

RECEIVED

Feb 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES JOSEPH PATTERSON, III

APPELLANT

APPELLATE CASE NO. 2023-001474

RECORD ON APPEAL

ROBERT M. DUDEK
Chief 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

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

ATTORNEY FOR APPELLANT

J. BENJAMIN APLIN
Assistant Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3747

S. RICHARD HUBBARD, III
Solicitor, Eleventh Judicial Circuit
205 East Main Street, Suite 309
Lexington, SC 29072
(803) 785-8352

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED SEPTEMBER 5-7, 2023	1
STATE’S MOTION TO EXCLUDE DRUG EVIDENCE PURSUANT TO RULE 403, SCRE BY MS. ABEE.....	37
RESPONSE OBJECTING TO EXCLUSION BY MR. ERVIN.....	38
COURT DEFERS RULING ON MOTION TO EXCLUDE DRUG EVIDENCE.....	40
DEFENSE MOTION TO EXCLUDE CRIME SCENE DIAGRAM BY MR. ERVIN.....	43
COURT’S RULING DENYING MOTION TO EXCLUDE CRIME SCENE DIAGRAM.....	43
OPENING STATEMENT BY MR. KOZAK	52
OPENING STATEMENT BY MR. ERVIN	56
TESTIMONY	
SHARMEL MILLER	
Direct Examination by Ms. Abee.....	59
KENYATTA STROTHER	
Direct Examination by Ms. Abee.....	64
Cross Examination by Ms. Abee	85
TAYLOR MCCHESENEY	
Direct Examination by Mr. Kozak.....	93
Cross-Examination by Mr. Ervin.....	100
CODY WEYANDT	
Direct Examination by Ms. Abee.....	104
Cross-Examination by Mr. Ervin.....	129
Redirect Examination by Ms. Abee	136
Recross-Examination by Mr. Ervin	137
DOCTOR ERIN PRESNELL	
Direct Examination by Mr. Kozak.....	140
Cross-Examination by Mr. Ervin.....	148
CAMERON SHERBAN	
Direct Examination by Ms. Abee.....	151

TALMADGE FOULKS	
Direct Examination by Ms. Abee.....	155
Cross-Examination by Mr. Ervin.....	159
ALBERT CLARK	
Direct Examination by Mr. Kozak.....	160
Cross-Examination by Mr. Ervin.....	172
Redirect Examination by Mr. Kozak	178
ARCADEUS DUBARD	
Direct Examination by Mr. Kozak.....	182
Cross-Examination by Mr. Ervin.....	203
Redirect Examination by Mr. Kozak	222
Recross-Examination by Mr. Ervin	224
THOMAS ALVIN SMITH	
Direct Examination by Mr. Kozak.....	226
Cross-Examination by Mr. Ervin.....	261
Redirect Examination by Mr. Kozak	264
STATE RESTS	265
DEFENSE MOTION FOR A DIRECTED VERDICT	266
RESPONSE BY MS. ABEE.....	266
COURT’S RULING DENYING DEFENSE MOTION FOR A DIRECTED VERDICT.....	267
TESTIMONY COLLOQUY WITH THE DEFENDANT	268
STATE’S MOTION TO IMPEACH DEFENSE WITNESS HOWELL BY MS. ABEE.....	274
RESPONSE OBJECTING TO PROPOSED IMPEACHMENT BY MR. ERVIN.....	276
COURT’S RULING ALLOWING IMPEACHMENT	281
TESTIMONY	
TAMARE HOWELL	
Direct Examination by Mr. Ervin	285
Cross-Examination by Ms. Abee	299
Redirect Examination by Mr. Ervin.....	311
CONTINUED TESTIMONY COLLOQUY WITH THE DEFENDANT.....	314

TESTIMONY

JAMES JOSEPH PATTERSON, III	
Direct Examination by Mr. Ervin	315
Cross-Examination by Ms. Abee	334
Redirect Examination by Mr. Ervin.....	346
STEPHANIE GLOVER	
Direct Examination by Mr. Ervin	347
Cross-Examination by Ms. Abee	349
DEFENSE RESTS	352
CHARGE CONFERENCE.....	355
CLOSING ARGUMENT BY MS. ABEE.....	359
CLOSING ARGUMENT BY MR. ERVIN.....	375
CLOSING ARGUMENT IN REPLY BY MS. ABEE.....	383
CHARGE ON THE LAW	386
VERDICT	401
SENTENCING	412
INDICTMENTS	415
CERTIFICATE OF COUNSEL	419

1 State of South Carolina) Court of General Sessions
 2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
)
 5 vs.) 2022-GS-32-06146
) 2022-GS-32-06147
 6 James Joseph Patterson III,)
)
 7 Defendant.)

8

9 September 5th-7th, 2023
 10 Lexington, South Carolina

11 B E F O R E:

12 The Honorable Daniel D. Hall, Judge; and a Jury

13

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

15 Kinli B. Abee, Deputy Attorney General
 16 Joel A. Kozak, Assistant Attorney General
 On behalf of the State of South Carolina

17 James M. Ervin, Esquire
 18 On behalf of the Defendant

19

20 Stacy S. Johnson, RPR
 21 Circuit Court Reporter

22

23

24

25

I N D E X

	<u>WITNESS</u>	<u>PAGE</u>
1		
2		
3	Jury Selection	8
4	Pre-Trial Matters	35
5	Opening Statement	
	By Mr. Kozak	52
6	By Mr. Ervin	56
7	Sharmel Miller	
	Direct Examination by Ms. Abee	59
8	Kenyatta Strother	
9	Direct Examination by Ms. Abee	64
	Cross-Examination by Mr. Ervin	85
10	Taylor McChesney	
11	Direct Examination by Mr. Kozak	93
	Cross-Examination by Mr. Ervin	100
12	Cody Weyandt	
13	Direct Examination by Ms. Abee	104
	Cross-Examination by Mr. Ervin	129
14	Redirect Examination by Ms. Abee	136
	Recross Examination by Mr. Ervin	137
15	Susan Erin Presnell	
16	Direct Examination by Mr. Kozak	140
	Cross-Examination by Mr. Ervin	148
17	Cameron Sherban	
18	Direct Examination by Ms. Abee	151
19	Talmadge Foulks	
	Direct Examination by Ms. Abee	155
20	Cross-Examination by Mr. Ervin	159
21	Albert Clark	
	Direct Examination by Mr. Kozak	160
22	Cross-Examination by Mr. Ervin	172
	Redirect Examination by Mr. Kozak	178
23		
24		
25		

1	Arcadeus Dubard	
	Direct Examination by Mr. Kozak	182
2	Cross-Examination by Mr. Ervin	203
	Redirect Examination by Mr. Kozak	222
3	Recross Examination by Mr. Ervin	224
4	Thomas Alvin Smith	
	Direct Examination by Mr. Kozak	225
5	Cross-Examination by Mr. Ervin	261
	Redirect Examination by Mr. Kozak	264
6		
	Motion for Directed Verdict	266
7		
	Tamare Howell	
8	Direct Examination by Mr. Ervin	285
	Cross-Examination by Ms. Abee	299
9	Redirect Examination by Mr. Ervin	311
10	James Joseph Patterson III	
	Direct Examination by Mr. Ervin	315
11	Cross-Examination by Ms. Abee	334
	Redirect Examination by Mr. Ervin	346
12		
	Stephanie Glover	
13	Direct Examination by Mr. Ervin	347
	Cross-Examination by Ms. Abee	349
14		
	Closing Argument	
15	By Ms. Abee	359
	By Mr. Ervin	375
16	By Ms. Abee	383
17	Charge of the Court	386
18	Verdict of the Jury	401
19	Post-Trial Motions Reserved	406
20	Sentence of the Court	413
21	Certificate of Reporter	414
22		
23		
24		
25		

E X H I B I T S				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
1				
2				
3	C-1	Foreperson Selection	180	
4	C-2	Jury Note	400	
5	S-1	9-1-1 Call	46	62
6	S-2	Photograph	46	66
7	S-3	Photograph	46	68
8	S-4	Photograph	46	68
9	S-5	Photograph	46	83
10	S-6	Photograph	46	
11	S-7	Body Cam Footage	46	96
12	S-8	Shell Casing	46	100
13	S-9	Photograph	46	108
14	S-10	Photograph	46	108
15	S-11	Photograph	46	108
16	S-12	Photograph	46	108
17	S-13	Photograph	46	108
18	S-14	Photograph	46	108
19	S-15	Diagram	46	108
20	S-16	Cartridge Case	46	114
21	S-17	Copper Jacket Fragment	46	114
22	S-18	Diagram	46	115
23	S-19	Photograph	46	115
24	S-20	Photograph	46	115
25	S-21	Photograph	46	118

1	S-22	Photograph	45	118
2	S-23	Photograph	45	118
3	S-24	Cartridge Case	45	118
4	S-25	Cartridge Case	45	118
5	S-26	Cartridge Case	45	118
6	S-27	Photograph	45	120
7	S-28	Photograph	45	120
8	S-29	Photograph	45	120
9	S-30	Photograph	45	120
10	S-31	Photograph	45	120
11	S-32	Photograph	45	120
12	S-33	Photograph	45	120
13	S-34	Photograph	45	120
14	S-35	Cartridge Case	45	124
15	S-36	Cartridge Case	45	124
16	S-37	Cartridge Case	45	124
17	S-38	Cartridge Case	45	124
18	S-39	Cartridge Case	45	124
19	S-40	Cartridge Case	45	124
20	S-41	Cartridge Case	45	124
21	S-42	Photograph	45	124
22	S-43	Photograph	45	125
23	S-44	Photograph	45	125
24	S-45	Cell Phone	45	125
25	S-46	\$40.00 Cash	45	125

1	S-47	Photograph	139	147
2	S-48	Photograph	139	147
3	S-49	Bullet from Autopsy	139	154
4	S-50	Photograph	139	157
5	S-51	Photograph	139	157
6	S-52	Photograph	139	157
7	S-53	Photograph	139	186
8	S-54	Photograph	139	197
9	S-55	Photograph	139	197
10	S-56	Photograph	139	197
11	S-57	Photograph	139	197
12	S-58	Fired Projectile	139	200
13	S-59	Photograph	139	202
14	S-60	Photograph	139	233
15	S-61	Firearms Report	139	233
16	S-62	Photograph	139	237
17	S-63	Photograph	139	237
18	S-64	Photograph	139	241
19	S-65	Photograph	139	241
20	S-66	Photograph	139	251
21	S-67	Photograph	139	251
22	S-68	Photograph	139	251
23	S-69	Photograph	139	251
24	S-70	Photograph	139	251
25	S-71	Photograph	139	251

1	S-72	Photograph	139	251
2	S-73	Photograph	139	251
3	S-74	Photograph	139	251
4	S-75	Photograph	139	251
5	S-76	Photograph	139	251
6	S-77	Photograph	139	251
7	S-78	Photograph	139	251
8	S-79	Photograph	139	251
9	S-80	Firearms Report	139	259
10	D-1	Photograph	130	131
11	D-2	Photograph	130	131
12	D-3	Photograph	130	131
13	D-4	Photograph	130	131
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (The following proceedings were held September 5,
2 2023, beginning at 10:05 AM.)

3 THE COURT: All right. Ladies and gentlemen of
4 the jury, we're ready to begin the third part of jury
5 qualification, and that is for a particular case that is
6 scheduled and set for trial this week.

7 We're about ready to begin the trial of the case
8 of State of South Carolina versus James Joseph Patterson
9 III. Mr. Patterson is here before the Court on two
10 indictments. 2022-GS-32-6147. That indictment is an
11 indictment for the crime of murder. Indictment
12 2022-GS-32-6146 for the possession of a weapon during
13 the commission of a violent crime.

14 Mr. Patterson has exercised his constitutional right
15 to ask for a -- to plead not guilty and request a jury
16 trial, and I'm gonna talk to you about that in just a
17 moment.

18 Is there any member -- sorry. I've got this issue
19 going on with my throat.

20 Does any member of the jury panel have any knowledge
21 about Mr. Patterson's involvement or this case that where
22 it's alleged for the crime of murder that happened in
23 Lexington County on or about November the 9th, 2020,
24 involving the victim, William Clark?

25 Is there any member of the jury panel that has any

1 knowledge about this case whatsoever? If so, please
2 stand.

3 Representing the State is Mr. Joel Kozak and Kinli
4 Abee. If you will stand and introduce yourselves.

5 And do you have anybody else here with you?

6 MR. KOZAK: My name is Joel Kozak. I'm an assistant
7 attorney general prosecuting at the Attorney General's
8 office.

9 MS. ABEE: I'm Kinli Abee. I'm an assistant deputy
10 Attorney General of that State of South Caroline. Over
11 here to my right is Arcadeus Dubard with the Lexington
12 County Sheriff's Department.

13 THE COURT: Is there any member of the jury
14 panel who has a close business, professional, social
15 relationship with either of the two attorneys or the
16 individual that works for the Lexington County Sheriff's
17 Department? If so, please stand.

18 Representing the defendant in this case is Mr. James
19 Ervin.

20 Mr. Ervin, if you will introduce yourself and your
21 client.

22 MR. ERVIN: Good morning. My name's James Ervin.
23 I represent the defendant. I'm a private attorney. My
24 office is in Columbia, South Carolina, and I thank you
25 for being here.

1 THE COURT: Has any member of the jury panel ever
2 been represented by Mr. Ervin or anyone associated with
3 Mr. Ervin? Please stand. No one stands.

4 Anybody member of the jury panel have any kind of a
5 close business, professional or social relationship with
6 Mr. Ervin or his client, Mr. James Joseph Patterson III?
7 If so, please stand.

8 Is anyone friends with Mr. James Joseph Patterson III
9 or anyone in his family? If so, please stand.

10 I'm going to call a list of potential witnesses in
11 the case. My question for each of you after I read these
12 names is that if are you related by blood or marriage or
13 have a close business or professional relationship with
14 any of these witnesses, then you will need to stand.

15 Sharmel Miller who is a 9-1-1 records custodian.
16 Kenyatta Strother. Taylor McChesney with the Lexington
17 County Sheriff's Office. Cody Weyandt Lexington County
18 Sheriff's Office.

19 Anyone related by marriage or have a close business,
20 personal or professional relationship with any of those
21 witnesses, please stand.

22 Thank you. No one stands.

23 Donnie Clark. Albert Clark. Talmadge Foulks.
24 Arcadeus Dubard from the Lexington County Sheriff's
25 Office.

1 Anyone related by blood or marriage or have a close
2 business or professional relationship with any of those
3 potential witnesses, then please stand.

4 Thank you. No one stands.

5 Tamare Howell. Stephanie Glover. Detective Cameron
6 Sherban from the Lexington County Sheriff's Office.

7 Anyone related by blood or marriage to those
8 individuals or have a close business or professional
9 relationship with any of those witnesses, please stand.

10 Thank you. No one stands.

11 Thom Smith from the Lexington County Sheriff's
12 Office. Dr. Erin Presnell from the Medical University
13 of South Carolina. Brian Zwolak from the Lexington County
14 Sheriff's Office. John Donnelly from the Lexington County
15 Sheriff's Office. Matt Ellis, with the -- an investigator
16 with the Attorney General's Office.

17 Anyone related by blood or marriage or have a close
18 personal, business or professional relationship with any
19 of those individuals, then please stand.

20 Thank you. No one stands.

21 Is there any member of the jury panel either employed
22 by or an agent of or an officer of any state or Federal law
23 enforcement agency? If so, please stand.

24 No one stands.

25 Is any member of the jury panel related by blood or

1 marriage to an employee or agent or officer of any State
2 or Federal law enforcement agency? Do you have anybody
3 in your family that's employed in law enforcement?

4 (Potential jurors stand.)

5 THE COURT: Yes, sir. Your number?

6 POTENTIAL JUROR: 157.

7 THE COURT: I'm sorry, 157?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: All right. And your response?

10 POTENTIAL JUROR: My daughter's dating a Lexington
11 County sheriff.

12 THE COURT: Your daughter is dating a Lexington
13 County sheriff?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: Would that fact affect your ability to
16 be fair and impartial to both the State and the defendant
17 in this particular case?

18 POTENTIAL JUROR: Maybe.

19 THE COURT: All right. You're excused in this
20 particular case.

21 POTENTIAL JUROR: Okay. Thank you.

22 THE COURT: Yes, ma'am. Your number?

23 POTENTIAL JUROR: 121.

24 THE COURT: Is it Ms. Kaminer?

25 POTENTIAL JUROR: Yes.

1 THE COURT: Yes, ma'am.

2 POTENTIAL JUROR: My nephew is a police officer for
3 City of Columbia.

4 THE COURT: Would that fact affect your ability to
5 be fair and impartial to both the State and the defense in
6 this case?

7 POTENTIAL JUROR: No, sir.

8 THE COURT: Thank you. You may be seated.

9 Is there any member of the jury panel that's ever
10 been a victim of a violent crime? If so, please stand.

11 Thank you. No one stands.

12 If any member of the jury panel has a relative
13 or somebody in your family related to someone who has
14 been the victim of a violent crime, then please stand.

15 (Potential jurors stand.)

16 THE COURT: Yes, sir. Your number?

17 POTENTIAL JUROR: It's 26.

18 THE COURT: Yes, Mr. Castro.

19 POTENTIAL JUROR: My father's oldest brother, my
20 oldest uncle, he was murdered as a child in their home
21 country.

22 THE COURT: And where was that?

23 THE DEFENDANT: Chile, South America.

24 THE COURT: Would that fact affect your ability to
25 be fair and impartial to both the State and defense in

1 this case?

2 POTENTIAL JUROR: Possibly.

3 THE COURT: All right. You're excused.

4 Yes, ma'am.

5 POTENTIAL JUROR: My cousin was killed in domestic
6 violence by her husband.

7 THE COURT: All right. And your number?

8 POTENTIAL JUROR: 46.

9 THE COURT: Would that fact affect your ability to
10 be fair and impartial to both the State and the defense
11 in this case?

12 POTENTIAL JUROR: No.

13 THE COURT: Thank you. You may be seated.

14 Does any member of the jury panel have strong
15 feelings towards the possession, ownership or use of
16 firearms? If you have strong feelings about firearms, then
17 please stand.

18 (Potential jurors stand.)

19 THE COURT: We'll start right here.

20 Yes, ma'am. Your number?

21 POTENTIAL JUROR: 207.

22 THE COURT: And how do you respond to that?

23 POTENTIAL JUROR: Against it religious LI I won't
24 allowed to carry or have any in my house.

25 THE COURT: Would that fact affect your ability to be

1 fair and impartial to both the State and the defendant in
2 this case?

3 POTENTIAL JUROR: I hope not. No.

4 THE COURT: Thank you. May be seated.

5 Yes, sir.

6 POTENTIAL JUROR: If the case involves --

7 THE COURT: Tell me your number.

8 POTENTIAL JUROR: I'm sorry. It's 204, sir.

9 THE COURT: Yes, sir. Mr. Tomlin.

10 POTENTIAL JUROR: If the case involves stand your
11 own ground or Castle Doctrine, I would not be able to be
12 impartial.

13 THE COURT: That is not an issue in this case.
14 Would the fact that you hold that position affect you
15 in a case where that is not an issue? You could be fair
16 and impartial to both the defense and the State?

17 POTENTIAL JUROR: Possibly.

18 THE COURT: You can be fair and impartial?

19 My question's simply --

20 POTENTIAL JUROR: Considering the nature of a
21 firearm case, I may not be able to be impartial.

22 THE COURT: All right. You're excused. Number 204
23 is excused.

24 Does any member of the jury panel have strong
25 feelings toward the use or consumption of alcohol or

1 marijuana? If so, please stand.

2 (Potential jurors stand.)

3 THE COURT: Yes, ma'am. Your number?

4 POTENTIAL JUROR: 173.

5 THE COURT: Yes, ma'am.

6 POTENTIAL JUROR: I am against the overuse of
7 alcohol. I have a series of alcoholism in my family.

8 THE COURT: Would that fact affect your ability to
9 be fair and impartial to both the State and the defense
10 in this case?

11 POTENTIAL JUROR: Possibly.

12 THE COURT: All right. You're excused.

13 Yes, sir. Your number?

14 POTENTIAL JUROR: 210.

15 THE COURT: I'm sorry?

16 POTENTIAL JUROR: 210.

17 THE COURT: Mr. Ward.

18 POTENTIAL JUROR: I've got alcohol in my family.

19 THE COURT: Would that fact affect your ability to
20 be fair and impartial to both the State and defense in
21 this case?

22 POTENTIAL JUROR: Yes.

23 THE COURT: All right. You're excused.

24 I'm sorry. Your number?

25 POTENTIAL JUROR: 53. My daughter was in an

1 alcohol-related accident.

2 THE COURT: Would that fact affect your ability to
3 be fair and impartial in this case to both the state and
4 the defense?

5 POTENTIAL JUROR: I think it would.

6 THE COURT: All right. What's your number again?

7 POTENTIAL JUROR: 53.

8 THE COURT: You're excused.

9 Yes, ma'am. Your number?

10 POTENTIAL JUROR: 40.

11 THE COURT: Yes, ma'am. I'll hear from you.

12 POTENTIAL JUROR: My father was an alcoholic.

13 THE COURT: Would that fact affect your ability to
14 be fair and impartial in this case?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: You're excused.

17 All right. Your number?

18 POTENTIAL JUROR: 113.

19 THE COURT: Mr. Howard. Yes.

20 POTENTIAL JUROR: I apologize, Judge. I'm going
21 back a few questions. I do work for a State law
22 enforcement agency if you consider the South Carolina
23 Department of Corrections a law enforcement agency.

24 THE COURT: Yeah, you're excused. I may have
25 missed that question. One of the questions asked -- I

1 should have asked is if you work in a detention facility
2 and it appears that you're a corrections officer in the
3 Department of Corrections; is that correct?

4 POTENTIAL JUROR: Yes, sir.

5 THE COURT: All right. You're excused.

6 Yes, ma'am?

7 POTENTIAL JUROR: 159. I was assaulted by a few
8 people that were drunk.

9 THE COURT: Number what?

10 POTENTIAL JUROR: 159.

11 THE COURT: Would that fact affect your ability to
12 be fair and impartial in this case.

13 POTENTIAL JUROR: Probably. Yes, sir.

14 THE COURT: All right. Juror 159 is excused.

15 POTENTIAL JUROR: Thank you.

16 THE COURT: Is there any member of the jury panel
17 related by blood or marriage to a prosecutor or anyone
18 that works in the Attorney General's Office or is employed
19 by the Eleventh Circuit Solicitor's Office? If so, please
20 stand.

21 MR. KOZAK: Your Honor, can we approach real quick?

22 MS. ABEE: Judge, can we approach real quick?

23 THE COURT: Yes.

24 (Proceedings held at the bench; not reported.)

25 THE COURT: Any member of the jury panel related by

1 blood or marriage to the prosecution? That's anybody that
2 works in the Attorney General's Office or the Eleventh
3 Circuit Solicitor's Office. If so, please stand.

4 Thank you. No one stands.

5 Does anyone on the jury panel know or work with
6 James Joseph Patterson III, the defendant in this case,
7 or anyone in his family? If so, please stand.

8 Thank you. No one stands.

9 Is there any member of the jury panel, either you
10 or a close personal friend or a family member ever been
11 accused of a violent crime? If so, please stand.

12 Thank you. No one stands.

13 Has any member of the jury panel ever been a party
14 to or a witness in a case investigated by the Lexington
15 County Sheriff's Office or the South Carolina Law
16 Enforcement Division or SLED? If so, please stand.

17 Thank you. No one stands.

18 Has any member of the jury panel formed or expressed
19 an opinion about any issue or any matter involved in this
20 case? If so, please stand.

21 No one stands.

22 Is any member of the jury panel aware of any bias
23 or prejudice towards the State or the defendant in this
24 case? Then please stand.

25 Thank you. No one stands.

1 Does any member of the jury panel know of any reason
2 whatsoever why he or she should not serve as a juror in
3 this case with particular emphasis being placed on your
4 ability to be fair and impartial to both the State and the
5 defendant? If so, please stand.

6 Thank you. No one stands.

7 Anything in -- any additional questions from the
8 State?

9 MS. ABEE: May I approach, Your Honor?

10 THE COURT: Yes.

11 (Proceedings held at the bench; not reported.)

12 THE COURT: Juror Number 164, if you'll come forward.

13 If you'll come -- I better come down there away from
14 the mic.

15 (The following proceedings were held out of the
16 hearing of the jury panel.)

17 THE COURT: The lawyers indicated that they went to
18 college with you. Do you have any memory of any of the
19 attorneys here in the courtroom?

20 POTENTIAL JUROR: Ms. Abee, yes, Your Honor, but the
21 question I understood was do you have a close personal
22 or --

23 THE COURT: That's fine. We just -- would the fact
24 -- where did you-all go to college?

25 MS. ABEE: Wofford.

1 POTENTIAL JUROR: Wofford.

2 THE COURT: All right. Would the fact that you went
3 to Wofford and knew her there, would that affect your
4 ability to be fair and impartial to both the State and the
5 defense in this case?

6 POTENTIAL JUROR: No, sir.

7 THE COURT: All right. Thank you. You may be
8 seated.

9 MR. KOZAK: Thank you, Judge.

10 THE COURT: Any additional questions from the
11 defense?

12 MR. ERVIN: Nothing, Your Honor.

13 THE COURT: From the State?

14 MR. KOZAK: Nothing from the State, Your Honor.

15 THE COURT: All right. Madam Clerk, if you'll give
16 us a jury. The strikes will be ten and five.

17 Ladies and gentlemen, we're going to now sort of
18 narrow it down a little bit. The clerk's office will
19 generate -- their computer program is gonna generate a
20 list of potential jurors. The defense will have an
21 opportunity to strike ten jurors if they wish and the
22 State will have an opportunity to strike five jurors if
23 they wish.

24 It's gonna take you five or ten minutes?

25 THE CLERK: Yes, sir.

1 THE COURT: All right. Let's do this. How many on
2 the jury panel need a break? That's a fair number. I'm
3 gonna allow you to leave the courtroom while we generate
4 this list. Just be back here in ten minutes. Well,
5 let's make it fifteen minutes. Be back in your seat in
6 fifteen minutes. Don't leave the building, all right?
7 Just don't leave the building. Be back in your seats
8 in fifteen minutes.

9 (Whereupon, the jury panel exits the courtroom.)

10 THE COURT: Lawyers approach.

11 (Proceedings held at the bench; not reported.)

12 THE COURT: You-all take about ten minutes.

13 MR. KOZAK: Thank you.

14 MR. ERVIN: Thank you.

15 (Recess taken at 10:28 AM.)

16 (Back on the record at 10:41 AM.)

17 BAILIFF: All rise. Court is back in session.

18 THE COURT: Thank you. Please be seated.

19 THE COURT: Is the State ready to proceed?

20 MR. KOZAK: Yes, sir, Your Honor.

21 THE COURT: Defense ready?

22 MR. ERVIN: Yes, Your Honor.

23 THE COURT: All right. Madam Clerk, give us a jury.

24 THE CLERK: At this time when I call your juror
25 number and your name, if you'll gather all your

1 belongings, you'll come through these little double
2 doors and turn around and you'll stand up here just
3 like this.

4 Juror Number 67, Tiffanie Errickson.

5 (Whereupon, Tiffanie Errickson, a white female, was
6 called forward.)

7 THE CLERK: What say you for the State?

8 MR. KOZAK: Please present this juror.

9 THE CLERK: What say you for the defense?

10 MR. ERVIN: Please excuse the juror.

11 THE CLERK: Please return to your seat.

12 129, Douglas Lewis.

13 (Whereupon, Douglas Lewis, a white male, was called
14 forward.)

15 THE CLERK: What say you for the State?

16 MR. KOZAK: Please present this juror.

17 THE CLERK: What say you for the defense?

18 MR. ERVIN: Please seat the juror.

19 THE CLERK: Please have a seat in the jury box.

20 71, Tonya Fields.

21 (Whereupon, Tonya Fields, a white female, was called
22 forward.)

23 THE CLERK: What say you for the State?

24 MR. KOZAK: Please present this juror.

25 THE CLERK: What say you for the defense?

1 MR. ERVIN: Please excuse the juror.

2 THE CLERK: Please return to your seat.

3 140, Joseph McKinney.

4 (Whereupon, Joseph McKinney, a white male, was
5 called forward.)

6 THE CLERK: What say you for the State?

7 MR. KOZAK: Please present this juror.

8 THE CLERK: What say you for the defense?

9 MR. ERVIN: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box.

11 164, Taylor Peace.

12 (Whereupon, Taylor Peace, a white male, was called
13 forward.)

14 THE CLERK: What say you for the State?

15 MR. KOZAK: Please present this juror.

16 THE CLERK: What say you for the defense?

17 MR. ERVIN: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box.

19 Number 11, Babe Bedenbaugh.

20 (Whereupon, Babe Bedenbaugh, a white male, was called
21 forward.)

22 THE CLERK: What say you for the State?

23 MR. KOZAK: Please present the juror.

24 THE CLERK: What say you for the defense?

25 MR. ERVIN: Please excuse the juror.

1 THE CLERK: Please return to your seat.

2 123, Evan Katz.

3 (Whereupon, Evan Katz, a white male, was called
4 forward.)

5 THE CLERK: What say you for the State?

6 MR. KOZAK: Please present this juror.

7 THE CLERK: What say you for the defense?

8 MR. ERVIN: Please excuse the juror.

9 THE CLERK: Please return to your seat.

10 150, Brooke Murphy.

11 (Whereupon, Brooke Murphy, a white female, was called
12 forward.)

13 THE CLERK: What say you for the State?

14 MR. KOZAK: Please excuse this juror.

15 THE CLERK: Please return to your seat.

16 112, Amber Houser.

17 (Whereupon, Amber Houser, a white female, was called
18 forward.)

19 THE CLERK: What say you for the State?

20 MR. KOZAK: Please present this juror.

21 THE CLERK: What say you for the defense?

22 MR. ERVIN: Please excuse the juror.

23 THE CLERK: Please return to your seat.

24 106, Blair Hewitt.

25 (Whereupon, Blair Hewitt, a white male, was called

1 forward.)

2 THE CLERK: What say you for the State?

3 MR. KOZAK: Please present this juror.

4 THE CLERK: What say you for the defense?

5 MR. ERVIN: Please seat the juror.

6 THE CLERK: Please have a seat in the jury box.

7 Number 3, Kelvis Alston.

8 (Whereupon, Kelvis Alston, a black male, was called
9 forward.)

10 THE CLERK: What say you four the State?

11 MR. KOZAK: Please present this juror.

12 THE CLERK: What say you for the defense?

13 MR. ERVIN: Please seat the juror.

14 THE CLERK: Please have a seat in the jury box.

15 59, Christopher Dooley.

16 (Whereupon, Christopher Dooley, a white male, was
17 called forward.)

18 THE CLERK: What say you for the State?

19 MR. KOZAK: Please present this jury.

20 THE CLERK: What say you for the defense?

21 MR. ERVIN: Please seat the juror.

22 THE CLERK: Please have a seat in the jury box.

23 32, Jeffery Coggins.

24 (Whereupon, Jeffery Coggins, a white male, was called
25 forward.)

1 THE CLERK: What say you for the State?

2 MR. KOZAK: Please present this juror.

3 THE CLERK: What say you for the defense?

4 MR. ERVIN: Please seat the juror.

5 THE CLERK: Please have a seat in the jury box.

6 137, Billy McCarty.

7 (Whereupon, Billy McCarty, a white male, was called
8 forward.)

9 THE CLERK: What say you for the State?

10 MR. KOZAK: Please present this juror.

11 THE CLERK: What say for the defense?

12 MR. ERVIN: Please excuse the juror.

13 THE CLERK: Please return to your seat.

14 145, Jennifer Miller.

15 (Whereupon, Jennifer Miller, a white female, was
16 called forward.)

17 THE CLERK: What say you for the State?

18 MR. KOZAK: Please present this juror.

19 THE CLERK: What say you for the defense?

20 MR. ERVIN: Please excuse the juror.

21 THE CLERK: Please return to your seat.

22 121, Amanda Kaminer.

23 (Whereupon, Amanda Kaminer, a white female, was
24 called forward.)

25 THE CLERK: What say you for the State?

1 MR. KOZAK: Please excuse this juror.

2 THE CLERK: Please return to your seat.

3 161, James Overbay.

4 (Whereupon, James Overbay, a white male, was called
5 forward.)

6 THE CLERK: What say you for the State?

7 MR. KOZAK: Please present this juror.

8 THE CLERK: What say you for the defense?

9 MR. ERVIN: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box.

11 178, Jacob Schirmer.

12 (Whereupon, Jacob Schirmer, a white male, was called
13 forward.)

14 THE CLERK: What say you for the State?

15 MR. KOZAK: Please present the juror.

16 THE CLERK: What say for the defense?

17 MR. ERVIN: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box.

19 170, Tina Price.

20 (Whereupon, Tina Price, a white female, was called
21 forward.)

22 THE CLERK: What say you for the State?

23 MR. KOZAK: Please present this juror.

24 THE CLERK: What say you for the defense?

25 MR. ERVIN: Please seat the juror.

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

2 135, Rhiannon Mayer.

3 (Rhiannon Mayer, a white female, was called forward.)

4 THE CLERK: What say you for the State?

5 MR. KOZAK: Please present this juror.

6 THE CLERK: What say you for the defense?

7 MR. ERVIN: Please excuse the juror.

8 THE CLERK: Please return to your seat.

9 58, Earl Dixon.

10 (Whereupon, Earl Dixon, a white male, was called
11 forward.)

12 THE CLERK: What say you for the State?

13 MR. KOZAK: Please set the --

14 THE COURT: Would the lawyers approach? Lawyers
15 approach.

16 (Proceedings held at the bench; not reported.)

17 MR. KOZAK: Please excuse this juror.

18 THE CLERK: Please return to your seat.

19 126, Sarah Kolb.

20 (Whereupon, Sarah Kolb, a white female, was called
21 forward.)

22 THE CLERK: What say you for the State?

23 MR. KOZAK: Please present this juror.

24 THE CLERK: What say you for the defense?

25 MR. ERVIN: Please seat the juror.

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

2 183, Carl Shealy.

3 (Whereupon, Carl Shealy, a white male, was called
4 forward.)

5 THE CLERK: What say you for the State?

6 MR. KOZAK: Please present the juror.

7 THE CLERK: What say you for the defense?

8 MR. ERVIN: Please excuse the juror.

9 THE CLERK: Please return to your seat.

10 136, Natasha McCarson.

11 (Whereupon, Natasha McCarson, a white female, was
12 called forward.)

13 THE CLERK: What say you for the State?

14 MR. KOZAK: Please present this juror.

15 THE CLERK: What say you for the defense?

16 MR. ERVIN: Please seat the juror.

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

18 THE COURT: We'll pick three alternates and the
19 strikes will be one and two.

20 THE CLERK: 97, Jordan Harper.

21 (Whereupon, Jordan Harper, a black female, was called
22 forward.)

23 THE CLERK: What say you for the State?

24 MR. KOZAK: Please excuse this juror.

25 THE CLERK: Return to your seat.

1 27, Rebecca Chan.

2 (Whereupon, Rebecca Chan, an Asian female, was
3 called forward.)

4 THE CLERK: What say you for the State?

5 MR. KOZAK: Please present the juror.

6 THE CLERK: What say you for the defense?

7 MR. ERVIN: Please present the juror.

8 THE CLERK: Please have a seat in the jury box.

9 208, Steven walker.

10 (Whereupon, Stephen Walker, a white male, was called
11 forward.)

12 THE CLERK: What say you for the State?

13 MR. KOZAK: Please present this juror.

14 THE CLERK: What say you for the defense?

15 MR. ERVIN: Please seat the juror.

16 THE CLERK: Please have a seat in the jury box.

17 104, Kevin Hengeveld.

18 (Whereupon, Kevin Hengeveld, a white male,
19 was called forward.)

20 THE CLERK: What say you for the State?

21 MR. KOZAK: Please present this juror.

22 THE CLERK: What say you for the defense?

23 MR. ERVIN: Please seat the juror.

24 THE CLERK: Please have a seat in the jury box.

25 Three alternates, Your Honor.

1 THE COURT: Thank you.

2 Anything further as far as the jury selection from
3 the State?

4 MR. KOZAK: No objection, Your Honor.

5 THE COURT: From the defense?

6 MR. ERVIN: Nothing, Judge.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, those of you not selected to serve as jurors -- do
9 they need to call in or is there anything else set?

10 THE CLERK: This is all.

11 THE COURT: All right. You have completed your
12 jury service for the next three years. We have no
13 further cases set for trial this week, which means that
14 you are free to leave and I think you'll be sent your
15 big check for today sometime in the next few weeks.

16 Everyone remain seated while this jury panel is
17 excused. You-all are excused. You can leave.

18 (Whereupon, the jury panel was excused at 10:54 AM.)

19 THE COURT: Lawyers approach.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: All right. Thank you.

22 Ladies and gentlemen of the jury, those of you who
23 were selected as jurors in this particular case, we have
24 some work to do outside of your presence you'll hear me
25 talk about that a lot during the course of this trial.

1 In just a few moments, I'm gonna let you go to lunch and
2 let's be back at 1:30, be back at 1:30. And the bailiffs
3 will tell you where you need to report. I hope to resume
4 back at 1:30. At that time I will swear you in and then
5 give you some more preliminary instructions.

6 When you come back in the courtroom, I just ask that
7 the three alternates, the last three chosen, if you-all
8 will keep those three seats throughout the course of the
9 trial. The rest of you can sit where you want to. At
10 some point tomorrow I will ask you to elect a foreperson
11 from among yourselves. Once you do that, the foreperson
12 will then take this front row seat here on my far right
13 throughout the remainder of the trial. Feel free to bring
14 water with you in and out of the courtroom. Don't bring
15 any soft drinks or coffee in the courtroom. We all have
16 water, but it certainly makes everything to stay a little
17 cleaner and nicer for a longer time if you don't bring
18 anything else, but you can bring water in with you.

19 Any time during the course of the trial, if you need
20 to take a break for whatever reason, just simply raise
21 your hand and draw attention to the bailiff or me and
22 we'll let you-all go back to your jury room if you need
23 to do that.

24 Throughout the trial you're gonna hear me tell you,
25 and this is gonna be my instruction during the lunch

1 break, is do not discuss the case at all even among
2 yourselves. When you go in your jury room, don't discuss
3 the case until the very end of the case, at the close of
4 the case when all the evidence is in and I've given you
5 the law in the case. If you think about that, the theory
6 of that is, is that the only way you can be fair and
7 impartial to both the State and the defense is that you
8 hear all the evidence and you hear the law, then you can
9 begin to deliberate and discuss about a resolution of the
10 matter.

11 So don't discuss the case even when you go home
12 tonight with other folks. Don't discuss it at all.
13 Don't use your electronic devices to Google people,
14 lawyers, places, things you may hear in court. Don't
15 use your electronic devices to do any research and that's
16 to be sure that we're fair and impartial to both sides.
17 So even during the lunch break today, don't be Googling
18 anything remotely related to this case.

19 I anticipate -- we believe that this case is probably
20 gonna end no later than late Thursday, but we'll take as
21 much time as we need to be fair to both sides. We're
22 not in a hurry to rush it through. On the other hand, we
23 want to be as efficient as we can, but we do anticipate
24 that this case will probably go until Thursday or possibly
25 could go into Friday morning.

1 Generally we follow a schedule and try to start at
2 9:30 in the morning, break for lunch around 12:30 or so
3 and start back around two and we'll do our best to have
4 you out of here around 5:00 or so, so you can take care
5 of matters outside of this trial. We go about an hour,
6 hour and a half generally with testimony of witnesses and
7 take a break. On the other hand, as I told you earlier,
8 if you need to take a break during the course of the trial
9 just simply raise your hand and we'll allow you to take
10 a break.

11 With that I'm gonna allow you to go to lunch and when
12 you come back be back at 1:30, we'll then swear you in at
13 that point and I'll talk to you a little bit more about
14 the procedure that we'll follow and sort of an outline of
15 the rest of the week from a legal perspective on where we
16 are.

17 So with that you're allowed to go to lunch. Be back
18 at 1:30.

19 Everyone remain seated. Just follow the bailiff.
20 They will give you some instructions.

21 (Whereupon, the jury was excused for lunch at
22 11:00 AM.)

23 THE COURT: All right. Let me be sure. I had a
24 discussion with the attorneys up here at the bench that
25 this is a murder case. I know that the defendant has

1 been out on bond; however, with this type of case it is
2 -- I'm not gonna allow -- he's to be taken into custody
3 throughout the remainder of the trial.

4 Technically once a trial is called, the jury's
5 seated, the bondsman is off the bond, but in this
6 particular case he'll be required to be in custody
7 throughout the remainder of the trial.

8 Anything we need to take up before we break for
9 lunch from the State?

10 MS. ABEE: And, Your Honor, I think it just depends
11 on whether or not you'd like to handle some pre-trial
12 matters before lunch or after lunch. We don't anticipate
13 any of them being lengthy, just some things --

14 THE COURT: Let's -- let's take care of those now.

15 MS. ABEE: Okay. Your Honor, first and foremost,
16 the State would move under Rule 615 to sequester all
17 witnesses in this case aside from victim representatives
18 of the family, the main investigator, Arcadeus Dubard,
19 who's here to my left, and obviously the defendant.

20 THE COURT: Mr. Ervin, do you wish to be heard?

21 MR. ERVIN: I have no objection to that, Judge.

22 THE COURT: All right. We'll order all witnesses
23 to be sequestered. You-all be sure that you -- what's
24 the case agent's name again?

25 MS. ABEE: Arcadeus Dubard.

1 THE COURT: Mr. Dubard.

2 All right. What's next?

3 MS. ABEE: Thank you, Your Honor. And this may be
4 more appropriate to raise prior to closing argument, but
5 just putting it on the Court's radar, the information
6 provided in this case that we anticipate the State's
7 witnesses to provide is that the only shooter in this
8 case was the defendant, Mr. James Patterson. It is
9 my understanding that there may be a defense that a
10 different individual was the shooter. We can assess
11 that evidence as it comes in. There may be a third-party
12 guilt motion prior to closing argument though, Your Honor,
13 if no evidence is presented that is inconsistent with
14 Mr. Patterson's guilt as we proceed into closing, but
15 obviously I understand the defense has the full right to
16 put up their case prior to us making that argument that
17 that threshold wasn't met. I just wanted to go ahead and
18 put that on Your Honor's radar.

19 THE COURT: That's notice to the Court; however, we
20 haven't started the testimony yet, so we'll deal with that
21 if and when it comes up.

22 MS. ABEE: Thank you, Your Honor.

23 Next, Your Honor, throughout a search of the home
24 after the shooting there were several packages of what
25 appeared to be contraband located in the home. This

1 would have been marijuana and some cell phones duct-taped
2 or wrapped around each other. There's no indication that
3 this had anything to do with the shooting in the case.
4 No one has identified it as possessing -- or being in the
5 possession of any certain witness in this case; therefore,
6 we believe it's confusing to the jury and would move under
7 Rule 403 to keep it out as being irrelevant evidence in
8 this particular case.

9 THE COURT: Mr. Ervin, do you wish to be heard?

10 MR. ERVIN: Yes, sir.

11 Judge, I do want to talk about the marijuana that
12 was found at the house. There's a witness, Kenyatta,
13 that is the witness on the witness list who in her
14 supplemental statement accuses the defendant of having
15 some sort of beef regarding the marijuana. I think it's
16 relevant. I think it's absolutely relevant, Judge.
17 There's contraband in the house. There's no --

18 THE COURT: Who do you -- who would you intend to
19 introduce that evidence through?

20 MR. ERVIN: Law enforcement. There's photographs
21 by law enforcement of the contraband. I believe it's
22 Detective Dubard's -- in the folder that I received, it's
23 under the name Dubard, but there's a photograph -- three
24 photographs actually of the marijuana and cell phones,
25 et cetera, and, Judge, I think it's extremely relevant to

1 -- not for third-party guilt, but to show that this house
2 was a house of criminal activity and that these -- the
3 victim and his colleagues, as it were, were involved in
4 gun possession and drugs.

5 THE COURT: All right. And -- all right. I'm
6 gonna still need some context to determine -- when I
7 determine that and so whenever we get to that point with
8 a particular witness, we may -- well, just give me a
9 little bit of context without doing a proffer, Mr. Ervin.
10 Tell me about the search, when it occurred in relationship
11 to the shooting.

12 MR. ERVIN: It appears that the search occurred the
13 evening of when law enforcement arrived at the scene
14 shortly after the 9-1-1 call. So within twenty-four hours
15 of the shooting you have the decedent had been delivered
16 to the hospital by the -- by his brother and his cousin
17 and then law enforcement is at the scene talking to
18 neighbors and they ultimately get a search warrant and go
19 in the house, take hundreds of pictures of the location,
20 and amidst the photographs is a bag with marijuana in it
21 and then subsequent to that Ms. Kenyatta states that the
22 reason the decedent was shot was because of a marijuana
23 beef as it were.

24 And, you know, we -- again, that could be absolutely
25 relevant to why this individual was shot by anyone or

1 whoever shot him. There's no argument that he was shot
2 and I don't think there's any argument that there was a
3 weight of marijuana. We're not talking about personal
4 use. We're talking about packaged marijuana that is
5 clearly contraband and for distribution. It just
6 absolutely colors -- puts a more accurate light on what
7 was going on in that house.

8 THE COURT: All right. Ms. Abee.

9 MS. ABEE: Your Honor, we were never able to
10 corroborate that statement provided by Ms. Kenyatta
11 Strother, that she had heard that the shooting was over
12 potentially some marijuana involving another individual
13 and the victim. If defense counsel wants to bring this
14 in and show that these are the type of people that hang
15 out at this house and this is what's going on at that
16 house, we have no problem with that obviously knowing
17 that that opens the door for us to state that his client
18 is that type of person hanging out with marijuana and
19 contraband as well since he's found at the house.

20 THE COURT: All right. We'll deal with that in a
21 trial context. We'll see where we are with the witnesses.
22 Obviously, like everything else in court, it can cut both
23 ways, but -- however, we'll deal with it whenever we get
24 to that point and you intend to introduce it. It might
25 be pretty straightforward. On the other hand, that will

1 give the Court context of where we are.

2 All right. What's next?

3 MS. ABEE: Thank you, Your Honor.

4 The next will be the diagrams that we spoke to you
5 about back in chambers. I'm gonna approach here with a
6 black and white copy for Your Honor to see what we're --
7 what it is we're talking about.

8 May I approach?

9 THE COURT: Yes.

10 MS. ABEE: Thank you.

11 Your Honor, the top copy that I gave you is a crime
12 scene diagram that was created of the outside of the home
13 on the night of the shooting, on November the 9th of 2020,
14 by crime scene investigator Cody Weyandt. The second
15 page would be a similar diagram created on the same night,
16 but of the inside of the home. The marker numbers that
17 you see in the squares, Your Honor, line up with the
18 legend on the left-hand side. These are the evidence
19 markers, photos that were taken and placed in custody of
20 different shell casings that were found out the yard.

21 Your Honor, you see lines stemming from each of
22 those numbers. Those go towards reference points 1, 2
23 and 3 as is referenced down in the bottom middle of the
24 diagram. Your Honor, reference points to the houses.
25 There are also measurements from where the evidence

1 marker is to where those reference points are.

2 And, Your Honor, the State would intend to introduce
3 this through the crime scene investigator to show where
4 the shell casings were found in that yard in reference
5 to the reference points in the home. The State also
6 intends to enter the color photos of these shell casings
7 and where they were located as well.

8 It's my understanding that defense counsel is
9 objecting not to necessarily the diagram as a whole,
10 but they do contend that it's a misrepresentation of
11 where the items are found and that the lines are
12 misrepresentations of what's potential trajectory.

13 Your Honor, we don't intend there to be any
14 testimony regarding potential trajectory of these
15 bullets. Obviously we'll point -- I mean, each bullet
16 has arrows going to two separate reference points, so
17 obviously one bullet's not going in two separate
18 directions at one time.

19 And, Your Honor, I believe the next level of the
20 defense's objection is that it misrepresents how close
21 the bullets are; however, the measurements are on the
22 diagram, the crime scene investigator will testify, and
23 also physical pictures of those bullets and where they're
24 located will be entered as well. We don't think that
25 this diagram is misleading. We do think that it's an

1 important tool to be used as a demonstrative for the jury
2 to understand where these shell casings are in reference
3 to the reference points in the house and the crime scene
4 itself, Your Honor.

5 THE COURT: All right. Thank you.

6 Mr. Ervin, I'll be glad to hear from you.

7 MR. ERVIN: Thank you, Judge.

8 When I first looked at this diagram and understood
9 the numbers to be shell casings and this to be ballistics
10 evidence, this is a shootout. Your Honor mentioned this
11 is kind of like a western or an OK Corral or what have
12 you. The lines just tend to insinuate that there is a
13 trajectory and there's -- you know, it can, in my opinion,
14 confuse the jury or a person looking at this as to the
15 number of shooters and the trajectory of the bullets,
16 where they're located, as opposed to just having a
17 diagram that is to scale with the bullets and shell
18 casings identified.

19 In the bottom right corner it says not to scale,
20 not all items shown, all measurements approximate. It's
21 just on its face inaccurate and I believe it could
22 confuse the jury as to, again, the number of shooters,
23 number of weapons, and that sort of thing.

24 THE COURT: All right. I'm taking this as a motion
25 in limine to exclude portions of it; however, I deny

1 that motion. I find that the -- it's taking a lot of
2 explanation for it to be an aid to the jury, there's an
3 awful lot of lines on it, but each line is marked clearly
4 with distance on all of the lines. It's simply distance
5 from three separate reference points. And that's the
6 same thing as the first exhibit and the second exhibit.

7 Of course, they'll have to be marked for trial,
8 but I note your objection. For purposes of a motion in
9 limine, I deny your motion to exclude. I'll allow it in.

10 MS. ABEE: Thank you, Your Honor.

11 MR. ERVIN: Thank you.

12 MS. ABEE: Finally, the last thing, the State just
13 wants to put on the record the plea offer that was
14 extended in this case and that was rejected just for any
15 potential appellate reasons, Your Honor.

16 Mr. Patterson is charged with murder and possession
17 of a weapon during the commission of a violent crime.
18 That murder charge carries a mandatory minimum of 30
19 years imprisonment to the rest of his life. There was
20 previously a plea offer on the table of discharging into
21 a dwelling. That's a zero to 10-year offense. That plea
22 offer expired at the end of July, Your Honor. It is my
23 understanding that defense counsel was able to meet with
24 Mr. Patterson to discuss that plea offer with him and that
25 it was knowingly rejected; however, we just wanted to

1 place that on the record, Your Honor, prior to moving
2 forward with the case.

3 THE COURT: All right. Thank you.

4 Mr. Ervin, everything that the Solicitor -- that
5 Ms. Abee has stated to the Court, have you communicated
6 that to your client?

7 MR. ERVIN: I have, Judge.

8 THE COURT: And, again, he -- and the plea offer she
9 outlined was communicated to him and then what she stated
10 to the Court. You explain that to your client and he
11 rejected that offer; is that correct?

12 MR. ERVIN: That's correct, Your Honor.

13 THE COURT: All right. Then we're here for trial.
14 Anything else?

15 MS. ABEE: Nothing from the State, Your Honor.

16 THE COURT: Mr. Ervin?

17 MR. ERVIN: Nothing from the defense, Judge.

18 THE COURT: All right. Then we'll be at ease until
19 1:30. Be back at 1:30 and we'll swear the jury. I'll
20 give them preliminary instructions and you-all can do
21 your openings and then have some witnesses lined up.

22 MS. ABEE: We have five witnesses lined up, Your
23 Honor.

24 THE COURT: Okay. All right. Great.

25 All right. We'll be back at 1:30.

1 MS. ABEE: Thank you, Your Honor.

2 (Whereupon, a luncheon recess was taken at 11:13 PM.)

3 (Back on the record at 1:29 PM.)

4 (State's Exhibit Numbers 1 through 46 were marked
5 for identification.)

6 BAILIFF: Court is back in session. Remain seated.

7 THE COURT: Thank you. Please be seated.

8 All right. Is the State ready to proceed?

9 MR. KOZAK: Yes, sir, Your Honor.

10 THE COURT: Defense ready?

11 MR. ERVIN: Yes, Judge.

12 (Whereupon, the jury return to the courtroom at
13 1:33 PM.)

14 THE COURT: All right. Ladies and gentlemen, thank
15 you for your promptness. I think we're ready to begin
16 our trial.

17 Madam Clerk, if you'd swear this jury in.

18 THE CLERK: If you'll all please rise and stand and
19 raise your right hand.

20 (Whereupon, the jury was duly sworn by the Clerk of
21 Court.)

22 THE CLERK: Is there anyone not able to take the
23 oath?

24 Okay. Thank you. You can have a seat.

25 THE COURT: All right. Thank you.

1 Ladies and gentlemen, we're -- I'm getting ready to
2 give you some preliminary instructions in regards to --
3 sort of an outline of where we're going with the case
4 and what your duties are and what my duties are. The
5 particular case in front of us is 2022-GS-32-6147, the
6 State versus James Joseph Patterson, the Third.
7 Mr. Patterson is indicted on that indictment for murder
8 that allegedly took place on or about November the 9th of
9 2020 here in Lexington County.

10 Indictment 2022-GS-32-6146 is an indictment for
11 possession of a weapon during the commission of a violent
12 crime. That allegedly also took place on or about
13 November the 9th, 2020.

14 I'll explain to you the elements of those offenses
15 later on and you'll hear a little bit from the lawyers
16 about what those elements are, but I'll give you a compete
17 instruction on that at the end of the case when all the
18 evidence is in and you hear the law in the case.

19 Those indictments are simply the charges by which
20 the case is brought into court and those indictments are
21 not in any sense evidence of any of the allegations
22 contained in the indictment. The State has the burden of
23 proving each of the elements of the indictments beyond a
24 reasonable doubt and it will be your duty, ladies and
25 gentlemen, to decide whether the State has met that burden.

1 The defendant has pled not guilty to each of those
2 indictments.

3 Your purpose as jurors is to find and determine the
4 facts in the case. You're the sole judges of the facts.
5 If at any time I make any comment regarding the facts,
6 you must disregard that comment. You are to determine
7 the facts from the testimony you hear and the other
8 evidence that's introduced in this courtroom. It's up
9 to you to determine the inferences by which you feel may
10 be properly drawn from the evidence.

11 Just as it's your duty to make decisions concerning
12 the facts in the case, on the other hand, with equal
13 emphasis, the same law that makes you the judges of the
14 facts, makes me the judge of the law. The law as given
15 by the Court is the only law you may consider. You must
16 accept and follow it even though you may disagree with
17 it. I cannot tell you what the facts are and you cannot
18 disagree with me about what the law is or should be.
19 Your job is to take the law as I give it to you and apply
20 it to the facts and after -- that's introduced through
21 the testimony and any other evidence that's introduced
22 here in court.

23 As I had discussed earlier before the lunch break,
24 when you go back to your jury room today or throughout
25 the trial, you're still not to discuss the case. You're

1 not to have any conversation about the case among
2 yourselves even in the jury room or with anyone else
3 until all of the evidence is in and the law I've given
4 you and then you can begin to discuss the case and
5 determine the issue of the facts in the case.

6 You must decide this case based solely on the
7 evidence presented in this courtroom. That means during
8 the trial, as I told you earlier, you're not to do an any
9 independent research. It's pretty easy to do oftentimes
10 to take an electronic device and start Googling people,
11 places, dates, times. That's not allowed. The facts of
12 the case and the evidence presented in this case or the
13 people involved in the case are all items that you're not
14 to do any type of independent research on. If you should
15 run across anybody trying to talk to you about the case
16 or if you're on your devices or while you're at home and
17 something pops up about this case, please disregard it.
18 In fact, if that's brought to your attention, then bring
19 that to the attention of one of the bailiffs and the
20 bailiffs will let me know and we'll deal with that in an
21 appropriate manner. If there's any -- I don't think
22 there's any trial publicity; however, if there was some
23 trial publicity and you happen to begin to see that,
24 please disregard that and not watch anything involving
25 the publicity in this case.

1 In just a moment the Solicitor will make what's
2 called an opening statement in which the Solicitor will
3 outline your case -- or the Attorney General here will
4 outline the case, what they believe the issues are in
5 the case. The defense attorney may also make an opening
6 statement if they wish. What they tell you during the
7 opening statements, that's not evidence. It's not
8 evidence in the case. It's only their contention as to
9 what the issues are. I tell you again the evidence in
10 this case will be presented to you by the testimony of
11 sworn witnesses and by any exhibits that may be introduced
12 into evidence.

13 From time to time during the trial you may hear the
14 attorneys say something like Your Honor, I have a question
15 of law or I have an objection. The Court may be able to
16 deal with that immediately. On the other hand, I may ask
17 the lawyers to come up here to talk to me at the bench
18 and we'll discuss the case or the issues. On the other
19 hand, we may have to send you out to the jury room. Those
20 are when they're raising questions of law that I have to
21 decide that's not within your province to determine and
22 we may have to discuss issues that you're not allowed to
23 hear. When they do that, don't hold that against them.
24 When they make their objections and make their arguments,
25 don't hold that against them. They're doing their job in

1 making sure that their particular -- that the State and
2 the defendant are both getting a fair trial and that the
3 Court's following the law. So, again, I ask you to be
4 patient at those times. We have -- the Court will deal
5 with them and then we'll be able to -- should be able to
6 resume promptly after the Court has dealt with those.

7 In determining -- in your role in determining what
8 the facts are in this case, you must decide whether or
9 not the testimony of the witnesses is believable. It
10 will be my responsibility to rule as a matter of law as
11 to whether certain testimony is admissible at all or not,
12 but once the testimony is admitted whether or not you
13 believe is solely for you to determine. In deciding
14 whether to believe a witness, you have the right to
15 consider the interest of any witness, the bias of any
16 witness, the prejudice of any witness, the opportunity
17 for witness to have seen the matters and things about
18 which the witness may testify and the way the witness
19 acts on the witness stand.

20 You have a right to consider anything that's in the
21 record that would help you to evaluate the testimony of
22 witnesses. That means it's gonna be your duty to pay
23 close attention to the witnesses, to observe them, to
24 listen and listen to the -- pay close attention to the
25 attorneys and the Court.

1 At some point in time tomorrow you can elect a
2 juror to be the foreperson in the case. The foreperson
3 carries no greater responsibility or greater say in
4 the outcome of the decisions you have to make, but the
5 foreperson is simply one of you that is someone the Court
6 can communicate with and to follow-up to make sure that
7 the instructions of the Court are being followed.

8 Anything as far as opening from the State?

9 MR. KOZAK: Nothing from the State, Your Honor.

10 THE COURT: From the defense?

11 MR. ERVIN: Nothing, Judge.

12 THE COURT: Thank you.

13 All right. Thank you, ladies and gentlemen. At
14 this point we're ready to begin with the opening
15 statements.

16 Mr. Kozak or Ms. Abee.

17 MR. KOZAK: May it please the Court, Your Honor?

18 On November 9, 2020, people were playing dice in
19 William Clark's living room. There was a dispute about
20 \$40. The defendant, James Joseph Patterson the Third,
21 said someone owed him that \$40. Now words were exchanged
22 and eventually Mr. Patterson was given that \$40, but that
23 wasn't enough to calm him down. After stirring the pot,
24 he fired a single shot sending everyone scattering out of
25 the house, but even that wasn't enough for the defendant.

1 You will hear that he was seen pacing in front of his car
2 before firing multiple shots outside, getting into his
3 vehicle, speeding off and firing again back towards the
4 residence. After the dust settled, the defendant's phone,
5 the \$40 that he cared so much about, were all surrounded
6 by 9-millimeter shell casings and William Clark was dead.

7 Good afternoon. My name is Joel Kozak, and I, along
8 with Kinli Abee, represent the State of South Carolina
9 in its case against the defendant, James Joseph Patterson
10 the Third.

11 Now Mr. Patterson is before you charged with crimes
12 and it our job to prove to you beyond a reasonable doubt
13 that he's, in fact, guilty of the those crimes. Now
14 those are the crimes of murder and possession of a weapon
15 during a violent crime.

16 Now at the conclusion of this trial, Judge Hall is
17 going to instruct you on the law, but I'd like to take a
18 brief moment to introduce it right now.

19 To prove the defendant is guilty of murder, we must
20 show that he cased the death of someone and he did so
21 with malice aforethought and you're going to hear that
22 malice can be formed in an instance. And then possession
23 of a weapon during a violent crime is pretty much exactly
24 what it sounds like. It's possession of a weapon during
25 the commission of a violent crime.

1 Now proving those elements beyond a reasonable doubt
2 is our burden throughout this trial. In order to meet
3 that burden, we're gonna call several witnesses to that
4 stand. You're gonna hear from Kenyatta Strother, the
5 mother of William's child, who was there that night.
6 She was in William's room. She's gonna tell you what
7 she saw and what she heard that night and she's gonna
8 also tell you that the defendant is the only person she
9 saw that night with a gun.

10 You're also gonna hear from Williams Clark -- or,
11 sorry, Albert Clark, William's brother. He was there
12 that night and that day as well and he had to leave to
13 go to a nearby house to get money and while he was gone
14 he heard gunshots and he rushed back to the house and as
15 he was pulling into the yard, he saw the defendant, and
16 only the defendant, firing shots, and then he had to pick
17 up his -- he had to pick up William and take him to the
18 hospital.

19 Now you're not only gonna hear from people who were
20 in the house that night. You're also gonna hear from law
21 enforcement. Law enforcement that responded to the house
22 and law enforcement that also responded to the hospital.
23 You're also gonna hear from crime scene investigator who
24 marked, photographed and documented all of the evidence
25 that was found at the scene and you're gonna see the

1 picture that evidence painted about what happened that
2 night.

3 Now a firearm was never recovered in this trial --
4 I mean, in this investigation, and that makes it
5 impossible to match up recovered bullets and recovered
6 shell casings, but you are gonna hear from a firearm
7 expert and he's going to tell you how he was able to
8 determine that the bullets recovered in this crime -- in
9 this investigation, including the one that killed William,
10 were fired from the same barrel. And he's also gonna be
11 able to tell you that the casings recovered in this
12 investigation were fired from the same chamber.

13 Now the defense doesn't have to prove anything in
14 this trial. The burden rests entirely at this table
15 with the State, but if they do put witnesses on that
16 stand you're allowed to ask yourself if the story those
17 witnesses tell you make sense, does that story make
18 sense with the evidence that was recovered, does it
19 make sense with where that evidence was recovered at the
20 crime scene, does it make sense of the picture that that
21 evidence paints about what happened that night.

22 Now I'm not going to get up here and tell you this is
23 a perfect case. This isn't CSI and those investigations
24 just don't exist, but in South Carolina the State isn't
25 required to put up a perfect case. Our burden is beyond

1 a reasonable doubt and at the conclusion of this trial
2 Kinli is gonna get up and have the opportunity to present
3 a closing argument and at the end of that argument she's
4 gonna ask you to find -- much like I am now -- to find
5 the defendant guilty of murder and possession of a weapon
6 during a violent crime.

7 Thank you.

8 THE COURT: All right. Thank you.

9 Mr. Ervin.

10 MR. ERVIN: Thank you, Judge. May it please the
11 Court?

12 Good afternoon, ladies and gentlemen. Thank you
13 for being here. I want to echo something the judge said
14 earlier today that the jury trial is the best criminal
15 justice system in the world. It's your job here today
16 to analyze the evidence as presented to you by the State
17 through the prosecutors. They're gonna do their best
18 just as law enforcement has tried to do their best to
19 tell us what happened that night. None of them were
20 there. I wasn't there and you weren't there, okay?

21 Law enforcement from the patrol officers and
22 detectives to forensic lab techs and scientists, as well
23 as the prosecutors in this courtroom today, are citizens
24 who answered the call to serve and protect you and me.
25 In my humble opinion in the twenty years of experience

1 in the criminal justice system, I find law enforcement
2 to be real heroes, but they are human just like you and
3 me.

4 In this case unfortunately, there are many holes in
5 the evidence that make it impossible to determine what
6 actually happened that night. Beyond a reasonable doubt.
7 We cannot know from the physical evidence gathered who
8 shot and killed William Clark. There is testimonial
9 evidence. Your job is to take that evidence and weigh
10 its credibility. For testimonial evidence, you must
11 determine if the witness is telling the truth. Do the
12 statements jive with the physical evidence? Are there
13 contradictions with earlier statements? Do other
14 witnesses contradict their statements?

15 There are different kinds of testimonial evidence.
16 There's objective evidence. Objective testimony, usually
17 law enforcement is objective in their analysis of the
18 evidence. They gather evidence and try to uncover the
19 facts and ultimately the truth of what actually happened;
20 however, this objectivity can be affected by mistakes
21 and omissions when law enforcement isn't as thorough as
22 they'd like to be. This can affect the accuracy of their
23 analysis. This inaccuracy is not typically intentional,
24 it's simply human.

25 There's also bias. A witness's testimony can be

1 affected by their relationships such as a boyfriend or a
2 girlfriend. They can be affected by a kinship such as
3 a brother or a cousin. Bias means you like or dislike
4 something or someone in a way that affects your judgment
5 of that person or thing. Clemson fans are biased towards
6 all things Clemson and against all things Carolina, for
7 example.

8 There's also motive. The witness's perspective can
9 be affected by factors such as fear, guilt or greed.
10 Drugs and money are motives. Fear of prosecution is a
11 motive. Guilt for having made a mistake is a motive.

12 And, finally, perspective can be affected by
13 impairment from drugs or alcohol. Was the witness under
14 the influence of drugs or alcohol that would affect their
15 ability to testify accurately either at the time of the
16 incident or during their actual testimony here in the
17 courtroom. Obviously drugs and alcohol can affect a
18 person's perspective.

19 I put it to you today that the State's case has too
20 many holes in it to allow you to decide who shot and
21 killed William Clark. They certainly cannot prove beyond
22 a reasonable doubt that James Patterson committed the
23 crime of murder or that he possessed a firearm during the
24 commission of any crime. He is innocent, he pleads not
25 guilty, and we ask you to find him not guilty. He himself

1 is lucky to be alive today after that fateful evening.

2 Thank you.

3 THE COURT: Thank you.

4 State, call your first witness.

5 MS. ABEE: Your Honor, the State calls Sharmel Miller
6 to the stand.

7 THE CLERK: Place your left hand on the Bible and
8 raise your right.

9 (Whereupon, Sharmel Miller was duly sworn by the
10 Clerk of Court.)

11 THE CLERK: If you'll have a seat on the witness
12 stand. If you'll state your name and spell your last
13 name for the record.

14 THE WITNESS: Sharmel Miller. M-I-L-L-E-R.

15 MS. ABEE: May it please the Court, Your Honor?

16 THE COURT: Yes.

17 SHARMEL MILLER,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. ABEE:

21 Q. Ms. Miller, are you currently employed?

22 A. Yes.

23 Q. Where at?

24 A. Lexington County Communications.

25 Q. And what is Lexington County Communications?

1 A. It is the PSAP, which is Public Safety Answering
2 Point, for the entire county and the municipalities within
3 Lexington County.

4 Q. And now tell us kind of more on a normal kind of
5 level, what does that stand for? What do we know that as?

6 A. It's our 9-1-1 center. We receive 9-1-1 calls and
7 administrative phone calls.

8 Q. Now when a 9-1-1 call is made, how is that logged in
9 your system?

10 A. Once it comes in from the phone, the call-taker
11 will process the call through our CAD system, which is
12 computer-aided dispatch.

13 Q. And then what happens after that?

14 A. Once it is recorded and saved, it then goes to a
15 dispatcher within the same room and then that call is
16 dispatched.

17 Q. And then at the conclusion of the call, what happens
18 to that phone call that was made? Is it recorded?

19 A. All -- all lines, including radio, telephone, that
20 comes into our center, are recorded and maintained by the
21 PSAP.

22 Q. And is law enforcement able to request those
23 recordings?

24 A. Yes.

25 Q. And if law enforcement requests those recordings, are

1 you able to provide any recordings associated with that
2 address or those phones calls to them?

3 A. That is correct, yes.

4 Q. And tell us how you do that. How does law enforcement
5 make that request?

6 A. It's made through an interdepartment form that we
7 have. It states the date and time and the nature of the
8 call.

9 Q. And in this process that you've just described to us,
10 is that kind of what happens with 9-1-1 calls? Is that the
11 normal course of business so to speak?

12 A. That is correct, yes.

13 Q. And to your knowledge was a 9-1-1 call made or
14 provided to law enforcement in this particular case?

15 A. That is correct.

16 MS. ABEE: Your Honor, may I approach the witness
17 with what's been previously marked State's Exhibit
18 Number 1.

19 THE COURT: Yes.

20 MS. ABEE: I'm showing defense counsel.

21 MR. ERVIN: No objection.

22 BY MS. ABEE:

23 Q. Ms. Miller, I'm handing you what's been premarked
24 State's Exhibit Number 1 for identification purposes. Do
25 you recognize that?

1 A. Yes, I do.

2 Q. Okay. And what is that?

3 A. This is the 9-1-1 call that we -- that was requested
4 and once I put everything on the form that is requested, I
5 initial that as my evidence.

6 Q. And so are those your initials on this disc?

7 A. That is correct.

8 Q. And is the 9-1-1 call on this disc a fair and accurate
9 copy of the 9-1-1 call you were able to provide to law
10 enforcement in this case?

11 A. Yes.

12 MS. ABEE: Your Honor, at this time the State moves
13 Exhibit 1 into evidence.

14 MR. ERVIN: No objection.

15 THE COURT: State's 1 is in evidence without
16 objection.

17 (State's Exhibit Number 1, a 9-1-1 call, was admitted
18 into evidence.)

19 MS. ABEE: Your Honor, permission to publish?

20 THE COURT: Yes, you may.

21 (State's Exhibit Number 1 played.)

22 BY MS. ABEE:

23 Q. Now, Ms. Miller, I'm gonna pause that at 1 minute and
24 46 seconds in. Have you listened to the duration of that
25 call?

1 A. Yes, I have.

2 Q. And what happens in the rest of that? Is any contact
3 made?

4 A. No contact is made. Just trying to follow up and get
5 someone to answer the phone, which never happened.

6 Q. Now if other phone calls had been received by 9-1-1
7 regarding this incident and this address at this point in
8 time, would you have provided those to law enforcement as
9 well?

10 A. Yes.

11 Q. And to your knowledge is this the only 9-1-1 call that
12 came in that night?

13 A. That is correct.

14 MS. ABEE: Your Honor, I have no further questions
15 at this time.

16 THE COURT: Cross-examination?

17 MR. ERVIN: Nothing, Your Honor.

18 THE COURT: Thank you.

19 Ms. Miller, you can step down.

20 THE WITNESS: Okay. Thank you.

21 (Witness excused.)

22 MS. ABEE: And, Your Honor, we would ask that
23 Ms. Miller be excused from her subpoena.

24 MR. ERVIN: No objection, Judge.

25 THE COURT: Ms. Miller, you're excused.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MS. ABEE: Your Honor, the State calls Kenya
4 Strother to the stand.

5 (Whereupon, Kenya Strother was duly sworn by the
6 Clerk of Court.)

7 THE CLERK: If you'll have a seat up there on the
8 witness stand. If you'll state your name and spell your
9 last for the record.

10 THE WITNESS: Kenya Strother, S-T-R-O-T-H-E-R.

11 KENYATTA STROTHER,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. ABEE:

15 Q. Kenya, how old are you?

16 A. I'm 43 years old.

17 Q. And do you work?

18 A. Yes.

19 Q. Where at?

20 A. I work for Healthy Connections. Medicaid.

21 Q. And do you have any children?

22 A. Yes.

23 Q. How many?

24 A. Three.

25 Q. And how old are they?

1 A. 18, 24 and 25.

2 Q. Now, Kenyatta, did you know William Clark?

3 A. Yes.

4 Q. And if you could, tell us how you knew William.

5 A. Okay. He -- so he was my boyfriend for seventeen
6 years whenever he passed, so we had been together for
7 seventeen years. I met him back in 2003.

8 Q. And you told us you have three children. Was William
9 the father of any of those children?

10 A. Yes, my youngest, Micah. He's sitting over there.
11 But, yeah, him, and he fathered my other two kids like they
12 were his.

13 Q. Now I'm gonna take you to November the 9th of 2020.
14 In November of 2020, were you and William still together?

15 A. We had broken up, but we were close.

16 Q. And would you still go and see William?

17 A. Yes, all the time.

18 Q. And where was William living at that point in time?

19 A. He living in Lexington off of South Lake Drive, Red
20 Bank area, at road -- off of a road called South Hampton
21 Road.

22 MS. ABEE: Your Honor, I'm showing opposing counsel
23 what's been premarked as State's Exhibit Number 2 for
24 identification purposes.

25 MR. ERVIN: No objection.

1 MS. ABEE: May I approach the witness?

2 THE COURT: Yes, you may.

3 BY MS. ABEE:

4 Q. Ms. Strother, I'm handing you what's been premarked as
5 State's Exhibit Number 2 for identification purposes. Do
6 you recognize this area?

7 A. I do.

8 Q. And what is this area?

9 A. South Hampton Road. That's where he lived.

10 Q. And is this a fair and accurate depiction of the area
11 that William was living in in November of 2020?

12 A. Yeah.

13 MS. ABEE: Your Honor, the State's moves
14 State's Exhibit 2 into evidence.

15 MR. ERVIN: Without objection, Your Honor.

16 THE COURT: State's 2 is in evidence.

17 (State's Exhibit Number 2, photograph, was admitted
18 into evidence.)

19 BY MS. ABEE:

20 Q. Now did you go and see William on November the 9th of
21 2020?

22 A. I did.

23 Q. And approximately what time did you get over there?

24 A. I would say I got there about 8:45 PM that night.

25 Q. And when you got there, were other people there?

1 A. Yeah, there was other people there. There was a lot
2 of people there.

3 Q. Okay. And you say a lot. Tell us what you mean by
4 that. About how many people?

5 A. About ooh -- to be honest, like in between ten to
6 twelve.

7 Q. So a decent amount of people?

8 A. Yeah, there was a lot of people there.

9 MS. ABEE: Your Honor, I'm showing opposing counsel
10 what's been marked as State's Exhibit 3 and 4 for
11 identification.

12 MR. ERVIN: No objection, Your Honor.

13 MS. ABEE: May I approach the witness?

14 THE COURT: Yes, you may.

15 BY MS. ABEE:

16 Q. And, Ms. Strother, I'm handing you what's been
17 premarked as State's Exhibit Number 3 and Number 4. Do you
18 recognize these?

19 A. Yeah.

20 Q. Okay. And what are these pictures of?

21 A. His yard -- his house. The side of his house and the
22 back of his house.

23 Q. And are these fair and accurate representations of
24 William's house?

25 A. Yes.

1 MS. ABEE: Your Honor, the State moves Exhibit 3
2 and 4 into evidence.

3 MR. ERVIN: Without objection.

4 THE COURT: State's 3 and 4 are evidence.

5 (State's Exhibit Number 3 and 4, photographs, were
6 admitted into evidence.)

7 MS. ABEE: And, Your Honor, permission to publish
8 both 3 and 4 and an enlarged exhibit of State's Exhibit 2
9 for demonstrative purposes?

10 THE COURT: Go ahead.

11 BY MS. ABEE:

12 Q. Kenyatta, I'm gonna show you an enlarged version of
13 what you've told us is State's Exhibit 2. Now this is the
14 area that you said was an accurate depiction of William's
15 house.

16 A. Yes.

17 MS. ABEE: Your Honor, permission for the witness to
18 step down?

19 THE COURT: Yes.

20 BY MS. ABEE:

21 Q. Kenyatta, come on over here and show the jury and us
22 where William's house is on this map.

23 A. It's right here.

24 Q. Okay. So this kind of house right in the center that
25 you're pointing to?

1 A. Yeah.

2 Q. And what is this area over here that's kind of
3 L-shaped that my finger is pointing to?

4 A. It's an open area where cars be parked at.

5 Q. And were cars parked there when you showed up on
6 November 9th?

7 A. Yeah, there was cars parked there.

8 Q. Okay. And tell us where you parked.

9 A. I parked right here behind -- beside the bush, the
10 last bush. Well, the first bush I came up to, I parked
11 right there beside it.

12 Q. You can return to your seat.

13 A. Okay.

14 Q. And, Kenyatta, I'm gonna show you State's Exhibit 3
15 and 4.

16 THE COURT: Let's make sure that that poster is not
17 obstructing any of their views.

18 MS. ABEE: I can take it down, Judge.

19 BY MS. ABEE:

20 Q. Okay. Now this is State's Exhibit Number 3. Is this
21 William's house that we just looked at?

22 A. Yes.

23 Q. Okay. And so what do you call this side of the house
24 right here that's --

25 A. That's like back of the house.

1 Q. You call that the back?

2 A. Yeah.

3 Q. Okay. And what about this side over here on the left?

4 A. That's the side of the house where it leads into
5 William's room.

6 Q. And I'm gonna show you State's Exhibit Number 4.

7 A. Okay.

8 Q. I'm gonna zoom out just a little bit here.

9 All right. Take a look at this. This is State's
10 Exhibit Number 4. Is this what you just told us was the
11 side of the house near William's room?

12 A. Yeah.

13 Q. Okay. And this door right here in State's Exhibit
14 Number 4, what's through that door?

15 A. That's William's bedroom.

16 Q. Okay. And then how about these windows? What rooms
17 would those be inside of the house?

18 A. The first smaller window, that's the kitchen. The
19 middle window is his living room.

20 Q. And then where did you park? Can you see it on this
21 photo on State's 4?

22 A. Yeah. I parked behind -- beside -- like the front of
23 my car was right there where the first bush is at.

24 Q. Is that it?

25 A. The second one. The one behind. Yeah, I parked right

1 there.

2 Q. Okay. So your car's here?

3 A. Yeah.

4 Q. And I see that there's a light right here beside the
5 door. Was that light on that night to your recollection?

6 A. Yeah.

7 Q. And so you show up at the house, you say there's
8 roughly ten to twelve people there. Did you go inside?

9 A. Yes.

10 Q. Okay. And what do you see going on inside?

11 A. I just heard a whole bunch of noise. It sounded like
12 they were like gambling, playing dice or -- dice or cards.

13 I don't know. I know it was gambling.

14 Q. And did you stay in the room where they were gambling?

15 A. No, I never entered that room, but I could see from
16 William's bedroom what they were doing.

17 Q. Okay. So you walked in through that door that we just
18 saw in State's 4?

19 A. Yes.

20 Q. And that goes straight into William's bedroom?

21 A. It does. Because he had motioned for me to sit on the
22 bed, so that's what I did.

23 Q. Now while you're sitting on the bed in William's room,
24 can you see into the room where they're gambling?

25 A. Yeah.

1 Q. And tell us what it is that you see happen.

2 A. Well, it was just like a whole bunch of noise and
3 stuff and I heard them talking about somebody cheated the
4 game and from what I saw and what I heard they gave the guy
5 the money back, but once they gave him the money back --
6 what I observed when he got the money, he walked outside.

7 Q. Okay. I'm gonna stop you right there because you're
8 saying the guy. Do you know James Joseph Patterson the III
9 or who he is?

10 A. Yeah.

11 Q. Okay. Had you seen him -- not telling us how you know
12 him, but had you seen him prior to November the 9th of
13 2020?

14 A. Yeah.

15 Q. Okay. Now he was involved in this kind of altercation
16 that you're talking about, the person getting cheated out
17 of money?

18 A. Yes, he was.

19 Q. Okay. And tell us what party he was to that? Who was
20 he?

21 A. What do you mean? Like --

22 Q. And, I'm sorry, that was a confusing question. Was he
23 -- is the one that was owed money?

24 A. Yeah, he was the one that was owed money. He was
25 given the money. He was given \$60 over and they had told

1 him just give us the change back.

2 MR. ERVIN: Objection, Your Honor. Hearsay.

3 THE COURT: Yes. I sustain the objection.

4 THE WITNESS: Okay.

5 MS. ABEE: You're good.

6 BY MS. ABEE:

7 Q. Okay. So what you saw -- without telling us what
8 anyone said, okay? Did you hear the defendant say anything
9 or James Joseph Patterson the Third say anything about
10 being owed money?

11 A. Yes.

12 Q. Okay. What did he say?

13 A. He was saying that another guy cheated him out of \$40
14 on a game.

15 Q. Okay. And did you see them exchange money back and
16 forth?

17 A. No.

18 Q. And did you hear the defendant say anything about
19 receiving his money back?

20 A. No.

21 Q. Now you say you were familiar with Mr. Patterson prior
22 to that night. Do you see him in this courtroom today?

23 A. Yeah.

24 Q. And if you could, tell us where he is seated and an
25 article of clothing that he's wearing?

1 A. Okay. He's seated over there with a blue shirt on, a
2 collared shirt.

3 MS. ABEE: And, Your Honor, the witness has
4 identified the defendant as James Joseph Patterson the III
5 for the record.

6 THE COURT: All right. It's noted for the record.

7 BY MS. ABEE:

8 Q. So once you hear this altercation about cheating do
9 you see the defendant again?

10 A. Yes.

11 Q. Okay. Where do you see the defendant again?

12 A. I see him walking from the living room out of William
13 Clark's bedroom that lead -- the door that led to the
14 outside.

15 Q. Okay. So does this mean he had to walk kind of right
16 past you?

17 A. Yeah, he walked right past me. I was still in
18 William's room.

19 Q. And once he exited the room, did that door stay open
20 or was it shut?

21 A. It stayed opened.

22 Q. Okay. And tell us what you saw the defendant do at
23 that point?

24 A. Okay. I saw him walk up to a white Crown Vic, a gun
25 was handed to him and he entered back inside of the house.

1 Q. To your knowledge, was the defendant still holding the
2 gun when he came back inside?

3 A. Yes, he was.

4 Q. And can you tell us what you saw after that?

5 A. He just walked in the living room, everybody like was
6 just in there just doing whatever they were doing with the
7 little dice and stuff next like that and the next thing you
8 know, I'm paying attention. I see him just standing there
9 nobody was around him. Like they had basically let it go.
10 Nobody was around him and all of a sudden he said don't
11 push me.

12 Q. Okay. Now you said that you're paying attention and
13 you hear the defendant say don't push me. Did you see
14 anyone push him?

15 A. Nobody was around him. When he said don't push me,
16 that's when everybody jumped up like what are you talking
17 about.

18 MR. ERVIN: Objection, Your Honor. Once again,
19 hearsay.

20 THE COURT: All right. I'll --

21 THE WITNESS: That's not hearsay. How is that
22 hearsay?

23 THE COURT: Ma'am, hold on a minute. I rule on
24 whether it's admissible --

25 THE WITNESS: Oh, okay. I'm sorry.

1 THE COURT: -- and she'll ask you the next question.

2 I overruled the objection on that one particular
3 question.

4 MS. ABEE: Thank you, Your Honor.

5 BY MS. ABEE:

6 Q. So at that point in time you said that you see other
7 people kind of come towards him. What do you see the
8 defendant do?

9 A. He pulled the gun out and he shot him in the house.

10 Q. All right. In the house?

11 A. Yeah, he fired it in the house.

12 Q. And then tell us kind of what happened after that.

13 A. Well, I guess the guys who were closer to him or
14 whatever, they tried to get him out of the house and they
15 finally got him out of the house. They went out of the
16 backdoor.

17 Q. Okay. Now I'm gonna stop you real quick and show you
18 again State's Exhibit Number 3. You said you saw him go
19 out the back door. Which door -- can we see that door on
20 this photo?

21 A. Yes.

22 Q. Okay. Which one is it?

23 A. It's the one that's on the back side. The white door.

24 Q. This door right here; is that fair?

25 A. Yeah.

1 Q. Okay. Now when the defendant came out and was in this
2 area, did he stay in this area or did he go anywhere else?

3 A. No, he went where I could see him in the view of
4 William's room door that led to the outside. It was like
5 directly in front of me.

6 Q. Okay. So would that be this side of the house here on
7 Exhibit 3?

8 A. Yes.

9 Q. Okay. And I'm gonna show you again State's Exhibit
10 Number 4. Is this that the zoomed in version of State's
11 Exhibit Number 3?

12 A. Yes.

13 Q. Okay. And so is this the door you're still looking
14 at?

15 A. Yeah, that's the door. That's it right there.

16 Q. And where's the defendant?

17 A. He's like -- I don't know how to like count the feet,
18 but he's like -- maybe like 30 feet away from me.

19 Q. So you can still see him?

20 A. Yeah.

21 MS. ABEE: And, Your Honor, permission again to use
22 the demonstrative?

23 THE COURT: Yes, you may.

24 BY MS. ABEE:

25 Q. I'm showing you again the enlarged version of State's

1 Exhibit Number 2. Is this the side of the house here where
2 William's bedroom door is on?

3 A. Yeah.

4 Q. Okay. And if you could, tell us where on this map the
5 defendant goes. You told us he came out this door and then
6 onto this side.

7 A. Right.

8 Q. Where does he go?

9 A. Right in that area. I mean, I've got to point it out,
10 I guess.

11 MS. ABEE: Permission for the witness to step down,
12 Your Honor?

13 THE COURT: You may step down.

14 THE WITNESS: Okay. He's like right here.

15 BY MS. ABEE:

16 Q. Okay. So the defendant's here is in this area?

17 A. Yes.

18 Q. And what do you see him doing in that area?

19 A. Just pacing back and forth with the gun in his hand.

20 Q. So as the defendant is in this area pacing back and
21 forth with the gun, tell us what happens?

22 A. Okay. So I hear somebody come around the corner and
23 they was like hey, Little Joe.

24 MR. ERVIN: Objection, Your Honor.

25 THE COURT: I sustain the objection.

1 BY MS. ABEE:

2 Q. Without telling us what anyone said --

3 A. Okay.

4 Q. -- tell us what you saw.

5 A. Can I say I heard someone say that?

6 Q. No, you can't tell us what they say. Tell us what you
7 saw.

8 A. I saw Joseph Patterson pacing back and forth and he
9 jumped up in the air and he started shooting.

10 Q. And you saw him shooting towards which direction?

11 A. He was shooting towards like the kitchen window.

12 Q. And is that the area on the kind of closer front end
13 of that house that you pointed out?

14 A. Yeah, he was like shooting like sort of like a -- what
15 is it, diagonal?

16 Q. (Indicating.)

17 A. Yeah, that's like that.

18 Q. And how many -- or was it one shot or more than
19 one shot?

20 A. It was multiple shots.

21 Q. And tell us what happened after that.

22 A. Well, after that I crawled to the back of the house
23 and it was just shots.

24 Q. What else happened?

25 A. The shots continued and then I heard someone get into

1 a car, then I heard a car screeching through the yard and
2 then it stopped in the yard and then I heard more shots and
3 then after that I could tell by listening when the car left
4 out of the yard, so that's when I got up.

5 Q. So you hear multiple shots?

6 A. Uh-huh.

7 Q. Then a car starts to leave, shots again and then the
8 car leave again?

9 A. Yeah.

10 Q. Okay. Now when you saw the defendant pacing back and
11 forth, was he standing by a car?

12 A. Yes.

13 Q. Okay. And what do you remember about that car?

14 A. That was the white Crown Vic that he had got the gun
15 from.

16 Q. And was there any other car there that you remember?

17 A. Yes, it was a burgundy sedan.

18 Q. And was that back in the area that you told us the
19 defendant was facing?

20 A. It was parked a little bit, yeah, backwards. That was
21 closer to William's house, the -- the burgundy sedan.

22 Q. Now after all the shots were fired, what is it that
23 you did and what did you see?

24 A. I just got up and I walked back through the house and
25 I went to go look for William and like I looked outside and

1 I saw him crawling on the ground. I saw him crawling on
2 the ground and I told him -- like I just thought, you know,
3 he was -- I told him like just get up, like everything's
4 over with, and like when he tried to get up he -- he was
5 crawling and he would like lift his right leg, but he
6 couldn't stand and he collapsed.

7 Q. To your knowledge did William go to the hospital?

8 A. Yeah, he did.

9 Q. Okay. To your knowledge who took him there?

10 A. No, I didn't.

11 Q. You didn't take him there?

12 A. No, I didn't.

13 Q. Okay. Was somebody at the scene -- did EMS arrive or
14 did somebody at the scene take him?

15 A. His cousin took him.

16 Q. Okay. And what his cousin's name?

17 A. Dudley Clark.

18 Q. Now did you stay at the property after William left?

19 A. No, I was -- I went right behind them.

20 Q. Now at any point in time did to your knowledge, did
21 law enforcement come back to the scene?

22 A. They did, but I wasn't there when they came back.

23 Q. Okay. Did you come back to the scene and talk to
24 them?

25 A. Yeah, they -- they had got my phone number. They

1 called me and asked me to come back to the scene.

2 Q. And at that point in time you had already seen the
3 defendant with the gun; is that right?

4 A. Yeah.

5 Q. Did you provide that information to law enforcement?

6 A. I did.

7 MS. ABEE: Your Honor, I'm showing opposing counsel
8 what's been premarked as State's Exhibit Number 5 and
9 State's Exhibit Number 6.

10 May I approach the witness?

11 THE COURT: Yes, you may.

12 MR. ERVIN: Hold on, Your Honor.

13 May I see them one more time?

14 MS. ABEE: Yes.

15 MR. ERVIN: Judge, I'm going to object to --

16 THE COURT: All right. Lawyers approach.

17 (Proceedings held at the bench; not reported.)

18 BY MS. ABEE:

19 Q. Now I'm approaching you with what's been marked as
20 State's Exhibit Number 5 and State's Exhibit Number 6. Do
21 you recognize these?

22 A. (Nods head.)

23 Q. And are these fair and accurate representations of
24 information you provided law enforcement at the scene that
25 night?

1 A. Yeah.

2 MS. ABEE: Your Honor, at this point in time, the
3 State moves State's Exhibit 5 into evidence.

4 MR. ERVIN: No objection to 5, Judge.

5 THE COURT: All right. State's 5 is in evidence.

6 (State's Exhibit Number 5, a photograph, was admitted
7 into evidence.)

8 MS. ABEE: Permission to publish?

9 THE COURT: Yes, you may.

10 BY MS. ABEE:

11 Q. Now I'm gonna take you back inside where you said all
12 of this kind of started. Tell us what area we're looking
13 at here in State's Exhibit 5.

14 A. That right there, William was sitting in that chair
15 right there.

16 Q. This chair here?

17 A. Yeah. That's his living room. Joseph Patterson was
18 standing like right there in front of the window.

19 Q. In this area?

20 A. Yeah.

21 Q. Okay.

22 A. Facing out like looking at everybody and it was like
23 other guys surrounding him.

24 Q. And we see a room back here. What room is this?

25 A. That's William's room.

1 Q. Okay. Is this the room that you were seated in while
2 this all took place?

3 A. Yeah. Uh-huh.

4 Q. Okay. So you could see straight into here in the
5 living room while this was going on?

6 A. Yeah.

7 Q. And what law enforcement responded, did you provide
8 them a Facebook photo of the shooter in this case?

9 A. Yes.

10 Q. Was that of the defendant?

11 A. Yes.

12 Q. Okay. And is that the picture that I just showed you
13 in State's Exhibit Number 6?

14 A. It is.

15 MS. ABEE: Your Honor, one moment.

16 BY MS. ABEE:

17 Q. Kenya, throughout all of this, who was the only
18 person you saw with a gun that night on November the 9th?

19 A. Joseph Patterson.

20 Q. The defendant?

21 A. Yes.

22 MS. ABEE: Your Honor, I have no further questions
23 at this time.

24 THE COURT: Thank you.

25 Cross-examination?

1 MR. ERVIN: Yes, sir, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. ERVIN:

4 Q. Kenyatta, my condolences and I'm sorry for your loss.

5 A. Thank you.

6 Q. You were at William Clark's house. He owned the
7 house; is that correct?

8 A. No, he was renting it out.

9 Q. Okay. And you stated that you spoke to law
10 enforcement that night, correct?

11 A. Yeah.

12 Q. Did you speak to them on the phone or were you
13 interviewed in person?

14 A. Interviewed in person.

15 Q. Okay. You had left and you came back, correct?

16 A. Yeah.

17 Q. Where did you go?

18 A. I went to my -- my best friend's house because I
19 wanted her to drive me to the hospital, but she was too
20 upset about the situation.

21 Q. Okay. So when you left William's house, did you drive
22 your vehicle?

23 A. Yeah.

24 Q. What vehicle did you drive?

25 A. It was a 2008 Lexus GS 350.

1 Q. And you said it was parked back here?

2 A. No, I did not.

3 Q. I'm sorry. Where did you say it was parked? I'm
4 sorry. Here?

5 A. No, I did not say that.

6 Q. Where did you say it was parked?

7 A. Do you want me to come show you?

8 Q. Please.

9 MR. ERVIN: Your Honor, may she?

10 THE COURT: Yes, she may.

11 BY MR. ERVIN:

12 Q. I'm gonna move this a little closer to the jury.

13 A. It was parked right here.

14 Q. Okay. Right here?

15 A. Right here, yes, but there's a bush right here and
16 there's a bush right here. I was right there. The tips of
17 the bush at the front of my car.

18 Q. Were there any other vehicles in this area?

19 A. It sure was.

20 Q. What other vehicles?

21 A. There was a white Crown Vic right here and a burgundy
22 sedan parked back in here.

23 Q. Okay. Was the burgundy sedan, do you recall, was a
24 Kia? Do you remember the make and model?

25 A. It looked more like a Mitsubishi.

1 Q. Okay.

2 A. Yeah.

3 Q. You can return to your seat.

4 A. All right.

5 Q. You said that you saw the gunfire towards the kitchen
6 window; is that correct?

7 A. No, I -- well, yeah, yeah. From outside, yeah.

8 Q. Okay. When the gunfire ceased, did you notice any
9 bullet holes in the house or the windows? Were any windows
10 broken or anything?

11 A. I wasn't looking for nothing like that.

12 Q. So you don't recall seeing anything like that?

13 A. No, I wasn't looking for anything like that.

14 Q. All right. Did you hear any glass breaking or any
15 sort of structural damage from the gunfire?

16 A. No.

17 Q. Did you hear the gunshots strike a vehicle or any
18 glass breaking at all?

19 A. I couldn't tell. I was inside the house. I just
20 heard the gunshots. I couldn't -- you know, I couldn't
21 really hear. I heard the gunshots from inside the house.

22 Q. Do you recall if you noticed it was one gun being
23 fired or more than one gun being fired?

24 A. It was one.

25 Q. Okay. Did you ever tell law enforcement or the

1 prosecutors here that you thought you heard a second gun
2 being fired?

3 A. No.

4 Q. Okay. Were you interviewed on August 8th of 2023,
5 this year, about this case?

6 A. Yeah.

7 Q. Okay. And during that interview do you recall saying
8 that you heard what you thought to be another gun shooting?

9 A. No.

10 Q. Okay.

11 MR. ERVIN: I beg your indulgence, Judge.

12 BY MR. ERVIN:

13 Q. You don't recall stating to the prosecutor that there
14 may have been another shooter that was with Mr. Patterson.

15 A. No.

16 Q. And you described that person as having wicks in his
17 hair?

18 A. Hold up. Now I never said he was a shooter. I said
19 he was with him.

20 Q. Okay. All right.

21 A. I never said he was a shooter.

22 Q. Okay. Was the door -- in the house when you were
23 sitting in the bedroom, were you sitting on the bed or in
24 a chair?

25 A. In the bed. Sitting on the bed.

1 Q. And you said Mr. William Clark was with you in the
2 bedroom at one point?

3 A. He -- he was there when I got there at first, but he
4 got a little irritated and went in the living room and sat
5 in that chair.

6 Q. Okay. All right.

7 MR. ERVIN: I beg your indulgence, Your Honor.

8 BY MR. ERVIN:

9 Q. How long had you been at the house? What time of day
10 did you arrive?

11 A. It was at night. It was 8:45 PM that night.

12 Q. Okay. And had you had any alcohol to drink that
13 night?

14 A. No, I don't drink.

15 Q. Okay. Did you see any marijuana or see them smoking
16 marijuana that night?

17 A. No, I didn't.

18 Q. Okay. Do you know what marijuana smells like?

19 A. Yes, I do.

20 Q. And you would know if you had seen it being smoked or
21 seen it around?

22 A. Yes.

23 Q. You know what it looks like?

24 A. Yeah.

25 Q. Did you know William Clark to ever own a gun?

1 A. No.

2 Q. Did you know -- I believe his cousin is Donnie. Is
3 that what you said?

4 A. Yeah.

5 Q. Donnie is the one who drove him to the hospital,
6 correct?

7 A. Yes.

8 Q. Did you ever know Donnie to have a gun?

9 A. No.

10 Q. And Albert Clark is William's brother, correct?

11 A. Uh-huh.

12 Q. Did you ever know Albert to have a gun?

13 A. No.

14 Q. Had you ever heard of any gunfire prior to this
15 evening at Williams house?

16 MS. ABEE: Objection, Your Honor. It calls for
17 hearsay.

18 THE COURT: I'll overrule the objection. She can
19 say as far as she heard.

20 BY MR. ERVIN:

21 Q. Do you know of any gunfire had ever -- having ever
22 occurred at William Clark's house prior to this evening?

23 A. I never heard -- no, I never heard anything like that.

24 Q. Did you ever notice any bullet holes on the inside of
25 the house, inside the walls --

1 A. No --

2 Q. -- the exterior of the house or anything like that?

3 A. No. No, because I don't -- I don't go and -- I don't
4 do all that when I go there. I don't be looking. I don't
5 do that.

6 Q. Okay.

7 MR. ERVIN: No further questions, Judge.

8 Thank you.

9 THE COURT: Any redirect?

10 MS. ABEE: No, Your Honor.

11 THE COURT: All right. Thank you.

12 MS. ABEE: Your Honor, we ask that the this witness
13 be excused.

14 MR. ERVIN: No objection.

15 THE COURT: All right. Mr. Strother, you can step
16 down.

17 (Witness excused.)

18 MS. ABEE: Your Honor, may we approach briefly?

19 (Proceedings held at the bench; not reported.)

20 THE COURT: All right. Ladies and gentlemen, we're
21 gonna take a 10-minute break so we can get logistics sort
22 of scheduled for the next witness.

23 I'm gonna allow you to go back to the jury room, take
24 a 10-minute break. Don't discuss the case at all among
25 yourselves.

1 With that, everyone remain seated while this jury
2 panel is excused.

3 (Whereupon, the jury retires to the jury room at
4 2:29 PM.)

5 THE COURT: A 10-minute break.

6 (Recess taken at 2:29 PM.)

7 (Back on the record at 2:43 PM.)

8 BAILIFF: Court is back in session. Please keep
9 your seats.

10 THE COURT: Please be seated.

11 All right. Is the State ready to proceed?

12 MR. KOZAK: Yes, sir, Your Honor.

13 THE COURT: Is the defense ready?

14 MR. ERVIN: Yes, sir.

15 THE COURT: Let's bring the jury in.

16 (Whereupon, the jury return to the courtroom at
17 2:45 PM.)

18 THE COURT: All right. State call your next witness.

19 MR. KOZAK: The State calls Taylor McChesney with
20 the Lexington County Sheriff Department.

21 (Whereupon, Taylor McChesney was duly sworn by the
22 Clerk of Court.)

23 THE CLERK: If you'll have a seat on the witness
24 stand. If you'll state your name and spell your last name
25 for the record.

1 THE WITNESS: Yes, ma'am.

2 My name is Taylor McChesney. Last name is spelled
3 M-C-C-H-E-S-N-E-Y.

4 TAYLOR MCCHESENEY,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. KOZAK:

8 Q. Mr. McChesney, please -- where are you currently
9 employed?

10 A. The Lexington County Sheriff's Department.

11 Q. And what is your current position there?

12 A. In our traffic division as a traffic deputy.

13 Q. And about how long have you been employed with the
14 Lexington County Sheriff's Department?

15 A. Approximately four and a half years.

16 Q. And so how did you become involved in this case?

17 A. I'm sorry? Say that again.

18 Q. How did you become involved in this case?

19 A. I was the first deputy on-scene.

20 Q. Okay. And about what time did you respond to that
21 scene?

22 A. Approximately 9:20 at night. 9:20 PM.

23 Q. All right. And where exactly did you respond to?

24 A. It was [REDACTED] South Hampton Road.

25 Q. And what county is that located in?

1 A. Lexington County.

2 Q. All right. And when you arrived on the scene, what
3 did it look like?

4 A. It was quiet. The houses separate -- or, excuse me,
5 there's a house on the left and the right. The front lot
6 was dirt. There was three black males standing in the
7 front area of the house in the dirt and there was another
8 black male standing to the right at the neighbor's house on
9 the porch. Otherwise that was pretty much it.

10 Q. All right. So when you first arrive on-scene, what do
11 you do?

12 A. I -- I was trying to locate the house. I wasn't too
13 sure that that was the actual house I was looking for, so
14 I got out and started looking around trying to figure out
15 where I was and what was going on. I ended up talking
16 to the neighbor on the right trying to see if he had any
17 information to offer.

18 Q. All right. And while at the scene did you recover a
19 shell casing?

20 A. I did.

21 Q. And --

22 MR. KOZAK: Your Honor, may I approach?

23 THE COURT: Yes, you may.

24 MR. KOZAK: If you would, please, step down if that's
25 okay, Your Honor?

1 THE COURT: Yes.

2 BY MR. KOZAK:

3 Q. And can you identify where that shell casing was
4 located on this map? I guess, first, let's just establish
5 where did you park when you came in?

6 A. Whenever I pulled onto the dirt road here, I actually
7 pulled down. This is where I saw Mr. Elmer standing on his
8 residence on the porch. I actually went down past and had
9 to turn around and then stopped right between the two
10 houses facing back towards the asphalt this way.

11 Q. Okay. And this shell casing that you located at the
12 scene, where -- where about was it?

13 A. Right in here.

14 Q. Okay. And did you collect the shell casing? You can
15 step back up.

16 A. (Witness complies.) I did.

17 Q. And so once that shell casing was located, did you
18 collect that shell casing?

19 A. I did.

20 Q. And were you wearing a body camera at the time?

21 A. I was.

22 MR. KOZAK: Your Honor, I'm showing opposing counsel
23 what's been marked as State's Exhibit 7.

24 MR. ERVIN: Yes, I've seen that judge. No objection.

25 MR. KOZAK: May I approach, Your Honor?

1 THE COURT: Yes, you may.

2 BY MR. KOZAK:

3 Q. I'm showing the witness what's been marked as State's
4 Exhibit 7. What am I showing you here?

5 A. This is the CD drive with the body cam footage that we
6 had discussed prior with my signature and the date -- or,
7 excuse me, my initials and the date that I signed it on.

8 Q. Okay. And other than the agreed upon redactions for
9 this video, has it been altered or edited in any way?

10 A. No, it has not.

11 Q. Okay.

12 MR. KOZAK: At this time, Your Honor, I'd like to
13 move State's Exhibit 7 into evidence and publish for the
14 jury.

15 MR. ERVIN: No objection, Judge.

16 THE COURT: State's 7 is in evidence and you may
17 publish to the jury.

18 (State's Exhibit Number 7, body cam footage, was
19 admitted into evidence.)

20 BY MR. KOZAK:

21 Q. All right. So this body cam that you're wearing,
22 where exactly is it on your body?

23 A. It's placed right roughly in the middle of my chest
24 just below my sternum.

25 Q. Okay.

1 (State's Exhibit Number 7 was played.)

2 Q. And why is there no audio right now?

3 A. It was muted.

4 Q. Okay. And why would you mute your body cam at the
5 scene?

6 A. So always -- after being there for approximately an
7 hour and a half, investigators had arrived and taken over
8 the scene. Before I was released from the scene, I was
9 sitting in my patrol car for a good majority of the time
10 working on reports from this incident, as well as previous
11 incidents form throughout the night.

12 Q. Okay. And as you said earlier, you were parked about
13 right here?

14 A. I was initially. I did move at some point, but I
15 don't remember exactly where I moved to.

16 Q. Okay. So what we're seeing right here is you walking
17 this way?

18 A. I believe it is. I would have to see a little more of
19 the video just to verify and make sure I'm telling you
20 accurately.

21 Q. Okay.

22 (State's Exhibit Number 7 continued playing.)

23 Q. Okay. I'm pausing it for a second. And so this is
24 body cam. You're not controlling the body cam. It just
25 turns?

1 A. Correct. Yes, sir.

2 Q. So what is this that we're looking at right here on
3 the right? I guess you can't see it, but that part right
4 there, what residence is that?

5 A. That is gonna be [REDACTED] South Hampton Road, the incident
6 location.

7 Q. Okay.

8 MR. ERVIN: I'm sorry, Your Honor. Did he say [REDACTED]?
9 May I ask what he said?

10 THE WITNESS: Yes, [REDACTED] South Hampton Road.

11 MR. ERVIN: Thank you, Judge. I just couldn't hear.

12 BY MR. KOZAK:

13 Q. Okay. So what is this we're looking at right now on
14 the video?

15 A. Which? Just in general, sir? I'm sorry.

16 Q. Yeah, just in general. What is that?

17 A. That is gonna be a piece of paper that I folded in
18 half to mark the shell casing so that way it didn't get
19 stepped on and that is the shell casing beside it.

20 Q. Okay. So was that just you moving your vehicle like
21 you discussed earlier?

22 A. Yes, sir.

23 Q. Okay. So what is the last thing we saw on that video?

24 A. That was me collecting the shell casing.

25 Q. What do you do with it once you collect the shell

1 casing?

2 A. I secured it in the back of my patrol vehicle and then
3 at some point after clearing the scene it was turned into
4 evidence at the sheriff's department.

5 MR. KOZAK: I'm showing opposing counsel what's been
6 marked as State's Exhibit 8, Your Honor.

7 MR. ERVIN: No objection, Judge.

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

9 THE COURT: Yes, you may.

10 BY MR. KOZAK:

11 Q. I'm showing the witness what's been marked as State's
12 Exhibit 8. What is this I'm showing you here?

13 A. This is gonna be the package with the shell casing
14 that I turned in.

15 Q. And what is the PR number on that package?

16 A. 139227.

17 Q. And what is that listed as a description of?

18 A. It's a silver Luger 9-millimeter shell casing.

19 Q. Okay. And how are you sure that this is the one that
20 you collected?

21 A. This is -- it has my name and handwriting on it.

22 Q. All right.

23 MR. KOZAK: At this time, Your Honor, I'd like to
24 move State's Exhibit 8 into evidence.

25 MR. ERVIN: No objection, Judge.

1 THE COURT: State's Exhibit 8 is in evidence.

2 (State's Exhibit Number 8, a shell casing, was
3 admitted into evidence.)

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

5 THE COURT: Cross-examination?

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

8 CROSS-EXAMINATION

9 BY MR. ERVIN:

10 Q. Officer McChesney, thank you for being here today. I
11 know you have a very tough job.

12 Does the location of the shell casing indicate where
13 the gun it came from was fired?

14 MR. KOZAK: Objection, Your Honor. That's
15 speculation.

16 THE COURT: I'll overrule the objection.

17 Go ahead.

18 BY MR. ERVIN:

19 Q. Do you need me to repeat the question or do you
20 understand what I'm asking?

21 A. Please repeat.

22 Q. Does the location of the shell casing indicate at all
23 where the gun it was fired from was shot?

24 A. I don't know.

25 Q. Okay. Fair enough. Thank you.

1 Did you recover any other shell casings?

2 A. No, sir.

3 Q. And on that particular shell casing, you said it was a
4 9-millimeter, correct?

5 A. Yes, sir.

6 Q. Okay. Were there any fingerprints on that shell
7 casing? Did you know any other evidentiary identifiers on
8 that shell casing?

9 A. I don't know.

10 Q. You don't?

11 A. I turned it in and that's all --

12 Q. And that's it?

13 A. That's the last that I had any control over it.

14 Q. Did you interview anyone other than the neighbors at
15 the scene?

16 A. There was one black male that I did try to find and
17 locate who I originally made contact with when I pulled up
18 there. I couldn't locate him to talk to him after that.

19 Q. Okay. In -- on your body cam video there's a moment
20 where you receive a call from another officer indicating
21 that they were at the hospital. Do you remember that?

22 A. Not -- vaguely, sir. I couldn't give you specifics
23 even.

24 Q. Okay. Did you hear the 9-1-1 -- were you the officer
25 that received the 9-1-1 call dispatch for this case?

1 A. I don't know.

2 Q. When you -- how did you know to go to the address,
3 [REDACTED] South Hampton?

4 A. So the original call was for a shots fired call, heard
5 only --

6 Q. Okay.

7 A. -- and then shortly after it turned into a gunshot
8 wound call. I don't know if I was the original officer
9 that received the call. I just know that I was the first
10 deputy that was on-scene.

11 Q. Where would the gunshot wound call have come from?

12 A. I'm not sure understand your question. I'm sorry.

13 Q. Originally it was a shots fired, shots heard call,
14 correct?

15 A. (Nods head.)

16 Q. Okay. And then it was a gunshot wound call, correct?

17 A. Yes, sir.

18 Q. And the 9-1-1 operator dispatch stated it was -- the
19 call that was received said 110 South Hampton Drive and you
20 arrived at [REDACTED] South Hampton Drive. How did you know to go
21 to [REDACTED] South Hampton Drive?

22 A. I don't really remember. I remember specifically --
23 as I testified earlier, I was looking to figure out what
24 was going on. I don't even remember if I knew that was the
25 actual incident location at the time. That's why I stepped

1 out of my vehicle and went to speak with Mr. Wright and
2 then ended up determining that that was the incident
3 location later down the line.

4 MR. ERVIN: Thank you very much. I appreciate it.
5 No further questions.

6 MR. KOZAK: Nothing further, Your Honor.

7 THE COURT: All right. Thank you, Officer McChesney.
8 You can step down.

9 THE WITNESS: Thank you, Your Honor.

10 MR. KOZAK: Your Honor, may he be excused from his
11 subpoena?

12 THE COURT: Any objection to him being excused?

13 MR. ERVIN: None, Your Honor.

14 THE COURT: Officer, you're excused.

15 (Witness excused.)

16 THE COURT: Call your next witness.

17 MS. ABEE: Your Honor, the State calls Cody Weyandt
18 to the stand.

19 (Whereupon, Cody Weyandt was duly sworn by the Clerk
20 of Court.)

21 THE CLERK: If you'll have a seat on the witness
22 stand. If you'll state your name and spell your last
23 name for the record.

24 THE WITNESS: My name is Cody Weyandt.

25 W-E-Y-A-N-D-T.

1 MS. ABEE: May it please the Court, Your Honor?

2 THE COURT: Yes.

3 CODY WEYANDT,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. ABEE:

7 Q. Are you currently employed?

8 A. Yes, ma'am.

9 Q. Where at?

10 A. Lexington County Sheriff's Department.

11 Q. And what do you do you at the Lexington County
12 Sheriff's Department?

13 A. I am currently a narcotics investigator assigned to
14 the Lexington County Multiagency Narcotics Enforcement
15 Team.

16 Q. And how long have you been with Lexington County?

17 A. Since January of 2017.

18 Q. What division were you employed in November of 2020?

19 A. I was a crime scene investigator.

20 Q. And tell us all a little bit about what a crime scene
21 investigator does.

22 A. So the main job of a crime scene investigator is to
23 respond to major incidents and provide a true and accurate
24 representation of the crime scene through the use of
25 documentation methods such as photography, note-taking,

1 measurements and collecting any sort of evidence and doing
2 any additional processing on the scene.

3 Q. And were you the crime scene investigator involved in
4 the case with the death of William Clark?

5 A. Yes, ma'am.

6 Q. And if you could, tell us where you responded to.

7 A. I responded to a residence at -- I believe it was
8 115 South Hampton.

9 Q. And what county is that located in?

10 A. Lexington County.

11 Q. And when you arrived, was it daytime or nighttime?

12 A. It was nighttime.

13 Q. And to your understanding did you arrive on the day
14 of the shooting or a separate day?

15 A. The day of the shooting.

16 Q. And when you arrived, were you the first person there?

17 A. I was not.

18 Q. And who else would have already been at the scene at
19 that point?

20 A. At the time of my an arrival, there were a number of
21 patrol deputies there already, as well as, I believe, some
22 investigators.

23 Q. And when you arrive to a crime scene as the CSI,
24 right, the crime scene investigator, do you investigate the
25 are entire scene?

1 A. Yes, ma'am.

2 Q. And was there a structure at this particular location?

3 A. There was.

4 Q. Okay. Was that a house?

5 A. Yes, it was a residence.

6 Q. And did you do a crime scene investigation inside and
7 outside?

8 A. I did.

9 Q. And while you're inside and outside, do you create
10 diagrams to help assist throughout your investigation?

11 A. Yes, ma'am.

12 Q. I want to start a little bit by talking about the
13 inside of the house and what you saw, okay?

14 A. Okay.

15 MS. ABEE: Your Honor, I'm showing opposing counsel
16 State's 9, 10, 11, 12, 13, 14, and 15.

17 May I approach the witness?

18 THE COURT: Yes, you may.

19 BY MS. ABEE:

20 Q. Now I'm handing you what's been premarked as State's
21 Exhibits 9 through 15. Just take a look at those and let
22 me know if you recognize them.

23 A. I do.

24 Q. And generally what are those?

25 A. They are crime scene photographs I took of the inside

1 of the house, as well as a diagram that I made of the
2 inside of residence.

3 Q. Now are the pictures a fair and accurate
4 representation of what you saw inside the house that
5 night?

6 A. They are.

7 Q. And is the diagram a fair and accurate representation
8 of what you measured while you were in that house?

9 A. Yes, ma'am.

10 Q. And does it appear that these have been altered in
11 any way?

12 A. No, ma'am.

13 MR. ERVIN: No objection to 9 to 14, but 15 I do have
14 objection further foundation with regards to.

15 THE COURT: All right. Let me see what fifteen is.

16 MS. ABEE: (Hanging.)

17 THE COURT: All right. Mr. Ervin, would you
18 approach?

19 (Proceedings held at the bench; not reported.)

20 THE COURT: All right. State's Exhibit 9 through
21 14 are entered without objection. State's Exhibit 15
22 subject to prior discussion with the attorneys on State's
23 Exhibit 15; however, I overrule the objection to State's
24 Exhibit 15 coming into evidence, so the Court admits
25 State's Exhibit 15 into evidence over the objection of

1 the defense.

2 (State's Exhibit Number 9 through 14, photographs,
3 and State's Exhibit Number 15, a diagram, were admitted
4 into evidence.)

5 MS. ABEE: Permission to publish, Your Honor?

6 THE COURT: Yes, you may.

7 BY MS. ABEE:

8 Q. Investigator, I'm showing you what's been entered as
9 State's Exhibit Number 9. If you could tell us what we're
10 looking at here in State's Exhibit 9?

11 A. This is the main area of the residence. I refer to it
12 I believe as a common area in my report, in which there's a
13 table off to the left that is broken, a broken chair, as
14 well as cards, cell phones and alcoholic beverage
15 containers kind of strowed about in that common area.

16 Q. And now State's Exhibit Number 10?

17 A. That is another angle of the same room showing that
18 table.

19 Q. Now I'm going to show you State's Exhibit Number 11.
20 What do we see additionally in this photo?

21 A. This is a little bit more angle where you couldn't see
22 behind the chair you can initially see some other playing
23 card and dice in the middle of the photographs.

24 Q. So the playing card here?

25 A. Yes.

1 Q. And the dice here?

2 A. Yes, ma'am.

3 Q. When you go to the crime scene, do you manipulate
4 anything?

5 A. No, ma'am.

6 Q. So you take the photos as-is; is that fair?

7 A. Yes, ma'am.

8 Q. Now you talked about a diagram that you created on the
9 inside and I'm going to ask you a couple of questions about
10 this diagram.

11 MS. ABEE: Your Honor, permission to publish in a
12 large version for demonstrative?

13 THE COURT: Yes, you can do that.

14 BY MS. ABEE:

15 Q. I'm showing you an enlarged version of State's 15.
16 Now if you could, just kind of come down and explain to us
17 a little bit about how you create this diagram.

18 A. So the diagram basically was -- it would start out
19 taking measurements of the common area of that residence
20 that we saw in the photographs. I took measurements of the
21 walls, sketched those out, as well as the doorways, the
22 doorway right here, and then anywhere evidence that I
23 collected is marked with a marker similar to an evidence
24 marker and a number, and then I took measurements from
25 reference points inside of the evidence to be able to place

1 them as close to possible where they're at inside of the
2 residence.

3 Q. And why do you do this?

4 A. To provide a clear and accurate representation of what
5 we saw and kind of give a little bit more documentation
6 and information of -- as to where exactly everything was.
7 Sometimes it's a little hard to tell exactly where stuff
8 is inside of a house due to additional items in there that
9 don't have evidentiary value.

10 Q. Now I see some arrows on some of these lines and some
11 dotted lines. Do those indicate directionality or anything
12 like that.

13 A. They don't. They're simply a measurement line.

14 Q. And you say that these numbers here in the yellow
15 boxes match evidence placards. What is an evidence placard
16 or evidence marker that you place?

17 A. An evidence placard or marker is a number that is
18 assigned to a specific piece of evidence that is
19 photographed with that piece of evidence to mark what
20 number that is going to be in my documentation and when
21 it's collected.

22 Q. And then I see a legend over here on the bottom
23 left-hand side of this. What is in your legend?

24 A. In my legend is Marker Number 13, in the center of
25 the room, which is an expended cartridge -- a 9-millimeter

1 expended cartridge case with a Hornaday headstamp.

2 Number 14 is a Motorola cell phone in a black case with no

3 external identifiers. Marker Number 15 is a Samsung cell

4 phone in a blue case. And Marker Number 16 is a copper

5 jacket from a fired projectile.

6 Q. Thank you. You can return.

7 A. (Witness excused.)

8 Q. And so when you place down these evidence markers, you

9 mark them on your diagram, but do you also take photos of

10 them?

11 A. Yes, ma'am.

12 Q. I'm gonna show you right now what's been entered as

13 State's Exhibit Number 12. Tell us what it is that we're

14 looking at here.

15 A. That is a photograph of an angle inside of that common

16 area once I had placed down evidence markers just outlining

17 an overall view of where the evidence was located.

18 Q. And Evidence Marker 13, I'm gonna publish State's

19 Exhibit 13, what was found there?

20 A. That was an expended cartridge case, a 9-millimeter,

21 with a Hornaday headstamp.

22 Q. And now publishing State's Exhibit Number 14, Evidence

23 Marker 16, what is that?

24 A. That is the copper jacket off of a -- from a fired

25 projectile.

1 Q. And what is a copper jacket?

2 A. The copper jacket is the actual outside of the bullet
3 that is fired when you fire a handgun or a firearm, I
4 should say, it's actually around the lead bullet and it
5 helps to keep the bullet intact as it is fired.

6 Q. And then we see evidence markers 13, 14 and 15. We've
7 talked about 13. What were at 14 and 15?

8 A. Number 14 was the Motorola cell phone in the black
9 case and Number 15 was a Samsung cell phone in a blue case.

10 Q. Now did you ultimately perform any extractions on
11 those cell phones and provide them to law enforcement?

12 A. On the Motorola in Marker Number 14, I did do a cell
13 phone extraction on that.

14 Q. Now you take pictures of what's at the scene, you
15 diagram it. Do you also physically collect it?

16 A. Yes, ma'am.

17 Q. And once you physically collect a piece of evidence,
18 what do you do with it?

19 A. It's placed in a form of packaging material, depending
20 on what it is, is how it's packaged, and it's then secured
21 into my vehicle until it's able to be transferred to the
22 lab -- our lab where it's left in a locker or directly to
23 the evidence control room at the sheriff's department.

24 MS. ABEE: Your Honor, I'm showing opposing counsel
25 what's been premarked as State's Exhibit 16 and 17 for

1 identification purposes.

2 May I approach the witness?

3 THE COURT: Yes, you may.

4 BY MS. ABEE:

5 Q. I'm handing you what's been premarked as
6 State's Exhibit 16 and 17. If you could, let's first start
7 with 16. What's State's Exhibit Number 16?

8 A. Number 16 is a 9-millimeter expended cartridge case
9 with a Hornaday headstamp.

10 Q. And is that the one that we saw here on this diagram,
11 State's 15, that's enlarged?

12 A. Yes, ma'am.

13 Q. And would that have been at Marker 13?

14 A. Yes, ma'am.

15 Q. And tell us what State's next exhibit is.

16 A. The 17?

17 Q. Yes, please.

18 A. It is the copper jacket from the fired projectile that
19 was collected as Marker Number 16.

20 Q. And is that this marker here, 16?

21 A. Yes, ma'am.

22 Q. And are those the true and accurate, I guess, casing
23 and copper jacket that you recovered at the scene that
24 night?

25 A. Yes, ma'am.

1 MS. ABEE: Your Honor, the State moves State's
2 Exhibit 16 and 17 into evidence.

3 MR. ERVIN: Without objection, Your Honor.

4 THE COURT: 16 and 17 are in evidence.

5 (State's Exhibit Number 16, a cartridge case, and
6 State's Exhibit Number 17, a copper jacket fragment,
7 were admitted into evidence.)

8 BY MS. ABEE:

9 Q. So we talked about the inside. Let's talk a little
10 bit now about the outside. Did you diagram the outside of
11 the scene as well in this case?

12 A. Yes, ma'am.

13 Q. And did you also take photos?

14 A. I did.

15 MS. ABEE: Your Honor, I'm show opposing counsel
16 what's been marked as State's Exhibit 18, 19 and 20.

17 May I approach the witness?

18 THE COURT: Yes, you may.

19 BY MS. ABEE:

20 Q. I'm showing you State's Exhibit 18, 19 and 20. Let's
21 start with 18. What is 18?

22 A. 18 is a diagram of the outside of the residence.

23 Q. And how do you create that diagram?

24 A. The same way as the inside. Take measurements and
25 document accordingly everything that's in the area.

1 Q. Does that diagram also include evidence markers
2 similar to the one we previously looked at?

3 A. It does.

4 Q. And are there arrows on that diagram as well?

5 A. There are.

6 Q. And are those directionality-type arrows?

7 A. No, they're simply a measurement line.

8 Q. And let's look at State's 19 and 20. Are those fair
9 and accurate representations of the scene as you saw that
10 night?

11 A. They are.

12 MS. ABEE: Your Honor, the State moves 18 through 20
13 into evidence.

14 MR. ERVIN: Without objection, Judge.

15 THE COURT: 18, 19 and 20 are in evidence.

16 (State's Exhibit Number 18, a diagram, and State's
17 Exhibit Number 19 and 20, photographs, were admitted into
18 evidence.)

19 MS. ABEE: And, Your Honor, permission to publish an
20 enlarged demonstrative of 18 for the jury?

21 THE COURT: Yes, you may.

22 MS. ABEE: Thank you.

23 BY MS. ABEE:

24 Q. And let's talk a little bit about this diagram that we
25 see right here. I'm gonna publish up here State's Exhibit

1 Number 2 that we looked at with a previous witness. If you
2 wouldn't mind, Investigator, please come down and kind of
3 align us up with this diagram as to what is what side of
4 the house as we see here on State's Exhibit Number 2?

5 A. So the sandy dirt lot that you can see beside the
6 house, this part right there, that is this side of the
7 residence and then the part that goes around under the
8 residence is this side right here.

9 Q. Okay. I'm gonna publish State's 19 and what is this
10 that we see?

11 A. That is an overview photograph of the evidence markers
12 in the yard outside of the residence.

13 Q. And now these evidence markers, do you move any of
14 this evidence prior to placing these markers down on the
15 scene?

16 A. No, ma'am.

17 Q. Do you have any sort of special wide lens camera that
18 takes a big huge shot and kind of condenses it down into
19 something smaller?

20 A. No, ma'am.

21 Q. Okay. So is this a fair and accurate representation
22 of the distance of these markers on the night that you took
23 this photo?

24 A. It is.

25 Q. And then State's Exhibit Number 20, does this show

1 multiple markers as well?

2 A. It does.

3 Q. Now I see over here on your legend on State's
4 Exhibit 18 that you collected kind of a good amount of
5 things; is that right?

6 A. Yes, ma'am.

7 Q. Okay. I want to start first with what types of shell
8 casings did you find at the scene?

9 A. At the scene outside I found there were two types of
10 shell casings. There were a number of 9-millimeter shell
11 casings and 45-caliber shell casings.

12 Q. Now visually to you, was there a different between the
13 .45 shell casings and the 9-millimeter shell casings?

14 A. There were.

15 Q. Okay. Tell us a little bit about that.

16 A. The 9-millimeter shell casings were on top of the
17 sand, kind of shiny, looked like they were new. The .45
18 shell casings that were collected from the scene were bent
19 up and appeared to be weathered and aged.

20 Q. And now would you have taken photos of those as well?

21 A. I did.

22 Q. Let's start with the .45's.

23 MS. ABEE: Your Honor, I'm showing opposing counsel
24 what's been premarked as State's Exhibit 21, 22 and 23.

25 And also 24, 25 and 26.

1 May I approach the witness?

2 THE COURT: Yes, you may.

3 BY MS. ABEE:

4 Q. Investigator Weyandt, I'm handing you State's
5 Exhibit 21, 22 and 23, and then 24, 25 and 26. Let's
6 first start with 21 through 23. What is it that we see
7 in those photos?

8 A. These are photographs of the .45 expended cartridge
9 cases that were collected at the scene.

10 Q. And then let's turn now to actually 24, 25 and 26.
11 What are those?

12 A. They are the .45 caliber shell casings that were found
13 at the scene.

14 Q. And are all of those fair and accurate representations
15 of the .45's that you found on the scene on November the
16 9th of 2020?

17 A. They are.

18 Q. Does it appear that they've been altered in any way?

19 A. No, ma'am.

20 MS. ABEE: Your Honor, permission to enter State's 21
21 through 26.

22 MR. ERVIN: No objection, Judge.

23 THE COURT: 21 through 26 are in evidence.

24 (State's Exhibit Number 21, 22 and 23, photographs,
25 and State's Exhibit Number 24, 25 and 26, cartridge cases,

1 were admitted into evidence.)

2 MS. ABEE: Permission to publish, Your Honor?

3 THE COURT: Yes, you may.

4 BY MS. ABEE:

5 Q. All right. I'm gonna start with Exhibit Marker
6 Number 1 down here. Tell us what we're looking at here in
7 State's Exhibit 21?

8 A. Marker Number 1 is a 45-caliber cartridge case.

9 Q. And is this the one that you said looked different
10 than the 9-millimeters?

11 A. Yes, ma'am.

12 Q. Okay. And tell us a little bit about the
13 characteristics of that.

14 A. As I had said, they're weathered, they appeared to
15 have been sitting there a while. They actually have dirt
16 inside of them and were bent up.

17 Q. And is that the same that we see here at Marker
18 Number 9, State's Exhibit 22?

19 A. Yes, ma'am.

20 Q. And then, finally, Marker Number 12, State's
21 Exhibit 23?

22 A. Yes, ma'am.

23 Q. And so what was the type of shell casing that you had
24 found inside?

25 A. It was a 9-millimeter cartridge case with a Hornaday

1 headstamp.

2 Q. And then there were several other 9-millimeters that
3 you found on the scene as well?

4 A. Yes, ma'am.

5 MS. ABEE: Your Honor, I'm showing opposing counsel
6 Exhibit 27 through 34.

7 May I approach the witness?

8 THE COURT: Yes, you may.

9 BY MS. ABEE:

10 Q. And, if you could, take a look at 27 through 34 and
11 let us know what that is it.

12 A. They are photographs I took of the expended cartridge
13 cases that were collected outside of the residence.

14 Q. And are they fair and accurate representations of the
15 shell casings as you saw them that night?

16 A. Yes, ma'am.

17 Q. And have they been altered in any way?

18 A. No, ma'am.

19 MS. ABEE: Your Honor, the State moves 27 through
20 34 into evidence.

21 MR. ERVIN: Without objection, Judge.

22 THE COURT: 27 through 34 are in evidence.

23 (State's Exhibit Number 27 through 34, photographs,
24 were admitted into evidence.)

25 MS. ABEE: Permission to publish?

1 THE COURT: Yes, you may.

2 BY MS. ABEE:

3 Q. Now, Investigator Weyandt, what I want to do is kind
4 of go from the top of this diagram here kind of down
5 towards the bottom and let's kind of look at the photos of
6 what it is that you collected at that point in time, okay?

7 A. Yes, ma'am.

8 Q. So I'm gonna start with Evidence Marker Number 8,
9 which is State's Exhibit Number 27. What was over in that
10 area?

11 A. Marker Number 8 is an expended cartridge case. A
12 9-millimeter with a Hornaday headstamp.

13 Q. And now let's move down just a little bit onto Marker
14 Number 7, State's Exhibit Number 28. What is it that was
15 over here in Number 7?

16 A. Number 7 is a 9-millimeter expended cartridge case
17 with a Sig headstamp.

18 Q. Coming down to Number 5, which is State's Exhibit
19 Number 29, what it is that was here at Number 5?

20 A. A 9-millimeter expended cartridge case with a Hornaday
21 headstamp.

22 Q. And State's Exhibit Number 30, Mile Marker {sic} 4,
23 what was that?

24 A. That is a 9-millimeter expended cartridge case with a
25 Hornaday headstamp.

1 Q. Now I'm gonna show you State's Exhibit Number 31.

2 What do we see here in 31?

3 A. That is the locations of Marker Number 5 and Marker
4 Number 4.

5 Q. Now did you move these closer together to be able to
6 get them in the same picture?

7 A. No, ma'am.

8 Q. Okay. Is this the location that they were on the
9 night when you arrived?

10 A. Yes, ma'am.

11 Q. Let's move down our diagram. State's Exhibit
12 Number 32, which is Mile Marker Number 3. We've looked at
13 8, 7, 5, 4. Now what's here at 3?

14 A. Marker Number 3 is a 9-millimeter expended cartridge
15 case with a Sig headstamp.

16 Q. And State's Exhibit Number 33, which is Marker
17 Number 2?

18 A. Marker Number 2 was a 9-millimeter expended cartridge
19 case with a Win headstamp.

20 Q. And, finally, State's Exhibit 34, which is Marker
21 Number 10. What's here?

22 A. Number 10 is a 9-millimeter expended cartridge case
23 with a Barnaul headstamp.

24 Q. And then tell us a little bit about the measurements
25 that you took that night.

1 A. The measurements of the -- from the evidence were
2 taken with a laser measuring device and taken from each
3 piece of evidence to a reference point on the residence to
4 keep for commonality and for ease of placement once it was
5 documented.

6 Q. And are those numbers what you put here on this
7 diagram?

8 A. They are.

9 Q. Okay. And what do you typically use for reference
10 points?

11 A. Reference points are typically something that is in
12 the nearby location, a corner of a structure, something
13 like that, but it has to be something that not can't move
14 and could not have been moved from the time of the incident
15 to the time of measurement. That way you could go back and
16 replicate where something was at.

17 Q. And so what did you choose as reference points here?

18 A. The corners of the building.

19 Q. And did you collect these bullets and place them into
20 evidence?

21 A. I did.

22 Q. What method did you use to do that?

23 A. For collection?

24 Q. Yes.

25 A. Photographed them, documented them and then collected

1 them individually, placed them into bags individually and
2 then they were finally packaged and labeled.

3 Q. I'm approaching you with what's been marked as State's
4 Exhibit 35 through 41 and what are those?

5 A. They are the 9-millimeter expended cartridge cases
6 that were collected that night.

7 Q. And are those the ones we just saw in the photos and
8 on the diagram?

9 A. They are.

10 MS. ABEE: Your Honor, the State moves State's
11 Exhibit 35 through 41 into evidence.

12 MR. ERVIN: Without objection, Judge.

13 THE COURT: 35 through 41 are in evidence.

14 (State's Exhibit Number 35 through 41, cartridge
15 cases, were admitted into evidence.)

16 BY MS. ABEE:

17 Q. Now, Investigator Weyandt, we've talked about pretty
18 much everything on that diagram except for what was at
19 Evidence Marker Number 6 and Evidence Marker Number 11.
20 What was located at those areas?

21 A. Marker Number 6 was an Apple iPhone in a case with
22 photograph on top of it and Marker Number 11 was \$40 in
23 cash made up of two twenty dollar bills.

24 MS. ABEE: Your Honor, I'm showing opposing counsel
25 what's been marked as State's 42 through 46.

1 May I approach the witness?

2 THE COURT: Yes, you may.

3 BY MS. ABEE:

4 Q. Investigator Weyandt, let's start with 42 through 45.
5 What do we see there?

6 A. They're additional photographs of the evidence just
7 described.

8 Q. And are they a fair and accurate representation of
9 that evidence?

10 A. They are.

11 Q. And what about State's Exhibit Number 45. What is
12 that?

13 A. That is the Apple iPhone in the picture case.

14 Q. And what about State's Exhibit Number 46?

15 A. That is the \$40 that was collected from the yard.

16 Q. And are those the items as you collected them that
17 night?

18 A. They are.

19 Q. They haven't been altered in any way?

20 A. No, ma'am.

21 MS. ABEE: Your Honor, the State moves State's
22 Exhibit 42 through 46 into evidence.

23 MR. ERVIN: Without objection, Judge.

24 THE COURT: 42 through 46 are in evidence.

25 (State's Exhibit Number 42, 43, and 44, photographs,

1 State's Exhibit Number 45, a cell phone, and State's
2 Exhibit Number 46, \$40.00 in cash, were admitted into
3 evidence.)

4 MS. ABEE: May I publish?

5 THE COURT: Yes, you may.

6 BY MS. ABEE:

7 Q. All right. Let's first look at State's Exhibit
8 Number 42. What do we see here?

9 A. That is a distance photograph of Marker Number 5, 4
10 and 6.

11 Q. And now did you move or manipulate anything in this
12 picture to be able to take it?

13 A. I did not.

14 Q. And I'm gonna show you State's Exhibit Number 43 and
15 what is that?

16 A. That is a further up close picture of the Apple
17 iPhone.

18 Q. And then finally State's Exhibit Number 44. What is
19 that?

20 A. That is Marker Number 6, that iPhone in the top, and
21 then Marker Number 11, the \$40.00 made up of two twenty
22 dollar bills.

23 Q. Now I'm gonna go back to State's Exhibit Number 42
24 because we don't see Evidence Marker Number 11 here. We
25 see 4, 5 and then 6. Is 11 visible, that money, visible in

1 this photo?

2 A. It is.

3 Q. Okay. And where is that located at?

4 A. It's about halfway between Marker Number 6 and 4.

5 Q. Okay. So in between here and here would be that
6 money?

7 A. Yes, ma'am.

8 Q. And is that the money you collected?

9 A. Yes, ma'am.

10 Q. And then tell us a little bit about the phone that was
11 collected. What type of case it was in?

12 A. It was like a custom case with photograph on it.

13 Q. And what do you mean like a photograph on it?

14 A. It has a picture on the back of it of people.

15 Q. And then, finally, did you collect the -- or notate
16 the denominations of the money that was collected there at
17 Marker Number 11?

18 A. I did.

19 Q. Okay. And what was that?

20 A. Two twenty dollar bills.

21 Q. Okay. So collectively how much money was that?

22 A. \$40.

23 Q. Now when you take all of these items and then place
24 them into evidence, are they given a property number?

25 A. They are.

1 Q. Okay. And are those reflect here on your diagram?

2 A. They are.

3 Q. So we talked about how 6 and 11 are the phone and the
4 money that was located and tell us what 8, 7, 5, 4 and 3
5 are.

6 A. They are the 9-millimeter cartridge cases.

7 Q. Now we heard previously from Officer McChesney that he
8 collected a shell casing as well. Are you familiar with
9 that shell casing?

10 A. Yes, ma'am.

11 Q. Okay. And why wouldn't you have collected that shell
12 casing?

13 A. The shell casing that Deputy McChesney collected was
14 in the middle of the roadway. We were -- in an attempt to
15 not have anybody interfere with our scene and to try and
16 keep everybody moving along as possible, we tried to get
17 the road open as possible, he had located it and was
18 securing it at the time. I asked him to document it and go
19 ahead and collect it since he already was there while I was
20 working on the rest of the scene.

21 Q. And what's the point in doing that?

22 A. It's simply to -- so that nobody runs it over, nobody
23 moves it. It's easier to keep -- to maintain security of
24 our crime scene, as well as make it easier for the people
25 who are in the area to come and go that weren't related to

1 the incident.

2 Q. Now is that shell casing located on your map?

3 A. It's not.

4 Q. Okay. And why wouldn't that have been on your
5 diagram?

6 A. Because I didn't collect it.

7 MS. ABEE: And, Your Honor, just confirming --
8 we've been previously talking about exhibits 18, 19
9 and 20. Just confirming that those have been moved
10 into evidence.

11 THE COURT: Yes, they are in evidence.

12 MS. ABEE: Your Honor, I have no further questions
13 for this witness.

14 THE COURT: Cross-examination?

15 MR. ERVIN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. ERVIN:

18 Q. Office, do you have any physical evidence at all
19 proving James Patterson shot a firearm at this location?

20 A. I don't.

21 Q. Did you find any other contraband at the location when
22 you arrived and took pictures of it.

23 MS. ABEE: Objection, Your Honor. The State renews
24 its previous objection.

25 THE COURT: I note your objection. I overrule the

1 objection.

2 MR. ERVIN: Your Honor, I'm showing opposing counsel
3 photographs.

4 THE COURT: Have you marked those?

5 ERVIN: I have not yet.

6 THE COURT: All right. Let's have them marked.

7 (Defendant's Exhibit Number 1 through 4 were marked
8 for identification.)

9 MR. ERVIN: May I approach the witness, Your Honor?

10 THE COURT: Yes, you may.

11 BY MR. ERVIN:

12 Q. Officer, do you recognize these photographs?

13 A. I do.

14 Q. Are those an accurate representations of the
15 photographs you took the evening you visited the location
16 and did your investigation?

17 A. They are.

18 MR. ERVIN: Your Honor, permission to publish these
19 photographs.

20 THE COURT: Well, are you moving them in?

21 MR. ERVIN: I'm sorry, Judge.

22 I move to enter these into evidence, Defendant's
23 Exhibits 1 through 4.

24 THE COURT: Ms. Abee?

25 MS. ABEE: Nothing in addition to our previous

1 objection, Your Honor.

2 THE COURT: Defendant's Exhibit 1 through 4 are in
3 evidence.

4 (Defendant's Exhibit Number 1, 2, 3 and 4,
5 photographs, were admitted into evidence.)

6 THE COURT: You may publish them to the jury.

7 MR. ERVIN: Thank you, Judge.

8 BY MR. ERVIN:

9 Q. Officer, let me get this oriented correctly. What is
10 this a picture of?

11 A. It's a picture of the inside of a large package that
12 was located inside of the master bedroom in the house.

13 Q. Okay. And what are these packages of?

14 A. The packages consisted of tobacco, cell phones and
15 marijuana.

16 Q. How many cell phones are in that picture?

17 A. A number of them. I didn't count them.

18 Q. And are they wrapped in black tape?

19 A. They are.

20 Q. Why would they -- do you recognize this style of any
21 packaging for any reason?

22 A. It's traditionally used as contraband.

23 Q. Okay. And what is in that picture?

24 A. It's additional -- it shows the cell phones, as well
25 as four packages of a green leafy substance consistent with

1 marijuana.

2 Q. This is marijuana?

3 A. It's consistent with marijuana, yes.

4 Q. Okay. And was it tested ever for --

5 A. Not that I'm aware of.

6 Q. Okay. And this looks like the same picture, doesn't
7 it?

8 A. Yes, sir.

9 Q. Okay. And then, finally, this is the -- what is that
10 a picture of?

11 A. That's the bed in what I labeled as the master bedroom
12 in the house.

13 Q. Okay. And who -- to your knowledge, whose house was
14 it?

15 A. The victim's.

16 Q. The victim, William Clark?

17 A. Yes.

18 Q. Okay. Was anyone charged with possession or
19 distribution of marijuana in this case?

20 A. Not that I'm aware of.

21 Q. What was done with the marijuana?

22 A. It was collected.

23 Q. Do you know how much that marijuana weighed?

24 A. I do not.

25 Q. No one was ever charged with that possession of --

1 A. Not that I'm aware of.

2 Q. Okay. Thank you.

3 Okay. Now, Officer, you found at least two different
4 caliber shell casings, correct? 45-caliber shell casings
5 and 9-millimeter shell casings, correct?

6 A. Correct.

7 Q. The 45-millimeter shell casings, do you have any idea
8 when those were discharged?

9 A. No.

10 Q. Okay. But they were located in the dirt area of the
11 property, correct?

12 A. Correct.

13 Q. Outside the house?

14 A. Yes, sir.

15 Q. Okay. For the 9-millimeter rounds, numbers 2, 3 and
16 7, had a different headstamp on it being Sig and Win; is
17 that correct?

18 A. Correct.

19 Q. What is -- is there any significance to the fact that
20 there was a different stamp on the shell casings?

21 A. Not -- not that I'm aware of.

22 Q. Would it indicate that it was potentially fired from a
23 different weapon?

24 A. No, you can put a number of different types of
25 ammunition in the same magazine.

1 Q. Okay. All right. Did you -- well, let me ask you the
2 question. What is GSR or gunshot residue evidence?

3 A. GSR is -- gunshot residue evidence is the residue that
4 is left on an item after a firearm has been discharged near
5 it.

6 Q. And if someone were to fire a gun, would gunshot
7 residue be on that person?

8 MS. ABEE: Objection, Your Honor. This witness hasn't
9 been qualified as an expert in GSR.

10 THE COURT: Yeah, I sustain the objection.

11 MR. ERVIN: Thank you.

12 BY MR. ERVIN:

13 Q. Have you ever performed a gunshot residue test in your
14 line of work?

15 A. I have.

16 Q. How many times have you done that?

17 A. I believe two or three.

18 Q. Okay. And have you been trained in gunshot residue
19 evidence in investigation?

20 A. Not formal training. Just on the job. There's an
21 instruction booklet with every kit.

22 Q. Okay. And so you are capable in your line of work to
23 gather gunshot residue evidence?

24 A. To collect it, yes.

25 Q. Okay.

1 MR. ERVIN: Your Honor, may I proffer him as an
2 expert with regards to gunshot residue evidence?

3 THE COURT: Well, you can ask him what he did or
4 didn't do, but I sustained the previous objection as far
5 as him being qualified as an expert.

6 MR. ERVIN: I know where to go with it, Judge.

7 Thank you.

8 THE COURT: All right.

9 BY MR. ERVIN:

10 Q. Investigator, do you know if any GSR or gunshot
11 residence evidence was ever gathered in this case?

12 A. Not by me.

13 Q. Okay. Do you know of any of your colleagues in this
14 case that gathered that sort of thing?

15 A. I am unaware.

16 Q. Okay.

17 MR. ERVIN: Brief indulgence, Your Honor.

18 BY MR. ERVIN:

19 Q. Could you tell from the shell casings of the
20 9-millimeters when they were fired?

21 A. No.

22 Q. So do you have any indication or knowledge whether
23 they were fired on the night of the incident that the
24 shooting occurred or a previous day or anything like that?

25 A. They appeared to be fresh.

1 Q. And how fresh?

2 A. I can't give you an exact time, but they were on top
3 of the sand. They weren't dirty. They didn't appear to
4 have been rained on or anything like that.

5 MR. ERVIN: No further questions, Judge.

6 THE COURT: Any redirect?

7 MS. ABEE: Briefly, Your Honor.

8 THE COURT: All right.

9 REDIRECT EXAMINATION

10 BY MS. ABEE:

11 Q. Investigator Weyandt, is it fair to say that as a
12 crime scene investigator your job is to kind of document
13 the scene, not necessarily solve the case?

14 A. Correct.

15 Q. And in regards to the marijuana and kind of the things
16 we identified as contraband with defense counsel, you can't
17 tell us who those packages belong to; is that fair?

18 A. No, ma'am.

19 Q. And you also can't tell us how they got there?

20 A. I could not tell you that.

21 Q. Or when they got there?

22 A. No, ma'am.

23 Q. So as a crime scene Investigator, is it fair to say
24 that those packages could have belonged to anyone in that
25 house?

1 A. Yes, ma'am.

2 MS. ABEE: Thank you, Your Honor.

3 I have no further questions.

4 THE COURT: Any recross?

5 MR. ERVIN: Briefly, Judge.

6 RECROSS EXAMINATION

7 BY MR. ERVIN:

8 Q. You are a -- on the drug team with law enforcement;
9 is that correct?

10 A. I am.

11 Q. And if you find that amount of marijuana in a house,
12 does the property owner or the tenant usually get charged
13 with it or how do you determine who it belonged to?

14 A. An investigation would be done and you would -- in an
15 attempt to find out who the person that actually owned it
16 or is possessing it. Not necessarily just the homeowner.

17 Q. What investigation did you undertake or any of your
18 colleagues to determine who that amount of marijuana
19 belonged to?

20 A. That wasn't my job the night of. My job was to
21 document to the crime scene.

22 Q. Did anyone investigate who the marijuana belonged to?

23 A. I couldn't answer that.

24 Q. Okay.

25 MR. ERVIN: Thank you.

1 No further questions, Judge.

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

3 (Witness excused.)

4 THE COURT: Lawyers, approach.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: All right. Ladies and gentlemen, that
7 is the final witness that we'll hear from today. We
8 have some other witnesses that will be travelling some
9 distance to be here tomorrow.

10 So we will start tomorrow morning at 9:30. At 9:30
11 be back in the jury room or the bailiff will give you
12 instructions about where to be, but we will intend to
13 start at 9:30 in the morning.

14 I do instruct you again. You're gonna hear me
15 over and over again. Do not discuss the case, don't do
16 any independent research, don't talk to anybody about
17 the case. Enjoy your evening.

18 With that, everyone remain seated while this jury
19 panel is excused.

20 (Whereupon, the jury was excused for the day at
21 4:42 PM.)

22 THE COURT: All right. Anything further before we
23 break from the State?

24 MR. KOZAK: Nothing from the State, Your Honor.

25 THE COURT: And from the defense?

1 MR. ERVIN: Nothing, Judge.

2 THE COURT: All right. Just be sure and caution
3 your witnesses that are coming in the morning that they're
4 sequestered and we'll start back at 9:30 in the morning.

5 MR. ERVIN: Thank you, Your Honor.

6 MR. KOZAK: Thank you, Your Honor.

7 (Whereupon, the proceedings were concluded for
8 September 5, 2023, at 3:43 PM.)

9 (The following proceedings were held September 6,
10 2023, beginning at 9:36 AM.)

11 (State's Exhibit Number 47 through 80 were marked
12 for identification.)

13 BAILIFF: Court is now in session. The Honorable
14 Judge Daniel Hall presiding.

15 THE COURT: Thank you. Be please be seated.

16 All right. Is the State ready to proceed?

17 MS. ABEE: Your Honor, just one brief moment off
18 cleanup from yesterday. During jury selection we had
19 discussed with Your Honor and defense counsel about running
20 the rap sheets of the jurors during that lunch break to
21 confirm that none of them have any records. We were able
22 to do that yesterday. None of them had any records and we
23 just forgot to put that on the record just to make sure it
24 was clean and we shared that information with defense
25 counsel yesterday prior to proceeding.

1 THE COURT: All right. Thank you.

2 MS. ABEE: Other than that, the State's ready.

3 THE COURT: All right. Anything from the defense?

4 MR. ERVIN: Ready to proceed, Your Honor.

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

6 (Whereupon, the jury enter the courtroom at

7 9:39 AM.)

8 THE COURT: Thank you, ladies and gentlemen. I
9 appreciate your promptness. We're ready to proceed with
10 trial.

11 The State can call your next witness.

12 MR. KOZAK: The State calls Dr. Erin Presnell.

13 (Whereupon, Susan Erin Presnell was duly sworn by
14 the Clerk of Court.)

15 THE CLERK: If you'll have a seat on the witness
16 stand. If you'll state your name and spell your last
17 name for the record.

18 THE WITNESS: My name is Susan Erin Presnell.

19 P-R-E-S-N-E-L-L.

20 SUSAN ERIN PRESNELL,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. KOZAK:

24 Q. Dr. Presnell, where are you currently employed?

25 A. I'm a forensic pathologist in Charleston at the

1 Medical University of South Carolina.

2 Q. And how long have you been employed there?

3 A. Since 1999, so twenty-four years.

4 Q. And what is your current position at the MUSC?

5 A. I'm a forensic pathologist and also a professor in
6 pathologist.

7 Q. And have you been in that position the entire time
8 you're at MUSC?

9 A. I have. Although you start with assistant, then
10 associate and then a professor.

11 Q. And where did you go to school before you did that?

12 A. Well, so I went to Clemson and then I moved to
13 Charleston for medical school at MUSC and then I never
14 left. So I did my medical school there, then I chose
15 pathology as my specialty and I did my residency and my
16 pathology training there and then I did my forensic
17 pathology subspecialty training there and then they -- they
18 hired me.

19 Q. And what exactly is a forensic pathologist?

20 A. I think, you know, people are getting kind of familiar
21 with what a forensic pathologist does, but basically
22 forensic pathology is -- it's actually a subspecialty of
23 the field of pathology. So most pathologists diagnose
24 disease on living people. So if you get a biopsy or you
25 get some surgery and, you know, tissue's taken out, that

1 goes to the pathologist and they look at it and is it
2 cancer, is it not cancer, is it infection, et cetera. So
3 I trained in general pathology, but then I did subspecialty
4 training in forensics where we're not just looking at a
5 piece of tissue, we're looking at an entire person that's
6 passed. And, you know, we are evaluating for disease, but
7 we also evaluate trauma ultimately to come up with a cause
8 and manner of death.

9 Q. And what is the process of figuring out the cause and
10 manner of death?

11 A. Well, that's the autopsy. So, you know, in South
12 Carolina we're a coroner death investigation state, so the
13 coroner will refer the person to us, they're transported to
14 MUSC, we do the autopsy, which includes the full external
15 exam, full internal exam, ancillary studies like x-rays if
16 we need them and then we usually do toxicology on all of
17 our cases as well and then all that information comes back
18 and we -- we generate an autopsy report of the conclusions.

19 Q. And do you have to do any continuing education in that
20 field?

21 A. Yeah, to -- to maintain a medical license in South
22 Carolina, I think it's forty credits every two years, which
23 isn't a whole lot, but, yes, we -- we do that or I do that.

24 Q. And have you testified in general sessions before?

25 A. I have as an expert in forensic pathology.

1 Q. About how many times roughly?

2 A. You know, it's gonna be an estimate. I'd say maybe
3 two hundred.

4 Q. And about how many autopsies do you think you've
5 performed?

6 A. Another estimate, you know, over twenty years, so
7 probably close to five thousand.

8 MR. KOZAK: Your Honor, at this time I'd like to
9 move that Dr. Presnell be qualified as an expert in
10 forensic pathology.

11 MR. ERVIN: Without objection, Your Honor.

12 THE COURT: Ladies and gentlemen, normally a person
13 cannot give opinion testimony. Normally when a person
14 testifies, they must testify as to what they either saw,
15 heard or sensed by smell or something of that nature.
16 However, there's an exception when someone is qualified
17 because of education or experience they're permitted to
18 give their opinion in certain areas if the Court qualifies
19 them that way. This witness will be qualified in the area
20 as an expert in forensic pathology. She can give opinion
21 testimony in that area, but that does not mean that you
22 must accept the opinion, but it's evidence for you to use
23 in any way you see fit and give it the weight and
24 credibility that you believe is appropriate.

25 Thank you.

1 MR. KOZAK: Thank you, Your Honor.

2 BY MR. KOZAK:

3 Q. How did you become involved in this case?

4 A. So the coroner of Lexington County referred the case
5 to MUSC and I was the pathologist that was assigned to that
6 day.

7 Q. Okay. And so why don't you just walk us through how
8 an autopsy takes place. Like what is Step 1 and kind of
9 roll your way back from there.

10 A. All right. So, again, we get -- we receive the call
11 from the coroner and we schedule the case as soon as they
12 can get the person to us and we have availability. So then
13 the person is transported to MUSC. We bring them into the
14 autopsy room and we take -- I take photographs. I take
15 lots of photographs. So I take photographs as they are
16 when they arrived. Like if they're wearing clothes, if
17 they have medical intervention, then we remove everything,
18 all the clothing, any -- the medical intervention and, you
19 know, clean them up so we can actually evaluate whatever
20 injuries they might have, more photographs. Again, in this
21 case, which is a gunshot wound, we would obtain x-rays to
22 help us locate where a bullet or bullets may be, and then
23 after that we go on to the inside. So all of our cases are
24 complete autopsies, so we don't just stop when we get to an
25 injured area. We'll look at everything, so heart, lungs,

1 liver, the whole -- everything. We might take samples of
2 the tissue if we feel like we need to look at it under the
3 microscope. If there's injury, we chart what's injured,
4 notes along the way. And then also blood and urine, if
5 there is any, is retrieved for toxicology -- for possible
6 toxicology, and then that's kind of the end of the -- in
7 the autopsy room component of the autopsy. Then later when
8 all -- like I said, when the toxicology results come back
9 or if I've taken samples to look at under the microscope
10 and those slides come back to look at, I'll assimilate all
11 of that information and, again, generate a final autopsy
12 report.

13 Q. And when you were performing the autopsy on this
14 victim, what did you find?

15 A. Well, Mr. Clark -- so I performed autopsy on William
16 Clark on November 12, 2020. And Mr. Clark had -- he had a
17 couple of abrasions or scratches, one on each arm and one
18 on the left leg, but his most significant injury was a
19 gunshot wound that's on the side of his right hip, kind of
20 the butt/hip area. The bullet actually goes into the right
21 pelvis through the right pelvic bone and hits vessels in
22 that area, blood vessels, arteries, continues over to the
23 left side of the body to the front of the left hip and
24 right under the skin in that soft tissue there is where the
25 bullet is recovered.

1 Internally I note he had undergone some medical
2 intervention. They had opened up his abdomen to try to,
3 you know, fix what might have been injured, but there was
4 still about 600 milliliters, so a little over half a liter
5 of blood still in the pelvis and the abdomen area from the
6 bleeding from the injury to the vessels in the pelvis.

7 We got the bullet and that also we transferred over
8 to law enforcement who was there.

9 Q. All right. So you said you were able to recover the
10 bullet from the victim?

11 A. Yes.

12 Q. Were you able to photograph the bullet?

13 A. Yes. I photograph everything.

14 MR. KOZAK: May I approach, Your Honor?

15 THE COURT: Yes, you may.

16 MR. KOZAK: I'm showing opposing counsel what's been
17 marked as State's Exhibit 47 and 48.

18 BY MR. KOZAK:

19 Q. I'm approaching the witness and showing the witness
20 what's been marked as State's Exhibit 47 and 48. What am I
21 showing you here?

22 A. A photograph of the bullet, the top and the bottom
23 side, and it's photographed with our autopsy number and
24 our autopsy label. So this would be the bullet that we
25 recovered from Mr. Clark.

1 MR. KOZAK: Your Honor, I'd like to move State's
2 Exhibit 47 and 48 into evidence and publish to the jury.

3 MR. ERVIN: Without objection, Your Honor.

4 THE COURT: State's 47 and 48 are in evidence and you
5 can publish them to the jury.

6 (State's Exhibit Number 47 and 48, photographs,
7 were admitted into evidence.)

8 BY MR. KOZAK:

9 Q. All right. Showing what's been marked as State's
10 Exhibit 48, so is this the bullet that you were just
11 referring to that was recovered?

12 A. Yes. That's the bottom or the base of the bullet.

13 Q. Okay. And this is just the tag with the victim's
14 name?

15 A. Correct.

16 Q. Okay. I'm showing State's Exhibit 47.

17 A. And that is the top of the bullet.

18 Q. And you said once you recovered this bullet and
19 photographed it, what did you do after that?

20 A. It was transferred as evidence to Officer Cameron
21 Sherban from the Lexington County Sheriff's Department.

22 MR. KOZAK: I'm showing opposing counsel what's
23 marked as State's Exhibit 49.

24 Your Honor, may I approach?

25 THE COURT: Yes, you may.

1 BY MR. KOZAK:

2 Q. I'm showing the witness what's been marked as
3 State's Exhibit 49. If you'll pull out what's inside of
4 there and tell me what's in there.

5 A. This appears to be the bullet and accompanying it is
6 the envelope that we would package it in, again, with our
7 autopsy label and autopsy number.

8 Q. So after you performed the autopsy in this -- on
9 Mr. Clark, what is your expert opinion that is the cause
10 of Mr. Clark's death?

11 A. He died from a single gunshot wound to his left hip --
12 or, excuse me, I'm sorry -- his right hip.

13 MR. KOZAK: No further questions, Your Honor.

14 THE COURT: All right. Mr. Ervin?

15 MR. ERVIN: Thank you, Judge.

16 CROSS-EXAMINATION

17 BY MR. ERVIN:

18 Q. Ms. Presnell, thank you for being here today. I find
19 your science and field of study to be fascinating. You're
20 very qualified in your testimony here today. In analyzing
21 Mr. Clark's body, did you ever conduct any testing for
22 gunshot residue?

23 A. No.

24 Q. Does the hospital or any personnel in a hospital or
25 anyone in your capacity ever test for gunshot residue?

1 A. Usually the GSR, gunshot residue, is tested for by law
2 enforcement.

3 Q. Okay. How many gunshot wounds were seen in this
4 victim?

5 A. He has the one gunshot wound.

6 Q. And that was the ultimate cause of his death, correct?

7 A. Yes.

8 Q. You said toxicology was conducted on Mr. Clark; is
9 that correct?

10 A. It is. It was, yes.

11 Q. Do you recall what the toxicology showed, if anything,
12 he had been on or done in the recent days?

13 A. Yes. So remember I made reference as to collecting
14 blood and urine if it's available at the time of autopsy.
15 So because Mr. Clark lived for a period of time, we did not
16 send that blood to get tested for drugs and alcohol. What
17 we sent instead what was what the coroner retrieved from
18 hospital, so blood that was taken from him in the hospital
19 near the time of his injury, like soon after he got there,
20 so it would be more reflective of, you know, what might
21 have been onboard at the time of the incident, and that
22 hospital blood toxicology showed alcohol at .13, .134, and
23 it showed cocaine metabolite, and also marijuana.

24 Q. A .134 alcohol -- blood alcohol content, BAC, is that
25 what that's referred to?

1 A. Right. Yes.

2 Q. Is that -- can that be compared to the -- what we're
3 familiar with, with a driving under the influence limit of
4 .08?

5 A. Yes. So point .08 is the limit for -- that and above
6 is driving while under the influence, so this is not quite
7 twice that.

8 Q. Okay. So had Mr. Clark been alive and driving, he
9 would been considered over the limit; is that fair to say?

10 A. Yes.

11 Q. And there was, in fact, marijuana and cocaine in his
12 system at the time of his death?

13 A. Marijuana, but it was cocaine metabolite, so inactive
14 metabolite, so not actually under the influence of cocaine
15 at the time of the injury.

16 Q. Okay. Thank you.

17 Do you have any evidence at all, physical or
18 otherwise, that indicate Mr. Patterson caused Mr. Clark's
19 death?

20 A. No, I have no knowledge of who might have injured him.

21 MR. ERVIN: Thank you so much for your testimony.

22 No further questions, Your Honor.

23 THE COURT: Thank you. Any redirect?

24 MR. KOZAK: No redirect, Your Honor.

25 THE COURT: All right. Thank you.

1 Dr. Presnell, you can step down. Thank you.

2 THE WITNESS: Thank you.

3 (Witness excused.)

4 MR. KOZAK: May she be released from her subpoena,
5 Your Honor?

6 THE COURT: Mr. Ervin, any objection to Dr. Presnell
7 being released?

8 MR. ERVIN: No objection, Judge.

9 THE COURT: She's released from her subpoena.
10 Call your next witness.

11 MS. ABEE: Your Honor, the State calls Cameron
12 Sherban to the stand.

13 (Whereupon, Cameron Sherban was duly sworn by the
14 Clerk of Court.)

15 THE CLERK: If you'll have a seat on the witness
16 stand. If you'll state your name and spell your last
17 name for the record.

18 THE WITNESS: My name is Cameron Sherban.
19 S-H-E-R-B-A-N.

20 CAMERON SHERBAN,
21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ABEE:

24 Q. And, if you could, go ahead and tell us where you're
25 employed.

1 A. I'm currently employed at the Lexington County
2 Sheriff's Department. I'm a senior investigator on
3 the special victims unit. I also specialize in ICAC
4 investigations, Internet Crimes Against Children.

5 Q. How long have you been with the Lexington County
6 Sheriff's Department?

7 A. I've been with sheriff's department twelve years.
8 I've been in investigations for almost six. Five years,
9 now almost six.

10 Q. And do you recall what division you were in in
11 November of 2020?

12 A. I was in the special victim's unit at that time as
13 well.

14 Q. Now as an investigator, have you ever attended an
15 autopsy on behalf of the department?

16 A. Yes, many actually.

17 Q. And we just heard from Dr. Presnell that you attended
18 the autopsy of William Clark in November of 2020. Do you
19 recall that?

20 A. Yes, I do.

21 Q. And what's the purpose of you attending an autopsy?

22 A. Generally we'll go to an autopsy for some of our more
23 major cases or a suspicious death. The reason to go is if
24 the pathologist has any questions for us, anything to look
25 for in it, or if we have anything that we specifically are

1 telling them to look for, we're usually on-scene. The
2 other part of it as well is whenever they recover anything
3 from the body, any kind of evidence, things like that, we
4 need to secure that, get a chain of custody and take that
5 back up to the sheriff's department and put it into
6 evidence for it to be a part of the case.

7 Q. And we just heard from Dr. Presnell that you retrieved
8 a bullet from this autopsy. Do you recall that?

9 A. Yes. Yes, I do.

10 MS. ABEE: Your Honor, may I approach the witness with
11 what's been previously identified as Exhibit Number 49 for
12 the State?

13 THE COURT: Yes, you may.

14 BY MS. ABEE:

15 Q. And I'm handing you what's been previously marked as
16 State's Exhibit Number 49. If you could open that and let
17 us know if you recognize that.

18 A. Yes. This is a bullet that was obtained from that
19 autopsy.

20 Q. And is that the bullet that you received from
21 Dr. Presnell?

22 A. Yes.

23 MS. ABEE: Your Honor, at this time the State moves
24 Exhibit 49 into evidence.

25 MR. ERVIN: Without objection, Judge.

1 THE COURT: State's Exhibit 49 is in evidence.

2 (State's Exhibit Number 49, a bullet from autopsy,
3 was admitted into evidence.)

4 BY MS. ABEE:

5 Q. And, if you could, tell us what you do with this
6 evidence once you collect it from an autopsy?

7 A. So we'll go to the autopsy and generally we go to
8 MUSC down in Charleston for these. We'll collect the
9 evidence and bring it immediately back to the sheriff's
10 department and put it into our evidence. We'll do an
11 evidence voucher and everything just signing over that we
12 got that. We also get a -- we get a form from them that we
13 sign and that we bring back and have as a part of that.

14 Q. And did you do that with State's Exhibit 49?

15 A. Yes, I did.

16 MS. ABEE: Your Honor, I have no further questions.

17 THE COURT: All right. Cross-examination?

18 MR. ERVIN: Thank you for being here. I have no
19 further questions for this witness.

20 THE COURT: All right. Thank you, Detective Sherban.
21 You can step down.

22 (Witness excused.)

23 THE COURT: Call your next witness.

24 MS. ABEE: Your Honor, the State calls Talmadge
25 Foulks to the stand.

1 (Whereupon, Talmadge W. Foulks was duly sworn by the
2 Clerk of Court.)

3 THE CLERK: If you'll have a seat on the witness
4 stand. If you'll state your name and spell your last
5 name for the record.

6 THE WITNESS: Talmadge W. Foulks. F-O-U-L-K-S.

7 TALMADGE W. FOULKS,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ABEE:

11 Q. Mr. Foulks, how are you?

12 A. Good. Pretty good.

13 Q. And, Mr. Foulks, if you could, tell us all where you
14 live.

15 A. I live on South Hampton Road right off of -- next to
16 YMCA Road in Lexington.

17 Q. And what's the house number that you live at on South
18 Hampton?

19 A. [REDACTED].

20 Q. Now are you familiar with the shooting that took place
21 on November the 9th of 2020?

22 A. Yeah, I had a car got damaged on that particular
23 night.

24 Q. Okay. And I'm gonna talk about that car in just a
25 second, but let's talk a little bit about that shooting.

1 Did you see anything that night?

2 A. I was in my bed.

3 Q. So I'm gonna take that as a no. You didn't see from
4 your bed?

5 A. No.

6 Q. Okay. And did you hear anything that night?

7 A. It seems like I hear some rounds.

8 Q. Okay. When you say heard some rounds, what do you
9 mean?

10 A. Bullets. Guns being fired.

11 Q. Do you heard gunshots that night?

12 A. Yeah.

13 Q. Do you remember about how many you heard?

14 A. I can't -- they said I said ten, but I can't remember.
15 That's three years ago and I'm 76 years old.

16 Q. Okay. I understand. Now you told us that you had a
17 car that got shot up. Okay. When did you notice that at
18 that car got shot up?

19 A. I think it was three or four days later.

20 Q. Okay?

21 MS. ABEE: And, Your Honor, I'm showing opposing
22 counsel what's been previously marked as State's
23 Exhibit 50, 51 and 52.

24 May I approach the witness?

25 THE COURT: Yes, you may.

1 BY MS. ABEE:

2 Q. Mr. Foulks, I'm gonna hand you what's been marked as
3 State's Exhibit 50, 51 and 52. And without going into any
4 sort of detail or anything like that, do you recognize
5 what's in these photos?

6 A. Well, that's my privacy fence and my vehicles.

7 Q. And is this the car you were telling us got shot up?

8 A. Yeah, a black Honda.

9 Q. And are these fair pictures of what you saw when you
10 noticed that your car had been shot?

11 A. Well, yeah, when I went out to my building. I've got
12 a storage building and I happened to look out there and see
13 the back of it. It was backed up against the fence, so I
14 couldn't see it from my house.

15 MS. ABEE: Your Honor, the State moves State's
16 Exhibit Number 50 through 52 into evidence.

17 MR. ERVIN: Without objection, Judge.

18 THE COURT: State's Exhibit 50, 51 and 52 are in
19 evidence.

20 (State's Exhibit Number 50, 51 and 52, photographs,
21 were admitted into evidence.)

22 MS. ABEE: May I publish, Your Honor?

23 THE COURT: Yes, you may.

24 BY MS. ABEE:

25 Q. All right. Mr. Foulks, I'm gonna put these pictures

1 up here on this big screen, okay, and I want you to kind of
2 tell us what it is that we're looking at.

3 So first we're looking at State's Exhibit Number 50.

4 Do you recognize this yellow building over here?

5 A. That's where I reside at.

6 Q. Okay. So your house is back on this side of the
7 fence; is that fair?

8 A. Yeah. Uh-huh.

9 Q. Okay. And then do you know who's on this side of the
10 fence over here, what property that is?

11 A. I don't know. They -- some man rented it out to
12 different people. They be in and out, so I don't know. I
13 can't keep up with them.

14 Q. Okay. And I'm gonna show you now State's Exhibit
15 Number 51. Is that the staircase to your house that you
16 were talking about, that yellow building?

17 A. Yeah, that's the staircase.

18 Q. Okay. I'm just trying to orient us here. Now you
19 told us that a car got shot up. Was that this car?

20 A. Yeah, that's the car.

21 Q. Okay. And is that how you saw it a couple of days
22 later you said?

23 A. Yes.

24 Q. And then when you noticed that this car's back window
25 had been shot, what did you do?

1 A. I called the sheriff's department.

2 Q. And did they come out there?

3 A. Yeah, they was out there within -- within the hour.

4 Q. And I'm gonna finally show you State's Exhibit
5 Number 52. Now have we crossed over and is this photo on
6 your side of the property from that fence?

7 A. Yes.

8 Q. And is that car in the same location that it would
9 have been on the night of that shooting?

10 A. Yes.

11 Q. You didn't move it at all?

12 A. No.

13 MS. ABEE: Your Honor, I have no further questions
14 for Mr. Foulks.

15 THE COURT: Thank you.

16 Any cross-examination.

17 MR. ERVIN: Briefly, Judge.

18 CROSS-EXAMINATION

19 BY MR. ERVIN:

20 Q. Mr. Talmadge, thank you for being here. I'm sorry you
21 had to go through this damage to your vehicle. Had you
22 heard any shooting from that house prior to November 9th?

23 A. I haven't noticed nothing.

24 Q. No?

25 A. No.

1 Q. Okay.

2 MR. ERVIN: No further questions. Thanks for being
3 here.

4 THE COURT: Any redirect?

5 MS. ABEE: No, Your Honor.

6 THE COURT: Thank you.

7 Mr. Foulks, you can step down. Thank you.

8 (Witness excused.)

9 MS. ABEE: And, Your Honor, we would ask that
10 Mr. Foulks be excused from his subpoena.

11 MR. ERVIN: No objection.

12 THE COURT: Mr. Foulks is released from his subpoena.
13 Call your next witness.

14 MR. KOZAK: The State calls Albert Clark.

15 THE CLERK: If you'd place your left hand on the
16 Bible and raise your right.

17 (Whereupon, Albert Clark was duly sworn by the Clerk
18 of Court.)

19 THE CLERK: If you'll have a seat on the witness
20 stand. If you'll state your name and spell your last
21 name for the record.

22 THE WITNESS: My name's Albert Clark. A-L-B-E-R-T,
23 Albert. C-L-A-R-K, Clark.

24 ALBERT CLARK,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MR. KOZAK:

3 Q. Good morning, Mr. Clark. How do you know the victim,
4 William Clark?

5 A. That's my brother.

6 Q. Okay. And were you there on the day that William was
7 shot?

8 A. I was.

9 Q. And about what time did you get to the house that day?

10 A. To my brother's house?

11 Q. To William's house that day.

12 A. It was earlier that day. I don't remember the exact
13 time. Like I'd say 1:00, 2:00.

14 Q. And about how long do you think you were there that
15 day?

16 A. Off and on until nightfall.

17 Q. And what was going on at William's house when you were
18 there?

19 A. I came to visit my brother in which we visited my
20 brother. We sat around and hung out a little bit. He got
21 tired and decided to go to bed, then as -- on the way out,
22 I was leaving and we started a dice game, and we started
23 playing dice.

24 Q. Okay. Let's slow down for a second. And about --
25 when you were at the house, about how many people were

1 there?

2 A. It was a house full, so it was maybe ten people.

3 Q. And you said that you started up playing a dice game
4 that night?

5 A. Yeah, after my brother went to sleep.

6 Q. Okay. So William wasn't playing that dice game?

7 A. No.

8 Q. Do you recognize anyone in the courtroom that was
9 playing that dice game?

10 A. No, just me and Patterson.

11 Q. All right. And have you -- were you familiar with
12 James Joseph Patterson before this night?

13 A. Yeah.

14 Q. So you recognized him?

15 A. Yeah.

16 Q. And you said he was there playing dice that night?

17 A. Yeah.

18 Q. So about -- why did you end up leaving William's house
19 that night?

20 A. Because I was short on money.

21 Q. Okay. And where did you go?

22 A. I went maybe one block away to the home property to
23 retrieve some more money.

24 Q. Okay. Now when you left the house that night, did you
25 notice any cars in the yard?

1 A. Yeah.

2 Q. What cars were in the yard that night?

3 A. I can't really be -- there was -- there was three
4 cars and a truck. Well, for one, it was a truck, my truck,
5 Kenyatta's car. Say five cars, his car, and there was a
6 white a Crown Vic, too, also in the yard.

7 Q. Okay. And we're gonna walk through this.

8 A. So there was like six cars.

9 Q. Sorry. Go ahead.

10 A. Like six cars. Around six cars.

11 Q. Okay.

12 MR. KOZAK: Your Honor, at this time I'm showing
13 -- putting up an enlarged version of State's Exhibit 2.

14 Can I ask for the witness to step down?

15 THE COURT: That's fine. You can step down.

16 BY MR. KOZAK:

17 Q. All right. So what is this a picture of?

18 A. That's my brother's house.

19 Q. Okay. And so can you step to the side so they can see
20 where you're pointing stuff out.

21 Now when you left the residence that night to get more
22 money, where were the cars parked when you left?

23 A. From this angle right here --

24 Q. Step to the side and just point. Sorry.

25 A. I'm trying to find the actual driveway into there.

1 Right here. So the cars were parked to the side right
2 here. It was on the corner of the house. That's where
3 most of the cars were parked at. And then there was a
4 white car parked right here, Kenyatta's car was parked
5 right there, and they were parked right there, backed in
6 right here.

7 Q. And when you say "they", who are you referring to?

8 A. Patterson.

9 Q. Okay. And where did you park?

10 A. I parked -- initially pulling up, I parked in front of
11 all of this right here like on the corner.

12 Q. You said there was a truck there. Who did that truck
13 belong to?

14 A. Donnie. DC.

15 Q. About where was that parked?

16 A. Sticking out the back part of my truck. So my truck
17 was up like this and his truck was back like this further
18 towards the driveway.

19 Q. Okay. And so this is when you left to go get money?

20 A. Yeah.

21 Q. Okay. Sit back down, please.

22 A. (Witness complies.)

23 Q. Now you said you left to go get money?

24 A. Yes.

25 Q. Whereabouts did you go?

1 A. One block away to the home house.

2 Q. And what road was that on?

3 A. Simmons.

4 Q. And it's about -- you said it's about one block. How
5 long does it take to get back to William's house from that
6 house?

7 A. Maybe two minutes, three minutes.

8 Q. And about how long would you say you were gone?

9 A. Maybe -- by the time I arrived there, I heard
10 gunshots, so I was responding back. By the time I got to
11 the home house, it maybe took like three minute, so maybe I
12 sped up a little faster this time, so I was back there -- I
13 did the whole roundtrip in less than five minutes.

14 Q. Okay. So let's -- let's unpack that a little bit.
15 So you left because you needed money, you went back to your
16 house that was about two blocks away, and while you were
17 there what did you say happened?

18 A. I heard gunshots.

19 Q. And then what did you do after you heard the gunshots?

20 A. I went back down there.

21 Q. And when you pulled back into William's house, what
22 did you see?

23 A. I seen gunfire. I seen Little Joe up under the
24 spotlight shooting -- shooting directly across the yard
25 towards my brother and I seen my brother fall to the ground

1 and I parked the truck and I ran up to him and then they
2 were exiting.

3 Q. Okay. And will you step down again one more time.
4 I'm sorry.

5 A. (Witness complies.)

6 Q. And where on this map was your brother when you showed
7 back up?

8 A. On the ground right here, which was on the corner of
9 his room. His room door's right there, there's a bush
10 right here. That's where he was at. Right there.

11 Q. And when you pulled back in when the shooting was
12 happening, what cars were there?

13 A. Now at that point right there, it wasn't as many
14 cars. I can't be as specific to say exactly what cars
15 were there, but I knew the car that Little Joe was in was
16 still parked right there as he was coming across the yard
17 this way.

18 Q. Was Donnie's car still there?

19 A. Yes.

20 Q. And where did you park when you pulled back in?

21 A. Pretty much the same formation.

22 Q. Okay. So, once again, where was William's body when
23 you picked him up?

24 A. Directly like right here on the corner. There's a
25 bush right here. You maybe walk out of his room to the

1 left, maybe ten feet to the left of his -- of his door.

2 Q. Okay. Thank you.

3 Now you said when you pulled back in you saw Little
4 Joe shooting. Who are you referring to when you say Little
5 Joe.

6 A. Patterson.

7 Q. Okay. And then do you see Patterson in the courtroom
8 today?

9 A. Yes.

10 Q. Will you describe what shirt he's wearing?

11 A. The blue button up.

12 MR. KOZAK: Let the record reflect that he pointed
13 to the defendant, James Joseph Patterson III, Your Honor.

14 THE COURT: All right. It's noted for the record.

15 MR. KOZAK: Thank you, Your Honor.

16 BY MR. KOZAK:

17 Q. All right. So you pulled back in, you showed us where
18 you parked and you went to William who was lying on the
19 ground. What do you do next?

20 A. I picked him up. As -- as everybody's fleeing the
21 yard, I picked him up and took him to my hospital with my
22 cousin Donnie. We go to the hospital, drop him off at the
23 hospital. I parked my truck because there wasn't no reason
24 for me to ride with my brother because we were in a little
25 cab, so he needed the extra space, so I followed behind my

1 cousin to the hospital, dropped my brother off at the
2 hospital, I go back, I get my keys out the car, and I ride
3 back with my cousin.

4 Q. Okay. Now you didn't just drop off your brother at
5 the hospital, right?

6 A. No.

7 Q. You went inside?

8 A. We went inside. We got him booked and everything like
9 that and the woman was like nobody can come back there with
10 him, so at that point in time there's nothing else I could
11 do, you know. I don't -- I don't even want to sit beside
12 him in that situation. I'm in the waiting room just, you
13 know --

14 Q. And now you said you spoke to people. When you were
15 at the hospital, did you speak with law enforcement at the
16 hospital?

17 A. Briefly. I don't recall who it was or nothing.

18 Q. And let's unpack that a little bit. So when you said
19 you dropped off William at the hospital, you went in, spoke
20 with law enforcement and you left of your truck there?

21 A. Yeah.

22 Q. What did you do after you parked your truck?

23 A. I got in the truck with -- with Donnie.

24 Q. Okay. And you left your truck there, so were you
25 planning to come back to the hospital?

1 A. Correct.

2 Q. And at some point did you end up going back to the
3 hospital?

4 A. Correct.

5 Q. Okay. So now after you leave the hospital in Donnie's
6 truck, where were you guys headed?

7 A. Back to William's house.

8 Q. And did you make it back to William's house?

9 A. We made it back to William's house.

10 Q. Did anything happen on the way back to William's
11 house?

12 A. Yeah, we got pulled over.

13 Q. By whom?

14 A. Lexington County.

15 Q. Okay. And when you got pulled over, did you speak to
16 Lexington County law enforcement?

17 A. I sure did.

18 Q. And then did you follow the Lexington County Sheriff's
19 Department back to William's house?

20 A. No. I don't remember following the police.

21 Q. But you went back to William's house after you were
22 stopped?

23 A. Yeah.

24 Q. Okay. And once you got back to William's house, what
25 did the house look like? What was going on there?

1 A. Crime scene and everything was out there, you know,
2 family was out there. Kenyatta was out there. For the
3 most part it was like a crime scene.

4 Q. So by crime scene you mean like --

5 A. Taped off.

6 Q. -- crime scene tape?

7 A. Yeah. Can't cross over, can't go there, can't go do
8 this until they got it under control.

9 Q. And about how many -- just an estimate. I'm sure
10 you don't know the exact number, how many law enforcement
11 officers were out there?

12 A. I'd say ten or more.

13 Q. And what were they doing at that time?

14 A. They were combing the area, the ground, looking for
15 shell casings, in and out the house. I guess just the
16 normal crime scene.

17 Q. And so when you arrived back at William's house, law
18 enforcement's there doing their investigation. Do you
19 speak to law enforcement again at that house?

20 A. No.

21 Q. You don't? And so the entire time law enforcement is
22 doing that investigation, did you remain at that scene?

23 A. Yeah. I didn't speak to them at my brother's house, I
24 spoke to them at the other house, the neighbor's house,
25 because they were in the -- in the area.

1 Q. Right. So they had the crime scene taped off and you
2 weren't allowed in the crime scene?

3 A. No.

4 Q. So they did come to you and tried to speak to you
5 again about the incident?

6 A. Yeah.

7 Q. And you cooperated with them and spoke to them then?

8 A. Yeah.

9 Q. Okay. And at that night -- on that night did you ever
10 see Donnie with a firearm?

11 A. No.

12 Q. Did you ever fire back at the defendant?

13 A. No.

14 Q. Did you have a firearm?

15 A. No.

16 Q. Did Donnie fire back at the defendant?

17 A. No.

18 Q. Who was the only person you saw fire a weapon that
19 night?

20 A. Patterson.

21 Q. By Patterson do you mean --

22 A. Little Joe.

23 Q. The defendant?

24 A. The defendant, yeah.

25 MR. KOZAK: No further questions, Your Honor.

1 THE COURT: Cross-examination?

2 MR. ERVIN: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. ERVIN:

5 Q. Mr. Clark, I'm sorry for the loss of your brother.

6 That's a tragic incident and my -- my condolences.

7 Mr. Clark, do you mind coming down here and pointing
8 on this photograph where exactly you saw Mr. Patterson.

9 A. (Witness complies.)

10 Q. Okay. And you recall him pointing a gun in which
11 direction?

12 A. (Indicating.)

13 Q. Okay. And did you see him shooting?

14 A. Yes.

15 Q. And his vehicle was located where?

16 A. Directly in the middle right here.

17 Q. Okay. And do you know who the neighbor, Mr. Foulks,
18 is?

19 A. Yeah, I know him, but, I mean, I don't --

20 Q. Where is his house?

21 A. Directly behind the wood line right here.

22 Q. Okay. And that -- okay. Thank you. You can return
23 to your seat.

24 A. (Witness complies.)

25 Q. Mr. Clark, do you own a firearm?

1 A. No.

2 Q. Whose 9-millimeter magazine was found in the white
3 dually truck when you were pulled over by Investigator
4 Dubard?

5 A. The driver of the truck.

6 Q. Who's that?

7 A. Donnie Clark.

8 Q. I'm sorry?

9 A. Donnie Clark.

10 Q. Okay. What was found in the truck?

11 A. To my knowledge, there was a clip and a holster.

12 Q. It was an empty 9-millimeter clip, wasn't it?

13 A. Yeah.

14 Q. Okay. And did Agent Dubard search your truck -- or
15 search the truck that was left at the hospital?

16 A. Not to my knowledge.

17 Q. Okay. Did law enforcement interrogate you with
18 regards -- I'm sorry. You were questioned by law
19 enforcement at the traffic stop, correct?

20 A. That's correct.

21 Q. And you went back to the incident location, right?

22 A. I was questioned again.

23 Q. There you describe what you just said, Mr. Patterson
24 shooting in the direction of your brother, correct?

25 A. Yeah.

1 Q. Okay. After that, did they let you go?

2 A. Yeah.

3 Q. Okay. Did anyone ask you for -- to do gunshot residue
4 testing on you or your clothing?

5 A. No.

6 Q. Okay. So that was never done to you by law
7 enforcement, was it?

8 A. No.

9 Q. Okay. Was it ever done to Donnie Clark?

10 A. No.

11 Q. Okay. Was Donnie let go after the incident -- the
12 evening of the incident?

13 A. Yes.

14 Q. Okay. And, again, your vehicle left at the hospital
15 after you dropped off your brother who had just been shot,
16 your vehicle was not searched, was it?

17 A. No.

18 Q. Okay. Do you know if your brother was tested for GSR?

19 A. No. I don't know.

20 Q. All right. Do you know of your brother having ever
21 owned a firearm?

22 A. No.

23 Q. Do you know of 45-caliber rounds being found in the
24 driveway of -- I'm sorry -- 45-caliber shell casings being
25 found in the driveway of your brother's house?

1 A. No.

2 Q. Do you know anyone who would have had a 45-caliber
3 weapon?

4 A. Man, there's so many people in and out the area right
5 there, man. It's like -- I mean, people -- it's a high
6 crime area, man, so people tote guns through there, so you
7 see guns, casings, people just firing rounds off. I mean,
8 that's what type of atmosphere it is.

9 Q. I understand.

10 MR. ERVIN: May I approach the witness, Your Honor?

11 THE COURT: Yes, you may.

12 BY MR. ERVIN:

13 Q. This is Defendant's Exhibit Number 1. It's kind of a
14 small picture and I apologize about that. Do you recognize
15 what that is?

16 A. No.

17 Q. Does that look like marijuana?

18 A. No.

19 Q. You don't know what that is?

20 A. That looks like rabbit food or something, man. No.

21 Q. You think that's rabbit food?

22 A. I ain't never seen no marijuana yellow like that.
23 Maybe it's the bad glare or something on it.

24 Q. If you'll look at the screen over here. Are you
25 saying that's rabbit food, Mr. Clark?

1 A. I don't know what it is, brother, I mean, to be honest
2 with you.

3 Q. Whose bed is that?

4 A. I don't know whose bed that is either.

5 Q. Would it surprise you that's William Clark's master
6 bedroom in his house and he had marijuana sheets? You
7 never seen his bed?

8 A. No, I ain't never seen -- no. I don't -- guess I
9 don't pay that much attention, brother.

10 Q. You said he went in his bedroom to go to sleep. Did
11 you watch him go into his bedroom?

12 A. No.

13 Q. Where were you when he went into his bedroom?

14 A. Outside. We did most of the hanging out outside.

15 Q. Where was the dice game being played?

16 A. Inside.

17 Q. Okay. Were you inside playing dice?

18 A. Yes --

19 Q. Okay. When you --

20 A. -- but my brother's room is a section off from the
21 whole living room.

22 Q. Okay. So you've never seen your brother's bedsheets
23 and you don't know that this is marijuana. What are these
24 cell phones? Did you ever see these before?

25 A. Did I ever see cell phones? Yeah, I seen plenty. I

1 know them are cell phones, yeah.

2 Q. Why are these cell phones wrapped in black electric
3 tape?

4 A. I couldn't tell you, man, at all, brother.

5 Q. Okay.

6 A. That's my first time ever seeing that image right
7 there.

8 Q. Okay. Do you recognize that to be Mr. Foulks's
9 vehicle across the fence?

10 A. I can't even tell you what kind of car he drives, but
11 that's -- that looks like across the fence, yeah.

12 Q. Okay. There's testimony that that car was shot by a
13 round that night the shooting occurred, okay? Is -- and
14 this is Mr. Foulks's property, okay? Was anyone else
15 shooting in the driveway of your brother's house?

16 A. No, not to my knowledge at all.

17 Q. Okay. Do you smoke marijuana?

18 A. I have.

19 Q. Do you use cocaine?

20 A. No.

21 Q. Have you ever sold cocaine?

22 MR. KOZAK: Objection, Your Honor.

23 THE COURT: Yeah, I sustain objection.

24 MR. ERVIN: I withdraw the question, Judge.

25 BY MR. ERVIN:

1 Q. Have you spoken to Kenyatta Strother in the last
2 twenty-four hours?

3 A. No.

4 Q. Okay. Have you ever shot a gun in your life?

5 A. No.

6 MR. ERVIN: Briefly, Your Honor. I beg your
7 indulgence.

8 BY MR. ERVIN:

9 Q. When you were at the hospital with your brother, you
10 did walk inside and you did speak to law enforcement,
11 didn't you?

12 A. Yes.

13 Q. Weren't you instructed to remain in the area?

14 A. No.

15 Q. You were not?

16 A. No.

17 Q. Okay. But you did leave, correct?

18 A. Correct.

19 MR. ERVIN: No further questions, Judge.

20 THE COURT: Any redirect?

21 MR. KOZAK: Very briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. KOZAK:

24 Q. Mr. Ervin asked you about GSR on you and Donnie. Did
25 you fire a weapon that night?

1 A. No, sir.

2 Q. Did Donnie fire a weapon that night?

3 A. No, sir.

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

5 THE COURT: Any recross?

6 MR. ERVIN: Nothing, Judge.

7 THE COURT: Thank you, Mr. Clark. You can step
8 down.

9 (Witness excused.)

10 MR. KOZAK: Your Honor, may he be released from his
11 subpoena?

12 THE COURT: Any objection to him being released?

13 MR. ERVIN: Judge, I may recall him.

14 THE COURT: Okay. We're not gonna -- he's not
15 released from his subpoena. He's got to remain in the
16 courthouse outside of the courtroom.

17 All right. Lawyers approach.

18 (Proceedings held at the bench; not reported.)

19 THE COURT: All right. Ladies and gentlemen, I was
20 just discussing with the attorneys where we are and the
21 potential next witness and anticipate that the next
22 witness's testimony will be longer than prior witnesses,
23 so we're gonna take a ten or 15-minute break.

24 While you're on your break, if you would elect a
25 foreperson from among yourselves. If you'd just simply

1 -- there should be a pad or a piece of paper in the jury
2 room. If the foreperson would write their number and
3 name on a piece of paper and hand to the bailiff when you
4 come back into the courtroom. Whoever is selected
5 foreperson, if they would take this first seat at the end
6 on the front row throughout the remainder of the trial.
7 The foreperson has no greater say in deliberations or what
8 needs to be done in the case. A foreperson is simply in a
9 position where the Court can communicate with the jury if
10 need be and also in position to make sure that the
11 directions of the Court are being followed throughout the
12 remainder of the trial and through deliberations.

13 So with that I'll let you go back to the jury room.
14 Don't discuss the case. I'll have you back out in about
15 ten or fifteen minutes.

16 Everyone else remain seated.

17 (Whereupon, the jury retires to the jury room at
18 10:26 AM.)

19 THE COURT: All right. We'll be at ease for about
20 fifteen minutes.

21 MR. KOZAK: Thank you, Your Honor.

22 (Recess taken at 10:26 AM.)

23 (Back on the record at 10:48 AM.)

24 BAILIFF: Order in the court. Remain seated.

25 (Court's Exhibit Number 1 was marked for

1 identification.)

2 THE COURT: All right. Is the State ready to
3 proceed?

4 MR. KOZAK: Yes, Your Honor.

5 THE COURT: Defense ready?

6 MR. ERVIN: We are, Judge.

7 THE COURT: All right. And I did get a note from
8 the jury that Juror Number 164, Taylor Peace, is the
9 foreperson of the jury.

10 Let's bring them in.

11 (Whereupon, the jury return to the courtroom at
12 10:55 AM.)

13 THE COURT: Thank you, ladies and gentlemen. I
14 received your note. It appears that the jurors have
15 selected Juror Number 164, Mr. Peace, as the foreperson
16 of the jury. So if you'll keep that seat throughout the
17 remainder of the trial.

18 FOREPERSON: Yes, sir.

19 THE COURT: All right. State call your next witness.

20 MR. KOZAK: The State calls Detective Arcadeus
21 Dubard.

22 (Whereupon, Arcadeus Dubard was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: If you'll have a seat on the witness
25 stand. State your name and spell your last on the record.

1 THE WITNESS: Arcadeus Dubard. Last name spelling,
2 D-U-B-A-R-D.

3 ARCADEUS DUBARD,
4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. KOZAK:

7 Q. Detective Dubard, where are you currently employed?

8 A. I'm currently employed with the Lexington County
9 Sheriff's Department.

10 Q. And how long have you been employed there?

11 A. I've been employed with the Lexington County Sheriff's
12 Department for approximately eight years. Twelve years
13 total law enforcement.

14 Q. And what is your current position there?

15 A. Currently I'm an investigator with the Narcotics
16 Enforcement Team.

17 Q. All right. And how long have you been in that
18 position?

19 A. Narcotics Enforcement Team for about three years,
20 going on four years.

21 Q. Okay. And at the time of this incident, what was your
22 position?

23 A. At the time of this incident I was in part of the
24 major claims unit, which is also an investigative unit,
25 investigating violent crimes against persons.

1 Q. And what are some of the -- just duties and
2 responsibilities of that position?

3 A. In that particular unit, we investigated, like I said
4 before, crimes against persons, which could include
5 homicides, robberies, assaults, anything -- kind of any
6 other thing that can be assigned to us. Sexual assaults,
7 anything like that.

8 Q. All right. And how did you become involved in this
9 investigation on November 9th of 2020?

10 A. So on this particular day, we were out assisting with
11 an auxiliary enforcement team and we happened to hear a
12 call come out about a shooting incident and they needed
13 units to respond to the hospital. So initially I went to
14 respond to the hospital to assist.

15 Q. So your initial response wasn't to the residence where
16 the shooting took place?

17 A. No, sir.

18 Q. Now you were responding the hospital. Does that mean
19 that other units were responding to the house at the same
20 time?

21 A. Yes, they had other patrol units that had already
22 responded to the residence of the shooting.

23 Q. All right. And do you know about what time you
24 responded to the hospital?

25 A. I think it was about 9:30 PM, maybe 9:40 PM, maybe

1 9:20. It was about that timeframe.

2 Q. And do you know why they asked you to reroute to the
3 hospital?

4 A. They had gotten the word that the victim was being
5 driven to hospital by family members and they wanted us to
6 try to make contact with them at the hospital.

7 Q. And do you know if an officer was able to make contact
8 with the people who drove prior to you arriving?

9 A. Yes, another detective got to the hospital prior to my
10 arrival. He made contact with those persons and then he
11 went inside with the victim and I responded later to try to
12 make contact with the people who drove him.

13 Q. Who -- who were the people that he made contact with?

14 A. He made contact with, I believe, William, the victim,
15 Donnie Clark and an Albert Clark.

16 Q. Now you said he made contact with William. He wasn't
17 able to speak to William, was he?

18 A. No, he just -- as they were unloading the victim from
19 the vehicle and getting him to the medical personnel there,
20 he kind of asked him briefly what was going on, where they
21 came from and then he went inside with the victim and they
22 were all told they couldn't come to the back with the
23 victim, so he asked them to just go back to their car.

24 Q. And so where did you make contact with Albert and
25 Donnie?

1 A. So I initially, like I said, responded to Lexington
2 Medical Center. Upon getting there, I didn't see the
3 vehicle that they had described in front of the hospital as
4 they said it would be parked, so then I radioed back to
5 that officer and we got a description of the vehicle and I
6 began patrolling the area to see if I could locate that
7 vehicle. The vehicle was located and confirmed as we were
8 getting onto I-20 headed westbound from 378, which is about
9 the 61 exit heading towards the 58 mile marker. It wasn't
10 until about the 51 when they got off the Interstate because
11 of the construction zone and everything that we were able
12 to initiate a traffic stop and we got them finally pulled
13 over in the Two Notch Road, Muddy Springs area, and that's
14 when we made contact with the driver and occupant, which
15 was Donnie Clark and William {sic} Clark.

16 Q. All right. And once you stopped the vehicle, what did
17 you do?

18 A. Because of the -- at the time we didn't know what
19 their relation was to the incident, we conducted what we
20 call a felony traffic stop, which is where we pretty much
21 surround the vehicle and call the occupants out to us.
22 Both were completely cooperative and came out to us and
23 once we had them detained, we ended up speaking with them
24 about the incident.

25 Q. All right. And I believe you just said Donnie and

1 William. Did you mean --

2 A. Excuse me, Donnie and Albert. Excuse me.

3 Q. Okay. And so after they are asked to step out of the
4 vehicle, did you photograph the vehicle that night?

5 A. Yes, we did take photographs of the vehicle.

6 Q. And were you able to determine who the owner of that
7 vehicle was?

8 A. Yes, the owner of that vehicle was Donnie Clark.

9 MR. KOZAK: And I'm showing opposing counsel what's
10 been marked as state's exhibit 53.

11 May I approach, Your Honor?

12 THE COURT: Yes, you may.

13 BY MR. KOZAK:

14 Q. So you said you were able to photograph that vehicle
15 that night, correct?

16 A. Yes, sir.

17 Q. What am I showing you?

18 A. That's a photograph of an older model Dodge pickup
19 that belonged to Donnie Clark that night.

20 MR. KOZAK: Your Honor, at this time I'd like to
21 move State's Exhibit 53 into evidence and publish to the
22 jury.

23 MR. ERVIN: Without objection, Judge.

24 THE COURT: State's 53 is in evidence.

25 (State's Exhibit Number 53, a photograph, was

1 admitted into evidence.)

2 BY MR. KOZAK:

3 Q. So just briefly to look at this, this is showing
4 what's been marked as State's Exhibit 53, and so this is
5 what you're talking about with the stop, all these law
6 enforcement vehicles around it?

7 A. Yes.

8 Q. And is this the truck that you stopped that night?

9 A. Yes, sir.

10 Q. And is this what you would call a dually? Is that
11 what that is?

12 A. Yes, sir. People normally refer to those type of
13 trucks as a dually because of the dual tires on the rear of
14 the vehicle.

15 Q. Okay. And so once you stopped the vehicle that night,
16 were you able to make contact with Donnie and Albert?

17 A. Yes.

18 Q. And did you search the vehicle at that time?

19 A. Yes.

20 Q. And what did you find when you searched vehicle?

21 A. Upon completing a search of the vehicle, we located
22 a holster, a weapon holster, some type of weapon holster,
23 an empty magazine believed to be a 9-millimeter. We also
24 located a duffle bag that had some clothing in it as well.

25 Q. And did you find a firearm in that vehicle?

1 A. No, we did not.

2 Q. Okay. And once you asked Donnie and Albert to step
3 out of the vehicle, were they cooperative with law
4 enforcement?

5 A. Yes, sir.

6 Q. Without telling me what they said, did they tell you
7 what had happened that night?

8 A. Yes, they did.

9 Q. And after the stop was over and the search of the
10 vehicle was over, did Donnie and Albert come back to the
11 residence with you?

12 A. Yes, they did.

13 Q. And so after the stop, where did you go to next?

14 A. After the stop, I was asked to respond to the scene
15 by Sergeant Miller, who was the sergeant over my particular
16 team in that unit.

17 Q. All right. And so you said Albert and Donnie
18 voluntarily came back to the residence with you?

19 A. Yes.

20 Q. About how long did they stay at the residence to your
21 knowledge?

22 A. To my knowledge, they were there for pretty much the
23 entire time that we were there, which would have been at
24 least three hours or so.

25 Q. And when you arrived, what's going on at the scene in

1 terms of roping off the area or anything?

2 A. Like I said, before -- by the time I got there, other
3 deputies and investigators were already on-scene, so they
4 had already had the scene taped off, they had already began
5 collecting evidence and kind of photographing and things
6 like that.

7 Q. Now why exactly do you secure a crime scene?

8 A. So the reason that we would like to secure a crime
9 scene when we get there is to protect any evidence and to
10 protect the area so that we can get a true and accurate
11 view of what the area may have looked like when the
12 incident occurred.

13 Q. All right. And so would Donnie or Albert have been
14 allowed into the crime scene?

15 A. No, they wouldn't.

16 Q. Would they have been able to go in and manipulate
17 anything?

18 A. No.

19 Q. All right. So when you arrived, what address did you
20 arrive at?

21 A. The original call I think was 110 or something of that
22 nature, but I think we responded to 115 South Hampton.

23 Q. Okay. And I'm just gonna come up here and point.

24 MR. KOZAK: I'll actually use State's Exhibit 2,
25 Your Honor.

1 BY MR. KOZAK:

2 Q. Showing what's been marked as State's Exhibit 2, so
3 when you respond to South Hampton Avenue, this is South
4 Hampton Avenue, correct?

5 A. Yes.

6 Q. Now the residence that you responded to is off of this
7 dirt road?

8 A. Yes.

9 Q. Now all these houses that you accessed from this dirt
10 road on down, would those all be referred to as South
11 Hampton addresses?

12 A. Yes, sir. They are all South Hampton Avenue
13 addresses.

14 Q. Now once you arrive on-scene, the crime scene's roped
15 up, no one is allowed in or out other than law enforcement?

16 A. Yes, sir.

17 Q. Were you able to speak with Kenyatta at the scene?

18 A. Yes, sir.

19 Q. And when you spoke to Kenyatta, you also spoke with
20 Donnie and Albert, did you speak to them together or were
21 they separate?

22 A. They were separate when we spoke with them.

23 Q. So when you spoke to Kenyatta -- I mean, so when they
24 give you the story of what happened that night, they were
25 not together?

1 A. No, they were not.

2 Q. Was Kenyatta able to provide you an identity of the
3 shooter?

4 A. Yes.

5 Q. How did she do that?

6 A. Through a Facebook photo.

7 Q. And were you able to view that Facebook photo?

8 A. Yes.

9 Q. And were you able to confirm who it was in that photo?

10 A. Yes, through the assistance of other deputies we were
11 able to confirm the identity of that photo.

12 Q. And who was that person?

13 A. If I remember correctly, it was Detective Kennedy.

14 Q. No. I mean -- sorry. Who was the person that
15 Kenyatta identified?

16 A. Excuse me. It was James Patterson III, also known as
17 Fairfield Baby Joe or something of that nature.

18 Q. And is that the same James Patterson III that's in the
19 courtroom today?

20 A. Yes, sir.

21 Q. Now let's go back. When you spoke to Kenyatta and she
22 gave you the statement, where was that?

23 A. We were at the scene over on South Hampton Road, not
24 in front of the house. They had her car parked over on the
25 actual roadway, the paved roadway, so that's where I spoke

1 with her, by her vehicle.

2 MR. KOZAK: Your Honor, may I ask him to step down?

3 THE COURT: Yes, you may.

4 BY MR. KOZAK:

5 Q. Where would you say you spoke with Kenyatta on this
6 map?

7 A. Her vehicle was parked over in this area, so I just
8 went ahead and spoke with her on this side.

9 MR. KOZAK: And he's using State's Exhibit 2, Your
10 Honor.

11 THE COURT: Okay.

12 BY MR. KOZAK:

13 Q. Whereabouts? Sorry. One more time.

14 A. Over here.

15 Q. All right. And the crime scene is up here?

16 A. Yes.

17 Q. Okay. And when you spoke with her at the scene, did
18 she ever come down and look at the crime scene or anything?

19 A. No, she stayed over by the car until she left later on
20 that night.

21 Q. And do you know if at the time you spoke to her the
22 evidence or anything had even been marked?

23 A. I don't know at that time whether it had been or not.

24 Q. Okay. You can step back up.

25 A. (Witness complies.)

1 Q. Now did you attempt to speak with other possible
2 witnesses that night?

3 A. Yes.

4 Q. And were they willing to help or cooperate with the
5 investigation?

6 A. Not besides Kenyatta, Donnie and Albert.

7 Q. Okay. At any point in the investigation did you
8 receive any other information about the investigation?

9 A. Yes, we -- days later after the arrest was made, we
10 received an anonymous tip through an online source that we
11 have that we attempted to follow-up on, but we really just
12 couldn't. There wasn't enough information.

13 Q. Okay. So what else did you do to further your
14 investigation?

15 A. So throughout this investigation we completed multiple
16 search warrants. We did canvassing of the area. We
17 attempted to get video through ring camera sources and --
18 and conducted multiple interviews. We also solicited the
19 assistance of State Law Enforcement Division in other
20 areas.

21 Q. And was there a store nearby?

22 A. Yes, there was.

23 Q. And did you attempt to get any security footage from
24 that store?

25 A. Yes. We went to two different locations, stores that

1 we believed would have video of the incident, and attempted
2 to get video from those locations.

3 Q. So earlier in this trial the crime scene investigator
4 testified about finding three cell phones at the crime
5 scene.

6 A. Yes.

7 Q. Okay. Two of those cell phones are found inside?

8 A. Yes.

9 Q. Were you able to determine the owners of those two
10 cell phones?

11 A. Yes. It was believed that one of the phones belonged
12 to the victim and the other belonged to Donnie Clark.

13 Q. Let's go back one second. When you said you went to
14 the surveillance -- or the convenience stores to get
15 footage, there was no videos from those stores?

16 A. No, there wasn't.

17 Q. Okay. So let's go back. Cody gathered those two cell
18 phones, correct, that were found at the crime?

19 A. Yes.

20 Q. You said you were able to determine the ownership of
21 those two cell phones?

22 A. Yes.

23 Q. Who did they belong to again?

24 A. One belonged to the victim and one was believed to
25 belong to Donnie Clark.

1 Q. Now at the scene did you guys ask Donnie to allow you
2 to search through his phone?

3 A. Yes, Donnie had been cooperative the entire time, so
4 we asked if he wouldn't mind opening his phone and allowing
5 us to kind of look through it just to be sure that nothing
6 of evidentiary value was in the phone. He did agree to
7 that.

8 Q. And were you able to actually search through that
9 phone?

10 A. We attempted to. I guess through the incident the
11 phone had water damage and would not operate properly.

12 Q. Now there was another cell phone recovered outside and
13 this cell phone was surrounded by shell casings. Were you
14 able to determine the owner of that cell phone?

15 A. Yes, that phone was later determined to belong to
16 Mr. James Patterson III.

17 Q. And is that the same James Patterson III sitting in
18 the courtroom today?

19 A. Yes, it is.

20 Q. Okay. So after the night of the incident and the
21 investigation is moving on from the location, were you
22 ever called back out to this location?

23 A. Yes, sir. A couple of days later we were called back
24 over to a neighbor's home. I believe it was 109 South
25 Hampton that stated that he had damage to some of his

1 vehicle that he believed to be as a result of the original
2 incident.

3 Q. And did you respond to that house?

4 A. Yes, I did.

5 Q. Whose house was that?

6 A. Mr. Foulks I believe it was.

7 Q. And what did you do once you responded to that scene?

8 A. Once we got there, we were -- we observed a vehicle.
9 I think it was a Honda, black in color, that had a
10 shattered back windshield. We also checked the privacy
11 fence that was between the two properties for any damage
12 or anything like that and we did find I think one bullet
13 hole in that. We also were able to recover a bullet from
14 the vehicle, the black Honda.

15 Q. And was this search photographed?

16 A. Yes.

17 MR. KOZAK: I'm showing opposing counsel what's been
18 marked 54 through 57, Your Honor.

19 May I approach?

20 THE COURT: Yes, you may.

21 BY MR. KOZAK:

22 Q. I'm showing the witness what's been marked as State's
23 Exhibit 54 through 567. Can you tell me what I'm showing
24 you here?

25 A. 54 is a photograph of what appears to be a privacy

1 fence with a hole in it. 55 is -- it appears to be the
2 headliner of a vehicle with a hole as well. 56 is a
3 photograph of a headliner of a vehicle as well. And 57 is
4 a photograph of an A pillar with the plastic pulled down
5 and it appears to have a projectile lodged in it.

6 Q. All right.

7 MR. KOZAK: Your Honor, at this time I'd like to
8 move State's Exhibit 54 through 57 into evidence and
9 publish to the jury.

10 MR. ERVIN: No objection.

11 THE COURT: They're in evidence and you may publish
12 to the jury.

13 (State's Exhibit Number 54, 55, 56 and 57,
14 photographs, were admitted into evidence.)

15 BY MR. KOZAK:

16 Q. Now I'm showing you what's been marked as State's
17 Exhibit 54. What are we looking at?

18 A. That would be the privacy fence that was between the
19 property of the incident location and Mr. Foulks's property
20 at [REDACTED] South Hampton with what appeared to be a bullet hole
21 in it.

22 Q. Okay. And you said -- are you aware if this was taken
23 from Foulks's side or from the incident location side?

24 A. I believe it was taken from Foulks's side, but I can't
25 be sure at this point.

1 Q. Okay. And then you said the vehicle to your knowledge
2 was struck through the back windshield?

3 A. Yes.

4 Q. And you continued photographing as you tried to
5 recover the bullet?

6 A. Yes.

7 Q. And I'm showing State's Exhibit 55. What is this?

8 A. That would be the headliner of the vehicle that was
9 struck and what appeared to us to be an entry hole from a
10 bullet.

11 Q. Now it looks like it went through the headliner. How
12 were you able to locate where the bullet was?

13 A. So basically from starting from where that hole was
14 and kind of investigating from that hole towards the front
15 of the vehicle based upon the shattered back glass and the
16 hole in the fence, we were able to locate the object in the
17 front of the A pillar.

18 Q. And showing State's Exhibit 56, is this the A pillar
19 that you keep referring to?

20 A. Yes, sir.

21 Q. All right. This is that A pillar that you're
22 referring to?

23 A. Yes, sir.

24 Q. And so the A pillar looks like it has a cover on it.
25 What did you do to recover the bullet?

1 A. We just simply pulled back that plastic cover just a
2 little bit and we found that round lodged into that A
3 pillar.

4 Q. I'm showing State's Exhibit 57. Is this what you're
5 referring to?

6 A. Yes, sir.

7 Q. All right. And what is -- what are we looking at?

8 A. That's just that -- again, that plastic cover pulled
9 down and that is the projectile that we found.

10 Q. Is that what you're referring to as the projectile?

11 A. Yes, sir.

12 Q. Okay. And so once you located the projectile in the
13 A pillar, what did you do?

14 A. It was photographed as you can see and then it was
15 collected and entered into evidence along with this case.

16 MR. KOZAK: I'm showing opposing counsel what's
17 been marked as State's Exhibit 58.

18 May I approach, Your Honor?

19 THE COURT: Yes, you may.

20 BY MR. KOZAK:

21 Q. I'm handing the witness what's been marked as
22 State's 58. Can you tell me what's inside that?

23 A. A bronze bullet piece from headliner.

24 Q. Will you open it and look at it?

25 A. And this is the projectile with the mark of the Case

1 Number and my name and signature.

2 Q. All right.

3 MR. KOZAK: Your Honor, I move to -- moving to put
4 State's Exhibit 58 into evidence.

5 MR. ERVIN: No objection.

6 THE COURT: 58's in evidence.

7 (State's Exhibit Number 58, a fired projectile, was
8 admitted into evidence.)

9 BY MR. KOZAK:

10 Q. And what do you do after you recover this bullet?

11 A. So once we recovered it, we, as you can tell, packaged
12 it and then entered it into evidence at the Lexington
13 County Sheriff's Department and requested further testing
14 be done on it.

15 Q. So you said that was a few days after the incident you
16 received that call from Mr. Foulks?

17 A. Yes.

18 Q. Did you receive another call about possible bullet
19 damage?

20 A. No, we didn't receive any other calls about bullet
21 damage.

22 Q. Did anyone contact you about the possible damage to a
23 vehicle or anything after this?

24 A. No, sir.

25 Q. Did you receive a call from Donnie in this case?

1 A. We did make contact with Donnie multiple times
2 throughout this case.

3 Q. Did you -- did you respond to look at something?

4 A. Yes. So Donnie later on ended up calling us back
5 about damage to his vehicle and he said a tire had been
6 struck during the incident he had just recently noticed.

7 Q. And about how long after the shooting did this take
8 place?

9 A. It was at least a -- a couple of days, I believe.
10 I'll have to refer back to --

11 Q. So it wasn't the day after the shooting?

12 A. It was not the day after the shooting. It was at
13 least a couple of days. I want to say the 12th or the
14 13th.

15 Q. Okay. And did you respond to review his truck?

16 A. Yes, I met with Donnie.

17 Q. And when you responded, were you able to see this
18 damage that he was talking about?

19 A. Yes.

20 Q. And did you photograph it at that time?

21 A. Yes, sir.

22 MR. KOZAK: I'm showing opposing counsel what's
23 marked as State's Exhibit 59.

24 May I approach, Your Honor?

25 THE COURT: Yes, you may.

1 BY MR. KOZAK:

2 Q. I'm showing you what's been marked as State's
3 Exhibit 59. Can you tell me what I'm showing you?

4 A. Yes. It is a photograph of a tire with damage to the
5 outer wall.

6 Q. Okay.

7 MR. KOZAK: Your Honor, I'd like to move State's
8 Exhibit 59 into evidence and publish to the jury.

9 MR. ERVIN: Without objection, Judge.

10 THE COURT: 59's in evidence.

11 (State's Exhibit Number 59, a photograph, was
12 admitted into evidence.)

13 BY MR. KOZAK:

14 Q. When you responded -- showing State's Exhibit 59, when
15 you responded to review this tire, do you remember which --
16 was it a front tire or was it one of the back tires?

17 A. It was one of the rear tires.

18 Q. And as a dually, if that tire was struck, it would be
19 hard to know if it was running flat at the time, right?

20 A. Yeah. One of those features of those vehicles is
21 having the double tires on the back, so it could have been
22 hard to notice. I don't -- I couldn't tell you.

23 Q. Okay. Now after the arrest of the defendant, were
24 you guys still open to leads or tips concerning this
25 investigation?

1 A. Yes. After the arrest is usually what we tell some
2 people that most of the investigation takes place.

3 Q. All right. And the phone number for your office was
4 still the same?

5 A. Yes, sir.

6 Q. And you would have investigated any leads that came
7 in?

8 A. Yes, sir.

9 Q. Did you receive any new information or did anyone ever
10 come in with information regarding this investigation after
11 the defendant's arrest?

12 A. No, sir.

13 MR. KOZAK: No further questions, Your Honor.

14 THE COURT: Cross-examination?

15 MR. ERVIN: Thank you, Your Honor.

16 May it please the Court?

17 CROSS-EXAMINATION

18 BY MR. ERVIN:

19 Q. Detective Dubard, do you have any physical evidence
20 whatsoever that links James Patterson to these crimes?

21 A. No, sir.

22 Q. Okay. You only have testimonial evidence, correct?

23 A. Well, testimonial evidence and physical evidence from
24 the scene.

25 Q. I mean, the only -- the only evidence that insinuates

1 Mr. Patterson committed these crimes is testimonial only,
2 correct?

3 A. In a way. We -- we take the collective of both parts
4 to try to make a final decision on an investigation.

5 Q. Okay. But there's no physical evidence. You have no
6 gunshot residue evidence that links Mr. Patterson to a
7 shooting, correct?

8 A. We do not have any gunshot residue.

9 Q. You never recovered a firearm either, correct?

10 A. Never recovered one. No, sir.

11 Q. You didn't recover an empty 9-millimeter clip in
12 Mr. Patterson's possession either, did you?

13 A. No, sir.

14 Q. Detective, when you went to the hospital, it was
15 determined that two vehicles arrived delivering Albert --
16 I'm sorry -- delivering William Clark to the hospital. It
17 was Albert's vehicle that was driven and Donnie's vehicle
18 that was driven, correct?

19 A. I'm not understanding your question. We had one
20 vehicle that arrived and delivered Williams, yes. Another
21 vehicle followed that vehicle, yes.

22 Q. Okay. And that other vehicle -- and Agent Pollard of
23 the NETS, the Narcotics --

24 A. Enforcement Team. Yes, sir.

25 Q. Narcotics Enforcement Team. Agent Pollard was on that

1 team, correct?

2 A. Yes, sir.

3 Q. And he was at the hospital first?

4 A. Yes, sir.

5 Q. Okay. He's the one that talked to Albert and Donnie,
6 correct?

7 A. Yes, sir.

8 Q. Didn't he instruct them to remain at the hospital?

9 A. I can't tell you whether he did or he didn't.

10 Q. Okay. I'm gonna --

11 MR. ERVIN: May I approach the witness, Your Honor?

12 THE COURT: Yes, you may.

13 BY MR. ERVIN:

14 Q. This is your report, correct?

15 A. Yes, sir.

16 Q. Okay. In the third paragraph down, you state that the
17 two vehicles are part of the crime scene, don't you? Or
18 rather Pollard suggested.

19 A. No, he suggested that they may be part of the crime
20 scene.

21 Q. Okay. The vehicle would now be part of the crime
22 scene, correct?

23 A. He suggested that they would now be part of the crime
24 scene, yes, sir.

25 Q. Okay. So what kind of vehicle was Albert driving?

1 A. It was a white box truck, I believe.

2 Q. Okay. Did you ever approach that vehicle and search
3 it or --

4 A. I did not.

5 Q. -- process it as part of the crime scene?

6 A. I did not.

7 Q. Is it your understanding that that vehicle was at the
8 incident location when the shooting occurred?

9 A. No, it was not.

10 Q. Okay. Did Albert say he returned to the incident
11 location in his truck and saw Mr. Patterson shooting in
12 that white truck?

13 A. Yes, he did.

14 Q. Okay. So that truck Albert was driving was at the
15 incident location during the shooting?

16 A. Yes, it could have been.

17 Q. Okay. So that white box truck was part of the crime
18 scene; wouldn't it be?

19 A. At this time that information was not known to us.

20 Q. Okay. But it is now?

21 A. It is.

22 Q. Okay. That white box truck was never processed as
23 part of the crime scene, was it?

24 A. No, sir.

25 Q. Okay. You never searched that truck, did you?

1 A. No, sir.

2 Q. Did anyone in law enforcement search that truck?

3 A. No, sir.

4 Q. Okay. You have two individuals that show up at
5 the hospital with a gunshot victim, you pull them over
6 and you search the car they're in and you find an empty
7 9-millimeter clip. Why did you not further investigate
8 those two individuals for the shooting under those
9 circumstances?

10 A. We did. We --

11 Q. Did you conduct gunshot residue testing on either one
12 of those individuals?

13 A. No, sir.

14 Q. Is it difficult to do gunshot residue testing?

15 A. Difficult is an opinion. In some cases, it can be.

16 Q. I mean, is it readily available for law enforcement
17 to conduct gunshot residue testing?

18 A. I wouldn't know. I've never done gunshot. We usually
19 have our CSI do those.

20 Q. Okay. Did you contact CSI in this case?

21 A. Yes, CSI were on-scene.

22 Q. Okay. Were they ever asked to conduct gunshot residue
23 testing on Albert or Donnie Clark?

24 A. No.

25 Q. Why not?

1 A. Our understanding was that they would be in same area
2 during that shooting, which would mean that they all could
3 have gunshot residue on them whether they fired a weapon or
4 not.

5 Q. If someone fires a weapon, wouldn't they have more
6 gunshot residue on their hand than someone in the location?

7 A. I can't testify to that. I don't -- I don't know.

8 Q. Okay. On the physical evidence alone, you cannot rule
9 out whether or not Albert or Donnie or William himself shot
10 a weapon that night, can you?

11 A. No, I can't say on the physical evidence alone.

12 Q. Okay. So it is possible that Albert Clark fired a
13 weapon at the incident location when William Clark was shot
14 and killed?

15 A. Not based upon the testimony that we have.

16 Q. I'm talking about physical evidence only. Testimony
17 is potentially biased and possibly not credible. Under the
18 physical evidence only, can you rule out that Albert Clark
19 shot a weapon at the incident location?

20 A. As I stated before, we can't just use physical
21 evidence and exclude testimony. The two of those things
22 go together to create what we believe happened in the
23 incident, but on physical evidence alone, if I did not use
24 the full investigation, I could not rule those things out.

25 Q. Okay. You only got statements from -- well, let me

1 ask you this. What evidence made you arrest James
2 Patterson?

3 A. Testimony and physical evidence located on the scene.

4 Q. Whose testimony?

5 A. Testimony from the witnesses on the scene.

6 Q. Which witnesses indicated that James Patterson had
7 anything to do with the shooting of William Clark?

8 A. Donnie and William and Kenyatta.

9 Q. Okay. That's William's -- the mother of William's
10 children or child?

11 A. Uh-huh.

12 Q. That's William's brother?

13 A. Uh-huh.

14 Q. And William's cousin?

15 A. Yes, sir.

16 Q. Was anyone other than his immediate family interviewed
17 and made statements indicating Mr. Patterson had anything
18 to do with that shooting?

19 A. We interviewed multiple people on-scene. Those were
20 the three that made the statements that Patterson was the
21 shooter in the incident.

22 Q. So no one else indicated Patterson had anything to do
23 with the shooting, correct?

24 A. Correct.

25 Q. Okay. And you can't rule out -- again, I don't want

1 to be redundant, but you can't rule out Donnie and Albert
2 shot at the scene, right?

3 A. Excluding testimony, no, I cannot.

4 Q. You responded to Mr. Foulks's call regarding his
5 vehicle being shot, correct?

6 A. Yes, sir.

7 Q. And that, again, his house is here, correct?

8 A. Yes, sir.

9 Q. All right. And the vehicle -- is that the vehicle
10 that was shot; do you know?

11 A. I don't know.

12 Q. But that's where the vehicle that was shot was. Maybe
13 -- I'm sorry. You can even see there appears to be an
14 empty spot there, but either way is that around the area
15 where the Honda was that was shot?

16 A. Yes, sir.

17 Q. Okay. So that would indicate the trajectory of that
18 projectile was in what direction? Towards Mr. Foulks's
19 house?

20 A. Yes, sir.

21 Q. Okay. And there's a bullet hole in the fence,
22 correct?

23 A. Yes, sir.

24 Q. All right. Were there any projectiles found in
25 this side of the house?

1 A. There was a projectile found -- if you keep going
2 further down, keep going down, keep going, keep going
3 further down, there was a projectile found in that area
4 near the dirt road.

5 Q. Okay. A projectile found over here, a projectile
6 found over here. Were there any projectiles found in the
7 side of the house?

8 A. Not to my knowledge.

9 Q. Were there any projectiles found in vehicles or
10 anything that were here during the time of the shooting?

11 A. I believe that the projectile found in Donnie's tire
12 might have been in that same area, but nothing was found
13 on-scene that night.

14 Q. Okay. Donnie's -- the projectile in Donnie's truck,
15 that was days later.

16 A. It was.

17 Q. Okay. So there's no -- other than Donnie's testimony,
18 that bullet could have been shot in his tire by him himself
19 or anyone with a gun?

20 A. I couldn't testify to that, but --

21 Q. If would have had to be -- I'll back off.

22 All right. So why did you not search Albert's truck?

23 A. At the time -- we didn't see the need to search his
24 truck at that time.

25 Q. Was there any other -- why not? I mean, they -- the

1 just dropped a gunshot victim off at the hospital. There's
2 a 9-millimeter clip in his car. A shooting was reported.
3 These two guys were the only people you have -- and you had
4 detained them, correct?

5 A. Uh-huh.

6 Q. At that point you deemed there's no need to search
7 Albert's car?

8 A. Yes. A discussion was made about searching the
9 vehicle, but it was determined that Donnie had claimed
10 ownership of the holster and the magazine and had a CWP in
11 the state of South Carolina, so that would rule out Albert
12 being the owner of that, and Albert did not drop the victim
13 off at the hospital, so we weren't able to determine enough
14 probable cause to be able to gain a search warrant for that
15 vehicle at the time.

16 Q. Searching his vehicle would have helped rule him out
17 of being a possible shooter that night, wouldn't it?

18 A. That could be your opinion. In our opinion, we had
19 already ruled him out as being a shooter for that night.

20 Q. How did you rule him out?

21 A. Through the testimony and evidence found on-scene.

22 Q. Through his cousin's testimony and his nephew's
23 mother's testimony?

24 A. And the deputies on-scene.

25 Q. Well, the deputies weren't eyewitnesses to the

1 shooting, were they?

2 A. The deputies on-scene had already started talking to
3 people on-scene and viewing evidence, so them talking to
4 me, telling me what they had found on-scene helped us ruled
5 that out.

6 Q. Rule out Albert as a shooter?

7 A. Yes.

8 Q. How? What -- no other eyewitnesses to the shooting
9 came forward, correct?

10 A. No, sir.

11 Q. Okay. So, again, the only eyewitnesses to the
12 shooting to help you rule out Albert as a shooter were his
13 cousin and the mother of his nephew, correct?

14 A. And the physical evidence on-scene.

15 Q. How did the physical evidence on the scene rule out
16 Albert Clark as a shooter?

17 A. The combination of their testimony and location of
18 where things were found, which solidified their testimony,
19 help us rule that we did not believe that Albert was a
20 shooter at the time of the incident.

21 Q. William Clark's body was -- or I'm sorry. From
22 testimony, William Clark was shot about -- in this
23 location, correct?

24 A. Uh-huh.

25 Q. And on testimony, James Patterson's vehicle was here,

1 correct?

2 A. Yes.

3 Q. Okay. And physical evidence shows a projectile went
4 into a Honda vehicle behind James Patterson's vehicle where
5 he was, correct?

6 A. Yes.

7 Q. Okay. Does the trajectory make sense to you that the
8 vehicle was shot in Mr. Foulks's yard, yet Mr. Clark,
9 William Clark, was shot here, and then Albert Clark's truck
10 was pulling in here under his testimony, the truck that we
11 have no idea what was in that truck because it wasn't
12 searched or processed, it was there during the shooting,
13 projectiles were going towards Mr. Patterson's vehicle, why
14 would that be and how would that rule out Albert Clark as a
15 shooter?

16 A. Because there was also testimony and physical evidence
17 collected that said that Mr. Patterson fired a shot after
18 -- or as he was leaving from that roadway where the shell
19 casing was found.

20 Q. So you think Mr. Patterson shot at his own vehicle?

21 A. No, he was in his vehicle shooting back towards the
22 incident location and that round could have gone through
23 that fence.

24 Q. So the trajectory, it goes from the fence to the Honda
25 vehicle?

1 A. Yes.

2 Q. Based on the fence location and the Honda vehicle
3 location, if it hadn't been moved, you could determine
4 the trajectory of that bullet from the fence to the back
5 windshield, correct?

6 A. No, the windshield was shattered, sir, so you wouldn't
7 have been able to -- you wouldn't have had a hole to
8 determine trajectory from that windshield -- or from that
9 window to the fence.

10 Q. Wasn't there a hole in the roof of the car?

11 A. There was a hole in the roof.

12 Q. So how about the hole from the fence to the hole to
13 the roof of the car, would that be a trajectory line?

14 A. It may have been, but we didn't do trajectory on it.

15 Q. We didn't look into any further into that?

16 A. We did look further into it, but with the angle of the
17 hole we wouldn't have -- to my opinion or to what I was
18 told, we wouldn't have been able to do trajectory on it.

19 Q. Okay. So it's undetermined. You don't know the
20 trajectory of that projectile, is that what you're saying?

21 A. Yes.

22 Q. Okay. So it could have been from Albert because you
23 didn't rule him out with the physical evidence, correct?

24 A. Yes, sir. And it could have been from another
25 incident. We don't know.

1 Q. Did Mr. Foulks call you before the night and report
2 the gunshot?

3 A. It was days later.

4 Q. It was a couple of days later?

5 A. Yes.

6 Q. Three days?

7 A. Yes.

8 Q. Okay.

9 MR. ERVIN: Begging your indulgence, Your Honor.

10 BY MR. ERVIN:

11 Q. You did get a statement from Kenyatta, who was the
12 mother of William's child, right?

13 A. Yes.

14 Q. At some point she stopped talking to you because she
15 felt uncomfortable; is that right?

16 A. Yes.

17 Q. Okay. And why isn't Donnie Clark testifying in this
18 trial?

19 A. I don't know, sir.

20 Q. Is he here today?

21 A. I don't know, sir.

22 Q. Have you talked to him about this trial?

23 A. About the trial, no, sir.

24 Q. Did you receive any information later on that William
25 Clark was killed by his brother?

1 A. Yes.

2 Q. Tell me about that.

3 A. We received -- I think it was a person actually came
4 up to the sheriff's department. He stated that he had done
5 his own research, some Googling, and thought that it might
6 have been related to the death of -- Joe Pat is what he
7 called him, which we determined to be Joseph Patterson's
8 father.

9 Q. Okay. So how does that relate to William Clark's
10 death?

11 A. It didn't appear to have any relation to the death.
12 He said that it was a retaliation shooting.

13 Q. I'm sorry. You received information that Albert Clark
14 shot William Clark, correct?

15 A. Yes.

16 Q. Okay. And would that have been an accident or do you
17 have any indication whether that insinuation was that it
18 was accidentally done or purposely done?

19 A. They didn't give any further information as to why.
20 They just said that that was what happened.

21 Q. Based on the physical evidence, isn't it possible that
22 Albert Clark shot his brother accidentally or purposely or
23 however? You have nothing to rule that out in the physical
24 evidence and you only have testimony from his immediate
25 family that insinuates something other than Albert Clark

1 shot his brother?

2 A. I don't see the question in that.

3 Q. Isn't it true that it's possible Albert Clark shot his
4 brother be it accidentally or purposely that night? Isn't
5 it possible? Isn't it in the realm of possibilities?

6 A. I don't -- I don't believe that it's possible just
7 from where --

8 Q. Is it impossible? I'm sorry. I cut you off. Please
9 finish.

10 A. Just where the shell casings were found on-scene, I --
11 I don't think that that was what happened.

12 Q. Well, how do you know beyond a reasonable doubt where
13 Albert was in relation to the shell casings based on what
14 he said only?

15 MR. KOZAK: Objection, Your Honor. Calls for a
16 legal conclusion.

17 THE COURT: Yes, I sustain the objection.

18 MR. ERVIN: I'll -- I'll back down, Judge.

19 BY MR. ERVIN:

20 Q. Well, I do want to go back into that for a second.
21 You weren't there, correct?

22 A. No, sir, I was not.

23 Q. You weren't there when William Clark was shot?

24 A. No, sir.

25 Q. Okay. And the three people that were there who said

1 anything about Mr. Patterson were his immediate family,
2 correct? Or his cousin and his --

3 A. Well, the victim's immediate family. Yes, sir.

4 Q. Well, Albert -- I'm referring to Albert Clark. Albert
5 Clark was at the scene when William Clark was shot; is that
6 correct?

7 A. Yes.

8 Q. Okay. And -- but other than that information, can
9 you tell by the physical evidence where the shooter was,
10 whoever it was, where the shooter was when the projectile
11 hit William Clark that killed him? Is there any way to
12 determine that from the evidence?

13 A. No, sir.

14 Q. Okay. And no -- no projectiles were found in the
15 house exterior walls, right?

16 A. No, sir.

17 Q. Okay. There was a projectile found over here.

18 Okay. Do the number of shell casings and the number
19 of projectiles recovered match up? Do you know? Does that
20 make sense?

21 A. Do we -- the number of shell casings and the number of
22 projectiles, we did not recover all projectiles that may
23 have been fired.

24 Q. Okay. But you collected a series of several casings
25 and a projectile would come out of a casing, correct?

1 A. Yes.

2 Q. So every shell casing found at the incident location
3 we presume contained a projectile that came out of it,
4 correct?

5 A. Yes.

6 Q. Okay. And now that's a presumption. It's a pretty
7 valid presumption, but it is a presumption.

8 A. Yes.

9 Q. It's not out of the realm of possibility someone came
10 and sprinkled shell casings in the driveway, is it?

11 A. I -- yes, sir.

12 Q. You're probably laughing because you think that's
13 impossible, but it's not impossible, is it?

14 A. I don't think it's impossible.

15 Q. Right. I'm just trying to see all the possibilities
16 here because you have to admit that you let the two men go
17 that were the only two men you knew to be at the scene at
18 the time of the shooting with an empty 9-millimeter clip
19 and a vehicle that was at the scene deemed to be part of
20 the crime scene that was never searched; isn't that right?

21 A. The box search was never searched.

22 Q. Yeah. But you let Donnie and Albert leave --

23 A. Yes, sir.

24 Q. -- without gunshot residue testing, without further
25 searching the vehicles and that's it, right?

1 A. Yes, sir.

2 Q. Detective, I believe I handed you your report.

3 A. Yes, sir.

4 Q. May I see this?

5 A. Uh-huh.

6 Q. Were you aware of anyone calling the sheriff's
7 department on November 10th regarding a possible other --
8 another gunshot victim?

9 A. Someone called the sheriff's department about another
10 victim?

11 Q. Yes.

12 A. No, sir.

13 Q. Okay. Well, let me ask you this. Do you recognize
14 this document?

15 A. I don't. It looks to be a report from the sheriff's
16 department.

17 Q. Okay.

18 A. Or a supplemental report from the sheriff's
19 department.

20 Q. You've never seen that report?

21 A. (Shakes head.)

22 Q. Okay.

23 MR. ERVIN: No further questions, Judge.

24 Thank you.

25 THE COURT: Redirect?

1 MR. KOZAK: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. KOZAK:

4 Q. So this anonymous tip that came in that he was talking
5 about, what exactly was that tip that came in referring to
6 Donnie?

7 A. We had a -- had a couple of tips come in. One was
8 anonymous, just with no information, no follow up, no
9 contact information for anybody, and we weren't able to
10 follow up on what information they actually had for us.
11 Another one was in reference to saying that William Clark
12 was shot by his brother. Again, there was no real way
13 to follow up on that information other than kind of
14 researching it and we determined that it didn't have any
15 relevance to the incident that we were investigating.

16 Q. All right. And when that tip came in, did they leave
17 any contact information or any way to follow up with them
18 or anything like that?

19 A. No, they -- they didn't leave anything. They did it
20 through our online system or where they can just kind of
21 leave a tip and it gets forwarded to an investigator and we
22 don't have any way to contact them back. We don't even get
23 the original tip.

24 Q. Was there -- what was the timing of that tip?

25 A. It was -- the anonymous tip was I believe the 13th or

1 14th, which would have been, I think, the day after the
2 arrest of the suspect.

3 Q. And by suspect, you means James Patterson III?

4 A. Yes, sir.

5 Q. And so a lot of has been made about Donnie and Albert
6 not staying at the hospital?

7 A. Yes.

8 Q. Now when they left the hospital, they went back to the
9 crime scene?

10 A. Yes.

11 Q. And about how many law enforcement officers were at
12 the crime scene at the time?

13 A. There was a good bit of officers there. Maybe between
14 ten and twelve.

15 Q. And so how many officers were at the hospital at that
16 time?

17 A. One.

18 Q. And how many officers were at the house you said?

19 A. About ten or twelve.

20 Q. Okay. And so other than just officers at that crime
21 scene, what lay witnesses were still at that crime scene?

22 A. I think there was a neighbor, but he said he didn't
23 witness anything, and then Kenyatta was there and then,
24 like I said, Donnie and Albert arrived back there.

25 Q. And was that it for people that remained at the crime

1 scene that you're aware of?

2 A. Yes, sir.

3 Q. All right. And you said you spoke to numerous
4 witnesses that night?

5 A. Yes, sir.

6 Q. Did anyone say Donnie or Albert was the shooter?

7 A. No, sir.

8 Q. Did anyone tell you that James Patterson was not the
9 shooter?

10 A. No, sir.

11 Q. And a lot's been made of this physical evidence.
12 Whose personal belongings was surrounded by shell casings
13 recovered in the evidence?

14 A. James Patterson III.

15 Q. And if the physical evidence would have been
16 inconsistent with the eyewitness testimony, would you have
17 made the arrest?

18 A. No, sir.

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

20 THE COURT: Recross?

21 RE CROSS-EXAMINATION

22 BY MR. ERVIN:

23 Q. I want to reiterate there could have been physical
24 evidence in Albert Clark's vehicle that wasn't searched,
25 correct?

1 MR. KOZAK: Your Honor, that's outside the scope.

2 THE COURT: Yes, that's been asked and answered.

3 MR. ERVIN: Yes, sir.

4 BY MR. ERVIN:

5 Q. Weren't Donnie Clark's personal belongings found
6 amongst the shell casings as well, being his cell phone?

7 A. Inside the home. His phone was found inside the home.

8 Q. That was inside. Okay.

9 MR. ERVIN: No further questions.

10 Thank you.

11 THE COURT: Thank you, Detective. You can step
12 down.

13 (Witness excused.)

14 THE COURT: All right. The State call your next
15 witness.

16 MR. KOZAK: The State calls Thom Smith.

17 (Whereupon, Thom Smith was duly sworn by the Clerk
18 of Court.)

19 THE CLERK: If you'll have a seat on the witness
20 stand. If you'll state your name and spell your last for
21 the record.

22 THE WITNESS: Thomas Alvin Smith. S-M-I-T-H.

23 THOMAS ALVIN SMITH,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. KOZAK:

2 Q. Where are you currently employed?

3 A. Currently employed with the Lexington County Sheriff's
4 Department.

5 Q. And about how long have you been there?

6 A. I was at Lexington County Sheriff's Department for
7 approximately six years. I left there in 2020, in January
8 of 2020, went to the academy for a year and a half. I
9 returned back September of '21 and I've been there since.
10 So I think in all of that six -- eight years now.

11 Q. And what position are you currently in?

12 A. I'm currently a crime scene examiner and a firearms
13 examiner.

14 Q. And have you always been in that position?

15 A. I got into the crime scene unit back in 2014 -- no,
16 I apologize, 2016, and I just got into firearms examiner
17 position approximately -- well, I completed my training in
18 the beginning of the year.

19 Q. Do you have any degrees from college within law
20 enforcement?

21 A. Yes, I have a bachelor's degree in criminal justice,
22 as well as psychology, I have a master's degree from Nova
23 Southeastern University in legal perspective and forensics.

24 Q. And are you a member of any professional organizations
25 in regards to firearms or criminal investigations?

1 A. Yes. I'm a member of the International Association
2 for Identification, the South Carolina chapter for
3 International Association for Identification, the North
4 Carolina chapter for International Association for
5 Identification, the International Association for Blood
6 Pattern Analysis, as well as the Association -- Association
7 of Firearms and Tool Mark Examiners for firearms
8 examinations.

9 Q. And what kind of training have you undergone to be a
10 firearms examiner?

11 A. I completed the Association of Firearms and Tool Mark
12 Examiners, which is AFTE shorten down. I've completed the
13 AFTE-recommended 104-week training class.

14 Q. And have you ever testified or been qualified as a
15 firearms expert in General Sessions?

16 A. I have not.

17 Q. But walk me through the process of how you become a
18 firearms examiner -- qualified as a firearms examiner.

19 A. Okay. So completion of the 104-week training. That
20 consists of several different blocks of training. The
21 blocks of trainings include everything from the history of
22 gunpowder, the history of firearms, all the way up through
23 modern firearms and the modern cartridge that we see in our
24 firearms today, the development of black powder and the
25 development of smokeless powder. There's -- then we

1 conduct training and all on the identification, and when I
2 say identification what I'm talking about is the comparison
3 of tool marks, bullets, cartridge cases, shotgun cases, as
4 well as rim-fire cartridges as well, serial number
5 restoration, shooting incident restoration. What's that
6 last thing? Distance determination using gunpowder and
7 distance determination using spread on a shotgun as far as
8 how far those pellets travel. Upon completion of 104 weeks
9 training, your given what's known as a competency test. My
10 competency test was seventeen different examinations and
11 that competency test incorporated serial number
12 restoration, both GSR shooting distance reconstruction, as
13 well as pellet reconstruction or pellet distance
14 reconstruction. Simply identifying firearms. You know,
15 this is a Beretta 92 FS or this is a Glock 17 by sight and
16 markings. So with the competency test, the way it works,
17 is you might have seventeen separate exams you do, but in
18 order to pass the competency test you have to complete with
19 100 percent all seventeen sections of that. So if I had
20 failed any one section, then I would have failed my
21 competency test.

22 Q. And just a rough estimate, about how many firearms or
23 projectile examinations have you performed?

24 A. So when we were doing bullets, within that training
25 there was approximately seventy-five different

1 examinations. Each of those examinations contained
2 anywhere from four to five different projectiles or
3 bullets. Cartridge cases, there was approximately fifty
4 different examinations. There again, each of those
5 examinations have anywhere from four to five different
6 cartridge cases to compare. When we dealt with shotguns
7 and rim-fire weapons, there was twenty-five. Again,
8 anywhere from four to five different exhibits within those
9 tests.

10 Q. And are these exams that you perform, are they peer
11 reviewed?

12 A. Yes, the instructor is an AFTE member who sat there
13 and reviewed and graded each and every one of the
14 comparisons that I -- that I made.

15 MR. KOZAK: Your Honor, at this time I'd move that
16 Thom Smith be qualified as an expert in the field of
17 firearms examination.

18 MR. ERVIN: Judge, he sounds like an expert to me.
19 No objection.

20 THE COURT: All right. Thank you.

21 And I find that he is qualified to testify as an
22 expert in firearms examination.

23 Ladies and gentlemen, the charge that I gave you
24 earlier regarding experts also applies to Mr. Smith in
25 this particular testimony and his qualifications to give

1 opinion testimony.

2 Mr. Solicitor -- sorry. Mr. Attorney General.

3 MR. KOZAK: No worries, Your Honor.

4 BY MR. KOZAK:

5 Q. Now before you did anything on this case, did you
6 review anything on this case?

7 A. No, I have not.

8 Q. Have you reviewed this case file since you did these
9 firearm examinations?

10 A. I have not.

11 Q. So you had no knowledge of anything in this case when
12 you performed your examinations?

13 A. No, sir.

14 Q. So let's just talk about -- let's start with bullet
15 exams first. What -- what are some of the things that
16 you're looking for in a firearm exam and how does a bullet
17 examination take place?

18 A. Okay. So when we're comparing bullets from --
19 against each other, what we're looking for is microscopic
20 either differences or similarities between the two bullets.
21 Those microscopic imperfections we should say are created
22 because when -- a company starts with a barrel. They use a
23 tool and there's different types of ways to form rifling in
24 a barrel. And rifling is nothing more than a spin as it
25 goes down a barrel. That spin is much like you would spin

1 a football when you throw it. You know, when you throw
2 nice spiral pass and all, you get more distance, you get
3 mor accuracy, so when they make this they have a tool
4 that's actually grinding against metal. That tool has a
5 life expectancy of a different time depending on how --
6 what type of method that they're using. Well, each time it
7 goes down to make a rifling and all on the barrel, it's
8 creating marks on the barrel, but that barrel because it's
9 metal, too, also causes imperfections and all on that --
10 on that tool that's creating that spiral. And then all
11 we're doing is we're -- when it comes to -- the best way
12 I have to describe it when it comes to bullets, it's like
13 360-degree puzzle. So we start with one bullet and we look
14 at it to find an imperfection that just kind of stands out,
15 something that -- that we think that we can find easily
16 on the next bullet, and then that's what we do. Once we
17 find that, then we put the bullet that we're comparing it
18 against and all we're doing is looking 360 looking for the
19 same imperfection under a microscope as what we see on the
20 first bullet that we're looking at.

21 Q. So we'll get to the exam that takes place under a
22 microscope. What is the first thing that you were asked to
23 examine in this case?

24 A. So the first thing I was asked to examine in this case
25 was a bullet that was taken from autopsy and I was simply

1 asked to look at the bullet and see if I could determine
2 the caliber of that bullet. So I went over to our evidence
3 room, signed out the piece of evidence, brought it back
4 over to the lab area. The bullet came from autopsy, so I
5 put it in some rubbing alcohol and allowed that to take
6 effect, washed and cared for the bullet. Once it was --
7 was clean, sat there and removed any matter that was still
8 on the bullet, rewashed it, and at that point I began my
9 examination of it. So my examination of the bullet itself
10 consisted of nothing more than looking at the diameter at
11 the base of the bullet, which was .355. .355 is the
12 standard size for a 9-millimeter bullet.

13 The next thing I did was weigh the bullet. The bullet
14 weighed approximately 115 grams -- or, no, grains, I
15 apologize. 115 grains. Those two things put together, the
16 weight and the diameter, led me to believe that it was a
17 9-millimeter bullet.

18 Q. All right. And did you photograph the bullet when you
19 were doing this examination?

20 A. I did.

21 MR. KOZAK: I'm showing opposing counsel what's
22 premarked as State's 60 and 61.

23 May I approach, Your Honor?

24 THE COURT: Yes.

25 BY MR. KOZAK:

1 Q. I'm showing the witness what's been marked as State's
2 Exhibit 60 and 61. What am I showing you there?

3 A. This is a photograph of the bullet as I took it out of
4 the packaging that it was put in -- well, after I cleaned
5 it up, the packaging and the bullet that was taken from
6 autopsy.

7 Q. All right. And has this photo been altered or edited
8 in any way?

9 A. No, it has not.

10 Q. And State's Exhibit 61, what is that?

11 A. This is my report as well as my documentation and all
12 pertaining to the identification of that projectile.

13 MR. KOZAK: At this time I'd like to move State's
14 Exhibit 60 and 61 into evidence, Your Honor.

15 MR. ERVIN: Without objection, Judge.

16 THE COURT: State's 60 and 61 are in evidence.

17 (State's Exhibit Number 60, a photograph, and
18 State's Exhibit Number 61, a firearms report, were
19 admitted into evidence.)

20 MR. KOZAK: And publish to the jury?

21 THE COURT: Yes, you may.

22 BY MR. KOZAK:

23 Q. Now this report that you said was State's Exhibit 61,
24 this was just you trying to determine the caliber of the
25 bullet?

1 A. Correct, that's what I initially asked for.

2 Q. Okay. Showing State's Exhibit 60, what are we looking
3 at here?

4 A. So that's the bullet that I took it from. The bullet
5 is actually sitting on the envelope that the -- that was --
6 that it was packaged in coming out of autopsy and then I've
7 added a scale with my initials, date and the case number on
8 it for identification.

9 Q. So at the time you're doing this first examination,
10 did you have access to a microscope?

11 A. No, I did not.

12 Q. Okay. So this was just an exam for the caliber and
13 your bare identifies eyes and kind of examining it?

14 A. Correct.

15 Q. So what are we actually looking at here? What are
16 these little things?

17 A. So what he's pointing at is lands and grooves that are
18 on the bullet. As the bullet travels down the barrel, the
19 Cooper jacket that's on that bullet is actually quite soft
20 and the lands and grooves impart themselves or give almost
21 a mirror image of the inside of that barrel as it travels
22 down. With those lands and grooves I was able to identify
23 that the firearm that it was fired out of had a six right
24 twist, and all that means is that there's six grooves that
25 were cut into the inside of the barrel and that when the

1 barrel went down, it spun to the right.

2 Q. Okay. Now you said earlier these lands and grooves
3 are created by the tool that creates the firearm?

4 A. Correct.

5 Q. So would two firearms from the same manufacturer have
6 same number of grooves and lands?

7 A. Yes, they would -- yes. That would be what's referred
8 to as a class characteristic. So off the top of my head
9 let's say a Springfield XD had a five right twist in their
10 9-millimeters, so all of their -- all bullets fired through
11 a Springfield XC 9-millimeter would have that six right
12 twist.

13 Q. And so if the guns from the same manufacturing have
14 the same lands and grooves, what are looking at to
15 determine individual firearms?

16 A. So when we look at individual firearms, what we're
17 looking at is the microscopic imperfections that were left
18 on the -- on the bullet as it travelled down. As I said
19 earlier, that tool's making -- it's a metal tool going
20 through metal to make it and it's gonna leave small
21 microscopic imperfections and all we're doing is, like I
22 said, we're just trying to match them up.

23 Q. All right. And were you able to review this bullet
24 under a microscope?

25 A. I was.

1 Q. And how do you photograph that? Since you're using a
2 microscope, how do you take pictures?

3 A. So you have your eyepiece that you look through. A
4 comparison microscope is kind of different than your
5 traditional microscope in the fact that we have two stages.
6 So you have one bullet or one cartridge on one stage and
7 you can have another on the second stage and through
8 mirrors and all that comes up, so when you looking through
9 your left eye, you're seeing the left stage and your right
10 eye is seeing the right stage, and then that allows you to
11 do a side by side comparison of the item or object that
12 you're looking at, but the eyepiece that you're looking
13 through directly above that is mounted a camera, so that
14 camera is going down and seeing what you're able to see.
15 The camera is never going to be like directly in sync with
16 what you're doing just because it's coming down through a
17 photo tube and everything, but -- but it gives well enough
18 photographs.

19 Q. All right. And were you able to photograph this
20 bullet when you were examining?

21 A. I was.

22 MR. KOZAK: I'm showing opposing counsel what's marked
23 State's Exhibit 62 and 63.

24 May I approach, Your Honor.

25 THE COURT: Yes, you may.

1 BY MR. KOZAK:

2 Q. I'm showing the witness what's been marked as
3 State's 62 and 63. What am I showing you?

4 A. You're showing me photographs of the base of that
5 projectile.

6 Q. Okay.

7 MR. KOZAK: Your Honor, I'd like to move
8 State's Exhibit 62 and 63 into evidence.

9 MR. ERVIN: Without objection.

10 THE COURT: State's 62 and 63 are in evidence.

11 (State's Exhibit Number 62 and 63, photographs,
12 were admitted into evidence.)

13 MR. KOZAK: And I'd like to use an enlarged version
14 of 62, Your Honor, if that's okay, as a demonstrative.

15 Your Honor, can I ask the witness to step down?

16 THE COURT: Yes, you can.

17 You may step down.

18 BY MR. KOZAK:

19 Q. Can you just walk the jury through what you're looking
20 at in this examination.

21 A. Okay. So I talked about a tool going down the barrel.
22 It creates two things, a land and a groove. A groove is a
23 depression and a land is what sticks out. The land is what
24 the bullet is actually travelling on as it goes down the
25 barrel. So it reverses itself on here. So a groove sticks

1 up and now the lands are down. So what I'm looking at when
2 I'm -- is how many lands and grooves there are and then
3 what I'm looking at is this microscopic imperfections that
4 are here inside of this groove -- no, land. That's inside
5 the lands. Grooves can also have them, but they're most
6 commonly and more easily seen inside the lands. So that's
7 all I'm doing is looking for those imperfections underneath
8 the microscope and then attempting to find the same
9 correlation on another projectile or if it's a cartridge,
10 on another cartridge.

11 Q. Now is there a word you would use to describe those
12 imperfections?

13 A. They're called striations. Just straight lines of
14 imperfections basically.

15 Q. So on State's Exhibit 62, are these the striations
16 you're referring to?

17 A. Correct. These are the striations there and there are
18 striation that are here, as well as here.

19 Q. Now if you're comparing this to another bullet or
20 projectile, what would you be comparing it to?

21 A. What do you mean?

22 Q. Like if you have another projectile as well, what
23 would you do be doing trying to -- is that that 360-degree
24 puzzle you were talking about?

25 A. Yeah. So let's say I found this of interest. All I'm

1 doing is, I'll leave that in place and I'm taking the other
2 projectile and literally just spinning it to see whether or
3 not any of the same lands match up. There's only six
4 lands, so I've just got to check all six comparison-wise to
5 the one that I already have. If they don't match, then
6 what I'll do is I'll find another one on my lead and I'll
7 start looking at the -- until it comes down to either --
8 AFTE gives us four determinations. Either identifications
9 saying yes, these are coming from the same thing.
10 Inconclusive, the class characteristics match, but there's
11 not enough of individual characteristics to say an
12 exclusion. I don't think I said that right. Anyway,
13 saying that no, there's no way that these are -- are
14 matching. And then the fourth one is not suitable for
15 comparison. In other words, it's just so damaged there's
16 not enough for you to be able to look at to be able to
17 -- you can't make a class identification, there's no
18 striations, stuff like that for you to look at for that
19 comparison.

20 Q. Okay. You can step back up there.

21 A. (Witness complies.)

22 Q. Now did you receive another bullet in this case?

23 A. Yes, I -- yes.

24 Q. And were you able to examine that bullet the way you
25 were able to examine this one?

1 A. Yes, I checked that out. I looked at class
2 characteristics and all first. When we talk about class
3 characteristics, we're talking about stuff that all of them
4 share. Like a 9-millimeter bullet all share the same .355
5 diameter. Class characteristics would be weights. Your
6 standard 9-millimeter bullet comes in 115, 124, 147.
7 There's some oddballs outside of that, but that's typically
8 lay what you look for when you're talking about
9 9-millimeter. So I looked at the class characteristics
10 there and they matched to the first projectile I had.

11 And then I looked at the next class characteristics,
12 which is going to be the rifling. It, too, has six right
13 rifling. So since all of my class characteristics matched,
14 then I'm able to go through and start looking at them
15 microscopically do they match and I didn't find those
16 identifying marks on each other.

17 Q. And by identifying marks, you're talking about the
18 striations?

19 A. The striations. Whether or not they match and line
20 up.

21 Q. All right. Were you able to photograph this
22 comparison between the two bullets?

23 A. Yes, I believe I took two photographs or three
24 photographs.

25 Q. In the same way that you photographed the previous one

1 under the microscope?

2 A. Correct.

3 MR. KOZAK: I'm showing opposing counsel what's marked
4 as State's Exhibit 64 and 65.

5 May I approach, Your Honor?

6 BY MR. KOZAK:

7 Q. I'm showing opposing -- or I'm showing the witness
8 what's been marked as State's Exhibit 64 and 65. What are
9 those?

10 A. These are two photographs that I took of the actual
11 comparison from one bullet to another bullet under the
12 microscope --

13 Q. And so --

14 A. -- and showing the -- the alignment of the striations.

15 MR. KOZAK: Your Honor, I'd like to move State's
16 Exhibit 64 and 65 into evidence and publish to the jury.

17 MR. ERVIN: Without objection, Your Honor.

18 THE COURT: 64 and 65 are in evidence.

19 (State's Exhibit Number 64 and 65, photographs, were
20 admitted into evidence.)

21 BY MR. KOZAK:

22 Q. Now the first photo you examined, the one that's still
23 up here, State's Exhibit 62, do you know where that bullet
24 came from?

25 A. That is the autopsy bullet.

1 Q. Okay. And the second bullet you examined, are you
2 aware where that one came from?

3 A. It came from a headliner in a vehicle.

4 Q. And so you were able to put these two bullets side by
5 side and examine them?

6 A. Correct.

7 MR. KOZAK: I'm showing State's Exhibit 65, Your
8 Honor. I also have a demonstrative of an enlarged
9 version that I'd like to show the jury.

10 You can step down again.

11 Your Honor, is that okay?

12 THE COURT: That's fine.

13 BY MR. KOZAK:

14 Q. I'm showing State's Exhibit 65. The first thing I
15 want to ask you is what exactly are we looking at here just
16 generally? Because there's a line down the middle. What
17 are we looking at? What's in this photo?

18 A. So we're looking at both bullets at the same time.
19 So this bullet right here -- let's see. That's you-all's
20 left. Here on the left side, that's the original bullet
21 that I looked at from the first photograph.

22 Q. And you're talking about the bullet from the autopsy?

23 A. Correct. The autopsy bullet.

24 Q. Okay.

25 A. The second bullet came from a vehicle and all I'm

1 doing -- this is the dividing line and all I'm doing is
2 looking for that and starting to try and line them up. As
3 you can see, the striations here, here, they start lining
4 up and all. And this isn't even the true lands and
5 grooves. This is an imperfection that they both shared
6 that I'm matching up on it, but these are the striations as
7 they start to line up and all on the bullets.

8 Q. All right. And so is this that 360-degree puzzle you
9 were talking about?

10 A. Yes, sir. So once I got this lined up and all and
11 I know this is matching, so then what I do is I start
12 looking at the lands and grooves all the way around.
13 Because it's not enough that one section match up. I have
14 to have demonstrative matches in order to say there's an
15 identification. In other words, that they came through the
16 same barrel. So that's what I did. This is just one of
17 the -- this is just a photograph that I took while I was
18 doing that actually.

19 Q. And so did you take another photo of a different side
20 of both of these bullets?

21 A. I did of the actual land.

22 Q. I'm showing State's Exhibit 64.

23 MR. KOZAK: Your Honor, I'd like to use a
24 demonstrative of an enlarged version of that, if that's
25 okay?

1 THE COURT: That's fine.

2 BY MR. KOZAK:

3 Q. All right. State's Exhibit 63. Would you start off
4 by telling which bullet is where and then go ahead.

5 A. Okay. So, again, this is my autopsy bullet and then
6 this is a bullet taken from the car.

7 Q. And when you say autopsy bullet, just for the court
8 reporter what are you referring to sidewise on the poster
9 board?

10 A. My left or the left side.

11 Q. Okay. And then the right side is what?

12 A. The right side is the vehicle -- the bullet taken from
13 the vehicle.

14 Q. Okay.

15 A. Again, just like I had that imperfection I started
16 matching up, I come here and the lands are approximately
17 the same size and then we start matching up the striations
18 and all from down the barrel all the way down through, and
19 from my examination and all I was able to identify that
20 both bullets were fired through the same barrel.

21 Q. Okay. And so in your expert opinion both the bullets
22 you examined were fired through the same barrel?

23 A. Correct.

24 Q. Now were you also asked to examine a copper jacket in
25 this case?

1 A. I was, yes.

2 Q. And how do you examine a copper jacket?

3 A. Actually we try to examine it the exact same way. We
4 put the bullets that we're comparing the copper jacket to
5 underneath the microscope. We put the copper jacket
6 underneath the microscope just like we would a traditional
7 bullet and then we attempt to find striations and all to
8 match.

9 Q. Okay. And do you know what marker number the copper
10 jacket you examined corresponds to in this one?

11 A. I'd have to look.

12 Q. No worries.

13 A. Evidence Marker 16.

14 Q. And what exactly is a copper jacket?

15 A. So modern bullets, the majority of them, are made of
16 lead. The problem is lead is extremely malleable. You can
17 bend it. If it gets heat to it, it starts to fall apart.
18 So bullet manufacturers put some of coating, some sort of
19 jacket over it to prevent that lead from falling apart.
20 Literally just falling apart in flight. So the most common
21 type that we have is just a thin layer of copper. It's
22 thin enough that it doesn't affect the weight of the bullet
23 all that much, but it's enough to be able to hold the
24 bullet together when it gets heated.

25 Q. Okay. And how exactly can a copper jacket come off a

1 projectile?

2 A. It hits something.

3 Q. Okay. When a projectile hits something, is that gonna
4 change its patter or change its flight path?

5 A. So when it hits something, depending on the angle that
6 it hits, it's gonna change, deflect the bullet. In that
7 deflection, depending on the surface that it hits, the
8 angle that it hits at and other effects, then that copper
9 jacket and lead center can be pulled apart.

10 Q. And what happens to the lead center that is no longer
11 covered by copper?

12 A. It usually falls into multiple pieces. Sometimes they
13 don't even look like look -- like a bullet anymore. They
14 usually have a tendency to travel further than the bullet
15 -- than the copper jacket because it's still heavier than
16 the copper jacket, so usually it's lost.

17 Q. And so it's safe to say once that -- that copper
18 jacket's kind of holding the shape of that bullet?

19 A. Correct.

20 Q. And once it's gone?

21 A. All bets are off at that point.

22 Q. Okay. So what were you asked -- what were you able to
23 determine from your examination of the copper jacket?

24 A. I was inconclusive on the copper jacket.

25 Q. Okay. So you had two the bullet's and a copper

1 jacket. What else were you asked to examine?

2 A. I was asked to examine nine expended cartridges.

3 Q. Okay. So let's just start from the beginning. What
4 happens to a shell casing when it's fired?

5 A. So, first, when we talk about a cartridge, what we're
6 talking about is some sort of metal cartridge that has a
7 primer in the base, gunpowder in the body and a bullet on
8 the top. That's a cartridge.

9 So when a cartridge is fired, the primer is expended
10 by the firing pin which causes a -- for lack of better
11 words, a small explosion of the primer. That small
12 explosion causes the powder inside the cartridge to explode
13 which creates gas and everything and propels the bullet
14 down it barrel. Semiautomatic firearms, the opposite and
15 equal reaction. A bullet going down the barrel causes
16 the slide to disengage extracting the bullet that -- or
17 extracting the expended cartridge that's coming out of the
18 chamber and then cycling a brand new cartridge into the
19 chamber.

20 Q. And how many shell casings were you asked to examine
21 in this case?

22 A. Nine.

23 Q. And so as a first cursory examination of the shell
24 casings, what kind of information can you get from the
25 shell casings?

1 A. I was able to identify all of them as being
2 9-millimeter Luger rounds or cartridges from various
3 manufacturers made of various materials with various
4 primers.

5 Q. So I hear you saying that the shell casings that you
6 examined had -- I heard the word "various". So you have
7 various primers, various manufacturers and what was the
8 last one you said you had?

9 A. Primers -- construction of the cartridge.

10 Q. Okay.

11 A. So some manufacturers and all will take their
12 traditional brass and they'll put a thin coat of nickel on
13 it to make it nice and shiny.

14 Q. Now the fact that you have different manufacturers,
15 different primers and different construction, I guess,
16 nickel and like you were saying, does that have any effect
17 on being fired from the same firearm?

18 A. No. A 9-millimeter firearm is going to fire -- well,
19 a 9-millimeter firearm chambered in a 9-millimeter Luger is
20 gonna fire any 9-millimeter Luger cartridge. They all come
21 with the same specs. There's actually a governing body
22 over ammunition that says if you produce a 9-millimeter
23 ammo, it will be this size, it will have this size
24 projectile and everything to it. So regardless of
25 manufacturer and type, it will still cycle through the

1 same firearm.

2 Q. So the different brands, different primers doesn't
3 indicate anything to you on the number of firearms use?

4 A. No, the only thing I'm interested there is class
5 characteristics and whether or not they all match and
6 they're all -- that cartridge case is known as a
7 9-millimeter Luger, 9-millimeter Parabellum or a 9 by 19.

8 Q. So at this point in your examination, did you see
9 anything that would indicate multiple firearms?

10 A. No.

11 Q. And so also some 45-caliber casings were recovered at
12 the scene. Why did you not examine those?

13 A. I was not asked to examine those and also because the
14 .45 cartridge case would not seat, would not be able to
15 fire a 9-millimeter projectile.

16 Q. When you said 9-millimeter projectile, is that going
17 back to your bullet examination?

18 A. Correct. The bullet itself.

19 Q. So you were doing only 9-millimeters because the only
20 thing you'd found so far in your examination was related to
21 9-millimeter firearms?

22 A. Correct.

23 Q. Okay. So how exactly does -- once you've done the
24 cursory facial examination of the headstamps and the
25 materials, what's the next step in your examination?

1 A. So the next step is to put them underneath the
2 microscope and do exactly like we did with a barrel. We're
3 looking at microscopic imperfections. Just like there was
4 a tool used to make a twist inside that barrel that put
5 that rifling in, there's a tool that's cutting through
6 metal to put that chamber in place. So all we're doing is
7 we're looking at the imperfections of the tool that were
8 left on that chamber for comparison.

9 Q. And how many shell casings did you examine in this
10 case?

11 A. Nine.

12 Q. And did you photograph those examinations?

13 A. I did.

14 MR. KOZAK: Your Honor, I'm moving State's 66
15 through 79 -- oh, sorry. I'm showing opposing counsel
16 State's Exhibit 66 through 79.

17 May I approach?

18 THE COURT: Yes, you may.

19 BY MR. KOZAK:

20 Q. I'm showing the witness what's marked State's
21 Exhibit 66 through 79. What am I showing you?

22 A. These are all various photographs that I took during
23 my examination of the expended cartridges. Yes.

24 Q. Okay.

25 MR. KOZAK: Your Honor, at this time I'd like to

1 move State's Exhibit 66 through 79 into evidence and
2 publish to the jury.

3 MR. ERVIN: Without objection, Your Honor.

4 THE COURT: State's Exhibit 66 through 79 are in
5 evidence.

6 (State's Exhibit Number 66 through 79, photographs,
7 were admitted into evidence.)

8 MR. KOZAK: I have enlargements, Your Honor, that
9 I'd like to use with the jury, four at a time. I can
10 state which exhibits they are as we use them.

11 THE COURT: All right.

12 BY MR. KOZAK:

13 Q. The first enlargement is State's Exhibit 66
14 through 69, okay? I'm just gonna look at just State's
15 Exhibit 66 for a second. Showing State's Exhibit 66.

16 So is this similar to the bullet examination where
17 this is two different casings?

18 A. Correct. There was a cartridge that was located on
19 the road. I used that as my -- my standard and then I
20 compared all the cartridges to that standard.

21 Q. So you picked the cartridge that was found in the road
22 and you used that cartridge to compare to every cartridge
23 subsequently after that?

24 A. Correct.

25 Q. Which cartridge? Is it on the left or the right of

1 this photo?

2 A. My --

3 Q. This is the left on State's Exhibit 66.

4 A. On the left side. So the left is the -- the cartridge
5 that was found on the road and then it was compared to
6 cartridges from -- from there?

7 Q. Okay. So the left side of this exhibit where I'm
8 pointing, State's Exhibit 66, is the cartridge found in the
9 road?

10 A. Correct.

11 Q. And the other cartridge on the right in State's
12 Exhibit 66 is another cartridge you're comparing it to?

13 A. It's another cartridge, yes.

14 Q. Okay. And at any time did you change this standard
15 cartridge that you used for comparison?

16 A. No, I used the same one throughout the entire
17 examination.

18 Q. So you compared all eight remaining cartridges to that
19 one cartridge?

20 A. Correct.

21 Q. Now if you had in your examination seen something that
22 made you think they didn't match, what would you have done?

23 A. Well, if they didn't match what I would have done is
24 continue my examination the same way, taking that one out,
25 and then what I would have done is I would have put that

1 back in the lead spot and compare all of them again to it
2 just to make sure that I'm looking at the right place,
3 I'm making the right call, but I would have basically
4 just done the exact same -- the exact same thing just in
5 reverse compare. I would have compared all of them to that
6 cartridge.

7 Q. Now did you have to do that in this case?

8 A. No, I did not.

9 Q. All right.

10 MR. KOZAK: Your Honor, may I ask him to step down?

11 THE COURT: Yes, you may.

12 BY MR. KOZAK:

13 Q. All right. This is a blowup of State's Exhibit 66
14 through 69. Will you tell us what you were looking at
15 here?

16 A. So, again, in each of these panels here on the left
17 is my -- my starter cartridge and what we're looking at is
18 we're just making the correlation between these striations
19 and all as they travel from one to the other. It looks so
20 much better up there.

21 Q. Would you rather use the -- the large photos?

22 A. Yeah. Do you have a laser pointer by chance?

23 Q. I don't think we do, but I can point with my --

24 A. All right.

25 Q. Do you want to come up here and --

1 THE COURT: Let's -- let's move the easel.

2 MR. KOZAK: I'll get that, Your Honor.

3 All right. I'll leave this here for now.

4 THE WITNESS: So what we're looking at is --

5 MR. KOZAK: State's Exhibit 66, Your Honor.

6 THE WITNESS: What we're looking at is the
7 striations here. So see how this line continues out
8 and crosses over the line? So what we're looking for
9 is the demonstrative of those striations lining up. We
10 know that they're the same class, we know that they're
11 the same size, so now we're looking at those striations
12 as they match up. And that's all I did was just go down
13 and -- and see whether or not they aligned and once they
14 aligned and once I had enough points, I called it an
15 identification, and I moved on to the next cartridge.

16 BY MR. KOZAK:

17 Q. So the next cartridge, State's Exhibit 67. We'll just
18 look at a few of these just to get comparisons.

19 A. Okay.

20 Q. So show us what you're talking about there.

21 A. So here you can see there's kind of like a void here
22 that carries onto this side. Down here we have this
23 striation that matches up and aligns with this striation
24 here. This striation comes all the way across here.
25 Again, what I'm doing is I'm just looking and they've got

1 to match up, they've got to match up. Another one with
2 this one, it really doesn't show very well in this
3 photograph, but this right here is a rough point, kind of
4 like a -- like almost a void, like that area got pretty
5 beat up, but you can also see there's kind of a void area
6 here as well that matches up in alignment with this same
7 void on another cartridge.

8 Q. Okay. And so what is this area right here? What are
9 we looking at here?

10 A. Okay. So this is the firing pin impression. The
11 firing pin, when it hits that primer, it dents the primer
12 and that's what causes the primer to fire causing that
13 explosion, which causes the powder to burn, which causes
14 the projectile to go out -- the projectile to go down the
15 barrel.

16 Q. And is that something you would look at in comparison
17 with those casings to each other?

18 A. Correct. That's one of the class characteristics that
19 I would have looked for. You know, do I have a square
20 firing pin as opposed to a round firing pin. I think Glock
21 now has a teardrop shaped firing pin. Sig's come out with
22 a unique firing pin shape as well. So that goes in with
23 class characteristics making sure that those line up before
24 I start my examination.

25 Q. State's Exhibit 68. What are we looking at -- well,

1 this one's a little blurry and zoomed in. Why is this one
2 so zoomed in? What are we looking at?

3 A. So this is actually down inside the firing pin
4 indentation. It looked a whole lot better underneath the
5 scope, you-all. I promise. Like I said, the camera is not
6 always right out of focus and everything like that, I
7 promise it looked better, but hopefully I can get you-all
8 to see that. Right here on the gold side you have a --
9 okay. Everyone see right here in the center there's a
10 point? No, you can't because this is like really, really
11 ugly.

12 All right. So this firing pin had concentric circles
13 all the way out, so what I was able to do is I -- with the
14 firing pin pocket was to actually line up those concentric
15 circles and be able to say, okay, this firing pin made the
16 same strike on this cartridge case. I'm sorry about the
17 photograph.

18 Q. It's safe to say this isn't what it looked like under
19 the microscope?

20 A. No, no, no. It actually looks better here on paper
21 than it does up there. Oh, wait. Okay. Hold on. I can
22 see it now. So right here do you-all see how that's a line
23 right there? And I'm just drawing on this. I hope it
24 doesn't get me in trouble.

25 All right. So there's a striation here that continues

1 out to this side. What I was able to do underneath the
2 microscope is see multiples of these and I was able to
3 stack them up to say yes, this is an identification of this
4 cartridge.

5 Q. State's Exhibit 69. What are we looking at here?
6 What are we matching up?

7 A. The same thing. We're matching up striations and all
8 on the back side. You have these railroad tracks right
9 here, nice big pronounced ones that match up, you've got a
10 nice big pronounced one that matches up there, and then up
11 here at the very top you have another one. So just lining
12 those up, stacking them on top of each other, I was able to
13 make another identification.

14 Q. Okay. And then State's Exhibit 70, it looks like --
15 you were talking about the different colored primers and
16 everything. Is this -- this is still on the left side.
17 It's still the standard cartridge?

18 A. Correct.

19 Q. And on the right side is the new cartridge you're
20 comparing it to?

21 A. Correct.

22 Q. I notice it's not gold, it's silver. Now is that
23 gonna make any difference in your comparison?

24 A. Well, it actually is gonna make it a little bit harder
25 just simply because light is going to reflect off that --

1 that nickel or that tin a lot more than it is off the
2 brass. Regardless though if you turn down the shutters and
3 all, move your light around, and you're able to make an
4 identification of it.

5 Q. Okay. And this just by being a different color and
6 things it still comes back as a match to you?

7 A. It will still come back as an identification.

8 Q. Okay. I'll have you step back up.

9 A. Thank you.

10 Q. So that was kind of just a -- you did that with every
11 shell casing that you were asked to examine, what you just
12 did for us?

13 A. Correct.

14 Q. Okay. And all those examinations that you -- you
15 compared them to that one shell casing you found in the
16 road and what did you find with that comparison?

17 A. All nine of the cartridge case -- the expended
18 cartridges came out of the same chamber.

19 Q. Okay. And what is in your expert opinion -- that's
20 in your expert opinion that they were fired from the same
21 chamber?

22 A. Correct.

23 Q. Okay. Is it fair to say -- oh, sorry. Now did you
24 report -- did you produce a report in this case?

25 A. I did.

1 MR. KOZAK: I'm showing what's been marked as
2 State's Exhibit 80.

3 Your Honor, may I approach?

4 THE COURT: Yes, you may.

5 BY MR. KOZAK:

6 Q. I'm showing the witness what's been marked as State's
7 Exhibit 80. And what is that?

8 A. This is my report at the completion of my examination.

9 Q. And other than -- has it been altered or edited in any
10 way other than the agreed upon redactions?

11 A. No, it has not.

12 Q. Thank you.

13 MR. KOZAK: At this time, I'd like to move
14 State's Exhibit 80 into evidence, Your Honor.

15 MR. ERVIN: No objection, Your Honor.

16 THE COURT: State's Exhibit 80 is in evidence.

17 (State's Exhibit Number 80, a firearms report,
18 was admitted into evidence.)

19 BY MR. KOZAK:

20 Q. Now is it fair to say that the fact that you don't
21 have a weapon to compare these shell casings and bullets to
22 has limited your analysis?

23 A. Correct.

24 Q. So in total you examined nine shell casings?

25 A. Yes.

1 Q. And in your expert opinion all those shell casings
2 were 9-millimeter shell casings that were consistent with
3 having been fired from the same chamber?

4 A. Correct.

5 Q. You also examined two bullets and determined in your
6 expert opinion they were both 9-millimeter caliber?

7 A. Correct.

8 Q. Further, in your expert opinion both of these bullets
9 were fired through the same barrel?

10 A. Correct.

11 Q. And in your expert opinion regarding your review of
12 the casings and the bullets, there was nothing inconsistent
13 with both of these having been fired from the same firearm?

14 A. No, I -- I can't say firearm because I can't put the
15 chamber and the barrel together.

16 Q. And that's because you don't have a firearm to
17 examine?

18 A. Because I don't have the firearm. Now I can say the
19 same barrel and I can say the same chamber, but I'm not
20 gonna be able to say it's the same firearm, but we also
21 have only indication of one firearm being on-scene.

22 Q. Okay.

23 MR. KOZAK: No further questions, Your Honor.

24 THE COURT: Lawyers approach.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: All right. Mr. Ervin.

2 MR. ERVIN: Thank you, Judge.

3 CROSS-EXAMINATION

4 BY MR. ERVIN:

5 Q. Thanks for being here. I find your science very
6 fascinating and very interesting work.

7 A. Thank you, sir.

8 Q. You said that it was indicated that there was one
9 firearm on the scene. What do you mean by that?

10 A. So the -- you know what, you're right. I can't say
11 that.

12 Q. To clarify --

13 A. Yeah.

14 Q. -- there could have been more than one firearm?

15 A. There could have been.

16 Q. Okay. Do you have any experience with gunshot residue
17 evidence?

18 A. I do.

19 Q. Can you explain to me what gunshot residue is?

20 A. So gunshot residue is when you fire a gun that creates
21 -- that primer going off creates an explosion and all.
22 That gunpowder that's left over and all as it exits out the
23 barrel and out of the chamber itself, too, is unique in and
24 of itself because of the heavy metals that are involved,
25 and it can be identified and all. I think SLED uses an

1 atomic microscope or some sort of microscope to be able to
2 see the individual elements.

3 Q. Okay. So not only can you detect if a person has
4 fired a gun, but you can even match the gunshot residue to
5 the projectile? Is that what you're saying?

6 A. No.

7 Q. I'm sorry.

8 A. No, no, no.

9 Q. I'll carry on. With regards to GSR evidence in a
10 case, is it widely used, is it common, it is hard to use?
11 Can you categorize how it is?

12 A. So gunshot residue actually is -- is dropping more and
13 more in use, and the reason is, let's say two individuals
14 are in the same one and one of them shoots, well, that
15 gunpowder residue's in the air, so both of them are gonna
16 have gunpowder residue on themselves.

17 Another reason that it's dropping out of favor and
18 being used less and less is because of the time limit that
19 we're dealing with. Gunpowder residue is extremely
20 sensitive in nature. You wash your hands, it's gone. You
21 brush it on your pants, it's gone. If you sneeze on your
22 hands, you wipe your hands, it's gone. Because of that.
23 So for the longest time and all the FBI said, you know,
24 you've got to collect it within six hours. The FBI has
25 actually dropped back now and said you need to collect it

1 within three to four hours or -- or risk it being gone.

2 So really with it -- unless you have that individual
3 in a very short period of time after the incident, the
4 abilities for that GSR or gunpowder residue to be on their
5 person and not be washed on diminishes quickly. It's also
6 not definitive that that individual even shot the gun, they
7 just have gunpowder residue on their hands for -- like
8 right now if you tested me, I would test positive for
9 gunpowder residue. I haven't shot my gun, but my gun's
10 been shot and I've handled it. So an individual just
11 simply cleaning their -- cleaning their gun could have GSR
12 on their person as well.

13 Q. All right. So gunshot residue, albeit -- well, let me
14 put it this way. If you gathered gunshot residue within an
15 hour or two, it could be useful?

16 A. It could be.

17 Q. Okay. And if you're -- if you fired a weapon or been
18 near a weapon that was fired, it's possible -- within an
19 hour or two it's possible gunshot residue would be on you?

20 A. It is possible.

21 Q. And law enforcement still does, in fact, use gunshot
22 residue evidence today?

23 A. Yes.

24 Q. Okay. And you were asked to test two projectiles,
25 correct?

1 A. Correct.

2 Q. And you were asked to test nine or ten cartridges?

3 A. Nine.

4 Q. Okay. Where were the -- was anything told to you or
5 do you have idea what happened to the other eight
6 projectiles or seven projectiles?

7 A. I have no idea.

8 Q. Okay. You have no -- you've seen no physical
9 evidence or you have no physical evidence to indicate that
10 Mr. Patterson committed the crime of murder or possession
11 of a firearm, do you?

12 A. No, I don't.

13 Q. Thank you.

14 MR. KOZAK: No further questions, Judge.

15 THE COURT: Redirect?

16 MR. KOZAK: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. KOZAK:

19 Q. When you tested the projectiles, how many projectiles
20 were in evidence?

21 A. Two.

22 Q. And was that every projectile that was in evidence?

23 A. I believe so.

24 Q. And how many shell -- how many 9-millimeter shell
25 casings were in evidence?

1 A. Nine.

2 Q. And you tested every 9-millimeter shell casing that
3 was in evidence?

4 A. Right.

5 MR. KOZAK: No further questions, Your Honor.

6 THE COURT: Recross?

7 MR. ERVIN: No, Your Honor.

8 THE COURT: Thank you, Mr. Smith. You can step
9 down.

10 THE WITNESS: Am I released, Your Honor?

11 THE COURT: He's requesting to be released from his
12 subpoena. Any objection?

13 MR. KOZAK: No objection.

14 MR. ERVIN: No objection, Judge.

15 THE WITNESS: Thank you, sir.

16 (Witness excused.)

17 THE COURT: All right. State call your next witness.

18 MR. KOZAK: Your Honor, the State rests.

19 THE COURT: All right. Thank you.

20 Ladies and gentlemen, where we are in the course
21 of trial, the State has indicated that at this point
22 they've introduced all of the evidence that they intend
23 to introduce at this point, so this will be a good time
24 for us to take a break.

25 Let's start back -- be back ready to go at a quarter

1 after two, at 2:15. We'll start back at 2:15.

2 Again, do not discuss the case or anything you've
3 heard in court among yourselves or with anyone else.
4 Wait until we get all of the evidence in and the law has
5 been given to you.

6 With that, you're allowed to go to lunch.

7 Everyone remain seated will this jury is excused.

8 (Whereupon, the jury was excused for lunch at
9 12:43 PM.)

10 THE COURT: All right. Any motions at this time?
11 The State has rested.

12 MR. ERVIN: Judge, I make a motion for a directed
13 verdict. I believe the State's case is substantially
14 based on circumstantial evidence and there's no physical
15 evidence tying the crimes alleged to my client in any way.

16 THE COURT: All right. Thank you.

17 Does the State wish to be heard?

18 MS. ABEE: Very briefly, Your Honor.

19 Taking this motion in the light most favorable
20 to the State as the nonmoving party, Your Honor,
21 circumstantial evidence is, in fact, evidence. In fact,
22 I believe you will give an jury instruction on that at
23 the conclusion of this trial. So the circumstantial
24 evidence coupled with the physical evidence found at the
25 scene leaves a question of the fact for the jury to be

1 believe that the defendant did, in fact, shoot -- did
2 shoot the victim in this case with malice aforethought,
3 Your Honor, here in Lexington County, so we respectfully
4 ask that you deny defense counsel's motion.

5 THE COURT: All right. I deny the defense motion
6 for directed verdict. There is evidence in the record
7 that the jury -- of the type for the jury to take in the
8 light most favorable to the State of that evidence. I
9 believe the first witness indicated that she saw the
10 defendant jump up and started shooting to the house,
11 multiple shots, then heard more shots, then the car left.
12 And then we had a witness this morning who testified --
13 Mr. Clark, that he saw the defendant shooting directly
14 across the yard toward his brother and then saw him fall
15 to the ground.

16 That coupled with all the -- with the other evidence
17 in the case, I find that there's sufficient evidence to
18 base a denial of directed verdict and we'll proceed with
19 the case this afternoon.

20 MR. ERVIN: Thank you, Judge.

21 THE COURT: All right. Let me talk to -- Mr. Ervin,
22 do you intend to present evidence?

23 MR. ERVIN: I do, Judge.

24 THE COURT: Have you discussed with your client his
25 right to not testify at trial?

1 MR. ERVIN: I have, Judge. We have two witnesses
2 that are not the defendant. The defendant would plan to
3 testify, but we haven't made that final determination,
4 but I have discussed at length with him his right to
5 silence and not to have to testify.

6 THE COURT: All right. Let's bring him around.

7 Let me swear him in and let me go over his right
8 not to testify and then we can -- he'll certainly have
9 the lunch break and through his witnesses to make that
10 final determination.

11 (Whereupon, James Joseph Patterson III was duly
12 sworn by the Clerk of Court.)

13 THE COURT: All right. You are James Joseph
14 Patterson III; is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Mr. Patterson, at this time I'm going
17 to explain to you certain of your rights. If you don't
18 understand anything I say, please let me know. If you
19 want me to explain anything in more detail, please let
20 me know.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I'm gonna talk to you about your right
24 to testify or not testify. Have you already talked some
25 with your lawyer about that?

1 THE DEFENDANT: I did.

2 THE COURT: All right. Well, I'm gonna give you --
3 you'll have the rest of the lunch hour and then as far
4 as this afternoon to reach a final decision.

5 Well, we've now reached the stage of the trial where
6 you may present your defense. You have the right to
7 claim the protections given to you by the Fifth Amendment
8 to the Constitution of the United States. The Fifth
9 Amendment states, in part, that no person shall be
10 compelled in any criminal case to be a witness against
11 himself. This means that you cannot be required to
12 testify in this case. You have a right to testify on
13 your own behalf; however, no one can make you testify.
14 This is a personal right and no one can waive this right
15 except you.

16 If you decide to testify, you will be subject to
17 the same rules that govern other witnesses and you may
18 be examined and cross-examined on any relevant issue
19 in the case. In addition, if you have any convictions
20 involving dishonesty or a false statement or for
21 crimes punishable by imprisonment for more than one
22 year and this Court determines that the probative value
23 of admitting this evidence outweighs its prejudicial
24 effect to you, the prosecutor will be able to introduce
25 your record to attack your credibility.

1 Does he have any record that can be used to impeach
2 him?

3 MS. ABEE: He does, Your Honor.

4 THE COURT: All right. What are those?

5 MS. ABEE: Your Honor, I believe he has an unlawful
6 carry of a weapon from 2016 and it looks like a
7 possession -- MDP of a Schedule 1 or cocaine base
8 conviction as well, Your Honor.

9 THE COURT: All right. What that means is that
10 they would not be allowed to specifically talk about
11 the charge, but they can ask you on the stand -- they
12 have two convictions. They could ask you on the stand
13 and say Mr. Patterson, isn't it true that you have been
14 convicted of two offenses that carry more than a year in
15 jail. They can ask you if you testify today.

16 Do you agree with that, Mr. Ervin?

17 MR. ERVIN: Judge, I object to anything that would
18 be not used for the purpose of impeaching him, but with
19 regards to his -- I understand his conviction of more
20 than a year being exposed to felony charges certainly.

21 THE COURT: All right. And we'll -- if we need to
22 deal with the specifics of that issue later on, we will,
23 but at first glance it appears that they would be limited
24 to -- to question him about whether he was convicted of
25 two offenses that carry more than a year.

1 If you decide to testify, Mr. Patterson, the
2 decision on your part must be freely, voluntarily and
3 intelligently made with knowledge of the protections
4 given to you by the Fifth Amendment and the consequences
5 of your decision to testify. If you decide not to
6 testify, I will instruct the jurors, I will tell them
7 that they cannot give the fact that you did not testify
8 any consideration whatsoever and that there is to be
9 absolutely no prejudice to you because you did not
10 testify. It's left entirely up to you whether or not you
11 testify. You may talk with your attorney, your family,
12 your friends or anyone else, but the final decision will
13 be left entirely up to you about whether you testify.

14 Do you understand what I've explained to you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And, again, have you had an opportunity
17 to discuss with your lawyer your rights to testify or not?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: All right. Do you have any questions
20 about anything that I've explained to you?

21 THE DEFENDANT: That impeachment thing.

22 THE COURT: You can talk to your lawyer. He'll
23 give you more detail about what impeachment is. It just
24 means that --

25 THE DEFENDANT: I understand what impeachment means.

1 I'm just saying --

2 THE COURT: He'll talk to you and explain to you
3 where we are with those and we'll revisit that a little
4 bit later this afternoon if we need to.

5 MR. ERVIN: Thank you, Judge.

6 THE COURT: So we're gonna take a break. You'll
7 have plenty of break time during lunch to talk to your
8 lawyer and anybody else, but, again, the final decision
9 is up to you about whether you will testify, all right?

10 MR. ERVIN: Thank you, Your Honor.

11 THE COURT: Thank you.

12 Anything else for the record before we break for
13 lunch?

14 MR. ERVIN: Nothing from the defense, Judge.

15 MR. KOZAK: Nothing from the State, Your Honor.

16 THE COURT: Lawyers approach.

17 (Proceedings held at the bench; not reported.)

18 THE COURT: All right. We'll break for lunch.

19 MS. ABEE: Thank you, Judge.

20 (Whereupon, a luncheon recess was taken at
21 12:52 PM.)

22 (Back on the record at 2:16 PM.)

23 BAILIFF: All rise. Court's back in session.

24 THE COURT: Thank you. Please be seated.

25 All right. Is the State ready to proceed?

1 MS. ABEE: We are, Your Honor.

2 We just have a couple of things to take up prior
3 to the jury coming back in. It's my understanding in
4 speaking with defense counsel that the first witness
5 for the defendant is Tamare Howell. Tamare Howell is
6 currently an inmate at Alvin S. Glenn Detention Center
7 in Richland County or in Columbia. Just for court
8 planning purposes, it's our understanding that we're
9 gonna ask that Mr. Howell be brought in and sat prior
10 to the jury coming in since he is still in shackles.

11 THE COURT: Okay.

12 MS. ABEE: And then once the questioning's done
13 have the jury leave the room before Mr. Howell leaves
14 the bench.

15 THE COURT: You-all must have read the advance sheets
16 during lunch.

17 (Off the record discussion.)

18 THE COURT: We'll follow their procedure.

19 MR. ERVIN: And, Judge, so we spoke. Mr. Howell has
20 -- his family brought him clothes, so he is dressed in
21 street clothes, and the question is, you know, can we have
22 him to the stand before -- is he allowed to come without
23 ankle shackles on?

24 THE COURT: Well, here's the thing. That's a
25 security issue for them. If they determine that he needs

1 to be remain in foot shackles, we're gonna go ahead as the
2 Attorney General suggests. We'll go ahead and bring him in
3 here before the jury, have him seated, and whenever we
4 finish his testimony, we'll send the jury out and take
5 break and then we'll allow him to leave so they'll never
6 see.

7 MR. ERVIN: Okay. That sounds like what we're gonna
8 do, Judge.

9 THE COURT: All right. Let me --

10 MS. ABEE: And then, Your Honor, we just want to
11 bring up the first witness as well does have prior
12 convictions on his record. I think that's something we
13 wanted to address with Your Honor prior to questioning so
14 that we didn't cause any delay with the questions.

15 Mr. Howell, under 609, would have a common law
16 strong arm robbery from 2016, a possession of less than
17 one gram of meth or cocaine base from 2016, a failure to
18 stop for a blue light in 2018, and a possession with
19 intent to distribute first offense from 2019.

20 I think would be the point in time where we'd want
21 to ask Your Honor's preference on either being able to
22 question as to those prior convictions and how you would
23 like for us to do so.

24 THE COURT: All right. Let me hear you on -- your
25 position as far as a witness's prior record. Not the

1 defendant. He's a witness.

2 MS. ABEE: Right, Your Honor. As always, every
3 witness's credibility is in question and it's up to the
4 jury to determine the credibility of each witness. Under
5 Rule 609, it does allow for impeachment by evidence of
6 conviction of crime, which states in (a)(1) for the
7 purpose of attacking the credibility of a witness, which
8 would be Mr. Howell, evidence that a witness other than
9 an accused has been convicted of a crime shall be admitted
10 subject to Rule 403 if the crime is punishable by death
11 or imprisonment in excess of one year under the law which
12 the witness was convicted, and Part B stating a timeframe
13 of within the last ten years.

14 So obviously, Your Honor, that would be -- the crimes
15 and convictions themselves fall under (a)(1) and 609(b) as
16 far as the timeframe and the amount of time that they are
17 punishable by. So what we're looking at is being subject
18 to 403, Your Honor. And, again, this is all about
19 credibility. It's my understanding that they're gonna say
20 that there is a different shooter in this case and so the
21 credibility and the veracity and the truthfulness of this
22 witness and him having prior convictions I think is, in
23 fact, probative and outweighs any 403 balancing test.

24 THE COURT: All right. Let me hear from you,
25 Mr. Ervin.

1 MR. ERVIN: Judge, 403, the more prejudicial than
2 probative balancing test obviously goes towards crimes
3 of moral torpitude, crimes of veracity and credibility,
4 not prior bad acts. The crimes for which she's discussing
5 in regards to Mr. Howell's prior records are totally
6 irrelevant. We have no idea what the facts surrounding
7 those circumstances were. We're talking about a drug
8 crime, we're talking about a theft crime that he could have
9 been a co-defendant for. He could have been -- all kinds
10 of different elements that have nothing to do with his
11 credibility or veracity and certainly will color the jury's
12 opinion of the man based on irrelevant factors. There's no
13 way that those crimes have anything to do with his
14 credibility what so ever. Had it been check fraud, had it
15 been computer hacking, had he been stealing from the
16 Government, stealing food stamps, et cetera, I can totally
17 see how that would come in, but under these circumstances,
18 Judge, these are crimes of circumstance. It's a young man
19 and in situations where he's got peer pressure, he's
20 dealing with other co-defendants. I could go on and on and
21 on about how irrelevant these crimes are to his credibility
22 and veracity, and I think 403 clearly makes it
23 inadmissible.

24 THE COURT: All right. Ms. Abee.

25 MS. ABEE: Just very briefly in response, Your Honor,

1 one of the examples that defense counsel just said was if
2 he was stealing food stamps, then that would go to his
3 veracity. He's convicted of armed robbery and that is
4 stealing, but also with a weapon, and so if we're talking
5 about stealing being a crime of veracity or truthfulness,
6 surely a common law strong arm robbery would fall
7 underneath that.

8 MR. ERVIN: Your Honor, stealing food stamps has to
9 do with lying about who's in your household and how many
10 family members you have and it has to do with credibility
11 on your food stamp application. I didn't say he was
12 smashing and grabbing some old lady's purse with food
13 stamps in it. That would be irrelevant. Stealing food
14 stamps from the Government has to do with filling out an
15 application and saying you have more family members in your
16 household than you do. I've represented people on this
17 particular crime and it is a crime of veracity. Not strong
18 arm robbery. Stealing in general is not a crime of
19 veracity. Stealing for hunger, stealing for greed --
20 again, Your Honor, I could go on and on and on, but I think
21 clearly those crimes do not fall under the category.

22 THE COURT: All right. Give me the list of the --
23 what are the potential convictions that you would like to
24 use and exactly when he was convicted?

25 MS. ABEE: And, Your Honor, following the rule of

1 what is listed, the timeframe and the punishment, the
2 convictions that are applicable are 2016 common law
3 strong arm robbery, a 2016 possession of less than one
4 gram of meth or cocaine base, a 2018 failure to stop for
5 a blue light, and a 2019 possession with intent to
6 distribute first offense.

7 THE COURT: Of what?

8 MS. ABEE: It just says possession with intent
9 to distribute first offense, Your Honor. Schedule 1,
10 2 or 3.

11 THE COURT: All right. Do you wish to be heard
12 again?

13 MR. ERVIN: The last thing, Judge --

14 THE COURT: I'm sorry. She stood, I'm not sure if
15 she was responding, and then I'll come back you. I'm
16 gonna you the last word.

17 Ms. Abee.

18 MS. ABEE: And just, Your Honor, that 609
19 differentiates crimes that carry more than one year
20 imprisonment that have occurred within the last ten years
21 in crimes of truthfulness and veracity. Crimes of
22 truthfulness and veracity are always allowed to be admitted
23 and aren't require to have that 10-year timeframe limit.
24 However, when our Legislature created these rules, what
25 they did is they separated out crimes that carry one year

1 within the last ten years, so those are two completely
2 different balancing tests to just kind of un-contradict
3 what it is that defense counsel was saying. They're two
4 separate sets of the rule.

5 MR. ERVIN: Your Honor, that's an inaccurate
6 restatement of the law. If all felonies from the last
7 ten years are admissible, why would we even have the
8 balancing test? It is with regards to impeaching a
9 witness's credibility period. There is no criminal
10 record other than the relevant crime of the incident or a
11 crime as to credibility.

12 In this case, you have a 2016 strong arm robbery.
13 You're labeling the statutory title. You're not giving
14 the facts and circumstances which are obviously not
15 admissible in this case. If it's the crime of lying,
16 the crime of fraud and the crime of, you know, other
17 crimes of credibility, then the title itself describes
18 the crime. In this case, PWID blank. What are we
19 talking about? Marijuana or crack? Two very different
20 crimes. Are we just gonna say PWID?

21 And then we've got failure to stop for a blue light.
22 Was he in a high speed chase or did he fail to pull over at
23 an exit on the highway?

24 All right. Then we've got possession of one gram
25 of cocaine or meth. Which is it? And then we've got

1 common law strong arm robbery. What does that mean?
2 We're gonna get into an area where I have to at least be
3 able to describe what happened in those cases and then I'm
4 getting into areas of inadmissibility.

5 THE COURT: Well, I think that's the purpose of the
6 rule to keep us from having a trial within a trial --

7 MR. ERVIN: Right. That's right.

8 THE COURT: -- and not having to try the facts and
9 circumstances of every particular --

10 MR. ERVIN: And, if I may, Judge, her saying these
11 things to my client and letting the jury hear this,
12 doesn't change the facts of this case in any way, nor
13 does it change his credibility. And, frankly, you know,
14 the fact that he's committed crimes in the past doesn't
15 change his credibility for me either. It colors the jury's
16 opinion.

17 THE COURT: What's he in the Department of
18 Corrections for now?

19 MR. ERVIN: The strong arm robbery.

20 THE COURT: What did he do, get his probation
21 revoked?

22 MR. ERVIN: He's in Alvin S. Glenn. It's pending,
23 Your Honor. He's got bench warrant and he failed to
24 appear.

25 MS. ABEE: Right. Your Honor, it makes it look

1 like based on the record that there is a -- from April
2 the 17th of 2023, an armed robbery with a deadly weapon
3 out of Richland County, and possession of a weapon during
4 the commission of a violent crime.

5 THE COURT: Okay. So he's not in the Department of
6 Corrections, he's in Alvin S. Glenn, and these are
7 pending charges.

8 MS. ABEE: Correct.

9 MR. ERVIN: That's correct.

10 THE COURT: These are pending charges?

11 MS. ABEE: Correct.

12 THE COURT: All right. We won't go down that path.

13 MR. ERVIN: Judge, I just don't see how it could be
14 relevant and I'll -- I'll stop talking.

15 THE COURT: All right. Thank you.

16 Well, here's what I'm gonna do. I'm gonna stick
17 with the rule. I mean, the issue is, first, whether
18 it's admissible or not, but that -- that gets you to 403,
19 and then the Court has to determine whether it's more
20 prejudicial than probative. 609 actually doesn't -- or
21 608 actually doesn't apply because it refers to 609,
22 impeachment by evidence, conviction of a crime.

23 I'm gonna allow -- we're gonna follow the same rule.
24 I'm not gonna allow him to impeach you on the name of the
25 charges. You certainly can ask him if -- however you want

1 to as a trial strategy question. If on impeachment you
2 need to ask him, you can say, for instance, were you
3 convicted of a crime that carried more than one year in
4 2016? Were you convicted of another crime in 2016? Were
5 you convicted of another crime that carried more than
6 one year in 2018. I'm gonna allow you to -- I'm gonna
7 limit you to what we generally do with defendants, that
8 you can -- I'm not going to rule that that is inadmissible;
9 however, I think you can use that, but I'm gonna limit you
10 on how you impeach him to the fact of not naming the
11 crime. I find that Mr. Ervin's right. Depending -- we
12 don't know what -- the facts and circumstances of the
13 strong arm robbery. It may very well have been a true
14 technical strong arm robbery; however, we're all aware of
15 circumstances where people oftentimes in family situations
16 are accused and convicted of an armed robbery or strong arm
17 robbery. So we're not here to flesh out the specifics of
18 each of those, but I'll allow the State to impeach him with
19 questions regarding convictions of crimes that carry more
20 than one year.

21 Do you-all understand -- do you-all understand the
22 parameters?

23 MS. ABEE: I do, Your Honor.

24 MR. KOZAK: Yes, Judge.

25 MR. ERVIN: Judge, this is -- again, I don't want

1 to show any ignorance on my part, but I was of the
2 understanding that those types of records are inadmissible
3 per se.

4 May I discuss with my witness what you just ruled?

5 THE COURT: All right. Well, now let me be sure that
6 we're all on the same page and we understand. Rule 609
7 says for the purpose of attacking credibility of a witness,
8 evidence that a witness other than an accused has been
9 convicted of a crime shall be admitted subject to Rule 403.
10 So you were talking about whether it's admissible or not.
11 If the crime was punishable by death or imprisonment in
12 excess of one year under the law under which the witness
13 was convicted and evidence that an accused has been
14 convicted of such a crime shall be admitted if the Court
15 determines that the probative value of admitting this
16 evidence outweighs its prejudicial effect to the accused.
17 That's the 403.

18 I find that in this particular case it's very clear
19 that a large part of this case is based on statements and
20 credibility of up until this point I think three witnesses
21 and may involve the defense witnesses as well, and so I
22 find that under Rule 609 the fact that he was convicted
23 of crimes that carry more than one year, that that is
24 admissible and I find that in weighing those that that
25 goes to the probative value for a jury to determine his

1 truthfulness.

2 MR. ERVIN: Your Honor, my question was may I consult
3 with my witness?

4 THE COURT: Oh, yeah. Yeah. I wanted to be sure I
5 had the record clear. You talk to your client.

6 MR. ERVIN: My witness, Mr. Howell.

7 THE COURT: I'm sorry. Your witness.

8 MR. ERVIN: Just briefly, Your Honor.

9 (Pause in proceedings.)

10 MR. ERVIN: Your Honor, we're ready when you are.

11 THE COURT: Let me be sure the record is clear, too,
12 that what we're discussing is a potential witness in the
13 case that the defense has called, so it's not necessarily
14 the witness's choice in whether to testify or not, it's
15 whether the defendant wishes to call him as a witness,
16 and I think that's where we are and that's who you're
17 calling.

18 Sir, if you'd just have a seat.

19 All right. Let's bring the jury in.

20 (Whereupon, the jury return to the courtroom at
21 2:37 PM.)

22 THE COURT: All right. Thank you, ladies and
23 gentlemen. We're ready to begin the next portion of the
24 trial.

25 Mr. Ervin, call your next witness.

1 MR. ERVIN: Thank you, Your Honor.

2 The defense calls Mr. Tamare Howell.

3 THE COURT: All right. Madam Clerk, if you can
4 swear Mr. Howell in.

5 (Whereupon, Tamare Howell was duly sworn by the
6 Clerk of Court.)

7 THE CLERK: If you'll state your name and spell
8 your last name for the record.

9 THE WITNESS: Tamare Howell. H-O-W-E-L-L.

10 TAMARE HOWELL,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. ERVIN:

14 Q. Good afternoon, Mr. Howell. Thank you for joining us.

15 A. Yes, sir.

16 Q. Mr. Howell, were you with James Patterson on
17 November 9, 2020?

18 A. Yes, sir.

19 Q. Okay. Where were you-all?

20 A. On South Hampton.

21 Q. South Hampton Street?

22 A. Yes, sir.

23 Q. And how do you know Mr. Patterson?

24 A. That's my cousin.

25 Q. Okay. And how long have you known him?

- 1 A. Since I was born.
- 2 Q. Okay. And what time did you get up with him that day?
- 3 A. We was together all day.
- 4 Q. Okay. How did you get over to South Hampton?
- 5 A. My cousin Stephanie's car.
- 6 Q. Stephanie. What kind of car does Stephanie drive?
- 7 A. I think a burgundy Ford.
- 8 Q. Who drove the car -- you-all borrowed her car?
- 9 A. Yes, sir.
- 10 Q. Who drove the car when you borrowed it?
- 11 A. My cousin.
- 12 Q. Mr. Patterson?
- 13 A. Yes, sir.
- 14 Q. Okay. And you-all went to South Hampton?
- 15 A. Yes, sir.
- 16 Q. And who lives at South Hampton?
- 17 A. William.
- 18 Q. William Clark?
- 19 A. Yes, sir.
- 20 Q. And he's, as you know, passed away, correct?
- 21 A. Yes, sir.
- 22 Q. Who all was over at William Clark's house that day?
- 23 A. Donnie, AJ, William, his baby momma, and like a couple
- 24 of homeboys from the neighborhood.
- 25 Q. All right. When you say Donnie, you mean Donnie

1 Clark?

2 A. Yes, sir.

3 Q. When you say AJ, do you mean Albert Clark?

4 A. Yes, sir.

5 Q. How are Donnie and Albert related to William?

6 A. I think Donnie is they cousin and AJ is William's
7 brother.

8 Q. Okay. Who all lives at South Hampton?

9 A. Just William.

10 Q. Okay. What time did you get to South Hampton?

11 A. I think around -- around 5:00.

12 Q. Okay. What did you-all do when you got there?

13 A. We just chill around for a little bit and then started
14 gambling.

15 Q. Okay. What kind of gambling were you doing?

16 A. Rolling dice. 7/11.

17 Q. How do you play that?

18 A. You try to roll the dice until you get the same number
19 again.

20 Q. Okay.

21 A. Yes, sir.

22 Q. And were you-all playing for money?

23 A. Yes, sir.

24 Q. Were you playing for money?

25 A. Yes, sir.

1 Q. Okay. Who all was rolling dice?

2 A. Just me and three other homeboys from the neighborhood
3 and my cousin and Albert were side betting.

4 Q. What does side betting mean?

5 A. Like they pick somebody that they like that's gambling
6 on the wood.

7 Q. Who was Albert side betting with?

8 A. One of the -- one of the homeboys from the
9 neighborhood.

10 Q. Okay. And was Mr. Patterson betting?

11 A. Yes, sir.

12 Q. Who was he betting with?

13 A. Me.

14 Q. Okay. And were you winning?

15 A. Yes, sir.

16 Q. How much did you win?

17 A. I won probably about like 500, my cousin had probably
18 like a thousand.

19 Q. Mr. Patterson had about thousand dollars?

20 A. Yes, sir.

21 Q. Who did he win that from?

22 A. Albert.

23 Q. Albert. Mr. Patterson had taken a \$1,000 from
24 Mr. Clark, Albert Clark?

25 A. Yes, sir.

- 1 Q. He won it fair and square?
- 2 A. Yes, sir.
- 3 Q. All right. And then what happened?
- 4 A. There was a disagreement about a call, my cousin
- 5 decided to quit, and he wasn't kind of happy with that.
- 6 Q. Who wasn't happy with that?
- 7 A. Albert.
- 8 Q. Okay. Then what happened?
- 9 A. My cousin tried to walk off and he put his hands on
- 10 him and kind of like had knocked -- bumped into the table
- 11 and a gun fell out off the table and went off.
- 12 Q. Whose gun?
- 13 A. William.
- 14 Q. William Clark had a gun in the house?
- 15 A. Yes, sir.
- 16 Q. What kind of gun was it?
- 17 A. I want to say a .45.
- 18 Q. A 45-caliber pistol?
- 19 A. Yes, sir.
- 20 Q. Okay. And how did the gun go off again?
- 21 A. The table had fell and broke and the gun was sitting
- 22 on the table and the gun went off.
- 23 Q. Okay. The table fell and broke?
- 24 A. Yes, sir.
- 25 Q. The gun fell to the ground or at some point went off?

1 A. Yes, sir.

2 Q. Who -- so was the gun purposely discharged?

3 A. No, sir.

4 Q. It was an accident?

5 A. Accident.

6 Q. Then what happened?

7 A. Everybody walked outside the house. We was getting in
8 the car to leave.

9 Q. Whose car?

10 A. My cousin's car that we came in.

11 Q. That's Stephanie Glover's car?

12 A. Yes, sir.

13 Q. Her name's Stephanie Glover?

14 A. (Nods head.)

15 Q. Okay. That's the burgundy vehicle?

16 A. Yes, sir.

17 Q. Burgundy sedan, right?

18 A. (Nods head.)

19 Q. Then what happened?

20 A. I had left a bag in the house, so I went back in the
21 house to get a bag and I heard him saying get a gun, so
22 I was walking fast, I got the bag. When I came back out
23 the house, they were shooting. He was shooting at me.

24 Q. Who?

25 A. Albert.

1 Q. Albert Clark was shooting a gun?

2 A. Shooting at the vehicle that we was in.

3 Q. Okay. Shooting at the burgundy sedan?

4 A. Yes, sir.

5 Q. Okay.

6 MR. ERVIN: I beg your indulgence, Judge.

7 Sorry, Your Honor.

8 Thank you, Joel.

9 BY MR. ERVIN:

10 Q. Mr. Howell, can you see this picture?

11 A. Yes, sir.

12 Q. Okay. Now do you recognize this to be William Clark's
13 house?

14 A. Yes, sir.

15 Q. And this is his driveway. We'll call it the driveway.
16 The sandy area, yes?

17 A. Yes, sir.

18 Q. Okay. Now where was the burgundy vehicle? Here?

19 A. Parked by the fence by the dog.

20 Q. There's the fence, yes?

21 A. Toward -- toward the right. A little bit right here.

22 Q. Right there?

23 A. Yes, sir.

24 Q. Okay. Were there any other vehicles in that area?

25 A. I think it was like two -- two or three more vehicles

1 over there.

2 Q. Okay. Kenyatta has driven a car as well?

3 A. Yes, sir.

4 Q. Okay. Was there a door on this side of the house?

5 A. Yes, sir.

6 Q. Where did that door lead to on the inside?

7 A. William's room.

8 Q. William's room?

9 A. (Nods head.)

10 Q. Which door did you exit?

11 A. William's room.

12 Q. Okay. So you -- and then you said you exited and you
13 went back in?

14 A. Yes, sir.

15 Q. Same door?

16 A. Yes, sir.

17 Q. What happened when you went back in?

18 A. I went to go grab my bag and walk back outside.

19 Q. Okay. And then what happened?

20 A. They started shooting.

21 Q. Who started shooting?

22 A. Albert started shooting.

23 Q. What did you -- okay. Did you see Albert shooting or
24 did you hear him shooting?

25 A. I seen him. He was walking from -- from the bottom

1 right there.

2 Q. Was he -- did he come out the other side of the house?

3 A. Yes, sir. He came -- he came out the front.

4 Q. Okay. So this would be the front of the house?

5 A. Yes, sir.

6 Q. And he came out this way and started shooting in which
7 direction?

8 A. Up the hill. Towards the hill.

9 Q. This way?

10 A. Yes, sir.

11 Q. Okay. Toward the fence, right?

12 A. Yes, sir.

13 Q. Did you see William Clark walk out of the building?

14 A. Yes, sir. He walked out when everybody else walked
15 out.

16 Q. Where did he walk out? His room or the front of the
17 house?

18 A. He walked out the front.

19 Q. Okay. Did you see any vehicles on this side?

20 A. Yes, sir. I think there was probably like two or
21 three of them over there.

22 Q. What kind of vehicles?

23 A. A white box truck and I think a blue -- I don't know
24 what's it's call. Like a little two-door Dodge, I think.

25 Q. Okay. You saw Albert Clark shooting. Did you see

1 William Clark shooting?

2 A. I didn't see him shooting, but somebody else -- did
3 you say William?

4 Q. Yes.

5 A. Oh, no, sir. I didn't see William shoot.

6 Q. Okay. You know William got shot, right?

7 A. Yes, sir.

8 Q. Did you see William get shot?

9 A. No, sir.

10 Q. All right. Let's back up a little bit. When did
11 Mr. Patterson walk out of the house?

12 A. He walked out first.

13 Q. In front of you?

14 A. Like when the gunshots went out, we all walked out at
15 the same time.

16 Q. Okay. And Mr. Patterson was in front of you, right?

17 A. Yes, sir.

18 Q. And then you turned around and went back in the house.
19 Where did Mr. Patterson go at that point?

20 A. We was all getting in the car to leave.

21 Q. The burgundy sedan?

22 A. Yes, sir.

23 Q. Okay. You went back in to get your bag. Did you get
24 your bag?

25 A. Yes, sir.

1 Q. Then what happened?

2 A. I was getting back -- I was getting back in the car,
3 but he started shooting, so I ran down the street.

4 Q. So you -- where? This street?

5 A. Yes, sir.

6 Q. So you boogied this way?

7 A. Yes, sir.

8 Q. On foot?

9 A. (Nods head.)

10 Q. Did you ended up going this way or this way?

11 A. Up to the top.

12 Q. This way? No, this way?

13 A. Up to the top.

14 Q. All right. Is it this way?

15 A. Yes, sir.

16 Q. Okay. It looks like the bottom. That's why I said
17 that. It was confusing. So you went in this direction on
18 foot and then what happened?

19 A. I seen my cousin. He pulled up beside me and picked
20 me up.

21 Q. So Mr. Patterson exited the property in the burgundy
22 sedan?

23 A. Yes, sir.

24 Q. Turned this direction and picked you up?

25 A. Yes, sir.

1 Q. And then what happened?

2 A. We went home.

3 Q. Okay. What did you do after that?

4 A. Just sat at the house and chilled.

5 Q. You were glad not to be shot; is that right?

6 A. Yes, sir. Well, I hadn't known nobody got shot.

7 Q. Okay. Let me ask you this. When did you return the
8 vehicle to Stephanie?

9 A. The same night.

10 Q. What time?

11 A. I think it was around like nine or ten, I think.

12 Q. Okay.

13 MR. ERVIN: I beg your indulgence, Your Honor.

14 BY MR. ERVIN:

15 Q. Mr. Howell, was there any drinking, smoking going on
16 at the party?

17 A. Yes, sir.

18 Q. What was going on?

19 A. They were drinking and smoking.

20 Q. What were they drinking?

21 A. I think Jim Beam.

22 Q. Who was drinking?

23 A. Albert.

24 Q. Albert was drinking liquor?

25 A. Yes, sir.

1 Q. Brown liquor?

2 A. Yes, sir.

3 Q. Was Albert smoking weed?

4 A. Yes, sir.

5 Q. Was there any cocaine going on?

6 A. Yes, sir.

7 Q. Okay. So there was gambling, smoking weed, drinking
8 liquor?

9 A. Yes, sir.

10 Q. And Albert lost a thousand dollars to Mr. Patterson?

11 A. Yes, sir.

12 Q. And he was drunk?

13 A. Yes, sir.

14 Q. Was he impaired? Did he behave like he was drunk?

15 A. He kind of sort of.

16 Q. Was Albert there when you got there?

17 A. Yes, sir. He was there before us.

18 Q. Did Albert ever leave to go get money or anything like
19 that?

20 A. No, sir.

21 Q. Okay. Was Donnie Clark there?

22 A. Yes, sir.

23 Q. Okay. Where was William Clark while you were
24 gambling?

25 A. In the room with the door closed the whole time.

1 Q. He was in the room with the door closed the whole
2 time?

3 A. Yes, sir.

4 Q. Okay. Who was in the room with him?

5 A. His baby momma.

6 Q. Was that Kenyatta?

7 A. Yes, sir.

8 Q. She was in the room with him?

9 A. Yes, sir.

10 Q. Did they ever come out of the room while you were
11 gambling?

12 A. No, sir.

13 Q. Was William come out before the shot was fired?

14 A. I mean, he was out when we pulled up. Like that was
15 the only time. When we first came, he was already out.

16 Q. Okay. But he was shackled up with Kenyatta pretty much
17 the whole evening?

18 A. Yes, sir.

19 Q. Okay. When the gun fired inside and you exited the
20 building, did you open the door or who opened the door to
21 the bedroom to get out that room?

22 A. William opened the door first.

23 Q. William opened the door to see what happened or what?

24 A. To see what happened.

25 Q. Okay. Did he say -- well, never mind.

1 Okay. Do you have anything else you want to tell this
2 courtroom about this incident?

3 A. No, sir.

4 Q. All right.

5 MR. ERVIN: No further questions, Judge.

6 THE COURT: All right. Cross-examination?

7 MS. ABEE: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. ABEE:

10 Q. All right. Mr. Howell, before we get into what
11 happened that night, I want to go over a couple of things.
12 And without telling us what they are, you have, in fact,
13 been convicted of a crime in 2016 that carries more than a
14 year imprisonment; is that right?

15 A. Yes, ma'am.

16 MR. ERVIN: Objection, Your Honor.

17 THE COURT: I note your objection. I overruled the
18 objection.

19 BY MS. ABEE:

20 Q. I'm gonna ask that again. You were, in fact,
21 convicted of a crime in 2016 that carried more than a year
22 imprisonment, right, sir?

23 A. Yes, ma'am.

24 Q. Okay. And, again, in 2018, right?

25 A. 2018? Yes, ma'am.

1 Q. Okay. And, again, in 2019, right?

2 A. Yes, ma'am.

3 Q. Okay. Now, Mr. Howell, I want to talk a little bit
4 now about November the 9th of 2020, and if it's okay with
5 you, we've been kind of looking at this map in a different
6 direction, so I'm gonna turn State's Exhibit 2. Is that
7 okay?

8 A. All right.

9 Q. All right. We've been looking at it throughout this
10 trial this way. Do you still kind of know where everything
11 is on this map?

12 A. Yes, ma'am.

13 Q. Okay. Now, Mr. Howell, you said that people were
14 drinking that night, right?

15 A. (Nods head.)

16 Q. Is that a yes?

17 A. Yes, ma'am.

18 Q. I'm sorry. She's taking down everything you say, so
19 I've got to make sure you answer out loud, okay?

20 A. Yes, ma'am.

21 Q. Does that include you?

22 A. No, ma'am.

23 Q. Okay. So everyone else was drinking but you?

24 A. Yes, ma'am.

25 Q. Okay. And you said that people were, what, smoking

1 weed; is that fair?

2 A. Yes.

3 Q. Okay. Not you, right?

4 A. No, I was smoking weed.

5 Q. Okay. So you were smoking weed. And what about doing
6 cocaine? Were you doing cocaine?

7 A. No, ma'am.

8 Q. Okay. So you were smoking the weed, but not drinking
9 or doing cocaine?

10 A. Yeah. I don't do coke.

11 Q. Okay. But you would agree with me that you were
12 gambling inside of this house that night, right?

13 A. Yes, ma'am. I was gambling.

14 Q. Okay. And I think you said it was you, right?

15 A. Yes, ma'am.

16 Q. The defendant, right?

17 A. I mean, he wasn't -- he was side betting. He wasn't
18 gambling with us.

19 Q. Side betting is money, right?

20 A. Yeah. You can say that, yeah.

21 Q. Okay. So he wasn't rolling the dice, right?

22 A. No, he wasn't rolling dice.

23 Q. But he was exchanging money back and forth betting on
24 -- betting on people?

25 A. Yes, ma'am.

1 Q. Okay. And then you said that Albert was there as
2 well, right?

3 A. Yes, ma'am.

4 Q. And a couple of other people from the neighborhood I
5 think is what you described?

6 A. Yes, ma'am.

7 Q. And at some point in time you said that there was some
8 sort of commotion right, and a table got flipped?

9 A. Yes, ma'am.

10 Q. Okay. And in that you said that a gun happened to be
11 sitting on the table, right?

12 A. Yes, ma'am.

13 Q. And that that's when a shot was fired inside, right?

14 A. The gun fell off the table and went off.

15 Q. And fired, right?

16 A. Yes, ma'am.

17 Q. And throughout this entire time according to you
18 William was in his bedroom, right?

19 A. Yes, ma'am.

20 Q. With Kenyatta?

21 A. (Nods head.)

22 Q. Is that a yes?

23 A. Yes, ma'am.

24 Q. Okay. And that door was shut, right?

25 A. Yes, ma'am.

1 Q. However, that's the door that you decided to leave out
2 of once that gunshot was fired, right?

3 A. That's because when the gunshot fired, William opened
4 the door and walked out to see what happened, so the door
5 was already open.

6 Q. Okay. And so then you went through his bedroom,
7 right?

8 A. Yes, ma'am.

9 Q. And out this side of the house over here?

10 A. Yes, ma'am.

11 Q. And it wasn't just you that went out. It was also
12 James Patterson, right?

13 A. Everybody else was going through the front.

14 Q. Okay. Mr. Patterson followed you out the bedroom
15 door, right?

16 A. No, ma'am. He went through the front.

17 Q. Okay. So James Patterson left the front, right?

18 A. Yes, ma'am.

19 Q. Okay. And you said also that Albert then left the
20 front, right?

21 A. Yes, ma'am.

22 Q. And then William also left the front as well, right?

23 A. Yes, ma'am.

24 Q. And would you say it was pretty chaotic, right?

25 A. I mean -- yes, ma'am.

1 Q. Okay. I mean, a gun had just gone off, right?

2 A. (Nods head.)

3 Q. We can agree that that's not a normal thing that
4 happens every night, right?

5 A. Yes, ma'am.

6 Q. Okay. And so throughout all this chaos you decide to
7 then go back into the house, right?

8 A. Yes, ma'am.

9 Q. Okay. And that's when you said that you went to go,
10 what, grab your bag?

11 A. Yes, ma'am.

12 Q. You had a bag of things there?

13 A. No, ma'am. I had brought a bag there, yes, ma'am.

14 Q. Okay. And you went -- throughout all of this chaos
15 and the gunshot being fired, you then went back into the
16 house, right?

17 A. Yes, ma'am.

18 Q. And that's when you say that you saw Albert grab a
19 gun, right?

20 A. Yes, ma'am.

21 Q. Okay. And according to you, Albert then comes out
22 this front door, right?

23 A. He was already outside. Everybody came outside at
24 once.

25 Q. Okay. So I'm sorry, Mr. Howell. I'm just a little

1 confused. If you were outside and everyone was outside,
2 you go back in and get your bag and see him grabbing a
3 gun --

4 A. Yes, ma'am.

5 Q. -- how's he already outside?

6 A. No, I'm saying when I went back, when I was going in
7 the house, he was going to grab a gun and I was going in
8 the house.

9 Q. Okay. Then he exited the house?

10 A. He was already outside. He got the gun from out of
11 the car outside.

12 Q. So the gun wasn't inside the house?

13 A. There was a gun in the house, but there was a gun
14 outside, too, in the car.

15 Q. Okay. So the gun that you saw Albert get you're
16 saying was in his car?

17 A. It was outside in the car.

18 Q. Okay. And you saw him get that car -- that gun from
19 his car while you were back inside the house getting your
20 bag?

21 A. I was walking. I was walking in the house. I wasn't
22 all the way in the house yet.

23 Q. Okay. And that's when you said you saw that?

24 A. (Nods head.)

25 Q. Is that a yes?

1 A. Yes, ma'am.

2 Q. Okay. Now let's agree on a couple of things. You
3 state that Mr. Patterson's, the defendant's car, was back
4 here along this fence line, right?

5 A. Yes, ma'am.

6 Q. And that there were other cars there as well, right?

7 A. Yes, ma'am.

8 Q. Okay. And you're back near that car, right?

9 A. Yes, ma'am.

10 Q. And Mr. Patterson's back near that car, right?

11 A. Yes, ma'am.

12 Q. And you state that Albert starts firing shots, right?

13 A. Yes, ma'am.

14 Q. Okay. Now does he stay over here in this top area as
15 he's firing these shots?

16 A. No, he runs up at the car.

17 Q. Okay. He's running up towards the car closer to you;
18 is that fair?

19 A. Yes, ma'am.

20 Q. Okay. About how close do you say that he got to you?

21 A. I had done run across the field right there.

22 Q. Okay. So at some point in time while the shooting's
23 going on, you run?

24 A. Yeah, I run across the field.

25 Q. Okay. Is it fair to say that you're not looking at

1 what's happening at the point in time that you're running
2 away?

3 A. I mean -- yes, ma'am, I seen him shooting. Yes,
4 ma'am.

5 Q. Okay. So you're running away and still looking behind
6 you at the same time?

7 A. I'm seeing like out the side of my eye. Like not the
8 side of my eye, but walking out he's right there in front
9 of me shooting.

10 Q. Okay. And you would agree with me you're about how
11 tall? Six foot one?

12 A. Yes, ma'am.

13 Q. Okay. And none of the shots ever hit you, right?

14 A. No, ma'am.

15 Q. And you'd agree with me that your cousin, he's pretty
16 tall, too, right?

17 A. Yes, ma'am.

18 Q. Okay. And none of those shots ever hit him either,
19 right?

20 A. No, ma'am.

21 Q. Now you state that after this happened your cousin,
22 the defendant, picked you up, right?

23 A. (Nods head.)

24 Q. Okay. And I believe -- and, sorry, the map was
25 turned. You said was it here on South Hampton that he

1 picked you up?

2 A. Yes, ma'am.

3 Q. Okay. And you're familiar with this area, right?

4 A. Yes, ma'am.

5 Q. Okay. And you would agree with me that in order to
6 get to South Hampton he does, in fact, have to pull out of
7 this sandy area, right?

8 A. Yes, ma'am.

9 Q. Onto this gravel-type road, right?

10 A. Yes, ma'am.

11 Q. And then pull over here onto South Hampton; is that
12 right?

13 A. Yes, ma'am.

14 Q. And you were running towards South Hampton at that
15 point in time, right?

16 A. Yes, ma'am.

17 Q. So everything that was happening at the point time
18 that your cousin was leaving this driveway and turning
19 towards South Hampton, you were in the opposite direction,
20 right?

21 A. I mean, I was -- I was already at the end of the road
22 when the guns was already off.

23 Q. You've got to explain that one to me, Mr. Howell. I
24 don't understand it.

25 A. I'm saying when I was running across, the guns had

1 already stopped. Nobody was shooting.

2 Q. Okay. So you're telling us that you didn't hear any
3 gunshots as you ran down this road towards South Hampton?

4 A. Once I got close to the end of it, I was probably
5 about like at the end of the trailer, the guns stopped. Go
6 back some.

7 Q. Here?

8 A. Go back. No, go up some.

9 Q. Back towards this area?

10 A. I'm talking about this way. This way.

11 Q. Towards you. How about this? Running towards South
12 Hampton from the house at some point in time you stopped
13 hearing gunshots; is that fair?

14 A. Yes, ma'am.

15 Q. And is it fair to say that you could not see the
16 defendant's car at the point in time that you stopped
17 hearing gunshots?

18 A. I mean, the car was still right there. He was just
19 leaving out.

20 Q. Okay. So the gunshots stopped and you're saying that
21 the defendant was still in his car back here by the fence?

22 A. I don't know -- I don't know where he was at. I mean,
23 I was running.

24 Q. Okay. That's fair, right? You were running.

25 A. I don't know how somebody wants to sit right there in

1 the car while somebody's shooting at them.

2 Q. Right. But he did pick you up here on South Hampton,
3 right?

4 A. Yes, ma'am.

5 Q. Okay. And you state that after this you-all left
6 South Hampton and you went back to the house, right?

7 A. Yes, ma'am.

8 Q. Okay. And you just chilled, right?

9 A. Yes, ma'am.

10 Q. Okay. You'd just been shot at; isn't that fair to
11 say?

12 A. Yes, ma'am.

13 Q. Okay. And to your knowledge, the defendant had just
14 been shot at as well, right?

15 A. Yes, ma'am.

16 Q. You never called the cops, did you?

17 A. No, ma'am.

18 Q. Okay. And you were ware that the defendant was
19 actually arrested for shooting William Clark? You knew
20 that that happened, right?

21 A. No, ma'am. We didn't know until the next day when
22 they went to his mom's house and say he had an arrest
23 warrant.

24 Q. Okay. So at some point in time you knew that the
25 defendant was being arrested for killing William Clark,

1 right?

2 A. Yes.

3 MR. ERVIN: Objection, Your Honor.

4 THE COURT: I overrule the objection.

5 Go ahead.

6 BY MS. ABEE:

7 Q. And at no point in time, Mr. Howell, did you provide
8 this story that you're telling us today to law enforcement;
9 is that true?

10 A. No, ma'am. I went down to the -- to the lawyer's
11 office and told him.

12 Q. Okay. And you'd agree with me that your lawyer's not
13 law enforcement, right?

14 A. Yes, ma'am.

15 Q. Okay.

16 MS. ABEE: I beg the Court's indulgence, Your
17 Honor.

18 Your Honor, I have no further questions for
19 Mr. Howell.

20 THE COURT: Redirect?

21 MR. ERVIN: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. ERVIN:

24 Q. Mr. Howell, were you ever contacted by law enforcement
25 to give a statement?

1 A. No, sir.

2 Q. Okay. They didn't investigate, they didn't come to
3 your house, they didn't call your phone, they didn't call
4 your mom, they didn't call anybody, did they?

5 A. No, sir.

6 Q. Okay.

7 MR. ERVIN: No further questions, Judge.

8 THE COURT: All right. Thank you.

9 Ladies and gentlemen, we're gonna take a break
10 before the next witness. This will be no more than
11 ten minutes. Less than ten minutes.

12 You're excused to the jury room. Do not discuss
13 the testimony or anything you've heard.

14 Everyone remain seated while the jury is excused.

15 (Whereupon, the jury retires to the jury room at
16 2:59 PM.)

17 THE COURT: Just so the record is clear, that the
18 witness who just testified, Mr. Tamare Howell, is
19 currently being held at the Alvin S. Glenn Detention
20 Center in Richland County on some pending charges;
21 however, he was dressed in civilian attire when he
22 came out. He was brought in in foot chains into the
23 courtroom and had a seat in the jury box before the jury
24 came in. He remained in the jury box seated with his
25 feet underneath the front of the jury box throughout the

1 entire time of his testimony. Once cross-examination
2 had ended, the Court excused the jury while Mr. Howell
3 remained seated, and he's now being returned to the
4 detention center or back to the holding area in the foot
5 chains that he came in, but he was not seen by the jury
6 coming or going.

7 All right. We'll be at ease. We're through with
8 Mr. Howell.

9 (Witness excused.)

10 THE COURT: Mr. Howell being released -- anybody
11 object to him being released from his subpoena?

12 MS. ABEE: No, Your Honor.

13 MR. ERVIN: No, Your Honor.

14 THE COURT: All right. Thank you.

15 All right. We'll take a five-minute break.

16 MR. ERVIN: Thank you, Judge.

17 (Recess taken at 3:01 PM.)

18 (Back on the record at 3:14 PM.)

19 BAILIFF: Court's back in session.

20 THE COURT: Thank you. Please be seated.

21 Is the State ready to proceed?

22 MS. ABEE: We are, Your Honor.

23 THE COURT: Defense ready?

24 MR. ERVIN: We are, Judge.

25 THE COURT: All right. Who's your next witness?

1 MR. ERVIN: The defendant, Your Honor.

2 THE COURT: The defendant. All right.

3 Let's bring him back around again.

4 MR. ERVIN: Yes, sir.

5 THE COURT: Let's see, Mr. Patterson, I talked to
6 you before the lunch break and we put you under oath
7 for purposes of this particular line of questioning.
8 Have you had time to discuss with your lawyer whether
9 you should or should not testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you need any more time?

12 THE DEFENDANT: No, sir.

13 THE COURT: Do you wish to testify?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. I find that he's knowingly
16 and intelligently with advice of a competent attorney
17 has been fully advised of his rights about testifying
18 and his right not to testify and he has decided that he
19 intends to be called as a witness in his case.

20 All right. Thank you.

21 MR. ERVIN: Thank you, Judge.

22 THE COURT: Have a seat, Mr. Patterson.

23 We'll bring the jury in.

24 (Whereupon, the jury return to the courtroom at
25 3:17 PM.)

1 THE COURT: All right. Thank you, ladies and
2 gentlemen. We're ready to proceed with the next witness.

3 Mr. Ervin, call your next witness.

4 MR. ERVIN: Thank you, Judge.

5 The defense calls the defendant himself, James
6 Patterson III.

7 THE COURT: Mr. Patterson, if you'd come and be
8 sworn in, please.

9 (Whereupon, James Joseph Patterson III was duly
10 sworn by the Clerk of Court.)

11 THE CLERK: If you'll have a seat up there. If
12 you'll state your name and spell your last name for the
13 record.

14 THE WITNESS: My name is James Patterson. Last name
15 spelled P-A-T-T-E-R-S-O-N.

16 JAMES JOSEPH PATTERSON III,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. ERVIN:

20 Q. Mr. Patterson, good afternoon. You've been arrested
21 and charged with murder and possession of a firearm during
22 a crime; is that correct?

23 A. Correct.

24 Q. When you found out when you were charged with those
25 crimes, didn't you immediately turn yourself in with the

1 advice of counsel?

2 A. Yes, I did.

3 Q. Okay. And so let's talk about the day and night of
4 November 9, 2020.

5 A. Okey-dokey.

6 Q. Where were you that day around lunch time?

7 A. I was actually down at South Hampton around -- well,
8 what do you consider lunchtime? Because some people
9 consider lunchtime at 12:00.

10 Q. Sure. Where were you at noon that day?

11 A. South Hampton.

12 Q. Okay. At the house of William Clark?

13 A. William Clark, yes, sir.

14 Q. Okay. How did you get over there?

15 A. My cousin Stephanie Glover's car. I called her
16 earlier that day and she went to work and like she always
17 do, she let me and my cousin borrow her car and I borrowed
18 her car and drove it to South Hampton.

19 Q. What kind of car is it?

20 A. It was a burgundy Ford.

21 Q. Okay. And who all was with you?

22 A. Me and Tamare Howell, my cousin.

23 Q. Okay. Was anybody else with you in another vehicle
24 or someone else that you knew go to that house with you?

25 A. No, sir, not at all.

1 Q. Okay. So you get over to the residence of William
2 Clark on South Hampton. And you've seen this picture all
3 day, is this -- is this it?

4 A. Yes, sir.

5 Q. Okay. And this is the house right here, right?

6 A. Correct.

7 Q. Okay. Would you come down and point out for the jury
8 -- I'm gonna move this up a little bit. And if you'll
9 stand on that side, point out where your vehicle was.

10 A. My vehicle was right -- this is the front of the
11 house?

12 Q. Yes, sir. Speak real loud so the jury can hear you.

13 A. This is the front of the house, this would be the side
14 of the house. My vehicle was on the side of the house by
15 the fence back there by the dog.

16 Q. Okay.

17 A. There was a box truck right here. Donnie's truck
18 was on the side of his cousin's truck. It was a white
19 Crown Vic right there and it was another car parked in the
20 middle. I'm not sure actually if it was black or dark
21 blue because it was dark, so it could have been black, it
22 could have been dark blue, but it was right beside the
23 white Crown Vic.

24 Q. So you had been there -- did all the -- you'd been
25 there during the daytime and the nighttime, correct?

1 A. Yes, sir.

2 Q. So did some of these cars arrive at the nighttime or
3 what?

4 A. Yes, sir. Some of them arrived at -- yeah. Yes, sir.

5 Q. Okay. Who all was -- while you're standing there,
6 actually take a seat. We're gonna get there. If you'll
7 return to your seat.

8 A. (Witness complies.)

9 Q. Who all was in the house when you were inside the
10 house?

11 A. From my knowledge, Donnie was in there, AJ was in
12 there, Tamare, my cousin, and a couple of people from the
13 neighborhood. They were friends with him. I'm from
14 Richland. He's from Lexington, so.

15 Q. So they were friends with Tamare?

16 A. Correct. So he would know them better than me.

17 Q. Okay. Now when you were in the house, what were
18 you-all doing?

19 A. We was chilling for a minute before the dice game even
20 started. The dice game started with two people and you
21 know how that goes, when everybody sees it, it just -- it
22 adds on.

23 Q. What two people?

24 A. The two people was -- I don't know their name. I want
25 -- they was friends of my cousin. Like I said, he's from

1 down there, I ain't from down there. They was friends of
2 my cousin.

3 Q. What was -- was Albert and Donnie in the house with
4 you?

5 A. Yeah.

6 Q. What were they doing?

7 A. They was drinking, snorting coke and smoking weed.

8 Q. Okay. What were they drinking?

9 A. Jim Beam.

10 Q. Brown liquor?

11 A. Brown liquor.

12 Q. Was it a big bottle, a little bottle?

13 A. A big bottle. They actually had it in the evidence
14 when I read my motion. It was on the motion. It was a big
15 bottle.

16 Q. Okay. And were you drinking?

17 A. No, I don't drink at all.

18 Q. Were you smoking weed?

19 A. I was smoking weed.

20 Q. Okay. Where was William Clark?

21 A. He was beside me.

22 Q. Okay. When the gambling started?

23 A. He was beside me the whole time. The living room
24 wasn't but so big.

25 Q. No, no, no. I believe you think I meant Albert.

1 William Clark.

2 A. Oh, William? No, William was in the bedroom. William
3 wasn't -- no, William was in the bedroom.

4 Q. Okay. So was his door open or closed?

5 A. His door was closed.

6 Q. Okay. And have you ever seen his bedroom?

7 A. Yes, I'm familiar with his bedroom.

8 MR. ERVIN: Approach the witness, Judge?

9 THE COURT: Yes, you may.

10 BY MR. ERVIN:

11 Q. Defendant's Exhibit Number 3. Does that look like
12 William Clark's bedroom?

13 A. That's his bedroom.

14 Q. And what is in the picture?

15 A. Marijuana, cell phones, tobacco, taped up.

16 Q. It's taped up in black tape?

17 A. Yes, sir.

18 Q. Do you know why it's taped up like that?

19 A. No, I'm not sure.

20 Q. Okay. Who was in the bedroom with William Clark?

21 A. Kenyatta, his baby mother.

22 Q. Okay. They're in the bedroom with the door closed?

23 A. Correct.

24 Q. Were they smoking, drinking and doing coke?

25 A. Yes.

1 Q. Okay. What were they doing?

2 A. Drinking and cocaine.

3 Q. Okay. And...

4 All right. Were you gambling at the house?

5 A. I wasn't actually shooting or rolling the dice, but
6 I was side betting. So if you consider that gambling, yes,
7 I was.

8 Q. Who were you side betting with?

9 A. Albert Clark.

10 Q. Okay. Tell me about that. How much did you-all
11 gamble, how much did you-all bet with each other?

12 A. We was betting a hundred dollars ever roll. I was
13 betting on my little cousin and he was betting on somebody
14 that was there. I can't -- like I said, I'm not from over
15 there, so I really can't name them. He was betting on
16 somebody else and I was betting on my little cousin. There
17 was \$20.00 in the pot for the dice rollers and me and him
18 was separate on the side betting a hundred dollars on they
19 roll.

20 Q. All right. What happened?

21 A. I beat him fair and square out of a thousand dollars.

22 Q. Okay. Did he pay you a thousand dollars?

23 A. Yes.

24 Q. Okay. Was it small bills, large bills?

25 A. It was large bills. All one hundreds.

1 Q. All one hundreds?

2 A. Yes, sir.

3 Q. Okay. What happened then?

4 A. When he paid me my money, he never left to go get any
5 money. He was trying to borrow money from his cousin,
6 Donnie. Me, being the generous person I am, I gave him
7 two hundred more dollars -- I gave him two hundred dollars
8 that I took from him, and told him just give it back to me
9 before I walk out.

10 Q. You gave it to him so he could keep playing or what?

11 A. I gave him -- I told them I wasn't gonna side bet with
12 him anymore because they done made a call that I didn't
13 agree with, so I was like I ain't fixing to side bet with
14 you no more, but -- I don't agree with you, but I'll give
15 you something back so you can get in that pot right there
16 and try to win your money back, but I ain't gonna side bet
17 with you no more. I can't do that.

18 Q. Okay. Then what happened?

19 A. And he started -- he got in the pot. He started
20 rolling dice, he got in the pot, and I got a phone call
21 from my cousin, Stephanie Glover. She was getting off at
22 I want to say ten something that night and I got a call and
23 she said cuz, I'm fixing to get ready to get off and I said
24 okay, I'm fixing to be on my way. So I alerted my cousin,
25 Tamare Howell, like I'm getting ready to go. So I talked

1 to Albert. I was like, you know, I gave him \$200.00, so I
2 was like man, I need my money before I go, you know what
3 I'm saying, so he was like hold on, hold on, hold on and
4 I'm like cool, cool, and I sat back and waited on my money.
5 Donnie -- I was between Donnie and AJ. I sat back and --
6 Q. AJ is Albert?
7 A. Correct.
8 Q. Okay.
9 A. I sat back -- I sat between both of them waiting on
10 my money. He rolled again and he won. So when he won,
11 that was five people in the pot, so that's two, four, six,
12 eight, ten. They was playing for \$20.00 a piece, so that's
13 a hundred dollars. I told him I would have been cool with
14 a hundred dollars, just give me a hundred dollars and I'll
15 walk off on that, you can keep the other hundred. He --
16 then he tried to basically play me, I guess, because of my
17 size and his size, so I felt like he tried to play me, and
18 I looked at Donnie and I was like -- Donnie went in his
19 wallet because he seen what was going on. Donnie went in
20 his wallet and actually pulled out another hundred dollar
21 bill and tried to give it to me. I told Donnie I don't
22 want that hundred dollar bill, I don't, I want my money
23 back from Albert, it's only fair. So Donnie's like calm
24 down and I'm like I ain't need to calm down. For what?
25 I'm not even -- I just want my money so I can go, you know

1 what I'm saying? So he -- okay. Donnie, he's steadily
2 trying to talk to me and I was like my father dead, my
3 father dead, so I really don't got to listen to nothing
4 you're saying, you know what I mean?

5 Q. He was trying to talk to you like a father, is that
6 what you're saying?

7 A. Right. He was trying to talk to me like my father and
8 I said my father's dead, so I don't -- excuse me. I was on
9 my way out the door then and he grabbed me.

10 Q. Who grabbed you?

11 A. Donnie Clark grabbed me --

12 Q. Okay.

13 A. -- as I was on the way out the door and I told him
14 excuse me. He grabbed me and when he grabbed I turned
15 around and pushed him up off me.

16 Q. Okay. And then what?

17 A. When I pushed him up off me, he hit the table and the
18 table broke like and the firearm dropped off the table,
19 which was William Clark's, and it dropped off the table --

20 Q. I'm sorry. Hold on. There was a firearm on the
21 table?

22 A. Correct.

23 Q. While you were gambling, there was a firearm on the
24 table?

25 A. Correct.

1 Q. What kind of gun was it?

2 A. A silver .45.

3 Q. A 45-caliber pistol?

4 A. Pistol, correct.

5 Q. Okay. Whose gun was that?

6 A. William Clark.

7 Q. That was William Clark's gun?

8 A. Yes, sir.

9 Q. Were there other guns in the house?

10 A. Yes.

11 Q. What kind of guns were in William Clark's house?

12 A. I seen a .22 rifle. It looked like an AK, but it's
13 not an AK. You've got .22's that's made like AK's, but it
14 actually -- it takes .22 bullets, but it was shaped like
15 an M-16. That was in his room standing up against the --
16 behind the door that you can enter to get in his room from
17 outside, you know what I'm saying?

18 Q. Okay.

19 A. And there was another handgun, but I can't really make
20 out what it was.

21 Q. Okay. Did you have a gun?

22 A. No, sir. Not at all.

23 Q. Okay. The .45 goes off, right?

24 A. (Nods head.)

25 Q. Then what happens?

1 A. That's when everybody evacuated the house to try to
2 see what was really going on.

3 Q. Okay. What door did you exit?

4 A. I exited the front.

5 Q. This side of the house?

6 A. Yes, sir.

7 Q. Okay. You came out and then what did you do?

8 A. Walked towards the car.

9 Q. This way?

10 A. Yes.

11 Q. Okay. Then what did you do?

12 A. My cousin was actually behind me and I seen him
13 without his bag, so I say cuz, you go get your bag, you
14 left your bag. I'm glad I did that. As he went back in
15 the house to get his bag, I walked to the car, opened the
16 door and sat in the car counting my money that I just won
17 putting it in my pocket separated and got on my phone.
18 When I got on my phone, my cousin actually was walking out
19 back out the door and he stated cuz, he's fixing to shoot
20 because he was able to see everything that was going on
21 before the shooting took place. He say cuz, they fixing
22 to shoot, which alerted me like -- you'd have to see. The
23 door was open.

24 Q. The car door was open?

25 A. The car door was open when I was right there counting

1 my money and I'm on the phone.

2 Q. Were you on the passenger or the driver's side?

3 A. I was -- I was on the driver's side.

4 Q. Okay.

5 A. So when my cousin said he was fixing to shoot, I
6 actually jumped out the driver's side door and kind of
7 crawled like I was in the Army on the ground because that's
8 when the shooting started. As soon as he said that, pop,
9 pop, pop, there was six shots. I can't forget that. I can
10 never forget that. It was six shots.

11 Q. Six shots. You were in the driver's side. You rolled
12 out?

13 A. Right.

14 Q. What happened to your phone?

15 A. It fell on the ground. That's how my phone ended up
16 on the ground.

17 Q. Was there any cash in there?

18 A. Yeah, the cash that I was counting. Like I told you,
19 I was separating my money. I was separating the hundreds
20 from money I already had and that's how money fell off my
21 lap, too.

22 Q. Okay. And then what happened?

23 A. I jumped -- when I jumped out and kind of crawled
24 like I was in the Army, I got behind -- I kind of shielded
25 myself from the shots.

1 Q. Okay.

2 A. And it was -- after the six shots went off, it was
3 at least -- it was at least six more -- or four. It was
4 at least four more shots, but when the shots stopped
5 completely, that's when I -- you feel me? I got up, I seen
6 AJ running -- Albert Clark, I seen him running across the
7 yard. I seen him running toward another trailer that was
8 next to his brother's house, which was his cousin's house
9 that they never explained.

10 Q. This one right here?

11 A. Yeah, I believe --

12 Q. Or this?

13 A. No, it was -- it was kind of more so back towards
14 -- not towards the road. It was kind of more-so back
15 towards --

16 Q. Come on over here and point out what you're talking
17 about.

18 MR. ERVIN: Do you mind, Judge?

19 THE COURT: He can step down.

20 BY MR. ERVIN:

21 Q. I'm gonna let you stand where I'm standing and if you
22 would explain to the jury what you're talking about.

23 A. Okay. If you're coming up -- okay. This side -- this
24 is the dirt road.

25 Q. Speak loud enough for everyone to hear you.

1 A. This is the dirt right here? Is this the dirt road?

2 Q. I believe so, yes.

3 A. Okay. He ran back toward this way. It's -- it's
4 supposed to be a trailer right here. He ran back towards
5 this way to that trailer and that's where he dumped the
6 gun off at. That's why he never got caught with no gun.

7 MS. ABEE: Objection. Speculation.

8 THE COURT: Yeah, I sustain the objection.

9 MS. ABEE: Move to strike.

10 MR. ERVIN: Okay.

11 THE COURT: Hold on a minute.

12 MR. ERVIN: Sorry, Judge.

13 THE COURT: The last question and answer, the
14 Court has ruled is not admissible. Please disregard
15 the question and the answer.

16 BY MR. ERVIN:

17 Q. Mr. Patterson, don't guess what happened. Only talk
18 about what you saw and what you did, okay?

19 A. Yes, sir.

20 Q. Now you saw Albert Clark headed towards the
21 direction --

22 A. Of another trailer. Yes, sir.

23 Q. Okay. And did you see Albert Clark with the firearm?

24 A. I seen him with a firearm.

25 Q. Okay. You just said he shot up to ten times, correct?

1 A. Yes. Correct.

2 Q. Then what did you do?

3 A. When I -- when the shooting stopped, I jumped back in
4 the car and picked my cousin up and left when I felt like
5 it was safe because I had done already seen him shoot
6 across the field.

7 Q. How did you exit the property in the vehicle?

8 A. On the dirt road. Came down, busted right. Came
9 on the dirt road, came to the concrete, the pavement,
10 whatever, busted right.

11 Q. Where did you pick up Tamare?

12 A. Towards like -- kind of sort of up towards the end
13 of the road. Not the -- not this road, towards the dirt
14 road, towards the end of the dirt road, and meet coming
15 out. That's the side, right, where my car was parked?

16 Q. So this is the side of the house here.

17 A. Okay.

18 Q. That's the front of the house.

19 A. Okay. I was coming out here. Boom, right there, and
20 busted right and picked my cousin up right there.

21 Q. Did you notice anything different about the vehicle
22 when you left?

23 A. Yeah, it was -- it had bullet holes in it.

24 Q. The burgundy Ford -- please take a seat.

25 A. (Witness complies.)

1 Q. Did you just say the burgundy Ford had bullet holes in
2 it?

3 A. Correct.

4 Q. How many bullet holes in it?

5 A. A couple, which is two.

6 Q. At least two?

7 A. At least two.

8 Q. Okay. Did you think the shots -- had you moved the
9 vehicle before the shots stopped or did you -- you said
10 you waited until the shots stopped and then you moved the
11 vehicle, correct?

12 A. I moved the vehicle after the shots stopped.

13 Q. So would the bullets have hit the vehicle as it was
14 parked beside the house?

15 A. Correct.

16 Q. Okay. And you heard testimony earlier and you
17 remember testimony about the bullets going through the
18 neighbor's fence, too, right?

19 A. Correct.

20 Q. Those were near your car, weren't they?

21 A. Correct.

22 Q. So two shots in your car and one in the fence.
23 That's three shots you know that were in your direction,
24 correct?

25 A. Correct.

1 Q. Okay. Then what did you do after you left the
2 property?

3 A. Like I said, I had -- I really left because my
4 cousin had called and she was on the way to get off, so
5 the reason I really left was to meet my cousin with her
6 car and we met my cousin with her car and went to the
7 house and chilled. I gave my cousin her car and went to
8 the house and chilled.

9 Q. Did you notice the bullet holes that night or later?

10 A. I noticed them that night.

11 Q. Okay.

12 MR. ERVIN: Briefly an indulgence, Your Honor.

13 BY MR. ERVIN:

14 Q. How did you find out you had arrest warrants?

15 A. Like -- okay. I want to say that incident happened
16 on a Monday. They called my mother's phone on a Friday
17 and basically got my mom on the phone and let her know I
18 was wanted. I actually talked to one of the investigators
19 and he let me know that I was wanted for murder and
20 possession of a firearm during a violent crime, but they
21 went to my mother first, you know, and my mother made the
22 call to me and gave the phone to them. That's how that
23 went.

24 Q. Did they tell you to hurry up and turn yourself in or
25 did they come out and see you? How did they --

1 A. Yeah, they was kind of rushing me, but I wasn't even
2 -- I wasn't tripping about the situation. I know I ain't
3 killed nobody, so I turned myself right on in. I told them
4 to give me until later on that day, but he -- as a matter
5 of fact, he made the time. He said 4:30 and I said cool,
6 and that's what time I turned myself in. That's how that
7 happened.

8 Q. So they felt okay about you just turning yourself in?
9 They didn't come get you? They didn't think they needed
10 to chase you down?

11 A. No. Not at all.

12 Q. Okay. And you never had a gun?

13 A. Never. Not at all.

14 Q. All right.

15 MR. ERVIN: No further questions, Judge.

16 THE COURT: Cross-examination?

17 MS. ABEE: Yes, Your Honor. If I may have just one
18 second.

19 MR. ERVIN: Your Honor, may we approach?

20 THE COURT: Yes.

21 (Proceedings held at the bench; not reported.)

22 THE COURT: Ms. Glover, who just came in, you're
23 a potential witness in the case. If you'd just wait
24 outside in the hall.

25 MR. ERVIN: Thank you, Your Honor.

1 THE COURT: All right. Cross-examination.

2 MS. ABEE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. ABEE:

5 Q. Mr. Patterson, I want to clear up some things before
6 we get started. Tamare Howell just testified, right?

7 A. Yes, ma'am.

8 Q. And that's your cousin?

9 A. Yes, ma'am.

10 Q. Okay. And then Ms. Glover just left the courtroom and
11 we heard that you borrowed her car that night, right?

12 A. Yes, ma'am.

13 Q. Okay. And she's also your cousin?

14 A. Yes, ma'am.

15 Q. You-all are all related?

16 A. Yes, ma'am.

17 Q. Okay. And now the night of November the 9th of 2020,
18 you stated that you were at this house on South Hampton,
19 right?

20 A. Yes, ma'am.

21 Q. And you got there a little after lunchtime?

22 A. Correct.

23 Q. Okay. And there were other people there, right?

24 A. Correct.

25 Q. And you said people were drinking?

- 1 A. Correct.
- 2 Q. Not you?
- 3 A. No, I don't drink.
- 4 Q. People were smoking weed, right?
- 5 A. Correct. I was doing that, yes.
- 6 Q. All right. You said people were doing cocaine, right?
- 7 A. Correct.
- 8 Q. Not you?
- 9 A. No, ma'am.
- 10 Q. And you said that William Clark was in his bedroom,
- 11 right?
- 12 A. Correct.
- 13 Q. And he was in his bedroom with Kenyatta, right?
- 14 A. Correct.
- 15 Q. And you said that that door was shut the whole time,
- 16 wasn't it?
- 17 A. Correct.
- 18 Q. And yet you know that they were smoking, drinking,
- 19 that kind of stuff?
- 20 A. Yeah.
- 21 Q. Okay. You could see that through the door?
- 22 A. No. Actually they -- they was doing that before I
- 23 even, you know what I'm saying, came there.
- 24 Q. Okay. So let me just get this straight. You know
- 25 that they were doing things before you showed up?

1 A. William. William been drinking. William been
2 drinking --

3 Q. Okay.

4 A. -- so I smoked. Kenyatta been drinking, too, because
5 she was with him.

6 Q. So now we're assuming; is that fair?

7 A. No, it's not fair.

8 Q. Okay. And so you can just agree with me that you
9 couldn't see through William Clark's door what he was doing
10 in there, right?

11 A. Correct.

12 Q. All right. Now you were out there gambling, weren't
13 you? Side betting?

14 A. Correct.

15 Q. Side betting, right?

16 A. Correct.

17 Q. Okay. And you said that you were side betting with
18 Albert Clark, right?

19 A. Correct.

20 Q. You call him AJ?

21 A. Correct.

22 Q. And you-all know each other, right?

23 A. Correct.

24 Q. You-all, what, hung out before?

25 A. Right.

1 Q. And I think you said that you were kind of taking some
2 money off him, right?

3 A. Correct.

4 Q. I think it was, what, a hundred dollars a pop?

5 A. Correct.

6 Q. And you were getting it in hundred dollar bills,
7 weren't you?

8 A. Correct.

9 Q. Okay. And then time after time after time you say you
10 took this money from Albert Clark, right?

11 A. Correct.

12 Q. Okay. And there was a point in time where Albert ran
13 out of money, right?

14 A. Correct.

15 Q. And according to you, you loaned him \$200.00 because,
16 I think the quote was, me just being a generous person; is
17 that right?

18 A. Correct.

19 Q. Okay. So just being overly generous, you decided to
20 give him yet an additional \$200.00; is that right?

21 A. It wasn't additional. He never added no more money,
22 so I gave him -- I wouldn't call it additional. He wasn't
23 adding on to nothing. He had nothing to add on, so I
24 wouldn't call that additional.

25 Q. It's more money than he had prior to you giving it to

1 him, right?

2 A. Correct.

3 Q. And you said that at some point in time you stopped
4 side betting, right?

5 A. Correct.

6 Q. And you said that this was because they had made a
7 call that you didn't like, right?

8 A. Correct.

9 Q. Were you upset about that call?

10 A. No, I wasn't upset.

11 Q. Okay. And I think what you actually said in your
12 direct testimony was you felt like they tried to play you;
13 is that right?

14 A. Yeah, but that doesn't mean I was upset. That's just
15 how I felt.

16 Q. Okay. So you felt like you were being played?

17 A. Right.

18 Q. That they weren't playing fairly; is that right?

19 A. Right.

20 Q. That they were making calls that you didn't like,
21 right?

22 A. Right.

23 Q. At some in this you said that Donnie even starts to
24 talk to you about your dad or like he's your dad, right?

25 A. Right.

1 Q. Okay. You didn't like that either, did you?

2 A. I wouldn't say I didn't like it. I just -- my daddy's
3 dead, so why I got to answer to another man for?

4 Q. Well, it upset you to the point where you pushed him,
5 right?

6 A. It didn't upset me when he was trying to talk to me.
7 What upset me was when another man put his hands on me,
8 yes.

9 Q. Okay. So he grabs your arm according to you, right?

10 A. Right.

11 Q. And you pushed him; is that fair?

12 A. Right.

13 Q. And you said that that's when the table gets knocked
14 over, right?

15 A. Right.

16 Q. Okay. And that's when a gun is fired inside of the
17 house, right?

18 A. The gun that was on the table.

19 Q. And you told us that that was a .45, right?

20 A. Correct.

21 Q. And at this point in time everybody, what, scatters?

22 A. They evacuated just to try to see what was going on,
23 correct.

24 Q. Okay. They evacuated. And you told all of us that
25 you exited out of kind of this front door; is that right?

1 A. Correct.

2 Q. Okay. And that your cousin, Tamare Howell, he exited
3 over here through William's bedroom door, right?

4 A. I didn't say that.

5 Q. Okay. So you don't know where Tamare Howell exited?

6 A. I said when -- he was behind me. Tamare was behind
7 me. That's what I said. He was behind me, which was able
8 to let me notify him he left his bag, which made him turn
9 around and go get the bag.

10 Q. Okay. So Tamare actually comes out the front door is
11 what you're telling us?

12 A. At that time, yes.

13 Q. Okay. So Tamare comes out the front door and you-all
14 head towards your car and you'd agree with me that your car
15 was back here by this fence line, right?

16 A. Correct.

17 Q. And that's the car that belongs to your cousin?

18 A. Correct.

19 Q. And you said that you told Tamare Howell to go back in
20 and get his bag, right?

21 A. Correct.

22 Q. Okay. And you got in the car, right?

23 A. Correct.

24 Q. Now a gun had just been fired inside, you had pushed
25 someone, there was some betting that you didn't like going

1 on and you decided to just sit in that car, right?

2 A. I was counting my money and on my phone, so.

3 Q. That was important to you, right, your money?

4 A. Yeah, of course.

5 Q. Okay. So you were counting it that night?

6 A. Yes, ma'am.

7 Q. Okay. And at some point you said that Tamare comes
8 back outside, right?

9 A. Yes. That's how he was able to notify me that someone
10 was fixing to start shooting and that's how I was able to
11 get on point to get up out of that car, correct.

12 Q. Okay. So you were sitting in a car, right?

13 A. Correct.

14 Q. That car was a working functioning car, right?

15 A. Correct.

16 Q. It's a big piece of metal; is it not?

17 A. Correct.

18 Q. It's got doors, doesn't it?

19 A. Correct.

20 Q. It's got a windshield, right?

21 A. Right.

22 Q. Okay. And you were in the protection of that car at
23 the point in time that you think someone's about to shoot,
24 right?

25 A. Right.

1 Q. Yet according to you, you exit that car, don't you?

2 A. Right.

3 Q. Okay. And you're not wearing any sort of bulletproof
4 vest or anything like that, right?

5 A. No, ma'am, but it wouldn't have made no difference in
6 the car or out the car. Bullets go through cars and people
7 get hit inside their cars. People die inside their cars,
8 so it wouldn't have made no difference.

9 Q. I hear you, Mr. Patterson. I'm asking you what you
10 did, right?

11 A. Right.

12 Q. You got out of that car and laid down on the ground,
13 right?

14 A. Not -- I -- I didn't lay down. I went to the back of
15 the car, crawled to the back of the car like military, and
16 put my back against the back of the car to protect myself.

17 Q. And you said that this entire time Albert's firing
18 bullets, right?

19 A. Correct.

20 Q. I think you said, what, six bullets, six shots?

21 A. Off the flap six came. I remember.

22 Q. You remember six and then you said maybe another four
23 to an additional six, right?

24 A. Maybe, yes.

25 Q. And according to you, you don't have a gun, right?

1 A. Right.

2 Q. Okay. And Albert Clark, he has the ability to walk
3 right to where you are, does he not?

4 A. Yes.

5 Q. He never walks right up to you and shoots you, does
6 he?

7 A. No.

8 Q. Okay. In all of the shots that he fired, not a single
9 one of them hit you, did they?

10 A. No.

11 Q. And you'd agree with me you're, what, six-one,
12 six-two?

13 A. Correct.

14 Q. Okay. Pretty tall, right?

15 A. Correct.

16 Q. Okay. And your cousin, Tamare Howell, was, what, six
17 foot one?

18 A. Correct.

19 Q. Okay. And to your knowledge he never got shot that
20 night either, right?

21 A. No.

22 Q. And there were additional cars that you said were in
23 this area. You said a white box truck, right?

24 A. Correct.

25 Q. You said Donnie's truck?

1 A. Correct.

2 Q. And then you also said that there was, in fact, a
3 white Crown Victoria in this parking area as well, right?

4 A. Correct.

5 Q. And so after the shots were done being fired, you got
6 back in your car; is that fair?

7 A. Right.

8 Q. Okay. And your cousin had, what, run off?

9 A. Correct.

10 Q. Okay. And then you start to drive out; is that fair?

11 A. Correct.

12 Q. And you drive out here towards this dirt road; is that
13 right?

14 A. Correct.

15 Q. And then you come up towards South Hampton; is that
16 right?

17 A. I picked my cousin up before I even got to the end
18 of the road.

19 Q. Before you got to South Hampton?

20 A. Right.

21 Q. So somewhere in this area you pick up your cousin;
22 is that fair?

23 A. Right.

24 Q. And then you go back, right?

25 A. Right.

1 Q. And you state that you were leaving not because you
2 just got shot at six, seven, eight, nine, maybe ten
3 times, but because your cousin needed her car back; is
4 that fair?

5 A. Right.

6 Q. Okay. And so you went back to give her her car and
7 just, what, chill?

8 A. Yeah.

9 Q. And I want to show you what's been entered into
10 evidence as State's Exhibit Number 45. Do you recognize
11 this?

12 A. That's my phone that fell off my lap when I got out
13 the car.

14 Q. Okay. This is, in fact, your cell phone?

15 A. Yes.

16 Q. And that cell phone was left at the property that
17 night, right?

18 A. Correct.

19 Q. Okay. You never went back to go get it?

20 A. I actually went back to go look for my phone. I
21 couldn't find my phone.

22 Q. Okay.

23 MS. ABEE: Your Honor, I beg the Court's indulgence.

24 Your Honor, I have no further questions.

25 THE COURT: Any redirect?

1 MR. ERVIN: Briefly, Judge.

2 REDIRECT EXAMINATION

3 BY MR. ERVIN:

4 Q. It was pretty dark in this area, wasn't it?

5 A. Correct.

6 Q. It was around between eight and 9:00; is that right?

7 A. Correct.

8 Q. Okay.

9 MR. ERVIN: Nothing further, Judge.

10 THE COURT: All right. Any recross?

11 MS. ABEE: No, Your Honor.

12 THE COURT: All right. Thank you, Mr. Patterson.

13 You can step down.

14 THE WITNESS: Yes, sir.

15 (Witness excused.)

16 THE COURT: All right. Mr. Ervin, call your next
17 witness.

18 MR. ERVIN: Your Honor, we have Ms. Glover in the
19 hallway. We'd like to get her.

20 Stephanie Glover. She is being retrieved by the
21 deputy.

22 (Whereupon, Stephanie Glover was duly sworn by the
23 Clerk of Court.)

24 THE CLERK: If you'll have a seat right there on
25 the witness stand. If you'll say your name and then

1 spell your last name for the record.

2 THE WITNESS: My name is Stephanie Glover. Last
3 name G-L-O-V-E-R.

4 STEPHANIE GLOVER,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ERVIN:

8 Q. Ms. Glover, thank you so much for being here today.

9 A. Uh-huh.

10 Q. Where do you work?

11 A. PRISMA Health Baptist.

12 Q. What do you do there?

13 A. I'm a supervisor down in the cath lab.

14 Q. Okay. And do you know Mr. James Patterson?

15 A. I do.

16 Q. How do you know him?

17 A. That's my cousin.

18 Q. Now is it a favor you did with him sometimes is let
19 him -- you loaned him your vehicle?

20 A. It's something I do often. I do.

21 Q. Okay. I want to take you back a couple of years to
22 November 9th of 2020. Were you driving a burgundy sedan at
23 the time?

24 A. I had a burgundy Ford Focus, I believe.

25 Q. Okay. Had you loaned it to Mr. Patterson that day?

1 A. I did.

2 Q. Okay. And what time did you go to work that day?

3 A. Usually I don't work until eleven to seven, but I
4 wasn't working at Baptist at the time, but it was somewhere
5 between -- before 11:00 he came by.

6 Q. Okay. Did he -- so on the night did he return your
7 vehicle later that evening?

8 A. That -- the next day. Uh-huh. Like -- no, like
9 between -- before 11 AM.

10 Q. Okay. Now when you loaned him your car on
11 November 9th before you went to work, were there any
12 defects or bullet holes in your car when you loaned it to
13 him?

14 A. Not at all. None. Unh-unh.

15 Q. Okay. When he returned your vehicle, were there
16 bullet holes in your car?

17 A. There was in the front.

18 Q. Okay. How many bullet holes do you remember?

19 A. Only one.

20 Q. Okay. And since then you've -- what's happened to
21 the car? Did you get rid of the car? Did you sell it?

22 A. I got rid of the car. I did.

23 Q. Okay. All right. And you weren't at this incident.
24 You don't know --

25 A. I don't know --

1 Q. -- firsthand what happened that day?

2 A. I don't know.

3 Q. You just know that your car was returned to you with
4 a bullet hole in it?

5 A. Right. He was definitely honest when he brought the
6 car back. He told me about it and I was more concerned to
7 make sure they was safe, if anything.

8 Q. Okay.

9 MR. ERVIN: Thank you very much, Stephanie. That's
10 all we needed you here for. Please answer any questions
11 that the State may have for you.

12 THE WITNESS: You're welcome.

13 THE COURT: Cross-examination?

14 MS. ABEE: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ABEE:

17 Q. Ms. Glover, when you say that you work seven to
18 eleven, was that -- I'm confused on AM and PM.

19 A. 11 AM to 7 PM.

20 Q. 11 AM to 7 PM?

21 A. Correct.

22 Q. And so when you loaned the defendant your car on
23 November the 9th of 2020, that would have been before
24 11 AM on November the 9th?

25 A. Well, actually they probably came and got my car

1 earlier that day because I was off, so whenever I'm off
2 I go home and just let him hold the car.

3 Q. And then he borrowed your car and returned it when?

4 A. The next morning.

5 Q. The next morning before --

6 A. Before I went to work. Uh-huh.

7 Q. So before your 11:00 shift; is that fair?

8 A. Correct.

9 Q. And you told us that you were off on this day?

10 A. I was off the day before. Not that day, the next
11 day.

12 Q. November the 9th of 2020, were you off that day where
13 he kept your car from that morning --

14 A. Right, I was off that day.

15 Q. -- until before eleven on what would be November the
16 10th?

17 A. Right.

18 Q. And I think it was fair to say that you weren't there
19 at South Hampton Street, right? We've kind of talked about
20 that?

21 A. Right.

22 Q. And when you got your car returned to you, you stated
23 you noticed one bullet hole in it; is that fair?

24 A. Right.

25 Q. And it's fair to say that you have no personal

1 knowledge of how that bullet hole got there, right?

2 A. I don't.

3 Q. And you have no idea when that bullet hole got there
4 other than it was at some point in time when the defendant
5 had your car?

6 A. Correct.

7 Q. And you have no personal knowledge of who put that
8 hole in your car?

9 A. I don't.

10 Q. And how long did you keep that car after it was
11 returned to you?

12 A. I kept it for a couple of months. Maybe six or
13 seven months after that.

14 Q. And during those six to seven months, you never took
15 a picture of that bullet hole?

16 A. I did. I took several pictures, but my -- my screen
17 on my phone cracked, so there's no way I can retrieve it
18 and we also went to the lawyer's office and he also took
19 a picture. I'm not sure if he has it or not, but I was
20 sure to go see him.

21 Q. And it's fair to say that we don't have a picture
22 here today that you and I can look at?

23 A. Not at the moment, no.

24 Q. And at no point in time once you got your car back
25 with the bullet hole in it did you notify law enforcement

1 about that bullet whole, right?

2 A. Well, no. Nobody ever reached out to me. I went to
3 go see the lawyer.

4 Q. Okay. But you never reached out to law enforcement
5 as well, right, Ms. Glover?

6 A. No, I did not.

7 MS. ABEE: Your Honor, I have no further questions
8 for Ms. Glover.

9 THE COURT: Any redirect?

10 MR. ERVIN: Nothing additional, Your Honor.

11 Ms. Glover, thank you for showing up.

12 Judge, I ask her to be released from her subpoena.

13 MS. ABEE: No objection.

14 THE COURT: Ms. Glover, you can step down and you're
15 released from the subpoena.

16 (Witness excused.)

17 THE COURT: Mr. Ervin call your next witness.

18 MR. ERVIN: Judge, that is it for the defense. We
19 rest.

20 THE COURT: All right. Thank you.

21 All right. Ladies and gentlemen, the defense has
22 rested.

23 Any reply from the State?

24 MS. ABEE: No, Your Honor.

25 THE COURT: The State is offering nothing in reply.

1 What that means is you've heard all of the evidence in
2 the case. What we'll do because of the hour I'm gonna
3 let you go home. Be back tomorrow morning at 10:00. We
4 have some issues that we'll need to take up outside of
5 your presence. We'll be working well before 10:00, but
6 you will not be needed until ten. When you come back at
7 ten, we'll hear closing arguments from both sides. Once
8 that is finished, then I will charge you or read you the
9 law that applies in the case and then you will begin to
10 be able to deliberate.

11 In the meantime, even though you've heard all of
12 the evidence in the case, you have not been charged on
13 the law, which means you still can't discuss the case
14 and you still can't do any independent research or
15 Googling the law or places or things or anything related
16 to the case. Your decision in the case must be based
17 on what you saw and heard here in this courtroom. So
18 you'll be -- you will have an opportunity to begin
19 discussions and deliberating sometime tomorrow.

20 In the meantime, don't discuss the case with anyone
21 and don't do any independent research or look up any
22 people, places or things on your devices.

23 With that, I'll allow you to go and just be ready
24 to go -- be ready to come into the courtroom at 10:00
25 tomorrow morning.

1 With that, everyone remain seated while this jury
2 is excused.

3 (Whereupon, the jury was excused for the day at
4 3:52 PM.)

5 THE COURT: All right. Thank you.

6 Anything further for the record from the State?

7 MR. KOZAK: No, Your Honor.

8 THE COURT: From the defense?

9 MR. ERVIN: Nothing, Judge.

10 THE COURT: All right. My law clerk is going to
11 e-mail you-all the charge that we have prepared so far
12 and the verdict form. If you-all will be back in here
13 at 9:30 in the morning and we'll -- we may need to put
14 some issues on the record as far as the charge or anything
15 else. So be back here tomorrow morning at 9:30 ready to
16 go, all right?

17 MS. ABEE: Thank you, Your Honor.

18 MR. ERVIN: Thank you, Judge.

19 THE COURT: Lawyers approach.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: All right. We'll be at ease until
22 9:30 in the morning.

23 (Whereupon, the proceedings were concluded for
24 September 6, 2023, at 3:53 PM.)

25 (The following proceedings were held September 7,

1 2023, beginning at 9:36 AM.)

2 BAILIFF: All rise.

3 THE COURT: All right. Good morning.

4 We're back on the record in the case of the State
5 versus James Patterson. Let's talk about jury instructions
6 and go through those. If you have any objections or
7 corrections that you think need to be done, let me know
8 that as we go through. I'm just gonna simply go through
9 badge by page.

10 All right. Page 1, general duties. Page 2, charge,
11 arrest and indictment. Page 3, presumption of innocence.
12 Page 4 is where we start reasonable doubt. Page 5, direct
13 evidence and circumstantial evidence. Page 6, credibility
14 of witnesses. Page 7 are the expert witness charge.
15 Page 8, the general intent.

16 We included prior inconsistent statements. I'm not
17 -- do you-all have an opinion about -- we did not have
18 any formal statements entered. There may have been some
19 inconsistencies of what allegedly someone said before.

20 Do you-all want me to include the prior -- I think
21 I need to include the prior inconsistent statements.

22 Do you have an opinion about that, Ms. Abee?

23 MS. ABEE: Just from my recollection, and you-all
24 help me on this, but my recollection was with defense
25 counsel questioning a question asking if she had previously

1 provided a statement to law enforcement or someone in law
2 enforcement that said X, Y, Z, but I don't know if that's
3 a statement that she actually ever made, you know.

4 THE COURT: Well, it never really went to the next
5 step of then introducing or presenting the statement --

6 MS. ABEE: Right.

7 THE COURT: -- and that's the classic way we do it.
8 Do you have an opinion about --

9 MR. ERVIN: I don't, Judge.

10 THE COURT: I think I'm gonna include it because
11 even though we didn't make that next step, the jury could
12 infer from the facts that there were some prior -- there
13 were some inconsistencies, so I'm gonna keep that.

14 I have statement of the defendant; however, there
15 was no statement from the defendant, right?

16 MS. ABEE: Not other than his testimony, Judge.

17 THE COURT: Other than his testimony.

18 MR. ERVIN: Correct.

19 THE COURT: So statement of the defendant will come
20 out.

21 And then we have the charge on murder on page 12.
22 Possession of a weapon during the commission of a
23 violent crime begins on 13. The general instruction
24 on 14 about being fair and impartial, and then some
25 general instructions to the jury and then unanimity of

1 the verdict.

2 What changes or additions do you-all believe we need
3 to include or make?

4 Anything from the State?

5 MR. KOZAK: Nothing from the State, Your Honor.

6 THE COURT: From the defense?

7 MR. ERVIN: Nothing, Your Honor.

8 THE COURT: All right. That solves that.

9 On the verdict form that you received, we're simply
10 going to switch the order in which it appears on the
11 verdict form. I think it probably doesn't matter really
12 whether it's possession of a weapon during the commission
13 of a violent crime first, but it makes more sense murder
14 will be the first -- the first thing they have to decide
15 and then possession of a weapon during, so we're just
16 gonna flip one and two.

17 MR. KOZAK: Yes, sir.

18 THE COURT: Any -- any questions or additions or
19 corrections need to be made to the verdict form?

20 MR. KOZAK: None from the State, Your Honor.

21 MR. ERVIN: Nothing from the defense, Your Honor.

22 THE COURT: All right. And then anything else we
23 need to put on the record before we bring the jury in at
24 ten from the State?

25 MS. ABEE: Nothing, Judge. We just -- we left all

1 of the family members out for the charge conference. We
2 just ask for a minute to be able to bring them all in.

3 THE COURT: Okay. Everybody to come in, yeah.
4 Anything further from the defense?

5 MR. ERVIN: Nothing, Your Honor.

6 THE COURT: All right. We'll be at ease until 10:00.

7 MS. ABEE: Thank you, Judge.

8 (Recess taken at 9:41 AM.)

9 (Back on the record at 10:01 AM.)

10 BAILIFF: Court will come to order. The Honorable
11 Judge Daniel Hall presiding.

12 THE COURT: Thank you. Please be seated.

13 All right. Thank you. Is the State ready to
14 proceed?

15 MR. KOZAK: Yes, Your Honor.

16 THE COURT: Who's gonna be doing the closing?

17 MS. ABEE: I will, Your Honor.

18 THE COURT: Okay. And defense ready?

19 MR. ERVIN: We are, Judge.

20 THE COURT: So, Ms. Abee, you'll open, we'll then
21 hear from Mr. Ervin and then you'll have an opportunity
22 to respond and close.

23 All right. Let's bring the jury in.

24 (Whereupon, the jury enter the courtroom at
25 10:03 AM.)

1 THE COURT: Ladies and gentlemen, good morning.
2 Thank you for your promptness.

3 We're now at the stage of the trial where we will
4 hear closing arguments from the attorneys. The procedure
5 we follow is that the State will address you first. When
6 they complete that part, then the defense will have an
7 opportunity to present their closing argument, and then
8 the State will be given final argument on what we call
9 rebuttal. Once that is done, then I will charge you or
10 read to you the law that applies in this case and then
11 when I complete that process, we'll be able to send you
12 back to your jury room where you can begin deliberations.

13 So with that, I ask you that give your close
14 attention to the lawyers as they make their arguments.

15 Ms. Abee will be presenting on behalf of the State.

16 MS. ABEE: Thank you, Your Honor. May it please the
17 Court?

18 On November the 9th, 2020, what started as a simple
19 dice game ended in the tragic death of William Clark.
20 Somebody that you've heard was a father, a brother and a
21 friend. Now there's no doubt that the death of William
22 Clark was senseless and there is no doubt that the person
23 that killed William Clark is James Patterson.

24 Now we're at the point in this trial where Judge Hall
25 is about to instruct you on the law and ask you to return

1 a verdict of guilty or not guilty. And in order to do
2 that, we had to prove certain things to you throughout
3 the course of this trial.

4 We've charged the defendant with the crimes of murder
5 and possession of a weapon during the commission of a
6 violent crime and in order to prove to you murder we had
7 to prove to you that the defendant caused the death of
8 William Clark with malice aforethought, which simply
9 means that he did so intentionally, without any sort of
10 justification.

11 And you'll hear that malice -- well, malice doesn't
12 mean that this was a plan to kill William Clark that was
13 a week long or days long or hours long or even minutes
14 long. You'll hear from the judge that malice can be
15 formed in an instant. Malice can be formed in the amount
16 of time it takes someone to walk to the car and get a gun.

17 And in order to prove possession of a weapon during
18 the commission violent crime, we had to prove you that
19 when the defendant killed William Clark he did so simply
20 with a weapon, a gun.

21 Now that has been our burden throughout this case
22 to prove those elements to you and in order to prove that
23 we called several witnesses to the stand and put several
24 exhibits into evidence, and even though we weren't there
25 at 115 South Hampton on November the 9th of 2020, by

1 piecing together the testimony and the evidence we know
2 exactly what happened.

3 And what we heard was that this house right here,
4 well, this is 115 South Hampton. This is where William
5 Clark was staying on November the 9th of 2020, and you
6 heard on this particular day there were several people
7 over there playing dice, cards, gambling. You heard that
8 William was there, his brother Albert, his cousin Donnie.
9 You heard that the defendant was there and his cousin
10 Tamare Howell, along with a couple of other people, and
11 you heard that the defendant's longtime girlfriend,
12 Kenyatta Strother, was there.

13 And Kenyatta took that stand and she told you that
14 she arrived a little bit later in the night around 8:30
15 or so and when got there she went to William's bedroom.
16 Now the bedroom connects exactly to where the guys were
17 shooting dice and she told you that that door was open
18 the entire night. She said it seemed kind of like a
19 normal game of dice being played, but that at some point
20 the defendant got upset and she said that she heard him
21 say that somebody was shorting him money. She said that
22 then some money was exchanged and that everything kind of
23 calmed down, and that should have been the end of it, but
24 it wasn't.

25 Because Kenyatta told you that the defendant then

1 walked through William's bedroom and out his side door
2 and went to a white Crown Victoria, a white Crown Vic that
3 even his witnesses admit was there that night. She said
4 she saw the defendant get a gun from that white Crown Vic,
5 walk right back into that house and into that room where
6 he had just been shorted money, where he just gotten into
7 that altercation and she said she saw him standing back.
8 The guys were still playing dice and then out of nowhere
9 he says don't push me, don't push me. No one was even
10 around him at that point in time, but she said then
11 everyone kind of stands up, right, words start being
12 said, and that the defendant takes out that gun and he
13 fires one shot in the house, and at that point in time
14 everyone scatters.

15 They run outside and she tells you the defendant,
16 well, she sees him back here by this fence line by his
17 car pacing back and forth with that gun in his hand and
18 Kenyatta, she tells you she's here looking out this door,
19 the door with the light right beside it, the door on the
20 side of the house, watching as the defendant paces back
21 and forth. Then she hears it. She hears a shot and then
22 another shot and another shot. Multiple gunshots ring out
23 being fired from the only person she has seen with a gun
24 that night, the defendant. She says she ducks down and
25 she goes towards the kitchen window and she hears the

1 shooting stop and a car go to leave, then it's at the end
2 of the driveway, towards that dirt road, fired another
3 shot.

4 She said she comes outside trying to figure out what
5 just happened and she sees William, her boyfriend of
6 seventeen years, the father of her child, on the ground.
7 She says she sees him try to stand up and he collapses.

8 Now Kenyatta was not the only eyewitness that was
9 there that night because you also heard from Albert Clark,
10 William's brother, and Albert told you yeah, he was there
11 gambling that day, they were shooting dice, he was betting
12 money on it, and at some point in time he ran out of money,
13 so he left the house to go just a couple of blocks down
14 to get more money and he says when he's at that house he
15 hears a gunshot and he knows where that gunshot's coming
16 from.

17 So he gets in his car and he immediately goes right
18 back here to this area and he says he pulls in here and
19 over here by this bedroom window, by this back fence line,
20 he sees the defendant with a gun shooting towards his
21 brother. Multiple shots. Shot after shot after shot and
22 then he leaves in that burgundy sedan. Another shot as he
23 leaves. He says he sees his brother on the ground and so
24 he goes with his cousin and he picks him up and puts him
25 in the truck and takes him to the hospital and it's at

1 the hospital that William Clark is pronounced dead. A
2 9-millimeter bullet that entered his right hip, went all
3 the way through his pelvis and ended in his leg, causing
4 him to bleed out and die.

5 Now that is the eyewitness testimony in this case,
6 but we don't just have to take their word for it because
7 there's physical evidence in this case as well, and I
8 want to walk through that physical evidence. And you had
9 Investigator Cody Weyandt up here, who was the crime scene
10 investigator, and you also heard from Thom Smith, who's
11 an expert in firearms, and what they first told you was
12 that there were several shell casings found at this scene.

13 Now this is the diagram -- that's the diagram that
14 was created of the outside and there are two different
15 types of shell casings found outside. There are .45's
16 and there's 9-millimeters, and they're all marked here
17 on this legend. Now the .45 caliber shell casings that
18 were found at the scene are what law enforcement told you
19 were historical shell casings. They looked old, right?
20 They're bent, they look weathered, they've got some sand
21 in them. They don't look like they were freshly shot.
22 But then here in this yard there are seven 9-millimeter
23 shell casings that are found that appeared fresh, shiny,
24 didn't look like they had been weathered, all over here
25 in this area.

1 But it's not just those seven shell casings that
2 they find at the scene. They find one inside and one
3 out on the road. Neither of those are on this diagram,
4 but they're very important when we start looking at the
5 physical evidence in this case. Most importantly, what
6 Thom Smith told us is that every single one of those
7 shell casings, the seven on the outside, the one inside
8 and the one in the road, were all fired through the same
9 chamber. Every single one of them struck by the same
10 firing pin, every single one of them containing the same
11 tiny imperfections and details. So the shot inside, the
12 shot from the road and the shots here surrounding the
13 area, all came from the same gun, a 9-millimeter.

14 But we don't just have shell casings. We also have
15 two separate bullets. One bullet is removed from William
16 Clark's hip at autopsy. That is a 9-millimeter bullet.
17 There's also a 9-millimeter bullet found in the headlining
18 of the car of Talmadge Foulks. Mr. Foulks got up here on
19 the stand and told you that he heard several shots that
20 night and then subsequently found that the back window of
21 one of his cars had been busted out.

22 Now law enforcement was able to retrieve that bullet
23 and the bullet from the autopsy and when comparing them
24 what Thom Smith was able to tell us was that those two
25 bullets were fired through the exact same barrel. They

1 have the same lands, the same grooves, the same striations,
2 those tiny little imperfections. Both of those bullets
3 came from the same gun.

4 Now you might be sitting here thinking well, wait a
5 minute, if William Clark was found dead over here in this
6 area, then Talmadge Foulks's car was busted out in this
7 area and those are the same bullets and the defendant
8 was over here by the fence line, how was he shooting
9 that way? I want you to think about exactly what the
10 eyewitness testimony was. When the defendant started
11 shooting, he was here. He was by this fence line, he's
12 shooting towards William Clark, but then you heard from
13 both Albert and Kenyatta that shots were fired and then
14 as he is exiting here on this road, there's another shot.
15 What a coincidence that there's a 9-millimeter shell
16 casing found in this road, and that's because that shot
17 was going back towards this fence line and that explains
18 the bullet that's in Talmadge Foulks's car and explains
19 why that bullet matches the bullet that was pulled out
20 of William Clark's body.

21 Now the defense has no burden of proof in this case,
22 right? We told you from the very beginning that that
23 burden is here, it stays here, it never goes over here.
24 They don't have to question any witness, they don't have
25 call any witnesses, they don't have to provide any sort

1 of information to you because the burden of proving that
2 James Patterson did this is ours, that's our job, but
3 when the defense decides to call witnesses, they decide
4 to put up testimony, we get to hold them accountable for
5 it. We get to sit here and go through their story and
6 ask ourselves does this make sense? Is this supported
7 by any of the other stuff that we've seen in this case?
8 And I want to walk through the stories that the defense
9 witnesses provided to us yesterday in this trial.

10 You heard from the defendant himself and you heard
11 from his cousin, Tamare Howell, to start off with, and
12 they both said that yeah, they were there that night at
13 [REDACTED] South Hampton, they were there playing dice, gambling,
14 some drinking, some people were smoking weed, and the
15 defendant said that he was side betting with Albert Clark.
16 He said \$100 a hand and that he taken him for about
17 thousand dollars at some point in time and Albert was
18 out of money. Just what Albert told us.

19 But according to the defendant being the, quote,
20 generous person that he is, he decided he would just give
21 Albert Clark two hundred additional dollars. So he says
22 he gives Albert two hundred additional dollars and then
23 at some point he says he stops gambling because they make
24 a call that he doesn't like and then he wants his money
25 back from Albert.

1 Albert gives him a hundred dollars, but still owes
2 him that other hundred dollars, so these words start
3 being exchanged about money just like Kenyatta said. And
4 according to the defendant, that's when Donnie Clark
5 starts talking to him like he's his dad and he doesn't
6 appreciate that, he doesn't like that. Donnie puts his
7 hand on his arm and so he shoves him away and when he
8 shoves him away he falls into a table, that table flips
9 over, and there just happens to be a 45-millimeter gun
10 on that table that hits the ground, and fires. Not a
11 9-millimeter, a 45-millimeter, and he says that that
12 causes everyone to scramble out of the house. That they
13 all exit through the front door of that house and that
14 he and his cousin, well, they start to walk back towards
15 that burgundy car by the fence line, but as he's doing
16 so he said he tells his cousin hey, you forgot your bag
17 inside, go in and get that.

18 So he sends his cousin back into the house where
19 the gunshot was just fired, where the altercation that
20 just happened, where this big commotion had just started.
21 He sends his cousin back into that house and he goes and
22 he tells us he goes and he sits in his car. The car that
23 he has borrowed from his cousin. And at this point in
24 time what the defendant thinks is that this is a good
25 time to just start separating out his money. So even

1 though that shot had been fired and even though he had
2 pushed someone inside of that home and even though
3 everyone came outside, he's gonna sit there in the front
4 seat of that car in that driver's side and he's gonna
5 separate out his money, the money that he won and the
6 money that he had just brought with him. And he's also
7 doing so with a cell phone on his lap.

8 And he says at this point in time Tamare comes back
9 out and says hey, man, they got a gun. Not the gun that
10 was fired in inside, not that .45, but according to Tamare
11 Howell Albert goes outside and gets a different gun from
12 the truck and starts heading towards them shooting. And
13 what the defendant does is not turn on that car and get
14 out of there. He doesn't say hey, Tamare, get in the
15 car, let's go. He gets out of the car, the big piece of
16 machinery that he's in, the big car that has the ability
17 to leave the scene, leave the gunshots, he decides he's
18 gonna get out of that car and Army crawl exposing his
19 body to every single one of those shots that Albert is
20 allegedly shooting, and when he does so, the money falls
21 on the ground and the cell phone falls on the ground, and
22 he says he Army crawls back to the back of the car all
23 while Albert is approaching him firing, shooting, these
24 shell casings, these 9-millimeters, and miraculously never
25 hits him.

1 And when you go back there and you start deliberating
2 and looking through the pictures, I want you to take a
3 good look at State's Exhibit Number 42. Placard 6 is the
4 cell phone, here in the middle is the money that you can
5 see in other pictures that's at Marker 11, and then 5 and
6 4 are shell casings. So if his phone and the money falls
7 out of his pocket -- or off of his lap as he gets out of
8 the car, that means that the shell casings, the shooter,
9 was this close to him and never hit him.

10 He said then the shooting stopped, he got back in
11 the car and he left and picked up his cousin, which their
12 stories don't lineup, right? Cousin says he's picked up
13 over here on South Hampton, defendant says he's picked up
14 here on the dirt road. The cousin who initially said
15 that he was able to see the shooting and was able to see
16 that Albert was shooting, and then finally at the end
17 said I was running away, you don't look back towards
18 where shots are being fired when you're running away, I
19 was trying to get out of there, and he picks him and he
20 goes home because he says he's got to get his cousin her
21 car back because she just got off work.

22 And then after they've been fired at what he said
23 at least six, seven, eight, nine, ten up to twelve times,
24 he's been fired at that many times, he goes home and
25 chills. Those are his words.

1 Now the defense doesn't have to prove to you that
2 story. They don't have to come up here and tell you that
3 that story is true, but we certainly absolutely get to
4 hold it up against the physical evidence in this case.
5 They told you that a 45-millimeter gun shot in that small
6 room when they were gambling. There is not a single
7 45-millimeter gun found in this room. There was not a
8 .45 gun found in this room, there was not a .45 shell
9 casing found in this room, but what is found in this room
10 is a 9-millimeter shell casing, the one that matches the
11 shell casings from outside and the one matches the shell
12 casings in the street. In their witness's story, this
13 9-millimeter is completely unaccounted for.

14 You also heard the defendant say there were two --
15 three bullet holes in Stephanie Glover's car, but when
16 Stephanie Glover came up here, she told you there was
17 one. He told you that he had to leave that night to get
18 Stephanie back her car because she had just gotten off
19 work and she told you she was off that day and that she
20 actually didn't get that car back until the next morning
21 before she went in around 11:00.

22 Finally, not a single one of their witnesses accounts
23 for the shell casing in the street. Tamare didn't tell
24 you he saw Albert run out to the street and shoot, the
25 defendant didn't tell you he saw Albert run out to the

1 street to shoot, and that's because Albert wasn't the
2 shooter. That's because what happened in this case was
3 that the defendant got in that altercation in that room.
4 He said he had a call that he didn't like, that Albert
5 wasn't giving him his money, that he pushed Donnie, and
6 he fired in that room, he fired from back here where
7 Kenyatta saw him and then he fired as he was pulling out.
8 One of those bullets went into William Clark and killed
9 him.

10 Now when I'm done giving my closing argument to you,
11 the defense will have an opportunity to present to you
12 their closing argument if they choose to do so, and what
13 I exact you're gonna hear is that there's no physical
14 evidence that ties the defendant to the scene of this
15 shooting. You're gonna hear that there was no GSR test
16 performed on Albert Clark or Donnie Clark or William
17 Clark. We heard that through several different witnesses
18 as defense counsel cross-examined them, but who we heard
19 talk about GSR was Thom Smith, and Thom Smith told you
20 GSR, yeah, it's on its way out. Law enforcement doesn't
21 really use it anymore. And they don't use it because
22 it's not accurate. GSR, when you rub your hands together,
23 can go away. When you rub your hands, can go away. When
24 you wash your hands, sneeze into your hands, can go away.
25 Also, if you are in a small enclosed area when a weapon

1 is fired, even if you did not fire that weapon, you can
2 have particles of GSR on your hands. So even if somebody
3 tests positive for gunshot residue, it does not mean that
4 they have fired a weapon and just because somebody tests
5 negative for gunshot residue doesn't mean that they didn't
6 fire a weapon.

7 But I want you to line up the physical evidence in
8 this case, the cell phone, the money, the shell casings,
9 with the eyewitness accounts. Remember, after the
10 shooting Kenyatta left the scene, Albert left the scene,
11 and they weren't allowed back. Law enforcement told you
12 that when they questioned them they did it up on the road,
13 right, either back behind it or over in this area, but
14 they didn't question them on the scene. It was a crime
15 scene, it was taped off. They weren't allowed back in.
16 Yet everything Kenyatta says happens. There's a shell
17 casing there, there's the phone there, there's money
18 there, there's the shell casing inside, there's the shell
19 casing in the street. What Albert tells you happens.
20 There's shell casings in those exact same areas. It's
21 not a lucky guess. It's because that's what they saw
22 and it's what happened. That is physical evidence
23 corroborating an eyewitness account that James Patterson
24 killed William Clark.

25 But let's say for just one minute you're not

1 convinced. Let's say that just for one minute you might
2 think it could have been Albert. What if it was Albert?
3 I want to walk through the actions of what Albert did
4 after his brother was shot compared to what the defense
5 witnesses did. Albert, after William is shot, helps
6 load him into a car, follows that car to the hospital
7 where he is dropped off. He goes inside, speaks with
8 law enforcement, leaves his car at the scene -- at the
9 hospital willing to come back and actually coming back
10 to get it, then leaves to go back towards the house,
11 is pulled over by law enforcement, speaks with law
12 enforcement during that traffic stop, then goes back to
13 the incident location again and stays for what Detective
14 Dubard was about three hours. About three hours on top
15 of everything else. If he had just shot his brother why
16 would he have left the one officer at the hospital and
17 go back to where there's at least ten? It's because he
18 didn't shoot him.

19 To whereas the defense witnesses, what they did, was
20 not tell law enforcement they had just been shot at, not
21 tell law enforcement that their car had bullet holes in
22 it, and they went home and chilled. That's what they did
23 after the shooting.

24 Now our burden in this case is that of beyond a
25 reasonable doubt. A reasonable doubt does not mean

1 beyond all doubt. It simply means beyond a reasonable
2 doubt. And what you're gonna hear the judge tell you is
3 that you are the sole determiners of the credibility of
4 every witness in this case. You decide what to believe
5 and what not to believe. You get to decide if the
6 evidence supports that the defendant fired that shot
7 inside, that he fired shots here around his car and then
8 fired a shot on the way out. Or you get to decide if
9 you think that there was a .45 gun that just magically
10 disappeared from the middle of that room.

11 You decide what to believe and if you are firmly
12 convinced that James Patterson pulled that trigger, that
13 he was upset over that money, over that dice game, that
14 he went and got a gun and that he started firing and that
15 bullet hit William Clark, then you should find him guilty
16 the law demands it.

17 That's why I'm gonna ask you now as we asked you at
18 the very beginning of this trial to find James Patterson
19 guilty.

20 Thank you.

21 THE COURT: Thank you.

22 Mr. Ervin.

23 MR. ERVIN: Thank you, Your Honor.

24 Fortunately, you do not have to determine who shot
25 and killed William Clark. You simply have to determine

1 if the State ruled out all reasonable doubt. Did the
2 State rule out all of the possible shooters in this case?
3 Detective Dubard answered that question for you. No,
4 they did not.

5 I asked him did you rule out the possibility that
6 Albert Clark accidentally shot his brother and he said
7 no. To be fair, he claimed he used the physical evidence
8 along with testimonial evidence to determine their theory
9 of the case.

10 He pulled two men over who had just dropped off a
11 gunshot victim at the hospital and left him there to die.
12 He found an empty 9-millimeter magazine clip in that car.
13 He knew the two men had left a box truck at the hospital.
14 He then asked the two men what happened and they said
15 Patterson did it. Case closed. There's no reason to go
16 search that truck. There's no reason to conduct gunshot
17 residue evidence testing, which by the way, the ballistics
18 expert said Lexington County Sheriff's Department still
19 uses today and that the FBI says within two hours it's
20 still useful. These men dropped a gunshot victim off at
21 the hospital moments after the shooting well within that
22 two-hour frame.

23 But case closed. They're busy. Detective Dubard
24 did not make -- did not follow up any other leads after
25 that. He didn't search any other vehicles after he found

1 a 9-millimeter clip that was empty.

2 Officer McChesney was at the crime scene with the
3 body cam footage. He had to take some time at the crime
4 scene to do some other paperwork on previous cases.
5 That's how busy he was. They're busy. They didn't
6 continue investigating this case. Albert and Donnie
7 said Patterson did it. Case closed. That's it. We
8 would like to see a little more.

9 So Dubard and the sheriff's department decide to
10 charge Mr. Patterson with murder. Several days later
11 they call Patterson's mother's house and ask him to come
12 turn himself in for murder. They didn't go get him.
13 They didn't go search his house. They didn't search his
14 car. They called him on the telephone. Hey, we just
15 charged you with murder. Could you come turn yourself
16 in? And he did immediately because he knew he didn't do
17 it.

18 So here we are. You've heard two theories of this
19 case. First, that James Patterson III was at a dice game
20 and freaked out over \$40.00 and shot the place up and
21 left dropping the \$40.00 and his cell phone; therefore,
22 having killed William Clark for nothing, for no reason at
23 all.

24 The other theory to the case is that some young
25 dudes went to some old dude's house where they were

1 gambling, smoking weed, doing coke and drinking brown
2 liquor. Young dude takes a thousand dollars from big
3 dude. Big Albert gets angry and mad. He's been drinking
4 and doing coke. Young man decides to leave, Albert's not
5 having it, a gun gets pulled out, and it's on. He
6 takes it into the yard, blasts a 9-millimeter emptying
7 a 9-millimeter clip. Does that sound familiar? Emptying
8 a 9-millimeter clip. There was an empty 9-millimeter
9 clip found in the possession of Donnie and Albert Clark
10 by Agent Dubard.

11 But they didn't follow up on that. They took their
12 word that that's not the clip I emptied in the yard. We
13 don't know. They did not determine that that wasn't the
14 actual clip that was emptied in the driveway. Nobody
15 knows. Oh, he has a CWP. He's allowed to have that
16 empty clip in his car leaving a shooting incident,
17 dropping a gunshot victim at a hospital.

18 That's mind-blowing. I'm sorry. That's ridiculous.
19 Patterson did it. Case closed.

20 Patterson -- Albert's emptying the clip in the yard,
21 Patterson's fleeing for his life. He didn't expect Albert
22 to come out shooting. He's sitting in his car counting
23 his money. Albert's shooting, blasting away in this
24 direction. He jumps out the car because those shell
25 casings are right at the car. Albert got up on the car.

1 Thank goodness he got out of the car because if he didn't
2 he'd have been sitting right where Albert was shooting.
3 He got behind the car. Albert's drunk and stoned on
4 cocaine blasting away when Patterson, lucky to be alive
5 as I told you, got out of there and picked his cousin up
6 down the road.

7 Now what happens next? Albert's got a truck. The
8 box truck that he drove to the hospital. Donnie's got a
9 truck he was in. He felt that it was -- Donnie cared
10 enough about William Clark to get him to the hospital
11 before they called EMS because he didn't think it was
12 gonna be -- that it was gonna take too long for EMS to
13 arrive. So Donnie cares about William Clark.

14 Albert, we don't know what he did in the moments
15 before he went to the hospital. Take him to the hospital.
16 I'll meet you there. What does he do at the house during
17 that period of time? We don't know. Did he gather the
18 guns and get rid of them? Did he sprinkle 9-millimeter
19 casings the yard? We don't know. No one knows.

20 Let's talk about credibility. Albert and Kenyatta
21 were the two witnesses for the State. Kenyatta, the
22 mother of William's child, the mother of Albert's nephew,
23 is there at this house while people are gambling, smoking
24 weed, drinking liquor and doing cocaine. She's the only
25 woman there. Five to ten dudes. Partying. Doing what

1 they're doing. She's in the bedroom with William. The
2 door's open, the door's closed. We don't know. Four
3 people said the door was closed. She said it was open.
4 You've to judge whether or not she was being accurate,
5 whether she was lying or whether she just made it up,
6 okay, but she did say Patterson was in the yard shooting.

7 Now I made it a point to ask all the witnesses,
8 including law enforcement, whether or not there were any
9 bullet holes in this wall of the exterior of the building,
10 and there were none. If Patterson was shooting at William
11 Clark, whose body was found here, there's no broken
12 windows, there's no projectiles found in the exterior of
13 that building at all. They did find projectiles behind
14 where Patterson was in the vehicle in the neighbor's yard.
15 And Ms. Glover testified, and her credibility wasn't
16 questioned once. She was totally credible. She had a
17 bullet hole in her car, at least one, in the direction of
18 Patterson, okay?

19 Albert. Why would he lie to you and the police?
20 Albert made the worst mistake of his life. In a drunken
21 brown liquor rage high on cocaine, he accidentally shot
22 his brother, and he came to this courtroom in some to
23 twisted effort to preserve some legacy so that his nephew
24 and his family don't think he shot and killed his brother
25 by accident. He'd rather it be Mr. Patterson. That way

1 he could go on with some, again, twisted sense of legacy.
2 I don't know. I don't know, but that's -- that's quite
3 a motive. That's a heavy burden. He made a big mistake
4 that night and he was here trying to clean it up.

5 Where's Donnie? Donnie cared enough about William
6 Clark to take him to the hospital before EMS got there.
7 He didn't want to be a part of this charade. He wasn't
8 gonna come in here and tell it like it wasn't. He's not
9 here. Why wouldn't he show up and -- and confirm or
10 guarantee that the accused killer of his cousin was
11 convicted? He's not here. He didn't want to be here.
12 He didn't want to be a part of this charade.

13 He was talking to Mr. Patterson like he was his dad.
14 Mr. Patterson said I -- my dad's dead. You don't have to
15 talk to me like that. Mr. Donnie Clark knew better than
16 to be a part of this.

17 Albert Clark, this guy who takes the stand and
18 jokingly tells you that all the weed found in his dead
19 brother's house is rabbit food. This isn't a joke. He's
20 up there joking with you about rabbit food when he knows
21 what that is. You know what that is.

22 Credibility of the defense. There was not one moment
23 when the State impeached or questioned the credibility
24 of the three defense witnesses. Not once. She tried.
25 Yes, ma'am. Correct. Correct. Correct. Unflappable

1 testimony as to what happened. Barely any inconsistencies
2 in the minor details.

3 Patterson turned himself in immediately, waived his
4 right to silence to tell you exactly what happened because
5 he didn't do it.

6 Now let's talk about what we do know. The physical
7 evidence. Again, I'm gonna reiterate no bullet holes in
8 the side of that house where William Clark, everybody
9 agrees, his body was found -- or he was shot. He expired
10 at the hospital, so he was still alive when Donnie put
11 him in the vehicle, but everybody agrees he was shot right
12 by the house.

13 Now two projectiles are confirmed. One in his body
14 and one in the car through the fence. And I put it to you
15 and Detective Dubard didn't want to admit it, but if that
16 bullet was through the fence and in the Honda it's going
17 in that direction, okay?

18 And then Ms. Glover, by testimony, said there's a
19 bullet in her car, which was right here. Boom. Boom.
20 William Clark. Boom. Those bullets are going in that
21 direction. Albert Clark came out the front door chasing
22 Mr. Patterson, shooting a gun in that direction. Boom.
23 Boom. Boom. William Clark, he said, came out the side
24 door, caught in the crossfire. Caught in the crossfire
25 of the shots. That makes perfect sense with the physical

1 evidence here. Makes perfect sense with the testimonial
2 evidence here.

3 I believe I just illustrated serious doubt in the
4 State's case. Way beyond reasonable doubt. There's
5 very little doubt in my mind what really happened.
6 Mr. Patterson is not guilty. He did not have a weapon
7 that night and he did not commit the crime of murder.

8 Thank you.

9 THE COURT: Thank you.

10 Ms. Abee.

11 MS. ABEE: Thank you, Your Honor.

12 If this would have been case closed for Detective
13 Dubard after talking to Albert and Donnie before he even
14 got to the crime scene, we surely would not have 79
15 exhibits for you to look at when you go back there.
16 This was not case closed. And what Detective Dubard told
17 you is that if the physical evidence collected from this
18 scene would not have corroborated what Donnie and Albert
19 and Kenyatta said, then he wouldn't have made the arrest.

20 Now defense counsel just got up here and told you a
21 couple of different things, right, that they believe is
22 reasonable doubt, and I just want to go through just a
23 couple of them.

24 First and foremost, it was insinuated that Albert
25 is some sort of criminal mastermind, right? This guy

1 that they made sure you knew was drunk and high and on
2 cocaine. They want you to now think that he had the
3 ability to shoot his brother, load him up in the car, let
4 that car go to the hospital and then remove a 45-caliber
5 gun from inside of that room, remove that shell casing
6 wherever it was, planting a 9-millimeter shell casing in
7 the room, go outside, find the defendant's phone, find
8 the \$40.00 cash that he had said -- that Kenyatta said,
9 that he had sprinkled shell casings all around it, then
10 go out to the road and sprinkle a shell casing there,
11 then get to the hospital at just about the same time that
12 Donnie and William did. That makes absolutely no sense
13 that he had the ability to do that. And don't forget if
14 he did do that, he then at some point in time also empty
15 the magazine, popped it out of the gun that he had just
16 shot his brother with, went to Donnie's car, put it in
17 Donnie's car, and put the 9-millimeter holster -- gun
18 holster in the car. That makes just absolutely no sense,
19 you-all. It makes no sense that he would shoot his
20 brother, pop out that magazine, put it in Donnie's car
21 and then follow that car to the hospital and stage that
22 scene, and that doesn't make sense because it didn't
23 happen.

24 And, yes, there is that one bullet through the fence
25 and we accounted for that with the shell casing in the

1 street and they want to set here and talk about how
2 Stephanie Glover was credible, and she was, right, but
3 unfortunately for them Stephanie Glover contradicts what
4 Mr. Patterson said because Mr. Patterson says there's
5 two -- three gunshots in that car while Stephanie Glover,
6 she says there's only one. Mr. Patterson says that he
7 returns that car that night, right, because she had just
8 gotten off work. She says that she didn't even work that
9 day and she didn't get the car back until she had to go to
10 work at 11:00 the next morning. So even if Ms. Patterson
11 {sic} is credible, even if there is a gunshot in that car
12 that Ms. Glovers sees -- even if Ms. Glover sees a gunshot,
13 she has no idea how it got there, when it got there or
14 who put it there. There's absolutely nothing to say that
15 it wasn't the defendant who did it before he returned that
16 car.

17 And I finally want to talk about the two different
18 stories that defense counsel said. Because when you
19 really break it down, the motive that he said doesn't
20 make sense for the defendant, money, is the exact same
21 motive that he attributes to Albert. So for their theory,
22 it makes no sense that the defendant would be upset over
23 money and start shooting, but it does make sense that
24 Albert would be upset over money and start shooting.

25 And even if -- even if Tamare Howell would have

1 spoken to law enforcement that night, Stephanie Glover
2 would have spoken to law enforcement the next morning,
3 the physical evidence at the scene does not support what
4 they say. It does not make perfect sense that Albert
5 Clark came out shooting and William Clark got caught in
6 the cross hairs because there was a 9-millimeter shell
7 casing inside and there's a 9-millimeter shell casing
8 in the street. So their story that Albert came out
9 shooting and firing this way does not make sense with
10 the physical evidence that is at the scene and that's
11 because it was not Albert Clark that killed William
12 Clark.

13 It was the defendant after he got mad over money,
14 after he pushed Donnie Clark and after that gun was
15 fired inside, and that's why we ask that you find James
16 Patterson guilty.

17 Thank you.

18 THE COURT: Ladies and gentlemen, you've heard
19 the closing arguments in the case. It's now my
20 responsibility to charge you on the law that applies,
21 and that simply means I'm going to read to you the law
22 that you must consider in this particular case.

23 I remind you that during this trial you and I have
24 certain duties to perform. As the trial judge, it is my
25 responsibility to preside over the trial of this case,

1 and I also have the duty to rule on the admissibility
2 of the evidence offered during this trial. You're to
3 consider only the competent evidence before you. If
4 there was any testimony ordered stricken from the record
5 in this case during this trial, you must disregard that
6 testimony. You are to consider only the testimony which
7 has been presented from this witness stand and any
8 exhibits which have been made a part of the record in
9 this case.

10 I have the additional duty to charge you the law
11 applicable to this case. As the presiding judge, I'm
12 the sole judge of the law of this case and it is your
13 duty as jurors to accept and apply the law as I now state
14 it to you. If you already have any idea as to what the
15 law is or what the law ought to be and it does not agree
16 with what I now tell you what the law is, you must abandon
17 this idea because you are sworn to accept the law and
18 apply the law exactly as I state it to you.

19 In every case tried in this court before a jury,
20 the jury becomes the sole and exclusive judge of the
21 facts in the case. A trial judge cannot intimate, state,
22 comment on or make any statement to a trial jury about
23 the facts in a case. Since you, the jury, are the sole
24 judge of the facts in the case, you're not to infer from
25 what I've said during the progress of the trial in ruling

1 upon the admissibility of evidence other otherwise or
2 anything that I say now during the course of this
3 instruction to you that I have any opinion about the facts
4 in the case. The law does not allow me to have an opinion
5 about the facts in this case. This is a matter solely for
6 you, the jury, to determine as jurors. It is your duty to
7 determine the effect, value, weight and truth of the
8 evidence presented during this trial.

9 The indictments charges the defendant, James John
10 {sic} Patterson III with murder and possession of a
11 weapon during the commission of a violent crime. I
12 remind you that the fact that the defendant was arrested,
13 charged and indicted in this case is not evidence in the
14 case and cannot be considered by you as evidence of guilt
15 in this case. Nor does it create any presumption or
16 inference of guilt. The documents are simply the formal
17 written instruments which contain the charges made against
18 the defendant. It is the formal documents by which this
19 case is brought into this court.

20 The defendant has pled not guilty to the indictments
21 and that plea puts the burden on the State to prove the
22 defendant guilty. A person charged with committing a
23 criminal offense in South Carolina is never required to
24 prove his own innocence. I charge you that it is an
25 important rule of the law that the defendant in a criminal

1 trial, no matter what the seriousness of the charge may
2 be, will always be presumed to be innocent of the crimes
3 for which the indictments were issued unless guilt has
4 been proven by evidence satisfying you of that guilt
5 beyond a reasonable doubt.

6 This presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the defendant
8 throughout the trial until you reach a verdict of guilt
9 based on the evidence satisfying you of that guilt beyond
10 a reasonable doubt. The presumption of innocence is like
11 a robe of righteousness placed about the shoulders of the
12 defendant which remains with the defendant until it's
13 been stripped from the defendant by evidence satisfying
14 you of the defendant's guilt beyond a reasonable doubt.
15 The presumption of innocence is not mere legal theory, it
16 is not just a legal phrase. It is a substantial right to
17 which every defendant is entitled unless you, the jury,
18 is satisfied from the evidence of the defendant's guilt
19 beyond a reasonable doubt.

20 So what is a reasonable doubt in the law? A
21 reasonable doubt is the kind of doubt that would cause a
22 reasonable person to hesitate to act. The State has the
23 burden of proving the defendant guilty beyond a reasonable
24 doubt. Some of you may have served as jurors in civil
25 cases where you were told that it is only necessary to

1 prove that a fact is more likely true than not -- than
2 not true, such as the greater weight or preponderance of
3 the evidence. In criminal cases, the State's proof must
4 be more powerful than that. It must prove every element
5 of a crime beyond a reasonable doubt.

6 Proof beyond a reasonable doubt is proof that leaves
7 you firmly convinced of the defendant's guilt. There are
8 very few things in this world that we know with absolute
9 certainty and in criminal cases the law does not require
10 proof that overcomes every possible doubt. If, based
11 on your consideration of the evidence, you are firmly
12 convinced that the defendant is guilty of the crime
13 charge, you must find the defendant guilty. If, on the
14 other hand, you think there is a real possibility that
15 the defendant is not guilty, you must give the defendant
16 the benefit of the doubt and find him not guilty.

17 There are two types of evidence which are
18 generally presented during a trial. Direct evidence
19 and circumstantial evidence. Direct evidence directly
20 proves the existence of a fact and does not require
21 deduction. Circumstantial evidence is proof of a chain
22 of facts and circumstances indicating the existence of
23 a fact.

24 Crimes may be proven by circumstantial evidence.
25 The law makes no distinction between the weight or

1 value to be given to either direct or circumstantial
2 evidence; however, to the extent the State relies on
3 circumstantial evidence, all of the circumstances must
4 be consistent with each other and when taken together
5 point conclusively to the guilt of the accused beyond a
6 reasonable doubt. If these circumstances merely portray
7 the defendant's behavior as suspicious, the proof has
8 failed.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. This burden rests with
11 the State regardless of whether the State relies on direct
12 evidence, circumstantial evidence or some combination of
13 the two.

14 Necessarily, you must determine the credibility of
15 witnesses who testified in this case. Credibility simply
16 means believability. It becomes your duty as jurors to
17 analyze and to evaluate the evidence and determine which
18 evidence convinces you of its truth. In determining the
19 believe believability of witnesses who have testified
20 in this case, you may believe one witness over several
21 witnesses or several witnesses over one witness. You
22 may believe a part of the testimony of a witness and
23 reject the remaining part of the testimony of that same
24 witness. You may believe the testimony of a witness in
25 its entirety or reject the testimony of a witness in

1 its entirety. You may consider whether any witness has
2 exhibited to you any interest, bias, prejudice or other
3 motive in this case. You may also consider the appearance
4 and manner of a witness while on the witness stand.

5 The rules of evidence ordinarily do not permit
6 witnesses to testify to opinions or conclusions. An
7 exception to this rule exists for the witnesses we call
8 expert witnesses. A witness who by education and
9 experience has become an expert in some art, science,
10 profession or calling may state an opinion as to relevant
11 and material matters in which the witness claims to be
12 an expert and may also state the reasons for the opinion.

13 You should consider any expert opinion received in
14 evidence in this case and like any other evidence give it
15 the weight you think it deserves. If you decide that the
16 opinion of an expert witness is not based on sufficient
17 education and experience or if you conclude that the
18 reasons given in support of the opinion are not sound or
19 that the opinion is outweighed by other evidence, you may
20 disregard the opinion entirely.

21 An expert witness's testimony is to be given no
22 greater weight than that of other witnesses simply because
23 the witness is an expert. Further, you are not required
24 to accept an expert's opinion even though it is not
25 contradicted.

1 In order to establish criminal liability, criminal
2 intent is required. For example, the mental state
3 required to be proven by the State for a particular
4 crime might be purpose, intent, knowledge, recklessness
5 or criminal negligence. Criminal intent must be proven
6 by the State beyond a reasonable doubt. Criminal intent
7 is always a matter that must be determined by the jury
8 from the circumstances surrounding the situation.

9 There is no way to prove intent to a mathematical
10 certainty. There is no way medical science can dissect a
11 person's brain to determine what the person had in mind,
12 so the law says that criminal intent may be inferred from
13 the circumstances shown to have existed. This is how
14 you make a determination of whether or not the element
15 requiring intent was present. It is not necessary to
16 establish intent by direct and positive evidence, but
17 intent may be established by inference in the same way
18 as any other fact by taking into consideration the acts
19 of the parties and all of the facts and circumstances of
20 the case.

21 Criminal intent is a mental state, a conscious
22 wrongdoing. It is up to you to determine what the
23 defendant intended to do based on the circumstances shown
24 to have existed. Criminal intent can arise from action
25 or a failure to act. It may arise from negligence,

1 recklessness or indifference to duty or to consequences
2 that is considered by the law to be equivalent of criminal
3 intent.

4 There's been evidence presented that witnesses have
5 made prior statements which are not consistent with the
6 witness's present testimony. You may use this evidence
7 to decide whether to believe the witness. You may also
8 use evidence of their earlier contradictory statements to
9 determine the truth of those statements. It is up to you
10 to decide whether to believe the earlier statements or
11 the testimony given at trial. If a witness is shown to
12 have knowingly testified untruthfully concerning any
13 material matter, you may consider this in determining
14 whether to trust the witness's testimony as to other
15 matters. You may reject all testimony of that witness or
16 give all or part of the testimony the weight you think it
17 deserves.

18 The defendant is charged with murder. The State must
19 prove beyond a reasonable doubt that the defendant killed
20 another person with malice aforethought. Malice is hatred,
21 ill will or hostility towards another person. It is the
22 intentional doing of a wrongful act without just cause or
23 excuse and with an intent to inflict an injury or under
24 circumstances that the law will infer an evil intent.

25 Malice aforethought does not require that malice

1 exist for any particular time before the act it committed,
2 but malice must exist in the mind of the defendant just
3 before and at the time the act is committed; therefore,
4 there must be a combination of the previous evil intent
5 and the act.

6 Malice aforethought may be express or inferred.
7 These terms "express" and "inferred" do not mean in --
8 mean different kinds of malice, but merely the manner
9 in which malice may be shown to exist; that is, either
10 by direct evidence or by inference from the facts and
11 circumstances which are proved. Express malice is shown
12 when person speaks words which express hatred or ill will
13 for another or when the person prepared beforehand to do
14 the act which was later accomplished. For example, lying
15 in wait for a person or any other acts of preparation
16 going to show that the deed was within the defendant's
17 mind would be express malice. Malice may be inferred
18 from conduct showing a total disregard for human life.

19 The defendant is also charged with that during the
20 commission or attempt to commit a violent crime the
21 State must prove beyond a reasonable doubt that the
22 defendant was in possession of a firearm or what --
23 visibly displayed what appeared to be a firearm during
24 the commission of a violent crime.

25 A person means -- a firearm means any machine gun,

1 automatic rifle, revolver, pistol or any weapon which
2 will, is designed to or may be readily converted to expel
3 a projectile.

4 In order to find the defendant guilty of possession
5 of a weapon during the commission of a violent crime, you
6 must first find the defendant guilty of either committing
7 a violent crime or attempting to commit a violent crime.
8 Murder is a violent crime. The State must prove beyond
9 a reasonable doubt that the weapon further advanced or
10 helped in the commission of the crime.

11 Ladies and gentlemen, you've been selected as fair
12 and impartial jurors sworn to impartially try and
13 determine the facts of this case and when you comply
14 with your oath to do so, then no one will have a right
15 to criticize your verdict and you will have fully
16 discharged your duty as jurors. You are to decide this
17 case according to the testimony that you've heard from
18 the lips of the sworn witnesses along with other evidence
19 introduced during the trial.

20 In just a few moments I'm gonna send you back to
21 your jury room. The three alternates will remain in
22 here. To the twelve of you in the jury room, do not
23 start deliberations until I have a conversation with the
24 attorneys and we gather all of the evidence and once we
25 complete that process and send the verdict form back to

1 you, you can then begin deliberating. All twelve of
2 you must be present in the jury room throughout the
3 deliberations. If at any time one of you may need to
4 leave the room for whatever reason or go to the restroom,
5 Mr. Foreman, you are to stop deliberations until all
6 twelve people are back in the jury room.

7 Again, don't discuss the case at all when I send
8 it back -- when you go back to the jury room until you
9 receive all of the evidence and the verdict form.

10 The verdict form, Mr. Foreman, is pretty
11 straightforward and in no particular -- there's no
12 importance in the way the verdicts are laid out. We
13 just simply have to put something on paper in an order,
14 but don't give any weight to the way the options are
15 laid out on the verdict form.

16 On the verdict form, we have, number one, murder.
17 We, the jury, find the defendant James Joseph Patterson
18 III guilty of murder or we, the jury, find the defendant
19 James Joseph Patterson III, not guilty of murder.

20 Mr. Foreman, once all twelve jurors have unanimously
21 agreed upon the particular verdict, if you would check
22 the appropriate place and then sign and date the verdict
23 form.

24 Number two, we have possession of a weapon during
25 the commission of a violent crime. It states we, the

1 jury, find the defendant James Joseph Patterson III
2 guilty of possessing a weapon during the commission of a
3 violent crime or we, the jury, find the defendant James
4 Joseph Patterson III not guilty of possessing a weapon
5 during the commission of a violent crime.

6 Those are your options. Again, your verdict must
7 be unanimous and every single juror must agree on the
8 verdict.

9 When you're back there, if you have questions for
10 the Court, Mr. Foreman, there should be some paper and a
11 pen back there. Simply write the question on a piece of
12 paper, knock on the door, hand that to the bailiff, hell
13 bring it to the Court's attention and -- and we'll deal
14 with it as we deem appropriate.

15 All right. If there's any portion of the charge
16 that you would like to hear again, we can bring you
17 back into the jury room and I can recharge you on that
18 particular portion if that's what you request.

19 I'm gonna allow you to now go back to your jury
20 room and let me take up a few matters with the lawyers
21 and then once the -- we send in the evidence and the
22 verdict form back to you, you can begin deliberating.
23 Once you reach a verdict, a unanimous verdict, if you
24 would simply knock on the door, let the bailiff know
25 that you've reached a verdict. And, Mr. Foreman, if

1 you'll keep the verdict form in your hand when you come
2 back and they'll bring you back in the courtroom. I'll
3 ask you if you've reached a verdict and if you have,
4 then you'll hand the verdict form to the bailiff who
5 will then pass it up to the Court and we will read or
6 publish the verdict.

7 Again, if you have any questions that the Court
8 needs to address, simply write them on a piece of paper,
9 knock on the door, hand them to the bailiff and then I
10 will deal with those.

11 With that, I'm gonna allow you to go back to your
12 jury room. Again, don't begin deliberating until you
13 have all the evidence back.

14 The three alternates, if you-all would just come
15 down right here now and just stand right here while they
16 go back.

17 All right. Everyone remain seated while this jury
18 panel is excused.

19 (Whereupon, the jury retires to the courtroom at
20 11:05 AM.)

21 THE COURT: All right. This is a little sort of an
22 awkward part of the trial. I'm gonna send you-all right
23 outside that door and just stand right there outside the
24 door. Don't go in the jury room. I'm gonna talk to the
25 lawyers a little bit and I'll have you-all right back in

1 here in just a minute.

2 Alternates just stand right in the hall by the door.

3 Anything from the State in regards to the charge or
4 you need to put on the record at this point?

5 Anything from the State?

6 MR. KOZAK: Nothing from the State, Your Honor.

7 THE COURT: From the defense?

8 MR. ERVIN: Nothing, Judge.

9 THE COURT: All right. Let's make sure -- let's get
10 up all of the evidence.

11 (Pause in proceedings.)

12 (Whereupon, the evidence and the verdict form were
13 submitted to the jury at 11:11 AM.)

14 THE COURT: All right. We'll be at ease while the
15 jury deliberates.

16 (Pause in proceedings.)

17 THE COURT: I had a question from the jury that
18 was oral: Can we have the demonstratives? The answer
19 was no.

20 (Recess taken at 11:12 AM.)

21 (Back on the record at 1:48 PM.)

22 THE COURT: We just have some questions from the
23 jury. If you-all will come up.

24 (Proceedings held at the bench; not reported.)

25 (Court's Exhibit Number 2 was marked for

1 identification.)

2 (Recess taken at 1:54 PM.)

3 (Back on the record at 4:00 PM.)

4 THE COURT: All right. It appears we have everybody
5 in place. The Court was informed by the bailiff that the
6 jury has reached a verdict. So let's let the bailiffs --
7 tell them to bring the jury in.

8 (Whereupon, the jury return to the courtroom at
9 4:02 PM.)

10 THE COURT: All right. Thank you, ladies and
11 gentlemen.

12 Mr. Foreman, has the jury reached a verdict?

13 FOREPERSON: We have, Your Honor.

14 THE COURT: Will you pass the verdict to the
15 bailiff?

16 FOREPERSON: (Handing.)

17 THE COURT: Madam Clerk, if you'd publish the
18 verdict.

19 THE CLERK: Indictment 2022-GS-32-06146 and
20 Indictment 2022-GS-32-06147, the State versus Joseph
21 James Patterson III, we, the jury, find the defendant,
22 James Joseph Patterson III, guilty of murder.

23 We, the jury, find the defendant, James Joseph
24 Patterson, guilty on possession of a weapon during the
25 commission of a violent crime. So signed the Foreperson

1 today, September 7, 2023.

2 THE COURT: Anything further from the State?

3 MR. KOZAK: Nothing from the State, Your Honor.

4 THE COURT: From the defense?

5 MR. ERVIN: Not at this time, Judge.

6 THE COURT: All right. Ladies and gentlemen of the
7 jury -- Madam Clerk, I don't know if you have that part
8 of your oath, but generally we will ask the jury if this
9 be your verdict.

10 Do we have that?

11 THE CLERK: Yes, sir.

12 THE COURT: If you'll do that.

13 THE CLERK: At this time I'll call your juror
14 number, I'll ask you was this your verdict and is it
15 still your verdict. If you'll just raise your hand and
16 answer aloud.

17 Juror Number 129, is this your verdict and is it
18 still your verdict?

19 JUROR NUMBER 129: Yes.

20 THE CLERK: Juror 140, is this your verdict and still
21 your verdict?

22 JUROR NUMBER 140: Yes.

23 THE CLERK: Juror 164, is this your verdict and still
24 your verdict?

25 JUROR NUMBER 146: Yes.

1 THE CLERK: Juror 106, is this your verdict and still
2 your verdict?

3 JUROR NUMBER 106: Yes.

4 THE CLERK: Juror 3, is this your verdict and still
5 your verdict?

6 JUROR NUMBER 3: Yes.

7 THE CLERK: Juror 59, is this your verdict and still
8 your verdict?

9 JUROR NUMBER 59: Yes.

10 THE CLERK: Juror 32, is this your verdict and still
11 your verdict?

12 JUROR NUMBER 32: Yes.

13 THE CLERK: Juror 161, is this your verdict and still
14 your verdict?

15 JUROR NUMBER 161: Yes.

16 THE CLERK: Juror 178, is this your verdict and still
17 your verdict?

18 JUROR NUMBER 178: Yes.

19 THE CLERK: Juror 170, is this your verdict and still
20 your verdict?

21 JUROR NUMBER 170: Yes.

22 THE CLERK: Juror 126, is this your verdict and still
23 your verdict?

24 JUROR NUMBER 126: Yes, it is.

25 THE CLERK: Juror 136, is this your verdict and still

1 your verdict?

2 JUROR NUMBER 136: Yes.

3 THE CLERK: All jurors polled, Your Honor.

4 THE COURT: All right. Thank you.

5 Let the record reflect that the Court asked that
6 the jury be polled and that after polling the jury each
7 of the twelve jurors have stated under oath that this is
8 their unanimous verdict.

9 So with that, ladies a gentlemen of the jury, that
10 conclude your service this week. If you'd like to stay
11 with us, you can. You can get up and you can give your
12 badges to the bailiff and you can come back and have a
13 seat in the -- in the courtroom if you wish. The
14 sentencing will be here in just a few -- very shortly.

15 Thank you for your service. You can discuss the
16 case with anybody that you wish. On the other hand,
17 you're not required to talk to anybody about the case.
18 That is clearly your choice, but sometimes lawyers may
19 get in touch with you to get information from you that
20 might be helpful to them. That's allowable. On the
21 other hand, you're not required to answer any of their
22 questions if you don't wish, but if you want to talk to
23 them, you can as well.

24 So with that, thank you for your service. You're
25 excused.

1 Everyone remain seated while this jury is excused.
2 The bailiff will show you out. If you wish to come back
3 in, you can come back in.

4 (Whereupon, the jury was excused at 4:06 PM.)

5 THE COURT: Do we have sentencing sheets?

6 MR. KOZAK: Yes, Your Honor.

7 THE COURT: All right. Could you pass those up?

8 All right. Let's -- well, let me do this. Let's
9 wait just a moment because I think the jurors, if they
10 want to come in, they're entitled to see the full process
11 if they want to.

12 MR. ERVIN: Your Honor, may I have a brief moment
13 with my client?

14 THE COURT: Yes.

15 MR. ERVIN: Can we step out --

16 THE COURT: Yeah, you can do that.

17 MR. ERVIN: -- to the consultation room?

18 THE COURT: Well, let me ask you this.

19 MR. ERVIN: It's for --

20 THE COURT: All right. You've got five minutes.

21 MR. ERVIN: Thank you, Judge.

22 Just for mitigation purposes and sentencing.

23 (Pause in proceedings.)

24 THE COURT: All right. Anything further for the
25 record before we enter the sentencing phase?

1 Anything from the State?

2 MR. KOZAK: Nothing from the State, Your Honor.

3 THE COURT: From the defense?

4 MR. ERVIN: Nothing at this time, Judge. We reserve
5 the right for post-trial motions.

6 THE COURT: You'll have ten days in which to file
7 the appropriate motions.

8 MR. ERVIN: Yes, sir.

9 THE COURT: Then let me hear from the State.

10 Is there anyone -- victims that wish to address the
11 Court? They certainly have a right to be heard, they
12 have a right to be present, and I'll be glad to hear from
13 any victims.

14 MR. KOZAK: Yes, sir, Your Honor.

15 THE COURT: Again, they're not required to speak,
16 but they have a right.

17 MR. KOZAK: I think they do wish to address the
18 Court, Your Honor.

19 THE COURT: All right.

20 Yes, ma'am. If you would tell me your name.

21 MS. STROTHER: Kenyatta Strother.

22 THE COURT: It's Ms. Stroller?

23 MS. STROTHER: Yes.

24 THE COURT: If you'll come up just little bit more,
25 that will help you and the court reporter to hear you.

1 Yes, Ms. Strother. I'll be glad to hear from you.

2 MS. STROTHER: Okay. I just want to thank you for
3 the outcome. Just the situation has affected me and my
4 kids, our whole life, you know. We go to counseling
5 to try to cope with everything. It's really hard for
6 us, but I just want to thank you. And my son, our child
7 together, couldn't be here today because of school, but
8 he did tell me what he wanted. And in regards to this,
9 my son lost his best friend, I lost my best friend. I
10 just ask for life.

11 THE COURT: All right. Thank you, Ms. Strother.

12 MS. STROTHER: You're welcome.

13 THE COURT: Anybody else wish to say anything?

14 Yes, ma'am. If you'd tell me your name.

15 MS. ADAMS: Niki Adams. N-I-K-I. Adams, A-D-A-M-S.
16 I am the sister -- one of the sisters of William Clark.
17 It has had a big impact on us. I do want to be a little
18 lenient with the -- you know, I understand everybody
19 makes mistakes. I feel like it would be fair to ask
20 for life, but that won't bring my brother back, but I'm
21 pretty sure the Court will be generous on what they're
22 asking for, and I do appreciate the just system at this
23 time.

24 THE COURT: All right. Thank you, Ms. Adams.

25 Yes, ma'am. If you'd tell me your name.

1 MS. ROBBINS: Lorraine Robbins.

2 THE COURT: Ms. Robbins?

3 MS. ROBBINS: Uh-huh.

4 THE COURT: Ms. Robbins, I'll be glad to hear from
5 you.

6 MS. ROBBINS: Well, William, he was more like my
7 son than my nephew, so it has had a great impact on our
8 family with him being gone. What do I say?

9 Kenyatta, I think she dealt with most of the pain,
10 but, like I say, he's -- he's a great loss to us. We're
11 really hurting. And I guess I suggest being that
12 Mr. Patterson, a young man, maybe you-all can start him
13 off -- say thirty years. I don't -- I don't see life for
14 him.

15 MS. STROTHER: Yeah, me neither. Thirty years.

16 MS. ROBBINS: Because if he can live with that, he
17 can get back out and start his life over.

18 THE COURT: All right. Thank you. Thank you.

19 VICTIM ADVOCATE: We just have one more.

20 Good afternoon. How are you?

21 THE COURT: Yes, ma'am.

22 MS. THOMAS: My name's Doris Thomas.

23 THE COURT: Ms. Thomas?

24 MS. THOMAS: Uh-huh. I'm his oldest first cousin
25 out of the females and I just want to thank you for

1 justice today and we're getting a peace of mind in that
2 William was taken away from his children, his brothers,
3 sisters, nieces, nephews and friends, and I just wanted
4 to thank you for just giving us this peace today for this
5 justice that's being done.

6 THE COURT: All right. Thank you.

7 All right. Any other victims?

8 MR. KOZAK: No, sir, Your Honor.

9 THE COURT: Does the State wish to be heard as to
10 sentencing?

11 MR. KOZAK: No, sir, Your Honor. We'll leave it in
12 your discretion.

13 THE COURT: All right. Any prior record? Well, I
14 think I had that earlier, but let's -- for the purposes
15 of this sentencing, let me hear his prior record.

16 MR. KOZAK: All right. 2016, an unlawful carrying
17 of a weapon. MDP Schedule 1 through 3. That was the one
18 we discussed earlier. In 2017, a DUS and possession of
19 marijuana, Your Honor.

20 THE COURT: All right. Thank you.

21 All right. Mr. Ervin, I'll be glad to hear from you
22 and anyone on behalf of your client.

23 MR. ERVIN: Thank you, Judge.

24 Your Honor, I met Mr. Patterson right after this
25 happened. I felt then and I feel strongly about his

1 defense. He answered my call thoroughly and consistently.
2 From day one he maintained his innocence. And I want
3 to maintain as much professionalism as possible. I
4 wanted it to go a different way. We will do everything
5 procedurally to try and do what we can, Your Honor. I
6 think even the victim's statement asking you for a
7 lenient sentence echos something. I plead to you to
8 go as light as possible if you can. He's a young man,
9 twenty-six years old. Again, I wouldn't have tried this
10 case if I didn't believe him and I certainly think we put
11 up a good case. The jury has spoken and we understand
12 the process.

13 Judge, his family's been here the whole time and I
14 know I'd like for him and his mother to say something.

15 THE COURT: I'll be glad to hear from anybody on
16 his behalf. They will need to come forward. If anybody
17 wants to speak.

18 MS. ANDERSON: Hello.

19 THE COURT: Yes, ma'am. If you'd tell me your name.

20 MS. ANDERSON: Ameika Griffin Anderson.

21 THE COURT: Yes, Ms. Anderson.

22 MS. ANDERSON: I'm James's mom, and this has been
23 a long two years. Not only did he lose his father -- I
24 mean, I know what it's like to lose someone close to you
25 that you love. He just lost his dad in 2019. It's been

1 a trying time. He's -- he's been going through the
2 grievance and -- grieving and the depression these whole
3 two years of this being over his head was even more than
4 he could take because he's been trying it get his self
5 together. He couldn't because it was pending, it was a
6 pending murder charge, he couldn't get jobs, so it was
7 kind of a depressing moment for this whole two years.
8 And I sympathies with his family because, like I said,
9 we just lost his father, so it's a hard pill to swallow.
10 It's a very hard pill to swallow. And I just thank
11 you-all for doing whatever is necessary in this process.

12 THE COURT: All right. Thank you.

13 And I'll be glad to hear from Mr. Patterson.

14 He needs to -- if he would stand and you-all need
15 to come up.

16 Mr. Patterson, you need to stand please.

17 Anything you want to say, Mr. Patterson?

18 THE DEFENDANT: No, sir.

19 THE COURT: Anybody know how many days he was in
20 the detention center before he got out on the bond?

21 MR. ERVIN: Judge, he actually was -- it was thirty
22 days and then he also did sixteen months on a parole
23 violation for this. We'd ask you to consider all of that
24 time. Pending this charge he did seventeen months.

25 THE COURT: Well, I think he is -- I think actually

1 under the new statute, he's only entitled to the -- what
2 was it thirty days? Because the sixteen months was a
3 parole violation --

4 MR. ERVIN: He was --

5 THE COURT: -- you're saying because of the charge
6 and the arrest, but I'm gonna credit him with thirty
7 days. He can take it up if there's another issue, but
8 I find that he's entitled to the thirty days and not to
9 the sixteen months on the parole violation.

10 Does the State wish to be heard on the time served
11 credit?

12 MR. KOZAK: No, sir, Your Honor.

13 THE COURT: All right. Indictment 2022-GS-32-6147,
14 the State versus James Joseph Patterson III, after a
15 jury trial was convicted of murder. The sentence is
16 that he be committed to the Department of Corrections
17 for a determinate term of thirty years to run concurrent.
18 Credit for thirty days.

19 Indictment 2022-GS-32-6146, possession of a weapon
20 during the commission of a violent crime, the sentence
21 is he be committed to the Department of Corrections for
22 five years. That's to run concurrent. Credit for
23 thirty days.

24 Thank you.

25 MR. ERVIN: Thank you, Judge.

1 MR. KOZAK: Thank you, Your Honor.

2 MS. ABEE: Thank you, Judge.

3 (Whereupon, the proceedings were concluded at
4 4:19 PM.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of
South Carolina, do hereby certify that the foregoing
is a true, accurate and complete transcript of record
of all the proceedings had and the evidence introduced
in the trial of the captioned case in Circuit Court
September 5th-7th, 2023.

This transcript may contain quoted material.
Such material is reproduced as read by the speaker.

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

March 17, 2024

/s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

WITNESSES

Arcadeus J. Dubard - Lexington County Sheriff's
Office

DOCKET NO. 2022-GS-32-6146

The State of South Carolina

County of Lexington

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September TERM 2022

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

ARREST WARRANT NUMBER

2020A3210800267

Defendant

THE STATE

vs.

Witness:

James Joseph Patterson, III

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

DEFENDANT

TRUE BILL

James Joseph Patterson, III
Foreperson of Grand Jury
Date: *9-12-22*

VERDICT

Guilty

Indictment for

Weapons / Poss. Weapon during Violent
Crime, if not also sentenced to life without
parole or death

SC CODE: 16-23-0490

CDR Code: 0549

Class: **FELONY F**

James Joseph Patterson, III
Foreperson of Petit Jury
Date: *09/17/23*

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT

At a Court of General Sessions, convened on _____, 2022, the Grand Jurors
of Lexington County present upon their oath:

Weapons / Poss. Weapon during Violent Crime

That James Joseph Patterson, III did, in Lexington County, South Carolina, on or about
November 9, 2020, possess a firearm, or visibly display what appeared to be a firearm, during
the commission of a violent crime. To wit: James Joseph Patterson, III did discharge a firearm
during the murder of William Clark, in violation of South Carolina Code of Laws §16-23-0490,
as amended, (1976).

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.



ALAN WILSON (JAK)
ATTORNEY GENERAL

WITNESSES

Arcadeus J. Dubard - Lexington County Sheriff's Office

DOCKET NO. 2022-GS-32-6147

The State of South Carolina

County of Lexington

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September TERM 2022

I hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2020A3210800266

THE STATE

Defendant

vs.

Witness:

James Joseph Patterson, III

C.C.C. P.L.S. AND G.S.

ACTION OF GRAND JURY

DEFENDANT

TRUE BILL

Forperson of Grand Jury David Chelmer
Date: 9-12-22

VERDICT

Guilty

Indictment for

Murder
SC CODE: 16-03-0010
CDR Code: 0116
Class: **FELONY**

James A. P. 09/17/23
Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT

At a Court of General Sessions, convened on _____, 2022, the Grand Jurors of Lexington County present upon their oath:

Murder

That James Joseph Patterson, III did, in Lexington County, South Carolina, on or about November 9, 2020, murder the victim, William Clark, with malice aforethought, either express or implied. To wit: on or about November 9, 2020, James Joseph Patterson, III did shoot William Clark, and William Clark did die as a proximate result thereof. All in violation of South Carolina Code of Laws §16-03-0010, as amended, (1976).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

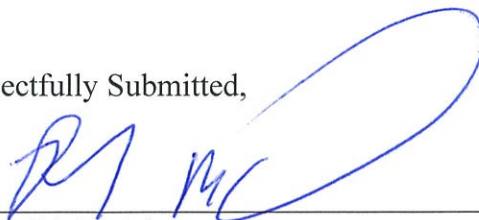


ALAN WILSON (JAK)
ATTORNEY GENERAL

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

RECEIVED

Feb 18 2025

SC Court of Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of February, 2025.

RECEIVED

Feb 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

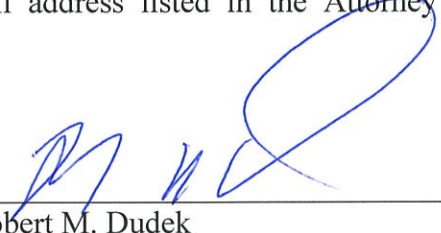
JAMES J. PATTERSON, III

APPELLANT

APPELLATE CASE NO. 2023-001474

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 18th day of February, 2025.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT