MS. CAMPBELL: That's all I have, Your Honor.

10 THE COURT: All right, thank you. Cross-
11 examination, Ms. Carmody?

12 MS. CARMODY: Yes, sir.

13 **CROSS-EXAMINATION BY MS. CARMODY**

14 BY MS. CARMODY:

15 Q. Good afternoon, ma'am.

16 A. Hi.

17 Q. Ma'am, you called 911 to report the
18 shooting, right?

19 THE COURT: Yes?

20 BY WITNESS:

21 A. Yes.

22 THE COURT: Okay, you're doing great, ma'am, but
23 you've just got to answer out loud.

24 BY WITNESS:

25 A. Sorry, yes.

1 THE COURT: You're fine, yes, ma'am.

2 BY MS. CARMODY:

3 Q. And when you called 911 to report the
4 shooting, where was the white Cadillac going?

5 A. I guess his mom's house.

6 Q. I'm sorry?

7 A. To his mom's house. It was in a parking lot
8 already though.

9 Q. Okay, so when you called 911 to report that
10 a shooting had happened, do you recall telling them
11 that you were following the white Cadillac?

12 A. 'Cause I was leaving out going home, to
13 leave.

14 Q. Okay, so when say going home you mean
15 somebody else's -- I'm not sure what you meant.

16 A. I don't live at Walsh Drive.

17 So when I would -- I was picking up my sister to
18 babysit for me.

19 Q. Okay.

20 A. But I believe that that's the only way you
21 could go.

22 Q. The white Cadillac had fled from Walsh Drive
23 Apartments?

24 A. Yes.

25 Q. Was there also a gray car that had fled as

1 well?

2 MR. HALL: Objection, Your Honor. I'm going to
3 object to the characterization of fled the apartment
4 complex, because --

5 THE COURT: I'll sustain that objection. You
6 can rephrase that question.

7 MS. CARMODY: Thank you, Your Honor.

8 BY MS. CARMODY:

9 Q. So when the white Cadillac was leaving out
10 of the Walsh Drive Apartments, and were you
11 following that vehicle as it crossed here and got
12 onto another?

13 A. Oh, towards -- right towards the stop sign,
14 to see where they were turning off.

15 Q. Okay.

16 A. Yeah.

17 Q. And, ma'am, the gray Nissan as well, the
18 gray Nissan was also leaving the Walsh Drive
19 Apartments?

20 A. Yeah, that car left out before though.

21 Q. Okay. And the individual who -- in the
22 white Cadillac who you saw shooting, was he still in
23 that white Cadillac?

24 A. All of them was together, correct, yes.

25 Q. Okay.

1 MS. CARMODY: I beg the Court's indulgence.

2 THE COURT: Yes, ma'am.

3 BY MS. CARMODY:

4 Q. Thank you, ma'am.

5 MS. CARMODY: No further questions.

6 THE COURT: All right, thank you. Mr. Hall?

7 MR. HALL: Yes, thank you, sir.

8 **CROSS-EXAMINATION BY MR. HALL**

9 BY MR. HALL:

10 Q. Good afternoon, Ms. Jordan.

11 A. Good afternoon.

12 Q. You've seen a bit of an interview that was
13 played for you. You now recall giving that
14 interview to the Agents with SLED; is that correct?

15 A. Yes.

16 Q. All right, and part of that -- well, you
17 testified you were there, correct?

18 A. Correct.

19 Q. And in the process of doing that, did you
20 speak to anyone else while you were there?

21 A. I believe they were standing on the porch.

22 Q. All right, and the porch of what apartment?

23 A. On Walsh Drive?

24 Q. Yes.

25 A. In the corner of Walsh Drive.

1 Q. Okay, so would that be roughly where the
2 video shows your car stopping --

3 A. Coming around the curb, yes.

4 Q. So the person that you were talking to would
5 have been to your left in that corner apartment?

6 A. Correct.

7 Q. Okay. And so at that point your attention
8 was focused on the person that you were talking to,
9 correct?

10 A. Correct.

11 Q. Who were you speaking to at that time?

12 A. A lady named Shannon.

13 Q. Shannon, okay, very good. And how long of a
14 conversation, if you can estimate, how long of a
15 conversation --

16 A. I can't remember, sir.

17 Q. You don't remember?

18 A. No.

19 Q. But you were speaking to her?

20 A. Correct.

21 Q. Were you still speaking to her as the Chevy
22 Malibu was coming around --

23 A. That's --

24 Q. -- your car?

25 THE COURT: Hold on one second. All right, just

1 let him finish his question, and then you answer,
2 and I'll make sure that he allows you to finish your
3 answer before he questions, okay?

4 WITNESS: Yeah.

5 THE COURT: Thank you.

6 BY MR. HALL:

7 Q. So my question was when that Chevy Malibu
8 came around your car, were you still speaking to
9 Shannon?

10 A. Yes.

11 Q. So you're sitting there, and that car passes
12 around you?

13 A. Correct.

14 Q. But yet it's your testimony that even though
15 your attention was faced that way, you somehow then
16 were able to see someone at this Cadillac retrieve a
17 weapon?

18 A. We passed it, we were leaving, yeah.

19 Q. You were leaving?

20 A. We were leaving out, yes.

21 Q. You had already moved at that point? Okay.

22 THE COURT: Yes?

23 BY WITNESS:

24 A. Yes.

25 THE COURT: Okay.

1 BY MR. HALL:

2 Q. And so I believe the other part of your
3 testimony, if I understood it correctly, was that
4 you did, in fact, witness people from the -- a
5 person or persons from the Malibu firing back in the
6 direction of the Cadillac?

7 A. No, I didn't see nobody, no.

8 Q. You don't recall saying that?

9 A. No.

10 Q. Okay. Is it true that you have a conviction
11 on your record for breach of trust with fraudulent
12 intent from June 11th of 2018?

13 A. Uh-huh.

14 THE COURT: Yes?

15 BY MR. HALL:

16 Q. That you were sentenced to 30 days in jail
17 with four years of probation and given restitution;

18 is that correct?

19 A. Yes.

20 Q. Okay.

21 MR. HALL: Thank you, Judge, I have no other
22 questions.

23 THE COURT: All right, Solicitor, do you have
24 any redirect?

25 MS. CAMPBELL: No, sir.

1 THE COURT: Anything else, Ms. Carmody?

2 MS. CARMODY: No, Your Honor.

3 THE COURT: All right, Ms. Jordan, thank you so
4 much, ma'am. I hope you have a good day.

5 WITNESS: Uh-huh.

6 THE COURT: All right. Is that it for the day?

7 MS. CAMPBELL: That's it, Your Honor.

8 THE COURT: All right, ladies and gentlemen, I
9 think we're at a good stopping point today. And,
10 again, I appreciate your patience, I appreciate your
11 listening and the attention that you've been giving
12 this case.

13 We're dealing with very important matters here,
14 and so to that extent, thank you.

15 We all understand what a sacrifice it is for you
16 to be here. I'm going to send you home, or back to
17 work, or wherever you may be going. Do not talk
18 about the case.

19 Do not conduct any research about this case.
20 And we will see you back in here -- is 9:30 -- can
21 we be here at 9:30 tomorrow and try to get a little
22 earlier start; is that all right? Okay.

23 So I'll see you-all back in the jury room at
24 9:30. Have a great evening, okay? Thank you,
25 folks.

1 PROCEEDINGS CONTINUED

2 WEDNESDAY, MARCH 8, 2023

3 RIDGELAND, SOUTH CAROLINA

4 **

5 (The following proceedings were held in open court.

6 All parties were present.)

7 BAILIFF: All rise.

8 THE COURT: All right, you can be seated,
9 thank you. All right, Solicitor, is there anything
10 that we need to take up before we get the jury in,
11 once the jurors -- I don't know if they're all here
12 or not, but is there anything we need to take up, as
13 it relates to this matter from the State?

14 MS. CAMPBELL: This morning, Your Honor,
15 Daquadrae Green has been transported from the
16 Hampton County Detention Center, and he is here.
17 Cameron Hatfield has not arrived yet from the
18 Beaufort County Detention Center.

19 I will just need a moment to confer with him.
20 Based upon my recollection, the Court's ruling on
21 the proper -- on Monday afternoon to ensure that he
22 abides by Your Honor's ruling.

23 THE COURT: All right.

24 MS. CAMPBELL: So that's all I can think
25 of. And the other witnesses that we would have been

1 here and available --

2 THE COURT: All right.

3 MS. CAMPBELL: -- as well.

4 THE COURT: Great. Ms. Carmody, anything
5 from you, ma'am.?

6 MS. CARMODY: Yes, Your Honor. So the
7 video that they had sent over of Cameron Hatfield, I
8 can imagine that they'd want to use that to impeach
9 his testimony should he testify that he doesn't
10 remember talking to SLED. That video still has Rule
11 404B evidence in it, and I believe that Rule 404B
12 evidence would actually exclude pursuant to the
13 ruling on Monday afternoon. I certainly think that
14 comports with what is admissible pursuant to the
15 Court's ruling.

16 THE COURT: Well, let's cue the video up
17 and -- because I mean you're gonna have to tell me
18 what and where your objection is.

19 MS. CARMODY: Yes. He's pulling it up.

20 THE COURT: Okay. Is there a particular
21 portion of it that you could direct us to?

22 MS. CARMODY: Yes. I was talking to Ms.
23 Campbell about it the other day, it's the portion I
24 think it's for -- it's the portion where he says,
25 "Have you ever seen him," meaning my client, and he

1 says, "Yes, at Lafayette.

2 Well, at one point in time he robbed me for \$10.
3 It wasn't like it was like a robber. He took the
4 \$10 for weed and he never came back." That was the
5 only way that I knew a connection to him, and that
6 was -- hang on, maybe two years ago.

7 Your Honor, I would submit to the Court that the
8 incident was years ago, it's insinuated. It's also
9 contradictory to what he testified to on Monday.
10 And I think it involved a gun, money, you know, when
11 it happened.

12 THE COURT: All right. Solicitor?

13 MS. CAMPBELL: Thank you, Your Honor. I
14 think that Mr. Hatfield can testify to three things,
15 that he recognized Xavier in the back of the silver
16 Chevy Malibu, that he knows him, and that there was
17 some sort of beef between Jharaun and Xavier. That
18 is not -- having a peace is not an armed robbery.
19 We talked about the beef between them from the very
20 beginning, and I don't think it in any way violates
21 the Court's ruling from Monday afternoon. And it's
22 not specific, and I think it certainly comports with
23 what is admissible, based upon the Court's ruling.

24 THE COURT: That they had a beef?

25 MS. CAMPBELL: Something -- there was some

1 sort of a beef between Zay and Finesse.

2 MS. CARMODY: Your Honor, no. ^

3 THE COURT: I'm sorry?

4 MS. CARMODY: Your Honor, no, this is --
5 no. So first of all that would require him --

6 THE COURT: Well, first of all, all the
7 stuff you just read, I don't think none of that's
8 coming in.

9 MS. CARMODY: It's in the video though.

10 THE COURT: Well, it needs to be redacted.

11 MS. CAMPBELL: We would not present that,
12 that would violate the Court's ruling.

13 MR. HALL: Judge, just for the record, I
14 think the redacted video, if they intend to show
15 that one, that was sent to us Monday evening does
16 not contain any information about this alleged
17 robbery.

18 THE COURT: Yeah, I don't remember that.
19 There was like a four-minute video, and I didn't
20 remember all that.

21 MR. HALL: It's not in that redacted video
22 at all. What is in there is the information
23 regarding --

24 THE COURT: The beef.

25 MR. HALL: So then the beef between one of

1 them?

2 THE COURT: Yes, sir.

3 MR. HALL: -- just one of the issues. I
4 think I'll object to the inclusion of that
5 significant information, that it is a -- it's
6 speculation purely on his part that actually would
7 exist. He doesn't know that for a fact. He says,
8 "I might think there is." He doesn't say, "I know
9 there is, and this is the reason for it." So it's
10 allowing a witness to put speculative testimony out,
11 and all it does -- and I understand why the State
12 wants to do it, obviously, because it then places --
13 it attempts to place some of this out of context.
14 Because otherwise there's not gonna be any
15 testimony, as far as I understand, unless something
16 changes, a chance to happen, that no one's going to
17 be able to testify as to why this happened. There
18 were no words exchanged between either of the
19 parties, that this car just rolled up and this
20 happened.

21 And so now there's an attempt here by putting in
22 this information about there's some speculation
23 about it. He can't even say which but, you know,
24 then that there's beef, and that's what the link is
25 on that video.

1 So he's speculating as to that, he's not saying
2 that that's based on his personal knowledge, he
3 thinks, he's speculating that's happened.

4 THE COURT: All right, what about that,
5 Solicitor? What about the fact that it's
6 speculating? And in fact I think he's correct, as I
7 recollect, and, Ms. Carmody, I'm not trying to
8 ignore you, but I do believe that the information
9 that you made reference to is not contained in the
10 four-minute or whatever it is, it's a brief video,
11 it's not long at all. I know it's less than ten
12 minutes.

13 In that video I didn't hear any of that, and I
14 think Mr. Hall is confirming that, but what about
15 the fact that it's speculation, and he did indicate,
16 as I recollect when I listen to the video, that
17 there were -- at some point he even said he didn't
18 even know which one, something about the -- Talk to
19 me about speculation, or why is -- why should I
20 allow it in?

21 MS. CAMPBELL: Well, Your Honor, it's --
22 again, it's not speculation, it's proper information
23 that Cameron Hatfield has about the threats, the
24 beef, the back and forth, but all of that violates
25 404B. You know, a Facebook message here, or a text

1 message there, you know, that sort of information is
2 not coming in, and it shouldn't come in, but I think
3 the fact that he's aware --

4 THE COURT: Well, hold on a minute, I
5 thought I kept out the information where Mr.
6 Hatfield got -- had something against a gentleman.

7 MS. CAMPBELL: That is correct.

8 THE COURT: All right.

9 MS. CAMPBELL: He --

10 THE COURT: We're talking about -- we're
11 not talking about -- that was a beef with Hatfield,
12 right?

13 MS. CAMPBELL: Correct.

14 THE COURT: All right, so now we're talking
15 about somebody else's beef that Hatfield says he
16 knows about.

17 MS. CAMPBELL: He is aware of, that's
18 correct. That's the statement that he gave to Blake
19 Johnson. That is his position, that is his
20 testimony, that is what he knows about, a beef
21 between Zay and Jharaun. He doesn't know who it's
22 between specifically, but he does know that there's
23 been a back and forth, whatever the beef is, he
24 can't get into the details of it without violating
25 the Court's rule, and the ruling on 404B.

1 THE COURT: But I thought my ruling --
2 well, my ruling only dealt with his beef with these
3 -- with Hatfield's beef with these people, right?

4 MS. CAMPBELL: That's correct.

5 THE COURT: All right, so what is the basis
6 of his knowledge about the beef that they have?
7 He's testifying about a beef that he thinks these
8 people over here have.

9 MS. CAMPBELL: Correct.

10 THE COURT: And so what I want to know is, what
11 is his knowledge about the beef that they have?

12 MS. CAMPBELL: And certainly maybe we need to
13 proffer him on that point, but the information that
14 I believe that he has about the beef between and
15 Zay, comes from information from Jharaun Washington
16 and Facebook, and the threats that went back and
17 forth. I can't answer the question, only Cameron
18 can answer that question, how he knows about the
19 beef.

20 THE COURT: All right, so that you're
21 saying is, there's gonna be additional testimony, as
22 to how -- what this beef is, or how --

23 MS. CAMPBELL: No.

24 THE COURT: -- this beef arose?

25 MS. CAMPBELL: No, I don't intend to

1 introduce anything, other than that he recognized
2 Xavier Rivers, he knows him, and that there was some
3 sort of beef between Xavier Rivers and that's it.
4 If I go further than that, I'm gonna go -- a 404B
5 and the Court's ruling, and I'm not gonna do that.

6 MS. CARMODY: Your Honor --

7 THE COURT: Hold on. Yes, ma'am.

8 MS. CARMODY: Your Honor, so, number one, I
9 agree that it is speculation also. This is why in
10 these types of cases, where the State was trying to
11 show mutual combat, the defendants are being tried
12 separately, so that way the State can put in the
13 information that they want, and they can call a
14 witness to testify against him, including his own
15 statement. They couldn't do that here because
16 they're codefendants. So I think this is trying to
17 skirt around putting up -- trying these individuals
18 separately now, and get testimony regarding
19 speculation of what he apparently told Hatfield,
20 without calling him on the stand to testify, or
21 using his own statements against him, which would be
22 a violation, if that make sense, Your Honor? So
23 what I'm trying to say is, essentially, what they're
24 trying to imply is, that Washington somehow --

25 THE COURT: Washington told them.

1 MS. CARMODY: -- Hatfield.

2 THE COURT: Washington told them what the
3 beef was.

4 MS. CARMODY: That is hearsay.

5 MR. HALL: Judge, I --

6 MS. CARMODY: And it's speculation, and
7 when, where, what? I mean there's no more
8 information on it.

9 MR. HALL: Judge, I'm more concerned with
10 what the exact language is in the video, is that he
11 thinks that there's a beef. He doesn't say that he
12 knows that there's beef, he doesn't give any basis,
13 or even why he thinks that there's a beef, so it's
14 pure speculation on his part, but this beef, if it
15 exists, even does exist.

16 THE COURT: All right. All right. All
17 right, Solicitor, I think we need to proffer this
18 witness, and let's find out how he knows about this
19 beef -- alleged beef, whatever the case may be, and
20 --

21 MS. CAMPBELL: Is he here? Is he in
22 Beaufort County here?

23 THE COURT: Well, if they're not, then we
24 can call your first witness, and we can do that
25 later. All right, we'll take that up later once

1 he's here, but let's see what he -- what his
2 knowledge is, as it relates to whether a beef even
3 exists, or how he found out about it, or what the
4 situation is, that's going to help me in my ruling,
5 all right? Anything else?

6 MR. HALL: Judge, there's just one other
7 matter. There are friends that were here to
8 observe, and I believe they're sitting outside. I'd
9 just like for them to be able to come into the
10 courtroom.

11 THE COURT: I mean I don't have a problem
12 with that, unless security does for some reason.

13 CLERK: Security, let anyone outside in.
14 Thank you.

15 BAILIFF: They can come in?

16 CLERK: Yes.

17 MR. HALL: Unless they're a witness.

18 THE COURT: All right, anything else before
19 we bring the jury in?

20 MR. HALL: Nothing for Mr. Washington, Your
21 Honor.

22 THE COURT: Anything?

23 MS. CARMODY: No, Your Honor.

24 THE COURT: All right. Is our jury here?

25 BAILIFF: Yes.

1 THE COURT: Great, just give us one second,
2 let everybody sit down.

3 BAILIFF: Very good.

4 THE COURT: All right, that's all right,
5 let's go ahead and get the jury in.

6 BAILIFF: I'm sorry. I didn't hear you,
7 Your Honor.

8 THE COURT: That's okay.

9 BAILIFF: Okay.

10 (Jury enters the courtroom.)

11 BAILIFF: Thank you, Your Honor.

12 THE COURT: All right, thank you very much.
13 Ladies and gentlemen, good morning. I think the
14 State is ready to continue with your case.
15 Solicitor, you can call your next witness, please.

16 MS. CAMPBELL: Thank you, Your Honor, the
17 State calls Daquadrae Green.

18 * * *

19 DAQUADRAE GREEN

20 * * *

21 being first duly sworn, testified as follows:

22 THE COURT: Hey, Mr. Green, how are you
23 doing?

24 WITNESS: How are you doing?

25 THE COURT: I'm doing good. Mr. Green,

1 could you pull that mask down while you're up here
2 and behind the -- that's great. Thank you very
3 much, sir.

4 WITNESS: Yes, sir.

5 THE COURT: All right, Solicitor, your
6 witness.

7 MS. CAMPBELL: Thank you, Your Honor.

8 **

9 **DIRECT EXAMINATION**

10 BY MS. CAMPBELL:

11 Q. Could you please state your name and spell
12 it for our Court Reporter?

13 A. My name is Daquadrae Green, it's D-A-Q-U-A-
14 D-R-A-E, Green, G-R-E-E-N.

15 Q. Slowly.

16 A. G-R-E-E-N.

17 Q. Mr. Green, do you know Xavier Rivers?

18 A. Yes, ma'am.

19 Q. How do you know him?

20 A. We're friends.

21 Q. Do you know Donovan Hay?

22 A. Yes, ma'am.

23 Q. How do you know him?

24 A. Being a friend.

25 Q. Do you know Javante Jenkins?

1 A. Yes, ma'am.

2 Q. And how do you know Javante Jenkins?

3 A. Friends.

4 Q. All right. I'm gonna take you back to April
5 of 2020, the day before the shooting, or the morning
6 of the shooting. Tell us where you were and who you
7 were with.

8 A. Oh, I'd been in Augusta, it was me, Donovan,
9 Javante, Xa.

10 Q. And did you stay in Augusta, or did you come
11 back to South Carolina?

12 A. We stayed in August for a couple days.

13 Q. And after you left Augusta, where did you
14 go?

15 A. We went back home away.

16 Q. And where would your home be?

17 A. Ridgeland, South Carolina.

18 Q. All right. When you got back to Ridgeland,
19 South Carolina, were you all in the same car?

20 A. Yes, ma'am.

21 Q. All right. Let's talk about that car. Who
22 was driving that car on April 22nd, 2020?

23 A. Don.

24 Q. Donovan Hay?

25 A. Donovan.

1 Q. Okay. And who was riding in the front seat
2 passenger seat?

3 A. Javante.

4 Q. Is that Javante Jenkins?

5 A. Yes, ma'am.

6 Q. Thank you. Who is sitting in that car
7 behind Javante Jenkins?

8 A. Me.

9 Q. All right. And who was sitting in that car
10 behind Donovan Hay, the driver?

11 A. Xa.

12 Q. And is that Xavier Rivers?

13 A. Yes, ma'am.

14 Q. All right. So I'm gonna ask you, and if you
15 need to at this point, stand up and help us out.
16 I'm gonna ask you if you see Xavier Rivers in this
17 courtroom, and if you do, could you help us out and
18 identify him for us?

19 THE COURT: Stand up.

20 BY WITNESS:

21 A. Xavier is right there.

22 Q. Is he in a black shirt, or a white shirt, or
23 a green shirt?

24 A. A white shirt.

25 Q. A white shirt. And is he sitting next to a

1 woman with curly hair?

2 A. Yes, ma'am.

3 Q. All right.

4 MS. CAMPBELL: I think he can identify the
5 Defendant, Xavier Rivers for the record, Your Honor.

6 THE COURT: I think he has, yes, ma'am.

7 MS. CAMPBELL: Thank you.

8 THE COURT: Thank you, sir. Thank you.

9 BY MS. CAMPBELL:

10 Q. All right, so now the four of you are in
11 this car. Where do you go when you get back to the
12 Jasper County area?

13 A. We was going to Donovan's sister's house.

14 Q. Do you know where Donovan's sister lived at
15 that time?

16 A. No, I didn't know exactly where she lived
17 at, but we was going there.

18 Q. Okay. At some point, as you're trying to go
19 to Donovan's sister's house --

20 MS. CAMPBELL: Let's pull up State's Exhibit 15.

21 BY MS. CAMPBELL:

22 Q. I'm gonna show you State's Exhibit 15, and
23 ask you if you can identify what we're seeing in
24 State's Exhibit 15 for us? Okay. Do you recognize
25 -- can you see it now?

1 A. Yeah.

2 Q. Okay, if you could play that for us, please.

3 (Video being played for the jury.)

4 BY MS. CAMPBELL:

5 Q. And when you see this -- the car that you
6 were riding in, if you can just let me know, and
7 I'll try to stop the video. Do you see the silver
8 car that you were riding in?

9 A. Yes, ma'am.

10 Q. All right.

11 MS. CAMPBELL: Let's stop it right there.

12 BY MS. CAMPBELL:

13 Q. I want to talk a little bit about your --
14 the silver car that you were in, and when you go
15 past that fella in that white Cadillac. Can you
16 tell us what, if anything, you saw happening?

17 A. Yes, ma'am. When we was coming around like
18 there was -- there was a couple fella over there,
19 where the Cadillac's at. It was moving funny, you
20 know what I'm saying, like trying to see who we was
21 or whatever. Yeah.

22 Q. Do -- when you say moving funny, can you
23 stand up and demonstrate that for the Court, please?

24 A. Yeah, like when we was coming around, it was
25 like moving fidgety, you know what I'm saying,

1 like --

2 Q. Okay.

3 A. -- you know, more like, you know what I'm
4 saying, just to see who we was, and something like
5 that.

6 Q. All right, thank you.

7 A. Yeah.

8 Q. You can sit back down. And if you could --
9 when you -- when you saw that happening, do you
10 remember Xavier Rivers, who was sitting next to you,
11 do you remember his window being down so that you
12 could see the man?

13 A. Well, I couldn't really -- I know I see -- I
14 couldn't see through the -- I couldn't see, and I
15 don't remember if the window was up or down, but I
16 could see.

17 Q. And that's fine.

18 A. Yeah.

19 Q. So you'd seen the men on the porch making
20 some sort of movements that you took note of?

21 A. Yes, ma'am.

22 Q. When you take note of those men and their
23 movements, what do you do as you-all are coming
24 around that corner?

25 A. Well, for one, I -- I felt like -- you know

1 what I'm saying, something was about to go down, and
2 I just took cover, like you know what I'm saying? I
3 wanted to be on the safe side and just got low --
4 low down in the car, because it felt like something
5 was about to happen.

6 Q. So you're down low in the car --

7 A. Yes.

8 Q. -- feeling like something's about to happen?

9 A. Yes.

10 Q. All right, and so what is the next thing --

11 MS. CAMPBELL: Pull that vehicle.

12 (Video being played for the jury.)

13 MS. CAMPBELL: All right, stop.

14 BY MS. CAMPBELL:

15 Q. Who is that getting out of the silver Chevy
16 Malibu?

17 A. That's Xavier.

18 Q. All right.

19 MS. CAMPBELL: Play the video.

20 (Video being played for the jury.)

21 BY MS. CAMPBELL:

22 Q. And what is he getting out of the trunk?

23 A. A firearm.

24 MS. CAMPBELL: All right, stop.

25 BY MS. CAMPBELL:

1 Q. When you're down and you're low, what
2 happens next after Xavier Rivers gets back in the
3 silver Chevy Malibu?

4 A. We was leaving out.

5 Q. And when you're leaving out what happens, if
6 anything? Do you hear anything? Do you see
7 anything?

8 A. I didn't see anything. I had seen -- I was
9 on -- like down, like down, you know, taking cover,
10 because I felt like something was about to happen.

11 Q. All right.

12 MS. CAMPBELL: Play the video.

13 (Video being played for the jury.)

14 MS. CAMPBELL: Stop the video.

15 BY MS. CAMPBELL:

16 Q. What do you see yourself doing in the video?

17 A. Running.

18 Q. All right. Where do you run to?

19 A. Like towards the woods there.

20 Q. After you run towards the woods, do you go
21 through the woods?

22 A. Yeah, like -- yeah.

23 Q. Do you come out of the woods?

24 A. Not at first.

25 Q. When do you come out of the woods?

1 A. When I came out of the woods, it was like
2 clear, it was like clear, there was a clear path for
3 me to get out, because the cars was like -- it
4 seemed like it was coming to the area I was running
5 to.

6 Q. When you're out of the woods are you on a
7 street? Do you come upon anything?

8 A. Yeah, it was a -- it was a street. It was a
9 street.

10 MS. CAMPBELL: Pull up --

11 BY MS. CAMPBELL:

12 Q. Do you come upon the silver Chevy Malibu
13 again after you've run away from it and through the
14 woods?

15 A. Yeah, like when I was walking down the road,
16 like further down the road I'd seen the -- the car
17 directly to the building.

18 Q. Did you walk up there, or did you stay back?

19 A. I walked up.

20 Q. The times from when you were running from
21 the silver Chevy Malibu, through the woods, to the
22 street, to the car, you can see that in State's
23 Exhibit 1 there, did you see Xavier Rivers in the
24 woods?

25 A. No, ma'am.

1 Q. Did you see Xavier Rivers once you got to
2 the silver Chevy Malibu again?

3 A. Yeah. We -- we end up -- well, I was like
4 -- I was way ahead. Xavier -- by the time I got
5 there he was behind me; he was behind me coming.

6 BY MS. CAMPBELL:

7 Q. Mr. Green, the entire time that this is
8 happening, that this shooting is happening, do you
9 have a gun?

10 A. No, ma'am.

11 Q. I'm gonna show you some items, State's
12 Exhibit 90. Whose bag is that? Is -- that's not
13 your bag, is it?

14 A. No, ma'am, that's not my bag.

15 Q. All right, and 91. Can you read that, Mr.
16 Green? Do you see whose name is on State's Exhibit
17 91?

18 A. Yeah, that's his name.

19 Q. Whose name?

20 A. Xavier Andrea Rivers.

21 Q. Thank you.

22 MS. CAMPBELL: That's all I have.

23 THE COURT: All right, Ms. Carmody, do you have
24 any cross-examination?

25 MS. CARMODY: Yes, Your Honor.

1 THE COURT: Okay, great. Hold on one second,
2 sir. Come up -- no, I was talking to Mr. Green.

3 **

4 CROSS-EXAMINATION BY MS. CARMODY

5 BY MS. CARMODY:

6 Q. Good morning.

7 A. Good morning.

8 Q. All right, I'm gonna ask you to elaborate on
9 some of the things that you told us on direct
10 examination, okay? So when you and Xavier and
11 Jharaun and Javante are all in Georgia, what were
12 you doing?

13 A. We were with some girls just chilling out
14 and having a good time, cooking on the grill, just
15 chilling doing normal things.

16 Q. Okay. Were you-all having fun?

17 A. Yes, lots of fun.

18 Q. Was there any talk of any type of --
19 somebody's mad, or any type of disagreement?

20 A. Not at all.

21 Q. Okay. Was anybody angry with anyone?

22 A. Not at all.

23 Q. All right. How about when you're on your
24 way to Donovan's sister's house, and Donovan was
25 driving the car --

1 A. Uh-huh.

2 Q. -- how about on the way to Donovan's
3 sister's house, was anybody in the car getting mad
4 or angry, or anything like that?

5 A. Not at all.

6 Q. Okay. Was anybody in the car, you know,
7 saying that they wanted to do anything bad to
8 anyone, or anything like that?

9 A. Not at all.

10 Q. Okay. Were you-all still happy and just
11 continuing your trip from Georgia?

12 A. Yes.

13 Q. Okay.

14 A. Yeah.

15 Q. All right. And then when you arrived at
16 Walsh Drive, and you were at Donovan's sister's
17 house, Donovan was driving the car, right?

18 A. Right.

19 Q. And as you drive by [REDACTED] Walsh Drive, which
20 is the address where the -- where the guys were out
21 front, right?

22 A. Uh-huh.

23 THE COURT: Hold on. Mr. Green, you're doing
24 great, but if you'd just go and answer out loud,
25 yes, no --

1 WITNESS: Yes, sir.

2 THE COURT: -- like not uh-huh, uh-uh, okay

3 WITNESS: All right.

4 THE COURT: Just for the record, she's writing
5 everything down. Go right ahead.

6 WITNESS: Okay.

7 BY MS. CARMODY:

8 Q. So as you're going by the house, which was
9 on the corner, on the video that the Solicitor
10 showed you, did anyone in the car say like, you
11 know, they were mad at anyone? Was there any type
12 of disagreement?

13 A. No, ma'am.

14 Q. Well, when you're driving by the house, what
15 was your impression? What did you see, and your
16 impression of what those individuals were doing at
17 [REDACTED] Walsh Drive?

18 A. I'm trying to figure out like who they was.
19 Like it was a little bit funny like --

20 Q. When you say a little bit funny though, did
21 -- what does that mean to you, a little bit funny?
22 Could you -- what does that mean?

23 A. Trying to reach in his pants and like he was
24 going for a weapon or something like staring, you
25 know what I'm saying?

1 Q. Okay. Would you mind stepping down here,
2 and I know you demonstrated earlier from the witness
3 stand, but would you mind coming down here? If you
4 don't mind, if you just come over here so the jury
5 can see you? Just let the jury know what these
6 individuals were doing at [REDACTED] Walsh Drive.

7 THE COURT: Just turn around and face the jury.

8 WITNESS: Oh.

9 THE COURT: Yeah, you've got it.

10 BY MS. CARMODY:

11 Q. Okay.

12 THE COURT: Thank you, Mr. Green.

13 BY MS. CARMODY:

14 Q. So if you could -- so if the car's driving
15 by [REDACTED] Walsh Drive, and what did you see?

16 A. He was reaching in -- I want to say doing
17 more of these activities. That's about it.

18 Q. Okay, and go back over, thank you very much.
19 Now, when you saw these guys, how many guys would
20 you say were doing this?

21 A. Probably about five, six, seven --

22 Q. Okay.

23 A. -- or more.

24 Q. Did that scare you?

25 A. Yes, it did.

1 Q. Is that the reason why you ducked in the
2 car?

3 A. Yes, ma'am.

4 Q. Okay. Was anybody else in the car scared?

5 MS. CAMPBELL: Objection, calls for --

6 BY WITNESS:

7 A. No.

8 MS. CAMPBELL: -- speculation.

9 THE COURT: I'll sustain that objection. Jury,
10 disregard the last answer. Go ahead.

11 BY MS. CARMODY:

12 Q. Did you see -- okay, so the car stopped,
13 right? When you're scared, what are you doing?

14 A. I'm ducking, I'm gone, I'm ducking.

15 Q. And why are you ducking?

16 A. Because I felt like something's about to
17 happen with all of them moving.

18 Q. Did you feel like they were gonna shoot at
19 the car?

20 A. Yeah, definitely.

21 Q. Okay. And when you felt like they were
22 gonna shoot at the car and you're ducking in the
23 car, you said Xavier got out, right?

24 A. Yes.

25 Q. And then he got back in the car?

1 A. Yes, ma'am.

2 Q. Okay. When he got back in the car, did
3 anyone shoot at anyone, or what happened after that
4 when you go back on the road?

5 A. I don't even remember what actually
6 happened, I just heard a gunshot.

7 Q. So when he got back in the car, the car's
8 driving away down the road?

9 A. Uh-huh.

10 Q. Okay.

11 COURT REPORTER: Is that yes?

12 BY WITNESS:

13 A. Yes, ma'am. Yes, ma'am.

14 Q. Yes, so the car's driving away, all right.
15 And the car's -- were you-all leaving --

16 A. Yes, ma'am.

17 Q. -- again?

18 A. Yes, ma'am.

19 Q. Okay. Did you know any of those guys that
20 were on that porch?

21 A. Not at all.

22 Q. Okay. And then are you sure you're all
23 leaving the area, right?

24 A. Yes, ma'am.

25 Q. Okay. There was no conversation in the car

1 of anyone wanting to do anything, or anything like
2 that, correct?

3 A. No, ma'am.

4 Q. Okay. And then you hear a gunshot, and the
5 car stops, right?

6 A. Yes, ma'am.

7 Q. Okay. And then when you heard the gunshot,
8 were you surprised?

9 A. Yes, ma'am,

10 Q. Okay, and what did you do as a result?

11 A. Ran.

12 Q. Okay. And why did you run?

13 A. Well, I'm thinking it's safe -- safer for me
14 than staying in the car and getting shot at.

15 Q. All right. And did you feel like you would
16 have been shot and killed --

17 A. Yes.

18 Q. -- if you stayed in the car?

19 A. Yes, ma'am.

20 Q. And do you know if Xavier Rivers ran with
21 you?

22 A. Not at the beginning, like I didn't -- well,
23 I was just running. Like later on I realized when I
24 was running through the woods, Xavier was behind me
25 too.

1 Q. Behind you?

2 A. Yes, ma'am.

3 Q. Okay. So you just went running out of that
4 car and you're not --

5 A. No, ma'am.

6 Q. -- paying attention to --

7 A. I didn't pay attention --

8 Q. -- whose coming or going?

9 A. -- to that.

10 Q. Okay, all right. And then when you come
11 through the woods, you'd indicated that -- I think
12 you had told the police in your statement that you
13 saw the car drive by --

14 A. Uh-huh.

15 Q. -- right? Okay, and --

16 A. Yes, ma'am.

17 Q. -- you meet up with the car, the gray car
18 that you're all riding in --

19 A. Yes, ma'am --

20 Q. All right.

21 A. -- down the road.

22 Q. Down the road. And the car had crashed into
23 a building?

24 A. Yes, ma'am.

25 Q. Okay. And at some point, when the car had

1 crashed into a building, did you learn that Javante
2 Jenkins had to drive that car from the passenger
3 seat?

4 A. I didn't know until I actually got there.

5 Q. Okay. And that's when you learned that
6 Javante had to ride the car from the passenger seat?

7 A. Yes, ma'am.

8 Q. And did you find out why he had to drive
9 that car from the passenger seat?

10 A. No, ma'am, it was later on.

11 Q. Later on what did you find out?

12 A. That someone was shot.

13 Q. He was shot in the head?

14 A. Yes, ma'am.

15 Q. All right. All right. And just to clarify
16 for the record, well, I'm not sure if you said this
17 already or not, did Xavier Rivers fire a single shot
18 prior to you hearing the first gunshot?

19 A. I can't remember.

20 Q. You can't remember? Okay. Thank you.

21 MS. CARMODY: No further, questions, Your Honor.

22 THE COURT: Mr. Hall, do you have any questions,
23 sir?

24 MR. HALL: Yes, Your Honor, thank you.

25 THE COURT: Sure.

CROSS-EXAMINATION BY MR. HALL

BY MR. HALL:

Q. Good morning, Mr. Green.

A. Good morning.

Q. Let's start with discussing where it was you were going on your way back from Augusta. Was the purpose of the trip when you left Augusta, was it to only go to Donovan Hay's sister's apartment, or were you going somewhere else, or did you think you were going somewhere else?

A. When we got to Ridgeland, South Carolina, Donovan said he was gonna stop by his sister's house.

Q. Okay, did you -- do you recall giving a statement to law enforcement that you thought you were supposed to be going to your grandmother's home up in Gillisonville?

A. Yeah, we were going there afterwards, after.

Q. Afterwards?

A. Yeah.

Q. Okay, so the original goal was to go to Donovan's sister's house in Walsh Drive Apartments?

A. Yes, sir.

Q. Had you ever been to Walsh Drive Apartments prior to that day?

1 A. Probably like a couple years.

2 Q. So would it be fair to say that you're not
3 intimately familiar with the layout of Walsh Drive
4 Apartments? That you don't know how it's all set
5 up? You don't know how the apartments are numbered;
6 would that be fair to say?

7 A. Yeah.

8 Q. All right. When Ms. Carmody asked you on
9 cross-examination about -- said you have no idea
10 what apartment that was; is that correct?

11 A. Yes, sir.

12 Q. All right, just like you wouldn't have any
13 idea, if it was Apartment [REDACTED] or [REDACTED] or [REDACTED]?

14 A. Correct.

15 Q. Okay. Now, I believe that you initially
16 told law enforcement that you saw eight or nine
17 people on the porch. Do you recall making that
18 statement?

19 A. Yes.

20 Q. And today you testified that there were five
21 or six?

22 A. Yeah.

23 Q. Okay. So which one was it? Was it five or
24 six, or was it eight or nine?

25 A. I'd say five, six or more.

1 Q. Five or six or more?

2 A. Uh-huh.

3 Q. Okay, but when you originally spoke to law
4 enforcement you said you saw eight or nine.

5 A. About eight or nine.

6 Q. Okay, so that's what I'm trying to narrow
7 down. Was it eight or nine, or was it five or six
8 with your room to bump it up to eight or nine?

9 A. It was about -- it was about -- yeah, about
10 at least eight people out there.

11 Q. At least eight people?

12 A. Uh-huh.

13 Q. That's your testimony that there were at
14 least eight people on that porch?

15 A. Yeah.

16 Q. Okay. Can you tell me -- of those eight
17 people can you tell me, were they male, female,
18 white, black? If you were able to count them, I'm
19 assuming you'd be able to tell me race and color, or
20 race and gender.

21 A. It was males, and I'd seen females also
22 there.

23 Q. You saw females?

24 A. I saw females too.

25 Q. Females?

1 A. Yes.

2 Q. Okay, how many females?

3 A. Maybe two.

4 Q. All right, let's talk about the males. How
5 many males?

6 A. Maybe five, probably about five, I'm not
7 sure, I can't remember.

8 Q. All right, so of those five males how many
9 of them were black?

10 A. Well, I'd say all of them.

11 Q. You'd say all of them were black?

12 A. Yes.

13 Q. Okay, so what you're telling me and telling
14 the jury right now is, that every person that you
15 saw on that porch was black?

16 A. Yes.

17 Q. Thank you. Now, I -- they had you come down
18 and, you know, do this, and I'm not gonna have you
19 do it again. Your testimony today was that it
20 appeared that the people on the porch were leaning
21 over, looking at the car, like they were trying to
22 figure out who was in your car; is that accurate?

23 A. Yes.

24 Q. Okay. That's slightly different than what
25 you testified to on cross-examination with Ms.

1 Carmody, where you then combine that with perhaps
2 they were reaching for a weapon. Were they leaning
3 over looking in the car, trying to see who it was,
4 or were they simultaneously leaning over in the car,
5 and somehow reaching for weapons, trying to see who
6 was in the car?

7 A. It's basically the same thing, yeah.

8 Q. Basically the same? Well, not exactly. I
9 guess it depends on your testimony, it depends on
10 what you're testifying to. You originally said --
11 when Ms. Campbell asked you questions, you
12 originally said that they were leaning over, and it
13 appeared that they were trying to figure out who was
14 in the car, correct?

15 A. Yeah.

16 Q. Okay. And then with Ms. Carmody, Mr.
17 Rivers' attorney, that testimony changed to leaning
18 over and looking like they were maybe going to pull
19 a gun.

20 A. Yeah, same thing.

21 Q. Okay, well, we'll agree to disagree on that,
22 because that's clearly a change in how you testified
23 between the two attorneys, correct?

24 A. The same thing we had --

25 Q. Okay. And you indicated that you believed

1 that there was something about to go down. Again,
2 were you basing that impression on what you had
3 observed?

4 A. What I observed.

5 Q. Okay. And you claim to not know any of this
6 all black crew that was on the porch?

7 A. I didn't know none of them.

8 Q. Very good. Now, Ms. Campbell showed you a
9 video clip, and I'm certain -- was that the first
10 time that you've seen that video clip?

11 A. Yeah.

12 Q. So she asked you to identify Mr. Rivers on
13 the video, which you did --

14 A. Uh-huh.

15 Q. -- correct? And then she asked you what it
16 was that he was doing.

17 A. Uh-huh.

18 Q. And I believe you responded --

19 THE COURT: Yes.

20 BY WITNESS:

21 Q. Yes, sir. Yes, sir.

22 Q. -- he was getting a firearm out of the
23 trunk.

24 A. Yes, sir.

25 Q. So, again, the first time you'd seen that

1 video, you were able to look at it and see on the
2 video Xavier Rivers was getting a firearm out of the
3 trunk?

4 A. Yes, sir.

5 Q. But you didn't tell law enforcement, did
6 you, when you made your statement?

7 A. I can't remember.

8 Q. You can't remember. Do you recall telling
9 investigators that when the car stopped, that Xavier
10 Rivers got out and then got back in?

11 A. I can't remember.

12 Q. Do you recall telling investigators that
13 when Xavier Rivers got out of the car and got back
14 in, that you didn't remember what Xavier Rivers did
15 when he got out?

16 A. Correct. I didn't even know.

17 Q. Okay. But for purposes of today, when
18 you're showed the video, and you testified that you
19 saw Xavier Rivers get a gun out of the trunk, that's
20 only because you've seen that on that video; is that
21 accurate?

22 A. That is correct.

23 Q. Only because you've seen it on the video,
24 not because that's your recollection from that day;
25 is that correct?

1 A. Yeah. Yes.

2 Q. And, in fact, you told investigators, did
3 you not, that you knew nothing about a long gun?

4 A. I don't recall.

5 Q. You don't recall making that statement?

6 Okay. So you know Xavier Rivers got out, based on
7 your personal knowledge. You know that he got out
8 of the car, and you know that he got back in the car
9 into the back seat --

10 A. Right.

11 Q. -- next to you?

12 A. Yes, sir.

13 Q. And I believe it was your testimony that you
14 said you were crouched down the entire time?

15 A. Yes, sir.

16 Q. All right, so you're -- you were crouched
17 down, was it like the old traditional duck and cover
18 when a tornado's coming? Did you -- were you down
19 with your hands over your head? Were you popping up
20 every once in a while, to see what was going on?
21 Can you explain that to me?

22 A. I was just crouched down, way down, with my
23 head down. I didn't see nothing.

24 Q. Okay. So a Chevy Malibu is not a huge car,
25 correct?

1 A. Yeah.

2 COURT REPORTER: Is that a no?

3 BY WITNESS:

4 A. No.

5 Q. Okay, so, again, you've seen it on video,
6 but you don't have any recollection, independently,
7 that Xavier Rivers got back into the vehicle with a
8 weapon; is that correct?

9 A. Correct.

10 Q. Okay. I'm gonna show you what's been marked
11 as State's Exhibit 100A. Now, you mean to tell me
12 that Xavier Rivers got out of the car, got back in
13 with a gun this size in the backseat next to you, in
14 a mid-size sedan, and you did not know that he had
15 this in his possession?

16 A. I wasn't paying no attention.

17 Q. Okay. And your purpose in going to Walsh
18 Drive was to stop at Donovan Hay's sister's
19 apartment --

20 A. Correct.

21 Q. -- correct?

22 A. Correct.

23 Q. You never actually did that, did you?

24 A. We didn't get a chance.

25 Q. All right. Did you know which -- well, I'll

1 get back to that in a second. Did you know which
2 apartment was Donovan Hay's sister's apartment?

3 A. Right where the car was on the right.

4 Q. I'm sorry.

5 A. Where the car was right there on the right.

6 Q. Where what car was?

7 A. The car we was in.

8 Q. Okay, and what point -- and, again, based on
9 the video that you watched, was Donovan Hay's
10 sister's apartment where the car first stopped?

11 A. Yes. Yes, the car stopped there.

12 Q. Okay, so the car stops there, you're at your
13 destination, essentially, correct?

14 A. Correct.

15 Q. As far as you know?

16 A. Correct.

17 Q. Okay. But then you don't stay there, that's
18 when Xavier Rivers gets out, and gets back in, and
19 then -- and then you leave?

20 A. Right.

21 Q. So somebody obviously changed their mind
22 about going to visit Donovan Hay's sister; is that
23 correct?

24 A. We changed our mind when we seen guys over
25 there looking like they're about to do something,

1 and I changed my mind too.

2 Q. You mean about the do something as in
3 leaning over and trying to see who's in the car, but
4 also somehow simultaneously looking like they were
5 reaching for guns; is that -- that's what you're
6 saying?

7 A. Reaching.

8 Q. Okay. And I believe it was your testimony
9 on cross-examination that there were at no point, to
10 your recollection, there were no words exchanged by
11 anyone within your car?

12 A. No words exchanged.

13 Q. So this all kind of apparently happens in a
14 vacuum, that the car stops, Xavier Rivers gets out,
15 goes to the trunk as you learn today, retrieves an
16 assault rifle, gets back into the seat with you, you
17 somehow don't see this assault rifle that I've shown
18 you, and no words were exchanged with anyone, and
19 the car just takes off from the stop, that's your
20 testimony?

21 A. Yes.

22 Q. And also your testimony that no words were
23 exchanged between anyone in the car and anyone on
24 the porch?

25 A. No words were exchanged.

1 Q. Very good, thank you so much.

2 MR. HALL: That's all the questions I have.

3 THE COURT: All right. Ms. Campbell, do you
4 have any redirect?

5 MS. CAMPBELL: I do not, Your Honor.

6 THE COURT: Ms. Carmody?

7 MS. CARMODY: No, Your Honor.

8 THE COURT: All right, great. Hey, Mr. Green,
9 thank you very much, sir, have a good day. All
10 right, counsel approach.

11 (Bench conference.)

12 THE COURT: All right, Solicitor, you can call
13 your next witness.

14 MS. CAMPBELL: The State calls Dylan LaBar.

15 * * *

16 **DYLAN LABAR**

17 * * *

18 being first duly sworn, testified as follows:

19 **DIRECT EXAMINATION**

20 BY MS. CAMPBELL:

21 Q. Good morning.

22 A. Good morning.

23 MS. CAMPBELL: May I?

24 THE COURT: Yeah, go right ahead --

25 MS. CAMPBELL: Thank you, Your Honor.

1 THE COURT: -- Solicitor.

2 BY MS. CAMPBELL:

3 Q. Please state your name for our Court
4 Reporter, and spell it for her.

5 A. Yes, ma'am, my name is Dylan LaBar, D-Y-L-A-
6 N, do I have to spell my other name? L-O-G-A-N and
7 my last name is Labar, L-A - capital B-A-R.

8 Q. Thank you. May I call you Dylan?

9 A. Yes, ma'am.

10 Q. Okay. Dylan, do you know Jharaun
11 Washington?

12 A. Yes, ma'am.

13 Q. Okay. If you could stand up for me and take
14 a look around the courtroom, and tell me if you can
15 identify anyone in the courtroom as Jharaun
16 Washington?

17 A. Yes, ma'am.

18 Q. All right, point him out for us, please.
19 What color shirt is he wearing?

20 A. A white collared shirt.

21 Q. Is he seated next to a gentleman with a
22 bowtie?

23 A. Yes, ma'am.

24 Q. All right.

25 MS. CAMPBELL: I think he's identified him for

1 the record, Your Honor.

2 THE COURT: All right, so noted.

3 BY MS. CAMPBELL:

4 Q. You can sit down.

5 THE COURT: Thank you, sir.

6 BY MS. CAMPBELL:

7 Q. Dylan, do you know Cameron Hatfield?

8 A. Yes, ma'am.

9 Q. All right, and how do you know Cameron
10 Hatfield?

11 A. He's my brother-in-law.

12 Q. And do you know Jharaun Washington's younger
13 brother, his name is Tye?

14 A. Yes, ma'am, he's like a little brother to
15 me.

16 Q. And do you recall spending time with them,
17 Jharaun, Cameron, and Tye and you on April 22nd,
18 2020, at the Walsh Drive Apartments?

19 A. Yes, ma'am.

20 Q. I left one person out though; do you know
21 Shiron Brown?

22 A. Yes, ma'am.

23 Q. Okay. And was Shiron Brown also with you on
24 April 22nd, 2020, at the Walsh Drive Apartments?

25 A. Yes, ma'am.

1 Q. All right, let's talk about exactly where
2 you were at the Walsh Drive Apartments. So did
3 someone live at the Walsh Drive Apartments?

4 A. Mr. Jharaun's mama.

5 Q. Jharaun's mama?

6 A. Yes, ma'am.

7 Q. Okay. I'm not gonna try to pin you down to
8 the exact apartment number, but when that silver
9 Chevy Malibu drove by were you standing right in
10 front of Jharaun's mama's apartment?

11 A. To be precise, I had my shoe off, I was
12 digging in my toenails, so I was sitting down
13 rubbing my foot.

14 Q. Okay, all right. Well, when that was going
15 on, did you hear or see anything, in particular,
16 that caused you to stop doing that and do something
17 different?

18 A. Not until I'd seen the car stop, and who I
19 know now as Xavier get out and went from there.

20 Q. So did you hear anything, or any tires
21 squealing that may have caught your attention, or
22 would you have been paying attention?

23 A. No, ma'am.

24 Q. Okay. So when you're sitting on the porch,
25 who is outside Jharaun's mama's apartment?

1 A. Me, Shiron Brown, Cameron David Hatfield,
2 Tye and Mr. Washington.

3 Q. Okay, and do you recall there being any
4 girls with you? Okay. And when you're on -- well,
5 what -- do you know Jharaun's mama's name?

6 A. Miss Robin.

7 Q. Miss Robin, okay, so Robin Washington?

8 A. Yes, ma'am.

9 Q. Okay. Did you move from the porch at any
10 point after the Chevy Malibu came down the street
11 past y'all?

12 A. After the exchange of shots happened, yes,
13 ma'am, I -- well, when he stopped and I heard the
14 first shot, I turned around, had fell in the house,
15 grabbed my little brother and shot the door behind
16 me. And after that I opened the door to Ken
17 Hatfield, my brother-in-law, waving me to come on
18 and get in the car, which is what I did, I hopped in
19 the car, me and Tye hopped in the car, and we left.

20 Q. Do you recall giving a statement to the
21 South Carolina Law Enforcement Division, Special
22 Agent Blake Johnson, on April 27th, 2020? Do you
23 recall that interview?

24 A. Yes, ma'am, some of it.

25 Q. Okay, and that's fine.

1 A. Yes, ma'am.

2 Q. I just want to make sure that we're on the
3 same page here. Do you recall talking to Blake
4 Johnson about seeing someone grab an AR type gun out
5 of the silver Chevy Malibu?

6 A. Yes, ma'am.

7 Q. All right. So grabbing an AR style type
8 weapon out of the silver Chevy Malibu, had anything
9 been said, or was anything said among the people on
10 the porch about what was happening at the silver
11 Chevy Malibu?

12 A. So there was something being said, but like
13 I said I was so focused and just so -- starting to
14 like blackout I guess you could say. I couldn't
15 understand, I wasn't focusing on them, I was more
16 focused on the car at that point, and what was
17 taking place.

18 Q. On the gun?

19 A. Yes, ma'am.

20 Q. On the assault rifle?

21 A. Yes, ma'am.

22 Q. Okay, so you can hear your friends on the
23 porch talking, saying something, but you're not sure
24 what it was, because you're focused on the rifle?

25 A. Yes, ma'am.

1 Q. Okay. Having seen the rifle, is that when
2 you go in the house?

3 A. When I heard the first shot break.

4 Q. Oh, I'm sorry, right, when you heard the
5 first shot. Did you see who fired the first shot?

6 A. No, ma'am.

7 Q. Okay. And let's talk about that, so I know
8 you've talked about seeing the rifle at the silver
9 Chevy Malibu. Did you see Jharaun Washington with a
10 gun by the Cadillac?

11 A. No, ma'am.

12 Q. All right. When you left the Walsh Drive
13 Apartments, whose car did you get into?

14 A. My brother-in-law, Cameron Hatfield's.

15 Q. And who was in the car with you?

16 A. Me and Tye.

17 Q. Okay. Did you see where Jharaun Washington
18 and Shiron Brown went? Did you see what car they
19 got into?

20 A. No, ma'am, but when I came out the only
21 person, I'd seen was Cameron David Hatfield standing
22 on the sidewalk, waving for me and Tye to come on
23 and get in the car.

24 Q. How old are you?

25 A. I just turned 20 -- I turned 20 in May,

1 last May.

2 Q. Yes, ma'am.

3 A. Last May.

4 Q. In 2020 you were 18?

5 A. 17 at the time.

6 Q. All right, and Tye was how old?

7 A. 16 or 15.

8 Q. 15 or 16, okay then.

9 MS. CAMPBELL: That's all I have, Your Honor.

10 THE COURT: All right, Ms. Carmody, do you have
11 any cross-examination?

12 MS. CARMODY: Yes.

13 THE COURT: Yes, ma'am.

14 **

15 **CROSS-EXAMINATION BY MS. CARMODY**

16 BY MS. CARMODY:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. My name is Carolyn.

20 A. Yes, ma'am, nice to meet you, Miss Carolyn.

21 Q. All right. So, Dylan, do you recall having
22 an interview with SLED?

23 A. Yes, ma'am.

24 Q. Okay, and do you recall SLED asking you who
25 was there at the home that day?

1 A. Yes, ma'am.

2 Q. Okay, and what did you tell SLED?

3 A. I'm gonna be honest it's been a long time; I
4 can't remember the conversation. I do remember
5 talking with them.

6 Q. Okay. So approximately four minutes, I'm
7 sorry, approximately, five minutes and 19 seconds in
8 the interview law enforcement's asking you, "Who was
9 present that day?"

10 A. Yes, ma'am.

11 Q. Correct? And do you recall telling law
12 enforcement, "It was me, Dylan, Jharaun, Cam and
13 Tye?"

14 A. Yes, ma'am.

15 Q. Okay. And then do you recall law
16 enforcement asking you if you're missing someone?

17 A. Don't remember.

18 Q. At six minutes and 47 seconds you don't
19 recall Agent Johnson saying, "I think you are
20 missing a person?"

21 A. No, ma'am.

22 Q. Okay. Do you recalling telling Agent
23 Johnson, "I don't think so, I don't know."

24 A. No, ma'am.

25 Q. All right. What about when Agent Johnson

1 asked you whether you knew Tye's brother; do you
2 recall that?

3 A. I mean yes, yes, ma'am.

4 Q. Who's Tye's brother?

5 A. Jharaun.

6 Q. Okay.

7 A. Mr. Washington.

8 Q. And then Agent Johnson continues to ask you,
9 "Was Jharaun out there," right?

10 A. Yes, ma'am.

11 Q. Okay. And do you recall telling Agent
12 Johnson that, "No, he was not with us?"

13 A. I think I did.

14 Q. You think you did, or you remember you did?

15 A. I can't say 100 percent, it's been a while.
16 I've been -- I've had some things happen.

17 Q. Okay, I understand. No, I completely
18 understand. So do you recall Agent Johnson
19 confronting you and letting, you know, like, "We've
20 got a video," right?

21 A. Yes, ma'am, he showed me a clip.

22 Q. Okay. And when he showed you the clip of
23 actually who was there it refreshed your memory,
24 correct?

25 A. Yes, ma'am.

1 Q. All right. And isn't it true that the
2 reason that you did not want to tell Agent Johnson
3 that Jharaun Washington was there is because you're
4 afraid of him?

5 A. I was afraid of that whole situation. At
6 the time I was a lot younger. Like I said, I mean I
7 have no reason to be afraid of him, he's a brother
8 to me. He's --

9 Q. And --

10 A. -- been more of a brother to me than my real
11 brother, so --

12 Q. I understand that now, but at the time you
13 didn't --

14 A. Yes, ma'am, that is what I said.

15 Q. Okay, you were afraid of him --

16 A. Yes, ma'am, that's what --

17 Q. -- right?

18 A. -- I said.

19 Q. Do you recall telling the police that you
20 don't know what caused the incident?

21 A. Yes, ma'am.

22 Q. Okay. And you saw Jharaun Washington with a
23 gun?

24 A. No, ma'am.

25 Q. You don't recall seeing Jharaun with a gun?

1 A. No, ma'am.

2 Q. You never actually saw anyone shooting,
3 right?

4 A. No.

5 Q. All right.

6 A. Like I said I just heard the first shot,
7 freeze, I turned around -- I was already -- I was on
8 the porch. I never left the porch until we left the
9 scene. Once I heard the first shot, basically, that
10 door was right behind me, his little brother was
11 right behind me, so I just grabbed him, shoved him
12 in the house, closed the door behind me and hit the
13 floor.

14 Q. Okay. And when you -- after Jharaun had
15 stopped shooting, you got in the car and you-all
16 left, right?

17 A. Yes, ma'am.

18 Q. And where did you go when you left?

19 A. I went to my house first to chill first, at
20 my mom's house.

21 Q. Then where'd you go?

22 A. I went to Shiron's mom's house, then back to
23 my house.

24 Q. Okay. Did Jharaun Washington ever threaten
25 you?

1 A. No, ma'am.

2 Q. Did you learn that Jharaun Washington was
3 related to the incident? Was it that day, or was it
4 previous?

5 A. I'd say it was related to the incident, just
6 the whole situation, and scared, I'll be honest.

7 Q. Of his actions that day?

8 A. I mean I wouldn't say his actions, no,
9 ma'am.

10 Q. All right.

11 A. Because I feel like his actions at the end
12 of the day saved our lives possibly.

13 Q. But you were afraid of him?

14 A. After the situation --

15 MR. HALL: Your Honor --

16 THE COURT: Hold -- hold -- hold on. Hold on,
17 sir. Yes, sir?

18 MR. HALL: This has been asked and answered --

19 THE COURT: All right, I'll --

20 MR. HALL: -- a couple of times.

21 THE COURT: I'm going to overrule your
22 objection. You can answer the question, sir.

23 BY WITNESS:

24 A. Can you rephrase the question? Please
25 restate the question for me, please?

1 Q. I asked you if his actions that day is that
2 the reason that you were afraid of him?

3 A. No, ma'am.

4 Q. Okay. But you were afraid of him that day?

5 A. Yes, ma'am.

6 Q. Was there a reason you were afraid of him?

7 A. Just everything that had happened. I was
8 just shaken up really.

9 Q. All right, fair enough.

10 MS. CARMODY: No further questions, Your Honor.

11 THE COURT: Anything else, Solicitor?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Oh, I'm sorry, Mr. Hall, I forgot
14 about you, I apologize. That's the first time
15 that's happened now. I've been doing okay. All
16 right, go right ahead, Mr. Hall.

17 MR. HALL: Well, I think I'm pretty
18 unforgettable.

19 THE COURT: No doubt.

20 **

21 **CROSS-EXAMINATION BY MR. HALL**

22 BY MR. HALL:

23 Q. Good morning, Mr. Labar.

24 A. Good morning.

25 Q. I just have a few questions for you. One of

1 them is going to be obvious, and seemingly a little
2 ridiculous, but are you white or black?

3 A. I'm white.

4 Q. White. And white all your life, I'm
5 assuming?

6 A. Yes, sir.

7 Q. Okay. You know my client.

8 A. Yes, sir.

9 Q. You've known him for a number of years?

10 A. Yes, sir.

11 Q. Now, you testified previously today, that
12 you saw an individual get out of a vehicle and
13 retrieve what you refer to as an AR style gun?

14 A. Yes.

15 Q. Did you have any idea who that person was?

16 A. Not at the time.

17 Q. Not at the time? Okay, because I just
18 wanted to make sure that we were clear on that.
19 Today you mentioned the name Zay or --

20 A. Zay.

21 Q. Okay. You didn't know that at the time
22 that --

23 A. No, sir. When I said that, no, I did not
24 know that was him.

25 Q. And you were on the porch with everybody

1 else?

2 A. Yes, sir.

3 Q. And to your knowledge there were no words
4 exchanged between the group on the porch and the
5 group in this vehicle; is that --

6 A. No.

7 Q. -- correct? Were there any attempts, either
8 by yourself or anyone that you observed, any
9 attempts to try and figure out who it was that was
10 in that silver Malibu?

11 A. Not to my knowledge, no, sir.

12 Q. Was anyone else in your group, when you were
13 on the porch, was anyone else armed with any type of
14 handgun?

15 A. Mr. Shiron Brown was armed, but SLED
16 investigators took his firearm, if I'm correct.

17 Q. So he was the only one, as you were on the
18 porch that actually had a firearm --

19 A. That I --

20 Q. -- on his person?

21 A. Yes.

22 Q. And it's your testimony that after the shots
23 rang out, that's when you basically grabbed Tye,
24 shoved him -- back into the apartment and stayed
25 there until Cameron gave you kind of the all clear

1 to come out?

2 A. No, sir. After I heard shots pretty much
3 start firing, probably I'd say 25, 30 seconds went
4 by, I opened -- I cracked the door open and Cameron
5 was sitting there, "Come on, let's go, we've got to
6 go," so that's when the door opened. I told Tye,
7 "Lock everything down," and we booked it.

8 Q. So you never -- your testimony is you never
9 saw anybody fire a single shot?

10 A. No, sir.

11 Q. And that would include Mr. Washington?

12 A. Yes, sir.

13 Q. And I just want to touch on one last thing,
14 because it was kind of flip-flopping back and forth
15 a little bit, I just wanted to try, I guess, maybe
16 if I can, clear it up for the jury. This whole
17 thing that you were asked by Ms. Carmody about being
18 afraid of Mr. Washington --

19 A. Yes, sir.

20 Q. -- I guess once and for all can you just
21 kind of explain the context of that statement? Why
22 did you make that statement to law enforcement?

23 A. I don't know if I was just nervous to talk
24 to the law enforcement then, or just getting -- it
25 might have been a combination of both scared to talk

1 to them and just scared of the whole situation, just
2 nervous being shook up, I don't know.

3 Q. But you and he were friends?

4 A. Close friends, yes, sir. He's done things
5 for me that I feel like I owe him my life, and he's
6 done things for -- I've done things for him that he
7 feels he owes me his life. We are very close
8 friends.

9 Q. Thank you very much.

10 MR. HALL: Your Honor, I have no other
11 questions.

12 THE COURT: All right, Solicitor?

13 MS. CAMPBELL: No, sir.

14 THE COURT: Ms. Carmody?

15 MS. CARMODY: No, Your Honor.

16 THE COURT: All right, thank you sir.

17 WITNESS: Yes, sir, I appreciate you.

18 MS. CAMPBELL: Your Honor, I would call one
19 other witness.

20 THE COURT: Okay, let's go ahead and do -- let's
21 go ahead and do that.

22 MS. CAMPBELL: All right.

23 THE COURT: I'm sorry?

24 MS. CAMPBELL: Would you like me to call my next
25 witness or take a break now?

1 THE COURT: Well, do you-all want to call the
2 next witness?

3 MS. CARMODY: Yes, Your Honor.

4 THE COURT: Let's call the next witness.

5 MS. CARMODY: Yes.

6 THE COURT: Let's call the next witness.

7 MS. CAMPBELL: Shiron Brown.

8 * * *

9 SHIRON BROWN

10 being first duly sworn, testified as follows:

11

12 THE COURT: Thank you, Mr. Brown, good morning.

13 WITNESS: Good morning.

14 THE COURT: All right, Solicitor, yes, ma'am.

15 MS. CAMPBELL: Thank you, Your Honor.

16 **

17 DIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q. Mr. Brown, state your name and spell it for
20 the Court Reporter please.

21 A. Shiron Brown, S-H-I-R-O-N, Brown, B-R-O-W-N.

22 Q. Thank you. Do you know Jharaun Washington?

23 A. Yes, ma'am.

24 Q. All right. Do you know Dylan Labar?

25 A. Yes, ma'am.

1 Q. Do you know Cameron Hatfield?

2 A. Yes, ma'am.

3 Q. And you know Jharaun Washington's little
4 brother, Tye?

5 A. Yes, ma'am.

6 Q. All right. And I need you to stand up and
7 look around the courtroom, and tell me if you can
8 identify Jharaun Washington in the courtroom,
9 please?

10 A. Right here.

11 Q. In the white shirt next to the man with the
12 bowtie?

13 A. Yes, ma'am.

14 Q. All right.

15 MS. CAMPBELL: He's identified for the record
16 now?

17 THE COURT: Yes, ma'am.

18 MS. CAMPBELL: Thank you.

19 BY MS. CAMPBELL:

20 Q. You can have a seat. All right, I'm gonna
21 take you, Shiron, back to April 22nd, 2020. Do you
22 recall where you were and who you were with possibly
23 around 11:00 a.m. in the morning?

24 A. I was with Jharaun, his brother, and Dylan.

25 Q. And how about Cam? Did Cam show up?

1 A. Yeah, he did show up.

2 Q. So where do you recall exactly where you
3 were?

4 A. At Jharaun's mama's house.

5 Q. Okay, Jharaun's mama's house, and do you
6 recall her name?

7 A. No, I don't remember her name.

8 Q. You don't remember it? That's fine. All
9 right, so on that particular day, April 22nd, 2020,
10 did you see a silver Chevy Malibu pull through the
11 area where you fella were?

12 A. Yes, I think it was silver, yes.

13 Q. Okay. And when the silver Chevy Malibu
14 pulled through the area, do you recall what was
15 happening either in the Malibu or the porch?

16 A. On the porch we was just being aware of what
17 was going on. I guess just seeing what it was.

18 Q. Okay, just seeing who it was?

19 A. Yes.

20 Q. Okay. And so did you -- before you'd seen
21 the silver Chevy Malibu, do you recall if you heard
22 it coming? Was there anything that caused you to
23 draw your attention to it?

24 A. No, ma'am, not that I remember.

25 Q. Not that you remember, okay. So what did

1 you see happening with the silver Chevy Malibu after
2 it passed by where you were on the porch?

3 A. I was on the porch by the door, and I just
4 saw it pass by.

5 Q. Okay. Did you see anything happening with
6 it when it rounded the corner?

7 A. I saw it stop.

8 Q. Okay, and when you saw the car stop, what
9 did you see, if anything, happening at that point?

10 A. I remember someone getting out, but --

11 Q. Okay, so someone got out, and when that
12 someone got out did you see what they did, or where
13 they went?

14 A. Got out and went to the back of the vehicle.

15 Q. Okay. At the back of the vehicle did you
16 see that someone, that person, have anything in
17 their hands?

18 A. No, ma'am. I saw them getting out of the
19 vehicle.

20 Q. Okay. After that someone gets back in the
21 vehicle, do you hear anything on the porch? Anybody
22 saying anything? What happens next?

23 A. We just like -- we're just still looking,
24 trying to see what's going on at that time.

25 Q. Okay, and then what happened?

1 A. Then everybody was like -- well, hold on.
2 That happened, and then -- I don't really recall. I
3 know we started to leave.

4 Q. Okay. Do you remember what caused you to
5 have to leave?

6 A. Well, we was already getting ready to leave,
7 because like I didn't have my license that day.

8 Q. Uh-huh.

9 A. So it's like we were going to continue going
10 where we was going, so we was already planning on
11 coming back, going back to the house.

12 Q. So you're getting ready to leave when the
13 silver Chevy Malibu came by, right?

14 A. Yeah.

15 Q. So did you hear anything that caused you to
16 be alarmed?

17 A. Like as we were leaving?

18 Q. At any point after the silver Chevy Malibu
19 passed by the apartment.

20 A. Yeah, I heard some shots.

21 Q. Okay, so you heard some shots.

22 Do you know where the shots were coming from?

23 A. No, I don't know where the shots were coming
24 from. I got down from there.

25 Q. Right, so what did you do when you heard the

1 shots?

2 A. Got down to the ground.

3 Q. Got down to the ground, okay. Did you ever
4 get up off the ground?

5 A. Eventually, yes.

6 Q. Okay. What did you do when you got up off
7 the ground?

8 A. In the house, went up to the front door.

9 Q. All right.

10 A. Yes.

11 Q. And after you went into the house at the
12 front door where did you go?

13 A. To my car.

14 Q. To your car? And your car was parked in
15 front of the apartment?

16 A. Yes, ma'am.

17 Q. And what was your car?

18 A. The white Cadillac.

19 Q. The white Cadillac. So that white Cadillac
20 is your car?

21 A. Yes, ma'am.

22 Q. You get in that white Cadillac, and that's
23 when the shots are fired?

24 A. Yes, ma'am.

25 Q. All right, do you get in the driver's seat?

1 A. Yes, ma'am.

2 Q. All right. Now, who's in the white Cadillac
3 with you?

4 A. Jharaun.

5 Q. Jharaun Washington?

6 A. Yes, ma'am.

7 Q. All right. Where do you drive to?

8 A. My mother's house.

9 Q. Where's your mother's house?

10 A. ■ Pinecrest Lane.

11 Q. And is that Jasper County or Beaufort
12 County?

13 A. Beaufort County.

14 Q. All right. At your mother's house and over
15 in Beaufort County, Jharaun Washington is still with
16 you when you get that, right?

17 A. Yes, ma'am.

18 Q. All right.

19 What happens at your mother's house?

20 A. I got out -- well, I got out of the car,
21 walked to the doorway of my house, didn't even get
22 really in the house, I talked to my mom, I turned
23 around and Jharaun was gone.

24 Q. He had left?

25 A. Yeah.

1 Q. And not too much later that day do you
2 recall SLED agents coming to meet with you?

3 A. Yes, ma'am.

4 Q. Okay. And do you recall talking to them
5 about what had happened?

6 A. Yes, ma'am.

7 Q. And do you recall that you signed over what
8 we know now is the case as State's 99A, I'll show it
9 to you, signing over your Glock to the SLED agent
10 you were meeting with?

11 A. Yes, ma'am.

12 Q. Okay.

13 MS. CAMPBELL: That's all I have.

14 THE COURT: Ms. Carmody?

15 MS. CARMODY: Yes, your Honor.

16 **

17 **CROSS-EXAMINATION BY MS. CARMODY**

18 BY MS. CARMODY:

19 Q. Good morning, Mr. Brown.

20 A. Good morning.

21 Q. I believe that you -- well, you saw the
22 video yesterday, correct?

23 A. Yes, I saw a piece of it.

24 Q. Okay, all right. And do you recall Special
25 Agent MacAllister showing that video as well?

1 A. I don't even know who it was. I don't
2 really --

3 Q. Was it a female SLED agent?

4 A. Yes, yeah.

5 Q. The same one that collected the gun from
6 you, and you --

7 A. No.

8 Q. Not the same SLED agent that collected your
9 gun?

10 A. No.

11 Q. Yes, okay, all right. And the -- do you
12 recall telling her that you had no idea ?

13 A. Yeah, I didn't know who it was.

14 Q. Okay. And that when she showed you the
15 video of this Walsh Drive apartment, do you recall
16 telling her, "That it's got to be the car that I
17 know those people were in?"

18 A. Yeah.

19 Q. All right. And do you recall saying that
20 you knew someone had gotten out of the car, because
21 you heard a car door shut, but you never actually
22 saw anyone go to the trunk, correct?

23 A. I saw him go to the trunk, so, yes.

24 Q. You don't recall saying that you saw someone
25 hop out of the car, because you heard the car door

1 shut, but couldn't see?

2 A. Yes, I remember saying that.

3 Q. "And the car was passed around the house
4 around the corner out of my view."

5 A. It was behind some bushes, yes.

6 Q. Okay, but then after -- since then -- since
7 you made that statement and Special Agent
8 MacAllister showed you the video, so on the video
9 you were able to see, "Oh, wait that person's going
10 to the trunk," correct?

11 A. Yes.

12 Q. Okay, but you didn't know that prior to
13 watching the video? Well, that was your statement,
14 correct?

15 A. Yeah.

16 Q. Okay. And you don't know who did the
17 shooting that day? You have no idea?

18 A. No, ma'am.

19 Q. Okay. Is it fair to say you never saw
20 Xavier Rivers that day?

21 A. Yeah, it's fair to say that.

22 Q. You did not see him?

23 A. I did not see him.

24 Q. Okay, so you didn't recognize him inside the
25 car?

1 A. No.

2 Q. You didn't have any issues with him?

3 A. No.

4 Q. Okay.

5 MS. CARMODY: All right, I have no further
6 questions, Your Honor.

7 THE COURT: All right, Mr. Hall?

8 MR. HALL: Thank you, Judge, just a few.

9 **

10 **CROSS-EXAMINATION BY MR. HALL**

11 BY MR. HALL:

12 Q. Good morning, Mr. Brown.

13 A. Good morning.

14 Q. You've given some testimony concerning a
15 weapon that was taken from you by an agent from
16 SLED; is that correct?

17 A. Yes, sir.

18 Q. And did you have that weapon in your
19 possession on April 22nd, 2020, when you were in
20 Walsh Drive Apartments?

21 A. Yes, yeah. Yes, sir.

22 Q. You actually had it on your person?

23 A. Yes, sir.

24 Q. And when that Chevy Malibu came around, did
25 either you, or anyone else that you were standing

1 with on the porch, make any movements at all to
2 indicate that you were about to do something with
3 any type of weapon?

4 A. No, sir.

5 Q. No one was reaching? You didn't see anybody
6 leaning over and maybe reaching at the same time?

7 A. No, sir.

8 Q. Nobody on the porch was doing that?

9 A. Not that I recall.

10 Q. You didn't take your gun out at all that
11 day, did you?

12 A. No.

13 Q. You didn't fire that gun?

14 A. No, sir.

15 Q. And it's your testimony today that you did
16 not see anyone there firing a weapon?

17 A. I didn't see.

18 Q. Did you suffer any injuries as a result of
19 you being at Walsh Drive Apartments that day?

20 A. Yes, I scraped my hand.

21 Q. You scraped --

22 A. I scraped my hand, yes.

23 Q. And that would be the left, because of the
24 bandage that appeared on --

25 A. Yes.

1 Q. All right, so you spoke with Agent
2 MacAllister, that was the person that was involved
3 in taking the gun?

4 A. Right.

5 Q. Did you have any other interviews with
6 anyone from SLED after that?

7 A. No.

8 Q. You didn't sit down with Agent Merrell and
9 Agent Richard Johnson for an interview?

10 A. It wasn't an interview, no.

11 Q. Okay, but you did sit down with them,
12 correct?

13 A. Yeah.

14 Q. And do you recall when that was? If I said
15 it was April 30th, like eight days after, would that
16 ring a bell?

17 A. I don't know when it was, but it could have
18 been, you know.

19 Q. Do you recall how long it was that you spoke
20 to him?

21 A. No, sir.

22 Q. Would it surprise you if I told you that it
23 was almost an hour and a half?

24 A. No.

25 Q. What was the point of -- as far as you are

1 concerned, the point of that interview?

2 A. I was coming up there to get my car.

3 Q. Okay, when he spoke to you for 90 minutes --
4 I believe that's an awful long time to get a car
5 back.

6 A. Yeah, I know we were sitting in there with
7 them doing a lot of talking, man, but nothing
8 important. you know?

9 Q. Okay, so you say they were doing a lot of
10 talking, what was your impression of what it was
11 they were trying to get from you?

12 A. I figured they was trying to get another
13 statement out of me, but there was nothing more I
14 had to say.

15 Q. Did anyone -- during the course of that
16 second interview, did anyone make any threats
17 against you?

18 A. No, not that I recall, I wouldn't think so.
19 You mean when I -- when I spoke with them?

20 Q. Yes.

21 A. Not that I recall. I don't even remember it
22 that much.

23 Q. So you don't recall whether or not a SLED
24 agent by the name of Richard Johnson was threatening
25 to charge you with murder, if you didn't identify my

1 client as being at the scene?

2 A. No.

3 Q. You don't recall that at all?

4 A. No.

5 Q. Okay.

6 MR. HALL: Thank you very much, Judge, I don't
7 have any other questions.

8 THE COURT: All right, Solicitor?

9 MS. CAMPBELL: No, sir.

10 THE COURT: Ms. Carmody?

11 MS. CARMODY: No, Your Honor.

12 THE COURT: Hey, sir, thank you very much for
13 coming in, have a great day.

14 WITNESS: You too.

15 THE COURT: All right, ladies and gentlemen, I
16 think what we're gonna do now is, take a break.

17 There's a couple matters of law that I need to take
18 up outside of your presence, but also it comes at a
19 good time to do that.

20 So I'm gonna ask you to go back to the jury
21 room. Please do not discuss the case. I'll get you
22 back in here in hopefully 15 minutes or so. Thank
23 you.

24 (Jury exits the courtroom.)

25 THE COURT: All right, we'll be at ease for a

1 few moments, and we'll come back and talk about Mr.
2 Hatfield.

3 MS. CARMODY: Thank you, Your Honor.

4 (Recess.)

5

**

6

PROCEEDINGS CONTINUED

7 THE COURT: All right, before the break I know I
8 was considering proffering Mr. Hatfield for a second
9 time, and what I'm gonna -- what I've decided to do
10 is, I've decided to go ahead, I'll let him testify.

11 On the video I think he testified about a beef.
12 There was a mention of Shiron, there was a mention
13 of the beef, I think it was -- whatever the name
14 was. At one point I think he said alleged beef, or
15 I know Mr. Hall brought it up, he said perhaps he
16 wasn't even sure that there was a beef, for lack of
17 better words.

18 MR. HALL: Judge, I think it was he thinks.

19 THE COURT: All right.

20 MR. HALL: He thinks.

21 THE COURT: But what I'll say is this, I think
22 that he can -- if he has -- I think, depending on
23 his testimony, I think that he can testify that --
24 as to whether these individuals, in his opinion,
25 have a beef. I don't think he can go into the

1 nature of the beef.

2 Now, that's something that you you-all bring out
3 in cross, that's you-all's business, but I mean as
4 far as the State and what his statement was on the
5 video, basically, it was just that there was a beef.
6 As it relates to the questions of who it was, which
7 person it was, if it was a beef, or wasn't a beef,
8 if he was sure, if he wasn't sure, I think that goes
9 into cross-examination, and, certainly, I think
10 that's something you can cross on, but I'm going to
11 allow them to ask about the beef, but beyond that
12 nothing more.

13 And, of course, she's already talked to him
14 about the prior ruling, as it relates to the bad
15 acts and the robbery, and all that stuff. None of
16 that comes in. And so in the video, I think we've
17 got the video, and I think the video then is
18 consistent with the fact that he just talked about
19 the beef; is that correct, Solicitor? An alleged
20 beef, or he thinks there's a beef; is that right?

21 MS. CAMPBELL: Alleged, beef, yes.

22 THE COURT: All right, anything else that you-
23 all might want to put on the record, Mr. Hall? I
24 think you've protected it, but if there's anything
25 else you want to put on the record, I'm happy to let

1 you do it.

2 MR. HALL: No, thank you.

3 THE COURT: All right, Ms. Carmody?

4 MS. CARMODY: No, Your Honor. I just wanted to
5 make sure that I noted that objection.

6 THE COURT: Oh, yes, ma'am.

7 MS. CARMODY: All right.

8 THE COURT: Yes, ma'am. All right, so anything
9 before we bring Mr. Hatfield out?

10 MS. CAMPELL: Not from the State.

11 THE COURT: All right, well, I'm gonna bring the
12 jury back in. I'm gonna tell them that we're gonna
13 have one more witness, and then I would expect that
14 we're gonna break for lunch.

15 We'll pick back up this afternoon, and I
16 anticipate that we would finish all the testimony
17 this afternoon, may even finish a little early, send
18 them home, and we'll bring them back and argue and
19 charge first thing in the morning. Is that
20 acceptable to the State?

21 MS. CAMPBELL: Yes, sir.

22 THE COURT: Ms. Carmody?

23 MS. CARMODY: Yes, Your Honor.

24 THE COURT: Mr. Hall?

25 MR. HALL: Yes, Your Honor.

1 THE COURT: All right, great, let's get the jury
2 in.

3 (Jury enters the courtroom.)

4 BAILIFF: Jury is seated, Your Honor.

5 THE COURT: All right, thank you.

6 **

7 **PROCEEDINGS CONTINUED**

8 Ladies and gentlemen, I kept you a little longer
9 back there than usual but let me just kind of tell
10 you what the gameplan is, letting you-all know. I
11 believe that we're gonna hear one more witness this
12 morning.

13 When that witness concludes, I'm gonna send you
14 to lunch. Then I'm gonna ask you to come back, I'll
15 tell you what time when we finish with the witness.
16 I suspect that all of the testimony will be finished
17 today, and, in fact, you may be leaving a little
18 early today, okay, but I think all the testimony
19 will be finished. I'm telling you all this, because
20 I want you to know tomorrow morning the plan will be
21 to have you come back, closing arguments, my charge
22 on the law, and then Madam Foreperson and ladies and
23 gentlemen of the jury, you'll go and deliberate on
24 the case, okay?

25 So I wanted to let you know that's sort of the

1 gameplan as to the way it goes. Again, it's a slow
2 and it's a repetitive and deliberative process, and
3 we're doing that, because we only have one take,
4 unlike the movies and everywhere else, and we've got
5 to do our best to make sure we get it right. And as
6 I've said from the very beginning, we're dealing
7 with very important matters, important to the State
8 and important to these Defendants.

9 So with that having been said, let's go ahead
10 and get -- is it Mr. Hatfield?

11 MS. CAMPBELL: Yes, the State calls David
12 Cameron Hatfield.

13 THE COURT: All right, great, thank you.

14 * * *

15 **DAVID CAMERON HATFIELD**

16 being first duly sworn, and testified as
17 follows:

18 MS. CAMPBELL: Thank you, Your Honor.

19 THE COURT: Yes, ma'am.

20 **

21 **DIRECT EXAMINATION**

22 BY MS. CAMPBELL:

23 Q. Could you please state your name and spell
24 it for our Court Reporter?

25 A. David Cameron Hatfield, D-A-V-I-D C-A-M-E-R-

1 O-N H-A-T-F-I-E-L-D.

2 Q. Do people call you Cameron?

3 A. Yes, ma'am, or Cam.

4 Q. Or Cam?

5 A. Yes, ma'am.

6 Q. All right, may I call you Cameron?

7 A. Yes, ma'am.

8 Q. All right.

9 Cameron, do you know Jharaun Washington?

10 A. Yes, ma'am.

11 Q. All right, I'm gonna ask you to stand up and
12 look around the courtroom, and see if you can
13 identify him for us?

14 A. Oh shit.

15 THE COURT: That's all right, you're not the
16 first person to do that, sir, you're all right.

17 BY WITNESS:

18 A. He's over there.

19 Q. All right, I see you pointing across the
20 courtroom, is the gentleman in a red shirt, or black
21 shirt, or a white shirt?

22 A. He's in a white shirt.

23 Q. White?

24 A. Yes.

25 Q. White?

1 A. Yes, ma'am.

2 Q. Sitting next to a gentleman with a bowtie?

3 A. Yes, ma'am.

4 Q. All right, thank you, you can sit back down.

5 MS. CAMPBELL: For the record, the witness has
6 identified Defendant, Jharaun Washington.

7 THE COURT: He has.

8 MS. CAMPBELL: Thank you, Your Honor.

9 BY MS. CAMPBELL:

10 Q. Do you know Dylan LaBar?

11 A. Yes, ma'am.

12 Q. All right.

13 Q. How do you know Dylan LaBar?

14 A. That's my child's mother's little brother.

15 Q. All right. Do you know Shiron Brown?

16 A. That name doesn't ring a bell, no, ma'am.

17 Q. How about Ron Brown?

18 A. I don't know -- I think his last name is
19 Brown, but I know a bunch of Ron's, I don't know his
20 last name.

21 Q. All right then, how about -- do you know
22 Xavier Rivers?

23 A. Yeah, I know of him, yes, ma'am.

24 Q. Do you remember being at the Walsh Drive
25 Apartments on April 22nd, 2020?

1 A. Yes, ma'am.

2 Q. All right. Now, I want to take you
3 through --

4 MS. CAMPBELL: If you can pull up State's
5 Exhibit 15.

6 BY MS. CAMPBELL:

7 Q. What occurred on that day? Tell us where
8 you were at the Walsh Drive Apartments. Were you in
9 the street, were you on a porch? Where were you?

10 A. I was on the porch.

11 Q. On the porch?

12 A. Yes, ma'am.

13 Q. Whose porch were you on?

14 A. Jharaun mother's porch.

15 Q. Jharaun's mother's porch, and do you call
16 her by any particular name?

17 A. Miss Robin.

18 Q. Miss Robin, okay. All right.

19 MS. CAMPBELL: So if we could just play the
20 video, please?

21 (Video being played for the jury.)

22 BY MS. CAMPBELL:

23 Q. Now, tell me when you see the silver Chevy
24 Malibu come onto the screen.

25 MS. CAMPBELL: All right, stop.

1 BY MS. CAMPBELL:

2 Q. Well, before the silver -- did you see it?

3 A. Yes, ma'am, I can see it there.

4 Q. Okay, before the silver Chevy Malibu makes
5 the turn left, did you see it come by in front of
6 where you were on the porch at Jharaun's mother's
7 house?

8 A. Yes, ma'am.

9 Q. All right, when the silver Chevy Malibu
10 comes by where you are, what do you see, or who do
11 you see in the Malibu.

12 A. I saw Zay in the backseat.

13 Q. All right. And when you saw Xa in the
14 backseat, did you say anything to him? Did he say
15 anything to you?

16 A. No, I didn't say nothing to him, I just said
17 something out loud like, "Zay's in the backseat,"
18 that's all I said.

19 Q. Okay. You said to people on the porch,
20 "Zay's in the backseat?"

21 A. I said it out loud, I mean it wasn't really
22 directed towards anybody, no.

23 Q. So coming out of your mouth on the porch is,
24 "Zay's in the backseat?"

25 A. Yes.

1 Q. Okay. Whether someone heard you or not, you
2 can't tell us for sure?

3 A. Yes, no.

4 Q. All right. Now, after you saw Zay in the
5 backseat of the Malibu, what did you do, what did
6 you see?

7 A. I can't remember.

8 Q. All right, do you remember giving an
9 interview to the SLED law enforcement officers in
10 this case to Blake Johnson?

11 A. No, ma'am, I do not remember.

12 Q. All right. Do you remember telling -- you
13 don't remember sitting at the Port Royal Police
14 Department with Blake Johnson?

15 A. No, ma'am.

16 Q. Okay. And would there be a reason why you
17 might not remember giving that interview?

18 A. I was on a lot of drugs at the time, and I'd
19 been on drugs for a little while after that for
20 about two years.

21 Q. Okay.

22 MS. CAMPBELL: May I approach, Your Honor.

23 THE COURT: Yes, ma'am.

24 MS. CAMPBELL: Thank you.

25 THE COURT: Sure.

1 (Bench conference.)

2 THE COURT: All right, ladies and gentlemen, I'm
3 gonna have you-all go back to the jury room for one
4 minute, there's a matter of law I've got to take up
5 with these attorneys, and I'll get you back in here
6 as soon as I can. Thank you.

7 (Jury exits the courtroom.)

8 THE COURT: All right, counsel, so -- Solicitor,
9 well, what's your position now that the witness does
10 not recollect the interview at all?

11 MS. CAMPBELL: Yes, your Honor, that's what I'm
12 hearing him say, that he does not recollect being
13 interviewed at all by SLED.

14 And I just didn't want to, you know, take the
15 next step and start going through the steps of 613B,
16 that's a specific time and place, and what he said
17 without, you know, conferring with the Court and
18 with defense counsel. I can move onto that next
19 step, but if he's saying he doesn't remember giving
20 the statement at all, I do think, you know, I'm in a
21 little bit of a quandary, and I think the only way
22 to prove that he gave a statement is to call Blake
23 Johnson from SLED.

24 MS. CARMODY: Your Honor, she hasn't asked him
25 what's in that statement he can't remember.

1 THE COURT: Right, and I think she's saying that
2 she can.

3 MS. CAMPBELL: I can, I just didn't want to, you
4 know, jump over that hurdle right --

5 THE COURT: Right, right.

6 MS. CAMPBELL: -- but there's been nothing.

7 MS. CARMODY: So right now it's, "Oh, you work
8 with SLED?" "No." Okay, "Well, what about the
9 statement with SLED?" Like she hasn't asked him
10 that, and --

11 THE COURT: Well, she can do that. She can do
12 that, but she also, as far as I'm concerned, I mean
13 she certainly can ask those questions, and then she
14 also -- if she wants to put Blake Johnson on the
15 stand, she can ask him, "Did the guy give a
16 statement?"

17 MS. CARMODY: And that's it, but --

18 THE COURT: Well, I would -- I think that would
19 be the case. What she's laying out, I think she
20 wants to make sure that there was a statement,
21 because he's not even acknowledging there's a
22 statement, he doesn't remember a statement. So I
23 think you can put Blake Johnson on the stand to say,
24 "Hey, did you interview -- or did Mr. Hatfield give
25 you a statement on X day?" Okay? I mean I think

1 you can do that.

2 MS. CARMODY: Right, but not exactly that.

3 THE COURT: Well, we're gonna let -- she can do
4 that right now.

5 MS. CARMODY: Okay.

6 THE COURT: I mean I think she can call -- can
7 she -- Solicitor, any reason why you can't go ahead
8 with your testimony with him, and then call Blake
9 Johnson afterwards?

10 MS. CAMPBELL: Correct.

11 THE COURT: Yeah.

12 MS. CARMODY: Okay.

13 THE COURT: Mr. Hall?

14 MR. HALL: That'd be the normal course of
15 business.

16 THE COURT: Then I think that's the normal
17 course that we will take, all right? Great, thank
18 you-all very much. So what I'm gonna do is,
19 Solicitor, given the concern you've brought to my
20 attention, you can go ahead and ask the gentleman
21 the questions, as it relates to the statement; and
22 then thereafter if you want to call somebody to
23 confirm that he did, in fact, make a statement to
24 him, then you certainly can, okay?

25 MS. CAMPBELL: Thank you, Your Honor.

1 THE COURT: All right, let's get the jury back
2 in, thank you.

3 (Jury enters the courtroom.)

4 BAILIFF: They're all ready, Your Honor.

5 THE COURT: Okay, great, thank you. All right,
6 you can proceed, thank you.

7 **

8 PROCEEDINGS CONTINUED

9 MS. CAMPBELL: Thank you, Your Honor.

10 BY MS. CAMPBELL:

11 Q. Cameron --

12 A. Yes, ma'am.

13 Q. I want to make sure I had your attention.

14 On April 22nd, 2020, Special Agent from SLED, Blake
15 Johnson, interviewed you at the Port Royal Police
16 Department. Do you remember that?

17 A. No, ma'am.

18 Q. Okay. And in that interview, you had stated
19 to him that you saw Xavier Rivers pulling a chopper
20 out of the trunk of the Malibu? Do you recall that?

21 A. I don't recall telling nobody that, no,
22 ma'am.

23 Q. Okay, and you additionally indicated that
24 you had tried to warn the people on the porch?

25 A. I don't recall telling him that, no, ma'am.

1 Q. Okay. Now, when you are -- based on what
2 you told Blake Johnson, I'm gonna go back through
3 your testimony, you're sworn to tell the truth, all
4 right?

5 A. Yes, ma'am.

6 Q. So when you are on the porch and you are --
7 you've seen Xavier Rivers in the Chevy Malibu, what
8 do you do after that?

9 A. I say out loud, "That was Zay."

10 Q. Okay, "That's Zay."

11 A. Yes.

12 Q. What do you do then?

13 A. I stood there for a minute, and the car came
14 around, and then I'd seen him hop out. I couldn't
15 tell if it was him for sure hopping out, but I was
16 sure it was on the side of the car that I thought I
17 saw him on, so I'd seen somebody hop out and he
18 grabbed a big gun, and I said something to the
19 extent that, "He's grabbed a shotgun out of the
20 trunk, or a stick out of the trunk." And then
21 gunshots started erupting. I got behind the car.

22 Q. Thank you, Cam. So now you said that you
23 saw Xa in the Chevy Malibu, and saw the chopper or
24 the stick, as you call it; is that a rifle?

25 A. That's what we call it, yeah, a chopper or a

1 stick, yes, ma'am.

2 Q. Okay, thank you. I'm just trying to be
3 clear; you call that a chopper or a stick. If
4 someone said that to you, you would take that to
5 mean a rifle or a gun --

6 A. I gotcha.

7 Q. -- a handgun.

8 A. Mostly a rifle, yeah, I'm just saying a
9 chopper or a stick, yeah, a rifle.

10 Q. Okay. And so then where -- are you still on
11 the porch?

12 A. Yes, ma'am.

13 Q. All right.

14 A. When --

15 Q. Did you ever get off the porch?

16 A. I remember making it to my car, like to the
17 back side of my car, and I remember getting behind
18 the wheel. And after the bullets started flying, I
19 remember getting behind the tire.

20 Q. All right.

21 MS. CAMPBELL: Can we play the video? Will you
22 bring up the video?

23 BY MS. CAMPBELL:

24 Q. All right, will you watch the video for me
25 again, and what I'm gonna ask is to stop it right

1 quick.

2 (Video playing for the jury.)

3 BY MS. CAMPBELL:

4 Q. In the frame that's on your right, who is
5 the person that's walking towards the car there? I
6 Identify that person for me, Cameron.

7 A. It's kind of blurry, I can't really tell who
8 that is.

9 Q. All right.

10 MS. CAMPBELL: Play the video.

11 (Video being played for the jury.)

12 MS. CAMPBELL: Stop.

13 BY MS. CAMPBELL:

14 Q. Who is that now walking to -- towards the
15 car?

16 A. That's me right there.

17 Q. That's you?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. CAMPBELL: Keep playing.

21 (Video being played for the jury.)

22 MS. CAMPBELL: All right, stop.

23 BY MS. CAMPBELL:

24 Q. Now, where are you standing? It looks like
25 you're right next to the fella in a white tee-shirt,

1 is that you there?

2 A. Yeah, that looks like me to the right.

3 Q. Okay. So tell us who is the person you were
4 sitting right next inside the white Cadillac?

5 A. I honestly don't remember the truth.

6 Q. Okay. And so --

7 MS. CAMPBELL: Play the video.

8 (Video being played for the jury.)

9 MS. CAMPBELL: Stop.

10 BY MS. CAMPBELL:

11 Q. All right, you're also still standing right
12 next to the person who, at this point, Cameron, is
13 firing a gun.

14 MR. HALL: Objection, Your Honor. Ms. Campbell
15 is testifying.

16 THE COURT: I'll sustain that objection.

17 MS. CAMPBELL: Well, I might move to declare him
18 a hostile witness, so I can move forward, but I will
19 be more careful.

20 THE COURT: Well --

21 MS. CAMPBELL: I'm just trying to get to there.
22 I'll pull back, but we'll -- I will be better about
23 that.

24 BY MS. CAMPBELL:

25 Q. Cameron, the two people standing next to the

1 white Cadillac, who are those two people?

2 A. That's me to the right, but I don't remember
3 exactly who that is to the left.

4 Q. Okay.

5 MS. CAMPBELL: Play the video.

6 (Video being played for the jury.)

7 MS. CAMPBELL: Stop.

8 BY MS. CAMPBELL:

9 Q. All right, now look at your screen there,
10 Cameron, who is down by the tire of that silverish
11 car?

12 A. That's my car and that's me.

13 Q. Okay. And who is -- do you have any idea
14 who is standing at the back of the Cadillac firing a
15 gun?

16 A. I really can't tell, it's blurry. I don't
17 know for sure. I don't remember to be honest.

18 MS. CAMPBELL: Play the video.

19 (Video being played for the jury.)

20 BY MS. CAMPBELL:

21 Q. All right, do you get in your car then?

22 A. Yes, ma'am.

23 Q. Who's in your car with you?

24 A. I believe Dylan rode back with me.

25 Q. Okay, and how about Tye, Jharaun's little

1 brother? Do you remember him getting in the car
2 with you?

3 A. I don't remember. He could have, I think --
4 I -- to my recollection I believe that he stayed
5 there, and I don't know why I think that, but I
6 believe that he might have stayed there.

7 Q. But, clearly, Jharaun Washington was not
8 getting in the car with you, right?

9 A. No, he did not get in the car with me, no,
10 ma'am.

11 Q. Okay. So as you're leaving the Walsh Drive
12 Apartments, the only person that you can remember
13 being in the car with you is Dylan Labar?

14 A. Yes, ma'am.

15 Q. Your girlfriend's --

16 A. I lived with them, so that --

17 Q. They're like your family?

18 A. Yes, ma'am.

19 Q. And the --

20 A. They are my family.

21 Q. And the only other person that might have
22 been in the car is Tye?

23 A. Yes, ma'am.

24 Q. Okay. So did you see where Jharaun went --

25 A. No, ma'am.

1 Q. -- after the shooting?

2 A. No, ma'am.

3 Q. Okay. Now, do you consider yourself a
4 friend or not with Jharaun?

5 A. Yes, ma'am.

6 Q. Okay. And how long have you been friends
7 with Jharaun?

8 A. Over 13 years.

9 Q. Okay. And you communicate with Jharaun how
10 often?

11 A. It's been three years since me and him have
12 talked. It's been since this incident that me and
13 him have talked. Me and him have not talked since
14 this incident.

15 Q. Okay, I'm sorry, I didn't say that
16 correctly. So growing up together, how often might
17 you be talking to him?

18 A. Every day.

19 Q. Every day. Are you -- back in the day
20 before 2020 and around the time of the shooting,
21 were you friends with him on Facebook?

22 A. Yes, ma'am.

23 Q. All right. And did you communicate with him
24 regularly on Facebook?

25 A. Yes, ma'am.

1 Q. And is that Facebook Messenger?

2 A. Yes, ma'am.

3 Q. Okay. Do you recall his name, if I --
4 Cameron, I'm gonna show you what's been marked as
5 State's Exhibit 143. This is easy. Can you
6 identify for us the names on the Facebook Messenger?

7 A. Do you like want me to read it out?

8 Q. I want you to tell me whose names are on
9 there?

10 A. My name --

11 Q. Do you see your name?

12 A. -- and Montese Washington.

13 Q. Okay, so your name is on State's 143 --

14 A. Yes, ma'am.

15 Q. -- and your name is listed as Cameron
16 Hatfield; is that right?

17 A. Yes, ma'am.

18 Q. And Montese Washington is the Facebook name
19 that you communicated with Jharaun Washington; is
20 that right?

21 A. At the time I believed so, yeah.

22 Q. Okay, in 2020, April of 2020?

23 A. Yes.

24 Q. Do you want to check the date?

25 A. Yes, ma'am, I see it.

1 Q. Okay.

2 (Court Reporter marks State's Exhibit Number 143
3 as attached hereto.)

4 MS. CAMPBELL: Your Honor, at this time the
5 State seeks to introduce State's 143.

6 MS. CARMODY: No objection.

7 MR. HALL: I have an objection, Your Honor, the
8 lack of foundation to actually show that the origin
9 of those messages were from my client.

10 Just simply having Mr. Hatfield look at a piece
11 of paper and read a couple of names gives no -- any
12 indication that the source of the messages, or the
13 source of the information is actually from my
14 client.

15 THE COURT: All right.

16 MR. HALL: Anybody can --

17 THE COURT: All right.

18 MR. HALL: -- pick up the phone and --

19 THE COURT: Okay, yes, sir. What --

20 MS. CAMPBELL: Your Honor, he's identified
21 himself in this conversation, he's identified
22 Montese Washington in this conversation, and he is
23 identifying the fact that they communicated on a
24 daily basis.

25 THE COURT: All right, I'm gonna --

1 MS. CAMPBELL: It has the date and time.

2 THE COURT: All right, I'm gonna allow it, and
3 note your objection for the record, Mr. Hall.

4 MS. CAMPBELL: Thank you, Your Honor.

5 (State's Exhibit 143 admitted into evidence.)

6 BY MS. CAMPBELL:

7 Q. Cameron, I'm gonna show you the last page of
8 Exhibit 143, and ask you to look at April 24th,
9 2020, and let me know if you were sending a Facebook
10 message to Montese Washington, who you know on
11 Facebook as Jharaun Washington.

12 Did you send him a message?

13 A. I mean this says I did. I must have, but I
14 don't have access to that Facebook anymore, I
15 haven't in years, so I don't know -- I don't
16 remember that, no.

17 Q. All right, tell me what you said. Read it
18 out to the jury.

19 A. What do you want, this one here?

20 Q. That one, correct.

21 A. I'm gonna say -- I'm gonna be explicit here.
22 "I don't know what's going on, bro, but people feel
23 a King of way that if I talked to the police last
24 night. I told them I was there to pick up my little
25 brother. 20 minutes later people throwing sticks,

1 not only that, but hopped out in front of us and
2 pulled the sticks out of the trunk in front of
3 everyone and started shooting."

4 I said, "You grabbed the gun and started
5 shooting back, and you saved my life, not only mine,
6 but everyone around us, the bullets -- around the
7 bullet direction, and plus I've been drunk as --
8 I've been drunk on the recording, so either way
9 words don't mean anything, and I promise you my
10 signature's never been on a statement."

11 Q. And actually it said sig, right? You said,
12 "My sig?"

13 A. Yeah, whatever, yeah.

14 Q. Yeah. Well, I need you to be correct, so in
15 that sign means my signature's not been on a
16 statement?

17 A. Yes, that's what it says.

18 Q. And so why did you feel compelled to say
19 that your signature had never been on a statement?

20 A. Because you don't write statements.

21 Q. Okay. And then your next statement right
22 below that? Tell us what you said to Jharaun
23 Montese Washington.

24 A. Right here?

25 Q. Yes, sir.

1 A. "I don't know what people got going on with
2 me, we need to talk face-to-face and figure
3 something out -- find something out."

4 Q. Cameron, on April 22nd, 2020, at the Walsh
5 Drive Apartments, why were you walking towards the
6 white Cadillac?

7 | A. I don't know.

8 Q. You have no memory, no recollection of what
9 motivated you to walk towards the van with the gun?

10	A. No.

11	Q. Okay.

12 MS. CAMPBELL: That's all I have.

13 THE COURT: Cross-examination?

14 MS. CARMODY: Yes, your Honor.

15

16 CROSS-EXAMINATION BY MS. CARMODY

17 BY MS. CARMODY:

18 Q. Hey, Cameron, good afternoon.

19 Q. We've heard a lot on your direct examination
20 with Ms. Campbell about talking to SLED?

21 A. Yes, ma'am.

22 Q. You don't remember a lot of things when you
23 were talking to SLED, right?

24 A. Yes, ma'am.

25 Q. And what's the reason for that?

1 A. I've been through a lot of trauma since
2 then, and I don't know if you've been through any
3 type of like traumatic trauma, but like when things
4 happen like that, you tend to forget other things.
5 You know, I watched my son ripped apart by -- my
6 six-year-old little boy get ripped apart by a Pit
7 Bull right in front of my face, and I couldn't stop
8 it, you understand?

9 And I've been indulging in drugs before and
10 after that very hard, so, you know, there's things
11 in my memory, you know, that I don't particularly
12 remember.

13 Q. All right.

14 A. I mean, you know, but there's also certain
15 things that I can remember, because it like hit a
16 spot in my brain, like what I say about, you know,
17 seeing somebody in the car, like that's something
18 that triggered me to get into a fight or flight
19 mode.

20 Q. Okay.

21 A. You understand? So there's just certain
22 things that don't really sit with me, that I don't
23 recall, and I'm not gonna speak on because it's not
24 the honest truth.

25 Q. I completely understand, okay. So when you

1 were referencing you've indulged in a lot of
2 substances, what kind of substances are you talking
3 about?

4 A. Meth, cocaine, Xanax. I was on fentanyl for
5 a long time for about two years almost. I'm just
6 now seven-and-a-half-months clean, so --

7 Q. Congratulations.

8 A. Thank you.

9 Q. Congratulations. All right, so back around
10 the time of this whole incident, and you talked to
11 SLED and all that, you were still actively using
12 drugs at that time?

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

14 Q. Okay, all right. And would you agree that,
15 you know, cocaine causes paranoia?

16 MR. HALL: Objection, Your Honor, unless he has
17 a specific skillset that he would be able to answer
18 that, I think that calls for a speculative answer.

19 THE COURT: All right.

20 MS. CARMODY: I can rephrase the question, Your
21 Honor.

22 THE COURT: Sure.

23 BY MS. CARMODY:

24 Q. Cameron, have you ever experienced paranoia
25 with cocaine?

1 A. Not with cocaine, no, ma'am.

2 Q. Okay, what about methamphetamines?

3 A. Yes, I have.

4 Q. Okay, all right. And have you ever blacked
5 out with any of these drugs?

6 A. Well, fentanyl, I started using fentanyl
7 after my son died, so that was back then, but like
8 Xanax I would black out, yes, ma'am.

9 Q. Okay, all right. And you admitted under
10 oath that on the day of the incident you were also
11 doing drugs?

12 A. Yes, ma'am.

13 Q. Okay. Now, do you remember, and only if you
14 remember, it's okay if you don't remember, do you
15 remember the car driving away?

16 A. Do I remember the car driving away?

17 Q. Yeah, the Chevy Malibu, do you remember it
18 driving away?

19 A. Like after everything happened?

20 Q. No, no, no, so when the car beeps the horn
21 and it's stopped behind the bushes, do you recall it
22 driving down the road?

23 A. The only reason I think that is because I
24 saw it in the video. Now, I don't recall that. I
25 don't remember like --

1 Q. Okay.

2 A. -- I don't remember.

3 Q. All right, okay, but, you know, watching the
4 video you remember it. Now, when you had your
5 statement with SLED, you may or may not remember,
6 did SLED show you a video of the surveillance
7 footage?

8 A. I don't remember --

9 Q. Okay.

10 A. -- talking to SLED, no.

11 Q. Is it possible they did? You don't know at
12 all? All right. Do you recall telling SLED you
13 don't know, but you think there was a dude?

14 A. I don't remember talking to SLED at all.

15 Q. Okay. Do you recall telling SLED, I don't
16 feel like they were trying to do anything, or that
17 they were going to do anything? I think they were
18 just about to leave?

19 A. I don't remember talking to SLED at all.

20 Q. Do you remember telling SLED that --

21 MR. HALL: Objection, Your Honor, at this point
22 Ms. Carmody is testifying from the statement that he
23 has repeated on numerous occasions that he does not
24 recall giving, and so in essence --

25 THE COURT: All right, I - hold on, I've got

1 your objection.

2 MS. CARMODY: Your Honor, I'm asking him,
3 because the witness has said there are some things
4 that he remembers, and there's somethings that he
5 doesn't.

6 THE COURT: I'm gonna overrule that objection.
7 I think it's certainly something that a particular
8 question may jog his memory, so I'm gonna overrule
9 that, I'm going to allow her to ask these questions.

10 MS. CARMODY: Thank you, Your Honor.

11 BY MS. CARMODY:

12 Q. Do you recall telling SLED that you thought
13 it was Zane, but it ended up being someone else?

14 A. I do not remember talking to SLED at all,
15 no.

16 Q. Okay. Do you recall -- you don't recall
17 telling anyone that?

18 A. No, ma'am.

19 Q. Okay. Do you remember a guy named Zane
20 having dreads?

21 A. Zane? No, I know Zay, like, Z-A-Y.

22 Q. Okay, Zay having dreads?

23 A. I know there are twists in his hair.

24 Q. Okay, so you do remember Zay having twists
25 in his hair you're saying?

1 A. Yeah, like little -- yeah, like the
2 beginning of dreads, yeah.

3 Q. Okay. But he wasn't there? What about
4 Finesse?

5 A. That's the same person.

6 Q. Do you know that now?

7 A. No, I knew that then. I know -- the only
8 thing I've ever known him as is Zay or Zane?

9 Q. Zay or Finesse?

10 A. Yes, ma'am.

11 Q. Okay. Do you recall saying that you saw
12 there were two guns, but may have been three?

13 A. No, ma'am, I do not.

14 Q. All right, is there a reason that you would
15 have texted Mr. Washington and told him that you had
16 talked with police?

17 A. What do you mean is there any reason?

18 Q. Yes?

19 A. No.

20 Q. Would you have known?

21 A. No.

22 Q. Why tell him you didn't talk to the police?

23 A. I don't even recall doing that, so I have no
24 idea why I would have done that.

25 Q. You don't know why you would have sent that?

1 A. No, ma'am.

2 Q. Okay.

3 MS. CARMODY: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 MS. CARMODY: No further questions, Your Honor.

6 THE COURT: Mr. Hall?

7 MR. HALL: Thank you, Your Honor.

8 THE COURT: Sure.

9 **

10 **CROSS-EXAMINATION BY MR. HALL**

11 BY MR. HALL:

12 Q. Good morning, Mr. Hatfield. Are you white
13 or black?

14 A. I'm white, sir.

15 Q. Thank you. In 2016 were you convicted of
16 burglary third degree?

17 A. Yes, sir, I was.

18 Q. In 2018 were you convicted of use of a
19 vehicle without permission with the intent to
20 permanently deprive?

21 A. Yes, sir, I was.

22 Q. And in 2022 were you convicted of theft of a
23 controlled substance?

24 A. Yes, sir, I was.

25 Q. Thank you.

1 A. You're welcome.

2 Q. Now, you testified today that on April 22nd
3 of 2020, you saw the Impala go by where you were
4 standing on the porch; is that correct?

5 A. Yes, sir.

6 Q. And you made a statement that you gave here
7 today, that indicated, "That's Zay."

8 A. Yeah.

9 Q. Indicating that you were able to see
10 somebody in that car?

11 A. Yes.

12 Q. And so by necessity, that would be could you
13 see through the window?

14 A. I believe so. I don't think the window was
15 down, it might have been. I think I just saw -- I
16 know I'd seen him in the backseat, he was in the
17 backseat.

18 Q. The backseat driver's side?

19 A. Yes, yeah.

20 Q. All right, but you can't -- you don't recall
21 whether the window was up or down at that point?

22 A. I believe I saw him through the window, so I
23 believe the window was up, I believe it was up.

24 Q. Okay, so there's no tinting that would have
25 prevented you from seeing him?

1 A. Not extreme tinting, no.

2 Q. Okay. The interview that has been
3 constantly referenced, that you don't remember
4 giving to SLED, was the subject of Facebook messages
5 that you were -- Messenger messages you were shown,
6 correct?

7 A. Do what now?

8 Q. Let me rephrase that, because that was long,
9 I'm sorry. The messages back and forth between --
10 that are alleged to have happened between your and
11 Mr. Washington, that Ms. Campbell showed you, had
12 you read in court --

13 A. Uh-huh.

14 Q. -- okay? You referenced a statement about
15 how never -- you wouldn't -- shouldn't have been
16 allowed to sign off on that interview, because of
17 the state that you were in?

18 A. Yeah, I just read that, like that's the one
19 we read?

20 Q. Yes.

21 A. Okay. I don't remember writing that.

22 Q. I'm sorry?

23 A. I don't remember writing the message.

24 Q. Okay. You don't remember writing the
25 message, but that message is being attributed to

1 you?

2 A. I mean that was my name on it.

3 Q. Okay.

4 A. On the paper I just read, that's the only
5 reason I --

6 Q. But your testimony now that you don't
7 necessarily remember even sending that message?

8 A. No, I don't. I mean it was nothing out of
9 the ordinary for us to message each other. We
10 messed every day -- probably every day, you know,
11 we were with each other every day just about, so --

12 Q. But your testimony at least today is that
13 you, during this time, leading up to and after, that
14 you were very often in some sort of intoxicated
15 state?

16 A. Yeah.

17 Q. And so if we were to, at some point, we, as
18 in everybody else here, including the jury, were to
19 actually see an interview that took place with a
20 SLED agent, would you have been under the influence
21 during the course of that interview?

22 A. I would remember an interview, but if there
23 was an interview, ten times out of ten, I was on
24 something, yes.

25 MR. HALL: Thank you, Judge, I have no other

1 questions.

2 THE COURT: Solicitor?

3 MS. CAMPBELL: Just briefly, Your Honor.

4 **

5 REDIRECT EXAMINATION

6 BY MS. CAMPBELL:

7 Q. Cameron --

8 A. Yes, ma'am.

9 Q. -- Ms. Carmody asked you about the person
10 that you saw in the back of the silver Chevy Malibu,
11 Zay and Finesse, and you said that's the same
12 person?

13 A. Yes, ma'am.

14 Q. I'd like you to stand up and see if you can
15 identify the person you know as Zay or Finesse in
16 the courtroom today. Do you see him here?

17 A. Yeah, he's over there.

18 Q. Okay, and is he in a red shirt or a green
19 shirt?

20 A. Like a white shirt, I guess.

21 Q. Is he next to Ms. Carmody?

22 A. Yeah.

23 MS. CAMPBELL: And for the record he's
24 identified Xavier Rivers?

25 THE COURT: He does. All right, anything else?

1 Any redirect or recross?

2 MS. CARMODY: No, Your Honor.

3 THE COURT: Mr. Hall?

4 MR. HALL: No, thank you, Judge.

5 THE COURT: All right, Mr. Hatfield, thank you
6 very much.

7 WITNESS: All right.

8 THE COURT: All right, ladies and gentlemen,
9 we're gonna take a break for lunch now, and what I'd
10 like to do is have you come back here at 1:30, where
11 we will proceed with the testimony, and perhaps
12 conclusion of all the testimony today as I outlined
13 earlier, okay?

14 Please do not talk about the case. Don't do any
15 research about the case. Thank you.

16 (Jury exits the courtroom.)

17 THE COURT: All right, anything from the State
18 before we break for lunch?

19 MS. CAMPBELL: No, sir.

20 THE COURT: From the defense, Ms. Carmody?

21 MS. CARMODY: No, Your Honor.

22 THE COURT: Mr. Hall?

23 MR. HALL: Great, thank you all very much.

24 (Luncheon recess.)

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PROCEEDINGS CONTINUED

(THE TRIAL CONTINES)

THE COURT: Let's bring the jury in.

(Jury enters courtroom.)

BAILIFF: The jury's seated, Your Honor.

THE COURT: All right, thank you very much.

Ladies and gentlemen, welcome back. Solicitor, are you ready to call your next witness?

MS. CAMPBELL: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MS. CAMPBELL: The State calls SLED Special Agent Natasha Merrell.

* * *

NATASHA MERRELL

being first duly sworn, testified as follows:

THE COURT: Yes, ma'am, your witness.

MS. CAMPBELL: Thank you.

DIRECT EXAMINATION

BY MS. CAMPBELL:

Q. Good afternoon.

A. Good afternoon.

Q. Would you please state name and spell it for our Court Reporter?

A. Natasha Merrell, N-A-T-A-S-H-A M-E-R-R-E-L-L.
L.

1 Q. Thank you. Where are you employed?

2 A. The South Carolina Law Enforcement Division,
3 commonly known as SLED.

4 Q. And how long have you been there?

5 A. Since 2014.

6 Q. Do you have a particular title or job
7 responsibilities or assignments?

8 A. I am currently employed with the Regulatory
9 Enforcement. I've been there about a year and a
10 half, and before that I was with the Low Country
11 Investigative Services.

12 Q. So if I talk to you about a case that
13 occurred here in Hardeeville, South Carolina on
14 April 22nd, 2020, did you have a role or a
15 responsibility in reference to a shooting at the
16 Walsh Drive Apartments?

17 A. Yes, I was assigned as the lead case agent.

18 Q. All right. And in your role as the lead
19 case agent, did you have an opportunity to interview
20 witnesses?

21 A. Yes, ma'am.

22 Q. And we've seen it a number of times, the
23 surveillance video. I've noted there's a gentleman
24 riding a bike in that video. Did you have an
25 opportunity to interview him?

1 A. Yes, we did.

2 Q. And what was his name?

3 A. His name was Jacob Simmons, also known as
4 Mr. Timmy (phonetic).

5 Q. Okay. And Mr. Timmy -- do you know if Mr.
6 Timmy is still alive or deceased?

7 A. I believe that he is deceased now.

8 Q. Were you able to talk to any of the
9 residents at the Walsh Drive Apartments?

10 A. Yes, ma'am, we did.

11 Q. During the course of your investigation, did
12 you develop suspects in this case?

13 A. Yes, ma'am, we did.

14 Q. Did you, during the course of your
15 investigation, identify the black male shooter from
16 the Cadillac position?

17 A. Yes, we did.

18 Q. And who did you identify that as?

19 A. Jharaun Washington.

20 Q. And during the course of your investigation
21 were you able to identify the black male shooting
22 from the silver Chevy Malibu?

23 A. Yes, ma'am.

24 Q. And who did you identify that person as?

25 A. Xavier Rivers.

1 Q. Was Jharaun Washington arrested?

2 A. Yes, ma'am, he was.

3 Q. And was Xavier Rivers arrested?

4 A. Yes, ma'am.

5 Q. upon Jharaun Washington's arrest, in your
6 record and documentations on the case, do you have a
7 height and weight for him upon his arrest?

8 A. Is it okay if I review my notes?

9 THE COURT: Yes, ma'am.

10 BY WITNESS:

11 A. For Jharaun we have him listed as 5'10" and
12 175 pounds.

13 Q. And the height and weight of Xavier Rivers
14 upon his arrest?

15 A. 5'6", 180 pounds.

16 Q. All right. During the course of this
17 investigation, did you conduct any collection of any
18 of the evidence?

19 A. No, but there are --

20 Q. That was all Ms. Cirencione?

21 A. Yes.

22 Q. Okay, thank you. We're gonna get past that
23 quickly. Now, what -- if I were to say to you that
24 you have a particular suspect in the case, and you
25 are doing a full workup on him, what does that mean?

1 A. That means that we take their name, date of
2 birth, if they have a Social, we send it to our
3 analysts in Columbia, and they complete the workup,
4 where they gather all types of information from
5 addresses, bills, social media checks, there's a
6 whole gambit that they run through to forward back
7 to us.

8 Q. So I know you were talking about the social
9 media checks. Did you issue a subpoena for -- or a
10 search warrant, using a search warrant for the
11 Facebook records of Montese Washington in this case?

12 A. Yes, ma'am.

13 Q. And were you given a reply or a return to
14 that search warrant for his Facebook records?

15 A. Yes.

16 Q. Okay. And when you got that back, were you
17 able to examine those records?

18 A. Yes, I was.

19 Q. All right. And what type of information
20 would have been included in those records?
21 Messages, photos, what sort of bulk material?

22 A. Bulk is posts, video, photographs, and
23 messages from Messenger. And at the beginning
24 there's a lot of transactions numbers that are in
25 the return of those records.

1 Q. During the course of your investigation and
2 your review in terms of that Facebook search
3 warrant, were you able to locate photographs of the
4 Defendant, Jharaun Washington, in the Facebook
5 records that you had been supplied for Montese
6 Washington?

7 A. Yes, ma'am.

8 Q. And were you able to identify any content in
9 those Facebook records that would have shown the
10 Defendant, Jharaun Washington having particular
11 knowledge, referencing particular events that only
12 the author would know about?

13 A. Yes.

14 Q. I'm gonna show you what's been marked as
15 State's Exhibit 142, and I'm gonna ask you if you
16 can then identify State's Exhibit 142 for me?

17 A. Yes, ma'am, I can.

18 Q. And what exactly is State's Exhibit 142?

19 MR. HALL: Your Honor, at this point I'm going
20 to launch an objection, before there's any further
21 testimony as to the content of that document.

22 THE COURT: All right, ladies and gentlemen, I'm
23 gonna send you back to your jury room for a second.
24 I'm gonna take up a matter of law and get you back
25 here as soon as I can. Solicitor, can you hand me

1 that? Do you have that?

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: Thank you.

4 (Jury exits the courtroom.)

5 BAILIFF: Jury is cleared, Your Honor.

6 THE COURT: Thank you.

7 All right, so, Mr. Hall, let me hear from you,
8 sir, on your objection to this State's 142?

9 MR. HALL: Thank you, Judge. First of all, on a
10 basic level, it's an authentication issue, and I
11 understand there's case law to the contrary, but
12 I'm making it any way for the record. In addition,
13 there's also no indicia of any type of liability
14 that the messages that are attempting to be read in
15 this record were actually generated from my client.

16 This is simply just a record that lists a
17 conversation happening. There's been no offer of
18 proof at this point, and I don't know that there can
19 be that the source of the message was actually my
20 client.

21 THE COURT: Solicitor?

22 MS. CAMPBELL: Your Honor, I think the threshold
23 that we have to make under State v. Benton, which is
24 the 2021 case. You have to demonstrate content and
25 the timing of the message. The Agent has testified

1 that she identified this particular Facebook account
2 that's contained in the photos of Jharaun
3 Washington. She identified going further, the
4 particular messages are on the date and time that
5 this occurred, and the individual, Montese
6 Washington is saying to messaging, "I just got into
7 a shootout," and the person he is messaging with
8 Malaysia is returning the messages back to him and
9 calling him Jharaun.

10 And so I think the authentication, particularly,
11 would be the unusual spelling of his name, unusual
12 name, if you will, so this gives us our threshold of
13 authentication, in terms of the account, the photos,
14 the content tenure and the timing of the message,
15 that only Jharaun as Malaysia calls him, would know
16 and talk about, "I just got into a shootout."

17 THE COURT: All right, let me look.

18 MS. CAMPBELL: I forgot to add, Your Honor, this
19 was already identified as the Facebook account of
20 Jharaun Montese Washington.

21 THE COURT: Well, he identified -- well, I'm
22 with you on that, except he identified his account
23 and those names, and that's why I let that in. This
24 is different, Solicitor, this is different. Now,
25 this is not being used, Solicitor, to -- you're not

1 getting into testimony about where this gentleman
2 was located and things of this nature, as it relates
3 to any type of Facebook information at the time of
4 this matter?

5 MS. CAMPBELL: No, sir.

6 THE COURT: You're not getting any type of
7 numbers, as to where he was, or puts him at a point;
8 is that correct?

9 MS. CAMPBELL: Absolutely not.

10 THE COURT: All right, let me see. All right,
11 let me go review this. I'm gonna take this with me.

12 (OFF RECORD)

13 BAILIFF: All rise.

14 THE COURT: All right, thank you, be seated.
15 All right, I took a look at the Benton case. You
16 know, the testimony thus far was that it certainly
17 appears to me that a search warrant was issued for
18 this gentleman's phone -- or Facebook information.
19 She informs me that it was provided -- she's
20 testified that it was provided.

21 The author is -- or listed as, on this document,
22 Montese Washington, but I think that when we take
23 into consideration the timing of the document, the
24 content of the document, the fact that he was
25 referred to as Jharaun, which is his first name, and

1 also is referred to as Finesse, which is another
2 name that we've heard him referred to. I think when
3 I consider all of that together, I think that the
4 State -- or that my ruling is gonna be that the
5 State has met their requirements. I find that -- I
6 think in this case we're looking at, basically, the
7 tenure, the timing of the message, the content of
8 the message, and as a result, I think the State has
9 met the sufficient authentication to meet the low
10 bar in 901B4.

11 And so my ruling is gonna be that that is
12 admissible. I'll overrule your objection, Mr. Hall.
13 Anything else anybody wants to put on the record
14 I'll let you?

15 MR. HALL: No, your Honor.

16 THE COURT: All right, thank you. All right, so
17 are we ready to get the jury back in?

18 MS. CAMPBELL: Yes, your Honor.

19 THE COURT: All right, and do you want me to
20 return this to the witness?

21 MS. CAMPBELL: Yes.

22 THE COURT: There you go, ma'am.

23 WITNESS: Thank you, sir.

24 THE COURT: All right, let's get them in, we're
25 ready.

1 (Court Reporter marks State's Exhibit Number
2 142, as attached hereto.)

3 (Jury enters the courtroom.)

4 **

5 PROCEEDINGS CONTINUED

6 BAILIFF: The jury's seated, Your Honor.

7 THE COURT: All right, thank you very much. I'm
8 going to overrule Mr. Hall's objection. Solicitor,
9 you can proceed.

10 MS. CAMPBELL: Thank you, Your Honor. So
11 State's 142 will be admitted then, and I would ask
12 that we publish it now for the jury.

13 THE COURT: Yes, ma'am.

14 (State's Exhibit 142 admitted into evidence.)

15 MS. CAMPBELL: We'll pull it up on the screen
16 and I'll ask the Agent to walk us through this.

17 BY MS. CAMPBELL:

18 Q. All right, so can you identify for us the
19 author in the first message?

20 A. Malaysia Lee.

21 Q. And the time?

22 A. April 22nd, 2020, at 3:12, 16 seconds, UTC
23 time.

24 Q. All right, and what is Malaysia Lee saying to
25 this person?

1 A. "Jharaun, what the F is going on."

2 Q. "Jharaun, WTF is going on?"

3 A. WTF is going on?

4 Q. All right, and the next message is from who?

5 A. Montese Washington.

6 Q. And the time and date?

7 A. April 22nd, 2020, at 3:16, 2 seconds, UTC
8 time.

9 Q. And the message is?

10 A. "I just got into a shootout."

11 Q. And the next message?

12 A. Malaysia Lee at -- on April 22nd, 2020, at
13 3:17, 28 seconds UTC time. "I hope you're on the
14 way to the point RN, because Hardeeville is not
15 where you should be RN. I can't believe this. Just
16 get the F out of Hardeeville now."

17 Q. And the next message?

18 A. Montese Washington, April 22nd, 2020, at
19 3:45, 28 seconds UTC time, "Babe, I'm sorry, my mama
20 keep blowing me up."

21 Q. And the last message?

22 A. Montese Washington, April 22nd, 2020, 3:45,
23 41 seconds, UTC time, "Everybody's fuckin' mad at
24 me."

25 Q. Thank you. All right, so, obviously, as the

1 case agent, you viewed the surveillance video in
2 this case?

3 A. Yes.

4 Q. All right. So I'm gonna hand you what's
5 been marked as State's 149 and 150, and ask you if
6 you could identify those?

7 A. Yes, I can.

8 Q. All right, and what is depicted in State's
9 149 and 150?

10 A. In State's 149 is a still shot from the
11 camera, the surveillance camera of the silver
12 Impala, of a black male getting out of the rear
13 driver's side.

14 Q. Of the silver Malibu?

15 A. Yes.

16 Q. Okay. And what about State's 150?

17 A. State's 150 is a still photo from the
18 surveillance video of the black male with what
19 appears to be a weapon in his hand closing the
20 trunk.

21 Q. So are State's 149 and State's 150 an
22 accurate depiction of still photos from the
23 surveillance video that's already in evidence?

24 A. Yes, ma'am.

25 Q. All right.

1 (Court Reporter marks State's Exhibit Number
2 149, as attached hereto.)

3 (Court Reporter marks State's Exhibit Number
4 150, as attached hereto.)

5 MS. CAMPBELL: At this time the State seeks to
6 introduce State's 149 and 150, Your Honor.

7 THE COURT: Ms. Carmody?

8 MS. CARMODY: Without objection.

9 THE COURT: Mr. Hall?

10 MR. HALL: No objection.

11 THE COURT: All right, State's 149 and 150
12 admitted without objection.

13 (State's Exhibits 149 - 150 admitted into
14 evidence.)

15 BY MS. CAMPBELL:

16 Q. And in State's 149 that you just described
17 the black male getting out of the backseat of the
18 silver Chevy Malibu, and you identified that black
19 male as?

20 A. Xavier Rivers.

21 Q. All right, and in State's 150? All right,
22 and in State's 150 you identified the black male as
23 Xavier Rivers, and what is he holding in his hand
24 there?

25 A. It appears to be a firearm.

1 Q. Thank you.

2 MS. CAMPBELL: That's all I have.

3 THE COURT: Cross-examination, Mr. Carmody?

4 MS. CARMODY: Yes, your Honor.

5 THE COURT: Yes, ma'am.

6 **

7 **CROSS-EXAMINATION BY MS. CARMODY**

8 BY MS. CARMODY:

9 Q. Good afternoon, ma'am.

10 A. Good afternoon.

11 Q. The Solicitor had asked you about the arrest
12 of Xavier Rivers on direct examination. Okay, I
13 wanted to ask you a little bit about that. So on
14 April 22nd of 2020 Donovan Hay had passed away,
15 correct?

16 A. Correct.

17 Q. Okay. And then on April 22nd of 2020 you
18 had interviewed Robin Washington?

19 A. That's correct.

20 Q. Robin Washington is Jharaun Washington's
21 mother?

22 A. That is correct.

23 Q. Okay, and then on April 22nd of 2020, you
24 had interviewed Shiron Brown?

25 A. Yes.

1 Q. Took possession of his clothing, his weapon
2 and his vehicle?

3 A. I did not interview Shiron that day. I did
4 not take possession of his weapon nor his clothing.

5 Q. You are aware as a case agent that Katie
6 McCallister, your --

7 A. That is correct.

8 Q. So SLED had in their possession the
9 statement of Shiron Brown, correct?

10 A. Correct.

11 Q. His clothing?

12 A. Yes.

13 Q. Weapon?

14 A. Yes.

15 Q. And the vehicle?

16 A. Yes.

17 Q. On 4/22 of 2020 did you interview Cameron
18 Hatfield?

19 A. Once again, I did not interview Cameron
20 Hatfield, he was interviewed by Special Agent Blake
21 Johnson.

22 Q. Okay, another agent with SLED?

23 A. Yes.

24 Q. And as the case agent, you were aware that
25 that interview took place?

1 A. Correct.

2 Q. And you had the contents of that interview
3 in your investigation?

4 A. Yes, ma'am.

5 Q. All right. And then on 4/24/2020, you, or
6 someone related with SLED, interviewed Lucretia
7 Jordan?

8 A. That is correct.

9 Q. All right. And then on April 24th of 2020
10 you also interviewed, or someone related with SLED
11 with you, with Letitia Jordan?

12 A. That's correct.

13 Q. Okay. And then Jacob Simmons?

14 A. Yes.

15 Q. Okay. And you also interviewed, or spoke to
16 Sharon Hamilton?

17 A. On April 28th we interviewed Sharon
18 Hamilton.

19 Q. Okay. I need to clarify who these people
20 are. So the jury heard earlier from Letitia Jordan,
21 who is she?

22 A. She was the driver of the black vehicle that
23 was coming around the corner from the surveillance
24 video.

25 Q. Letitia Jordan, who is she?

1 A. She is the sister of Lucretia Jordan and was
2 a passenger in the same vehicle.

3 Q. Okay, and --

4 MR. HALL: Your Honor?

5 THE COURT: Yes, sir.

6 MR. HALL: I have an objection, may we approach?

7 THE COURT: Sure.

8 (Bench conference.)

9 THE COURT: All right, I'm going to sustain your
10 objection, Mr. Hall.

11 BY MS. CARMODY:

12 Q. All right, Ms. Jordan -- I'm sorry. Okay,
13 on April 24th of 2020 you interviewed Shannon
14 Fields?

15 A. Yes, ma'am.

16 Q. And does Ms. Fields actually live in the
17 apartment complex where this incident took place?

18 A. Yes, she does.

19 Q. Okay, and you also interviewed a man by the
20 name of Quentin Ferebee, or another agent with SLED
21 interviewed a man by the name of Quentin Ferebee.

22 A. Yes.

23 Q. Okay. And on April 30th you had interviewed
24 Daquadrae Green?

25 A. I did not interview Daquadrae Green.

1 Q. Did another agent in your office interview
2 Daquadrae Green?

3 A. Yes.

4 Q. Okay. And you did receive the report from
5 that interview?

6 A. Yes, ma'am.

7 Q. Okay. And then April 23rd of 2020 you, or
8 another agent with SLED, interviewed Javante
9 Jenkins?

10 A. That's correct.

11 Q. Who is Javante Jenkins?

12 A. He was a passenger in the silver Malibu.

13 Q. The front seat passenger?

14 A. That is correct.

15 Q. All right. And then you have reviewed the
16 video surveillance in this case?

17 A. Yes, ma'am, I have.

18 Q. All right, and you conferred on this case
19 with other agents at SLED?

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

21 Q. All right. And then you talked about the
22 arrest of Mr. Rivers. He wasn't arrested for
23 murder, was he?

24 A. No, he was not.

25 Q. Okay. And are you aware that he hasn't

1 actually been charged with murder? You didn't
2 charge him with murder, did you?

3 A. No, I did not.

4 Q. Okay. You actually charged him with a
5 completely different crime, and it was dismissed,
6 correct?

7 A. That is correct.

8 Q. And Mr. Rivers was indicted solely by the
9 Solicitor's Office, correct?

10 A. That is correct.

11 Q. And that didn't happen until February 24th,
12 2020 -- 2022, I'm sorry, February 24th of 2022,
13 almost two years after Donovan Hay had been killed?

14 A. Correct.

15 Q. Okay. No murder charge for two years after
16 Donovan Hay died, correct?

17 A. Correct.

18 Q. Okay. Thank you.

19 MS. CARMODY: No further questions.

20 THE COURT: Mr. Hall?

21 MR. HALL: Yes, thank you, Judge.

22 **

23 CROSS-EXAMINATION BY MR. HALL

24 BY MR. HALL:

25 Q. Good afternoon, Agent Morrell.

1 A. Good afternoon.

2 Q. Ms. Carmody took the time to kind of go
3 through a list of your involvement in this case,
4 people that you interviewed, perhaps people that you
5 didn't interview; is that correct?

6 A. That is correct.

7 Q. And she kind of went through a partial list.
8 I think there were some names maybe she left out,
9 Janice Lambert, you were involved in that interview,
10 correct?

11 A. Correct.

12 Q. And is she one of the neighbors also there
13 at Walsh Drive Apartments?

14 A. That is correct.

15 Q. another person that you interviewed,
16 correct?

17 A. Correct.

18 Q. And was she also another resident of Walsh
19 Drive Apartments?

20 A. That is correct.

21 Q. You also interviewed, and I think Ms.
22 Carmody brought this up, you had also interviewed
23 Lucretia Jordan; is that correct?

24 A. That's correct.

25 Q. And as part of that interview with Ms.

1 Jordan, did you have an occasion to show her a photo
2 lineup?

3 A. Yes, we did.

4 Q. And in that photo lineup was she able to
5 pick out my client, Mr. Washington, from that
6 lineup?

7 A. No, she did not.

8 Q. Okay. I just wanted to ask you about one
9 other thing, the wording of it I guess struck me as
10 kind of funny, which is, I guess, why I'm asking you
11 about it. During your direct examination with the
12 Solicitor you had referenced identifying my client
13 during the course of the investigation.

14 I believe those were your exact words, at least
15 I tried to write them down as quickly as you said
16 them. So my client was identified by you during the
17 course of the investigation, correct? Okay, and you
18 have been sitting here, obviously, throughout the
19 course of this trial as the case agent.

20 A. That's correct.

21 Q. All right. So your identification,
22 obviously, is different from what witnesses --

23 MS. CAMPBELL: Objection. Pitting witnesses
24 against one another, I believe that's our problem
25 here.

1 THE COURT: Well, let's let him finish the
2 question. I'm not exactly sure what the question
3 is, so let's let him finish the question, and then
4 if it needs to be objected to, go right ahead.

5 BY MR. HALL:

6 Q. I'm simply just trying to make a distinction
7 between what your testimony is, that my client was
8 identified during the course of the investigation,
9 as opposed to what has taken place during the course
10 of the trial. So your investigation, you identified
11 my client. You've been sitting here the entire
12 time. Based on your recollection, has anyone
13 identified my client --

14 A. Yes.

15 Q. -- as being involved in the shooting?

16 A. As being involved in the shooting?

17 Q. Yes.

18 A. I --

19 Q. And, again, this is to the best of your
20 recollection, and I know we've been at this a couple
21 of days, but there have been some witnesses that
22 have taken the stand, and they've given testimony.

23 A. Uh-huh.

24 Q. And in that testimony my question simply is,
25 has anyone testified that they saw my client shoot a

1 gun?

2 A. Not to my recollection.

3 Q. Thank you very much.

4 MR. HALL: That's all I have.

5 MS. CAMPBELL: Just briefly, Your Honor.

6 **

7 **REDIRECT EXAMINATION**

8 BY MS. CAMPBELL:

9 Q. When it comes to a decision on indictments,
10 is that your decision or the Solicitor's decision?

11 MS. CARMODY: Objection.

12 THE COURT: What's your objection?

13 MS. CARMODY: Lack of personal knowledge, Your
14 Honor.

15 THE COURT: We don't know.

16 Go ahead, I'm going to overrule you. She can
17 answer it, if she knows.

18 BY MS. CAMPBELL:

19 Q. When it comes to indictments, is that your
20 decision, or the Solicitor's decision?

21 A. It's the Solicitor's decision.

22 Q. Thank you.

23 THE COURT: All right, any additional questions,
24 Ms. Carmody?

25 MS. CARMODY: No, Your Honor.

1 THE COURT: Mr. Hall?

2 MR. HALL: No, thank you, Judge.

3 THE COURT: All right, thank you so much.

4 WITNESS: Yes, sir.

5 THE COURT: Thank you.

6 MS. CAMPBELL: The State calls SLED Special
7 Agent Gabriel Denizard.

8 * *

9 **GABRIEL DENIZARD**

10 being first duly sworn, testified as follows:

11 THE COURT: Go ahead.

12 **

13 **DIRECT EXAMINATION**

14 BY MS. CAMPBELL:

15 Q. Good morning. Would you state your name and
16 spell it for our Court Reporter?

17 A. Yes, Gabriel Denizard, G-A-B-R-I-E-L, last
18 name, D-E-N-I-Z-A-R-D.

19 Q. All right. Actually, I can see by your
20 shirt, you work for SLED?

21 A. Yes, ma'am.

22 Q. All right, and how long have you been with
23 them?

24 A. I've been with them for approximately seven
25 years now.

1 Q. Have you ever worked a crime scene with
2 SLED?

3 A. Yes, ma'am.

4 Q. All right. Were you called to attend the
5 autopsy of Donovan Hay in this case?

6 A. I was.

7 Q. All right. I'm gonna show you what's been
8 marked as State's Exhibit 101 and ask you if you can
9 just take a look at that, and if there's any way for
10 you to identify that, that would be great.

11 A. Yes.

12 Q. All right. And how are you identifying
13 that?

14 A. It is a bullet or a projectile --

15 Q. Uh-huh.

16 A. -- that was collected at autopsy at the
17 Medical University of South Carolina, MUSC.

18 Q. And then was State's Exhibit 101 given to
19 you?

20 A. It was.

21 Q. All right, and then what did you do with
22 State's Exhibit 101?

23 A. Once the autopsy was finished, it was given
24 to me. I transported it to Evidence back to our
25 laboratory in Columbia, South Carolina to Forensic

1 Services laboratory, and we packaged it, sealed it
2 and then put it in evidence lockers for it to be
3 distributed out to the proper examination, which
4 would have been done at that time.

5 Q. Thank you.

6 MS. CAMPBELL: Your Honor, at this time the
7 State would seek to introduce State's Exhibit Number
8 101 into evidence.

9 THE COURT: Any objection?

10 MS. CARMODY: May I see it?

11 THE COURT: She wants to see it.

12 MS. CARMODY: No objection.

13 THE COURT: Mr. Hall?

14 MR. HALL: No objection.

15 THE COURT: All right, so it's State's 101?

16 MS. CAMPBELL: State's Exhibit 101.

17 THE COURT: 101 admitted without objection,
18 okay?

19 (State's Exhibit 101 admitted into evidence.)

20 MS. CAMPBELL: Thank you, Your Honor.

21 BY MS. CAMPBELL:

22 Q. And did you have any other action in this
23 case?

24 A. I did not.

25 MS. CAMPBELL: That's all I have.

1 THE COURT: All right, Ms. Carmody, any
2 questions?

3 MS. CARMODY: No, Your Honor.

4 THE COURT: Mr. Hall?

5 MR. HALL: No, thank you, Judge.

6 THE COURT: Sir, thank you so much, have a great
7 afternoon.

8 MS. CAMPBELL: The State calls SLED Forensic
9 Firearms, Paul Greer.

10 * * *

11 PAUL GREER

12 Being first duly sworn, testified as follows:

13 **

14 DIRECT EXAMINATION

15 BY MS. CAMPBELL:

16 Q. Good afternoon, would you tell us your name
17 and spell it for our Court Reporter?

18 A. Sure, my name is Paul Greer, G-R-E-E-R.

19 Q. All right. Can you tell us where you
20 currently work?

21 A. I'm employed by the South Carolina Law
22 Enforcement Division, which is commonly known as
23 SLED.

24 Q. Is there a particular division that employs
25 you?

1 A. Yes, ma'am, I'm a forensic scientist in our
2 Forensic Services Laboratory, and I am employed
3 within the Firearms Department of that division.

4 Q. And if you would, just tell us briefly a
5 little bit about your educational background.

6 A. Yes. I received a Bachelor of Science and
7 Biological studies from the University of South
8 Carolina. And upon my appointment with SLED, I had
9 an extensive training period, which lasted
10 approximately three years, I worked with other court
11 qualified examiners to peer review their cases.
12 I've conducted many microscopic comparisons, and
13 also completed multiple written and practical
14 examinations.

15 At the conclusion of that training program, I
16 was given a comprehensive exam that included some
17 mock case work. I successfully passed and completed
18 those examinations. I was able to begin case work
19 on my own at that time.

20 Q. And have you ever been qualified in the
21 State of South Carolina as an expert in your field?

22 A. Yes, ma'am, I have.

23 Q. And what field would that be? How would you
24 characterize it?

25 A. I'm employed in the Firearms Department, so

1 what we're doing in that discipline of forensics is
2 firearms identification.

3 MS. CAMPBELL: And, Your Honor, at this time the
4 State would tender Paul Greer from the South
5 Carolina Law Enforcement Division, Forensic Firearms
6 Department, as a forensic firearms identification
7 and analysis expert.

8 THE COURT: Any objection?

9 MS. CARMODY: Any objection, Your Honor.

10 THE COURT: Mr. Hall?

11 MR. HALL: Just one additional question as far
12 as the qualifications of --

13 THE COURT: Yes, sir.

14 **

15 VOIR DIRE EXAMINATION BY MR. HALL

16 BY MR. HALL:

17 Q. Mr. Greer?

18 A. Yes, sir.

19 Q. How many times have you been qualified as an
20 expert?

21 A. Approximately, 30 times.

22 Q. Thank you.

23 MR. HALL: That's all I wanted to find out. No
24 objection, Your Honor.

25 THE COURT: All right, ladies and gentlemen,

1 normally, a person cannot give opinion testimony.
2 Normally, when a person testifies, he or she has to
3 testify about what they saw, what they heard, what
4 they smelled, what they sensed, or something of that
5 nature; however, there's an exception that when
6 someone is qualified because of their education or
7 experience, they're permitted to give their opinions
8 in certain areas, if the Court qualifies them that
9 way.

10 I, in fact, will qualify the witness as an
11 expert in firearm identification and analysis, and
12 as a result, he will be able to give opinion
13 testimony in that area. Now, remember, folks, that
14 does not mean that you must accept the opinion, but
15 it is evidence for you to use any way you see fit.
16 Thank you.

17 BY MS. CAMPBELL:

18 Q. All right. So all of the firearm evidence
19 that we're gonna be talking about has already been
20 admitted into evidence in this case, so I'm gonna be
21 able to just show it to you and go through the
22 identification process, so, hopefully, that's
23 somewhat helpful to you.

24 A. Okay.

25 Q. Thank you very much.

1 All right, I'm gonna pass everything up to
2 you then, so that you have it just in case you need
3 it. I want to talk about it. And if it's okay, I'm
4 gonna come up here, I'm just gonna set it up here
5 with you, if you could just take a look at it, and
6 you can set that down there, if you can. I'm gonna
7 keep the rifle here.

8 A. I'm sorry, I couldn't hear you.

9 Q. I said I'm gonna take -- keep the rifle
10 here, State's Exhibit 100, unless I need to take it
11 out and bring it up there, okay? Will you let me
12 know?

13 A. Yes, ma'am.

14 Q. All right, thank you. All right, on October
15 15th, 2021, did you issue a report in this case?

16 A. Yes, ma'am, I did.

17 Q. All right, and in that particular report I'm
18 just gonna have you run down the items of evidence
19 for our jury, starting with item 132.

20 A. Yes, ma'am. SLED item 132 was determined to
21 be one fired .300 Blackout caliber cartridge case,
22 and that was listed on our submission documents at
23 SLED, this would be for marker one.

24 Q. 133?

25 A. One fired .300 Blackout caliber cartridge

1 case listed --

2 Q. 134?

3 A. One fired .300 Blackout caliber cartridge
4 case.

5 Q. 135?

6 A. One fired .300 Blackout caliber cartridge
7 case.

8 Q. And 136?

9 A. That was also one fired .300 Blackout
10 caliber cartridge case.

11 Q. All right. Now, if I were to look at your
12 report and talk about items 137 through 158 --

13 A. Yes, ma'am.

14 Q. -- what are -- they're all the same thing,
15 but what are they? Let us know what they are.

16 A. Items -- SLED items 137 through 158 were
17 each determined to be a fired .9-millimeter Luger
18 caliber cartridge case.

19 Q. Okay. So for items 137 through 158, which
20 are the .9-millimeter Luger caliber cartridge cases,
21 were you able to give us an opinion, as to these
22 particular items, and any identifying individual
23 characteristics on all of those .9-millimeter
24 casings?

25 A. Yes, ma'am. I compared those .9-millimeter

1 Luger cartridge cases, that was SLED items 137
2 through 158 with each other, and I was able to
3 determine that those cartridge cases, items 137
4 through 158 had all been fired by the same firearm.

5 Q. Were you able to determine if your item 178,
6 which is -- tell us, please, what your item 178 is?

7 A. Yes, ma'am. SLED item 178 was determined to
8 be a Glock model 23 Gen4 semi-automatic pistol,
9 chamber .40 Smith & Wesson caliber with a serial
10 number of BNTN377, and that was submitted with a
11 magazine with 12 unfired .40 Smith & Wesson caliber
12 cartridges.

13 Q. And that would be item 178 which is
14 contained in the box that I handed you, which is
15 marked State's 99A, correct?

16 A. Yes, ma'am, would you like me to read the --

17 Q. No. What were you able to determine about
18 item 178, which I recall is a Glock 23, in reference
19 to all the .9-millimeter Luger casings, 137 through
20 158, give us your conclusion on that.

21 A. Yes, ma'am. In reference to the .9-
22 millimeter Luger caliber cartridge cases, I was able
23 to determine, based on sufficient differences in
24 characteristics, that those cartridge cases, the
25 items 137 through 158, were not fired by the item

1 178, the Glock pistol.

2 Q. All right, so I'm going to now just take you
3 through a couple of the different items in your
4 report. Item 160, if you could just tell me what
5 that is, please, and whether or not it was suitable
6 for comparison, or not suitable for comparison, how
7 about that?

8 A. Yes, ma'am. SLED item 160 was determined to
9 be one fired bullet jacket fragment, and that was
10 listed on our submission paperwork as the front
11 passenger doorframe of the Infiniti G35. In regard
12 to its suitability, item 160, due to damage and the
13 lack of marks of value on that item, was unsuitable
14 for identification with the other firearms related
15 evidence.

16 However, it may be suitable for elimination
17 purposes.

18 Q. How about item 162, can you tell me what
19 that was, and whether it's suitable or unsuitable?

20 A. Yes, ma'am. Sled item 162 was determined to
21 be one piece of metal, and that was listed as front
22 passenger floorboard of Infiniti G35.

23 In regard to its suitability, SLED item 62, due
24 to damage and the size, the origin of this item
25 could not be determined. There were no marks of

1 value found on that item, and it was included as
2 unsuitable for identification with other firearms
3 put into evidence.

4 Q. All right, I'm now taking you to item 164,
5 can you tell us what that is?

6 A. Yes, ma'am. SLED item 164 was one fired
7 bullet jacket fragment, and that was listed as from
8 driver's interior and pillar of Infiniti G35.

9 Q. All right, and what were your findings in
10 reference to item 164?

11 A. Yes, ma'am. Based on my examination, I was
12 able to determine that it was most consistent with
13 being a jacket portion of the jacketed bullet, as
14 well as some .30 caliber cartridges, and that
15 includes .300 Blackout caliber among others.

16 Q. And so item 179, is that the Palmetto State
17 Armory .300 Blackout rifle?

18 A. Yes, ma'am. There was a Palmetto State
19 Armory rifle.

20 Q. State's Exhibit 100A?

21 A. Yes, ma'am.

22 Q. All right. And so that particular 164, you
23 identified as being the type that would have been
24 fired from that particular type of weapon, or that
25 weapon itself?

1 A. State's -- excuse me, SLED item 164 --

2 Q. Uh-huh.

3 A. -- based on my examination, I was able to
4 determine that it was consistent with being fired
5 from that jacket portion of some novel .30 caliber
6 bullet, which includes .300 Blackout caliber. The
7 Palmetto State firearm, in this case SLED item 179,
8 was the .300 Blackout caliber.

9 Q. And then I want to take you to item 181,
10 what was that?

11 A. SLED item 181 was one fired bullet jacket,
12 and one bullet core, listed as -- from head of
13 Donovan Hay collected at autopsy.

14 Q. Were you able to reach any conclusion with
15 regard to SLED item 181, State's Exhibit 101, the
16 fired bullet jacket removed from Donovan Hay at
17 autopsy? Can you tell us your conclusion about that
18 item?

19 A. Yes, ma'am. Based on my examinations, I was
20 unable to determine, due to the damage and size of
21 that item, any caliber that it may be consistent
22 with. Furthermore, I compared SLED item 181,
23 specifically, a fired bullet jacket with other items
24 that were submitted to SLED, and those were other
25 projectiles, SLED items 150 to 161, and the item 163

1 fired bullet fragment.

2 I compared those with each of them and
3 determined that the results of those comparisons
4 were inconclusive. I was unable to determine if
5 those had been fired by the same firearm, or by more
6 than one firearm with similar characteristics. In
7 addition to that, I was able to determine,
8 specifically in regard to item 181, a fired bullet
9 jacket, that it was not fired by item 178, which was
10 the Glock pistol, or by item 179, which was the
11 Palmetto State Armory firearm.

12 Q. All right, so last question, in reference to
13 State's 100A, I'll just ask you to take a look at --
14 and I know it's been a while, can you grab that
15 other end? You got it? It's very cumbersome.

16 Can you tell us in this previous question, would
17 the ejection report on this rifle, does it eject
18 right or left?

19 A. The ejection port on this firearm would be
20 in this area, and I would consider this to be on the
21 right side of the firearm.

22 Q. Thank you.

23 MS. CAMPBELL: Thank you. That's all I have.

24 THE COURT: All right, thank you.

25 Ms. Carmody, do you have any cross-examination?

1 MS. CARMODY: Yes.

2 THE COURT: All right, thank you.

3 CROSS-EXAMINATION BY MS. CARMODY

4 BY MS. CARMODY:

5 Q. Do you have the bullet from the autopsy?

6 A. Yes, this is it, yes, ma'am.

7 Q. Okay, so I just want to make it crystal
8 clear for the jury, if you don't mind. This bullet
9 was collected at the autopsy of Donovan Hay?

10 A. That's how it was submitted on our
11 paperwork, yes, ma'am. It was submission documents
12 indicating that it was recovered from the autopsy of
13 Donovan Hay, yes.

14 Q. All right, so we have the bullet from the
15 head of Donovan Hay, and you just testified, and I
16 understand you gave a lot of information --

17 A. Right.

18 Q. -- that bullet does not match this gun?

19 A. That's correct. That -- this fired bullet
20 jacket, which was SLED item 181, there is
21 differences in class characteristics, and that's how
22 I was able to determine that it was not fired by
23 SLED item 179, which is the Palmetto State firearm.

24 Q. Okay. Now, I have some questions for you
25 about the cartridges and casings. Another officer

1 had testified earlier about the difference between a
2 cartridge casing and a projectile.

3 Would you mind -- since you're a firearms
4 expert, would you mind explaining that to the jury,
5 what the difference is?

6 A. Sure. Commonly we hear within the firearms
7 community that a piece of ammunition is referred to
8 as the bullet. You may hear someone say, "I need
9 more bullets, I'm out of bullets." We're very keen
10 on terminology within our department, within
11 Forensics, and so what we refer to is that, as you
12 may have commonly said, a bullet is technically an
13 unfired cartridge.

14 That is a piece of ammunition that's not been
15 fired. That unfired cartridge, or that cartridge
16 contains several components. Here you will see --
17 let's see, this is what is referred to as a
18 cartridge case.

19 THE COURT: Why don't you step down in front of
20 the jury, if the witness can step down?

21 MS. CARMODY: Thank you, Your Honor.

22 THE COURT: If you don't mind, sir.

23 WITNESS: Yes, sir.

24 BY WITNESS:

25 A. This is a cartridge case. This is that

1 component that contains a fired projectile that
2 would typically be on this end. That projectile or
3 bullet is what travels down the barrel of the
4 firearm towards the target. You have your cartridge
5 case inside. There's gonna be gunpowder that will
6 ignite when you fire the cartridge, and on this end
7 of the cartridge casing is a firing pin, and that's
8 what the firing pin of that cartridge strikes, in
9 order to start that ignition process.

10 Q. When we're talking about cartridge casings
11 that were on the ground, what are they?

12 A. The cartridge cases on the ground, in this
13 case, we were discussing a lot of items. Fired .9
14 millimeter was recovered cartridge cases, and those
15 are the fired cartridge cases, you may have heard
16 them referred to as spent.

17 I refer to those as being fired, since they've
18 been fired in a gun, and you're just looking at this
19 portion, the cylindrical component, that's the
20 cartridge case that's been fired. There's no
21 bullet, and there's also indication that the fire
22 pin struck it.

23 Q. Are they the casings that are ejected out of
24 the gun, when somebody pulls the trigger?

25 A. In a semi-automatic type of firearm, yes,

1 ma'am, they could be ejected from the firearm after
2 the cartridge is fired.

3 Q. Okay, thank you.

4 THE COURT: Return to the chair.

5 BY MS. CARMODY:

6 Q. Now, you testified that you had examined the
7 firearms that I just showed you, the black firearm,
8 correct?

9 A. Yes, ma'am.

10 Q. This one here, do you remember this one?

11 A. Yes, ma'am, I was looking for some
12 information. When we receive evidence, it's entered
13 with our unique SLED number that it's given when it
14 enters the lab, as well as our initials and item
15 number.

16 Q. Okay. And then you examined that firearm
17 you also testified to?

18 A. Yes, ma'am, that's correct.

19 Q. When you first got the firearm from the SLED
20 agents, do you know how many bullets were in the
21 clip? I'll show you the clip. Is this a clip?

22 A. That is a term that's used for that;
23 however, I would refer to that as a magazine.

24 Q. Okay, a magazine. How many bullets were in
25 the magazine? Well, unfired bullets?

1 A. So I'll refer to my notes. When I received
2 the magazine, I do not believe there were any
3 cartridges that were loaded into the magazine. They
4 were all in separate storage containers. I did
5 receive 35 unfired cartridges with -- as the item,
6 yes, ma'am, but they were not loaded into the
7 magazine.

8 Q. Okay, these were unfired?

9 A. They appeared to be. Yes, ma'am.

10 Q. Okay. And these are .300 Blackout bullets?

11 A. They should be, they were packaged with that
12 firearm, yes, ma'am. I did not confirm.

13 Q. And what is this here? Is this State's
14 100A?

15 A. This also appears to be one unfired
16 cartridge that was submitted as SLED item 179, with
17 that firearm.

18 Q. And where was that cartridge -- where was
19 that unfired bullet located?

20 A. I do not have knowledge of where it was
21 located. I received it inside this envelope. I
22 just --

23 Q. Other agents have to indicate where it was
24 located?

25 MR. HALL: Your Honor, I'm sorry, I didn't hear

1 the question.

2 THE COURT: Yeah, repeat your question, Ms.
3 Carmody?

4 BY MS. CARMODY:

5 Q. What do the agents normally indicate where
6 it's located?

7 A. As a whole, I just have all the submission
8 documents listed.

9 Q. So on the envelope here for SLED item 179.

10 A. Yes, ma'am. It -- on the envelope it does
11 say front chamber.

12 Q. Okay. So from the chamber that means a
13 bullet that's capable of being fired, but has not
14 been fired, correct?

15 A. Yes, ma'am. The chamber would be where that
16 cartridge is supported right there to be fired.
17 That cartridge was received as an unfired cartridge.

18 Q. Okay, and so to be clear, so the clip of the
19 gun holds the extra bullets, and the chambered round
20 is the one that can be fired when you pull the
21 trigger?

22 A. Yes, ma'am, unfired cartridges will be
23 loaded into the magazine. That magazine would be
24 loaded into that magazine well, the receiver of that
25 firearm. A round or an unfired cartridge would be

1 chambered into the chamber of that firearm, in
2 preparation to be fired, and then like you said pull
3 the trigger.

4 Q. And you've examined the firearm itself as
5 well?

6 A. Yes, ma'am.

7 Q. Okay. And when you examined the firearm, it
8 appeared operational, correct?

9 A. Yes, ma'am, it did.

10 Q. There was no apparent jam?

11 A. No, ma'am, I do not have any documentation
12 of any problem when I ran a test on that firearm.

13 Q. There's no indication whatsoever that that
14 gun would not be able to be fired when you pulled
15 the trigger?

16 A. No, ma'am, it functioned properly, when it
17 was test-fired.

18 Q. Okay, thank you. And then when you -- you
19 testified that that gun could also be compared to
20 other projectiles in this case, and I believe you
21 testified to that on direct?

22 A. Yes, ma'am.

23 Q. Okay, and in this case for all of the shell
24 casings that you have examined, how many shell
25 casings were through this gun here, if you remember?

1 A. Yes, ma'am. I did receive several of those
2 .300 Blackout caliber cartridge cases, that was SLED
3 items 132 through 136, so that's a total of five
4 .300 Blackout cartridge cases.

5 Q. Okay.

6 A. I was able to determine, based on my
7 examination and comparison, that items 132 through
8 136, so all of the fired .300 Blackout caliber
9 cartridge cases were fired by item 179, which is the
10 Palmetto State Armory firearm.

11 Q. Okay, total in this case, we're talking
12 about fired projectiles, right?

13 A. That's five cartridge cases.

14 Q. Yes, cartridge cases, yes. And then when
15 you were examining the .9-millimeter cartridge
16 cases, how many of those did you examine?

17 A. There was, roughly, 22 fired .9-millimeter
18 caliber cartridge cases.

19 MS. CARMODY: No other questions, Your Honor.

20 THE COURT: All right, thank you. Mr. Hall?

21 MR. HALL: Thank you, Judge, can I have just a
22 moment.

23 THE COURT: Yes, sir.

24 MR. HALL: Thank you. No questions, Your Honor.

25 THE COURT: All right, any redirect?

1 THE COURT: Thank you, be seated.

2 THE COURT: You can be seated. All right,
3 anything from the State before we bring the jury in?

4 MS. CAMPBELL: No, Your Honor.

5 THE COURT: Anything from defense, Ms. Carmody?

6 MS. CARMODY: No, Your Honor.

7 THE COURT: Mr. Hall?

8 MR. HALL: No, Your Honor.

9 THE COURT: All right.

10 (Jury enters the courtroom.)

11 BAILIFF: The jury's seated, your Honor.

12 THE COURT: Thank you. All right, ladies and
13 gentlemen, I think the Solicitor is ready to proceed
14 with the case. Solicitor, you can call your next
15 witness.

16 MS. CAMPBELL: Thank you, Your Honor. The State
17 calls Dr. Susan Presnell.

18 * * *

19 SUSAN PRESNELL, M.D.

20 being first duly sworn, testified as follows:

21 **

22 DIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q. Dr. Presnell, would you please state your
25 name and spell it for our Court Reporter?

1 A. Yes, my name is Susan Ann Presnell, that's
2 P-R-E-S-N-E-L-L.

3 Q. Thank you. Dr. Presnell, are you currently
4 employed?

5 A. Yes, I'm a Forensic Pathologist.

6 Q. And where do you work?

7 A. I work at MUSC, Medical University of South
8 Carolina in Charleston.

9 Q. And how long have you been employed in that
10 capacity there?

11 A. I've been there as a staff member since
12 1999.

13 Q. And your education and background briefly.

14 A. I first had undergrad. I went to MUSC for
15 medical school, and basically stayed there. So I
16 graduated from medical school. After medical school
17 I did pathology as my specialty, and my residency.
18 After my general pathology residency, I started a
19 specialty in pathology, which was forensic
20 pathology, which is an additional year. And after I
21 did the fellowship I stayed on the staff, and, of
22 course, during that process I've taken the board, so
23 I'm board certified -- I'm board certified in
24 general pathology, as well as forensic pathology.

25 Q. Thank you, and have you ever been qualified

1 in South Carolina, as an expert in the field of
2 forensic pathology?

3 A. Yes, I have.

4 Q. And how many times?

5 A. It's an estimate, I'd say around 200.

6 Q. Thank you.

7 MS. CAMPBELL: Your Honor, at this time the
8 State tenders Dr. Susan Presnell as an expert in
9 forensic pathology.

10 THE COURT: Any objection, Ms. Carmody?

11 MS. CARMODY: No, Your Honor.

12 THE COURT: Mr. Hall?

13 MR. HALL: No objection, Your Honor.

14 THE COURT: All right, ladies and gentlemen, the
15 Court's going to declare her an expert in forensic
16 pathology. Go ahead, your witness.

17 MS. CAMPBELL: Thank you, Your Honor.

18 BY MS. CAMPBELL:

19 Q. Dr. Presnell, I'm going to direct your
20 attention to a forensic autopsy, FA20-365, and ask
21 you who was your patient at that autopsy?

22 A. So on April 27th, 2020, I performed an
23 autopsy on Mr. Donovan Hay, we were the Jasper
24 County Coroner at the time, and at the time -- was
25 the one -- which was FA20-65.

1 Q. Okay, the date of birth of your patient at
2 the autopsy?

3 A. The date of birth provided to us from the
4 Corner was [REDACTED] 1992.

5 Q. And could you tell us a little bit about the
6 case history, how the autopsy came to you?

7 A. Well, so what we do is that Mr. Hay had been
8 at the apartment complex and had been shot in the
9 head. From the parking lot he was airlifted to a
10 hospital, where later that day he was pronounced
11 brain dead. After that he had donated organs and
12 some tissues, and then after that he came to us for
13 autopsy, and that's like all the information that we
14 got.

15 Q. Thank you. Can you tell us a little bit
16 about your diagnosis during your autopsy of Mr. Hay?

17 A. Well, so when we do an autopsy, it's sort of
18 standard with autopsies to do additional testing,
19 depending on what kind of case it is. In gunshot
20 wound cases, we look for trauma. In Mr. Hay's case,
21 he actually had a single gunshot wound to his head.
22 Do you want me to kind of describe the actual
23 injury?

24 Q. Sure. Let me bring your exhibits up to you,
25 and that might assist you a little bit. I'm gonna

1 show you what's been marked as State's Exhibit 95,
2 96, 97 and 98, and just ask you if you can identify
3 these, and then you can explain it for me.

4 A. Yes, these are copies of the -- some of the
5 photographs that we'd taken at the time of autopsy,
6 and as well as symmetric.

7 Q. And they're a fair and accurate depiction of
8 what the condition of your patient was at autopsy?

9 A. Yes.

10 (Court Reporter marks State's Exhibit Number 95,
11 Photograph, as attached hereto.)

12 (Court Reporter marks State's Exhibit Number 96,
13 as attached hereto.)

14 (Court Reporter marks State's Exhibit Number 97,
15 Photograph, as attached hereto.)

16 (Court Reporter marks State's Exhibit Number 98,
17 as attached hereto.)

18 MS. CAMPBELL: Your Honor, at this time the
19 State seeks to admit and publish State's 95, 96, 97
20 and 98.

21 THE COURT: Ms. Carmody?

22 MS. CARMODY: Without objection.

23 MR. HALL: No objection, Your Honor.

24 THE COURT: All right, admitted without
25 objection.

1 (State's Exhibits 95 - 98 admitted into
2 evidence.)

3 BY MS. CAMPBELL:

4 Q. We're gonna actually start with these, if
5 that would be helpful. Let's start with State's
6 Exhibit 96, Dr. Presnell. If you can tell us what
7 we're seeing in State's Exhibit 96?

8 A. Well, this is an x-ray. There's actually
9 one that's head-on, this one is -- his head is
10 tilted, so I don't know if you have that one, but in
11 this picture, his head is tilted to his right area,
12 and this darkened area is the bullet.

13 Q. And --

14 A. You can actually see -- is this one of those
15 things that we can mark on?

16 Q. I don't think so.

17 A. Okay.

18 Q. All right.

19 A. So the large like object headed down towards
20 the -- where the hand is, that's the main projectile
21 fragment. If you go up towards his left top, right
22 there, those are fragments, and those are at the
23 entrance wound. So the entrance wound is at the --
24 on the left side of his head towards the top.

25 Q. All right, and let's go to State's Exhibit

1 97 then.

2 A. So this is what we call a lateral view. So
3 we're taking a picture of -- actually pictures on
4 the side of his head. So the top of the picture is
5 his face, and you can kind of see the large bullet.
6 That is going to be on the right side of his head,
7 but it's towards the front. And you can actually
8 see up towards the top of his head the area where
9 the bullet entered and left a fragment -- two small
10 fragments behind.

11 Q. Thank you. And then State's Exhibit 98?

12 A. This is Mr. Hay. It is demonstrating the
13 entrance gunshot wound on the left scalp.

14 Q. And then State's Exhibit 95? What are we
15 seeing in State's Exhibit 95, when he pulls it up?

16 A. This is that bullet that you were seeing on
17 the x-ray.

18 Q. And that was removed from within his brain?

19 A. Yes.

20 Q. By you?

21 A. Yes.

22 Q. All right, thank you. So if you can tell us
23 a little bit then after having looked at the State's
24 Exhibits about the evidence and injury to his head?

25 A. Well, so from a forensic pathology

1 perspective, as well as relatively straightforward.
2 He has a single, so one, entrance to the left side
3 of his scalp. The bullet goes in through the skull
4 through the left side of the brain to the front of
5 the right side of the brain, which is where the
6 bullet is recovered. So you can see that it's
7 going, just as you look at the x-rays, you can tell
8 it's going from his left to his right, from his back
9 to his front, then up to the brain. Then, of
10 course, there's hemorrhage in the brain.

11 Q. Were you able to determine the cause of
12 death for Donovan Hay?

13 A. Yes, it was a gunshot wound to the head.

14 Q. A gunshot wound to the head?

15 A. Yes. A gunshot wound to the head, which
16 means that the bullet entered the head, but did not
17 exit, so there was no exit wound.

18 Q. And then were you able to determine a manner
19 of death?

20 A. As a matter of death, as a medical examiner,
21 is homicide, meaning death at the hands of another.

22 MS. CAMPBELL: Nothing further.

23 THE COURT: All right, thank you. Ms. Carmody,
24 any cross-examination?

25 MS. CARMODY: Very briefly, Your Honor.

CROSS-EXAMINATION BY MS. CARMODY

And to us that indicates a close-range gunshot

1 wound, that is close enough to when the gun fires it
2 strikes the skin and will cause stippling. Once you
3 go far enough away, then the soot's not gonna make
4 it to the skin, the gunpowder isn't going to make it
5 to the skin.

6 Q. Okay, and just to confirm in this case, you
7 did not locate either stippling or soot on Mr. Hay's
8 head?

9 A. Correct, I did not. However, I will also
10 say his gunshot wound was at an earlier time. He
11 also had been on life support for several days, and
12 that the wound had been manipulated, like stapled,
13 and it had been stapled closed. So there was some
14 artifact, but I did not see any soot or stippling.

15 Q. Okay, so not a close contact gunshot wound?

16 A. Correct.

17 Q. Thank you.

18 MS. CARMODY: That's all I've got.

19 THE COURT: Mr. Hall?

20 MR. HALL: No thank you, Your Honor.

21 THE COURT: Redirect?

22 MS. CAMPBELL: No, Your Honor.

23 THE COURT: All right, Doctor, thank you so
24 much, have a safe trip.

25 WITNESS: Thank you.

1 THE COURT: All right, Solicitor, you can call
2 your next witness.

3 MS. CAMPBELL: Your Honor, the State rests.

4 **

5 STATE RESTS

6 THE COURT: All right. Counsel approach.

7 (Bench conference.)

8 THE COURT: All right, ladies and gentlemen, the
9 State has rested, and so at this time I'm happy to
10 hear from the defense, Ms. Carmody?

11 MS. CARMODY: Yes, thank you, Your Honor. Your
12 Honor, the defense rests.

13 THE COURT: All right. And Mr. Hall, on behalf
14 of your client, I'm happy to hear from you?

15 MR. HALL: Thank you, Your Honor. On behalf of
16 Jharaun Washington we rest.

17 THE COURT: All right. All right, ladies and
18 gentlemen, Mr. Rivers and Mr. Washington have rested
19 their case. And so what that means is that you have
20 heard all of the evidence in this case. At this
21 point though you're not to deliberate, you're not to
22 do any research, because you have not heard closing
23 arguments, nor have you heard my charge on the law
24 to you.

25 So at this time I'm gonna ask that you -- I'm

1 gonna tell you that you're discharged for the day.
2 I'd ask that you be back tomorrow morning at 9 -- at
3 10 o'clock, excuse me, at 10 o'clock, because we've
4 got some matters that we're gonna need to take up.
5 And what I will do is, if you'll just return to the
6 jury room, do not discuss the case, and we will go
7 straight into closing arguments, and then my charge
8 on the law to you, and then the case will be in your
9 hands to then commence deliberations, all right?
10 Anything concerning my instructions to the jury from
11 the State?

12 MS. CAMPBELL: No, sir.

13 THE COURT: Defense?

14 MS. CARMODY: No, Your Honor.

15 MR. HALL: No, Your Honor.

16 THE COURT: All right, you-all have a great
17 evening. Thank you.

18 (Jury exits the courtroom.)

19 THE COURT: All right, per the agreement that we
20 had, the State rested, and was gonna send the jury
21 back out and hear any motions. It was agreed that
22 the defense could go put their case on, they've
23 addressed it, and now per agreement, I'm happy to
24 hear from the defense, as it relates to any motions
25 that they may wish to make. Ms. Carmody?

1 MS. CARMODY: Yes, Your Honor.

2 Your Honor, I'm gonna hand up to the Court two
3 cases, State v. Brown and State v. Bowers.

4 THE COURT: Yes, ma'am.

5 MS. CARMODY: Thank you, Your Honor. Your
6 Honor, so first-degree murder is defined as the
7 killing of another with malice aforethought.
8 There's been absolutely zero evidence, Your Honor,
9 in the record that Mr. Rivers caused anyone's death.
10 There is no evidence that he killed Donovan Hay, and
11 there is no evidence of malice aforethought.

12 On the murder charge that the State has failed
13 every one of those elements for murder. And in
14 regard to the mutual combat theory, this is not a
15 mutual combat case, Your Honor, and I said that from
16 the very beginning.

17 Mutual combat requires the mutual intent and
18 willingness to fight acts of conduct of the parties,
19 and circumstances leading up to the combat. There's
20 no mutual intent to fight in this case. The --
21 actually, let me back up for a second.

22 I believe that the State has failed to identify
23 Mr. Hall's client as the shooter, and they have
24 alleged that Mr. Rivers is the other combatant, so
25 we have no mutual combat evident in this case. So

1 if we don't know who the mutual combatants are, then
2 as I said, Your Honor, this is not a mutual combat
3 case. There's not a pillar of evidence of anything
4 whatsoever. If there was ever any bad blood between
5 Mr. Rivers and we don't know who, and like I said we
6 don't know who the other person is -- I'm going to
7 assume for a second, that they mean Mr. Washington,
8 but there's been no evidence identifying him as the
9 shooter.

10 So there's no evidence in the record of any
11 prior that were between Mr. Rivers and any of these
12 guys. And there's also zero evidence in the record
13 that Mr. Washington knew that the victim was over
14 there, knew that Mr. Rivers was actually armed.
15 Your Honor, if you look at the video, this happened
16 as he got the gun out of the trunk behind the
17 bushes.

18 And as he also testified, he -- from that
19 vantage point of looking straight on, you can't see
20 the trunk of that vehicle behind the bushes, so
21 there's no way that we're presuming for a second
22 that that was Mr. Washington that was at the white
23 Cadillac. You can't see behind the bushes to know
24 that Mr. Rivers was actually obtaining a gun out of
25 that car.

1 Really Mr. Rivers didn't even know that person
2 who was suspected as being Mr. Washington was armed
3 until he shot Donovan Hay in the head. Because the
4 car was driving away, the reason that car stopped is
5 because Donovan hay was shot in the head, that's
6 what stopped the car's momentum going forward. So
7 he didn't fire a single shot until he had to.
8 That's not mutual combat.

9 Mutual combat arises in situations, and there's
10 a ton of evidence, Your Honor, of that. So -- okay,
11 in State v. Porter there's mutual combat with self-
12 defense, where an appellant returned to the injured
13 party's property at least twice with a gun, despite
14 prior verbal warnings of gunshots. There was no
15 evidence of any dispute between Mr. Rivers and Mr.
16 Washington.

17 In State v. Graham, they concluded mutual combat
18 was proper and the decedent had quarreled prior to
19 the killing, each knew each other was armed with a
20 pistol. There's no evidence of any prior quarrel
21 prior to this incident. No evidence that anyone
22 armed themselves in anticipation of the meeting.

23 In actuality, Your Honor, we saw Mr. Rivers had
24 retrieved the gun from the trunk. He didn't go
25 there in anticipation of a fight. They were going

1 there to see Donovan Hay's sister.

2 There was no evidence that -- of any prior
3 disagreement between Mr. Rivers and the suspected
4 shooter. As I mentioned earlier, we're not sure who
5 that shooter is. And also, Your Honor, there's no
6 evidence of mutual combat. Mr. Rivers is seen on
7 video actually leaving the area, and there's no
8 indication that he wants to do combat.

9 So with Mr. Rivers, for example, a mutual combat
10 case would exist between the two people, like in
11 the Taylor case, for instance. You know, they had,
12 you know, prior disagreements with each other, prior
13 gun battles, and the gun battle lasted for hours
14 through this neighborhood, and then someone got
15 shot. That's not what we have in this case.

16 And Mr. Rivers, if he wanted to engage in a
17 combat, he was behind the bushes, he would have shot
18 and he didn't. He got his gun, and he got back
19 inside the car, and he drove down the road. And
20 even when he gets down the road and Mr. Hay ends up
21 getting shot in the head, which I submit to the
22 Court he didn't fire a single shot until Mr. Hay had
23 already been shot.

24 And he got out of the car, and he fired five
25 rounds, as he's running away into the woods. If he

1 was having intent on engaging in mutual combat, he
2 could have took cover behind the vehicle, he had
3 over 30 rounds and one in the chamber. He could
4 have taken cover behind the house. He could have
5 engaged the shooter by running towards him instead
6 of away. And he runs away, and he runs to the
7 woods, and he meets up with law enforcement. Your
8 Honor, the two cases I just handed up to the Court,
9 as well.

10 Again, as I'm saying, mutual combat requires
11 prior ill-will. Also, the Court talks about when
12 they have evidence of willingness to fight, and when
13 both parties are armed with dangerous weapons,
14 emphasizing the importance of there being evidence
15 before there is an issue of mutual combat. Your
16 Honor, like I said, and I'm sorry to repeat myself
17 again, there are cases where mutual combat is
18 appropriate, and this is not it. I do not believe
19 that this is a mutual combat case. I do not believe
20 that the State has satisfied any of the elements of
21 mutual combat, and I believe that the State
22 certainly hasn't satisfied any of the elements for
23 the charge of murder.

24 So I would ask that you issue a directed verdict
25 of not guilty, and not send this case to a jury in

1 favor of Mr. Rivers.

2 THE COURT: All right, Mr. Hall?

3 MR. HALL: Thank you, Judge. I'll start with
4 the issue of mutual combat. That was the thing that
5 was kind of most concerning to me. There was not a
6 single witness, other than Agent Merrell, who took
7 the stand to identify my client, Mr. Washington, as
8 the person with a gun in his hand.

9 No lay witnesses, no other people who were
10 actually there, any testimony whatsoever that there
11 was a gun in Jharaun Washington's hand, is the
12 person that's seen on that video. The fact that
13 Agent Merrell testified that she identified him as a
14 suspect based on her investigation. It's certainly
15 not based on what was put before this jury.

16 I'll start with that as sort of an initial
17 matter, that Mr. Washington has never been
18 officially identified as the person holding that gun
19 next to the white Cadillac in the surveillance
20 video.

21 With respect to the mutual combat charge, I
22 think with respect to proving all of the elements of
23 mutual combat, if that existed, and, again, I'm not
24 gonna go back through all of the case law that Ms.
25 Carmody has cited. I know there was no evidence of

1 the disagreement or a pre-existing ill-will between
2 the appellant and the victim in that case. Now what
3 we've got here, as the Court's aware is, if you pay
4 close attention to all the evidence that's come in
5 is, that this was a situation where a car entered
6 the apartment complex, cruised by a location where
7 my client's standing outside with some other
8 friends, and there was some recognition by someone,
9 Mr. Hatfield, as to one of the people that was in
10 that car.

11 Now, Mr. Hatfield's testimony was he said
12 something out loud, but of course he also couldn't
13 verify that anybody heard him say, "Oh, look, that's
14 Zay in the car," or words to that effect. There's
15 no testimony here from anyone that indicated at
16 least at that point that anybody was armed.

17 And fast-forward to getting around the curb
18 where the car stops, and exits the vehicle and
19 removes this assault vehicle and gets back in. It's
20 -- up to that point, and, again, there's no proof,
21 there's nothing that's indicated in the record that
22 there's anything going on here, that there's any
23 willingness to fight.

24 There's absolutely zero evidence of any prior
25 difficulties between Mr. Washington and Mr. Rivers.

1 And based upon all of that, I would ask the Court to
2 grant our motion for directed verdict.

3 I'll also touch on the element of malice
4 aforethought. In order to prove the murder, the
5 State would have to prove beyond a reasonable doubt
6 that malice of forethought existed. And I think
7 based on the evidence that's been presented at this
8 trial that there is no malice aforethought, so not
9 only is the elements of mutual combat not been
10 satisfied, but there's no malice of forethought as
11 well. And based upon all of that, I would ask the
12 Court to grant our directed verdict motion.

13 THE COURT: All right. Solicitor, let me hear
14 from you, please.

15 MS. CAMPBELL: Thank you, Your Honor. First
16 off, in the first case, I would say that Ms. Carmody
17 is confused. Mutual combat I would say is a matter
18 for the jury.

19 Under the second prong of mutual combat, which
20 is as evasive to negate self-defense. And so at the
21 outset mutual combat is first and foremost the basis
22 for criminal responsibility and liability, and that
23 would be indicted for a murder that is the killing
24 that is committed during a mutual combat situation.
25 And that is exactly how the State indicted both Mr.

1 Rivers and Mr. Washington.

2 They were indicted exactly the same, as the
3 indictments that were issued in the Robinson and
4 State v. Aaron Young Jr. and Aaron Young, Sr. cases.
5 And so that is where we're a little off track with
6 the Young case. And so, again, I've provided the
7 Court with many different cases that address where
8 we are with this as a liability criminal
9 responsibility indictment as mutual combat. So we
10 have no issue, in terms of whether or not I guess
11 the second prong applies, it does not. And so as to
12 Xavier Rivers, I've heard a lot of questions of fact
13 that would be appropriate for a jury, as well as for
14 Mr. Washington.

15 As according to where at this stage, you are
16 looking at the existence or non-existence of
17 evidence. You've heard a lot of arguments about
18 what the facts are, but I do think as indicted, not
19 using mutual combat to negate itself, the defense
20 argument, that's another issue, that the State
21 certainly has met the four prongs of what is
22 required at this point in an indictment. And that
23 means that there is evidence in the record of a
24 mutual intent and willingness to fight.

25 The steps that each man takes upon seeing one

1 another.

2 THE COURT: Do you have to prove that beyond a
3 reasonable doubt? Are you saying that you don't --
4 I mean you've indicted -- so what I want to know is,
5 do you -- as part of this, do you have to prove
6 mutual combat beyond a reasonable doubt, and that
7 that mutual combat then, basically, resulted in the
8 death of Mr. Hay; is that what you've got to prove,
9 mutual combat?

10 MS. CAMPBELL: That is what occurs when they are
11 indicted for murder for engaging in mutual combat.

12 THE COURT: Right. So -- okay, go ahead.

13 MS. CAMPBELL: Oh, okay, so if Mr. Washington
14 and Mr. Rivers had been armed, and then things
15 happened as they did in Walsh Drive Apartments, that
16 might be a different situation. However, as is the
17 evidence in the case so far, upon seeing Xavier
18 Rivers, upon seeing the gentlemen on the porch, both
19 men went -- there was recognition as to Cameron
20 Hatfield's testimony, he alerted everyone to the
21 fact that Zay, he's in the back of that silver Chevy
22 Malibu.

23 So Mr. Washington takes steps indicating his
24 intent and his willingness to fight, by walking from
25 the porch to the white Cadillac, opens the door to

1 the white Cadillac, reaches in the white Cadillac,
2 grabs the gun, comes back out of the Cadillac,
3 positions himself in the doorframe of the Cadillac,
4 and extends the gun over the top of the Cadillac. I
5 believe that that is demonstrating mutual intent and
6 willingness to fight. As far as Mr. Rivers is
7 concerned, the same thing, when the car rounds the
8 corner, Donovan Hay is pulling up to his sister's
9 home, and Mr. Rivers gets out of that car.

10 Again, he's not armed, he gets out of that car,
11 he moves all the way to the back of the car, opens
12 the trunk. He gets the rifle out, takes the rifle,
13 goes back around, gets in the backseat of that car.
14 And on the video, he takes the time to roll the
15 window down and puts the rifle out the window to aim
16 it at Mr. Washington. And so, again, that's what's
17 in the video, and I do think that shows mutual
18 intent and willingness to fight.

19 And --

20 THE COURT: Hold on, let me make sure I
21 understand.

22 MS. CAMPBELL: Sure.

23 THE COURT: So the main -- the mutual intent and
24 willingness to fight, you're saying that basically
25 the action of Mr. Rivers, in getting out and getting

1 the long gun, and let's assume that that's Mr.
2 Washington, because I'll get -- I'll allow you to
3 get to that, but let's assume that's Mr. Washington,
4 Mr. Washington then goes, and as that's happening,
5 he's walking to the Cadillac to get his gun. And,
6 basically, are you telling me that action, that's
7 showing the willingness and the intent to enter into
8 the mutual combat?

9 MS. CAMPBELL: Absolutely. The law is that
10 mutual intent is manifested by the acts and conduct
11 of the parties, and the circumstances intending and
12 leading up to the combat itself.

13 THE COURT: All right, go ahead.

14 MS. CAMPBELL: So as to the second prong in the
15 indictment, in terms of mutual combat, an agreement,
16 if you will, to fight between the parties, and that
17 is -- I think it's the Taylor case, but it is very
18 clear that as to agreement, it is not necessary that
19 there be some positive agreement, or demonstration
20 of a positive agreement between the participating
21 parties to enter the combat. It is sufficient if
22 they willfully enter into the conflict upon the
23 impulse of the moment, and that is exactly what you
24 have in this case.

25 In the video it shows the two groups

1 encountering one another, on the impulse of the
2 moment, on seeing each other on-site, taking steps
3 and entering into a conflict situation with one
4 another. Both sides, on the third prong, are armed
5 with weapons, I think that's clear, and the other --
6 each side of the other is armed. There is evidence
7 in the record that the call was made out that, you
8 know, he's getting the chopper, and then the view
9 that Mr. Rivers had as he's looking back, he clearly
10 can't miss the gun staring at him in the face.

11 Additionally, Mr. Green testified that when they
12 drove by, that the boys on the porch were leaning,
13 and as Mr. Paul brought up in his cross-examination,
14 he had brought up that they were not only were
15 leaning in, but they were reaching in, and
16 demonstrating that they were appearing to be armed.
17 So the people in the Malibu are informed that
18 there's armed men in the yard of [REDACTED], and then the
19 people at [REDACTED] know that the Chevy Malibu is armed
20 with the rifle, when the call comes out, "He's
21 getting a chopper."

22 Your Honor, there's absolutely on all four
23 points of the mutual combat on the State to pass the
24 directed verdict.

25 THE COURT: Well, what about the animus, where

1 is that?

2 MS. CAMPBELL: Sir?

3 THE COURT: The animus or the bad blood or the -
4 - is that a requirement?

5 MS. CAMPBELL: It is not.

6 THE COURT: All right, go ahead, Solicitor. I
7 didn't mean to cut you off, I mean --

8 MS. CAMPBELL: No.

9 THE COURT: -- take your time.

10 MS. CAMPBELL: All right, so I think that
11 there's evidence in the record, from the testimony
12 and the evidence in this case, that Jharaun
13 Washington was at [REDACTED] Walsh Drive Apartments.
14 There's been testimony that he was there with that
15 group of people --

16 THE COURT: I agree.

17 MS. CAMPBELL: -- on the porch, absolutely, and
18 that he was there, you know, at the time the
19 shooting's taking place.

20 THE COURT: I agree.

21 MS. CAMPBELL: You know, the testimony of
22 Cameron Hatfield, who clearly as Mr. Hall brought up
23 so effectively, was -- he was there, Cameron
24 Hatfield was there, and he is a white male. You
25 have Dylan Labar who was there, and as Mr. Hall

1 pointed out, he is a white male.

2 You have Shiron Brown who was there, and as he
3 pointed out he had his Glock on him. He gave his
4 Glock over. His Glock never fired on Walsh Drive on
5 April 22nd, 2020. And Jharaun Washington is the
6 only other black male that is in the yard, according
7 to the testimony, as Dylan Labar testified, tied the
8 little 15, 16-year-old, younger brother of Jharaun
9 Washington, was pushed back in the house by him.
10 And that is circumstantial evidence, in that he's
11 the only black male in that video to be firing that
12 gun. Then you have his admission in his Facebook
13 messages.

14 THE COURT: What's his admission?

15 MS. CAMPBELL: On Facebook. On the Facebook
16 messages, where he says to Malaysia just moments --
17 hours after -- said, "I just got into a shootout."
18 And so I think the combination of those facts
19 there's certainly a question that would warrant that
20 matter going to the jury. The question of fact for
21 the jury.

22 THE COURT: So you're saying the fact that
23 someone says there's been a shootout, or I've been
24 involved in a shootout, that I guess there's an
25 inference that that means that they were actually

1 doing the shooting, as opposed to someone who's just
2 standing and dodging bullets?

3 MS. CAMPBELL: Right, his words are, "I just got
4 into a shootout."

5 THE COURT: I understand.

6 MS. CAMPBELL: He fled the scene. Shiron Brown
7 testified that Jharaun Washington hopped into his
8 Cadillac, he was carried away from the scene to
9 Shiron Brown's home, and then he fled that home
10 further.

11 Lastly, Your Honor, I know you're taking notes,
12 but I don't want to interrupt you.

13 THE COURT: No, go ahead. I won't be able to
14 read them three minutes from now, so it doesn't
15 really matter.

16 MS. CAMPBELL: And, finally, Your Honor, I'll
17 say that although he is identified Robin
18 Washington's son, she saw him the night before at
19 the mama's house.

20 THE COURT: That's what he testified yesterday?

21 MS. CAMPBELL: Yeah, as being the shooter at the
22 white house. And so, again, that all puts the
23 evidence before the jury as a factual question for
24 them to answer. Thank you, Your Honor.

25 MR. HALL: Judge, if I may, say something while

1 I have some things fresh in my head.

2 MS. CAMPBELL: Sure.

3 MR. HALL: Thank you. There was no testimony
4 given at any point in the trial that actually
5 identified Shiron Brown in that video.

6 Shiron Brown was shown that video. I don't
7 recall there being anybody identifying Shiron Brown
8 as the person who was the shooter. So there is
9 that.

10 There's the Facebook message that was
11 referenced. They went out of the way to finally put
12 UTC time into Eastern Standard Time, which I was
13 doing on my phone at the same time she was
14 testifying to it, and those messages came through
15 roughly at 3:00 p.m., that is about a good almost
16 four hours after this happened.

17 So there's no context for that. You don't know
18 if that is being attributed to him, whether that is
19 referencing a prior event at Walsh Drive Apartments,
20 or whether he was referencing some other shootout
21 that he may or may not have gotten into. The point
22 now we are attempting to use little bits and pieces
23 to kind of get strapped in, when in essence, as I've
24 stated, there's been no one to identify him as the
25 person holding that gun.

1 THE COURT: Yeah, but isn't that evidence? It's
2 evidence, and little pieces, and boot strapping, and
3 little bits of this and that. At this juncture I
4 mean I think that's what I have to look for. That's
5 what I have to seek out and find.

6 MR. HALL: I understand.

7 THE COURT: And so I think, you know, I agree
8 with you, I don't know -- the lady yesterday, and I
9 forget her name, who took the stand who --

10 MR. HALL: Ms. Jordan.

11 THE COURT: She didn't identify him, but she did
12 say she was there the night before, or sometimes
13 prior and saw him, because he -- she knew that he
14 was the lady's son. And there may have been some
15 testimony that she said he was the shooter, okay?
16 Hold on, bear with me.

17 Now, I'm not passing judgment on the
18 credibility, and I think -- again, I think that the
19 Facebook, where he said, "I've just been involved in
20 a shootout," I mean it ain't much, but I mean I'm
21 listening, but I think it is bits and pieces.

22 MR. HALL: I understand, and this that you're
23 just referencing, which is fine. That is the
24 statement that Agent Merrell testified to, when she
25 was shown a photo lineup.

1 THE COURT: And that's an inconsistent
2 statement. If somebody makes an inconsistent
3 statement, then to that extent I think I've got to
4 give the benefit to the State at that point, don't
5 I? I mean that's the scintilla.

6 MR. HALL: I understand, that's my motion,
7 that's --

8 THE COURT: I understand. I just want to make
9 sure I wasn't losing it, because when you -- I mean
10 -- go ahead.

11 MR. HALL: I'm making my record.

12 THE COURT: Yes, sir, I understand that. I'm
13 not being disrespectful, Mr. Hall.

14 MR. HALL: I know.

15 THE COURT: I just want to make sure I
16 understand everything, because this is a very
17 important matter, and a big decision, and so that's
18 why I'm asking these questions. I'm half talking
19 myself through my -- and I'm sorry, I didn't mean to
20 cut you off, sir.

21 MR. HALL: No, no, no, that's fine. That was
22 just simply a response to Ms. Campbell's arguments.
23 Everything else that I have already stated for the
24 record would still continue to be part of my motion
25 for a directed verdict, and that's it. Thank you.

1 THE COURT: Yes, sir. And, again, Mr. Hall, if
2 there's anything else you want to say, please.

3 MR. HALL: No, no, that was it. Thank you, I
4 appreciate it.

5 THE COURT: Ms. Carmody?

6 MS. CARMODY: Yes, thank you, Your Honor. Your
7 Honor, I'm gonna disagree with Ms. Campbell that
8 ill-will is not required. I have done an extensive
9 amount of research on mutual combat, and I could not
10 find a single case in the State, where there was not
11 a prior argument or fight. And the Court even says
12 in the very last section that there was ill-will,
13 they had threatened each other, had been verbal, and
14 they armed themselves to settle their differences at
15 gunpoint. And that that inference is what made it
16 properly submitted to the jury, and that's the last
17 paragraph, Your Honor. I could not find a single
18 case in the State where there was not prior ill-will
19 that's required.

20 THE COURT: All right.

21 MS. CARMODY: And I would --

22 THE COURT: I'm sorry?

23 MS. CARMODY: I'd ask the Court to please defer
24 a ruling until Your Honor --

25 THE COURT: Well --

1 MS. CARMODY: -- considers the mutual combat -
2 instruction.

3 THE COURT: And I --

4 MS. CARMODY: And, Your Honor, I cannot find a
5 single case that this case would be under.

6 THE COURT: All right, what about the mutual
7 combat? Solicitor, in the animus or some type of
8 beef, as we've heard, not necessarily in evidence in
9 this case, but we heard somebody making reference to
10 -- is there -- you're saying that's not required,
11 Solicitor?

12 MS. CAMPBELL: That is correct, Your Honor.

13 THE COURT: I was looking in the Young case.

14 MS. CAMPBELL: The South Carolina courts have
15 said that the mutual intent can lead to the combat
16 itself.

17 There would be some positive agreement between
18 them to enter the conflict or the combat. There's
19 no requirement that the particular person have any
20 animus towards each other previous to the meeting.
21 That would be like, you know, you're on the street,
22 you see someone, they, you know, flip you the bird,
23 or whatever it is they do to in that moment, in the
24 impulse of the moment start the combat.

25 Whatever happened between the silver Malibu

1 going by the porch on [REDACTED], and the men leaning in,
2 acting like they've got guns, and then Xavier Rivers
3 being recognized by the boys on the porch, whatever
4 that all meant, whatever took place between them was
5 an impulsive moment situation. That's what we have.
6 There's no requirement that they have had some prior
7 ill-will. The law and the courts don't require
8 that. That's why they say it can occur upon the
9 impulse of the moment.

10 THE COURT: All right.

11 Well, I don't think that's consistent with State
12 v. Young. When we look at State v. Young, it
13 clearly says, "To constitute mutual combat, there
14 must be a mutual intent and willingness to fight,
15 manifested by the acts and conducts of the parties,
16 and the circumstances intending and leading up to
17 combat."

18 MS. CARMODY: And, yes, Your Honor, leading up
19 to the combat.

20 THE COURT: And --

21 MS. CARMODY: And the facts in Young, Your
22 Honor, there was -- I mean these guys have gone back
23 and forth. Under the facts in Young, it talks about
24 they had a history --

25 THE COURT: All right.

1 MS. CARMODY: -- and that's right under
2 Subsection 1, Your Honor.

3 THE COURT: I understand.

4 MS. CARMODY: It goes into the history that was
5 required for mutual combat.

6 THE COURT: Right.

7 MS. CARMODY: Uh-huh.

8 THE COURT: And what I would submit is, it
9 doesn't say -- there's no definition. There's no
10 six minutes, 18 minutes, 32 minutes, a day before,
11 it just says leading up to the combat.

12 MS. CARMODY: And --

13 THE COURT: Hold on, Ms. Carmody, I'm getting
14 ready to make my ruling for the record, okay? I
15 also find that to constitute mutual combat, it's not
16 necessary that there should be a positive agreement
17 between the participating parties to enter into
18 combat.

19 It's sufficient if they willfully enter into
20 conflict upon the impulse of the moment. I'm not
21 passing any judgment on the strength of the case,
22 but what I would say is, as it relates to mutual
23 intent, I mean I think clearly there's the existence
24 of evidence that shows there's some type of mutual
25 intent, when there's evidence that the Defendants

1 are basically going to get their guns, Mr. Rivers
2 and -- which I think the evidence is very clear that
3 Mr. Rivers was getting the gun.

4 At the same time there is some evidence to
5 suggest that Mr. Washington is going to get a gun.
6 As far as to an agreement, I don't think there has
7 to be a stated agreement, as in we sit down and say,
8 hey, let's agree to duke it out, you get your gun,
9 I'll get my gun, let's go for it.

10 I think the agreement can be upon the impulse of
11 the moment, and I think that's clear -- I think
12 there's evidence that that could be what happened
13 here. I think both these individuals were armed
14 with a weapon. I think there's evidence -- I think
15 there's the existence of evidence, as it relates to
16 that.

17 As it relates to identity of Mr. Washington, I
18 think that the Facebook exhibit involving the
19 shootout, that could be interpreted a lot of
20 different ways, but I think that one of the ways
21 that that could be interpreted is that he was
22 involved in a shootout, as in he was shooting that
23 gun. I also think, and I'm sorry, I don't recall
24 the woman's name, but she testified yesterday
25 afternoon, and, yes, sir, while she was not able to

1 identify Mr. Washington in the photo lineup, she
2 did, again, I'm not passing any judgment on the
3 strength of her identification, but I recall that
4 she did indicate that he was the shooter, and that
5 she knew him, and was able to identify him, because
6 she had been maybe at a friend or some relative's
7 house who lived very close or next door to his
8 mother, and she had seen him there at the mother's.

9 So I think that as far as meeting the elements,
10 giving the State in this case quite frankly every
11 benefit of the doubt, which I'm charged to do at
12 this point, I believe that there's enough evidence
13 for this case to move forward for the jury to
14 consider. Hold on.

15 So I think with all that, I'm going to
16 respectfully deny both Ms. Carmody and Mr. Hall's
17 motion, and allow this matter to go to the jury for
18 their consideration, all right? Thank you.

19 All right, let's take a break for -- Solicitor,
20 you don't have any motions at this time?

21 MS. CAMPBELL: No, sir.

22 THE COURT: All right, let's take a break for a
23 few minutes, and then let's talk about some jury
24 charges, and verdict forms, okay?

25 Well, in fact, why don't you-all just come back

1 in my office for a few minutes, and we'll talk about
2 that. And then we will have a charge conference on
3 the record, but let's talk about that for a few
4 minutes, okay?

5 (Recess.)

6 THE COURT: We are done for the day. Kymberlee,
7 if you can be here about 9:15 tomorrow and we can
8 put our charge conference on the record.

9 THE COURT REPORTER: Yes, sir. Thank you.

10 (At 5:02 p.m. the proceedings were continued
11 until the following day without interruption.)

12 **

13 END OF VOLUME III

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1 THE COURT: All right, folks, I've got a
2 paragraph I'm going to read to them about closing
3 arguments, and I'll turn the floor over to the
4 Solicitor. I will tell you that depending on how
5 long the closings last, we may take a break. My
6 charges are 41 pages long, okay? So we may take a
7 break, have them stretch their legs, and then come
8 back in, and I will charge them at that point.

9 That probably is going to be our plan given the
10 length of the charge. Any objection to that from
11 the State?

12 MS. CAMPBELL: No, Your Honor.

13 THE COURT: Ms. Carmody?

14 MS. CARMODY: No, Your Honor.

15 THE COURT: Mr. Hall?

16 MR. HALL: No, Your Honor.

17 THE COURT: All right, great, let's get the
18 jury.

19 (Jury enters the courtroom.)

20 THE COURT: All right, good morning, Madam
21 Foreperson, ladies and gentlemen of the jury, you've
22 heard all the evidence in this case, and now, ladies
23 and gentlemen, the parties having presented the
24 evidence, it's time for the attorneys to make their
25 closing arguments to you. The arguments of the

1 attorneys are not evidence in this case, their
2 statements and arguments are meant to help you
3 understand the evidence and apply the law to the
4 evidence. You should disregard any remark,
5 statement or argument which is not supported by the
6 evidence presented during the trial or the law that
7 I will explain to you after the arguments.
8 Solicitor?

9 MS. CAMPBELL: Thank you, Your Honor.

10 **

11 **CLOSING ARGUMENT BY MS. CAMPBELL**

12 Good morning.

13 JURORS: Good morning.

14 MS. CAMPBELL: Nobody in this case is pinned
15 down. This is not some Black Hawk down situation,
16 for these Defendants. The still-photographs you
17 have in evidence is the one that shows both of these
18 Defendants going to get his gun, and why? Because
19 whenever the Defendant, this Defendant and that
20 Defendant, saw each other's faces, whenever eye-to-
21 eye, toe-to-toe, facial expressions, hand gestures
22 happened when the silver Chevy Malibu rolled past
23 [REDACTED], and Cameron Hatfield calls out, "Hey, that's
24 Zay."

25 And Daquadrae Green sees the boys on the porch,

1 as he demonstrated for you, leaning and reaching.
2 And he immediately takes cover, because he knows,
3 from what he's seen on this scene, that something is
4 about to pop off. And Cameron Hatfield says --
5 hollers out, "Hey, he's got a chopper." Both
6 Defendants took it from completely unarmed to armed,
7 and advancing on one another with the fire power
8 from each of their guns, knowing the other one is
9 armed, and not retreating.

10 Each Defendant on-site taking steps, literally
11 taking steps to become armed, to put themselves in
12 that situation. This Defendant, Jharaun Washington,
13 you've seen the video, comes on the porch, and he
14 walks to the Cadillac, and opens the door of the
15 Cadillac and reaches in, and he get his gun and he
16 comes out, and he takes a stand over the top of the
17 Cadillac. This Defendant, Xaiver Rivers, when
18 Donovan Hay slows down at his sister's apartment, he
19 hops out, gets in the trunk, taking those steps to
20 the trunk, gets the gun, gets the rifle, takes the
21 step to get back into the silver Chevy Malibu.
22 Takes the steps to roll the window down, and points
23 his rifle back at Jharaun Washington. And when they
24 did that, they took steps on the impulse of that
25 moment, taking up their arms in that neighborhood,

1 to shoot it out. When they did that, they killed
2 Donovan Hay.

3 Now, as jurors, as His Honor is going to give
4 you the law and talk to you about what the law is in
5 South Carolina, and he might say something to you
6 along these lines, and I'll say it to you as well,
7 as jurors, you are allowed to and are supposed to
8 use your common sense. That same good common sense
9 that we all try to use every day of our lives, when
10 we're conducting our lives outside of this
11 courtroom.

12 And you don't leave it out there, you bring it
13 with you here, and you use it as you come to this
14 case, when you're judging the evidence and the
15 testimony in this case. So consider this, one
16 particular angle that we do not have from the
17 surveillance video at the Walsh Drive Apartments is,
18 the particular angle that would give us the eye-to-
19 eye and toe-to-toe, the moment of the confrontation
20 here. We have testimony about the location of the
21 camera poles, and that's what we've got.

22 And that particular angle is not there, so the
23 State can't give you what the State doesn't have,
24 but you are permitted to make your finding, and take
25 your review of the facts by applying all of the

1 evidence, and all of the testimony in the case in
2 reaching logical and common-sense conclusions, using
3 both direct evidence and circumstantial evidence,
4 they work together. And so the State has given you
5 both direct evidence and circumstantial evidence of
6 the guilt of both Defendants. Circumstantial
7 evidence is sort of valued, solid, concrete based
8 for your guilty verdict. I'm going to give you an
9 example of how those two types of evidence work
10 together, and tell you a little bit about what it
11 is. All right, so direct evidence is the evidence
12 that directly proves existence of a fact, it doesn't
13 require you to make any deductions.

14 Circumstantial evidence is proof of sort of the
15 chain of facts and circumstances that allow you, and
16 indicate to you a fact actually exists. Next slide.
17 So crimes may be proven by circumstantial evidence,
18 and our law makes no distinction between weight, or
19 value, or either direct or circumstantial evidence.
20 And the Court will tell you, to the extent that the
21 State relies on circumstantial evidence, my
22 circumstances need to be consistent with each other.
23 The State needs to be consistent. You take them
24 altogether, and conclusively to the guilt of the
25 accused beyond a reasonable doubt, but both direct

1 and circumstantial evidence meet together, may form
2 that solid foundation for your guilty verdict. Next
3 slide.

4 Here's your example. Direct evidence in this
5 case is the surveillance video. In your
6 surveillance video direct evidence comes from that,
7 and it shows you the black male holding his gun at
8 the white Cadillac. And it shows what Cameron
9 Hatfield told you, "That's me down here crouching
10 down." Shiron Brown talks about falling down. Just
11 one part of the evidence that your surveillance
12 video gives you. Eyewitness testimony. So Dylan
13 Labar testified, "Yeah, I was there, these are the
14 people who were there." Cameron Hatfield testified,
15 Shiron Brown testified, "I'm there, this is who's
16 here."

17 The Defendant's own confession just a tad after
18 this is happening on April 22nd, 2020, Malaysia Lee
19 says, "Jharaun, WTF is going on?" You know, word is
20 about town about the shootout, and he says, "I just
21 got into a shootout," his confession. Your mom's
22 mad at you, and he's like, "I'm so sorry, babe, I
23 just got into a shootout."

24 Shiron Brown's Glock 23, he told you when he
25 testified, "I had my gun on me, yes. When SLED got

1 to my house I talked to them. I willingly gave them
2 my gun. I had nothing to do with this. Here's my
3 gun, take it." And sure enough, and we'll talk
4 about this later, this gun had absolutely nothing to
5 do with the killing of Donovan Hay.

6 So I'll move on from there, Lucretia Jordan, she
7 says, "Yeah, Robin Washington's son, that's the
8 black male shooting the big gun with the long clip
9 at the white Cadillac." All right, you put all your
10 direct evidence together, and circumstantial
11 evidence as you find it, and you take the situation,
12 next slide, like the men on the porch.

13 Cameron Hatfield is the white male, not him.
14 Dylan Labar is a white male, it's not him. Shiron
15 Brown is a black male, we heard about the Glock in
16 his testimony, and you see him in the video he's on
17 the ground, not him. And Tye, the little brother,
18 he is pushed into the house by Dylan Labar.

19 And that is your deduction from the direct
20 evidence and circumstantial evidence that the
21 shooter at the white Cadillac is this Defendant,
22 Jharaun Washington. Thank you, you can bring it
23 down. All right, this video, again, gives you the
24 shootout between these two Defendants seeing each
25 other, engaging in mutual combat in the city

1 streets. You know, it's not uncommon. In fact, it
2 is all too common, if you bring up a newsfeed, or
3 bring the phone up, look something up, a story after
4 story, and page after page, says six people killed
5 in Florida, five wounded in Philly, six dead in
6 Jersey City, and on and on and on, reporting the
7 damage and the destruction from men taking up their
8 arms against each other, and engaging in combat in
9 the city streets, neighborhoods riddled with
10 bullets, a gunfight, victims shot and killed.

11 And usually when we look into a story, we think,
12 oh, that's up in Philly, that's out in Portland not
13 here, but following the marker boards, here, the
14 people who lived at the Walsh Drive Apartments in
15 Jasper County, it was right on their front porches,
16 April 22nd, 2020.

17 The testimony that you heard, the ladies that
18 were sitting on their porches, you know, waving
19 hello to people who were coming by. Jacob Simmons,
20 the gentleman, he's riding his bike in his
21 neighborhood in the video, and they called him Zay
22 or, you know, Mr. Timmy, and he's not with us
23 anymore, so he couldn't be here to testify in front
24 of you, but, you know, people going about their
25 daily lives there, and pregnant mothers with their

1 children in the car, coming in to pick up a sister,
2 hanging out the window saying, "Hi, how you doing,"
3 to the ladies on the porch. And between these two
4 men -- and, you know, many times, you know, we don't
5 have a video of the shootouts, but here we do. And
6 you heard Doris Jameson tells you, "We worked to get
7 a grant, so that we could put up our cameras at the
8 Walsh Drive Apartments, so that we could record what
9 was going on in our neighborhood."

10 And that video tells the story of this gun
11 battle, when they made the decision on the impulse
12 of that moment, when they saw one another to shoot
13 it out. And when they made that decision, that hail
14 of bullets back and forth, Donovan Hay was shot, and
15 he was shot in the head and he's dead. Now, we all
16 have roles and responsibilities.

17 Law enforcement has their responsibility when
18 they investigate this case. They need to interview
19 witnesses, preserve evidence, collect it, send it
20 for analysis, and, you know, move the case forward,
21 make an arrest. And then the State indicted these
22 two Defendants for murder, for the murder of Donovan
23 Hay, for engaging in that gun battle. And this week
24 the State has presented you the evidence, and that
25 responsibility that rests upon every prosecutor in

1 the State of South Carolina, on their shoulders.
2 And now to you, as jurors, you took your oath as
3 jurors on Tuesday morning, and you swore -- I think
4 Ms. Bostick might have been the one to swear you in,
5 and when she did, you swore to well and truly try
6 this case, and to render a true verdict, according
7 to the law and the evidence.

8 So that does that say? That your verdict speaks
9 truth to this case. So let's look at the evidence.
10 Yes, it was a painstaking and slow process, in order
11 to get every piece of evidence before the witnesses
12 they need to go to, and then get it in the record of
13 the case. So that's where we are with the evidence.
14 So State's Exhibit 100, this rifle started out in
15 the trunk, as you know, of the silver Chevy Malibu.
16 And then it went into the hands of Xavier Rivers.
17 Xaiver Rivers pointed that rifle out in the silver
18 Chevy Malibu, and he pointed it at Jharaun
19 Washington. He then fired that rifle five times at
20 Jharaun Washington, and then what did he do?

21 He ran, ran. He ran and he ran through the
22 woods. He stopped and he hid evidence of his part
23 in the gun battle. He hid it under a log. They
24 found it, to bring it to you. He kept on running.
25 He kept on running and he came out on the other

1 side. I'm good, I'm on the other side now, and so
2 he mosies on up, walks on up to the crime site in
3 the middle of it all, acting like nothing's
4 happened. And of course, of course, in the initial
5 law enforcement reports with the Hardeeville Police
6 Department, before SLED is called on-the-scene,
7 before we find the guns, before we get the
8 surveillance video, of course, he's presented
9 himself as a victim, and they list him as a victim.
10 That's how he wanted to be seen, but remember his
11 gun hidden under the log.

12 Now, we don't have Jharaun Washington's personal
13 handgun, but he had one. What did he do with that
14 .9-millimeter handgun? Well, when he left, when he
15 ran, he got in Shiron Brown's white Cadillac.

16 Now, do I know where he threw it? No. Does the
17 State have any idea where he stashed it? No. But
18 we do know -- what we do know about his .9
19 millimeter gun is, that .9 millimeter fired 22 times
20 in that neighborhood.

21 So Paul Greer from SLED Firearms comes in here
22 and he talks to you, he give you his testimony. And
23 he tells you, okay, I've looked at all of these
24 items, and you've got two shooters, okay, just two -
25 - two shooters, and one shooter is firing the .300

1 Blackout rounds. They come from that rifle, and
2 then tell you, you've got another shooter fired
3 these rounds -- all of these match each other, all
4 of these came out of the same .9 millimeter gun,
5 right there. And when you look at these rounds, and
6 these rounds, and ask yourself, well, where did they
7 all go? Well, they went into -- they went into
8 cars. We've got some of the bullets and the things
9 they pulled out of some of the cars there, you've
10 got that. They went through homes, and it went
11 through the back of Donovan Hay's head.

12 Damage, destruction, a path of violence across
13 two neighborhoods, across not just the Walsh Drive
14 Apartments, but the people living in Deer Run too.
15 You had people in their homes, their walls and their
16 doors are shattered. They've got SLED Agents in
17 their homes pulling bullets out of their walls.
18 Paul Greer testified, and I'll say it again, that
19 this handgun provided to SLED from Shiron Brown was
20 not fired at Walsh Drive Apartments on April 22nd,
21 2020. He also told you that this firearm, as you
22 can clearly see there, this rifle ejects to the
23 right.

24 So what does that say? You had officers and EMS
25 and Firefighters, who came in here and told you how

1 they found Donovan Hay. He had a gunshot wound to
2 the back of his head, no neurological activity, no
3 response to pain stimuli. They sent him to a trauma
4 one center, where he was declared legally brain dead
5 later that same day.

6 Now, let's talk a little bit about the other
7 crime scene. What do we find there? Well, we find
8 Xavier Rivers' bankcard in the back of the silver
9 Chevy Malibu, just like Daquadrae Green told you,
10 "No, that's not mine, it belonged to the guy who was
11 sitting next to me, Xavier Rivers." All right, so
12 Xavier Rivers' bank card is in the back of the
13 silver Chevy Malibu, he's getting a rifle out of the
14 trunk, he's pointing it at Jharaun Washington, and
15 it ejects to the right.

16 Now, I don't know what his counsel is going to
17 say, but I'm going to venture a guess, you know,
18 well, there weren't any shell casings down inside
19 the Malibu. Well, that would require the casings to
20 defy physics and go to the right, and somehow do
21 some sort of twist in the air, to turn back around
22 and go back through the window to get inside the
23 silver Chevy Malibu, not possible. Okay, that takes
24 us to yesterday morning with the witnesses that you
25 heard from. And these were the ones who were there,

1 when this gun battle pops off between these two
2 Defendants. It's never easy to get in that box, in
3 the stand, and say, you know, what you saw. It's
4 never easy for those persons to do that, and I'm not
5 surprised, but even after SLED talked to a number of
6 witnesses, a number of people who live there, that
7 they are not here this week.

8 I am not surprised that putting it all on the
9 line, sitting in that chair, pointing across a
10 courtroom at one of these two Defendants is not
11 something that the ladies on the porch did. It's
12 never easy to do that.

13 Now, Lucretia Jordan, she came and testified for
14 you, but as you saw, she was incarcerated, and so
15 she was not, you know, on the street so to speak.
16 She did -- she was here, she came in. She waffled
17 somewhat, and we had to have some of her testimony
18 or her statements that she'd given to SLED
19 previously. And then finally you got the
20 information from her, "That's Robin Washington's
21 son," she knows him, and he was the black male in
22 the white Cadillac shooting. And then she saw the
23 silver Chevy Malibu, and someone in the silver Chevy
24 Malibu shooting back at Robin Washington's son.
25 I'll just say for her it had to be a traumatic

1 event, in terms of what she experienced with her
2 sister and her children in the car, but I think it's
3 clear she gave you what she could.

4 When Jharaun got back to Beaufort County, Shiron
5 says, "I don't know what happened." All right, so
6 that brings us to the lovely Mr. Hatfield, Cameron
7 Hatfield. He says, "Yeah, we've been friends a long
8 time, about 15 years," and known Jharaun Washington,
9 and absolute.

10 I mean he was dug in, ain't no way I'm gonna
11 tell you the truth, that Jharaun Washington was the
12 man standing next to me at the Cadillac shooting
13 that gun, but his State's Exhibit 143, tells the
14 rest of the story, which is, you know, a day after
15 he's been questioned and word is out, you know, on
16 the street that they have him.

17 And so, you know, he's calling Jharaun, and then
18 finally he -- you missed a call from Cameron.
19 Cameron called you. He tried to reach Jharaun.
20 He's trying to say, "Man, I ain't sayin' nothing', I
21 didn't point you out, I didn't put my signature on
22 anything, don't be upset with me, I didn't name
23 you." He told you that he knows Zay, that he saw
24 Zay in the back of the silver Chevy Malibu. That he
25 called out, "Hey, that's Zay." And said, "Hey,

1 Zay's getting a chopper out," and gives them on the
2 porch that information. And he wanted to make it
3 clear, he wanted to make it absolutely clear to
4 Jharaun Washington on this stand yesterday, hey, I'm
5 not a snitch, you know, snitches get stitches. He's
6 not gonna do anything yesterday that he's gonna pay
7 for today. And Dylan Labar.

8 It was probably the comedic moment of the entire
9 trial, but his testimony about what he was doing
10 when he was on the porch, "Oh, I didn't see
11 anything." He said, "I know everybody that was
12 there, but I didn't see anybody shoot, but I will
13 tell you I took Tye back in the house when things
14 started popping off." And then Daquadrae Green, he
15 came in here also in custody.

16 He goes, "I don't know, you know, we had been in
17 Augusta, we were just having fun, we were hanging
18 out with some girls. Donovan had come over to see
19 his sister, we stopped by there to see some girls,
20 stop by his siter's house." Well, okay. They go
21 see his sister, and, you know, Donovan's just
22 driving through, he doesn't know what's going on
23 behind him with Zay and Jharaun, he turns the
24 corner. And from everybody's testimony, his
25 sister's house is, you know, we're gonna pull in

1 there, but he's jumping out of the car, he's trying
2 to get in the trunk, he gets in the trunk, pulls out
3 a gun, all right? So he told you, "I knew it was
4 coming -- I knew it was coming. As soon as I saw
5 them all on the porch, as soon as I saw what we were
6 getting -- it was gettin ready to pop off. I didn't
7 have a gun, so, you know, I'm getting low." And he
8 demonstrated for you, "I," and he literally like he
9 demonstrated balling up in the seat there behind
10 Javante. He told you where everybody was in the
11 car. Donovan's driving, Javante's in front of him,
12 he's behind Javante, and Zay is right there next to
13 him. Yeah, he got out -- he told you he got out of
14 the car.

15 I don't know what he got, "Because I'm down,
16 because I know they're about to shoot." He told you
17 he ran through the woods. "You know, I didn't see
18 Zay in the woods, I did see him when he came out,
19 but I didn't see him in the woods." Now, SLED
20 Special Agent Morrell testified, and she gave you
21 the weight of these two Defendants when they were
22 arrested, considerably thinner, considerably leaner
23 than the Defendants today in this courtroom. She
24 also gave you -- again, you'll have all these pieces
25 of evidence during your deliberation, but she also

1 gave you Jharaun Washington's confession. She got a
2 search warrant, she got the records, she went
3 through all the records, and she got the confession
4 on April 22nd, 2020, "I just got into a shootout."
5 Now, let's talk a little bit about what is mutual
6 combat.

7 The Judge is going to instruct you on that law,
8 so we're gonna talk about it just a little bit.
9 Something like this I think is the jury charge
10 you're gonna get. If one voluntarily enters a
11 mutual combat, where deadly weapons are being used,
12 knowing they're being used, and death results to one
13 of the participating parties, everyone's engaged in
14 such combat is equally guilty.

15 To constitute mutual combat, it's not necessary
16 that there should be some positive agreement between
17 the participating parties to enter the combat. It's
18 sufficient if they willfully enter into the conflict
19 upon the impulse of the moment. The just is also
20 going to charge you on murder. And that's where the
21 State has indicted both Defendants for the murder of
22 Donovan Hay.

23 And in that charge on murder, are two words that
24 we're gonna talk about, it's called expressed malice
25 and implied malice. Now, express malice is

1 something like this, when the malice happened
2 beforehand. You may use an example like lying in
3 wait for someone, or any other act of others to show
4 that the deed was in the Defendant's mind. That's
5 express malice. Now, let's apply that to this case.
6 Jharaun Washington and Xavier Rivers prepared
7 beforehand to do the act, by taking those steps
8 together at the same time to get their guns. Those
9 acts of preparation show that the deed, the looming
10 gun battle and all natural and logical consequences
11 of their unlawful acts and conduct were at hand.

12 The decision to engage was in each Defendant's
13 mind. The Judge is also going to talk to you about
14 implied malice, and he'll say something like this,
15 when the circumstances surrounding show an abandoned
16 car, sometimes they'll say, but also say
17 demonstrated conduct showing a total disregard for
18 human life. And, again, apply that to this case,
19 these circumstances, surrounding this killing of
20 Donovan Hay, showed that these Defendants abandoned
21 they're unarmed positions, stepped up, take action,
22 unlawful conduct, mischief, if you will, and without
23 a doubt, shown a total disregard for human life in
24 this case. Well, the human life of all the ladies
25 on their porches, Mr. Timmy riding his bike, the

1 family in Apartment ■ had had bullets dug out of
2 their homes, their walls from this gun battle. The
3 family in Apartment ■, where the bullet's lodged
4 in the shutters, in these circumstances, these acts,
5 these facts you may and should find for these
6 Defendants. So the State says, under the law you
7 actually have both expressed malice and implied
8 malice for murder. State's Exhibit 101, which is
9 the bullet that Dr. Susan Presnell told you that she
10 had to take out of Donovan Hay's head.

11 She had to go into his brain, in order to get it
12 out. She had the bullet and SLED preserved it for
13 you. She told you and Greer told you and talked
14 about that bullet. The cause of death for Donovan
15 was that gunshot to his head, and his manner of
16 death was homicide. And that along with everything
17 else in this case, he's guilty of murder of Donovan
18 Hay.

19 The State is asking you to return verdicts of
20 guilty for Jharaun Washington, guilty for Xaiver
21 Rivers for murder, for murder and for both of them
22 for possessing their guns when they killed Donovan
23 Hay. Thank you so much for your attention.

24 THE COURT: All right, let's take a stretch
25 break.

1 MR. HALL: Your Honor, may we approach?

2 THE COURT: Okay, hold on one second, folks.

3 MR. HALL: Yes, sir.

4 THE COURT: All right, yes, sir.

5 (Bench conference.)

6 THE COURT: All right, we're gonna take a
7 stretch break right now, thank you. I want
8 everybody to stand up, stretch, okay? Let's take a
9 minute. There are some exhibits that are evidence.
10 Can we get the evidence up? Solicitor, you moved --
11 okay, thank you. Let's just take a minute.

12 (OFF RECORD)

13 THE COURT: All right, folks, let's go ahead and
14 have a seat, and I appreciate you'all giving your
15 attention to Ms. Carmody on behalf of her client.
16 Ms. Carmody?

17 **

18 **CLOSING ARGUMENT BY MS. CARMODY**

19 MS. CARMODY: All right, good morning,
20 everybody.

21 JURORS: Good morning.

22 MS. CARMODY: I want to thank you all for being
23 here. You'all have been here since Monday, I
24 recognize that you've all been attentive, I
25 appreciate that, my client appreciates that. You've

1 all made a great sacrifice this week. We all know
2 that your sacrifice you'all had a very, very
3 important job, and I appreciate it.

4 THE COURT: Yeah, can we get her some water?
5 All right, thank you.

6 MS. CARMODY: Okay. And also what I wanted to
7 tell you'all about is that this case is a little bit
8 different than cases that we've seen on like
9 television, or things like that, and there's two
10 Defendants. And this is Xaiver Rivers and that's
11 Jharaun Washington. Now, it may seem a little bit
12 odd that Mr. Hall is getting up objecting to the
13 defense. It's because normally we have two separate
14 trials, but in this case, because it's the same set
15 of facts of the case to be determined by a jury,
16 it's judicial economy to try to try the Defendants
17 together, but they are separate Defendants requiring
18 separate verdicts.

19 We can find one guilty, and we can find one not
20 guilty. We know that it's two separate people, as
21 though they were two separate trials. All right, so
22 now the State has to prove each and every element of
23 everything we're gonna talk about, each and every
24 element of the items beyond a reasonable doubt. And
25 what that means is that we think that it's possible

1 -- that it's a possibility, or if you think, no, I
2 don't know for sure if that's really what happened,
3 because if this had happened, then that's reasonable
4 doubt. Did Xavier Rivers actually engage in mutual
5 combat? Did Xavier Rivers actually kill anyone?

6 No.

7 Now, murder is the killing of another person
8 with malice aforethought. So let's start with
9 malice of the killing. So did Xavier Rivers commit
10 murder? I submit to you under the law, he did not.

11 So did Xavier Rivers kill Donovan Hay? There's
12 no evidence to support that, absolutely none.
13 Actually, the evidence is completely contrary. Not
14 a single shred of evidence from the crime scene
15 people to markers on-scene, to the autopsy, to SLED,
16 to say that Xaiver Rivers shot and killed Donavan
17 Hay, no evidence, none.

18 Then let's talk about malice. So as I said
19 before, malice is like ill-will. There has been no
20 evidence in this case from a single witness that
21 there was ever any, nothing, no ill-will, not I
22 don't like you, not you know what, I don't like the
23 way you look, not you know what, you cut me off, or
24 -- or -- nothing, nothing to suggest nobody didn't
25 like somebody else, there's no argument. There's no

1 disagreement, there's no, you know, you beeped the
2 horn too long, nothing, nothing at all to suggest
3 that these people even knew each other, other than
4 Cameron Hatfield. No evidence Jharaun Washington
5 knew Xavier Rivers, no evidence actually, we've
6 heard from other witnesses who were there, they
7 don't know him either.

8 The only person who said, "Hey, that's Zay," he
9 didn't say, "Hey, that's Zay, let's kill him," "Hey,
10 that's Zay," that's it, that's all he says. Now,
11 let's talk about this. All right, so malice, you
12 know, in this case too when you think like mutual
13 combat, you're thinking like gangs, you know, and at
14 the time kill each other, or instances where, you
15 know, we have drive-by shootings and gangs, you
16 know, that's -- that's the type of thing of malice
17 and mutual combat, territorial battles, things like
18 that.

19 Now, one thing I did want to mention before I
20 forget, in the Solicitor's closing argument to you
21 she had mentioned. What I would say is that the
22 Chevy Malibu is leaving the area and driving
23 through. Now you all have to face your decision on
24 the witness stand, or the evidence from the witness
25 stand, but there was error on the PowerPoint that

1 seemed to suggest that she was saying that the Chevy
2 Malibu was leaving, that's not what she said, you
3 all remember.

4 So now let's go to voluntary manslaughter. So
5 what does that mean? That means that, you know,
6 somebody, let's say, for instance, somebody comes
7 home, they find their wife, and they shoot them,
8 they're angry, it's like an instant reaction, right?
9 Somebody that says, you know, I'm angry, it happens
10 quick, there's no time to cool off. A reasonable
11 person wouldn't have time to cool off, and there's
12 sufficient legal proof. Like something happened to
13 them that required that response, that's why they
14 reacted that way. Now, let's get into mutual
15 combat. All right, so what is mutual combat? It
16 requires combatants, right? It requires two
17 combatants.

18 The State is alleging that the combatant is
19 Xavier Rivers, and someone who may or may not be
20 there. That's merely the State's theory of the
21 case.

22 So mutual combat requires a mutual intent and a
23 willingness to fight, but it also requires an
24 agreement to fight between the parties. Okay, so
25 another thing they're talking about is people that

1 don't even know each other. There's no evidence to
2 say anyone knows anybody, so where's the agreement
3 to fight between the parties? It is mutual intent
4 and a willingness to fight. I mean this doesn't
5 make sense. An agreement between the parties, where
6 is it? There's no Facebook messages saying, "I want
7 to fight you." There is no -- nothing at all,
8 there's nothing to suggest they even know each
9 other.

10 So it requires mutual intent and a willingness
11 to fight, and an agreement to fight between the
12 parties. Now, okay, all right.

13 I beg the Court's indulgence.

14 All right, so let's just start with what we know
15 and what we've heard from the witnesses, right? So
16 you have Daquadrae Green got up here, Daquadrae
17 Green testified, and he told you that him and
18 Xavier, Donovan Hay and Javante Jenkins were all in
19 Georgia, right? And they were in Georgia, and they
20 were hanging out. You heard him said, "We had a
21 great time. We had fun, everything was good." On
22 the way back to South Carolina everything is still
23 great. There is no talk about, you know, anyone's
24 mad at anyone. There's nothing of that whatsoever,
25 everything was great.

1 And it's important to know that everything's great,
2 there's Donovan Hay is driving the car. And Donovan
3 Hay says, "Hey, we're going to my sister's house, my
4 sister lives in the Walsh Drive Apartments."

5 "Okay." Ladies and gentlemen, if there was an
6 agreement and a mutual intent to fight, why did
7 Xavier Rivers go to this apartment complex with his
8 gun still in the trunk? He didn't go there with
9 guns loaded.

10 He didn't show up saying, "You know what? I'm
11 gonna go shoot at someone, so let me put my gun in
12 the car." The gun was in the trunk of the car. Why
13 is the gun in the trunk? Because there's no
14 agreement, there's no mutual intent to fight.
15 There's no thought in his mind on the way back from
16 Georgia when he got in the car with his friends,
17 that I'm going to get into a shootout and have to
18 defend my life, you know, that thought doesn't even
19 cross his mind.

20 So what happens -- okay, pause, all right, so
21 the person that was in that black car Lucretia
22 Jordan, and Lucretia Jordan says that she -- she saw
23 a guy that she recognized from Robin's son outside
24 Apartment [REDACTED]. Robin -- I mean Lucretia Jordan
25 recognized them. Why did she think that? Because

1 that's what she thinks. Okay, now, as this is
2 happening --

3 MS. CAMPBELL: I'm going to object --

4 THE COURT: Hold on.

5 MS. CAMPBELL: -- to that statement, we need to
6 confer.

7 THE COURT: All right.

8 (Bench conference.)

9 THE COURT: All right, Solicitor, thank you, I'm
10 going to sustain your objection.

11 MS. CARMODY: Thank you, Your Honor. I'm sorry,
12 Letitia Jordan, okay? All right, so -- all right,
13 now why did she think this, right? These guys are
14 at Apartment [REDACTED]. He got up here and demonstrated
15 for you and they were reaching like this. What does
16 that mean? Okay, well, if you listen to the
17 testimony of Cameron Hatfield, okay, Cameron
18 Hatfield tells you he's under the influence of
19 drugs, he had been doing cocaine, fentanyl, Xanax,
20 methamphetamines.

21 And I specifically asked him, "Would any of
22 those drugs make you paranoid?" "Not cocaine," but
23 methamphetamines do, and he was using that at or
24 around the time that this happened. So what
25 happens? So a car is driving by, and he's paranoid,

1 and he's acting paranoid. "Who's that? Who's that?
2 What do they want? What are they doing?" Which is
3 completely consistent with Daquadrae Green's
4 statement of what they were doing, and his statement
5 is also inconsistent what Letitia, that's her name,
6 right, Letitia said, Letitia is Lucretia's sister.
7 So why did they think that? Well, guess what?
8 Daquadrae Green is in a car with Xavier Rivers.

9 So Daquadrae Green was scared, he told you he
10 was. He said he was so scared he rolled up in a
11 ball. So Daquadrae Green that was in the car, in
12 the same for Xavier Rivers in a ball on the seat,
13 based on what's going on in front of [REDACTED] Walsh
14 Drive.

15 So what does Xavier do? So because, you know,
16 Daquadrae's afraid, and Xavier, it's reasonable to
17 assume he's afraid too, so what's going on? He goes
18 to the trunk of the car -- can you play that? Okay,
19 hold on, the audio's off. Start it, okay.

20 (Video being played for the jury.)

21 MS. CARMODY: So he goes -- he goes to the trunk
22 of the car, and he's gonna take the gun, and then
23 we're gonna watch what he does, okay? Now, before
24 he does that, I want to show you something first.
25 Look at where the apartment is, and look at where

1 that white Cadillac is, and look where the man in
2 the white shirt is, who we know is Jharaun
3 Washington.

4 So see where he is? That trunk of that car is
5 behind the bushes. Mutual intent, and we'll talk
6 about this later, requires as an element of the
7 case, that the State prove to you beyond a
8 reasonable doubt, not only that Xavier Rivers knew
9 that Jharaun Washington was armed, but also that
10 Jharaun Washington knew beyond a reasonable doubt
11 that Xavier Rivers was armed. Look at where the car
12 is, there's no way that Jharaun Washington even sees
13 him getting that gun out of the trunk. Now, Xavier
14 Rivers says he doesn't want to engage in a mutual
15 combat. If he did, look at where he is. If he
16 wants to shoot, look where he is. He's behind the
17 bushes.

18 If he wants to shoot at this man, and the man's
19 right there, he's got cover in the bushes? He's got
20 cover of his vehicle; he's got cover of all those
21 houses. He had more than enough bullets in that gun
22 that was in the trunk, if he was going to engage in
23 this mutual combat that the State alleges, why not?
24 Why not where the guys are right out in front of the
25 house? He's behind the bushes, he's got cover for

1 the car, and he doesn't do that. Let's watch what
2 he does.

3 Again, where's the mutual combat? Where's this
4 agreement that we're gonna do this gun battle? It's
5 not there. The man got inside the car and he's
6 driving away. Donovan Hay is driving the car. So
7 what happens? Now, you've heard from Daquadrae
8 Green, who testified they were leaving, okay?
9 You've heard from Lucretia Jordan; the gray car was
10 leaving out. You've also heard from Cameron
11 Hatfield, who actually denied making the statement
12 to SLED, and you'll have to determine whether he
13 made it or not.

14 I don't think they were trying to do anything,
15 or that they were going to do anything. I think
16 they were there. That's Cameron Hatfield, that's
17 the man outside. the gray Malibu is leaving.

18 There's no doubt about it, ladies and gentlemen,
19 that he did not get into a mutual combat outside
20 this man's house with these people, he's leaving.
21 There's no proof beyond a reasonable doubt of a
22 mutual intent and a willingness to fight. Let's go
23 -- I mentioned earlier, hold on one second, I
24 mentioned earlier that both sides have to be armed
25 with weapons, and that each side must know the other

1 side is armed beyond a reasonable doubt. Did Xavier
2 Rivers actually know that Jharaun Washington was
3 armed that day? No. He's behind the bushes. He
4 doesn't know Jharaun Washington has a weapon. Is
5 Xaiver Rivers maybe in fear that they have weapons?
6 Sure. Daquadrae Green feared too, but that's not
7 the requirement under the law. The requirement
8 under the law is that each side must know that the
9 other side is armed, and that has to be proven to
10 you beyond a reasonable doubt.

11 Shiron Brown also testified that he did not see
12 Xavier Rivers with a gun, and until he was shown a
13 video from SLED. SLED showed him a video, and he's
14 like, "Oh, yeah. I saw it or, you know, heard the
15 car door, but I'm behind the bushes, so I didn't see
16 anything.

17 So that's Shiron Brown telling you right from
18 the witness stand that he didn't see anything. Now,
19 Cameron Hatfield said, "Oh, no, I saw him taking
20 three choppers out, two or three choppers." I don't
21 know what to make of Cameron Hatfield's statement,
22 number one, and number two, there wasn't two to
23 three choppers that he saw, and number three, it's
24 not what Cameron Hatfield knows, or what Cameron
25 Hatfield thinks he knows, it's what Xavier Rivers,

1 and what's suspected Jharaun Washington knows,
2 that's the two people that matter.

3 It's what each side must know that the other
4 side was armed. He's behind the bushes, there's
5 nothing to say that he was armed. Now I submit to
6 you, Xavier Rivers didn't know that Jharaun
7 Washington was armed until Donovan Hay was shot in
8 the head. That's when he found out he was armed.
9 So he's leaving the area, they're driving, they're
10 leaving, and actually -- I mentioned earlier Number
11 7, this is a green lighter, this is not a shell
12 casing I'm sure, this one over here, this is not a
13 shell casing, it's a green lighter. Then a car
14 drives here, and right now the car is -- and look at
15 where Apartment [REDACTED] is, there's no doubt whatsoever
16 he's leaving. So he comes -- and the car is way
17 over here. You've heard testimony there was over 30
18 rounds left in that gun and one in the chamber. If
19 he intended to get into this armed combat with these
20 guys, he had plenty of cover behind, he didn't have
21 to run in the woods. He had plenty of bullets. He
22 could have taken cover behind that car. He could
23 have taken cover by anyone of those houses. He
24 could have engaged he believed was Jharaun
25 Washington. He could have done any of those things,

1 because the gun in hand and more than enough
2 bullets, and the SLED agent testified to that.
3 There was nothing preventing him from engaging in
4 this combat, so to speak, that the State's calling
5 it, except for -- he did not want to engage in a
6 combat. The guy is already leaving, he's driving
7 away until the driver's shot, and he's fleeing
8 again. Then we talked about the -- we just went
9 through this, but you see all the shell casings that
10 are outside this house, and that one, two, three,
11 four, five were the only rounds that he fired.

12 We all know it isn't a murder case, Hardeeville
13 PD -- and it's not a murder case, Hardeeville PD
14 knew it was not a murder case, and SLED knew it was
15 not a murder case. SLED did not charge him with
16 murder. And I'm confident that you all here know
17 that this is not a murder case. And I ask that you
18 return a verdict of not guilty for Xavier Rivers.

19 THE COURT: All right, ladies and gentlemen, I'm
20 gonna have you step back into your jury room. Let's
21 take a break for a few minutes before we continue,
22 we've been going at it for at least an hour and a
23 half. Thank you. Don't talk about the case.

24 (Jury exits the courtroom.)

25 THE COURT: All right, anything before we break

1 for a few moments from the State?

2 MS. CAMPBELL: No, sir.

3 THE COURT: Ms. Carmody?

4 MS. CARMODY: No, Your Honor.

5 THE COURT: Mr. Hall?

6 MR. HALL: No, Your Honor.

7 THE COURT: All right.

8 (Recess.)

9 BAILIFF: All rise.

10 **

11 **PROCEEDINGS CONTINUED**

12 THE COURT: You may be seated.

13

14 MS. CAMPBELL: We would just beg the Court's
15 indulgence.

16 BAILIFF: They're coming down the stairs now.

17 THE COURT: Okay. All right, anything from the
18 State before we bring the jury in?

19 MS. CAMPBELL: No, sir.

20 THE COURT: From the defense, Ms. Carmody?

21 MS. CARMODY: No, Your Honor.

22 THE COURT: Mr. Hall?

23 MR. HALL: No, thank you.

24 THE COURT: All right, let's get the jury in.

25 Thank you.

1 (Jury enters the courtroom.)

2 THE COURT: All right, Mr. Hall? Yes, sir.

3 MR. HALL: Thank you, Your Honor.

4 **

5 **CLOSING ARGUMENT BY MR. HALL**

6 May it please the Court? When I originally sat
7 down to prepare my final remarks to you, I intended
8 on starting by saying, "Good morning," but it's
9 taken a little longer to say that, so I'll say I'll
10 likely not be quite as brief with you today as I was
11 with you at the start of the trial.

12 This will be my last opportunity to address you
13 on behalf of my client before the Judge charges you
14 on the law, and you begin your deliberations. This
15 is an important moment for Mr. Washington, and the
16 chance for me to make what I believe are some very
17 important points, in an effort to aid you in those
18 deliberations.

19 I want to make this point, I will not drone on
20 and on, because despite what some people may say
21 about me, I am not one of those people who believes
22 they get paid by the word.

23 When I spoke to you all at the beginning of this
24 trial on Tuesday, I told you that there will be
25 questions that you will have answers to, and at

1 least one question that you'll never get the answer
2 to.

3 Let's start with questions that have been
4 answered, who are the parties in this case. On the
5 one side you have Xavier Rivers, Javante Jenkins,
6 Daquadrae Green and the victim, Donovan Hay. On the
7 other side of that equation you have Jharaun
8 Washington, Shiron Brown, Dylan Labar and Cameron
9 Hatfield. Where and when did this take place? At
10 the Walsh Drive Apartments in Hardeeville in April
11 of 2022.

12 Did both sides have weapons? As you've seen on
13 the video and keep track of, absolutely. Were those
14 weapons used? Again, yes, to the tune of about 27
15 times between the two groups from two separate
16 weapons. Did Donovan Hay died as a result of this
17 barrage of back-and-forth gunfire? Unfortunately,
18 yes.

19 How about the questions you'll never get an
20 answer to? The timestamps on the respective video
21 surveillance cameras? You recall that Doris Jameson
22 testified, she's with Housing and Urban Development,
23 in supplying videos, you've repeatedly seen the
24 video. She did not testify that the timestamp from
25 each of those camera angles were the same. As

1 you've seen from the videos, every second here
2 counts. You've been shown still-photos of certain
3 things happening at certain times. You are the
4 finders of facts, and I'm simply asking you to keep
5 this in mind during your deliberations. Another
6 unanswered question, why did Xavier Rivers retrieve
7 an assault rifle from the trunk of that car? Why
8 did Xavier Rivers point that assault rifle in the
9 direction of my client's group from the opened
10 window as the car drove away? Why did any of this
11 happen at all?

12 That is totally the one question that you will
13 never have an answer to. There's been absolutely no
14 evidence presented during the course of this trial
15 that will give you that answer. You can now
16 understand how I wasn't lying to you when I told you
17 that you might feel a little overwhelmed with the
18 amount of information the State provided during
19 their case.

20 Yet there's one burning question, why did this
21 happen? We simply don't know. All of this leads me
22 to one of the last things I said to you during my
23 opening statement, that I would ask you to find my
24 client not guilty of murder. I'm still asking you
25 to do that. The State has the burden of proof, it

1 must prove every element, not only of mutual combat,
2 but every element of murder as well, all beyond a
3 reasonable doubt.

4 With respect to the murder charge, the State can
5 be found lacking in their proof upon one crucial
6 element, malice of forethought. If there's no
7 malice of forethought, there's no murder. The Judge
8 will instruct you of that meaning once I am done.

9 Now, I need to address the elephant in the room
10 so to speak to finally get it to the last point that
11 I need to make to you as members of the jury. When
12 you're a defense attorney representing a client at
13 trial, your ultimate goal is to convince the jury
14 that your client's not guilty. I'm not going to do
15 that here. My client is guilty, he's just not
16 guilty of murder. The Judge is going to instruct
17 you on the law of voluntary manslaughter. Voluntary
18 manslaughter is defined by statute, as the unlawful
19 killing of another without malice expressed or
20 implied.

21 Remember no malice aforethought, no murder. An
22 lawful killing without malice that's voluntary
23 manslaughter, and that is what my client is guilty
24 of. Place the events on April 22nd, 2020, with
25 proper context. The silver Malibu drives slowly by

1 an apartment where my client and his friends are
2 hanging out. A passenger in that Malibu, Xaiver
3 Rivers, gets out of the Malibu, arms himself with an
4 assault rifle, gets back in the car, puts the window
5 down and points that assault rifle in my client's
6 direction. Then quite literally all hell breaks
7 loose. 27 rounds exchanged between my client and
8 Xavier Rivers, and Donovan Hay's life ends as a
9 result. Again, with no explanation as to why any of
10 this happened in the first place. If this scenario
11 isn't the very definition of an unlawful killing
12 without malice, I'm not sure what is.

13 That is why I'm asking you to find my client,
14 Jharaun Washington, not guilty of murder, but I am
15 asking you to find him guilty of voluntary
16 manslaughter. Thank you for your time.

17 **

18 **JURY CHARGE**

19 THE COURT: All right, ladies and gentlemen,
20 it's now my duty as trial judge, under the
21 Constitution of this State to charge you and
22 instruct you on the law applicable to this case.
23 It's your duty, as jurors, to follow the law as I
24 state it to you. Furthermore, it's your exclusive
25 duty to decide all issues of fact, and we've talked

1 about that, ladies and gentlemen, and to determine
2 the effect, value, and weight of the evidence. Both
3 the State and the Defendants have the right to
4 expect that, ladies and gentlemen, you will
5 carefully consider and evaluate the evidence, apply
6 the law to the case, so that in the end both the
7 State of South Carolina and the Defendants will
8 receive a fair and impartial trial. Now, I want you
9 to understand when I use the word Defendants, I'm
10 referring to Mr. Xavier Rivers and I'm referring to
11 Mr. Jharaun Washington, okay? Furthermore, it's
12 important to understand, folks, that the State of
13 South Carolina charges Defendants with the offense
14 known as murder, and possession of a weapon during
15 the commission of a violent crime.

16 To these charges, the Defendants have entered
17 pleas of not guilty. This plea of not guilty places
18 the burden of proof on the State of South Carolina
19 to prove the Defendants' guilt beyond a reasonable
20 doubt. Now, I want to you, and we've talked about
21 this, the fact that the Defendants were arrested,
22 charged and indicted in this case is not evidence in
23 this case, and cannot be considered by you, as
24 evidence of guilt in the case, nor does it create
25 any presumption or inference of guilt. The

1 indictment, again, is simply the formal written
2 instrument, which contains the charge made against
3 the defendant, it's the formal document that
4 basically brings this matter into court. Now, the
5 indictments in this case allege several different
6 offenses against the Defendants. The charges for
7 Mr. Rivers are murder and possession of a weapon
8 during the commission of a violent crime. The
9 charges for Mr. Washington, again, murder,
10 possession of a weapon during the commission of a
11 violent crime.

12 Now, folks, I want you to know each indictment
13 charges a separate and distinct offense, and you
14 must decide each indictment separately on the
15 evidence, and the law applicable to it uninfluenced
16 by your decision as to any other indictment.

17 Now, I want you to know, and I've said this,
18 during this trial we've had separate -- you and I
19 have had separate duties to perform. As the trial
20 judge, it's my responsibility to preside over the
21 trial, and I also have the duty to rule upon the
22 admissibility of the evidence offered during the
23 trial.

24 In that regard, you're only to consider the
25 competent evidence before you, and you are, ladies

1 and gentlemen, to disregard from your mind any
2 testimony that ordered stricken from the record of
3 this case during the progress of the trial, and,
4 ladies and gentlemen, you're to consider only the
5 testimony which has been presented from the witness
6 stand, and together with any exhibits that were
7 admitted into record in this case, and any
8 stipulations of counsel, though I don't believe
9 there were any stipulations I this matter.

10 Now, furthermore, ladies and gentlemen, I have
11 the additional duty to charge you on the applicable
12 law of this case, and in that regard I'm the sole
13 judge of the law of this case. It's your duty to
14 accept the law, it's your duty to then accept it as
15 I state it, and then I want you to know if you have
16 any preconceived ideas, as to what the law should
17 be, or what the law is, or what it ought to be, and
18 it doesn't agree with what I tell you the law is,
19 ladies and gentlemen, you're obligated under the
20 oath that you took earlier this week to abandon
21 those preconceptions, 'cause you are sworn to accept
22 the law as I give it to you.

23 Now, ladies and gentlemen, in this trial you're
24 the sole and exclusive judges of the facts, and I'm
25 the judge of the law. And I want you to make sure

1 that you do not infer that I have an opinion about
2 the facts of this case from anything that I have
3 done or said during the course of this trial,
4 including ruling upon the admissibility of evidence,
5 or otherwise, or for anything that I say during the
6 course of this charge to you. In this regard, the
7 law simply does not allow me to have an opinion
8 about the facts.

9 As jurors, ladies and gentlemen, it's your duty
10 alone to determine the effect, the value, and the
11 weight of the evidence presented during the course
12 of this trial. Now, ladies and gentlemen, in
13 determining what facts in this case are, and to
14 determine what they are, you must be the judge of
15 the credibility, which simply means the
16 believability of the witnesses, and the value of
17 weight that's presented to you during the trial.
18 And, you know, when you are determining, ladies and
19 gentlemen, what the facts are, you must judge the
20 credibility, which simply means the believability of
21 the witnesses and the value and weight to be given
22 to their testimony.

23 You alone decide the force, the effect of a
24 testimony, and in making those decisions, there's a
25 lot of different things that you can consider, such

1 as the appearance and manner of the witness on the
2 stand, the characteristic often referred to as the
3 demeanor of the witness. Was the witness forthright
4 or hesitant? Was the witness' testimony consistent,
5 or did it contain discrepancies? What was the
6 witness' ability to know the facts about which he or
7 she testified? Did the witness have a cause or a
8 reason to be biased and/or prejudice in favor of the
9 testimony he or she gave? Was the testimony of the
10 witness or witnesses corroborated, or made stronger
11 by other testimony, or was it made weaker or
12 impeached by such other testimony and evidence.

13 As jurors please understand you have the right
14 to believe a small portion of a witness' testimony,
15 and disregard the larger portion, or vice versa.
16 You may believe all of a witness' testimony or none.
17 You may believe the testimony of a single witness
18 against that of many witnesses, or the other way
19 around. In exercising your mental processes in
20 attempting to decide the verdict, the law simply
21 requires, ladies and gentlemen, that you exercise
22 your good judgement, your common sense, your sense
23 of logic and reason, and your experiences in life.
24 You apply these attributes to the evidence and apply
25 the law, as I state it to you, ladies and gentlemen,

1 and, thus, you arrive at your verdict.

2 Now, I want you to know we talked about this
3 briefly, the rules of evidence ordinarily do not
4 permit a witness to testify and give opinions or
5 conclusions. An exception to that rule exists when
6 we call expert witnesses. A witness who by
7 education, experience, or become an expert in some
8 art, science, profession or calling, ladies and
9 gentlemen, may state an opinion as to relevant and
10 material matters, in which the witness claims to be
11 an expert, and may also state the reasons for the
12 opinion.

13 Now, I want you to know you should consider an
14 expert opinion received into evidence in the case
15 like any other evidence, and give it the weight you
16 think it deserves, okay? If you decide that the
17 opinion of an expert witness is not based on
18 sufficient education or experience, or if you
19 conclude that the reason given in support of the
20 opinion are not sound, or that the opinion is
21 outweighed by other evidence, you may disregard that
22 opinion in its entirety. An expert witness' opinion
23 is to be given no greater weight than that of any
24 other witness simply because the witness is an
25 expert.

1 Further, you are not required to accept an
2 expert's opinion, even though it's not contradicted.

3 Now, ladies and gentlemen, there has been
4 evidence presented that the witnesses have made
5 prior statements, which are not consistent with the
6 witness' testimony, and I want you to know you may
7 use this evidence to decide whether to believe the
8 witness. You may also use evidence of earlier
9 contradictory statements to determine the truth of
10 those statements.

11 It's up to you to decide whether to believe the
12 earlier statements, or the testimony given at trial.
13 If a witness is shown to have knowingly testified
14 untruthfully concerning any material matter, you may
15 consider this in determining whether to trust the
16 witness' testimony as to other matters. You may
17 reject all testimony of that witness or give all or
18 part of the testimony the weight you think it
19 deserves.

20 Now, a person who's had a past criminal record,
21 ladies and gentlemen, is competent to testify during
22 a trial. A past record does not affect the ability
23 of that witness to testify. The past record may
24 only be considered by you, if at all, in determining
25 the witness' believability. Now, folks, it's vital

1 to understand that the Defendants are presumed,
2 under the law, to be innocent of these charges.

3 The Defendants have no obligation to prove their
4 innocence. It's a fundamental rule of our law that
5 the Defendants, irrespective of the seriousness of
6 the charges against them, are always presumed
7 innocent of the crimes for which they are charged,
8 unless and until their guilt has been proven by
9 evidence that satisfies you, ladies and gentlemen,
10 the jury, beyond a reasonable doubt.

11 The presumption of innocence is not a mere legal
12 theory, or legal phrase, the presumption of
13 innocence is very important, and you need to
14 understand that this presumption accompanies the
15 Defendants from the time of their arrest and
16 appearance in this Court and continues with the
17 Defendants even after you retire to the jury room to
18 deliberate.

19 In other words, the Defendants receive the
20 benefit of the presumption of innocence until the
21 very end of the trial, ladies and gentlemen, when
22 you, the jury, will deliberate upon the evidence,
23 and decide whether the State has proven their guilt
24 beyond a reasonable doubt, which leads to this,
25 ladies and gentlemen, what's a reasonable doubt in

1 the law?

2 A reasonable doubt is the kind of doubt that
3 would cause a reasonable person to hesitate to act.
4 Proof beyond a reasonable doubt is proof that leaves
5 you firmly convinced of the Defendants' guilt.
6 There are very few things in this world that we know
7 with absolute certainty. So even in criminal cases,
8 the law does not require proof that overcomes every
9 possible doubt.

10 However, if based on your consideration of the
11 evidence, you're firmly convinced that the
12 Defendants are guilty of the crimes charged, you
13 must find them guilty. If on the other hand, you
14 think there's a real possibility that they are not
15 guilty, then you must give him the benefit of the
16 doubt and find them not guilty.

17 Jurors, please understand that a reasonable
18 doubt may arise from evidence which has been
19 presented in the case, or from lack of evidence in
20 the case. It's your responsibility, folks, to
21 determine whether or not reasonable doubt exists, as
22 to the guilt of these Defendants. I charge you that
23 the Defendants are entitled to every reasonable
24 doubt arising in the whole case.

25 If upon any of the issues of fact essential to

1 conviction and a verdict of guilty, you have a
2 reasonable doubt as to how that issue should be
3 resolved, it would be your duty, ladies and
4 gentlemen, to resolve that reasonable doubt in favor
5 of the Defendants. Thus, in summary, it's important
6 to understand that the Defendants are not required
7 to prove their innocence, but instead the State is
8 required by law to prove every essential element of
9 the offense charged against the Defendants, by
10 evidence which satisfies you of their guilt beyond a
11 reasonable doubt. Only then can you convict the
12 Defendants and find them guilty.

13 Now, ladies and gentlemen, there are generally
14 two types of evidence that are presented in a trial,
15 direct and circumstantial. Direct evidence directly
16 proves the existence of a fact and does not require
17 deduction. Circumstantial evidence, ladies and
18 gentlemen, is a proof of a chain of facts and
19 circumstances indicating the existence of a fact.
20 Crimes may be proven by circumstantial evidence.
21 The law makes no distinction between the weight or
22 value to be given, either direct or circumstantial
23 evidence.

24 However, to the extent the State relies on
25 circumstantial evidence, all of the circumstances

1 must be consistent with each other, and when taken
2 together point conclusively to the guilt of the
3 accused beyond a reasonable doubt. Now, if the
4 circumstances merely portray the Defendants'
5 behavior suspicious, then the test has failed. The
6 State has the burden of proving the Defendant's
7 guilt beyond a reasonable doubt. This burden rests
8 with the State, regardless of whether the State
9 relies on direct, or circumstantial evidence, or
10 some combination of the two.

11 Now, folks, I want to make sure you understand
12 that you must decide whether the State has met its
13 burden of proof beyond a reasonable doubt, based
14 solely on the evidence presented in this courtroom.

15 And as you were instructed at the start of
16 trial, you're not permitted to conduct any
17 independent research concerning the case, the
18 evidence presented in this case, or the people or
19 organizations involved in any way in this case.

20 I don't want you to try to find any information
21 from any outside source, however reliable that
22 source may seem to be. Don't look at dictionaries
23 or other reference materials, search the internet,
24 websites, blogs, or use any other electronic tools
25 to get information about this case, or help you make

1 a decision. You may not use computers, telephones,
2 cell phones, Smart phones, tablets, the internet or
3 any other tool of technology with communication
4 capacities while deliberating, or during your
5 deliberating, except as provided by the Court to
6 review digital evidence in this case. If your
7 deliberations necessitate an overnight break, ladies
8 and gentlemen, you may use these devices as
9 necessary, but you may not use them, again, to
10 communicate with anyone about the case until the
11 case is over.

12 This means you must not use cell phones, video
13 calls, emails, text messages, Instant messages,
14 blogs, chatrooms, websites or any other social
15 media, such as Facebook, Twitter LinkedIn, YouTube,
16 Read It and Discord to send or receive any
17 information about the case, and this include any
18 information about the party, a witness, an attorney,
19 a court officer, your fellow jurors, news accounts
20 about the case, research on any topic about this
21 case you may think would be helpful in deciding the
22 case, or any testimony that might be presented by
23 any witness.

24 Now, during deliberations do not read, listen
25 to, or watch any news reports about this case, and

1 this includes anything that may be in the
2 newspapers, or on the internet, radio or television.
3 You must not consider anything that you've read or
4 heard about the case from outside the courtroom,
5 whether, again, before or during the trial. The
6 information on television, radio, internet or from
7 other sources may be wrong or incomplete. In our
8 judicial system it is very important, ladies and
9 gentlemen, that you are not influenced by anything
10 or anyone outside of this courtroom.

11 If your deliberations necessitate an overnight
12 break, even though you may use electronic devices as
13 necessary, for the purposes unrelated to the trial,
14 I must urge you to minimize such use of said
15 devices. Many internet browsers, Smart phones,
16 apps, social media services, as well as
17 traditional media, like TV and radio will provide
18 information and news that you did not seek with
19 little or no prompting.

20 It's a strong possibility that information about
21 the case could be thrust upon you every time you use
22 an electronic device. You must, therefore, use
23 these devices only as absolutely necessary. You
24 must avoid and ignore uninvited information about
25 the case.

1 Now, folks, I want to tell you at issue in this
2 case is the identification of the Defendants as the
3 persons who committed the crimes charged. The State
4 has the burden of proving identity beyond a
5 reasonable doubt. You must be satisfied beyond a
6 reasonable doubt of the accuracy of the
7 identification of the witnesses -- of the
8 Defendants, excuse me, before you may convict the
9 Defendants.

10 Identification testimony is an expression or
11 belief or impression of a witness. You must
12 determine the accuracy of the identification of the
13 Defendants. You must consider the believability of
14 each identification of the witnesses in the same way
15 as any other witness. You may consider whether the
16 witness had an adequate opportunity to observe the
17 offender at the time of the offense. This will be
18 affected by things like how long or short a time was
19 available, how far or close the witness was, the
20 lighting conditions, and whether the witness had the
21 chance to see or know the person in the past.

22 Once again, I instruct you the burden of proof
23 on the State extends to every element of the crime
24 charged, and this specifically includes the burden
25 proving beyond a reasonable doubt the identity of

1 the Defendants, ladies and gentlemen, as the persons
2 who committed the crime. If after examining the
3 testimony you've got a reasonable doubt as to the
4 accuracy of the identification, you must find the
5 Defendants not guilty.

6 Now, ladies and gentlemen, in order to establish
7 criminal liability, criminal intent is required.
8 Criminal intent must be proven by the State beyond a
9 reasonable doubt. Criminal intent is always a
10 matter that must be determined by the jury from the
11 circumstances surrounding the situation. I mean
12 there's no way, ladies and gentlemen, to prove
13 intent to a mathematical certainty.

14 There's no way that science can dissect a
15 person's brain and determine what the person had in
16 mind. The law says that criminal intent may be
17 inferred from the circumstances shown to have
18 existed. This is how you make the determination of
19 whether or not the element requiring intent was
20 present.

21 It's not necessary to establish intent by direct
22 and positive evidence, but intent may be established
23 by inference in the same way as any other fact,
24 taking into consideration, folks, the acts of the
25 parties, and all of the facts and circumstances of

1 the case. Criminal intent is a mental state, a
2 conscious wrongdoing, and it's up to you, ladies and
3 gentlemen, to determine what the Defendants intended
4 to do, based on the circumstances known to have
5 existed.

6 Now, something that I want you to know, folks, I
7 want to instruct you right now, and I want to
8 emphasize this fact, the Defendants in the case did
9 not testify is not a factor to be considered by you
10 in your deliberations, and your consideration on the
11 question of guilt or the innocence of the
12 Defendants. It must not be considered by you
13 whatsoever.

14 The Defendants have the constitutional right to
15 remain silent, and the assertion of this right must
16 not be considered by you in your deliberations. I
17 repeat, under your oath, ladies and gentlemen, you
18 are to draw no conclusion whatsoever from the fact
19 that the Defendants in this case did not testify.
20 The fact these Defendants did not testify should
21 not even be discussed in the jury room.

22 The burden of proof, as I have stated to you, is
23 on the State, and the Defendants are not required to
24 prove their innocence. The burden of proof remains,
25 folks on the State to prove guilt beyond a

1 reasonable doubt.

2 Now, ladies and gentlemen, the Defendants in
3 this case are charged with murder. The State must
4 prove beyond a reasonable doubt that the Defendants
5 kill another person with malice of forethought.
6 Malice is hatred, ill-will or hostility towards
7 another person. It's the intentional doing of a
8 wrongful act without just cause or excuse, and with
9 an intent to inflict injury or under circumstances
10 that the law will infer an evil intent. Malice of
11 forethought does not require that malice exists for
12 any particular time before the act is committed, but
13 malice must exist in the mind of the Defendant just
14 before and at the time the act is committed.

15 Therefore, there must be a combination of the
16 previous evil intent and the act. Malice of
17 forethought may be expressed or inferred. These
18 terms, expressed or inferred do not mean different
19 kinds of malice, but merely the manner in which
20 malice may be shown to exist, either by direct
21 evidence or by inference from the facts and
22 circumstances which are proven.

23 Express malice is shown when a person speaks
24 words which express hatred or ill-will for another,
25 or when the person's prepared beforehand to do the

1 act which was later accomplished, for example, lying
2 in wait, or any other act of preparation going to
3 show that the deed was within the Defendant's mind
4 would be expressed malice. Malice may be inferred
5 from conduct showing a total disregard for human
6 life.

7 Now, if you find, ladies and gentlemen, that the
8 State has failed to prove beyond a reasonable doubt
9 that the Defendants committed murder. You may also
10 consider whether the State has proved beyond a
11 reasonable doubt that the Defendants committed
12 voluntary manslaughter. To prove voluntary
13 manslaughter, the State must prove beyond a
14 reasonable doubt that the Defendants took the life
15 of another in the sudden heat of passion, based on
16 sufficient legal provocation. Both heat of passion
17 and sufficient legal provocation must be present at
18 the time of the killing to constitute voluntary
19 manslaughter.

20 Sudden heat of passion may for a time affect the
21 person's self-control, and temporarily disturb a
22 person's reason. The sudden heat of passion must be
23 the type that would make an ordinary person unable
24 to coolly reflect honest actions and would produce
25 an uncontrollable impulse to do violence.

1 Sufficient legal provocation must be the type that
2 would make a person of ordinary reason and caution
3 become enraged, and lose control temporarily. The
4 provocation needed for voluntary manslaughter must
5 come from some act or related to the victim. Words
6 alone, however vulgar and insulting are not enough
7 to be legal provocation. Where death is caused by
8 the use of a deadly weapon, the words just be
9 accompanied by some overt act, threatening act,
10 overt act, threatening act, which could have
11 produced the heat of passion.

12 The exercise of a legal right, no matter how
13 offensive it is to another, is never sufficient
14 legal provocation for voluntary manslaughter. Now,
15 folks, I want you to know that if the heat of
16 passion had cooled, or if there was enough time
17 between the provocation, if any, and the killing for
18 the passion of a reasonable person to cool, then the
19 killing would not be voluntary manslaughter. In
20 deciding whether a reasonable person would have had
21 enough time to cool off, you should consider all the
22 circumstances surrounding the killing.

23 You may consider the nature of the provocation,
24 if any, the Defendants' mental and physical state,
25 and the circumstances in relationship between these

1 parties.

2 Now, folks, I want to instruct you at this time
3 the law of mutual combat. What's mutual combat?
4 Mutual combat exists, ladies and gentlemen, when
5 there's a mutual intent and willingness to fight.
6 Mutual intent is manifested by the acts and conduct
7 of the parties and the circumstances attending and
8 leading up to the combat itself, and there was an
9 agreement to fight between the parties. As to the
10 agreement to fight, to constitute mutual combat,
11 it's not necessary that there should be a positive
12 agreement between the participating parties to enter
13 the combat.

14 It is sufficient if they willfully enter into
15 the conflict upon the impulse of the moment. Both
16 sides are armed and both sides are armed with
17 weapons, and each side must know the other side is
18 armed. I charge you that where there -- I charge
19 you that where people agree to have a mutual combat,
20 they are engaged in an unlawful act, they are all
21 presumed and intend the consequences which naturally
22 flow from the unlawful act.

23 I charge you that everyone's presumed to know
24 the consequences of its act, and if anyone
25 voluntarily enters a mutual combat, where deadly

1 weapons are used, knowing that they are being used
2 and death results to one of the participating
3 parties, or an innocent bystander, everyone engaged
4 in such combat is equally guilty. Additionally,
5 whether he was on one side or the other makes no
6 difference. Where they -- where are all
7 participating in mutual combat, all are equally
8 responsible for the natural consequences flowing
9 from their unlawful conduct in engaging in the
10 mutual combat.

11 And now, ladies and gentlemen, I must instruct
12 you that the combined hail of bullets that result
13 from a battle are jointly responsible for the fatal
14 injury. Such that a determination of which
15 Defendants' bullet actually caused the death is
16 unnecessary, and you should not, ladies and
17 gentlemen, concern yourself with the origins of the
18 bullet that was responsible for the killing.

19 Ladies and gentlemen, the Defendants are charged
20 with possession of a weapon during the commission of
21 a violent crime. The State must prove beyond a
22 reasonable doubt that the Defendants were in
23 possession of a firearm, or visibly displayed what
24 appeared to be a firearm during the commission of a
25 violent crime. Firearms -- a firearm means a

1 machine gun, automatic rifle, revolver, pistol or
2 any weapon which is designed to or may be readily
3 converted to expel a projectile. In order to find
4 the Defendants guilty of possession of a weapon
5 during the commission of a violent crime, you must
6 first find the Defendants guilty of either
7 committing a violent crime. Murder, ladies and
8 gentlemen, and voluntary manslaughter are violent
9 crimes. Counsel approach.

10 You'all just stand up and take a stretch.

11 (Bench conference.)

12 THE COURT: All right, thank you, ladies and
13 gentlemen. All right, ladies and gentlemen, I'll
14 pick up right before I left off. So, ladies and
15 gentlemen, you must first find the Defendants guilty
16 of either committing a violent crime. I instruct
17 you, ladies and gentlemen, murder and voluntary
18 manslaughter, they are violent crimes.

19 The State must prove beyond a reasonable doubt
20 that the weapon further advanced or helped in the
21 commission of the crime. Now, I want you to know
22 this, I charge you that there are two Defendants in
23 this case, each of whom are charged with murder and
24 possession of a weapon during the commission of a
25 violent crime.

1 The case of each Defendant and the evidence and
2 the law concerning that Defendant should be
3 considered separately and individually. Your
4 verdict does not have to be the same for both
5 Defendants. The fact that you may find one
6 Defendant guilty or not guilty should not control
7 your verdict as to the other Defendant. Where more
8 than one person is charged with a crime, if the
9 evidence warrants it, you may convict one and acquit
10 the other, or you may acquit both, or you may
11 convict both, it will depend on your view of the
12 testimony in evidence.

13 Ladies and gentlemen, you must take each
14 Defendant and consider the evidence as to that
15 Defendant and my instructions to you upon the law.
16 You will then write a separate verdict of guilty or
17 not guilty for each individual Defendant.

18 Now, ladies and gentlemen, I've got a few more
19 remarks to make before you begin your deliberations.
20 I want you to clearly understand that you are not
21 partisans nor advocates for the State of South
22 Carolina or the Defendants. It's your duty, by your
23 joint deliberations, to determine the facts in this
24 case, giving to the Defendants the benefit of every
25 reasonable doubt on each and every issue.

1 Then to the facts which you determine to be
2 true, you should then take and apply the law which
3 has been given to you by this Court, and thus arrive
4 at a verdict in this case. Thus, when you have
5 accomplished these responsibilities, folks, you will
6 have satisfied your oath as jurors, and you will
7 have discharged your duty to this Court. Once you
8 retire to the jury room, the Bailiff will give you
9 the verdict forms, and give them to the Foreperson,
10 and when the jury's arrived at a verdict as to the
11 offenses charged in this case, the Foreperson will
12 select the verdict, as to that offense on the
13 verdict form.

14 If the State has failed to prove guilt of the
15 Defendants beyond a reasonable doubt, your verdict
16 will be not guilty. Likewise, if the State has
17 proven the guilt of the Defendants beyond a
18 reasonable doubt, your verdict will be guilty. Once
19 a decision has been made, the Foreperson will check
20 whichever choice the verdict is of the jury, and --
21 as to the offenses charged. Now, I want you to know
22 the verdict that you render in this case is the
23 verdict of each and every juror.

24 What does that mean? It means your verdict must
25 be unanimous. All 12 jurors must agree on the

1 verdict which you authorized the Foreperson to write
2 for the jury. Ladies and gentlemen, I further want
3 you to understand that the order in which the
4 choices appear on the verdict form are not
5 suggestive of any verdict on the part of the Court.
6 The verdict in this case has been determined by you,
7 the jury, not the Court. Furthermore, ladies and
8 gentlemen, please understand that even though I'll
9 give the verdict form to the Foreperson, it's not
10 her verdict alone, it's the verdict of all 12 of
11 you.

12 And, again, I emphasize it's got to be
13 unanimous. You must consider my instructions that
14 I've given you as a whole, and not follow some and
15 ignore others. Now, in just a moment I'm gonna ask
16 you to retire to the jury room, but I don't want you
17 to begin your deliberations until you're told to do
18 so. The law requires that I consult with the
19 attorneys to make sure that I've not left anything
20 out of the instructions. After I've checked with
21 the attorneys, the Bailiff will bring the verdict
22 form, and will instruct you to begin your
23 deliberations.

24 Also, should you have any questions during your
25 deliberations, you must put them in writing, and

1 send them to me by the Bailiff. The Bailiff will be
2 placed immediately outside the jury room door during
3 your deliberations. If you have a question, please
4 do not write the breakdown of any vote that you may
5 have taken on that piece of paper that you give the
6 Bailiff, okay? So in the course of deliberating, if
7 you have a question that arises, you can give the
8 question to the Bailiff, but don't -- if you'all
9 have taken a vote or -- don't ever put down what
10 that vote is, that's not for us to know, just the
11 question okay?

12 Now, once you've reached the verdict, you simply
13 knock on the door, and ask the Bailiff to advise the
14 Court that you've reached a verdict, and we'll get
15 you back here as soon as we can. Now, before you
16 retire, let me step down here, because what I want
17 to do is, I'm gonna show you these verdict forms.
18 So what we've got are two verdict forms, one for
19 each Defendant, okay? And so what we have is, "We
20 the jury in the above-captioned case on the charge
21 of murder of Donovan Hay," this one I just pulled
22 out, "find the Defendant, Xaiver Rivers," and, of
23 course, this one says, "find the Defendant Jharaun
24 Washington," Foreperson shall checkmark not guilty,
25 guilty, and it's the same on this one, okay?

1 Now, in the event that you answer not guilty to
2 question one, you can proceed to question two, okay?
3 Question two, "We, the jury, in the above-captioned
4 case on the charge of voluntary manslaughter of
5 Donovan Hay find the Defendant, Xavier Rivers," and
6 on this verdict form, find the Defendant, Jharaun
7 Washington, not guilty or guilty, okay? In the even
8 that you answer not guilty to question two, you can
9 stop your deliberations, okay?

10 And I filled out here, "In the event of guilty
11 to question one, you go directly to question three."
12 And I'm sorry I skipped over that one. So right
13 here, if you find not guilty, you go to -- if you
14 find guilty, you go to three. If you find not
15 guilty to two, then you stop. And if you find
16 guilty to question two, then you go to number three,
17 okay?

18 So once you fill out the first, and just look to
19 the bold print, I think, hopefully, it'll direct you
20 right where to go. And when you get back there, if
21 you have a question, you certainly can ask. And
22 then question three, "We, the jury, in the above-
23 captioned case charge possession of a weapon during
24 the commission of a violent crime, find the
25 Defendant," this one says Xavier Rivers, and, of

1 course, this one says, Jharaun Washington, not
2 guilty and guilty.

3 And once you reach your verdict, if I'd just
4 have my Foreperson sign their name right there, and,
5 of course, once you reach your verdict, just knock
6 on the door and let the Bailiff know you've reached
7 a verdict, okay?

8 So I'm gonna ask that you go back to the jury
9 room, but do not start your deliberations yet,
10 because I've got to check and make sure I charged
11 you properly, and that there's no objections or any
12 problems with the lawyers. And then once I do that,
13 I'm gonna go and send the form back to you, and you
14 can begin your deliberations. And I believe Ms.
15 Bostick was gracious enough to get us some pizza.

16 CLERK: Yes, sir.

17 THE COURT: All right. So we're sort of
18 providing lunch today, because we'd love to have you
19 just work through lunch with your deliberations,
20 because, again, I want you to all be together as you
21 start and continue and go through your
22 deliberations. So if you'll go back, but don't
23 start your deliberations yet, thank you.

24 (Jury exits the courtroom.)

25 THE COURT: All right, are there any exceptions

1 or any problems concerning the charges that I've
2 presented to the jury and the information that I've
3 provided to them concerning the verdict form from
4 the State?

5 MS. CAMPBELL: No, sir.

6 THE COURT: Form the defense?

7 MS. CARMODY: No, Your Honor.

8 MR. HALL: No, Your Honor.

9 THE COURT: All right, great, thank you. In
10 that case, folks, I'm gonna hand the verdict forms
11 to the Clerk. Are you'all gonna send the evidence
12 back?

13 That's fine. We can -- I would like you'all to
14 go ahead and come to an agreement, as to what's
15 going back. My preference is that if you send the
16 guns back, you don't send the bullets back, or if
17 you send the bullets back, let them ask for -- I
18 generally like to have -- if they want to look at
19 the bullets, they can look at the bullets, I just
20 don't like guns and bullets back in the jury room at
21 the same time.

22 MS. CAMPBELL: That's fine with the State.

23 THE COURT: Is that a problem?

24 MR. HALL: No, that's not a problem, Your Honor.

25 MS. CARMODY: No, problem, Your Honor.

1 THE COURT: All right, so you can let them know
2 -- my Bailiff will let them know when he takes the
3 information back, for instance, that -- let's send
4 -- whatever you'all want to do, you'all can send the
5 guns back or the bullets or not, whatever you want
6 to do. I just don't want guns and bullets going
7 back in the jury room at the same time.

8 MR. HALL: Yeah, I don't think it's -- we were
9 talking about the unspent ammunition.

10 THE COURT: Oh, the unspent ammunition I don't
11 care about that, I'm just talking about the live
12 rounds.

13 MR. HALL: That what I mean by unspent.

14 THE COURT: Oh, yes, sir, oh, I'm sorry, yes,
15 sir.

16 MR. HALL: Yeah, unspent has no need to go back
17 at all.

18 THE COURT: Yes, sir. All right, that'll be
19 fine, but if we can do that. You'all go ahead and
20 take a minute, and let's decide what goes back.

21 MS. CAMPBELL: Yeah, we've got everything over
22 here, and we're gonna put everything out here on the
23 table where everybody can see it.

24 THE COURT: All right, so we can go back -- let
25 me put it for the record, there's an agreement as to

1 everything that's going back and there's an
2 agreement as to all the matters that have been
3 entered into evidence from the State?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Ms. Carmody?

6 MS. CARMODY: Yes, sir.

7 THE COURT: Mr. Hall?

8 MR. HALL: Yes, Your Honor.

9 THE COURT: All right, so we're going to take
10 that back. Tell them to commence their
11 deliberations, and we're gonna pull our two jurors
12 out, and we're gonna discharge our alternate jurors;
13 is that correct?

14 MS. CAMPBELL: Your Honor, should we let them
15 know --

16 THE COURT: Yeah, let them --

17 Ms. Bostick, let them know that we're keeping
18 the live rounds out. If they want to see the live
19 rounds, we'll send them back, but we'll have to
20 remove the guns, okay?

21 CLERK: Okay.

22 THE COURT: Counsel approach.

23 (Bench conference.)

24 THE COURT: All right. All right, Solicitor, I
25 need to speak to you on another matter, and probably