

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Jan 30 2025

SC Court of Appeals

Appeal from Horry County

Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DON LEEQUIN BROWN,

APPELLANT

APPELLATE CASE NO. 2023-001336

RECORD ON APPEAL

KATHRINE H. HUDGINS
Senior Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MELODY J. BROWN
Senior Assistant Deputy Attorney General

KAYLEE C. KEMP
Assistant Attorney General

ATTORNEY FOR APPELLANT

Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-6307

JIMMY A. RICHARDSON, II
Fifteenth Circuit Solicitor's Office
PO Box 1276
Conway, SC 29528

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

TRIAL TRANSCRIPT DATED MAY 22-25, 2023 1

JACKSON V. DENNO HEARING

SEAN WYDRA (*IN-CAMERA*)
 Direct Examination by Ms. Livesay 19
 Cross-Examination by Mr. Pinkerton 26
 Cross-Examination by Mr. Gardner.....29

KEN MARCUS (*IN-CAMERA*)
 Direct Examination by Ms. Livesay 31
 Cross-Examination by Mr. Pinkerton 34
 Cross-Examination by Mr. Gardner.....38

COURT’S RULING FINDING DEFENDANT MITCHELL’S STATEMENT
 ADMISSIBLE 42

JACKSON V. DENNO HEARING

CHRISTOPHER EDWARDS (*IN-CAMERA*)
 Direct Examination by Ms. Livesay 43
 Cross-Examination by Mr. Gardner.....49

DEFENSE’S MOTION *IN LIMINE* TO EXCLUDE STATEMENTS IMPLICATING
 NON-TESTIFYING DEFENDANTS BY MR. BOUCHETTE 57

COURT DEFERS RULING ON MOTION TO EXCLUDE STATEMENTS
 IMPLICATING NON-TESTIFYING DEFENDANTS.....61

OPENING STATEMENT BY MR. HELMS 90

OPENING STATEMENT ON BEHALF OF DEFENDANT RANSOM BY MR.
 BOUCHETTE 98

OPENING STATEMENT ON BEHALF OF DEFENDANT MITCHELL BY MR.
 PINKERTON 107

OPENING STATEMENT ON BEHALF OF DEFENDANT BROWN BY MR.
 GARDNER.....109

TESTIMONY**PETER GARLAND**

Direct Examination by Mr. Helms.....113

Cross-Examination by Mr. Bouchette.....122

Cross-Examination by Mr. Pinkerton 125

DANIEL WRIGHT

Direct Examination by Mr. Helms.....127

JUSTIN JONES

Direct Examination by Ms. Livesay 132

DEFENSE’S OBJECTION TO STATE’S EXHIBIT #52 (BODY CAM VIDEO) BY**MR. BOUCHETTE 138****TESTIMONY****COURT’S RULING FINDING STATE’S EXHIBIT #52 (BODY CAM VIDEO)****ADMISSIBLE 144****TESTIMONY****JUSTIN JONES**

Continued Direct Examination by Ms. Livesay.....146

Cross-Examination by Mr. Bouchette.....156

Cross-Examination by Mr. Pinkerton 161

Redirect Examination by Ms. Livesay.....162

JACOB HILL

Direct Examination by Ms. Livesay 165

Cross-Examination by Mr. Bouchette.....212

Cross-Examination by Mr. Pinkerton 221

Cross-Examination by Mr. Gardner.....224

Redirect Examination by Ms. Livesay.....228

BRITNEY MILAM

Direct Examination by Mr. Helms.....236

Cross-Examination by Mr. Bouchette.....254

Cross-Examination by Mr. Pinkerton 258

Cross-Examination by Mr. Gardner.....260

ORLIN LOPEZ

Direct Examination by Mr. Helms.....262

Cross-Examination by Mr. Bouchette.....281

Cross-Examination by Mr. Pinkerton	293
Cross-Examination by Mr. Gardner.....	296
Redirect Examination by Mr. Helms	300
SHAMONTAE GRAHAM	
Direct Examination by Ms. Livesay	307
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #53 (DVD OF APARTMENTS) BY MR. BOUCHETTE	314
DEFENSE’S MOTION JOINING ON IN OBJECTION TO STATE’S EXHIBIT #53 (DVD OF APARTMENTS) BY MR. PINKERTON	315
DEFENSE’S MOTION JOINING ON IN OBJECTION TO STATE’S EXHIBIT #53 (DVD OF APARTMENTS) BY MR. GARDNER.....	315
COURT’S RULING FINDING STATE’S EXHIBIT #53 (DVD OF APARTMENTS) ADMISSIBLE	315
TESTIMONY	
SHAMONTAE GRAHAM	
Continued Direct Examination by Ms. Livesay.....	315
COURT DENIES MOTION TO EXCLUDE STATEMENTS IMPLICATING NON- TESTIFYING DEFENDANTS.....	350
DEFENSE’S MOTION JOINING IN ON MOTION TO EXCLUDE STATEMENTS IMPLICATING NON-TESTIFYING DEFENDANTS BY MR. PINKERTON	353
TESTIMONY	
SHAMONTAE GRAHAM	
Cross-Examination by Mr. Bouchette.....	361
Cross-Examination by Mr. Pinkerton	375
Cross-Examination by Mr. Gardner.....	377
Redirect Examination by Ms. Livesay.....	380
DEFENSE’S OBJECTION TO MENTION OF SECONDARY SHOOTING BY MR. PINKERTON	387
COURT SUSTAINS OBJECTION TO MENTION OF SECONDARY SHOOTING.....	389
TESTIMONY	
SHAMONTAE GRAHAM	

Continued Redirect Examination by Ms. Livesay	389
DEFENSE’S MOTION FOR A MISTRIAL BY MR. PINKERTON	389
DEFENSE’S MOTION JOINING IN ON MOTION FOR A MISTRIAL BY MR. BOUCHETTE	390
DEFENSE’S MOTION JOINING IN ON MOTION FOR A MISTRIAL BY MR. GARDNER.....	390
RESPONSE BY MS. LIVESAY	390
COURT GIVES CURATIVE INSTRUCTION.....	394
TESTIMONY	
SANDY LOWE	
Direct Examination by Ms. Livesay	397
DEFENSE’S OBJECTION TO STATE’S EXHIBITS #55-60 (PHOTOGRAPHS OF DEFENDANT) BY MR. BOUCHETTE	399
DEFENSE’S MOTION JOINING IN ON OBJECTION TO STATE’S EXHIBITS #55-60 (PHOTOGRAPHS OF DEFENDANT) BY MR. PINKERTON.....	399
DEFENSE’S MOTION JOINING IN ON OBJECTION TO STATE’S EXHIBITS #55-60 (PHOTOGRAPHS OF DEFENDANT) BY MR. GARDNER.....	399
COURT’S RULING FINDING STATE’S EXHIBITS #55-60 (PHOTOGRAPHS OF DEFENDANT) ADMISSIBLE.....	400
COURT DENIES MOTION FOR A MISTRIAL.....	410
TESTIMONY	
SANDY LOWE	
Continued Direct Examination by Ms. Livesay.....	412
Cross-Examination by Mr. Pinkerton	413
DE’SHON SAMUEL	
Direct Examination by Mr. Helms.....	413
Cross-Examination by Mr. Bouchette.....	429
Cross-Examination by Mr. Pinkerton	431
DREW EDWARDS	

Direct Examination by Ms. Livesay	433
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #50 (MIRANDA RIGHTS FORM/RANSOM) BY MR. PINKERTON.....	436
COURT’S RULING FINDING STATE’S EXHIBIT #50 (MIRANDA RIGHTS FORM/RANSOM) ADMISSIBLE	437

TESTIMONY

DREW EDWARDS	
Continued Direct Examination by Ms. Livesay.....	437
Cross-Examination by Mr. Bouchette.....	445
Cross-Examination by Mr. Pinkerton	449
Redirect Examination by Ms. Livesay.....	449
SEAN WYDRA	
Direct Examination by Ms. Livesay	451
DEFENSE’S OBJECTION TO STATE’S EXHIBIT #51 (MIRANDA RIGHTS FORM/MITCHELL) BY MR. BOUCHETTE	453
COURT’S RULING FINDING STATE’S EXHIBIT #51 (MIRANDA RIGHTS FORM/MITCHELL) ADMISSIBLE	454

TESTIMONY

SEAN WYDRA	
Continued Direct Examination by Ms. Livesay.....	454
Cross-Examination by Mr. Pinkerton	459
KEN MARCUS	
Direct Examination by Ms. Livesay	461
Cross-Examination by Mr. Pinkerton	487
JAYLA BOONE	
Direct Examination by Mr. Helms.....	488
SARAH HEMINGWAY	
Direct Examination by Ms. Livesay	499
Cross-Examination by Mr. Bouchette.....	509
DENNIS LEWIS	
Direct Examination by Ms. Livesay	512

DEFENSE’S OBJECTION TO STATE’S EXHIBIT #39 (ENLARGED CRIME SCENE MAP) BY MR. BOUCHETTE	517

DEFENSE’S MOTION JOINING IN ON OBJECTION TO STATE’S EXHIBIT #39 (ENLARGED CRIME SCENE MAP) BY MR. PINKERTON	518

DEFENSE’S MOTION JOINING IN ON OBJECTION TO STATE’S EXHIBIT #39 (ENLARGED CRIME SCENE MAP) BY MR. GARDNER.....	518

COURT’S RULING FINDING STATE’S EXHIBIT #39 (ENLARGED CRIME SCENE MAP) ADMISSIBLE	518

TESTIMONY

DENNIS LEWIS	
Continued Direct Examination by Ms. Livesay.....	518
Cross-Examination by Mr. Bouchette.....	534
Cross-Examination by Mr. Pinkerton	536
Redirect Examination by Ms. Livesay	541

LAURIE DUDLEY	
Direct Examination by Ms. Livesay	547

PATTY BELLAMY	
Direct Examination by Mr. Helms.....	554
Cross-Examination by Mr. Bouchette.....	557

MIKKIE MCLEOD	
Direct Examination by Mr. Helms.....	564
Cross-Examination by Mr. Bouchette.....	587
Cross-Examination by Mr. Pinkerton	599
Cross-Examination by Mr. Gardner.....	604
Redirect Examination by Mr. Helms	606

VERA MARTINEZ	
Direct Examination by Ms. Livesay	611

LAURIE SHACKER	
Direct Examination by Ms. Livesay	615

JANA WEAVER	
Direct Examination by Ms. Livesay	618
Cross-Examination by Mr. Bouchette.....	628
Cross-Examination by Mr. Pinkerton	629
Redirect Examination by Ms. Livesay.....	630

STATE RESTS.....	632
DEFENSE’S RENEWAL OF MOTION FOR MISTRIAL BY MR. BOUCHETTE	633
DEFENSE’S MOTION JOINING IN ON RENEWAL OF MOTION FOR MISTRIAL AND RENEWAL OF ALL PRIOR MOTIONS BY MR. PINKERTON	635
DEFENSE’S MOTION JOINING IN ON RENEWAL OF MOTION FOR MISTRIAL AND RENEWAL OF ALL PRIOR MOTIONS BY MR. GARDNER.....	636
DEFENSE’S JOINT OBJECTION TO CHARGING ABHAN AS LESSER INCLUDED OFFENSE.....	656
CLOSING ARGUMENT BY MS. LIVESAY.....	665
CLOSING ARGUMENT ON BEHALF OF DEFENDANT RANSOM BY MR. BOUCHETTE	685
CLOSING ARGUMENT ON BEHALF OF DEFENDANT MITCHELL BY MR. PINKERTON	697
CLOSING ARGUMENT ON BEHALF OF DEFENDANT BROWN BY MR. GARDNER.....	701
CHARGE ON THE LAW	719
DEFENSE’S RENEWAL OF MOTION TO CHARGE INFERRED MALICE BY MR BOUCHETTE	736
DEFENSE’S MOTION JOINING IN ON MOTION TO CHARGE INFERRED MALICE BY MR. PINKERTON.....	737
JURY QUESTION	739
RESPONSE BY THE COURT	741
VERDICT.....	743
SENTENCING	757
HEARING TRANSCRIPT DATED AUGUST 10, 2023	758
DEFENSE’S MOTION TO RECONSIDER SENTENCE BY MR. GARDNER	759
RESPONSE BY MR. HELMS	759

REPLY BY MR. GARDNER.....	761
INDICTMENTS AND SENTENCE SHEETS.....	762
DEFENDANT’S MOTION TO RECONSIDER SENTENCE	778
DEFENDANT’S MOTION FOR A NEW TRIAL	780
CERTIFICATE OF COUNSEL	784

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT #32 (3715 WAYSIDE DRIVE DVD), STATE’S EXHIBIT #33 (3705
WAYSIDE DRIVE DVD), AND STATE’S EXHIBIT #53 (DVD OF APARTMENTS).**

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
 3 -----X
 4 STATE OF SOUTH CAROLINA, *
 5 Plaintiff, *
 6 vs. * Case No. 2021-GS-26-05564,
 7 CHE RANSOM, * et al.
 8 Defendant. *
 9 -----X
 10 STATE OF SOUTH CAROLINA, *
 11 Plaintiff, *
 12 vs. * Case No. 2023-GS-26-00279,
 13 TRAVONTAE J. MITCHELL, * et al.
 14 Defendant. *
 15 -----X
 16 STATE OF SOUTH CAROLINA, *
 17 Plaintiff, *
 18 vs. * Case No. 2022-GS-26-02891,
 19 DON LEEQUIN BROWN, * et al.
 20 Defendant. *
 21 -----X

May 22-25, 2023

JURY TRIAL

B E F O R E:

The Honorable Benjamin H. Culbertson, Presiding Judge;
 and a jury.

Court Reporter: Bobbi Fisher, RPR
 SC Official Court Reporter III

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

Nancy Livesay, Esq.

Christopher Helms, Esq.

Assistant Solicitors for the State

Jarrett Bouchette, Esq.

Attorney for Defendant Ransom

Clay Pinkerton, Esq.

Attorney for Defendant Mitchell

Johnny Gardner, Esq.

Attorney for Defendant Brown

1	<u>I N D E X</u>	<u>PAGE</u>
2	<u>WITNESS/DESCRIPTION</u>	
3	MOTIONS/MATTERS OF LAW	13
4	JACKSON V. DENNO HEARING	19
5	Detective Sean Wydra (Hearing Portion)	
6	Direct Examination By Ms. Livesay	20
7	Cross-Examination By Mr. Pinkerton	26
8	Cross-Examination By Mr. Gardner	29
9	Detective Ken Marcus (Hearing Portion)	
10	Direct Examination By Ms. Livesay	31
11	Cross-Examination By Mr. Pinkerton	34
12	Cross-Examination By Mr. Gardner	38
13	Detective Christopher Edwards (Hearing Portion)	
14	Direct Examination By Ms. Livesay	43
15	Cross-Examination By Mr. Gardner	49
16	JURY VOIR DIRE	66
17	JURY SELECTION	85
18	MOTIONS/MATTERS OF LAW	107
19	OPENING REMARKS	115
20	JUROR ISSUE	123
21	OPENING STATEMENT ON BEHALF OF THE STATE	139
22	OPENING STATEMENT ON BEHALF OF DEFENDANT RANSOM	147
23	OPENING STATEMENT ON BEHALF OF DEFENDANT MITCHELL	156
24	OPENING STATEMENT ON BEHALF DEFENDANT BROWN	158
25		

1	PETER GARLAND	
2	Direct Examination By Mr. Helms	162
3	Cross-Examination By Mr. Bouchette	171
4	Cross-Examination By Mr. Pinkerton	174
5	DANIEL WRIGHT	
6	Direct Examination By Mr. Helms	176
7	JUSTIN JONES	
8	Direct Examination By Ms. Livesay	181
9	Cross-Examination By Mr. Bouchette	205
10	Cross-Examination By Mr. Pinkerton	209
11	Redirect Examination By Ms. Livesay	211
12	JACOB HILL	
13	Direct Examination By Ms. Livesay	214
14	MOTIONS/MATTERS OF LAW	249
15	Cross-Examination By Mr. Bouchette	261
16	Cross-Examination By Mr. Pinkerton	270
17	Cross-Examination By Mr. Gardner	273
18	Redirect Examination By Ms. Livesay	277
19	BRITNEY MILAM	
20	Direct Examination By Mr. Helms	285
21	Cross-Examination By Mr. Bouchette	303
22	Cross-Examination By Mr. Pinkerton	307
23	Cross-Examination By Mr. Gardner	309

24

25

1	ORLIN LOPEZ	
2	Direct Examination By Mr. Helms	311
3	Cross-Examination By Mr. Bouchette	330
4	Cross-Examination By Mr. Pinkerton	342
5	Cross-Examination By Mr. Gardner	345
6	Redirect Examination By Mr. Helms	349
7	MOTIONS/MATTERS OF LAW	350
8	SHAMONTAE GRAHAM	
9	Direct Examination By Ms. Livesay	356
10	MOTIONS/MATTERS OF LAW	396
11	Cross-Examination By Mr. Bouchette	410
12	Cross-Examination By Mr. Pinkerton	424
13	Cross-Examination By Mr. Gardner	426
14	Redirect Examination By Ms. Livesay	429
15	MOTIONS/MATTERS OF LAW	439
16	Continuing Redirect Examination By Ms. Livesay	445
17	SANDY LOWE	
18	Direct Examination By Ms. Livesay	446
19	MOTIONS/MATTERS OF LAW	451
20	Continuing Direct Examination By Ms. Livesay	461
21	Cross-Examination By Mr. Pinkerton	462
22	DE'SHON SAMUEL	
23	Direct Examination By Mr. Helms	463
24	Cross-Examination by Mr. Bouchette	478
25	Cross-Examination By Mr. Pinkerton	480

1	DETECTIVE DREW EDWARDS	
2	Direct Examination By Ms. Livesay	482
3	Cross-Examination By Mr. Bouchette	494
4	Cross-Examination By Mr. Pinkerton	498
5	Redirect Examination By Ms. Livesay	498
6	DETECTIVE SEAN WYDRA	
7	Direct Examination By Ms. Livesay	500
8	Cross-Examination By Mr. Pinkerton	508
9	DETECTIVE KEN MARCUS	
10	Direct Examination By Ms. Livesay	510
11	MOTIONS/MATTERS OF LAW	517
12	Cross-Examination By Mr. Pinkerton	535
13	JAYLA BOONE	
14	Direct Examination By Mr. Helms	537
15	SARAH HEMINGWAY	
16	Direct Examination By Ms. Livesay	548
17	Cross-Examination By Mr. Bouchette	558
18	DENNIS LEWIS	
19	Direct Examination By Ms. Livesay	561
20	Cross-Examination By Mr. Bouchette	583
21	Cross-Examination By Mr. Pinkerton	585
22	Redirect Examination By Ms. Livesay	590
23	LAURIE DUDLEY	
24	Direct Examination By Ms. Livesay	596
25		

1	PATTY BELLAMY	
2	Direct Examination By Mr. Helms	603
3	Cross-Examination By Mr. Bouchette	606
4	MIKKIE MCLEOD	
5	Direct Examination By Mr. Helms	614
6	Cross-Examination By Mr. Bouchette	636
7	Cross-Examination By Mr. Pinkerton	648
8	Cross-Examination By Mr. Gardner	653
9	Redirect Examination By Mr. Helms	655
10	VERA MARTINEZ	
11	Direct Examination By Ms. Livesay	660
12	LAURIE SHACKER	
13	Direct Examination By Ms. Livesay	664
14	JANA WEAVER	
15	Direct Examination By Ms. Livesay	667
16	Cross-Examination By Mr. Bouchette	677
17	Cross-Examination By Mr. Pinkerton	678
18	Redirect Examination By Ms. Livesay	679
19	MOTIONS/MATTERS OF LAW	682
20	DEFENDANTS' RIGHTS	688
21	MOTIONS/MATTERS OF LAW	703
22	CLOSING ARGUMENT ON BEHALF OF THE STATE	714
23	CLOSING ARGUMENT ON BEHALF OF DEFENDANT RANSOM	734
24	CLOSING ARGUMENT ON BEHALF OF DEFENDANT MITCHELL	746
25	CLOSING ARGUMENT ON BEHALF OF DEFENDANT BROWN	750

		8
1	JURY CHARGE	768
2	JURY QUESTION/NOTE	788
3	VERDICT	792
4	SENTENCING	805
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
1	(ID ONLY) Miranda	13	
	Rights/Whittington		
2	(ID ONLY) Whittington Interview	13	
	DVD		
3	Bullet	13	573
4	Bullet	13	573
5	Bullet	13	573
6	Bullet	13	573
7	Bullet	13	573
8	Bullet	13	573
9	Bullet	13	573
10	Bullet	13	573
11	Bullet	13	573
12	Envelope for Bullets	13	574
13	D Street 911 Call	13	165
14	911 Call Log	13	179
15	(ID ONLY) Justin Jones Body Cam DVD	13	
16	Enlarged Map of Area	13	184
17	Military Time Chart	13	202
18	Photo of Tahoe	13	234
19	Photo of Tahoe	13	234

				10
1	20	Photo of Tahoe	13	234
2	21	Photo of Tahoe	13	234
3	22	Photo of Tahoe	13	234
4	23	Photo of Tahoe	13	234
5	24	Photo of Tahoe	13	234
6	25	Photo of Tahoe	13	234
7	26	Photo of Tahoe	13	234
8	27	Photo of Phone Screen/Facebook	13	223
9		Messages		
10	28	Photo of Phone Screen/Facebook	13	223
11		Messages		
12	29	Photo of Phone Screen/Facebook	13	223
13		Messages		
14	30	Photo of Phone Screen/Facebook	13	223
15		Messages		
16	31	Photo of Phone Screen/Facebook	13	223
17		Messages		
18	32	3715 Wayside Drive DVD	13	239
19	33	3705 Wayside Drive DVD	13	239
20	34	(ID ONLY) Facebook Messages	13	
21	35	(ID ONLY) Facebook Messages	13	
22	36	(ID ONLY) EME Apartment Video	13	
23		(same as #53)		
24	37	(ID ONLY) Graham Affidavit	13	
25		(Handwritten)		

			11
1	38	(ID ONLY) Letter to Brana Williams	13
2	39	Enlarged Crime Scene Map	13 567
3	40	Photo of Chevy Caprice	13 579
4	41	Photo of Chevy Caprice	13 466
5	42	Photo of Chevy Caprice	13 579
6	43	Photo of Chevy Caprice	13 579
7	44	Photo of Chevy Caprice	13 579
8	45	Photo of Chevy Caprice	13 579
9	46	Photo of Chevy Caprice	13 579
10	47	Photo of Chevy Caprice	13 579
11	48	Photo of Chevy Caprice	13 579
12	49	(ID ONLY) Photo of AR Gun	13
13	50	Miranda Rights Form/Ransom	13 486
14	51	Miranda Rights Form/Mitchell	13 503
15	52	Body Cam Video	186 196
16	53	DVD of Apartments	353 364
17	54	Enlarged Chart	390 390
18	55	Photograph of Defendant	447 449
19	56	Photograph of Defendant	447 449
20	57	Photograph of Defendant	447 449
21	58	Photograph of Defendant	447 449
22	59	Photograph of Defendant	447 449
23	60	Photograph of Defendant	447 449
24	61	(ID ONLY) Alias Names	449
25	62	(ID ONLY) Alias Names	449

1	63	(ID ONLY) Alias Names	449	
2	64	(ID ONLY) Alias Names	449	
3	65	Scene Photograph	562	566
4	66	Scene Photograph	562	566
5	67	Scene Photograph	562	566
6	68	Scene Photograph	562	566
7	69	Scene Photograph	562	566
8	70	Scene Photograph	562	566
9	71	Scene Photograph	562	566
10	72	Scene Photograph	562	566
11	73	Scene Photograph	562	566
12	74	Scene Photograph	562	566
13	75	Scene Photograph	562	566
14	76	Scene Photograph	562	566
15	77	Scene Photograph	562	566
16	78	Scene Photograph	562	566
17	79	Scene Photograph	562	566
18	80	Sled Packing Slip	601	599

19

20

21 Court's Exhibits

22	No.	Description	ID.	
23	1	Jury Question/Note	791	791

24

25

P R O C E E D I N G S

(General Jury Qualifications were completed by Judge Culbertson and a lunch recess taken from 12:55 p.m. to 1:31 p.m.)

(The trial commences at 1:31 p.m.)

(State's Exhibit Nos. 1 through 51 were marked for identification.)

MOTIONS/MATTERS OF LAW

THE COURT: All right. On State vs. Che Leon Ransom, Jr. -- do we have the indictments? Because the charges on the roster y'all printed out doesn't match what's been published as far as -- conspiracy to kidnap is not even on the roster, the published roster or this roster.

On the published roster, you've got a murder and three attempted murders. On the roster y'all gave me, you had murder, two attempted murders, and a possession of a weapon during the commission of a violent crime. Now, the indictments she just gave me is a murder, three attempted murders, and a conspiracy to kidnap.

MS. LIVESAY: The only ones we intend on going forward with, Your Honor, is the murder and the conspiracy to kidnap.

THE COURT: All right. So for Che --

MR. GARDNER: Your Honor, if I may. I'm aware of

1 the murder and the three counts of attempted murder. I
2 have not been served with an indictment for conspiracy to
3 kidnap. In fact, I hadn't been served with the indictment
4 for the firearm charge, but I understand they're not going
5 forward on it, so that's moot.

6 THE COURT: Conspiracy to kidnap, indicted on March
7 the 22nd.

8 MR. GARDNER: Of this year, Your Honor?

9 THE COURT: Yeah.

10 MR. GARDNER: In March of this year?

11 THE COURT: March 22 of 2023, was true billed.

12 MR. GARDNER: That was also not part of the original
13 arrests and warrants.

14 THE COURT: I mean, did they know about this charge?

15 MS. LIVESAY: We included it on the subpoena that we
16 served them and the defendant the indictment numbers for
17 the murder, the attempted murder, as well as the
18 conspiracy of kidnap to put them on notice.

19 THE COURT: When did you serve them with this
20 indictment?

21 MS. LIVESAY: We never served them with that. We
22 sent them a subpoena, and on the subpoena, it had all the
23 indictment numbers on it that we were moving forward with.

24 THE COURT: All right. Let me see -- have you got a
25 copy of that subpoena?

1 MR. HELMS: Court's indulgence, Your Honor.

2 MR. BOUCHETTE: Even if they do have the subpoena,
3 that's not notice, Your Honor.

4 THE COURT: Well, if they're subpoenaed to come to
5 court to be here this week and it's got the indictments
6 and the charges, then I think that's sufficient.

7 MS. LIVESAY: Do you want me to mark this or hand it
8 up?

9 THE COURT: No, let me just see them.

10 Well, I see where you have got the indictment number
11 on this subpoena. Have you charged all of them with
12 conspiracy to kidnap?

13 MS. LIVESAY: Yes, sir. And that indictment number
14 was on the subpoena that went out --

15 THE COURT: The indictment number is on the
16 subpoena, but where do you let them know the charge
17 against them?

18 MS. LIVESAY: On the subpoena, Your Honor.

19 THE COURT: Where on this does it tell them what the
20 charge is? It's got a subpoena number.

21 MS. LIVESAY: It's got an indictment number.

22 THE COURT: But how does the number let them know
23 what they're being charged with?

24 MS. LIVESAY: But that's the only way to identify
25 the indictment on the subpoena is through the number.

1 That number is an indication belonging to a particular
2 indictment.

3 THE COURT: Other than putting this indictment
4 number on this subpoena, have you ever told these
5 defendants or their attorneys that they were being charged
6 with conspiracy to kidnap and that it would be tried this
7 week?

8 MS. LIVESAY: No, sir. Only on the subpoena that we
9 sent them.

10 THE COURT: Well, you can't go forward with the
11 conspiracy to kidnap. Okay? They don't have notice other
12 than a subpoena number that they were even charged with
13 conspiracy to kidnap. They have never been told. They
14 have never been served with the indictment. All they have
15 been done is given a subpoena with an indictment number on
16 it that makes no mention of conspiracy to kidnap, and you
17 just did that a little over a month ago.

18 MS. LIVESAY: Your Honor, the subpoena includes the
19 indictment numbers for all the charges that we're here to
20 move forward on.

21 THE COURT: I understand.

22 MS. LIVESAY: The murder and the three attempted
23 murders.

24 THE COURT: Exactly.

25 MS. LIVESAY: As well as the conspiracy.

1 THE COURT: Well, but you've never told them about
2 the conspiracy. You just stuck an indictment number on a
3 subpoena and say this is what we're trying. They don't
4 have an obligation to go track it down and see what
5 they're charged with. They have the right for the State
6 to inform them, these are the charges against you, this is
7 what we're going forward with. And you haven't done that
8 other than just said we're going forward with Indictment
9 2023-GS-26-01647.

10 MR. HELMS: I understand, Judge. If that's the
11 ruling of the Court, we understand completely. We're
12 prepared to move forward on the original murder and three
13 attempted murders.

14 THE COURT: Okay. All right. Now, having said
15 that -- so we have got murder, three attempted murders,
16 Che Leon Ransom. That's what I have got to see. Because
17 on the roster you gave me, it had a possession of a
18 weapon, but you're not doing possession of a weapon.

19 MS. LIVESAY: No, sir.

20 MR. HELMS: No, sir.

21 THE COURT: Gotcha. Okay.

22 All right. So now I have got all this, I think,
23 straight. State versus Don Leequin Brown going forward on
24 the Indictment 2022-GS-26-02891 for murder;
25 2022-GS-26-02898, 2901, and 2902 for attempted murder.

1 MR. HELMS: Yes, sir.

2 THE COURT: State versus Che Leon Ransom, Jr., going
3 forward on the 2021-GS-26-05562 for murder; 05561, 05563,
4 and 05564 for attempted murder.

5 MR. HELMS: Yes, sir.

6 THE COURT: State versus Travontae J. Mitchell,
7 2023-GS-26-00279 for murder; 277, 278, and 266 for
8 attempted murder.

9 MR. HELMS: That's right, Judge.

10 THE COURT: Now, you also list a possession of a
11 weapon on him but you're not going forward on that?

12 MS. LIVESAY: No, sir.

13 THE COURT: Gotcha. All right. Now, do you want a
14 copy of these back?

15 MR. HELMS: Yes, sir.

16 THE COURT: Now, I understand we have got some
17 Jackson v. Denno, if we're ready to go forward. I can
18 tell you-all right now, we're not going to be able to pick
19 a jury until close to 3:00 because Judge Mullen just let
20 her jury panel go to lunch not even ten minutes ago. So I
21 told them to be back at 2:45 for the panel for us to get
22 our jury.

23 MR. HELMS: Yes, sir. If we could pick a jury
24 today, I think that would be progress.

25 THE COURT: All right. So this is a Jackson v.

1 Denno. You have two Jackson v. Denno hearings?

2 MS. LIVESAY: Yes, sir.

3 THE COURT: And they are for who?

4 MS. LIVESAY: Travontae Mitchell and Che Ransom.

5 THE COURT: All right. Now, are these together or
6 do we need to have two separate?

7 MS. LIVESAY: We're having two separate hearings.

8 THE COURT: All right. Which one do you want to do
9 first?

10 MS. LIVESAY: If you don't mind, Travontae Mitchell.

11 THE COURT: Okay. Anything before we go forward
12 with the Jackson v. Denno on Travontae Mitchell?

13 MR. PINKERTON: No, Your Honor.

14 JACKSON V. DENNO HEARING

15 THE COURT: All right. At this time, the State can
16 call your first witness.

17 MS. LIVESAY: Thank you, Judge. At this time, the
18 State calls Detective Sean Wydra to the stand.

19 DETECTIVE SEAN WYDRA (HEARING PORTION),
20 after having been duly sworn, was examined and
21 testified to as follows:

22 THE COURT: Before we get started, I think all of
23 you have been in front of me, but I'll allow direct
24 examination, cross-examination, and redirect only as to
25 matters that were addressed on cross that were not

1 addressed on direct. No recross. Okay?

2 And with this being Mr. Mitchell, I guess the order
3 we'll go in on this one would be the State and then
4 Mr. Pinkerton and then Mr. Gardner and Mr. Bouchette and
5 redirect and do it that way. Okay?

6 All right, sir. If you'll state your name, please.

7 MS. LIVESAY: Yes, sir.

8 DIRECT EXAMINATION

9 BY MS. LIVESAY:

10 Q Detective Wydra, where are you currently employed?

11 THE COURT: Excuse me for a second. Let me get him
12 to state his name and spell it for the court reporter.

13 THE WITNESS: Detective Sean Wydra. It's S-e-a-n.
14 Last name is W-y-d-r-a.

15 BY MS. LIVESAY:

16 Q And, Detective Wydra, where are you employed?

17 A Horry County Police Department.

18 Q And how long have you been employed there?

19 A I have been with the Horry County Police Department
20 for approximately 11 years.

21 Q And what kind of training have you undergone to be
22 with the police department and while you've been with the
23 police department?

24 A I mean, to be a police officer, you've got to go to
25 the police academy. Beyond that, I've gone through other

1 advanced training and also training yearly, basically,
2 just to keep your certification.

3 Q And what are your current responsibilities?

4 A I'm in the Homicide Unit.

5 Q And how long have you been with the Homicide Unit?

6 A Approximately four years.

7 Q And were you with the Homicide Unit when you talked
8 with Travontae Mitchell?

9 A Yes, ma'am.

10 Q And when you say your responsibilities are with the
11 Homicide Unit, what does this include?

12 A Obviously, we investigate homicides, but we also
13 investigate any death investigations, suicides, overdoses.
14 Sometimes you have natural deaths, so if there's something
15 that seems suspicious about it or they have questions
16 about it. We also do attempted murders. Sometimes we do
17 armed robberies, kidnappings. Kind of just depends on --

18 Q So anything where there's loss of life?

19 A Oh, yes.

20 Q Okay. And did you have an occasion to assist on an
21 investigation involving Travontae Mitchell?

22 A Yes, ma'am.

23 Q Okay. And as part of your assistance, did you speak
24 with Travontae Mitchell?

25 A Yes, ma'am.

1 Q Okay. And where did you talk with him at?

2 A The M.L. Brown Public Safety Building in Conway.

3 Q And at the time, was he in custody?

4 A Yes.

5 Q And due to the fact he was in custody, did you read
6 him his Miranda rights?

7 A He was read his Miranda rights.

8 Q I'm going to show you now what's been marked as
9 State's Exhibit No. 51. Tell the Court if you recognize
10 that.

11 A That's the Miranda form that Mr. Mitchell completed
12 during the interview. He signed. And also this was read
13 to him by the other detective in the interview room with
14 me. I was present when it was read to him in the
15 interview room. I signed it as a witness down here at the
16 bottom.

17 Q Okay. And if you don't mind, tell the Court what's
18 included on that form.

19 A So included at the top is subject's name, date of
20 birth, case number, officer's name, badge number, date and
21 time, location. There's other questions on there, whether
22 or not they graduated, what year they were in, if they're
23 under the influence of alcohol of drugs, if they can read
24 and write, if they're under any physical discomfort. And
25 then you have the actual Miranda rights. Would you like

1 me to read them?

2 Q Please.

3 A It says, "You have the right to remain silent.

4 Anything you say can and will be used against you in a

5 court of law. You have the right to talk with a lawyer

6 and have him present with you while you are being

7 questioned. If you can't afford to hire a lawyer, one

8 will be appointed to represent you at not cost to you

9 before any questioning, if you so desire. If you make a

10 statement or answer any questions, you have the right to

11 stop at any time."

12 Underneath that, it asks, "Do you understand these

13 rights?" And it gives you a section to sign yes or no.

14 Q Okay. And did Travontae Mitchell indicate that he

15 understood his rights?

16 A Yes, he did. He initialled next to each one of

17 those rights that I just read. He then signed it and

18 printed his name at the bottom.

19 Q Okay. And did he indicate that he wanted to speak

20 with law enforcement?

21 A No, ma'am.

22 Or with -- are you saying with law enforcement?

23 Q Yes.

24 A He did not say that he did not want to speak to us.

25 He spoke with us.

1 Q And at any time, did he invoke any of those rights?

2 A No, ma'am, not while I was in the interview room.

3 Q And during the time he was there, was he ever denied
4 going to the restroom or getting anything to eat?

5 A No, ma'am. We gave him the opportunity to use the
6 restroom, offered him something to drink, something to
7 eat.

8 Q Okay. And at any time while he was in the room with
9 you and the other investigator, was he ever threatened?

10 A No, ma'am.

11 Q Did anybody ever put their hands on Mr. Mitchell?

12 A No, ma'am.

13 Q Did anybody indicate that he would be given
14 something in exchange for talking to law enforcement?

15 A No, ma'am.

16 Q When you talked with him, were his answers
17 responsive to your questions?

18 A Yes, ma'am.

19 Q And during the time he was in there, did he appear
20 to understand what was going on?

21 A Yes, ma'am, he did.

22 Q Did he appear to be in any pain or discomfort?

23 A No, ma'am.

24 Q Did he appear to be under the influence of any drugs
25 or alcohol?

1 A No, ma'am.

2 Q At any time when you were in the room, did he ask
3 for a lawyer?

4 A No, ma'am.

5 Q Did he ask to invoke his right to remain silent?

6 A No, ma'am.

7 Q Did he freely converse with you during the time he
8 spoke with you at M.L. Brown?

9 A Yes, ma'am.

10 Q And in the course of that conversation, did he speak
11 with you freely and voluntarily?

12 A Yes.

13 Q Did anything ever happen while you were in the room
14 to indicate that he didn't want to speak with you?

15 A No.

16 Q How about that he wanted a lawyer?

17 A No.

18 Q And did he initial beside, "Yes, I understand the
19 rights"?

20 A Yes.

21 Q Did you have any reason to believe, when he was in
22 the room, he didn't understand what was going on?

23 A No.

24 Q Did you have any reason to believe that he did not
25 want to speak with law enforcement?

1 **A** No.

2 **Q** And was the conversation kind of at a normal pace of
3 asking questions, answering questions, that sort of thing?

4 **A** Yes.

5 MS. LIVESAY: No further questions.

6 THE COURT: All right. Mr. Pinkerton?

7 CROSS-EXAMINATION

8 BY MR. PINKERTON:

9 **Q** Thank you for being here, Detective.

10 So you interviewed Mr. Mitchell?

11 **A** Yes.

12 **Q** How old was he at the time?

13 **A** Sixteen, I believe.

14 **Q** He was sixteen?

15 Did you talk about what grade he was in at school?

16 **A** Yeah.

17 **Q** But he was not a high school graduate; correct?

18 **A** No.

19 **Q** 11th grade sound correct?

20 **A** I don't recall exactly what grade he got to, but he
21 did not graduate. He was still in school.

22 **Q** But he was not a high school graduate at the time?

23 **A** No. He was in alternative school at the time.

24 **Q** How long was he in custody before you began
25 questioning him?

1 A I don't know.

2 Q You don't know? Okay.

3 And you said you did not deny him going to the
4 bathroom?

5 A No. We gave him an opportunity to use the restroom.

6 Q Okay. And how long into the questioning was that?

7 A I don't recall.

8 Q But you asked him right at the beginning of the
9 questioning, correct, whether or not he wanted to go to
10 the restroom; correct?

11 A I don't recall exactly when it was.

12 Q Now, as far as your questioning my client that day,
13 this was not in relation to an emergency; right?

14 A It was not --

15 Q Not in relation to an emergency; right?

16 A I'm not sure I understand.

17 Q This was not in relation to, like, an ongoing
18 emergency; correct?

19 A I mean, it was in relation to a murder
20 investigation.

21 Q Yes, but not an ongoing -- like an active emergency;
22 correct?

23 A I don't know what you would consider an active
24 emergency, so I don't know really how to answer that
25 question, sir.

1 Q You weren't questioning him because you needed to
2 render aid to somebody; correct?

3 A No. There was nobody at that point in time that
4 needed medical attention.

5 Q Was he ever allowed to make a phone call to his
6 mother previous to questioning?

7 A I don't recall us ever calling his mother.

8 Q Was he given the option?

9 A No, I don't believe so.

10 Q And was he handcuffed the whole time he was in
11 custody and being interviewed?

12 A I don't recall whether he was handcuffed the whole
13 time or not. He was handcuffed when he came in there and
14 when we left. I don't remember during the course of the
15 interview how long the cuffs were on or off.

16 Q And who all was in the interview room with you
17 besides my client?

18 A Detective David Dudley.

19 Q So just to reiterate, he was 16 and not a high
20 school graduate at the time?

21 A That's correct.

22 Q And once he left y'all's custody, where did he go?

23 A I don't know where they brought him after that,
24 because I'm not the one that took him anywhere after that,
25 sir.

1 Q Okay.

2 MR. PINKERTON: Court's indulgence.

3 THE COURT: All right.

4 MR. PINKERTON: No further questions, Your Honor.

5 THE COURT: All right. Mr. Gardner, any questions?

6 MR. BOUCHETTE: I think Jarrett is going to go next,
7 Your Honor, if it's all right with the Court.

8 CROSS-EXAMINATION

9 BY MR. GARDNER:

10 Q Officer, I'm trying not to duplicate efforts; I
11 apologize if I ask you some of the same questions.

12 A Sure. That's all right.

13 Q Just trying to go through my notes.

14 With regard to the defendant's age, did you
15 undertake any efforts to ascertain what level of education
16 or sophistication he had obtained?

17 A We asked him where he went to school, whether he
18 finished school, things like that.

19 Q Like I say, you don't know, beyond that -- other
20 than the fact that he went to school at some point, you
21 don't know what, if any, learning disabilities or what
22 level of achievement he obtained; is that right?

23 A No, I don't.

24 Q Now, I want to talk about -- when this interview
25 occurred, this was how long after the murder had occurred?

1 A I don't recall exactly how many days afterwards it
2 was. But it was September of 2020. So it wasn't that
3 long afterwards.

4 Q This wasn't, obviously, the same night?

5 A No.

6 Q It was well after; right? And I think that's what
7 Clay was asking you about earlier. When you say with
8 regard to an emergency, obviously, we understand you were
9 investigating a murder, but it was not -- you were not in
10 an emergency situation at that time; correct?

11 A There was nobody that needed any immediate care for
12 an injury or anything like that.

13 Q Okay. And when you had the defendant in the police
14 station, was there already a warrant out for his arrest?

15 A I don't know if there was at the time or not. I
16 can't recall.

17 Q So it's possible there was already a warrant out?

18 A I don't know. I'm not sure. I'm not the one that
19 obtained the warrant. I couldn't answer whether or not it
20 was obtained before or after that.

21 Q Given that it had been a period of time, in fact,
22 there may have been -- already been an arrest warrant out,
23 safe to say that the questioning or the interview that you
24 conducted was for purposes of investigating this murder?

25 A Yes.

1 Q And, in fact, the interview itself and the
2 information that you were eliciting was for possible
3 future use in a prosecution such as this one; correct?

4 A Yes.

5 MR. GARDNER: No further questions at this time,
6 Your Honor.

7 THE COURT: All right. Mr. Gardner?

8 MR. BOUCHETTE: No, Your Honor. No questions.

9 THE COURT: Anything on redirect?

10 MS. LIVESAY: Nothing further from the State.

11 THE COURT: All right. You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: The State can call your next witness.

14 MS. LIVESAY: Thank you, Your Honor.

15 At this time, the State calls Detective Ken Marcus.

16 THE CLERK: Please raise your right hand and place
17 your left hand on the Bible.

18 DETECTIVE KEN MARCUS (HEARING PORTION),

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE COURT: Please state your name and spell it for
22 the Court.

23 THE WITNESS: Ken Marcus. Last name is M-a-r-c-u-s.

24 DIRECT EXAMINATION

25

1 BY MS. LIVESAY:

2 Q And, Detective Marcus, tell this Court where you're
3 currently employed.

4 A With the Horry County Police Department.

5 Q And how long have you been with the police
6 department?

7 A Almost 16 years now.

8 Q And what kind of training have you undergone?

9 A Went through the basic criminal justice academy
10 training to be certified as a law enforcement officer.
11 Every year we have to go there for an annual training to
12 keep our certification. I've also gone through several
13 advanced courses for investigations of violent crimes, sex
14 crimes, homicides, cold case investigations, school
15 resource officer duties. Several other things, including
16 some digital forensics.

17 Q And did you assist on the case that we're here today
18 for?

19 A I was the case agent for the case that we're here
20 today for.

21 Q Okay. And what were your responsibilities at that
22 time?

23 A As the case agent, I was the one who was ensuring
24 that the investigation went in the different directions
25 that it needed to go. I would send different

1 investigators out to follow up on certain leads. I would
2 send people to go and find witnesses, search for suspects,
3 try to obtain evidence from different places. And then
4 they would bring all that information back to me, and I
5 would sort it out and organize it and decide where we were
6 going to go next as a group, as a team.

7 Q And as part of this investigation, did you
8 participate in the questioning of Travontae Mitchell?

9 A Yes. I did participate in the questioning of
10 Travontae Mitchell.

11 Q Okay. And while you were questioning Mr. Mitchell,
12 did he ever invoke any of his rights?

13 A No.

14 Q Did he ever ask for a lawyer?

15 A No.

16 Q Did he ever invoke his right to remain silent?

17 A No.

18 Q Was he ever denied use of the bathroom or something
19 to eat?

20 A No, not at all. In fact, I was the person who took
21 him to the bathroom prior to the interview starting with
22 Detective Wydra.

23 Q And when you were in the room, did anybody from the
24 police department put their hands on Defendant Mitchell?

25 A No.

1 Q And did anybody at any time promise him anything in
2 exchange for his statement?

3 A No.

4 Q When you were in there, did he appear to understand
5 what was going on?

6 A Yes, ma'am.

7 Q And were his questions -- or were his answers
8 responsive to your questions?

9 A Yes, they were.

10 Q Okay. And at any time, did he appear to be in any
11 kind of pain or discomfort?

12 A No.

13 Q And if he had invoked any of his rights, would you
14 have terminated the interview?

15 A Absolutely, the minute he invoked them.

16 Q And did he ever invoke any of his rights?

17 A No, ma'am, he did not.

18 Q And did he speak with you freely and voluntarily?

19 A Yes, ma'am.

20 MS. LIVESAY: No further questions, Your Honor, for
21 Mr. Marcus.

22 THE COURT: All right. Mr. Pinkerton?

23 CROSS-EXAMINATION

24 BY MR. PINKERTON:

25 Q Thank you for being here, sir.

1 A Thank you.

2 Q Once again, how old was my client when you
3 interviewed him?

4 A I believe he was 16.

5 Q So he was not an adult?

6 A No.

7 Q Did he mention how far he went in school?

8 A I was not present during that part of the interview.

9 Q But you would agree he was not a high school
10 graduate?

11 A That's correct. What information I reviewed said he
12 was not a high school graduate.

13 Q Was there a warrant out for his arrest at the time
14 you interviewed him?

15 A No. Because he was 16 years old, the juvenile
16 justice system works differently. You detain a juvenile
17 at that time -- at this particular time and age.

18 Q So there was no warrant out for murder at the time
19 or attempted murder at the time?

20 A No, no. The detention process for juveniles is
21 different. There are no charging documents issued in that
22 instance.

23 Q So he was in the custody of DJJ at the time,
24 technically?

25 A So after the interview, he was released into the

1 custody of DJJ.

2 Q At any point was he given a chance to call his mom
3 or his dad?

4 A He didn't request to speak with his parents. I
5 know, at one point in time -- because I was monitoring the
6 interview -- right before I entered the interview and
7 actually spoke with Mr. Mitchell himself, I know officers
8 had left the interview to make contact or attempt to make
9 contact with their parents to let them know we had picked
10 them up.

11 Q Do you know if that was successful or not?

12 A I don't know. I do believe that he was taken into
13 custody at his home. I'm not sure if his parents were
14 present at the time or not. That was a different officer
15 who brought him to the M.L. Brown building.

16 Q And that was before the interview; correct?

17 A That's correct.

18 Q Do you know how long it was between being arrested
19 until the time of the interview?

20 A Not very long. I think total time that he was in
21 the M.L. Brown building in the interview room was only
22 about two hours, two and a half hours. And the total time
23 that the actual interview took place where there was
24 questioning maybe was an hour and a half at the most. I
25 think there was about 30 minutes he was sitting, attended,

1 but no one in the room prior to the interview starting,
2 and then I believe the DJJ process took about 30 minutes
3 after that for screening purposes before he left the
4 building.

5 Q And, once again, the interview, it was not for the
6 purpose to render aid to any victims in the case?

7 A No.

8 Q And it wasn't a state of emergency at the time;
9 correct?

10 A Well, it was a murder investigation, but...

11 Q But you didn't think you'd find more victims out
12 that were hurt, laying in a ditch, or something?

13 A No, that's correct.

14 Q And do you recall if he was handcuffed or not during
15 the interview?

16 A He was. Initially, when he was brought into the
17 room, he had his hands cuffed behind him. Prior to him
18 going to the restroom, we removed the cuffs, and then the
19 cuffs were placed in front of him. They remained in front
20 of him so that he could freely move his arms about and be
21 in a more comfortable position during that interview.

22 Q But he did remain handcuffed during the interview?

23 A Yes.

24 MR. PINKERTON: Court's indulgence, Your Honor.

25 No further questions, Your Honor.

1 THE COURT: All right. Mr. Bouchette?

2 CROSS-EXAMINATION

3 BY MR. GARDNER:

4 Q Officer, how long after the murders did this
5 interview with Mr. Mitchell occur?

6 A The exact date, I don't recall. I know it was a
7 couple of days afterward. Maybe four or five at the most.

8 Q And you heard the prior officer testify that this
9 interview that was conducted at the police station was to
10 gather information in conjunction with this prosecution
11 for the murder; correct?

12 A Correct.

13 Q And you anticipated, in the course of gathering that
14 information and then conducting the interview, that it
15 might be used for a prosecution in a trial such as this
16 one; correct?

17 A He was in custody at the time for this incident,
18 yes.

19 Q And I understand he was in custody, but part of the
20 purpose at least in asking the questions and in making
21 note of what he said and recording the interview was for
22 the potential, at least, to use it in a trial such as this
23 one; correct?

24 A We wanted to know what occurred that day. We didn't
25 have a clear picture of his involvement. We did have

1 information that he was involved, so we were trying to
2 ascertain what had occurred. We asked him for his side of
3 the story.

4 Q I understand it was an investigation, but you had
5 already spoken to a number of other codefendants; correct?

6 A We had spoken to at least one.

7 Q At least one.

8 And you had DJJ lined up to take him into custody
9 following your discussions with him; correct?

10 A We called DJJ after our interview, yes.

11 Q All right. So, safe to say, then, that that was --
12 this interview and the statements that you're eliciting
13 from him was for at least the potential use in this
14 prosecution and in a trial like this one?

15 A Oh, yes, sir.

16 Q Okay.

17 MR. GARDNER: No further questions, Your Honor.

18 THE COURT: All right. Mr. Gardner?

19 MR. BOUCHETTE: No, Your Honor. No questions.

20 THE COURT: Redirect?

21 MS. LIVESAY: Nothing from the State, Your Honor.

22 THE COURT: All right. You may step down.

23 The State can call your next witness.

24 MS. LIVESAY: Not as to the interview of Travontae
25 Mitchell. We have presented all the witness testimony.

1 THE COURT: Okay. I don't even know what the
2 statement is.

3 MR. BOUCHETTE: I don't either.

4 THE COURT: We don't have an exhibit. We don't have
5 a statement introduced.

6 MR. HELMS: Well, no, sir, Your Honor. And, to be
7 honest with you, we have done it both ways depending on
8 the judges that we have had. We've had judges that wanted
9 to hear the statement after the voluntariness was
10 testified to, and we have had judges that just wanted to
11 hear the testimony as to the voluntariness of the
12 statement, since that is the core of the Jackson v. Denno.

13 THE COURT: Well, I'll let you do it either way you
14 want. I mean, I have always had them put the statement in
15 at the Jackson v. Denno hearing.

16 MS. LIVESAY: Yes, sir, Your Honor. Just for --
17 because we were only disputing voluntariness --

18 THE COURT: Okay.

19 MS. LIVESAY: -- we feel like the testimony's been
20 presented and cross-examination's been presented.

21 THE COURT: I'll let you do it however you want to
22 do it.

23 Mr. Pinkerton, anything you want to present?

24 MR. PINKERTON: No, Your Honor.

25 THE COURT: Mr. Bouchette, anything you want to

1 present?

2 MR. GARDNER: The only thing -- again, I don't -- I
3 know we have an objection as to voluntariness, and I know
4 they're going to get into the specifics of what statements
5 they're trying to get in, but I do have an objection
6 insofar as to representing a codefendant that this
7 testimony is testimonial hearsay under Crawford v.
8 Washington that -- whether it's voluntarily or not, any of
9 these statements from this interview cannot be introduced
10 in this trial due to the fact that we now have a
11 codefendant who will not be able to cross-examine the
12 statements that were made.

13 So whether they're voluntary or not, those
14 statements are allowed to come in. This is a category --
15 the subcategory the Supreme Court has outlined as to
16 testimonial statements. That's why I kept asking the
17 officer was it for investigative purposes or was it for
18 use at trial. It clearly was and clearly is. So we would
19 object under Crawford for the admission irrespective of --

20 THE COURT: That's a separate issue. This is just a
21 Jackson v. Denno hearing to determine the voluntariness.
22 If there is another grounds, you know, that affects his
23 admissibility, we don't address that in the Jackson v.
24 Denno. The sole purpose of this hearing is to determine
25 whether or not rights should have been given; if they were

1 deemed to have been given, were they given; and was it a
2 voluntarily statement given freely and voluntarily with
3 full knowledge of their rights.

4 MR. GARDNER: I'll allow the Court to rule on that
5 and then raise our objection at a later time.

6 THE COURT: All right. Mr. Gardner, anything you
7 want to present?

8 MR. BOUCHETTE: Judge, I believe the record is
9 protected that, regardless of how you rule on this -- if
10 you do rule that it comes in, then we'll be able to
11 address whatever issues are left with it. Thanks, Your
12 Honor.

13 THE COURT: All right. I find that it is a
14 voluntarily statement or given voluntarily with his --
15 fully advised of his rights, so I'll allow that statement
16 as to voluntariness.

17 MS. LIVESAY: I understand.

18 THE COURT: Now, if they've got other grounds to
19 object, they'll raise that, I'm assuming, when you try to
20 introduce it. All right.

21 MS. LIVESAY: Yes, sir.

22 THE COURT: Now, the next one is...

23 MS. LIVESAY: Che Ransom, Your Honor.

24 THE COURT: All right. The State can call your
25 first witness.

1 MS. LIVESAY: Before we call the next witness, Your
2 Honor, Detective Wydra has a matter outside of court. Can
3 we excuse him for today?

4 THE COURT: If you don't need him for this hearing.

5 MS. LIVESAY: I don't, Your Honor.

6 THE COURT: Yes.

7 MS. LIVESAY: Thank you.

8 At this time, we'd call Detective Edwards to the
9 stand.

10 THE CLERK: Please raise your right hand and place
11 your left hand on the Bible.

12 DETECTIVE CHRISTOPHER EDWARDS,
13 after having been duly sworn, was examined and
14 testified to as follows:

15 THE CLERK: Please state your name and spell it for
16 the Court.

17 THE WITNESS: It's Christopher Edwards.
18 E-d-w-a-r-d-s.

19 DIRECT EXAMINATION

20 BY MS. LIVESAY:

21 Q And, Detective Edwards, where are you currently
22 employed?

23 A The Horry County Police Department.

24 Q And how long have you been with Horry County Police
25 Department?

1 A 16 years.

2 Q And what are your current responsibilities?

3 A I'm currently assigned to the Narcotics and Vice
4 Unit.

5 Q And what were your responsibilities in 2020?

6 A I was assigned to the Violent Crimes Unit.

7 Q And what were your responsibilities when you were on
8 the Violent Crimes Unit?

9 A We would either respond or get called out to or be
10 assigned violent crime cases, homicides, attempted
11 murders, robberies. During the course of that, we would
12 do normal investigative techniques such as interviews,
13 canvassing.

14 Q And as part of your interviews, would you talk with
15 suspects and potential defendants?

16 A Yes, ma'am.

17 Q And in the case we're here today, did you talk with
18 Defendant Che Ransom?

19 A I did.

20 Q And where were you when you spoke with that
21 particular defendant?

22 A At the M.L. Brown building in Conway.

23 Q Okay. And was he in custody?

24 A He was.

25 Q And because he was in custody, did you read him his

1 Miranda?

2 A Yes, ma'am.

3 Q And I'm going to show you now what he says has been
4 marked as State's Exhibit No. 50. Tell the Court if you
5 recognize that document.

6 A I do.

7 Q And tell the Court what's on the document.

8 A That's the Horry County Police Department Advisement
9 of Miranda Rights Form. It's basic information about the
10 person we're talking to and their Miranda rights.

11 Q And did Che Ransom indicate whether or not he
12 understood his rights on the document?

13 A He did.

14 Q And did he check yes?

15 A He did.

16 Q And did he sign the document?

17 A He did.

18 Q Okay. And did somebody at the police department
19 sign the document to say, "Hey, I witnessed it"?

20 A Detective Marcus.

21 Q And if you don't mind, tell the Court what rights
22 are on that document that you read to Defendant Ransom.

23 A It says, "You have the right to remain silent.
24 Anything you say can and will be used against you in a
25 court of law. You have the right to consult with a lawyer

1 and have him present with you while you're being
2 questioned. If you cannot afford to hire a lawyer, one
3 will be appointed to represent you at no cost to you
4 before any questioning if you so desire. And if you make
5 any statement or answer any questions, you have the right
6 to stop at any time."

7 Q And he initialled he understood that?

8 A Yes.

9 Q And during the time you spoke with him, did he ever
10 ask for a lawyer?

11 A No.

12 Q Did he ever indicate to you that he wanted to remain
13 silent?

14 A No.

15 Q Now, let's talk about when you were in the room with
16 him. Did you ever deny him the ability to go to the
17 bathroom or get something to eat?

18 A No, ma'am.

19 Q So, if he wanted it, you would have gotten it?

20 A Yes.

21 Q Now, let me ask you something: Was his family
22 present at the police department?

23 A He had two family members present that came with
24 him.

25 Q Okay. And, in fact, did you let those two women

1 talk with the defendant at the police department?

2 A I did.

3 Q Okay. And did you and the other policeman leave the
4 room so they could be in there alone with Defendant Ransom
5 and talk with him?

6 A Yes, ma'am.

7 Q Okay. So he asked for his family, and you let him
8 talk to his family?

9 A I can't remember if he asked for them, but we let
10 them go in and talk to him.

11 Q Okay. But, either way, you let his mama back there?

12 A Yes, ma'am.

13 Q Okay. And was there a policeman in the room when
14 the mama and Defendant Ransom were talking?

15 A No, ma'am.

16 Q And, at some point, did they leave the room and you
17 come back in the room?

18 A I did.

19 Q And when you came back in, did he still continue to
20 want to talk with you?

21 A He did.

22 Q Okay. And at any point during the course of this
23 interview before or after his mama talked to him, did you
24 ever -- or anybody else -- put your hands on the
25 defendant?

1 A No, ma'am.

2 Q Did you ever threaten him in any form or fashion?

3 A No, ma'am.

4 Q Okay. Did you ever promise him anything in exchange
5 for his statement?

6 A No, ma'am.

7 Q Did he ever, at any time, act like he was under the
8 influence and didn't understand what was going on?

9 A No, ma'am.

10 Q Did he ever act like he was in any pain or
11 discomfort?

12 A No, ma'am.

13 Q Okay. At the end of the interview, after you talked
14 to him, did you let his mama and the other family member
15 go back in and speak with him?

16 A We did.

17 Q So, in the middle of the interview, you let him talk
18 to his family?

19 A Yes, ma'am.

20 Q And after you talked to him, you let the family back
21 in to talk to him?

22 A Yes, ma'am.

23 Q At any time did he indicate that he didn't want to
24 talk with you?

25 A No.

1 Q At all times were his answers responsive to your
2 questions?

3 A They were.

4 Q Did he freely and voluntarily talk with you?

5 A He did.

6 MS. LIVESAY: No further questions, Your Honor.

7 THE COURT: Mr. Bouchette?

8 MR. GARDNER: Very briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. GARDNER:

11 Q Officer, your interview with Mr. Ransom was about
12 ten days or so later from the date of the murders?

13 A Yes, sir.

14 Q Okay. All right. And one of the waivers that's
15 indicated on the Miranda form was the right to have an
16 attorney; correct?

17 A Yes, sir.

18 Q Okay. Now, at this point when the interview
19 initiates, did you already have a warrant for his arrest?

20 A Detective Marcus had obtained arrest warrants.

21 Q So the arrest warrants were already signed off by
22 the judge; correct?

23 A Yes, sir.

24 Q So the decision to charge Mr. Ransom had already
25 been made well before he volunteered himself to the police

1 station; correct?

2 A Yes, sir.

3 Q All right. When during the course of the
4 investigation did you alert him to the fact that the
5 warrants had been obtained and the decision had been made
6 to charge him?

7 A I believe we went that morning and attempted to
8 locate him, and that was how he found out he had warrants
9 and that's why he came to the police department.

10 Q So he came in. During the course of your interview,
11 you never told him that, "We've warrants for you, that
12 you're under arrest"?

13 A I believe we told him he had arrest warrants.

14 Q In the interview or afterwards?

15 A Sometime at the police department.

16 Q Well, the reason I ask that, I didn't see that on
17 the video. Are you testifying that, outside of the
18 interview, there was some communications regarding
19 possession of warrants?

20 A It would have been during, like, the taped portion
21 while we were talking to him.

22 Q During the taped portion. Okay.

23 That would have been the only time you would have
24 alerted him to the existence of a warrant; correct?

25 A Yeah, that wouldn't have been beforehand.

1 Q Okay. So if that wasn't told to him, was there a
2 reason why you wouldn't have alerted him to the fact that
3 the warrants had already been obtained for the murder
4 charge?

5 A The U.S. Marshals task force went to find him. So,
6 I mean, he would have known there were warrants.

7 Q Well, I know you're presuming he knew there were
8 warrants, but he was alerted by the marshal service. He
9 presented himself to the sheriff's office; right?

10 A To the county police.

11 Q To the county police. Sorry?

12 A Yes, sir.

13 Q And then you began your interview with him; correct?

14 A Yes, sir.

15 Q Because he showed up. He said, "Hey, I'm Che
16 Ransom. I think you want to talk to me"?

17 A Yes.

18 Q Okay. And then you began talking to him; right?

19 A Yes.

20 Q And the whole time, obviously, you had a warrant;
21 correct?

22 A Yes, sir.

23 Q You did not serve that on him at the beginning of
24 the interview; correct?

25 A Correct.

1 Q It was only after the interview had concluded and he
2 had provided whatever testimony or statements that he had
3 provided that you then alerted him and told him that,
4 "Hey, we had this warrant the whole time." Correct? At
5 least from your standpoint. I know it's a possibility
6 somebody else may have said something --

7 A Yes, sir.

8 Q -- but from your standpoint, that's what you did?

9 A Yes, sir.

10 Q You only alerted him to the existence of the warrant
11 after the interview had concluded?

12 A I believe so.

13 Q Okay. Now, I have to ask: Given that he has the
14 right to an attorney, was it a conscious decision to not
15 present that warrant to him at the beginning of the
16 interview but, instead, wait until -- an hour or two hours
17 after you had been talking to him to then serve him with
18 the warrant?

19 A I wouldn't say so.

20 Q Did you believe that it be more or less likely that
21 he would invoke his right to counsel if he was served with
22 the warrant after you had elicited testimony from him?

23 A It's been my experience it goes -- I have served
24 people with warrants at the beginning of interviews, and
25 they have still spoken with us.

1 Q Okay. All right. But you chose not to do that in
2 this case, though; right?

3 A I don't know if it was, like, a decision that was
4 made.

5 Q Well, you made a point to say that, you know, his
6 parents were in the area or were in the police station,
7 actually; right?

8 A Yeah, they were there. They came with him.

9 Q And, obviously, you know that he had spoken to them
10 at some point; correct?

11 A Yes, sir.

12 Q But, in fact, y'all left the recording camera on
13 during those discussions?

14 A We did.

15 Q Okay. All right. Were you monitoring those
16 discussions?

17 A I was not.

18 Q Okay. All right. But let me just ask it this way:
19 In your years as a detective, do you believe it would have
20 been more likely to -- for him to have invoked his right
21 to counsel had he known at the beginning of the interview
22 that the decision had already been made to charge him with
23 the crime of murder and attempted murder?

24 A In my course of doing homicide investigations, I
25 have had it go both ways.

1 Q With it going both ways, was it your choice here to
2 withhold it until the end in the hopes that that would be
3 less likely that he would invoke his right to counsel?

4 A No, sir, that's not a choice I made.

5 MR. GARDNER: Court's indulgence.

6 THE COURT: All right.

7 BY MR. GARDNER:

8 Q Very briefly. Officer, did you speak with
9 Mr. Ransom's parents during this interview process?

10 A I did.

11 Q Okay. And notwithstanding what you assume some
12 other party may have conveyed, did you convey to them the
13 fact that you had a warrant for his arrest already signed
14 off by the judge at the start of the interview?

15 A I don't remember.

16 Q You don't remember one way or another, or you don't
17 believe that you did?

18 A I don't remember one way or another.

19 MR. BOUCHETTE: No further questions, Your Honor.

20 THE COURT: All right. Mr. Bouchette -- I mean,
21 Mr. Pinkerton. I apologize.

22 MR. PINKERTON: No, Your Honor.

23 THE COURT: Mr. Gardner?

24 MR. BOUCHETTE: No, sir.

25 THE COURT: Anything on redirect?

1 MS. LIVESAY: No, sir, Your Honor.

2 THE COURT: You may step down.

3 State can call your next witness.

4 MS. LIVESAY: Mr. Edwards is the only witness we're
5 going to call as to Defendant Ransom's statement.

6 THE COURT: All right, Mr. Bouchette. Anything to
7 be presented by your client?

8 MR. GARDNER: No, sir.

9 THE COURT: Mr. Pinkerton?

10 MR. PINKERTON: No, sir.

11 THE COURT: Mr. Gardner?

12 MR. BOUCHETTE: No, Your Honor.

13 THE COURT: Any arguments?

14 MS. LIVESAY: Yes, sir, Your Honor, just very
15 briefly. The defendant was in custody. When he was
16 served the warrant is irrelevant as to Jackson v. Denno
17 and irrelevant as to Miranda. He was in custody,
18 therefore, he was read Miranda. He indicated on the form,
19 which is State's Exhibit 51, that he understood his
20 rights. He did not invoke his rights. In fact, not only
21 that, but he was allowed to talk with his mom and aunt in
22 the course of the interview, and after that, the police
23 came back in and he freely and voluntarily talked more to
24 the police. And then when the police walked out, the
25 family came back in.

1 He was never denied anything. In fact, like I say,
2 he saw his family. He was never promised anything or
3 threatened, and all his answers were responsive to the
4 questions. Therefore, the State believes that the
5 statement meets what's required under Jackson v. Denno.

6 THE COURT: All right. Mr. Bouchette, any argument?

7 MR. GARDNER: Just very briefly, Your Honor.
8 Obviously, a number of factors for the Jackson v. Denno is
9 going to be the age and the surrounding circumstances.
10 Any concealment or misrepresentation is a factor which I
11 submit that the withholding of a murder warrant, which has
12 already been obtained, already been signed off on by the
13 judge, in entering the question of this 18-year-old
14 defendant, I submit represents a conscious effort to
15 conceal given an advantage of eliciting testimony. I
16 understand the State's argument, but we would ask the
17 Court to suppress the statement on that basis.

18 THE COURT: All right. Mr. Pinkerton, anything from
19 you or your client?

20 MR. PINKERTON: In regard to Mr. Bouchette's client?

21 THE COURT: Yes.

22 MR. PINKERTON: No, Your Honor.

23 THE COURT: All right. Mr. Gardner, anything?

24 MR. BOUCHETTE: Yes, Judge. I join with
25 Mr. Bouchette on everything that he argued, but I would

1 add to that, Your Honor, you brought in -- not you -- they
2 brought in additional characters into this hearing, in
3 this procedure, this statement or interrogation, and I
4 don't know what was told to who. You know, it may have
5 been, "Tell your boy to cooperate, and we'll make sure he
6 gets to go home today. The other boys are cooperating,
7 and we won't charge him with murder."

8 And I don't know if maybe I didn't hear what was
9 addressed on that part, but from that, I would ask you to
10 rule in favor of the defense if there's a question there
11 and grant the motion to suppress that.

12 THE COURT: All right. Well, I don't have any
13 evidence to that effect, and so I'm going to rule that it
14 is a voluntary statement given and satisfies the
15 requirements of Jackson v. Denno.

16 All right. Anything? I have got the jury panel
17 coming back in at 2:45. Anything before then?

18 MR. HELMS: Your Honor, there is one pretrial
19 matter, and I don't know if it's a motion in limine or
20 just something I wanted to bring to the attention of the
21 Court, but these are three of six codefendants whose cases
22 have to be disposed of. One of those cases have been
23 disposed of, Your Honor, pursuant to a trial where he was
24 found guilty.

25 It is almost inevitable in my mind that mention of

1 that defendant will come up by one of the five attorneys
2 in this room. My question to the Court is this: How is
3 that to be addressed? I would like it to be addressed
4 uniformly by all the attorneys pursuant to the advice of
5 the Court.

6 So in terms of, Can we refer to Mr. Whittington as
7 being convicted already? If not, I understand; I just
8 want guidance from the Court.

9 Is reference to his status prohibited, I guess is my
10 ultimate question.

11 THE COURT: I'm assuming, just because of the
12 multiple defendants, this is a "hand of one is the hand of
13 all" situation?

14 MR. HELMS: Yes, sir.

15 THE COURT: Well, let me hear from the defense. I'm
16 inclined to believe one of two things: either -- who was
17 the one that's been convicted?

18 MR. HELMS: Tronahz Whittington.

19 THE COURT: Whittington. I think he can refer to
20 Mr. Whittington's participation without saying he was
21 convicted, or the defendants are going to be entitled to a
22 jury charge that says Mr. Whittington's conviction is not
23 any evidence of their guilt, and they are not bound -- in
24 other words, just because a jury convicted Mr. Whittington
25 of the crime does not mean that these defendants committed

1 the crime.

2 Mr. Bouchette, let me hear from you on that issue?

3 MR. GARDNER: My inclination would be -- I don't
4 think there's any dispute that Mr. Whittington was the bad
5 actor in this group. The question is what relative
6 culpability do these defendants have.

7 And so, yes, I think we would be able to acknowledge
8 his -- Mr. Whittington having been tried and having been
9 convicted, and the Court would charge at the end of the
10 case that that's not to be used against these
11 codefendants.

12 THE COURT: All right. Mr. Pinkerton?

13 MR. PINKERTON: Your Honor, I would join
14 Mr. Bouchette on that argument.

15 THE COURT: Mr. Gardner?

16 MR. BOUCHETTE: I would join with them also, but I
17 would add, just for my clarification, I believe that
18 Mr. Helms is correct; I think it's going to come out even
19 if we try not to get it out because I understand -- I
20 might be wrong, but I believe the State is going to call
21 two witnesses that testified in the prior trial, and I
22 believe that the evidence in the prior trial was the
23 defendant who was ultimately convicted was the shooter in
24 this case. And I believe that that's going to come out at
25 some point in time.

1 And I do believe that neither the State nor the
2 defendants need to be prejudiced by that, and they should
3 be able to go forward with this case, and certainly, we
4 would need some kind of instruction to the jury that, just
5 because one of the people in the car was convicted of
6 murder, does not mean that these three defendants are
7 guilty or should be gone against in any way.

8 THE COURT: Well, and I think -- and I'll certainly
9 give them the charge when I charge them on the law, but I
10 think the hand of one charge in and of itself basically
11 explains that; that you have to be an aider, an abetter,
12 and an active, you know, participant, and just presence at
13 the scene of a crime in and of itself is not evidence of
14 guilt.

15 MS. LIVESAY: And I would imagine you're going to
16 give a mere presence charge probably too?

17 THE COURT: Yeah, I mean, I generally do. I don't
18 know that I will, but usually, every time there's a
19 multiple defendant and there's a hand of one, hand of all
20 theory, then I give the charge of mere presence alone that
21 there has to be a prior intent.

22 MR. BOUCHETTE: I think that takes care of it. I
23 don't want -- you know, I'm trying to be completely fair.
24 I don't want the State to say, "We have got one fellow
25 convicted; that means these guys are guilty of aiding and

1 abetting." Likewise, and I don't want us to be able to
2 say, "He's the shooter, he's the one who is guilty. Go
3 home. That's the end of the case."

4 So I think what you just said is fair, and I think
5 that will take care of it.

6 THE COURT: All right. I think that will handle it
7 then.

8 MR. HELMS: Thank you.

9 THE COURT: It can be brought up, "Mr. Whittington
10 has been tried and he's been convicted." But then, when I
11 charge the jury, I'll charge them that his conviction is
12 not evidence of their guilt.

13 MR. HELMS: Understood. Yes, sir, Your Honor.

14 THE COURT: All right.

15 MR. BOUCHETTE: Are we at ease until 3:00?

16 THE COURT: I don't know. We're checking to see.

17 MR. HELMS: I was just reading the case law; I think
18 your ruling is spot on.

19 THE COURT: Okay. All right. Anything further from
20 the State before we take a break?

21 MR. HELMS: No, Your Honor.

22 THE COURT: Anything? All right. And y'all decide
23 -- it doesn't matter to me, but I do want to do it uniform
24 throughout the trial of the case as far as on
25 cross-examination or when it's time to present defenses

1 and I question whether or not your clients want to
2 testify, whenever, if that comes up, which order we're
3 going to go in.

4 MR. GARDNER: Judge, I think we're going to go with
5 me, Mr. Pinkerton, and then Mr. Gardner.

6 THE COURT: All right. Mr. Bouchette,
7 Mr. Pinkerton, and then Mr. Gardner. Okay. We'll do it
8 that way.

9 Also, I understand that multiple defendants with
10 charges, the State gets ten strikes?

11 MS. LIVESAY: That's right.

12 THE COURT: Defense gets 20 total.

13 MS. LIVESAY: That's right.

14 THE COURT: So three doesn't go into 20 equally, so
15 y'all --

16 MR. BOUCHETTE: We'll just confer and we'll --

17 THE COURT: Okay. All right.

18 When it comes time to strike, are y'all going to
19 have one spokesperson, or do you want me to go
20 Mr. Bouchette, Mr. Pinkerton, Mr. Gardner, knowing that,
21 once you hit 20 total, that's it?

22 MR. GARDNER: Your Honor, ideally, I think we'd like
23 to have one speaker. The only thing about that,
24 obviously, is we're trying to coordinate this. We'll need
25 to have the three attorneys close together. My

1 understanding is that the sheriffs want, I think for
2 security purposes, attorney, defendant, attorney,
3 defendant. So we'd ask if we can circle around to the
4 front here, we can have it to where the three attorneys
5 would be next to each other so that we could --

6 THE COURT: And I don't have a problem with that.
7 We can do it that way.

8 MR. GARDNER: The only other point that I'd make,
9 Your Honor, before the jury comes in is counting, for
10 purposes of the record, one, two, three, four, five
11 sheriff's deputies in the lower right-hand corner of the
12 courtroom between the bar and the defense table. It would
13 seem to give an impression to the jury pool when they come
14 in as sort of a prejudicial show of force.

15 Now, I know we have to have security measures that
16 we have to take. I'm concerned that such an overwhelming
17 show may be very prejudicial to any potential jurors that
18 come in may immediately, based on that showing, view these
19 three young men as exceptionally dangerous, needing such
20 extraordinary protection.

21 THE COURT: Well, I mean, the security is what it
22 is. I'm going to let them stay as it is. They're back
23 from the defendants, and so I'm going to allow them to
24 stay there.

25 I mean, we have got security over here, security in

1 the back, and security over here. So I'm going to allow
2 them to make that decision.

3 All right. Anything until we take a break?

4 MR. HELMS: No, sir.

5 THE COURT: All right. We'll be in recess. The
6 jury is coming back at 2:45. As soon as they all get back
7 and they all get here --

8 MS. LIVESAY: Okay. So we're picking from up here?

9 THE COURT: Yeah, we'll pick here. I'm assuming --
10 what do y'all think? 55 jurors?

11 MS. LIVESAY: I'd like -- as many as we have got,
12 I'd like to bring them up, Judge.

13 THE COURT: Okay.

14 MS. LIVESAY: Just because we're going to have 20 --
15 you know, 10, 30 strikes and then 12, it's going to be 42,
16 alternates. We're getting close.

17 THE COURT: Well, I know we had 80-something jurors,
18 and Judge Mullen has 12 of them.

19 MS. LIVESAY: Right.

20 THE COURT: So I guess we'll just bring whatever
21 jurors we have left on the panel, we'll bring them all up
22 and do it that way.

23 MS. LIVESAY: Thank you, Judge.

24 (A discussion was held off the record between the
25 Court and the Clerk.)

1 MR. BOUCHETTE: We have a Batson motion because of
2 striking Juror No. 37 and Juror 295, but I wanted to
3 explain to my clients that it may be that we --

4 THE COURT: All right. Go ahead. Go ahead and
5 discuss it with them.

6 (A discussion was held off the record between the
7 defendants and their attorneys.)

8 MR. GARDNER: Your Honor, as to Defendant Ransom, we
9 have no motion regarding the jury.

10 THE COURT: Say that again.

11 MR. GARDNER: Regarding Mr. Ransom, we have no
12 objection to the jury.

13 THE COURT: All right. Mr. Pinkerton?

14 MR. PINKERTON: No objection for Mr. Mitchell.

15 MR. GARDNER: None for Mr. Brown either.

16 THE COURT: All right. Ladies and gentlemen, those
17 of you who remain in the jury panel, we have our jury for
18 this first case, so I'm going to excuse you for the
19 remainder of the evening. You should have been given a
20 phone number to the Clerk of Court's office. You'll need
21 to call that number after 6 p.m. today -- after 6 p.m. --
22 I guess it would be tomorrow, because we'll definitely go
23 into tomorrow. So after 6 p.m. tomorrow, if you would
24 call that number for some further instructions.

25 Again, I look forward to working with you this week.

1 I thank you for being here, and if you don't get selected
2 on a jury, you have still fulfilled your duties as jurors.

3 So you're free to go for the remainder of the day,
4 but please call that number after 6 p.m. Thank you very
5 much.

6 (The remaining prospective jurors exited the
7 courtroom at 4:25 p.m.)

8 MOTIONS/MATTERS OF LAW

9 THE COURT: All right. I want to go ahead and put
10 on the record why we met in chambers. It came to our
11 attention at the sidebar from Mr. Helms that, during
12 questioning -- voir dire questioning, one of the jurors
13 responded to one of the security personnel -- not to the
14 Court but that he -- was it he or she? She. Juror 282,
15 Ashley Rabon, said that she knew the victim and the
16 victim's family.

17 So we met back in chambers. I went ahead and
18 excused her from this case. I don't know why she didn't
19 stand and respond to the Court, but as soon as I asked the
20 question if anybody knew any of the victims or victim's
21 family or anything of that nature, she responded to one of
22 the security personnel.

23 Anything the State wants to put on the record in
24 regard to that?

25 MR. HELMS: No, sir.

1 THE COURT: Mr. Bouchette, anything you want to put
2 on the record regarding that?

3 MR. GARDNER: No, sir.

4 THE COURT: Mr. Pinkerton?

5 MR. PINKERTON: No, Your Honor.

6 THE COURT: Mr. Gardner?

7 MR. BOUCHETTE: No, sir.

8 THE COURT: All right. Let's take about a five- or
9 ten-minute break. Let's see if the jury can select a
10 foreperson, and we'll bring them back in.

11 Now, I don't know that we're going to have time to
12 get the opening arguments in. I think we do have time for
13 me to do the opening charges if you want me to go ahead
14 and do the opening charge. I didn't know if you want me
15 to do the charge and then y'all come in and just do your
16 opening statements tomorrow or if you want to do them all
17 at the same time.

18 What's the State's position?

19 MR. HELMS: I think the first option is the best.

20 THE COURT: Doing the charge before?

21 MR. HELMS: Yes, sir.

22 MR. GARDNER: I think so as well, Judge.

23 THE COURT: Mr. Pinkerton?

24 MR. PINKERTON: Yes, Your Honor, I agree with that.

25 THE COURT: Mr. Gardner?

1 MR. BOUCHETTE: Yes, I agree with that, but we have
2 two motions that are very brief that we would like to put
3 on the record before we start going into the -- certainly
4 before we go into the opening. One is -- .

5 MR. PINKERTON: Your Honor, I want to make a motion
6 to have witnesses sequestered during the trial.

7 THE COURT: All right. Any defense? Defendants
8 oppose that motion?

9 MR. GARDNER: No, we agree with it.

10 MR. BOUCHETTE: Agree and join in.

11 THE COURT: What's the State's position?

12 MR. HELMS: Your Honor, we would not disagree with
13 defense counsel's motion. We would only ask that
14 exceptions be made for the witnesses who are also
15 statutory victims as well as the motion be reciprocated.

16 MS. LIVESAY: Hold on now...

17 So Che Ransom's mom is on the witness list, but I
18 have spoken with her because she is under subpoena, and I
19 told her that this motion may be made, and I also told her
20 I would not object to her staying in the courtroom. So I
21 want to stay true to my word because she is his mother.

22 THE COURT: Yeah, well, still we're either going to
23 -- we're not going to make exceptions. We're either going
24 to sequester them or we're not going to sequester them.

25 So with that in mind, any objection from the State?

1 MS. LIVESAY: No, Your Honor.

2 THE COURT: All right. So who is the lead
3 investigator?

4 MS. LIVESAY: Ken Marcus.

5 THE COURT: And who are the statutory victims?

6 MS. LIVESAY: Jacob Hill, Your Honor, Orlin Lopez,
7 and Britney Milam.

8 THE COURT: And who was the last one?

9 MS. LIVESAY: Britney Milam. And of course Jaime's
10 family.

11 THE COURT: Are they witnesses?

12 MS. LIVESAY: I'm sorry?

13 THE COURT: Are they witnesses?

14 MS. LIVESAY: No, sir.

15 THE COURT: If they're not witnesses, they can stay
16 here. I'm just talking about witnesses who are either --
17 the defendants get to stay, the lead investigator gets to
18 stay, and statutory victims get to stay.

19 MS. LIVESAY: Okay.

20 MR. GARDNER: Sorry, Your Honor, the prosecutor
21 identified Mr. Che Ransom's family. Apparently, I didn't
22 notice it on the witness list or didn't recognize the
23 name. Apparently, there's been some conversations at some
24 point that I have not been privy to, but now that they
25 have identified who is going to be a witness and subject

1 to sequestration, am I understanding Your Honor correctly
2 that you have not allowed, with consent of the State, to
3 allow his family to be present?

4 THE COURT: If they are witnesses -- I mean, they .
5 cannot testify in this case unless they are sequestered.

6 MS. LIVESAY: They're witnesses for the State, Your
7 Honor. Whatever you rule, we respect.

8 MR. GARDNER: In that situation, if the
9 sequestration goes forward where my client is not going to
10 be able to have his family who -- I don't know why they
11 would be witnesses or what relevance they'd have, but I
12 would object on that basis for sequestration. I wasn't
13 under the impression we had Mr. Ransom's mother or family
14 being possible State witnesses.

15 THE COURT: Well, were they on the witness list?

16 MR. BOUCHETTE: They may have. I did not --

17 MS. LIVESAY: Let me tell you this just in
18 transparency, Judge, since this has come up. I do intend
19 to call that lady as a witness, but I'm just telling you
20 what I have told her. I know she is the mother of Che
21 Ransom, so I respect she wants to be in here. And that
22 lady's name is Crystal Vereen. That is Che Ransom's mom.
23 She's on the witness list.

24 THE COURT: All right. Any objection to Crystal
25 Vereen being in the courtroom?

1 MS. LIVESAY: I'm not objecting because she is the
2 defendant's mom. And just for your clarity, Judge, her
3 portion of testimony is on video.

4 THE COURT: All right. The State does not object to
5 Crystal Vereen.

6 Mr. Bouchette, do you object to Crystal Vereen being
7 in the courtroom?

8 MR. GARDNER: No, sir.

9 THE COURT: Mr. Pinkerton?

10 MR. PINKERTON: I would not object to that, Your
11 Honor.

12 THE COURT: Mr. Gardner?

13 MR. BOUCHETTE: No, sir, no objection.

14 THE COURT: All right. So I will grant the motion
15 to sequester the witnesses. The defendants can be in the
16 courtroom. Ken Marcus, as lead investigator, can be in
17 the courtroom. Jacob Hill, Orlin Lopez, Britney Milam as
18 victims can be in the courtroom. And Crystal Vereen, with
19 stipulation of the parties, can be in the courtroom.

20 Everyone else, if they're going to testify, they're
21 going to need to be sequestered.

22 MR. HELMS: Yes, Judge.

23 THE COURT: All right. I think we have got a
24 foreperson.

25 THE BAILIFF: Yes, sir.

1 THE COURT: All right. Charles P. Gardiner, Juror
2 No. 117, has been selected as the foreperson. And he
3 evidently misunderstood my instruction because rather than
4 writing his juror number, he wrote his phone number.
5 Strike through the phone number. Well, we don't need to
6 make this a Court's exhibit. Charles P. Gardiner, Juror
7 No. 117, is the foreperson.

8 MR. HELMS: Yes, sir.

9 THE COURT: All right.
10 Anything else?

11 MR. BOUCHETTE: The other motion, Your Honor, I
12 would make on behalf of Mr. Don Brown is, in the last
13 trial, the solicitor, I believe, improperly introduced the
14 victim's mother to the jury as a non-witness, and that
15 serves no legitimate purpose other than to inflame the
16 jury and appeal to their bias and their passion, which is
17 all improper.

18 And the other thing is it's improper, personalizing
19 the case saying she's not a witness but she knows what
20 this case is about, she's been here every day. I
21 understand all that, but I think there are rules that
22 that's highly prejudicial and completely improper. And
23 that is my motion, to keep the solicitor from doing that.

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

25 MR. HELMS: Your Honor, I'm not aware of any rule

1 that introducing the victim of the mother violates.

2 THE COURT: I mean, why are you introducing her?

3 MS. LIVESAY: Because he gave a statement to her
4 saying that he fired. So, of course, we want to introduce
5 that. He gave a party opponent --

6 THE COURT: Well, if she's testifying as a
7 witness -- Mr. Gardner said that you just introduced her
8 as the victim's mother and never called her to testify.

9 MS. LIVESAY: Oh, the victim's mother.

10 MR. HELMS: Your Honor, that's it. That's all that
11 was done. She was introduced to the jury.

12 THE COURT: And what was the reason?

13 MR. HELMS: Because she is the mother of the
14 murdered victim. I thought that she had a right to be
15 introduced to the jury.

16 THE COURT: All right. I'm going to grant the
17 motion. If you're not calling her as a witness, I'm not
18 going to just let you introduce her as the victim's
19 mother. All right?

20 MR. HELMS: Understood.

21 THE COURT: Anything else from the defense?

22 MR. HELMS: No, Your Honor.

23 THE COURT: Mr. Bouchette?

24 MR. GARDNER: No, sir.

25 THE COURT: Mr. Pinkerton?

1 to listen to any news reports or anything to find out
2 anything about the case. Everything you need to make a
3 decision will be presented to you during the trial of this
4 case.

5 I hope everyone has a good evening. Please rest
6 tight, and we'll see you back at 9:00 a.m. tomorrow
7 morning. Thank you very much.

8 (The jury exited the courtroom at 4:51 p.m.)

9 THE COURT: All right. Anything from the State
10 before we recess?

11 MR. HELMS: No, sir.

12 THE COURT: Mr. Bouchette?

13 MR. GARDNER: No, sir.

14 THE COURT: Mr. Pinkerton?

15 MR. PINKERTON: No, sir.

16 THE COURT: Mr. Gardner?

17 MR. GARDNER: No, Your Honor.

18 THE COURT: They're coming back in at 9:00. I'll
19 try to take the bench at 9:15. We'll see you then.

20 (The trial adjourned at 4:51 p.m.)

21 TUESDAY, MAY 23, 2023

22 (The trial resumed at 9:18 a.m.)

23 JUROR ISSUE

24 THE COURT: Thank you very much. Please be seated.

25 All right. Good morning, ladies and gentlemen.

1 Anything preliminary before we bring the jury in?

2 MS. LIVESAY: I do Judge. So it was brought --

3 THE DEPUTY: The other defendant is not here yet.
4 He's on the way, Your Honor.

5 THE COURT: I apologize; we're still waiting for a
6 defendant to get here.

7 MS. LIVESAY: It was brought to my attention --

8 MR. HELMS: Hang on; we have got to wait on the
9 defendant.

10 (Pause in the proceedings.)

11 THE COURT: All right, Ms. Livesay.

12 MS. LIVESAY: Thank you. Just very quickly.

13 It was brought to my attention this morning when
14 Jacob Hill arrived to court that he knew the juror that is
15 on the end, and the juror contacted him yesterday after we
16 all left just to say, "Hey, I'm on that trial. I heard
17 your name in court." So I had to bring that to the
18 Court's attention. I apologize, but --

19 THE COURT: Which juror is it?

20 MS. LIVESAY: It's the young man on the end, the
21 third alternate.

22 THE COURT: The alternate? Okay.

23 And Jacob Hill is a witness?

24 MS. LIVESAY: He is the victim of an attempted
25 murder.

1 THE COURT: Oh, he's a victim.

2 MS. LIVESAY: He is here; he's probably in the side
3 room. But as soon as he came in this morning, him and his
4 mom let me know that that had occurred.

5 THE COURT: All right. I mean, I'm inclined just to
6 excuse him.

7 What's the -- Mr. Bouchette, what's your position?

8 MR. BOUCHETTE: I think excusal makes sense, Your
9 Honor.

10 THE COURT: All right. Mr. Pinkerton?

11 MR. PINKERTON: Yes, Your Honor. I believe excusal
12 is appropriate.

13 THE COURT: All right. Mr. Gardner?

14 MR. GARDNER: Yes, sir. I mean, this is pretty bold
15 for him to reach out to a juror by telephone. So, yes,
16 I'm more interested, though, if he had any discussions
17 about the nature of the case with any other jurors.

18 THE COURT: Yeah. What's the State's position?

19 MS. LIVESAY: If the Court deems it appropriate to
20 excuse him, then we certainly understand. I mean, he has
21 already reached out to one of the potential witnesses.

22 THE COURT: All right. I'm assuming that's James
23 Tyler, the alternate? He was the last one picked?

24 MS. LIVESAY: Yes, sir. The young man on the end.

25 THE COURT: Let's bring Juror No. 356, James Tyler

1 in, please.

2 (Pause in the proceedings.)

3 (Juror No. 356 entered the courtroom at 9:22 a.m.)

4 THE COURT: All right, sir, if you'll come forward.

5 Your name is James Tyler?

6 JUROR NO. 356: Yes, sir.

7 THE COURT: All right. Mr. Tyler, I understand that
8 you -- or it's come to our attention that you know one of
9 the victims in this case; is that correct?

10 JUROR NO. 356: Yes, sir.

11 THE COURT: All right. Why didn't you respond when
12 I asked the voir dire question as to whether or not
13 anybody knew --

14 JUROR NO. 356: I didn't know that was him.

15 THE COURT: You didn't? But, as I understand, you
16 telephoned him last night?

17 JUROR NO. 356: Yes, sir.

18 THE COURT: Okay. So how did you find out it was
19 him?

20 JUROR NO. 356: Like, me and him was talking. Like,
21 I texted him.

22 THE COURT: Why would you reach out to him and text
23 him?

24 JUROR NO. 356: I didn't know that was him. I said,
25 "You got court tomorrow?" He said, "Yeah." I said, "Oh,

1 I got court too." And that's all I said.

2 THE COURT: Have you discussed this with anyone else
3 in the jury room?

4 JUROR NO. 356: One of the other -- I forgot what
5 his name was.

6 THE COURT: You don't know -- is he an alternate or
7 part of the 12-panel jury?

8 JUROR NO. 356: He was the head guy.

9 THE COURT: The foreperson?

10 JUROR NO. 356: Yes, sir.

11 THE COURT: And what did you say to him?

12 JUROR NO. 356: That I knew Jacob Hill.

13 THE COURT: And what else?

14 JUROR NO. 356: That was it.

15 THE COURT: Are you talking about Mr. Gardiner, the
16 person who is sitting here on the front row in the first
17 seat?

18 JUROR NO. 356: No, it was no one in here. It was
19 like a head person in charge.

20 THE COURT: No, I'm talking about out of this jury.

21 JUROR NO. 356: Oh, no, sir.

22 THE COURT: Have you talked to anybody about it?

23 JUROR NO. 356: No, sir.

24 THE COURT: So none of the other jurors that are on
25 this jury with you, you haven't spoken to any of them at

1 all?

2 JUROR NO. 356: No, sir.

3 THE COURT: All right.

4 (Deputy hands note to judge and conferred with the
5 judge off the record.)

6 THE COURT: Okay. So this is the note from
7 Mr. Bobby?

8 Okay. So you talked to the bailiff about it?

9 JUROR NO. 356: Yes, sir.

10 THE COURT: Okay.

11 All right. Mr. Tyler, I'm going to excuse you from
12 this particular jury.

13 JUROR NO. 356: Yes, sir.

14 THE COURT: What I'm going to do is I'm going to
15 excuse you for the remainder of the week, but I'm going to
16 put you back on the next jury panel for you to come back
17 and serve your jury duty. Okay?

18 JUROR NO. 356: Okay.

19 THE COURT: All right. So we're going to transfer
20 Mr. Tyler to another term of court.

21 Have you got anything in the jury room?

22 JUROR NO. 356: Yes, sir.

23 THE COURT: All right. Let her know what you have
24 got in there, and she'll go in and get it for you. Okay?

25 JUROR NO. 356: Yes, sir.

1 THE COURT: And you'll receive another summons as to
2 when you need to come back to do your jury duty.

3 JUROR NO. 356: In the mail?

4 THE COURT: I'm assuming. Is that how -- yeah, that
5 will be in the mail.

6 JUROR NO. 356: Yes, sir. Thank you.

7 THE COURT: Thank you.

8 (The juror exited the courtroom at 9:26 a.m.)

9 THE COURT: All right. Anything further from the
10 State?

11 MR. HELMS: No, Your Honor.

12 THE COURT: Mr. Bouchette?

13 MR. BOUCHETTE: My only concern is -- and I hate to
14 keep making the jury reaffirm or take another oath, but
15 it's essentially the second juror that we have had not
16 bring forth information from the Court. We've excused one
17 juror yesterday for not disclosing knowledge to somebody;
18 I forget what exactly it was.

19 Given what just happened, I think it probably would
20 be appropriate for the Court to inquire to the jurors when
21 they come in that they reaffirm that nobody has spoken
22 neither to Mr. Tyler about the case or anybody else about
23 the case and to reaffirm that they don't know any of the
24 witnesses that have been identified now that they have had
25 a chance to perhaps see some of the people and put faces

1 so we don't cover this again.

2 THE COURT: All right? Mr. Bouchette [sic],
3 anything?

4 MR. PINKERTON: Your Honor, I would join
5 Mr. Bouchette on that.

6 THE COURT: All right. Mr. Gardner?

7 MR. GARDNER: Yes, sir, Your Honor. We agree.

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

9 MR. HELMS: My position is I'd defer to the
10 discretion of the Court. I think you can best handle
11 this.

12 THE COURT: All right. When we bring them in, I'll
13 just ask them -- I'll say, "It turns out that one of our
14 alternates had turned out, in hindsight, did know
15 something about the case that was not disclosed to the
16 Court; therefore, I have excused him." And, "Does anybody
17 else have any information about this case, know any of the
18 parties, know any of the victims, or know any of the
19 witnesses?" We'll handle it that way. Okay?

20 MR. HELMS: Yes, sir.

21 MR. PINKERTON: Your Honor, I would also add to ask,
22 if you will, if he's discussed that with any of the other
23 jurors back in the jury room this morning.

24 THE COURT: All right.

25 MR. GARDNER: A couple of preliminary matters.

1 First related to discovery, as we were doing -- going
2 through testimony in the Jackson v Denno hearing
3 yesterday, we learned that the State had had some type of
4 interview with my client's mother, who is present in the
5 courtroom.

6 Upon speaking with her today, it's my understanding
7 that there was a review or interview here at the
8 solicitor's office, multiple people present. I believe it
9 was last Thursday, according to her.

10 Judge, I would anticipate that there were notes or
11 recordings or something taken of that interview with the
12 witness. And, if so, I'd like to be provided with that.
13 They have identified her as a witness. They indicated
14 they might seek to call her. I'd like to know what she
15 said and what was discussed at that meeting.

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

17 MR. HELMS: If I'm not mistaken, Mr. Bouchette is
18 asking for my work product, and I object to that.

19 THE COURT: Did you identify her as a witness in
20 this case?

21 MR. HELMS: She is identified as a potential
22 witness. She's on the witness list, yes, sir.

23 THE COURT: I know on the witness list, but in
24 discovery, did you identify her as a potential witness who
25 might testify in this case when they requested discovery?

1 MR. HELMS: Yes, sir.

2 THE COURT: I think that's all they're required to
3 do.

4 MR. BOUCHETTE: Well, I guess my concern is that
5 this was taken -- if they have any statements that are
6 recorded that might be used for impeachment purposes,
7 then, I think, under that, we would be entitled to have it
8 for discovery purposes. I think this was done with law
9 enforcement present --

10 THE COURT: You're talking about recorded statements
11 of your client's mother?

12 MR. BOUCHETTE: As I understand it, it was done -- I
13 presume it was recorded. There would have been
14 third-party witnesses there. If it was just a discussion
15 with the solicitor, then that might be work product. But
16 if it's recorded something they might intend to use either
17 for impeachment purposes or otherwise, then I think we're
18 entitled to have that.

19 MR. HELMS: He's got everything I have, Judge.

20 THE COURT: Okay. He says you have got everything
21 he's got.

22 MR. BOUCHETTE: All right. So the solicitor is just
23 affirming that there was no recording or statements, notes
24 kept or anything along those lines other than the
25 communication between the solicitor and potential witness.

1 THE COURT: Did you record her statement or was her
2 statement recorded?

3 MR. HELMS: Did we record her statement?

4 (Counsel conferring off the record with co-counsel.)

5 MR. HELMS: No, Your Honor. Her statement was
6 recorded by the surveillance camera that was in the
7 interview room, just like Mr. Che Ransom's was recorded.
8 That's the only memorialization we have of her potential
9 testimony.

10 MR. BOUCHETTE: Okay. And I do have that, Your
11 Honor.

12 THE COURT: All right. Sounds good.
13 Anything else?

14 MR. BOUCHETTE: And only one other thing, Your
15 Honor. I submitted a motion to the Court. This was just
16 a heads-up so we can get to it whenever the appropriate
17 time is, but what we began going over yesterday during the
18 Jackson v. Denno hearings were certain objections that we
19 anticipate regarding statements that may be elicited and
20 attributed to Mr. Pinkerton's client or to Mr. Gardner's
21 client. I don't know what the best way is to address
22 that. The Court probably doesn't want to hear it now, but
23 I'm trying to give a heads-up for the purposes of the
24 State planning their opening, however they wish to address
25 that, but we do anticipate an objection whenever the State

1 seeks to elicit that testimony.

2 And so, if the Court doesn't want to get into it
3 now, then I would just ask that we be given a heads-up
4 when they plan on calling a witness that would seek to
5 introduce the statements --

6 THE COURT: You're talking about pretrial statements
7 of Mr. Brown and Mr. Mitchell?

8 MR. BOUCHETTE: That's correct.

9 THE COURT: I mean, the law is pretty clear. If
10 Mr. Ransom is a nontestifying defendant, then any
11 statement given by Mr. Brown or Mr. Mitchell that
12 implicates Mr. Ransom violates his confrontation -- his
13 rights to confrontation. So any statements given by
14 Mr. Brown or Mr. Mitchell is going to have to redact any
15 statements at all to Mr. Ransom --

16 MR. HELMS: I understand.

17 THE COURT: -- or anything that the jury might imply
18 as a reference to it.

19 MR. HELMS: Absolutely, Judge. And we understand
20 Bruton's ruling, and we intend to comply completely. We
21 do not intend to introduce a statement by a non-testifying
22 codefendant implicating the codefendant.

23 MR. BOUCHETTE: Not to argue the motion right now
24 but with regard to Bruton, that's a Bruton requirement.
25 You can redact and you can limit.

1 My motion is pursuant to Crawford that says, if it
2 falls into one of these specific categories, which has
3 been deemed as testimonial, then you don't do the
4 prejudice analysis. No matter what Mr. Brown or
5 Whittington says, those statements are inadmissible if
6 they are, in fact, testimonial, which we believe they are.

7 And so I just want to make that distinction that
8 Bruton allows limitation if it implicates the defendant,
9 but Crawford makes clear that, if it falls into the
10 category of testimonial, then it doesn't come in.

11 THE COURT: I mean, Crawford, is that a trial with
12 codefendants?

13 MR. BOUCHETTE: Yes, sir. So Crawford, 2004, I
14 believe, U.S. Supreme Court, you've got a CDV case wherein
15 the spouse --

16 THE COURT: Oh, that was with the two-year-old
17 child.

18 MR. BOUCHETTE: Not in Crawford. In Crawford, I
19 believe it was a CDV case wherein you have a wife invoking
20 her marital immunity so she could not be compelled to
21 testify.

22 And so the attempt to put in her statements that
23 were testimonial -- again, this is the specific category
24 the Supreme Court outlines that says preliminary hearings,
25 prior trials, and police interrogations that are likely to

1 be used in a prosecutorial setting, that, if it falls into
2 one of those categories, then, no matter what they're
3 saying, we don't have the ability to cross-examine them,
4 and that's a distinction from, for example, statements
5 made that are contained on a body cam or a 911 call. If
6 it's one of those statements, non-testimonial, then Bruton
7 controls, and you can redact and you can take certain
8 mitigating efforts if there's prejudice.

9 But under Crawford, if it's testimony, there's not a
10 prejudice analysis or redaction can't cure it. If it's a
11 testimonial statement, then -- and we don't have the
12 opportunity to cross-examine, that's the only analysis,
13 and they don't come in.

14 So I'm not trying to argue the motion right now, but
15 I'm trying to give a heads-up as to --

16 THE COURT: I'll have to double-check Crawford
17 because I think they're going to be able to use it with
18 the proper redaction, but I'll need to take -- I'll take
19 another look at Crawford and see what it says.

20 MR. BOUCHETTE: Thank you, Judge. And I think I
21 cited a couple of South Carolina cases that go into one
22 that identifies -- sort of goes into this discussion of
23 testimony on Crawford: State vs. Ladmer, L-a-d-m-e-r, a
24 Court of Appeals, and then a little bit more recent or
25 around the same time is State v. Mitchell, but that's our

1 courts sort of applying and analyzing the Crawford
2 standard.

3 THE COURT: All right. I'll take a look at it.

4 All right. Anything else?

5 MR. BOUCHETTE: No, sir.

6 THE COURT: Mr. Pinkerton, anything?

7 MR. PINKERTON: No, Your Honor.

8 THE COURT: Mr. Gardner?

9 MR. BOUCHETTE: No, sir.

10 THE COURT: All right. Anything else before we
11 bring the jury in?

12 MR. HELMS: No, sir.

13 THE COURT: All right. Let's bring the jury in.

14 (The jury entered the courtroom at 9:38 a.m.)

15 THE COURT: All right. Ladies and gentlemen,
16 welcome back. I hope everybody had a good evening. We're
17 getting ready to start or resume the trial of this case.

18 First of all, I want to thank you for being prompt
19 this morning. That's a great assistance to the Court.
20 No. 2, I want to apologize for keeping you in the jury
21 room for so long, but that happens at times when we have
22 scheduling matters.

23 Now, I do have a matter I need to address with you.
24 It turns out that we found out overnight or one of the
25 jurors, the alternate, Mr. Tyler, discovered overnight

1 that he did know something about the case or knew some of
2 the parties, and it was brought -- he brought it to the
3 Court's attention, and so I have had to excuse him.

4 That being the case, I need to ask each of you: Has
5 anybody -- and just raise your hand if you have. Nobody's
6 in trouble or anything of that nature, because as I said,
7 sometimes when you get into a trial, you find out you know
8 more about a case than you thought when you went through
9 voir dire questioning. Has anybody discussed anything
10 about this case with Mr. Tyler?

11 (No response given.)

12 THE COURT: All right. Now, since you have been
13 placed on this jury, has anybody come to realize that they
14 know the defendants, they know anybody else involved in
15 the case, they know witnesses, they know victims, or they
16 know something about this case? Does anybody know
17 anything about the case or any of the parties, victims, or
18 witnesses?

19 (No response given.)

20 THE COURT: All right. Anything further from the
21 State in that regard?

22 MS. LIVESAY: No, sir.

23 THE COURT: Anything from Mr. Bouchette?

24 MR. BOUCHETTE: No, sir.

25 THE COURT: Mr. Pinkerton?

1 MR. PINKERTON: No, Your Honor.

2 THE COURT: Mr. Gardner?

3 MR. GARDNER: No, sir.

4 THE COURT: Let the record reflect that none of the
5 jurors have spoken with Mr. Tyler or knows anything
6 further about this case.

7 All right. Ladies and gentlemen, we are now going
8 to begin the case with the attorneys' opening statements,
9 and as I told you yesterday during my opening charges to
10 you, these statements are not evidence in this case. It
11 is simply the attorneys' contentions as to what they think
12 the evidence will show in this case and the law to be
13 applied. But these are not evidence. It's just their
14 opinions and their contentions as to what this case is
15 about.

16 Ms. Livesay or Mr. Helms, who wants to open for the
17 State?

18 MR. HELMS: I do, Judge.

19 THE COURT: All right, sir. Let me hear from you.

20 MR. HELMS: Thank you very much, Your Honor.

21 OPENING STATEMENT ON BEHALF OF THE STATE

22 MR. HELMS: When I was a criminal defense attorney
23 and I did the job that those three gentlemen are going to
24 do this week, I would tell my client sometimes that your
25 most valuable resource, your most valuable commodity is

1 not your money, it's not your family, it's not your home,
2 your car. Your most valuable resource and commodity that
3 you have -- that I have -- is your time. Your time is
4 finite. It cannot be replaced. It cannot be added to.

5 You have a finite number of days on this earth, and
6 so do I. And you are giving a week of your time this week
7 because these three gentlemen -- Don Brown, "Quan,"
8 "Chucky"; Travontae Mitchell, "Tip," "Baby Klutch," and
9 Che Ransom -- got together with three of their friends in
10 one car on September 12th of 2020 and committed a felony.
11 They took time away from the dead victim in this case,
12 Jamie Johnson. But they didn't take a week of his time
13 like they're taking from you today. They took all of his
14 time.

15 So I want to thank in advance for trading your week
16 for the rest of his life because that's what these
17 gentlemen demand. They're standing here together unified
18 just like they always have been, and you have a decision
19 to make.

20 On September 12th, they got into a light blue Chevy
21 Caprice. Kind of looks like a cop car, an old Crown Vic.
22 They don't even make them anymore. They got into a light
23 blue Chevy Caprice not far from this courthouse -- a
24 couple of miles down the road -- and they went for a ride
25 on the back roads of Conway. Six of them in one car.

1 Didn't belong to any of them. They borrowed it. Because
2 you don't commit a felony in your own car. They borrowed
3 the car. I'll let you hear from who they borrowed it
4 from.

5 They got into this car -- and this is going to be a
6 very poor representation of a car but stay with me. This
7 is going to be our car for this trial. These are the
8 headlights so you know that's the front. Okay? Here is
9 the steering wheel. And there are one, two, three, four,
10 five, and six occupants of this blue Chevy Caprice.

11 Three of them are sitting right here. The evidence
12 will show you that this one is the driver and that these
13 two are shooters. Driver and shooters.

14 Now, he ain't a shooter because it's hard to drive
15 and shoot. And he didn't need to; there's five other
16 people to do the shooting.

17 This is his weapon. And when I say "him," I'm
18 talking about Don Brown. This is his weapon right here,
19 and it's effective as any AR-15 you have ever seen.

20 This is what happens. On this day, just before dusk
21 around 7:00, just after 7:00, they see the victims in this
22 case. And there are four victims. Four. I'm going to
23 introduce you to them. You're going to hear from Britney
24 Milam. She's going to tell you what she saw, what she
25 heard, and what she experienced. You're going to hear

1 from Jacob Hill, the deceased's best friend. He's going
2 to tell you what he saw, what he heard, what he
3 experienced. And then you're going to hear from Orlin
4 Lopez -- these three victims, to tell you what they saw,
5 what they heard, and what they experienced.

6 Who you're not going to hear from is this young man.
7 I have to show you a picture of him because they took his
8 time. He can't be here to testify for you because he's
9 been murdered.

10 When they saw the vehicle that these four people
11 were occupying, these four friends -- Jamie, Britney,
12 Orlin, and Jacob -- they got in behind them. If I can't
13 prove this, you cut them loose, but I can, so listen.

14 They got in behind them on the back roads of Conway
15 that they knew very well, when they saw their Chevy Tahoe.
16 Squatted, like the kids do. I hate it but they like it
17 so....

18 And they got in behind them. I can prove this to
19 you. All six of them in the car are following the victims
20 down the back roads of Conway, down Wayside Drive to be
21 specific. They waited and they wait and follow and stalk
22 their victims until they are at their most vulnerable,
23 until they feel like they can get the drop on them, until
24 Quan makes the decision to act, for whatever reason.
25 They're a team.

1 Quan the driver -- Don Brown -- takes the vehicle
2 that he is operating, the blue Chevy Caprice, wheels
3 around the victim's car at a stop sign where Rose Moss
4 meets D Street. Some of you know this area as good as I
5 do, back behind Tractor Supply and all that, near Brown
6 Swamp.

7 And where Rose Moss meets D Street -- we'll show you
8 a map later -- they stopped at the stop sign, the victims.
9 Don Brown takes the vehicle he's using and goes around
10 them at this stop sign and parks directly in front of him,
11 so that they can't go anywhere, to cut off their escape.

12 And then the shooters -- Che, Travontae, and Tronahz
13 Whittington -- he's not here; don't worry about him.
14 He'll get his day; he's entitled to his day in court --
15 get out and blast away. Blast away. Shoot that car up.

16 The first bullet makes it inoperable. The car can't
17 go anywhere. Radiator fluid leaking all down the front.
18 They can't go anywhere. They can't get away. There's a
19 car in front of them, and the car can't back up. And
20 they're shooting into the Tahoe as a team.

21 Despite his best efforts, he can't get away without
22 catching a bullet right here. One of the many, many
23 bullets that were fired went through his head and out the
24 back. I suspect the defense is going to try and jump on
25 that as a benefit to them, that we can't tell you exactly

1 what bullet went through Jamie Johnson's head. I'm here
2 to tell you, we don't have to, because they're a team.
3 And each one is just as guilty as the next for their
4 preparation, starting from the driver, Don Brown, who cut
5 him off, to "Tip" Travontae Mitchell to Che Ransom to the
6 rest of them who get out to shoot. They're all equally
7 guilty. But that is for you to decide. And to decide
8 that, you will listen to the evidence that we present.

9 I've got to show you what I know because I'm making
10 a bold statement to you. I know that. It is not lost on
11 me what I am accusing them of, but I can prove it and we
12 will by the evidence.

13 You'll have a decision to make as to whether you
14 believe the people you're hearing from, whether they want
15 to be here to testify, whether they have reasons to lie to
16 you, or whether they're telling the truth as to what
17 happened and whether we drew these three names out of a
18 hat. Because we didn't. They're standing strong together
19 like they always have. They're a team.

20 Now, I'm not a big football fan like most guys, but
21 I'm going to tell you this. There is no doubt that Tom
22 Brady is one of the best football players to ever play the
23 game. He has been to ten Super Bowls, more than any other
24 player in the history of the NFL. You don't have to be a
25 football fan to appreciate this. He's won seven of those

1 Super Bowls. Two-thirds of them, he's won them, give or
2 take. And in five of those Super Bowls, Tom Brady was the
3 most valuable player. Killed it. He's won 251 regular
4 season NFL games. That is 30 more than the second place
5 guy. That's two whole seasons.

6 My point is, Tom Brady is the man. Because in every
7 group, on every team, somebody got to be the man. I'm not
8 telling you all three of them are the man over here. Not
9 all three of them are Tom Brady. But here's the thing
10 about Tom Brady and his football team: He can't do it by
11 himself. As great as he is, if he goes out there alone,
12 he will fail against the worst team, the Cleveland Browns.

13 He can't play by himself because he would get
14 slaughtered. So when he goes to a Super Bowl, when he
15 wins that Super Bowl ring and he gets MVP, guess who else
16 gets the Super Bowl ring? Every player on his team, from
17 the wide receiver who didn't play, to the kicker who
18 didn't make the field goal. But they joined together and
19 they accomplished their goal, and they all reap what they
20 sow together.

21 This is no different except they didn't do an
22 admiral thing like win a Super Bowl. No. They joined
23 together with three of their friends to commit a felony,
24 and they accomplished it whenever they put a bullet in
25 Jamie Johnson.

1 Now, after the murder took place, they didn't stay
2 and wait for police. The six guys in the car didn't split
3 up and say, "Oh, man, something bad happened. I'll stay
4 here and wait for the police and explain." No. They fled
5 because that's what you do when you commit murder. You
6 run.

7 And if it was up to them, that would have been the
8 end of the story. They would not be sitting here right
9 now as a team still. But there's evidence. When you get
10 six people together, you're going to leave evidence, and
11 the truth is, you might not be a team anymore.

12 So you're going to hear from some of the six people,
13 two of the six that were in that car. You're going to
14 hear from there. You're going to hear whether or not they
15 have been promised anything or threatened in any way, and
16 you have a decision to make as to whether or not you
17 believe they were in that car and saw what they're going
18 to tell you they saw.

19 I want to make something clear to you: You are not
20 here to decide anyone's fate. That is the purview of this
21 Court. You don't decide what happens to anyone, so rest
22 your mind at ease. No, that's not what you decide. You
23 decide what has already happened based on what you see.
24 That's all you have got to do, determine whether or not
25 the witnesses are telling you the truth. And the evidence

1 says this group of boys murdered that young man and tried
2 to kill the other three members of the car or the other
3 three people that were inside the car. Because if you're
4 unloading guns into a car, what are you trying to do?
5 You're trying to kill them. You're not trying to scare
6 them. You're trying to kill them. And they didn't just
7 try, they succeeded. That's why you can't hear from Jamie
8 this week, but you will hear from the other three.

9 And, in the end, when it's all said and done --
10 you'll hear this a lot during the course of the trial
11 about laws and the hand of one is the hand of all. I'm
12 not going to discuss that with you now; that will come
13 later. But the bottom line is this: When you play as a
14 team, you win as a team or you lose as a team. These boys
15 are still a team. Some of them jumped ship. Some of them
16 ain't on the team no more. These boys are ride or die.
17 And the hand of one is hand of all. Thank you.

18 THE COURT: Mr. Bouchette?

19 OPENING STATEMENT ON BEHALF OF DEFENDANT RANSOM

20 MR. BOUCHETTE: Your Honor, if it please the Court?

21 THE COURT: Yes, sir.

22 MR. BOUCHETTE: Madam Court Reporter and solicitors.
23 Ladies and gentlemen of our jury, good morning.

24 We have got three defendants here this morning and
25 three defense lawyers. None of us have to give an opening

1 statement this morning, but I anticipate we all will, and
2 so I'm not going to belabor points. I'm not going to try
3 to take up more of your time than necessary.

4 As you've heard, the evidence that you're going to
5 hear is going to come from that stand here in just a few
6 moments. All right?

7 But I do want to reintroduce myself. I know I gave
8 you my name in jury selection, but I'm Jarrett Bouchette,
9 and I have the pleasure of representing that young man.

10 Che, if you don't mind standing up.

11 That is Che Ransom. And I've been appointed by the
12 Court to represent him.

13 Now, some lawyers might hesitate to tell you they
14 have been appointed because they'd be worried that you
15 might think I really don't want to be here or that I don't
16 believe in my client's case. Let me tell you something,
17 folks: We have asked for this court date today. We have
18 asked for your time because, with all respect to my
19 colleagues sitting over here, we believe this case is an
20 overreach. There was a cold-blooded killer in the vehicle
21 that day, but it wasn't one of these gentlemen.

22 Now, Mr. Helms sort of glossed over this fellow's
23 name: Tronahz Whittington. Again, he's not seated here.
24 He's in jail having been convicted of murder.

25 Now, I anticipate at the end of this case you are

1 going to find that Mr. Ransom, Mr. Mitchell, Mr. Brown,
2 you're going to find that they are guilty. The question
3 is, guilty of what? And I don't think it's going to be
4 murder. I don't think it's going to be attempted murder,
5 because certainly not Mr. Ransom -- I don't think
6 Mr. Mitchell or Mr. Brown are cold-blooded killers capable
7 of doing that.

8 I think, at the end of this case, you're going to
9 find that, particularly as it relates to Che Ransom, he's
10 guilty of being at the wrong place at the wrong time with
11 the wrong person.

12 Now, most of you -- or some of you, at least -- are
13 probably going to be wondering, "Well, if this fellow is a
14 cold-blooded killer, how did it come to be that Mr. Ransom
15 ended up in the vehicle with him?" Folks, all I can tell
16 you about that is try to give you a little bit of
17 background on the life that Mr. Ransom has led.

18 Now, at the time this happened, he was 18 years old.
19 Lifelong resident here in Conway, Horry County. And it's
20 worth pointing out because Horry County and Conway, Myrtle
21 Beach, this area has grown and changed a lot over the last
22 several years. We have got new people, hotels, beaches,
23 shopping, restaurants, new houses and subdivisions, all
24 these kinds of things, and that's great. But it's easy to
25 forget sometimes that there are parts of our community

1 that -- guns, violence, other struggles are a part of
2 daily life, and that's the environment that Che Ransom
3 came up in.

4 And we all have people in our lives -- we've all had
5 friends, associates, people we've been around,
6 particularly when we're 17, 18 years old, that we probably
7 shouldn't have been. But in Che Ransom's neighborhood,
8 those kind of people might very well be cold-blooded
9 killers like Mr. Whittington.

10 Now, Mr. Helms outlined to you a little bit of what
11 he thought the facts in this case would indicate, and
12 you're going to make up your own mind on that, but I want
13 to point out a few things, and these things are going to
14 be undisputed. I anticipate they'll be undisputed.

15 Number one, you heard about the allegation that they
16 all borrowed a car. They didn't borrow a car. There was
17 no plan that day. Nobody is going to testify that, when
18 they got the vehicle and they left the fellow that they
19 borrowed the car from, there's not going to be any
20 allegation that this was a preplanned, premeditated
21 assault, that they had had this scheme whenever they left
22 and got in the vehicle. That's not going to be the case.

23 In fact, you're going to hear that there was no --
24 these fellows didn't know Mr. Johnson. You're going to
25 hear that Tronahz Whittington did. You're going to see

1 that, whenever the vehicle pulled up and Mr. Johnson was
2 identified, you're going to hear that these guys didn't
3 know who he was but Tronahz Whittington did. You're going
4 to hear that there was one rifle. Tronahz Whittington had
5 it.

6 And the reason why that's important is Mr. Helms
7 pointed out to you -- and, again, I hope that you remember
8 how much -- what we say in opening is not evidence, but I
9 do hope that you hold us accountable for this in terms of
10 what comes from the jury [sic] stand. I believe he said
11 that the vehicle was riddled with bullets; that is,
12 Mr. Johnson's vehicle. Folks, that's not going to the
13 case at all.

14 Mr. Johnson died from one shot to the head. There
15 will be no other testimony of any other shots fired in
16 that vehicle. This is not a situation where there was
17 multiple gunshots entered the vehicle and only one made
18 contact that had the fatal shot. There's only going to be
19 evidence that one bullet -- possibly two -- hit the
20 vehicle with Mr. Johnson.

21 Now, let's talk about guns. I anticipate we're
22 going to have conflicting testimony about who had guns and
23 what was going on. It may give you pause at the end of
24 this case, but I think it's going to be very clear that no
25 one, other than Tronahz Whittington, fired any shots at

1 the victim.

2 Now, there's not going to be any eyewitness other
3 than -- Mr. Helms described it as the teammates on this
4 case. And I anticipate that you're going to evaluate and
5 promise -- not even what they have been promised, what
6 they expect. All right? I anticipate that what we're
7 going to hear is that these guys know what the solicitor
8 is looking for, they know what is expected of them, and
9 you're going to see sort of how their stories sort of
10 shifted a little bit over time, and you're going to use
11 that to evaluate whether or not it's credible, but
12 ultimately, you're going to use your common sense and
13 determine what portions of their testimony is true and
14 what might have been added to a little bit between
15 September of 2020 and as we sit here today.

16 Now, you hear a lot about this burden of proof, and
17 the State has the burden of proof. Have to prove it
18 beyond a reasonable doubt. And any ambiguity regarding
19 the facts or the evidence in the case has to be construed
20 against the State.

21 Now, folks, that is the defendant's right. That is
22 for Che Ransom. But I want to point out to you what that
23 really means. It's one of those legal terms of art. And
24 so it's difficult to ask you to do that because we don't
25 do that in our everyday lives. We don't see a headline or

1 an article of somebody being charged or somebody being
2 arrested and say, "Well, man, I wonder if the science is
3 credible. I wonder if the witnesses are telling the
4 truth. I wonder if he had any motive." You know, a lot
5 of times, we don't do that. All right?

6 We look at it and we start talking about we hope
7 he'll get sentenced, things along those lines. All right?
8 We all do that to some extent. And so what I'd just ask
9 you to do is sort of have an exercise that, as we go
10 through this case, think of somebody that you admire,
11 whether it be a parent, a spouse, co-worker, whoever it
12 may be, and I want you to imagine, when you come in that
13 front door each and every day, I want you to imagine that
14 it's that person sitting there facing these charges with
15 these allegations, and think of what your reaction might
16 be. It's probably not going to be "hope he gets" -- it's
17 probably going to be, "It's got to be some mistake; that
18 doesn't sound right."

19 And it's only if the State convinced you beyond any
20 possible doubt, answered every question that you possibly
21 had and every concern that got raised got answered to your
22 absolute satisfaction, would you cast your vote for guilty
23 at the end of that trial for that person?

24 Now, you don't know Che Ransom. You have never met
25 him. But as you sit here today, with your obligation to

1 the Court, you have to be sitting there with that thought
2 that says, "Mr. Solicitor, there's got to be some mistake.
3 This can't be right." And he's going to have to prove to
4 you and firmly convince you that that's not the case.

5 And, folks, that burden of proof isn't just for Che
6 Ransom. Obviously, that's his right, and that's who it's
7 intended to protect. But jury service -- there's a quote
8 that always gets floated around that says it's the highest
9 act of citizenship. And that's not just because you're
10 being inconvenienced, you're being someplace you don't
11 want to be, and having to take time out of your day. It's
12 because of the burden that rests on your shoulders.

13 Now, that case has been all throughout South
14 Carolina, and everybody always talks about -- talks about
15 the lawyers and the prosecutors or the judges. Nobody
16 talks about the jurors.

17 See, we have got it somewhat easy because myself,
18 Mr. Gardner, and Mr. Pinkerton, all we have to try to do
19 is do our very best and present to you everything we know
20 and make every argument that we know to make to advocate
21 for our client. Mr. Helms and Ms. Livesay, they have a
22 different job in presenting their case in trying to meet
23 their burden of proof, and Judge Culbertson has the
24 difficult job of trying to referee everybody and trying to
25 give you the correct instructions on the law, but,

1 ultimately, when we do that, we don't have to make the
2 final decision. That burden rests on you. And I know how
3 heavy a burden that is. Nobody that sits on a jury wants
4 to wake up years from now wondering if they made the wrong
5 choice.

6 And so if, during the course of the case, if you
7 feel that the solicitor is asking you to make inferences
8 or to draw conclusions that you don't think are quite
9 there, I want you to think in your mind that, "Uh-uh,
10 Solicitor, I'm not giving up any of my sleep."

11 Folks, that's a right for the defendant, but it's
12 your benefit as well, and so don't you dare let them try
13 to take that away from you during the course of this case.

14 Now, one final thing. As you can tell, the
15 solicitor and I are probably going to disagree during the
16 course of this case. We're going to probably disagree
17 with witnesses. This is a very serious matter. But I
18 hope that, during the course of this case, if I do
19 something that either offends you or embarrasses
20 Mr. Ransom, I hope you don't take that and hold that
21 against me. As I said before, it can be a very difficult
22 job to try to present a case like this and to try to get
23 everything to you that we think is important, but I want
24 to thank so much for your service here today. And all we
25 ask at this point is just to keep an open mind until all

1 the evidence has been presented and, at that time, apply
2 the law that the judge gives you, including the burden of
3 proof. And I think, if you do that, you won't have to
4 worry about losing any sleep. Thank you so much.

5 THE COURT: All right. Mr. Pinkerton?

6 MR. PINKERTON: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, sir.

9 OPENING STATEMENT ON BEHALF OF DEFENDANT MITCHELL

10 MR. PINKERTON: Ladies and gentlemen, thank you for
11 being here today. As the jury, you are the most important
12 people in this courtroom this morning. You're more
13 important than the solicitors, myself, and even the judge.
14 That's because you are the finders of facts in this case.

15 Now, I'm not going to get up here and be long-winded
16 and bore you with sports analogies or anything like that.

17 As we go through this case, you're going to hear a
18 lot of testimony, see a lot of facts. That's what I want
19 you to be concerned with, not sports analogies and not
20 stories. Y'all are not robots. Y'all can think
21 analytically.

22 As you know, you'll hear testimony and you'll hear
23 facts. You have got to decide what, in your mind, is true
24 with this.

25 Now, my client, Mr. Travontae Mitchell --

1 Can you stand up, Mr. Mitchell? Thank you, sir.

2 -- is not guilty of this crime he's being accused of
3 by the State. You'll hear in testimony, at the time, he
4 was only 16 years old. He was hanging out with his older
5 brother and some of their friends. The State tried to
6 paint this as some common scheme, some plan, but as you've
7 heard, they've already convicted the shooter, Mr. Tronahz
8 Whittington.

9 As you've heard, he was the only person in that car
10 that even knew the dead person, Jamie Johnson. He didn't
11 know anybody else in that Tahoe. Didn't know anybody else
12 besides his brother and a few people that were in the car
13 with him. There was no common scheme, no plan. This was
14 all Tronahz Whittington.

15 They're going to get up there and make it sound like
16 it was some kind of big shootout right in the middle of
17 the street. However, also what y'all see is that only one
18 shot hit that Tahoe.

19 Now, it's very unfortunate that Mr. Johnson did lose
20 his life in this; however, Mr. Mitchell was not the
21 shooter. He was merely present. The same thing goes for
22 Mr. Brown and Mr. Ransom. They were merely present. They
23 were not the shooters. They were not the instigators.
24 They had nothing to do with the killing of Ms. Johnson or
25 the attempted murder of anybody else in that Tahoe that

1 day. My client was merely trying to get a ride home with
2 his older brother. Had no idea any of this was going to
3 go down.

4 And as you've heard already, the burden of proof is
5 on the State, so I'd ask you to keep an open mind. And
6 once this trial is over, we pray you come back with a
7 verdict of not guilty for my client, Mr. Mitchell, for
8 Mr. Brown, and for Mr. Ransom. Thank you.

9 THE COURT: All right. Mr. Gardner?

10 MR. GARDNER: May Your Honor, please?

11 THE COURT: Yes, sir.

12 OPENING STATEMENT ON BEHALF DEFENDANT BROWN

13 MR. GARDNER: Mr. Foreman, ladies and gentlemen of
14 the jury, I represent Don Brown. Y'all figured that out
15 because the two are...

16 Don, stand up. How old are you? About 16?

17 I think he was 16 at the time this happened.

18 THE DEFENDANT: 17.

19 MR. GARDNER: Okay. 17. So it's a while back.

20 These are young boys.

21 The question that we're going to ask you to decide
22 for Don Brown is whether or not a driver, merely present,
23 with no preplanning, with no premeditation, with no
24 conspiracy, with no game plan can be found guilty of
25 murder or attempted murder. And at the end of this case,

1 the only answer that you can come up with, if you follow
2 the law and if you listen to the facts, is not guilty.

3 Don Brown is not guilty. He's merely the driver.
4 The evidence will show he's the only one that had a
5 driver's license so he was told to drive.

6 The person sitting beside him told him to pull over.
7 The person sitting beside him knew the victim. Don Brown
8 did not. The person sitting beside him got out of the car
9 with the gun, shot the victim and killed him, got in the
10 car with the gun, told Don to drive. That's what this
11 case is about. That's going to be the evidence pretty
12 much in total.

13 So back to the question. Somebody merely driving,
14 with no preplan, with no conspiracy, with no
15 premeditation, who is told by somebody with a gun, "Pull
16 over," is he guilty of murder?

17 And I want you to listen to the judge, who is going
18 to tell you that mere presence is not guilt. You only
19 have one verdict to come back, and that would be not
20 guilty for Don Brown.

21 And these other two fellows, they're just in the
22 car. They're not the killers, they're not the shooters,
23 and the same will apply to them, but I don't represent
24 them. But they're here.

25 Now, this nonsense about a team from the solicitor?

1 I'm disappointed. They're on trial together because it's
2 easier to try three or more people than it is to try -- do
3 three different trials.

4 But each of these defendants are on trial
5 individually. Okay? So you will apply the law and the
6 facts to each one of them individually. There's no team
7 here. There's no conspiracy. There will be no evidence
8 of a conspiracy.

9 The solicitor did get one thing right: that Don
10 Brown did not get out of the car. Don Brown did not have
11 a gun. Don Brown did not have a bullet. Don Brown did
12 not shoot anybody. Don Brown did not agree to go on some
13 kind of felony.

14 When they got in this car, there was no -- the
15 evidence will be uncontradicted, when they got in this
16 car, there was no plan to go look for somebody and kill
17 them. That's nonsense.

18 Listen to the facts, remember the questions, and at
19 the end of the case, there will only be one verdict.

20 Now, I'm not going to have a lot of questions. I'm
21 not going to say a lot. I go last because I don't have a
22 lot to do, but it doesn't mean that I don't care. I'm
23 here, and I care a great deal, but I'm not going to be
24 disputing what caliber weapon was used to kill the victim
25 because Don didn't have a gun. That's not relevant for

1 what he's here for.

2 So it may be that I don't ask the question. If I
3 don't ask the question, I don't want you to be concerned
4 about that. I may not have any questions for anybody. I
5 mean, I think we pretty much talked about this case, but
6 we have got to have some kind of evidence because you have
7 got to hold these solicitors to a standard, and that
8 standard is not -- is beyond a reasonable doubt, and it's
9 going to be not guilty, so I'm not too worried about that.

10 I will have a couple of questions for the two
11 codefendants. The two codefendants who are going to
12 testify -- and it's common sense -- they're not up here
13 out of the goodness of their heart. They're up here to
14 testify to hope that they're going to get some kind of
15 deal from the prosecutor. And if you don't believe
16 anything that you hear this week, believe that. These two
17 codefendants are going to get on that stand, and they're
18 going to tell the story that they think the solicitor
19 wants them to tell. The truth? Throw out the window.
20 Because they're doing it for one reason: to get themselves
21 a deal, so they don't go to the penitentiary for the rest
22 of their lives. That's what they're trying to do. And
23 you can take that into consideration.

24 The judge will tell you at end of the trial, when
25 you're trying to figure out who is telling you the truth,

1 look at what they're -- did they have a bias? Are they
2 trying to get something by their testimony? Are they
3 expecting something? And that's what those two -- so I'll
4 have some questions for them. It shouldn't be much
5 because I think it's pretty self-evident in what they're
6 trying to accomplish. And at the end of this case, like I
7 said, there will only be one verdict you can come back
8 with. Thank you very much.

9 THE COURT: All right. Ladies and gentlemen, we'll
10 now begin the evidentiary portion of the trial with the
11 State's case.

12 The State can call your first witness.

13 MR. HELMS: At this time, the State would call
14 Mr. Peter Garland to the stand.

15 THE CLERK: Please raise your right hand and place
16 your left hand on the Bible.

17 PETER GARLAND,

18 after having been duly sworn, was examined and
19 testified to as follows:

20 THE WITNESS: Peter J. Garland, IV. P-e-t-e-r, J.,
21 G-a-r-l-a-n-d.

22 DIRECT EXAMINATION

23 BY MR. HELMS:

24 Q Mr. Garland, where do you live?

25 A [REDACTED] Street in Conway.

1 Q How long have you lived there?

2 A Just over three years.

3 Q And is that a generally residential area?

4 A Yes.

5 Q What kind of homes? Big, giant homes there?

6 A No. Mobile homes.

7 Q Mobile homes. Yes, sir.

8 Were you living there -- well, you lived there how
9 long? Say it again.

10 A Just over three years.

11 Q Were you living there back in September of 2020?

12 A Yes, I was.

13 Q Okay. And did you have an occasion or reason to
14 call 911 emergency services on that day?

15 A Yes, I did.

16 Q I would like you to tell this jury about what
17 happened and transpired that day.

18 A It was late afternoon, evening. I heard gunshots
19 out in front of my house, so I dialed 911.

20 Q Okay. Have you had an opportunity to listen to that
21 911 call?

22 A Yes, I have.

23 MR. HELMS: May I approach, Judge?

24 THE COURT: All right.

25

1 BY MR. HELMS:

2 Q I have already shown defense counsel what I'm
3 showing the witness now, and it's been marked as State's
4 Exhibit No. 13. Sir, do you recognize what I'm showing
5 you?

6 A Yes, I do.

7 Q And what am I showing you?

8 A My signature on a CD of the 911 call.

9 Q Okay. And you listened to that?

10 A Yes.

11 Q And is your 911 call on this disc?

12 A Yes, it is.

13 Q Has it been altered in any way?

14 A No, it has not.

15 Q And that is the call you made September 12th of
16 2020?

17 A Yes.

18 Q And that was in reference to a shooting in front of
19 your home?

20 A Yes, it is.

21 MR. HELMS: Your Honor, I will seek to introduce
22 into evidence State's 13 and publish to the jury.

23 THE COURT: All right. Mr. Bouchette?

24 MR. BOUCHETTE: No objection.

25 THE COURT: Mr. Pinkerton?

1 MR. PINKERTON: No objection.

2 THE COURT: Mr. Gardner?

3 MR. GARDNER: No objection, Your Honor.

4 THE COURT: All right. State's Exhibit 13 is
5 admitted into evidence without objection.

6 MR. HELMS: Very good, Judge.

7 (State's Exhibit 13 was received into evidence.)

8 BY MR. HELMS:

9 Q While she's getting that ready, tell these folks
10 what you saw and heard in as much detail as you can that
11 caused you to call 911.

12 A Multiple gunshots. Different calibers.

13 Q How do you know that? That's kind of important.
14 How do you know that?

15 A I was prior military, so I know different sounds of
16 weapons.

17 Q That's fair. I won't ask you to expand. That's
18 fair.

19 And you heard different sounding weapons?

20 A Yes.

21 Q How many?

22 A It sounded like two different weapons.

23 Q Okay. Do you know -- two different weapons, but do
24 you know about how much shots you heard in all?

25 A No, I do not.

1 Q Was it more than two?

2 A Yes.

3 Q Did you see anything after the fact at the scene?

4 A When I came around the corner of the house, I saw a
5 light gray vehicle speeding away from the incident.

6 Q And what kind of car was that? Was that a truck or
7 a car?

8 A It was car.

9 Q Two-door or four-door?

10 A Four-door.

11 Q Okay. How was that car driving? Was it driving
12 slowly?

13 A No, it was not. It was speeding away.

14 Q Now, you saw that car. Did you see any bullet holes
15 in that car?

16 A No, I did not.

17 Q Did you see if the windows in that car, that light
18 gray car, were up or down?

19 A I could not tell. I could not see the driver's
20 side.

21 Q About how much time elapsed between the gunshots and
22 you seeing the car drive away fast?

23 A A matter of seconds.

24 MR. HELMS: Go ahead, Lacy.

25 (State's Exhibit 13/audio plays.)

1 BY MR. HELMS:

2 Q Mr. Garland, was that your 911 call?

3 A Yes, it was.

4 Q On September 12th of 2020?

5 A Yes.

6 Q All right. Me and my co-counsel have a couple more
7 questions I'm going to ask you. At some point during that
8 call, you were asking -- it sounds like you were asking if
9 he's awake. You were talking to someone. Who were you
10 talking to?

11 A It was his girlfriend.

12 Q Okay.

13 MR. HELMS: Brittany, stand up.

14 BY MR. HELMS:

15 Q Was that her?

16 A Yes, it was.

17 Q Okay.

18 MR. HELMS: Jacob, raise your hand. Just raise your
19 hand.

20 BY MR. HELMS:

21 Q Did you see that young man?

22 A Yes, I did.

23 Q How about Orlin?

24 MR. HELMS: Raise your hand, Orlin.

25 BY MR. HELMS:

1 Q Was he there?

2 A Yes.

3 Q Okay. Let me ask you this: The other car -- and
4 when I say "the other car," you described the gray car,
5 but the car the victim was driving, what kind of car was
6 it?

7 A It was a Chevy Tahoe.

8 Q What color was it?

9 A Green.

10 Q Could it have been black?

11 A It could have been black.

12 Q Was it --

13 A It was a dark color.

14 Q Dark color? Fair enough.

15 You saw the victim. You personally -- well, first
16 of all, you saw that Tahoe; right?

17 A Yes.

18 Q Did it appear operable to you?

19 A No.

20 Q Why not?

21 A Because the fluids that were all over the ground.

22 Q What kind of fluid?

23 A Radiator fluid. Looked like oil.

24 Q Okay. A lot of fluid on the ground?

25 A Yes.

1 Q Was it under the car?

2 A Yes, it was.

3 Q Do you know if anyone tried to operate the vehicle
4 there?

5 A Not to my knowledge.

6 Q Did you ever see the vehicle operate after you saw
7 the fluid on the floor?

8 A No.

9 Q Did you see a bullet hole in the windshield?

10 A Yes, I did.

11 Q So was the bullet hole close to the radiator?

12 A No. It was about mid windshield.

13 Q All right. So you have got a bullet hole up here in
14 the windshield and then you've got radiator fluid down
15 here?

16 A Yes.

17 Q I guess there goes that one-shot theory.

18 So what did you see going on at that victim's car --
19 at the Tahoe? How did the victim appear to you? How was
20 Jamie Johnson reacting?

21 A He wasn't reacting. They were pulling him out of
22 the front door, trying to put him into the backseat, and
23 then they laid him on the ground.

24 Q So he was in the front seat?

25 A Yes.

1 Q The driver's seat?

2 A Yes.

3 Q And they were trying to pull him in the backseat,

4 you said?

5 A Yes.

6 Q Do you have any idea -- and if you don't know, it's

7 okay. What made them decide to go from the backseat to

8 the ground?

9 A No, I do not know.

10 Q Did you see any injuries on Jamie?

11 A Yes.

12 Q Tell the jury what you saw.

13 A I saw a bullet hole in the front of his head.

14 Q When you approached -- did you have any

15 communication with any of those guys other than "Is he

16 awake?"

17 A No.

18 Q How did they appear to you? Were they calm?

19 A No, they were not.

20 Q Were they angry?

21 A No. They were scared.

22 Q How many guns did they have?

23 A None.

24 Q How many guns did you see beside the Tahoe?

25 A None.

1 Q How many weapons did you see in the Tahoe?

2 A None.

3 Q Beside the Tahoe?

4 A None. .

5 Q On the victims?

6 A None.

7 Q Talk about the casings. You said you heard multiple
8 guns but you saw multiple casings; right?

9 A Yes.

10 Q Did you see only two casings on the ground?

11 A No. Multiple.

12 Q I'm sorry?

13 A Multiple.

14 Q Multiple casings?

15 A Yes.

16 Q Did you see sign that anybody had shot a gun from
17 the Tahoe?

18 A No.

19 Q Please answer any question the defense has. Thank
20 you.

21 A Okay.

22 THE COURT: All right. Mr. Bouchette,
23 cross-examination?

24 MR. BOUCHETTE: Very briefly, Your Honor.

25 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

1 BY MR. BOUCHETTE:

2 Q Mr. Garland, just to be clear, you came up on this
3 incident after the shooting had occurred; is that right?

4 A Yes.

5 Q All right. So you didn't witness the actual
6 exchange of gunfire?

7 A No, I did not.

8 Q Or the shooting, rather. You didn't see that?

9 A No, I didn't.

10 Q All right. Now, on the 911 call, it sounded like --
11 and correct me if I'm wrong -- it sounded like you
12 conveyed to the 911 operator that -- I wrote it down --
13 they didn't know the suspect.

14 Did somebody convey to you that they didn't know who
15 had shot them?

16 A No.

17 Q Is that a yes, somebody conveyed to you they didn't
18 know who they were?

19 A Yes, they did.

20 Q All right. So, just to be clear, somebody conveyed
21 to you affirmatively at the time of the shooting that they
22 didn't recognize --

23 MR. HELMS: Your Honor, I think he's trying to
24 elicit hearsay, and that's my objection.

25 MR. BOUCHETTE: It's already in the record from the

1 911 call.

2 THE COURT: All right. I'll allow it. Overruled.

3 BY MR. BOUCHETTE:

4 Q So just to be clear, somebody -- or one of the folks
5 that's mentioned by the State, at the time the shooting
6 had occurred, while all this was going on, conveyed to you
7 that they didn't recognize or know who the suspect was?

8 A Yes.

9 Q And you relayed that to the 911 operator?

10 A Yes, I did.

11 Q Now, there was some talk briefly about a number of
12 casings. Now, the casings, that's what was on the ground;
13 correct?

14 A Yes.

15 Q And you saw a bullet hole in the window; correct?

16 A Yes, I did.

17 Q Did you see multiple bullet holes in the window or
18 just the one?

19 A Just saw one.

20 Q Just saw one.

21 On the front driver panel, how many bullet holes did
22 you see on the front driver panel?

23 A I wasn't looking at the driver panel.

24 Q Did you notice any?

25 A No, I did not.

1 Q And I know you came up on the scene afterward, so if
2 you don't know, that's okay. When the shots were fired
3 into the victim's vehicle, do you know approximately how
4 far the other vehicle was, or did you come up --

5 A No, I don't know the distance.

6 Q All right. Very good.

7 MR. BOUCHETTE: I don't have any further questions,
8 Your Honor.

9 THE COURT: All right. Mr. Pinkerton?

10 MR. PINKERTON: Thank you, Your Honor.

11 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

12 BY MR. PINKERTON:

13 Q Thank you, sir. Just to reiterate, you didn't see
14 the shooting itself occur, did you?

15 A No, I did not.

16 Q You didn't see any of the suspects leaving the scene
17 physically? Just the car leaving the scene?

18 A Yeah.

19 Q You didn't see anybody actually out shooting?

20 A No.

21 Q And you said you only saw one bullet in the Tahoe?

22 A In the windshield.

23 Q In the windshield.

24 And you said there was radiator fluid on the ground?

25 A Yes.

1 Q Did you see any other shots into the Tahoe that
2 would have pierced the radiator or anything, to your
3 knowledge?

4 A No, it could have went straight through the grille
5 without touching the grille.

6 Q Okay. Thank you. No further questions.

7 THE COURT: All right. Mr. Gardner?

8 MR. GARDNER: No questions, Your Honor.

9 THE COURT: Anything on redirect?

10 MR. HELMS: No, sir.

11 THE COURT: All right. You may step down.

12 MR. HELMS: Can he be released, Judge?

13 THE COURT: Any objection, Mr. Bouchette?

14 MR. BOUCHETTE: Oh, I'm sorry. No, sir, not at all.

15 THE COURT: Mr. Pinkerton?

16 MR. PINKERTON: No objection.

17 THE COURT: Mr. Gardner?

18 MR. GARDNER: No objection, Your Honor.

19 THE COURT: He's free to go. Thank you very much.

20 All right. The State can call your next witness.

21 MR. HELMS: We'll call Mr. Danny Wright with the
22 Horry County dispatch.

23 THE CLERK: Please raise your right hand and place
24 your left hand on the Bible.

25 DANIEL WRIGHT,

1 after having been duly sworn, was examined and
2 testified to as follows:

3 THE CLERK: Please be seated and state your name and
4 spell it for the Court.

5 THE WITNESS: Daniel, D-a-n-i-e-l, Wright,
6 W-r-i-g-h-t.

7 DIRECT EXAMINATION

8 BY MR. HELMS:

9 Q Mr. Wright, with whom are you employed?

10 A I'm with Horry County 911 Communications.

11 Q And what did do you do there, sir?

12 A I'm a quality assurance specialist.

13 Q And what does your duties as that specialist entail?
14 What do you have to do?

15 A I review calls that our telecommunicators take
16 according to standards, policies and procedures; also
17 custodian of records and provide FOIA requests and listen
18 to those calls and send them out to relevant agencies.

19 Q So you're the man at 911.

20 A Well, one of them. I'm not the only one.

21 Q Have you testified as it concerns this case before?

22 A I have.

23 Q Okay. And have you had an opportunity to -- well,
24 tell this jury, first of all, what happens whenever
25 someone calls 911? How is that memorialized?

1 **A** When somebody calls 911, the recording actually
2 starts immediately. It's not something that you turn on
3 or do anything. It automatically starts when the
4 communicators will pick up the 911 call. We find out the
5 address. Verify that with the caller. Verify the phone
6 number, in case they get disconnected that we can call
7 them back, and then we ask them to tell us exactly what
8 happened so we have an idea of what's going on. And from
9 there, we can determine which or what we need to send to
10 that incident, whether it be police or fire or what have
11 you.

12 **Q** That makes sense to me. That makes sense to me.

13 Other than the recorded audio 911 call, is anything
14 else documented for a 911 call?

15 **A** Yes, we call it the CAD report. It's the
16 computer-aided dispatch report that lists everything that
17 that incident occurs in the way of documents and that sort
18 of thing.

19 **Q** How is that CAD report created?

20 **A** It's immediately started with the first call. We
21 initiate the form. That form is, obviously, computerized.
22 And once we start putting that information in, anything
23 that happens with that call, a person who is taking the
24 call documents in there, and then we drop it so it goes
25 into Dispatch. So it's in our review column, so the

1 dispatcher will then pick up the call. From there, we can
2 determine, again, which agency it needs to go, who needs
3 to respond, what resources are needed, and we go from
4 there.

5 Q So correct me if I'm wrong, but the call is audio
6 recorded. So you have the actual audio recording, and
7 then you've got a black-and-white version?

8 A That is correct.

9 Q Fair enough. All right.

10 No. 13 -- State's 13 has already been entered into
11 evidence. So I'm going to ask you, do you recognize that?

12 A I do.

13 Q And what is that?

14 A That's the envelope that contained the CD recording
15 that I initialled when we reviewed it.

16 Q And that's the 911 call for this event?

17 A That is correct.

18 Q And I'm showing you now what's been marked for
19 identification purposes only as State's 14. Please tell
20 this jury what that is, if you know.

21 A This would be the CAD report that was generated at
22 the time that this call took place.

23 Q All right. So that's the CAD report for this call.

24 A That's correct.

25 Q Does that CAD report tell what you said it would

1 tell? Does it tell the time, the date, the people, the
2 event?

3 A Yes, sir, it does.

4 Q Okay. Can you look at that CAD report and tell this
5 jury what date and time this event occurred on?

6 A It occurred on 9/12/2020 at 7:16:26 p.m.

7 Q Hang on.

8 MR. HELMS: Ms. Lacy is kind enough to write because
9 y'all couldn't read mine.

10 BY MR. HELMS:

11 Q Has that report been altered in any way?

12 A It has not.

13 Q Okay. Can it be altered?

14 A No, it cannot.

15 MR. HELMS: Your Honor, at this time, I would seek
16 to introduce State's 14 into evidence.

17 THE COURT: Mr. Bouchette?

18 MR. BOUCHETTE: No objection.

19 THE COURT: Mr. Pinkerton?

20 MR. PINKERTON: No objection, Your Honor.

21 THE COURT: Mr. Gardner?

22 MR. GARDNER: No objection, Your Honor.

23 THE COURT: All right. State's Exhibit 14 is
24 admitted into evidence without objection.

25 (State's Exhibit No. 14 was received into evidence.)

1 BY MR. HELMS:

2 Q So just to clarify to this jury, this call came in
3 on September 12th at 7:16 p.m.; is that correct?

4 A Yes, sir.

5 MR. HELMS: 14's in. Judge, I have no further
6 questions.

7 THE COURT: Mr. Bouchette, cross-examination?

8 MR. BOUCHETTE: Your Honor, I have no questions for
9 this witness.

10 THE COURT: Mr. Pinkerton?

11 MR. PINKERTON: Your Honor, I have no questions.

12 THE COURT: Mr. Gardner?

13 MR. GARDNER: No, sir.

14 THE COURT: All right. Thank you. You may step
15 down.

16 The State can call your next witness.

17 MS. LIVESAY: Thank you, Your Honor. At this time,
18 the State calls Justin Jones to the stand.

19 THE CLERK: Please raise your right hand and place
20 your left hand on the Bible.

21 JUSTIN JONES,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: Please state your name and spell it for
25 the Court.

1 THE WITNESS: Justin Jones. J-u-s-t-i-n J-o-n-e-s.

2 DIRECT EXAMINATION

3 BY MS. LIVESAY:

4 Q Officer Jones, if you don't mind, tell these folks
5 where you're currently employed.

6 A Currently employed with the Horry County Police
7 Department.

8 Q And how long have you been employed there?

9 A Over 16 years.

10 Q And what are your job responsibilities?

11 A I'm a patrol sergeant on the road.

12 Q Okay. And just tell these folks what you do as a
13 patrol sergeant.

14 A I answer calls for service. I supervise other
15 officers in the same area, make sure calls for service are
16 being answered and responded to for incidents.

17 Q And were you a patrol sergeant in September 12th of
18 2020?

19 A I was.

20 Q And at the time, did you wear a body camera?

21 A Yes, ma'am.

22 Q And did that body camera capture what you saw when
23 you arrived to a particular location?

24 A It did.

25 Q Okay. And do you remember being called out on

1 September 12th of 2020 to D Street?

2 A I do.

3 Q Okay. And was it still daylight?

4 A It was.

5 Q And do you remember about what time it was?

6 A It was in the evening time after 6 p.m.

7 Q Okay. But the sun was still up?

8 A It was.

9 Q And if you don't mind, tell these jurors what you
10 saw when you arrived.

11 A When I arrived, there was another officer on the
12 scene. There was a Tahoe parked in the middle of the
13 road --

14 MR. BOUCHETTE: I'm sorry, Your Honor. Can I ask
15 the witness to speak into the microphone? I'm having a
16 little difficulty hearing him over on this side.

17 THE COURT: Speak up just a little. Thank you.

18 A When I arrived, there was another officer on the
19 scene that was assessing the situation. There was a Tahoe
20 parked in the middle of the street on Rose Moss Road just
21 down from D Street. There was a male laying beside the
22 Tahoe, and there was another gentleman rendering aid to
23 him.

24 Q So there were already people on-scene before you got
25 there?

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

2 **Q** And was there only one car in the roadway?

3 **A** There was only one car in the roadway.

4 **Q** And did you see any shell casings out there?

5 **A** Yes, ma'am.

6 **Q** Okay. And about how many did you see?

7 **A** It was at least a handful or more.

8 **Q** So definitely more than two?

9 **A** Definitely.

10 **Q** Okay. Now, these shell casings, tell these folks
11 where the shell casings were located.

12 **A** The shell casings were located on D Street at the
13 intersection of Rose Moss Road.

14 **Q** Okay. And where was the Tahoe located?

15 **A** On Rose Moss Road.

16 **Q** Now, I'm going to show you what's been marked as
17 State's Exhibit No. 16. Now, you have worked for the
18 County for 16 years?

19 **A** Yes, ma'am.

20 **Q** And you have patrolled the entire 16 years?

21 **A** Yes, ma'am.

22 **Q** Okay. So you're riding the roads every day, eight
23 hours a day?

24 **A** 12 hours a day.

25 **Q** 12 hours a day. Excuse me. I'm sorry.

1 Can you take a look at this map and tell me if the
2 map is accurate?

3 A It appears to be accurate of the Conway section of
4 Horry County.

5 Q Okay. And does the map indicate where Rose Moss and
6 D Street are in the Conway area?

7 A Yes, ma'am, it does.

8 Q And would this map assist you in your testimony of
9 showing where the casings were located?

10 A Yes, ma'am.

11 MS. LIVESAY: At this time, the State wishes to put
12 State's Exhibit 16 into evidence and publish it at the
13 appropriate time.

14 THE COURT: All right. Mr. Bouchette?

15 MR. BOUCHETTE: No objection, Your Honor.

16 THE COURT: Mr. Pinkerton?

17 MR. PINKERTON: No objection.

18 THE COURT: Mr. Gardner?

19 MR. GARDNER: No objection, Your Honor.

20 THE COURT: All right. State's Exhibit 16 is
21 admitted without objection.

22 (State's Exhibit No. 16 was received into evidence.)

23 BY MS. LIVESAY:

24 Q Before we get into that, Officer Jones, were there
25 any shell casings around the Tahoe?

1 **A** Not that I have seen.

2 **Q** Okay. And you say the shell casings were where
3 D Street and Rose Moss meet?

4 **A** Correct.

5 **Q** Okay. Is that in front of where the Tahoe was?

6 **A** It would have been in the direction where the Tahoe
7 was, yes.

8 **Q** Okay. And did you see anything leaking from the
9 Tahoe?

10 **A** Appeared to be antifreeze coming from the engine.

11 **Q** And did you see any additional damage to the Tahoe
12 other than that?

13 **A** I noticed there was what appeared to be a bullet
14 hole through the windshield.

15 **Q** Now, the area of D Street and Rose Moss, is that a
16 residential area?

17 **A** It is.

18 **Q** Okay. And were there houses along Rose Moss?

19 **A** Yes, ma'am.

20 **Q** And are there homes along D Street?

21 **A** Yes, ma'am.

22 **Q** Okay. So tell me how many bullet holes you saw in
23 any of the homes on Rose Moss or D Street.

24 **A** I did not see any bullet holes in any homes.

25 **Q** So all the bullet holes were in the Tahoe?

1 A Correct.

2 Q Now, what you have described and talked about to
3 these folks, is that on your body camera?

4 A Yes, ma'am.

5 Q And does the body camera show the location of the
6 shell casings in relation to the Tahoe?

7 A Yes, ma'am.

8 Q Okay. Does it show how the Tahoe appeared when you
9 arrived?

10 A Yes, ma'am.

11 Q Does it show how the victim appeared when you
12 arrived?

13 A Yes, ma'am.

14 Q Did it show the folks standing around the Tahoe?

15 A Yes, ma'am.

16 Q Will it show if the Tahoe windows are up or down?

17 A It should, yes, ma'am.

18 COURT REPORTER: State's 52 marked.

19 MS. LIVESAY: Thank you.

20 (State's Exhibit 52, Body Cam Video, was marked for
21 identification.)

22 BY MS. LIVESAY:

23 Q Now, I'm showing you what's been marked as
24 State's 52. Do you recognize it?

25 A Yes, ma'am.

1 Q How do you recognize it?

2 A It's got my initials on it.

3 Q Okay. And have you viewed the video footage?

4 A Yes, ma'am.

5 Q And does it show the time you arrived?

6 A It does.

7 Q Does it show exactly what you saw upon arrival?

8 A Yes, ma'am.

9 Q Has it been altered in any form or fashion?

10 A No, ma'am.

11 MS. LIVESAY: Your Honor, at this time, the State
12 wishes to place State's No. 52 into evidence and publish a
13 portion of it to the jury.

14 THE COURT: Mr. Bouchette?

15 MR. BOUCHETTE: Your Honor, may we approach?

16 THE COURT: All right.

17 BENCH CONFERENCE

18 (The following bench conference was held outside the
19 hearing of the jury and others:)

20 MR. BOUCHETTE: Your Honor, my understanding is this
21 video shows aid being tendered to the victim, bleeding.
22 You know, blood coming from the head. It's a pretty
23 prejudicial image to see for the jury for what they're
24 trying to do. I don't see it as relevant. It's more
25 prejudicial than probative to see the victim in that

1 state. I think they're putting bandages to his head and
2 he's bleeding out and that kind of thing, so I'd object.

3 THE COURT: Well, I don't know. I'll need to take a
4 look at it. Let me excuse the jury and we'll review it.

5 (Open court resumes as follows:)

6 THE COURT: Ladies and gentlemen, we've got an issue
7 of law that has come up, and I'm going to need to address
8 it with the attorneys, so I'm going to excuse you back to
9 the jury room for just a few minutes.

10 And I'll tell you why we do this. It's not that
11 we're trying to hide anything from you or keep anything
12 from you, but as I told you in the opening charges, you
13 and you alone decide the facts of this case, and you
14 decide those facts based upon the testimony of witnesses
15 placed under oath and any other exhibits that might be
16 introduced into evidence.

17 I decide the law in this case. Well, often, when I
18 discuss the law with the attorneys, it requires me as the
19 judge and the attorneys to reference factual issues. But
20 what we say is not evidence, and so we don't want you to
21 be influenced by anything that I might say or anything
22 that the attorneys might say when we discuss the law. We
23 don't want that to influence your decision on what the
24 facts in this case are, and that's why we excuse you to
25 the jury room.

1 So, in any event, it will give you an opportunity to
2 take a short break, use the restroom, get something to
3 drink, whatever the case may be, and we'll bring you back
4 in just a minute.

5 Do not discuss the case. It's still too early for
6 deliberations. Thank you very much.

7 (The jury exited the courtroom at 10:50 a.m.)

8 THE COURT: Well, wait a minute. We need to wait
9 for Mr. Gardner to get back. Let's hold up.

10 (Pause in the proceedings.)

11 THE COURT: All right. You can go ahead and play it
12 now.

13 MR. HELMS: Yes, sir, Your Honor. Playing now.

14 (State's Exhibit No. 52/Video plays.)

15 MR. BOUCHETTE: Your Honor, in the interest of time,
16 if they want to fast-forward it to the point where they
17 arrive on-scene and begin rendering aid, I'm fine with
18 that. I'm not sure how much time that will save.

19 THE COURT: All right.

20 MR. BOUCHETTE: If they want to do that. Or if they
21 want to just let it play through, that's fine.

22 THE COURT: How long is it? If we're talking about
23 a couple of minutes, just play it. If we're talking about
24 30 minutes --

25 MS. LIVESAY: Well, we're getting ready to see right

1 now. It's probably two minutes from the part that
2 Mr. Bouchette's --

3 THE COURT: Your Honor, then we'll just let it go.

4 MR. HELMS: Your Honor, the camera doesn't
5 activate until the siren -- the lights are activated. So
6 he's in close proximity to the scene.

7 (State's Exhibit No. 52/Video plays.)

8 MS. LIVESAY: That's all we want to show, Judge.
9 Just enough to show who was out there, what was going on,
10 help show the location.

11 THE COURT: All right. Mr. Bouchette?

12 MR. BOUCHETTE: Your Honor, my objection -- I think
13 this can be -- any prejudicial effect can be limited by --
14 I counted right at the 6-minute mark until approximately
15 the 7-minute mark. There's almost a continuous view of
16 seeing the young man on the ground. He's visible. I
17 believe you can see blood from his head during that
18 segment.

19 I also note the stretch approximately 7:48 to 7:53,
20 the same thing. He's then removed from the scene.

21 I note at 14:48, the camera pans around and sees a
22 pretty distinct pool of blood still sitting on the ground.

23 We'd request that the Court redact or skip through
24 those sections of the video that would be more prejudicial
25 than probative. They're tendering of aid, and these

1 aren't necessarily relevant to what they're trying to
2 show.

3 The coroner is going to say what the injuries were
4 and how he died and that kind of thing. This is just
5 putting the dead young man -- his blood right in front of
6 the jury, so we'd object to that portion.

7 THE COURT: All right. Mr. Pinkerton, any argument?
8 I mean -- yeah, Mr. Pinkerton, any argument?

9 MR. PINKERTON: Your Honor, we would just join in
10 with Mr. Bouchette on that motion in regards to
11 Mr. Mitchell.

12 THE COURT: Mr. Gardner?

13 MR. GARDNER: Yes, Your Honor. We join with
14 Mr. Bouchette.

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

16 MS. LIVESAY: The State's position, Your Honor, is
17 the rule that says that it has to be unduly gruesome. If
18 it's unduly gruesome, it becomes more prejudicial than
19 probative because it arouses the passions of the jury.
20 Nobody should be convicted over the arousal of the jury's
21 passions from a gruesome picture.

22 These are not gruesome pictures. These are pictures
23 of what the scene are. These are not autopsy pictures.
24 These are not close-up pictures.

25 Mr. Garland testified that there was blood from the

1 head. I have got to show is Mr. Garland a liar or not.
2 His testimony -- he was cross-examined. His truth is for
3 the jury to decide. He told a fact. We have got to
4 decide is that fact true or not. Did Mr. Garland have a
5 good view of what was going on when he says he saw more
6 than two casings? Does Mr. Garland have good eyesight
7 when he says he saw bleeding from the head? Is that what
8 he saw?

9 His credibility is for this jury to decide. My job
10 is to corroborate his testimony to show him to be
11 truthful. Their job is to cross-examine, which they did,
12 to put doubt in these jurors' minds as to Mr. Garland's
13 truthfulness.

14 These pictures are not here as unduly gruesome.
15 He's not cut open. It's not a close-up. It is merely to
16 show how he appeared when the police arrived, and that,
17 indeed, Mr. Garland is telling the truth. He had good
18 vision. It was light outside, and he conveyed just what
19 he saw.

20 THE COURT: All right. Mr. Bouchette, anything in
21 reply?

22 MR. BOUCHETTE: They can, without question, address
23 all those items: the location of the bullets, the time of
24 day, the location of the vehicle, damage of the vehicle,
25 all those things without question. Our problem is, in so

1 doing, they're going to seek to point out that, in
2 conjunction with that, is that him sitting there with
3 blood coming out of his head?

4 I believe that's exactly what was asked in the prior
5 trial or something to that effect. He can assert -- and I
6 don't think it's disputed -- that he saw decedent pass
7 away; he was clearly deceased at that time. Our position
8 is that, even within this otherwise admissible video --
9 even within the video that establishes everything they're
10 trying to do, the image of the young man laying there in
11 the road, clearly deceased, blood coming from his head, is
12 the type of image that the rule is meant to do. Of course
13 it's gruesome. You can't get any more gruesome than a
14 dead body with blood coming out of his head on the side of
15 the road.

16 So, again, we think the Court can -- it's a
17 reasonable request to redact those portions that do have
18 an inflammatory effect and certainly a potential to
19 inflame the jury and prejudice the jury and proceed with
20 the rest of the video. So we'd ask the Court to do that.

21 THE COURT: All right. I'm going to overrule the
22 objection. I'll allow it. I don't see --

23 MR. GARDNER: I'm sorry to interrupt --

24 THE COURT: I have already given you an opportunity.

25 MR. GARDNER: I know, but I wanted to follow up

1 on -- if you allow me just to put it on the record.

2 THE COURT: Not on reply. No, you didn't make any
3 argument. You just joined in his argument.

4 MR. GARDNER: All right.

5 THE COURT: I find that the probative value
6 outweighs any prejudicial effect, so I'll allow it.

7 MR. GARDNER: Your Honor, can I make -- for the
8 record, can I just proffer what my objection would be?

9 THE COURT: All right. What is it?

10 MR. GARDNER: In addition to what's been said to you
11 earlier, this has nothing to do with the cause or manner
12 of death. The body had already been moved by some other
13 people, so it gives no value to the jury. That's for the
14 record, Your Honor.

15 THE COURT: All right. Which should have been made
16 earlier when I gave you the opportunity. That's not in
17 reply to theirs.

18 So I'm going to allow it over the defendants'
19 objections. I think that the probative value does
20 outweigh any prejudicial effect. And I have reviewed it,
21 and I don't see that it's unduly prejudicial.

22 Anything from the State before we bring the jury
23 back in?

24 MS. LIVESAY: Thank you, Judge.

25 MR. HELMS: No, sir, Judge.

1 THE COURT: All right. Mr. Bouchette, anything
2 before we bring the jury back?

3 MR. BOUCHETTE: No, sir.

4 THE COURT: Mr. Pinkerton?

5 MR. PINKERTON: No, Your Honor.

6 THE COURT: Mr. Gardner?

7 MR. GARDNER: No, sir.

8 THE COURT: All right. When we come back in, you
9 can reintroduce it, and I'll go ahead and I'll rule at
10 that time.

11 (The jury entered the courtroom at 11:16 a.m.)

12 THE COURT: All right. Ladies and gentlemen,
13 welcome back.

14 Ms. Livesay, you may continue with your direct
15 examination.

16 MS. LIVESAY: Thank you, Your Honor.

17 THE COURT: I believe you were introducing
18 Exhibit 52.

19 MS. LIVESAY: Yes, sir.

20 BY MS. LIVESAY:

21 Q Officer Jones, this video cover, does it have your
22 initials?

23 A It does.

24 Q And have you seen the video?

25 A I have.

1 Q And is the video the one keyed up on the TV now?

2 A Yes, ma'am.

3 Q And is this your body camera?

4 A Yes, ma'am.

5 Q And have you reviewed it?

6 A I have.

7 Q And has it been altered in any form or fashion?

8 A It has not.

9 Q And does it show your arrival of 9/12/2020 to
10 D Street and Rose Moss?

11 A It does.

12 MS. LIVESAY: Your Honor, at this time, the State
13 wishes to publish -- put into evidence 52 and publish the
14 relevant portion.

15 THE COURT: All right. State's Exhibit 52 is
16 admitted into evidence over the defendants' objection.

17 You can go ahead.

18 MS. LIVESAY: Thank you, Your Honor.

19 (State's Exhibit No. 52 was received into evidence.)

20 (State's Exhibit 52/Video plays.)

21 BY MS. LIVESAY:

22 Q Mr. Jones, I have a couple of questions for you.

23 MS. LIVESAY: Can he step down, Your Honor?

24 THE COURT: As long as he's near a microphone so the
25 court reporter can pick him up.

1 MS. LIVESAY: Yes, sir.

2 BY MS. LIVESAY:

3 Q First of all, the date is 9/12/2020; is that
4 correct?

5 A Yes, ma'am.

6 Q Okay. Now, 19:28:02, military time?

7 A Yes, ma'am.

8 Q Convert that for me.

9 A 7:28 p.m.

10 Q So around at this point, 7:28?

11 A Yes, ma'am.

12 Q Okay. Now, when I'm looking here, what street is
13 this here?

14 A That's D Street.

15 Q Okay. And the street that's coming back this way is
16 what street?

17 A Rose Moss.

18 Q Okay. What is this man here doing?

19 A He's pointing out the shell casings laying in the
20 roadway.

21 Q And are the shell casings on D Street?

22 A Yes, ma'am.

23 Q Okay. So he's showing you here with the flashlight?

24 A Correct.

25 Q And pointing to it with his finger, hey, this is a

1 casing?

2 A Correct.

3 Q Okay. Same thing there?

4 A Yes, ma'am.

5 Q Now, could you stop it? Any bullet holes in any of
6 the residences back here?

7 A No, ma'am.

8 MS. LIVESAY: Could you -- actually, just hold
9 tight. Stop, please.

10 BY MS. LIVESAY:

11 Q So this stop sign here and the road that goes back,
12 what is that?

13 A Rose Moss.

14 Q And show this jury, I'm sorry, where the shell
15 casings were located.

16 A They were concentrated in this area here on
17 D Street.

18 Q Were there any shell casings around the Tahoe?

19 A No, ma'am.

20 Q So they were all on this road here on D Street?

21 A Correct.

22 MS. LIVESAY: Could you take me to 19:33:25, please.
23 Would you go back just a hair? There you go. Just hang
24 right there. Did it stop? Okay.

25

1 BY MS. LIVESAY:

2 Q You walked all along here?

3 A Yes, ma'am.

4 Q Correct? All along here?

5 A Correct.

6 Q How about the other side of the Tahoe?

7 A Yes, ma'am.

8 Q Did you see any shell casings around the Tahoe?

9 A No, ma'am.

10 Q Did you see any weapons around the Tahoe?

11 A No, ma'am.

12 MS. LIVESAY: 19:34:59. Actually, hit stop. I
13 apologize.

14 BY MS. LIVESAY:

15 Q So here's the stop sign; correct?

16 A Correct.

17 Q Here's the Tahoe?

18 A Yes.

19 Q Now, where are the shell casings in relation to the
20 Tahoe and the stop sign?

21 A It would have been up here on D Street behind my
22 vehicle.

23 Q Okay. Do you see any bullet holes in this car?

24 A No, ma'am.

25 Q Do you see any bullet holes in this house?

1 A No, ma'am.

2 Q Could you tell if the windows were down on this side
3 of the Tahoe?

4 A They were.

5 Q Okay. So both the front and the back windows were
6 down?

7 A Yes, ma'am.

8 Q Do you know what that is leaking out of the Tahoe?

9 A It appeared to be antifreeze.

10 Q Now, did you see -- were you out there looking for a
11 corresponding bullet hole?

12 A We did look.

13 Q And was there damage to the Tahoe?

14 A There was damage to the windshield and also the
15 front grille.

16 Q And was there any of this fluid anywhere else other
17 than right under here?

18 A No, ma'am. It started running from underneath the
19 engine compartment, and it ran to the ground.

20 Q So you didn't see a lot of fluid up here like it had
21 leaking the whole time?

22 A No, ma'am.

23 Q Okay. Just right along in here --

24 A Correct.

25 Q -- where the Tahoe had stopped?

1 A Correct.

2 MS. LIVESAY: Now, can you take me all the way to
3 the beginning.

4 BY MS. LIVESAY:

5 Q 19:19 is when you were heading to the scene?

6 A Yes, ma'am.

7 Q Okay. And what -- that's 7:19?

8 A Yes, ma'am.

9 MS. LIVESAY: Lacy, if you don't mind, can we add
10 that to the pad?

11 BY MS. LIVESAY:

12 Q If you don't mind, Mr. Jones, have a seat; I have
13 just a few more questions.

14 I'm showing you now State's Exhibit 17. I have
15 already shown it to the defense. Do you recognize this?

16 A Yes, ma'am.

17 Q What is it?

18 A It's the normal time, military time.

19 Q So this shows that, when the tape says 19, when you
20 convert that, that's really 7 p.m.?

21 A Yes, ma'am.

22 MS. LIVESAY: Your Honor, at this time, the State
23 wishes to put 17 into evidence.

24 THE COURT: Mr. Bouchette?

25 MR. BOUCHETTE: No objection, Your Honor.

1 THE COURT: Mr. Pinkerton?

2 MR. PINKERTON: No objection, Your Honor.

3 THE COURT: Mr. Gardner?

4 MR. GARDNER: No, Your Honor, no objection.

5 THE COURT: All right. State's Exhibit -- you said

6 17?

7 MS. LIVESAY: Thank you.

8 THE COURT: Is that correct?

9 MS. LIVESAY: Yes, sir. 17.

10 THE COURT: State's Exhibit 17 admitted into
11 evidence without objection.

12 (State's Exhibit No. 17 was received into evidence.)

13 BY MS. LIVESAY:

14 Q Mr. Jones -- Officer Jones, I apologize, on the
15 driver's side, the front window was down and the back
16 window; is that correct?

17 A Yes, ma'am.

18 Q And the passenger window was down?

19 A The front passenger window, yes, ma'am.

20 Q I understand. So three of the four were down?

21 A Correct.

22 Q Could you see inside the Tahoe?

23 A I did look inside the Tahoe at one point at the
24 request of the fire department to make sure the vehicle
25 was in park.

1 Q I understand.

2 And when you looked inside the Tahoe, did you see
3 any weapons of any kind?

4 A No, ma'am.

5 Q Did you see any shell casings of any kind?

6 A No, ma'am.

7 Q Did you see any evidence that a firearm was fired
8 from the Tahoe?

9 A No, ma'am.

10 Q And did you see any bullet holes in anything out
11 there other than the Tahoe?

12 A No, ma'am.

13 Q Now, the shell casings, you testified earlier that
14 they were on D Street?

15 A Correct.

16 Q Okay. Now, tell me, are they just -- let me look at
17 this map here. Showing you now State's Exhibit No. 16.
18 So show me D Street.

19 A This is D Street. It goes from 501 and around,
20 makes a loop.

21 Q Okay. So it loops around?

22 A Yes, ma'am.

23 Q Where were the shell casings?

24 A Right about where this red dot is where Rose Moss is
25 at the intersection, right in this area.

1 Q Okay. Did you see any shell casings up here -- all
2 along in here?

3 A No, ma'am.

4 Q How about along in here?

5 A No, ma'am.

6 Q So they were all at that intersection?

7 A Correct.

8 Q Now, as a patrolman, do you have the responsibility
9 to actually pick up the shell casings?

10 A No, ma'am.

11 Q That's for somebody else to worry about?

12 A For this particular incident, such as the magnitude,
13 we would not do it. That would be for our Crime Scene.

14 Q And are part of your responsibilities to interview
15 any of the witnesses?

16 A We may speak with them, trying to get preliminary
17 information as far as maybe a suspect or a vehicle or
18 anything, but that would be the extent of it.

19 Q So your responsibility is to get out there and mark
20 everything off?

21 A Correct.

22 Q And try to get some foundation of what's going on?

23 A Yes, ma'am.

24 Q But you don't do any kind of sit-down interview with
25 anybody?

1 A No, ma'am.

2 Q You don't collect any shell casings or anything like
3 that?

4 A No, ma'am.

5 Q Officer Jones, at the time you were -- what was your
6 position?

7 A I was a sergeant.

8 Q Okay. And as a sergeant, is that a supervisory
9 position?

10 A Yes, ma'am.

11 Q So did you do any kind of report?

12 A No, ma'am.

13 Q Okay. And would you normally do any kind of report?

14 A No, ma'am.

15 Q Okay.

16 MS. LIVESAY: Thank you. No further questions, Your
17 Honor, for this witness.

18 THE COURT: Mr. Bouchette?

19 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

20 BY MR. BOUCHETTE:

21 Q All right. Officer Jones, good morning.

22 A Good morning.

23 Q A couple of things. I know that you're not the
24 crime scene investigator or the ballistics experts, so if
25 I ask you something that wasn't within in your

1 investigation, feel free to let me know. All right?

2 Now, when you arrived on the scene -- I think you
3 saw it in the video -- this Tahoe had sort of a
4 squat-type; correct?

5 A Yeah.

6 Q It was lifted in the front and kind of squatted in
7 the back?

8 A Correct.

9 Q Now, if I understand you right, you saw what you
10 believe to be clearly a bullet hole through the
11 windshield; is that correct?

12 A Yes.

13 Q Any other bullet holes through the windshield?

14 A I only noticed the one.

15 Q Okay. You also indicated that you saw damage to the
16 grille area; is that right?

17 A Correct.

18 Q And you saw some type of fluid leaking out of the
19 bottom?

20 A Correct.

21 Q And based on that, you concluded that there was a
22 second shot; right?

23 A Yes, sir.

24 Q But did you recover or see any bullet hole or any
25 actual shell in the grille itself of the vehicle?

1 **A** No, sir. I would not have been a part of that.

2 **Q** All right. So, if there was one, that would have
3 been collected by the Crime Scene guy or ballistics guy?

4 **A** Somebody other than myself.

5 **Q** Somebody other than you. Okay. Fair enough. All
6 right.

7 So given that we have got the two shots -- so the
8 classification of this vehicle having been riddled with
9 bullets would be incorrect?

10 **A** Yes, sir.

11 **Q** Okay. All right. Now, I want to get a little gauge
12 for distance. Obviously, we have the vehicle, and if we
13 understood your testimony, there's a cluster of shell
14 casings at a different location; correct?

15 **A** Correct.

16 **Q** And give me some idea. Approximately how far -- and
17 I know it's a cluster so they're not in an exact location,
18 but how far approximately from the vehicle to the cluster
19 of shell casings are we talking?

20 **A** I'd say at least from where I'm sitting to the wall.

21 **Q** To the wall in the back of the courthouse?

22 **A** Yes, sir.

23 **Q** So fairly close range; correct?

24 **A** Yes, sir.

25 **Q** Close range.

1 And, obviously, the front end of this Tahoe is --
2 would you say about six feet or so wide?

3 A That would probably be a good estimate.

4 Q A good estimate. Okay.

5 Fairly large object, target; correct?

6 A Yes, sir.

7 Q So if we're standing back and you get -- at least
8 with regard to the vehicle, your investigation indicated
9 no more than two shots; correct? Or two shots that hit
10 the vehicle?

11 A There appeared to be two shots that hit the vehicle
12 that I noticed. I didn't thoroughly go through and look.

13 Q Sure. You didn't observe any more than two shots?

14 A No, sir.

15 Q So with regard to that distance -- let me do this.
16 So two shots. You have indicated that you did not see any
17 other shots that, for example, hit a house nearby?

18 A Correct.

19 Q You did not see any shots that had maybe hit the
20 ground to the left of the vehicle; correct?

21 A I did not notice any shots in the ground, no, sir.

22 Q In other words, you saw no shell casings or bullet
23 fragments to the left or the right of the vehicle;
24 correct?

25 A Correct.

1 Q No bullet fragments off to any of the houses that
2 were nearby to the left or right of the vehicle; correct?

3 A Correct.

4 Q So understanding that we have a cluster of shell
5 casings some distance away from the vehicle, indicating
6 there may have been additional shots fired, is there
7 anything that you uncovered during your investigation that
8 would indicate that more than at most the two shots that
9 hit the vehicle were fired in the direction of the
10 vehicle?

11 A No, sir. There was woods behind the vehicle, but we
12 did not go looking in the woods to see if could find any.

13 Q Okay. But as you sit here today, you have uncovered
14 nothing that would indicate more than the two -- at most
15 the two shots in the vehicle that were fired in the
16 direction of the vehicle?

17 A Correct, two shots.

18 Q At most, based on your investigation.

19 A From what I have seen, yes.

20 Q Sure. Okay.

21 MR. BOUCHETTE: I don't have any further questions
22 of this witness.

23 THE COURT: All right. Mr. Pinkerton?

24 MR. PINKERTON: Thank you, Your Honor.

25 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

1 BY MR. PINKERTON:

2 Q You were not the first officer on the scene;
3 correct?

4 A No, sir.

5 Q Was EMS on the scene by the time you got there?

6 A No, sir.

7 Q They were not? Okay.

8 But it was pretty chaotic when you got out there;
9 correct?

10 A Considering the circumstances, actually, it wasn't
11 that chaotic, no, sir.

12 Q But you don't collect casings or anything like that?
13 You said that's Crime Scene?

14 A Correct.

15 Q Were they on the scene when you got there yet?

16 A No, sir.

17 Q To your knowledge, had the scene been manipulated in
18 any way?

19 A I'm sorry?

20 Q Had the scene been manipulated in any way by
21 passing-by people, people trying to render aid, or
22 anything like that?

23 A No, sir, it did not appear to be.

24 Q And you said you only saw one bullet hole actually
25 in the windshield of the Tahoe; correct?

1 A That's the only one I noticed.

2 Q That's the only one you noticed? Okay.

3 A In the windshield.

4 Q Okay. And you said there was radiator fluid leaking
5 from the bottom of the Tahoe?

6 A Yes, sir.

7 Q Did both --

8 MR. PINKERTON: No further questions, Your Honor.

9 THE COURT: All right. Mr. Gardner?

10 MR. GARDNER: No questions, Your Honor.

11 THE COURT: Redirect?

12 REDIRECT EXAMINATION

13 BY MS. LIVESAY:

14 Q Just a couple of quick questions, Officer Jones.
15 Defense counsel was asking you about the close proximity
16 between where the cases were and the Tahoe.

17 A Yes, ma'am.

18 Q Do you know where the Tahoe was when the shots were
19 fired? Do you know if it was at the stop sign? If it was
20 halfway -- where it ended -- where it ultimately ended up
21 at? Do you know where it was when the shots were fired?

22 A No, ma'am.

23 Q Do you know whether or not the Tahoe was moving when
24 the shots were fired?

25 A Yes, ma'am.

1 Q And was it moving?

2 A Yes, ma'am. It was reported to have been moving.

3 Q And is it more difficult to hit a moving target?

4 A From my experience, yes.

5 MS. LIVESAY: No further questions.

6 THE COURT: All right. You may step down.

7 MR. HELMS: Can he be excused?

8 THE COURT: Mr. Bouchette, any objection?

9 MR. BOUCHETTE: Be excused? No objection to that,
10 Your Honor.

11 THE COURT: Mr. Pinkerton?

12 MR. PINKERTON: No objection, Your Honor.

13 THE COURT: Mr. Gardner?

14 MR. GARDNER: No objection, Your Honor.

15 THE COURT: All right. He's free to go.

16 All right. Let's take about a ten-minute break, and
17 we'll come back and resume.

18 Ladies and gentlemen, I'm going to excuse you back
19 to the jury room for just a few minutes. Do not discuss
20 the case, even among yourselves. It's too early for
21 deliberation. But we'll take a short break and we'll come
22 back. Thank you very much.

23 (The jury exited the courtroom at 11:53 a.m.)

24 THE COURT: All right. Anything from the State
25 before we take a short break?

1 MS. LIVESAY: No, sir.

2 THE COURT: All right. Anything, Mr. Bouchette?

3 MR. BOUCHETTE: No, sir.

4 THE COURT: Mr. Pinkerton?

5 MR. PINKERTON: No, sir.

6 THE COURT: Mr. Gardner?

7 MR. GARDNER: No, sir. No, Your Honor.

8 THE COURT: All right. Let's take about a
9 ten-minute break, and we'll come back and resume.

10 MR. HELMS: Yes, sir.

11 (A recess was taken from 11:54 a.m. to 12:10 p.m.)

12 THE COURT: All right. Anything from the State
13 before we bring the jury back in?

14 MS. LIVESAY: Nothing, Your Honor.

15 THE COURT: Mr. Bouchette?

16 MR. BOUCHETTE: Nothing, Your Honor.

17 From a scheduling standpoint, I don't know if the
18 State knows how long they anticipate the first witness to
19 be, but given the hour, it may make sense to break for
20 lunch and start with a new witness fresh.

21 THE COURT: Well, we're going to go ahead -- I have
22 got lunch coming for the jury and it's not here yet. Once
23 it gets here, then we may have to break during direct or
24 cross or something of that nature..

25 Mr. Pinkerton, anything?

1 MR. PINKERTON: No, Your Honor.

2 THE COURT: Mr. Gardner?

3 MR. GARDNER: No, sir.

4 THE COURT: All right. Let's bring the jury in.

5 MS. LIVESAY: Judge, do you mind if we go ahead and
6 move the TV? We got a video to show.

7 THE COURT: That would be fine.

8 MS. LIVESAY: Save some time when they're in here.

9 THE COURT: That would be good.

10 (The jury entered the courtroom at 12:12 p.m.)

11 THE COURT: All right. Ladies and gentlemen,
12 welcome back. We're ready to resume with the trial of
13 this case.

14 The State can call your next witness.

15 MS. LIVESAY: Thank you, Your Honor. At this time,
16 the State calls Jacob Hill.

17 THE CLERK: Please raise your right hand. Place
18 your left hand on the Bible.

19 JACOB HILL,

20 after having been duly sworn, was examined and
21 testified to as follows:

22 THE CLERK: Please state your name and spell it for
23 the Court.

24 THE WITNESS: Jacob Hill. J-a-c-o-b, H-i-l-l.

25 DIRECT EXAMINATION

1 BY MS. LIVESAY:

2 Q And if you don't mind, Mr. Hill, tell these folks
3 how old you are.

4 A 22.

5 Q And where are you from?

6 A Conway, South Carolina.

7 Q And did you go to school here in Conway?

8 A Yes, ma'am. Conway High School.

9 Q And where are you currently working?

10 A A candle (ph) shop.

11 Q Okay. And you lived in Conway all your life. About
12 what area do you live in?

13 A The Dunn Short Cut area.

14 Q Okay. And do you know the victim, Jamie Johnson?

15 A Yes, ma'am.

16 Q And how did you know Jamie?

17 A He was my best friend.

18 Q And how long had y'all been best friends?

19 A Probably about five or six years.

20 Q And where was he living in September of 2020?

21 A Off of 378.

22 Q At that time, did he have a car?

23 A Yes, ma'am.

24 Q Tell these folks what kind of vehicle he had.

25 A Chevy Tahoe.

- 1 Q And how long had he had it?
- 2 A Probably not even a year.
- 3 Q And did you have a vehicle?
- 4 A No, ma'am.
- 5 Q Okay. And how often would you hang out?
- 6 A Every day.
- 7 Q And if you wanted to go somewhere, what car would
- 8 you drive?
- 9 A The Tahoe.
- 10 Q Now, do you remember September 12th of 2020?
- 11 A A little bit, yes, ma'am.
- 12 Q And do you remember the roads that y'all were on
- 13 that day before the incident occurred?
- 14 A Yes, ma'am.
- 15 Q And is that a road that you were on all the time?
- 16 A Yes, ma'am.
- 17 Q And where were you going?
- 18 A To Henry's, the gas station on 501.
- 19 Q And is that a gas station y'all would frequent
- 20 often?
- 21 A Yes, ma'am.
- 22 Q And did you take the same route every time you went?
- 23 A Yes, ma'am.
- 24 Q And why did you take that particular route?
- 25 A Less cops. Off the main highway.

1 Q And why did you have to stay off the main highway?

2 A There was not the right tag on the back of the
3 Tahoe.

4 Q So every time you went to Henry's, you took those
5 back streets?

6 A Yes, ma'am.

7 Q Which included Wayside road?

8 A Yes, ma'am.

9 Q And every time you went did you take the Tahoe?

10 A Yes, ma'am.

11 Q Now, tell me a little bit about the Tahoe. Was
12 there anything about Jamie's Tahoe that was
13 distinguishing?

14 A I mean, it was squatted and it was -- I mean, it had
15 a spare tire on the back driver's side.

16 Q And what does squatted mean?

17 A (Indicating).

18 Q So the back end is down?

19 A Yes, ma'am.

20 Q Okay. Did it have any stickers?

21 A It had a "Big Steppa" sticker across the back glass.

22 Q And how long had he had that sticker?

23 A A good minute.

24 Q Okay. And how long had it been squatted?

25 A The whole time since he's had it.

1 Q So let me tell you something -- let me ask you
2 something. Squatted means the back end of the vehicle is
3 low to the ground --
4 A Yes, ma'am.
5 Q -- and the top part is high?
6 A Yes, ma'am.
7 Q So when you would stand by the hood, where would
8 that strike you?
9 A The top of the hood would come to my shoulders.
10 Q Okay. If you don't mind, stand up.
11 And so the top of the hood was all the way up here?
12 A Yes, ma'am.
13 Q So if you wanted to put your arm on the hood, you'd
14 be kind of like this?
15 A I'd have to... (indicating)
16 Q Okay. That's pretty tall.
17 Now, do you remember going to Henry's on
18 September 12th, 2020?
19 A Yes, ma'am, but we didn't make it there.
20 Q I know. And who was in the car with you?
21 A It was Jamie, me, Orlin, and Brittany.
22 Q And you were in the Tahoe?
23 A Yes, ma'am.
24 Q Tell these folks where everybody was sitting in the
25 Tahoe.

1 **A** Jamie was driving. I was in the passenger seat.

2 Brittany was behind me, and Orlin was behind Jamie.

3 **Q** And did you-all -- you were on your way to Henry's?

4 **A** Yes, ma'am.

5 **Q** Did you take the route you normally took?

6 **A** Yes, ma'am.

7 **Q** And what happened?

8 **A** We got shot up.

9 **Q** And where did that happen?

10 **A** At the intersection of D Street and Rose Moss at the
11 stop sign.

12 **Q** Tell these folks a description. Shot up how? Were
13 these people on motorcycles? Were they walking? Were
14 they in a car?

15 **A** No, ma'am. They was following us, and when we got
16 to the stop sign, they cut around us and cut us off where
17 we couldn't go anywhere, and then a bunch of dudes got out
18 and shot us up.

19 **Q** And did anybody in your car have a gun?

20 **A** No, ma'am.

21 **Q** Describe the vehicle that came around and cut you
22 off.

23 **A** It was like a bluish-grayish Crown Vic-type car.

24 **Q** Two-door or four-door?

25 **A** Four-door.

1 Q Tell me about the people that got out of the car
2 that fired or that just out of the car.

3 A There was one that got out of the driver's seat, and
4 then there was about three or four of them that got out
5 the backseat. The one that go out of the front seat had
6 no shirt on and pants. And then the ones in the back, I
7 don't really remember.

8 Q Okay. So slow down. How many people got out of the
9 front part of the car?

10 A Just one.

11 Q And what did he look like?

12 A He had a little bit -- he had, like, short dreads,
13 probably about that long (indicating). No shirt.

14 Q Was he black or white?

15 A He was black.

16 Q Did anybody get out of the back of the car?

17 A Yes, ma'am, about three of them.

18 Q Okay. And were they women or men?

19 A Men.

20 Q And what did they look like?

21 A Black males.

22 Q And do you remember anything else about the men that
23 got out of the back?

24 A No, ma'am.

25 Q Could you tell me about how old they were?

1 A It looked like they was about they were teenagers or
2 early 20s.

3 Q Did you see anybody with a gun that got out of the
4 car?

5 A The only one I saw with a gun, like, eye-to-eye
6 contact was the one that got out the passenger side.

7 Q And so do you know whether or not the other people
8 had guns?

9 A I have no clue.

10 Q Okay. And tell me if you know the guy that got out
11 of the front passenger side.

12 A Yes, ma'am. It was Tronahz.

13 Q I'm going to show you State's Exhibits 27, 28, 29,
14 30, and 31. I have already shown it to defense counsel.
15 Look at this and tell the Court whether or not you
16 recognize what that's a picture of.

17 A Yes, ma'am.

18 Q What is it? And tell the Court what it is.

19 A Messages between me and Tronahz.

20 Q And what is the Facebook name?

21 A Draxo Da Mobb.

22 Q And are these the messages and pictures that you
23 showed the police department?

24 A Yes, ma'am.

25 Q And why did you show the police department these

1 particular pictures?

2 A Because that's the dude I saw get out the passenger
3 side of the car.

4 Q In order to show them and identify who it was?

5 A Yes, ma'am.

6 Q And the three black males that jumped out of the
7 back, you didn't recognize?

8 A No, ma'am.

9 Q And tell me what you did and what the people in the
10 car did when this car cut you off. What happens inside
11 your car?

12 MR. GARDNER: Objection to leading, Your Honor.

13 THE COURT: That's not leading. I'll allow it.

14 Go ahead.

15 BY MS. LIVESAY:

16 Q What happened inside your car?

17 A Well, when the car originally tried to cut us off,
18 Jamie went to back up to get us out of there, and when he
19 went to turn around, he got shot in the back of the head.
20 And then I get in the floor, and then Orlin and Jamie get
21 in the back of the floorboard too until it's over.

22 Q Okay. So when you say "the floorboards," you mean
23 you're down?

24 A Yes, ma'am.

25 Q Okay. So how quick are you -- how much time passes

1 between when you are cut off and you're down in the
2 floorboard?

3 A By the time he stepped out and pointed the gun, I
4 was in the floor.

5 Q Okay. Okay. I would have been too.

6 And 27 through 31 is the information off your phone
7 that you gave to the police department?

8 A Yes, ma'am.

9 Q And, in fact, these are photographs of your phone
10 showing the conversation in the pictures?

11 A Yes, ma'am.

12 MS. LIVESAY: Your Honor, at this time, the State
13 wishes to place 27 through 31 into evidence and publish it
14 to the jury.

15 THE COURT: All right. Mr. Bouchette?

16 MR. BOUCHETTE: No objection, Your Honor.

17 THE COURT: Mr. Pinkerton?

18 MR. PINKERTON: No objection, Your Honor.

19 THE COURT: And Mr. Gardner?

20 MR. GARDNER: No, sir, no objection.

21 THE COURT: All right. State's Exhibits 27, 28, 29,
22 30, and 31 are admitted into evidence without objection.

23 (State's Exhibit Nos. 27 through 31 were received
24 into evidence.)
25

1 BY MS. LIVESAY:

2 Q Mr. Hill, if you don't mind, can you step down?

3 MS. LIVESAY: Do you mind, Judge? I apologize.

4 THE COURT: As long as he's near a microphone where
5 the court reporter can pick up his testimony.

6 BY MS. LIVESAY:

7 Q Mr. Hill, what are we looking at?

8 A My phone and the messages between me and Draxo
9 Da Mobb.

10 Q Okay. And tell me -- because I can never figure it
11 out -- who is in the gray and who is in the blue?

12 A The gray would be Draxo Da Mobb, and the blue
13 messages would be me.

14 Q And it's September 3rd?

15 A Yes, ma'am.

16 Q And do you know this person?

17 A No, ma'am.

18 Q Okay. And is this the first communication you had?

19 A Yes, ma'am.

20 Q Okay. Tell me -- well, what is this?

21 A That's where, like, if somebody sends you a friend
22 request and, like, you accept it or whatever, it says that
23 you can now call each other and stuff like that.

24 Q Okay. So did he send you a friend request?

25 A Yes, ma'am.

1 Q And did you accept it?

2 A Yes, ma'am.

3 Q And that happened on September 3rd?

4 A Yes, ma'am.

5 Q Now, what am I looking at here?

6 A These his profile picture and his Facebook name.

7 Q Okay. So these messages are off what? Facebook?
8 Text?

9 A Facebook Messenger, yes, ma'am.

10 Q Okay. And if you don't mind, publish to the jury
11 the message you received from Draxo Da Mobb.

12 A You mean, like, read it out?

13 Q Yes, sir.

14 A He had texted me, "Yo."

15 And I texted him back, "Yeah."

16 And then he tried to video-chat me type stuff.

17 And then I sent a question mark.

18 And he was like, "Yo, you gotta problem with my
19 peoples?"

20 And I was like, "Who? JJ?"

21 And then --

22 Q Did the conversation --

23 A It kept going.

24 Q Okay.

25 A And then he's saying, "Yeah and Josh."

1 I was like, "I don't know who Josh is. JJ was
2 talking crap to my brother, and JJ got his butt beat.
3 Nothing else to it."

4 And he was like, "Where's the video?"

5 I said, "What video?"

6 And then he said, "Ain't no video?"

7 I was, like, "Nah."

8 He was like, "But y'all jumped my boy; right?"

9 I was like, "Nah, not that I know of. I only pulled
10 up so my little brother wouldn't get jumped."

11 Q So what's going on in your conversation?

12 A Me and him talking about the fight that happened
13 between his buddy and my little brother.

14 Q And the fight happened between who?

15 A JJ Fowler and my little brother.

16 Q Okay. Were you involved in the fight?

17 A No, ma'am.

18 Q Was Jamie Johnson involved in the fight?

19 A No, ma'am.

20 Q Okay. Tell me what's going on here.

21 A They were just still texting back and forth about
22 the fight. He wanted to know if anybody, whatever, jumped
23 him.

24 I was like, "Nah."

25 And he was like, "Who did he fight?"

1 I was like, "My little brother."

2 And then I was like -- I told him, "All I did was
3 pull up so my little brother wasn't going to get jumped.
4 I ain't touched JJ."

5 He was like, "Word. So what's up with that dude
6 Jamie?"

7 And then he got my phone.

8 He was like, "Shit, you got my Facebook. This is
9 Jamie."

10 And then Tronahz said, "Say less."

11 And then they texted back and forth on Jamie's
12 phone.

13 Q Okay. So do you know why he was looking for Jamie?

14 A No, ma'am.

15 Q Okay. And all of this happened September 3rd?

16 A Yes, ma'am.

17 Q And the shooting happened a couple of weeks after?

18 A Yes, ma'am.

19 Q Okay. Had you had any more contact with him other
20 than this?

21 A No, ma'am.

22 Q So all the contact was about an altercation between
23 your brother and one of his friends?

24 A Yes, ma'am.

25 Q If you don't mind, have a seat.

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

2 **Q** Who do you know Draxo Da Mobb to be?

3 **A** Tronahz Whittington.

4 **Q** Now, was Tronahz Whittington the only guy that

5 jumped out of the car?

6 **A** No, ma'am.

7 **Q** Was Tronahz Whittington driving the car?

8 **A** No, ma'am.

9 **Q** The car came from what direction?

10 **A** Behind us.

11 **Q** And they passed you?

12 **A** They cut us off. They pulled in front of us and cut

13 us off.

14 **Q** Could you have gone anywhere once the car had cut

15 y'all off?

16 **A** No, ma'am.

17 **Q** Could Jamie have taken a left?

18 **A** No, ma'am.

19 **Q** Could he have taken a right?

20 **A** No, ma'am.

21 **Q** The car in the picture, the Tahoe, is somewhat back

22 from the stop sign.

23 **A** Mm-hmm.

24 **Q** Is that where the car was shot up? Did y'all ever

25 make it to the stop sign?

1 **A** Yeah, we made it to the stop sign, and then Jamie
2 tried to back up. And then where the truck was stopped,
3 that's where it all happened at.

4 **Q** When Jamie is backing up, are there shots being
5 fired at the Tahoe?

6 **A** Yes, ma'am.

7 **Q** Did that make a difference as to whether or not
8 y'all could get away?

9 **A** Yes, ma'am.

10 **Q** If no shots were fired, could Jamie have just backed
11 up?

12 **A** Yes, ma'am.

13 MR. BOUCHETTE: Objection to speculation.

14 THE COURT: Overruled. I'll allow that.

15 BY MS. LIVESAY:

16 **Q** How many shots did you hear?

17 **A** A lot.

18 **Q** How many is a lot? Is it more than one?

19 **A** It was probably more than a handful.

20 **Q** How many?

21 **A** Probably more than a handful.

22 **Q** Okay. More than a handful?

23 **A** Yes, ma'am.

24 **Q** So more than two?

25 **A** Yes, ma'am.

1 Q More than three? More than four?

2 A More than six.

3 Q Okay. When you're in the car, do you hear the
4 bullets hitting the truck?

5 A Mm-mmm.

6 Q Do you hear anything?

7 A The only thing you can hear is the gunshots going
8 off.

9 Q Can you remember how long it lasted, the shots being
10 fired?

11 A A matter of seconds.

12 Q And tell me what it sounded like. Was it pop and
13 then a long pause and pop? What did it sound like?

14 A Like one right after another.

15 Q Just pop, pop, pop, pop, pop?

16 A Mm-hmm.

17 Q And you heard at least over six shots?

18 A Yes, ma'am.

19 Q When the shots stopped, what happens next?

20 A I looked back at Orlin and asked him if they're
21 gone. And as soon as he says they're gone, we jump out
22 and tried to put Jamie in the back of the truck. And then
23 once we realized the front of the truck has been shot and
24 you can't drive up, we pulled him out and put him on the
25 ground.

1 Q So why were y'all trying to put him in the back?

2 A To take him to the hospital.

3 Q And then you realized you couldn't drive the car?

4 A Yes, ma'am.

5 Q So what do y'all do next?

6 A We pull him out and sit him on the ground, and then
7 we called the law or called the cops.

8 Q And who all helps get him out of the car?

9 A Me and Orlin.

10 Q What happens next?

11 A Once we get him out the car -- I don't remember who
12 calls the cops, but somebody calls the cops, and then we
13 sit there, and I call my mom and I call Jamie's mom. And
14 then we just sit right there until the law gets there.

15 Q Did anybody leave before the law got there?

16 A Orlin did, yes, ma'am.

17 Q And do you know why?

18 A Yes, ma'am. Because he's an illegal immigrant.

19 Q I'm sorry?

20 A He's an illegal immigrant.

21 Q The same Orlin is the one that helped him get out of
22 the car?

23 A Yes, ma'am.

24 Q Once y'all get Jamie out of the car, is there really
25 anything to do at that point to assist?

- 1 A No, ma'am.
- 2 Q Did you see where he was injured?
- 3 A Yes, ma'am.
- 4 Q Where?
- 5 A In the back of the head.
- 6 Q If I showed you a picture -- or pictures of the
- 7 Tahoe, would you recognize it?
- 8 A Yes, ma'am.
- 9 Q Did the Tahoe suffer damage other than just the
- 10 windshield?
- 11 A I think there was another shot on the driver's side
- 12 somewhere.
- 13 Q And how about in the front? Do you know?
- 14 A Not that I know of, except for the one that made it
- 15 leak the antifreeze or the coolant.
- 16 Q So maybe three?
- 17 A Yes, ma'am, maybe three.
- 18 Q Did you fully inspect the car?
- 19 A No, ma'am.
- 20 Q That's just what you saw standing out there?
- 21 A Yes, ma'am.
- 22 Q I'm going to show you 18 through 24. Take a look
- 23 and tell me if you recognize them. And No. 26. I
- 24 apologize.
- 25 A Yes, ma'am.

1 Q Okay. And are those all photographs of the Tahoe?

2 A Yes, ma'am.

3 Q And is that how it appeared the last time you saw
4 it?

5 A Yes, ma'am.

6 MS. LIVESAY: Your Honor, at this time, the State
7 wishes to place 24 through 26 into evidence and publish it
8 to the jury.

9 MR. BOUCHETTE: No objection.

10 THE COURT: All right.

11 MR. PINKERTON: No objection, Your Honor.

12 MR. GARDNER: No objection, Your Honor.

13 THE COURT: All right. State's Exhibits 24, 25, and
14 26 are admitted into evidence.

15 MS. LIVESAY: I'm sorry, Judge; I apologize. I gave
16 you the wrong numbers. 18 through 26.

17 THE COURT: Is there a 25?

18 MS. LIVESAY: There is a 25, Judge.

19 THE COURT: All right. Mr. Bouchette?

20 MR. BOUCHETTE: No objection.

21 THE COURT: Mr. Pinkerton?

22 MR. PINKERTON: No objection, Your Honor.

23 MR. GARDNER: I'm trying to keep track. Can you
24 tell me the exact numbers again?

25 THE COURT: 18, 19, 20, 21, 22, 23, 24, 25, and 26.

1 MR. GARDNER: Thank you. No objection, Your Honor.

2 THE COURT: All right. State's Exhibits 18, 19, 20,
3 21, 22, 23, 24, 25, and 26 are admitted into evidence
4 without objection.

5 MS. LIVESAY: Thank you, Your Honor.

6 (State's Exhibit Nos. 18 through 26 were received
7 into evidence.)

8 BY MS. LIVESAY:

9 Q Can you see this from where you're sitting?

10 A Yes, ma'am.

11 Q What am I looking at?

12 A Jamie's Tahoe.

13 Q Is that the front?

14 A Yes, ma'am.

15 Q And were any of the tires flattened?

16 A No, ma'am.

17 Q And this here, when did that happen?

18 A When Jamie was shot in the head.

19 Q What am I looking at here?

20 A Just the driver's side of Jamie's Tahoe.

21 Q And does this show the squat?

22 A Yes, ma'am.

23 Q And the front end here is lifted up; is that right?

24 A Yes, ma'am.

25 Q How about now?

1 A Backside -- back driver's side of Jamie's Tahoe.

2 Q About how about this sticker?

3 A Hashtag 843.

4 Q Had that been up there awhile?

5 A Yes, ma'am.

6 The backside of it.

7 Q And this is a sticker you were talking about before?

8 A Yes, ma'am. Big Steppa.

9 Q And how long had that been there?

10 A Not that long. Probably like not even a month.

11 Q And let me ask you something: You have lived in

12 Conway all your life?

13 A Yes, ma'am.

14 Q And you drive the Tahoe sometimes?

15 A Yes, ma'am.

16 Q And did other people have this "Big Steppa" sticker?

17 A Only one other person, but it wasn't a Tahoe. It

18 was a full-size truck.

19 Q So this isn't something that comes on every car --

20 every Tahoe?

21 A No, ma'am.

22 Q Are there any bullet holes in the back?

23 A No, ma'am.

24 Q How about here?

25 A Passenger side of his Tahoe.

1 Q And, again, does this show that slant?

2 A Yes, ma'am.

3 Q How about here?

4 A The front -- front passenger side.

5 Q And is this where it's lifted up?

6 A Yes, ma'am.

7 Q When did that happen?

8 A When he was shot.

9 Q Now, have you seen a video of y'all driving on

10 Wayside Road to Henry's on 9/12 of 2020?

11 A Yes, ma'am.

12 Q And you can identify that was y'all on the day of

13 the shooting at that time?

14 A Yes, ma'am.

15 Q And, in fact, you can see the driver's window down?

16 A Yes, ma'am. And you can see Jamie's red hair.

17 Q Jamie had red hair?

18 A Yes, ma'am.

19 Q And you can see it in the video?

20 A Yes, ma'am.

21 Q The car behind you in the video, did you recognize

22 that car?

23 A No, ma'am.

24 Q Did you see --

25 MR. BOUCHETTE: Your Honor, I'm going to object to

1 any reference to evidence which isn't in the record.

2 THE COURT: Overruled.

3 Go ahead.

4 BY MS. LIVESAY:

5 Q If you saw the car that cut y'all off in the video,
6 would you recognize it?

7 A Yes, ma'am.

8 Q And is that car in the video?

9 A Yes, ma'am.

10 Q And where is it?

11 A Following us, behind us.

12 Q Had you ever seen that car before that day?

13 A No, ma'am.

14 Q I'm going to show you now State's 32 and 33. Do you
15 recognize what I'm showing you?

16 A Yes, ma'am.

17 Q And do both of these videos have your initials?

18 A Yes, ma'am.

19 Q And what does that indicate?

20 A That I have seen it and witnessed it.

21 Q And is that y'all on the way to Henry's?

22 A Yes, ma'am.

23 Q And you recognize the car behind you?

24 A Yes, ma'am.

25 Q And that was y'all on Wayside Drive?

1 A Yes, ma'am.

2 Q And that was the time y'all were on your way to
3 Henry's?

4 A Yes, ma'am.

5 MS. LIVESAY: Your Honor, at this time, the State
6 wishes to put 32 and 33 into evidence and publish it to
7 the jury.

8 THE COURT: All right. Mr. Bouchette?

9 MR. BOUCHETTE: I'd further object. I don't believe
10 this witness qualifies as a custodian of that particular
11 video. He testified he's reviewed it, the facts that are
12 presumably captured in the video, but I don't think we
13 have got a foundation laid for him to actually introduce
14 that particular video.

15 THE COURT: Mr. Pinkerton?

16 MR. PINKERTON: Your Honor, I'm going to agree with
17 Mr. Bouchette on that. We'd also add, he's not the one
18 that made these videos, and he's not the custodian of
19 record. He's not the proper person to introduce these
20 videos through.

21 THE COURT: All right. Mr. Gardner?

22 MR. GARDNER: I would concur with those objections.
23 We don't know where the videos came from, Your Honor.

24 THE COURT: All right. State's Exhibit 32 and 33
25 are admitted into evidence over defendants' objections.

1 MS. LIVESAY: Thank you, Your Honor.

2 (State's Exhibit Nos. 32 and 33 were received into
3 evidence.)

4 (Video plays.)

5 BY MS. LIVESAY:

6 Q Mr. Hill, do you see y'all's Tahoe in the video?

7 A Yes, ma'am.

8 Q And how about the car behind you?

9 A Yes, ma'am.

10 Q And did you see the car behind you again at some
11 point?

12 A Yes, ma'am.

13 Q And when?

14 A In the next video.

15 Q And the car behind you, is that the car that cut
16 y'all off?

17 A Yes, ma'am.

18 MS. LIVESAY: If you don't mind, go back just a
19 hair.

20 BY MS. LIVESAY:

21 Q Who is this?

22 A Jamie Johnson.

23 Q Is his window up or down?

24 A Down.

25 Q And can you tell the red hair?

1 A Yes, ma'am.

2 Q And can you tell whether or not the back window is
3 up or down?

4 A It's halfway down. It stops halfway.

5 Q And was that because it was broken or --

6 A No, that's just how they are. They stop halfway.

7 Q And is your window down?

8 A Yes, ma'am.

9 Q So you can see, even from this far away -- I mean,
10 we're a yard away. You can see inside the car?

11 A Yes, ma'am.

12 Q And is that the spare tire?

13 A Yes, ma'am.

14 Q And it's not clear on this big TV, but do you
15 recognize what's right there?

16 A The hashtag 843 sticker.

17 Q And can you tell, is this the squat?

18 A Yes, ma'am.

19 MS. LIVESAY: Hit it just one minute and then stop,
20 if you don't mind. Just a split second. Stop.

21 BY MS. LIVESAY:

22 Q Is this the car that cut you off?

23 A Yes, ma'am.

24 Q Did y'all realize this car was even behind you?

25 A No, ma'am.

1 MS. LIVESAY: And I apologize, Lacy. Can you hit it
2 back one more time for me?

3 BY MS. LIVESAY:

4 Q . And were y'all on the way to Henry's around 7:11
5 that night?

6 A Yes, ma'am.

7 Q Still daylight?

8 A Yes, ma'am.

9 Q And y'all are on Wayside Road?

10 A Yes, ma'am.

11 MS. LIVESAY: Thank you. Can you play the other
12 video?

13 BY MS. LIVESAY:

14 Q Can you see what she wrote up here, Jacob?

15 A "Drove down Wayside."

16 Q Is that correct?

17 A Yes, ma'am.

18 Q Can you see it?

19 A Yes, ma'am.

20 (Video plays.)

21 BY MS. LIVESAY:

22 Q Do you recognize that car?

23 A Yes, ma'am.

24 Q Whose car is it?

25 A The Tahoe.

1 Q I'm sorry?

2 A The Tahoe.

3 Q And were y'all in that car?

4 A Yes, ma'am.

5 (Video plays.)

6 BY MS. LIVESAY:

7 Q Do you recognize that car?

8 A Yes, ma'am.

9 Q And is that the car that pulled in front of you?

10 A Yes, ma'am.

11 Q And are y'all on Wayside Drive?

12 A Yes, ma'am.

13 Q Now -- I'm sorry.

14 MS. LIVESAY: Gear it up one more time. I

15 apologize. Okay. Stop.

16 (Video plays.)

17 BY MS. LIVESAY:

18 Q The time down here says 7:13. Y'all were on
19 Wayside. Is that when y'all were on your way to Henry's?

20 A Yes, ma'am.

21 Q Okay. So you're still trying to get to Henry's?

22 A Yes, ma'am.

23 Q And this other car is still behind you?

24 A Yes, ma'am.

25 Q I'm going to write 7 -- see what I wrote up here,

1 Mr. Hill?

2 A Yes, ma'am.

3 Q Is that correct?

4 A Yes, ma'am.

5 Q Now, you have watched both of those videos?

6 A Yes, ma'am.

7 Q Both of them are accurate?

8 A Yes, ma'am.

9 Q And both of them show y'all, that day, on your way
10 to Henry's?

11 A Yes, ma'am.

12 Q Was it light outside?

13 A It was still daylight but not really, like, bright
14 light. It was, like, dusk.

15 Q Okay. And in that video, was it light enough for
16 you to see who was driving the Tahoe?

17 A Yes, ma'am.

18 Q And how quick did the shooting happen when y'all got
19 off Wayside Road?

20 A Probably within a matter, like, not even five
21 minutes.

22 Q And it's still light?

23 A Yes, ma'am.

24 Q Okay. And was it light enough for you to see that
25 people jumped out of the car?

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

2 **Q** And give the description you gave?

3 **A** Yes, ma'am.

4 **Q** And, in fact, you recognized one of them?

5 **A** Yes, ma'am.

6 **Q** When did the shooting stop?

7 **A** Probably, like, five minutes after it started, not

8 even five minutes.

9 **Q** So it happened quick?

10 **A** Yes, ma'am.

11 **Q** And when you popped your head back up, was the car

12 still around?

13 **A** No, it was gone.

14 **Q** Were any of the people that were in the car, did you

15 see any of them standing around?

16 **A** No, ma'am.

17 **Q** So they were gone?

18 **A** Yes, ma'am.

19 **Q** Did you even see the taillights of the car?

20 **A** No, ma'am.

21 **Q** You stayed until the police came?

22 **A** Yes, ma'am.

23 **Q** And after -- how long were you out there after the

24 shooting happened when the police were out there?

25 **A** Probably like 20, 30 minutes.

1 Q 20 or 30 minutes.

2 Did you see the car that cut you off, did you see
3 that car come back to the scene?

4 A No, ma'am.

5 Q Did you see anybody matching the description of the
6 car come back to the scene?

7 A No, ma'am.

8 Q Okay. So none of those people are around to give
9 any information to the police?

10 A No, ma'am.

11 Q Where did you go that night after you left the scene
12 where it happened?

13 A To the M.L. Brown building to give my statement.

14 Q And did you give a statement?

15 A Yes, ma'am.

16 Q And did you let him take pictures of your phone?

17 A Yes, ma'am.

18 Q Who did you see jump out of the passenger side of
19 the car?

20 A The front?

21 Q (Nodding head in the affirmative.)

22 A Tronahz Whittington.

23 Q And is that the picture you gave to police?

24 A Yes, ma'am.

25 Q Have you got any doubt about that?

1 A No, ma'am.

2 Q Did you ever see the driver of the car jump out?

3 A No, ma'am.

4 Q How many people -- did you see anybody jump out the
5 back?

6 A Yeah, three of them.

7 Q Three people jumped out of the back. Can we just
8 put one, two, three.

9 Okay. Help me out. The three people that jumped
10 out of the back, give me a description. Were they women
11 or men?

12 A Men.

13 Q What color?

14 A Black.

15 MR. GARDNER: Your Honor, I'm going to object to
16 this. He started doing this at the beginning of her
17 direct examination, and now she's repeating it. It's been
18 asked and answered.

19 THE COURT: You have already gone over --

20 MS. LIVESAY: I'm sorry, Judge?

21 THE COURT: You have already gone over the
22 description.

23 MS. LIVESAY: I'm just doing it for the board, and
24 then we're sitting down.

25 THE COURT: All right.

1 MS. LIVESAY: And I'm going to let him look at it.

2 THE COURT: I'll allow it so that she can write it
3 on the board.

4 MR. GARDNER: Well, I would -- while we're doing it,
5 I'm objecting to this board. I started to say it again,
6 but I think that was another time. But I object to this
7 board too. It's confusing, it's delaying, and it's
8 blocking, and I think it's disrupting the flow of the
9 court.

10 THE COURT: All right. Overruled.

11 Go ahead.

12 BY MS. LIVESAY:

13 Q At about what age?

14 A Late teens, early 20s. Not much younger than me.

15 Q I'm going to show you this board. Do you see it?

16 A Mm-hmm.

17 Q Is the information on it accurate as to the
18 description you have given?

19 A Yes, ma'am.

20 MS. LIVESAY: No further questions, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, it's
22 almost 1:00. We're going to go ahead and break for lunch.
23 We have ordered lunch for you, so it will be here -- it
24 should be here and ready for you to eat now.

25 I'm going to excuse you to the jury room. We'll

1 take probably about an hour break. We'll give you plenty
2 of time to eat your lunch, so don't feel rushed or
3 anything of that nature.

4 I'll remind you again: do not to discuss the case,
5 even among yourselves. It's too early for deliberation.

6 We'll take about an hour lunch break, and then we'll
7 come back and get started again. Enjoy your lunch.

8 Everyone else please remain seated while the jury is
9 excused.

10 (The jury exited the courtroom at 12:56 p.m.)

11 THE COURT: All right. Mr. Hill, we're in the
12 middle of your testimony, so the law says you cannot
13 discuss your testimony with anyone. You cannot discuss it
14 with any family, friends, any attorneys; you cannot even
15 discuss it with the State's attorney, whether that be what
16 you have testified to thus far or what you anticipate
17 testifying to in the future. Okay?

18 THE WITNESS: Yes, sir.

19 THE COURT: So don't talk about the case or your
20 testimony or anything of that nature to anyone. Okay?

21 THE WITNESS: Yes, sir.

22 THE COURT: All right. Anything from the State
23 before we break for lunch?

24 MS. LIVESAY: No, sir.

25 THE COURT: Mr. Bouchette?

1 MR. BOUCHETTE: No, Your Honor.

2 THE COURT: Mr. Pinkerton?

3 MR. PINKERTON: No, Your Honor.

4 MR. GARDNER: No, Your Honor.

5 THE COURT: All right. We'll take about an hour
6 break and then we'll come back from lunch. Thank you very
7 much.

8 (A lunch recess was taken at 12:57 p.m. to
9 2:03 p.m.)

10 MOTIONS/MATTERS OF LAW

11 THE COURT: Thank very much. Please be seated. All
12 right. Anything from the State before we bring the jury
13 in?

14 MS. LIVESAY: Yes, sir.

15 THE COURT: All right.

16 MS. LIVESAY: So it's been brought to my attention
17 by an Horry County deputy that Shamontae Graham was in the
18 courtroom this morning. My understanding was he was
19 sitting over there on the front row. He's not there now.
20 Travontae Mitchell is his brother. I didn't know he was
21 in here because I don't correspond with any of the folks
22 on this side. I only correspond with our folks.

23 Shamontae Graham, the only way we correspond with
24 him is through Brana Williams because he's a represented
25 defendant. He has already testified one time. He

1 testified at the last trial.

2 As to sequestration, there's nothing in this trial
3 that's going to be new to him because he is a codefendant
4 so he has already received discovery in the case. So he
5 would have already received all the statements by the
6 witnesses.

7 THE COURT: All right. Mr. Bouchette?

8 MR. BOUCHETTE: Obviously, I wasn't paying attention
9 behind me. I don't know when he was here or how long he
10 was there. If he's been present for the bulk of the
11 morning's testimony then my concern would be that's
12 substantial enough to violate the Court's sequestration
13 order.

14 The question would be, you know, why, number one,
15 was he not informed by the State? If he wasn't informed
16 by the State, then I sort of put that burden on them. If
17 he did and he just misunderstood or something like that,
18 then, you know, maybe -- I do need to have a little more
19 information, I feel, to make that determination.

20 THE COURT: I mean, the question is -- I said, if
21 they're in the courtroom, they can't testify.

22 Mr. Pinkerton?

23 MR. PINKERTON: Court's indulgence one second, Your
24 Honor.

25 THE COURT: All right.

1 (Counsel conferring off the record.)

2 MR. BOUCHETTE: Judge, I understand the State's
3 position, but I'm presuming from what they're telling me
4 and from what they've learned, he was in here at least
5 through the bulk or substantial portion of the testimony
6 today. If that was the case, I think it's a violation of
7 the sequestration order, and I'd ask him not be allowed to
8 testify.

9 THE COURT: Mr. Pinkerton?

10 MR. PINKERTON: Your Honor, I'll abide by the
11 Court's decision with this. I have no objection with him
12 testifying as long as he remains sequestered for the bulk
13 until he testifies.

14 THE COURT: All right. Mr. Gardner?

15 MR. GARDNER: I just think that the rules are the
16 rules, Your Honor. We have had several variations of
17 compliance in the short time this trial has been going on;
18 therefore, I'd ask that he not be allowed to testify.

19 THE COURT: All right. And I don't know what his
20 testimony is going to be, but I do know that we had a
21 motion to sequester. Everybody agreed to it. I said make
22 sure your witnesses are not in here, so neither side will
23 be able to call him.

24 MR. HELMS: Your Honor, if I may put this on the
25 record.

1 THE COURT: All right.

2 MR. HELMS: Mr. Graham -- Shamontae Graham is here
3 -- was here this morning because he is brothers with one
4 of these young men at the table. He is here to support
5 them. We had no way to know he was coming in the
6 courtroom today because we don't communicate directly to
7 him, because we can't; that, in and itself, would be a
8 violation.

9 He came here today without our knowledge, without
10 our direction. He additionally came without their
11 knowledge or direction but to support them.

12 We had no way of preventing him from coming because
13 we can't -- we don't communicate with him directly, and we
14 did not -- we're not over here paying attention to their
15 group of people. We're looking at our group of people.

16 He basically came in and blended in with the
17 defense, Your Honor.

18 Additionally, as Ms. Livesay said, he has testified
19 one time. As a matter of fact, all three defendants have
20 a transcript -- full transcript of his prior testimony in
21 front of them right now to cross-examine him with. So any
22 variation that he came from -- or comes off of is going to
23 -- they're going to be able to jump on it with a
24 quickness.

25 MS. LIVESAY: And let me say this, we spoke with

1 Brana Williams, his attorney, and we were crystal clear
2 that we wanted him here at a certain time and not before
3 then. We have corresponded with her. That is her client.
4 We cannot correspond with him because he's represented.
5 But we corresponded with her. We told her when he needed
6 to be here, and it was not yesterday and it was not today.

7 MR. HELMS: More importantly --

8 MS. LIVESAY: So I can't -- we can't control the
9 correspondence between Brana and her client.

10 And let me say this: He was sitting over there.
11 Mr. Bouchette, Mr. Pinkerton, and Mr. Gardner, who made
12 the motion, saw him sitting over there --

13 MR. GARDNER: I object to that.

14 MS. LIVESAY: -- with the rest of their defendants'
15 family, or at least they had a better idea than we did.
16 And they never asked him to leave the courtroom. And he
17 was not sitting anywhere where we had a visual. He was
18 sitting over there behind the defendants and the defense
19 attorney.

20 So we didn't have any idea he was here. We told
21 Ms. Williams when we wanted him to show up and that he was
22 to show up with her since she represented him. We had no
23 way of knowing that he was here. We have done everything
24 we could to have him here with his attorney at the
25 appropriate time.

1 THE COURT: All right. It is every attorney's
2 responsibility, if they are calling a witness in this
3 case, to ensure that they're not in the courtroom. It's
4 not the defendant's responsibility to make sure the
5 State's witnesses are not in the courtroom. It is the
6 State's responsibility. It is not the State's
7 responsibility to make sure the defendant's witnesses are
8 not in the courtroom. It is the defendant's
9 responsibility.

10 So the fact that the State's witness was sitting
11 over there does not absolve the State. The fact that you
12 cannot communicate directly with him because he has an
13 attorney does not absolve the State. It is the State's
14 responsibility, if you were going to call a witness to
15 testify in this case, to look at everybody in the
16 courtroom to ensure that that person is not in the
17 courtroom during -- in violation of the sequestration
18 order that we did at the start of the trial. So all of
19 your argument in that regard is irrelevant.

20 Now, the question I have is, if you have his
21 transcript from the prior trial, then what is the
22 prejudice by letting the State call him as a witness in
23 this case? I understand the purpose of sequestration is
24 so that you don't have a witness in the courtroom
25 listening to the testimony of another witness in case

1 there is a conflict of testimonies, they won't change it
2 or whatever the case may be. But if everybody already has
3 Mr. Graham's transcript from his testimony at the prior
4 trial, what harm or prejudice is it to the defendants in
5 this trial?

6 MR. BOUCHETTE: Well, I think having the transcript,
7 obviously, would allow us to impeach his testimony, but
8 impeachment is merely a mitigating effort. In other
9 words, we can say, "Well, you changed your testimony," but
10 we won't be able to get into the fact of, well, he was
11 sitting in here and, you know, he heard testimony, so
12 that's how he crafted it or how his story might have
13 changed.

14 We can try to mitigate it by virtue of the fact that
15 we have transcripts -- we'd have that -- but, again, we
16 don't want to get having to mitigate damage if we don't
17 have to.

18 So I would say the reason for the sequestration is
19 to prevent any kind of issues with testimony based on what
20 they hear in the courtroom. True, we have got the
21 transcript, but if they start changing, that's just a --
22 that's trying to mitigate it after the fact.

23 THE COURT: Mr. Pinkerton, anything you want to
24 place on the record?

25 MR. PINKERTON: Your Honor, I will abide by the

1 Court's ruling in this.

2 THE COURT: Mr. Gardner, anything you want --

3 MR. GARDNER: Just for the record, Your Honor, I
4 believe that the testimony at the prior trial was geared
5 towards the shooter, not these defendants. So if they
6 want to call him to gear his testimony towards these
7 defendants, then it will be a little bit different than
8 the prior testimony.

9 So you couple that by the fact that he's been here
10 all day listening to the testimony, I just think that the
11 proper remedy is what you said earlier, just not allow any
12 side to call him.

13 THE COURT: Well, let me ask the State: Does the
14 State intend to elicit any testimony from Mr. Graham in
15 the trial against these defendants that was not elicited
16 from him in the other trial?

17 MR. HELMS: Yes, Your Honor, because we had to
18 comply with Bruton.

19 THE COURT: Okay. All right. Well, if you're going
20 to get some additional testimony, then he's not going to
21 be able to testify if he was in the courtroom. If his
22 testimony was limited strictly to his testimony in the
23 prior trial, then they have got the transcript of that,
24 and I don't see any prejudice to their client. But if
25 you're going to get some testimony from Mr. Graham that

1 was not presented in the prior trial, then the fact that
2 he was in the courtroom --

3 MR. HELMS: No, we're not.

4 MS. LIVESAY: The same.

5 MR. HELMS: I understand what you're saying. We're
6 not. The same testimony. What he testified to in the
7 prior trial will be his testimony today.

8 MS. LIVESAY: That's right.

9 THE COURT: So there will not be any additional
10 testimony against these defendants that was not elicited
11 in the first trial?

12 MS. LIVESAY: He testified last time -- because
13 there's no Bruton issue, he was subject to
14 cross-examination. So he testified to everybody that was
15 in the car, everybody that got out of the car, everybody
16 everything. So that's what -- I mean, because he is
17 subject to cross-examination.

18 THE COURT: If that's in the -- if that's in his
19 transcript from the prior trial, then I'm going to allow
20 him to testify.

21 MS. LIVESAY: Thank you, Judge.

22 MR. GARDNER: If his testimony is not going to
23 deviate from the last trial, I have no objection.

24 THE COURT: Okay. And that's what the State's
25 telling me is that his testimony is not -- they're not

1 going to elicit any additional information during this
2 trial that they did not get -- and what was the other
3 defendant's name that's already been tried and convicted?

4 MR. HELMS: Tronahz Whittington, sir.

5 THE COURT: Whittington.

6 They're not going to elicit any additional
7 information in this trial that was not presented in
8 Mr. Whittington's trial.

9 MR. GARDNER: I understand. So I should be able to
10 hold the transcript, while he's testifying, and if she
11 makes him deviate out of that, I should be able to ask for
12 a mistrial?

13 THE COURT: Well, the fact of the matter is it
14 doesn't have to be verbatim. The fact of the matter is,
15 is if he said in Mr. Whittington's trial that he saw your
16 client get out of the car and shoot a gun, then he's going
17 to be able to say in this trial that he saw your client
18 get out of the car and shoot a gun.

19 MR. GARDNER: And I think we are on the right track.
20 I think that there was no testimony from him about Don
21 Brown, and I don't want that changing today.

22 THE COURT: I understand. All right.

23 MR. BOUCHETTE: Not to belabor the point, but my
24 only sort of additional concern is that now that we have
25 got three different defendants, each of which has their

1 own attorney, him having been in the courtroom and seeing
2 the mode of cross-examination and various things in the
3 case.

4 My concern, in addition to whatever the State may
5 elicit, is whether one of these other attorneys on
6 cross-examination elicit something that was not brought up
7 directly by the State, and then now we're into something
8 that, granted, the State didn't elicit, but it's still new
9 testimony in this case that wasn't in the last case that
10 may have been tainted by his appearance in court.

11 THE COURT: I note your objection, but I'm going to
12 overrule it. I'll allow him to testify.

13 Before we go forward, every attorney needs to look
14 at every person in this courtroom and make sure you do not
15 have a witness in this courtroom; otherwise, they're not
16 going to be able to testify.

17 MS. LIVESAY: The only other witness that I would
18 not even recognize if she was in here or not but that is
19 on the witness list is Don Brown's girlfriend, which is
20 Yakira Owens.

21 THE COURT: Well, you need to call and find out if
22 she's here.

23 MR. HELMS: Is Yakira Owens in this courtroom?

24 (Ms. Owens raises her hand.)

25 MR. HELMS: We're going to need you step out, ma'am,

1 please. Thank you.

2 THE COURT: How long has she been in the courtroom?

3 MR. GARDNER: All morning?

4 THE COURT: How long has she been in the courtroom?

5 MR. GARDNER: The crowd is saying all morning, Your
6 Honor.

7 THE COURT: Okay. She won't be -- what's her name?

8 MR. HELMS: Yakira Owens.

9 THE COURT: All right. Yakira Owens will not be
10 allowed to testify. But I'm assuming she did not testify
11 in the first trial against Mr. Whittington and there is no
12 transcript of her testimony.

13 MS. LIVESAY: She didn't testify, Your Honor.

14 THE COURT: All right. So Ms. Owens cannot testify.

15 All right. Anything further from the State before
16 we bring the jury in?

17 MS. LIVESAY: No, sir.

18 THE COURT: Anything from Mr. Bouchette?

19 MR. BOUCHETTE: Nothing further.

20 THE COURT: Mr. Pinkerton?

21 MR. PINKERTON: No, Your Honor.

22 MR. GARDNER: No, sir, Your Honor.

23 THE COURT: All right. Let's bring the jury in.

24 (Pause in the proceedings.)

25 (Deputy and the Court confer off the record.)

1 THE COURT: Who was that?

2 THE DEPUTY: Mr. Graham.

3 THE CLERK: Graham.

4 THE COURT: Has he been in the courtroom?

5 THE DEPUTY: This morning, yes, sir.

6 THE COURT: All right. Hold the jury up.

7 Mr. Brown, they say he's been in the courtroom all
8 morning.

9 THE DEPUTY: No, Mr. Graham.

10 THE COURT: Oh, Mr. Graham.

11 THE DEPUTY: The one you were talking about.

12 THE COURT: Well, just keep him sequestered. He
13 can't be in here. All right.

14 All right. You can bring them in.

15 (The jury entered the courtroom at 2:19 p.m.)

16 THE COURT: Ladies and gentlemen, welcome back.

17 Hope everybody had a good lunch. We had just finished the
18 direct testimony of Mr. Hill when we broke for lunch.

19 All right. Mr. Bouchette, cross-examination.

20 MR. BOUCHETTE: Thank you.

21 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

22 BY MR. BOUCHETTE:

23 Q Good afternoon, sir.

24 A Good afternoon.

25 Q First off, let me begin by sending my condolences.

1 I understand the victim in this case and you had grown up
2 together.

3 A Yes, sir.

4 Q And y'all were best friends. Please accept my
5 condolences on that. I do have to ask you some questions
6 about some things the solicitor asked you about. Okay?

7 First off, so the individual that was identified in
8 the Facebook profile as -- and I'm sorry, Chico Da Mobb, I
9 think is what --

10 A Draxo Da Mobb.

11 Q Draxo Da Mobb, yeah. That's the individual -- or at
12 least that's the picture -- that's the individual you now
13 know to be Tronahz Whittington; is that right?

14 A Yes, sir.

15 Q All right. And this person reached out to you to
16 try to get information on who again?

17 A My little brother and JJ Fowler.

18 Q Okay. So he reaches out to you out of the blue
19 trying to follow up on some kind of beef that his sibling
20 has; is that right?

21 A Pretty much, yes, sir.

22 Q Okay. All right. So he's got some kind of axe to
23 grind, and he reaches out to you out of nowhere; is that
24 right?

25 A Yes, sir.

1 Q Okay. All right. And then it goes into -- he
2 starts asking you about Jamie?

3 A Yes, sir.

4 Q Well, did he have some kind of beef or something
5 with Jamie?

6 A Not that I know of.

7 Q Well, did you know any at the time?

8 A No, sir.

9 Q Since then, have you come to learn of some kind of
10 altercation or beef between those two?

11 A Something about dab carts.

12 Q Well, explain to the jury what that is, in case they
13 don't know.

14 A What? Dab carts?

15 Q Yes, sir.

16 A It's a little THC, little vape things that you get
17 high off of.

18 Q So elaborate on that a little bit for us if you
19 don't mind. The beef that dealt with Jamie and Tronahz
20 regarding the --

21 A Dab carts.

22 Q -- dab carts, what was it in relation to? Give us
23 some context.

24 A I guess Jamie robbing him or something like that.

25 Q So Jamie -- there was some kind of dispute about

1 maybe money or somebody taking drugs or money or something
2 along those lines?

3 A Yes, sir.

4 Q And when I say "drugs," I understand that it may or
5 may not be legal. I'm not sure what the status of those
6 are.

7 A Yes, sir.

8 Q And did Jamie -- did he sell marijuana or
9 marijuana-type products?

10 A No, sir. We didn't sell it. We smoked it.

11 Q Okay. But this dispute that arose at some point,
12 that had to do with -- I think your words was he had
13 robbed or taken it from somebody?

14 A Yes, sir.

15 Q So he didn't sell it, but he might have robbed or
16 taken it from somebody?

17 A Yes, sir.

18 Q And, again, we're not here to get into that on him,
19 but that was the basis for which the individual we now
20 know to be Tronahz Whittington was requesting information
21 about Jamie?

22 A Yes, sir.

23 Q So he had a beef with Jamie for taking his dab
24 carts, taking his weed, and that's why he's reaching out
25 to find out information about it?

1 **A** Yes, sir.

2 **Q** Now, did you receive any communications or anything
3 from Che Ransom?

4 **A** No, sir.

5 **Q** To your knowledge, did Che Ransom have any kind of
6 similar beef or issue with Jamie?

7 **A** Not that I know of, no, sir.

8 **Q** To your knowledge, did he and Jamie -- even know
9 Jamie?

10 **A** Not to my knowledge, no, sir.

11 **Q** Now, I understood your direct testimony was that you
12 cannot identify anybody other than the man without the
13 shirt you now know to be Tronahz Whittington; is that
14 correct?

15 **A** Yes, sir.

16 **Q** All right. And I would imagine -- correct me if I'm
17 wrong -- that part of that was due to the fact that, when
18 these events started, it all happened pretty quickly;
19 right?

20 **A** Yes, sir.

21 **Q** Pretty scary thing to have happen?

22 **A** Yes, sir.

23 **Q** An individual gets out of a car with no shirt?

24 **A** Yes, sir.

25 **Q** That's an individual that has been making overtures

1 to you through social media?

2 A Yes, sir.

3 Q And that individual that's been making overtures to
4 you through social media and has a beef with your friend,
5 he has a rifle?

6 A Yes, sir. Well, I don't know what kind of gun he
7 had. I know he had a gun. I don't know if it was a
8 rifle, pistol, whatever.

9 Q Well, you knew it was a gun?

10 A Yes, sir.

11 Q You were able to see a gun?

12 A Yes, sir.

13 Q And then, in the midst of all that was happening --
14 correct me if I'm wrong -- I imagine you would have ducked
15 down?

16 A Yes, sir.

17 Q Okay. Pretty scary thing; right?

18 A Yes, sir.

19 Q And you probably did that pretty quick; is that
20 correct?

21 A Yes, sir.

22 Q Pretty much as soon as you saw Tronahz Whittington
23 get out of the car, you ducked down?

24 A Yes, sir.

25 Q And this is kind of a squatted vehicle, so when you

1 duck down, you lose all sight of what's in front of you?

2 A Yes, sir.

3 Q Okay. All right. And I know there's a lot of
4 testimony about shots being fired, and we'll hear from
5 experts later, but you didn't -- you didn't see the shots
6 fired, did you?

7 A No, sir.

8 Q All right. Didn't see what was shot at the vehicle
9 or shot somewhere else or anything along those lines?

10 A No, sir.

11 Q Now, we heard some testimony earlier about the
12 distance between where the vehicle was and where the
13 shooting occurred. If I understand you correctly, when
14 the first shots started, Jamie put it in reverse and sped
15 backwards; is that right?

16 A Yes, sir.

17 Q All right. Now, we heard some testimony earlier
18 that when the -- when it ultimately came to a stop, it was
19 from where you're sitting to about the end of the
20 courtroom. I'm going to say that's 30, 35 feet; would
21 that be approximate?

22 A That's about correct, yes, sir.

23 Q When the shooting began, was it closer?

24 A It was probably about me to you.

25 Q Okay. All right. So we're going to let the record

1 reflect that that is I'm going to say approximately 12 to
2 15 feet. Sound about right to you?

3 A Yes, sir.

4 Q So the shooting began approximately 12 to 15 feet
5 when you hear these shots going off -- and you're in the
6 Tahoe, about six feet wide; is that correct?

7 A Yes, sir.

8 Q So very close range whenever it comes off; correct?

9 A Mm-hmm.

10 Q Now, other than, like I say, the fact that you now
11 know that at least one bullet entered the windshield of
12 the vehicle, are you able to testify for certain as to any
13 additional shots that were fired in the direction of the
14 vehicle other than the fatal one -- other than the shot
15 that went through the windshield?

16 A Like, do I know about any more shots?

17 Q Yes, sir.

18 A No, sir. But there had to be one in the front
19 because it was leaking.

20 Q But I understand that you're drawing a conclusion.
21 Did you see a bullet or see a shell?

22 A No, sir.

23 Q When you talk about the vehicle leaking -- you're
24 familiar with this vehicle; right?

25 A Yes, sir.

1 Q It was a Tahoe?

2 A Yes, sir.

3 Q You have driven it yourself?

4 A Yes, sir.

5 Q You have probably known Jamie since he got it?

6 A Yes, sir.

7 Q What year was the Tahoe?

8 A '01. It was a 2001.

9 Q It was an '01. So this was in 2020. It was a
10 19-year-old car?

11 A Pretty much, yeah. 19-, 20-year-old.

12 Q Okay. All right.

13 MR. BOUCHETTE: Court's indulgence.

14 BY MR. BOUCHETTE:

15 Q One -- I would imagine -- and correct me if I'm
16 wrong -- that the -- when these events started, you
17 weren't able to hear what was going on in the vehicle
18 where the shooters were located; is that right?

19 A What do you mean?

20 Q In the Caprice.

21 A Did I hear any of them talking in the car?

22 Q Correct.

23 A No, sir.

24 Q So you're not in a position to know what, if any,
25 kind of directives Tronahz Whittington or anybody else was

1 giving to the other occupants of the car?

2 A No, sir.

3 Q Did you know anything about Tronahz Whittington
4 prior to this incident?

5 A No, sir.

6 Q But based on what you did observe, you saw him get
7 out within about 15 feet or so?

8 A Yes, sir.

9 Q Point at the -- you were in the front passenger
10 seat; correct?

11 A Correct.

12 Q Did you see him point directly at Jamie?

13 A No. I just saw him pointing toward the vehicle.

14 Q You saw him with a gun pointed towards the car?

15 A Yes, sir.

16 Q At about this distance. Did you see it discharge?

17 A Mm-mmm. I didn't see none of the weapons discharge.

18 MR. BOUCHETTE: No further questions for this
19 witness.

20 THE COURT: All right. Mr. Pinkerton?

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

23 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

24 BY MR. PINKERTON:

25 Q Thank you for being here today, sir.

1 A Yes, sir.

2 Q Sorry I have to put you through this again, but I
3 only have a few questions for you.

4 So you said it was Tronahz Whittington who had
5 contacted you on a Facebook messenger, I believe?

6 A Yes, sir.

7 Q And the beef was between him and Jamie?

8 A Yes, sir.

9 Q Did he ever mention anybody named Travontae
10 Mitchell?

11 A No, sir.

12 Q And you testified that you recognized Tronahz as
13 being the one that got out of the car, correct --

14 A Yes, sir.

15 Q -- directly in front of the Tahoe?

16 A Yes, sir.

17 Q Okay. Got a good look at him?

18 A Yes, sir.

19 Q Knew it was him, 100 percent?

20 A Yes, sir.

21 Q Okay. When Jamie went to back the Tahoe out, was he
22 zigzagging or was he going straight back?

23 A What do you mean?

24 Q Like, when he went to try to put the Tahoe in
25 reverse, was he going straight back or was he kind of

1 zigzagging?

2 A He was going straight back.

3 Q Straight back?

4 A Yes, sir.

5 Q Okay. And, once again, you said you saw Tronahz
6 with a weapon?

7 A Yes, sir.

8 Q But you don't remember if there was a long gun,
9 handgun, or anything like that?

10 A (Witness nodding.)

11 Q Okay. And you only remember actually one shot
12 hitting the vehicle?

13 A That's all that I seen.

14 Q All you saw was one shot?

15 A All I saw was one hole through the Tahoe.

16 Q Just one hole?

17 A Yes, sir.

18 Q And that was from the direct- -- from where Tronahz
19 would have been standing?

20 A Yes, sir.

21 MR. PINKERTON: Court's indulgence.

22 THE COURT: All right.

23 MR. PINKERTON: No further questions, Your Honor.

24 THE COURT: All right. Mr. Gardner?

25 MR. GARDNER: Thank you, Judge.

1 CROSS-EXAMINATION ON BEHALF OF DEFENDANT BROWN

2 BY MR. GARDNER:

3 Q Good afternoon, Mr. Hill. I'll be very brief. When
4 I go last, all the questions have been asked already, I
5 guess.

6 A Yes, sir.

7 Q First of all, my condolences for the loss of your
8 best friend and everything that you're going through.

9 A Yes, sir. Appreciate it.

10 Q I just got a couple of questions.

11 I didn't understand half of this Facebook stuff that
12 was here earlier, but you did, and the bottom line is none
13 of that had anything to do with Don Brown; is that right?

14 A No, sir.

15 Q Okay. And you know who Nahz is?

16 A The Tronahz Whittington dude?

17 Q Yeah.

18 A Yes, sir.

19 Q Somebody called him Nahz but Tronahz Whittington,
20 you know what kind of guy he is; right? You know where he
21 is now?

22 A Yeah.

23 Q Where is he at?

24 A He's in jail.

25 Q Prison?

1 **A** Yes, sir.

2 **Q** For killing your friend?

3 **A** Yes, sir.

4 **Q** Okay. And you saw him get out of the car?

5 **A** Yes, sir.

6 **Q** He got out of the front passenger seat?

7 **A** Yes, sir.

8 **Q** All right. And that was -- and, like, I think
9 Jarrett asked you, that was probably a pretty scary event;
10 right?

11 **A** Yes, sir.

12 **Q** Okay. But you don't know what he told Don Brown
13 while y'all were driving down the road?

14 **A** No, sir.

15 **Q** You have no way of knowing.

16 **A** No, sir.

17 **Q** Okay. We know what kind of guy he was. We know
18 what he did. We don't know what he told Don.

19 You were in there when the truck or the Tahoe backed
20 up?

21 **A** Yes, sir.

22 **Q** Backed straight back up.

23 You didn't see anybody doing the shooting but you
24 heard gunfire.

25 **A** Yes, sir.

1 Q Okay. If I get it wrong, let me know. Okay?

2 You heard the gunfire. You ducked down.

3 Do you know why -- were you watching the road when
4 Jamie started backing up?

5 A No, I was watching Jamie the whole time.

6 Q So you didn't see the road in front of you?

7 A Mm-mmhm.

8 Q So you don't really know where -- I don't know what
9 kind of car that was. The other car. You know what I
10 mean when I say "the other car"? You don't know exactly
11 where it was parked at?

12 A It was parked, like, right here in front of us when
13 the -- Tronahz got out of the passenger seat.

14 Q Okay. All right. So you saw it pull up?

15 A Mm-hmm.

16 Q But then you started watching --

17 A That's when I got down, when the dude got out of the
18 car, and then that's when Jamie started to back up.

19 Q Started to back up.

20 A Yes, sir.

21 Q So the car is in front of you.

22 A Yes, sir.

23 Q And that's a pretty wide road, isn't it?

24 A Yeah.

25 Q I'm sure the solicitor has got pictures and blow-ups

1 and everything else, so we'll be able to tell. But
2 D Street is the one that runs to 501 and loops down and
3 goes somewhere else; right?

4 A If I'm not mistaken, yes, sir.

5 Q And then the other one, I think, is Ross --

6 A Rose Moss.

7 Q Rose Moss goes into it at the intersection?

8 A Yes, sir.

9 Q All right. And, correct me if I'm wrong, but
10 doesn't D Street have a big, wide angle? We saw some
11 videos of it earlier. I don't know if you were in here
12 for that, but it's a wide turn; right?

13 A It's like a U, basically, or something like that.

14 Q Yeah. And Rose Moss comes into it?

15 A Yeah. And basically a U, and then Rose Moss comes
16 straight up to it.

17 Q Okay. So you can go either direction?

18 A Yeah. Pretty much, yeah.

19 Q All right. And, no offense -- I mean, I would have
20 probably been diving down, too, but when the car pulled up
21 and you saw the guy with no shirt on and a gun get out,
22 you ducked down?

23 A Yes, sir.

24 Q All right. Did I leave anything out?

25 A No, sir.

1 Q All right. Thank you, sir.

2 A Yes, sir.

3 THE COURT: Redirect?

4 MS. LIVESAY: Yes, sir, just briefly.

5 REDIRECT EXAMINATION

6 BY MS. LIVESAY:

7 Q Mr. Hill, do you remember Mr. Bouchette, Che's
8 attorney, asking you about some dab carts?

9 A Yes, sir. I mean, yes, ma'am. Sorry about that.

10 Q That's okay.

11 MS. LIVESAY: I saw that smile, Judge. I saw that.

12 BY MS. LIVESAY:

13 Q That's why I normally don't wear pants; it threw you
14 off.

15 So let me ask you something. So he asked you about
16 the dab carts; correct?

17 A Yes, ma'am.

18 Q And he asked you if Jamie had taken some dab carts
19 from somebody?

20 A Yes, ma'am.

21 Q Okay. Did Jamie take the dab carts from Tronahz
22 Whittington?

23 A No, ma'am.

24 Q Did that conversation you had with Tronahz
25 Whittington have anything to do with anything about dab

1 carts?

2 A No, ma'am.

3 Q Okay. Did Jamie take anything from Che Ransom?

4 A No, ma'am.

5 Q Did he take anything from Don Brown?

6 A No, ma'am.

7 Q Did he take anything from Travontae Mitchell?

8 A No, ma'am.

9 Q And were there any messages between you and Tronahz
10 Whittington about any kind of dab carts?

11 A No, ma'am.

12 Q Did he even bring up anything about dab carts?

13 A No, ma'am.

14 Q Did he allude to you at all he was upset about dab
15 carts?

16 A No, ma'am.

17 Q Okay. So that had nothing to do with nothing; is
18 that right?

19 A Yes, ma'am.

20 Q Never even been to --

21 MR. BOUCHETTE: Objection to the speculation as to
22 what Mr. Whittington was intending to convey or
23 communicate with this witness.

24 THE COURT: Overruled.

25 Go ahead.

1 BY MS. LIVESAY:

2 Q Now, we saw the messages earlier between you and
3 Tronahz Whittington.

4 A Yes, ma'am.

5 Q Is that all the messages y'all have ever exchanged?

6 A Yes, ma'am.

7 Q Okay. Okay. And nobody said anything about dab
8 carts?

9 A No, ma'am.

10 Q Okay. Now, did Jamie go to jail over these dab
11 carts?

12 A No, ma'am.

13 Q Did anything come of these dab carts?

14 A No, ma'am.

15 Q Did he use a gun to rob somebody for the dab carts?

16 A No, ma'am.

17 Q Okay. Okay. Now, Mr. Bouchette asked you some
18 questions about the Tahoe. Do you remember that?

19 A Yes, ma'am.

20 Q Now, how old was the Tahoe?

21 A It was a 2001, so probably about 19, 20 years old.

22 Q Okay. Did the Tahoe run before the shooting?

23 A Yes, ma'am.

24 Q Okay. Was that the Tahoe we saw in the video on
25 Wayside Drive?

1 A Yes, ma'am.

2 Q Okay. So you were driving it right on Wayside

3 Drive?

4 A Yes, ma'am.

5 Q Okay. Could you drive it after the shooting?

6 A No, ma'am.

7 Q So there's no reason to believe anything was wrong

8 with the car until after it was shot up?

9 A Yes, ma'am.

10 Q Okay. Was there any fluid leaking before the

11 shooting?

12 A No, ma'am. I mean, it leaked oil a little bit

13 because it was squatted, but that's normal for a squatted

14 truck.

15 Q But could you still drive it?

16 A Yeah.

17 Q Okay. And did you drive it every day?

18 A Yes, ma'am.

19 Q Okay. When did the car become inoperable?

20 A When it was shot up.

21 Q Okay. Okay. Now, Mr. Gardner asked you about

22 D Street. Do you remember that?

23 A Yes, ma'am.

24 Q Okay. And tell me again how D Street goes.

25 A It's like a U, basically, and then Rose Moss comes

1 up to the middle of the U.

2 Q Okay. Okay. And so there's some sort of
3 intersection?

4 A Pretty much, yes, ma'am.

5 Q Okay. Okay. And I think he asked can you go take a
6 right and can you take a left?

7 A Mm-hmm.

8 Q And can you take a right or can you take a left?

9 A Mm-hmm.

10 Q Okay. Now, the car that pulled in front of the
11 Tahoe --

12 A Yes, ma'am.

13 Q -- once that car pulled in front of the Tahoe, could
14 you take a right?

15 A I mean, you could have, yes, ma'am.

16 Q With the car in front of it?

17 A Mm-hmm.

18 Q Why didn't Jamie take a right? Could he have taken
19 a left?

20 A No.

21 Q How did the car pull in front of the Tahoe?

22 A Diagonal in front. At an angle.

23 Q Okay. So what do you mean, at an angle?

24 A Like here's the Tahoe and here's the car
25 (indicating).

1 Q Okay. So it was directly in front of the Tahoe?

2 A Mm-hmm.

3 Q Okay. Could he have -- how quick did the people
4 jump out of the Tahoe after it pulled in front of him?

5 A As soon as it stopped.

6 Q I'm sorry?

7 A As soon as the car stopped.

8 Q Okay. Okay. As soon as the car stopped?

9 A Yes, ma'am.

10 Q So could you have taken a right?

11 A Yes, ma'am. I mean, we could have went left, but we
12 would have had to run him over.

13 Q I'm sorry?

14 A We would have had to run him over if we would have
15 went left.

16 Q Okay. So they were standing in the way?

17 A Yes, ma'am.

18 Q Now, was Tronahz Whittington standing in the way?

19 A Yes, ma'am.

20 Q And were the three black males that jumped out of
21 the back standing in the way?

22 A Yes, ma'am.

23 Q And how about the bullets? Was that in the way of
24 y'all taking a right?

25 A Yes, ma'am.

1 Q Now, you said you saw Tronahz Whittington jump out
2 the front passenger; is that correct?

3 A Yes, ma'am.

4 Q Is that what you told this defense --

5 MR. BOUCHETTE: Your Honor, I'm going to object.

6 THE COURT: Hold for a second.

7 MR. BOUCHETTE: I think we have gotten beyond the
8 scope of cross.

9 MR. GARDNER: It's redirect.

10 THE COURT: What was your last question?

11 MS. LIVESAY: Did he tell defense counsel that he
12 saw Tronahz Whittington jump out of the front passenger.

13 MR. BOUCHETTE: That was brought up on direct.

14 THE COURT: Okay. You brought that up on direct
15 examination.

16 MS. LIVESAY: I'm sorry?

17 THE COURT: I sustain the objection.

18 MS. LIVESAY: Okay. I understand.

19 THE COURT: Redirect is only on matters that you
20 have not already covered that they covered on cross.

21 MS. LIVESAY: I understand.

22 BY MS. LIVESAY:

23 Q Do you remember Mr. Gardner here asking you if he
24 saw -- if you saw Don Brown?

25 A Yes, ma'am.

1 Q He asked you that?

2 A Yes, ma'am.

3 Q Okay. Did you see the driver of the car that pulled
4 in front of y'all?

5 A No, ma'am.

6 MS. LIVESAY: No further questions.

7 THE COURT: All right. He may step down.

8 MR. GARDNER: Your Honor, I need to take up a matter
9 with you, if I may. We can just come to the bench.

10 THE COURT: All right.

11 BENCH CONFERENCE

12 (The following bench conference was held outside the
13 presence of the jury and others:)

14 MR. GARDNER: I never asked him if he saw Don Brown.
15 I asked him if the conflict with social media had anything
16 to do with Don Brown. I didn't ask him if he saw Don
17 Brown because Don Brown never got out of the car. Why
18 would I ask him that?

19 THE COURT: So what are you asking him?

20 MR. GARDNER: We have fraudulent -- or error in
21 testimony from the question and the answer. I don't know
22 how to fix it since I don't get to do recross.

23 THE COURT: Okay. Well, you can put it on the
24 record when we break. I'm just going to keep it moving.

25 (Open court resumes:)

1 THE COURT: All right. The State can call your next
2 witness.

3 MR. HELMS: At this time, the State would call
4 Britney Milam.

5 THE CLERK: Please raise your right hand and put
6 your left hand on the Bible.

7 BRITNEY MILAM,
8 after having been duly sworn, was examined and
9 testified to as follows:

10 THE CLERK: Be seated and state your full name and
11 spell it for the Court.

12 THE WITNESS: Britney Milam. B-r-i-t-n-e-y
13 M-i-l-a-m.

14 DIRECT EXAMINATION

15 BY MR. HELMS:

16 Q Britney, I want your address. Where do you live?

17 A I live in Florence.

18 Q Did you move -- when did you move?

19 A About a year ago.

20 Q Why did you move?

21 A Just to get away from everything.

22 Q Where did you used to live before you moved to
23 Florence?

24 A In Conway beside John Deere.

25 Q How old are you, Britney?

- 1 A I'm 20.
- 2 Q And do you work?
- 3 A No.
- 4 Q Were you working anywhere in 2020?
- 5 A I was working at the Sonic in Marlow (ph).
- 6 Q Okay. And you were living in Conway?
- 7 A Yes.
- 8 Q Were you dating anyone in 2020?
- 9 A I was dating Jamie Johnson.
- 10 Q The picture I showed the jury at the beginning, that
- 11 was you with Jamie?
- 12 A Yeah.
- 13 Q How long did y'all date?
- 14 A We were dating for ten months when he passed.
- 15 Q When the shooting happened?
- 16 A Yeah.
- 17 Q Did you live together?
- 18 A Yes, we did.
- 19 Q So you and Jamie were very close?
- 20 A Yeah, we were.
- 21 Q And you know Jacob?
- 22 A I do.
- 23 Q And Orlin?
- 24 A I do.
- 25 Q How old was Jamie when he died?

1 A Jamie was 19.

2 Q Did Jamie have a vehicle?

3 A He did.

4 Q Describe to this jury what that vehicle looked like.

5 A He had a black Chevy Tahoe that was squatted --

6 Q And --

7 A -- and it had a Blue Chevy symbol.

8 Q I'm sorry; finish that thought.

9 A I had a Blue Chevy symbol.

10 Q Anything on the back of it?

11 A It said "Big Steppa" on the back.

12 Q And anything --

13 A It had our names on -- his name was on the driver's
14 side, and my name was on the passenger side.

15 Q Is the Tahoe that we saw in the video his Tahoe?

16 A Yes.

17 Q And that belonged to Jamie?

18 A It did.

19 THE COURT: Excuse me; could you pull that
20 microphone closer and speak more into it, please?

21 THE WITNESS: Sorry.

22 THE COURT: Thank you.

23 BY MR. HELMS:

24 Q Do you know how long he had that truck?

25 A Not very long.

1 Q Did it work okay?

2 A Yeah, it did.

3 Q Before the shooting?

4 A Yeah.

5 Q Did it have a problem leaking antifreeze?

6 A No.

7 Q You have seen the video that was shown to the jury?

8 A Yes.

9 Q You're in that video? Yes or no?

10 A Yes.

11 Q You saw the truck?

12 A Yes.

13 Q You saw it leaking antifreeze?

14 A Yes.

15 Q Was that the first time you have ever seen it do

16 anything like that?

17 A Yes.

18 Q Was that before or after it got shot?

19 A That was after.

20 Q Where did Jamie live in September of 2020?

21 A We lived off of 378.

22 Q In Conway?

23 A In Conway.

24 Q And did Jamie work anywhere?

25 A He was doing roofing at one point, but he stopped.

1 Q Okay. What all did you -- first of all, how did and
2 Jamie know Orlin and Jacob?

3 A He was friends with Orlin for awhile.

4 Q Who is "he"?

5 A Jamie was friends with Orlin for a long time, and I
6 don't know when we met Jacob. I don't remember.

7 Q Were they close?

8 A Yeah, we were all very close.

9 Q So you have heard testimony that you-all were
10 together on September 12th in a car; is that correct?

11 A Yes.

12 Q Is that abnormal?

13 A No. That's usual. We're usually together.

14 Q Whose car you in?

15 A Jamie's.

16 Q The black Tahoe?

17 A Yes.

18 Q Do you remember who was sitting where?

19 A Jamie was driving. Jacob was in the passenger seat.
20 Orlin was behind Jacob and -- no, I was behind Jacob, and
21 Orlin was behind Jamie.

22 Q So Jamie is driving. Jacob is in the passenger seat
23 -- front seat?

24 A Mm-hmm.

25 Q Orlin is behind Jamie?

1 **A** Right.

2 **Q** You're in the middle?

3 **A** I'm in the middle at the beginning.

4 **Q** And who is on the window seat, passenger?

5 **A** Nobody is there.

6 **Q** Did you guys have a routine? I mean, what did y'all
7 do? What was your normal day like?

8 **A** Usually, in the morning, I would go to work. So
9 that's usually what I did.

10 The boys? I don't know what -- usually, they'd sit
11 at the house and play video games.

12 When Jamie was working, he would usually just go to
13 work and come back to the house -- well, come and get me
14 from work and then we'd go back to the house.

15 **Q** Do you remember what you were all doing that day in
16 particular?

17 **A** That day, Orlin had came over to the house, and we
18 were all just going to go to Henry's gas station.

19 **Q** All right. So you-all were going to go to Henry's
20 gas station?

21 **A** Yeah.

22 **Q** And where is Henry's gas station?

23 **A** In Conway.

24 **Q** End of D Street?

25 **A** Yeah, end of D Street.

1 Q When you went to Henry's gas station, did you take
2 the main road to Highway 501?

3 A No, we took the back road.

4 Q Why?

5 A Well, Jamie didn't have a driver's license, and it
6 wasn't a right tag on the Tahoe.

7 Q All right. So y'all took the back roads?

8 A Right.

9 Q Did he ever have a right tag on that car?

10 A No. He never did.

11 Q So did he always take the back roads?

12 A Yeah, he was always driving the back roads.

13 Q So the back records [sic] was not y'all's normal
14 stomping ground?

15 A Sorry?

16 Q I mean, is that how y'all got to Henry's, the back
17 roads?

18 A Yeah.

19 Q All right. Makes sense.

20 So that day that you took D Street and Wayside and
21 all that to get to Henry's, that was not the first time
22 you took that route to get to Henry's?

23 A No.

24 Q Okay. Do you remember the last day you saw Jamie
25 alive?

1 **A** Yeah, I do.

2 **Q** All right. I'm going to interrupt you a few times
3 as possible, but I want you to tell this jury exactly what
4 happened.

5 **A** We were on the way to Henry's gas station, and a car
6 had pulled up beside us and pulled in front of us. I saw
7 a person get out of the passenger seat and three people
8 get out the backseat. I was in the middle. And whenever
9 I was in the middle seat, I saw a person wearing white
10 pants, a guy had some type of scratch or something
11 underneath his eye, and one of the guys had short hair.

12 At this point is when Jacob was screaming for
13 everyone to get down. He was saying, "Get down, get
14 down." So Jamie had turned around and pushed me to the
15 window, and I had slid down to, like, duck down. By then,
16 everyone that was standing in front of us has already
17 started shooting.

18 Jamie has -- he's, like, slouched down to not get
19 shot, and then he pops up to reverse the truck. And when
20 he does get in reverse, he turns around just, you know, to
21 make sure there was nobody there, I guess; it's a usual
22 thing for people to do whenever they're turning around.
23 And he turned around, and as soon as he did, he got shot
24 in the back of the head.

25 And I was looking at him, so I saw his blood go

1 everywhere, and at this point, we're all screaming, like,
2 and freaking out. We don't know what to do.

3 The car takes off, and Jacob and Orlin both pop up.
4 And I'm scared and I'm shocked, so I didn't move at first,
5 and I kind of just was looking at Jamie because I was
6 scared.

7 And they both got out and grabbed Jamie, and they
8 were like, "We got to get to the hospital." So when Orlin
9 had got out and got to Jamie, Jacob had to walk around the
10 front of the truck to get to Jamie, and he saw all the
11 stuff on the ground because they just shot at us so, like,
12 the truck couldn't have moved.

13 So, by then, they realized that we couldn't have
14 moved the truck, so they had to put Jamie on the ground.
15 And there was a lot of blood everywhere.

16 And, at that point, someone had come out and the
17 cops were getting called. So we all just kind of stood
18 there with Jamie and did the best I could to make sure
19 that he was okay. I didn't know what to do. So I kind of
20 sat there.

21 Q I understand.

22 You testified at a previous trial and the defense
23 has brought this up numerous times that Tronahz
24 Whittington was convicted. You know about that; right?

25 A Right.

1 Q Did you see him get out of the car?

2 A Yes.

3 Q Okay. Where did he get out?

4 A He was in the passenger seat.

5 Q The front passenger seat?

6 A Right.

7 Q Okay. But you saw three other people get out of the
8 backseat; right?

9 A Correct.

10 Q What race were they?

11 A They were all black.

12 Q Okay. Male or female?

13 A All males.

14 Q Could you tell how old they were?

15 A Two of them were really short, so I figured they
16 were young. And the other -- Tronahz is tall, and the
17 other one is pretty tall. I just thought they were all
18 teenagers.

19 Q What was Tronahz wearing?

20 A Nothing.

21 Q What do you mean, "nothing"? Did he have a shirt
22 on?

23 A He didn't have a shirt on.

24 Q Okay. So Tronahz had no shirt.

25 What was on his bottom? Do you remember what he was

1 wearing down here?

2 A I don't remember.

3 Q And if you don't, that's okay.

4 And he was the front passenger you say; right? .

5 A Right.

6 Q Did he have a weapon?

7 A Yeah.

8 Q Okay. And I'm not going to get too specific because
9 it's hard, but was it a little weapon or a big weapon?

10 A It was a big weapon. Long.

11 Q A long gun?

12 A Right.

13 Q So he got out the front passenger seat, but you said
14 then -- and that's only one. But then there's three
15 others that got out; right?

16 A Correct.

17 Q And they all got out the backseat?

18 A Right.

19 Q So no one got out of the driver's seat; right?

20 A Right.

21 Q Okay. Can you tell me the second person to get out?
22 Do you remember that, where they got out?

23 A From the back.

24 Q From the back. Okay. So we'll just say all from
25 the back. So they all three got out of the back.

1 Do you remember if the second person to get out of
2 the car got out of the driver's side or the passenger
3 side?

4 A I think they all just came from the one side.

5 Q So you think they all got out of one side?

6 A Yeah, like they all slid out from one side.

7 Q Okay. Do you remember -- can you tell me what any
8 of those guys were wearing, please?

9 A Someone had white pants on. I'm not sure who.

10 Q All right. So we're not sure, but somebody had on
11 white pants.

12 Do you remember anything else?

13 A Something under someone's eye, like a scratch or a
14 mole.

15 Q Okay. So there was an identifying mark under
16 someone's eye?

17 A Yeah.

18 Q Was that the person with white pants or no?

19 A No, that was somebody else.

20 Q All right. Do you remember which eye? If not, it's
21 okay.

22 A I'm not real sure. I'm assuming it's this one
23 (indicating).

24 Q Do you remember the person with the eye mark --
25 well, let's go back.

1 The person with the white pants, do you know what
2 kind of gun that person had?

3 A I'm not sure.

4 Q Okay. Did anyone else have a long gun other than
5 the first guy, Nahz? Did you see any long guns other
6 than --

7 A I saw another long gun, but I know --

8 Q You couldn't --

9 A -- I think that person was tall.

10 Q Okay. So you don't know what kind of gun the person
11 with the white pants had on?

12 A A short gun.

13 Q Okay. What about the person with the eye mark? Do
14 you know what kind of gun he had?

15 A I'm not sure.

16 Q Okay. So we have got a person with white pants and
17 a person with an eye mark. Were there anything about
18 identified -- any identifying characteristics about the
19 fourth person that got out? Do you remember anything
20 about that person?

21 A They had short, pouffy hair.

22 Q All right. Short hair.

23 Do you remember what kind of gun that person had?

24 A Short gun. No, that person had the long gun.

25 Q So the person with the short hair that got out of

1 the back also had a long gun?

2 A Right.

3 Q Okay. Now, did any of the three guys that got out
4 of the back not have a gun?

5 A No, they all had a gun.

6 Q Everyone had a gun that got out of that car.

7 When those guys that had those guns got out of that
8 car, what did they do?

9 A They started shooting at us.

10 Q Okay. Did they take turns. Did they talk to each
11 other?

12 A No. They just kind of got in a row and just started
13 shooting.

14 Q Were they beside the Tahoe, behind it, or in front
15 of it?

16 A In front.

17 Q So they were all in front of the Tahoe.

18 Were they in a line?

19 A Yes.

20 Q And did each one just shoot one time?

21 A No, it was a lot of shots.

22 Q Do you remember how many or not really?

23 A No.

24 Q Was it more than, say, two?

25 A Way more than two.

1 Q Way more than two. All right.

2 All right. Could you leave?

3 A No.

4 Q Why not?

5 A There was nowhere to go.

6 Q Say that again.

7 A There was nowhere to go.

8 Q There was nowhere to go.

9 Why didn't you drive straight ahead down the road?

10 A We would have ended up hitting them.

11 Q Hitting them -- when you say "hitting them," do you
12 mean the people in the road or the car in front of you?

13 A The people in the road and the car.

14 Q So both?

15 A Yeah.

16 Q So are you telling me they were between you and
17 their car?

18 A Yeah.

19 Q Okay. That makes sense. That makes sense.

20 What's Jamie doing?

21 A Jamie is trying to back up.

22 Q Now, let me ask you this question, why doesn't Jamie
23 drive left?

24 MR. GARDNER: Your Honor, I don't know if she can
25 answer that question.

1 MR. HELMS: We're about to find out.

2 MR. GARDNER: She doesn't know what's going through
3 his head.

4 THE COURT: I sustain that objection, unless she
5 knows of her own personal knowledge. I mean, how would --

6 MR. HELMS: I'll rephrase it.

7 BY MR. HELMS:

8 Q Did Jamie drive left?

9 A No. There was people standing there. Like, they
10 were all in a line, so he couldn't go that way or this
11 way. There was nowhere to go. The car was right here,
12 and there's people right here. So, either way he would
13 have went, he would have ended up hitting people or
14 hitting the car.

15 Q That's what I was asking. So the only way to go was
16 backwards?

17 A Correct.

18 Q Let me ask you this question: You have got four
19 people in front of you shooting at you. What kept you
20 from going forward? Was it the number of people? If
21 there had been just one person, could you have gone?

22 A No.

23 MR. GARDNER: Objection. He's already covered this.

24 THE COURT: Overruled.

25

1 BY MS. LIVESAY:

2 Q Were you in fear for your life?

3 A Yes, I was scared.

4 Q Who were you scared of out of those four people?

5 A All of them.

6 Q Why?

7 A Because they were shooting at us, trying to kill us,
8 for no reason.

9 Q That's fair.

10 A Didn't say anything.

11 Q You saw the video of you guys driving -- it's a Ring
12 doorbell video -- on Wayside Drive. Do you agree that's
13 what that is?

14 A Mm-hmm.

15 Q Did you see the video of the blue Caprice behind you
16 on Wayside Drive?

17 A Yes, I did.

18 Q Let me ask you this question: When you were in the
19 Tahoe at the time, did you know the blue Caprice was
20 following you?

21 A No, I didn't.

22 Q At what point did you realize that car was behind
23 you?

24 A When they had came beside us to get in front of us.

25 Q So you didn't see them until they cut you off?

1 **A** Right.

2 **Q** And I may have asked you this, but did you see the
3 driver get out?

4 **A** No.

5 **Q** Did you have any weapons in the car?

6 **A** No.

7 **Q** Did Jamie have any weapons in the car?

8 **A** No.

9 **Q** How about Jacob?

10 **A** No.

11 **Q** How many guns did Orlin have?

12 **A** None.

13 **Q** How many times did you fire a weapon at the other
14 car?

15 **A** Zero.

16 **Q** Did you know those guys in the other car?

17 **A** No.

18 **Q** Did you -- you -- have any problems with those guys
19 in the other car?

20 **A** No.

21 MR. HELMS: Court's indulgence, Your Honor.

22 BY MR. HELMS:

23 **Q** I think this is my last question: Had the car and
24 these four guys not been in front of you, could you have
25 gotten away?

1 A Yes.

2 MR. HELMS: Please answer any questions they may
3 have.

4 I'll move this, Your Honor.

5 THE COURT: All right. Mr. Bouchette,
6 cross-examination?

7 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM
8 BY MR. BOUCHETTE:

9 Q Ms. Milam, good afternoon.

10 A Hi.

11 Q I'm going to do my best not to try to duplicate
12 testimony; we just heard from Mr. Hill.

13 You were in the courtroom when he testified a moment
14 ago?

15 A (Witness nodding.)

16 Q Is that a yes?

17 A Yes.

18 Q Okay. That's all right.

19 He testified that this -- when they got out of the
20 vehicle and you saw the individuals get out of the first
21 car, particularly Tronahz Whittington, that he ducked down
22 pretty quick. Did you hear that?

23 A Yes, I did.

24 Q Almost immediately; is that correct?

25 A Yes, that's correct.

1 Q Okay. All right. Now, as I understand it, somebody
2 from the front sort of pushed or made a protective
3 movement towards you to duck down as well; is that
4 correct?

5 A Yes.

6 Q Okay. So, from your standpoint, did you duck down
7 and hit the ground pretty much the same time as Mr. Hill
8 did?

9 A No.

10 Q Do you think that you stayed up?

11 A Yeah, I was still up for a good, like, minute or
12 two. Not a minute or two. Like a good couple of seconds
13 I was still up before -- Jacob was already down when he
14 started telling everyone else to get down.

15 Q Jacob got down. And I guess that's my point. Are
16 you testifying that you were up while all the rounds were
17 being discharged?

18 A Not while the rounds were being charged, but while
19 the people got out of the vehicle, yes, I was up.

20 Q Okay. That's what I'm kind of getting to.

21 You're up and have a visual while the individuals
22 get out of the car; is that right?

23 A Right.

24 Q Okay. But you duck down prior to the guns being
25 discharged; is that correct?

1 A Correct.

2 Q Okay. All right. So there was some testimony
3 earlier about people standing in line and firing off
4 shots. You didn't see that because you had already --

5 A I did see them in a line, yes, but I didn't see them
6 shoot, no.

7 Q So, again, other than, you know, the -- let me ask
8 you this: Other than what you have learned subsequent to
9 this trial, you don't have any way of knowing what bullets
10 hit the vehicle; is that right?

11 Well, let me ask it to you this way: After Jamie
12 got shot -- and one bullet, obviously, went through the
13 windshield; correct?

14 A Correct.

15 Q Is that correct? Madam Court Reporter has to jot
16 down everything.

17 A Sorry. Yes, that's correct.

18 Q That's okay.

19 And so we know that, but other than the fact that
20 you know rounds went off, no other shots, at least to your
21 knowledge, came through the vehicle in any other place
22 other than the windshield; right?

23 A Right.

24 Q Okay. And, obviously, we know guns were discharged,
25 but you weren't looking at any of the people with those

1 weapons to be able to say where they were pointing them or
2 where they were shooting them or where their shots went
3 to; correct?

4 A Can you ask your question a different way?

5 Q Well, we hear your testimony that a number of shots
6 were discharged; right?

7 A Correct.

8 Q A number of shots were fired.

9 Now, you ducked down fairly quickly after this
10 happens; right?

11 A When I see them get in a line with their guns, yeah.
12 That's when Jamie pushed me, and I ducked down.

13 Q And that's when you ducked down.

14 And you know that one shot went through the
15 windshield, and that's what, unfortunately, hit Jamie;
16 right?

17 A Yes.

18 Q But anything beyond that, you don't know because you
19 were ducking down; right?

20 A Yes.

21 Q I also want to talk briefly. You and him had been
22 dating for some period of time before this incident
23 occurred; correct?

24 A Ten months, yes.

25 Q Fairly long time.

1 At that point, to your knowledge, was there any beef
2 or problem that Jamie had with Che Ransom?

3 A No.

4 Q To your knowledge, did he know Che Ransom?

5 A No.

6 Q And I don't want to get into the background of it,
7 but did Jamie have a beef or was there some dispute
8 between Tronahz Whittington and Jamie?

9 A No, not that I know.

10 Q Did you know of one at the time?

11 A No, I didn't know at the time.

12 Q But subsequent to that, have you come to learn that
13 there was some type of dispute, however petty or however
14 insignificant it may be, between Tronahz Whittington and
15 Jamie?

16 A Yes.

17 Q Okay. And that was the dispute about dab carts or
18 some kind of marijuana product?

19 A Yeah.

20 Q All right. I don't have any further questions for
21 this witness.

22 THE COURT: Mr. Pinkerton?

23 MR. PINKERTON: May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

1 BY MR. PINKERTON:

2 Q Ma'am, I'll be very brief; I hate to put you through
3 this again.

4 You said when people exited the vehicle, you said
5 that Tronahz exited the front passenger seat?

6 A Yes.

7 Q Did you know Tronahz prior to that day?

8 A No.

9 Q And where did all the other individuals exit?

10 A From the backseat.

11 Q Passenger or driver's side backseat?

12 A Passenger.

13 Q Passenger side?

14 And you said they were all lined up kind of in a
15 row?

16 A Yes.

17 Q But you ducked down before you actually saw who
18 actually started shooting; correct?

19 A Correct.

20 Q So you didn't actually see the shots be fired?

21 A No.

22 Q Okay. Did Jamie ever mention anybody to you by the
23 name of Travontae Mitchell?

24 A No.

25 Q But he did have beef with Tronahz; correct?

1 **A** At the time, I didn't know about it.

2 **Q** You didn't know about it at the time.

3 And do you know about how many people were in the
4 car total, the alleged shooter's car?

5 **A** From what I know, six altogether.

6 **Q** Six altogether. But you said only four people
7 actually got out?

8 **A** Correct.

9 **Q** And only four people had guns?

10 **A** Correct. To my knowledge, yes.

11 **Q** To your knowledge. Okay. Thank you.

12 MR. PINKERTON: No further questions, Your Honor.

13 THE COURT: All right. Mr. Gardner?

14 CROSS-EXAMINATION ON BEHALF OF DEFENDANT BROWN

15 BY MR. GARDNER:

16 **Q** Good afternoon, ma'am. I will be brief. All the
17 good questions have probably been asked. I do have a
18 couple, though.

19 First of all, my condolences for the loss of your
20 boyfriend and what you're going through today.

21 **A** Thank you.

22 **Q** The solicitor asked you what y'all did that day, and
23 I don't know if you answered him or if I didn't hear it,
24 but what y'all were doing -- or at least the boys were
25 doing that day were smoking marijuana and drinking beer;

1 is that right?

2 A Yeah.

3 Q Okay. And they ran out of beer, and they went to do
4 another what we used to call a beer run; is that right?

5 A Right.

6 Q Is that fair?

7 A Yes, that's fair.

8 Q So they were headed to Henry's to get more beer
9 because they had drank all the beer they had already?

10 A Correct.

11 Q And they smoked marijuana?

12 A Correct.

13 MR. GARDNER: All right. Thank you, ma'am.

14 THE COURT: All right. Redirect?

15 MR. HELMS: Nothing further, Your Honor. We'd just
16 ask that she be released from her subpoena at this time.

17 THE COURT: Any objection?

18 MR. BOUCHETTE: No, Your Honor.

19 THE COURT: Mr. Pinkerton?

20 MR. PINKERTON: None, Your Honor.

21 MR. GARDNER: No, sir.

22 THE COURT: All right. You may step down. You're
23 free to go.

24 The State can call your next witness.

25 MR. HELMS: Your Honor, at this time, the State

1 would call Mr. Orlin Lopez.

2 THE CLERK: Please raise your right hand and place
3 your left hand on the Bible.

4 ORLIN LOPEZ,

5 after having been duly sworn, was examined and
6 testified to as follows:

7 THE CLERK: Please state your name and spell it for
8 the Court.

9 THE WITNESS: Orlin Lopez. O-r-l-i-n L-o-p-e-z.

10 DIRECT EXAMINATION

11 BY MR. HELMS:

12 Q Mr. Lopez, how old are you?

13 A I'm 22.

14 Q Do you work anywhere?

15 A Yes, sir.

16 Q What do you do? You don't have to tell us where you
17 work. What do you do?

18 A I do concrete -- concrete boxes.

19 Q Were you working anywhere in 2020?

20 A Yes.

21 Q What were you doing back then?

22 A I was doing roofing in 2020.

23 Q That's hard work.

24 A Yes. Hard work.

25 Q You knew the victim in this case, Mr. Jamie Johnson?

1 **A** Yes, sir.

2 **Q** And I say you knew the victim. You're also listed
3 as a victim. You understand that? But when I say
4 "victim," I'm referring to the victim of the murder. You
5 knew him?

6 **A** Yes, sir.

7 **Q** How did you know of him?

8 **A** He was my best friend. We went to school together
9 and basically did everything together.

10 **Q** How long had y'all been friends?

11 **A** For seven or eight years.

12 **Q** How old was Jamie when he was killed?

13 **A** 19.

14 **Q** Did Jamie have a vehicle?

15 **A** Yes.

16 **Q** What kind of --

17 **A** A black Tahoe.

18 **Q** It's the Tahoe that we have been all been talking
19 about and seen in the videos?

20 **A** Yes.

21 **Q** The one that's squatted?

22 **A** Yes.

23 **Q** Did you have a vehicle in 2020?

24 **A** No.

25 **Q** When y'all went somewhere, whose vehicle did you

1 take?

2 A Jamie's.

3 Q Were you and Jamie together on September 12th of
4 2020?

5 A Yes.

6 Q Who else was with you?

7 A Jacob and Britney.

8 Q And where were you going?

9 A We were going towards Henry's.

10 Q Why were you going to Henry's?

11 A We were going to Henry's to go pick up some stuff
12 from the gas station.

13 Q That's fair. Beer?

14 A Yeah.

15 Q Like Mr. Gartner said, a beer run?

16 A Yeah.

17 Q We have all done it.

18 Tell me about that truck he had. How long had he
19 had that truck?

20 A He had it for a while. Not too long but a good bit.

21 Q Be more specific, Orlin.

22 A Like -- maybe like a year or so.

23 Q Okay. It was a distinctive truck, yes?

24 A Yes.

25 Q Did you know anybody else in Conway that had a truck

1 like that?

2 A No.

3 Q When you saw Jamie coming down the road, could you
4 point and say, "Hey, that's Jamie"?

5 A "That's Jamie."

6 Q Okay. Now, where did Jamie live back then?

7 A On 378.

8 Q Did you ever hang out with Jamie over there at his
9 house?

10 A Yes.

11 Q Who lived with him?

12 A His girlfriend, and he had a roommate with him.

13 Q Is his girlfriend that lived with him in the
14 courtroom today?

15 A Yes.

16 Q Is it the young lady that just got done testifying?

17 A Yes.

18 Q And y'all knew each other?

19 A Yes.

20 Q Did you ever spend the night over there?

21 A Maybe once or twice.

22 Q Okay. And y'all got along, you and Britney and
23 Jacob and Jamie?

24 A Yeah.

25 Q Y'all were friends.

1 **A** That was our friend group.

2 **Q** What did you usually do? What did y'all do normally
3 during the day? What do you do?

4 **A** Just hang out usually at either my house or his.

5 **Q** What were you doing on September 12th?

6 **A** September 12th? We were drinking and just hanging
7 out at his house.

8 **Q** You were drinking. Run out of beer?

9 **A** Yes.

10 **Q** All right. When you go to Henry's, do you take
11 Highway 501?

12 **A** No.

13 **Q** Why not?

14 **A** The back roads were better, less cops.

15 **Q** Less cops.

16 Is it true that the tags were bad?

17 **A** Yes.

18 **Q** All right.

19 **A** Yes.

20 **Q** That explains it. So you took the back roads. Did
21 you always take the back roads?

22 **A** Yes.

23 **Q** So that was the routine?

24 **A** Yes.

25 **Q** How about specifically Wayside Drive to Rose Moss to

1 D Street and all that? Was that the routine?

2 A Yes.

3 Q So y'all were following your routine on
4 September 12th?

5 A Yes, correct.

6 Q Who was driving your car -- the car you were in?
7 Who was driving?

8 A Jamie.

9 Q Who was in the passenger seat?

10 A Jacob.

11 Q And you and Britney in the back?

12 A Yes, sir.

13 Q You have seen the video from the Wayside Drive Ring
14 doorbell cameras, yes?

15 A Yes.

16 Q Is that y'all in the Tahoe?

17 A Yes.

18 Q In that video, there's a light blue/gray -- it's
19 been called gray -- Chevy Caprice behind you. Did you see
20 that in the video?

21 A Yes.

22 Q Did you know that car was following you on
23 September 12th?

24 A No, I didn't think nothing of it.

25 Q On September 12th, did you see that car?

1 **A** Yes.

2 **Q** Tell this jury about when you saw that vehicle.

3 **A** I first saw it when it passed us and when it
4 basically stopped right in front of us, blocked our way.
5 That's what I remember seeing.

6 **Q** All right. So the vehicle got around you and
7 blocked your way. Then what happens?

8 **A** Then I seen, like, three or four guys get out the
9 car and start shooting our way. After that happened, I
10 just -- when I first heard the couple -- the first shots
11 and actually seen them, I just -- I ducked down because
12 I'm in the back. I ducked, like, on the floor board.

13 **Q** Why did you duck down?

14 **A** Because they were shooting at us. I didn't want to
15 get hit.

16 **Q** That's fair. That's fair.

17 How many people did you see get out of that car?

18 **A** Like three, four.

19 **Q** Not one?

20 **A** No.

21 **Q** Did you recognize any of them?

22 **A** Not off the bat, no.

23 **Q** Now, you have testified previously at Tronahz
24 Whittington's trial as well?

25 **A** Yes.

1 Q And you know he's since been convicted as being the
2 one in the front passenger seat?

3 A Yes.

4 Q So three to four get out. How many get out the
5 front?

6 A The front?

7 Q Yeah.

8 A One.

9 Q One person.

10 And we know that now to be Tronahz Whittington;
11 right?

12 A Yes.

13 Q How many get out the back?

14 A The back that I seen at first -- two at first
15 because that's why I ducked down.

16 Q Okay. And the one in the front, what's he holding?

17 A A gun.

18 Q Big one or little one?

19 A All I seen was just a gun.

20 Q You saw a gun?

21 A Yeah.

22 Q The guys in the back, what are they holding?

23 A Guns.

24 Q They're holding guns?

25 A Yeah.

1 Q Do you know what kind?
2 A No.
3 Q Just guns?
4 A Yeah.
5 Q What do they do with those guns?
6 A Started shooting at us.
7 Q Start shooting at you?
8 A Yeah.
9 Q Now, they're not shooting at the woods?
10 A No.
11 Q They're not shooting at other cars?
12 A No.
13 Q They're not shooting at other people?
14 A No.
15 Q They're shooting at you?
16 A Yeah.
17 Q Do bullets hit the car you're in?
18 A Yes.
19 Q Do you hear bullets hitting your car?
20 A Yes.
21 Q Did you see a bullet hit Jamie?
22 A I didn't see when it hit Jamie, no.
23 Q Okay. Did you see Jamie get shot?
24 A Yes.
25 Q Okay. What did you do then?

1 **A** Well, after everything was done, I was the one who
2 took his foot off the gas because it was still revving.
3 So I took his foot off the gas. Next thing I notice, you
4 know, he wasn't responding. So I got out of the car and
5 ran to his side and got him out with Jacob.

6 **Q** So hang on. The gas was still revving?

7 **A** Mm-hmm.

8 **Q** Was the car in gear?

9 **A** Yes.

10 **Q** Was the car going anywhere?

11 **A** No. It was -- I don't think he ever made it to
12 reverse. It stayed in neutral. Because I was waiting
13 for, like, us to hit something or something because I kept
14 hearing it rev, but then I noticed --

15 **Q** Let me ask this --

16 **A** I notice --

17 **Q** Oh, go ahead. I'm sorry; I didn't mean to
18 interrupt.

19 **A** I noticed we weren't going nowhere. And after the
20 gunshots were done, I look up, and Jamie is just -- he's
21 just laying there. And that's when I took his foot off
22 the gas.

23 **Q** Did you ever put the car in a different gear?

24 **A** No. I just -- I just took his foot off the gas.

25 **Q** You just took his foot off the gas.

1 When you took his foot off the gas, had he already
2 been shot?

3 A Yes.

4 Q Where was the wound?

5 A In his head.

6 Q Could he talk?

7 A No.

8 Q You said the first thing you do was go over and take
9 his foot off the gas. Then what do you do with Jamie?

10 A With Jamie? I get out the car, and I run to his
11 side and check on him. And Jacob comes behind me, and
12 we're trying to get him in the backseat.

13 Q Why?

14 A Because we're trying to take him to the hospital.

15 Q Did you get him in the backseat?

16 A We were trying to, but no.

17 Q What happens next?

18 A We laid him on the ground.

19 Q Now, why did you take him out of the backseat and
20 lay him on the ground?

21 A Because there was nothing we could do. We couldn't
22 move the car, so we just laid him on the ground.

23 Q Talk to me about that for a second. So you can't
24 move the car why?

25 A It was just -- it was shot up. We couldn't -- we

1 couldn't move it.

2 Q So now, wait a minute. You drove the car to the
3 D Street intersection.

4 A Mm-hmm.

5 Q But after you got to the D Street intersection and
6 it got shot up, it couldn't move anymore?

7 A No, it couldn't move.

8 Q Do you know why?

9 A I guess where it got hit in the radiator because
10 that's where -- that's where all the fluids was coming out
11 of.

12 Q Did you see the fluid?

13 A Yeah.

14 Q Was that car always like that?

15 A No.

16 Q Did it always leak radiator fluid out the front?

17 A No. Jamie fixed it.

18 Q Now, after law enforcement got -- do you remember
19 how long it took for law enforcement to get there?

20 A No.

21 Q After you put Jamie on the ground with Jacob's help,
22 what do you do?

23 A I run to -- I run to my house.

24 Q And back then, where did you live?

25 A Back then --

1 Q Not the address, just in proximity.

2 A Like two blocks away.

3 Q So you left from the scene and went home?

4 A Yes, sir.

5 Q Was anybody home?

6 A No. My grandma.

7 Q Orlin, you were just involved in a shootout and

8 somebody tried to kill you. Why would you leave and go

9 home?

10 A I was scared.

11 Q What did you have to be scared of?

12 A I was just -- one because, you know, I was scared he

13 was going to come back.

14 Q That's fair.

15 Now, Britney and Jacob stayed. You know that?

16 A I mean, that too, of course.

17 Q Yeah. I want you to come clean. I want you to tell

18 this jury why you left that scene.

19 A Because I'm an illegal immigrant, and I didn't want

20 to be caught up in, you know, everything going on.

21 Q And just to be clear, did you have a gun that day?

22 A No, sir.

23 Q Did Jamie have a gun that day?

24 A No, sir.

25 Q What kind of gun did Jacob have?

1 A He didn't have a gun.

2 Q How about Britney?

3 A No.

4 Q None of y'all had a gun?

5 A None of us.

6 Q Did any of you in that car have a weapon?

7 A No.

8 Q So no weapons were fired at all from that day in

9 that car?

10 A Not at all.

11 Q So you didn't run because you thought you did

12 something wrong there.

13 A No.

14 Q You are an illegal immigrant?

15 A Yes, sir.

16 Q Where are you from?

17 A I'm from Honduras.

18 Q And when is the last time you lived in Honduras?

19 A The last time? I was three.

20 Q So you've lived here in the United States of America

21 since you were three?

22 A Yes, sir.

23 Q Do you want to be shipped to Honduras?

24 A No.

25 Q Did you think that was a possibility if law

1 enforcement came and found you?

2 A Yes, sir.

3 Q Since then, have you learned that that is not the
4 principal concern here?

5 A Yes.

6 Q And have you ever told any untruths to law
7 enforcement?

8 A No.

9 Q Did you recognize any of the guys that got out of
10 the car from Facebook?

11 A Yes.

12 Q Who?

13 A Tronahz.

14 Q And what did you do in regards to that? Did you
15 tell law enforcement that?

16 A I showed them who I thought I recognized.

17 Q So wait a minute. You did talk to law enforcement?

18 A Yes.

19 Q And you showed them -- when you say you showed them,
20 how did you show them?

21 A Through my phone.

22 Q You had a picture of Tronahz in your phone?

23 A Yeah. Well, we looked -- we were looking through
24 Facebook.

25 Q Facebook?

1 **A** Yes, sir.

2 **Q** So you pulled up a guy that you thought you
3 recognized and showed it to law enforcement?

4 **A** (Witness nodding.)

5 **Q** Were you confident that was him?

6 **A** Not 100 percent, but that's the guy who, you know, I
7 seen.

8 **Q** And you told them that?

9 **A** Yes.

10 **Q** Did you show them a picture of Don Brown?

11 **A** No.

12 **Q** Did you show them a picture of Travontae Mitchell?

13 **A** No.

14 **Q** How about Che Ransom?

15 **A** No.

16 **Q** Why?

17 **A** I didn't recognize them.

18 **Q** I'm sorry?

19 **A** Because I didn't -- I didn't recognize them.

20 **Q** You didn't recognize them.

21 Had you recognized the other people, would you have
22 shown law enforcement?

23 **A** No.

24 **Q** My point is this, Orlin: Did you have anything
25 against these guys before this occurred?

1 A No.

2 Q Did they have anything against y'all?

3 A No.

4 Q To this day, if it wouldn't have been for this
5 shooting, would you have anything to do with these guys?

6 A No.

7 Q Okay. Okay. Do you remember of the name of the guy
8 you showed them on the Facebook page? Do you remember
9 what the Facebook page name was?

10 A Draxo, yeah.

11 Q Did you testify to that in the last trial?

12 A Yes, sir.

13 MR. HELMS: Court's indulgence, Your Honor. I'm
14 looking for a photograph.

15 BY MR. HELMS:

16 Q If I showed you the picture that you showed law
17 enforcement, would you recognize it?

18 A Yes, sir.

19 Q I'm going to show you what's been marked for
20 identification purposes only as State's Exhibit twenty --

21 MR. HELMS: May I approach, Judge?

22 THE COURT: Yes.

23 BY MR. HELMS:

24 Q Take a look at that. Do you recognize it?

25 A Yes.

1 Q And who is that a picture of?

2 A Tronahz.

3 Q The guy that got out of the front seat?

4 A Yes.

5 Q Is this the picture you showed law enforcement?

6 A Yes.

7 MR. HELMS: Permission to enter into evidence
8 State's 27, Your Honor, and publish to the jury.

9 THE COURT: Mr. Bouchette?

10 MR. BOUCHETTE: I haven't seen it.

11 No objection, Judge.

12 THE COURT: Mr. Pinkerton?

13 MR. PINKERTON: No objection.

14 THE COURT: Mr. Gardner?

15 MR. GARDNER: No objection, Your Honor.

16 THE COURT: State's Exhibit 27 is admitted into
17 evidence without objection.

18 BY MR. HELMS:

19 Q So you showed a picture of the person you could
20 identify; right?

21 A Yeah.

22 Q If you could identify the others and had a picture
23 of them, would you have shown it to law enforcement?

24 A Yes.

25 Q But you didn't do that, did you?

1 **A** No.

2 **Q** Because you couldn't identify them by their face;
3 right?

4 **A** No.

5 **Q** Did you see the driver?

6 **A** No.

7 **Q** Did the driver ever get out of the car?

8 **A** No.

9 **Q** When the shooting was happening, how long did it
10 take?

11 **A** Maybe like two -- two minutes. Felt like forever
12 but, you know, it happened quick.

13 **Q** Quickly.

14 Do you remember the guys that got out of the car,
15 the orientation they were standing in? And when I say
16 that, I mean how were they spaced out when they were
17 shooting? Were they close together? Were they
18 side-by-side? Were they in a circle? Tell me.

19 **A** Kind of like side-by-side.

20 **Q** Side-by-side?

21 **A** Yeah.

22 **Q** In front of the Tahoe?

23 **A** Yes.

24 **Q** At any time when the Tahoe was getting shot at, was
25 it moving backwards? .

1 A He was trying to move backwards.

2 Q Trying to move backwards.

3 Why?

4 A He was trying to get us out of the way.

5 Q Orlin, why didn't he drive straight?

6 A They were blocking us.

7 Q Why didn't you drive left?

8 A They were blocking us. We were blocked out.

9 Q I'm sorry?

10 A We were blocked out.

11 Q Why didn't you drive right?

12 A We were blocked out.

13 Q What was the only direction you could have gone?

14 A Back.

15 Q Had the cars and those boys with the guns not been

16 in front of you, could you have went forward?

17 A Yes.

18 Q And got out of the way.

19 A And got out of the way.

20 Q Please answer any questions the defense may have.

21 THE COURT: Mr. Bouchette?

22 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

23 BY MR. BOUCHETTE:

24 Q Good afternoon. I'm going to do my best, again, not

25 no duplicate testimony that we've already had here today,

1 but if I do go back -- and you have been in the courtroom
2 this afternoon; is that correct?

3 A Yes, correct.

4 Q Okay. Our court reporter has to take down what
5 you're saying, so...

6 You have been in the courtroom; is that right?

7 A Yes, sir.

8 Q You have heard the prior testimony of Britney and
9 Jacob before that?

10 A Yes, sir.

11 Q All right. So the first thing with regard to -- do
12 you agree with the approximate distance that it was from
13 when you initially encountered the vehicle with the
14 shooter, Tronahz Whittington, and the visual distance
15 between when the vehicle became disabled?

16 A Yes.

17 Q When it first -- in other words, when the vehicle
18 first encountered the vehicle with the shooters and shots
19 were fired, it was approximately 15 feet or so away?

20 A When we first encountered it?

21 Q That's correct.

22 A They came right behind us.

23 Q Once they came around and the individuals got out
24 and you went to put it in reverse, you were about 15 feet
25 or so away?

1 **A** Yes.

2 **Q** And then by the time the vehicle became disabled, it
3 was a little bit further? More like 25, 30 feet maybe?

4 **A** Yeah, a little bit further back.

5 **Q** Okay. All right.

6 Now, you were sitting in the backseat behind Jamie
7 the driver; correct?

8 **A** Yes.

9 **Q** And, again, since this is a squatted vehicle, we've
10 heard that it makes it a little more difficult to see out
11 through the front; is that correct?

12 **A** No, not through his.

13 **Q** What's that?

14 **A** Not through his truck.

15 **Q** Not through his truck?

16 **A** Yeah.

17 **Q** So you think the tilt, at least according to you,
18 from the backseat you could see as well as if it not had
19 been squatted?

20 **A** Yes.

21 **Q** Well, I want to ask you about -- I couldn't quite
22 get your testimony regarding the changing of gears. Am I
23 correct, then, that, when Jamie encountered the shooting,
24 he put the vehicle in reverse?

25 **A** Yes.

1 Q And he went in reverse for some period of time?

2 A Yeah, he was trying to, yeah.

3 Q All right. And when you ultimately had to take
4 Jamie's foot off the gas, you changed it into gear or out
5 of gear; is that right?

6 A No, I didn't change it. It was in neutral because
7 all I kept hearing was it revving.

8 Q That's my point. So it had gone into neutral?

9 A I guess, yeah, when he was trying to back up, yes.

10 Q And that's kind of what I -- I mean, so the shot to
11 the vehicle, he's in reverse -- he's hitting the gas,
12 going in reverse; correct?

13 A Yes.

14 Q And, at some point during this interaction, it
15 switches from reverse, harsh transition into neutral, and
16 that's where it was whenever you took his foot off the
17 gas?

18 A Yes.

19 Q Now, if I understand you correctly, when you saw the
20 vehicle get in front of you, you saw the person in the
21 front driver's seat get out; is that right?

22 A Mm-hmm.

23 Q That's the person we now identified as Tronahz
24 Whittington; correct?

25 A Passenger seat.

1 Q Excuse me. Front passenger, Tronahz Whittington;
2 correct?

3 A Yes, sir.

4 Q Okay. All right.

5 So he gets out and you're able -- you see him pretty
6 clearly; right?

7 A Yes.

8 Q Now, we have heard other testimony that Jacob in the
9 front seat gets down, and the girlfriend in the back also
10 gets down shortly after that.

11 A Yes.

12 Q Is that what happened?

13 A Yes.

14 Q Okay. And I would imagine, given what was going on,
15 that you got down pretty soon after that; is that correct?

16 A Yes.

17 Q Everybody is hitting the deck; right?

18 A Yeah.

19 Q So you weren't looking up whenever you saw these
20 various shots being discharged; correct?

21 A Whenever I see them firing at us, I just ducked
22 down.

23 Q Well, that's what I said. You saw Tronahz -- the
24 individual you now know to be Tronahz Whittington
25 discharge his weapon; correct?

1 A Yeah, when I seen the other ones get out, that's
2 when I ducked down too.

3 Q Okay. So Tronahz Whittington fires, you see the
4 other ones with the guns, and that's when you hit the
5 ground; is that right?

6 A Yeah, when I started hearing all the shots going
7 off, yeah.

8 Q Okay. You're hearing the shots. I certainly
9 understand that. And you know that a lot of shots are
10 being discharged; right?

11 A Mm-hmm.

12 Q But you're not watching them being shot to where
13 they're being shot because you're on the ground for
14 safety.

15 A No. When I saw them start shooting, that's when I
16 go down.

17 Q Well, that's what I'm trying to get --

18 A Yeah.

19 Q You're certainly not saying that you were sitting --
20 standing up the entire time watching all these rounds
21 being discharged into the vehicle.

22 A No, not all of them, no.

23 Q All right. So that's what I'm trying to get at.
24 You saw Tronahz Whittington, correct -- discharge?

25 A Yes.

1 Q All right. And then, after that, are you saying
2 that you continued to stay up and continued to watch the
3 shots be discharged --

4 A No --

5 Q -- or you hit the ground pretty much --

6 A When Tronahz -- when Tronahz got out, the rest of
7 them got out too. That's when all of them started firing.
8 That's when I ducked down.

9 Q Well, so did you duck down before or after the shot
10 you saw from Tronahz?

11 A What do you mean? All of them started shooting.

12 Q Well, I guess let me ask it this way: When you saw
13 Tronahz shooting -- right? -- did you continue to stay up
14 and watch the other shots be fired or did you hit the
15 ground then?

16 A They all started shooting then around the same time.

17 Q You're saying they all shot at the same time?

18 A Around the same time, yeah. First, Tronahz got out.
19 He didn't start shooting just right away. I mean, when
20 they all got out, they started shooting. That's when I
21 ducked down. I didn't know what was going on at first.

22 Q Well, that's kind of what I'm getting at. You're
23 saying that the -- if I understand you correctly -- and
24 you can certainly correct me if I'm wrong -- that they all
25 got out of the vehicle, and four or five people were

1 firing at the car; is that correct?

2 A Like three or four, yeah.

3 Q Okay. And the solicitor took a lot of effort to
4 elaborate that they weren't shooting at the nearby area;
5 they were shooting at the vehicle.

6 A Yes.

7 Q Okay. Well, you have seen the pictures and all
8 that's been introduced into testimony in this trial;
9 right?

10 A Yes.

11 Q And you know it seems like at this point there's no
12 shots -- no more than one shot to the windshield; right?
13 You have seen that?

14 A I was there when it happened. I saw the car when it
15 got shot, so I seen where it got shot.

16 Q And that's what I'm asking for --

17 A The pictures don't show it. I seen the car -- the
18 front of the car.

19 Q And I'm asking based on your recollection from the
20 time of anything that you may have come to learn since
21 then.

22 A Mm-hmm.

23 Q So we know now -- if you'd agree with me -- that the
24 front windshield only had the one shot in it; correct?

25 A Yes.

1 Q All right. It may have had another shot into the
2 body of the front of the vehicle; right?

3 A It did. It had one.

4 Q But you have not seen -- we don't have any other
5 shots to the side of the vehicle or anywhere else --
6 right? -- that you have seen?

7 A Yes.

8 Q That's correct? So when this first started, you're
9 about 15 feet away?

10 A Mm-hmm.

11 Q But you're saying, according to you, all three -- at
12 least three people were somewhere around 15 feet and
13 firing at this Yukon -- or, excuse me, Tahoe?

14 A Directly in front of it.

15 Q You know, we have heard testimony a moment ago that
16 this was a pretty traumatic thing, happened real quickly.
17 Would you agree with that assessment?

18 A Yes.

19 Q Okay. It happens real quick?

20 A Yes.

21 Q This wasn't a 30- or 45-minute ordeal. It happened
22 fairly quickly; right?

23 A Yes.

24 Q Okay. And we're not here to dwell on that, but
25 during the rest of the -- earlier in the day, y'all had

1 been drinking and smoking all day; right?

2 **A** Drinking.

3 **Q** Drinking? All right.

4 Had anybody else been smoking weed, smoking
5 marijuana?

6 **A** I don't know.

7 **Q** Okay. Well, you were with them all day; right?

8 **A** Yeah, I was drinking.

9 **Q** Okay. And I appreciate you were drinking. Were you
10 smoking any marijuana with Jamie or with anybody else
11 earlier in the day?

12 **A** Earlier in the day, yes.

13 **Q** Earlier in the day. Okay. And that's fair enough.

14 So during the afternoon and the hours preceding this
15 traumatic, quick event that occurred, you had been
16 drinking, you had been consuming marijuana with your
17 friends. How long had you been doing that approximately?

18 **A** By the time we were already going to Henry's, we had
19 been drinking, like, early on in the day, but the time
20 that that happened, it was later on. I had just come from
21 work, so it wasn't too long that I was drinking.

22 **Q** So from early on in the day, at least a couple of
23 hours -- several hours?

24 **A** Yeah.

25 **Q** Okay. All right. And when that happened, you

1 weren't anticipating -- there was nothing that was
2 alerting you to being alert as to needing to take note of
3 what was happening?

4 A No, it was just a normal day.

5 Q And to kind of make matters worse, on top of
6 drinking and smoking in the afternoon, you also had this
7 additional fear of police involvement due to your
8 immigration status; is that right?

9 A Yeah.

10 Q And, again, we're not here for that, but I mean,
11 that was an additional thing going on in your mind in
12 conjunction with trauma and in conjunction with the --
13 whatever you had been drinking and whatever you had been
14 smoking during that time; right?

15 A Not really. It was just a normal day.

16 Q It was just a normal day, but you obviously had --
17 you know, you were obviously very concerned about your
18 status -- your immigration status and any possible law
19 enforcement activity; correct?

20 A Yeah. I wasn't doing anything wrong, so I wasn't
21 worried.

22 Q And I'm not saying you are doing anything wrong,
23 but, obviously, following a shooting and a death of your
24 best friend, you immediately leave the scene and go back
25 to your house; right?

1 A After that, yeah.

2 Q Right. And, again, my only point in saying that is
3 that, obviously, that was something that was weighing
4 pretty heavy on your mind during the course of this brief
5 event?

6 A No.

7 Q So it was not a concern? Is that what you're
8 saying?

9 A Yeah. I mean, I shouldn't be really concerned if
10 I'm not doing anything wrong.

11 Q And I'm not necessarily indicating that you did do
12 anything wrong but --

13 MR. HELMS: Your Honor, he keeps saying "but." At
14 this point, we're arguing with the witness. Can we move
15 on? He's back and forth when he's asked and answered the
16 question.

17 THE COURT: One more question.

18 BY MR. BOUCHETTE:

19 Q And, again, I'm not saying that you did anything
20 wrong. My question was, given that we know that
21 immediately following your observation of the death of
22 your best friend and going to your house immediately
23 following the incident, is it safe to say that your
24 concern about your immigration status and any possible law
25 enforcement activity was a considerable factor of your

1 mental state at that time?

2 A After the fact.

3 Q After the fact. Okay. All right.

4 MR. BOUCHETTE: Judge, I don't think I have any
5 further questions of this witness.

6 THE COURT: All right. Mr. Pinkerton?

7 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

8 BY MR. PINKERTON:

9 Q Thank you, Mr. Lopez, for being here. I'm sorry to
10 put you through this again. I'm actually going to keep
11 this as brief as I can. Okay?

12 You were in the back passenger seat; correct?

13 A Yes, sir.

14 Q Okay. And you have heard testimony and you have
15 seen pictures of Jamie's truck. It was what they called
16 squatted; correct?

17 A Yes, sir.

18 Q That basically means the front end is significantly
19 higher than the back end?

20 A Yes, sir.

21 Q But you're telling us you can easily see off the
22 front, even though it's sitting roughly like this and
23 you're in the backseat?

24 A Yeah, it's not to -- it's not to the point where you
25 can't see.

1 Q Even if you're ducked down?

2 A If you're ducked down, I mean, you still can see
3 outside. I mean, if you're all the way down, you can't
4 see, yeah, you're right.

5 Q And you said -- and I'm not judging you, but you
6 said you were under the influence of alcohol and marijuana
7 at the time?

8 A Come again?

9 Q You were under the influence of alcohol and
10 marijuana at the time?

11 A No, I was sobered up by that time. Or by the
12 time -- I smoked earlier in the day, but...

13 Q When was that in the day?

14 A Like around, like, 10:00, 11:00 that morning.

15 Q In the morning?

16 A Yeah.

17 Q And when was the last time you had drink?

18 A The last time I drank was around, like, 5:00 or
19 6:00.

20 Q 5:00 or 6:00?

21 A Yeah.

22 Q How much had you had to drink at that point?

23 A Probably like about four -- four beers.

24 Q About four beers at that point?

25 A Yeah.

1 Q That was before you got into Jamie's truck to go to
2 Henry's?

3 A Yeah.

4 Q All right. And how many people did you say got out
5 of the other car?

6 A About three or four, that I can remember.

7 Q Three or four that you remember.

8 And the only person you recognize is Tronahz;
9 correct?

10 A Yes, sir.

11 Q And you said Tronahz had a gun?

12 A Yes, sir.

13 Q Did you actually see him fire, or at what point did
14 you duck down?

15 A After I seen him fire.

16 Q Just him fire, though? That's when you ducked down?

17 A No. When I seen all of them firing.

18 Q And about how far away were they from you?

19 A About -- probably like from here to where --
20 probably like where the officer is at.

21 Q And you said the car was in neutral when you took
22 his foot off the gas?

23 A Yes, sir.

24 Q Not in reverse?

25 A No.

1 Q Had he reversed at all?

2 A Yes.

3 Q Then how did the car get in neutral?

4 A I don't know.

5 Q Don't know? Okay.

6 MR. PINKERTON: Court's indulgence.

7 THE COURT: All right.

8 MR. PINKERTON: No further questions, Your Honor.

9 THE COURT: Mr. Gardner, cross-examination.

10 CROSS-EXAMINATION ON BEHALF OF DEFENDANT BROWN

11 BY MR. GARDNER:

12 Q I want to follow up on the squatted vehicle. I
13 heard a lot of stuff going on there, but I heard that but
14 didn't understand it. Tell me, squatted vehicle, it
15 doesn't obstruct the view of the driver when he's driving
16 down the road?

17 A No.

18 Q And the person in the backseat would be even lower
19 than the driver; right?

20 A Yeah.

21 Q And it doesn't obstruct his view?

22 A Not really, if you don't have it too squatted.

23 Q You saw this one. It's too squatted. I mean --

24 A Yeah.

25 Q What do you mean -- let me just ask you, what do you

1 mean by "too squatted"? Not --

2 A To the point where you can still see.

3 Q Okay. Well, that's a pretty big angle. You have
4 seen it. You've driven it?

5 A Yes.

6 Q You know what I'm talking about?

7 A Yes.

8 Q That's a pretty severe angle. Are you telling the
9 jury that the driver's view is not obstructed?

10 A No, he's still over it.

11 Q Okay. So the driver is closer up here and then the
12 passenger or the back passenger -- backseats would be even
13 lower to the windshield; right?

14 A It's not like it's all the way up. It's, like,
15 squatted, but --

16 Q Well, hold on. Let me see if I can find a picture.

17 A People in the back can still see.

18 Q Hold on a second. Let me see if I can find a
19 picture of it. Because if I'm wrong, I want to make sure
20 that I know it. I thought they had a picture of it. But
21 it's on the video, and we'll be able to look at it at the
22 end of this case. I'm sure we'll have a thousand pictures
23 before it's all over.

24 Tell me if I'm wrong. The front end of this vehicle
25 was jacked up high in the air.

1 **A** Mm-mmm.

2 **Q** And the back is lower?

3 **A** Yeah.

4 **Q** And my question to you was: Doesn't that obstruct
5 the view of the driver when he's driving down the road?

6 **A** No.

7 **Q** No? Okay.

8 And the backseat passenger would be even lower. Are
9 you still telling the jury that his view out the
10 windshield would not be obstructed?

11 **A** No.

12 **Q** No.

13 **A** Yeah.

14 **Q** So his view is not obstructed?

15 **A** No.

16 **Q** And the driver's view is not obstructed?

17 **A** No.

18 **Q** All right. Somebody testified earlier that the
19 vehicle had the wrong tag on it.

20 **A** Yes.

21 **Q** What does that mean?

22 **A** Got the wrong tag.

23 **Q** What does that mean?

24 **A** What do you mean?

25 **Q** Did the highway department give y'all the wrong tag?

1 **A** I don't know how Jamie had it set up. He just --
2 all I know is he had the wrong tag.

3 **Q** He had a tag registered to a different vehicle put
4 on this vehicle; is that right?

5 **A** I don't know. I think it was just the sticker or
6 something.

7 **Q** Didn't pay the taxes?

8 **A** I guess not.

9 **Q** But it was something illegal, though. You know that
10 for sure; right?

11 **A** It's not my truck.

12 **Q** But you know it was an illegal tag because that was
13 mentioned earlier.

14 **A** Yeah. I mean, I don't know if it was illegal. I
15 just know it didn't have the right stickers on it.

16 **Q** You have been sitting in this courtroom all morning;
17 right?

18 **A** Yes.

19 **Q** You've heard all the testimony?

20 **A** Yes.

21 **Q** You went through the trial the last time?

22 **A** Yes.

23 **Q** So this is not new to you. You know exactly what
24 I'm talking about, don't you?

25 **A** Yes.

1 Q All right. So, just to review -- oh, you do know
2 that the squatted trucks are illegal now; right?

3 A I do.

4 Q Okay. So just a quick review. Drinking, smoking
5 marijuana, driving with an illegal vehicle, driving down
6 the back roads to avoid the police; is that right?

7 A Yes.

8 Q Going back to get more beer because you've already
9 drank all the beer you had; is that right?

10 A Yes.

11 MR. GARDNER: Nothing further, Your Honor.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 BY MR. HELMS:

15 Q Any of the things that Mr. Gardner just named to
16 you, is the penalty for any of those a bullet to the
17 brain?

18 A No.

19 Q Thank you. Nothing further.

20 THE COURT: You may step down.

21 All right, ladies and gentlemen. We're going to
22 give you a 10- to 15-minute break to give you an
23 opportunity to stretch your legs, get something to drink,
24 whatever the case may be.

25 Do not discuss the case, even among yourselves.

1 We'll take about a 10- or 15-minute break and come back in
2 just a minute. Thank you very much.

3 (The jury exited the courtroom at 3:46 p.m.).

4 MOTIONS/MATTERS OF LAW

5 THE COURT: All right, sir. I understand that there
6 might be some people going in the room where the witnesses
7 are sequestered; is that correct?

8 MS. GRAHAM: Me? My son --

9 THE COURT: No, ma'am, you can't -- only witnesses
10 can be in the room where the sequestration is. If you're
11 not a witness, you can't go in that room. All right?

12 All right. Anything from the State before we take a
13 recess?

14 MS. LIVESAY: Just briefly, Your Honor. We do
15 intend to call Shamontae Graham either as soon as we come
16 back or the very next witness. I'd just ask that we
17 receive a copy of the transcript of his statement so we
18 can all be working off the same document. I'm assuming
19 that's -- if there's any impeachment, that's what they're
20 going to use to impeach him.

21 The State does not have a copy of that transcript,
22 so we're just asking for a copy of it.

23 THE COURT: Well, I mean, why don't you get a copy?

24 MS. LIVESAY: I'm sorry?

25 THE COURT: You're wanting the defendants to provide

1 you with a copy as opposed to you going and getting a copy
2 yourself?

3 MS. LIVESAY: To provide we with the same copy that
4 they'll be working off, yes, sir.

5 MR. HELMS: In light of the Court's ruling that we
6 stick to the prior testimony.

7 MS. LIVESAY: That's right.

8 MR. HELMS: In light of that ruling.

9 THE COURT: Well, I'm not telling you to stick to
10 that prior testimony. I told you that if that was -- if
11 you were sticking to the prior testimony, then he could
12 testify. But if he was not sticking to the prior
13 testimony, then he could not testify because he violated
14 the Court's order regarding sequestration of the
15 witnesses.

16 You're the one that told me he was sticking to the
17 prior testimony. I'm not ordering him to stick to the
18 prior testimony. I'm just telling you that he can't
19 testify if you're eliciting any additional from you --
20 from him that you did not elicit at the first trial.

21 MR. HELMS: I understand. But there's no way to
22 make sure that we abide by that unless we have -- I mean,
23 they could object to him saying the word "and" instead of
24 "but" or "yellow" instead of "light blue."

25 THE COURT: Well, I'm sorry. He's --

1 MR. HELMS: So, to avoid doing that, I was just
2 asking -- what we would do for them would be to give them
3 a copy of the transcript they have.

4 THE COURT: But you have a different obligation
5 representing the State. You have a different obligation
6 than they do.

7 MR. HELMS: Okay.

8 THE COURT: I'm not going to make them give you a
9 copy of the transcript.

10 MS. LIVESAY: That's fine, Judge.

11 THE COURT: All right. Mr. Bouchette, anything
12 before we take a recess?

13 MR. BOUCHETTE: No, sir.

14 THE COURT: Mr. Pinkerton?

15 MR. PINKERTON: No, Your Honor.

16 THE COURT: Mr. Gardner?

17 MR. GARDNER: No, sir.

18 THE COURT: All right. Now, if they're going to
19 introduce it as a prior inconsistent statement or anything
20 of that nature, then there might have to be a production
21 or something to that nature. I don't know to what extent
22 it's going to be used or if it's going to be used at this
23 point in time, but the only reason they're getting to use
24 is that because the State's witness violated the Court's
25 order regarding sequestration.

1 All right. Let's take about a 10- or 15-minute
2 break, and we'll come back and get started.

3 (A recess was taken from 3:50 p.m. to 4:09 p.m.)

4 (State's Exhibit No. 53, DVD of Apartments, was
5 marked for identification.)

6 THE COURT: All right. You said the State intends
7 to call Mr. Graham next?

8 MS. LIVESAY: Yes, sir.

9 THE COURT: All right. Let's go ahead and bring him
10 in so I can go over his rights with him. As I understand,
11 these charges are still pending against him; is that
12 correct?

13 MS. LIVESAY: Yes.

14 THE COURT: All right. Let's go ahead and bring
15 Mr. Graham in.

16 (Pause in the proceedings. Mr. Graham enters the
17 courtroom.)

18 THE COURT: All right, Mr. Graham. If you'll come
19 forward, please. If I can get you to stand right here at
20 the podium and raise your right hand.

21 SHAMONTAE GRAHAM,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE COURT: All right. Thank you very much. You
25 can put your hand down now.

1 All right. Your name is Shamontae Graham?

2 MR. GRAHAM: Yes, sir.

3 THE COURT: Mr. Graham, you have been called as a
4 witness to testify in this case, and I now advise you
5 that, as a witness, you have a right to invoke protections
6 given to you by the Fifth Amendment to the United States
7 Constitution which states in part that no person shall be
8 compelled in any criminal case to be a witness against
9 himself. This provision means that you cannot be required
10 to be a witness against yourself. This is a personal
11 right which can only be claimed by you.

12 You have the right to refuse to answer any question
13 asked of you which you think gives you reasonable cause to
14 believe that the answer to the question if given might
15 tend to incriminate you. If you wish to exercise this
16 right, when the question is asked, you will state to this
17 Court that you refuse to answer the question because the
18 answer may tend to incriminate you.

19 I also advise you that you are not the final
20 decision-maker on this issue of whether or not to answer a
21 question or whether or not a question will violate the
22 protection afforded to you by the Fifth Amendment. It is
23 for the Court to determine if silence on your part is
24 justified or pursuant to the United States constitutional
25 right against self-incrimination.

1 Now, do you understand what I have explained to you?

2 MR. GRAHAM: Yes, sir.

3 THE COURT: Now, do you have any questions about
4 what I have explained to you?

5 MR. GRAHAM: No, sir.

6 THE COURT: All right. Now, I'm going to ask you to
7 have a seat back there behind the prosecution table, and
8 then, when the jury comes in, they'll be calling you as a
9 witness, and we'll bring you forward and swear you in, and
10 then you'll take the stand at that time. Okay?

11 MR. GRAHAM: Yes, sir.

12 THE COURT: All right. Thank you very much.

13 All right. Is there anything the State wants on the
14 record in that regard?

15 MS. LIVESAY: We're ready for the jury.

16 THE COURT: All right. Anything, Mr. Bouchette,
17 from you or your client?

18 MR. BOUCHETTE: No, sir.

19 THE COURT: Mr. Pinkerton?

20 MR. PINKERTON: No, Your Honor.

21 THE COURT: Mr. Gardner?

22 MR. GARDNER: No, Your Honor.

23 THE COURT: All right. Let's bring the jury in.

24 (The jury entered the courtroom at 4:14 p.m.)

25 THE COURT: All right. Ladies and gentlemen,

1 welcome back. We're ready to resume with the trial of
2 this case.

3 The State can call your next witness.

4 MS. LIVESAY: Thank you, Your Honor. At this time,
5 the State calls Shamontae Graham.

6 THE COURT: All right.

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

9 SHAMONTAE GRAHAM,
10 after having been previously duly sworn, was
11 examined and testified to as follows:

12 THE CLERK: If you can state your name and spell it
13 for the Court.

14 THE WITNESS: My name is Shamontae Graham.
15 S-h-a-m-o-n-t-a-e. Graham, G-r-a-h-a-m.

16 DIRECT EXAMINATION

17 BY MS. LIVESAY:

18 Q Mr. Graham, how old are you?

19 A 22.

20 Q Okay. And where are you from?

21 A Conway.

22 Q And you've always lived in Conway?

23 A Yes, ma'am.

24 Q Where did you go to high school?

25 A Aynor High School.

1 Q You went to Aynor High School?

2 A Yes, ma'am.

3 Q Okay. And do you currently have pending charges?

4 A Yes, ma'am. .

5 Q And what are those pending charges?

6 A Murder, three attempted murders, and possession of a
7 firearm during a violent crime.

8 Q Okay. And did that arise from the incident
9 involving Jamie Johnson?

10 A Yes, ma'am.

11 Q Okay. And do you remember the day that he was
12 killed on September 12th of 2020?

13 A Yes, ma'am. .

14 Q Tell these folks what happened that day.

15 A Okay. Me and a group of friends were at the house,
16 chilling as usual. Me and my brother needed a ride home,
17 and Tronahz also needed a ride home. Tronahz then called
18 someone and borrowed their car. He was supposed to take
19 me and my little brother home after he went home. So we
20 all rode with Tronahz towards his mom's house, and we
21 ended up being behind the victim. It was on the way to
22 Tronahz's house, so we were already behind the Tahoe with
23 Jamie Johnson in it.

24 Tronahz stated that he knew Jamie Johnson and that
25 he would have weed and that he wanted to rob them or take

1 what he had.

2 So we were still behind him at this point, which is
3 on the way to Tronahz's mother house. We was behind the
4 Tahoe for awhile on the road, and then they turned, made a
5 right by the stop sign. We made a right as well, which is
6 still on the way to Tronahz's house. Either way, it was
7 still where we all ended up in the same area towards
8 Tronahz's house.

9 Jamie Johnson stopped at a stop sign on D Street.
10 Tronahz then told the driver to pull in front of him. So
11 we pulled in front of the victim's Tahoe. Tronahz opened
12 the door, got out the car, and he fired an AR at the Tahoe
13 and shot the victim's car in the windshield, and that's
14 when I saw the blood from the victim. I saw, like, his
15 head, like, go down. Got hit with the gun.

16 Q Where did y'all go after you pulled in front of the
17 Tahoe and fired?

18 A We went to Tronahz's friend house after that. It's
19 on the back road right close -- closer to his mother's
20 house. We went there. There, I called the mother of my
21 child and told her to come pick me and my little brother
22 up. Then she came to pick us up.

23 Q Who did she pick up?

24 A She picked up me, my brother Travontae Mitchell.
25 She picked up Dime, Che, and Mikkie. And she dropped them

1 off to their designated area in Crabtree Apartments, and
2 me and my girlfriend and my daughter and my brother, we
3 went to my cousin's house.

4 Q And let me show you something that's been marked --

5 MS. LIVESAY: Where is that CD? I think I had you
6 mark it. Hold on one second.

7 One second, Judge.

8 THE COURT: All right.

9 MS. LIVESAY: I have got it right here.

10 MR. BOUCHETTE: What is it?

11 MS. LIVESAY: The video from the apartment.

12 BY MS. LIVESAY:

13 Q I'm showing you State's No. 53. Do you see your
14 initials on that video?

15 A Yes, ma'am.

16 Q And have you watched the video?

17 A Yes, ma'am.

18 Q And does it show you and the codefendants going over
19 to the car that you were driving?

20 A Yes, ma'am.

21 Q And you say that after it was all over, your baby
22 mama, Sarah Hemingway, picked you up?

23 A Yes, ma'am.

24 Q What kind of vehicle was she driving?

25 A A minivan.

1 Q A minivan?

2 A Yes, ma'am.

3 Q And the video also shows y'all coming back in the
4 minivan to that apartment; is that correct?

5 A Yes, ma'am.

6 Q And it also shows Tronahz bringing the car back to
7 the apartments; correct?

8 A Yes, ma'am.

9 Q Okay. So it shows all of y'all going to the vehicle
10 that was used in this shooting; correct?

11 A Yes, ma'am.

12 Q Okay. And that is the car that was borrowed to get
13 behind Jamie Johnson; correct?

14 A It wasn't borrowed to get behind but that's what
15 happened.

16 Q Okay. So, ultimately, it was used to get behind
17 Jamie Johnson?

18 A Correct.

19 Q Okay. And you have seen the video on Wayside Drive;
20 is that correct?

21 A Yes, ma'am.

22 Q Does that video show y'all in that car behind Jamie
23 Johnson and the people in his car?

24 A Yes, ma'am.

25 Q Okay. So that video is dead accurate, that Ring

1 camera video?

2 A Yes, ma'am.

3 Q Okay. And I'll show that.

4 Now, you tell these folks, who was in the car when
5 y'all were behind the victim on Wayside Drive?

6 A Me, Travontae, Don, Che, Tronahz, and Mikkie McLeod.

7 Q And was Che Ransom in the car?

8 A Yes, ma'am.

9 Q So six of y'all?

10 A Yes, ma'am.

11 Q Okay. And let me make sure I got it right. Don
12 Brown?

13 A Yes, ma'am.

14 Q You?

15 A Yes, ma'am.

16 Q Tronahz Whittington?

17 A Yes, ma'am.

18 Q Che Ransom?

19 A Yes, ma'am.

20 Q Mikkie McLeod?

21 A Yes, ma'am.

22 Q And your brother Travontae Mitchell?

23 A Yes, ma'am.

24 Q Okay. So y'all are all in that car behind Jamie;
25 correct?

1 A Yes, ma'am.

2 Q Okay. At some point, y'all passed the Tahoe;
3 correct?

4 A Yes.

5 Q Okay. And you pull in front of it; is that right?

6 A Correct.

7 Q Okay. Now, when you looked over to the right when
8 you were passing the car --

9 A Yes, ma'am.

10 Q -- did you see Jamie Johnson in the Tahoe?

11 A Yes, ma'am.

12 Q And what color is his hair?

13 A Red. Reddish.

14 Q So you got a good look inside the Tahoe?

15 A Yes, ma'am.

16 Q Okay. Okay. And this State's Exhibit No. 53 shows
17 y'all all going to the car used; correct?

18 A Yes, ma'am.

19 MR. GARDNER: Your Honor, this is her witness. I'd
20 object to the leading.

21 THE COURT: All right. Let's don't lead.

22 MS. LIVESAY: I'm sorry. I'm just trying to
23 expedite.

24 THE COURT: I understand, but don't lead.

25 MR. GARDNER: I'm sorry. I couldn't hear what the

1 solicitor said, Your Honor.

2 THE COURT: She said she was trying to expedite, and
3 I still sustained the objection and told her don't lead
4 the witness.

5 BY MS. LIVESAY:

6 Q You have seen the video?

7 A Yes, ma'am.

8 Q Is everything on the video accurate?

9 A Yes, ma'am.

10 Q And are you on the video?

11 A Yes, ma'am.

12 Q The car y'all used on the video?

13 A Yes, ma'am.

14 Q Your baby mama's car on the video?

15 A Yes, ma'am.

16 MS. LIVESAY: Your Honor, at this time, the State
17 wishes to place State's evidence -- I'm sorry, Exhibit 53
18 into evidence and publish it to the jury.

19 THE COURT: All right. Mr. Bouchette?

20 MR. BOUCHETTE: Your Honor, pursuant to objection on
21 one of the last requests. This was not a video camera
22 that he maintains. He is not a proper person to
23 authenticate it or the custody of the record, so we'll
24 object on that basis, at least for it coming through this
25 witness.

1 THE COURT: All right. Mr. Pinkerton?

2 MR. PINKERTON: Your Honor, we would join
3 Mr. Bouchette on that motion. He's not the custodian of
4 this material. He's not the one that generated this
5 material. It's not proper to introduce it through him.

6 THE COURT: All right. Mr. Gardner?

7 MR. GARDNER: The objection is lack of foundation,
8 Your Honor.

9 THE COURT: All right. I'm going to admit
10 State's 53 over defendants' objections.

11 MS. LIVESAY: Thank you, Your Honor.

12 (State's Exhibit No. 53 was received into evidence.)

13 BY MS. LIVESAY:

14 Q Can you see this, Mr. Graham?

15 A Yes, ma'am.

16 Q Okay.

17 (State's 53/Video plays.)

18 BY MS. LIVESAY:

19 Q Mr. Graham, does that show the car that y'all
20 borrowed that day?

21 A Yes, ma'am.

22 MS. LIVESAY: And if you don't mind, could you get
23 me back to the front?

24 (Video plays.)

25 BY MS. LIVESAY:

1 Q Now, the time -- the time on the video. I have got
2 to have my little chart here for military time. It says
3 18:27. That would be around 6:27. Is that about when
4 y'all borrowed the car?

5 A Yes, ma'am.

6 Q Daylight hours?

7 A (Witness nods head in the affirmative.)

8 Q Okay.

9 THE COURT: You need to answer yes or no.

10 A Oh. Yes, ma'am.

11 MS. LIVESAY: Skip it just ahead until the folks are
12 walking over, if you don't mind.

13 (Video plays.)

14 BY MS. LIVESAY:

15 Q Do you recognize this man walking over?

16 A Yes, ma'am.

17 Q Who is it?

18 A Tronahz Whittington.

19 Q Okay. Have you seen this video before?

20 A Yes, ma'am.

21 Q Do you know who these fellows are here walking over
22 to the car?

23 A Yes, ma'am.

24 Q Tell these folks who they are.

25 A Don, Che, Travontae, Nahz, KJ (ph) --

1 Q I'm sorry?

2 A That's my cousin. That's the house we was at. He
3 was over there too.

4 Q So, if you don't mind -- can you see from where
5 you're at?

6 A Yes, ma'am.

7 Q Okay. Who is this fellow here in the dark pants and
8 blue shirt?

9 A That's Che Ransom. Che Ransom.

10 Q Okay. And who is this fellow in the white pants and
11 the dark hoodie?

12 A The gray? Actually, gray pants. That's Travontae.
13 Travontae, and they're actually gray pants.

14 Q Okay. So right here, the white pants, is Travontae
15 Mitchell, which is your brother?

16 A Yes, ma'am.

17 Q Okay. And who is this fellow in this kind of
18 stone-washed shorts?

19 A That's Mikkie McLeod.

20 Q Mikkie McLeod.

21 And then who is this fellow behind Mikkie McLeod?

22 A Is that khaki pants? Is that khaki pants? I can't
23 really see.

24 Q I'm sorry?

25 A Are those khaki pants? I can't really see.

1 I said, are those khaki pants? I can't really see.

2 Q Okay. Keep playing it.

3 A Okay. I can see now.

4 Q Do you know who that is in the khaki pants?

5 A Yes, ma'am. That's Don.

6 Q Who?

7 A Don Brown.

8 Q Don Brown. Okay.

9 Now, Tronahz is the man that already walked over

10 with the basketball shorts and no shirt?

11 A Yes, ma'am.

12 Q Okay. Now, have we seen you on the video yet?

13 A No, ma'am.

14 Q Okay. Where are you?

15 A I'm in the white --

16 Q By the white car?

17 A Yes, ma'am.

18 Q So who is this walking up to the car now?

19 A I think that's me.

20 Q That's you?

21 A Yes, ma'am.

22 Q Okay. And the time up here is 6:30. Is that

23 accurate as to when y'all met up with the owner of the

24 car?

25 A Yes, ma'am.

1 Q Okay. And who is the owner of the car? Do you
2 remember?

3 A De'Shon Samuels [sic].

4 Q Okay. De'Shon Samuels [sic].

5 A Yes, ma'am.

6 Q And that's who y'all borrowed the car from?

7 A Yes, ma'am.

8 Q And that happened around 6:30?

9 A Yes, ma'am.

10 Q Okay.

11 MS. LIVESAY: Do you mind adding that right here?

12 Just hit pause real quick. I apologize.

13 I'm sure yours is better than mine.

14 BY MS. LIVESAY:

15 Q Y'all made contact and borrowed the car around 6:30?

16 A Yes, ma'am.

17 Q And that's what's going on right here in the video?

18 A Yes, ma'am.

19 Q So what Mr. Helms wrote up here, "Borrowed car at
20 6:30 approximately," is that correct information?

21 A Yes, ma'am.

22 Q Okay.

23 MS. LIVESAY: Now, do you mind fast-forwarding it
24 until the black van comes back into the apartment?

25 (Video plays.)

1 BY MS. LIVESAY:

2 Q Do you recognize that black van?

3 A Yes, ma'am.

4 Q Hold on, hold on. Do you recognize that black van?

5 A Yes, ma'am.

6 Q Who is it?

7 A That's my baby mother's van.

8 Q And are y'all in the van?

9 A Yes, ma'am.

10 Q Okay. And it says here --

11 MS. LIVESAY: Could you stop it, Lacy?

12 BY MS. LIVESAY:

13 Q It says here 20:55. So that would be around 8:55.

14 Is that around the time y'all arrive back to these
15 apartments?

16 A Yes, ma'am.

17 Q Okay. It was dark by the time you arrived back?

18 A Yes, ma'am.

19 MS. LIVESAY: Okay. If you don't mind, just write
20 around here "8:55." Thank you, sir.

21 BY MS. LIVESAY:

22 Q Who is this here?

23 A Tronahz.

24 Q Okay. Now, the video doesn't have any sound. So
25 what is going on at this point?

1 **A** Okay. I pulled up to get me -- some buddies from
2 Tronahz is there. He wanted us to take him to his baby
3 mother's Daija's (ph) house. I told my baby mother, No, I
4 wasn't taking him anywhere. I didn't tell her why. I
5 just told him I wasn't taking him anywhere. That's why
6 he's coming to the car.

7 **Q** And y'all said, "No, you can't get no ride with us"?

8 **A** Yes.

9 **Q** Now, let me ask you something: You've already told
10 me who was in the car; correct?

11 **A** Yes, ma'am.

12 **Q** Okay. And do you remember where everybody was
13 sitting?

14 **A** Yes, ma'am.

15 **Q** Okay. So I want to write it down, and I want you to
16 look at it, and you tell me if what I have wrote down is
17 correct. Okay?

18 **A** Yes, ma'am.

19 **Q** Okay. So who was driving the car?

20 **A** Don Brown.

21 **Q** Okay. Now, does Don Brown have any nicknames?

22 **A** Quan. Call him Quan.

23 **Q** Quan? And what is his Facebook name?

24 **A** I really don't remember his Facebook name.

25 **Q** And who is sitting beside Don Brown?

1 **A** Me.

2 **Q** And what did they call you?

3 **A** Ray-Ray.

4 **Q** And who is sitting beside you?

5 **A** Tronahz.

6 **Q** And what do they call him?

7 **A** Draxo.

8 **Q** I'm sorry?

9 **A** Draxo.

10 **Q** Draxo.

11 Now, who was in the back of the car?

12 **A** Che, Mikkie, and Travontae.

13 **Q** And who was sitting beside Don Brown?

14 **A** Che Ransom.

15 **Q** And who was sitting beside Che Ransom?

16 **A** Travontae Mitchell.

17 **Q** And what did they call Travontae Mitchell?

18 **A** Tip.

19 **Q** How about Baby Klutch?

20 **A** I never called him that. I just called him Tip.

21 **Q** Is that his Facebook name?

22 **A** Used to be.

23 **Q** Used to be. Okay.

24 And then who is sitting beside Travontae Mitchell?

25 **A** Mikkie McLeod.

1 Q Now, you have told us -- pointed out in the video
2 who was who in the video. Do you remember that?

3 A Yes, ma'am.

4 Q Okay. Can you remember what everybody was wearing?

5 A Yes, ma'am.

6 MS. LIVESAY: Okay. If you don't mind, Mr. Helms...

7 BY MS. LIVESAY:

8 Q Tell me what you remember Don Brown was wearing.

9 A Black shoes, khaki pants, black shirt.

10 Q Black shirt and khaki pants.

11 And what were you wearing?

12 A I was wearing a black Champion windbreaker and blue
13 jeans.

14 Q I'm sorry?

15 A I was wearing a black Champion windbreaker and blue
16 jeans.

17 Q Okay. And what was Tronahz Whittington wearing?

18 A Black shorts and no shirt.

19 Q Okay. And what was Che Ransom wearing?

20 A Black pants and a blue shirt.

21 Q Okay. And what was your brother Travontae wearing?

22 A Light gray pants and I want to say a black -- black
23 hoodie. Black shirt, black hoodie.

24 Q Okay. So he was wearing light gray pants?

25 A Yes, ma'am.

1 Q Almost looked white in the video, didn't they?

2 A Yeah, from the sun reflection.

3 Q And how about Mikkie McLeod?

4 A Light shorts and a blue shirt.

5 Q Okay. I'm sorry; who was wearing the -- it looked

6 like white pants. You're saying light gray?

7 A They were gray. They were gray.

8 Q Okay. Who was that?

9 A Travontae.

10 Q Okay. And if we can -- okay.

11 So was anybody else wearing light gray pants other

12 than your brother?

13 A No. Well, Mikkie had gray and white shorts.

14 Q Okay. White shorts on. Stone-washed.

15 And would you agree, when you looked at the video,

16 the pants that your brother was wearing looked white?

17 A Kind of. Kind of.

18 Q Now, who all had a gun in the car?

19 A Me, Che, Mikkie, Tronahz.

20 Q And how about your brother Travontae?

21 A I didn't see Travontae with a gun.

22 Q Have you said in the past he had a gun?

23 A No. I said the same thing. I haven't seen

24 Travontae with a gun.

25 Q You never told the police he had a gun?

1 **A** No.

2 **Q** And what kind of gun did you have?

3 **A** A MAC-11.

4 **Q** And what kind of gun did Tronahz have?

5 **A** AR-15.

6 **Q** And what kind of gun did Che have?

7 **A** A .45.

8 **Q** A .45? And what kind of gun did Mikkie McLeod have?

9 **A** A 9mm handgun.

10 **Q** Now, you and Travontae are brothers?

11 **A** Correct.

12 **Q** Okay. Got the same mom?

13 **A** Correct.

14 **Q** And did y'all grow up together?

15 **A** Correct.

16 **Q** And is your mama here today?

17 **A** Yes, ma'am.

18 **Q** So we know Tronahz Whittington was in the car. We

19 know Travontae Mitchell was in the car. We know you were

20 in the car; correct?

21 **A** Correct.

22 **Q** And we know Che Ransom was in the car, Don Brown,

23 and Mikkie McLeod; is that right?

24 **A** Correct.

25 MS. LIVESAY: You don't have to fill it in. We can

1 wait and fill it in as we go.

2 BY MS. LIVESAY:

3 Q Now, I'm going to show you something that's already
4 put into evidence, 32. State's evidence No. 32. You have
5 seen the Ring camera?

6 MR. GARDNER: Excuse me, Your Honor. Do you mind if
7 I move this? We can't see what's going on over there.

8 MR. HELMS: Oh, I'm sorry.

9 BY MS. LIVESAY:

10 Q Can you see this, Mr. Brown?

11 A Yes, ma'am, I can see.

12 (Video plays.)

13 MS. LIVESAY: Just a little bit, if you don't mind.

14 (Video plays.)

15 MS. LIVESAY: I'm sorry. Go ahead and hit that.

16 BY MS. LIVESAY:

17 Q Do you recognize those two cars that just passed by?

18 A Yes, ma'am.

19 Q Is that y'all behind the victims on Wayside Drive?

20 A Yes, ma'am.

21 Q And was it still daylight?

22 A Yes, ma'am.

23 Q And is that time correct? Was it around 7:11 p.m.?

24 A Yes, ma'am.

25 Q Okay. So around 6:30, y'all are borrowing the car;

1 is that correct?

2 A Yes, ma'am.

3 Q And y'all are behind them on Wayside Drive by 7:11;
4 is that correct?

5 A Yes, ma'am.

6 Q And you were back at the apartments after dropping
7 everybody off before 9:00?

8 A Yes, ma'am.

9 And when you say, "Y'all borrowed the car," no one
10 borrowed the car but Tronahz. We just got a ride. We
11 didn't borrow the car. We had -- we didn't even know he
12 was given the car.

13 Q Okay. So who --

14 A So he borrowed the car. Tronahz borrowed the car.
15 We didn't borrow the car.

16 Q Okay. But you got in the car.

17 A Correct.

18 Q Okay. And everybody else got in the car.

19 A Correct.

20 Q Okay. Was anybody forced to get in the car?

21 A No, ma'am.

22 Q Okay. Okay. And you have already said that five of
23 you had a gun; is that correct? I'm sorry. Four of you.
24 You, Tronahz, Che, and Mikkie?

25 A Correct.

1 Q Okay. And did you have the gun when you got in the
2 car?

3 A Correct.

4 Q Did everybody else have their gun when they got in
5 the car?

6 A Correct.

7 Q Okay. So everybody gets in the car. You're saying
8 now four have a gun?

9 A Correct.

10 Q Okay. You get in. At some point, the Tahoe was
11 spotted; correct?

12 A Yes, ma'am.

13 Q Okay. And at some point, y'all get in behind the
14 Tahoe; correct?

15 A Yes, ma'am.

16 Q Okay. Now, supposedly, you're on the way to
17 somebody's mama's house; right?

18 A Tronahz's mother's house.

19 Q And at some point, you take a right off Wayside to
20 get on D Street; correct?

21 A Yes, ma'am.

22 Q And y'all are staying right in behind the victim's
23 house --

24 A Yes, ma'am.

25 Q -- the victim's car; correct?

1 A Yes, ma'am.

2 Q Okay. And the truth is, if you kept going straight,
3 you'd be able to get to Tronahz's mama's house?

4 A Both ways will get us to Tronahz's mama's house.

5 Q Okay. But y'all decided to take a right and keep on
6 behind the Tahoe; correct?

7 A Correct.

8 Q Okay. So what is the plan?

9 A Well, honestly, it wasn't really a plan. We didn't
10 really have a group discussion of what may happen. It
11 wasn't no plan. It was just -- it just happened. It just
12 happened. It was never a group discussion or a plan from
13 the start.

14 Q Now, at one time did you tell the police that a
15 robbery was discussed --

16 MR. GARDNER: Objection, Your Honor.

17 BY MS. LIVESAY:

18 Q -- prior to stopping the car?

19 MR. GARDNER: This is her witness. She's impeaching
20 her own witness.

21 THE COURT: I'm going to allow it.

22 Go ahead.

23 A Correct. Tronahz did state he wanted to rob the
24 car. Nobody else made a discussion about a robbery but
25 Tronahz.

1 BY MS. LIVESAY:

2 Q Okay. But the idea was brought up?

3 A Correct.

4 Q Okay. And, at some point, y'all passed the Tahoe;
5 is that right?

6 A Correct.

7 Q Okay. And you are able to see into the Tahoe?

8 A Correct.

9 Q Okay.

10 MR. BOUCHETTE: Objection to the leading of the
11 witness, Your Honor. We have been giving some leeway up
12 to this point. She's been leading now for an extended
13 period of time.

14 THE COURT: All right. Let's don't lead.

15 BY MS. LIVESAY:

16 Q At some point, does your -- the car you're in cut
17 the Tahoe off?

18 A Yes, ma'am.

19 Q And could the Tahoe go anywhere?

20 A No, ma'am.

21 Q Okay. So you had the Tahoe trapped in, the car did?

22 A Yes, ma'am.

23 Q Now, more than just Tronahz got out of the car?

24 A Correct.

25 Q How many people are you saying today got out of the

1 car?

2 A Three people. Three people.

3 Q Okay. At least three people?

4 A Correct.

5 Q So who are you saying today got out of the car?

6 A The same people I said when I got picked up three
7 years ago. Tronahz got out of the car. Che Ransom got
8 out of the car. Mikkie McLeod got out of the car.
9 Travontae stepped out of the car and quickly got back in,
10 so I guess you could count that as getting out of the car.

11 Q Now --

12 A I also leaned my head out of the car.

13 Q How many people fired?

14 A Three people.

15 Q Three people fired?

16 A Correct.

17 Q Okay. And so we should find three different shell
18 casings; correct?

19 A Correct.

20 Q Okay. Okay. And what is the car doing while
21 everybody is outside firing?

22 A Still there.

23 Q Just sitting there?

24 A Yes, ma'am.

25 Q And do you see when the Tahoe ultimately stops?

1 A Yes, ma'am.

2 Q Okay. And once the Tahoe ultimately stops, what
3 does everybody in your car do?

4 A Everybody -- I mean, everybody -- like I said, three
5 people got out. Travontae stepped out and got back in.
6 Don didn't even get out of the car, so...

7 That's the status of everybody.

8 Q So once the Tahoe stopped, did everybody get back in
9 the car?

10 A When the Tahoe stops?

11 Q Yes. Did you see ultimately when the Tahoe stopped,
12 quit moving?

13 A Yes, ma'am. He stopped at a stop sign. He was at a
14 stop sign.

15 Q Okay. And, at that point, did Tronahz and the
16 people in the back get back in the car?

17 A When he stopped? They wasn't out the car until --
18 he was already stopped before they got out of the car.
19 The Tahoe was at a stop sign before they even stepped out
20 of the car.

21 Q How about your car?

22 A No.

23 Q After the shooting, did people get back in the car?

24 A Yes, ma'am.

25 Q Okay. And then did the car take off?

1 **A** Correct.

2 **Q** Okay. So when the people get out of the car, start
3 firing at the Tahoe, it's not like Quan takes off and
4 leaves anybody; correct?

5 **A** Correct.

6 **Q** He's sitting there waiting?

7 **A** Correct.

8 **Q** And when people get back in the car, he takes off?

9 **A** Yes, ma'am.

10 **Q** Now, how long does the shooting last?

11 **A** A couple of seconds.

12 **Q** Quick?

13 **A** Yes, ma'am.

14 **Q** Okay. During the shooting, at any point, do you see
15 the Tahoe moving?

16 **A** Well, he did drive back up. I think the car, like,
17 kind of jerked a little bit.

18 **Q** Okay. So, at some point, the Tahoe is trying to
19 move back up?

20 **A** Correct.

21 **Q** Okay. Now, you have said kind of two little
22 different things, and I want to make sure we're clear.
23 Okay?

24 **A** Okay.

25 **Q** And I could have misheard it. You know, I'm trying

1 to keep up with you.

2 When I asked you a minute ago about people getting
3 out of the car, you said Travontae hopped out and then
4 hopped back in; is that correct?

5 A Correct.

6 Q Okay. So is your testimony today that Travontae
7 hopped out and then hopped back in?

8 A Yes. He stepped out and stepped back in the car.

9 Q Okay. So did everybody in the back at some point
10 get out of the car?

11 A Yes, until the shooting.

12 Q Did, at some point, Che get out of the car?

13 A Yes, ma'am.

14 Q And, at some point, did Travontae jump out and then
15 jump back in the car?

16 A Correct.

17 Q And did Mikkie McLeod get out of the car and then
18 get back in the car?

19 A After the shooting, he got back in, correct.

20 Q And did Tronahz get out of the car and get back in
21 the car?

22 A Correct.

23 Q Okay. So a total of -- let me -- and you correct me
24 if I'm wrong; I'm trying to make sure I'm getting the
25 right information. So when y'all cut that Tahoe off --

1 A Yes, ma'am.

2 Q -- a total of one person jumps out of the front, and
3 that's Tronahz Whittington?

4 A Correct.

5 Q Okay. And a total of three people jump out the
6 back?

7 A Correct.

8 Q Now, what did Tronahz say before jumping out of the
9 car?

10 A He didn't say anything before he jumped out the car.
11 He just jumped out.

12 Q He just jumped out?

13 A Correct.

14 Q Okay. He didn't say nothing to you?

15 A No. Not before.

16 Q Okay. He just -- the car pulls in front of the
17 Tahoe --

18 A And he just gets out.

19 Q -- and he just jumps out?

20 A Correct.

21 Q Okay. And he don't say nothing to you?

22 A No, ma'am.

23 Q He don't say nothing to Don Brown?

24 A No. He just told Don Brown to stop the car. That's
25 all he did, told Don Brown to stop the car.

1 Q And that was after the shooting?

2 A No, that was before the shooting.

3 Q Before the shooting he said what?

4 A He told him to stop the car.

5 Q Okay. Did he say anything else to him?

6 A No, ma'am.

7 Q Okay. Did he say anything to Che Ransom?

8 A No, ma'am.

9 Q Did he say anything to your brother Travontae

10 Mitchell?

11 A No, ma'am.

12 Q Did he say anything to Mikkie McLeod?

13 A No, ma'am.

14 Q Okay. So he jumps out, and he never says, "Hey, you

15 better get out of the car"?

16 A No, ma'am. Never said that.

17 Q Okay. And then the three in the back file out?

18 A Correct.

19 Q Okay. So he didn't threaten anybody in the car?

20 A No, ma'am.

21 Q Okay. So whoever got out, got out on their own free

22 will?

23 A Correct.

24 Q And he didn't threaten to kill Don Brown?

25 A No, ma'am.

1 Q Okay. Okay. And when everybody gets back in the
2 car and y'all drive off, where do you drive to?

3 A To Tronahz's friend's house closer to his mom's
4 house on the back road. Ashlyn Estates, a trailer park.

5 Q Okay. Okay. And when you were there, what happens?

6 A Well, when I get there, Tronahz went in the house
7 and came out with his friend and then told everybody else
8 to come in. I called my baby mother to come get me from
9 Brown Swamp. Come get me and my little brother, actually.
10 I told her that, when she got to the store -- the gas
11 station, Henry's, to call on the phone so I can direct her
12 there because I didn't really know how to explain it
13 without directing her there. And I saw a whole bunch of
14 police. They already had the other road blocked off, so I
15 had to direct her to the house.

16 Q So you have to give her directions to how to you get
17 to y'all because all the police and everything are up
18 there?

19 A Yes, and I didn't know any other way. I didn't know
20 the road name or how to get there without directing her to
21 it, without directing her there. I didn't know how to
22 tell her how to get there without actually directing her
23 the whole way after Henry's.

24 Q Okay. So let me ask you something: I'm showing you
25 now State's 16. This area up here, are you familiar with

1 this area?

2 A Yes, ma'am.

3 Q Okay. Now, where did the shooting happen?

4 A D Street and Rose Moss.

5 Q If you don't mind, stand up and describe and point
6 it out to us.

7 A (Indicating).

8 Q Okay. And then where did y'all go after the
9 shooting?

10 A (Indicating).

11 Q Okay. So really right around the corner?

12 A Yes, ma'am.

13 Q And could you hear the sirens?

14 A Yes, ma'am.

15 Q And who all got in the car with Sarah Hemingway to
16 get a ride away from the area?

17 A Me, Travontae, Che, Mikkie, and Don.

18 Q So everybody other than --

19 A Tronahz, yes, ma'am.

20 Q Okay. Okay. And the black van is the van that we
21 saw on the video earlier?

22 A Correct.

23 Q But when we saw the video, Mikkie and Don and Che
24 had already been dropped off?

25 A Yes, ma'am.

1 Q Okay. And where were they dropped off?

2 A Crabtree Apartments.

3 Q Okay. Okay. Now, the three boys sitting at that
4 table --

5 A Yes, ma'am.

6 Q -- who are they?

7 A Don Brown, Travontae, and Che.

8 Q And these are the boys, correct, that were in the
9 car with you that day?

10 A Correct.

11 Q Okay. And that's the Don Brown that was driving
12 that cut the Tahoe off?

13 A Correct.

14 Q And that's the Travontae and Che that hopped out the
15 back?

16 A Correct.

17 Q Now, you are here testifying. Have you been
18 promised anything from myself or anybody at the
19 solicitor's office?

20 A No, ma'am.

21 Q Have any of your charges been dismissed?

22 A No, ma'am.

23 Q Have you received any kind of plea offer on any of
24 the charges?

25 A No, ma'am.

1 Q Okay. And do you have an attorney?

2 A Yes, ma'am.

3 Q Okay. And have you ever spoken with me or anybody
4 from the solicitor's office without your attorney present?

5 A No, ma'am.

6 Q And did you talk to the police at some point?

7 A Yes, ma'am.

8 Q Okay. And did you tell the police what you're
9 telling us?

10 A Three years ago when I first got picked up, the
11 exact same statement I'm giving now.

12 Q And do you expect anything at all in return for your
13 testimony?

14 A Leniency.

15 Q That's what you're hoping for?

16 A Yes, ma'am.

17 Q But has anybody promised it to you?

18 A No, ma'am.

19 Q Mr. Graham, before I sit down, I want to make sure
20 what I wrote on that other pad is correct. Okay?

21 A Yes, ma'am.

22 Q So I want you to take a look at it and you tell me.
23 Is this where the -- this is the steering wheel, so this
24 is driver's side, this is the passenger side. Is this
25 correct as to how you testified as to everyone's location

1 in the vehicle?

2 A Yes, ma'am.

3 MS. LIVESAY: Your Honor, at this time, the State
4 wishes to mark this and enter it into evidence.

5 THE COURT: Mr. Bouchette?

6 MR. BOUCHETTE: Oh sorry, Your Honor.

7 THE COURT: Any objection?

8 MR. BOUCHETTE: No objection.

9 MR. PINKERTON: No objection, Your Honor.

10 MR. GARDNER: No objection, Your Honor.

11 THE COURT: All right. How is it going to be
12 marked?

13 COURT REPORTER: State's No. 54.

14 THE COURT: State's No. 54, admitted into evidence
15 without objection.

16 (State's Exhibit No. 54, Enlarged Chart, was marked
17 for identification and received into evidence.)

18 MS. LIVESAY: One second, Judge, please.

19 No further questions, Your Honor. We're going to
20 move all this stuff.

21 THE COURT: All right. Mr. Bouchette,
22 cross-examination?

23 MR. BOUCHETTE: Your Honor, in full disclosure,
24 given the length of the witness's testimony, I'm not sure
25 how long cross-examination may extend. This might be a

1 good breaking point for the day if the Court's agreeable
2 to it.

3 THE COURT: All right. Any objection from the State
4 for going ahead and recessing for the day?

5 MS. LIVESAY: Can we approach just one second?

6 THE COURT: All right.

7 BENCH CONFERENCE

8 (The following bench conference was held outside the
9 hearing of the jury and others:)

10 MS. LIVESAY: I have no objection, but let me just
11 tell y'all, I have no control over this man.

12 THE COURT: That's exactly right. And he may go out
13 and he may discuss everything.

14 MS. LIVESAY: I'm just saying, I have no control
15 over him. I don't know who that woman was walking back
16 there.

17 THE COURT: I understand that.

18 MR. BOUCHETTE: All things being equal.

19 THE COURT: Do you want to cross-examine him first
20 or break for the day?

21 MR. BOUCHETTE: I'd rather still do him in the
22 morning, and plus I have a -- I represent the Town of
23 Surfside Beach. I have a meeting later on this evening,
24 so I'd like to --

25 THE COURT: Well, that's fine. And I don't mind

1 breaking for the day, but you're doing so -- I'll tell him
2 not to discuss his testimony.

3 MR. BOUCHETTE: Yes, sir. I understand.

4 THE COURT: But if it's out of control, that's just
5 a chance you're taking.

6 MR. BOUCHETTE: Yeah, I understand.

7 (Open court resumes:)

8 THE COURT: All right. Any objection from the
9 State?

10 MR. HELMS: No, Your Honor.

11 THE COURT: Mr. Pinkerton, any objection?

12 MR. PINKERTON: No, Your Honor.

13 THE COURT: Mr. Gardner, any objection?

14 MR. GARDNER: No, sir. No objection.

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to go ahead and recess for the evening. I'm going
17 to ask tomorrow that you please be back again at 9:00.

18 Do not discuss the case. Do not conduct any
19 independent investigations. I hope everybody has a good
20 evening, and we'll see you back at 9:00 tomorrow morning.
21 Thank you very much.

22 (The jury exited the courtroom at 5:18 p.m.)

23 THE COURT: Mr. Graham, we're still in the middle of
24 your testimony, so the law says you cannot discuss your
25 testimony or anything about this case with anyone. You

1 cannot discuss it with any friends. You cannot discuss it
2 with any family members. You cannot discuss it with the
3 State's attorney, the defense attorneys, the defendants,
4 or anyone. You cannot talk about this case over tonight
5 with anyone. Do you understand that?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right. If you do discuss it with
8 anyone and if the Court finds out that you discussed it
9 with anyone, you are subject to being held in contempt.
10 And if you're held in contempt, I could sentence you to a
11 year in prison, fine you \$1,500, and/or subject you to 300
12 hours of community service. Do you understand that?

13 THE WITNESS: Yes, sir.

14 THE COURT: The best thing is do not discuss this
15 case with anyone at all until you take the stand again
16 tomorrow. Do you understand that?

17 THE WITNESS: Yes, Your Honor.

18 THE COURT: Anything further from the State?

19 MR. HELMS: Yes, Your Honor.

20 THE COURT: All right.

21 MR. HELMS: As the Court is well aware, this witness
22 is the brother of one of the defendants on trial. They
23 have constant communication with each from the jail. I
24 would like and I would ask, respectfully, that they be
25 instructed that not occur tonight.

1 THE COURT: Yeah. You are to have no contact with
2 anybody -- any defendants or any witnesses involved in
3 this case. Okay?

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. Anything further from the
6 State?

7 MR. HELMS: Mr. Gardner had an issue.

8 MR. GARDNER: I have an issue.

9 (Counsel conferring off the record.)

10 MR. GARDNER: Since the jury has been sworn, my
11 client is on an ankle monitor. He's not missed any court.
12 He doesn't have any problems showing up. I have met with
13 him many times in preparation. I still need to meet with
14 him a couple more times, and I would respectfully ask the
15 Court that he stay out until the end of the trial.

16 THE COURT: State's position?

17 MR. HELMS: I don't have any grounds to object. I
18 don't have any grounds.

19 THE COURT: And who is -- this is --

20 MR. HELMS: Don Brown.

21 MR. GARDNER: He's on a house arrest ankle monitor.

22 THE COURT: All right. So he remains on ankle
23 monitor. And I'm assuming he was out on bond?

24 MR. GARDNER: Yes, sir.

25 THE COURT: Oh, okay. And since we have started --

1 MR. GARDNER: Since we've started and sworn the
2 jury, I just wanted to bring it to your attention.

3 MR. HELMS: My biggest concern, Your Honor, in all
4 honesty, would be appearing for trial.

5 MR. GARDNER: Yeah, he's been here.

6 THE COURT: All right. I'll allow him to stay out.

7 MR. GARDNER: Thank you, Judge.

8 Thank you, Solicitor.

9 THE COURT: Anything, Mr. Bouchette, before we
10 recess?

11 MR. BOUCHETTE: No, sir.

12 THE COURT: Mr. Pinkerton, anything before we
13 recess?

14 MR. PINKERTON: No, Your Honor.

15 THE COURT: Anything else from the State before we
16 recess?

17 MS. LIVESAY: No, sir.

18 THE COURT: All right. So we'll go ahead and we'll
19 stand in recess. I'll take the bench at 9:15 tomorrow
20 morning. Thank you very much.

21 (The trial adjourned for the day at 5:21 p.m.)

22 WEDNESDAY, MAY 24, 2023

23 (The trial resumed at 9:20 a.m.)

24 THE COURT: Anything from the State before we bring
25 the jury in?

1 MS. LIVESAY: No, sir.

2 THE COURT: All right. Can we move these over? I
3 can't see the defense.

4 MR. HELMS: Yes, Your Honor. Of course.

5 THE COURT: All right. Mr. Bouchette, anything
6 before we bring the jury?

7 MOTIONS/MATTERS OF LAW

8 MR. BOUCHETTE: Your Honor, I don't have anything.
9 Just for planning purposes, it seems like we're going in
10 the same pattern as we did in the last trial. I would
11 just remind the Court and request that, before we get any
12 witnesses, that we discuss testimony with -- codefendants,
13 that I may have my Crawford motion heard. But I don't
14 know when they're going to call those witnesses and what
15 the scheduling plan is, but I just wanted to remind the
16 Court of that.

17 THE COURT: Okay. Well, and I'll be honest with
18 you. I have gone back and I've read Crawford, and
19 Crawford was a totally different issue. Crawford -- I
20 mean, this is a Bruton issue. Crawford dealt with you had
21 hearsay -- whether or not an out-of-court statement --

22 MR. BOUCHETTE: Correct.

23 THE COURT: -- that was a hearsay exception because
24 it was an excited utterance, whether or not that violated
25 the defendant's confrontation clause.

1 MR. BOUCHETTE: Correct.

2 THE COURT: It was not a codefendant's statement. I
3 think Bruton is the one that's right on point here. They
4 can use a codefendant's statement as long as it is
5 redacted to where it does not implicate any of the other
6 codefendants.

7 MR. BOUCHETTE: Is that the Court's ruling now or
8 would you like to, when they call that witness, go through
9 it at that time.

10 THE COURT: Well, I mean, I have gone back and read
11 Crawford, and I made the ruling last time and you said
12 that Crawford applied, and so, I went back and reread it,
13 and it doesn't apply, in my opinion.

14 MR. BOUCHETTE: With regard to the Court's reason,
15 we'd like to put on the record State v. Mitchell, that
16 South Carolina case that dealt with the codefendant's
17 testimony in a case. Again, not arguing with the Court's
18 ruling.

19 THE COURT: But what I'm saying is, is if it doesn't
20 implicate your client -- if there is nothing in the
21 statement that implicates your client or whatever
22 implicates your client in the statement has been redacted,
23 then there's no confrontation problem.

24 MR. BOUCHETTE: I mean --

25 THE COURT: How can your client -- how can there be

1 a violation of your client's right to confront his accuser
2 when there's nothing in the statement that accuses him?

3 MR. BOUCHETTE: Well, Crawford doesn't draw as much
4 of a distinction about it having to be prejudicial and be
5 incriminating. Crawford just says if it's testimonial.
6 If it falls in that testimonial category and has the right
7 to cross-examine him, then it triggers it. If it's not in
8 testimony, then we go into the Bruton.

9 THE COURT: But, in Crawford, it was still a
10 confrontation problem because the out-of-court statement
11 implicated the defendant. Here, the out-of-court
12 statement is not going to implicate your client.

13 MR. BOUCHETTE: I certainly understand the Court's
14 ruling. I'm not arguing with it, but as I read Crawford,
15 I think you don't have to go through necessarily the
16 implication if he is testifying in a testimonial capacity
17 about anything relevant in this case, then we don't have
18 to a right to cross-examine him about anything he says
19 because he's taking the Fifth. Therefore, that category
20 of statements -- police interrogations -- then that's what
21 Crawford says, even if it's not -- you don't go through
22 the prejudice analysis, that it's not admissible.

23 THE COURT: But how does that violate your client's
24 constitutional right to confront his accuser when the
25 statement is not accusing? There's no prejudice to your

1 client created by the statement. It doesn't say he did
2 it. Everything's been redacted. It's no evidence of
3 guilt against your client.

4 MR. BOUCHETTE: But it's still a witness against the
5 client. And so if the witness is providing whatever
6 testimony is favorable to the State, which presumably it
7 will be favorable to the State or they wouldn't be
8 introducing it, that that is what we then don't have a
9 right to cross-examine.

10 THE COURT: Well, I mean, I'm sure it's going to be
11 prejudicial to the defendant that made the statement
12 because they can use it as a confession or whatever.
13 They're entitled to do that as long as -- Bruton just says
14 that, if they do that, they have to make sure that it does
15 not violate a codefendant's right to confront an accuser.
16 That's why you have to redact any reference to the
17 codefendant.

18 I mean, it used to say it was just by name and then
19 it went to now you can't even say another person. You
20 can't do anything that implicates another person sitting
21 there at the defendant's table, is the way I read it.

22 I mean, I understand your argument. I disagree with
23 it, because I don't know that your client's constitutional
24 right to confront an accuser is violated -- the statement
25 being introduced is nothing -- no evidence against your

1 client. It doesn't implicate your client in any way.

2 MR. BOUCHETTE: Well, I certainly understand the
3 Court's ruling. I'll renew it at the appropriate time,
4 but I presume that, if we are proceeding under the Bruton
5 redaction, we're going to have some kind of hearing that's
6 going to figure out where we -- or at least have a
7 statement showing this is what they intend to introduce in
8 advance of the actual showing.

9 THE COURT: I mean, is that what y'all -- are we
10 going to do that, play the statement first so the Court
11 can ensure that it doesn't violate Bruton?

12 MS. LIVESAY: We're not going to play the statement
13 just for that purpose. We're not going to use any
14 recording. We are only going to use the testimony of the
15 officer to ensure that there are no Bruton issues.

16 We have already discussed with the officer -- one
17 officer -- well, actually two, because two different
18 people questioned one of the defendants. They will only
19 testify as to that one defendant, and we're calling a
20 separate investigator to testify to the statement as to
21 the other defendant. So there's no crossover at all.

22 So two will come in and say, "Hey, I just talked to
23 Travontae Mitchell. This is what Travontae told me he
24 did." That will be over. And then we will call a
25 separate investigator that will say, "Hey, I talked to Che

1 Ransom. This is what Che told me he did." And that will
2 be it.

3 MR. BOUCHETTE: We'll just cross him -- my concern,
4 as I'm thinking out loud, is that, if they do that,
5 Mr. Gardner, for example, elicits testimony from the
6 officer that says -- as an example, I heard Officer Jones
7 in regards to Mr. Mitchell. He took certain actions. He
8 did that based on the information that was provided to him
9 about Che Ransom. And what was the information Che Ransom
10 gave you that made you take these actions?

11 Now, that's a statement that gets elicited on
12 cross-examination, which he's entitled to do, which may
13 very well implicate Mr. Ransom.

14 THE COURT: I don't know. We'll have to wait and
15 see. I mean, there are a million possibilities out there
16 but that doesn't make it inadmissible. I mean, if they
17 violate the rules -- if they violate Bruton, you'll be
18 entitled to a mistrial -- okay? -- if it's unduly
19 prejudicial to your client. But I'm not going to rule
20 that a statement that is clearly admissible under the
21 Rules of Evidence and under Bruton is not going to be
22 admitted because you think they might exceed Bruton. All
23 right?

24 MR. BOUCHETTE: Thank you, Judge.

25 THE COURT: All right. Mr. Pinkerton, anything

1 further?

2 MR. PINKERTON: Your Honor, on behalf of Shamontae
3 Graham, we just join Mr. Bouchette on that objection.

4 THE COURT: All right. And Mr. Gardner?

5 MR. GARDNER: Thank you, Your Honor. I have three
6 matters I need to take up with you, if I may.

7 THE COURT: All right.

8 MR. GARDNER: First of all, for impeachment
9 purposes, we would like the criminal record of the
10 defendant -- the criminal defendant that testified or is
11 about to be cross-examined.

12 THE COURT: All right. Do you have his criminal
13 record?

14 MR. HELMS: Yes, sir.

15 THE COURT: Mr. Graham's criminal record.

16 (Counsel conferring off the record.)

17 MR. GARDNER: On the record, Your Honor, I'm sorry.
18 The solicitor has shared with me what appears to be the
19 NCIC criminal history information of the witness,
20 Shamontae Graham, and it looks like he has a conviction of
21 unlawful carrying of a weapon, and that's a misdemeanor.
22 It carries up to --

23 MR. HELMS: A year.

24 MR. GARDNER: -- one year.

25 THE COURT: And when was that from?

1 MR. GARDNER: That is from --

2 MR. HELMS: 2020.

3 MR. GARDNER: -- 2020.

4 THE COURT: Okay. You can use that to impeach him.

5 MR. HELMS: Your Honor, with respect, the rule says
6 if it doesn't carry over a year, it can't be used.

7 THE COURT: Oh, is it over a year?

8 MR. HELMS: Yes.

9 THE COURT: Okay. Well, then, if that's what the
10 rule says, then that's what it says, unless it's a crime
11 of moral turpitude.

12 MR. GARDNER: And I don't see anything else on
13 there. I'll let y'all look at it.

14 Thank you, Solicitor.

15 Thank you, Your Honor.

16 No. 2, Your Honor, yesterday during the redirect of
17 Jacob Hill, the question was posed to the witness by the
18 solicitor that "Mr. Gardner asked you a certain question,"
19 and I wasn't able to -- because of the procedures on
20 recross, I wasn't able to address that, but I did address
21 it at the bench, and you said I could put it on the record
22 later.

23 There's a dispute over what that testimony was. I
24 think it's critical. We had a similar issue in a trial
25 that we did -- it seems like yesterday but it was probably

1 last year. I believe you might have been the judge. It
2 was a three-week-long trial.

3 And the court reporter on her own said, "I can
4 produce the statement of what the witness said and email
5 it to the State and to the defense." I would ask, as a
6 remedy to this issue, that if the court reporter could
7 provide the State and the defense with this transcript of
8 the direct -- I'm sorry, let me rephrase -- of my
9 cross-examination of Jacob Hill and the solicitor's
10 redirect.

11 THE COURT: What is it you're saying they elicited
12 that was incorrect?

13 MR. GARDNER: She said, "Mr. Gardner asked you" --
14 let me find it; I had it tabbed. "Mr. Gardner asked you
15 if you saw Don Brown," and he said yes, that he did ask
16 you that.

17 I don't believe I asked that question because why
18 would I? Because nobody saw Don Brown. Don Brown is the
19 alleged driver. He didn't get out. Why would I ask that
20 and why would the solicitor ask that?

21 THE COURT: Well, based upon you're saying you don't
22 remember that, I'm not going to require --

23 MR. GARDNER: Well, I think what's important, Your
24 Honor, is the witness said I did, so that's what the jury
25 just heard. And they didn't get a chance to hear me

1 recross on that one issue.

2 THE COURT: Are you saying that you didn't say that?

3 MR. GARDNER: I'm saying I didn't say that. Why
4 would I, Your Honor?

5 THE COURT: Well, I don't remember whether you said
6 it or not. It's going to be up to the jury to remember
7 what you said.

8 MR. GARDNER: And I think the transcript would clear
9 it up, and if the transcript says I said it, my apologies
10 to everybody and it's a moot point. If the transcript
11 says that he said it, then I'll at least be able to use it
12 in my closing.

13 THE COURT: Well, I don't think you can use it in
14 your closing anyway. If you're saying you didn't say it,
15 then, in your closing, just say you didn't say that.

16 MR. GARDNER: Okay. That's the Court's ruling?

17 THE COURT: They're going to say you did say it, and
18 it's going to be up to the jury to recall what you
19 actually said.

20 MR. GARDNER: Very well, Your Honor. Thank you.

21 The next one is just as serious as those two are,
22 not more serious but as serious. There's been an
23 allegation or at least -- maybe "allegation" is not the
24 correct word, but we've had difficulties with this jury
25 all week long, and my client has brought to the sheriff's

1 attention that -- and I don't know which juror it was, but
2 the jurors on two occasions made some type of gesture or
3 eye contact or something with one of the witnesses that
4 testified yesterday.

5 I don't know if it's just a "hey, how are you" or if
6 it's they know each other or they're making a connection.
7 But this is a murder trial, and I thought I would bring it
8 to the Court's attention, especially in light of the fact
9 that we have had prior issues with this jury.

10 THE COURT: So what did the juror do?

11 MR. GARDNER: Where is Mr. Hargrove?

12 I can have my client say what he --

13 Stand up. What exactly did the juror do?

14 DEFENDANT BROWN: (Inaudible; talking to
15 Mr. Gardner.)

16 THE COURT: I didn't hear him.

17 MR. GARDNER: You have to say it --

18 DEFENDANT BROWN: He looked at him in the eye.

19 THE COURT: He looked at him in the eye? Okay.

20 Jurors often look at witnesses in the eye.

21 All right. Anything else?

22 MR. GARDNER: How many times did he do it?

23 DEFENDANT BROWN: He did it to him, and then when he
24 was walking out.

25 MR. GARDNER: One time or two times?

1 DEFENDANT BROWN: When he was walking up.

2 MR. GARDNER: When he was walking one time or
3 walking out more than one time?

4 DEFENDANT BROWN: One time.

5 MR. GARDNER: Just one time?

6 THE COURT: Jurors are supposed to observe the
7 witnesses. They're supposed to look at them.

8 MR. GARDNER: I think what my client is concerned
9 about, Your Honor, is when they're walking out, they've
10 been dismissed for the day and they're walking out, and he
11 gives him the nod as he's walking out.

12 THE COURT: Well, he didn't say he gave him a nod.
13 All I heard him say is that he looked at the witness.

14 MR. GARDNER: All right.

15 (Counsel conferring with Defendant Brown off the
16 record.)

17 DEFENDANT BROWN: It was a nod, sir.

18 THE COURT: What did he do?

19 DEFENDANT BROWN: When he was walking out and they
20 was going out, he just nod at him, and Jacob Hill was just
21 smiling.

22 THE COURT: All right. I don't think that's
23 sufficient.

24 MR. GARDNER: Thank you, Judge. Thank you.

25 THE COURT: All right. Anything else?

1 MR. GARDNER: Oh, and for the record, we would join
2 with any objections and motions made by the other two
3 lawyers for the defense.

4 THE COURT: All right. Let's bring the jury in.

5 MS. LIVESAY: Do you want Mr. Graham on the bench?

6 THE COURT: No, when the jury gets back in, I'll
7 recall him and put him under oath again, and then we'll
8 start with cross-examination.

9 MR. PINKERTON: Your Honor, before the jury comes
10 in --

11 THE COURT: Hold for a second. Hold them up.

12 MR. PINKERTON: I would join Mr. Gardner on his
13 objection.

14 THE COURT: Do what? I'm sorry; say that again.

15 MR. PINKERTON: I would join with Mr. Gardner on his
16 objection with the juror for the record.

17 THE COURT: All right. So what is it you're asking
18 me to do?

19 MR. PINKERTON: Your Honor, we would like the juror
20 questioned if he knows Jacob Hill, if he has any contact
21 with Jacob Hill, any personal relationship with Jacob
22 Hill, because it seems he does seem to know one of the
23 victims in this case, Your Honor, according to
24 Mr. Gardner's --

25 THE COURT: Because he looked at the witness and

1 nodded?

2 MR. PINKERTON: Yes, Your Honor. I would just join
3 him on that motion.

4 THE COURT: All right. I don't think that's
5 sufficient.

6 All right. Anything else from the defense before we
7 bring the jury in?

8 MR. BOUCHETTE: No, sir.

9 THE COURT: Anything from the State before we bring
10 the jury in?

11 MS. LIVESAY: No, sir.

12 THE COURT: All right. Let's bring the jury in.

13 (The jury entered the courtroom at 9:38 a.m.)

14 THE COURT: Ladies and gentlemen, welcome back. I
15 hope everybody had a good evening. Again, I want to thank
16 you for being so prompt this morning. That's of great
17 assistance to the Court. We're now ready to resume the
18 trial of the case.

19 I'm going to ask, Mr. Graham, if you would come back
20 up and take the stand.

21 Let's put him under oath again.

22 THE CLERK: Please raise your right hand and place
23 your left hand on the Bible.

24 SHAMONTAE GRAHAM

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE CLERK: If you'd state your name and spell it
3 for the Court.

4 THE WITNESS: My name is Shamontae Graham.
5 S-h-a-m-o-n-t-a-e G-r-a-h-a-m.

6 THE COURT: All right, Mr. Bouchette.
7 Cross-examination.

8 MR. BOUCHETTE: Thank you, Your Honor.

9 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM
10 BY MR. BOUCHETTE:

11 Q Mr. Graham, good morning, sir.

12 A Good morning.

13 Q Let me start off a little bit from your testimony
14 yesterday. If I understood you, your testimony, both
15 yesterday and in prior trials, was that you saw the fatal
16 shot to Mr. Johnson; is that correct?

17 A Yes, sir.

18 Q Okay. You were standing nearby when Mr. Whittington
19 fired the shot from the AR-15?

20 A No, sir. I wasn't standing by. I was sitting in
21 the car.

22 Q You were in the car. But you saw the shot from
23 Mr. Whittington; correct?

24 A Yes, sir.

25 Q You saw it hit the windshield?

1 **A** Yes, sir.

2 **Q** You saw -- I believe your testimony is that you saw
3 blood?

4 **A** Blood spatter.

5 **Q** Blood spatter. Okay.

6 And you were watching the whole time?

7 **A** Not the whole time.

8 **Q** Let me rephrase that. From the time the bullet shot
9 until the time you saw the blood spatter, you were
10 watching that entire series of events?

11 **A** Yes, sir.

12 **Q** And you're confident that that was the kill shot?

13 **A** Yes, sir.

14 **Q** You're certain about that?

15 **A** Most definitely.

16 **Q** All right. Now, obviously, you didn't fire that
17 shot?

18 **A** Of course not.

19 **Q** And Che Ransom didn't fire that shot?

20 **A** Of course not.

21 **Q** Now, when the day began back in September of 2022,
22 did you have any plans of getting in any altercation or
23 have any kind of issue with Mr. Johnson?

24 **A** 2022, I was in --

25 **Q** Excuse me, I apologize. 2020, when the incident

1 occurred.

2 A Did I have any problem with Mr. Johnson?

3 Q Correct.

4 A No, sir.

5 Q Okay. And that's what I'm saying. When the day
6 began, was there anything -- any contemplation in your
7 mind about getting into any kind of altercation with
8 Mr. Johnson?

9 A No, sir.

10 Q All right. And as far as you know, did Che Ransom
11 have any --

12 A No, sir.

13 Q Okay. All right. When you got in the car with
14 Mr. Whittington, did you have any plan or desire to get
15 into any kind of altercation with Mr. Johnson?

16 A No, sir.

17 Q To your knowledge, did Che Ransom have any beef or
18 plan to get into any kind of alteration with Mr. Johnson?

19 A No, sir.

20 MS. LIVESAY: Your Honor, I'd object. That's going
21 to call for speculation as to whether or not another
22 person in the car had a plan --

23 THE COURT: He said to his knowledge. I'll allow
24 it.

25 Overruled. Go ahead.

1 BY MR. BOUCHETTE:

2 Q At any point in time prior -- well, let me ask you
3 this: During the drive on the way towards D Street, prior
4 to Tronahz Whittington identifying the squatted Tahoe as
5 being that of Jamie Johnson, did you have any plan to get
6 into an altercation or have any issue with Mr. Johnson?

7 A No, sir.

8 Q To the best of your knowledge, did Che Ransom?

9 A No, sir.

10 Q In fact, nobody other than Tronahz Whittington was
11 able to point out or even identify Mr. Johnson's car;
12 correct?

13 A Nobody --

14 Q At least to the best of your knowledge.

15 A Not really. Tronahz really knew the car and the
16 person. He knew exactly who it was. So, I mean, I didn't
17 know. I never saw the car before.

18 Q And, to the best of your knowledge, Che Ransom
19 didn't?

20 A No.

21 Q Okay. And that's no, he didn't?

22 A No, he didn't.

23 Q Okay. Very good.

24 Now, you didn't provide the vehicle for
25 Mr. Whittington?

1 **A** No, sir.

2 **Q** Che Ransom didn't provide the vehicle for

3 Mr. Whittington?

4 **A** No, sir.

5 **Q** You didn't drive the vehicle?

6 **A** No, sir.

7 **Q** Che Ransom didn't drive the vehicle?

8 **A** No, sir.

9 **Q** You didn't supply Tronahz Whittington in advance of

10 this incident with the AR-15 that he used to shoot, did

11 you?

12 **A** No, sir.

13 **Q** Che Ransom didn't?

14 **A** No, sir.

15 **Q** You didn't dispose of Tronahz Whittington's weapon,

16 did you?

17 **A** No, sir.

18 **Q** Che Ransom didn't, did he?

19 **A** No, sir.

20 **Q** Do you know who did?

21 **A** No, sir.

22 **Q** You didn't provide any sort of advance information

23 or intelligence regarding where Mr. Johnson may be on that

24 day, did you?

25 **A** No, sir.

1 Q To the best of your knowledge, Che Ransom didn't,
2 did he?

3 A No, sir.

4 Q Now, when Mr. Whittington identifies Jamie's truck,
5 how long was it before he ultimately got out of the car
6 and opened fire?

7 A A minute or two minutes. A minute and a half down
8 the road. 60 seconds. 75 seconds.

9 Q All right. So let's talk about it. So within --
10 you agree fairly quickly?

11 A Yes, sir.

12 Q Between 60 and 75 seconds, he made the decision to
13 spontaneously get out of the car and fire at
14 Mr. Whittington -- or, excuse me, at Mr. Johnson; is that
15 correct?

16 A Correct.

17 Q Mr. Graham, you would agree with me those are the
18 actions of somebody who would be classified as a
19 cold-blooded killer; wouldn't you agree?

20 A Correct.

21 Q And after it was over, you didn't want him riding
22 with you and your child's mother, did you?

23 A No, sir.

24 Q You didn't want that cold-blooded killer riding in
25 the vehicle with you after what you had just seen, did

1 you?

2 A No, sir.

3 Q Was Che Ransom in the vehicle whenever you got in
4 the car with your child's mother?

5 A Yes, sir.

6 Q You weren't worried about Che Ransom, were you?

7 A No, sir.

8 Q Because he wasn't a cold-blooded killer like Tronahz
9 Whittington, was he?

10 MR. HELMS: Objection. Argumentative.

11 THE COURT: Overruled.

12 A No, sir.

13 BY MR. BOUCHETTE:

14 Q That's why you were comfortable with him getting in
15 the car, but you didn't want Tronahz to get in; correct?

16 A Correct.

17 Q Now, obviously, you and Che are associated or riding
18 with Mr. Whittington on this day back in September of
19 2020. How did you know Mr. Whittington?

20 A We grew up with him, juveniles, play together back
21 in the day.

22 Q Y'all just basically grew up together in the
23 neighborhood, that kind of thing?

24 A Yes, sir.

25 Q Now, to be fair to the jury, I mean, you knew in

1 advance of this incident that Mr. Whittington was no
2 angel; correct?

3 A That's correct.

4 Q Would that be a safe way to say it? He's had
5 run-ins with the law and that kind of thing?

6 A Correct.

7 Q All right. But was there anything in your mind at
8 the time of this incident that he would have been capable
9 of something like this, that he was that much of a
10 cold-blooded killer?

11 A No, never. Not for him to just kill somebody, no,
12 sir.

13 Q To the best of your knowledge, would that have been
14 something Che Ransom would have been aware of?

15 A No, sir.

16 Q No, he wouldn't have?

17 A No, he wouldn't have.

18 Q Okay. All right. Very good.

19 So, for purposes of this jury, you might not be able
20 to place themselves in a situation like you-all found
21 yourselves in back in September of 2020 in, you know, the
22 community you grew up in and the environment you're in.
23 It's entirely possible for somebody, with no desire to
24 commit a murder or have any bad acts, to find themselves
25 in a vehicle with a cold-blooded killer --

1 MS. LIVESAY: Your Honor, I'll have to object.

2 THE COURT: Hold for a second. We have got an
3 objection.

4 When she raises an objection, stop your question.

5 MR. BOUCHETTE: I didn't hear the objection, Your
6 Honor.

7 MS. LIVESAY: At this point, Mr. Bouchette is
8 testifying.

9 THE COURT: Sustained. Don't testify.

10 BY MR. BOUCHETTE:

11 Q Let me ask it this way: Would you agree that it
12 would be entirely possible or is entirely possible, based
13 on your experience, for somebody to be in a vehicle with
14 Mr. Whittington with no preplanned malice or plans to
15 commit a murder?

16 A Correct.

17 Q Okay. Because that was the case with you; correct?

18 A Yes, sir.

19 Q To the best of your knowledge, that was the case
20 with Mr. Ransom?

21 A Yes, sir.

22 Q I want to discuss one other issue that the jury
23 might be struggling with. When you were in the vehicle,
24 with no plan to commit a murder, you had a weapon still;
25 correct?

1 **A** Correct.

2 **Q** And it was a MAC-10; right?

3 **A** MAC-11.

4 **Q** MAC-11. I'm sorry.

5 So, I mean, Mr. Graham, that's a pretty serious
6 weapon. Are guns fairly common in your circle, in your
7 community, and the people you associate with?

8 **A** No, sir. Me, with the world today -- I was 19. I
9 was unlawfully carrying, not with the intent just to hurt
10 anyone but to protect myself.

11 **Q** Okay. Well, when you say to protect yourself, what
12 were you protecting yourself from?

13 **A** Anything. Getting robbed, getting harmed. You
14 know, just the world today. The place I live in, it's
15 kind of rough in the area. And I have been attacked
16 before, so I just wanted to prevent that from happening.

17 **Q** You have been robbed or attacked in your
18 neighborhood?

19 **A** No. I have been shot at before though.

20 **Q** Okay. All right. And your brother --

21 **A** And with my family, at that.

22 **Q** So you had a MAC-11 for purposes of self-protection?

23 **A** Yes, sir.

24 **Q** And your brother had a gun too; correct?

25 **A** I'm not sure if my brother had a gun or not.

1 Q Well, didn't you say your brother had a handgun?

2 A I don't recall saying that he had a handgun.

3 Q Have you testified before that he had a handgun?

4 A No, sir.

5 Q Okay. You testified previously in the trial of
6 Mr. Whittington; correct?

7 A Yes, sir.

8 Q Did you testify in that trial that your brother had
9 a handgun?

10 A No, sir.

11 Q Give me just a moment.

12 Mr. Graham -- let me ask you this, Mr. Graham, if
13 you saw a transcript of your proceedings, would that
14 refresh your recollection as to what you testified?

15 A Yes, sir.

16 Q All right. Let me show you -- see if that would
17 refresh your recollection. I want you to look at for me
18 page 352. If you'll look at the paragraph beginning at
19 No. 7 --

20 MS. LIVESAY: May I ask what he's showing the
21 witness?

22 THE COURT: He's showing him the transcript.
23 Give her the page and number.

24 MS. LIVESAY: Thank you.

25

1 BY MR. BOUCHETTE:

2 Q What I want you to do is, if you'll look at
3 paragraphs for me starting with 7 and then go down to the
4 end of the page. Don't read it out loud or say anything.
5 Just read it and see if that refreshes your recollection.

6 A Yes, sir. (Witness reads document.)

7 Q Particularly look at 13 through 17.

8 A Yes, sir. (Witness reads document.)

9 Q Okay. In that case, did you say that he had a --
10 well, let me ask you this: Does that refresh your
11 recollection that --

12 A Yes, sir.

13 Q -- that you did say that he had a handgun?

14 A Yes, sir. But a clarification: I didn't know he
15 had it at the scene. I found out he had a gun at the
16 second scene where me and my family was attacked, and they
17 asked me questions about both interviews.

18 Q Well, with regard to this incident, I mean, your
19 brother had his access to a handgun; correct?

20 A I didn't know that at the scene, just afterwards.

21 Q But as we sit here now, you know he had access to a
22 handgun; is that safe to say?

23 A Yes, sir.

24 Q Okay. All right. And you testified that you and
25 your brother -- let me ask you this: Did he have a

1 handgun for the same reasons that you did, if you know?

2 A Of course.

3 Q Okay. Is that a fairly common thing in your
4 community?

5 A No, sir, not -- it's not common. I mean, not my
6 community. Not in the area we're stationed in. Just our
7 area in the whole.

8 Q All right. In that area. Okay.

9 But, again, it was for self-protection purposes;
10 right?

11 A Yes.

12 Q Okay. All right. Now, so you would agree with me
13 that it's entirely possible for somebody to be in a
14 vehicle with someone like Tronahz Whittington, even armed,
15 and had no intent or had no desire to commit a murder;
16 true?

17 A Yes, sir. That's true.

18 Q And that's true for you; correct?

19 A Yes, sir.

20 Q And that would be true for Che Ransom as well;
21 correct?

22 A Yes, sir.

23 Q Okay. I want to talk a little bit about when the
24 shooting occurred. I would imagine that's a pretty
25 traumatic thing to witness; would you agree?

1 A Yes, sir.

2 Q All right. Were you paying pretty close attention
3 to what was going on?

4 A I mean, I can't say close attention. It was like a
5 shock really, but...

6 Q And were you -- let me ask you this: While you were
7 watching the shot that Mr. Whittington fired and the
8 aftermath of it, you didn't see where Che was firing;
9 correct?

10 A That's correct. That's correct.

11 Q Okay. For all you know, he was firing in an
12 entirely different direction from the direction of the
13 vehicle?

14 A That's correct.

15 Q For example, for all you know, he could have been
16 consciously trying to not shoot at the vehicle; correct?

17 A Correct.

18 Q All right. Because you didn't see that; correct?

19 A That's correct.

20 Q Okay. You have nothing in your testimony that you
21 can offer that would indicate that Che Ransom pointed and
22 directed that firearm and fired at that vehicle; correct?
23 Directly at the vehicle?

24 A Correct.

25 Q Okay. One last question: Mr. Ransom had a --

1 excuse me. It's your testimony Mr. Ransom has a gun as
2 well?

3 A Correct.

4 Q Was it a .45?

5 A Yes, sir.

6 MR. BOUCHETTE: No further questions, Your Honor.

7 THE COURT: All right. Mr. Pinkerton?

8 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

9 BY MR. PINKERTON:

10 Q Mr. Graham, thank you for being here today.

11 Travontae Mitchell, what relation is he to you?

12 A That's my brother.

13 Q Your brother?

14 To your knowledge, how old was he at the time?

15 A 16.

16 Q He was 16 at the time? So a juvenile?

17 A Yes, sir.

18 Q He was just trying to get a ride home that day;
19 right?

20 A Yes, sir.

21 Q To your knowledge, had he mentioned anything about
22 robbing or killing Jamie Johnson?

23 A No, sir.

24 Q To your knowledge, did he know Jamie Johnson?

25 A No, sir.

1 Q To your knowledge, did he know anybody else in Jamie
2 Johnson's car?

3 A No, sir.

4 Q You testified yesterday that he was wearing gray
5 pants; correct?

6 A Yes, sir, they were gray.

7 Q Not white pants, but gray pants?

8 A It wasn't white. It was gray.

9 Q It was gray pants.

10 A We still have them at the house.

11 Q All right. You also testified yesterday you didn't
12 see my client, Mr. Mitchell, with a gun at all, did you?

13 A Not at the scene, no, I did not.

14 Q Not at the scene?

15 You say you had no knowledge he had a gun?

16 A No, sir.

17 Q And you stated he got out of the car but then
18 immediately got back in?

19 A Yes, sir.

20 Q You never saw him fire a shot, did you?

21 A No, sir.

22 Q Never once saw a gun in his hand at the scene?

23 A No, sir.

24 Q Never once saw him fire a shot?

25 A No, sir.

1 Q But you did see Tronahz Whittington fire a shot;
2 correct?

3 A Correct.

4 Q What kind of gun did he have?

5 A AR-15.

6 Q And you stated he was the one that fired the kill
7 shot, as they say?

8 A Yes, sir.

9 Q Not Travontae?

10 A No, sir.

11 Q Never saw Travontae fire a shot?

12 A No, sir.

13 MR. PINKERTON: Thank you, Your Honor. No further
14 questions.

15 THE COURT: All right. Mr. Gardner?

16 MR. GARDNER: Thank you, Your Honor.

17 CROSS-EXAMINATION ON BEHALF OF DEFENDANT BROWN

18 BY MR. GARDNER:

19 Q I'll be brief. Once again, I think all the good
20 questions have been asked, but I want to make sure -- I
21 think some of the lawyers asked you about their client. I
22 represent Don Brown, so I just want to ask you about Don
23 Brown, same type of questions.

24 To your knowledge, Don Brown didn't have any issue
25 with Jamie; right?

1 A No, sir.

2 Q And there was no plan to kill Jamie?

3 A No, sir.

4 Q And Don didn't have a weapon?

5 A No, sir.

6 Q And Don didn't get out of the car?

7 A No, sir.

8 Q Okay. I do have to go into one thing. I told the
9 jury -- I don't know if you were here the first day --
10 that you and one other fellow would be testifying.

11 A Yes, sir.

12 Q And I told -- and you went into it. One of the last
13 things you said yesterday before we broke, that you're
14 expecting leniency?

15 A Yes, sir.

16 Q And that's why you're testifying?

17 A Yes, sir.

18 Q So, just for the record, you're charged with murder
19 and three types -- or three counts of attempted murder; is
20 that right?

21 A Yes, sir.

22 Q And that's the same thing that these three are
23 charged with?

24 A Yes, sir.

25 Q Okay. And murder -- they carry the same offense or

1 the same amount of time. Murder carries 30 --

2 MR. HELMS: Objection, Your Honor.

3 THE COURT: Can't get into the sentence.

4 MR. GARDNER: He's asking for leniency on a sentence
5 that carries a range.

6 THE COURT: Okay. I will allow that, because it
7 doesn't -- and I'll instruct the jury on that, because
8 this defendant is not on trial, but he is looking to seek
9 leniency. So I'll allow that. Go ahead.

10 BY MR. GARDNER:

11 Q So if you were to plead to the murder, you would get
12 somewhere between 30 years and life without parole; is
13 that right?

14 A Yes, sir.

15 Q And when you say "leniency," you're looking for --
16 what are you looking for, for leniency? You're looking
17 for less than murder; right?

18 A Yes, sir, because I didn't murder anyone.

19 Q So you're looking to get less than 30 because murder
20 would be 30?

21 A I'm looking to get what I deserve.

22 Q Because you didn't murder anybody?

23 A Correct.

24 Q Okay. And those three boys didn't murder anybody;
25 did they?

1 **A** Correct.

2 **Q** All right. Thank you, sir?

3 THE COURT: Redirect?

4 MS. LIVESAY: Just briefly, Judge.

5 REDIRECT EXAMINATION

6 BY MS. LIVESAY:

7 **Q** Good morning, Mr. Graham.

8 **A** Good morning.

9 **Q** Now, Mr. Bouchette asked you a question about who
10 fired the fatal shot. Do you remember that question?

11 **A** Yes, ma'am.

12 **Q** Okay. And you said you knew?

13 **A** Yes, ma'am.

14 **Q** Well, how many people were firing?

15 **A** Three.

16 **Q** Three people were firing?

17 **A** Yes, ma'am.

18 **Q** Okay. And were you inside or outside the car?

19 **A** Inside.

20 **Q** You were inside the car; right?

21 **A** Yes, ma'am.

22 **Q** Only one person got out the front; correct?

23 **A** Yes, ma'am.

24 **Q** Okay. Okay. And you're telling these folks, from
25 inside the car, with three people firing --

1 MR. GARDNER: Objection, Your Honor.

2 BY MS. LIVESAY:

3 Q -- you can tell in the air --

4 THE COURT: Hold --

5 MR. GARDNER: This is leading.

6 BY MS. LIVESAY:

7 Q -- which bullet --

8 THE COURT: Hold for a minute.

9 BY MS. LIVESAY:

10 Q -- hit the --

11 THE COURT: When they raise an objection, quit
12 asking your question. I don't know why I keep telling
13 y'all that. But when an objection is raised, quit asking
14 your question and let me rule on the objection.

15 MS. LIVESAY: Sure.

16 THE COURT: All right. What's the objection?

17 MR. GARDNER: Leading the witness. This is her
18 witness, Your Honor.

19 THE COURT: Overruled.

20 MR. BOUCHETTE: Also beyond the scope of cross. She
21 went into that, what he saw, the shooting. Asked him
22 about it and confirming on cross. She's now going back
23 and doing the same thing and/or trying to impeach him on
24 redirect.

25 THE COURT: Overruled.

1 All right. Go ahead.

2 MS. LIVESAY: Thank you.

3 BY MS. LIVESAY:

4 Q Did you tell Mr. Bouchette that you saw the fatal
5 shot?

6 A Correct.

7 Q Okay. And were you inside the car?

8 A Yes, ma'am.

9 Q And how many people were firing?

10 A Three people.

11 Q So bullets just bam, bam, bam; right?

12 A Yes, ma'am.

13 Q Okay. And you're telling these people that you saw
14 which particular bullet -- all these bullets flying
15 through the air, and you saw the particular bullet that
16 fired the fatal shot?

17 MR. GARDNER: Your Honor, I object.

18 MR. BOUCHETTE: Objection to leading.

19 MR. GARDNER: She's leading. She's cross-examining
20 this witness.

21 THE COURT: Overruled. Go ahead.

22 A Could you ask me again, please?

23 BY MS. LIVESAY:

24 Q I'm sorry?

25 A Could you ask me that question again, please?

1 Q Sure. You're telling these folks that, with three
2 guns firing, you could tell exactly which bullet killed
3 the victim?

4 A Yes, ma'am, because Tronahz got out first, and he
5 fired before anybody else. So, I mean, I was looking, and
6 I saw it. I saw the bullet hit the car and the windshield
7 and the blood. All the other shots went off.

8 Q And you were where in the car?

9 A In the front middle seat.

10 Q But you were inside the car?

11 A Yes, ma'am.

12 Q And how many people were firing?

13 A Three people.

14 Q Now -- and did you see the bullet in the air?

15 A No, ma'am.

16 Q Okay. Just kind of putting circumstances together?

17 A Yes, ma'am.

18 Q Okay. Okay. Now, he asked you -- Mr. Bouchette
19 asked you about a plan. Do you remember that?

20 A Yes, ma'am.

21 Q And he asked you if Che Ransom had a plan?

22 A Yes, ma'am.

23 Q Okay. Can you read Che Ransom's mind?

24 A No, ma'am.

25 Q Okay. So you don't know what he was thinking?

1 A Correct.

2 Q Is that right?

3 A Yes, ma'am.

4 Q So you don't know if he had a plan in mind or not,
5 do you?

6 A Not in his mind. I can't read his mind.

7 Q Did he get out and fire?

8 A Yes, ma'am.

9 Q So does that indicate to you if he had a plan or
10 not?

11 A I don't know if he had a plan or not. I mean, it
12 wasn't planned out loud. I wouldn't know if he had a plan
13 or not.

14 Q Did you have a plan?

15 A No, ma'am.

16 Q But can you read Che Ransom's mind?

17 A No, ma'am.

18 Q So you don't know if he had a plan or not?

19 A Correct.

20 Q I'm sorry?

21 A That's correct.

22 Q Okay. But he got out and fired, didn't he?

23 A That's correct.

24 Q Okay. Now, Mr. Bouchette asked you several
25 questions kind of about a plan, what kind of guns

1 everybody had. Do you remember that?

2 A Yes, ma'am.

3 Q Okay. What kind of gun did you tell Mr. Bouchette
4 that Tronahz had?

5 A AR-15.

6 Q Okay. How big is an AR-15 or how big is the AR-15
7 that Tronahz Whittington had?

8 A Full size.

9 Q Full size?

10 A Medium size, full size.

11 Q So tell me again, how big was it?

12 A Like this size (indicating).

13 Q Okay. Okay. So a long gun?

14 A Yes, ma'am, a long rifle.

15 Q Okay. Long gun is pretty big to have a car, isn't
16 it? It's about like a rifle?

17 A Yes. It's pretty awful big.

18 Q Okay. Did everybody get in the car at the same
19 time?

20 A One after another.

21 Q But right there at the car together?

22 A Yes, ma'am.

23 Q Okay. And did you see him put the gun in the car?

24 A Yes, we did. Yes, we did.

25 Q Okay. And you knew everybody else had a gun?

1 **A** I can't -- I can't really say. Yeah, I did. I
2 mean, I know certain people had a gun.

3 **Q** So you did know other people in the car had a gun?

4 **A** That's correct.

5 **Q** Okay. And you knew this ol' boy had a rifle?

6 **A** That's correct.

7 **Q** But you're unsure if there was a plan?

8 **A** Yes, ma'am.

9 **Q** Okay. Okay. Now, there was a lot of talk with
10 Mr. Bouchette about your brother Travontae Mitchell;
11 correct?

12 **A** Yes, ma'am.

13 **Q** Okay. And he showed you an excerpt from the last
14 time you testified; is that correct?

15 **A** That's correct.

16 **Q** Okay. And did you read it?

17 **A** Yes, ma'am.

18 **Q** Okay. And what did it say that you said about
19 Travontae Mitchell?

20 **A** He had a small handgun.

21 **Q** Okay. He had a small gun.

22 **A** Mm-hmm.

23 **Q** Now, tell these folks, was your mama here when you
24 gave that statement --

25 **A** No.

1 Q -- the last time?

2 A No.

3 Q Okay. Was Travontae Mitchell in the courtroom the
4 last time during that statement?

5 A No, ma'am.

6 MR. GARDNER: Your Honor, I believe this exceeds --
7 I object. I believe this exceeds the scope of
8 cross-examination. It would be improper redirect. Nobody
9 talked about mothers and witnesses being here.

10 THE COURT: All right. Overruled.

11 I'll allow it. Go ahead.

12 BY MS. LIVESAY:

13 Q So things are different this time as to Travontae
14 Mitchell, your brother; correct?

15 A No. It's just, now that he's here and my mom's
16 here.

17 Q So that's the only difference is now your mom is
18 here and now he's here?

19 A Yes.

20 Q Okay. And so now, all of a sudden, this time you're
21 saying he didn't have a gun?

22 A Well, it was kind of asked funny in that trial
23 because they were both -- were also talking about the
24 second shooting that happened out on 501 --

25 MR. PINKERTON: Objection, Your Honor. He's

1 speaking to an incident that happened that's not related
2 to this incident.

3 THE COURT: Let me see the attorneys.

4 BENCH CONFERENCE.

5 (The following bench conference was held outside the
6 hearing of the jury and others:)

7 MR. PINKERTON: Your Honor, that second shooting
8 that happened is not related to this incident whatsoever.
9 It is doing nothing but tainting the jury about this.

10 MS. LIVESAY: I'm not getting into that. I'm just
11 asking him --

12 MR. PINKERTON: She asked about the second incident.
13 It is not related to this case.

14 THE COURT: That happened after this one?

15 MR. PINKERTON: Yes.

16 MR. HELMS: Same night. She's not asking that.
17 That's not what she's asking. She's asking if he had a
18 gun in the first incident, nothing about the second
19 incident.

20 MR. PINKERTON: But then she asked about a shooting
21 that happened at the second incident.

22 MS. LIVESAY: That's not true.

23 MR. HELMS: That's not true.

24 MS. LIVESAY: That's not true. We can play it back.

25 THE COURT: I'll sustain the objection. Don't get

1 into the second incident.

2 (Open court resumes as follows:)

3 THE COURT: All right. Sustained.

4 BY MS. LIVESAY:

5 Q Mr. Graham, I'm going to ask you two very direct
6 questions. Okay?

7 A Yes, ma'am.

8 Q The last time you testified, Mr. Bouchette asked you
9 about it?

10 A Yes, ma'am.

11 Q Okay. And he showed you the transcript?

12 A Yes, ma'am.

13 Q And you looked at the transcript?

14 A Yes, ma'am.

15 Q And you see that the last time you said that
16 Travontae Mitchell did have a gun?

17 A Just not -- I didn't see it on the scene, but the
18 second incident that's not related, that's when I know --

19 MR. PINKERTON: Your Honor, I would object --

20 MR. GARDNER: Your Honor, we need to --

21 THE COURT: Sustained.

22 MR. PINKERTON: Your Honor, I would move for a
23 mistrial at this point.

24 THE COURT: All right. Ladies and gentlemen, we
25 need to take up a matter of law. I'm going to excuse you

1 back to the jury room. We'll bring you back out in just a
2 minute. Do not discuss the case, even among yourselves.

3 (The jury exited the courtroom at 10:09 a.m.)

4 MOTIONS/MATTERS OF LAW .

5 THE COURT: All right. Let me hear your objection.

6 MR. PINKERTON: Your Honor, you specifically told
7 the solicitor not to go into the second incident. She
8 elicited more testimony about a second incident that's not
9 related to the case here at hand that involves handguns,
10 it involves shootings. The jury has heard that. They're
11 absolutely tainted at this point because now they know
12 there's a second incident involving my client and the two
13 other clients here on trial, involving handguns, involving
14 shootings that is not related to this here, so now they're
15 absolutely tainted.

16 THE COURT: All right. Mr. Bouchette?

17 MR. BOUCHETTE: Your Honor, I join the motion.

18 THE COURT: Mr. Gardner?

19 MR. GARDNER: Yeah, Your Honor, I would join in the
20 motion, and I would just make sure that the record is
21 clear that you did instruct the solicitor not to go into
22 this, and it's highly prejudicial. And the bell has been
23 rung, and there's no way to unring that bell.

24 THE COURT: All right. The State's position?

25 MS. LIVESAY: Your Honor, I have never asked him --

1 and we can run the tape back; this lady here says she can
2 run it right back. I never asked him about the second
3 shooting. All we were trying to get out is the first time
4 you said that the boy had a gun. Your mama was not here.
5 Travontae was not here.

6 Now, you have changed your story, but the change is
7 the fact that your mom is here and your brother is here.
8 I'm just trying to show it's difficult now to say the boy
9 had a gun because he's in the courtroom and their
10 mother -- they have the same mom -- is also in the
11 courtroom. That's all we're trying to show.

12 THE COURT: I know what you're trying to show, but
13 what you showed is that there was another separate
14 incident that involved shootings, that involved guns that
15 has nothing to do with this case.

16 MS. LIVESAY: I didn't ask him about that. I never
17 asked him about --

18 THE COURT: But it came out.

19 MS. LIVESAY: I'm sorry?

20 THE COURT: It came out.

21 MS. LIVESAY: Well, I never asked him.

22 THE COURT: But it still came out. The question is,
23 is that inadmissible evidence that has now tainted the
24 jury in this case?

25 MS. LIVESAY: The only thing that came out about the

1 second shooting was nothing in regards to who was even
2 involved in the second shooting. I mean, I could be wrong
3 and maybe we need to play it back.

4 MR. HELMS: Furthermore, Your Honor --

5 MR. GARDNER: Well, hold on. I object, Your Honor.

6 THE COURT: Hold on. Wait a minute. Only one of
7 y'all argue at a time. We're not going to have two people
8 arguing for the State.

9 All right. Go ahead.

10 MS. LIVESAY: We can play it back, but no details of
11 the second shooting have aired to prejudice any of the
12 three people here.

13 THE COURT: All right. Can we just read me back
14 Ms. Livesay's last question and then what his answer was,
15 please.

16 (The court reporter replays the requested portion.)

17 THE COURT: She didn't ask about the second
18 incident, so I'm just going to instruct the jury to
19 disregard the witness's last response. It was
20 unresponsive to the question asked.

21 MR. PINKERTON: Your Honor, if I may, she asked that
22 question to absolutely elicit that testimony. Your Honor,
23 I can't help what the witness said, but she elicited that
24 testimony to get that reaction. The jury has already
25 heard now twice that there was the second incident

1 involving guns involving these clients. That is not
2 related here today to this trial. It absolutely should be
3 a mistrial, Your Honor, and we would renew our objection.

4 THE COURT: All right. Your objection is noted
5 and overruled. I'm going to instruct the jury to
6 disregard this witness's last statement, as it was
7 unresponsive to the question asked. All right?

8 MR. GARDNER: Your Honor, the problem we have is
9 that we had a bench conference about this issue, and so
10 she knew to be careful about it. She went right back into
11 it. So it's a complete disregard for the ruling at the
12 bench.

13 THE COURT: I didn't hear her ask anything about the
14 second incident.

15 MR. GARDNER: She kept going on about the gun, which
16 she knew was going to elicit the second incident.

17 THE COURT: Okay. Overruled.

18 MR. GARDNER: She knew that.

19 THE COURT: All right. Overruled. I have made my
20 ruling on that issue.

21 MR. GARDNER: Yes, sir.

22 MR. BOUCHETTE: With our objection having been
23 noted, I would make a request, just in the interest, that
24 -- to minimize my potential prejudicial effect that has
25 been here. Obviously, Your Honor's rule is that, once the

1 reply testimony is done, there's no further recross. I
2 would request a narrow exception to that rule for the
3 following reasons: the shooting he referenced upon
4 questioning by the State references a second incident .
5 wherein they were the victims, where somebody was shooting
6 at them. And so I think it would be proper to at least
7 ask that question as a mitigating effort for any
8 prejudicial effect that might have come in at this point.

9 THE COURT: And I'm going to tell them to disregard
10 it, and that's the instruction to the jury is to disregard
11 his response.

12 MS. LIVESAY: If we can, if the Court deems it
13 appropriate, we'd just ask the Court to instruct
14 Mr. Graham not --

15 THE COURT: No. You know my ruling. He can't get
16 into it. If it comes up again, then you're looking at a
17 mistrial. So you need to frame your questions to make
18 sure it doesn't elicit that testimony. All right?

19 MR. HELMS: I have something I have to ask in light
20 of that. If the witness is unresponsive to her
21 questioning -- if she asked what time of day it was, and
22 his response was "second shooting," that would elicit a
23 mistrial?

24 THE COURT: Yes.

25 MR. HELMS: How is that attributable to us, the

1 State?

2 THE COURT: Well, I don't know that it's
3 attributable to you, but it does violate the defendants'
4 rights when it brings something into the issue. You're
5 the one that called this witness, you're the one that put
6 this witness up, and if you put up a witness that's not
7 going to respond to your questions, you bear the
8 consequences of that.

9 MR. HELMS: But we're asking the Court to instruct
10 this witness to respond to the question appropriately.

11 THE COURT: Well, I think he knows, because we have
12 been arguing. You cannot get into that other incident in
13 any way, shape, or form.

14 MR. HELMS: Then what is the harm of instructing him
15 of that?

16 THE COURT: [To the witness:] Don't get into the
17 second incident in any way, shape, or form.

18 MR. HELMS: Thank you.

19 THE COURT: All right. Still, if he does, even if
20 it's unresponsive -- you have called the witness at your
21 own peril. You know who the witness -- what the
22 propensities of the witness is. If he asks [sic] the
23 question, that's on y'all. All right?

24 MR. HELMS: Yes, Your Honor.

25 THE COURT: All right. Let's bring the jury in.

1 (The jury entered the courtroom at 10:18 a.m.)

2 THE COURT: All right, ladies and gentlemen.

3 Welcome back. I have sustained an objection by the
4 defense. The jury is to disregard the witness's last
5 response to Ms. Livesay's question. It was unresponsive
6 to the question she asked; therefore, you're to disregard
7 his response in its entirety.

8 Ms. Livesay?

9 MS. LIVESAY: Thank you, Your Honor. Just two real
10 quick questions.

11 CONTINUING REDIRECT EXAMINATION

12 BY MS. LIVESAY:

13 Q You are familiar with this transcript; correct?

14 A Yes, ma'am.

15 Q Okay. And you would agree it includes your answers
16 from the last time you testified?

17 A Yes, ma'am.

18 Q Okay. And you were asked about Travontae Mitchell?

19 A Correct.

20 Q Okay. And I want you to look right here and tell
21 these folks what you told on this date when you were asked
22 about Travontae Mitchell.

23 A It says, "A small handgun. I'm not sure what kind.
24 It was just a handgun."

25 Q Okay. Now, Mr. Gardner asked you about what kind of

1 time you were looking at. Do you remember that?

2 A Yes, ma'am.

3 Q And you understand what you're charged with?

4 A Yes, ma'am.

5 Q And do you understand that entails taking a
6 19-year-old boy's life? Do you understand that?

7 A Yes, ma'am.

8 MS. LIVESAY: No further questions, Your Honor.

9 THE COURT: All right. You may step down.

10 State can call your next witness.

11 MS. LIVESAY: Sandy Lowe.

12 THE CLERK: Please raise your right hand and place
13 your left hand on the Bible.

14 SANDY LOWE,

15 after having been duly sworn, was examined and
16 testified to as follows:

17 THE CLERK: State your name and spell it for the
18 Court.

19 THE WITNESS: Sandy Lowe, S-a-n-d-y L-o-w-e.

20 DIRECT EXAMINATION

21 BY MS. LIVESAY:

22 Q Ms. Lowe, where are you employed?

23 A J. Reuben Long Detention Center.

24 Q Okay. And with the Sheriff's Office?

25 A Yes.

1 Q And do you keep records for the Sheriff's Office?

2 A Yes.

3 Q Okay. And do those records entail photographs and
4 information about people that are charged with a crime?

5 A Yes.

6 Q Okay. I'm going to show you some pictures, and you
7 tell me if you recognize who those are pictures of. Okay?

8 (State's Exhibit Nos. 55 through 60, Photographs,
9 were marked for identification.)

10 COURT REPORTER: State's 55 through 60 marked.

11 BY MS. LIVESAY:

12 Q If you don't mind, look at pictures 55 through 61
13 [sic].

14 And if you don't mind, have those photographs been
15 kept in the ordinary course of business?

16 A Yes.

17 Q Have they been tampered with in any form or fashion?

18 A No.

19 Q If you don't mind, tell the Court who those are
20 photographs of.

21 A Shamontae Graham, Che Ransom, Travontae Mitchell,
22 Don Brown, Mikkie McLeod, and Tron [sic] Whittington.

23 Q I'm sorry?

24 A Tron [sic] Whittington.

25 Q Okay.

1 MS. LIVESAY: At this time, Your Honor, the State
2 wishes to put 55 -- I'm sorry --

3 COURT REPORTER: Correction: It ends at 60.

4 MS. LIVESAY: Okay. 55 thorough 60 --

5 COURT REPORTER: Yes, ma'am.

6 MS. LIVESAY: -- into evidence and publish to the
7 jury.

8 THE COURT: All right. Mr. Bouchette?

9 MR. BOUCHETTE: Your Honor, I guess my only
10 objection would be as to relevance. It's a picture at
11 some later point.

12 THE COURT: What's the relevance?

13 MS. LIVESAY: Description of the individuals from
14 Britney Milam and Orlin Lopez and Jacob Hill.

15 MR. BOUCHETTE: The defendants are sitting right
16 here. They can see what they look like. I'm not sure
17 what the relevance is.

18 THE COURT: Mr. Pinkerton?

19 MR. PINKERTON: Yes, Your Honor. This is not
20 relevant at all. These are booking photos. The witnesses
21 have already described the people they saw on the scene.
22 This is doing nothing but inflaming the jury.

23 THE COURT: Mr. Gardner?

24 MR. GARDNER: The objection is relevance, Your
25 Honor. This won't help the jury decide anything.

1 THE COURT: All right. State's Exhibit 55, 56, 57,
2 59, and 60 are admitted into evidence over defendants'
3 objection.

4 MS. LIVESAY: Thank you, Your Honor.

5 (State's Exhibit Nos. 55 through 60 were received
6 into evidence.)

7 COURT REPORTER: State's 61 marked.

8 MS. LIVESAY: Actually, you better mark them all,
9 just to make sure.

10 (State's Exhibit Nos. 61 through 64, Alias Names,
11 marked for identification.)

12 BY MS. LIVESAY:

13 Q And, Ms. Lowe, along with photographs, are other
14 records kept on individuals?

15 A Yes.

16 Q Okay. And as part of those records, are alias names
17 kept in the records?

18 A Yes. If those are available, yes.

19 Q And what is considered kind of an alias name?

20 A Another name that the individual may go by or that
21 someone has called them or a name that they used
22 previously.

23 Q And I'm going to show you 61 through 64. And does
24 that record indicate alias names for certain individuals?

25 A Yes.

1 Q And I want you to look at this board up here. And
2 does it include alias names for some of the individuals on
3 this board?

4 A Yes.

5 Q And tell me what is -- and has that been tampered
6 with, that record?

7 A No.

8 Q And is that record kept in the ordinary course of
9 business in the Sheriff's Office?

10 A Yes.

11 Q Tell me what, if any, record there is for an alias
12 name for Don Brown.

13 MR. GARDNER: Your Honor, I'm going to object.
14 She's reading information that's not in evidence to try to
15 answer a question. I think that's improper. She hasn't
16 laid a good foundation for this to get into evidence.

17 THE COURT: Where did the information come from?

18 MS. LIVESAY: I can ask this young lady.

19 THE COURT: All right. Let's lay a better
20 foundation to authenticate it.

21 MS. LIVESAY: Certainly.

22 BY MS. LIVESAY:

23 Q Where did the information come from, Ms. Lowe?

24 A From RAP sheets. Most of the time, it comes from a
25 RAP sheet when the person is booked and the RAP sheet is

1 ran. If the RAP sheet has aliases --

2 MR. BOUCHETTE: Objection, Your Honor. Matter of
3 law.

4 THE COURT: Sustained. Sustained.

5 MR. BOUCHETTE: Move to strike the testimony.

6 THE COURT: All right. The last testimony is
7 stricken from the record.

8 BY MS. LIVESAY:

9 Q Let me ask it this way: Are there other records
10 that you get --

11 MR. BOUCHETTE: Your Honor, matter of law.

12 THE COURT: All right, ladies and gentlemen. I'm
13 going to excuse you back to the jury room for just a few
14 minutes while we address this matter of law. We'll bring
15 you back out in just a second. Do not discuss the case,
16 even among yourselves.

17 (The jury exited the courtroom at 10:30 a.m.).

18 MOTIONS/MATTERS OF LAW

19 THE COURT: All right. Mr. Bouchette?

20 MR. BOUCHETTE: Thank you, Your Honor. I am
21 cognizant of the Court's time, so I hope the Court
22 realizes I wouldn't request this unless necessary. Your
23 Honor sustained our objection to striking from the record;
24 however, it has now gotten to the jury the information
25 that they have a RAP sheet, which implies some kind of

1 prior record. What they have done is incorrectly give to
2 the jury that these people have criminal records, which
3 was not otherwise admissible through 804, I believe it is,
4 Rules of Evidence.

5 I was anticipating an objection for the aliases due
6 to the fact that she might be the business records
7 custodian, but she doesn't have any personal knowledge of
8 the aliases or how that came about; however, it didn't
9 stop there. They went into asking if it came from booking
10 information or RAP sheet, rather, and that information,
11 obviously, is highly prejudicial. It's a backdoor way to
12 get in a criminal record. The jury has already heard it.

13 I submit to the Court that, number one, I would
14 request as a minimum -- a corrective jury instruction, and
15 that's even if we can cure it or we'd request a mistrial.

16 THE COURT: All right. Mr. Pinkerton?

17 MR. PINKERTON: And, Your Honor, I would also join
18 in Mr. Bouchette, and I'd also like to point out, at the
19 time, my client was a juvenile. He was 16. Your Honor,
20 his record should not be admissible in this court at all,
21 and now the jury has been tainted completely by hearing my
22 client has a RAP sheet because they have his name on
23 record and he was a juvenile.

24 THE COURT: Mr. Gardner?

25 MR. GARDNER: Your Honor, I join with both of my

1 colleagues, but I would add to that, Your Honor, that this
2 is highly prejudicial, improper. And RAP sheet -- for
3 example, we had the last witness's RAP sheet. It's one --
4 it's five pages long, and none of it was admissible.

5 THE COURT: All right.

6 MR. GARDNER: So none of this should be admissible,
7 plus it's irrelevant. I don't know what they're bringing
8 this in for, and at this point in time, Your Honor, again,
9 we have the bell that's rung. It can't be unrung. So I
10 join with their motions, and I had my own motion based on
11 this that you grant my motion for a mistrial.

12 THE COURT: All right. State's position?

13 MS. LIVESAY: Yes, sir, Your Honor. I think we can
14 clear it up with the full answers of Ms. Lowe, but first
15 of all, Don Brown doesn't have an alias in the system.
16 Che Ransom doesn't have an alias in the system. And
17 Travontae Mitchell cannot have a RAP sheet because he was
18 a juvenile that was waived up.

19 So I know that was the answer she gave, but in this
20 case, none of those names came from any kind of RAP sheet.
21 They had to have come from another source, because, like I
22 say, Travontae Mitchell is a minor. He has no adult
23 record, and waiver of hearing was had. So he doesn't have
24 a RAP sheet. Che Ransom does not have any kind of alias
25 name under her documents and neither does Don Brown. So

1 it cannot come just from the RAP sheet.

2 THE COURT: So the State would be willing to
3 stipulate to the jury that none of these three defendants
4 have a RAP sheet from which an alias could have come?

5 MS. LIVESAY: Yes. And that's what I was trying
6 to -- that's why she was saying, when I first asked her --
7 and she'll tell you -- she was saying what people call
8 them. Information is gathered from all different places.

9 THE COURT: All right.

10 MS. LIVESAY: So there's no -- I mean...

11 THE COURT: Let me hear your response. The State is
12 willing to stipulate on the record to the jury that none
13 of these defendants have a RAP sheet from which an alias
14 could have come, and so any alias would have come from
15 some other source.

16 MR. BOUCHETTE: I apologize, Your Honor. I'm trying
17 to think through this. I have not heard what other basis
18 there could be for them to have a known criminal alias
19 other than what we have heard as the RAP sheet. And so, I
20 suspect that we're still going to be getting into some
21 type of known criminal activity in some way, shape, or
22 form to do that.

23 So I don't think, if they stipulated and have a
24 quote/unquote RAP sheet, that that cures it. I'm going to
25 stick with my original objection.

1 MR. PINKERTON: And, Your Honor, I would join
2 Mr. Bouchette on that. And also, once again, my client
3 was a juvenile. Where would they have gotten aliases from
4 if it wasn't on a RAP sheet at that point? Why would the
5 jail have that information?

6 THE COURT: I mean, where did the -- if they don't
7 have a RAP sheet from which an alias could come, where did
8 this information come from?

9 MS. LIVESAY: My understanding from what she first
10 initially answered was it's information they gathered as
11 to what this person is called by other people, maybe a
12 Facebook name.

13 THE COURT: Yeah, but that's where you have got an
14 authentication problem. Who gathers the information and
15 where does it come from? I understand your business
16 record, but still, you have got to authenticate that the
17 information on that business record is accurate. Who
18 collected it and where did they collect it from?

19 MS. LIVESAY: When I asked her, she's saying --
20 again, she tells me that it's collected from either a name
21 they have given --

22 THE COURT: Who gave them? A name they have given.
23 So who gave the name?

24 MS. LIVESAY: I would have to ask Ms. Lowe that.

25 THE COURT: All right. Let's proffer her testimony.

1 Go ahead and go through your questions.

2 PROFFERED DIRECT EXAMINATION

3 BY MS. LIVESAY:

4 Q Ms. Lowe, where does the information come from
5 that's ultimately put on the record?

6 A It's either from, like I said, the RAP sheet or if
7 the individual told the person booking them in, you know,
8 here's another name I go by.

9 MS. LIVESAY: There you go, Judge.

10 THE COURT: Okay. So any names that are on here --
11 aliases on here would be aliases given to them by these
12 defendants?

13 MS. LIVESAY: It would have -- as far as I
14 understand it, Travontae Mitchell cannot have an adult
15 record; he's a juvenile. And the other two don't have
16 aliases.

17 THE COURT: All right. Listen to my question. Any
18 aliases that these three defendants have, the only way
19 they have gotten those aliases is because that's what
20 these defendants told them when they were booked?

21 MS. LIVESAY: That is what I gathered from Ms. Lowe,
22 yes, sir.

23 THE COURT: Well, I know that's what you gathered.
24 Is that the truth? Is that what -- is that authentic? Or
25 is that what you believe or that's what you think or you

1 just can't explain any other --

2 MS. LIVESAY: I can only take the information she
3 gives me. I don't know. I have to accept what she tells
4 me. But I know that Travontae Mitchell does not have any
5 kind of adult record, and he's the only one at the table
6 with an alias.

7 THE COURT: All right. Well, I don't think this has
8 been sufficiently authenticated. I'm going to sustain the
9 objection as to the aliases, and we'll stipulate to the
10 defendants [sic] that none of these defendants have a RAP
11 sheet from which an alias can be derived.

12 MS. LIVESAY: Yes.

13 THE COURT: Unless you can say -- unless she's going
14 to testify, "Travontae Mitchell told me his alias was
15 this, Che Leon Ransom, Jr., told me his alias was this,
16 and Don Leequin Brown told me his alias was this," we're
17 not going to get into that.

18 MS. LIVESAY: Okay. I'm not going to get into it.

19 THE COURT: All right.

20 MS. LIVESAY: Because she can't do that.

21 THE COURT: All right. Anything from the State
22 before we bring the jury back in?

23 MS. LIVESAY: Do you want her off the stand, Judge?

24 THE COURT: No. I mean, not until -- I mean, she
25 hasn't even been cross-examined yet.

1 MS. LIVESAY: That's fine. I'm not going to do
2 anything further on the document. I'll just ask her about
3 the pictures and sit down.

4 THE COURT: Mr. Bouchette, anything further?

5 MR. BOUCHETTE: Just prior objection. For
6 preparation purposes, when the jury comes in, the Court is
7 going to instruct regarding stipulation and proceed with
8 her --

9 THE COURT: Proceed with her direct examination. I
10 have ruled outside the presence of the jury that they
11 cannot authenticate where the aliases came from.

12 MR. PINKERTON: Your Honor, I'll just join
13 Mr. Bouchette on that argument.

14 THE COURT: All right. Mr. Gardner?

15 MR. GARDNER: I join with them, but I also want to
16 ask the Court for guidance. I'd refer to the last
17 witness's, Graham, five-page RAP sheet. Do you want this
18 to be marked as a Court exhibit for identification?

19 THE COURT: I mean, if you want to put it in, you
20 can put it in. I don't see the need for it.

21 MR. GARDNER: Okay. I just know that when people in
22 Columbia are reading records, they always get a little
23 upset when somebody is referring to a document that's not
24 in the record. But we're not in front of the jury, so I'm
25 okay with it, Your Honor, if you are.

1 THE COURT: All right.

2 MR. HELMS: Your Honor -- I don't have anything.

3 THE COURT: All right. Let's bring the jury in.

4 Oh, wait a minute. Wait a minute. Let's take about
5 a ten-minute break, and we'll come back in just a second.

6 MR. BOUCHETTE: And, Your Honor, before we do that,
7 the Court's ruling is the mistrial is denied?

8 THE COURT: Yeah, I'm denying the mistrial.

9 MR. GARDNER: Oh, for the record --

10 THE COURT: Hold for a second. Everybody sit down.
11 Everybody have a seat. Come on back, have a seat. Let's
12 have order. I thought we were recessing, but we're not
13 recessing yet.

14 MR. BOUCHETTE: My mistrial motion, as well as the
15 other three, has been ruled upon as denied.

16 THE COURT: All right, Mr. Gardner. What would
17 you --

18 MR. GARDNER: Oh, I was just going to join with him.
19 I wanted to make sure that we're keeping a good record.
20 We have renewed our motion based on your ruling, but no
21 disrespect or argument, but just keeping the record
22 straight that the motion for a mistrial has been denied.

23 THE COURT: All right. It has been.

24 All right. Mr. Pinkerton, anything --

25 MR. PINKERTON: Your Honor, I would just join

1 Mr. Gardner.

2 THE COURT: All right. Mr. Bouchette, anything
3 before we recess?

4 MR. BOUCHETTE: No, sir.

5 THE COURT: All right. Anything from the State
6 before we recess?

7 MS. LIVESAY: No, sir.

8 THE COURT: All right. Let's take about a
9 ten-minute recess.

10 THE COURT: You can step down but do not discuss
11 your testimony.

12 THE WITNESS: I'll just sit here.

13 THE COURT: All right.

14 (A recess was taken from 10:41 a.m. to 10:56 a.m.)

15 THE COURT: Anything from the State before we bring
16 the jury in.

17 MS. LIVESAY: No, sir.

18 THE COURT: All right. Mr. Bouchette, anything
19 before we bring the jury in?

20 MR. BOUCHETTE: No, sir.

21 THE COURT: Mr. Pinkerton?

22 MR. PINKERTON: No, Your Honor.

23 THE COURT: Mr. Gardner?

24 MR. GARDNER: No, sir.

25 THE COURT: All right. Let's bring the jury in.

1 (The jury entered the courtroom at 10:57 a.m.)

2 THE COURT: All right. Ladies and gentlemen,
3 welcome back. We did take a break after I dealt with this
4 matter of law. We're getting ready to continue with the
5 direct examination, but I do need to let you know that the
6 parties have stipulated, which is a fact that you must
7 accept during this case, is that none of these three
8 defendants have a RAP sheet, and therefore, any alleged
9 alias could not have come from a RAP sheet because none of
10 them have a RAP sheet.

11 All right. You can continue with your direct
12 examination.

13 MS. LIVESAY: Just one question, Judge.

14 THE COURT: All right.

15 (SANDY LOWE) CONTINUING DIRECT EXAMINATION

16 BY MS. LIVESAY:

17 Q I just want to make sure, these pictures -- 58, 55,
18 60, 56, 59, 57 -- are all pictures kept in Records?

19 A Yes.

20 Q And not been tampered with any form or fashion?

21 A No.

22 MS. LIVESAY: No further questions.

23 THE COURT: All right. Mr. Bouchette,
24 cross-examination?

25 MR. BOUCHETTE: Judge, I don't think I have any

1 questions for this witness.

2 THE COURT: All right. Mr. Pinkerton?

3 MR. PINKERTON: One question.

4 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

5 BY MR. PINKERTON:

6 Q To your knowledge, these are not pictures from the
7 scene itself, are they?

8 A No.

9 Q Thank you.

10 MR. PINKERTON: No further questions.

11 THE COURT: Mr. Gardner?

12 MR. GARDNER: No questions, Your Honor.

13 THE COURT: All right. Redirect?

14 MS. LIVESAY: No, sir.

15 THE COURT: All right. You may step down.

16 State can call your next witness.

17 MR. HELMS: De'Shon Samuels [sic].

18 THE CLERK: Please raise your right hand and place
19 your left hand on the Bible.

20 DE'SHON SAMUEL,

21 after having been duly sworn, was examined and
22 testified to as follows:

23 THE CLERK: Please state your name and spell it for
24 the Court.

25 THE WITNESS: De'Shon Samuel. D-e-s-h-o-n

1 S-a-m-u-e-l.

2 DIRECT EXAMINATION

3 BY MR. HELMS:

4 Q I'm sorry, sir; I just want to make sure I have got
5 everything I need.

6 You're De'Shon Samuels [sic]?

7 A Yes.

8 Q Mr. Samuels [sic], have you ever met me before?

9 A Yes.

10 Q When did we meet?

11 A At the last trial.

12 Q Okay. So you testified in the previous trial for
13 Tronahz Whittington's trial?

14 A Yes.

15 Q Okay. How old are you, Mr. Samuels [sic]?

16 A 25.

17 Q And where are you from originally?

18 A Here.

19 Q Here? Horry County?

20 A Yes.

21 Q Where do you live now?

22 A In Florida.

23 Q Okay. And when did you move to Florida?

24 A A couple of years back.

25 Q Was it after September of 2020?

1 **A** Yes.

2 **Q** Okay. And in September of 2020, where were you
3 living?

4 **A** With my mother here.

5 **Q** Here in Horry County?

6 **A** Yeah.

7 **Q** In what city? You don't have to give the address,
8 just the city.

9 **A** Conway.

10 **Q** In Conway. Okay. So you're a native of Conway.
11 Did you have a car at that time?

12 **A** Yes.

13 **Q** Okay. And what kind of car did you have?

14 **A** A Caprice.

15 **Q** And what color was that Caprice?

16 **A** Bluish-gray.

17 **Q** Bluish-gray. Okay.

18 How long had you had that car?

19 **A** Probably about seven years now.

20 **Q** Do you still have the car?

21 **A** Yeah.

22 **Q** Wow, wow. Would you recognize that car if you saw a
23 picture of it?

24 **A** Yes.

25 MR. HELMS: I'm just going to use this one.

1 MR. GARDNER: That's fine.

2 Your Honor, if it would help expedite the trial, we
3 will stipulate that he was the owner of the car and he
4 loaned it, rather than play all these videos again that
5 the jury has already seen, if that will help.

6 THE COURT: I'll allow them to do what they want to
7 do.

8 MR. HELMS: I will take what he said and try to
9 expedite the testimony. Thank you, Judge.

10 BY MR. HELMS:

11 Q I'm showing you now what's been marked for
12 identification purposes as State's Exhibit 41. Do you
13 recognize the car in that picture?

14 A Yes.

15 Q And what -- whose car is that?

16 A It's my car.

17 Q Okay. Do you know where it is here?

18 A No.

19 Q But you know it's your car?

20 A Yes.

21 Q Okay. And is this before or after the incident that
22 the defendants are here for?

23 A I believe after.

24 Q Okay. Be sure to talk into that microphone.

25 THE COURT: Yes, you need to speak up a little bit

1 louder. All right?

2 BY MR. HELMS:

3 Q Everybody's got to hear you.

4 Okay. So this is taken after, but this is
5 definitely your car?

6 A Yeah, that's my car.

7 MR. HELMS: Your Honor, at this time, I would try to
8 enter State's 41 -- and publish to the jury -- into
9 evidence.

10 MR. BOUCHETTE: No object- -- sorry. No objection.

11 THE COURT: Mr. Pinkerton?

12 MR. PINKERTON: No objection, Your Honor.

13 MR. GARDNER: No, Your Honor. No objection.

14 THE COURT: All right. State's Exhibit 41 admitted
15 into evidence without objection.

16 (State's Exhibit No. 41 was received into evidence.)

17 MR. HELMS: Thank you, Your Honor. Permission to
18 publish?

19 THE COURT: All right.

20 MR. HELMS: Thank you, sir.

21 BY MR. HELMS:

22 Q So, De'Shon, this is your blue Chevy Caprice.

23 On September 12th of 2020, did you loan this car to
24 someone?

25 A I don't remember. I don't remember specifically

1 that day, but...

2 Q Well, let me ask you like this. That's fair.

3 That's fair. Because you weren't involved in the
4 shooting, were you?

5 A No.

6 Q Okay. In September of 2020, did you loan your car
7 to Tronahz Whittington?

8 A Yes.

9 Q Was that a common occurrence?

10 A Yes.

11 Q How often did you loan your car to Mr. Whittington?

12 A Probably a few times.

13 Q Okay. Was the last time you loaned your car to
14 Tronahz Whittington the day of the shooting?

15 A Yes.

16 Q After that shooting and all that took place, did you
17 ever loan your car to him again?

18 A No.

19 Q Now, after you loaned your car to Tronahz
20 Whittington, did you stay with the car or did you leave?

21 A I stayed with my car.

22 Q Okay. So did you stay with the car the whole time
23 Tronahz had it or did you let him have it?

24 A Oh, no. I kept it. I didn't let him have it.

25 Q So you never let Tronahz Whittington borrow your

1 vehicle?

2 A Oh, yes, I did, but -- I'm kind of confused on that
3 second question you just asked me.

4 Q Okay. I'll try to rephrase it.

5 When Tronahz borrowed your car, did y'all split
6 ways?

7 A Oh, yes.

8 Q Where did you go?

9 A I went to McDonald's.

10 Q Okay. What did you do at McDonald's?

11 A I sat there on the Wi-Fi.

12 Q On the Wi-Fi?

13 A Yes.

14 Q Did you like to do that?

15 A Yes.

16 Q Free Wi-Fi?

17 A Yes, free Wi-Fi.

18 Q That's fair. That makes sense.

19 And how long would you stay at the McDonald's and
20 use the free Wi-Fi?

21 A Probably two to three hours, I believe.

22 Q Oh, okay. So you sat there for a minute?

23 A Yes.

24 Q Okay. I want to show you what's already been
25 entered into evidence as State's Exhibit 36.

1 MR. HELMS: And this is already entered into
2 evidence, Your Honor, and I'm publishing that with the
3 permission of the Court.

4 THE COURT: All right.

5 MR. HELMS: Thank you, sir.

6 BY MR. HELMS:

7 Q I'm going to stand over here. Can you see that?

8 A Yes.

9 Q All right. Let's wait on Ms. Miller to pull it up.
10 While she's doing that, though --

11 MR. HELMS: And, Lacy, pause it when you come to it.

12 BY MR. HELMS:

13 Q While she's doing that, why did you loan your car to
14 Tronahz?

15 A Well, it wasn't the first time that I loaned it to
16 him, so it was a common occurrence.

17 Q Did he have a car?

18 A No, sir, not that I know of.

19 Q Okay. Now, when you let him borrow your car, did he
20 tell you what he was going to do with it?

21 A No, he didn't.

22 Q Did you ask?

23 A No, I didn't.

24 Q Did you tell him that he couldn't have anyone else
25 in the car?

1 A No, I didn't tell him that.

2 Q So you didn't prohibit him from using the car to
3 take people around?

4 A No, sir.

5 Q He was allowed to use the car for whatever he
6 wanted?

7 A Yes.

8 Q Okay. Did you know that he was going to have six
9 people in the -- five other people in the car?

10 A No.

11 Q If you had known that, would you have let him use it
12 anyway?

13 A No.

14 Q Okay. That's fair.

15 Do you remember when you loaned him the car in
16 September? Do you remember the day of the shooting?

17 A Was it the 12th that you're talking about?

18 Q Yes, sir. September 12th. I believe you said you
19 went to McDonald's.

20 A Yes, sir.

21 Q Okay. Do you remember what time you loaned Tronahz
22 the car?

23 A I believe it was like sometime in the afternoon or
24 the evening.

25 Q Before dark?

1 A Yes.

2 Q Okay. And where did you take the car to him?

3 A Downtown Conway.

4 Q Okay. Was it EME Apartments?

5 A I'm not sure of the name of the apartments, but it
6 was the apartments.

7 Q Do you know it as the Cherry Hill Apartments?

8 A No. Where is that at?

9 Q That's fair. I'll show you a video. I want you to
10 take a look at this video --

11 MR. HELMS: And go ahead, Ms. Miller, if you don't
12 mind. Just press play for us.

13 (Video plays.)

14 BY MR. HELMS:

15 Q Have you seen this video, Mr. Samuels [sic], before?

16 A Yes.

17 Q Okay. Do you know what we're about to see here?

18 A Somewhat. I believe my car pulling up.

19 Q Do you recognize that car right there?

20 A Yeah, that's my car.

21 Q Who is driving?

22 A I am.

23 Q And why are you -- what are you doing here?

24 A Parking.

25 Q But what are you doing here? Why are you here?

1 **A** I'm there to meet Nahz.

2 **Q** You're there to meet Nahz?

3 **A** Yes.

4 **Q** Okay. And Nahz is Tronahz Whittington?

5 **A** Yes.

6 **Q** Okay. The fellow coming over here to you, who is
7 this? Do you know who this is coming to you?

8 **A** Not specifically.

9 **Q** Okay. Who did you loan the car to?

10 **A** Nahz.

11 **Q** Would you have given the car to anyone else out
12 here?

13 **A** No.

14 **Q** Did you give the car to anyone else out here?

15 **A** No.

16 MR. HELMS: Pause it for me for a second, Lacy.

17 Thank you.

18 BY MR. HELMS:

19 **Q** Do you know who the folks are walking up to the car
20 behind that fellow right there?

21 **A** No, sir.

22 **Q** Okay. And that's you on the video; right?

23 **A** Yes.

24 **Q** Okay. Now, after Tronahz borrowed the car from you
25 this day, did he bring the car back?

1 **A** Yes.

2 **Q** Do you remember about how long it took him to bring
3 the car back?

4 **A** Not specifically.

5 **Q** Okay. Was it five minutes?

6 **A** No.

7 **Q** Longer than that?

8 **A** Yes.

9 **Q** Longer than an hour?

10 **A** Yes.

11 **Q** And when he brings the car back to you -- we're
12 getting there, hang on. Obviously, it's later in the day;
13 right?

14 **A** Yes.

15 **Q** When he brought the car back to you, did he tell you
16 anything?

17 **A** He let me know I had a flat tire on the right side.

18 **Q** A flat tire on the right side?

19 **A** Yes.

20 **Q** What did you think about that?

21 **A** Well, I was just trying to figure out how to get it
22 fixed and how it happened.

23 **Q** Do you know how it got a flat tire?

24 **A** No. I physically seen the nail in it when I
25 examined it myself.

1 Q So you examined the car?

2 A The tire, yes.

3 Q The tire. Okay.

4 Let me ask you this question: When you examined the
5 tire and the car and you got it back -- and you still have
6 it to this day -- did you ever find any bullet holes in
7 this car, De'Shon?

8 A No.

9 Q No bullet holes. And the tire had a flat because
10 you said there was a nail in it?

11 A Yes.

12 Q Could you drive the car home whenever he returned it
13 to you?

14 A No.

15 Q So what did you do? He returned it to you. Where
16 did he return it? Same apartments?

17 A Yes.

18 Q When he returned it to you with a flat tire and you
19 couldn't drive it home, what did you do?

20 A Ended up finding a ride home.

21 Q You rode with somebody else?

22 A Yes.

23 Q And did the person that picked you up also pick up
24 Tronahz?

25 A Yes.

- 1 Q So y'all rode together?
- 2 A Yes.
- 3 Q Where did you go?
- 4 A To my house to drop me off.
- 5 Q Just to drop you off?
- 6 A Yes.
- 7 Q And he went on his way?
- 8 A Yes.
- 9 Q During that time, did he say anything to you about a
10 shooting that happened in your car?
- 11 A No.
- 12 Q Let me ask you this: At any time did you talk to
13 Tronahz after? Did you wipe down the car?
- 14 A Yes, I did wipe down the car.
- 15 Q How did you wipe it down? Explain to this jury what
16 you wiped it down with.
- 17 A I wiped my car down with bleach.
- 18 Q With bleach.
- 19 De'Shon, why would you wipe your car down with
20 bleach?
- 21 A Because he asked me to.
- 22 Q Who did?
- 23 A Nahz.
- 24 Q Did you think that was strange?
- 25 A Somewhat, but I also knew that it was COVID at the

1 time, and I didn't know if he had anybody with him or not,
2 so I took it under precaution of myself.

3 Q Okay. So you wiped down -- so Tronahz gives you the
4 car and you wipe it down. Then, at some point after that,
5 do the police take the car from you?

6 A Yes.

7 Q So the police took the car after you wiped it with
8 bleach?

9 A Yes.

10 Q Okay. After you wiped the car down with bleach and
11 the police came and got it, did you ever talk to Tronahz
12 again?

13 A No.

14 Q So you haven't talked to Tronahz Whittington since
15 this day that you loaned him that car?

16 A Yes, that's correct.

17 Q Okay. When you loaned him the car, did you know
18 that all these other fellows was going to show up and get
19 him?

20 A No.

21 Q When you -- and you said you loaned the car to him
22 in the past; right?

23 A Yes.

24 Q When you loaned the car to him in the past, is that
25 what happened? Did he return it with flat tires and

1 damage to it?

2 A No, he didn't.

3 Q Okay. Is there any particular reason why you
4 haven't -- well, let me ask you this: Do you know any of
5 these fellows?

6 A No, sir, not personally.

7 Q Well, let's do it like this: How about Che Ransom?
8 Do you know Che Ransom?

9 A No. Who is that?

10 Q How about Travontae Mitchell? Do you know him?

11 A No, sir.

12 Q Do you know Don Brown?

13 A No, sir.

14 Q All right. Do you know why you haven't talked to
15 Tronahz Whittington since that day? Is there any reason?

16 A No, sir. We kind of just popped on and off
17 together.

18 Q That's fair.

19 De'Shon, did you have any involvement or did you do
20 anything on D Street in terms of shooting at anyone?

21 A No.

22 Q Were you even there?

23 A No.

24 Q Please answer any questions defense has.

25 THE COURT: Mr. Bouchette?

1 MR. BOUCHETTE: Thank you, Your Honor. Court's
2 indulgence.

3 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM
4 BY MR. BOUCHETTE:

5 Q Good morning, Mr. Samuel. I'll be brief.

6 You mentioned earlier you don't know Che Ransom;
7 correct?

8 A No, sir.

9 Q Okay. And can you speak up a little bit into the
10 microphone so the jury can hear you.

11 A Yeah.

12 Q Okay. Thank you.

13 So you don't know Che Ransom; correct?

14 A No. I don't.

15 Q Okay. And on this incident day that we have been
16 talking about back in September of 2020, you haven't
17 received any communications or requests or any type of
18 correspondence with Mr. Ransom; correct?

19 A No. Yes, that's correct.

20 Q Okay. All right. You only knew Tronahz
21 Whittington; correct?

22 A Yes.

23 Q All right. And in the evening when Mr. Whittington
24 returns the vehicle, he asked you to wipe the car down;
25 correct?

1 **A** Yes.

2 **Q** He asked you to wipe the car down and wipe it down
3 with bleach; correct?

4 **A** Yes.

5 **Q** Now, is it your testimony that you thought wiping
6 the car down with bleach after having loaned it to
7 Mr. Whittington was purely because of a COVID protocol?

8 **A** Yes, sir, on my end.

9 **Q** Okay. Had you ever -- do you wipe the car down with
10 bleach for COVID protocols before?

11 **A** No, sir.

12 **Q** Okay. This was the only time?

13 **A** Yes, sir.

14 **Q** Okay. And, again, that was at Tronahz's request;
15 right?

16 **A** Yes.

17 **Q** Okay. Now, subsequent to that evening, you have
18 learned that a shooting occurred where somebody died;
19 correct?

20 **A** Yes.

21 **Q** And you have learned that it occurred in your
22 vehicle; correct?

23 **A** Yes.

24 **Q** All right. And you don't dispute that you wiped
25 that vehicle down with bleach; correct?

1 **A** Yes, I did.

2 **Q** Okay. Have you been charged with any crime --
3 accessory or anything -- related to this incident?

4 **A** No, sir.

5 **Q** Were you ever charged with accessory or aiding or
6 abetting or anything related to this incident?

7 **A** No.

8 **Q** But you don't deny that you wiped down the vehicle
9 at Mr. Whittington's request following this shooting;
10 true?

11 **A** Yes, sir.

12 **Q** Okay. All right.

13 MR. BOUCHETTE: No further questions, Your Honor.

14 THE COURT: All right. Mr. Pinkerton?

15 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

16 BY MR. PINKERTON:

17 **Q** Mr. Samuels [sic], thank you for being here.

18 You stated earlier you do not know my client,
19 Travontae Mitchell?

20 **A** Yes.

21 **Q** You don't know him at all?

22 **A** Yes.

23 **Q** Okay. And when the car came back to you, it was
24 Tronahz that borrowed the car; correct?

25 **A** Yes.

1 Q Did he pay you any money -- any kind of compensation
2 for using the car?

3 A No.

4 Q Just out of the goodness of your heart, you just let
5 him have it?

6 A Yes.

7 Q Okay. And when the car was returned, it had a flat
8 tire?

9 A Yes.

10 Q What was the reason for the flat tire; do you know?

11 A There was a nail in the tire.

12 Q There was a nail in the tire?

13 A Yes.

14 Q They actually found the nail? Did it get fixed
15 or --

16 A Yes.

17 Q But, once again, you don't know my client,
18 Travontae; correct?

19 A Yes.

20 MR. PINKERTON: No further questions.

21 THE COURT: All right. Mr. Gardner?

22 MR. GARDNER: No, Your Honor. No questions.

23 THE COURT: Redirect?

24 MR. HELMS: Nothing, Your Honor. I would just ask
25 that he be released.

1 THE COURT: All right. Any objection?

2 MR. BOUCHETTE: No, sir.

3 MR. PINKERTON: No, Your Honor.

4 MR. GARDNER: No, Your Honor.

5 THE COURT: All right. You may step down. You're
6 free to go.

7 The State can call your next witness.

8 MS. LIVESAY: Drew Edwards. Detective Drew Edwards.

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

11 DETECTIVE DREW EDWARDS,

12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE CLERK: Please state your name and spell it for
15 the Court.

16 THE WITNESS: Christopher Drew Edwards.
17 E-d-w-a-r-d-s.

18 DIRECT EXAMINATION

19 BY MS. LIVESAY:

20 Q Detective Edwards, where are you employed?

21 A Horry County Police Department.

22 Q And how long have you been with the police
23 department?

24 A I have been employed at the County Police for 16
25 years.

1 Q Go ahead and pour you some water.

2 And what kind of training have you undergone with
3 the police department?

4 A I attended the South Carolina Criminal Justice
5 Academy in 2006. We have yearly in-service to maintain
6 our certification. I have been to interview schools,
7 investigation schools in reference to, like, special
8 victims cases, homicide cases, and the narcotic cases.

9 Q Now, tell these folks what your current
10 responsibilities are.

11 A I'm currently assigned to the Narcotics and Vice
12 Unit.

13 Q Okay. And what were your responsibilities in
14 September of 2020?

15 A I was assigned to the Violent Crimes Unit.

16 Q Okay. And did you have an occasion to assist on the
17 case we're here for today?

18 A Yes, ma'am.

19 Q But were you the lead investigator?

20 A No, ma'am.

21 Q Okay. So you were just there to assist in whatever
22 the lead needed done?

23 A Yes, ma'am.

24 Q Okay. And before you worked on this case, had you
25 undergone training to be in that particular division?

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

2 **Q** Okay. And what did that particular division work
3 on?

4 **A** We investigated any type of violent crime, murder,
5 attempted murders, robberies, sometimes stalkings, stuff
6 like that.

7 **Q** And what happened here fell under that umbrella?

8 **A** Yes, ma'am.

9 **Q** Okay. And as part of your assistance, did you talk
10 with the defendant, Che Ransom?

11 **A** I did.

12 **Q** And I'm going to show you now what's been marked as
13 State's Exhibit 50. Do you recognize that document?

14 **A** Yes, ma'am.

15 **Q** And what is it?

16 **A** It's Horry County Police Department Advisement of
17 Miranda Rights Form.

18 **Q** And was that document read to Mr. Ransom?

19 **A** Yes, ma'am.

20 **Q** Now, tell me, on the document, is there a space to
21 indicate whether or not Che Ransom understood his rights?

22 **A** Yes.

23 **Q** And did anybody sign the document?

24 **A** Che Ransom did.

25 **Q** And did anybody from the police department sign the

1 document?

2 A I did and Detective Marcus.

3 Q And does that indicate that you were in the room and
4 present when the rights were read?

5 A Yes, ma'am.

6 Q And did he appear to understand these rights?

7 A He did.

8 Q And, in fact, he initialled and signed them?

9 A He checked that he understood and then he printed
10 his name and signed it.

11 MS. LIVESAY: Your Honor, at this time, the State
12 wishes to put State's Exhibit 50 into evidence and publish
13 it at the appropriate time.

14 THE COURT: All right. Mr. Bouchette?

15 MR. BOUCHETTE: Your Honor, I don't have an
16 objection. I anticipate the other attorneys would.

17 THE COURT: Mr. Pinkerton?

18 MR. PINKERTON: Your Honor, I would have an
19 objection. He could be speaking to hearsay and also our
20 previous objection pursuant to Crawford and Bruton, Your
21 Honor, involving the other non-testifying codefendants in
22 this case.

23 THE COURT: All right. Mr. Gardner?

24 MR. GARDNER: No objection, Your Honor.

25 THE COURT: All right. State's Exhibit 50 is

1 admitted into evidence over the objection of Defendant
2 Ransom and without objection from the other defendants.

3 MS. LIVESAY: Thank you, Your Honor.

4 MR. PINKERTON: Your Honor, that would actually be
5 on behalf of Mr. Mitchell and not Mr. Ransom, Your Honor.

6 THE COURT: Oh, I apologize. Over objection of
7 Mr. Mitchell. Okay. I apologize.

8 All right. Go ahead.

9 (State's Exhibit No. 50 was received into evidence.)

10 MS. LIVESAY: You ready for me, Judge?

11 THE COURT: Yeah.

12 MS. LIVESAY: Okay. Thank you.

13 BY MS. LIVESAY:

14 Q Now, Detective Edwards, if you don't mind, the
15 document's into evidence. Did you read all the rights to
16 Che Ransom?

17 A Yes, ma'am.

18 Q Okay. Tell these folks the rights that you read to
19 the defendant.

20 A "You have the right to remain silent. Anything you
21 say can and will be used against you in a court of law.
22 You have the right to talk with a lawyer and have them
23 present with you while you're being questioned. If you
24 cannot afford to hire a lawyer, one will be appointed to
25 represent you at no cost to you for any questioning if you

1 so desire. If you make any statement or answer any
2 questions, you have the right to stop at any time."

3 Q And he indicated that he understood those rights?

4 A Yes, ma'am.

5 Q Okay. Now, talk to me about when he was in the
6 room. When he was in the room, did he appear to be
7 impaired in any form or fashion?

8 A No, ma'am.

9 Q Okay. Under the influence of drugs or alcohol?

10 A No.

11 Q Okay. And did he appear to be in any pain or
12 discomfort while he was in the room?

13 A He did not.

14 Q Was he ever denied going -- being able to go to the
15 bathroom, get a drink of water, or anything like that?

16 A No, ma'am.

17 Q And, in fact, was Che Ransom's family at the police
18 department?

19 A They were.

20 Q Okay. And, at some point, when you spoke with him,
21 did his family have the opportunity to go in there and
22 talk to him?

23 A His mom and aunt went and talked to him.

24 Q Okay. And you allowed for that?

25 A Yes.

1 Q Okay. And when you allowed for his family to go in
2 there and talk to him, was there anybody from law
3 enforcement in there?

4 A There wasn't.

5 Q Okay. So you let them go in there and talk to their
6 family member?

7 A Yeah, we did.

8 Q Okay. During the course of your conversation with
9 Mr. Ransom, did you ever put your hands on him?

10 A No.

11 Q Did you ever threaten him in any form or fashion?

12 A No.

13 Q Did you ever promise him anything in exchange for
14 his statement?

15 A No.

16 Q After you informed him of his rights, did he
17 acknowledge he understood?

18 A Yes.

19 Q Did he, in any way, act like he did not understand
20 what was going on?

21 A No, ma'am.

22 Q Did he even have any questions about his rights?

23 A No.

24 Q After reading his rights to him, after -- did you
25 ask him any questions about education, how he felt,

1 anything like that?

2 A Yeah. We asked him if he had used any drugs or
3 alcohol, to which he indicated he didn't. We asked if he
4 could read or write, and we asked him if he was in any
5 discomfort or pain, and he said no.

6 Q And what did he answer?

7 A He said no alcohol or drugs, that he could read or
8 write, and that he wasn't in discomfort or pain.

9 Q And why do you ask him those questions?

10 A I guess just judging where -- his mental status, I
11 guess. See if he's able to answer questions.

12 Q Okay. And was he able to able to answer the
13 questions?

14 A Yes.

15 Q And did he acknowledge he could read or write?

16 A He did.

17 Q Did he tell you he wasn't in any pain?

18 A He did.

19 Q Okay. Was there any reason for you to believe that
20 he was not speaking with you freely and voluntarily?

21 A No.

22 Q In the course -- ultimately, did he have a
23 conversation with you?

24 A He did.

25 Q Okay. And, ultimately, did he have a conversation

1 with you about his participation in what happened on
2 September 12th, 2020, involving the murder of Jamie
3 Johnson?

4 A He did.

5 Q And do you have any reason to believe that he did
6 not voluntarily speak with you and give you that
7 information?

8 A No.

9 Q In fact, you talked to him before his mama went in
10 there; correct?

11 A Yes, ma'am.

12 Q After his mama talked to him, they discussed
13 whatever they discussed, you walked back in there, and he
14 continued talking?

15 A Yes.

16 Q During your conversation with Che Ransom, did he
17 tell you whether or not he was in the vehicle that fired
18 at Jamie Johnson?

19 A He did.

20 Q What did he tell you?

21 A That he was an occupant of that vehicle.

22 Q Okay. Did he tell you if he had a gun?

23 A He did.

24 Q And tell these folks what gun he told you he had.

25 A A KelTec 9mm handgun.

1 Q And is that -- did he tell you whether or not he
2 fired a handgun on 9/12/2020 at the intersection of
3 D Street and Rose Moss?

4 A He did.

5 Q And what did he say?

6 A He said he got out of the vehicle, he attempted to
7 fire but the gun jammed, so he got back in the vehicle,
8 racked the slide, and fired shots as they were pulling
9 off.

10 Q Did he tell you how many shots he fired?

11 A It was a few. I don't remember the exact number.

12 Q More than one?

13 A More than one.

14 Q Okay. And did he tell you where he went after he
15 fired the shots?

16 A He went to a house that was close by to where the
17 incident occurred and then got a ride to another person's
18 house.

19 Q And did he tell you who gave him a ride?

20 A He did.

21 Q Okay. And who gave him a ride?

22 A I can't remember her name, but it was somebody he
23 was with. Girlfriend to a guy named EK's house.

24 Q Okay. So he got a ride from somebody's girlfriend?

25 A Yeah.

1 Q A female?

2 A Yeah.

3 Q Did he tell you the car that she was driving?

4 A It was a minivan.

5 Q So the car that picked him up was somebody's
6 girlfriend driving a dark van?

7 A Yes.

8 Q Now, did he tell you whether or not there was a
9 plan?

10 A Yes.

11 Q What did he tell you was the plan?

12 A He said he knew the victim in this case from
13 Snapchat and they had -- he had saw that he had weed
14 money, and a plan was formulated to rob him for money
15 and/or weed.

16 Q So he told you he had a plan?

17 A Yep.

18 Q And did he tell you when he got the gun? Did he
19 have it when he got the car? Did he tell you he got it
20 when he was in the car?

21 A He said he acquired it in the car.

22 Q Okay. Did he ever indicate to you that anybody
23 threatened him?

24 A No.

25 Q And what did he tell you about the shots he fired?

1 **A** That he wasn't really aiming, I guess. Kind of just
2 stuck it out the window.

3 **Q** And he says initially -- was he able to fire the gun
4 initially?

5 **A** He said it malfunc- -- it jammed on him. That was
6 his words. And that he got back in the car and corrected
7 it.

8 **Q** And then after he corrected it, what?

9 **A** As they were pulling off, he shot out the window.

10 **Q** Mr. Edwards, we talked about -- Detective Edwards, I
11 apologize. We talked about ultimately what Che Ransom
12 told you in the conversation; correct?

13 **A** Yes, ma'am.

14 **Q** And we discussed at some point his mom and aunt were
15 allowed to talk to him?

16 **A** Yes.

17 **Q** Okay. Did he tell you that he was in the car and
18 fired prior to his mom and aunt going in there and talking
19 to him?

20 **A** No, ma'am. Initially, when he came to the police
21 department to turn himself in, he initially told us he was
22 in Columbia to visit a different aunt.

23 **Q** And did y'all look into that?

24 **A** Yeah. I went and asked his mom, and she said he
25 was --

1 MR. BOUCHETTE: Objection to hearsay, Your Honor.

2 THE COURT: Sustained.

3 MS. LIVESAY: I understand. That's fine.

4 BY MS. LIVESAY:

5 Q Did she confirm the story?

6 A No.

7 Q And since she didn't confirm the story, did you let
8 her go in there and talk to her son?

9 A We did.

10 Q And after she talked to her son, did you go back in
11 there and talk to Che Ransom again?

12 A We did.

13 Q Okay. And when you went in the second time, did his
14 story change?

15 A It did. It changed to the -- he was in the car and
16 told us what happened.

17 Q Okay.

18 MS. LIVESAY: No further questions of this witness,
19 Your Honor.

20 THE COURT: Mr. Bouchette?

21 CROSS-EXAMINATION ON BEHALF OF DEFENDANT RANSOM

22 BY MR. BOUCHETTE:

23 Q Detective Edwards, good morning.

24 A Good morning.

25 Q You interviewed Mr. Ransom. At that point in time,

1 you received information that indicated he had a .45;
2 correct?

3 A I believe that's what was told to us, yes.

4 Q And let's just talk about what he said when he began
5 telling you about the shots fired. If I understand you
6 correctly, his statement to you was that he got out and
7 the gun he had jammed; correct?

8 A Correct.

9 Q And according to what you said a moment ago, he
10 fired off the shots as he was leaving the scene; correct?

11 A Yes, that's what he said.

12 Q So, again, according to the testimony you've
13 elicited and testified to, he gets out, the gun jams,
14 meaning it did not fire; correct?

15 A Yeah. When he pulled the trigger, it jammed and did
16 not work, and so he gets in the car to fix it.

17 Q He gets in the car. And fires as he's leaving the
18 scene; correct?

19 A That's what he told me.

20 Q All right. Now, he's sort of firing out the window
21 as they're leaving?

22 A That's what he indicated he did.

23 Q That's what he indicated. Okay.

24 And have you reviewed any of the ballistics or the
25 crime scene evidence in this case?

1 **A** I have not.

2 **Q** Anything where shots were -- or cases were found or
3 anything along those lines?

4 **A** No, sir.

5 **Q** But he says he was firing up in the air as they were
6 leaving; correct?

7 **A** Yes.

8 **Q** All right. You spent a fair amount of time talking
9 about the plan. As a detective particularly in a murder
10 case, I imagine you -- prior to and even after speaking to
11 a defendant, you try to gather as much information as you
12 can; correct?

13 **A** Yes, sir.

14 **Q** And you're trying to corroborate what people are
15 saying to see if it matches with any other evidence that
16 you might uncover; correct?

17 **A** Yes.

18 **Q** You probably looked through things like text
19 messages, social media stuff, things along those lines;
20 correct?

21 **A** Yes.

22 **Q** Did you do that in this case?

23 **A** I did not.

24 **Q** Did somebody do that?

25 **A** I believe Detective Marcus did.

1 Q All right. Well, you talked about this plan to rob.
2 Was the -- who originated this supposed plan to rob Jamie?

3 A I believe he said Tronahz Whittington.

4 Q So he told you Tronahz wanted to rob Jamie; correct?

5 A Yes.

6 Q Okay. And that plan originated after they were
7 already in the car; correct?

8 A Yes.

9 Q Okay. All right. So they're in the vehicle. You
10 have uncovered no evidence that indicated the discussions
11 about a robbery with Tronahz Whittington occurred before
12 they got in the vehicle; correct?

13 A I have not.

14 Q Okay. And they're in the vehicle. Tronahz
15 Whittington indicates that there's the desire to rob
16 Mr. Johnson; is that right?

17 A Yes, sir.

18 Q Okay. And is it accurate to say that, other than
19 him getting out, at least according to his testimony,
20 getting out of the car and the gun jamming and then firing
21 shots out the window as he's exiting the scene, there's
22 nothing that you have uncovered to indicate he did
23 anything else in furtherance of some effort to rob
24 Mr. Johnson; is that safe to say?

25 A Yes, sir.

1 Q And, again, you're not a crime scene person. You
2 didn't go out to investigate. You're just here to testify
3 about the interview you had with him; is that --

4 A That's all I'm here to testify to.

5 Q Okay. Very good.

6 MR. BOUCHETTE: No further questions for this
7 witness, Your Honor.

8 THE COURT: Mr. Pinkerton, cross-examination?

9 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL
10 BY MR. PINKERTON:

11 Q Just one question: You did not interview Travontae
12 Mitchell; correct?

13 A No, sir, I did not.

14 MR. PINKERTON: Thank you. No further questions.

15 MR. GARDNER: No questions.

16 THE COURT: All right. Redirect?

17 MS. LIVESAY: Yes, sir, Your Honor. Just one quick
18 question.

19 REDIRECT EXAMINATION

20 BY MS. LIVESAY:

21 Q Detective Edwards, Mr. Bouchette, do you remember,
22 asked you about when the plan originated; correct?

23 A Yes, ma'am.

24 Q And he asked you if the plan came about while they
25 were in the car?

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

2 **Q** And is that when the plan came about?

3 **A** To the best of my knowledge, I believe so.

4 **Q** And you told Mr. Bouchette, correct, that's when the
5 plan came about?

6 **A** Yes.

7 **Q** And that's what Che Ransom told you?

8 **A** Yes. That's what he told me.

9 **Q** So the question wasn't if there was a plan; correct?

10 **A** Right.

11 **Q** Just when the plan originated?

12 **A** Yes, ma'am.

13 **Q** And the answer was, when they were in the car?

14 **A** Yes, ma'am.

15 **Q** No further questions, Your Honor.

16 THE COURT: All right. You may step down.

17 The State can call your next witness.

18 MS. LIVESAY: Thank you, Your Honor. At this time,
19 the State calls Detective Sean Wydra to the stand.

20 MR. HELMS: Your Honor, may Mr. Edwards be released,
21 please?

22 THE COURT: Any objection?

23 MR. BOUCHETTE: No, sir.

24 MR. PINKERTON: No, Your Honor.

25 MR. GARDNER: No, Your Honor.

1 THE COURT: All right. He's free to go.

2 MR. HELMS: Thank you, Judge.

3 THE CLERK: Please raise your right hand and place
4 your left hand on the Bible.

5 DETECTIVE SEAN WYDRA,
6 after having been duly sworn, was examined and
7 testified to as follows:

8 THE CLERK: State your name and spell it for the
9 Court.

10 THE WITNESS: Detective Sean Wydra. S-e-a-n.
11 Wydra, W-y-d-r-a.

12 DIRECT EXAMINATION

13 BY MS. LIVESAY:

14 Q Detective Wydra, where are you currently employed?

15 A The Horry County Police Department.

16 Q I'm going to give you an opportunity to go ahead and
17 take a sip.

18 And how long have you been with the police
19 department?

20 A Approximately 11 years.

21 Q And what kind of training have you undergone to work
22 with the police department?

23 A We attend the South Carolina Criminal Justice
24 Academy when we first start as a law enforcement officer.
25 Beyond that, we have to do annual training each year to

1 keep our certification. And then we also have advanced
2 training classes like homicide classes, sexual assault
3 classes, street crimes classes, things like that.

4 Q And what are your current responsibilities?

5 A I'm a homicide detective.

6 Q And what were your responsibilities in September of
7 2020?

8 A Same thing. I was a homicide detective then.

9 Q And have you had training particularly in homicide
10 investigations?

11 A Yes, ma'am.

12 Q And did you assist on the case we're here today with
13 involving the death of Jamie Johnson?

14 A I did.

15 Q And as part of your assistance, did you talk with
16 Travontae Mitchell?

17 A Yes, ma'am.

18 Q I'm going to show you now what's been marked as
19 State's No. 51. I have already shown it to defense
20 counsel.

21 A Yes, ma'am.

22 Q If you don't mind, tell the Court what you're
23 looking at.

24 A It's a Miranda rights form.

25 Q And who signed the Miranda rights form?

1 A Travontae Mitchell.

2 Q And did anybody from the police department sign it?

3 A Yes, ma'am. I did.

4 Q And does that indicate that you read that document
5 to Mr. Mitchell?

6 A The document was read by the other detective in the
7 room with me, but I was present when it was read.

8 Q Okay. And did Mr. Mitchell sign the document?

9 A He did.

10 Q Okay. And has that document been altered in any
11 form or fashion?

12 A It does not appear to have been altered.

13 MS. LIVESAY: Your Honor, at this time, the State
14 asks to place State's Exhibit 51 into evidence.

15 THE COURT: Mr. Pinkerton?

16 MR. PINKERTON: No objection, Your Honor.

17 MR. BOUCHETTE: Your Honor, may we approach?

18 THE COURT: All right.

19 BENCH CONFERENCE

20 (The following bench conference was held off the
21 record and outside the hearing of the jury and others:)

22 MR. BOUCHETTE: Your Honor, I want to do this as
23 efficiently as possible without causing undue delay, but I
24 want to make sure I'm protected. I'm going to object to
25 any -- in any statements that this witness is going to be

1 introducing that are the statements of a codefendant in
2 this case, Travontae Mitchell, under hearsay, Bruton and
3 Crawford. If the Court would allow it as a running
4 objection through his testimony, then I don't need to
5 object each time that they --

6 THE COURT: I'll allow a running objection on that,
7 yep.

8 MR. BOUCHETTE: Okay. Very good. Thank you, Judge.

9 (Open court resumes as follows:)

10 THE COURT: All right, Mr. Bouchette. Any
11 objection?

12 MR. BOUCHETTE: No other objection.

13 THE COURT: All right. Mr. Gardner?

14 MR. GARDNER: No, Your Honor.

15 THE COURT: All right. State's Exhibit 51 is
16 admitted into evidence over Defendant Ransom's objection
17 and without objection by Defendant Brown or Mitchell.

18 MS. LIVESAY: Thank you, Your Honor.

19 (State's Exhibit No. 51 was received into evidence.)

20 BY MS. LIVESAY:

21 Q Mr. Wydra, if you don't mind -- that document is now
22 in evidence -- read that document to the folks in the
23 jury.

24 A At the top, there's a section for -- where we fill
25 out some information. It has Travontae Mitchell's name,

1 his date of birth, case number, date and time, where it
2 was filled out.

3 It also asks if he graduated high school; what year,
4 if he did. If he's under the influence of any alcohol or
5 drugs at the time, which he said no. If you can read or
6 write, to which he said yes. If he was in any physical
7 discomfort, to which he indicated no. He was still in
8 school at the time.

9 Below is the section for the advisement of Miranda
10 rights. It says, "You have the right to remain silent.
11 Anything you say can be and will be used against you in a
12 court of law. You have the right to talk with a lawyer
13 and have him present with you while you are being
14 questioned. If you cannot afford to hire a lawyer, one
15 will be appointed to represent you at no cost to you
16 before any questioning if you so desire. If you make a
17 statement or answer any questions, you have a right to
18 stop at any time. Do you understand these rights?"

19 Q And did he indicate that he understood the rights?

20 A Yes, ma'am. There's a section where he checked yes
21 or no, where you can check or write your initials. And he
22 initialled next to "yes." And then he also initialled
23 next to each one of those Miranda rights and signed and
24 printed his name at the bottom of the form.

25 Q Now, let me ask you something: When he was in the

1 room with you, did he appear to be impaired in any form or
2 fashion?

3 A No, ma'am.

4 Q Did he appear to understand what was going on?

5 A Yes, ma'am.

6 Q Did he appear to understand your questions?

7 A Yes, ma'am.

8 Q Did he appear to be in any sort of pain or
9 discomfort?

10 A No, ma'am.

11 Q Was he having any issues at all to keep him from
12 understanding what was going on?

13 A No, ma'am.

14 Q And was he denied -- if he wanted to go to the
15 bathroom or get a drink of water, was he denied any of
16 those things?

17 A No, ma'am. He actually was allowed to use the
18 restroom at one point. I don't recall exactly when,
19 but...

20 We also offered him food and water and those things.

21 Q And when he was in the room, did you ever put your
22 hands on Travontae Mitchell?

23 A No, ma'am.

24 Q Did anybody from the police department put their
25 hands on Travontae Mitchell?

1 A No, ma'am.

2 Q Did you threaten him in any way?

3 A No, ma'am.

4 Q Did anybody from the police department threaten him?

5 A No, ma'am.

6 Q Did you promise him anything in exchange for talking

7 to you?

8 A No, ma'am.

9 Q Did he talk to you freely and voluntarily?

10 A Yes, ma'am.

11 Q Okay. Now, you read him those rights; correct?

12 A I believe Detective Dudley read them, but I was

13 present when they were read in the room.

14 Q While you were in the room with Travontae Mitchell,

15 did he ever ask for a lawyer?

16 A No, ma'am.

17 Q Did he ever indicate to you that he wanted to remain

18 silent?

19 A No, ma'am.

20 Q Were his answers responsive to your questions?

21 A Yes, ma'am.

22 Q So nothing to indicate he didn't want to talk to

23 you?

24 A No, ma'am.

25 Q And did he talk with you?

1 A He did.

2 Q Okay. Now, were you present for the entire
3 interview of Travontae Mitchell?

4 A No, ma'am.

5 Q Okay. So, at some point, you left?

6 A I did.

7 Q And do you know who came in?

8 A Detective Marcus.

9 Q Was anybody in the room with the defendant between
10 the time you left and the time Detective Marcus came in?

11 A I don't know if Detective Dudley remained in there
12 or not. I don't recall who came in or left at the time.

13 Q Okay. While you were in there, did anybody ever
14 pressure him or anything inappropriate happen?

15 A No, ma'am.

16 Q While you were in there, did he ever admit to you
17 any involvement in the shooting of Jamie Johnson?

18 A No, ma'am.

19 Q Did he indicate to you whether or not he was present
20 for the shooting?

21 A No. He said he was in his house or his mom's house.

22 Q So he said he don't know nothing about nothing?

23 A For the most part. I mean, he said he wasn't
24 present and that we could reach out to his mother to
25 confirm that or deny that.

1 Q And said he was at his mama's house?

2 A Yeah.

3 Q Okay. Two things, Mr. Wydra. First of all --

4 A Sure.

5 Q -- did anybody ever verify whether or not Travontae
6 Mitchell was home during the time of the shooting?

7 A I don't know. I did not. I can't answer that.

8 Q And at the time, were you the lead investigator?

9 A No, I was not.

10 Q So the lead probably would have had more
11 information?

12 A That's correct.

13 MS. LIVESAY: No further questions, Your Honor.

14 THE COURT: All right. Mr. Bouchette,
15 cross-examination?

16 MR. BOUCHETTE: I don't think I have any questions
17 for this witness, Your Honor.

18 THE COURT: Mr. Pinkerton?

19 MR. PINKERTON: Yes, Your Honor. Briefly.

20 THE COURT: All right.

21 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL

22 BY MR. PINKERTON:

23 Q Detective Wydra?

24 A Yes, sir.

25 Q So you participated in the interview of my client,

1 Travontae Mitchell?

2 A I did.

3 Q And at no time he ever told you he had a gun?

4 A No, sir, he did not.

5 Q He told you he was at his mom's house the whole
6 time?

7 A Yes.

8 Q But never admitted to taking place in the shooting
9 or have any part in the shooting?

10 A No, not to me.

11 Q And, once again, never had a gun?

12 A No, he did not tell me he had a gun.

13 Q Thank you.

14 MR. PINKERTON: No further questions, Your Honor.

15 THE COURT: All right. Mr. Gardner?

16 MR. GARDNER: No, sir. No questions.

17 THE COURT: Redirect?

18 MS. LIVESAY: No redirect, Your Honor.

19 THE COURT: Thank you. You may step down.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: The State can call your next witness.

22 MS. LIVESAY: Certainly, Your Honor. At this time,
23 the State calls Detective Ken Marcus to the stand.

24 DETECTIVE KEN MARCUS

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE WITNESS: It's Detective Ken Marcus. And the
3 last name is M-a-r-c-u-s.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Detective Marcus, if you don't mind, where are you
7 currently employed?

8 A With the Horry County Police Department.

9 Q And how long have you been employed with the police
10 department?

11 A About 16 years now.

12 Q And tell these folks how much training you have had.

13 A Initially, we have to go through the criminal
14 justice academy. It's about 9 weeks to 12 weeks depending
15 on when you go. There is continuous training throughout
16 the year to keep our certifications up. I have gone
17 through several advanced courses through the criminal
18 justice academy and through other accredited programs like
19 the Southern Police Institute and the International
20 Homicide Investigators Association, as well as some
21 training through -- for digital forensics field.

22 Q And what are your responsibilities currently?

23 A Currently, I'm a cold case investigator associated
24 with our homicide division.

25 Q And what were your responsibilities in September of

1 2020?

2 A In September of 2020, I was a detective assigned
3 with our Violent Crimes Division, specifically in the
4 field of robbery and homicide.

5 Q And did you assist in investigating the murder of
6 Jamie Johnson?

7 A I was actually the lead investigator for this
8 particular incident or investigation.

9 Q Okay. And if you don't mind, tell them what that
10 means to be the lead investigator.

11 A So the lead investigator case agent is the gentleman
12 who or the lady who is in charge of directing the
13 investigation, where they go. Typically, for cases of
14 this magnitude, we work as a team. There's just too much
15 for one person to, you know, follow up at one point in
16 time. Everything is fluid moving.

17 So I would be the gentleman who is in charge of
18 making sure certain things are looked into. If there was
19 evidence over here, I would send someone to go and look
20 for it and collect it. If a canvass needed to be done in
21 a neighborhood, I would send investigators to do that. If
22 there were people to be interviewed, I would send
23 investigators to do that.

24 Now, I would be a part of some of these items, but,
25 obviously, I could not be a part of every single one of

1 them, and all that information is brought back to me, and
2 I organize it and then decide where the team is going to
3 go based off the information or evidence provided to me by
4 the other investigators.

5 Q And you were the lead investigator in this
6 particular case?

7 A Yes, ma'am.

8 Q And at some point, as an investigator working on the
9 case, did you talk to Defendant Travontae Mitchell?

10 A I did.

11 Q And did you know that Sean Wydra was in there
12 talking to him first?

13 A Yes. I actually monitored the majority of that
14 interview. There were two interviews going on at that
15 time, so I was monitoring both.

16 Q And, at some point, did Sean leave the interview and
17 you come in?

18 A Both Detective Dudley and Detective Wydra left at
19 one point in time, and then myself and Detective Dudley
20 entered the interview room.

21 Q Okay. And when you were in the room with Defendant
22 Mitchell, did you ever put your hands on him or threaten
23 him in any form or fashion?

24 A No, ma'am.

25 Q Okay. Was he promised anything in exchange for

1 talking with you?

2 A No.

3 Q Okay. And when you and David Dudley -- Detective
4 Dudley come back in, does he continue to speak with you
5 guys?

6 A Yes.

7 Q Okay. Now, why did you come in?

8 A There was information that was mentioned to me --

9 MR. BOUCHETTE: Objection, Your Honor.

10 THE COURT: All right. No hearsay.

11 A During my investigation, I learned facts about this
12 case --

13 THE COURT: Well, you can't get into what anybody
14 told you. You can say what you did and what you
15 personally observed, but if it's based upon what somebody
16 else told you, you can't get into that.

17 MS. LIVESAY: I'll rephrase the question.

18 THE COURT: All right.

19 BY MS. LIVESAY:

20 Q Detective Marcus, did you have additional
21 information that Mr. Wydra did not have?

22 A Yes, ma'am.

23 Q And as part of the investigation, did you want to
24 confront Defendant Travontae Mitchell with that
25 information?

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

2 **Q** And did you take over the interview when Detective
3 Wydra left to confront him with the information?

4 **A** Yes, ma'am.

5 **Q** Okay. And you already knew what he was telling
6 Detective Wydra?

7 **A** I heard some of it, yes, ma'am.

8 **Q** Okay. Now, when you come in and speak with him and
9 confront him with this information, does he tell you
10 whether or not he was a participant in the murder of Jamie
11 Johnson?

12 MR. BOUCHETTE: Objection, Your Honor. If the Court
13 is going to -- would extend my continuing objection from
14 the prior witness.

15 THE COURT: You have got your objection. Overruled.

16 MR. BOUCHETTE: Okay. And it's continued throughout
17 this testimony, Your Honor?

18 THE COURT: Yes.

19 MR. BOUCHETTE: Very good. Thank you.

20 BY MS. LIVESAY:

21 **Q** I'm sorry, Mr. Marcus. Let me go back. Okay?

22 Where we left off was, you had come in the room
23 because you had additional information.

24 **A** Yes, ma'am.

25 **Q** In the course of the talking to Defendant Travontae

1 Mitchell, did he tell you whether or not he was a
2 participant of the murder of Jamie Johnson?

3 A Yes, ma'am.

4 Q Did he tell you whether or not he was in the car?

5 A He stated he was in that vehicle on the -- at the
6 time of the shooting, yes, ma'am.

7 Q And, in fact, did he tell you where he was sitting
8 in the vehicle?

9 A Yes, ma'am.

10 Q And tell these folks where he told you he was
11 sitting.

12 A He stated he was sitting in the backseat in the
13 center -- center backseat of that vehicle.

14 Q Okay. And did he tell you whether or not he hopped
15 out of the car and hopped back in?

16 A He did.

17 Q So he tells you he hops out and hops back in?

18 A Yes, ma'am.

19 Q Did he tell you whether or not he fired a weapon?

20 A He stated at that time he did not fire a weapon.

21 Q Did he tell you whether or not he had a weapon?

22 A He stated at that time he did not have a weapon.

23 Q Now, did he tell you if anybody picked him up after
24 the shooting?

25 A He did.

1 Q And who picked him up?

2 A The baby's mama or girlfriend of another individual.

3 Q Okay. So somebody's girlfriend?

4 A Yes.

5 Q Okay. And was this different than what he told Sean
6 Wydra?

7 A Yes.

8 Q Did he tell you what he was wearing?

9 A I don't recall. I don't believe he could recall
10 during that interview.

11 If you'd give me just a moment.

12 Q Okay.

13 A (Witness reviews documents.) He could not recall
14 during that interview.

15 Q And he says he didn't have any kind of weapon?

16 A Correct. He stated he did not have a weapon.

17 Q And he's sitting in the middle, between two people?

18 A He stated he was sitting in the backseat between two
19 people.

20 Q Okay. And he admits he makes the effort to slide
21 through and hop out of the car?

22 A He stated he exited the vehicle for a moment and
23 then got back in the vehicle.

24 Q And did he indicate that he exited the vehicle while
25 the shooting was going on?

1 **A** He stated he exited the vehicle at the time of the
2 shooting and got back in the vehicle.

3 **Q** So he didn't tell you that he was home with his mom
4 when Jamie Johnson was murdered?

5 **A** No, ma'am.

6 **MS. LIVESAY:** No further questions.

7 **THE COURT:** All right. Ladies and gentlemen, I have
8 got another matter of law I need to address with the
9 attorneys. I'm going to excuse you back to the jury room
10 for just a few minutes. Okay? We'll bring you back out
11 in just a second.

12 (The jury exited the courtroom at 12:02 p.m.).

13 MOTIONS/MATTERS OF LAW

14 **THE COURT:** All right. Mr. Bouchette had a running
15 objection to this witness's testimony as to the statements
16 given by one defendant. He said he's sitting in the back
17 of the car between two other people. So how does that not
18 implicate the other defendants in this case?

19 **MS. LIVESAY:** He didn't name any names and
20 Shamontae --

21 **THE COURT:** You don't have to name other names. The
22 fact of the matter is, if you're sitting -- anything that
23 indicates that these other defendants -- you can't -- I
24 mean, in the leading case, where they just said "other
25 person," without naming the defendant.

1 MR. HELMS: Okay. Your Honor --

2 THE COURT: And they held that that violated Bruton
3 because it was easy for the jury, when they said "other
4 person" to know that he was talking about the codefendants
5 that were being tried with that defendant who gave the
6 statement.

7 Here, he said he's sitting in the backseat between
8 two other people.

9 MR. HELMS: May I?

10 THE COURT: All right.

11 MR. HELMS: Your Honor, this has been litigated.
12 What you're talking about and what has been addressed in
13 Richardson v. Marks -- that is a U.S. Supreme Court case
14 from 1987 -- it was decided after Bruton and it takes
15 Bruton into consideration. And here's what it says, [as
16 read] "If limited to facially incriminating confessions,
17 Bruton can be complied with by redaction. If extended to
18 confessions incriminating by connection not only possible
19 but it is not even possible to predict the admissibility
20 of a confession in advance of trial. Compliance with the
21 Court of Appeals' overbroad reading of Bruton could not be
22 achieved without enormous cost to the criminal justice
23 system."

24 This case deals with what you're discussing right
25 now, whether by implication the codefendants are involved

1 in the confession. And this says facially is what needs
2 to be determined; whether facially the statement
3 implicates the codefendant. And I would ask the Court,
4 prior to ruling on this, to read Richardson v. Marks
5 because it's right on point, Judge.

6 THE COURT: Well, I want you to read State v.
7 McDonald, a South Carolina Supreme Court case from 2015.
8 "Admission of codefendant's statement using the phrase
9 'another person' to refer to codefendant and two other
10 male individuals violated the defendant's right under
11 confrontation clause."

12 MR. HELMS: May I have that notation, Your Honor?

13 THE COURT: 412 S.C. 133 and 771 S.C.2d 840, State
14 v. McDonald. It does a good explanation of Bruton and
15 everything. Because, at that time, the law was that, as
16 long as they didn't name the defendant, they didn't say
17 the defendant's name, then it didn't violate the
18 defendant's confrontation clause, and the Supreme Court
19 says no. When you can discern from the witness's
20 testimony that the defendant's statement implicates the
21 codefendants, then that is a violation of the
22 codefendant's right -- constitutional confrontational
23 clause.

24 MR. HELMS: And I understand, Your Honor, and I'll
25 certainly read that during the break, but my contention --

1 the State's contention is it didn't implicate any
2 codefendant.

3 THE COURT: He says he's sitting in the backseat
4 between two other de- -- people.

5 MR. HELMS: Two people. That's right. You almost
6 said "defendants," but that's right. He said, "People."

7 THE COURT: But what's the difference between saying
8 he's sitting in the backseat between two other people and
9 McDonald when he -- if he said he's sitting in the
10 backseat with another person? "Another person" and "two
11 people," State v. McDonald says you can't do that.

12 MR. HELMS: Well, and again, Your Honor, I'm going
13 to read State v. McDonald, but I don't think that this
14 violates Bruton, is my position.

15 THE COURT: All right. Let me -- go ahead and put
16 your argument on --

17 MR. BOUCHETTE: I'd incorporate everything that Your
18 Honor said. The only thing I would add to it is that,
19 subsequent to the case cited by the State, obviously,
20 Crawford was cited, and Crawford deals with -- again, I
21 disagreed with Your Honor earlier -- respectfully, of
22 course -- that the Court viewed this confrontation of what
23 statements triggered confrontation clause too narrowly.

24 But now -- just as Your Honor stated earlier, now
25 they have implicated by virtue of a statement from a

1 nontestifying codefendant of -- you know, that is now --
2 even under Your Honor's view of the confrontation clause
3 now, it has been incriminating, and I think that's
4 supported by McDonald.

5 And so I would submit both under Bruton, McDonald,
6 Crawford, Mitchell, all those cases, that Your Honor is
7 absolutely correct that they have -- and, again, I'll
8 point out this fact to the Court: When this trial came up
9 the previous time with Travontae Mitchell, we moved for
10 severance. Judge DeBerry granted the severance. The
11 State has subsequently moved for a motion to joinder,
12 which Your Honor granted, and so now we're here.

13 So the State has bent over backwards to have this as
14 a joint trial, and we were opposing it in large reason
15 because we were fearing these issues may come up. So, you
16 know, they wanted to do it this way, and I think they have
17 created a problem that I don't think you can come back
18 from.

19 THE COURT: All right, Mr. Pinkerton. Anything you
20 want to put on the record?

21 MR. PINKERTON: Your Honor, I would concur with
22 Mr. Bouchette with everything he said. These statements
23 implicate other codefendants. Your Honor, there's no way
24 around Crawford and Bruton at this point.

25 THE COURT: Mr. Gardner?

1 MR. GARDNER: I agree with you, your earlier
2 assessment of it. I agree with the solicitor when he
3 said, "You, Your Honor, almost said two defendants." And
4 guess what? That's what the jury heard: two defendants.
5 I agree with the motion made by Jarrett --

6 THE COURT: Well, I don't think he said two
7 defendants. He said two -- between two people.

8 MR. GARDNER: He did. He did say, "Two people."
9 And when you were repeating it, the solicitor said,
10 "You almost said two people" I mean, "two defendants."

11 My point is, that's what the jury is going to assume
12 that he was saying when he said "between two people."
13 He's going to say "between two defendants."

14 And that's why we have this law. And I join with
15 the motion by Jarrett and by Pinkerton, and I think that
16 we're in this pickle because of the way the case was
17 framed. I don't know what the answer is except for --

18 MR. BOUCHETTE: I think the only answer at this
19 point, Your Honor, is having -- I mean, crossed over that
20 is a mistrial.

21 THE COURT: All right. Let's take a little -- take
22 a short break. I'm going to let the State review State v.
23 McDonald, which I think is right on point, and come back,
24 and I'll hear you reply, and then we'll go forward on
25 that.

1 MR. HELMS: And, Your Honor, State v. McDonald
2 actually quotes Richardson v. Marsh. It doesn't overturn
3 it, so I would like the Court -- I would like to hand
4 this up to the Court.

5 THE COURT: Okay. I mean, I'll take a look at it.

6 MR. HELMS: Thank you.

7 THE COURT: I want to hear about State v. McDonald
8 where it says that violated the confrontation clause.

9 MR. HELMS: I understand. But that distinguishes
10 from this State -- from this case. It distinguishes it;
11 it doesn't overturn it. So I would like to hand it up to
12 the Court.

13 THE COURT: All right. Let's take about a
14 ten-minute break and we'll come back in just a second.

15 MR. HELMS: Thank you, Judge.

16 (A recess was taken from 12:10 p.m. to 12:42 p.m.)

17 THE COURT: Before we do anything, we had a little
18 glitch in our lunch for the jury, so I'm going to bring
19 the jury in and let them go to lunch. And then we'll go
20 ahead and take up these other issues. Okay?

21 MR. HELMS: Yes, sir.

22 THE COURT: All right. Let's bring the jury in.

23 (The jury entered the courtroom at 12:44 p.m.)

24 THE COURT: Ladies and gentlemen, welcome back. I
25 apologize for keeping you in the jury room for so long,

1 but these legal issues have -- are taking us a little bit
2 longer than I anticipated.

3 In that, it's a quarter to 1:00, I'm going to let
4 you go ahead and go to lunch on your own today. We're
5 going to break here and let you go to lunch. I'm going to
6 ask you that you please be back at 2:00 and then we'll
7 resume the trial at that time.

8 Again, do not discuss the case even among
9 yourselves. I hope you have a good lunch, and we'll see
10 you back at 2:00. Okay? Thank you very much.

11 (The jury exited the courtroom at 12:45 p.m.)

12 THE COURT: All right. Now, before we get into this
13 other issue, the court reporter brought to my attention
14 that we played State's Exhibit 36, but it was not in
15 evidence. It is not in evidence. State's Exhibit 53,
16 which the court reporter is telling me is the same as
17 State's 36, is what's in evidence, the video of the car
18 and all of that that came in during Mr. Samuel's testimony
19 when you showed it.

20 Mr. Gardner said, you know, we'll stipulate that he
21 loaned the car, and I said, "Well, I'll let them present
22 it however they wanted to." And Mr. Helms said, you know,
23 "We'll play State's Exhibit 36. It's already in
24 evidence." Well, it was not in evidence. But --

25 MS. LIVESAY: The same video is in evidence. Are we

1 talking about the EME Apartments?

2 MR. HELMS: Yes.

3 MS. LIVESAY: Yes, sir. The same one is in
4 evidence.

5 MR. HELMS: I'm sorry.

6 MS. LIVESAY: It is right here. So the one that is
7 State's 53 is in evidence.

8 THE COURT: Yes. 53 is in evidence.

9 MS. LIVESAY: That's right. That's the identical
10 video that is marked as State's 36.

11 THE COURT: Yes. But 36 is not in evidence.
12 Mr. Helms said 36 was in evidence, and I don't know which
13 one he played. I assume he was playing the one that was
14 in evidence. According to the court reporter, he played
15 the one that was not in evidence.

16 MS. LIVESAY: Well, they're identical.

17 THE COURT: Well -- but, still, you have got to have
18 a record. If he's saying, "We're playing 36," and 36
19 isn't in evidence...

20 So I just wanted to put on the record that he played
21 State's 36, which is not in evidence. State's Exhibit 36
22 is identical to State's 53, which is in evidence.

23 MS. LIVESAY: Yes, sir.

24 MR. HELMS: I apologize.

25 THE COURT: That's all right. So he played

1 something that is identical to something in evidence but
2 it wasn't in evidence.

3 MS. LIVESAY: Yes, sir.

4 THE COURT: All right. Anything with regards to
5 that issue?

6 MR. BOUCHETTE: If they are identical, then I don't
7 think I have an objection.

8 THE COURT: I'm going to be honest with you. When I
9 saw, when they were playing it, and it was the exhibit
10 that I saw -- I thought it was the exhibit I saw
11 yesterday.

12 MS. LIVESAY: It was.

13 THE COURT: And it looked the same, but they're
14 marked differently.

15 MR. BOUCHETTE: If it's identical, I don't have an
16 objection.

17 THE COURT: All right. Mr. Pinkerton?

18 MR. PINKERTON: Yes, Your Honor. If it's identical,
19 I don't have an objection either.

20 THE COURT: Mr. Gardner?

21 MR. GARDNER: Why do we have two exhibits if they're
22 identical?

23 MR. HELMS: That's a good question. What we did was
24 we asked the Clerk of Court to bring back from the first
25 trial all of the exhibits that were entered into evidence,

1 and that was a just a copy they brought back from the
2 first trial. 36 was in the first trial.

3 THE COURT: I see. Okay.

4 MR. GARDNER: So 36 is -- I'm trying to keep a
5 record too, and apparently not a good one since I let that
6 get by. But 36 is identical to what?

7 THE COURT: 53.

8 MS. LIVESAY: That's right.

9 MR. GARDNER: 53. Okay. Thank you, Your Honor.

10 MR. HELMS: Thank you, Judge.

11 THE COURT: All right. Now, back -- let me hear
12 from the State regarding the defendants' motion for a new
13 trial based upon a violation of Bruton, after, I'm
14 assuming, you've now reviewed State v. McDonald. How is
15 this different from State v. McDonald?

16 MR. HELMS: Your Honor, it is different, and I have
17 read State v. McDonald, and I understand what the Court's
18 concern there was. What they did in State v. McDonald was
19 they took the statement from the codefendant, the entire
20 statement, and all they did was redact out the
21 codefendant's names that were in the trial with him and
22 put "other person."

23 So he was allowed to give context to "other person"
24 in any way he wanted just throughout his statement. "Me
25 and the other person robbed a person," "Me and the other

1 person killed a person." Those are facially -- facially
2 incriminating.

3 That is not what we have here, Your Honor. What we
4 have here is where the witness indicated from what a --
5 the defendant said, that he was sitting between two
6 people.

7 Now, the question is, does that violate the
8 defendant's -- the other codefendants' confrontation
9 clauses. Well, to do that, it would have to implicate
10 them first and foremost, and it does not.

11 In opening statements, Mr. Gardner conceded to the
12 jury that his client was there, and the driver of the
13 vehicle. So it can't possibly implicate Mr. Don Brown
14 because he's in the front. So he can't be in the back of
15 one of the other people on either side of the defendant.

16 Furthermore, we have testimony from the
17 codefendants' own mouths, Che Ransom and Travontae
18 Mitchell, they were, in fact, in the car. They agreed --
19 their own statements say that they were in the car. We
20 produced evidence to that effect outside of this, Your
21 Honor.

22 Additionally, we'll have another codefendant, Mikkie
23 McLeod, testify to the same thing later on in the trial.

24 The statement itself "being in the middle" is not
25 incriminating because you yourself, Your Honor, you're

1 going to give an instruction to this jury that mere
2 presence is not a crime. Mere presence is a defense. And
3 that is what the defense has been alluding to the entirety
4 of this trial up to this point.

5 They conceded, in all honesty, that their claims
6 were there. We have overwhelming evidence that their
7 clients were there. So the fact that, on its face, it
8 does not implicate any impropriety or culpability, the
9 statement itself "were sitting between" -- it's not saying
10 "were sitting between two people that shot and killed."
11 "I was sitting between two people."

12 It can't be Mr. Garnder's client, by his -- by the
13 testimony. It can't be because everybody has already
14 identified him as the driver.

15 Mr. Mitchell's statement puts him -- and we have
16 that in testimony -- in the car.

17 Mr. Ransom's statement puts him in the car.
18 Furthermore, Mr. Ransom's statement puts him as a shooter.
19 Now, what he shot at, that's up for debate and that's up
20 for the jury to determine.

21 But being merely in the car is ancillary to what's
22 already been published to the jury in terms of him being a
23 shooter by his own statement, Your Honor.

24 And, in closing, I would just point this out to the
25 Court. Despite them going through all that in McDonald

1 and they letting in the entire statement and just
2 replacing and redacting the codefendants' names with the
3 word "other person," which, again, I agree with that,
4 despite doing that and pointing to the codefendants and
5 their illegalities, on the face of the statement, it was
6 deemed harmless error.

7 THE COURT: All right. But it was error. You said
8 "harmless error," but it was error and improper to let it
9 in.

10 MR. HELMS: Yes, sir, but it was different facts.
11 And, again, the evidence of their presence was
12 overwhelming.

13 But even presence here is not indicative of guilt.
14 They're going to argue that. And they have been arguing
15 it the whole time, Judge.

16 THE COURT: All right. Mr. Bouchette, anything in
17 reply?

18 MR. BOUCHETTE: Yes, sir, Your Honor. First, as to
19 facially incriminating, their presence in the back of the
20 vehicle is the thrust of the State's case. They're
21 arguing to the jury that their presence is indicative of
22 criminal intent, criminal actions.

23 So placing them in the backseat is, in the context
24 of this trial, in the context of the testimony -- of this
25 trial, incriminating.

1 Now, there's a lot of testimony that's already come
2 out but that's not really the standard. Again, we're
3 still going through a Bruton analysis, and I don't want to
4 beat that horse to death. We have already --

5 THE COURT: Well, I mean, the thing is, is you still
6 have Mr. Graham's testimony that puts -- he put -- this is
7 where this person sat, this is where this person sat,
8 that's where this person sat, this is who was driving,
9 this is who was in the first seat.

10 So how is your client prejudiced by the fact of him
11 just saying, "I jumped back in the car between two
12 people," in light of Mr. Graham's testimony that's also
13 in?

14 MR. BOUCHETTE: Well, any time we go through this,
15 we don't look to -- we don't deem improperly admitted
16 evidence to be properly admitted simply because it came in
17 through a proper witness.

18 The fact that this was improper came in over
19 objection. Again, it's one more piece of evidence tending
20 to put -- and, again, I'll point out too, Mr. Mitchell's
21 statement came in over objection. So this is yet
22 another -- it's putting in a statement. It's putting him
23 there at the scene. It's, I would argue, facially
24 incriminating; if not facially incriminating, certainly
25 incriminating in the context of this case.

1 And, again, respectfully disagreeing with the Court
2 earlier, I view that the Crawford decision is more
3 expansive and now, with this statement we put in, even if
4 it's not facially incriminating, now he has put in, you
5 know, the statement that does incriminate Mr. Ransom. He
6 said two other people sitting in the back; it can only
7 lead to somebody here.

8 So I submit that, now, having this testimony that we
9 have met that. I'd maintain my same request.

10 THE COURT: Mr. Pinkerton?

11 MR. PINKERTON: Your Honor, I would mirror what
12 Mr. Bouchette said and join in with him on that.

13 Your Honor, even if one witness has already
14 testified, as in Mr. Graham, it certainly doesn't get
15 around the fact that this was improperly put into evidence
16 through testimony through the detective, who was a State
17 agent.

18 THE COURT: All right. Mr. Gardner?

19 MR. GARDNER: Your Honor, I agree with both of them
20 and join my motion as part of their motion. I just also
21 add that me conceding in opening statement is not
22 evidence, as you already told the jury or somebody has
23 told the jury. So that shouldn't be used against my
24 client to let the State get by with a violation of the
25 law.

1 And you have got -- at best, you may have pitting of
2 witness. One witness said this person was there, and then
3 now you have got the police officer saying two others were
4 there. So it kind of uses a codefendant's statement to
5 get at other codefendants.

6 So I think it's overwhelming. It's different than
7 what the State is saying. I still think we're back to
8 where we were before, and I'd join with everything they've
9 said and also join with the motion for a mistrial.

10 THE COURT: All right. Well, I'm going to deny the
11 motion for a mistrial. I acknowledge the statement
12 "jumped in the backseat between two people," that was
13 improper. It shouldn't have come in. But in light of
14 Mr. Graham's testimony, as well as the victims who said
15 there were multiple people, it doesn't identify the
16 defendants.

17 Mr. Graham's testimony does, and so, because that
18 was already in, I find that this error does not rise to
19 the level that would justify granting a new trial. It
20 doesn't prejudice your client to any extent that they're
21 entitled to a new trial, so I'm going to deny the motion.

22 All right. We're going to have to break since the
23 jury has gone to lunch. Anything from the State before we
24 break for lunch?

25 MR. HELMS: No, Your Honor.

1 THE COURT: Mr. Bouchette?

2 MR. BOUCHETTE: No, sir.

3 THE COURT: Mr. Pinkerton?

4 MR. PINKERTON: No, Your Honor.

5 THE COURT: Mr. Gardner?

6 MR. GARDNER: No, sir.

7 THE COURT: All right. We're going to break for
8 lunch. I'll be back at 2:00.

9 Officer Marcus, we're in the middle of your
10 testimony. You cannot discuss any part of your testimony
11 with anyone, whether it be what you've testified to thus
12 far or what you anticipate testifying to in the future.
13 Okay?

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Thank you very much.

16 We'll be in recess until 2:00.

17 (A lunch recess was taken at 12:58 p.m. to
18 2:06 p.m.)

19 THE COURT: All right. Anything from the State
20 before we bring the jury in?

21 MS. LIVESAY: No, sir.

22 THE COURT: All right. Mr. Bouchette?

23 MR. BOUCHETTE: Nothing new, Your Honor. Just since
24 we have had a break in the action, we'd renew our prior
25 objections that we already made prior to the break.

1 THE COURT: All right. Mr. Pinkerton?

2 MR. PINKERTON: Yes, Your Honor. I would just renew
3 all prior objections.

4 THE COURT: All right. Mr. Gardner, anything before
5 we bring the jury in?

6 MR. GARDNER: Join with whatever motions were
7 made --

8 THE COURT: All right.

9 MR. GARDNER: -- and objections made, Your Honor.

10 THE COURT: I'll stick by my prior rulings.

11 All right. Let's bring the jury in.

12 (The jury entered the courtroom at 2:09 p.m.)

13 THE COURT: All right. Ladies and gentlemen,
14 welcome back. Hope everybody had a good lunch. We're
15 ready to resume with the trial of the case.

16 The State will continue with your direct
17 examination.

18 MS. LIVESAY: No further questions, Judge.

19 THE COURT: Mr. Bouchette, cross-examination?

20 MR. BOUCHETTE: Your Honor, I don't have any
21 questions for this witness.

22 THE COURT: Mr. Pinkerton?

23 MR. PINKERTON: Yes, Your Honor, briefly.

24 CROSS-EXAMINATION ON BEHALF OF DEFENDANT MITCHELL
25

1 BY MR. PINKERTON:

2 Q Detective Marcus, thank you for being here.

3 So Travontae Mitchell never told you he had a gun;
4 correct?

5 A I'm sorry?

6 Q Travontae Mitchell never told you he had a gun?

7 A That's correct. He said he had no gun.

8 Q He had no gun? He was just merely present in the
9 car?

10 A He said he was inside the vehicle, yes.

11 Q So he was just merely present, just there,
12 basically, is what he told you?

13 A He said he was present for -- at the time of the
14 incident, yes.

15 Q Okay. But at no point he told you had a gun?

16 A No.

17 Q At no point he told you he fired a shot?

18 A No.

19 Q In earlier testimony, I believe you stated that he
20 told you he got out of the car, then he got in after the
21 shots were done being fired? Is that what you testified
22 to earlier?

23 A No. I said that he got out of the vehicle at the
24 time that everybody arrived and then got back in the
25 vehicle as the shots were being fired.

1 Q As the shots were being fired.

2 A Yes.

3 Q At no point he told you he had a gun?

4 A No.

5 Q At no point he told you he shot him?

6 A No.

7 Q Thank you.

8 MR. PINKERTON: No further questions, Your Honor.

9 THE COURT: All right. Mr. Gardner?

10 MR. GARDNER: No questions, Your Honor.

11 THE COURT: Redirect?

12 MS. LIVESAY: No further questions, Judge.

13 THE COURT: All right. You may step down.

14 The State can call your next witness.

15 MR. HELMS: The State would call Jayla Boone.

16 THE CLERK: Please raise your right hand and place
17 your left hand on the Bible.

18 JAYLA BOONE,

19 after having been duly sworn, was examined and
20 testified to as follows:

21 THE CLERK: Please state your name and spell it for
22 the Court.

23 THE WITNESS: Jayla Boone. J-a-y-l-a B-o-o-n-e.

24 DIRECT EXAMINATION

25

1 BY MR. HELMS:

2 Q Ms. Boone, thank you for being here.

3 A Thank you for having me.

4 Q Let me get this out of the way. If you had your
5 choice today, would you be here?

6 A No. No.

7 Q You're here because you got a subpoena to be here?

8 A Yeah.

9 Q That's fair.

10 How old are you?

11 A I'm 21.

12 Q So, three years ago, you were 19?

13 A Yeah.

14 Q In 2020?

15 A Yes, sir.

16 Q Do you work anywhere now?

17 A I work at Paula Deen's Kitchen.

18 Q Oh, I like it.

19 Jayla, I want you to look at this table. Do you
20 recognize any of the defendants -- not the attorneys, but
21 any of the defendants, do you recognize them?

22 A Yes.

23 Q Which one?

24 A All of them.

25 Q You recognize them?

1 Who is this?

2 **A** I can't even see that far. That look like --

3 THE COURT: I'm sorry; you're going to need to speak
4 into the microphone and speak up a lot louder and a lot
5 more clear. All right?

6 **A** I can't --

7 BY MR. HELMS:

8 **Q** Who is that?

9 **A** That's Travontae.

10 **Q** Okay. Travontae.

11 How do you know Travontae, ma'am?

12 **A** Well, I met him in school a few years ago, and we
13 were all cool, and then we got into a relationship.

14 **Q** Okay. So y'all were in a relationship?

15 **A** Mm-hmm, yes, sir.

16 **Q** How long?

17 **A** I would say, like, three months. Like three months.

18 **Q** Okay. But sure to do me a favor. You speak very
19 soft. Try to speak up. Okay?

20 **A** Like three months.

21 **Q** Thank you, ma'am.

22 So y'all were boyfriend and girlfriend?

23 **A** Yes, sir.

24 **Q** Okay. And what school? You said school. Y'all
25 went to school together?

1 **A** Conway High School.

2 **Q** Conway High.

3 Were y'all dating in September of 2020?

4 **A** Yes, sir.

5 **Q** Okay. Do you know about the incident we're here

6 for?

7 **A** I mean, yeah.

8 **Q** Okay. And on September 12th of 2020, were you with

9 Travontae Mitchell?

10 **A** Can you repeat that?

11 **Q** The day of the shooting, the date of the incident

12 that we're here for, were you with him?

13 **A** No, sir.

14 **Q** Okay. Why not?

15 **A** We just didn't hang out that day.

16 **Q** Did you normally hang out?

17 **A** Yes, sir. I was home.

18 **Q** What's that?

19 **A** I was home.

20 **Q** You were home?

21 **A** Yes, sir.

22 **Q** Did you plan to hang out with him?

23 **A** Yes, sir.

24 **Q** Okay. Did you get to?

25 **A** No, sir.

1 Q Who cancelled those plans?

2 A Travontae.

3 Q He did?

4 And how did he cancel them? Did you talk to him?

5 A Yeah. He said he had somewhere to go and that,
6 whenever he got back, I would come over there.

7 Q And about what time was this?

8 A 2:00 or 3:00.

9 Q In the afternoon?

10 A Yes, sir.

11 Q Okay. 2:00 or 3:00 in the afternoon. So it was
12 daylight?

13 A Yes, sir.

14 Q Okay. Okay. And he called you? Yes?

15 A We texted. I think we texted.

16 Q Yes, ma'am. Fair enough.

17 And just said he can't come.

18 A Told me to wait. Because I didn't have a car at the
19 time --

20 MR. BOUCHETTE: Objection, Your Honor. May we
21 approach?

22 THE COURT: All right.

23 BENCH CONFERENCE

24 (The following bench conference occurred outside the
25 hearing of the jury and others:)

1 MR. BOUCHETTE: Again, same thing with this witness.
2 If the Court would allow a continuing objection as to this
3 witness as to any statements that Mr. Mitchell made to
4 her. I'm not sure exactly where the State is going with
5 this, but I anticipate it to be other incriminating
6 statements by Mr. Mitchell, so I want to make sure that we
7 have objected to it, and we have got a continuing
8 objection, the way we did on the prior witnesses.

9 THE COURT: All right.

10 MR. PINKERTON: Your Honor, we would join on that.

11 THE COURT: All right. Objection's overruled.

12 MR. GARDNER: Same objection.

13 (Open court resumes:)

14 THE COURT: All right. Objection overruled. I'll
15 allow it.

16 BY MR. HELMS:

17 Q You texted him?

18 A Yes, sir.

19 Q When you texted, did he tell you where he was or
20 where he was going that day?

21 A No.

22 Q Did you discuss Brown Swamp?

23 A He said he was going somewhere with his friends.

24 Q Did you talk to him again that night?

25 A Yes, sir.

1 Q How? Was that via text or was that via telephone
2 call?

3 A FaceTime.

4 Q FaceTime. Okay..

5 And what did you and him talk about?

6 A What went on that day, how was his day, where he
7 was.

8 Q What did he tell you?

9 A He was on -- well, when we FaceTimed, he was at his
10 brother's baby mother's house, going to the beach. He was
11 going to the beach at that time, on FaceTime.

12 Q Did he tell you what he did the prior -- previously?

13 A Not exactly.

14 Q What did he --

15 A He just said he was with his brother in Conway in
16 Brown Swamp, and then they went to the beach.

17 Q What time are y'all talking now? Later that night?

18 A Yeah. I would say around, like, 7:00 or 8:00.

19 8:00 p.m. The sun was going down. Or the sun was down,
20 yeah.

21 Q The sun was down. Yes, ma'am.

22 Were with you aware at this time that a murder had
23 just occurred in Conway?

24 A Yes.

25 Q How were you aware of it?

1 **A** Facebook. You know, they put in news reports, and I
2 seen it.

3 **Q** You saw it?

4 **A** Yes.

5 **Q** What did you think about that when you saw it?
6 Anything in particular; do you remember?

7 **A** I was --

8 MR. PINKERTON: Your Honor, objection. Speculation.

9 THE COURT: Overruled. Go ahead.

10 BY MR. HELMS:

11 **Q** What did you think about that when you saw it?

12 **A** I was just worried.

13 **Q** What were you worried about?

14 **A** Making sure that he was safe or that anybody else
15 that I knew was safe in that area.

16 **Q** So you saw on social media that a murder had taken
17 place in Conway?

18 **A** Yes, sir.

19 **Q** And your first thought was you were worried about
20 your boyfriend?

21 **A** Correct.

22 **Q** Okay. Did you ask him about that murder?

23 **A** Yes, I did.

24 **Q** Tell this jury what he said to you.

25 MR. BOUCHETTE: Objection, Your Honor.

1 MR. PINKERTON: Objection.

2 THE COURT: Overruled.

3 BY MR. HELMS:

4 Q Tell this jury what he said to you.

5 A He said he couldn't talk about it.

6 Q He said he couldn't talk about it. And what did you
7 think about that?

8 MR. PINKERTON: Objection. Speculation, again, Your
9 Honor.

10 THE COURT: Overruled.

11 BY MR. HELMS:

12 Q What did you think about that?

13 A I mean, I just wanted to make sure he was okay. I
14 mean, I know if I'm walking down the street and I see
15 someone getting murdered, I mean, I don't want to talk
16 about it.

17 Q So when you heard about the murder, who else were
18 you concerned about that might be in Conway? Who else, by
19 name?

20 A I have a few friends that live around Brown Swamp.

21 Q Did you call those friends and ask them if they were
22 involved with the murder?

23 A No.

24 Q So the only person, after you heard about the murder
25 that you talked to about it, was him?

1 A Yes, sir. Well, not -- no, not just him. I would
2 talk to him about other homeboys that maybe weren't in the
3 area or were. I talked to them to see if they heard about
4 it --

5 Q Well, you can't talk about what other people said,
6 so stop right there.

7 That night, did you talk to anybody else about that
8 murder?

9 A Yeah.

10 Q You did?

11 A Everybody was talking about it, yes, sir.

12 Q That night, did you ask anyone else if they were
13 involved in a murder?

14 A Oh, no, sir.

15 Q Okay. Okay. Now, when you talked to him and you
16 asked him if he was involved or okay, and he said, "I
17 can't talk about it," did you ask him where he was?

18 A Yes, I did.

19 Q And where was he?

20 A At that moment, he was on the way to the beach. He
21 was in the car, driving to the beach.

22 Q Did you advise him to go to the police?

23 A No.

24 Q Okay. Did you ever see him that night?

25 A No, sir.

1 Q Are y'all still dating?

2 A No, sir.

3 Q How long after that night did y'all split up?

4 MR. BOUCHETTE: Objection to the relevance, Your
5 Honor.

6 THE COURT: Overruled.

7 A We broke up in November of 2020.

8 BY MR. HELMS:

9 Q Okay. Were you with him when he went to the police
10 station?

11 A No.

12 Q Ms. Boone, thank you for being here. Please answer
13 their questions.

14 THE COURT: Mr. Bouchette?

15 MR. BOUCHETTE: Your Honor, I don't have any
16 questions for this witness.

17 THE COURT: Mr. Pinkerton?

18 MR. PINKERTON: Your Honor, I have no questions for
19 this witness.

20 THE COURT: All right. Mr. Gardner?

21 MR. GARDNER: No, sir, no questions.

22 THE COURT: All right. You may step down.

23 MR. HELMS: Your Honor, I'd just ask she be excused.

24 THE COURT: Any objection?

25 MR. BOUCHETTE: No, sir.

1 MR. PINKERTON: No objection, Your Honor.

2 MR. GARDNER: No, Your Honor.

3 THE COURT: All right. She's free to go. Thank
4 you.

5 MR. HELMS: Thank you, ma'am.

6 THE COURT: The State can call your next witness.

7 MS. LIVESAY: Thank you, Your Honor. At this time,
8 the State calls Sarah Hemingway.

9 THE CLERK: Please raise your right hand. Place
10 your left hand on the Bible.

11 SARAH HEMINGWAY,
12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE CLERK: Please state your name and spell it for
15 the Court.

16 THE WITNESS: Sorry; I didn't hear you.

17 THE CLERK: State your name and spell it for the
18 Court, please.

19 THE WITNESS: Sarah Hemingway. S-a-r-a-h
20 H-e-m-i-n-g-w-a-y.

21 DIRECT EXAMINATION

22 BY MS. LIVESAY:

23 Q Ms. Hemingway, where do you live?

24 A Myrtle Beach.

25 Q And where are you from?

- 1 A Myrtle Beach.
- 2 Q Okay. And where are you currently working?
- 3 A Surfside.
- 4 Q And do you know the young man that was in here
- 5 earlier, Shamontae Graham?
- 6 A Yes.
- 7 Q And how do you know Shamontae Graham?
- 8 A He's my child's father.
- 9 Q He's who?
- 10 A My child's father.
- 11 Q How many children do y'all have in common?
- 12 A Two.
- 13 Q Okay. And so, at some time, were y'all in a
- 14 relationship together?
- 15 A Yes.
- 16 Q Are you in a relationship together now?
- 17 A No.
- 18 Q Okay. And were you in a relationship with Shamontae
- 19 Graham in September of 2020?
- 20 A I believe so, yes.
- 21 Q Okay. And have you seen this video that I have
- 22 already in, State's evidence No. 53?
- 23 A Yes, ma'am.
- 24 Q Is that your signature on the video?
- 25 A Yes, ma'am.