

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Mar 17 2025**

**S.C. SUPREME COURT**

Certiorari to Florence County

Honorable Walton J. McLeod, IV, Circuit Court Judge

DIONDRAE E. JACKSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000952

APPENDIX

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|                              | ) | Twelfth Judicial Circuit  |
| County of Florence           | ) | Case No. 2018-GS-21-01599 |
|                              | ) |                           |
| The State of South Carolina, | ) |                           |
|                              | ) |                           |
| Plaintiff,                   | ) |                           |
|                              | ) |                           |
| -vs-                         | ) | Transcript of Record      |
|                              | ) |                           |
| Diondrae Emanuel Jackson,    | ) |                           |
|                              | ) |                           |
| Defendant.                   | ) |                           |
|                              | ) |                           |

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April 15-18, 2019  
Florence, South Carolina

B E F O R E:

The Honorable William H. Seals, Jr., Judge; and a jury

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

Todd Tucker, Esquire  
Attorney for the State

William "Josh" Edgeworth, Esquire  
Attorney for the Defendant

Krystal J. Smith  
Circuit Court Reporter

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| 23 | [ph]                         | phonetically written                             |            |            |
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| 25 |                              |                                                  |            |            |

1 APRIL 15, 2019

2 (WHEREUPON, the proceedings began at 10:59 a.m.)

3 THE COURT: All right. Solicitor, if you'll call your  
4 first case.

5 MR. TUCKER: Thank you, Your Honor. May it please the  
6 Court.

7 At this time, the State of South Carolina calls the  
8 following indictment for trial, 2018-GS-21-01599, State of  
9 South Carolina versus Diondrae Emanuel Jackson.

10 THE COURT: All right. Members of the jury panel, up to  
11 this point in time, you have been qualified to serve as  
12 jurors this week. I need to go one step further and ask you  
13 another series of questions to make sure that you're  
14 qualified to serve on a particular case.

15 In that regard, I need for you to remember two things:  
16 one, you're under oath and, two, if a question applies to you  
17 and you'd like to answer up here instead of out there, that's  
18 fine. Just let me know and I'll have you come forward. The  
19 questions are pretty simple and they are as follows.

20 In this case, the State of South Carolina alleges that  
21 Diondrae Emanuel Jackson did in Florence County on or about  
22 May 6<sup>th</sup>, 2018, murder a Malcolm D. Spates. Therefore, he is  
23 charged with murder.

24 The State also alleges that Diondrae Emanuel Jackson did  
25 in Florence County on that same date attempt to kill a Ronald

1 Oliver. Therefore, he is also charged with attempted murder.

2 The defendant has pled not guilty and he has requested a  
3 jury trial.

4 Now, has any member of the jury panel heard anything  
5 about this case, talked to anybody about this case? Do you  
6 know anything about this case? If you have any knowledge  
7 about this case at all, please stand.

8 (WHEREUPON, there was no response.)

9 THE COURT: All right. No one stood.

10 Is the victim, Ronald Oliver, by chance in the  
11 courtroom?

12 MR. TUCKER: He is not present, Your Honor.

13 THE COURT: All right. And where does he live by  
14 chance?

15 MR. TUCKER: He lives in the Scranton and Coward/Olanta  
16 area of Florence County.

17 THE COURT: And do you know by chance what he does for a  
18 living? Anything?

19 MR. TUCKER: I'm not sure if he's employed at this  
20 point, Your Honor.

21 THE COURT: All right. Is any member of the jury panel  
22 related by blood or marriage or has a close personal or  
23 social relationship with the victim in the attempted murder  
24 count, Ronald Oliver? If so, please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: All right. And the defendant, Mr. Jackson,  
2 if you would, please stand and turn and face the jury panel.

3 (WHEREUPON, the defendant complied.)

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

5 Is any member of the jury panel related by blood or  
6 marriage or has a close personal or social relationship with  
7 the defendant, Mr. Diondrae -- am I pronouncing that right?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Diondrae Emanuel Jackson. If so, please  
10 stand.

11 (WHEREUPON, there was no response.)

12 THE COURT: All right. Solicitor, Mr. Tucker, if you'd  
13 stand and introduce yourself and any members of your office.

14 MR. TUCKER: Thank you, Your Honor. May it please the  
15 Court.

16 THE COURT: Yes, sir.

17 MR. TUCKER: My name is Todd Tucker. I'm a deputy  
18 prosecutor here in the 12<sup>th</sup> Circuit, which is Florence and  
19 Marion counties. In my office also is my boss, Ed Clements,  
20 the solicitor. Also, John Jepertinger, David Richardson,  
21 Ryan White, Emily Neller-moe, Angel Daniels, Lloyd Flores,  
22 Rick Hoefer, Patty Parker.

23 And seated here with me is the investigator in this  
24 case, Roger Tilton. And you may also see our investigator,  
25 Gary Street, who will come in and out of the courtroom during

1 the course of this trial.

2 THE COURT: All right. Thank you.

3 Is any member of the jury panel related by blood or  
4 marriage or has a close personal or social relationship with  
5 this solicitor or any member of the Solicitor's Office? If  
6 so, please stand.

7 (WHEREUPON, several people stood.)

8 JUROR NUMBER 49: Your Honor, we're friends.

9 THE COURT: All right. If you would, give me your name  
10 and number, please, sir.

11 JUROR NUMBER 49: James Gregg, 49.

12 THE COURT: All right. And you are friends with who?

13 JUROR NUMBER 49: Both Officer Tilton and Mr. Tucker.

14 THE COURT: All right. Taking that into account, if you  
15 were selected to serve on the jury in this case, could you be  
16 fair and impartial not only to the State but the defendant as  
17 well?

18 JUROR NUMBER 49: Yes, sir.

19 THE COURT: Would you be fair and impartial to both  
20 sides?

21 JUROR NUMBER 49: Yes, sir.

22 THE COURT: Thank you. I appreciate you standing.  
23 Anybody else?

24 (WHEREUPON, one person stood.)

25 MR. EDGEWORTH: Your Honor, if we may approach briefly?



1 THE COURT: You may. And then we had one more stand up  
2 too.

3 (WHEREUPON, a bench conference was held in the presence  
4 of the jury panel but out of the hearing of the jury  
5 panel as follows.)

6 THE COURT: Yes, sir.

7 MR. EDGEWORTH: Your Honor, I realize that the  
8 individual, you know, stood up and acknowledged his  
9 friendship or whatever, but I did note in the qualification  
10 when he came in this morning that he gave the old, you know,  
11 wink and nod kind of, you know, hello, how's it going, and  
12 then our Clerk of Court actually sat down with him and was  
13 chitchatting with him in the -- during the qualification  
14 process.

15 THE COURT: The Clerk of Court?

16 MR. EDGEWORTH: Yes, sir.

17 THE COURT: I'm not sure what that has to do with it,  
18 but do you want to just remove him out of caution. What's  
19 your take?

20 MR. TUCKER: Well, I mean he was asked whether or not he  
21 could be fair and impartial. He indicated that he could.  
22 Certainly, Mr. Edgeworth can exercise one of his peremptory  
23 challenges.

24 THE COURT: That's fine.

25 MR. TUCKER: If he's selected.

1 THE COURT: If I ask them those questions and they say  
2 they can be fair and impartial, then there's no reason for me  
3 to disqualify them. That's why we ask them. So you could --  
4 you can strike him.

5 MR. EDGEWORTH: Yes, Your Honor.

6 THE COURT: All right.

7 (WHEREUPON, the bench conference ended.)

8 THE COURT: All right. We've got one more lady.

9 All right. And the lady that stood up, if you would,  
10 give me your name and your number.

11 JUROR NUMBER 54: Deborah Harwell, 54.

12 THE COURT: Okay.

13 JUROR NUMBER 54: And I am acquainted with Ed Clements  
14 and Rick Hoefer.

15 THE COURT: All right. Taking that into account, if you  
16 were selected to serve on the jury in this case, could you be  
17 fair and impartial not only to the State but the defense as  
18 well?

19 JUROR NUMBER 54: Yes, sir.

20 THE COURT: Would you be fair and impartial to both  
21 sides?

22 JUROR NUMBER 54: I would be fair and impartial.

23 THE COURT: Thank you. I appreciate you standing.

24 Anybody else?

25 (WHEREUPON, one person stood.)

1 THE COURT: All right. Stand up and give me your name  
2 and your number.

3 JUROR NUMBER 69: Caroline Keller, 69. I know Mr.  
4 Tilton, but we're not close friends. But I know him.

5 THE COURT: All right. Taking that into account, if you  
6 were selected to serve on the jury in this case, could you be  
7 fair and impartial not only to the State but the defense as  
8 well?

9 JUROR NUMBER 69: Yes.

10 THE COURT: Would you be fair and impartial to both  
11 sides?

12 JUROR NUMBER 69: Absolutely.

13 THE COURT: Thank you. I appreciate you standing.  
14 Anybody else?

15 (WHEREUPON, there was no response.)

16 THE COURT: All right. And, Mr. William Edgeworth, if  
17 you'd please stand and introduce yourself and any members of  
18 your law firm.

19 MR. EDGEWORTH: Thank you, Your Honor.

20 My name is William Foster Edgeworth. I go by Josh  
21 Edgeworth. I have an office in Myrtle Beach, South Carolina,  
22 and also Pawleys Island, South Carolina, and I have no other  
23 lawyers in my office.

24 THE COURT: Thank you.

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

1 marriage or has a close personal or social relationship with  
2 Mr. -- with Mr. Edgeworth or has been represented by him at  
3 any point in time? If so, please stand.

4 (WHEREUPON, there was no response.)

5 THE COURT: All right. The witnesses on behalf of the  
6 State of South Carolina. These next 10 witnesses are going  
7 to be all with the Florence County Sheriff's Department.  
8 Roger Tilton, Marlon Mack, Eric Barnes, Alex Edwards, Ronnie  
9 Harris, Michael McFadden, Robert Hooks, Bradley Bazen, Austin  
10 Meggs, Chase McDaniel.

11 And then also the witnesses for the State and they all  
12 work at the Florence County Detention Center will be a D.  
13 Fludd, Chris Neal, Hope Hatchell.

14 And then with the Florence County Central Dispatch, Levi  
15 James, Alisha Smith.

16 And with SLED, South Carolina Law Enforcement Division,  
17 Chad Smith, Cecelia Modell, Tyler Sturkey, Andrienne Hefney.

18 And then the Florence County Coroner, Danny Taylor.

19 And then Cynthia -- how do you pronounce that? Schandl?

20 MR. TUCKER: Schandl, Your Honor.

21 THE COURT: Schandl, MD, with MUSC.

22 And also Marcus Harrison, Samantha Gibson, Brittany  
23 Heriot, Latesha Newton, Charles Frierson, Lawanda Johnson,  
24 Ernestine Mack, Myra Cameron, Donrekia Oliver, Kevin Brand,  
25 Jr., Antonio Hickson, Ronald Oliver.

1 Anybody else, Solicitor?

2 MR. TUCKER: Yes, Your Honor. There was one additional  
3 name that we put on the updated list, Ms. Ari Davis. She is  
4 also with the Florence County Sheriff's Office.

5 THE COURT: And Ari Davis with the Florence County  
6 Sheriff's Office.

7 In this regard, is any member of the jury panel related  
8 by blood or marriage or has a close personal or social  
9 relationship with any of these witnesses, excluding Roger  
10 Tilton since everybody's obviously stood up for that.

11 Yes, ma'am?

12 JUROR NUMBER 32: Tina Cox, Juror 32. Alisha Smith is  
13 my niece.

14 THE COURT: All right. Taking --

15 JUROR NUMBER 32: With Florence County.

16 THE COURT: Tell you what. I'm going to excuse you for  
17 the purposes of this trial only. You don't need to stand up  
18 for anything else since you're related to one of the  
19 witnesses.

20 Anybody else?

21 (WHEREUPON, there was no response.)

22 THE COURT: All right. And the witnesses on behalf of  
23 the defendant would be a Phil Grimsley, and I've already  
24 mentioned the other individuals.

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

1 marriage or has a close personal or social relationship with  
2 Phil Grimsley? If so, please stand.

3 (WHEREUPON, several people stood.)

4 THE COURT: Yes, ma'am? Your number again?

5 JUROR NUMBER 69: Caroline Keller, 69. Phil's wife,  
6 Sandra, is one of my best friends.

7 THE COURT: All right. Taking that into account, if you  
8 were selected to serve on the jury in this case, could you be  
9 fair and impartial not only to the State but the defense as  
10 well?

11 JUROR NUMBER 69: Yes.

12 THE COURT: Would you be fair and impartial to both  
13 sides?

14 JUROR NUMBER 69: Absolutely.

15 THE COURT: Thank you. Anybody else? All right.

16 JUROR NUMBER 49: Your Honor, I'm friends with Phil  
17 Grimsley.

18 THE COURT: All right. And your name and number?

19 JUROR NUMBER 49: James Gregg, 49.

20 THE COURT: 49. Taking that into account, if you were  
21 selected to serve on the jury in this case, could you be fair  
22 and impartial to the State and the defense?

23 JUROR NUMBER 49: Yes, sir.

24 THE COURT: Good. Thank you.

25 Anybody else?

1 JUROR NUMBER 93: I know Phil Grimsley from many years  
2 ago, but I'm not a close personal friend.

3 THE COURT: All right. And your name and number?

4 JUROR NUMBER 93: Beth Miles, 93.

5 THE COURT: Taking that into account, if you were  
6 selected to serve on the jury in this case, could you be fair  
7 and impartial to the State and the defendant?

8 JUROR NUMBER 93: Yes.

9 THE COURT: Thank you.

10 Anybody else?

11 (WHEREUPON, there was no response.)

12 THE COURT: Is any member of the jury panel related by  
13 blood or marriage to any law enforcement officer? That could  
14 be FBI, SLED, Highway Patrol, sheriff, city police officer,  
15 anything of that nature. If so, please stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: All right. Is any member of the jury panel  
18 aware of any bias or prejudice for or against the State of  
19 South Carolina? If so, please stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Has any member of the jury panel formed an  
22 opinion as to the guilt or innocence of the defendant,  
23 Diondrae Emanuel Jackson? If so, please stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Is there any member of the jury panel who is

1 a member of or a contributor to any group which has as its  
2 primary concern the promotion of law enforcement or victims'  
3 rights? These groups would include but certainly not be  
4 limited to MADD, SADD, or CAV, Citizens Against Violent  
5 Crimes, or the Fraternal Order of the Police or the South  
6 Carolina Law Enforcement Association. If so, please stand.

7 (WHEREUPON, there was no response.)

8 THE COURT: All right. Has any member of the jury panel  
9 or any member of your immediate family ever been involved in  
10 a crime of personal violence? This could be including but  
11 not limited to criminal sexual conduct, assault and battery  
12 of a high and aggravated nature, murder, manslaughter,  
13 kidnapping, armed robbery, et cetera. Now, if you or any  
14 member of your immediate family have ever been a victim or a  
15 defendant in a crime such as these just mentioned or anything  
16 similar to them, please stand.

17 (WHEREUPON, one person stood.)

18 THE COURT: All right. You can come forward if you  
19 would like.

20 MR. TUCKER: Judge, may we approach as well?

21 THE COURT: You may.

22 MR. TUCKER: So we can hear.

23 THE COURT: Sure. Come on.

24 (WHEREUPON, a bench conference was held with Juror  
25 Number 89 as follows.)



1 THE COURT: All right. Good morning.

2 JUROR NUMBER 89: Good morning.

3 THE COURT: Give me your name and your number.

4 JUROR NUMBER 89: Tracy McMillan.

5 THE COURT: Okay.

6 JUROR NUMBER 89: 89.

7 THE COURT: 89. All right. How does that question

8 apply to you?

9 JUROR NUMBER 89: My brother, Jerome Robinson, was just

10 killed November the 17<sup>th</sup> in Darlington County.

11 THE COURT: Okay. Taking that into account, if you were

12 selected to serve on the jury in this case, could you be fair

13 and impartial not only to the State but the defendant as

14 well?

15 JUROR NUMBER 89: Yes, sir.

16 THE COURT: Would you be fair and impartial to both

17 sides?

18 JUROR NUMBER 89: Yes, sir.

19 THE COURT: Good. Thank you for coming forward.

20 JUROR NUMBER 89: You're welcome.

21 (WHEREUPON, the bench conference ended and the

22 proceedings resumed as follows.)

23 THE COURT: Anybody else?

24 THE BAILIFF: Judge, excuse me.

25 THE COURT: Yes?

1 THE BAILIFF: 46.

2 JUROR NUMBER 46: I'm Amanda Graham. I --

3 THE COURT: Why don't you have her come on up here, if  
4 you don't mind?

5 (WHEREUPON, a bench conference was held with Juror  
6 Number 46 as follows.)

7 THE COURT: All right. Give me your name and your  
8 number.

9 JUROR NUMBER 46: Amanda Graham, 46.

10 THE COURT: Okay. Go ahead.

11 JUROR NUMBER 46: I was telling him I've got a cousin  
12 who works with the Kingstree Sheriff's Department, Carl  
13 Scott.

14 THE COURT: Okay. Taking that into account, if you were  
15 selected to serve on the jury in this case, could you be fair  
16 and impartial to the State and the defense?

17 JUROR NUMBER 46: Yes, sir.

18 THE COURT: Would you be fair and impartial to both  
19 sides?

20 JUROR NUMBER 46: Yes, sir.

21 THE COURT: Good. Thank you for speaking up.

22 (WHEREUPON, the bench conference ended and the  
23 proceedings resumed as follows.)

24 THE COURT: Thank you. Anybody else?

25 (WHEREUPON, there was no response.)

1 THE COURT: Is there any member of the jury panel who  
2 knows of any reason whatsoever why they could not give the  
3 parties in this case a fair and impartial trial? If so,  
4 please stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: Has any member of the jury panel or any  
7 member of your family ever been prosecuted by this solicitor  
8 or any member of the Solicitor's Office, regardless of  
9 whether the case was dismissed or not? If so, please stand.

10 (WHEREUPON, there was no response.)

11 THE COURT: All right. Has any member of the jury -- is  
12 any member of the jury panel related to by blood or marriage  
13 to any person who is a member of the motorcycle club known as  
14 Notorious Demons SC? If so, please stand.

15 (WHEREUPON, there was no response.)

16 THE COURT: Does any member of the jury panel know any  
17 individual who is a member or related to a person who is a  
18 member of the motorcycle club known as Notorious Demons SC?  
19 If so, please stand.

20 (WHEREUPON, there was no response.)

21 THE COURT: Any member of the jury panel related by  
22 blood or marriage to any person who is a member of the street  
23 gang known as the Bloods? If so, please stand.

24 (WHEREUPON, there was no response.)

25 THE COURT: Any member of the jury panel know any

1 individual who is a member or related to a person who is a  
2 member of the street gang known as the Bloods? If so, please  
3 stand.

4 (WHEREUPON, one person stood.)

5 THE COURT: All right. You can come on up here if you'd  
6 like.

7 (WHEREUPON, a bench conference was held with Juror  
8 Number 23 as follows.)

9 THE COURT: And your name and your number?

10 JUROR NUMBER 23: Zyare Calverley. Zyare Calverley.

11 THE COURT: Calverley?

12 JUROR NUMBER 23: Z-Y.

13 THE COURT: And your number?

14 JUROR NUMBER 23: 23.

15 THE COURT: 23? All right. How does that question  
16 apply to you?

17 JUROR NUMBER 23: My cousin. My cousin is known to be  
18 in the gang Blood.

19 THE COURT: Your cousin --

20 JUROR NUMBER 23: Yes.

21 THE COURT: -- is going to be in the gang Bloods?

22 JUROR NUMBER 23: Yes.

23 THE COURT: Is that right?

24 JUROR NUMBER 23: Yeah.

25 THE COURT: All right. Taking that into account, if you

1 were selected to serve on the jury in this case, could you be  
2 fair and impartial to the State and the defense?

3 JUROR NUMBER 23: Yes, sir.

4 THE COURT: Would you be fair and impartial to both  
5 sides?

6 JUROR NUMBER 23: Yes, sir.

7 THE COURT: All right. Thank you.

8 (WHEREUPON, the juror left the bench conference and the  
9 bench conference continued as follows.)

10 MR. EDGEWORTH: Your Honor, that additional name that we  
11 were talking about in chambers is Razor Sharp Motorcycle  
12 Club.

13 THE COURT: Razor Sharp?

14 MR. EDGEWORTH: Yes, sir.

15 MR. TUCKER: No Hell's Angels?

16 MR. EDGEWORTH: No, not this time.

17 THE COURT: Razor Sharp Motorcycle Club.

18 MR. EDGEWORTH: Thank you.

19 THE COURT: All right. Thank you.

20 (WHEREUPON, the bench conference ended and the  
21 proceedings resumed as follows.)

22 THE COURT: Any member of the jury panel related by  
23 blood or marriage to any person who is a member of the Razor  
24 Sharp Motorcycle Club? If so, please stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Any member of the jury panel know any  
2 individual who is a member or related to a person who is a  
3 member of the Razor Sharp Motorcycle Club? If so, please  
4 stand.

5 (WHEREUPON, there was no response.)

6 THE COURT: All right. Anything else from the State?

7 MR. TUCKER: Nothing from the State, Your Honor.

8 THE COURT: Anything else from the defense?

9 MR. EDGEWORTH: Nothing from the defense, Your Honor.

10 THE COURT: All right. Except for the one I have  
11 excused, I find the jury panel qualified for the case.

12 Ms. Clerk, if you'd give us twelve jurors and two  
13 alternates.

14 (WHEREUPON, there was a pause in the proceedings, after  
15 which the proceedings resumed as follows.)

16 THE COURT: All right. Strikes will be ten and five.

17 I'm ready when you are, Ms. Clerk.

18 THE CLERK: Jurors, as I call your name, please come  
19 forward. Bring all your belongings with you. Okay?

20 Number 133, Wanda Smith.

21 (WHEREUPON, a white female came forward.)

22 THE CLERK: What say the State?

23 THE COURT: If you would, just turn around.

24 MR. TUCKER: Please present --

25 THE COURT: Thank you.

1 THE CLERK: What say the State?

2 MR. TUCKER: Please present Ms. Smith.

3 THE CLERK: What say the defendant?

4 MR. EDGEWORTH: Court's indulgence, Your Honor.

5 THE COURT: Yes.

6 MR. EDGEWORTH: Please seat the juror, Your Honor.

7 THE CLERK: Please be seated in the jury box.

8 Number 108, Darryl Page.

9 (WHEREUPON, a black male came forward.)

10 THE CLERK: What say the State?

11 MR. TUCKER: Please present Mr. Page.

12 THE CLERK: What say the defendant?

13 MR. EDGEWORTH: Please seat the juror, Your Honor.

14 THE CLERK: Please be seated in the jury box.

15 Number 139, Michael Tomlinson.

16 (WHEREUPON, a white male came forward.)

17 THE CLERK: What say the State?

18 MR. TUCKER: Please present Mr. Tomlinson.

19 THE CLERK: What say the defendant?

20 MR. EDGEWORTH: Court's indulgence, Your Honor.

21 THE COURT: Uh-huh.

22 MR. EDGEWORTH: Please excuse the juror from the trial

23 of this case, Your Honor.

24 THE CLERK: You're excused from this case only.

25 Number 144, Freddie Washington.

1 (WHEREUPON, a black male came forward.)

2 THE CLERK: What say the State?

3 MR. TUCKER: Please present Mr. Washington.

4 THE CLERK: What say the defendant?

5 MR. EDGEWORTH: Court's indulgence, Your Honor.

6 Please excuse the juror from the trial of this matter,

7 Your Honor.

8 THE CLERK: You're excused from this case only.

9 Number 111, Monica Peele.

10 (WHEREUPON, a white female came forward.)

11 THE CLERK: What say the State?

12 MR. TUCKER: Please present Ms. Peele.

13 THE CLERK: What say the defendant?

14 MR. EDGEWORTH: Court's indulgence for a moment.

15 Please seat the juror, Your Honor.

16 THE CLERK: Please be seated in the jury box.

17 Number 127, Juaquine Sessions.

18 (WHEREUPON, a black male came forward.)

19 THE CLERK: What say the State?

20 Please face them.

21 MR. TUCKER: Please excuse Mr. Sessions from the trial

22 of this particular case.

23 THE CLERK: You're excused from this case only.

24 Number 67, Lynne Jones.

25 (WHEREUPON, a white female came forward.)



1 THE CLERK: What say the State?

2 MR. TUCKER: Please present Ms. Jones.

3 THE CLERK: What say the defendant?

4 MR. EDGEWORTH: Please seat the juror, Your Honor.

5 THE CLERK: Please be seated in the jury box.

6 Number 147, Cynthia White.

7 (WHEREUPON, a white female came forward.)

8 THE CLERK: What say the State?

9 MR. TUCKER: Please present Ms. White.

10 THE CLERK: What say the defendant?

11 MR. EDGEWORTH: Court's indulgence, Your Honor.

12 Please excuse the juror from the trial of this case,

13 Your Honor.

14 THE CLERK: You're excused from this case only.

15 Number 146, Christine Welch. Christina.

16 (WHEREUPON, a white female came forward.)

17 THE CLERK: What say the State?

18 MR. TUCKER: Please present Ms. Welch.

19 THE CLERK: What say the defendant?

20 MR. EDGEWORTH: Court's indulgence, Your Honor.

21 Please seat the juror, Your Honor.

22 THE CLERK: Please be seated in the jury box.

23 Number 109, Betty Peacock.

24 (WHEREUPON, a white female came forward.)

25 THE CLERK: What say the State?

1 MR. TUCKER: Please present Ms. Peacock.

2 THE CLERK: What say the defendant?

3 MR. EDGEWORTH: Court's indulgence, Your Honor.

4 Please excuse the juror from the trial of this case,  
5 Your Honor.

6 THE CLERK: You've been excused from this case only.

7 Number 33, Bruce Crawford.

8 (WHEREUPON, a white male came forward.)

9 THE CLERK: What say the State?

10 MR. TUCKER: Please present Mr. Crawford.

11 THE CLERK: What say the defendant?

12 MR. EDGEWORTH: Please excuse the juror from the trial  
13 of this case, Your Honor.

14 THE CLERK: You're excused from this case only.

15 THE COURT: All right. Let me ask the bailiff. The  
16 individual that just came in --

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, a bench conference was held with the bailiff  
19 as follows.)

20 THE COURT: -- is who?

21 THE BAILIFF: That's a witness for the defense.

22 THE COURT: Okay. Have him come over here and sit with  
23 the defense.

24 (WHEREUPON, the bench conference ended and the  
25 proceedings resumed as follows.)

1 THE COURT: We had an individual come in that's a  
2 witness for the defense. I'm going to pull him forward and  
3 let him sit with you. He just walked in the door.

4 All right. You may continue.

5 THE CLERK: Number 89, Tracy McMillan.

6 (WHEREUPON, a black female came forward.)

7 THE CLERK: What say the State?

8 MR. TUCKER: Please present Ms. McMillan.

9 THE CLERK: What say the defendant?

10 MR. EDGEWORTH: Court's indulgence, Your Honor.

11 Please excuse the juror from the trial of this matter,  
12 Your Honor.

13 THE CLERK: You're excused from this case only.

14 Number 106, Lisa Odom.

15 (WHEREUPON, a white female came forward.)

16 THE CLERK: What say the State?

17 MR. TUCKER: Please present Ms. Odom.

18 THE CLERK: What say the defendant?

19 MR. EDGEWORTH: Court's indulgence, Your Honor.

20 Please excuse the juror from the trial of this matter,  
21 Your Honor.

22 THE CLERK: You're excused from this case only.

23 Number 138, Salyn Timmons.

24 (WHEREUPON, a white female came forward.)

25 THE CLERK: What say the State?

1 MR. TUCKER: Please present Ms. Timmons.

2 THE CLERK: What say the defendant?

3 MR. EDGEWORTH: Court's indulgence, Your Honor.

4 Madam Clerk, can you confirm the amount of strikes that  
5 have been used?

6 THE COURT: Seven.

7 THE CLERK: Seven.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 Please excuse the juror from the trial of this matter,  
10 Your Honor.

11 THE CLERK: You're excused from this case only.

12 Number 132, Sonya Smith.

13 (WHEREUPON, a white female came forward.)

14 THE CLERK: What say the State?

15 MR. TUCKER: Please present Ms. Smith.

16 THE CLERK: What say the defendant?

17 MR. EDGEWORTH: Please seat the juror, Your Honor.

18 THE CLERK: Please be seated in the jury box.

19 Number 75, Julia Levison.

20 (WHEREUPON, a white female came forward.)

21 THE CLERK: What say the State?

22 MR. TUCKER: Please present Ms. Levison.

23 THE CLERK: What say the defendant?

24 MR. EDGEWORTH: Please seat the juror, Your Honor.

25 THE CLERK: Please be seated in the jury box.

1           Number 76, Kenneth Lewis.

2           (WHEREUPON, a white male came forward.)

3           THE CLERK:   What say the State?

4           MR. TUCKER:   Please present Mr. Lewis.

5           THE CLERK:   What say the defendant?

6           MR. EDGEWORTH:   Please seat the juror, Your Honor.

7           THE CLERK:   Please be seated in the jury box.

8           Number 9, Shaikelia Barr.

9           (WHEREUPON, a black female came forward.)

10          THE CLERK:   What say the State?

11          MR. TUCKER:   Please present Ms. Barr.

12          THE CLERK:   What say the defendant?

13          MR. EDGEWORTH:   Please seat the juror, Your Honor.

14          THE CLERK:   Please be seated in the jury box.

15          Number 155, Amy Clemons.

16          (WHEREUPON, a white female came forward.)

17          THE CLERK:   What say the State?

18          MR. TUCKER:   Please present Ms. Clemons.

19          THE CLERK:   What say the defendant?

20          MR. EDGEWORTH:   Madam Clerk, the juror number again,  
21 please?

22          THE CLERK:   Number 155.

23          MR. EDGEWORTH:   155?   Thank you.

24          Please excuse the juror from the trial of this matter,  
25 Your Honor.

1 THE CLERK: You're excused from this case only.  
2 Number 79, Tina Lynch.  
3 (WHEREUPON, a white female came forward.)  
4 THE CLERK: What say the State?  
5 MR. TUCKER: Please present Ms. Lynch.  
6 THE CLERK: What say the defendant?  
7 MR. EDGEWORTH: Please seat the juror, Your Honor.  
8 THE CLERK: Please be seated in the jury box.  
9 Number 128, Ashley Singletary.  
10 (WHEREUPON, a black female came forward.)  
11 THE CLERK: What say the State?  
12 MR. TUCKER: Please present Ms. Singletary.  
13 THE CLERK: What say the defendant?  
14 MR. EDGEWORTH: Please seat the juror, Your Honor.  
15 THE CLERK: Please be seated in the jury box.  
16 Number 8, Rosa Barr.  
17 (WHEREUPON, a black female came forward.)  
18 THE CLERK: What say the State?  
19 MR. TUCKER: Please present Ms. Barr.  
20 THE CLERK: What say the defendant?  
21 MR. EDGEWORTH: Please seat the juror, Your Honor.  
22 THE CLERK: Please be seated in the jury box.  
23 THE COURT: All right. Let's get two alternates.  
24 THE CLERK: Two alternates?  
25 THE COURT: Uh-huh.

1 THE CLERK: One and one?

2 THE COURT: Two. Two and one.

3 THE CLERK: Two alternates?

4 THE COURT: Two and one. Two alternates.

5 THE CLERK: Okay. Number 46, Amanda Graham.

6 (WHEREUPON, a black female came forward.)

7 THE CLERK: What say the State?

8 MR. TUCKER: Please present Ms. Graham.

9 THE CLERK: What say the defendant?

10 MR. EDGEWORTH: Please excuse the juror from the trial

11 of this case, Your Honor.

12 THE CLERK: You're excused from this case only.

13 Number 82, Aletha Marsh.

14 (WHEREUPON, a white female came forward.)

15 THE CLERK: What say the State?

16 MR. TUCKER: Please present Ms. Marsh.

17 THE CLERK: What say the defendant?

18 MR. EDGEWORTH: Court's indulgence, Your Honor.

19 Please seat the juror, Your Honor.

20 THE CLERK: You may be seated in the jury box.

21 Number 65, Amy Johnson.

22 (WHEREUPON, a white female came forward.)

23 THE CLERK: What say the State?

24 MR. TUCKER: Please present Ms. Johnson.

25 THE CLERK: What say the defendant?

1 MR. EDGEWORTH: Please excuse the juror from the trial  
2 of this matter, Your Honor.

3 THE CLERK: You've been excused from this case only.  
4 Number 69, Sarah Keller.

5 (WHEREUPON, a white female came forward.)

6 THE CLERK: What say the State?

7 MR. TUCKER: Please excuse Ms. Keller from the trial of  
8 this case.

9 THE CLERK: You've been excused from this case only.  
10 Number 57, Shirley Hewitt.

11 (WHEREUPON, a black female came forward.)

12 THE CLERK: Does the State wish to challenge this juror  
13 for cause?

14 MR. TUCKER: No, Madam Clerk.

15 THE CLERK: What say the defendant?

16 MR. EDGEWORTH: No, Madam Clerk.

17 THE CLERK: Please be seated in the jury box.

18 THE COURT: Any objections to the jury or the process by  
19 which they were drawn? What says the State?

20 MR. TUCKER: Not from the State, Your Honor.

21 THE COURT: What says the defense?

22 MR. EDGEWORTH: Not from the defense, Your Honor.

23 THE COURT: All right. The remainder of the jury panel,  
24 you're excused for the day. If you would, call back in after  
25 six this evening to see if there are any further instructions



1 for you. Thank you and have a good day.

2 (WHEREUPON, the jury panel was released and exited the  
3 courtroom at 11:41 a.m.)

4 THE COURT: All right. Members of the jury, we're going  
5 to start this trial at 9:30 in the morning. We all are going  
6 to stay here this afternoon. We are going to take up  
7 pretrial motions and try to get things in line for you in the  
8 morning.

9 But I do want to instruct you that you do know a little  
10 bit about this case based on the jury selection process. You  
11 know the names, you know the charges, and so forth. When you  
12 leave this courtroom, you are instructed not to talk to  
13 anybody about this case. Do not even talk about this case  
14 among yourselves and do not get on the Internet and do any  
15 research whatsoever. Everything you need to obtain needs to  
16 be obtained right here in this courthouse to make sure that  
17 we have it done right.

18 So you are excused. I'll see you back at 9:30 in the  
19 morning. Thank you.

20 (WHEREUPON, the jury exited the courtroom at 11:42 a.m.)

21 THE COURT: All right. How do y'all want to proceed  
22 from here? Do you want to come back after lunch or do you  
23 want to do something now? It doesn't matter.

24 MR. TUCKER: Your Honor, I have the witnesses coming at  
25 two --

1 THE COURT: Okay.

2 MR. TUCKER: -- for the Jackson v. Denno hearing. So if  
3 we can come back at two, we can begin it then.

4 THE COURT: Is that good with you?

5 MR. EDGEWORTH: No objection, Your Honor.

6 THE COURT: Sounds good. We'll see you back at two.

7 MR. EDGEWORTH: Thank you, Your Honor.

8 MR. TUCKER: Your Honor, there's one collateral matter I  
9 --

10 THE COURT: Right.

11 MR. TUCKER: -- wanted to bring to the Court's  
12 attention. Mr. Harrison was on our witness list. We were  
13 not able to get him served and I would just ask the Court's  
14 leave to go ahead and serve him our subpoena as well. I know  
15 that Mr. Edgeworth has him under subpoena as well. Out of an  
16 abundance of precaution, I just want to make the Court aware  
17 of that and bring it to Mr. Edgeworth's attention.

18 THE COURT: Any objection?

19 MR. EDGEWORTH: No objection, Your Honor.

20 THE COURT: All right. Go ahead and do that, and I'll  
21 see you back at two. Thank you.

22 (WHEREUPON, there was a break in the proceedings from  
23 11:43 a.m. until 2:05 p.m., after which the proceedings  
24 resumed as follows.)

25 THE COURT: All right. I'm ready for any pretrial

ROGER TILTON - DIRECT BY MR. TUCKER

1 motions that either of you might have.

2 MR. TUCKER: We're ready, Your Honor. At this time, the  
3 State is ready to proceed with a Jackson v. Denno hearing.

4 THE COURT: All right.

5 MR. TUCKER: There actually are two statements that  
6 we'll be looking at and working with this afternoon, Your  
7 Honor, the first of which will be the interview of the  
8 defendant that the investigator made. The second would be a  
9 jail video. We can kind of get to that in turn.

10 THE COURT: Okay. I'm ready when you are.

11 MR. TUCKER: At this time, the State would call  
12 Investigator Roger Tilton to the stand.

13 THE CLERK: Sir, please place your left hand on the  
14 Bible and raise your right hand. Do you swear to tell the  
15 truth, the whole truth, and nothing but the truth, so help  
16 you God?

17 THE WITNESS: I do.

18 THE CLERK: Please be seated in the witness box and  
19 state your name for the record.

20 THE WITNESS: Roger Tilton.

21 THE COURT: Yes, sir.

22 MR. TUCKER: Thank you, Your Honor.

23 ROGER TILTON, being first duly  
24 sworn, testified as follows:

25 DIRECT EXAMINATION

ROGER TILTON - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Investigator Tilton, where are you employed?

3 A: Florence County Sheriff's Office.

4 Q: And in what capacity?

5 A: Criminal investigator.

6 Q: And how long have you been with the Sheriff's Office?

7 A: This time, five years.

8 Q: Now, were you working and employed as an investigator  
9 with the Florence County Sheriff's Office on or about May the  
10 6<sup>th</sup>, 2018?

11 A: I was.

12 Q: Do you recall specifically getting reference to a  
13 shooting that occurred at a nightclub in the lower part of  
14 Florence County?

15 A: Yes, sir. I was the on-call investigator and was called  
16 there for a shooting incident.

17 Q: Do you recall about what time the incident call came  
18 out?

19 A: One or two in the morning, after midnight.

20 Q: And what, if anything, did you do after you received the  
21 call?

22 A: I first responded to the incident location and met with  
23 supervisors on the scene. Once I finished there, I was  
24 advised that one of the patrol deputies and a Sgt. McFadden  
25 and Deputy Bazen had stopped a vehicle with the suspect of

ROGER TILTON - DIRECT BY MR. TUCKER

1 the shooting in it.

2 Q: Now, was this a vehicle that matched the description  
3 given out as that involved in the shooting?

4 A: It was.

5 Q: Now, after hearing that they were detained, what, if  
6 anything, did you do at that point?

7 A: I responded to 52 there in Effingham at the red light  
8 just past McCall Farms where they had the car stopped. I  
9 pulled over, approached it. I spoke with Mr. -- Sgt.  
10 McFadden and Deputy Bazen. They had the subjects detained in  
11 the vehicle.

12 And then I -- each individual -- there was five people  
13 in the car, I believe. One -- two -- three -- four -- five  
14 people in the car. I individually brought them to the back  
15 of the vehicle, read them their Miranda rights verbally, and  
16 questioned them about the incident.

17 Q: Now, did you have them sign any kind of a waiver at that  
18 time?

19 A: Not at that time, no.

20 Q: And why not?

21 A: I was on the road. I didn't have one on me and I wasn't  
22 taking an official statement. I was just trying to get facts  
23 of what happened.

24 Q: I understand. Ultimately, did that exchange between you  
25 and the five individuals yield a suspect?

## ROGER TILTON - DIRECT BY MR. TUCKER

1 A: It did.

2 Q: And what, if anything, occurred at that point?

3 A: Mr. Jackson was one of the passengers in the vehicle and  
4 he was taken into custody.

5 Q: And he was identified as a suspect at that point in your  
6 investigation?

7 A: Yes.

8 Q: And what, if anything, occurred once he was taken into  
9 custody?

10 A: He was taken to -- taken to the jail and booked into the  
11 jail. I think the following morning, maybe earlier that --  
12 later that morning, I brought him into the interview room to  
13 take a statement from him.

14 Q: Now, was anybody with you in law enforcement capacity  
15 there in the interview room?

16 A: Investigator Alex Edwards was present during the  
17 interview.

18 Q: Now, after y'all entered the interview room, what, if  
19 anything, occurred then?

20 A: I have a Miranda form that we use at the Sheriff's  
21 Office when we talk to suspects. I verbally read him those  
22 Miranda rights and the waiver. He agreed to them, initialed  
23 it, and signed it.

24 MR. TUCKER: Your Honor, if I may approach?

25 THE COURT: You may.

## ROGER TILTON - DIRECT BY MR. TUCKER

1 MR. TUCKER: And, Your Honor, I'm showing the witness  
2 what's been marked State's Exhibit 1.

3 BY MR. TUCKER:

4 Q: And first let me ask you if you recognize it?

5 A: I do.

6 Q: And let me ask next how you recognize it?

7 A: This is the Miranda warning form that is in  
8 investigations that we use in all criminal investigations  
9 when we talk to suspects.

10 Q: And if you could, read that for the record, please?

11 A: It's the Florence County Sheriff's Office, William  
12 Kenney Boone, Sheriff, Miranda Warning. It says Case Number  
13 2018-050142. The location is LEC. That stands for Law  
14 Enforcement Center. The date is May 6<sup>th</sup>, 2018. It's at 2:15  
15 p.m. in the afternoon.

16 Q: Roughly how much time had elapsed from when you take  
17 this statement to when the incident occurred?

18 A: Seven or eight hours I believe.

19 Q: And after you indicated the time, what, if anything,  
20 occurred next?

21 A: I read him the following rights. I said you have the  
22 right to remain silent. Anything you say can and will be  
23 used against you in a court of law. You have the right to  
24 talk with a lawyer and have him present with you while you're  
25 being questioned. If you cannot afford to hire a lawyer, one

ROGER TILTON - DIRECT BY MR. TUCKER

1 will be appointed to represent you before any questioning, if  
2 you wish, and you can decide at any time to exercise these  
3 rights and not answer any questions or make any statements.

4 Q: Did Mr. Jackson indicate that he understood his rights?

5 A: I asked him do you understand each of these rights as I  
6 explained them and he said yes. I said having these rights  
7 in mind, do you wish to talk with us now, and he said yes.

8 Q: Now, you indicated there was a place for Mr. Jackson to  
9 initial?

10 A: There is.

11 Q: Is that after each right that you explained to him?

12 A: After I read them to him and he agrees to speak, I asked  
13 him to initial by each right that I read him.

14 Q: And did he do that?

15 A: He did.

16 Q: Now, did ultimately he sign at the bottom acknowledging  
17 that he was waiving his rights as you had explained them to  
18 him from that form?

19 A: He signed his signature at 2:16 p.m. I then signed it  
20 and then Investigator Alex Edwards signed it.

21 Q: Okay. Now, let me ask you did Mr. Jackson appear to  
22 understand what it was that you were asking him?

23 A: He did.

24 Q: Did he appear to be inebriated or intoxicated or  
25 impaired in any way?



## ROGER TILTON - DIRECT BY MR. TUCKER

1 A: No, he did not.

2 Q: Did he appear to be suffering from any sort of mental  
3 infirmities that would've affected his ability to understand  
4 what was going on?

5 A: No, he did not.

6 Q: Okay. Did he express a desire to speak to you?

7 A: He did.

8 Q: Now, after you had him sign that form and Investigator  
9 Edwards witnessed it as you signed it yourself, what, if  
10 anything, did you do then?

11 A: I questioned him about what happened.

12 Q: Now, this was in the interview room?

13 A: It was.

14 Q: Now, with regards to the interview room, is that  
15 specific interview room equipped with both audio and video  
16 recording devices?

17 A: It is.

18 Q: And were those activated upon entry of that interview  
19 room?

20 A: They were.

21 MR. TUCKER: And, Your Honor, at this point, I would ask  
22 the witness to --

23 BY MR. TUCKER:

24 Q: I'm asking you -- or showing you what's been marked  
25 State's Exhibit 2 and ask first if you recognize it?

ROGER TILTON - DIRECT BY MR. TUCKER

1 A: I do. It's a DVD containing the statement of Diondrae  
2 Jackson, the case number, and my name.

3 Q: Okay. And that's a recording of the interview that you  
4 conducted of Mr. Jackson?

5 A: It is.

6 MR. TUCKER: And at this point, Your Honor, I would like  
7 to play briefly some of the interview so we can kind of set  
8 context.

9 THE COURT: All right.

10 MR. TUCKER: And it should appear on your screen up  
11 there.

12 (WHEREUPON, a portion of State's Exhibit Number 2 was  
13 played. Not transcribed herein.)

14 BY MR. TUCKER:

15 Q: Okay. Investigator Tilton, on the way back to the jail,  
16 the detention side of the Sheriff's Office, did y'all talk  
17 about the case?

18 A: No, sir.

19 Q: Again, did you promise him anything in exchange for him  
20 making that statement to you?

21 A: No, sir.

22 Q: And again, by way of reference, the incident location,  
23 the Downbeat Club, is that in Florence County?

24 A: It is.

25 MR. TUCKER: I believe those are all the questions I

ROGER TILTON - CROSS BY MR. EDGEWORTH

1 have of this witness, Your Honor.

2 THE COURT: All right. Cross?

3 MR. EDGEWORTH: Thank you, Your Honor. May it please  
4 the Court.

5 THE COURT: Sure.

6 CROSS-EXAMINATION

7 BY MR. EDGEWORTH:

8 Q: Investigator Tilton, do you recall exactly when you  
9 arrived on scene at that -- on May 6<sup>th</sup>?

10 A: It's on the CAD, but off the top of my head, I can't  
11 give you that. I've got 0210 hours I was notified, 0220  
12 hours I arrived on Karisma Road.

13 Q: Okay. So that's 2:20 in the morning?

14 A: Yes, sir.

15 Q: Okay. And -- and you arrived at the Downbeat Club at  
16 that time?

17 A: Yes, sir.

18 Q: At the time you arrived, had the vehicle in which the --  
19 Mr. Jackson was in -- had it been stopped?

20 A: It had.

21 Q: Okay. And did you leave immediately to go to -- to the  
22 scene or did you stay at the Downbeat Club?

23 A: I was at the Downbeat Club for a little bit because I  
24 didn't arrive on the traffic stop until 2:57.

25 Q: Okay. So from 2:57 -- 2:20 to 2:57, what were you

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 doing?

2 A: I was at the club talking to witnesses and going over  
3 the scene with the forensics investigators.

4 Q: And which witnesses did you speak to at the scene?

5 A: Marcus Harrison. Samantha Gibson. Those two. Samantha  
6 and Marcus, the two employees.

7 Q: Okay. So there were two employees at the scene that you  
8 interviewed before you left to go to where the -- where Mr.  
9 Jackson had been stopped?

10 A: Yes, sir.

11 Q: Okay. And when you got to the vehicle stop scene, did  
12 you speak to Mr. Jackson first?

13 A: No. I spoke with Latesha Newton first.

14 Q: And then who was next?

15 A: Lawanda Johnson.

16 Q: And then next?

17 A: Charles Frierson.

18 Q: And then who was next?

19 A: Ernestine Mack.

20 Q: And did you speak to anyone else before you spoke to Mr.  
21 Jackson?

22 A: No. I spoke to Mr. Jackson next.

23 Q: Okay. And do you recall at what time you began speaking  
24 to Mr. Jackson?

25 A: I'm not sure. I can't tell you the exact time. We were

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 there for a little while.

2 Q: About how long do you -- do you believe you were at the  
3 scene?

4 A: He was placed under arrest at 0336 hours in the morning.  
5 That's when I would have left there.

6 Q: And when -- and when you were done -- while you were  
7 speaking with him, did you believe him to be under the  
8 influence of any drugs or alcohol?

9 A: I did not.

10 Q: Okay. Were any of the -- the interviews on the scene  
11 recorded?

12 A: They were not. I didn't have my recorder on me at the  
13 time.

14 Q: Okay. Were any of the interviews at the club scene  
15 recorded?

16 A: No, they weren't.

17 Q: Okay. Were there any other persons that you interviewed  
18 before you interviewed Mr. Jackson that night?

19 A: I believe those were the only people I spoke with.

20 Q: Okay. And then at approximately 2:14 in the afternoon  
21 of the same day is when this recorded statement took place;  
22 correct?

23 A: 2:15, yes, sir.

24 Q: Okay. And did you speak to anybody between the time you  
25 left the scene at 3:36 a.m. to the time you spoke to Mr.

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Jackson at 2:15 p.m.?

2 A: Around 0505 in the morning, I was contacted by Sgt.  
3 McFadden about a statement that was made in the jail by the  
4 defendant, Mr. Jackson.

5 Q: Okay. But did you speak to any other individuals?

6 A: No.

7 Q: Okay.

8 A: Well, I did go to the hospital. I'm sorry. I  
9 apologize. I went to the emergency room at the hospital. I  
10 spoke with a Kevin Brand. Yeah, I spoke with Kevin Brand at  
11 the hospital. He was a witness.

12 Q: Okay. What did he tell you?

13 A: He informed me that he was in the club with both Malcolm  
14 and the other victim playing pool. He states that he saw --  
15 saw the defendant walk away from the table with the quarters  
16 and another person started playing using his quarters. When  
17 he came back, he became upset and demanded someone replace  
18 his quarters.

19 After a brief argument, the defendant left the room and  
20 they continued to play pool. A few minutes later, the  
21 subject came back in the room and sat at the bar. He then  
22 saw the subject with a gun and he started shooting at them.  
23 After the shooting, he picked up Malcolm and then drove him  
24 to the hospital.

25 Q: So Mr. Brand was the individual who drove the decedent

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 to the hospital?

2 A: He was one of them. There were several of them. There  
3 was a lot of people at the hospital when I got there. He's  
4 the only one I talked to.

5 Q: And how many people do you recall being there?

6 A: Four or five maybe.

7 Q: Okay. But Mr. Brand was the one you spoke to?

8 A: Uh-huh.

9 Q: All right. Well, who would have been the fourth person  
10 from the club you spoke to prior to speaking with Mr. Jackson  
11 in the recorded interview?

12 MR. TUCKER: Your Honor, I believe we're getting beyond  
13 the scope of the Jackson v. Denno hearing as it relates to  
14 this specific interview.

15 THE COURT: I kind of agree. How -- how does it relate  
16 to this particular hearing?

17 MR. EDGEWORTH: Well, it relates to some of the  
18 misrepresentations that were made during the interview. I  
19 mean he told Mr. Jackson he spoke with four people in the  
20 club, four people in the car. So far he has named three.

21 And I mean he goes along with the narrative that's  
22 essentially prejudicial throughout the entire statement.  
23 He's created a narrative.

24 THE COURT: But still, what does that have to do with  
25 whether or not he was mirandized or if the statement was

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 given freely and voluntarily?

2 MR. EDGEWORTH: Well, Your Honor, I was actually trying  
3 to get there and if I -- I'll just --

4 THE COURT: Go ahead.

5 MR. EDGEWORTH: -- change the course of the --

6 THE COURT: You can go ahead.

7 MR. EDGEWORTH: -- of the conversation.

8 THE COURT: Go ahead.

9 MR. EDGEWORTH: Thank you, Your Honor.

10 BY MR. EDGEWORTH:

11 Q: Okay. So in any event, you -- Mr. Jackson was taken to  
12 the detention center at approximately 3:36 in the morning;  
13 correct?

14 A: That's correct.

15 Q: Okay. And you indicated that you had heard from Mr.  
16 McFadden at approximately 5:05?

17 A: I did.

18 Q: Okay. And so are you aware whether Mr. Jackson had any  
19 sleep prior to you speaking to him at 2 o'clock in the  
20 morning -- or 2 o'clock in the afternoon?

21 A: I don't know if he slept or not.

22 Q: Okay. Do you recall during the statement that he was --  
23 he was yawning throughout the statement to you?

24 A: You saw it. He might've -- might've yawned a time or  
25 two. I don't know. Everybody was tired. We had been up all



## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 night.

2 Q: Exactly. Do you believe that the conversation that he  
3 gave with -- gave with you was voluntary?

4 A: Yes.

5 Q: Okay. And the basis for the voluntariness is solely on  
6 the -- on the fact that he signed the document he presented  
7 to you?

8 A: I made it very clear to him he did not have to speak to  
9 me if he didn't want to, that he could stop at any time.

10 Q: Okay.

11 A: He chose to talk.

12 Q: Do you recall the hesitation between the time he began  
13 to sign the document? Do you recall what he said?

14 A: I do.

15 Q: And what did he say?

16 A: So I have to sign this? And I said no.

17 Q: Okay.

18 MR. EDGEWORTH: No further questions, Your Honor.

19 THE COURT: All right. Thank you.

20 Yes, sir?

21 MR. TUCKER: Nothing on redirect, Your Honor.

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

23 Next witness?

24 MR. TUCKER: At this time, we'd call Alex Edwards to the  
25 stand.

ALEX EDWARDS - DIRECT BY MR. TUCKER

1 THE CLERK: Sir, please place your left hand on the  
2 Bible and raise your right hand. Do you swear to tell the  
3 truth, the whole truth, and nothing but the truth, so help  
4 you God?

5 THE WITNESS: I do.

6 THE CLERK: Please be seated in the witness box and  
7 state your name for the record.

8 THE WITNESS: Alex Edwards.

9 THE COURT: Yes, sir.

10 MR. TUCKER: Thank you, Your Honor.

11 ALEX EDWARDS, being first duly  
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. TUCKER:

15 Q: Investigator Edwards, where are you employed?

16 A: Florence County Sheriff's Office.

17 Q: And how long have you been employed by the Sheriff's  
18 Office?

19 A: Approximately 18 months.

20 Q: And were you working with the Sheriff's Office on or  
21 about May the 6<sup>th</sup>, 2018?

22 A: Yes, sir.

23 Q: In what capacity?

24 A: Criminal investigator. I was shadowing Investigator  
25 Tilton.

ALEX EDWARDS - DIRECT BY MR. TUCKER

1 Q: Now, prior to coming to the Florence County, did you  
2 have any other law enforcement experience?

3 A: Yes, sir. I was a criminal investigator at the  
4 Williamsburg County Sheriff's Office for approximately 9 or  
5 10 years.

6 Q: Okay. Now, you mentioned that you were shadowing  
7 Investigator Tilton with regards to this particular  
8 investigation; is that correct?

9 A: Yes, sir.

10 Q: Now, when you say this investigation, are you referring  
11 to the homicide investigation arising on or about May the 6<sup>th</sup>,  
12 2018, at the Downbeat Club?

13 A: Yes, sir.

14 Q: And is the Downbeat Club in Florence County?

15 A: Yes, sir.

16 Q: Specifically, in your shadowing capacity, you were  
17 present when the interview took place that we just saw in the  
18 courtroom?

19 A: Yes, sir.

20 Q: Now, were you back in the booking area when Investigator  
21 Tilton first encountered Diondrae Jackson and brought him  
22 around to the interview room?

23 A: Yes, sir.

24 Q: Now, during that walk around, did you have an  
25 opportunity to observe his appearance?

ALEX EDWARDS - DIRECT BY MR. TUCKER

1 A: Yes, sir, I did.

2 Q: His demeanor?

3 A: Yes, sir.

4 Q: Did he stumble? Did he appear to be unsteady on his  
5 feet?

6 A: No, sir.

7 Q: Did he appear to be able to engage in conversation in  
8 terms of questions that you were asking?

9 A: Yes, sir.

10 Q: Okay. Now, did you or Investigator Tilton talk about  
11 the case prior to getting into the interview room before the  
12 camera popped on?

13 A: No, sir.

14 Q: Did he or you promise Mr. Jackson anything in exchange  
15 for him testifying?

16 A: No, sir.

17 Q: Now, once the three of you got into the interview room  
18 before the camera comes on, did you or Investigator Tilton  
19 promise Mr. Jackson anything?

20 A: No, sir.

21 Q: Again, you had an opportunity to observe his demeanor  
22 when the camera pops on and, again, did he say or do anything  
23 that would lead you to believe he did not understand what he  
24 was doing?

25 A: No, sir.

ALEX EDWARDS - DIRECT BY MR. TUCKER

1 Q: And you were present when Investigator Tilton had Mr.  
2 Jackson both initial and sign the waiver form that's already  
3 been marked as State's Exhibit 1 that's in front of you; is  
4 that correct?

5 A: Yes, sir.

6 Q: And you were present during the interview itself?

7 A: Yes, sir, I was.

8 Q: At any time, did Diondrae Jackson stop questioning and  
9 ask for a lawyer or ask a question and cease?

10 A: No, sir, he did not.

11 Q: Okay. Again, did he say or do anything that would lead  
12 you to believe he did not understand what he was doing?

13 A: No, sir.

14 Q: And he freely, voluntarily, and knowingly waived his  
15 rights under Miranda, signed the form, and gave a statement;  
16 is that correct?

17 A: Yes, sir.

18 MR. TUCKER: I believe those are all the questions I  
19 have, Your Honor.

20 THE COURT: All right. Cross?

21 MR. EDGEWORTH: No questions for this witness, Your  
22 Honor.

23 THE COURT: All right. You may step down. Thank you.

24 MR. TUCKER: And, Your Honor, with regards to this  
25 particular statement, that would be all that the State would

1 put up with regards to the interview of Diondrae Jackson as  
2 we saw on the video.

3 Certainly, the State would maintain that we've met our  
4 burden in terms of showing that Mr. Jackson voluntarily,  
5 intelligently, and knowingly waived his rights under Miranda  
6 and gave a statement, as indicated by his initials on the  
7 forms accompanying those individual rights, as well as his  
8 signature. The signature, as the video indicated, was  
9 witnessed by both Roger Tilton, who is the lead investigator,  
10 and Alex Edwards, who was the -- I guess for want of a better  
11 description, a secondary investigator as it relates to this  
12 case.

13 Again, nothing in the video indicated that Mr. Jackson  
14 was impaired in any way or that he lacked understanding to  
15 appreciate what it was he was doing by waiving freely and  
16 intelligently his rights under Miranda and giving the  
17 statement that we saw, and we would ask that the statement  
18 come in as evidence.

19 THE COURT: All right. What does the defendant say?

20 MR. EDGEWORTH: Your Honor, may it please the Court.

21 As alluded to earlier, I -- and in speaking with my  
22 client, of course, there was very limited time for my client  
23 to be detained. There's no indication between -- between his  
24 detention and the statement. There's instances on the video,  
25 as Your Honor saw, where he's clearly tired and referenced to

1 having drank or consumed some type of intoxicant the night  
2 before. There's no indication whether or not that cleared  
3 his system at the time of this statement, and I believe that  
4 the statement is involuntary and should be excluded from the  
5 trial of this matter.

6 THE COURT: It seems to me that if he was arrested at  
7 about 3:36 and then the interview wasn't until 2:15 the next  
8 day, he had about 10 or 12 hours to sleep if he wanted to  
9 sleep. He did not appear intoxicated to me.

10 I'm going to find that the defendant was properly  
11 mirandized and that the statement was given freely and  
12 voluntarily. However, I think we need to redact the part  
13 about his record, his extensive record --

14 THE COURT: Yes, sir.

15 THE COURT: -- in the video, and if there's any hearsay  
16 in there. If he said witnesses said --

17 MR. TUCKER: Yes, sir.

18 THE COURT: -- I think that needs to come out as well.

19 MR. TUCKER: Yes, sir.

20 THE COURT: But otherwise, I think it's freely and  
21 voluntarily given. All right.

22 MR. EDGEWORTH: Thank you, Your Honor.

23 THE COURT: Just make sure that's done.

24 MR. EDGEWORTH: Yes, sir.

25 THE COURT: And you look at it and you're satisfied with

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 it before we play it.

2 MR. EDGEWORTH: Thank you, Your Honor.

3 THE COURT: All right.

4 MR. TUCKER: Your Honor, next, the State would call  
5 Deputy Bradley Bazen to the stand.

6 THE CLERK: Sir, please place your left hand on the  
7 Bible and raise your right hand. Do you swear to tell the  
8 truth, the whole truth, and nothing but the truth, so help  
9 you God?

10 THE WITNESS: I do.

11 THE CLERK: You may be seated in the witness box and  
12 please state your name for the record.

13 THE WITNESS: Bradley Bazen.

14 MR. TUCKER: May it please the Court.

15 THE COURT: Yes.

16 BRADLEY BAZEN, being first  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. TUCKER:

20 Q: Deputy Bazen, where are you presently employed? I know  
21 that's a stupid question given how you're dressed.

22 A: Florence County Sheriff's Office.

23 Q: And were you so employed by the Sheriff's Office on or  
24 about May the 6<sup>th</sup>, 2018?

25 A: I was.



## BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 Q: And in what capacity were you employed?

2 A: Patrol deputy.

3 Q: Now, in that capacity, I want to draw your attention  
4 specifically to the events around or about 1:30 or 2 a.m. on  
5 May the 6<sup>th</sup>. Do you recall receiving a dispatch notification  
6 about a shooting at a club that was referenced as the  
7 Downbeat Club in Coward?

8 A: I do.

9 Q: And what, if anything, did you do in response to that?

10 A: Pretty much when they gave the call out, I was in the  
11 area, maybe a mile from the incident location. They gave a  
12 description of the vehicle, a black Charger, and the first  
13 vehicle that came to my attention was a black Charger going  
14 northbound on 52.

15 Q: And what was your direction of travel at that time?

16 A: I was southbound.

17 Q: And you were heading towards the incident location?

18 A: Correct.

19 Q: Now, upon seeing the vehicle, what, if anything, did you  
20 do?

21 A: I -- when they passed me, I cut across the median and I  
22 got behind them. I made it through the traffic light at  
23 Friendfield and 52, initiated a traffic stop near the post  
24 office on 52.

25 Q: And did the vehicle stop?

## BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 A: It did.

2 Q: And what did you do at that point?

3 A: I was by myself. I approached the vehicle on the  
4 passenger side. I told everyone, all the passengers in the  
5 vehicle, to keep their hands in plain view and I awaited  
6 backup.

7 Q: Now, you waited on back up and told everybody to keep  
8 their hands in plain view. Was that given the nature of the  
9 call or the incident --

10 A: Correct.

11 Q: -- itself?

12 A: Correct.

13 Q: And ultimately, did backup arrive?

14 A: It did.

15 Q: And what, if anything, did you do at that point?

16 A: Pretty much each passenger was removed from the vehicle  
17 and detained.

18 Q: Now, at some point did Investigator Roger Tilton arrive  
19 there at the incident -- or at that scene where you had the  
20 vehicle pulled over?

21 A: He did.

22 Q: Were you present when Investigator Tilton mirandized all  
23 five occupants of that vehicle?

24 A: I was.

25 Q: Do you recall if one of those individuals was the

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 defendant in this case, Diondrae Jackson?

2 A: He was.

3 Q: And do you see Mr. Jackson sitting in the courtroom  
4 here?

5 A: Yes, sir.

6 Q: Now, how close to him or Investigator Tilton were you  
7 when you heard Investigator Tilton issue the Miranda  
8 warnings?

9 A: I was right beside him.

10 Q: And you heard him pretty much give the Miranda warnings  
11 as he gave them from that form?

12 A: I did.

13 Q: Okay. Now, again, I know this is on the side of the  
14 road. You didn't use the form, but you heard him give  
15 Miranda; is that correct?

16 A: Correct.

17 Q: And at that point, the individuals were taken and then  
18 Mr. Jackson was transported to the detention center?

19 A: That's correct.

20 Q: Okay.

21 MR. TUCKER: I believe those are all the questions I  
22 have of this witness, Your Honor.

23 THE COURT: All right. Cross?

24 MR. EDGEWORTH: No questions for this witness, Your  
25 Honor.

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 THE COURT: All right. You may step down. Thank you.

2 MR. TUCKER: At this time, Your Honor, the State would  
3 call Sgt. McFadden.

4 THE CLERK: Sir, please place your left hand on the  
5 Bible and raise your right hand. Do you swear to tell the  
6 truth, the whole truth, and nothing but the truth, so help  
7 you God?

8 THE WITNESS: I do.

9 THE CLERK: Be seated in the witness box. Please state  
10 your name for the record.

11 THE WITNESS: Michael McFadden.

12 MR. TUCKER: May it please the Court.

13 THE COURT: Yes, sir.

14 MICHAEL MCFADDEN, being first  
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TUCKER:

18 Q: Sgt. McFadden, where are you presently employed?

19 A: Florence County Sheriff's Office.

20 Q: And how long have you been employed by the Sheriff's  
21 Office?

22 A: A little over 14 years.

23 Q: And were you employed -- obviously, the math may seem  
24 like a silly question, but you were employed by the Sheriff's  
25 Office on or about May the 6<sup>th</sup>, 2018?

## MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 A: I was.

2 Q: In what capacity?

3 A: Patrol sergeant.

4 Q: Drawing your attention specifically to the events of the  
5 early morning of May the 6<sup>th</sup>, 2018, do you recall being asked  
6 to transport -- or there was an incident call that went out  
7 involving a shooting at the Downbeat Club?

8 A: I do.

9 Q: And do you recall what, if anything, you did in response  
10 thereto?

11 A: I do.

12 Q: What was that?

13 A: First, I responded to the scene. Once I got on scene  
14 and everything was secure, Deputy Bazen advised he had the  
15 vehicle stopped, the supposed suspect vehicle stopped, and  
16 needed assistance. So I left the incident location and went  
17 to back him up. By the time I got there, he already had the  
18 subjects out of the vehicle and detained, and I just stood on  
19 the scene and observed while him and Investigator Tilton did  
20 what they had to do.

21 Q: Okay. Now, when you said they did what they had to do,  
22 were you there when Investigator Tilton issued Miranda  
23 warnings?

24 A: I was.

25 Q: And you heard Investigator Tilton also give Miranda

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 warnings to Diondrae Jackson?

2 A: I did.

3 Q: Now, after Mr. Jackson was placed under arrest, what, if  
4 anything, was your role moving forward?

5 A: Investigator Tilton asked me to transport him to the  
6 detention center for him.

7 Q: And did you do that?

8 A: Yes.

9 Q: Now, when you got down to the detention center, could  
10 you explain a little bit about, you know, how you get a  
11 vehicle in and what part of the jail you go to and how you  
12 get a suspect out at that point?

13 A: First of all, we pull into the gate and we pull into the  
14 sally port. Once we pull into the sally port, I secure my  
15 weapon in the car and I pull the suspect out and take him to  
16 the detention center where I advise him where he needed to be  
17 standing. Then I do paperwork and the jail takes over from  
18 there.

19 Q: Okay. Now, again, when you say you were standing there  
20 doing paperwork, did you attempt to ask Mr. Jackson any sort  
21 of questions that might tend to elicit an incriminating  
22 response?

23 A: I did not.

24 Q: Now, while you were standing there, did you hear Mr.  
25 Jackson say anything with regards to what his involvement was

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 or why he was there?

2 A: I did.

3 Q: And what was that?

4 A: He said they said I shot somebody, but the other one  
5 need to die too.

6 Q: And did you hear him say anything in addition to that?

7 A: I could hear him talking, but I couldn't hear the rest  
8 of what he was saying.

9 Q: Okay. Now, was this in response to any sort of  
10 questions that you were asking Mr. Jackson?

11 A: They were not.

12 Q: And again, this was something that he just said while he  
13 was standing in the booking area?

14 A: Yes, sir.

15 Q: Who else was working in the booking area, if you recall?

16 A: Cpl. Fludd.

17 Q: Are you referring to Deangelo Fludd?

18 A: Yes.

19 Q: And he was the one primarily dealing with Mr. Jackson?

20 A: Yes, he did. He pat searched him.

21 Q: And you were aware that the booking area is under  
22 surveillance in terms of having cameras and audio equipment  
23 recording?

24 A: Yes.

25 MR. TUCKER: I believe those are all the questions I

MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 have, Your Honor.

2 THE COURT: All right. Cross?

3 MR. EDGEWORTH: Briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. EDGEWORTH:

6 Q: Sgt. McFadden, when you brought Mr. Jackson, you  
7 actually brought him into the detention center?

8 A: Yes.

9 Q: Okay. And were you in the room that the prosecutor is  
10 talking about that has recording devices at the time of this  
11 purported statement?

12 A: Yes.

13 Q: Okay. And where are you at at this time?

14 A: Standing at the counter.

15 Q: Okay. And do you recall where Mr. Jackson is?

16 A: He's walking toward, like, the phone area at the time.

17 Q: Okay. So how long had Mr. Jackson been there or had you  
18 all been there before this statement was made?

19 A: Just a few minutes.

20 Q: Just a few minutes? Okay. Did you -- do you recall  
21 whether you or -- my apologies -- Cpl. Fludd mirandized Mr.  
22 Jackson?

23 A: I can't speak on Cpl. Fludd. I did not.

24 Q: Okay. Do you recall whether -- whether you advised Mr.  
25 Jackson that there was recording and audio devices in the



## MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 room at the time?

2 A: I did not.

3 Q: Did you speak to Mr. Jackson at all? Not just question  
4 him, but did you speak to him in general?

5 A: Not that I recall.

6 Q: Okay. During this time, you indicated you were  
7 primarily just filling out some paperwork?

8 A: I just did the booking sheet for Investigator Tilton.  
9 When you bring somebody in, you've got to do a booking sheet.  
10 I just filled out the booking sheet.

11 Q: So that's -- how long did that take you?

12 A: Maybe a minute.

13 Q: Okay. So what were you doing after you filled out the  
14 booking sheet? Just standing around waiting or what?

15 A: I had to wait for my handcuffs.

16 Q: Okay.

17 A: I don't -- you don't get your handcuffs back until after  
18 they do their pat search and make sure everything is secure.

19 Q: Okay. And so you -- you were there the entire time from  
20 the time you brought him in until the time he went behind a  
21 secure door?

22 A: No.

23 Q: Okay. Well, when you left or when you were done being  
24 there, what was Mr. Jackson doing?

25 A: I have no idea.

MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 Q: Okay. Well, it may have been a bad question. My  
2 apologies. Whenever you got your cuffs back and you were  
3 able to leave, do you recall where Mr. Jackson was?

4 A: I do not.

5 Q: Do you recall what else was going on at that time in  
6 that particular room at the time that you heard this  
7 statement?

8 A: No.

9 Q: Okay. Were there other people in there?

10 A: I'm sure there were.

11 Q: Okay. Do you recall how many?

12 A: I do not.

13 Q: Do you recall hearing other statements made by other  
14 people in that particular room?

15 A: No.

16 Q: Okay. Would you have considered that loud? Was the  
17 room loud at the time?

18 A: No.

19 Q: Okay. Did you and Cpl. Fludd have any conversations  
20 while you were there?

21 A: We did.

22 Q: What was the content of those conversations?

23 A: I don't recall.

24 Q: Okay. Did you have any conversations with the other  
25 individuals while you were there?

## MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 A: No.

2 MR. EDGEWORTH: No further questions for this witness.

3 THE COURT: All right. Yes, sir?

4 MR. TUCKER: I have no further redirect, Your Honor.

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

6 MR. TUCKER: At this time, the State would call Cpl.  
7 Deangelo Fludd.

8 THE CLERK: Sir, please place your left hand on the  
9 Bible and raise your right hand. Do you swear to tell the  
10 truth, the whole truth, and nothing but the truth, so help  
11 you God?

12 THE WITNESS: I do.

13 THE CLERK: Please be seated in the witness box and  
14 state your name for the record.

15 THE WITNESS: Deangelo Fludd.

16 MR. TUCKER: May it please the Court.

17 THE COURT: Yes, sir.

18 DEANGELO FLUDD, being first  
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. TUCKER:

22 Q: Cpl. Fludd, where are you presently employed?

23 A: Florence County Sheriff's Office.

24 Q: And in what capacity?

25 A: Transportation officer.

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 Q: Now, drawing your attention to May the 6<sup>th</sup>, 2018, were  
2 you working as a detention officer?

3 A: Yes. I was a corporal in booking at that time.

4 Q: Okay. Now, I want to draw your attention specifically  
5 to the early morning hours around 3 o'clock. Do you recall  
6 an individual coming in that was charged with murder and  
7 attempted murder?

8 A: Yes, sir, I do.

9 Q: And the individual was identified as Diondrae Jackson,  
10 the defendant in this case?

11 A: Yes, sir, he was.

12 Q: Do you recall when he came into booking the interaction  
13 that you had or who it was that was dropping him off let me  
14 ask first?

15 A: It was Sgt. McFadden that dropped him off and my  
16 interaction with him was I was the pat search officer, as  
17 well as began the booking process for him.

18 Q: Now, when you say booking process, what does that  
19 entail?

20 A: Asking the questions as far as his -- his vitals such as  
21 his address, name, date of birth, Social Security number, and  
22 things of that nature.

23 Q: Okay. Did you ask him anything about whether or not he  
24 had any weapons on him or anything like that?

25 A: Yes, sir, I did. That's part of --

## DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 Q: And how --

2 A: -- the pat search part.

3 Q: With the questions that you were asking, was he able to  
4 respond back in a cogent manner?

5 A: Yes, sir, he was.

6 Q: Did he appear to be unsteady on his feet?

7 A: Not to my knowledge.

8 Q: Did he appear to be otherwise impaired or under the  
9 influence of anything that you could tell?

10 A: Not as far as I know.

11 Q: Okay. I mean was he able to answer your questions and  
12 follow your directions?

13 A: He answered my questions and he followed my directions  
14 specifically, yes, sir.

15 Q: Now, at some point, there was a statement made by Mr.  
16 Jackson in this case; is that correct?

17 A: Yes, sir.

18 Q: And you heard Sgt. McFadden indicate that he heard him  
19 say what Sgt. McFadden testified to. Did you hear him say  
20 that and anything else?

21 A: Yes, sir, I did.

22 Q: Do you recall specifically what he did say?

23 A: He said I got one of them. The other one needs to die  
24 too. If my mama cries, their mama gotta cry too. Something  
25 to that effect. Yes, sir.

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 Q: Now, was this in response to any sort of questioning  
2 that you were giving or making towards Mr. Jackson?

3 A: No, sir. If I recall correctly, at the time I wasn't  
4 even speaking to him. I had indicated for him to walk to the  
5 metal detectors and come back to me while I filled out the  
6 paperwork for the pat search.

7 Q: Now, in terms of the booking area, was there, like, a  
8 throng of people in the booking area when this was going on?

9 A: No, sir, there weren't.

10 Q: Okay. You are aware that there are cameras and  
11 equipment in the booking area, are you not?

12 A: Yes, sir. Cameras and audio. Yes, sir.

13 MR. TUCKER: And, Your Honor, if I could, we would play  
14 what we have marked State's Exhibit 3.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit Number 3, booking area video  
17 with audio, was played in court. Not transcribed  
18 herein.)

19 BY MR. TUCKER:

20 Q: Now, the individual we see standing on that side in  
21 front of the highway patrolman, that's you?

22 A: Yes, sir.

23 Q: And to your left on the other side of the camera, that's  
24 Sgt. McFadden?

25 A: That's correct also.

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 Q: The individual there in the tank top, was that the  
2 defendant, Diondrae Jackson?

3 A: It is, yes.

4 (WHEREUPON, the video ended and the proceedings resumed  
5 as follows.)

6 BY MR. TUCKER:

7 Q: Okay. Cpl. Fludd, when --

8 A: Yes, sir.

9 Q: -- Mr. Jackson gets up and walks and we hear the word or  
10 the phrase caused one murder, the other one needs to die too,  
11 that was Diondrae Jackson who said that?

12 A: Yes, it was.

13 Q: And when we hear on the video my mama's gonna -- my  
14 mama's crying, their mama gotta cry too, that's Diondrae  
15 Jackson who said that?

16 A: Yes, that was.

17 Q: And he said it it sounds like a couple times coming and  
18 then walking back towards the --

19 A: Detox area. Yes, sir.

20 Q: -- detox area, and that was Diondrae Jackson?

21 A: Yes, sir, it was.

22 MR. TUCKER: I believe those are all the questions I  
23 have, Your Honor.

24 THE COURT: All right. Cross?

25 MR. EDGEWORTH: Thank you, Your Honor.

## DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 CROSS-EXAMINATION

2 BY MR. EDGEWORTH:

3 Q: All right. Cpl. Fludd, when this -- when you began  
4 speaking with Mr. Jackson, you actually were talking to  
5 someone else off to the side just prior to you talking to  
6 him; is that right?

7 A: Yes, sir.

8 Q: Okay. Do you recall who that person was? You asked  
9 them what their address was?

10 A: Yes, sir. That was another detainee and he was the one  
11 that was with the state policeman. We were verifying the  
12 address on his driver's license, if I recall correctly.

13 Q: Okay. So he's -- he's offscreen during this whole  
14 process; right?

15 A: Correct.

16 Q: Okay. Now -- and then when Mr. Jackson comes over, you  
17 start talking to him, asking him regular old questions; is  
18 that -- is that correct?

19 A: I was just indicating does he have anything on him  
20 destructive that'll stab me, cut me or poke me. I asked him  
21 if he had any tattoos or identifying marks. These are just  
22 regular booking questions.

23 Q: Okay. And -- and what it appeared anyway is that while  
24 you're talking to him, y'all laughed a couple times maybe.  
25 Do you recall what that was about?



DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 A: Actually, I was laughing at what was going on in the  
2 background with the officer that was behind the counter.

3 Q: Okay.

4 A: When I re-watched it, that was Officer Dorsey.

5 Q: Okay. Do you recall what that was about?

6 A: Not immediately, no, sir.

7 Q: Okay. Did you talk to Mr. Jackson about the fact that  
8 the place was being recorded or did you know the place was  
9 recorded?

10 A: Yes, sir.

11 Q: Okay.

12 A: There are signs all over the place.

13 Q: Okay. Did you -- did you tell him that?

14 A: No, sir, I did not.

15 Q: Okay. Did you mirandize him again?

16 A: I did not believe it was necessary, sir.

17 Q: Okay. And why not?

18 A: Well, he came in from -- with Officer McFadden and I  
19 know the officers on the street mirandize people. Plus, in  
20 my time in Virginia, we were taught that our Supreme Court  
21 said that there's no reasonable expectation of privacy inside  
22 the jail.

23 Q: Okay. But you just felt like there was no reason to do  
24 it; right?

25 A: I wasn't questioning him about anything other than is

## DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 basic writeup. So no.

2 Q: Okay. So -- so you're taking items off of him and  
3 placing them on the counter?

4 A: Correct, sir.

5 Q: Okay. And there's a lot of noise going on, at least on  
6 the video; right?

7 A: It may sound like that on the video. Yes, sir.

8 Q: Well, and we are talking about the video. Were you  
9 aware that that video was put together, that the soundtrack  
10 is different from one camera to the video of another?

11 A: No, sir. That's IT's job. I don't get involved in  
12 that.

13 Q: Okay. In fact, there's a moment there where you snap  
14 the shoes together and then what sounded -- almost sounded  
15 like a gunshot?

16 A: Okay.

17 Q: The noise echoed because the track is off. Now, were  
18 you -- do you recall when Mr. Jackson goes off the first  
19 time?

20 A: He went to get a drink of water.

21 Q: Okay. And then he comes back and he tries to put his  
22 socks on, I believe it was?

23 A: Yes, sir. That's when I told him when he was done with  
24 that to walk through the metal detectors and walk back.

25 Q: Okay. And at that time is when you -- it's your

DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 testimony that he made this comment?

2 A: Yes, sir.

3 Q: Okay. What exactly is it that you claim that he said  
4 because so far we've heard about four different things that  
5 you guys claim that he says? The last I -- the last  
6 statement I heard y'all actually said he used the term  
7 murder. So what was it that he -- that he actually said?

8 A: He said I shot one. The other one needs to die too. If  
9 my mama is gonna cry, their mama gonna cry.

10 Q: Okay. That's what he said?

11 A: Yes, sir.

12 Q: Okay.

13 MR. EDGEWORTH: Your Honor, may I approach the witness?

14 THE COURT: You may.

15 MR. EDGEWORTH: Let me mark this for identification  
16 purposes.

17 THE COURT: Yes.

18 (WHEREUPON, the document was marked as Defendant's  
19 Exhibit Number 1.)

20 BY MR. EDGEWORTH:

21 Q: All right. Cpl. Fludd, I'm going to show you a document  
22 that now has been identified as Defendant's Exhibit Number 1  
23 and ask you do you recognize that document?

24 A: Yes.

25 Q: Okay. And is that your signature at the bottom?

## DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 A: It appears so. Yes, sir.

2 Q: When in time does it state that you drafted that  
3 document?

4 A: It says approximately 3:50 on May 6<sup>th</sup>, 2018.

5 Q: Okay. So 3:50 meaning -- does that mean that you  
6 drafted that document right after Mr. Jackson had left the  
7 room?

8 A: Maybe shortly thereafter, yes.

9 Q: Okay. And what is it that you said that he said at that  
10 time according to that document?

11 A: Inmate Jackson -- during the course of his talking,  
12 Inmate Jackson said I got one of them and I hope and pray the  
13 other one dies quick.

14 Q: Okay. So your testimony was that he said what else?

15 A: That if my mama is gonna cry, his mother is gonna cry.

16 Q: Okay. So there was -- at least per this document  
17 anyways, you're stating that he had more to say?

18 A: Apparently, yes, sir.

19 Q: Okay. Is there -- is there any way that -- that the  
20 conversation that was being had -- my apologies. Let me  
21 restate that. Were you looking at Mr. Jackson when the  
22 statement was made?

23 A: No, sir, I was not.

24 Q: Okay. Is it possible that it was the other individual  
25 off the screen that made the statement?

DEANGELO FLUDD - CROSS BY MR. EDGEWORTH

1 A: The other individual off the screen was doing a voice  
2 recording trying to set up his phone call so that he can make  
3 phone calls outside of the jail, and those words aren't on  
4 that list of words to be spoken.

5 Q: Okay. But I'm asking you is it possible that it was the  
6 other individual that made those statements?

7 A: Not as long as he was doing that phone recording. No,  
8 sir.

9 Q: Well, do you have any knowledge that he was doing  
10 exactly what that the phone instructions say he is supposed  
11 to do?

12 A: No, sir, I do not.

13 Q: So you agree with me then it's possible that it was  
14 someone else that made that statement, if, in fact, the  
15 statement was made?

16 A: I'm sure there is a possibility.

17 Q: Okay. Because you weren't even -- you weren't watching  
18 him; correct?

19 A: No, sir.

20 Q: Okay. When you were just listening to the video just  
21 now, could you hear that statement? Other -- other than what  
22 you believed him to say, could you hear that exact statement  
23 off the screen?

24 A: I did hear the statement, sir.

25 Q: Okay.

DEANGELO FLUDD - REDIRECT BY MR. TUCKER

1 MR. EDGEWORTH: I have no further questions for this  
2 witness.

3 THE COURT: All right. The State?

4 MR. TUCKER: Just briefly on redirect.

5 REDIRECT EXAMINATION

6 BY MR. TUCKER:

7 Q: Cpl. Fludd --

8 A: Yes, sir?

9 Q: The other individual that was in the booking area, you  
10 indicated he was on the phone trying to set up his phone  
11 service?

12 A: Yes, sir.

13 Q: Do you recall what he was charged with?

14 A: Not at the moment, no, sir, I do not.

15 Q: Do you recall whether it was murder and attempted  
16 murder?

17 A: No, it was not.

18 MR. TUCKER: I believe that's all the questions I have,  
19 Your Honor.

20 THE COURT: All right. Any follow-up from the defense?

21 MR. EDGEWORTH: Nothing further, Your Honor.

22 THE COURT: All right. You may step down.  
23 Anything else?

24 MR. TUCKER: I believe that's it with regards to the  
25 statement that was made in the jail, Your Honor.

1 THE COURT: All right.

2 MR. TUCKER: Certainly, we believe that the statement  
3 would have been covered by Miranda if, in fact, it was  
4 subject to custodial interrogation, which we say it wasn't.  
5 Clearly, he was in the booking area. The statements that he  
6 made weren't in response to law enforcement questioning.  
7 These were utterances that Mr. Jackson made that were picked  
8 up on audio and, of course, it was on video as well.

9 So we maintain that the statements that he made as  
10 testified to by Sgt. McFadden and by Cpl. Fludd are  
11 admissible and could be used. Moreover, we intend, once we  
12 lay the proper foundation for the video, to have the video  
13 admitted into evidence as well.

14 THE COURT: All right. The defense?

15 MR. EDGEWORTH: Thank you, Your Honor.

16 Your Honor, my issue with this -- this statement is  
17 beyond I guess this -- the voluntariness of it. I mean my --  
18 my -- I would argue that in this particular example, you  
19 know, Mr. Jackson having been brought in -- while there's  
20 been testimony that he was mirandized at the road, he comes  
21 in, he clearly is in a situation where it would warrant an  
22 additional Miranda because he's sitting there having a  
23 conversation about random stuff to the point where, you know,  
24 there's a jovial nature and he may -- he may feel that he's  
25 in a free environment to talk.

1           So if we assume that the statement was actually made, I  
2 believe that Miranda should have been given to my client for  
3 the purposes of any statements to be deemed voluntary in  
4 nature.

5           Secondly, though, the video that has been provided to  
6 me, you -- I don't even know how it's made out at all that  
7 that is the statement that's being said. It's not clear.  
8 You can't hear it. I think the fact that this would be, you  
9 know, potentially presented to the jury would be prejudicial  
10 in nature.

11           The tape has already been modified and I still can't  
12 hear it. There are four or five different video camera  
13 angles that were provided to me in discovery and in none of  
14 them can I make out that particular statement as being  
15 allegedly made.

16           So without it being corroborated, all we're dealing with  
17 is just the fact that the State is relying that this is some  
18 type of excited utterance that purportedly was made. I mean  
19 they had the videos in there and I guess the audio for that  
20 particular reason. But maybe Your Honor heard it, but I have  
21 yet to hear the words that are allegedly made in this  
22 particular statement. So --

23           THE COURT: I thought I heard it near the end, right  
24 there at the end of the video. I heard it. I'm pretty sure.

25           MR. EDGEWORTH: Your Honor?



1 THE COURT: Do you want to replay the end of the video  
2 and let's just see if we're clear on that?

3 MR. EDGEWORTH: Sure.

4 THE COURT: I think it was at the very end.

5 Furthermore, I don't think the defendant was being  
6 questioned in an interrogating matter. He was simply being  
7 asked did you have any weapons on you. They were simply  
8 booking him. He just blurted this stuff out as an admission  
9 by a party opponent in my opinion.

10 MR. TUCKER: Yes, sir.

11 THE COURT: But let's make sure we can hear it.

12 (WHEREUPON, a portion of State's Exhibit Number 3 was  
13 played and then stopped.)

14 MR. TUCKER: Yes, sir. I think the video and the audio  
15 speak for itself, Your Honor.

16 THE COURT: I do too. I think any weaknesses as you may  
17 have been brought up would be subject to cross-examination,  
18 but he was basically the only one in the room walking around  
19 and it appeared to me he said it. So I find that it's  
20 admissible.

21 MR. TUCKER: Your Honor, with regards to the actual  
22 video, the discovery that was provided to Mr. Edgeworth that  
23 had the different camera angles, it had the ones that were  
24 down and then the ones shooting, and what Keith Godbold in  
25 our office did was he was able to put the audio track with

1 that one which was the best view of him coming in there. So  
2 everything that's there in that video is just the tracks  
3 playing at the same time. So again, we certainly think that  
4 that was everything that was provided to Mr. Edgeworth and  
5 certainly we would ask, you know, again, that that be  
6 admitted as evidence.

7 THE COURT: All right. Let me hear from you.

8 MR. EDGEWORTH: Well, Your Honor, I mean, as I stated  
9 earlier, you know, in its original production setting -- and  
10 I believe, if I'm not mistaken, the statement is -- the video  
11 from which the statement is taken is video from, like, an  
12 overhead camera where you can't see anything whatsoever and  
13 then they extrapolated that and overlaid it over the video  
14 where you can see, you know, Mr. Jackson walking off,  
15 offstage so to speak, and then -- and then allegedly making  
16 the statement.

17 So to me, that is -- it appears to be prejudicial in the  
18 sense that you're just overlaying two pieces of information  
19 because we don't know -- we're saying that, you know, he --  
20 that Cpl. Fludd heard it over here.

21 THE COURT: So you're telling me there are two videos  
22 and the State is telling me you took two videos and sort of  
23 overlapped them and blended them to make this video?

24 MR. TUCKER: That's correct, Your Honor. In other  
25 words, you can hear the audio and then the video that is

1 shooting back at the angle that you see in the video doesn't  
2 have any audio, but if you play them both simultaneously,  
3 that's what you --

4 THE COURT: I see. You have an audio track and a video  
5 track?

6 MR. TUCKER: That's correct.

7 THE COURT: And you play the same at the same time --

8 MR. TUCKER: That's correct.

9 THE COURT: -- and that's what you get? Okay.

10 MR. TUCKER: And both of those were captured and  
11 provided to Mr. Edgeworth pursuant to discovery.

12 THE COURT: I see. I see. All right. Go ahead.

13 MR. EDGEWORTH: That's essentially correct, Your Honor.  
14 I think there were four separate videos that are four  
15 different angles, so to speak, and they took one of those and  
16 overlaid it over the other, which is --

17 THE COURT: The visual with the sound.

18 MR. EDGEWORTH: Yes, Your Honor.

19 THE COURT: Got it. All right. I don't have any  
20 problem with that. I think it's admissible.

21 MR. TUCKER: All right. Thank you, Your Honor.

22 And, Your Honor, I believe that covers both statements  
23 and I believe that would cover both for Jackson v. Denno  
24 purposes on --

25 THE COURT: All right.

1 MR. TUCKER: -- both subject matter.

2 THE COURT: Any pretrial from the defense?

3 MR. EDGEWORTH: None, Your Honor.

4 THE COURT: All right. Thank you. We'll see you at  
5 9:30 in the morning.

6 MR. TUCKER: Thank you, Your Honor.

7 THE COURT: Thank you.

8 (WHEREUPON, the proceedings adjourned for the day at  
9 3:28 p.m.)

10 APRIL 16, 2019

11 (WHEREUPON, the proceedings resumed at 10:01 a.m.)

12 THE COURT: All right. Before we begin, let's have the  
13 State tell me what you all have agreed to as to what is in  
14 evidence.

15 MR. TUCKER: Yes, Your Honor.

16 THE COURT: And the number.

17 MR. TUCKER: One of the things that we've agreed to with  
18 the crime scene photos -- I believe they are State's -- let  
19 me get the exact number correct -- 4 through 44.

20 THE COURT: 4 through 44. Okay.

21 (WHEREUPON, State's Exhibits Number 4 through 44,  
22 photographs, were admitted into evidence.)

23 THE COURT: What else?

24 MR. TUCKER: In addition to that, there were gunshot  
25 residue kits that will be State's 47.

1 THE COURT: Okay.

2 (WHEREUPON, State's Exhibit Number 47, gunshot residue  
3 kits, was admitted into evidence.)

4 MR. TUCKER: State's 46 will be shell casings.

5 THE COURT: Okay.

6 (WHEREUPON, State's Exhibit Number 46, shell casings,  
7 was admitted into evidence.)

8 MR. TUCKER: And I believe that's what we have  
9 stipulated to this morning, Your Honor.

10 THE COURT: All right. Does that sound right?

11 MR. EDGEWORTH: That's correct, Your Honor.

12 THE COURT: Sounds good. All right. Everybody ready to  
13 go?

14 MR. TUCKER: The State is ready, Your Honor.

15 MR. EDGEWORTH: The defense is ready, Your Honor.

16 THE COURT: All right. Go ahead and bring in the jury.

17 (WHEREUPON, the jury entered the courtroom at 10:03  
18 a.m.)

19 THE COURT: All right. Good morning.

20 THE JURORS: Good morning.

21 THE COURT: All right. Mr. Page, I'm going to make you  
22 the foreman of the jury. If you would, come up here and take  
23 this very front row seat, and if the lady -- if you don't  
24 mind switching with him.

25 (WHEREUPON, the jurors complied.)

1           THE COURT: And first of all, I want to let you know I  
2 apologize for the slight delay. The lawyers had some things  
3 tech -- tech-wise that they were trying to work out. It took  
4 a little longer than they thought.

5           So I apologize for that, but we're getting ready to  
6 start this trial and before we do, I'm going to have the  
7 clerk swear the jury in.

8           THE CLERK: Jurors, please stand and raise your right  
9 hand.

10          (WHEREUPON, the jurors complied.)

11          THE CLERK: You shall well and truly try and a true  
12 deliverance make between the State of South Carolina and the  
13 defendant at bar, whom you shall have in your charge, and a  
14 true verdict render according to the law and evidence, so  
15 help you God.

16          THE JURORS: I will.

17          THE COURT: All right. Members of the jury, we're  
18 getting ready to start this trial, but before we do, I just  
19 want to go over a few things with you to give you a little  
20 bit of working knowledge as to what you can expect and what  
21 your job is and what my job is.

22          The first thing I want to tell you is that the State of  
23 South Carolina has the burden of proof. They have to prove  
24 the defendant guilty beyond a reasonable doubt.

25          Now, you may ask yourselves what is your job? Your job

1 is that you all are the judge of the facts. In turn, I am  
2 the judge of the law.

3 Well, how does that differ? That simply means that you,  
4 the jury, determine what the facts of this case are, not me,  
5 not my clerk, nobody in the audience. Well, you ask  
6 yourselves how do we determine what the facts of the case?  
7 You determine it by listening to the evidence.

8 Evidence is made up of two things. It's made up of the  
9 witnesses that come over here, they take that witness stand,  
10 they're sworn in, and they testify. Furthermore, it's made  
11 up of any exhibits admitted into the record as evidence.  
12 That could be pictures, guns, shell casings, things of that  
13 nature. That is where you all and only you determine what  
14 the facts of this case are.

15 Now, in turn, I am the judge of the law. My job is to  
16 give these parties a fair trial and my job is to instruct you  
17 on the law applicable to this case, and I will do that in  
18 great detail at the very end of this case. In fact, I'll  
19 read it to you.

20 Another thing I want to tell you is that at any point in  
21 time during this trial if we take a break or if you go home  
22 for lunch or if you go home this evening and we're not done,  
23 at no point in time do you need to start talking about this  
24 case among yourselves or with anybody. Do not research the  
25 case. Don't get on the computer. Everything you need needs

1 to be gotten right here in this courthouse.

2 And the reason I tell you that is because if you start  
3 talking about this case with anybody or even among  
4 yourselves, you're deliberating in advance. It's improper.  
5 You need to hear from everything the State has to show you.  
6 If the defense wants to put up anything, you need to hear  
7 from them in great detail. Then you need to hear from me as  
8 to what the law of this case is. That way, you have  
9 everything you need to make a proper decision. That's why I  
10 don't want you to deliberate ahead of time. In fact, I'll  
11 tell you at the very, very end specifically when to begin  
12 your deliberations.

13 All right. At any point in time also if we're just  
14 trucking along and we're moving and you're uncomfortable, you  
15 need a restroom break, you're thirsty, you're hungry,  
16 something is not quite right, if you'll just wave your hand  
17 to me, catch my attention, I'll try to take a break at the  
18 appropriate time and make sure you're taken care of.

19 Right now, I want you to just sit back. I want you to  
20 relax.

21 And I recognize the State for your opening statement.

22 OPENING STATEMENT ON BEHALF OF THE STATE

23 MR. TUCKER: Some say pool is a game of skill. Some say  
24 pool is a game of chance. But on May the 6<sup>th</sup>, 2018, for  
25 Malcolm Spates, a game of pool became a game of death, but it



1 wasn't because Malcolm lost a lot of money. It wasn't  
2 because Malcolm won a lot of money. Sadly, the vast amount  
3 that was at stake in this pool game that brings us here today  
4 was one dollar and, to be exact, four quarters.

5 This is a case about senseless violence. This is a case  
6 about needless tragedy, but ultimately and sadly, this is a  
7 case about a man who lost his life for one dollar.

8 May the 5<sup>th</sup>, 2018, Latesha Newton was sitting on her  
9 porch reminiscing with some friends, thinking about an uncle  
10 who had just died in New York. Now, as if that wasn't enough  
11 nostalgia, an old friend dropped by and, in this case, the  
12 old friend was the defendant in this case, Diondrae Jackson.

13 They talk about old times. They talk about new times  
14 because as they were talking, Latesha got a phone call from  
15 another friend of hers, Charles Everett Frierson, and Mr.  
16 Frierson asked her if she wanted to go to the Downbeat Club,  
17 which is in the lower part of the county In Coward.

18 Now, she said yes. Diondrae Jackson was there and asked  
19 if he could go as well and she thought, hey, why not. She  
20 hadn't seen him in a while. He might as well tag along.

21 Now, the evidence will show that they left there in  
22 Latesha Newton's 2014 black Charger and they went to pick up  
23 Charles Everett Frierson, his fiancée, Lawanda Johnson, and  
24 another friend, Ernestine Mack, and they all five head in  
25 that 2014 Charger down to the Downbeat Club in Coward.

1           When they arrive, it was shortly after midnight. They  
2 go inside and, as you will see and you will hear, it's kind  
3 of a small place and it essentially has two parts. The front  
4 part when you walk in is kind of like a dance area where the  
5 DJ is playing music and in the back area is a pool table with  
6 a bar that kind of runs the length of both rooms.

7           Now, as is the case most times, everything starts out  
8 just fine. Everybody is having a good time and then,  
9 ultimately, Diondrae Jackson puts four quarters on the pool  
10 table and waits his turn to play a game of pool, which he  
11 loses. And as you will hear, he puts four more quarters up  
12 and then he leaves to go to the front area.

13           Now, while Diondrae Jackson is in this front area of the  
14 bar, somebody apparently uses his quarters because he wasn't  
15 back there when his turn came. And then the trouble started  
16 because when Diondrae Jackson comes back, he confronts the  
17 people that are on the table, and then he demands his four  
18 quarters in return.

19           Now, as you will hear from the witnesses who were back  
20 there and heard it all, they'll tell you that they did  
21 everything to try to calm Mr. Jackson down, try to give him  
22 his quarters back. He wasn't having any of it.

23           It got to the point where Mr. Jackson -- and Latesha  
24 Newton kind of ushered him out of the club in an attempt to  
25 calm him down. Now, he's out. He goes into the Charger and

1 at some point he reaches in the glove box and he takes out a  
2 9-millimeter pistol owned by Latesha Newton.

3 Now, he could have just stayed in the parking lot at  
4 that point. He chose not to. He could have just left. He  
5 chose not to. If he'd have come back into the club, he could  
6 have stayed in the front part of the bar. He chose not to.  
7 He chose to get out of that vehicle with a pistol in his  
8 waistband and murder in his heart.

9 He goes into the club, he goes to the back area, he sits  
10 at the bar and, as you will hear from the witnesses who were  
11 there, they see kind of a change in his expression come over  
12 him and, as one of the witnesses will tell you, it's almost  
13 like you could see what was coming next.

14 There was a confrontation brewing. Latesha Newton saw  
15 it and she tried to intervene. She tried to grab Diondrae  
16 Jackson and get him out of the club and it was at this point  
17 the Diondrae Jackson jumps up, pulls the 9-millimeter from  
18 his waistband, points it at a group of the guys, one of whom  
19 was Malcolm Spates, the other of whom was Ronald Oliver, and  
20 then the bullets started flying.

21 Malcolm Spates, who by all accounts as you will hear did  
22 nothing more in this incident other than try to calm the  
23 situation down and try to get everybody at peace, he got shot  
24 once in the chest and died tragically and needlessly as a  
25 result of his wound.

1 Ronald Oliver ran into the bathroom. He had nowhere  
2 else to go. Standing between him and the exit was Diondrae  
3 Jackson with that 9-millimeter pistol. He goes into the  
4 bathroom, slams the door. Other people come in. They are  
5 back there trying to hold out as best they can and then the  
6 door pops open and, as Ronald Oliver will tell you, Diondrae  
7 Jackson looked at him and shot him once in the stomach and he  
8 was hit again.

9 As you can imagine at this point, pandemonium and chaos  
10 is aplenty. Everybody is running. Everybody is screaming.  
11 Latesha Newton can't believe what she's seeing, runs outside,  
12 gets in her car. Diondrae Jackson follows suit, jumps into  
13 the passenger seat right next to her, and she can't move  
14 because there's so many people out in the parking lot area at  
15 this point. Fortunately, that gives the other three  
16 occupants who had traveled there with her an opportunity to  
17 get into the vehicle too. They are able to get out and they  
18 head back to Florence. Latesha Newton screams, "What did you  
19 just do?" and Diondrae Jackson responds, "I got this."

20 They didn't get far because at this point a description  
21 of the vehicle is given out over 9-1-1. Deputy Bradley Bazen  
22 with the Florence County Sheriff's Office is responding to  
23 the shooting. He sees the vehicle in question. He turns and  
24 makes a traffic stop at the -- just beyond the intersection  
25 there at the Friendfield Road area near the post office. The

1 occupants of the vehicle: Latesha Newton driving, Diondrae  
2 Jackson passenger, Charles Frierson, Lawanda Johnson and  
3 Ernestine Mack are in the back.

4 At some point, backup arrives. All five are taken out.  
5 All five are issued what we refer to as Miranda warnings and  
6 Diondrae Jackson is taken to the detention center.

7 Ultimately, Roger Tilton is assigned. He's the  
8 investigator who handles the case. He's assigned and he  
9 makes contact with Mr. Jackson and gets a statement from him,  
10 which you folks will hear and be able to evaluate yourself.

11 But he says a couple of interesting things that I want  
12 you to pay close attention to. What he doesn't know then  
13 when he gives that statement is that a toxicology report is  
14 going to come back and say he had nothing in his system  
15 whatsoever. What he doesn't know then is that a gunshot  
16 residue kit, which was administered shortly after his arrest,  
17 will come back and he will test positive for gunshot residue,  
18 indicating that he just recently fired a firearm.

19 What he doesn't know then is the detail with which the  
20 witnesses who were there will give law enforcement, everyone  
21 putting the gun in Diondrae Jackson's hand. What he doesn't  
22 know then is the sheer will to live demonstrated by Ronald  
23 Oliver, who not only survived this ordeal, but is here to  
24 tell you folks what happened to him. He will tell you that  
25 the door opened up, he was shot, and the man who was holding

1 the gun that shot him was this defendant, Diondrae Jackson.

2 And why? For one dollar. And to be exact, folks, four  
3 quarters. This is a case about senseless tragedy. This is a  
4 case about needless violence. And sadly, this is a case  
5 about a man who lost his life and another man almost lost his  
6 for one dollar.

7 THE COURT: All right. The defense is recognized.

8 MR. EDGEWORTH: Thank you, Your Honor. May it please  
9 the Court.

10 THE COURT: Yes, sir.

11 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

12 MR. EDGEWORTH: Ladies and gentlemen of the jury, I  
13 apologize. My wife bought me this suit; so I'm still getting  
14 used to it. So it's a little uncomfortable at times in the  
15 pants.

16 We're here today to start the process of you learning  
17 about a case, learning about a case that, much like the pants  
18 I was just talking about, is uncomfortable. It's  
19 uncomfortable. You have a man that's dead, you have a man  
20 who was wounded, and you have a man who has been charged with  
21 a crime, and it's going to be your job to determine whether  
22 that man is guilty for a murder and an attempted murder.

23 That's what the State wants you to do. They just stood  
24 up here and told you what they think this case is about.  
25 They've always felt it's been about four quarters. I'm sure

1 when you were listening to that, you were, like, that's  
2 crazy. Four quarters. Violence over four quarters.

3 Well, while there may have been a pool game, there's  
4 different versions of what happened during the pool game.  
5 You'll get to hear that. While there may have been an  
6 argument, there's different versions about who started the  
7 argument. You'll get to hear that. You'll get to check the  
8 box as to who does what, what happened. You get to decide  
9 that.

10 Mr. Jackson was there, undisputed. We don't need to  
11 determine whether or not Mr. Jackson was at the Downbeat  
12 Club. He was there by, quite honestly, a series of  
13 unfortunate events. He pulls up, sees an ex-girlfriend  
14 sitting on a porch, gets flagged down, goes up, you know,  
15 shooting the bull and, bam, ex-girlfriend introduces his  
16 daughter or her daughter -- excuse me -- as his daughter and  
17 he's looking around like, what, are you serious. He hadn't  
18 seen her.

19 So they engage and she invites him down to the club.  
20 Never been there before. Every single witness they call will  
21 tell you I've never seen this guy before. No bone to pick.  
22 Didn't go there intending to commit any violence.

23 But he's in someone else's neighborhood, someone else  
24 who has friends, someone else in the neighborhood who has  
25 boys, someone else who appears to have been in a gang,

1 dressed in red, lots of red, and we're not talking about  
2 blood. What we're talking about is the part they leave --  
3 the State leaves out. A witness they're going to call says  
4 he could see the fellows making some gang signs at him,  
5 throwing up his hand, bringing on the violence.

6 So when you're listening to the evidence that the State  
7 puts up, listen to it with the open mind. Don't -- don't sit  
8 there and say, oh, yeah, this is about four quarters. This  
9 is easy. Let's get on out of here.

10 It's not about four quarters. It's about four -- five  
11 -- six -- ten -- everyone else at this particular club that  
12 doesn't know who this guy is that's come into their area and  
13 wanting to start something. Keep that in mind. Don't be  
14 fooled by the four quarters. Red herring basically.

15 Thank you.

16 THE COURT: All right. If the State will call your  
17 first witness.

18 MR. TUCKER: Thank you, Your Honor. May it please the  
19 Court. At this time, the State calls Cpl. Marlon Mack.

20 THE CLERK: Sir, please place your left hand on the  
21 Bible and raise your right hand. Do you swear that the  
22 testimony you will give in this case will be the truth, the  
23 whole truth, and nothing but the truth, so help you God?

24 THE WITNESS: Yes, ma'am.

25 THE CLERK: Please be seated in the witness box and



MARLON MACK - DIRECT BY MR. TUCKER

1 state your name for the record.

2 THE WITNESS: Marlon Mack.

3 MARLON MACK, being first duly  
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. TUCKER:

7 Q: Good morning, Cpl. Mack. Where are you employed?

8 A: Florence County Sheriff's Office.

9 Q: And how long have you been with the Sheriff's Office?

10 A: Twelve years.

11 Q: Now, are you currently with patrol or are you with some  
12 other division in the Sheriff's Office?

13 A: I'm in narcotic patrol.

14 Q: Has that been a recent promotion?

15 A: Yes, sir.

16 Q: Directing your attention on or about May the 6<sup>th</sup>, 2018,  
17 in what capacity were you working for the Sheriff's Office at  
18 that time?

19 A: A corporal with the patrol division.

20 Q: Now, I want to draw your attention specifically to the  
21 events of the early morning hours of May the 6<sup>th</sup>. Do you  
22 recall getting notified of some kind of a shooting at a club  
23 called the Downbeat Club in Coward?

24 A: Yes, sir.

25 Q: And do you recall responding to that particular call?

MARLON MACK - DIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: Could you tell exactly where that club is located?

3 A: It's on -- at 551 Karisma Road, which is -- Karisma runs  
4 between, I think, Hicks and Highway 52.

5 Q: And it goes without saying is that in Florence County?

6 A: Yes, sir, it is.

7 Q: Now, were you the first law enforcement officer on  
8 scene?

9 A: Yes, sir.

10 Q: And could you describe what you saw and encountered when  
11 you first got there?

12 A: When I first got there, I saw the victim on the ground  
13 and there was a bunch of people around him, kind of like  
14 chaos. Everybody was running and screaming.

15 Q: Now, when you say victim, were you able to ultimately  
16 ascertain who that was?

17 A: No, sir.

18 Q: Now, did it appear that he was in some kind of physical  
19 distress?

20 A: Yes, sir.

21 Q: Could you tell at that point how badly he was wounded?

22 A: No, sir.

23 Q: And what was the nature of this particular call when you  
24 received it?

25 A: A shooting with a victim.

MARLON MACK - DIRECT BY MR. TUCKER

1 Q: Now, after you were able to see what you perceived to be  
2 the victim in this case, what, if anything, did you do next?

3 A: I advised the group of people that was around him trying  
4 to assist him that EMS was on the way. They decided to put  
5 him in a car and take him to the hospital.

6 Q: Now, at that point, were you able to radio that  
7 information out to the other responding units?

8 A: Yes, sir.

9 Q: Now, after that occurred, what, if anything, else  
10 happened next?

11 A: Once they left with him, the scene kind of calmed down  
12 and I was able to with yellow police tape rope off the  
13 outside area.

14 Q: Now, were you able to make contact with anybody or  
15 particularly the person who had called in the complaint  
16 originally to 9-1-1?

17 A: I did.

18 Q: And were you able to identify him?

19 A: Marcus Harrison.

20 Q: Now, were you able to make contact with Mr. Harrison  
21 right away or did it take a few minutes until the situation  
22 calmed down to where you could identify him?

23 A: Actually, coming down Karisma, I made contact with Mr.  
24 Harrison kind of in the wood line and he pointed me to where  
25 everything happened at.

MARLON MACK - DIRECT BY MR. TUCKER

1 Q: Now, ultimately, were you able to get some sort of  
2 vehicle description in terms of a suspect vehicle?

3 A: He said it was a dark Dodge Charger.

4 Q: And were you able to radio that out on the radio to  
5 responding units as well?

6 A: Yes, sir.

7 Q: Now, after that occurred and you had secured the scene,  
8 did other units begin to arrive?

9 A: Yes, sir.

10 Q: And what was your role at this point when these other  
11 units responded and arrived at that location?

12 A: As they were coming in, once they got there, and I had  
13 started a crime scene log pretty much trying to get  
14 everybody's name that was inside the yellow tape.

15 Q: Okay. Now, were you made aware that there was anybody  
16 there with a gun at that point still there on scene?

17 A: No, sir.

18 MR. TUCKER: I believe those are all the questions I  
19 have of this witness, Your Honor.

20 THE COURT: All right. Cross?

21 MR. EDGEWORTH: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. EDGEWORTH:

24 Q: Good morning, Cpl. Mack. Now, when you arrived on the  
25 scene, as you were approaching the Downbeat Club, you just

MARLON MACK - CROSS BY MR. EDGEWORTH

1 testified that you spoke with Mr. Harrison outside of the  
2 club; is that right?

3 A: Correct.

4 Q: Okay. And how long was that conversation?

5 A: Not long. I can't recall the exact amount of time, but  
6 somewhere between zero to 2 minutes.

7 Q: Okay. And do you recall how long it was between the  
8 time that you got the call to the time that you actually got  
9 on the scene?

10 A: I don't recall.

11 Q: Okay.

12 MR. EDGEWORTH: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 BY MR. EDGEWORTH:

15 Q: Cpl. Mack, I'm going to show you a document and ask you  
16 if you recognize it?

17 A: Yes, sir.

18 Q: Okay. And what is it?

19 A: The incident report from this incident.

20 Q: Okay. If you wouldn't mind, just read the first couple  
21 sentences and see if that refreshes your recollection.

22 A: On Sunday, May the 6<sup>th</sup>, 2018, at 0146 hours, I, Cpl.  
23 Mack, was dispatched and responded to 551 Karisma Road in  
24 Coward, South Carolina, at the Downbeat Club, which is  
25 located in Florence County.

MARLON MACK - CROSS BY MR. EDGEWORTH

1 Q: Okay. So you got the call at approximately 1:46 a.m.?

2 A: Correct.

3 Q: All right. And do you recall when you actually got on  
4 scene?

5 A: It's in the report, but as of now, I can't.

6 Q: Okay. If I told you it was approximately 1:55 a.m.,  
7 would that sound about right?

8 A: Yes, sir.

9 Q: Okay. So that's about nine minutes or so before you  
10 arrived from the time the call came in?

11 A: Correct.

12 Q: Okay. Now, when you got actually to the scene, did --  
13 you went in? Was there multiple doors? One door? Two doors  
14 to get into the Downbeat Club?

15 A: One door.

16 Q: Okay. And what did you see when you pulled up outside  
17 of the building?

18 A: Outside of the building? I never actually looked at the  
19 buildings. When I pulled into the driveway, everything was  
20 in the driveway.

21 Q: Okay. When you say everything, what are you referring  
22 to?

23 A: What I took to be the victim and a bunch of people  
24 around him trying to assist him.

25 Q: Okay. So when you testified earlier, the victim was

MARLON MACK - CROSS BY MR. EDGEWORTH

1 actually outside the building, not inside the building?

2 A: Outside.

3 Q: Okay. He was laying on the floor at that time?

4 A: On the ground.

5 Q: Or on the ground rather? Okay. And how many people

6 were around him, if you can recall?

7 A: I can't give you a specific number. It was a lot of

8 people outside.

9 Q: Okay. A lot of people? More than ten?

10 A: Yes, sir.

11 Q: More than 20?

12 A: Yes, sir.

13 Q: Okay. More than 30?

14 A: I can't say for sure.

15 Q: You can't tell? Okay. So somewhere between 20 and 30

16 people were outside the building at that time; correct?

17 A: Correct.

18 Q: Okay. Now, these individuals, when you pulled up, they

19 were actually mad that you were there; right?

20 A: Correct.

21 Q: And they were yelling and screaming that you came -- you

22 came and not the ambulance; correct?

23 A: Correct.

24 Q: Okay. Did you -- did you try to corral them and try to

25 get their names and their information?

MARLON MACK - CROSS BY MR. EDGEWORTH

1 A: At the time, no, sir.

2 Q: Okay. And so they were yelling and screaming and then  
3 they ended up taking what would turn out to be Mr. Spates to  
4 the hospital; correct?

5 A: Correct.

6 Q: Okay. Once you got inside -- or did you go inside the  
7 building? My apologies.

8 A: Later, I did walk inside.

9 Q: Okay. And when you got inside, did -- did you go in  
10 throughout the whole building?

11 A: I walked as far as the entrance of where the incident  
12 happened.

13 Q: Okay. And you testified obviously that you roped off  
14 the scene; correct?

15 A: The outside.

16 Q: The outside of the scene. And then you -- then you took  
17 the names of individuals who were inside the tape?

18 A: Correct.

19 Q: Okay. And how many individuals remained at that time?

20 A: I do not recall.

21 Q: Okay. Now, was there a way that you inventoried the  
22 individuals that you spoke to that night?

23 A: No, sir.

24 Q: Okay. Do you recall speaking to anyone that night?

25 A: I spoke with several people in getting their names for



MARLON MACK - CROSS BY MR. EDGEWORTH

1 the crime log sheet.

2 Q: Okay. So you did inventory the individuals you spoke to  
3 that night?

4 A: Well, in that sense, yes, sir.

5 Q: Okay.

6 MR. EDGEWORTH: Your Honor, may I approach?

7 THE COURT: You may.

8 BY MR. EDGEWORTH:

9 Q: I'm going to show you a document and ask you if you  
10 recognize it?

11 A: Yes, sir.

12 Q: Okay. Now, did you fill out this document?

13 A: All the way down to Edwards.

14 Q: So all the entries with the exception of the last one?

15 A: Correct.

16 Q: Okay. Now, on this document, you indicate the first two  
17 individuals are whom, if you can recall?

18 A: The bartender and the security guard.

19 Q: Okay. Did you speak to these individuals?

20 A: I recall speaking to the security guard.

21 Q: Okay. But you do not recall speaking to the bartender?

22 A: I can't say I did.

23 Q: Okay. Anybody else that you spoke to that evening?

24 A: I spoke with someone. I can't recall the names.

25 Q: Okay. How many people did you speak to?

## MARLON MACK - CROSS BY MR. EDGEWORTH

1 A: Several.

2 Q: Okay. When you say several, how many? Three? Five?

3 A: I can't recall.

4 Q: Was it the between 20 and 30 people that you saw when  
5 you first came on scene?

6 A: I can't recall.

7 Q: You can't recall if you spoke to 20 or 30 people?

8 A: During that scene, people were running around. I'm  
9 talking and trying to get information from a lot of people.  
10 A lot of people. Some people talked, some didn't. I don't  
11 recall how many people that was.

12 Q: Okay. So you attempted to talk to some people that  
13 would not talk to you; is that correct?

14 A: That's correct.

15 Q: Okay.

16 MR. EDGEWORTH: No further questions, Your Honor.

17 THE COURT: All right. Redirect?

18 MR. TUCKER: Nothing on redirect, Your Honor.

19 THE COURT: All right. You may step down. Thank you.  
20 Call your next witness.

21 MR. TUCKER: Your Honor, at this time, the State would  
22 call Eric Barnes.

23 THE CLERK: Sir, please place your left hand on the  
24 Bible and raise your right hand. Do you swear that the  
25 testimony you will give in this case will be the truth, the

ERIC BARNES - DIRECT BY MR. TUCKER

1 whole truth, and nothing but the truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Please be seated in the witness box and  
4 state your name for the record.

5 THE WITNESS: Cpl. Eric Barnes.

6 ERIC BARNES, being first duly  
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: And, Cpl. Barnes, where are you employed presently?

11 A: Florence County Sheriff's Office.

12 Q: And in what capacity?

13 A: I'm a crime scene investigator.

14 Q: Now, as part of your duties and responsibilities as a  
15 crime scene investigator, what do you typically do?

16 A: I process crime scenes, burglaries, homicides, things of  
17 that nature, take in evidence.

18 Q: Now, when you say take in evidence, what sort of  
19 processing do you typically do on an average scene?

20 A: Latents, DNA, whatever the case may be, depending on the  
21 case.

22 Q: Okay.

23 A: To document the case.

24 Q: Okay. Directing your attention to May the 6<sup>th</sup>, 2018, do  
25 you recall being employed with the Sheriff's Office in your

ERIC BARNES - DIRECT BY MR. TUCKER

1 -- in a capacity as crime scene investigator?

2 A: Yes, sir, I was.

3 Q: Do you recall responding to the Downbeat Club on that  
4 date in the early morning hours for purposes of processing a  
5 crime scene?

6 A: I do.

7 Q: And do you recall what you did when you first got there?

8 A: I do. I spoke with Investigator Roger Tilton and Cpl.  
9 Marlon Mack.

10 Q: Do you recall roughly about what time it was when you  
11 arrived?

12 A: I arrived on the scene around 2:41 a.m.

13 Q: Now, after speaking to Investigator Tilton, what, if  
14 anything, did you do?

15 A: I looked around to see what was -- well, they showed me  
16 basically what they had found so far.

17 Q: Okay. Now, when you say you looked around, were you  
18 inside the club at this point?

19 A: Inside, yes, sir.

20 Q: All right. Now, once you were inside looking around,  
21 what, if anything, did you do next?

22 A: I observed several shell casings. I observed two near  
23 the pool table and one in the bathroom and blood drops near  
24 the pool table, in the corner, the back left corner of the  
25 club, and in the bathroom floor.

ERIC BARNES - DIRECT BY MR. TUCKER

1 Q: Now, let me ask you first or next rather, with regards  
2 to part of your crime scene processing, did you take  
3 photographs?

4 A: Absolutely.

5 Q: Now, do you recall how many photographs you took  
6 approximately?

7 A: Not a clue.

8 Q: Numerous ones, would it be fair to say?

9 A: Oh, yes.

10 MR. TUCKER: May I approach the witness, Your Honor?

11 THE COURT: You may.

12 BY MR. TUCKER:

13 Q: And, Cpl. Barnes, I'm showing you what's been previously  
14 marked as State's Exhibit 5 through 44 and I want to first  
15 ask you if you recognize them?

16 A: That's correct.

17 Q: And how do you recognize them?

18 A: I took them.

19 Q: Now, do those photos fairly and accurately reflect what  
20 you saw that night at the Downbeat Club when you processed  
21 the evidence?

22 A: Absolutely.

23 Q: Okay. Now, let me show you what the first picture --  
24 that appears to be a road sign?

25 A: That's correct.

ERIC BARNES - DIRECT BY MR. TUCKER

1 Q: Okay. And the purpose of that photo was what?

2 A: To mark location where I was.

3 Q: All right. And the next photo, which would be Photo 6?

4 A: That's correct.

5 THE COURT: Why don't you speak into that microphone?

6 Just slide it over in front of you.

7 A: That is correct.

8 THE COURT: You're kind of soft-spoken.

9 MR. TUCKER: And for the record, I'm referring to what's  
10 now -- I'd move these photos into evidence, Your Honor, at  
11 this time.

12 THE COURT: All right. It's my understanding they're  
13 already in evidence; correct?

14 MR. EDGEWORTH: Yes, Your Honor.

15 THE COURT: All right.

16 BY MR. TUCKER:

17 Q: And again, with regards to what's been marked State's 6,  
18 the photo that we're looking at now, is that the outside of  
19 the Downbeat Club?

20 A: Yes. The Downbeat Club.

21 MR. TUCKER: (To the person putting the photos on the  
22 overhead projector) The next photo.

23 Q: And what are we looking at here? And this is -- I'm  
24 referring to State's 7.

25 A: That's the front entrance to the Downbeat Club.

ERIC BARNES - DIRECT BY MR. TUCKER

1 MR. TUCKER: And if we can go to 8?

2 Q: And what are we looking at now?

3 A: That is the -- around the threshold area once you walk  
4 in.

5 Q: So that's just inside the front door of the Downbeat  
6 Club?

7 A: That's correct.

8 MR. TUCKER: And if we could go to Photo 9, State's 9?

9 Q: And what are we looking at here in this photo?

10 A: That's a table where I reckon the dance area is with a  
11 jukebox.

12 Q: So if I'm looking in this direction, I'm just in the  
13 front door kind of slightly turned to the left; is that  
14 correct?

15 A: Correct.

16 MR. TUCKER: And if we could look at State's 10?

17 Q: And what are we looking at here?

18 A: That's a view from the other end of the room toward the  
19 front door.

20 Q: Now, we're still in the front part -- what we are  
21 referring to as the front part of the Downbeat Club?

22 A: That's correct.

23 MR. TUCKER: And if we could look at State's 11?

24 A: Another view.

25 Q: And this is another view of the front room?

## ERIC BARNES - DIRECT BY MR. TUCKER

1 A: That's correct.

2 MR. TUCKER: And State's 12?

3 Q: And what are we looking at in terms of this direction?

4 A: This is the behind the bar near the front room.

5 Q: Okay.

6 MR. TUCKER: And if we could look at 13, State's 13?

7 Q: And is this a closer-up view of the back area of the  
8 bar?

9 A: That's correct.

10 Q: And so when you took this photo, you were behind the bar  
11 in the front part of the bar; is that correct?

12 A: That's correct. Looking toward the rear, yes.

13 MR. TUCKER: And if we can look at State's 14?

14 Q: And this is?

15 A: The same. It's the back bar in the back room.

16 MR. TUCKER: And State's 15?

17 Q: And what are we looking at here?

18 A: This is in front of the back bar looking toward the  
19 front door.

20 Q: Okay. So now we're in the -- what we're referring to as  
21 the back portion of the Downbeat Club, the second part?

22 A: That's correct.

23 MR. TUCKER: And State's 16?

24 Q: And is this a photo on the other side of the door  
25 looking back?



## ERIC BARNES - DIRECT BY MR. TUCKER

1 A: That's correct.

2 MR. TUCKER: State's 17?

3 Q: And what does this photo depict?

4 A: It's the back bar toward the back corner.

5 MR. TUCKER: State's 18?

6 A: The back bar.

7 MR. TUCKER: State's 19?

8 A: Same.

9 Q: This is the back bar still?

10 A: Still the back bar.

11 MR. TUCKER: State's 20?

12 Q: And what are we looking at here?

13 A: The -- the rear section behind the bar.

14 MR. TUCKER: And State's 21?

15 Q: Is this another view of that back area?

16 A: That's correct.

17 MR. TUCKER: State's 22?

18 A: Also the same, the back area.

19 MR. TUCKER: State's 23?

20 A: That's the pool table looking at the other corner.

21 Q: And again, this is all in the back room; is that

22 correct?

23 A: Back room.

24 MR. TUCKER: State's 24?

25 A: Also the back area.

## ERIC BARNES - DIRECT BY MR. TUCKER

1 MR. TUCKER: State's 25?

2 A: The same.

3 MR. TUCKER: State's 26?

4 A: The back area.

5 Q: And we're looking at State's 27. What are we looking at  
6 in this particular photograph?

7 A: That's the back corner just closer to the bathroom.

8 Q: Okay.

9 MR. TUCKER: And if we could, State's 28?

10 A: That's a closer-up shot of the same.

11 MR. TUCKER: State's 29?

12 Q: And the --

13 A: That's the blood. Yes, that's correct. That's toward  
14 the back corner.

15 Q: Okay. Were you able to take a sample of this blood for  
16 purposes of submitting it to SLED for analysis?

17 A: I did. I took two cotton-tipped swabs and took a sample  
18 of the blood.

19 Q: Now, when I say sent to SLED, I'm referring to the State  
20 Law Enforcement Division; is that correct?

21 A: That's correct.

22 Q: All right.

23 MR. TUCKER: State's 30?

24 A: That's a close-up of the blood pool in the corner.

25 MR. TUCKER: State's 31?

ERIC BARNES - DIRECT BY MR. TUCKER

1 A: A blood spot near the pool table.

2 Q: And likewise, were you able to get a sample or at least  
3 a swab of this blood as well?

4 A: I did the same thing. I took two cotton-tipped swabs  
5 and took a sample of that blood so it could be submitted to  
6 SLED.

7 Q: Okay.

8 MR. TUCKER: State's 32?

9 A: That's a scaled photo of the blood spot.

10 Q: Now, when we have the scale in there, what does that --  
11 what's the purpose of the scale?

12 A: To kind of give you a reference of how, you know, large  
13 the blood is, you know, compared to -- you know, depth of  
14 field and, you know, shot at a 90 to try to give you an idea  
15 of exactly how big, how much blood, and how big the area to  
16 document it.

17 MR. TUCKER: State's 33?

18 A: That's the larger pool that was in the corner.

19 Q: Okay. And this was the picture of the previous  
20 bloodstain that we saw and it has just the scale in it?

21 A: That's correct.

22 MR. TUCKER: State's 34?

23 Q: And what are we looking at in this photo?

24 A: The shell casing next to the pool table.

25 Q: Okay. Were you able to collect that particular shell

## ERIC BARNES - DIRECT BY MR. TUCKER

1 casing?

2 A: I was.

3 Q: And what ultimately happened to the shell casing?

4 A: It was collected and submitted to SLED for further  
5 testing.

6 MR. TUCKER: And State's 35?

7 A: A scaled photo of that shell casing.

8 Q: Were you able to determine the caliber of the shell  
9 casing?

10 A: It was a 9-millimeter Luger.

11 MR. TUCKER: State's 36?

12 Q: And this is the shell -- the same shell casing?

13 A: This is the one at the side of the pool table. There's  
14 one at the side and the back of the pool table.

15 Q: Okay. So you were able to collect a total of two shell  
16 casings there in or around the pool table?

17 A: That's correct.

18 Q: And were both of these 9-millimeter shell casings?

19 A: That is correct.

20 Q: And both of these were sent to SLED for analysis  
21 purposes?

22 A: That is correct.

23 MR. TUCKER: If we could look at State's 37?

24 A: That's a close-up.

25 Q: And is this just a close-up of the shell -- one of the

## ERIC BARNES - DIRECT BY MR. TUCKER

1 shell casings?

2 A: Yes, sir.

3 MR. TUCKER: 38?

4 Q: And again, is this just kind of a further back view  
5 showing the relevant location of the shell casing?

6 A: That is correct.

7 MR. TUCKER: And 39?

8 Q: And again, is this just another shot of next to the pool  
9 table?

10 A: That is correct.

11 MR. TUCKER: State's 40?

12 Q: And again, another -- I believe that's the -- is that  
13 the blood spot that's down in the corner?

14 A: Yes. That's the small spot in the corner.

15 MR. TUCKER: And State's 41?

16 A: A shot of the shell casing near the back of the pool  
17 table.

18 Q: Okay.

19 MR. TUCKER: And State's 42?

20 A: That's another shot. I believe that was on the side.

21 Q: Okay.

22 MR. TUCKER: State's 43?

23 A: The same.

24 Q: And this is the photo where it's got two shell casings  
25 at the same -- at the same time?

## ERIC BARNES - DIRECT BY MR. TUCKER

1 A: Correct.

2 MR. TUCKER: State's 44?

3 A: That's correct.

4 MR. TUCKER: And State's 45?

5 A: I've only got 44.

6 Q: 44? Okay. All right. Now, there was an additional  
7 shell casing that was collected inside of the bathroom;  
8 correct?

9 A: That's correct.

10 Q: And the bathroom is just to the -- I guess if I were  
11 sitting in that booth where you documented the first  
12 bloodstain, it would be to the immediate right kind of behind  
13 the pool table; is that correct?

14 A: That's correct. It's right near that corner where the  
15 table is over and the blood pool was.

16 Q: Now, with regards to processing, you were able to  
17 collect a total of three shell casings?

18 A: That is correct.

19 Q: And you were able to collect, I believe, swabs from two  
20 separate bloodstains?

21 A: That's correct.

22 Q: And those were all sent to SLED for analysis purposes?

23 A: That's correct.

24 Q: Now, in addition to documenting photographically the  
25 crime scene and the evidence that you collected and was

ERIC BARNES - DIRECT BY MR. TUCKER

1 ultimately sent to SLED, what else did you do in this case?

2 A: After I left the scene?

3 Q: Yes, sir.

4 A: I went to McLeod.

5 Q: Okay. What was the purpose of traveling to McLeod?

6 A: To meet with one of the victims. I believe it was  
7 Ronald Oliver.

8 Q: Okay.

9 A: Who had sustained a gunshot wound to the lower abdomen  
10 and left hip area.

11 Q: All right. And what was the purpose of meeting up with  
12 Mr. Oliver there at the hospital?

13 A: That way I could do a gunshot residue test on him and  
14 also to take photos of his injuries.

15 Q: Okay. And you were able to do that?

16 A: That is correct.

17 Q: And the gunshot residue kit, what's the purpose of  
18 obtaining that?

19 A: That is a way of us to see, you know, if somebody may  
20 have previously discharged a firearm, and it is sent to SLED  
21 for further analysis.

22 Q: Okay. You don't do the analysis? You just collect the  
23 kit and send it to SLED; is that right?

24 A: That's correct.

25 Q: All right. Now, after you collected the gunshot residue

ERIC BARNES - DIRECT BY MR. TUCKER

1 kit from Mr. Oliver and documented his injuries, what, if  
2 anything, did you do next?

3 A: I collected his clothing and personal items and then I  
4 responded to Carolinas Hospital System and met with Cpl.  
5 Chase McDaniel.

6 Q: Okay. And what was the purpose of meeting with Cpl.  
7 McDaniel?

8 A: To get the evidence that he obtained from the other  
9 victim.

10 Q: Okay. And when you say the other victim, do you know  
11 the name of the other victim?

12 A: That would be Spates.

13 THE COURT: Can you jurors back there -- can you hear  
14 him? You're good? Okay.

15 BY MR. TUCKER:

16 Q: Now, when you say Spates, you're referring to Malcolm  
17 Spates?

18 A: Malcolm Spates. That's correct.

19 Q: And do you recall what kind of evidence you obtained  
20 from Cpl. McDaniel?

21 A: Without looking at my log for each item, I know he had  
22 gunshot residue he took. He logged in photographs and things  
23 of that nature.

24 Q: All right. Now, after meeting with Cpl. McDaniel there  
25 and collecting the evidence that he had obtained, what did



ERIC BARNES - DIRECT BY MR. TUCKER

1 you do next?

2 A: I went straight to the Florence County Sheriff's Office  
3 and logged into the evidence locker.

4 Q: Okay. And in addition to that, once you logged the  
5 evidence in, what, if anything, did you have by way of  
6 involvement further?

7 A: Sending the -- doing all the -- sending the -- after  
8 getting everything logged in, getting everything sent to  
9 SLED.

10 Q: Okay.

11 A: Then I was out.

12 Q: Okay.

13 MR. TUCKER: I beg the Court's indulgence for one  
14 second.

15 THE COURT: Yes, sir.

16 MR. TUCKER: I believe that's all the questions I have,  
17 Your Honor.

18 THE COURT: All right. Cross?

19 MR. EDGEWORTH: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. EDGEWORTH:

22 Q: Good morning, Cpl. Barnes.

23 A: Good morning. How are you?

24 Q: I'm doing well. Thank you. Okay. So you -- do you  
25 recall about when you arrived on the scene?

## ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: Yes. Around 2:41 a.m.

2 Q: Okay. And -- and 2:41 is when you started going into  
3 the building to take pictures; is that correct?

4 A: Not immediately. First, I, you know, spoke with Cpl.  
5 Marlon Mack and Investigator Tilton. They kind of let me  
6 know what they had.

7 Q: All right. Well, when you got in there, was it empty  
8 like the pictures just showed? No one was in the building at  
9 the time?

10 A: No. We got everybody out. Everybody was out.

11 Q: And those pictures that we saw, you know, reflect the  
12 way you saw it when you got there?

13 A: That's correct.

14 Q: And prior to you getting there, would anybody have  
15 disturbed that scene?

16 A: Not from the point I got there, no.

17 Q: Okay. Well, what, if anything, do you know about what  
18 happened before you got there?

19 A: I'm not sure what you mean.

20 Q: Just as to the scene?

21 A: I don't know what you're referencing to.

22 Q: Okay. Well, would anyone else have gone through and  
23 taken pictures?

24 A: No.

25 Q: Would anyone else have gone around and changed anything

ERIC BARNES - CROSS BY MR. EDGEWORTH

1 the way it looked at the time?

2 A: Not that I'm aware of, no.

3 Q: Okay. Not that you're aware of or should they not have?

4 A: They should not have.

5 Q: Okay. And so would it be fair to say then that the  
6 pictures you took are the way that the building looked at the  
7 time of the scene or the time of the incident?

8 A: Not exactly.

9 Q: Okay. And when you say not exactly, what are you  
10 referring to?

11 A: The people were already out of the building at the time  
12 I got there.

13 Q: Okay. But that's what I'm saying. Like, once the  
14 building was emptied, it most likely was not disturbed;  
15 correct?

16 A: No.

17 Q: So those pictures reflect in time basically the way it  
18 looked when no one was there; correct?

19 A: That's correct.

20 Q: Okay. So then after you took all your pictures and  
21 cataloged the photos, you indicated you proceeded to McLeod;  
22 is that correct?

23 A: That's correct.

24 Q: Okay. And about what time was that that you get to  
25 McLeod?

## ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: 3:46.

2 Q: 3:46?

3 A: No. That's when I left the scene. I arrived at around  
4 4:05 a.m.

5 Q: 4:05 a.m.? Prior -- prior to taking the photos and  
6 doing the GSR of Mr. Oliver, did you speak to any medical  
7 personnel?

8 A: I spoke with the nurse, Cathy Flowers.

9 Q: Okay. And when you -- when you saw Mr. Oliver, had  
10 there been any indication that he had been provided medical  
11 treatment?

12 A: That's correct.

13 Q: Okay. And as part of that medical treatment, did you --  
14 did you learn what -- what they had been doing?

15 A: That's correct.

16 Q: What had they been doing? What did they tell you?

17 A: They was trying to dress the wounds and trying to, like,  
18 you know, give him proper medical care.

19 Q: Okay. Did you ask them whether or not they had to clean  
20 Mr. Oliver?

21 A: I didn't.

22 Q: Are you aware of whether they cleaned Mr. Oliver?

23 A: I was not.

24 Q: Are you aware of whether they used any -- any medical  
25 grade, you know, like Betadine or any stuff like that on the

ERIC BARNES - CROSS BY MR. EDGEWORTH

1 wounds or his body?

2 A: I'm not sure. I wasn't -- it was done prior to my  
3 knowledge, if it was.

4 Q: Okay. When you transfer the -- the evidence to the  
5 evidence locker, are you responsible for filling out the  
6 property logs?

7 A: That's correct.

8 Q: Okay. You personally?

9 A: Yes.

10 Q: Okay. Is there anyone else that has that  
11 responsibility?

12 A: Yes.

13 Q: Okay. Who else has that responsibility?

14 A: We have two other investigators, crime scene  
15 investigators.

16 Q: Okay. So as it relates to whoever collected the  
17 evidence has to turn it in and fill out the evidence and  
18 property logs?

19 A: That's correct.

20 Q: Okay. And you collected -- you indicated that you  
21 collected and documented evidence from Cpl. McDaniel;  
22 correct?

23 A: That's correct.

24 Q: And then were you responsible for logging in the  
25 evidence that you took from him?

## ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: That's correct.

2 Q: Okay.

3 MR. EDGEWORTH: Court's indulgence, Your Honor.

4 THE COURT: Uh-huh.

5 MR. EDGEWORTH: May I approach, Your Honor?

6 THE COURT: Yes.

7 BY MR. EDGEWORTH:

8 Q: I'm going to show you a document and ask you if you  
9 recognize that?

10 A: That's correct.

11 Q: Okay. You recognize the document?

12 A: Yes, sir.

13 Q: Okay. And what is it?

14 A: It's a stored property record.

15 Q: Okay. Is that something you complete?

16 A: I don't know. I don't understand what you're asking.

17 Q: Okay. Did you create this document?

18 A: No.

19 Q: Okay. Who creates these documents?

20 A: I think that particular one -- it goes into -- we have  
21 an RMS system. The -- actually, the evidence tech, when they  
22 -- they log it actually in from us, they actually create  
23 that.

24 Q: Okay. And where do they get the information to log it  
25 into this system?

ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: The evidence log sheets.

2 Q: Okay. Log sheets indicating the information that's put  
3 in these documents?

4 A: That's correct.

5 Q: Okay. So there's a technician that fills in the blanks  
6 and it creates this document?

7 A: That's correct.

8 Q: And the information comes from you or whoever logs in  
9 the evidence; is that correct?

10 A: That's correct.

11 Q: Okay. If you provided the -- the information -- let's  
12 say you got the piece of evidence from Cpl. McDaniel and you  
13 were the one who transported it to the evidence locker.

14 A: Uh-huh.

15 Q: Okay. Would you be the one providing the information to  
16 the tech to fill in?

17 A: That's correct.

18 Q: Or would it come from Cpl. McDaniel?

19 A: I would do it.

20 Q: You would provide that information?

21 A: Yeah. He usually handles his own photos though.

22 Q: Okay. Well, let's say it's a piece of physical  
23 evidence.

24 A: I took care of it.

25 Q: Okay. You were responsible for that?

## ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: That's correct.

2 Q: Were you responsible for creating the information?

3 A: That's correct.

4 Q: Okay. Would there be any other place where the -- where  
5 the tech would gather information to put into the system?

6 Like, in other words, is there another document that comes  
7 from somewhere else and they put the information together to  
8 create that evidence property report?

9 A: No.

10 Q: Okay. So that information comes solely from you;  
11 correct?

12 A: That's correct.

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

14 THE COURT: Yes.

15 BY MR. EDGEWORTH:

16 Q: I'm going to show you this document and ask you if you  
17 recognize it?

18 A: Yes.

19 Q: Okay. Would you have been the one to provide the  
20 information to the tech as to this information that's in this  
21 document?

22 A: Cpl. Chase McDaniel did all that.

23 Q: Okay. So -- well, we just talked about this. So you  
24 took information from Cpl. McDaniel or evidence and then you  
25 took it to the locker; correct?



## ERIC BARNES - CROSS BY MR. EDGEWORTH

1 A: That's correct.

2 Q: Okay. Were you the one who provided the information to  
3 the tech to put on this document, even though it came from  
4 Cpl. McDaniel, or no?

5 A: Most of them we do, yes.

6 Q: Okay. So you were responsible?

7 A: That's correct.

8 Q: Okay. So were you the one who gave the information as  
9 to this piece of evidence?

10 A: I don't recall on that one.

11 Q: You don't recall?

12 A: On that one.

13 Q: Okay. Were there other pieces of evidence that -- that  
14 you turned in for Cpl. McDaniel?

15 A: I'm sorry. Say that again?

16 Q: Well, I want you to take a closer look at this document  
17 and see if you recall being the one who turned this into the  
18 evidence locker. Pay attention to the piece of evidence.

19 A: That's on Cpl. McDaniel on that one.

20 Q: Okay. So you believe Cpl. McDaniel turned that into the  
21 evidence locker?

22 A: That's correct.

23 Q: Okay. So from your testimony then, there was some  
24 evidence that you took from Cpl. McDaniel and took to the  
25 evidence locker, but not all of the evidence that he may have

ERIC BARNES - CROSS BY MR. EDGEWORTH

1 obtained and took to the evidence locker; is that correct?

2 A: Everything -- everything is sent to the evidence storage  
3 lockers.

4 Q: Say that again?

5 A: We have an evidence storage locker. Only -- only three  
6 of us have access to it.

7 Q: I understand that, but I'm just trying to make sure  
8 based on your testimony because on one hand you're saying  
9 that you took some of the -- you took possession of some of  
10 the physical evidence from Cpl. McDaniel and you yourself  
11 took it to the evidence locker?

12 A: Everything but the digital photographs.

13 Q: But the digital photos?

14 A: Yes.

15 THE COURT: Speak up. Speak up.

16 A: Everything but his digital photographs.

17 Q: Okay. Well, I want you to look back at this document  
18 again then as to the piece of evidence. It's not a digital  
19 photo.

20 A: That was generated from RMS. These are actual log  
21 sheets. On that particular item, Cpl. McDaniel turned that  
22 in.

23 Q: Okay. So there were items that Cpl. McDaniel collected  
24 that you did not turn in on his behalf; is that correct?

25 A: That's correct.

ERIC BARNES - REDIRECT BY MR. TUCKER

1 Q: Okay.

2 MR. EDGEWORTH: No further questions from this witness,  
3 Your Honor.

4 THE COURT: All right. Redirect?

5 MR. TUCKER: Just a couple, Your Honor. If I may  
6 approach, Your Honor?

7 THE COURT: You may.

8 REDIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: And, Cpl. Barnes, these have not been marked yet, but I  
11 would ask you first if you recognize those photos?

12 A: That is correct. That was in the bathroom at the  
13 Downbeat.

14 Q: Now, were these photos taken at the same time that you  
15 took the other photos that we looked at already?

16 A: That is correct.

17 Q: Okay. And do they accurately and truthfully portray the  
18 scene that you saw in those photos in that stack you have  
19 there?

20 A: That is correct.

21 MR. TUCKER: Your Honor, at this time, I would ask that  
22 those photos be moved into evidence at this time as well.

23 THE COURT: What is the number?

24 MR. TUCKER: And I'm going to have to -- those are not  
25 previously marked, but these would be -- what's the last one?

ERIC BARNES - REDIRECT BY MR. TUCKER

1 THE COURT REPORTER: 48 would be next.

2 MR. TUCKER: 48, 49, 50, and 51.

3 THE COURT: Any objections?

4 MR. EDGEWORTH: No objections, Your Honor.

5 THE COURT: All right. 48, 49, 50, and 51 are in  
6 evidence without objection.

7 (WHEREUPON, State's Exhibits Number 48, 49, 50, and 51,  
8 photographs, were admitted into evidence.)

9 MR. TUCKER: And those are all the questions I have,  
10 Your Honor.

11 THE COURT: All right.

12 MR. EDGEWORTH: Your Honor?

13 THE COURT: Have you got anything for him?

14 MR. EDGEWORTH: Yeah. Based on --

15 THE COURT: All right. Let her mark them real quick and  
16 then you can ask questions.

17 MR. EDGEWORTH: Thank you, Your Honor.

18 Madam Court Reporter, are they marked?

19 THE COURT REPORTER: Go ahead.

20 MR. EDGEWORTH: Thank you. May I approach, Your Honor?

21 THE COURT: Yes.

22 RECROSS EXAMINATION

23 BY MR. EDGEWORTH:

24 Q: Now, Cpl. Barnes, you were the one who took these --  
25 these photos; is that correct?

## ERIC BARNES - RECROSS BY MR. EDGEWORTH

1 A: That is correct.

2 Q: Okay. Do you recall being in this bathroom?

3 A: That is correct.

4 Q: It looks pretty small?

5 A: It's pretty small.

6 Q: Like, a one-person bathroom?

7 A: It looks like people could have been in there.

8 Q: Okay. This is the way it looked when you went in there?

9 A: That is correct.

10 MR. EDGEWORTH: No further questions, Your Honor.

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

12 Anybody need a break or do you want to go keep going?

13 Everybody good?

14 (WHEREUPON, there was no verbal response.)

15 THE COURT: All right. Call your next witness.

16 MR. TUCKER: Thank you, Your Honor. At this time, the  
17 State calls Latesha Newton.

18 (WHEREUPON, there was a pause in the proceedings until  
19 the witness entered the courtroom, after which the  
20 proceedings resumed as follows.)

21 THE CLERK: Ma'am, please place your left hand on the  
22 Bible and raise your right hand. Do you swear that the  
23 testimony you will give in this case will be the truth, the  
24 whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: Yes.

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 THE CLERK: Please be seated in the witness stand and  
2 state your name for the record.

3 THE WITNESS: Latesha Newton.

4 MR. TUCKER: May it please the Court.

5 THE COURT: Yes, sir.

6 LATESHA NEWTON, being first  
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: Ms. Newton, where do you presently live?

11 A: At 305 West Athens Street.

12 Q: Okay. And can I get you to lift your voice up just a  
13 little bit?

14 A: Sure.

15 Q: And how long have you lived at that address?

16 A: Over 30 years.

17 Q: Would it be fair to say you were kind of born and raised  
18 in Florence?

19 A: Correct.

20 Q: Now, you are friends with the defendant in this case,  
21 Diondrae Jackson?

22 A: Yes.

23 Q: And how long have you been friends with Mr. Jackson?

24 A: Probably 30 years.

25 Q: Okay. So you've known him practically all your life?

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: Yes.

2 Q: And do you see Mr. Jackson in the courtroom presently?

3 A: Yes.

4 Q: And where do you see him sitting?

5 A: Right there.

6 MR. TUCKER: And, Your Honor, if the record could  
7 reflect she's identified the defendant in this case?

8 THE COURT: The record will reflect that.

9 BY MR. TUCKER:

10 Q: Now, drawing your attention specifically to May the 5<sup>th</sup>,  
11 2018, do you recall what you were doing on that evening?

12 A: Sitting on the porch at my mom's house.

13 Q: Okay. Was there any particular reason you were there on  
14 your porch?

15 A: My uncle had just passed.

16 Q: Okay.

17 A: And we were just sitting around.

18 Q: And your uncle lives where?

19 A: My uncle is from New York.

20 Q: Okay. Now, were there other relatives at your house  
21 when this was going on?

22 A: Yes.

23 Q: Friends?

24 A: Friends and family.

25 Q: Now, at some point during that evening, did the

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 defendant show up?

2 A: Yes.

3 Q: And how would you characterize his demeanor when he  
4 showed up?

5 A: Calm.

6 Q: Had you seen him in a while prior to this occasion?

7 A: No.

8 Q: Do you have any idea as to how long it had been prior to  
9 that night before you -- since you had seen him?

10 A: No. Maybe months. A couple months, weeks. I'm not  
11 sure, but it's been a while.

12 Q: Now, when he stopped by, how would you characterize the  
13 conversation between yourself and Mr. Jackson at that time?

14 A: Just sweet. We sat around and talked about what was  
15 going on, Christ, all kinds of stuff like that.

16 Q: Now, at some point in the evening while Mr. Jackson was  
17 there, did you receive a call from an individual that you  
18 know as Everett, Charles Everett Frierson?

19 A: Correct, yes.

20 Q: And what was the purpose of the call?

21 A: He was going out to the Downbeat.

22 Q: Now, do you know his fiancée?

23 A: Yes.

24 Q: What is her name?

25 A: Lawanda Johnson.



## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: And in terms of how you know Mr. Frierson, what's the  
2 nature of your association with him?

3 A: We're in the same bike club.

4 Q: Now, when you say bike club, are you talking about the  
5 Hells Angels?

6 A: No.

7 Q: Okay. What's the name of your club?

8 A: Razor Sharp.

9 Q: And what do you guys do in that particular club?

10 A: We just mainly support each other, like just doing stuff  
11 in the community, riding, stuff, nothing harmful.

12 Q: Now, is it open to both men and women?

13 A: Correct.

14 Q: In terms of -- are you -- are you a member of any other  
15 kind of bike club like Diamonds or something like that is the  
16 name?

17 A: No, I'm not. Just Razor Sharp, but that's the name of  
18 our other clubs.

19 Q: Okay. But again, we're talking a social club more than  
20 anything that's just on motorcycles? Would that be a fair  
21 characterization?

22 A: Yes.

23 Q: All right. Now, after you had that conversation with  
24 Mr. Frierson about going out, what, if anything, did you do  
25 at that point?

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: We just -- we met him at -- we met Charles and Lawanda  
2 at their home.

3 Q: Now, when you say we, who was with you when you went  
4 there?

5 A: Diondrae.

6 Q: Now, in what vehicle did you go to Mr. Frierson's place  
7 in?

8 A: In a black Charger.

9 Q: Okay. And what year is that Charger?

10 A: It's a 2014.

11 Q: And who owns that Charger?

12 A: I do.

13 Q: Now, when Mr. Jackson -- did he ask to go with you or  
14 did you invite him or how did that work out?

15 A: He asked to come with me.

16 Q: Okay. And you agreed?

17 A: Yes.

18 Q: Now, on the way from your place to Mr. Frierson's, did  
19 you make any stops along the way?

20 A: No.

21 Q: You didn't stop by a carwash or anything like that?

22 A: No.

23 Q: Now, when you arrived at Mr. Frierson's, what, if  
24 anything, occurs at that point?

25 A: We all was just sitting around talking --

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Okay.

2 A: -- pretty much.

3 Q: Was anybody drinking?

4 A: We had some. We wasn't drinking then, not at Everett's  
5 house.

6 Q: When you say we, do you include Mr. Jackson?

7 A: No.

8 Q: Okay. Was he drinking?

9 A: Not that I'm aware of. Not at Everett's house, no.

10 Q: Okay. Now, again, when you say Everett, that's Charles  
11 Everett Frierson; is that correct?

12 A: Correct. Sorry. Yes.

13 Q: That's okay. Now, was there someone else there in  
14 addition to Mr. Frierson and his fiancée?

15 A: Ernestine.

16 Q: Now, did you know Ernestine?

17 A: I know her through Everett and Lawanda, yes.

18 Q: Now, when you say Ernestine, are you referring to  
19 Ernestine Mack?

20 A: Yes.

21 Q: And did she get in the car with y'all to go to --

22 A: Yes.

23 Q: -- Coward?

24 A: Uh-huh.

25 Q: Whose idea was it to go to the club in Coward? Do you

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 recall?

2 A: Everett. Charles. I'm sorry. I know him by Everett.

3 Q: Okay. Now, does he have any kind of an association with  
4 the club or is that just a place he's familiar with?

5 A: I think his family has something to do with that club,  
6 if I'm not mistaken.

7 Q: Okay. Had you ever been there before?

8 A: Yes.

9 Q: Now, as you're driving down from Florence to Coward, you  
10 were driving; is that correct?

11 A: Yes.

12 Q: Where was Mr. Jackson seated?

13 A: Passenger.

14 Q: Who was in the back?

15 A: You had Everett -- Charles, Ernestine, and Lawanda. I'm  
16 not sure how they were seated though.

17 Q: But the three of them were in the back in some sort of  
18 seating configuration; is that fair to say?

19 A: Correct.

20 Q: Let me ask you this. Did you have a firearm in the car?

21 A: Yes.

22 Q: And what kind of firearm was it?

23 A: It was a Smith & Wesson 9-millimeter.

24 Q: Now, in terms of the firearm, did you purchase it  
25 lawfully, I guess I should say?

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: Yes.

2 Q: Did you purchase it from an individual?

3 A: Well, I purchased it from someone, yes.

4 Q: Okay. All right. And you had the firearm in your car?

5 A: In my glove box, yes.

6 Q: Now, at any point during the evening when Mr. Jackson  
7 was in the car, do you recall opening the glove box?

8 A: For my wallet, yes.

9 Q: Okay. And he was sitting in the passenger seat when you  
10 did that?

11 A: Yes.

12 Q: Okay. Now, with regards to the way down, how would you  
13 characterize Mr. Jackson's demeanor?

14 A: Calm. I mean we was just listening to the radio, just  
15 socially talking.

16 Q: Okay. Did he appear to be getting along with the other  
17 three occupants of the vehicle?

18 A: Yes.

19 Q: Now, when you finally get down to the Downbeat Club in  
20 Coward, you pull into the parking lot?

21 A: Yes.

22 Q: All right. And everybody got out?

23 A: Yes.

24 Q: Do you recall what time of evening this was now?

25 A: It was so long ago, I'm not sure, but I do know it was

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 at night.

2 Q: Okay. Would it be fair to say after midnight maybe?

3 A: Possibly, yes.

4 Q: Okay. All right. So when you get into the Downbeat  
5 Club, you know, did you have to go through some sort of a  
6 security pat-down or anything like that?

7 A: They searched us at the door.

8 Q: Okay. Do you recall if anybody had a weapon on them at  
9 that point?

10 A: No.

11 Q: And as far as you know, where was your weapon at that  
12 point?

13 A: Still in my glove box.

14 Q: Let me ask you another question. Prior to driving down  
15 from Florence, did someone else in the vehicle have a  
16 firearm?

17 A: Yes.

18 Q: Who was that?

19 A: Charles.

20 Q: Charles? And what did he do with the firearm before  
21 going into the club?

22 A: In the arm rest of my car.

23 Q: Okay. So it was in the armrest and your firearm was in  
24 the glove box?

25 A: Correct.

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: All right. Now, after you passed through the security  
2 checkpoint and go into the club, do you recall where in the  
3 club you went?

4 A: I went to the first bar. It's two -- actually two bars  
5 in there. I went to the first one.

6 Q: Okay.

7 MR. TUCKER: And if I may approach, Your Honor?

8 THE COURT: You may.

9 BY MR. TUCKER:

10 Q: And if you will watch your monitor there?

11 MR. TUCKER: And if we can pull up State's 6?

12 Q: Now, Ms. Newton, what we're looking at is State's  
13 Evidence 6. Is that the front picture of the Downbeat Club?

14 A: Yes.

15 MR. TUCKER: And if we could pull up 7?

16 Q: And is this a picture of the -- going through the front  
17 door of the Downbeat Club?

18 A: Yes.

19 MR. TUCKER: And if we could look at State's 8?

20 Q: And is this the front bar area that you were referring  
21 to just a minute ago?

22 A: Yes.

23 Q: Okay. And so you were in the front bar area when you  
24 first went in?

25 A: Correct.

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Do you recall whether Mr. Jackson was with you at that  
2 point?

3 A: I don't recall.

4 Q: Okay. Do you recall whether -- you refer to him as  
5 Everett -- Mr. Frierson, where he was with Ms. Johnson and  
6 Ms. Mack?

7 A: They were already on that -- over there by the second  
8 bar. I'm not sure if they were sitting over there, but I  
9 know they was over there.

10 Q: You said over on the other side? So in the back room?

11 A: Uh-huh.

12 Q: Okay. Now, at some point --

13 THE COURT: You need to respond yes or no.

14 THE WITNESS: Yeah. I'm sorry.

15 THE COURT: Don't say uh-huh.

16 THE WITNESS: Yes. I'm sorry.

17 BY MR. TUCKER:

18 Q: Now, at some point, did you go over to the back room?

19 A: Yes.

20 Q: All right.

21 A: That was after I left the front door and by the -- yes,  
22 I went.

23 Q: And do you recall about how long you were in the front  
24 bar before you went to the back bar area?

25 A: I wasn't there five minutes.



LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: All right. Now, when you go to the back bar area, at  
2 some point were you made aware of or did you witness a  
3 confrontation between Mr. Jackson and some individuals who  
4 had been playing pool in that back room area?

5 A: Yes.

6 Q: And do you recall what the nature of the altercation or  
7 what the argument started over?

8 A: From my knowledge, it was about some quarters.

9 Q: Okay. And when you say quarters, do you mean four  
10 quarters?

11 A: Yes.

12 Q: And was this over four quarters to play the pool game  
13 with?

14 A: Correct.

15 Q: Now, at some point were you witnessing the confrontation  
16 between the individual and Mr. Jackson over the four  
17 quarters?

18 A: Yes.

19 Q: And what, if anything, occurred?

20 A: They were -- I'm not sure. I was told there was  
21 quarters after, but it was some coins that was thrown. But I  
22 know I never seen what was -- what the coins were, but I  
23 heard them hit the floor.

24 Q: Okay. Now, were these coins being thrown by Mr. Jackson  
25 or at Mr. Jackson?

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: At Mr. Jackson.

2 Q: Now, did you see anybody with any firearms in their  
3 hands at that point?

4 A: No.

5 Q: Did you hear anybody from the other group threatening  
6 anybody in any way?

7 A: No.

8 Q: Now, after the coins, at that point was Mr. Jackson --  
9 did you and Mr. Jackson go outside of the club?

10 A: Correct.

11 Q: And what was the purpose of trying to get Mr. Jackson  
12 out of there?

13 A: To calm him down and to leave.

14 Q: Was there someone else in the group who was trying to  
15 calm things down as well?

16 A: Mr. Charles.

17 Q: Okay. Mr. Frierson?

18 A: Yeah.

19 Q: Okay. And did you see anybody else that was back there  
20 trying to calm things down in terms of trying to get  
21 everything situated?

22 A: I was focused on Mr. Jackson; so I'm not sure.

23 Q: I gotcha. Now, once you got outside, what, if anything,  
24 happened next?

25 A: There was a guy. We kind of got separated. There was a

LATESHA NEWTON - DIRECT BY MR. TUCKER

- 1 guy in a white tank top that was standing off to the right  
2 who I was speaking with about the situation. He was pretty  
3 much just saying he was trying to -- they came out there to  
4 have a good time and didn't want any trouble.
- 5 Q: Okay. Now, did you notice where Mr. Jackson was at this  
6 time?
- 7 A: He was off on the left talking to some guy.
- 8 Q: Okay. At some point, did you see Mr. Jackson seated in  
9 the passenger seat of your car?
- 10 A: Yes.
- 11 Q: Okay. And was he talking to anybody at this point?
- 12 A: Yes.
- 13 Q: Do you recall who that was?
- 14 A: I think his name was Marcus.
- 15 Q: Okay. Would that be Marcus Harrison, the security guy?
- 16 A: He was the security guy, but I'm not sure of his last  
17 name.
- 18 Q: Now, Mr. Jackson was seated in the passenger side of  
19 your vehicle; is that correct?
- 20 A: Correct.
- 21 Q: Now, at some point did you see him get out of the  
22 passenger vehicle?
- 23 A: Yes.
- 24 Q: Okay. And were you with him at this point?
- 25 A: No. I met him at the front door with Marcus.

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Okay. And so y'all were going back into the club? Now,  
2 at this point, did Marcus pat you down or pat Mr. Jackson  
3 down?

4 A: He patted us. It was three of us actually at the door.  
5 I'm not sure who the other person was in between us, but he  
6 patted all three of us down.

7 Q: Okay. Now, once he patted everybody down, y'all went  
8 inside?

9 A: Correct.

10 Q: And did y'all go to the back bar area immediately?

11 A: Correct.

12 Q: Now, I want to show you what's State's 21, and this is  
13 the -- I believe we're in the bar area looking back towards  
14 the back area of the back room and we can see the edge of the  
15 pool table and what looks to be a seating area to the right.  
16 Now, you guys were up at the bar; is that correct?

17 A: Correct.

18 Q: So this picture shows what would've been going on behind  
19 you; right?

20 A: Correct.

21 Q: Now, at some point after you go back into the back bar  
22 after you and Mr. Jackson have been outside, did anything  
23 occur?

24 A: Can you repeat it? I'm sorry.

25 Q: After you go back in and you and Mr. Jackson go to the

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 back bar area, did anything occur at that point?

2 A: Well, we sat down at the bar and just was pretty much  
3 sitting there.

4 Q: And what happened after that?

5 A: I was watching him and his facial expressions was  
6 getting -- you could tell he was getting upset, but I was  
7 told that they were doing --

8 MR. EDGEWORTH: Objection, Your Honor.

9 THE COURT: Sustained. Don't say what somebody else  
10 said.

11 THE WITNESS: Okay. I'm sorry.

12 BY MR. TUCKER:

13 Q: Now, when you say he got upset, you witnessed Mr.  
14 Jackson becoming upset?

15 A: Correct.

16 Q: And what were your concerns at that point?

17 A: To get him to leave.

18 MR. TUCKER: And if you could pull up Picture 22,  
19 State's 22?

20 Q: Now, this looks like the front bar area. Do you recall  
21 whether y'all were sitting towards that end of the bar where  
22 those chairs are depicted in this picture?

23 A: Possibly that end, but I know it's towards the middle.  
24 Maybe that end, yes.

25 Q: Now, when you say you saw Mr. Jackson becoming upset,

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 what, if anything, occurred at that point?

2 A: I grabbed him by his arm.

3 Q: When you say you grabbed him, you mean Mr. Jackson?

4 A: Yes.

5 Q: And what happened then?

6 A: I grabbed him by his arm to say let's just leave and  
7 that's when he pushed me out the way before he started  
8 shooting.

9 Q: Okay. You said he started -- he pushed you out of the  
10 way and then he started shooting?

11 A: Yes.

12 Q: Did you see from where he retrieved or pulled the  
13 handgun?

14 A: It had to have been the back area.

15 Q: The back area? The small of his back? But you saw him  
16 pull a handgun at that point?

17 A: I just saw his hands and I -- for him to just push me --  
18 I'm not sure what he was pulling, but for him to push me and  
19 come around with it, I knew exactly what it was.

20 Q: Okay. And you saw a handgun in his hand; is that  
21 correct?

22 A: Yes.

23 Q: All right. What happened next?

24 A: Well, the gun went off so close to my head I was trying  
25 to get myself together. When I turned around, I saw him

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 firing a firearm.

2 Q: You saw him shooting the gun that he had in his hand at  
3 that point?

4 A: Yes.

5 Q: Do you recall how many times you heard him shoot the  
6 firearm?

7 A: No, I don't.

8 Q: All right. Did you see in which general direction he  
9 was firing the firearm?

10 A: It was the pool table.

11 MR. TUCKER: If we could pull up --

12 A: He was shooting towards the blue chairs and in between  
13 the pool table. Like, a restroom is back there.

14 Q: Okay.

15 MR. TUCKER: If we could pull up State's 25?

16 A: Yeah.

17 Q: Okay. Was he shooting back in that direction?

18 A: Correct.

19 Q: Okay. And so the -- you could see the back or the back  
20 booth there and the bathroom would just be to the right of  
21 that; would that be correct?

22 A: It would be to -- where I'm looking at it, it would be  
23 to the left maybe.

24 Q: Okay.

25 A: Around that curve.

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Okay. And so he was firing back in that direction; is  
2 that correct?

3 A: Correct.

4 Q: Now, did you notice if anybody was firing back or  
5 anybody else down there had a gun?

6 A: Nobody was firing back.

7 Q: Okay. Did you notice if anybody had a gun from that  
8 group?

9 A: No.

10 Q: You didn't see anybody with a gun?

11 A: No.

12 Q: Now, after he started firing, what, if anything,  
13 happened?

14 A: I know I tried to stop twice. I stopped twice. When I  
15 realized it, I just left to get in my car.

16 Q: Now, were people running out of the club at this point?

17 A: Yes.

18 Q: And you ran out and got in your car?

19 A: Yes.

20 Q: And what, if anything, did you do once you got in your  
21 car?

22 A: I was trying to leave everyone. It was so many people  
23 coming out.

24 Q: Were you concerned for your safety at this point?

25 A: I was terrified.



LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Okay. Now, at this point when you were in the car and  
2 you were trying to leave, there's a crowd around you?

3 A: Yes.

4 Q: All right. At some point, did Mr. Jackson get into your  
5 car?

6 A: Yes.

7 Q: Did he still have the gun on him at that point?

8 A: I'm not sure.

9 Q: Okay. But he got in your vehicle?

10 A: Correct.

11 Q: And at some point did Mr. Frierson, Ms. Johnson, and Ms.  
12 Mack also get in your vehicle?

13 A: Yes. The two ladies got in first and I was trying to  
14 pull up again and I heard her say that I was leaving Charles,  
15 but I still couldn't move because there was so many people in  
16 front of the car and then he eventually jumped in the car as  
17 well.

18 Q: Okay. So when you were able to get out of the parking  
19 lot, everybody that you came there with was back in your  
20 vehicle; is that correct?

21 A: Correct.

22 Q: All right. What happened next?

23 A: Well, when we got to the main street, that's when -- for  
24 a little while we went down the street and then that's when I  
25 got pulled over.

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 Q: Now, was anybody saying anything prior to you being  
2 pulled over?

3 A: Yes.

4 Q: Who was -- who was saying something?

5 A: I was mainly just screaming because I couldn't believe  
6 what had just happened.

7 Q: Okay. Did Mr. Jackson say anything back to you?

8 A: Yes.

9 Q: What did he say?

10 A: Calm down. I got this.

11 Q: He said calm down, I got this?

12 A: (No verbal response.)

13 Q: Now, after this, was anybody in the back saying  
14 anything? Mr. Frierson, Ms. Mack or Ms. Johnson?

15 A: I don't remember. I was just screaming so loud.

16 Q: Okay. Now, at some point, you mentioned that you were  
17 traveling back towards Florence on 52 in your vehicle?

18 A: Uh-huh.

19 Q: And Mr. Jackson was sitting next to you?

20 THE COURT: Is that a yes or a no?

21 THE WITNESS: Yes. I'm sorry. I'm sorry.

22 THE COURT: Just make sure she answers.

23 MR. TUCKER: Yes, sir.

24 BY MR. TUCKER:

25 Q: And at some point, you noticed that a deputy got behind

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 you?

2 A: Yeah. I heard the window go down.

3 Q: Now, when you say the window go down, the window in your  
4 vehicle?

5 A: Yes.

6 Q: The passenger side or the driver side?

7 A: The passenger side.

8 Q: And that's where Mr. Jackson was sitting?

9 A: Yes.

10 Q: Could you tell for what purpose the window went down?

11 A: No, I couldn't.

12 Q: Now, when you heard the window go down, was this after  
13 the deputy had turned around and was getting up in behind  
14 you?

15 A: It was right before he turned around.

16 Q: Right before he turned around?

17 A: Yes.

18 Q: Were you able to see the deputy going the opposite  
19 direction and see him kind of pull across the median?

20 A: I saw the taillights of the car.

21 Q: Okay. Now, when you heard the window go down, it was  
22 within how long before the deputy actually got behind you and  
23 initiated his blue lights?

24 A: Maybe 5 to 10 minutes.

25 Q: You think it was 5 to 10 minutes?

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: Uh-huh.

2 Q: Could it have been a shorter time than that?

3 A: It could have been.

4 Q: You weren't looking at your watch, were you?

5 A: No.

6 Q: Okay. Now, once the blue lights came on, what happened?

7 A: Well, they pulled us over and I noticed they went to my  
8 passenger side first and they asked questions as far as is  
9 there any firearms in the car and then Everett said yes and  
10 then that's when they got his out, but they were pulling us  
11 out before they got his gun out of the car.

12 Q: Okay. So y'all were taken out of the vehicle and then  
13 it's your understanding that the deputy got a firearm that  
14 Mr. Frierson had put into your console?

15 A: Yes.

16 Q: Okay. Subsequently, did you learn that your firearm was  
17 missing?

18 A: Yes. I found out after they searched my car.

19 Q: You found out after they searched your car?

20 A: (No verbal response.)

21 Q: All right. Now, with regards to what was going on there  
22 in terms of -- ultimately, did you talk to Investigator  
23 Tilton there at the roadside?

24 A: Yes.

25 Q: Now, in terms of what happened next, were you allowed to

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 go on your way after a short period of time?

2 A: Yes.

3 Q: Now, after you were allowed to go, did you subsequently  
4 come back within a day or two and give Investigator Tilton a  
5 statement?

6 A: Yes.

7 Q: And your statement that you gave him is pretty much  
8 consistent with how you've testified here today?

9 A: Yes.

10 Q: And again, I want to ask you directly because it's  
11 important. Is there any doubt in your mind that you saw  
12 Diondrae Jackson firing a firearm in the back room of the  
13 Downbeat Club?

14 A: I saw it.

15 Q: You saw it? And you've known him for 30 years; right?

16 A: (No verbal response.)

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes.

19 THE COURT: You need to speak up.

20 THE WITNESS: I'm sorry.

21 THE COURT: All right.

22 BY MR. TUCKER:

23 Q: Now, one of the things I neglected to ask you, Ms.

24 Newton, do you recall what Mr. Jackson had on that evening in  
25 terms of attire?

## LATESHA NEWTON - DIRECT BY MR. TUCKER

1 A: I remember shorts.

2 Q: I need to get you to speak up just a little bit.

3 THE COURT: Say it again.

4 A: I remember some shorts, but all I can remember seeing is  
5 camouflage.

6 Q: Okay. Do you recall whether or not he had a T-shirt on?

7 A: I know -- I remember the shirt. I think it was white  
8 and --

9 Q: Do you recall whether it had any kind of writing on it?

10 MR. EDGEWORTH: Objection, Your Honor. Leading.

11 A: It did, yeah.

12 THE COURT: What grounds? Leading?

13 MR. EDGEWORTH: Yes, Your Honor.

14 THE COURT: Sustained.

15 BY MR. TUCKER:

16 Q: You said it was a white T-shirt? Do you recall anything  
17 else?

18 A: It was -- it had some different colors. I just don't  
19 recall what color it was.

20 Q: Okay. Now, when I asked you about the shirt, did you  
21 witness Mr. Jackson take off that shirt?

22 A: Yes.

23 MR. EDGEWORTH: Objection. Leading.

24 THE COURT: Sustained.

25 MR. TUCKER: All right.

LATESHA NEWTON - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Did you see him with regards to clothing remove any?

3 A: Yes.

4 Q: Okay. And what, if anything, did you see him take off?

5 A: It was the shirt.

6 Q: It was the shirt he had on on top?

7 A: Uh-huh.

8 THE COURT: Is that a yes?

9 THE WITNESS: Yes. I'm sorry.

10 MR. TUCKER: I believe that's all the questions I have,  
11 Your Honor.

12 THE COURT: All right. Cross?

13 MR. EDGEWORTH: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. EDGEWORTH:

16 Q: All right. Ms. Newton, obviously, you've known Mr.  
17 Jackson a long time; right?

18 A: Correct.

19 Q: Okay. And on the day in question, were you -- you were  
20 on your porch?

21 A: Correct.

22 Q: With other family members?

23 A: Uh-huh.

24 Q: Is that a yes?

25 A: Correct. Yes.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 Q: Okay. You were drinking wine?
- 2 A: Yes.
- 3 Q: So you were drinking?
- 4 A: Uh-huh.
- 5 THE COURT: Is that a yes?
- 6 Q: Is that a yes?
- 7 A: Yes.
- 8 Q: Make sure you say yes or no. Okay. And Mr. Jackson was
- 9 driving down the road?
- 10 A: Driving down the road?
- 11 Q: You saw him driving down the road?
- 12 A: No, I didn't see him driving down the road.
- 13 Q: Okay. But --
- 14 A: He pulled up in front of my mom's house.
- 15 Q: He pulled up to see what you were up to. Was that
- 16 unusual since y'all had just seen each other a couple months
- 17 before?
- 18 A: No.
- 19 Q: Okay. But he comes up there and is hanging out with you
- 20 guys?
- 21 A: Correct.
- 22 Q: Was he drinking too?
- 23 A: I don't recall.
- 24 Q: Do you recall what you were drinking?
- 25 A: Yes.



## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 Q: What was it?

2 A: Taylor Port.

3 Q: Table Port?

4 A: Taylor.

5 Q: Taylor Port? Okay. That's a wine?

6 A: Correct.

7 Q: Okay. Now, do you recall -- well, was your -- was your  
8 daughter there?

9 A: It was my family was there.

10 Q: Okay. But was your daughter there as well?

11 A: It's a possibility.

12 Q: Okay. Do you recall making a joke with Mr. Jackson  
13 about your daughter being -- he being the father?

14 A: No.

15 Q: No? You wouldn't joke about that?

16 A: No.

17 Q: Not even between friends?

18 A: No.

19 Q: Okay.

20 THE COURT: Let me make something straight. If  
21 something is funny back there, you need to take it on out in  
22 the hall or I'm going to take you out in the hall. Do you  
23 understand?

24 All right. Continue.

25 MR. EDGEWORTH: Thank you, Your Honor.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 BY MR. EDGEWORTH:
- 2 Q: So during the -- during the course of this time period
- 3 y'all were hanging out on the porch, how long was that?
- 4 A: Maybe an hour, two hours.
- 5 Q: Okay.
- 6 A: But not -- he wasn't there the whole time.
- 7 Q: Okay. Well, how long was he there?
- 8 A: Maybe 30 to 45 minutes.
- 9 Q: Okay. Prior -- prior to you hanging out on the porch
- 10 with your family, had you taken a nap earlier that day?
- 11 A: I'm sure I had.
- 12 Q: Okay. And -- and did you have plans to meet up with Mr.
- 13 Frierson --
- 14 A: No.
- 15 Q: -- beforehand?
- 16 A: Not until the phone call.
- 17 Q: Not until the phone call? Okay. So when he calls you,
- 18 he invites you to the Downbeat Club; correct?
- 19 A: Correct.
- 20 Q: Okay. And knowing that it's a club, you assumed y'all
- 21 might be drinking that night?
- 22 A: There's a possibility.
- 23 Q: Okay. Go there and dance and hang out?
- 24 A: Uh-huh.
- 25 Q: Okay.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 THE COURT: Is that a yes?

2 THE WITNESS: Yes.

3 MR. EDGEWORTH: Okay.

4 BY MR. EDGEWORTH:

5 Q: So -- and the fact that phone call came while you were  
6 hanging out with Mr. Jackson, then you invited him to go  
7 along with you?

8 A: He asked to come along.

9 Q: Okay. But you were okay with that; right?

10 A: Yes.

11 Q: There was no reason to not bring him along? Y'all had  
12 been hanging out on the porch?

13 A: Correct.

14 Q: All right. So -- and you had been there before;  
15 correct?

16 A: Correct.

17 Q: Okay. You'd been there how many times before?

18 A: Several. I'm not sure how many.

19 Q: Okay. But it's not -- it's not a place new to you? You  
20 had been there plenty of times?

21 A: Correct.

22 Q: Okay. Now, you've already testified to this, but just  
23 making sure. You had a gun; right?

24 A: In my car.

25 Q: Uh-huh. And you came by that illegally?

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 A: No.

2 Q: No? Okay. And that -- the gun was in your glove box?

3 A: Correct.

4 Q: Okay. And had it been there the whole time or did you  
5 have to take it with you and put it in the glove box before  
6 you headed out that night?

7 A: It was in there the whole time.

8 Q: Okay. So it was there and you knew it was there?

9 A: Yes.

10 Q: Okay. Now, you said Mr. Jackson was there for  
11 approximately an hour or so?

12 A: Thirty to 45 minutes.

13 Q: Thirty to 45 minutes? Okay. And after y'all agreed to  
14 go down there, did he go home?

15 A: No.

16 Q: He did not go home?

17 A: (No verbal response.)

18 Q: So --

19 THE COURT: Was that a no?

20 THE WITNESS: No. Yes.

21 BY MR. EDGEWORTH:

22 Q: Did you leave from your house directly to go to the --  
23 to the Downbeat Club?

24 A: Yes.

25 Q: Okay. So there was no time for him to go home and,

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 like, take a shower or something like that to come back?

2 A: No.

3 Q: Okay. So what time of day was this that you were  
4 hanging out on the porch?

5 A: I'd been there for a while; so I'm not even sure.

6 Q: Well, okay. Well, was it daytime?

7 A: Nighttime.

8 Q: Okay. So he -- your testimony is is that he came up to  
9 your house at nighttime and started hanging out on the porch?

10 A: Yes.

11 Q: Okay. And about what time of night was that?

12 A: I have -- I don't remember.

13 Q: Okay. Did you go anywhere before you went to the  
14 Downbeat?

15 A: Dropped by Everett's house.

16 Q: Okay.

17 A: Charles.

18 Q: You didn't go anywhere else?

19 A: No.

20 Q: You didn't drive to go meet a friend at the -- at the  
21 old carwash there off Hoffmeyer near the Salvation Army?

22 A: No.

23 Q: Okay. You met no one there?

24 A: No.

25 Q: Now, when you got to the club, you initially were

LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 hanging out in the -- in the -- what we call the dance area,  
2 the front -- the front area?

3 A: Yes.

4 Q: Okay. And -- and at what -- what point in time -- or  
5 how long had y'all been there before there was any arguing  
6 going on?

7 A: It couldn't have been 10 or 15 minutes maybe.

8 Q: Okay. So within 10 or 15 minutes? And when you got  
9 there, is there, like, a cover charge?

10 A: Yes.

11 Q: Okay. Who paid the cover?

12 A: I did.

13 Q: You paid for Mr. Jackson?

14 A: Correct.

15 Q: Okay. Because he didn't have any money; right?

16 A: Correct.

17 Q: Okay. Did you give him any money to spend while you  
18 were there?

19 A: I didn't give him any money. Well, no, I didn't. I'm  
20 trying to figure out where he got the quarters from.

21 Q: Okay. But he went in the back to shoot some pool and  
22 you were up front?

23 A: Uh-huh.

24 Q: So --

25 THE COURT: Is that a yes?

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 THE WITNESS: Yes. I'm sorry.

2 BY MR. EDGEWORTH:

3 Q: So it's fair to say that you have no idea what happened  
4 while he was back there shooting pool?

5 A: No, I didn't know.

6 Q: You didn't see any communication between anyone back  
7 there because you were in the front room; correct?

8 A: Correct.

9 Q: Okay. You didn't even see, you know, him shooting pool  
10 at all?

11 A: No, I have not.

12 Q: Now, did you learn what -- what happened from someone  
13 else or did you see him lose a game?

14 A: I didn't see him lose a game.

15 Q: Okay. And at what point in time did you walk back or go  
16 to the back room?

17 A: I walked back in the middle of him -- well, I'm not sure  
18 what's the other guy name, but Diondrae and some guy were  
19 going back and forth about the pool game.

20 Q: Okay. And you saw the other person he was arguing with?

21 A: Yes.

22 Q: Okay. And did you -- you -- at some point in time you  
23 said you heard -- heard some coins being thrown; is that  
24 correct?

25 A: Correct.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 Q: Okay. And they were being thrown at Mr. Jackson;  
2 correct?
- 3 A: Correct.
- 4 Q: Okay. Was -- did you hear any other part of that  
5 conversation as to what they were arguing about?
- 6 A: Quarters and I believe five dollars.
- 7 Q: Five dollars?
- 8 A: Correct.
- 9 Q: Okay. So -- so you don't know whether the argument was  
10 over the fact that another person's quarters were on the  
11 table; correct?
- 12 A: Correct.
- 13 Q: And you don't know whether Mr. Jackson was offering the  
14 guy five dollars because the quarters got used, do you?
- 15 A: No, I don't.
- 16 Q: Okay. But the other gentlemen or individual, whomever  
17 that was, was still arguing about it; correct?
- 18 A: Yes.
- 19 Q: He was the one who threw it at Mr. Jackson?
- 20 A: They both were going back and forth.
- 21 Q: But he was the one who threw the coins?
- 22 A: I didn't see anybody throw the quarters. I only heard  
23 when they hit the floor.
- 24 Q: But it was thrown at Mr. Jackson?
- 25 A: Correct.



LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 Q: And y'all went outside at this point; correct?

2 A: Correct.

3 Q: Okay. Did Mr. Jackson -- what did he do? What do you  
4 recall? Did he smoke a cigarette?

5 A: Could be. It could have been. I'm not sure.

6 Q: Do you have -- do you know whether he smokes cigarettes?

7 A: No, I don't.

8 Q: You don't?

9 A: Well, I know he smokes cigarettes, yes.

10 Q: Okay.

11 A: I'm not sure if he smoked at that point.

12 Q: But it was possible he just went out to smoke a  
13 cigarette?

14 A: Well, I'm not sure if he smoked out there, but yes, it's  
15 possible.

16 Q: Did y'all go to the car?

17 A: I went to the gentleman in the white tank top.

18 Q: Okay. And who was the gentleman in the white tank top?

19 A: I'm not sure who that guy was, but I knew he was trying  
20 to get my attention.

21 Q: Okay. And why was he trying to get your attention?

22 A: I'm assuming just to tell me that him and his -- him and  
23 his friend or brother didn't want -- his brother actually  
24 didn't want any confrontation.

25 Q: Okay.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 A: He wanted to have a good time.
- 2 Q: Okay. But it wasn't the same individual that he was  
3 arguing with though; correct?
- 4 A: No.
- 5 Q: Okay. Sometime -- at some point in time, Mr. Harrison  
6 or Marcus came out to talk to you guys; right?
- 7 A: He didn't really say anything to me.
- 8 Q: Okay. Well, he didn't say anything to you. Did --
- 9 A: All I remember --
- 10 Q: Did you end up going back inside?
- 11 A: Yeah. On the way back in, I was saying pretty much then  
12 just I wanted to go, but he didn't. He was, like, it'll be  
13 okay. Marcus.
- 14 Q: Marcus told you everything would be fine?
- 15 A: He wasn't actually talking to me. He was just talking  
16 loud enough for me to hear.
- 17 Q: Okay. Talking at you and not to you?
- 18 A: Right.
- 19 Q: Okay. And you -- you went back inside and Mr. -- you  
20 said Mr. Jackson went back to the back again; is that  
21 correct?
- 22 A: Correct.
- 23 Q: And did you stay up front?
- 24 A: No.
- 25 Q: Okay. You went back with him?

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 A: Uh-huh.

2 Q: And --

3 THE COURT: Is that a yes?

4 THE WITNESS: Yes. I'm sorry.

5 BY MR. EDGEWORTH:

6 Q: Checking in to make sure everything's okay?

7 A: Yes, sir.

8 Q: Okay. Had you purchased any drinks while you were  
9 there?

10 A: One.

11 Q: Okay. And did you -- did you at any point in time leave  
12 his side to go back and dance or do anything like that?

13 A: Not when we went back in the second time.

14 Q: Okay. So you stayed in the back?

15 A: Uh-huh.

16 THE COURT: Is that a yes?

17 THE WITNESS: Yes.

18 THE COURT: Let me tell you the reason I tell you that  
19 is she has to write down everything you say and uh-huh is not  
20 a word.

21 THE WITNESS: I'm sorry.

22 THE COURT: That's the only reason I tell you.

23 BY MR. EDGEWORTH:

24 Q: Now, he's -- he's sitting or standing at the bar?

25 A: Sitting.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 Q: Okay. And you're talking to him?

2 A: Just looking.

3 Q: Okay. When you say looking, what does that mean?

4 A: Just making sure that he was okay. I told you the  
5 facial expressions.

6 Q: Okay. Well, what I'm asking you is is, like, if he's  
7 standing at the bar and you're sitting here looking at him?

8 A: He was sitting and I was standing, like, in front of  
9 him.

10 Q: Okay. So he's sitting at the bar -- let's do it this  
11 way. I'm him. He's sitting at the bar and you're standing  
12 in front of him?

13 A: Right.

14 Q: Okay. So you can't see what's going on behind you, can  
15 you?

16 A: No, I can't.

17 Q: Okay. You don't know whether someone behind him was  
18 making any gestures to him; correct?

19 A: Correct.

20 Q: You don't know whether they were threatening behind your  
21 back?

22 A: No, I don't.

23 Q: Okay. You don't know whether someone pulled a gun at  
24 him and he threw you away, do you?

25 A: No, I don't.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 Q: Okay. Do you think it's reasonable if he saw someone  
2 getting ready to pull a gun that he would push you out of the  
3 way?

4 MR. TUCKER: Objection, Your Honor. Calls for  
5 speculation.

6 THE COURT: Sustained.

7 BY MR. EDGEWORTH:

8 Q: You know, Mr. Jackson; right?

9 A: Correct.

10 Q: Would he do that something -- do something like that for  
11 you?

12 MR. TUCKER: Again, Your Honor, I think it calls for  
13 speculation.

14 THE COURT: Sustained.

15 BY MR. EDGEWORTH:

16 Q: When you got back in the car and leave, y'all get on the  
17 road, get pulled over, talk to law enforcement on the side of  
18 the road; right?

19 A: Correct.

20 Q: At any point in time did law enforcement threaten you  
21 with accessory?

22 A: No.

23 Q: Did they threaten you with possession of a gun?

24 A: No.

25 Q: Did they -- when you first got pulled over, did you not

LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 claim the gun in the center console?
- 2 A: No.
- 3 Q: You did not?
- 4 A: No.
- 5 Q: You did not claim the one in the center console?
- 6 A: I did not claim it, no.
- 7 Q: Okay.
- 8 A: It wasn't mine to claim.
- 9 Q: Okay. But you didn't -- you did not claim it?
- 10 A: No.
- 11 Q: Okay. You talked to the cops on the side of the road;
- 12 right?
- 13 A: Correct.
- 14 Q: A few days later, you went in to have a more formal
- 15 interview; right?
- 16 A: Correct.
- 17 Q: It was recorded?
- 18 A: Correct. I'm assuming.
- 19 Q: Did they mirandize you?
- 20 A: Yes.
- 21 Q: Did you feel like you were a person of interest in the
- 22 case --
- 23 A: No.
- 24 Q: -- because they mirandized you?
- 25 A: No.

## LATESHA NEWTON - CROSS BY MR. EDGEWORTH

- 1 Q: Okay. Were you scared?
- 2 A: Of course, I was terrified.
- 3 Q: Do you recall telling the investigator that the person
- 4 that Mr. Jackson was arguing with had a red shirt on?
- 5 A: Yes.
- 6 Q: Were there other individuals in the bar with red shirts
- 7 on?
- 8 A: Yes.
- 9 Q: Do you recall telling the investigator that you had been
- 10 receiving threats?
- 11 A: Yes.
- 12 Q: Do you know who those threats were from?
- 13 A: No, I don't.
- 14 Q: How did you receive those threats?
- 15 A: From an individual that was in the car with me.
- 16 Q: Okay. In the car with you at the time of the stop?
- 17 A: Correct.
- 18 Q: Okay. Which person was that?
- 19 A: Charles.
- 20 Q: Okay. And what did Charles threaten you with?
- 21 A: He was just pretty much saying that the family of the
- 22 victims was looking for us.
- 23 Q: Was it -- was he relaying a threat?
- 24 A: Yes.
- 25 Q: Did you feel like that that was a credible threat, that

LATESHA NEWTON - CROSS BY MR. EDGEWORTH

1 that would be something that someone would take out? Follow  
2 through with?

3 A: I mean I --

4 MR. TUCKER: Objection, Your Honor. I think, again,  
5 that calls for speculation.

6 THE COURT: Sustained.

7 BY MR. EDGEWORTH:

8 Q: You were scared though, weren't you?

9 A: Yes.

10 Q: Okay. You took it as serious?

11 A: Yes.

12 Q: To your knowledge, is Mr. Frierson from down that way?

13 A: To my knowledge, yes.

14 Q: Okay.

15 MR. EDGEWORTH: I have no further questions for this  
16 witness, Your Honor.

17 THE COURT: All right. Redirect?

18 MR. TUCKER: Nothing on redirect, Your Honor.

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

20 Do you want to take a 15-minute break?

21 MR. TUCKER: Yes, sir. That would be fine.

22 THE COURT: All right. Members of the jury, if you  
23 would, step into the jury room, use the restroom, get  
24 something to drink and eat. Do not discuss the case.

25 (WHEREUPON, the jury exited the courtroom at 11:41 a.m.)



1 THE COURT: All right. A 15-minute recess.

2 (WHEREUPON, there was a break in the proceedings from  
3 11:41 a.m. until 12:03 p.m., after which the proceedings  
4 resumed as follows.)

5 THE COURT: All right. Let's go ahead and bring out the  
6 jury.

7 (WHEREUPON, the jury entered the courtroom at 12:04  
8 p.m.)

9 THE COURT: All right. Call your next witness.

10 MR. TUCKER: May it please the Court. At this time, the  
11 State calls Lawanda Johnson.

12 (WHEREUPON, there was a pause in the proceedings until  
13 the witness entered the courtroom, after which the  
14 proceedings resumed as follows.)

15 THE CLERK: Ma'am, please place your left hand on the  
16 Bible and raise your right hand. Do you swear that the  
17 testimony you will give in this case will be the truth, the  
18 whole truth, and nothing but the truth, so help you God?

19 THE WITNESS: Yes, ma'am.

20 THE CLERK: Please be seated in the witness stand and  
21 state your name for the record.

22 THE WITNESS: My name is Lawanda Johnson.

23 THE COURT: Yes, sir.

24 MR. TUCKER: Thank you, Your Honor. May it please the  
25 Court.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 THE COURT: Yes, sir.

2 LAWANDA JOHNSON, being first  
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TUCKER:

6 Q: Ms. Johnson, where do you currently reside?

7 A: Say that again?

8 Q: Where do you currently live?

9 A: In Florence.

10 Q: How long have you lived in Florence?

11 A: About four years.

12 Q: Did you say four?

13 A: Yes.

14 Q: Prior to that, where were you living?

15 A: Effingham.

16 Q: Okay. Is it fair to say you've lived in Florence County  
17 most of your adult life?

18 A: No.

19 Q: Okay.

20 A: Effingham.

21 Q: I'm sorry?

22 A: In Effingham.

23 Q: In Effingham? Okay. Now, were you living in Florence  
24 -- you said you've been up here about four years; so you were  
25 living there on May the 6<sup>th</sup>, 2018; is that correct?

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 A: Uh-huh.

2 Q: Now, were you living alone?

3 THE COURT: Is that a yes? You need to say yes or no.

4 THE WITNESS: Yes.

5 BY MR. TUCKER:

6 Q: Do you live alone?

7 A: No.

8 Q: With whom do you reside?

9 A: I stay with my fiancé and my kids.

10 Q: Okay. When you say your fiancé, what's his name?

11 A: Charles Frierson.

12 Q: Does he go by Everett?

13 A: Yeah.

14 Q: Now, when you say kids, how many kids do you have living  
15 with you?

16 A: I have three kids, but I have two living with me.

17 Q: Okay. How old are they?

18 A: 11 and 10.

19 Q: Now, are you part of a motorcycle club called Razor Cuts  
20 [sic]?

21 A: My fiancé is.

22 Q: Your fiancé is?

23 A: Yeah.

24 Q: Okay. Now, directing your attention to on or about May  
25 the 5<sup>th</sup>, 2018, do you recall your fiancé making a phone call

LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 to Latesha Newton in this case?

2 A: No.

3 Q: Do you recall you getting -- y'all going out to the  
4 Downbeat Club?

5 A: Yes.

6 Q: Do you recall how that came about?

7 A: She came over, you know. We got in the car.

8 Q: Okay.

9 A: We went down there.

10 Q: You said got in the car. Do you recall who was in the  
11 car with Ms. Newton when she pulled up?

12 A: Ondrae Jackson, but when I got in the car, I didn't even  
13 know that he was in there. So when we got in, she introduced  
14 us to him.

15 Q: Okay. Do you see the individual in the courtroom today  
16 that was introduced to you as Diondrae Jackson?

17 A: You said that introduced us to?

18 Q: Yeah. The one that was introduced to you as Diondrae  
19 Jackson. Do you see him in the courtroom here today?

20 A: Yes.

21 Q: Okay. Could you point him out, please?

22 A: He's right there.

23 MR. TUCKER: Please let the record reflect that she's  
24 identified the defendant, Diondrae Jackson.

25 THE COURT: It will reflect that.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 MR. TUCKER: Okay.

2 BY MR. TUCKER:

3 Q: You've indicated that you got in the car with Diondrae  
4 Jackson and Ms. Newton?

5 A: Yes.

6 Q: Okay. Who got in the car also?

7 A: Charles Frierson.

8 Q: And?

9 A: And Ernestine Mack.

10 Q: Now, who is Ms. Mack?

11 A: My best friend.

12 Q: All right. Now, is it fair to say you know her pretty  
13 well?

14 A: Very well.

15 Q: Okay. And you're engaged to Mr. Frierson; is that  
16 correct?

17 A: Yes, sir.

18 Q: Now, when you got in the car, did you have a firearm on  
19 you?

20 A: Yes, sir.

21 Q: Okay. What kind of firearm is it?

22 A: A nine.

23 Q: When you say nine, are you referring to a 9-millimeter?

24 A: Yes, sir.

25 Q: Do you recall what you did with the firearm once you got

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 into the vehicle?

2 A: Put it inside of the door.

3 Q: Inside the door? All right. Now, when y'all got down  
4 to the Downbeat Club, what, if anything, happened then?

5 A: We went in, played a little pool. After we played pool,  
6 he got in -- he came -- okay. We played pool. Well, I  
7 didn't play, but he played pool. Everything --

8 Q: Let me first ask you when you go into the club --

9 MR. TUCKER: And if we could pull up -- and if I may  
10 approach, Your Honor?

11 THE COURT: Yes.

12 MR. TUCKER: Pull up State's 6.

13 BY MR. TUCKER:

14 Q: Now, I'm showing you what's been marked or entered into  
15 evidence as State's Evidence 6. Is that the front of the  
16 Downbeat Club?

17 A: Yes, sir.

18 MR. TUCKER: And State's 7?

19 Q: And do you recognize that photo?

20 A: Yes, sir.

21 Q: Okay. What are we looking at there?

22 A: The front door.

23 Q: All right.

24 MR. TUCKER: Go to State's -- State's 21.

25 Q: And is this the back area where the pool table is that

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 you just referred to?

2 A: Yes, sir.

3 Q: Okay.

4 MR. TUCKER: 22.

5 Q: And is that the bar area in the back part?

6 A: Yes, sir.

7 MR. TUCKER: And 23.

8 Q: And is that another picture of the pool table?

9 A: Yes, sir.

10 Q: Okay. Now, you testified that y'all were at the back  
11 bar area?

12 A: Yes, sir.

13 Q: Okay. And do you recall where you were sitting?

14 A: I was sitting -- like, the bar was on this side. I was  
15 sitting on this end.

16 Q: Okay. Now, was anybody sitting next to you?

17 A: Ernestine Mack and my fiancé.

18 Q: Now, when you say your fiancé --

19 A: Charles Frierson.

20 Q: Okay. All right. Now, how long had y'all been in the  
21 club at this point when y'all were at the back bar area?

22 A: I'd say about 30 minutes, an hour probably.

23 Q: Okay. Now, were you aware that there was some sort of  
24 an altercation regarding the pool table?

25 A: They got into a little argument.

LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 Q: Now, when you say they, to whom are you referring?

2 A: Ondrae Jackson.

3 Q: When you say Ondrae, do you mean Diondrae Jackson?

4 A: Yeah.

5 Q: The defendant in this case?

6 A: Yeah.

7 Q: And do you recall who the other individual was?

8 A: I don't know him, sir.

9 Q: Is this the individual that had on a red shirt?

10 A: Yes, sir.

11 Q: And do you -- were you present when they got into the  
12 argument and heard what it was about?

13 A: I -- they was playing pool when they got into a little  
14 disagreement, but I really don't know exactly how it  
15 happened.

16 Q: Okay. Did you hear the guy in the red shirt threaten  
17 Mr. Jackson in any way?

18 A: No, sir.

19 Q: Did you see the red guy -- or the shirt in the red -- or  
20 the guy in the red shirt have a firearm in his hand at any  
21 point?

22 A: No, sir.

23 Q: Now, after there was this initial altercation between  
24 those over the pool table, did Mr. Jackson and Ms. Newton  
25 leave the back bar area?



## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: Okay. And subsequently, did they come back in?

3 A: Yes, sir.

4 Q: Do you recall about how much time elapsed from when they  
5 left to when they come back in?

6 A: No, sir. I wasn't paying attention.

7 Q: Okay. When they left, did you stay and remain at the  
8 back bar area?

9 A: Yes, sir.

10 Q: At any point did you go outside?

11 A: No, sir.

12 Q: Now, drawing your attention specifically to when they  
13 came back in, do you recall where they went in the back bar  
14 area?

15 A: They came back to where we was.

16 Q: Okay. Now, you were sitting at the bar you testified  
17 to?

18 A: Yes, sir.

19 Q: All right. So when they came back in, would they have  
20 been to your left or to your right when they sat at the bar?

21 A: My right.

22 Q: Okay. So they were kind of sitting towards the bar end  
23 that was more towards the front room area; is that correct?

24 A: Like, they was on this end.

25 Q: Okay.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 A: We was on this end.

2 Q: Let's make sure we're clear. Let me show you State's  
3 19. All right. And I'm showing you what's been entered into  
4 evidence as State's 19, and that is the back bar area.

5 A: They was --

6 Q: Could you point -- if you could, indicate where you were  
7 sitting?

8 A: I was sitting towards the doorway, like to walk out.

9 Q: Going back out to the front door?

10 A: Yeah, but it wasn't all the way at the front door. It  
11 was like the little entrance. It's a little room you walk  
12 in.

13 Q: I gotcha.

14 A: I was sitting right there.

15 Q: Okay. So when Mr. Jackson and Ms. Newton came back in,  
16 where did they go to?

17 A: They came on the other side of us, the right-hand side  
18 of us.

19 Q: Okay. All right. So they would have been sitting --

20 A: Towards the -- like, the back -- like, they're sitting  
21 here and the bathroom facing this way.

22 Q: Yes.

23 A: They were sitting right there.

24 Q: Okay. All right. Now, when they came back in, did  
25 anything occur at that point?

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 A: No, sir.

2 Q: All right. At some point thereafter, did anything occur  
3 once they came back in?

4 A: She -- she was, like, we need -- can -- let's -- we need  
5 -- let's go, you know.

6 Q: Now, when you say she was, to whom are you referring?

7 A: Ms. Tesha.

8 Q: Okay.

9 A: Latesha.

10 Q: Latesha Newton?

11 A: Let's go. So we were fixing to leave, you know. It  
12 wasn't nothing. We was leaving and as we was leaving, she  
13 went over to Ondrae Jackson and said, come on, let's go, and  
14 all I seen was him push her out the way like that and just  
15 came out like this and pointed. And when I seen it, all I  
16 did was run.

17 Q: Now, when you say point, what was he pointing?

18 A: The gun.

19 Q: You saw him with a firearm in his hand?

20 A: Yes, sir.

21 Q: And in what part of the bar was he pointing the firearm?

22 A: Back toward the bathroom.

23 Q: Is that where the individuals with whom he was having  
24 this altercation with were standing?

25 A: Yeah.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 Q: Now, did you hear gunshots after that?

2 A: I was out.

3 Q: Okay. But did you hear the gunshots?

4 A: I heard a gunshot, but I don't know what happened after  
5 I left. I ran. I don't know what else happened after that.

6 Q: Okay. So as soon as you saw him pull the firearm --

7 A: I ran.

8 Q: You ran?

9 A: Uh-huh.

10 Q: All right. Now --

11 THE COURT: Is that a yes?

12 THE WITNESS: Yes.

13 BY MR. TUCKER:

14 Q: When you got outside, what, if anything, did you do?

15 A: I was running to the car.

16 Q: Now, at this point, could you tell where your fiancé  
17 was?

18 A: He -- he was still standing up in there.

19 Q: He was still back in the Downbeat Club?

20 A: Uh-huh.

21 THE COURT: Is that a yes?

22 THE WITNESS: Yes.

23 MR. TUCKER: All right.

24 BY MR. TUCKER:

25 Q: Now, at some point, did your fiancé come out?

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 A: Yeah. He came out and got in the car.

2 Q: Okay. Now, was someone in the car already by the time  
3 you and your fiancé and Ms. Mack got in there?

4 A: Ernestine Mack, Latesha, and Ondrae Jackson.

5 Q: So Ms. Mack, Mr. Jackson, and Ms. Newton were already in  
6 the vehicle?

7 A: Yes, sir.

8 Q: And do you recall what kind of vehicle this was?

9 A: A Dodge Charger.

10 Q: Okay. Was it a dark-colored car?

11 A: Black.

12 Q: Okay. Now, after you and your fiancé got into the car,  
13 what, if anything, happened then?

14 A: We drove off.

15 Q: Now, when you say drove off, you went back towards  
16 Florence?

17 A: Yes, sir.

18 Q: Okay. Now, did anything happen before you got to  
19 Florence?

20 A: We got stopped on the side of the road.

21 Q: Now, in terms of where you were sitting when you got  
22 back into the car, where were you located?

23 A: In the middle.

24 Q: So you were in the backseat?

25 A: Uh-huh.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 Q: In the middle?

2 THE COURT: Is that a yes?

3 Q: Do you recall whether Mr. Frierson was to your left or  
4 to your right?

5 A: He was to my right.

6 Q: So he would have been sitting behind the passenger?

7 A: Yes, sir.

8 Q: Now, who was sitting in the front passenger seat?

9 A: Latesha.

10 Q: Okay. Was she driving or was she the passenger?

11 A: She was driving.

12 Q: Okay. So Ms. Newton was driving?

13 A: Yes, sir.

14 Q: And who was sitting next to her in the passenger seat?

15 A: Ondrae Jackson.

16 Q: And Ms. Mack would have been sitting then by process of  
17 elimination to your left?

18 A: She was behind the driver.

19 Q: Okay. All right. At some point, as you mentioned, you  
20 got stopped by a deputy?

21 A: Yes, sir.

22 Q: Prior to that, did you see any -- did the window come  
23 down in the vehicle? Did you notice?

24 MR. EDGEWORTH: Objection. Leading.

25 THE COURT: Sustained.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Did anything happen prior to the blue lights coming on  
3 from the deputy?

4 A: No, sir.

5 Q: That you saw?

6 A: No, sir.

7 Q: Okay. Once the deputy initiated the blue lights, what  
8 happened then?

9 A: We stopped.

10 Q: And what occurred after that?

11 A: They told us to hold our hands out and they took us out  
12 the car one by one.

13 Q: Okay. Now, at some point, were you spoken to by  
14 Investigator Tilton with the Sheriff's Office?

15 A: I can't remember, sir.

16 Q: Okay. Do you recall what Mr. Jackson had on that  
17 evening in terms of clothing?

18 A: All I remember was a gray T-shirt.

19 Q: Do you recall whether or not the T-shirt had any kind of  
20 writing on it?

21 MR. EDGEWORTH: Objection. Leading.

22 THE COURT: Sustained.

23 MR. TUCKER: I think she can answer as to what the shirt  
24 had on if it had writing on it.

25 THE COURT: Ask it the right way.

## LAWANDA JOHNSON - DIRECT BY MR. TUCKER

1 MR. TUCKER: Okay.

2 BY MR. TUCKER:

3 Q: Do you recall whether or not there was anything on the  
4 T-shirt?

5 A: It was writing, but I can't remember what it was.

6 Q: Okay. Now, do you recall or did you witness Mr. Jackson  
7 taking off that T-shirt while he was in the car as y'all were  
8 heading back towards Florence?

9 A: I don't remember that, sir.

10 Q: All right. And you don't recall whether or not you  
11 spoke to Investigator Tilton that night?

12 A: I spoke to somebody, but I don't know -- I can't  
13 remember how the man looked.

14 Q: I understand. Now, subsequently, did you go back to the  
15 Sheriff's Office and speak to Mr. Tilton a day or two later  
16 and gave a statement in the Sheriff's Office?

17 A: Yes, sir.

18 Q: Okay. And did you pretty much tell him the same thing  
19 that you've testified here today?

20 A: Yes, sir.

21 MR. TUCKER: I beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 MR. TUCKER: I believe those are all the questions I  
24 have, Your Honor.

25 THE COURT: All right. Cross?



## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

1 MR. EDGEWORTH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. EDGEWORTH:

4 Q: Ms. Johnson, had you ever been to the Downbeat Club  
5 before the night of May 6<sup>th</sup>, 2018?

6 A: Yes, sir.

7 Q: About many times had you been there?

8 A: A lot of times.

9 Q: Okay. You were familiar with the place?

10 A: Yes, sir.

11 Q: Okay. And when you -- when you go to the Downbeat Club,  
12 do you normally go in there to party and hang out for a  
13 little bit?

14 A: Yes, sir.

15 Q: On this particular night when you guys decided to go  
16 there, were you drinking at home?

17 A: I don't drink, sir.

18 Q: Okay. Was -- to your knowledge, was Mr. Charles  
19 Frierson drinking?

20 A: Yes, sir.

21 Q: Okay. And y'all -- in fact, y'all took a cooler down  
22 there with you, didn't you? Or took some beers down there  
23 with you?

24 A: He took his 211s [sic], yes.

25 Q: Okay. So he took some beers in the car?

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

- 1 A: Yes.
- 2 Q: Okay. Now, you took a firearm with you. Was that you
- 3 or Mr. Frierson that took the firearm?
- 4 A: He brought it out the house.
- 5 Q: Okay. He brought it into the car intentionally?
- 6 A: Not intentionally.
- 7 Q: I mean it wasn't like accidentally on him and then he
- 8 got in the car? He picked it up --
- 9 A: He had it.
- 10 Q: -- and took it in there?
- 11 A: He meant to take it -- leave it in the other car, our
- 12 car, but by the time she pulled up, he had it in his hand.
- 13 Q: Right.
- 14 A: And we got in the car. So we just left it in there.
- 15 Q: But had y'all driven down there in your car, you would
- 16 have had it with you then too; right?
- 17 A: Yes, sir.
- 18 Q: Okay. So you're taking it to the club with you?
- 19 A: Yes, sir.
- 20 Q: Okay. And do you normally do that when you go down to
- 21 the Downbeat?
- 22 A: Not often. Sometimes.
- 23 Q: But you have done it on --
- 24 A: Yeah.
- 25 Q: -- more than just that occasion; correct?

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

- 1 A: Yeah.
- 2 Q: Okay. Now, when you guys got there, you went straight  
3 to the back; is that right?
- 4 A: They checked us first before we went in.
- 5 Q: Okay. You got patted down by the security person?
- 6 A: Yes, sir.
- 7 Q: But then once you entered the club, you had to pay your  
8 little --
- 9 A: Yes, sir.
- 10 Q: -- door fee or whatever; right?
- 11 A: Yes, sir.
- 12 Q: And did you pay for that?
- 13 A: Yeah.
- 14 Q: Okay. Did you give anybody money that night?
- 15 A: No, sir.
- 16 Q: Okay. Did you buy any drinks while you were there?
- 17 A: No, sir.
- 18 Q: Okay. You were just hanging out?
- 19 A: Yes, sir.
- 20 Q: Did you ever get up on the dance floor?
- 21 A: No, sir.
- 22 Q: Were you just hanging out in the back the whole time?
- 23 A: Yes, sir.
- 24 Q: Okay. And talking to your fiancé and Ms. Mack most  
25 likely?

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

- 1 A: Yes, sir.
- 2 Q: Okay. Did you ever play pool?
- 3 A: No, sir.
- 4 Q: Now, you indicated that you noticed that there was an  
5 argument; right?
- 6 A: Yeah. It wasn't really nothing major. It was just a  
7 little disagreement.
- 8 Q: Right.
- 9 A: That's all.
- 10 Q: Okay. Did you -- did you ever turn around and see the  
11 people that were arguing? Did you see them arguing, maybe  
12 not heard them, but you saw them?
- 13 A: I just heard a little disagreement thing and then that  
14 was it.
- 15 Q: Okay.
- 16 A: They just left out, walked out the door.
- 17 Q: Okay. Did you see the people in the background though?
- 18 A: Yes, sir, I did.
- 19 Q: Okay. And were they wearing red shirts?
- 20 A: Yes, sir.
- 21 Q: Is that fairly typical in the Downbeat?
- 22 A: Not -- no, not that I know of. They can wear whatever  
23 they want to wear.
- 24 Q: Okay. But on that night, there was more than one person  
25 wearing a red shirt; is that right?

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

1 A: Yes, sir.

2 Q: Now, when you -- after the initial argument and then Ms.  
3 Newton and Mr. Jackson went outside, you remained in; right?

4 A: Yes, sir.

5 Q: Okay. Did they come back in?

6 A: Yes, sir.

7 Q: Okay. And -- and at that point in time, before Ms.  
8 Newton came to talk to him -- when you said, you know, it's  
9 time to go; right? Were you watching Mr. Jackson?

10 A: No, sir.

11 Q: You were just still kind of hanging out doing what  
12 you're doing?

13 A: Yes, sir.

14 Q: Okay. So you didn't -- you didn't see what he was  
15 doing; right?

16 A: No, sir.

17 Q: Okay. When Ms. Newton came, she came and was talking to  
18 him?

19 A: She was talking to us.

20 Q: Okay.

21 A: Well, to Charles Frierson. She was, like, we might need  
22 to -- just let's go on home.

23 Q: Okay. And then she -- then she told him that, you know  
24 --

25 A: Let's go.

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

- 1 Q: Let's go?
- 2 A: Uh-huh.
- 3 Q: And that's when -- that's when he pushed her out the
- 4 way?
- 5 A: Pulled back from her like that, uh-huh.
- 6 Q: Pulled her --
- 7 A: That's all I seen. He pulled back like that and just
- 8 pulled out like that. When he pulled out like that, I seen
- 9 the gun and I just ran.
- 10 Q: Right. So you didn't see what the people on the other
- 11 side of the bar were doing, did you?
- 12 A: I couldn't tell you nothing they was doing because I was
- 13 out of there.
- 14 Q: That's right. You don't know whether they pulled a gun
- 15 or not?
- 16 A: Nope.
- 17 Q: You don't know whether they were giving him some street
- 18 signs to him?
- 19 A: Nope.
- 20 Q: And egging him on or not?
- 21 A: Nope.
- 22 Q: Okay. You were out of there?
- 23 A: I was out of there.
- 24 Q: Is the reason why y'all take a gun down to the Downbeat
- 25 because there's often violence there?

## LAWANDA JOHNSON - CROSS BY MR. EDGEWORTH

1 A: No. We just -- they just -- we just take it with us.  
2 We just did. There wasn't no reason why we had it. We just  
3 -- that's what we do.

4 Q: But you --

5 A: There ain't no reason.

6 Q: -- generally have a gun for protection; is that right?

7 A: I mean you can say protection, but it wasn't no reason  
8 for us to have the gun anyway. We just -- that's just what  
9 we do.

10 Q: But you took it with you?

11 A: Yes, sir.

12 Q: And you took it more than once; right?

13 A: Yes, sir.

14 Q: Okay.

15 MR. EDGEWORTH: No further questions for this witness,  
16 Your Honor.

17 THE COURT: All right. Redirect?

18 MR. TUCKER: Nothing on redirect, Your Honor.

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

20 Call your next witness.

21 MR. TUCKER: Your Honor, may we approach?

22 THE COURT: Sure.

23 (WHEREUPON, a bench conference was held in the presence  
24 of the jury but out of the hearing of the jury off the  
25 record, after which the proceedings resumed as follows.)

1 THE COURT: Members of the jury, we're going to break  
2 for lunch. If you would, be back at two. As I told you  
3 before, don't discuss the case among yourselves or with  
4 anybody. Do not research the case.

5 Everybody else remain seated. The jury is excused.

6 (WHEREUPON, the jury exited the courtroom at 12:24 p.m.)

7 THE COURT: All right. I'll see you back at two.

8 (WHEREUPON, there was a break in the proceedings from  
9 12:25 p.m. until 2:06 p.m., after which the proceedings  
10 resumed as follows.)

11 THE COURT: Is the State ready to go?

12 MR. TUCKER: Ready, Your Honor.

13 THE COURT: Is the defense ready?

14 MR. EDGEWORTH: Yes, Your Honor.

15 THE COURT: All right. Let's bring them out.

16 (WHEREUPON, the jury entered the courtroom at 2:07 p.m.)

17 THE COURT: All right. If the State will call your next  
18 witness.

19 MR. TUCKER: Thank you, Your Honor. At this time, the  
20 State calls Ernestine Mack.

21 (WHEREUPON, there was a pause in the proceedings until  
22 the witness entered the courtroom, after which the  
23 proceedings resumed as follows.)

24 THE CLERK: Ma'am, place your left hand on the Bible and  
25 raise your right hand. Do you swear that the testimony you



ERNESTINE MACK - DIRECT BY MR. TUCKER

1 will give in this case will be the truth, the whole truth,  
2 and nothing but the truth, so help you God?

3 THE WITNESS: Yes.

4 THE CLERK: Please be seated in the witness stand and  
5 state your name for the record.

6 THE WITNESS: My name is Ernestine Mack.

7 THE COURT: Be sure to speak up and speak into the  
8 microphone. All right?

9 THE WITNESS: Okay.

10 THE COURT: Yes, sir.

11 MR. TUCKER: Thank you, Your Honor.

12 ERNESTINE MACK, being first  
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. TUCKER:

16 Q: Ms. Mack, where do you live presently?

17 A: In south Florence.

18 THE COURT: Speak up a little bit more.

19 Q: How long have you been in South Florence?

20 A: I've been in south Florence for a long time. I just  
21 moved where I'm at now back in November.

22 Q: Okay. Now, have you been in South Carolina all your  
23 life?

24 A: Yes.

25 Q: Pretty much most of it in Florence County?

## ERNESTINE MACK - DIRECT BY MR. TUCKER

1 A: Yes.

2 Q: Okay. Now, I want to direct your attention to May the  
3 5<sup>th</sup>, 2018. Do you recall where you were in the evening?

4 A: Yes, sir.

5 Q: And do you recall if you were with Mr. Charles Everett  
6 Frierson and his fiancée?

7 A: Yes, sir.

8 Q: And do you recall at one point Mr. Frierson talking to  
9 Ms. Latesha Newton about going to the Downbeat Club in  
10 Coward?

11 A: No. I wasn't there when they had that conversation. He  
12 had that conversation before I got with them.

13 Q: Okay. At what point did you arrive?

14 A: We was together all that day. We had went -- I think we  
15 had went to a picnic or something, but when they had  
16 discussed that, I wasn't with them when they discussed that  
17 part.

18 Q: Okay. Now, at some point though, you did show up and  
19 then, of course, it was a short time thereafter that Ms.  
20 Newton showed up?

21 A: Yeah.

22 Q: Okay. Do you recall if she had anybody with her?

23 A: Yes.

24 Q: And do you recall who that was?

25 A: Yes, sir.

## ERNESTINE MACK - DIRECT BY MR. TUCKER

- 1 Q: Who was it?
- 2 A: Diondrae Jackson.
- 3 Q: Do you see Mr. Jackson in the courtroom here today?
- 4 A: Yes, sir.
- 5 Q: Okay. And could you point to him, please?
- 6 A: (No verbal response.)
- 7 Q: Okay. Is that him there?
- 8 A: Yeah.
- 9 Q: Okay. All right. Now, when Ms. Newton showed up, y'all
- 10 got into the car?
- 11 A: Yeah.
- 12 Q: And what happened after that?
- 13 A: We left and went to our destination.
- 14 Q: I'm sorry. You're going to have to speak up just a
- 15 little bit.
- 16 A: I said we left and went to our destination.
- 17 Q: Okay. Now, do you recall where you were sitting in the
- 18 car?
- 19 A: I was on the driver's side in the backseat.
- 20 Q: Now, had you ever met Mr. Jackson before that night?
- 21 A: No.
- 22 Q: You had met Ms. Newton on occasion before though; is
- 23 that correct?
- 24 A: Yes.
- 25 Q: All right. Now, do you recall what kind of car y'all

ERNESTINE MACK - DIRECT BY MR. TUCKER

1 were in the way down there?

2 A: Uh-huh. A black car.

3 Q: Do you recall what kind?

4 A: No.

5 Q: Okay. But you know it was black?

6 A: Yeah.

7 Q: Okay. Now, when you get to your destination, that's the  
8 Downbeat Club in Coward?

9 A: Yes.

10 Q: Had you ever been there before that night?

11 A: Yes, I had.

12 Q: Now, when y'all got there, what happened then?

13 A: When we first got there, we went inside. Everything was  
14 fine.

15 Q: Now, we've seen pictures of the inside of the club.

16 Were you -- when you first went in, did you stay in the front  
17 part of the club or did you go to the back part of the club  
18 where the pool table was?

19 A: We was in the front for a while and then we went to the  
20 back part.

21 Q: Now, when you were in the back part, where were you  
22 exactly?

23 A: Sitting at the end of the bar.

24 Q: Now, as the bar is facing, were you on the -- would you  
25 say you were sitting towards the left side looking at the bar

ERNESTINE MACK - DIRECT BY MR. TUCKER

1   itself if you were sitting at it or to the right side or  
2   somewhere in the middle?

3   A:    I was at the left side closest to the entrance where you  
4   come in.

5   Q:    Okay.

6           MR. TUCKER:   And, Your Honor, if I could approach again?

7           THE COURT:    Sure.

8   BY MR. TUCKER:

9   Q:    And, Ms. Mack, if you'd look at your screen, I'm going  
10   to pull a picture up.

11           MR. TUCKER:   Would you pull up State's 19?

12   Q:    And, Ms. Mack, you're looking at what is State's  
13   Evidence 19.   Do you recognize that?

14   A:    Yes, sir.

15   Q:    What is that?

16   A:    That's the bar.

17   Q:    Now, do you recall where you were sitting when you say  
18   you went to the back part of the club?

19   A:    I was sitting at the end of the -- at the end of the bar  
20   at the doorway.

21   Q:    Okay.   So when you say the door, that's the door going  
22   into from the front part to the back part?

23   A:    Yes, sir.

24   Q:    Okay.   All right.   Do you recall anything occurring as  
25   you were sitting there?

ERNESTINE MACK - DIRECT BY MR. TUCKER

1 A: Not -- not really I didn't.

2 Q: Okay. Were you aware of any kind of an altercation or  
3 an argument?

4 A: No.

5 Q: Okay. What do you recall?

6 A: I know they was playing pool.

7 Q: When you say they were playing pool, to whom are you  
8 referring?

9 A: It was Diondrae Jackson and some other people.

10 Q: Now, was there -- and they were playing pool. Did  
11 anything occur thereafter that got your attention?

12 A: I think they had -- they had some words.

13 Q: Now, did you hear what was being said?

14 A: No, I didn't hear anything what they was saying.

15 Q: Could you tell it was an argument at least over  
16 something?

17 A: Yeah, because they walked him outside.

18 Q: Okay. Now, when you say they walked them outside, who  
19 went outside?

20 A: I know Diondrae Jackson, but I can't remember who all  
21 went outside with him at the time.

22 Q: Okay. Now, at some point, did Mr. Jackson come back  
23 into the club?

24 A: Yes.

25 Q: And specifically, did you notice that he walked back

ERNESTINE MACK - DIRECT BY MR. TUCKER

1 into the back part of the bar?

2 A: Yeah. He came in the back part.

3 Q: Now, had you left the back part at any point or were you  
4 back there the entire time?

5 A: I was back there the entire time.

6 Q: Who was sitting next to you?

7 A: Lawanda.

8 Q: When you say Lawanda?

9 A: Lawanda Johnson.

10 Q: Okay. And in terms of when he came back in, Mr.  
11 Jackson, was anyone with him?

12 A: I -- I don't know. I really don't know.

13 Q: Okay. Now, at some point after he comes back in, was  
14 there anything that happened?

15 A: I don't know because I was sitting -- I was sitting in  
16 front of everybody. Everybody else was behind me. So I  
17 really wasn't paying them no attention because I was facing  
18 the other way.

19 Q: Okay. At some point thereafter, did something happen  
20 that got your attention?

21 A: Yes.

22 Q: What was that?

23 A: I heard Latesha say -- yell no and then I looked up and  
24 Diondrae had a gun.

25 Q: Now, when you say Latesha -- are you referring to

## ERNESTINE MACK - DIRECT BY MR. TUCKER

1 Latesha Newton?

2 A: Yes.

3 Q: Now, you said you heard her say?

4 A: No.

5 Q: And then you saw?

6 A: I saw the gun.

7 Q: And where did you see the gun?

8 A: Diondrae had it pointed up.

9 Q: Pointed up?

10 A: Yeah. He had it pointed up in the air.

11 Q: Okay. Did you notice if he ever pointed it back in any

12 other direction?

13 A: No, because when I saw the gun, I ran out the door.

14 Q: Okay. That's understandable. Did you hear any gunshots

15 as you were running away?

16 A: Yeah, I did hear a gunshot.

17 Q: Now, prior to you running, did you see anybody else

18 except Diondrae in the back part area with a gun?

19 A: No. I didn't see anything. When I saw the gun, that

20 was it. I got out of there.

21 Q: At any point during the evening, did you see anybody

22 else with a gun?

23 A: No.

24 Q: Now, after you heard the gunshots, you fled out the

25 front of the club at that point?



## ERNESTINE MACK - DIRECT BY MR. TUCKER

1 A: Yes.

2 Q: And where did you go then?

3 A: I ran past the car.

4 Q: You ran past the car?

5 A: Yeah.

6 Q: I imagine that was a pretty unnerving experience. What  
7 happened after that?

8 A: After that, everybody came out and we got in the car and  
9 we left.

10 Q: Now, when you say everybody came out, that was Mr.  
11 Jackson?

12 A: (No verbal response.)

13 Q: Who else?

14 A: Latesha, Lawanda, and Everett.

15 Q: All right. So at some point, y'all were all able to get  
16 back into the vehicle?

17 A: Yes.

18 Q: And do you recall where you went in terms of direction?  
19 Were y'all headed back to Florence?

20 A: Yes.

21 Q: And what happened next?

22 A: When we was on our way back to Florence, we got stopped  
23 by the -- by the sheriff.

24 Q: Now, prior to the sheriff stopping you, when you got  
25 into the car, did you see Mr. Jackson still with a gun?

ERNESTINE MACK - DIRECT BY MR. TUCKER

1 A: No. I didn't even see no gun. The only time I saw the  
2 gun was when we was in the club.

3 Q: Okay. Now, once the blue light comes on, what happens  
4 next?

5 A: We stopped.

6 Q: And then what happened?

7 A: Everybody got out. They placed everybody in handcuffs.

8 Q: Okay. And subsequently, shortly thereafter, after a  
9 bit, were you able to -- to go on your way?

10 A: Yes.

11 Q: And again, you are quite clear you saw Diondrae Jackson  
12 in the Downbeat Club with a gun?

13 A: Yes, sir.

14 MR. TUCKER: I believe those are all the questions I  
15 have, Your Honor.

16 THE COURT: All right. Cross?

17 MR. EDGEWORTH: Thank you, Your Honor. Briefly.

18 CROSS-EXAMINATION

19 BY MR. EDGEWORTH:

20 Q: Good afternoon, Ms. Mack. It's fair to say that you  
21 were -- you were at the Downbeat Club with Mr. Frierson and  
22 Ms. Johnson? They were your friends?

23 A: Yes.

24 Q: Y'all had planned to go there after having been at the  
25 picnic earlier in the day?

## ERNESTINE MACK - CROSS BY MR. EDGEWORTH

1 A: Yes.

2 Q: Did you -- you met up with them at their house prior to  
3 --

4 A: Yeah. I was at their house.

5 Q: Okay. And so when you get to the club, you're -- you're  
6 mainly just hanging out with them because they are -- they  
7 are in the back as well; is that right?

8 A: Yes.

9 Q: And is it fair to say then that you have no idea whether  
10 or not anyone in the room had a gun?

11 A: No.

12 Q: Okay. So did you actually see the argument?

13 A: I saw when they was at the pool table when they was  
14 having words and then they took him outside.

15 Q: And you've already stated that you don't really know  
16 what the argument was about; is that correct?

17 A: No, I don't know.

18 Q: Okay. And then you couldn't -- and then everyone comes  
19 back in the room and at that point you're still hanging out  
20 with -- with Lawanda, Ms. Johnson, and Mr. Frierson; correct?

21 A: Yes.

22 Q: Okay. And it wasn't until you heard the ruckus that you  
23 noticed the gun; is that correct?

24 A: Yes.

25 Q: Well, you weren't paying attention to anyone else in the

ERNESTINE MACK - CROSS BY MR. EDGEWORTH

1 room other than your friends; correct?

2 A: Yes.

3 Q: Okay.

4 MR. EDGEWORTH: Thank you. No further questions.

5 THE COURT: All right. Redirect?

6 MR. TUCKER: Nothing on redirect, Your Honor.

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

8 Call your next witness.

9 MR. TUCKER: At this time, we would call Charles Everett  
10 Frierson.

11 (WHEREUPON, there was a pause in the proceedings until  
12 the witness entered the courtroom, after which the  
13 proceedings resumed as follows.)

14 THE CLERK: Sir, please place your left hand on the  
15 Bible and raise your right hand. Do you swear that the  
16 testimony you will give in this case will be the truth, the  
17 whole truth, and nothing but the truth, so help you God?

18 THE WITNESS: Yes, I do.

19 THE CLERK: Please be seated in the witness box and  
20 state your name for the record.

21 THE WITNESS: My full name is Charles Everett Frierson.

22 MR. TUCKER: Thank you, Your Honor.

23 CHARLES EVERETT FRIERSON, being  
24 first duly sworn, testified as follows:

25 DIRECT EXAMINATION

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

- 1 BY MR. TUCKER:
- 2 Q: Mr. Frierson, where do you live presently?
- 3 A: Around south Florence.
- 4 Q: Have you lived there for quite some time?
- 5 A: We just -- we just moved there back in October.
- 6 Q: Now, prior to that, where were you living?
- 7 A: Right down the street, 2980 Lamb Road, still in south
- 8 Florence.
- 9 Q: Let me ask you another way. How long have you lived in
- 10 South Carolina?
- 11 A: All my life.
- 12 Q: Florence County?
- 13 A: All my life.
- 14 Q: Now, let me first ask you in 2003 or 2001 rather, were
- 15 you charged and subsequently pled guilty to giving false
- 16 information to a police officer?
- 17 A: Yes, sir, I did.
- 18 Q: And what was that about?
- 19 A: I was working at UPS, playing jokes on the job. I
- 20 didn't have the mind frame then that I have now. I wrote the
- 21 word anthrax on a package box and when questioned about it, I
- 22 lied.
- 23 Q: And this was in 2001?
- 24 A: Yes, sir.
- 25 Q: Now, have you had any problems since then?

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 A: No, sir.

2 Q: Now, I want to draw your attention specifically to May  
3 the 5<sup>th</sup>, 2018. Do you recall where you were?

4 A: Yes, sir.

5 Q: Where were you at?

6 A: At the Downbeat Nightclub in Coward.

7 Q: Let's back up a little bit before the Downbeat Club. Do  
8 you recall where you were in the evening?

9 A: Home.

10 Q: Okay. When you say home, where is that?

11 A: 2980 Lamb Road.

12 Q: Who was with you?

13 A: Ernestine and Lawanda.

14 Q: Now, when you say Ernestine, you're referring to?

15 A: Tina.

16 Q: Are you referring to Ernestine Mack?

17 A: Yes.

18 Q: And when you say Lawanda, to whom are you referring?

19 A: My fiancée, Lawanda Johnson.

20 Q: Now, how long had you been engaged at that point to Ms.  
21 Johnson?

22 A: I want to say about two years. I want to say that. I'm  
23 not quite sure.

24 Q: Mr. Frierson, tip from a man who has been married about  
25 25 years. You might want to remember that if you don't

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 remember anything else.

2 Now, you say you were there with those two. Do you  
3 recall having a conversation with Latesha Newton that  
4 evening?

5 A: Yes, sir. I called her.

6 Q: Now, how do you know Ms. Newton?

7 A: She and I are members of the same motorcycle club.

8 Q: Now, when you say motorcycle club, which one are you  
9 referring to?

10 A: Razor Sharp MC.

11 Q: Now, what kind of motorcycle club is this, if you can  
12 describe it, please?

13 A: In my experience, it is a family-oriented club that just  
14 enjoy riding motorcycles, not locally. We prepare to ride  
15 long distance, but it's mostly family oriented.

16 Q: So again, we're not talking the Hells Angels or the  
17 Outlaws or anything like that, are we?

18 A: No, sir. We're not the one percent club.

19 Q: Okay. Now, that evening, you indicated that you had  
20 called Ms. Newton. What was the call in reference to?

21 A: To ask her if she would be interested in hanging out  
22 that night.

23 Q: Okay. And how did she respond?

24 A: She responded as she would be interested in hanging out.

25 Q: Okay. Now, subsequently, did you call her and did she

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 show up at your house?

2 A: Yes, sir, she did.

3 Q: Now, when she showed up, do you -- are you familiar with  
4 her vehicle?

5 A: Yes, sir.

6 Q: What kind of car was she driving at that time?

7 A: A black Dodge Charger.

8 Q: Now, on this particular occasion when she showed up, was  
9 there anyone in the car with her?

10 A: Yes, sir.

11 Q: Who was that?

12 A: I just know him as I was introduced by the name of Drae.

13 Q: Okay. Do you see that person in the courtroom here  
14 today?

15 A: Yes, sir.

16 Q: Could you point to him, please?

17 A: He's sitting there.

18 MR. TUCKER: And if the record will reflect that's  
19 Diondrae Jackson that Mr. Frierson has identified?

20 THE COURT: Yes, sir.

21 BY MR. TUCKER:

22 Q: So he was in the car with Ms. Newton when she showed up?

23 A: Yes, sir.

24 Q: Okay. And then what happened?

25 A: Ms. Newton then proceeded to introduce him to me,



CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 Ernestine, which is Ernestine Mack, which is Tina, and  
2 Lawanda Johnson.

3 Q: And then after the introductions, what occurred?

4 A: That's when we proceeded to get straight to get in the  
5 car and head on down to Coward to the Downbeat.

6 Q: Now, when you got in the car, who was sitting where in  
7 the car? Do you recall?

8 A: Latesha was driving. Drae was sitting in the front  
9 passenger side. I was sitting on the passenger side back.  
10 Lawanda Johnson was sitting in the middle back seat.

11 Ernestine Mack was sitting on the driver's side back seat.

12 Q: Now, your fiancée testified earlier about a gun that she  
13 had on her. Do you recall that incident where she had the  
14 car -- or the gun in the car?

15 A: Yes, sir. Her gun was in her car initially in the glove  
16 compartment.

17 Q: Now, who removed it from the glove compartment?

18 A: I did.

19 Q: And what was the reason for that?

20 A: When we go out, I like to take it for self-defense  
21 purposes because of everything that has been going on on the  
22 news about shootings happening at nightclubs. So I pretty  
23 much told Lawanda and I tell her all the time that I would --  
24 you know, when we go out, I ask her for permission, you know,  
25 for us to take her firearm with us.

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 Q: Okay. Now, do you recall where in the vehicle Lawanda's  
2 gun was placed when you got inside?

3 A: Yes, sir. Because the vehicle was so crowded, I put the  
4 firearm in the side pocket of the passenger-side back door.

5 Q: Okay. Did you -- to your knowledge, did it stay there  
6 the entire evening?

7 A: No, sir, it did not.

8 Q: Okay.

9 A: When we arrived to the Downbeat and we were getting out  
10 of the car, of course, I had to get out first so that Lawanda  
11 could exit the vehicle. Before I closed the door, the  
12 firearm was visible in the doorway. So I did not want to  
13 leave that firearm in that doorway visible with no one in the  
14 car. So I took the gun and I put it in Latesha's center  
15 console.

16 Q: Okay. Now, after that when y'all get down to the club  
17 and y'all get out and you put the gun in the console, what  
18 happened next?

19 A: We closed the doors of the car and I had my case of beer  
20 in her trunk. So Latesha opened her trunk for me so that I  
21 would be able to get me a couple of my beers out prior to  
22 going in the club.

23 Q: Had you been drinking earlier that evening?

24 A: Yes, sir, I had.

25 Q: Would you consider yourself to have been intoxicated or

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 inebriated at that point?

2 A: No, sir.

3 Q: All right. Now, if I could show you what's been marked

4 State's Evidence 6? If you'd look at your monitor, Mr.

5 Frierson? Now, can you see the picture there?

6 A: Yes, sir.

7 Q: Do you recognize that?

8 A: That's the Downbeat Nightclub.

9 Q: All right. And that's where y'all went that evening?

10 A: Yes, sir.

11 Q: Okay.

12 MR. TUCKER: State's 7.

13 Q: And do you recognize that point of view?

14 A: That is the front door entrance.

15 Q: Okay. Now, when you went in the Downbeat Club, what did  
16 you do when you got inside?

17 A: Lawanda and I -- we go out there pretty frequently. So  
18 when we first got inside, of course, I'm greeting people that  
19 I already know out there. And Lawanda and Ernestine Mack --  
20 they proceeded to go to the back area because there's two  
21 parts to that club. The front part consists of a bar and the  
22 dance floor. The back part also consists of a bar, but  
23 instead of a dance floor, there is a pool table and some --  
24 some sitting aisles.

25 Q: Okay.

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 A: Lawanda and Ernestine -- they went to sit at the bar on  
2 the two barstools closest to the doorway where it separates  
3 the two different parts of Downbeat.

4 Q: Okay.

5 MR. TUCKER: Let's see State's Evidence 19.

6 Q: Now, is that the area to which you were referring?

7 A: Yes, sir. That is the bar at which Ernestine Mack and  
8 Lawanda Johnson were sitting.

9 Q: And did you pay attention to where -- you referred to  
10 him as Drae -- Mr. Jackson went when he got inside the  
11 Downbeat Club?

12 A: When he first got in there, I cannot recall exactly  
13 where he went. No, sir, I cannot.

14 Q: Okay. But you were in the front part of the club; is  
15 that right?

16 A: No, sir. I was in the back with this -- the picture  
17 here where the bar -- the bar is where by the pool table.

18 Q: Okay.

19 A: Lawanda and Ernestine were sitting on the barstools and  
20 I was standing up because I had already opened my beer and  
21 started drinking it.

22 Q: Okay. At some point, did Mr. Jackson come into the back  
23 part area where you guys were at that point?

24 A: Yes, sir, he did.

25 Q: All right. Did you become aware at some point that

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 there was a pool game going on and there was somehow some  
2 kind of trouble involving or revolving around the pool game?

3 A: When I first observed him playing pool, which it was  
4 with my little cousin, there were no problems or altercations  
5 at that time.

6 Q: Okay. But did you become aware shortly thereafter or a  
7 little time later that there apparently was some kind of an  
8 issue?

9 A: Yes, sir, I did.

10 Q: Do you recall what the issue was?

11 A: Diondrae lost the first pool game. So he went to the  
12 bar to get him some more quarters. He put the quarters back  
13 up on the pool table. The gentleman -- I know him now as  
14 Maurice Hickson. He came behind him and also placed quarters  
15 onto the table. I do not know where Drae went after he put  
16 the quarters on the table, but by the time he returned to  
17 check on the status of when his turn was coming up, Maurice  
18 Hickson was already playing pool. So Diondrae was asking  
19 Maurice how are you playing when I put quarters up in front  
20 of you.

21 Q: And what did you observe next?

22 A: Maurice was basically being apologetic to him saying,  
23 man, we looked for you, but we could not find you. I don't  
24 have any change on me, but here is a five. The only thing I  
25 ask is that you go and get your change and bring me -- you

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 know, bring me my dollars back.

2 Q: And what happened after that?

3 A: Diondrae was very angry, using a lot of profane language  
4 and stating that he already went to the MF-ing bar, he's not  
5 going back to the bar. So one of Maurice Hickson's friends,  
6 I'm assuming, he said, you know what, it's not that serious.  
7 I'll go get the change. Give me the five.

8 Q: Do you recall how that friend that made that offer was  
9 dressed?

10 A: No, sir, I do not recall how he was dressed, but if I  
11 was to see him, I would -- I would know him.

12 Q: Okay. Do you recall what Maurice Hickson was wearing?

13 A: I want to say a red shirt. That's about all I can  
14 remember.

15 Q: Okay. Now, after this offer was made by this person who  
16 came up, what happened next?

17 A: Well, the gentleman -- he went and did what he said he  
18 was going to do. When he came back, he told Maurice here's  
19 your money, here is your ones, and here's your quarters. You  
20 give the quarters to whomever is supposed to have it.

21 Maurice put the money in his pocket and he said, here,  
22 man, here's your quarters. My bad. My bad. Diondrae still  
23 didn't want to hear that and so that's when Diondrae pretty  
24 much told him you're putting my MF'ing quarters on the table  
25 like the F I had them. So by then, which I can understand,

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 you know, Maurice has already tried to present himself as a  
2 gentleman, as in he didn't want any problems.

3 Q: Okay.

4 A: So by then, he was fed up. So Maurice -- he started  
5 backing up, you know, saying, you know what, then F you.  
6 Here's your quarters. You know, this -- still throwing  
7 quarters towards Diondrae.

8 Q: And up to this point, had you heard any threats made by  
9 Mr. Hickson or anybody else that was with Mr. Hickson towards  
10 Mr. Jackson?

11 A: No, sir, I did not.

12 Q: Did you notice if any -- either Mr. Hickson or anybody  
13 who was with him was armed?

14 A: No, sir.

15 Q: You didn't see a gun on them at all?

16 A: No, sir.

17 Q: What happened after that?

18 A: By then, Latesha and myself, as well as other people,  
19 came to try and separate the two. Diondrae was escorted  
20 outside. Maurice -- he remained on the inside and I did go  
21 to Maurice and I was pretty much apologizing, saying, man,  
22 I'm sorry, you know, this man -- he's never been out here  
23 before. And so Maurice was saying, you know what, I'm not  
24 tripping over no quarters because it's not that serious. So  
25 Maurice -- he went and he sat down and he was continuing his

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 evening as we all wanted to -- came out there to do and have  
2 a good time.

3 Q: At some point, did you go outside yourself?

4 A: Yes, sir, I did. I went outside to check on Drae and,  
5 when I got out there, I just saw him sitting in the passenger  
6 seat of the car with the door open.

7 Q: When you say the car, what are you referring to?

8 A: The black Dodge Charger.

9 Q: That y'all came there in?

10 A: Yes, sir.

11 Q: And he was in the passenger seat?

12 A: In the passenger seat basically sitting facing outward  
13 away from the car. So whenever I went to him, my words to  
14 him was, bro, are you all right. Before he could even answer  
15 me, the bouncer that was on duty that night -- he came to me  
16 and he said, Everett, what's going on. Okay.

17 At the time, I could not remember Maurice's name. So  
18 I'm trying to tell the bouncer what took place so the bouncer  
19 is asking me, well, who are you talking about. And I'm like,  
20 man, I cannot remember his name, but I can show you him. So  
21 me and the bouncer left and went back inside Downbeat.

22 That's when I escorted the bouncer over to Maurice.

23 Q: Okay.

24 A: And the bouncer and Maurice began talking. I'm assuming  
25 the bouncer was asking him was everything okay, is it going



CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 to be any further problems. I can't really elaborate on that  
2 conversation because I walked off and went back over to the  
3 bar where Ernestine Mack and Lawanda Johnson was.

4 Q: Okay. Subsequently, did you notice that Mr. Jackson and  
5 Ms. Newton came back into the back part of the Downbeat?

6 A: Yes, sir. Yes, sir.

7 Q: Do you recall about how much time elapsed when that  
8 occurred?

9 A: Maybe five minutes, ten minutes at the most.

10 Q: And that what happened?

11 A: I looked over. Looking at this picture for where he was  
12 sitting in there, he would have been -- he was to my right.  
13 Lawanda and Latesha -- I mean Lawanda and Ernestine were  
14 still seated on the barstools. There were maybe one to two  
15 barstools down where Drae was sitting and I did see Drae  
16 reach back to get a red cup from the bartender that was on  
17 duty. He was sitting there with a posture and he was just  
18 staring towards the whole -- the other side of the room where  
19 the bathroom was.

20 Q: Okay.

21 MR. TUCKER: If we could pull up State's Evidence 23?

22 Q: Now, is that the point of view that Mr. Jackson was  
23 looking towards?

24 A: Yes, sir, where the air conditioner is.

25 Q: All right. And that's where the people with whom he had

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 had the altercation were configured?

2 A: Yes, sir.

3 Q: All right. Then what happened?

4 A: He was -- Drae was just sitting there drinking his beer  
5 and he had a look on his face I've never seen a man have  
6 before, but he didn't say anything to them. He didn't get up  
7 out his seat, but he had this dark stare. He was drinking,  
8 possibly drinking the beer. The way I was standing by this  
9 time, I was standing facing the mirrors, which the way he was  
10 sitting, I was standing pretty much facing what was behind  
11 him. So whenever I, you know, look up to see what he was  
12 looking at, I was looking in the mirrors.

13 Q: Okay. What did you see?

14 A: That's when I saw a bunch of guys, along with Maurice  
15 Hickson. Maurice Hickson -- they were pretty much keyed in  
16 on him as well, and Maurice Hickson -- he was, you know,  
17 doing this as hand saying, you know, bring it on.

18 Q: Okay.

19 A: There were other people behind him in this area that  
20 appeared to be throwing up gang signs.

21 Q: Now, when you say gang signs, have you ever been in a  
22 gang?

23 A: No, sir, I haven't.

24 Q: So I mean when you say gang signs, it appeared that  
25 that's what they were, but you don't know for sure?

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 A: It appeared to be; correct.

2 Q: Now, did you notice amongst all that whether any of  
3 those guys were armed? Did you see a pistol on any of them?

4 A: No, sir, I did not see any -- I did not see any weapons  
5 with them.

6 Q: Did you hear any of them making any kind of verbal  
7 threats towards Mr. Jackson?

8 A: No, sir, I did not.

9 Q: And other than Mr. Hickson doing this, did you see  
10 anybody else acting provocatively towards Mr. Jackson?

11 A: No, sir, I did not.

12 Q: What happened next?

13 A: That's when Latesha -- she told me that she thinks we  
14 should go. Okay. I made the statement, like, man, I thought  
15 that junk was squashed. We just got here. Okay. Well, come  
16 on. We can leave. Okay. I told Lawanda, and Lawanda told  
17 Ernestine. So they were preparing to get out their chair  
18 when Latesha turned to grab him by the arm gently, basically  
19 to tell him, come on, let's go. He snatched away from her,  
20 jumped up out of the chair, came out of the waistband, and he  
21 aimed level straight back there by where the air conditioner  
22 is.

23 Q: And that's where these individuals were standing?

24 A: Yes, sir.

25 Q: And then what happened?

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 A: Latesha jumped in front of him, trying to point the gun  
2 away from being level to the sky. He pushed Latesha out of  
3 the way, ran back there, and the bathroom is to the left and  
4 that's where he proceeded to shoot in a manner of -- I call  
5 it unloading the clip. By this time, Latesha -- she's gone  
6 back there. She's hollering and screaming. When she got  
7 him, I already turned around, you know, to pretty much run  
8 out of that club.

9 Q: Okay. And again, did you see anybody else back there  
10 with a gun or shooting besides Mr. Jackson?

11 A: No, sir. No one else had a weapon.

12 Q: All right. And if you'll, again, look at State's --

13 MR. TUCKER: Go back to 25. Okay.

14 BY MR. TUCKER:

15 Q: And as we're looking back towards the back, there's that  
16 air conditioner you spoke of?

17 A: Yes, sir.

18 Q: Which way would the bathroom be in relationship to it?

19 A: To the left.

20 Q: Okay. So it would be to the left as we're looking that  
21 way?

22 A: Yes, sir.

23 Q: All right.

24 MR. TUCKER: And if I may approach, Your Honor?

25 THE COURT: Yes.

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 MR. TUCKER: Okay. If I may approach, Your Honor?

2 THE COURT: Yes.

3 BY MR. TUCKER:

4 Q: Mr. Frierson, I'm showing you what's been marked State's  
5 Evidence 51 and is this the bathroom area if you were looking  
6 into it?

7 A: Yes, sir, it is.

8 Q: Now, after the shots, what happened next?

9 A: After the shots, I was running. I was getting out of  
10 there.

11 Q: Okay. And then what's the next thing you recall?

12 A: Jumping into the car.

13 Q: Now, at this point, had Mr. Jackson and Ms. Newton  
14 already gotten into the car?

15 A: Yes, sir.

16 Q: Was there anybody else in the car at this point?

17 A: Ernestine and Lawanda.

18 Q: And so you were the last one to get in?

19 A: Yes, sir.

20 Q: And what was going on around you?

21 A: Pretty much a bunch of -- outside of the car, still on  
22 the property, a bunch of hollering, crying, and screaming.

23 Q: Okay. And what happened next?

24 A: Latesha -- she hightailed it out of there at a very high  
25 rate of speed, and I'm surprised we didn't go in the ditch.

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 Q: And the --

2 A: Because that road is made of gravel.

3 Q: And then what happened?

4 A: Latesha was screaming to the tip top of her lungs in  
5 that car, you know, how could you do this, why would you come  
6 out here and do this to me.

7 Q: And do you recall if Mr. Jackson responded?

8 A: No, sir, I can't because Latesha's voice was so loud and  
9 I was, you know, just out of it because I couldn't believe  
10 what just happened.

11 Q: Okay. Do you recall what happened next?

12 A: We were coming up 52 getting ready to pass by McCall  
13 Farms. That's when we saw the sheriff's unit. The sheriff's  
14 unit made the U-turn and I'm already looking behind me. I  
15 heard the window come down and I heard the change of the  
16 pitch of the wind. I heard that and so I already knew what  
17 that was.

18 Q: Okay. When you say you already knew what that was, what  
19 was it?

20 A: The gun being disposed of, being thrown from the  
21 vehicle.

22 Q: All right. So you distinctly heard that?

23 A: I heard the change of wind.

24 Q: Okay. And you heard the window come down?

25 A: Yes, sir.

## CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 Q: Okay.

2 A: But did I see the gun go out the window? No, sir, I did  
3 not.

4 Q: Okay. Now, after the blue lights came on, what happened  
5 next?

6 A: Latesha pulled over.

7 Q: And then what happened?

8 A: The officer -- he approached the vehicle on my side. We  
9 let the window down. I had my hands out of the -- out the  
10 window. He asked where we were coming from. I answered by  
11 saying Downbeat. He asked were there any weapons in the car.  
12 I told him yes. He asked me where was the weapon located,  
13 and I told him in the center console.

14 Q: Okay. And did you -- to your knowledge, did the officer  
15 retrieve the weapon at that point?

16 A: At that point, no, sir, he did not. He was waiting on  
17 other units to arrive, but when they did arrive and got us  
18 all out the car, they did find that weapon that I told him  
19 about.

20 Q: Do you know if that was the only weapon they found in  
21 that vehicle after that search?

22 A: I don't know if that was the only weapon, but I do know  
23 that weapon was found.

24 Q: Okay. Now, after they got y'all all out, were you able  
25 to go on your way shortly thereafter?

CHARLES EVERETT FRIERSON - DIRECT BY MR. TUCKER

1 A: About two hours later.

2 Q: Okay. And at some point thereafter, did you come to the  
3 Sheriff's Office and give Investigator Tilton a statement?

4 A: Yes, sir. That Monday afternoon is when I went down  
5 there and I spoke with the investigator, Mr. Tilton.

6 Q: And pretty much did you tell him the same thing in the  
7 statement that you testified here to today?

8 A: Yes, sir.

9 Q: And let me ask you this, Mr. Frierson. Do you recall  
10 what Mr. Jackson had on that evening?

11 A: Down to the T, I do not, but I do have some recollection  
12 of low-cut Adidas shoes, a baseball cap, and maybe, like, a  
13 gray shirt, but that is about it.

14 Q: Did you see him in the vehicle take the shirt off after  
15 the blue lights came on?

16 A: No, sir, I did not see him take it off, but I do know  
17 when the blue lights came on, he did have the shirt on.

18 Q: Okay.

19 MR. TUCKER: I believe those are all the questions I  
20 have, Your Honor.

21 THE COURT: All right. Cross?

22 MR. EDGEWORTH: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. EDGEWORTH:

25 Q: Good afternoon, Mr. Frierson.



## CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 A: Good afternoon.

2 Q: My name is Josh Edgeworth. Let's kind of cut to some of  
3 these points here. Now, you're indicating that during the  
4 pool match or the original pool match that Mr. Jackson was  
5 shooting pool with your cousin; is that correct?

6 A: Yes, sir.

7 Q: Okay. And what is your cousin's name?

8 A: Dwayne Myers.

9 Q: To your knowledge, was Mr. Myers ever interviewed as  
10 part of the investigation in this case?

11 A: No, sir. I'm not sure if he was or not.

12 Q: Okay. And -- and then you indicate that, you know, he  
13 lost the match and your testimony is that the individual  
14 involved in the argument is Mr. Maurice Hickson; is that  
15 correct?

16 A: Yes, sir.

17 Q: To your knowledge, was Mr. Hickson investigated or  
18 interrogated or questioned about this incident?

19 A: No, sir. I don't know.

20 Q: Now, how did you come to know the identity of Mr.  
21 Hickson when you testified that now you know him as?

22 A: Because I'm originally from the Coward area and I have a  
23 lot of family down there who knows a lot of people who are  
24 from the Olanta area.

25 Q: And so you --

## CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 A: And just by speaking with different family members about  
2 what took place is how I learned his name.

3 Q: So you obviously talked to others in the community  
4 following the incident; correct?

5 A: Yes, sir.

6 Q: Enough to hear?

7 A: Yes, sir.

8 Q: Okay. Now, shortly after the -- the incident, you  
9 indicated that you did, in fact, give a statement to law  
10 enforcement; correct?

11 A: Yes, sir.

12 Q: Including a recorded statement with Investigator Tilton;  
13 correct?

14 A: Yes, sir.

15 Q: Okay. And here today, you've indicated that you could  
16 see in this mirror that was located where?

17 A: Behind the bar, on the wall behind the bar. The wall is  
18 pretty much a mirror.

19 Q: Okay. So if you're sitting at the bar -- okay. Pretend  
20 you're the bar. You have a table here. There's a mirror up  
21 behind you?

22 A: Yes, sir.

23 Q: Okay. And there is -- these are the benches --

24 A: Yes, sir.

25 Q: Or the stools?

## CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

- 1 A: Yes, sir.
- 2 Q: Okay. So you're sitting at the stool; correct?
- 3 A: No, sir. I was never seated at the stool. I was only
- 4 standing at the stool.
- 5 Q: Okay. But you're standing on this side of the bar?
- 6 There was a doorway going to the -- to the club area, but
- 7 you're on the -- on the pool table --
- 8 A: Yes, sir.
- 9 Q: -- side; correct?
- 10 A: Yes, sir.
- 11 Q: Okay. And so you're looking at the mirror?
- 12 A: Yes, sir.
- 13 Q: And you -- you, in fact, see what you believe to be gang
- 14 signs; correct?
- 15 A: Yes, sir.
- 16 Q: Okay. Basically, threats to bring it on?
- 17 A: Yes, sir.
- 18 Q: Okay. And then you heard -- you indicated that -- said
- 19 that Ms. Newton attempted to get Mr. Jackson to leave;
- 20 correct?
- 21 A: Upon -- upon me observing in the mirror what I saw and
- 22 what she saw, she did, in fact, tell him to come on and let's
- 23 leave.
- 24 Q: It's time to go?
- 25 A: Yes, sir.

CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 Q: Okay. And then at some point, anyways, you saw Mr.  
2 Jackson begin to pull a gun; correct?

3 A: Yes, sir.

4 Q: Okay. At that time, are you looking at him?

5 A: Yes, sir. All of the attention was focused on him  
6 because of the -- the way he jumped out of the chair. That  
7 pretty much would grab anyone's attention.

8 Q: Right. So you're looking at him at this point then;  
9 correct?

10 A: Yes, sir.

11 Q: Okay. You're no longer looking in the back?

12 A: Right.

13 Q: Okay. So you don't know whether someone back there  
14 pulled a gun; correct?

15 A: No, sir.

16 Q: Okay. They could have pulled one?

17 A: Right.

18 Q: Yep. And when Mr. Jackson pushes Ms. Newton away, he  
19 could have been pushing her out of the way of what he  
20 perceived to be gunfire; right?

21 A: Could possibly.

22 MR. TUCKER: Objection, Your Honor. That calls for  
23 speculation.

24 THE COURT: Sustained.

25 BY MR. EDGEWORTH:

CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 Q: But he definitely pushed her out of the way?

2 A: He pushed her out of the way as in he was trying to  
3 launch forward and she was standing in front of him.

4 Q: She was right in front of him; right?

5 A: Yes, sir.

6 Q: Okay. Now, when you went outside to, according to your  
7 testimony, check on Mr. Jackson, he was out there in the car  
8 smoking a cigarette?

9 A: I cannot recall if he was smoking a cigarette or not.

10 Q: He was at the car though?

11 A: He was sitting in the passenger seat.

12 Q: And the bouncer, Mr. Harrison, came out there as well?

13 A: He was already out there.

14 Q: Okay. And then he went back inside?

15 A: No. Whenever I came out there to ask Diondrae was he  
16 okay, that's when Mr. Harrison, the bouncer, asked me what  
17 was going on, what took place. And whenever I described to  
18 him what happened, that's when he wanted to know who did the  
19 alternation take place with. At the time, I did not know a  
20 name, but I did know exactly who he got into it with.

21 Q: All right. You gave Mr. Harrison the description of  
22 whoever it was that was in the argument; right?

23 A: Yes, sir.

24 Q: And then he left?

25 A: No, sir. He asked me to escort him back inside to

CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 pretty much identify who I was talking about.

2 Q: Okay.

3 A: Because the description that I was giving wasn't -- it  
4 wasn't good enough for him.

5 Q: Okay. And you -- you're saying that as -- as -- as  
6 there were shots fired -- right? You said unloading the  
7 clip. How many shots did you hear?

8 A: Honestly, I could not count.

9 Q: Okay. But -- so when you say unloading the clip, you  
10 really just don't know how many shots were fired? You're  
11 just using that as a term of art?

12 A: Yes, sir.

13 Q: Okay. Now, do you recall the content -- the contents of  
14 your conversation with Investigator Tilton?

15 A: Yes, sir.

16 Q: Okay. Do you recall attempting to bring up a memorial  
17 video on Facebook while you were in there?

18 A: Yes, sir, I do.

19 Q: Okay. And what was on that video?

20 A: It was a picture of the gentleman Drae got into it with,  
21 which is Maurice Hickson.

22 Q: Okay. Were you ever able to get that?

23 A: No, sir, I wasn't.

24 Q: Do you recall telling the investigator that you were  
25 worried about threats you were receiving?

CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 A: Yes, sir. Because I have children in Olanta and I have  
2 court-ordered visitation where I have to go down there every  
3 other weekend.

4 Q: But you were receiving threats?

5 A: No, sir. I never received a threat directly, but I did  
6 hear of threats that were being made. So I cannot truthfully  
7 tell you that anyone has threatened me.

8 Q: Okay. But were you in fear of threats?

9 A: Yes, sir. I was in fear of threats.

10 Q: And -- and you were in fear that those threats could be  
11 taken out?

12 A: Yes, sir.

13 Q: Okay. You were -- you were so fearful that you actually  
14 asked Investigator Tilton whether they could provide you with  
15 protection; correct?

16 A: Yes, sir.

17 Q: Was that ever provided to you?

18 A: No, sir.

19 Q: You're familiar with the Downbeat Club?

20 A: Yes, sir, I am.

21 Q: You go there often?

22 A: Yes, sir, I did.

23 Q: You take your gun when you go?

24 A: It's -- I don't have a gun. The gun that was in the car  
25 belongs to my fiancée, but yes, when we go out there, we do

## CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 take the gun.

2 Q: And is that because it has a reputation for violence?

3 A: No, sir. It was because of the things that were being  
4 heard of on the news about the craziness going on in the  
5 world and, like I told the investigator, we take that firearm  
6 strictly for self-defense purposes.

7 Q: Okay. And I understand that, but do you have any  
8 knowledge of any other prior instances at the Downbeat?

9 A: Yes, sir, I do.

10 Q: There has been other shootings at that -- at that club;  
11 correct?

12 A: Yes, sir.

13 Q: And to your knowledge, Mr. Jackson has never been there;  
14 right?

15 A: No, sir.

16 Q: Okay. Do you know -- do you have any knowledge whether  
17 the Downbeat Club is a hangout for a street gang called the  
18 Bloods?

19 A: No, sir.

20 Q: Do you have any knowledge whether the Downbeat is a  
21 hangout for any type of gang?

22 A: No, sir.

23 Q: Okay. You indicated that you recognized at least  
24 something that appeared to be gang -- gang signals or symbols  
25 in the -- in the mirror; right?



## CHARLES EVERETT FRIERSON - CROSS BY MR. EDGEWORTH

1 A: Yes, sir.

2 Q: Okay. Are you familiar with gangs in general?

3 A: I'm familiar with the names, but as far as any further  
4 education about gangs, I'm not.

5 Q: Okay. Were there multiple individuals there that were  
6 wearing the color red?

7 A: Yes, sir.

8 Q: Do you know what kind of association that may have with  
9 any gangs?

10 A: None with any gangs.

11 Q: Okay. As we sit here today, are you still in fear of  
12 any threats?

13 A: Zero to a hundred percent, I would say 30 percent.

14 Q: Okay. So you still have some fear?

15 A: Yes, sir.

16 Q: Are you fearful of your testimony here today?

17 A: No, sir, I'm not.

18 MR. EDGEWORTH: I have no further questions for this  
19 witness.

20 THE COURT: All right. Redirect?

21 MR. TUCKER: Nothing on redirect, Your Honor.

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

23 Call your next witness.

24 MR. TUCKER: Your Honor, at this time, the State would  
25 call Samantha Gibson.

SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 (WHEREUPON, there was a pause in the proceedings until  
2 the witness entered the courtroom, after which the  
3 proceedings resumed as follows.)

4 THE CLERK: Ma'am, please place your left hand on the  
5 Bible and raise your right hand. Do you swear that the  
6 testimony you will give in this case will be the truth, the  
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: Yes, ma'am.

9 THE CLERK: Please be seated in the witness box and  
10 state your name for the record.

11 THE WITNESS: Samantha Gibson.

12 THE COURT: Yes, sir.

13 MR. TUCKER: May it please the Court.

14 SAMANTHA GIBSON, being first  
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TUCKER:

18 Q: Ms. Gibson, where do you live?

19 A: In Scranton.

20 Q: And how long have you lived there?

21 A: Three months.

22 Q: Prior to Scranton, where did you live?

23 A: Florence.

24 Q: And how long have you lived in Florence?

25 A: All my life.

SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 Q: Okay. Well, it's nothing to be ashamed of. Shout it  
2 right out there. Now, were you working as a bartender on or  
3 about May the 6<sup>th</sup>, 2018 --

4 A: Yes, sir.

5 Q: -- at the Downbeat Club in Coward?

6 A: Yes.

7 Q: What's your affiliation with the club?

8 A: Well, with me, it's kind of a family-owned business. So  
9 then another side of my family took over and I was helping  
10 bartend.

11 Q: Now, how long had you been working there prior to May  
12 the 6<sup>th</sup>?

13 A: A couple months.

14 Q: Now, I want to direct your attention to around midnight  
15 on May the 6<sup>th</sup>. Did you happen to see Latesha Newton, Charles  
16 Everett Frierson, Ms. Ernestine Mack, and Lawanda Johnson  
17 come into the Downbeat Club?

18 A: I know Everett. I remember him, but -- and I remember  
19 his fiancée. I don't know her name. And the other lady, I  
20 don't know her personally, but I glanced at her because I saw  
21 her because I saw her with Diondrae Jackson.

22 Q: Okay. Now, you pointed at the defendant. That's  
23 Diondrae Jackson?

24 A: Yes.

25 Q: He was with them that evening?

## SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 A: Yes.

2 Q: What do you recall happening after they came into the  
3 club?

4 A: Well, at first, they just came in and sat down at the  
5 bar. He was on the other side.

6 Q: Now, let me ask you this. Now, when you say the bar,  
7 we've seen pictures of the Downbeat. There's a bar on the  
8 front part of the club that runs the length and that goes  
9 into the back room. Which part of the club were they in at  
10 this point?

11 A: On the backside.

12 Q: Back where the pool table is at?

13 A: Yes.

14 Q: Okay. And what did you notice at that point?

15 A: Well, at that time, there was really nothing to notice.  
16 Diondrae walked over and he was, like, can I get a bottle of  
17 water.

18 Q: Okay.

19 A: So I passed him a bottle of water and I went on about my  
20 business.

21 Q: Now, let me ask you this. Prior to their arrival, had  
22 there been any trouble that evening there at the Downbeat  
23 Club?

24 A: No, sir.

25 Q: And I saw a banner that said happy birthday. Were y'all

SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 having a birthday party for somebody on that evening?

2 A: Yes, sir.

3 Q: Again, had there been any fights or altercations prior  
4 to their arrival?

5 A: No, sir.

6 Q: Now, after you gave him the bottle of water, what  
7 happened next?

8 A: As I recall, nothing at the time that I remember.

9 Q: Okay. Did you become aware of an altercation at or near  
10 the pool table?

11 A: I never heard the argument that they had going on in the  
12 back.

13 Q: Were you back there when Mr. Jackson and Ms. Newton left  
14 and went outside?

15 A: I seen them walk by and went outside and I seen them  
16 come back in and go back to the back.

17 Q: Okay. Did you -- you said you saw them come back in?

18 A: Yes.

19 Q: Did you -- do you recall which part of the club they  
20 went to when they came back in?

21 A: Back to the back.

22 Q: That's back where the pool table is at?

23 A: Yes.

24 Q: Did you become aware of something after they came back  
25 in in terms of an altercation or an incident?

## SAMANTHA GIBSON - DIRECT BY MR. TUCKER

- 1 A: No. I didn't -- again, I didn't hear any of the  
2 altercation that was going on in the back because I work on  
3 the opposite side of the bar where the DJ plays the music.  
4 How I knew something was going on is when I heard the first  
5 gunfire and I looked in the back, but --
- 6 Q: Okay.
- 7 A: -- I heard it first.
- 8 Q: When you heard the first gunshot and you looked in the  
9 back, what did you see?
- 10 A: Diondrae Jackson. He was standing there up against the  
11 bar and he was just -- he fired the gun the first time and I  
12 looked. Then he fired the gun again and, as he was firing,  
13 he just started walking towards whoever he was aiming at.
- 14 Q: Now, when you say he was walking towards, was he walking  
15 towards the back area --
- 16 A: Yes.
- 17 Q: -- where the bathroom is at?
- 18 A: (No verbal response.)
- 19 Q: Okay. And you saw Diondrae Jackson with a gun in his  
20 hand pull the trigger?
- 21 A: Yes.
- 22 Q: And you weren't aware of what caused the earlier  
23 altercation?
- 24 A: No.
- 25 Q: Now, after the gunfire, what happened next?

SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 A: Well, I just seen everybody just scattering all over the  
2 place. They left. It was like that. The next thing I know,  
3 the officer came and they started asking questions.

4 Q: Okay. Now, again, prior to that incident with Diondrae  
5 Jackson and a firearm, did you see anybody else in the club  
6 with firearms that evening?

7 A: No, sir.

8 Q: Now, Mr. Edgeworth asked Mr. Frierson about gang  
9 activity. Are you aware of any gang activity that goes on  
10 pervasively there at the Downbeat Club?

11 A: No.

12 Q: Do people routinely wear red clothing into the Downbeat  
13 Club?

14 A: Yes. It's a club. You can wear whatever you choose.

15 Q: Would you consider red to be a popular color there?

16 A: No, not really.

17 Q: So worn no more frequently than any other color?

18 A: No.

19 Q: And again, it's not a haven that you know of in terms of  
20 the Bloods or any other gang?

21 A: No.

22 Q: Now, again, after the shooting, you talked to law  
23 enforcement?

24 A: Yes.

25 Q: And did you subsequently go to the Sheriff's Office

SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1     sometime thereafter and give a statement to Investigator  
2     Tilton?

3     A:    Yes.   I went on that Monday.

4     Q:    Okay.  Did Investigator Tilton ask you to take a look at  
5     a six-person photo array and see if you could pick out the  
6     person you saw shooting the gun?

7     A:    Yes.

8     Q:    Okay.

9           MR. TUCKER:  And, Your Honor, if I may approach?

10          THE COURT:  You may.

11     BY MR. TUCKER:

12     Q:    And is this the photo array that Investigator Tilton  
13     showed you?

14     A:    Yes.

15     Q:    Okay.  And of those pictures, which one did you select?

16     A:    That one.

17     Q:    And that's the individual you saw shooting the gun?

18     A:    Yes.

19     Q:    And there are some initials that are circled around  
20     that.  Whose initials are those?

21     A:    Mine.

22           MR. TUCKER:  And, Your Honor, at this time, I would ask  
23     that this be marked for exhibit purposes and I'll move it  
24     into evidence when Investigator Tilton testifies as 52.

25          THE COURT:  All right.



SAMANTHA GIBSON - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Now, Ms. Gibson, let me ask you a couple of other  
3 questions. Did you happen to notice what Mr. Jackson had on  
4 that evening in terms of clothing?

5 A: I don't know what kind of pants he had on, but he had on  
6 a gray T-shirt with red writing on it. I don't know what the  
7 writing said. I just know that the shirt was gray and it had  
8 red writing on it.

9 Q: Okay. And again, was there anything else that you  
10 noticed about the shirt?

11 A: No.

12 Q: Okay.

13 MR. TUCKER: I beg the Court's indulgence, Your Honor.  
14 That's all the questions I have, Your Honor.

15 THE COURT: All right. Cross?

16 MR. EDGEWORTH: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. EDGEWORTH:

19 Q: Good afternoon, Ms. Gibson.

20 A: Good afternoon.

21 Q: How long have you worked down at the Downbeat?

22 A: I'd been there for a while, a couple of months.

23 Q: Okay. Well, we're almost coming up on a year since this  
24 incident. So prior to that, how long had you worked?

25 A: Before the incident?

## SAMANTHA GIBSON - CROSS BY MR. EDGEWORTH

1 Q: Uh-huh.

2 A: A couple of months.

3 Q: Okay. And I was just making sure we were clear --

4 A: Okay.

5 Q: -- because we're talking about the incident. Since that  
6 time, has there -- have you been -- how often do you work?

7 A: I go -- I still go there, like, every other weekend or  
8 so when I'm not on my regular job.

9 Q: Okay. And since you've been there, has there been any  
10 other instances of violence at the club?

11 A: No, sir.

12 Q: None to your knowledge?

13 A: No.

14 Q: Okay. Now, on this particular night, you were working  
15 at the front bar; right?

16 A: Yes.

17 Q: And the only way to see back in that direction is  
18 through the doorway essentially that leads to the pool table  
19 room; right?

20 A: No. This -- if this is the bar, we have two entrances.  
21 For the bar side, it's another entrance. You can stay on the  
22 inside behind the bar and just go through the walkway right  
23 there.

24 Q: Okay. So -- well, okay. Thank you. So -- so the  
25 walkway for the -- for the bar itself goes all the way to the

## SAMANTHA GIBSON - CROSS BY MR. EDGEWORTH

1 back?

2 A: Yes.

3 Q: Okay. But you were working in the front; right?

4 A: Yes.

5 Q: Okay. At any time, were you working in the back?

6 A: No. I wasn't actually working in the back. Like, if  
7 they wanted something, they would just come up to the side  
8 bar and say hey or something and I would go.

9 Q: There was no other bartender; right?

10 A: No. Yeah. We had two bartenders.

11 Q: Okay. Who was the other bartender?

12 A: My best friend.

13 Q: And what is her name?

14 A: Brittany.

15 Q: Okay. Is that Brittany Heriot?

16 A: Yes.

17 Q: Was she -- was she primarily in the back or was she up  
18 front with you?

19 A: She was up front with me.

20 Q: Okay. So for most of the night, if not all of the  
21 night, all the bartenders were on the front side where the  
22 club part was; correct?

23 A: Yes.

24 Q: Okay. And people in the back would have to come to the  
25 front to get a drink if they needed one?

## SAMANTHA GIBSON - CROSS BY MR. EDGEWORTH

1 A: Yes.

2 Q: Okay. Do you -- and do you recall Mr. Jackson ordering  
3 anything from you?

4 A: A bottle of water.

5 Q: Okay. Do you recall him getting a beer from you?

6 A: No.

7 Q: Is it possible that he got a beer from Ms. Heriot?

8 A: I can't answer that.

9 Q: Okay. You have no knowledge?

10 A: Right.

11 Q: All right. So when you heard the gunshot, you weren't  
12 actually looking in the back; correct?

13 A: No.

14 Q: Okay. So then you turned?

15 A: Yes.

16 Q: Okay. And your testimony is that you saw another  
17 gunshot; is that right?

18 A: Yes.

19 Q: How many gunshots did you hear that night?

20 A: I'm not sure, but it was several.

21 Q: Okay. Do you recall telling the investigator it was  
22 either four or five or six?

23 A: It could have been, but I'm not -- I wasn't keeping  
24 count, but I know it was more than one or two.

25 Q: Okay. But do you recall saying that?

## SAMANTHA GIBSON - CROSS BY MR. EDGEWORTH

1 A: Yes.

2 Q: Okay. Once the first shot happened, people started  
3 running out of the club?

4 A: Yes.

5 Q: Okay.

6 MR. EDGEWORTH: Court's indulgence, Your Honor.

7 THE COURT: Uh-huh.

8 BY MR. EDGEWORTH:

9 Q: Now, when -- the investigator had you come in, like, a  
10 couple days later; right?

11 A: Uh-huh.

12 Q: Okay. And you spoke to him and --

13 THE COURT: Is that a yes? You need to say yes or no.

14 THE WITNESS: I'm sorry. Yes.

15 MR. EDGEWORTH: Okay.

16 BY MR. EDGEWORTH:

17 Q: And you gave a statement; right?

18 A: Yes.

19 Q: Okay. And at some point in time, in fact, they -- they  
20 gave you this lineup that you just looked up; right?

21 A: Yes.

22 Q: Do you recall what you told the investigator at the time  
23 of the lineup?

24 A: I don't remember.

25 Q: When he asked you to identify someone in this -- in this

SAMANTHA GIBSON - CROSS BY MR. EDGEWORTH

1 line up, do you recall what you told him?

2 A: I don't remember. I just know I pointed him out of the  
3 lineup.

4 Q: Okay. Did you -- do you recall telling him that you  
5 knew several people in this lineup?

6 A: I don't know. I might be do. Let me see. I do know  
7 somebody else in that lineup.

8 Q: Okay. Thank you.

9 A: Uh-huh.

10 Q: Since the initial conversation with -- with law  
11 enforcement that was recorded, have you spoken to law  
12 enforcement since then?

13 A: Besides about getting ready to come to court?

14 Q: Sure. When did you talk to them?

15 A: Maybe last week. Somebody called on Thursday and said  
16 that I needed to --

17 Q: Did they talk to you about your testimony here today?

18 A: No. They just told me I needed to show up for court.

19 Q: Okay. Thank you for your time.

20 MR. EDGEWORTH: No further questions, Your Honor.

21 THE COURT: All right. Redirect?

22 MR. TUCKER: Nothing on redirect, Your Honor.

23 THE COURT: You may step down.

24 Call your next witness.

25 MR. TUCKER: Your Honor, at this point, the State would

RONALD OLIVER - DIRECT BY MR. TUCKER

1 call Ronald Oliver.

2 (WHEREUPON, there was a pause in the proceedings until  
3 the witness entered the courtroom, after which the  
4 proceedings resumed as follows.)

5 THE CLERK: Sir, please place your left hand on the  
6 Bible and raise your right hand. Do you swear that the  
7 testimony you will give in this case will be the truth, the  
8 whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: Yes, ma'am.

10 THE CLERK: Please be seated in the witness stand and  
11 state your name for the record.

12 THE COURT: State your name.

13 THE WITNESS: Ronald Oliver.

14 MR. TUCKER: Thank you, Your Honor. May it please the  
15 Court.

16 RONALD OLIVER, being first  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. TUCKER:

20 Q: Mr. Oliver, you're a pretty tall guy, but I'm going to  
21 need you to lift your voice up just a little bit so everybody  
22 can hear you. Okay?

23 A: Yes, sir.

24 Q: Mr. Oliver, where do you live?

25 A: Olanta.

RONALD OLIVER - DIRECT BY MR. TUCKER

1 Q: And have you been a resident of Olanta pretty much your  
2 adult life?

3 A: Yes, sir.

4 Q: Let me ask you this, Mr. Oliver. It's not a pleasant  
5 topic, but I need to ask you nonetheless. In 2012, were you  
6 convicted or pled guilty to accessory after the fact to a  
7 felony?

8 A: Yes, sir.

9 Q: And did you receive what is commonly referred to as a  
10 youthful offender sentence?

11 A: Yes, sir.

12 Q: Since then, did you receive a 2017 conviction for simple  
13 possession of marijuana?

14 A: Yes, sir.

15 Q: Now, let me ask you -- I want to direct your attention  
16 back to May the 5<sup>th</sup>, the evening of, following into the  
17 morning of May the 6<sup>th</sup>, 2018. Okay?

18 A: Yes, sir.

19 Q: Now, let me first ask you are you a member of the Bloods  
20 street gang?

21 A: No, sir.

22 Q: Was that a no?

23 A: Yes, sir.

24 Q: You said yes or no?

25 A: I said no. I was just making sure you heard me.



RONALD OLIVER - DIRECT BY MR. TUCKER

1 Q: Okay. Now, in terms of what you were doing on that  
2 evening, do you recall how you came to be at the Downbeat  
3 Club that evening on May the 5<sup>th</sup>?

4 A: Yes, sir. Honestly, I don't even go out. Like, you  
5 probably catch me probably going out, like, probably once or  
6 twice a year out the whole year. Like, I was actually  
7 staying in Timmonsville, but me and my girl had got into a  
8 little argument. So I was, like, well, I'm going to go to  
9 Olanta for the weekend to my hometown just to chill, just to  
10 calm down. So I went to Olanta.

11 Q: How about now? Do you wish you had stayed home with  
12 your girlfriend in Timmonsville?

13 A: Tell me about it. So I went down there. I was  
14 chilling, having a good time. Everybody -- it was Saturday.  
15 Everybody was, like, they was going out. So I was, like,  
16 well, I'm going to go out. I'm going to go have fun, enjoy  
17 myself because I don't go out like that. So I'm like I'm  
18 going to go out and enjoy myself.

19 Q: Okay. Do you recall who you went to the Downbeat Club  
20 with?

21 A: Yes, sir.

22 Q: Who was that?

23 A: Me, my sister, my sister's baby daddy, and my cousin.

24 Q: Okay. Could you give me the name of your sister and  
25 your sister's baby daddy?

## RONALD OLIVER - DIRECT BY MR. TUCKER

1 A: Andrika [ph] Oliver and Jermaine Hickson.

2 Q: Okay. Now, to your knowledge, are any of your family  
3 members members of the Bloods street gang?

4 A: Not that I know of. They just -- I guess they just wear  
5 what they wear.

6 Q: Okay.

7 A: I mean I got a lot of people in my -- where I'm from  
8 wear a lot of colors. They wear blue. They wear yellow.  
9 They wear red. They wear what they want to wear.

10 Q: Okay. Now, when you go to the Downbeat Club that  
11 evening with your family, when you get there, about what time  
12 of the evening did you get there?

13 A: I got there -- I got there, like, I want to say at least  
14 -- I want to say at least about one. One -- I want to say  
15 about 1 o'clock, 12:30, 1 o'clock.

16 Q: Was this in the a.m.?

17 A: Yes, sir.

18 Q: Okay.

19 A: About two or three in the morning.

20 Q: Now, do you recall what you did when you first got  
21 there?

22 A: What I did? I walked in. When I got there, me and my  
23 sister and my sister's baby daddy, we got out the car. We  
24 was going in the club. We walked in the club. My friend,  
25 Spates, he was behind me. He walked --

## RONALD OLIVER - DIRECT BY MR. TUCKER

1 Q: Now, when you say your friend Spates, to whom are you  
2 referring?

3 A: Malcolm.

4 Q: Malcolm Spates?

5 A: Malcolm Spates.

6 Q: Okay.

7 A: All right. So they was walking in the club too. So I  
8 got in the club. I was just walking around enjoying myself.  
9 I ain't messing with nobody, ain't bothering nobody, just  
10 doing what I'm doing, having fun. So I'm just enjoying  
11 myself. So I just hear a lot in confusion. So I just  
12 walked. I walked to the restroom. I went to use the  
13 restroom. I walk out the restroom.

14 Q: Now, let me first ask you about the restroom. Is there  
15 more than one restroom in the Downbeat Club?

16 A: There's two restrooms.

17 Q: Okay. Which one did you use?

18 A: There's one in the front. I was in the one in the back.

19 Q: Okay.

20 A: I was going to the one in the front, but when I got to  
21 the one in the front, somebody was in the one in the front.  
22 So I was, like, well, I'm going to go to the back to use the  
23 one in the back.

24 Q: And that's where the pool table and the back bar is at?

25 A: That's where the pool table at. Yes, sir.

RONALD OLIVER - DIRECT BY MR. TUCKER

1 Q: Now, had you been in the back area at any point prior to  
2 that that evening?

3 A: Yes, sir. I'd been in the back, like, most of the whole  
4 time I was -- I was at the club.

5 Q: Okay.

6 A: I've been in the back and the front.

7 Q: Now, in addition to Malcolm Spates, was there anybody  
8 else in the back part area that you knew?

9 A: I mean a lot of people.

10 Q: Okay. Now, you said you went into the back part area to  
11 use the bathroom?

12 A: Yes, sir.

13 Q: And then what happened?

14 A: I went in the back to use the restroom. I came out.  
15 Like, I was walking out the restroom. The only thing I seen  
16 was the girl, Latesha or whatever her name was, I just seen  
17 her at the bar, her and Diondrae. So I'm walking out the  
18 restroom and I see his hand in the air and I see her trying  
19 to hit -- put -- hit his hand down. So that's when I heard  
20 the gunshot went off. So when I heard the gunshot, I'm like  
21 I don't know what's going on. So I'm scared for my life. So  
22 I ran back in the bathroom. So --

23 Q: Let me ask you first, Mr. Oliver, now, when you said  
24 that you saw Diondrae, are you referring to the defendant in  
25 this case, Diondrae Jackson?

## RONALD OLIVER - DIRECT BY MR. TUCKER

1 A: Yes, sir.

2 Q: And when you walked out of the bathroom, you say you saw  
3 him with a gun in his hand?

4 A: Yes, sir. And I saw the girl, Latesha.

5 Q: Okay. Now, after the gunshot, you said you went right  
6 back into the bathroom?

7 A: Yes. When I -- when I -- when I realized -- because I  
8 thought I was tripping at first. When I realized that he was  
9 really shooting, that's when I was, like, oh, he's shooting  
10 for real. So I ran back in the bathroom. When I ran back in  
11 the bathroom, a couple of my friends ran in the bathroom with  
12 me. He was shooting. He ran back there. He came back there  
13 to the bathroom. He started shooting through the bathroom  
14 door.

15 Q: Okay. And what happened after that?

16 A: What happened after that? He came in there. He started  
17 shooting. He kicked the door. He shot through the bathroom  
18 door. He kicked the door in. He shot and then he ran. He  
19 fled.

20 Q: Now, when he -- you say he came into the bathroom and he  
21 shot. Did he shoot anybody that you were aware of?

22 A: Me.

23 Q: Okay. That's what I was getting at. You got shot?

24 A: Yes, sir.

25 Q: Do you recall if you were shot more than once?

## RONALD OLIVER - DIRECT BY MR. TUCKER

1 A: No, sir.

2 Q: Now, obviously you felt herself being shot; is that  
3 correct?

4 A: Yeah.

5 Q: Now, let me ask you this. Prior to you walking out of  
6 the bathroom and seeing Mr. Jackson with a gun and hearing  
7 the gunshot, had you had any kind of prior altercation with  
8 Mr. Jackson earlier?

9 A: No, sir. I don't -- I don't even know Mr. Jackson. I  
10 ain't never got in any kind of argument with him. I ain't  
11 never met him a day in my life. I don't even know Mr.  
12 Jackson.

13 Q: And so you weren't arguing with him about a pool game or  
14 anything like that?

15 A: No, sir. Me and him ain't never got into it.

16 Q: Now, when you say that when you ran back into the  
17 bathroom, there were some friends that tried to -- or ran  
18 into the bathroom with you?

19 A: Yes, sir.

20 Q: Do you recall who they were?

21 A: I recall a couple of them.

22 Q: Well --

23 A: But it was so -- it was so tragic that night, I was so  
24 scared my nerves was so up so much, I couldn't really  
25 concentrate because I was scared. Like, I ain't never been

RONALD OLIVER - DIRECT BY MR. TUCKER

1 through nothing like that before.

2 Q: I can understand that. Now, after you were shot, were  
3 you subsequently taken to a hospital?

4 A: Yes, sir. I was rushed to the hospital.

5 Q: And did you subsequently receive any kind of medical  
6 treatment?

7 A: Yes, sir.

8 Q: And what kind of medical treatment did you receive?

9 A: I had -- I had two surgeries. I had -- I had to learn  
10 -- basically learn how to walk again. I had a catheter.  
11 Yeah, I've been through -- I've been through really a lot.

12 Q: Okay. How long did you stay in the hospital? Do you  
13 recall?

14 A: I was in the hospital for, like -- the first time I was  
15 in the hospital for, like, a month and a half, and then they  
16 let -- they thought -- well, they thought I was well; so they  
17 let me go home. I went home for, like, a week and then I  
18 started back throwing up gangrene -- gangrene. So they had  
19 to put me back in the hospital. So I had to stay in the  
20 hospital for, like, two more months before they let me go  
21 home. They had to do another surgery on me because my  
22 intestines was twisted in my insides.

23 Q: Okay. And are you still suffering from any sort of  
24 physical challenges as a result of your being shot?

25 A: Oh, yes, sir.

## RONALD OLIVER - DIRECT BY MR. TUCKER

1 Q: What are those?

2 A: Pain, like, in my stomach right there. Like, if I try  
3 to move the wrong way or something, like, it'll hurt. Or  
4 when it get cold and it start raining, you know, I have pain.

5 Q: Now, let's back up to that moment just before you were  
6 shot. Did you look at the man as you were in the bathroom  
7 that shot you?

8 A: Yes, sir.

9 Q: And who was the man who shot you?

10 A: Mr. Jackson.

11 Q: Okay. And you're pointing at the defendant, Diondrae  
12 Jackson?

13 A: Yes, sir.

14 MR. TUCKER: I believe those are all the questions I  
15 have, Your Honor.

16 THE COURT: All right. Cross?

17 MR. EDGEWORTH: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. EDGEWORTH:

21 Q: Mr. Oliver, were you in the bar area at the time of the  
22 -- the argument over the pool game?

23 A: No, sir. I ain't recognize none of that. I ain't even  
24 know they got into an argument. Like I -- like I said, I  
25 ain't -- I didn't even know what was going on.



## RONALD OLIVER - CROSS BY MR. EDGEWORTH

- 1 Q: Do you -- you said you went there with your sister and  
2 her baby daddy; right?
- 3 A: Yes, sir.
- 4 Q: And his name is what?
- 5 A: Jermaine Hickson.
- 6 Q: Is it -- is he also known as Maurice Hickson?
- 7 A: No, sir.
- 8 Q: Not the same person?
- 9 A: No, sir.
- 10 Q: Okay. Do you recall giving a statement at the hospital?
- 11 A: No, sir. I don't recall. I don't know. I was out of  
12 it. Like, I just -- I was so drugged up, I don't really  
13 remember. I remember the police coming there to the -- to  
14 the hospital to see me, but I don't remember giving no  
15 statement. I can't recall because I was out of it.
- 16 Q: Okay. Did -- well, how long -- how long were you there  
17 in the hospital before they came, if you can recall?
- 18 A: Probably, like, a week -- three -- three -- four --  
19 three -- four -- five days.
- 20 Q: So an extended period of time; right?
- 21 A: Yes, sir.
- 22 Q: Okay. Do you recall them doing a GSR kit on you?
- 23 A: No, sir. I don't recall.
- 24 Q: You don't recall that? Okay. Do you recall telling  
25 them that -- that your friend, Maurice, was arguing with

## RONALD OLIVER - CROSS BY MR. EDGEWORTH

- 1 another guy over a pool game?
- 2 A: No, sir. I don't recall.
- 3 Q: The -- Mr. Spates -- he's a friend of yours?
- 4 A: Yes, sir.
- 5 Q: Okay. How long had you known him?
- 6 A: I've known Spates all my life. We grewed up together.
- 7 Q: Okay. Did you go to his memorial?
- 8 A: Sir?
- 9 Q: Did you go to his memorial?
- 10 A: I couldn't. I was in the hospital.
- 11 Q: Okay.
- 12 A: They wouldn't let me go.
- 13 Q: How long were you in the hospital, sir?
- 14 A: Probably about two months.
- 15 Q: Okay. And when you were speaking about Mr. -- Mr.
- 16 Jackson, you were talking -- you were talking as if you --
- 17 you knew him, but then you said you didn't know him; is that
- 18 correct?
- 19 A: No. I don't recall that.
- 20 Q: Okay. Do you -- did you know Mr. Jackson before any of
- 21 this incident took place?
- 22 A: No, sir.
- 23 Q: Okay. Have you -- had you been to the Downbeat Club
- 24 before?
- 25 A: Yes, sir.

## RONALD OLIVER - CROSS BY MR. EDGEWORTH

- 1 Q: Okay. Had you ever seen him there?
- 2 A: No, sir. I ain't never seen Mr. Jackson.
- 3 Q: Okay. He was new to the place; right?
- 4 A: That was my first time seeing him. I don't know if he
- 5 was new to the place, but that was my first time ever seeing
- 6 him.
- 7 Q: Okay. Now, you also said that, quote/unquote, people
- 8 wear a lot of colors?
- 9 A: Yes, sir.
- 10 Q: Colors referring to gang colors?
- 11 A: No, sir. Just colors they want to wear. Just whatever
- 12 they feel like putting on.
- 13 Q: Okay.
- 14 A: You can't tell no one what to put on, sir.
- 15 Q: Are you familiar with the color red being associated
- 16 with a street gang Bloods?
- 17 A: I mean I heard about it, but I mean, like I said, I
- 18 can't speak for everybody who wear coolers because I don't
- 19 know what they got going on. So I really don't know. I
- 20 can't recall.
- 21 Q: Okay. Now, if someone were in the gang, would they tell
- 22 somebody that they were in the gang?
- 23 A: I don't recall.
- 24 Q: Okay. They wouldn't just freely admit it; correct?
- 25 A: I don't recall, sir.

## RONALD OLIVER - CROSS BY MR. EDGEWORTH

1 Q: Okay. Now, you indicated that you came out of the  
2 bathroom and then went back into the bathroom; right?

3 A: I came -- when I was coming out the bathroom, Mr.  
4 Diondrae and Latesha -- they was at the bar. When I was  
5 coming out of the bathroom, I heard a gunshot. Like, the  
6 bathroom would be right here. I was walking out the bathroom  
7 and I heard the gunshot. I seen Diondrae and Latesha at the  
8 bar and he had is hand up like this and she must be trying  
9 to, like, prevent him from doing what he was about to do or  
10 whatever, I guess, and I heard the gunshot went off in the  
11 ceiling.

12 When I heard the first gunshot, he drawed down like he  
13 was about to shoot forward. So that's when I ran back in the  
14 bathroom. That's when I heard the shots. So I tried to get  
15 down in the bathroom as low as I could. A couple of my  
16 friends came in there and then Diondrae came next towards the  
17 bathroom and started shooting.

18 Q: When you were in the bathroom, you were back in the back  
19 near the toilet and everything?

20 A: Basically, like, in the middle by the toilet and the  
21 sink.

22 Q: Okay. Were there -- how many people were in there with  
23 you?

24 A: I can't recall. I don't really remember.

25 Q: More than three? Four?

## RONALD OLIVER - CROSS BY MR. EDGEWORTH

- 1 A: Yeah. It was more than three.
- 2 Q: Okay. And they were just crowding in the bathroom?
- 3 A: Yes, sir.
- 4 Q: And you were in the middle of those folks?
- 5 A: I was just in there.
- 6 Q: Okay. You were just in there?
- 7 A: I was just in there with everybody else trying to get
- 8 low, trying to prevent from being shot.
- 9 Q: Okay. So if there were, like, four or five people in
- 10 the bathroom and someone came in there to shoot, how come
- 11 you're the only one that got hit?
- 12 A: I don't recall, sir.
- 13 Q: You don't recall that? The bathroom is only, like, a
- 14 few feet deep; right? Y'all had to be crowded in there.
- 15 We've seen the pictures of the bathroom.
- 16 A: Yeah. The bathroom -- it was, like, when we was there
- 17 and he started shooting, I was already in the bathroom. When
- 18 I heard the gunshot, I ran back in the bathroom when I heard
- 19 the shot. A couple of my friends came in the bathroom with
- 20 me. Then Diondrae came to the bathroom and started shooting.
- 21 Q: Okay. So were you shot outside of the bathroom?
- 22 A: No.
- 23 Q: And then you ran back in?
- 24 A: No. I was shot in the bathroom because when I came back
- 25 out the bathroom I was shot.

## RONALD OLIVER - CROSS BY MR. EDGEWORTH

1 Q: But all the other people that were in the bathroom  
2 magically missed the bullet, it didn't hit them, especially  
3 when they're in front of you? So it missed them and got you?

4 A: I don't recall, sir. I just know I got shot. I've been  
5 shot. I've been the victim that's been shot.

6 Q: Okay. Isn't it true that you were there when Mr. Spates  
7 pulled a gun?

8 A: No, sir.

9 Q: Okay.

10 A: I ain't never seen Mr. Spates with a gun.

11 Q: And then when he was shot, then you went down to pick up  
12 the gun?

13 A: No, sir. I don't recall that.

14 Q: And then that's when you were shot?

15 A: I don't recall that.

16 Q: You don't recall that?

17 A: No, sir.

18 MR. EDGEWORTH: I have no further questions for this  
19 witness, Your Honor.

20 THE COURT: Redirect?

21 MR. TUCKER: No redirect, Your Honor. May we approach?

22 THE COURT: Yes.

23 MR. TUCKER: Mr. Oliver, you can step down.

24 (WHEREUPON, a bench conference was held in the presence  
25 of the jury but out of the hearing of the jury off the

1 record, after which the proceedings resumed as follows.)

2 THE COURT: Members of the jury, it's a natural point in  
3 the trial for us to break for the day. If you'd be back at  
4 9:30, we'll resume with the trial. As I've told you before,  
5 do not research the case, do not discuss the case.

6 Everybody else in the courtroom remain seated while the  
7 jury is excused, and make sure they get out the courtroom  
8 before anybody else out of the courthouse.

9 THE BAILIFF: All right.

10 THE COURT: Let us know when it's okay to dismiss  
11 everybody else.

12 (WHEREUPON, the jury exited the courtroom at 3:21 p.m.)

13 (WHEREUPON, there was a pause in the proceedings, after  
14 which the proceedings resumed as follows.)

15 THE BAILIFF: They are clear.

16 THE COURT: See you all at 9:30 in the morning.

17 (WHEREUPON, the proceedings adjourned for the day at  
18 3:26 p.m.)

19 APRIL 17, 2019

20 (WHEREUPON, the proceedings resumed at 9:38 a.m.)

21 THE COURT: Is the State ready?

22 MR. TUCKER: Ready, Your Honor.

23 THE COURT: The defense?

24 MR. EDGEWORTH: Yes, Your Honor.

25 THE COURT: All right. Let's go ahead and bring them

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 out.

2 (WHEREUPON, the jury entered the courtroom at 9:40 a.m.)

3 THE COURT: All right. If the State will call your next  
4 witness.

5 MR. TUCKER: Thank you, Your Honor. May it please the  
6 Court. At this time, the State calls Bradley Bazen.

7 THE CLERK: Sir, please place your left hand on the  
8 Bible and raise your right hand. Do you swear that the  
9 testimony you will give in this case will be the truth, the  
10 whole truth, and nothing but the truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Please be seated in the witness box and  
13 state your name for the record.

14 THE WITNESS: Bradley Bazen.

15 MR. TUCKER: Thank you, Your Honor.

16 BRADLEY BAZEN, being first  
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. TUCKER:

20 Q: Deputy Bazen, it may seem like a silly question this  
21 early in the morning, but where are you employed?

22 A: Florence County Sheriff's Office.

23 Q: And how long have you been employed with the Sheriff's  
24 Office?

25 A: Roughly 20 years.



BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 Q: Directing your attention to the early morning of May the  
2 6<sup>th</sup>, 2018, were you working for the Sheriff's Office on that  
3 date?

4 A: Yes, I was.

5 Q: And in what capacity were you working on that date?

6 A: Patrol.

7 Q: Do you recall receiving dispatch notification about a  
8 shooting at the Downbeat Club in Coward?

9 A: Yes.

10 Q: And what do you recall doing as soon as you received  
11 notification of that incident?

12 A: Pretty much we got notified of a shooting at the  
13 Downbeat Club, which is located on a dirt road. I was maybe  
14 two -- maybe two miles from the incident location.

15 Q: Do you recall on what highway you were at the time that  
16 you received the notification?

17 A: I was on Highway 52 located in Effingham.

18 Q: And you were traveling in what direction?

19 A: I was traveling southbound.

20 Q: Do you recall a description of a vehicle in which the  
21 suspect was reported to be located coming out?

22 A: I do. They gave it out suspect was in a black Dodge  
23 Charger.

24 Q: And do you recall shortly after receiving that  
25 transmission what, if anything, occurred?

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 A: Not even maybe a minute, the first vehicle that came --  
2 that I approached was passing by me was a black Dodge  
3 Charger.

4 Q: And what, if anything, did you do at that point?

5 A: They were traveling northbound. I crossed over the  
6 median and followed the Dodge Charger to maybe a mile on 52  
7 and conducted a traffic stop in front of the post office.

8 Q: Now, as soon as you initiated the blue lights, did the  
9 vehicle signal and pull over?

10 A: They did.

11 Q: And were you able to make contact with the occupants  
12 inside the vehicle?

13 A: I did.

14 Q: And do you recall how many occupants there were?

15 A: Five. Three in the back. There were five.

16 Q: And do you recall what, if anything, you did once you  
17 made contact with the occupants?

18 A: Pretty much it was a situation by myself. I pretty much  
19 told all the occupants in the vehicle to keep their hands in  
20 plain view while my backup arrived.

21 Q: Now, was that due to the nature of the call that came  
22 out originally?

23 A: It was.

24 Q: And do you recall the front passenger of the vehicle?

25 A: Yes.

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 Q: And do you recall if you noticed if he had done anything  
2 or was doing anything with regards to his shirt he was  
3 wearing?

4 A: He removed a shirt. I think he put it in the  
5 floorboard. He took it off.

6 Q: Okay.

7 MR. TUCKER: I beg the Court's indulgence, Your Honor.

8 THE COURT: Sure.

9 MR. TUCKER: Your Honor, if I may approach?

10 THE COURT: Yes.

11 BY MR. TUCKER:

12 Q: I'd ask you to hold the bag, Deputy Bazen, and if you  
13 would open the bag, please, and if you could remove what's  
14 inside? Is that the shirt you saw the passenger remove?

15 A: Yes, sir.

16 Q: And did you subsequently after backup got there locate  
17 that shirt in the floorboard?

18 A: It was recovered by Investigator McDaniel.

19 MR. TUCKER: At this time, Your Honor, I would move that  
20 into evidence.

21 THE COURT: Any objections?

22 MR. EDGEWORTH: No, Your Honor.

23 THE COURT: What number is that?

24 THE COURT REPORTER: 53.

25 THE COURT: 50 what?

**BRADLEY BAZEN - DIRECT BY MR. TUCKER**

1 THE COURT REPORTER: 53.

2 THE COURT: 53 is in evidence without objection.

3 (WHEREUPON, State's Exhibit Number 53, a T-shirt, was  
4 admitted into evidence.)

5 BY MR. TUCKER:

6 Q: Deputy Bazen, once backup arrived, what, if anything,  
7 occurred?

8 A: The occupants were -- they were removed from the vehicle  
9 one -- one at a time.

10 Q: Now, once all the occupants were removed from the  
11 vehicle, did that give you an opportunity to search the  
12 vehicle?

13 A: We waited for Investigator Tilton to notify us and we  
14 looked at the vehicle.

15 Q: Were you able to locate anything in addition to the  
16 shirt inside the vehicle?

17 A: The driver of the vehicle admitted to a firearm being in  
18 the center console. She gave permission to retrieve -- to  
19 look at the firearm, which we did, a -- I think a 9-  
20 millimeter. I'm not sure exactly what was found in the  
21 center console, but there was a magazine of a .380 in the  
22 floorboard by the glove box.

23 Q: Okay. Now, were these items handed over to the evidence  
24 crime scene processor?

25 A: They were.

BRADLEY BAZEN - DIRECT BY MR. TUCKER

1 Q: Okay. Now, after the occupants were removed and the  
2 items that you discovered were taken into custody, did you --  
3 were you present when Investigator Tilton was reading what is  
4 commonly referred to as Miranda rights?

5 A: Yes, I was.

6 Q: Were you present when he read them to all the  
7 individuals inside the vehicle?

8 A: I was.

9 Q: And do you recall -- or let me ask you this first. Do  
10 you see the individual that was in the front passenger seat  
11 of the vehicle in the courtroom here today?

12 A: I do.

13 Q: And would you point him out for us?

14 A: That's him.

15 Q: Okay.

16 MR. TUCKER: And would the record reflect that he has  
17 pointed to the defendant in this case, Diondrae Jackson?

18 THE COURT: The record will reflect.

19 BY MR. TUCKER:

20 Q: And once Investigator Tilton got there, was that pretty  
21 much the end of your involvement with regards to this matter?

22 A: Pretty much, yes.

23 MR. TUCKER: Your Honor, I believe that's all the  
24 questions I have.

25 THE COURT: All right. Cross?

## BRADLEY BAZEN - CROSS BY MR. EDGEWORTH

1 MR. EDGEWORTH: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. EDGEWORTH:

4 Q: Good morning, Deputy Bazen.

5 A: Good morning.

6 Q: When you pulled -- pulled the vehicle over and made  
7 contact, you waited on backup; right?

8 A: Correct.

9 Q: Okay. And when you were speaking to the driver, do you  
10 recall that individual's name?

11 A: I'd have to refer to my report.

12 Q: Okay.

13 A: Newton.

14 Q: Ms. Latesha Newton? Does that sound familiar?

15 A: Yes.

16 Q: Okay. And she -- she told you that she had a gun in the  
17 vehicle; correct?

18 A: Correct.

19 Q: Okay. She told you it was in the center console; is  
20 that right?

21 A: That's correct.

22 Q: Okay. Now, later on, did you learn that -- did anyone  
23 else claim that gun?

24 A: No.

25 Q: You did not learn that? It did not turn out to be Ms.

## BRADLEY BAZEN - CROSS BY MR. EDGEWORTH

- 1 Lawanda Johnson's gun?
- 2 A: The driver admitted to the gun was registered to her.
- 3 Q: The driver, Ms. Newton, she told you that; right?
- 4 A: Right.
- 5 Q: Okay. She told you that that was her gun in the center
- 6 console?
- 7 A: Correct.
- 8 Q: She didn't mention anything about a gun in the glove
- 9 box, did she?
- 10 A: No.
- 11 Q: Now, at that time, you were doing patrol; correct?
- 12 A: That's correct.
- 13 Q: As -- as part of your duties, do you have the occasion
- 14 to stop drunk drivers?
- 15 A: Yes.
- 16 Q: Okay. Do you administer field sobriety tests?
- 17 A: I do not.
- 18 Q: Okay. When that happens, do you call Highway Patrol?
- 19 A: Correct.
- 20 Q: Okay. And do you remain on the scene while they do
- 21 that?
- 22 A: Sure.
- 23 Q: Okay. And so you have the occasion to witness people
- 24 who are believed to be under the influence of alcohol or
- 25 drugs?

## BRADLEY BAZEN - CROSS BY MR. EDGEWORTH

1 A: Sure.

2 Q: Okay. Is it fair to say that those individuals can be  
3 unsteady on their feet?

4 A: Most of the time.

5 Q: Okay. Maybe slur their words?

6 A: Sure.

7 Q: Okay. Be aggressive?

8 A: Sometimes.

9 Q: Okay. Even be violent sometimes; correct?

10 A: That's right.

11 Q: In fact, they can just be unreasonable for all practical  
12 purposes; right?

13 A: I guess, yeah.

14 Q: And if you're under the influence of drugs or alcohol,  
15 you generally don't do things you would normally do; right?

16 A: Right.

17 MR. EDGEWORTH: No further questions for this witness,  
18 Your Honor.

19 THE COURT: All right. Redirect?

20 MR. TUCKER: Nothing on redirect, Your Honor. I would  
21 ask that Deputy Bazen being released from his subpoena.

22 THE COURT: Any objections?

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: All right. You have a good day.

25 THE WITNESS: Thank you.



MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 THE COURT: Call your next witness.

2 MR. TUCKER: At this time, Your Honor, we would call  
3 Sgt. Michael McFadden.

4 THE CLERK: Sir, please place your left hand on the  
5 Bible and raise your right hand. Do you swear that the  
6 testimony you will give in this case will be the truth, the  
7 whole truth, and nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE CLERK: Please be seated in the witness box and  
10 state your name for the record.

11 THE WITNESS: Michael McFadden.

12 THE COURT: Yes, sir.

13 MR. TUCKER: Thank you, Your Honor.

14 MICHAEL MCFADDEN, being first duly  
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TUCKER:

18 Q: Sgt. McFadden, again, given your uniform, this may sound  
19 like a silly question, but where are you employed?

20 A: Florence County Sheriff's Office.

21 Q: And how long have you been with the Sheriff's Office?

22 A: Fourteen years.

23 Q: Directing your attention to the date May the 6<sup>th</sup>, 2018,  
24 were you employed by the Sheriff's Office then?

25 A: I was.

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 Q: And in what capacity were you employed?

2 A: I was a patrol sergeant.

3 Q: Now, do you recall receiving a notification of an  
4 incident down at the Downbeat Club in Coward?

5 A: I did.

6 Q: And do you recall what the nature of the call was or it  
7 came to you as?

8 A: A shooting had occurred with a victim.

9 Q: Now, did you respond to the Downbeat Club as soon as you  
10 got the call?

11 A: I did.

12 Q: And do you recall what you did when you arrived on  
13 scene?

14 A: I found out from the officers on the scene that the  
15 incident occurred inside the club in a back room. Once I  
16 found that out, I went to the back room and secured it and  
17 didn't allow anyone else in but law enforcement, and I did  
18 that until Investigator Tilton arrived on scene.

19 Q: Now, when you say you secured it, could you elaborate in  
20 terms of what you actually did?

21 A: Took some crime scene tape and put it on the door so  
22 nobody could get past it and I stood in front of it.

23 Q: I understand. Now, at some point, did you subsequently  
24 leave the Downbeat Club and proceed to the north end or go  
25 north on 52?

## MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 A: I did.

2 Q: And what was the purpose of that?

3 A: Deputy Bazen had a vehicle stopped on the side of the  
4 road that fit the description of the subject vehicle and he  
5 was out there by himself; so I left there to go back him up.

6 Q: Okay. And subsequently, did you get there?

7 A: I did.

8 Q: And what happened then?

9 A: When I got there, he already had the subjects out of the  
10 vehicle. During that time, I just stood there and assisted  
11 him to make sure they didn't do anything to harm him.

12 Q: Now, did you participate in the search at all?

13 A: I did not.

14 Q: You primarily were just there kind of as a backup  
15 security-type role?

16 A: Yes.

17 Q: After Investigator Tilton arrived, were you present when  
18 he issued Miranda warnings to all five of the individuals?

19 A: I were.

20 Q: And specifically, was one of those Diondrae Jackson?

21 A: It was.

22 Q: And in terms of what you did after that, do you recall  
23 once Investigator Tilton cleared the scene what happened with  
24 regards to Mr. Jackson?

25 A: He decided to place him under arrest for the crime that

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 occurred and he asked me to transport him to the detention  
2 center for him, which I did.

3 Q: Now, when you got to the detention center, if you could  
4 just explain what the process is like in terms of getting  
5 onto the property and where you go in terms of when you have  
6 a suspect in custody?

7 A: We pull into what they call the sally port. Once inside  
8 the sally port, I secure my weapon in there and I take  
9 whoever I'm bringing in inside to the jail through two doors  
10 and place them in front of a desk where the detention center  
11 personnel take over.

12 Q: Now, in terms of the detention center personnel, do you  
13 recall who primarily was working in the booking area when you  
14 arrived?

15 A: Cpl. Fludd.

16 Q: Now, while you were there, do you have to initiate any  
17 paperwork or fill any paperwork out in terms of the booking  
18 process?

19 A: I do. I have to do intake forms.

20 Q: And where do you perform those at?

21 A: At the end of the desk when you first walk into the  
22 door.

23 Q: Now, while you were standing in that area, did you hear  
24 Diondrae Jackson say anything?

25 A: I did.

MICHAEL MCFADDEN - DIRECT BY MR. TUCKER

1 Q: And do you recall what it was he said?

2 A: He said they said I shot one, the other one needs to die  
3 too.

4 Q: Now, this was in -- was it in response to any questions  
5 that you or Cpl. Fludd were asking him as it related to the  
6 investigation?

7 A: It was not.

8 Q: And after that, what occurred?

9 A: They finished doing the process, whatever they had to  
10 do, and I just stood there until I got my equipment back,  
11 which is my handcuffs. Once they finished doing that, I got  
12 my handcuffs and I left.

13 Q: Okay.

14 MR. TUCKER: I believe those are all the questions I  
15 have of this witness, Your Honor.

16 THE COURT: All right. Thank you.

17 Cross?

18 MR. EDGEWORTH: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. EDGEWORTH:

21 Q: Sgt. McFadden, do you recall about what time you arrived  
22 on scene to the Downbeat Club?

23 A: I do not. I'm assuming around one or two, two something  
24 maybe.

25 Q: Well, who -- who was there when you got there?

## MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 A: Cpl. Mack and Lt. Tilton.

2 Q: Okay. And you indicated that you secured the scene with  
3 the tape. Where was that tape?

4 A: Inside the club near the back room with the pool table.

5 Q: So when you got there, was the -- was the outside tape  
6 already up?

7 A: Yes.

8 Q: Okay. And so you -- so the outside of the scene was  
9 secured at that time and you secured the inside?

10 A: Yes.

11 Q: When you went in there, was anyone in there?

12 A: I think Lt. Hooks was in there. I'm not sure about  
13 anybody else.

14 Q: And when you pulled up, did you -- did you see anybody  
15 other than law enforcement?

16 A: Some people was outside. Yes.

17 Q: People that looked to be like patrons?

18 A: I can only assume. I guess. I'm not sure.

19 Q: Okay. But I'm just saying --

20 A: I didn't make contact with them. So I don't know.

21 Q: Okay. I'm going to make that question more clear. So  
22 when you pulled up, were there other people other than law  
23 enforcement there?

24 A: Yes.

25 Q: Okay. At that time, had the -- had any of the

MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 individuals who had been wounded still there?

2 A: No.

3 Q: And yet you still saw people milling around; correct?

4 A: Yes.

5 Q: Do you recall where you put the tape up inside?

6 A: In the doorway that led into the pool room.

7 Q: And do you recall what the doorway looked like?

8 A: It was like a doorframe, like a regular normal  
9 doorframe.

10 Q: Okay. And you're talking about just a regular doorjamb  
11 the size of this door right here?

12 A: Yes.

13 Q: Okay. Was there any obstructions?

14 A: No.

15 Q: Any bigger openings?

16 A: Not that I recall.

17 Q: Any other way to see to the back? From the front to the  
18 back other than that doorway?

19 A: Not that I recall.

20 Q: Okay. When you walked in and you looked down there,  
21 what could you see on the other side of that doorway?

22 A: I don't recall. I just remember looking in there when I  
23 went into the room.

24 Q: Okay. You didn't make any observations from when you  
25 first walked in the door?

## MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 A: No.

2 Q: You didn't -- nothing glaring about the scene other than  
3 the fact that it was a bar with a front and back room?

4 A: Yes.

5 Q: Now, you've indicated that there was a statement made by  
6 Mr. Jackson once he was at the detention center. Do you  
7 recall -- well, let's put it this way. Do you recall making  
8 an entry in your incident report contemporaneous in time with  
9 that -- with that incident?

10 A: Could you repeat that for me?

11 Q: Sure. So you fill out these incident reports as part of  
12 your obligations and duties?

13 A: Yes.

14 Q: Okay. And those are done in and around the time the  
15 events occur?

16 A: Yes.

17 Q: And on this particular occasion, would you have entered  
18 your notes as it relates to your involvement in this case?

19 A: Yes.

20 Q: Okay. I'm going to show you -- I'm going to show you  
21 this document and ask you if you recognize it?

22 A: Yes.

23 Q: And the entry down here or supplement number two, that's  
24 you?

25 A: Yes.



MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 Q: Michael McFadden. Okay. Do you see your notation as to  
2 what you said -- well, first, what is the date of this  
3 notation?

4 A: 5/7/2018 based on the note.

5 Q: Okay. And that would have been when you entered it?

6 A: If that's the correct date, yes.

7 Q: Is there any reason to believe that it's incorrect?

8 A: I entered it the morning of the incident. It could have  
9 been an error. I'm not sure.

10 Q: Okay. Well, the -- the entry above it is dated May 6<sup>th</sup>.  
11 So is it possible then or likely then that your entry is  
12 correct as May 7<sup>th</sup>?

13 A: That's correct, yes.

14 Q: Okay. And you would have been the one to enter that?

15 A: Yes.

16 Q: And this would have been more contemporaneous with the  
17 time that you -- you would have heard Mr. Jackson?

18 A: It would be sometime after I cleared the scene. It  
19 won't be while I'm still on the scene.

20 Q: Sure. But I'm just talking about as it relates today.  
21 You've testified as to what you believed him to say today;  
22 right?

23 A: Yes.

24 Q: Okay. And then what did you say that he said then?

25 A: They said I killed someone. That the other one needs to

MICHAEL MCFADDEN - CROSS BY MR. EDGEWORTH

1 die too.

2 Q: They said I needed to kill someone?

3 A: (No verbal response.)

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

5 THE COURT: All right. Redirect?

6 MR. TUCKER: Nothing on redirect, Your Honor.

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

8 Call your next witness.

9 MR. TUCKER: And, Your Honor, I would ask that Sgt.  
10 McFadden be released from his subpoena.

11 MR. EDGEWORTH: No objection, Your Honor.

12 THE COURT: Have a good day.

13 THE WITNESS: Yeah. You too, Your Honor.

14 MR. TUCKER: Your Honor, at this time, the State calls  
15 Cpl. Deangelo Fludd.

16 THE CLERK: Sir, please place your left hand on the  
17 Bible and raise your right hand. Do you swear that the  
18 testimony you will give in this case will be the truth, the  
19 whole truth, and nothing but the truth, so help you God?

20 THE WITNESS: Yes, ma'am, I do.

21 THE CLERK: Please be seated on the witness stand and  
22 state your name for the record.

23 THE WITNESS: Deangelo Fludd.

24 DEANGELO FLUDD, being first  
25 duly sworn, testified as follows:

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Q: And your rank is corporal; is that correct?

A: Not currently. Transportation officer, sir.

Q: Okay. Transportation officer. Ofc. or Deputy Fludd, where are you presently working?

A: Florence County Sheriff's Office.

Q: And how long have you worked for the Sheriff's Office?

A: Just over two years.

Q: Did you have any prior law enforcement experience prior to coming to work for the Florence County Sheriff's Office?

A: Yes, sir. I was a deputy in Norfolk, Virginia, for nine-and-a-half years.

Q: So you've got roughly eleven -- eleven-and-a-half years total law enforcement experience?

A: Yes, sir.

Q: Now, directing your attention to the morning of May the 6<sup>th</sup>, 2018, where were you working within the Florence County Sheriff's Office then?

A: I was a corporal over booking.

Q: Okay. Now, in that regard, do you recall having an occasion to deal with the defendant in this case, Diondrae Jackson?

A: Yes, sir, I do.

Q: And do you recall what those circumstances were?

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 A: He was brought in to be booked in for whatever he was  
2 accused of at the time. I was unaware.

3 Q: And when you say brought in, let me ask you first before  
4 you get much further --

5 A: Yes, sir.

6 Q: Do you recall who brought Mr. Jackson in?

7 A: Oh, yeah. That was Sgt. McFadden.

8 Q: Now, could you explain what the booking area or what the  
9 booking process is like generally?

10 A: Yes. When they come in through the sally port, they are  
11 asked to stand in front of the counter, at which point they  
12 are pat searched for any contraband or items that may have  
13 been missed after their initial arrest. During that time, we  
14 ask questions regarding their vitals, such as home address,  
15 name, Social Security number, things of that nature.

16 Q: Okay. Now, with regards to Mr. Jackson, was the booking  
17 process kind of standard initially with him?

18 A: Yes, sir.

19 Q: And do you recall what happened or what occurred when  
20 you were in the process of booking him in?

21 A: While we were conducting the pat search after he was  
22 directed to put his shoes and socks back on and walk through  
23 the metal detector before he was placed in the detox center,  
24 as he was walking around, he started making comments  
25 regarding the crime he was being charged with. I got one of

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 them. I hope the other one dies soon. If my mother's going  
2 to cry, their mother is going to cry.

3 Q: Okay. And you heard him say those things?

4 A: Yes, I did.

5 Q: Now, was these statements in direct or in response to  
6 questions that you were initiating to him?

7 A: No, sir. They were not.

8 Q: Do you recall whether or not Sgt. McFadden was asking  
9 questions when those responses Mr. Jackson gave were in  
10 response thereto?

11 A: If I recall correctly, Sgt. McFadden was actually  
12 working on some paperwork on the other side of the counter.  
13 So he wasn't involved either.

14 Q: Now, the booking area, it has video recording equipment  
15 all around?

16 A: Yes, sir.

17 Q: And audio equipment as well?

18 A: Yes, sir.

19 Q: And are there signs that the area is under video  
20 surveillance?

21 A: Yes, sir.

22 Q: Okay. Now, you have seen what's been marked as State's  
23 Exhibit --

24 MR. TUCKER: May I approach, Your Honor?

25 THE COURT: Yes.

## DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: State's Exhibit 3?

3 A: Yes, sir.

4 Q: Okay. And do you recall watching that video?

5 A: Yes, sir.

6 Q: And let me ask you does it fairly and accurately portray  
7 what occurred in the booking area?

8 A: Yes, it does, sir.

9 Q: Okay.

10 MR. TUCKER: Your Honor, at this time, I would ask that  
11 that video be moved into evidence and then be played for the  
12 jury.

13 THE COURT: All right. Any objections?

14 MR. EDGEWORTH: No objection, Your Honor.

15 THE COURT: All right. State's Number 3 is in evidence  
16 without objection.

17 (WHEREUPON, State's Exhibit Number 3, booking video with  
18 audio, was admitted into evidence.)

19 (WHEREUPON, State's Exhibit Number 3 was played and then  
20 stopped. Not transcribed herein.)

21 BY MR. TUCKER:

22 Q: And this is the booking area here?

23 A: Yes, it is, sir.

24 (WHEREUPON, the video resumed playing and was then  
25 stopped at the end.)

DEANGELO FLUDD - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: Deputy Fludd, towards the end of that video when he  
3 walks towards the bottom of the frame, that's when he made  
4 the statement you've testified to here today?

5 A: Yes, sir.

6 Q: Now, was there anybody else when he's off camera  
7 standing down towards the other end of the counter?

8 A: There was another gentleman that was trying to set up  
9 his phone calls, which is a pre-recorded script that he has  
10 to follow. He was the only other one on the other end.

11 Q: Now, it was Diondrae Jackson though that you heard make  
12 those statements that were picked up on the video here?

13 A: Yes, sir.

14 Q: Now, the other guy -- he wasn't charged with murder or  
15 attempted murder, was he?

16 A: No, sir, he was not.

17 Q: Now, with regards to him walking off, do you recall what  
18 he did when he walked off the camera?

19 A: When he walked off camera, he walked past the phone bank  
20 through the metal detector and then, as he was returning, he  
21 was making those statements.

22 Q: Okay.

23 MR. TUCKER: I believe those are all the questions I  
24 have, Your Honor.

25 THE COURT: All right. Cross?

## CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 MR. EDGEWORTH: No questions for this witness, Your  
2 Honor.

3 THE COURT: All right. You may step down. Thank you.  
4 All right. Call your next witness.

5 MR. TUCKER: Your Honor, at this time, the State calls  
6 Chase McDaniel.

7 THE CLERK: Sir, please place your left hand on the  
8 Bible and raise your right hand. Do you swear that the  
9 testimony you will give in this case will be the truth, the  
10 whole truth, and nothing but the truth, so help you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Please be seated in the witness stand and  
13 state your name for the record.

14 THE WITNESS: Chase McDaniel.

15 MR. TUCKER: Thank you, Your Honor. May it please the  
16 Court.

17 CHASE MCDANIEL, being first  
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. TUCKER:

21 Q: Mr. McDaniel, you're not so easy to discern because  
22 you're not wearing a uniform. Now, where are you employed  
23 presently?

24 A: The Florence County Sheriff's Office.

25 Q: And how long have you been employed by the Sheriff's



## CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Office?

2 A: For two years now.

3 Q: And did you work for them prior to this two-year period  
4 that you're working now?

5 A: Yes, sir.

6 Q: How much total law enforcement experience do you have?

7 A: Fifteen years.

8 Q: Now, with regards to your present duties, what kind of  
9 responsibilities do you have presently at the Sheriff's  
10 Office?

11 A: I'm a crime scene investigator.

12 Q: Could you tell the folks a little bit about what a crime  
13 scene investigator does?

14 A: Typically, we respond to any incidents where there is  
15 evidence that needs to be collected, photographs, processing  
16 of the scene.

17 Q: Now, do you recall whether you were employed in that  
18 capacity as a crime scene investigator on or about May the  
19 6<sup>th</sup>, 2018?

20 A: Yes, sir.

21 Q: Do you recall specifically being involved in the  
22 investigation of a shooting that occurred at the Downbeat  
23 Club in Coward?

24 A: Yes, sir.

25 Q: Can you tell what your first action was when you

CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 received notification to respond and to process?

2 A: Well, I got a phone call from Cpl. Eric Barnes. He made  
3 me aware of the incident that took place and asked me to come  
4 out and assist him because there were so many different  
5 places that required forensic involvement.

6 Q: Okay. And did you respond?

7 A: Yes.

8 Q: And did you go first to the Downbeat Club itself?

9 A: No.

10 Q: Where did you go?

11 A: I went and met with Investigator Roger Tilton at  
12 Friendfield and 52 right there at the post office.

13 Q: And what did you do when you got there?

14 A: They told me they had an individual that needed GSR done  
15 on him.

16 Q: Now, when you say GSR, what do you mean?

17 A: That's gunshot residue.

18 Q: And how was that test administered?

19 A: The individual was in handcuffs and we have a kit that  
20 we receive from SLED that has instructions. I've done it  
21 several times. And we administered that kit on his hands by  
22 taking the -- the testers and dabbing his hands and then  
23 submitting that to SLED.

24 Q: You don't actually perform the test yourself? You just  
25 take the sample?

## CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 A: You just collect it.

2 Q: And then submit it to SLED?

3 A: Yes, sir.

4 Q: And that -- do you recall -- you took a GSR kid from the  
5 defendant in this case, Diondrae Jackson?

6 A: Yes, sir.

7 Q: Do you see the individual that you took the GSR kit from  
8 or took the test from --

9 A: Yes, sir.

10 Q: -- in the courtroom here today?

11 A: Yes, sir. He's sitting right over there.

12 MR. TUCKER: And if the record could reflect that he has  
13 identified the defendant in this case, Diondrae Jackson?

14 THE COURT: Yes.

15 BY MR. TUCKER:

16 Q: What do you do typically once you have the kits  
17 completed in terms of how you put it and take it to SLED?

18 A: We submit it to our evidence technicians. They complete  
19 a series of paperwork and transport it to SLED.

20 Q: And do you recall if that was done in this case?

21 A: Yes, sir.

22 Q: Did you perform any other GSR tests on any other  
23 individuals that morning?

24 A: Yes, sir.

25 Q: Who else?

## CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 A: Mr. Malcolm Spates at Carolinas Hospital System.

2 Q: Now, Malcolm Spates was the victim in this case, the one  
3 who actually died?

4 A: Yes, sir.

5 Q: Do you recall -- you administered the test the same way  
6 on Mr. Spates?

7 A: Yes, sir.

8 Q: And do you recall what you did with that test?

9 A: That test was turned into evidence and then subsequently  
10 transported to SLED for analysis.

11 Q: Do you recall if there was a third GSR kit performed  
12 also on the other victim, Ronald Oliver?

13 A: I did not do one.

14 Q: I believe Cpl. Barnes administered that one; is that  
15 correct?

16 A: That's correct.

17 Q: And again, it would have been turned in in the same  
18 fashion as the two that you performed?

19 A: Yes, sir.

20 Q: Do you recall whether you handled any additional items  
21 of evidence, specifically a gun that was taken out of the  
22 suspect vehicle?

23 A: Yes, sir.

24 Q: And do you recall what kind of gun that was?

25 A: The gun was a Hi-Point 9-millimeter handgun.

## CHASE MCDANIEL - DIRECT BY MR. TUCKER

1 Q: And do you recall if that was logged into evidence as  
2 well?

3 A: Yes, sir.

4 Q: Okay. And all the items that were collected by you and  
5 Cpl. Barnes were logged into evidence at the Sheriff's  
6 Office?

7 A: Yes, sir.

8 Q: And then the items that you wanted processed by SLED  
9 were transported there?

10 A: Yes, sir.

11 Q: Now, with regards to the items that you processed, were  
12 there any additional items that you took in that specifically  
13 went to SLED for analysis?

14 A: I'm not -- I'm not 100 percent sure of every item that  
15 went to SLED.

16 Q: Okay. All right. But you specifically were involved  
17 with the GSR and the pistol that was submitted?

18 A: Yes, sir.

19 MR. TUCKER: I believe those are all the questions I  
20 have, Your Honor.

21 THE COURT: All right. Cross?

22 MR. EDGEWORTH: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. EDGEWORTH:

25 Q: Good morning, Investigator.

## CHASE MCDANIEL - CROSS BY MR. EDGEWORTH

1 A: Good morning.

2 Q: Mr. McDaniel, now, after having gone to the roadside  
3 scene, you presented to the -- to the scene at the Downbeat;  
4 right?

5 A: No. I never went to the Downbeat Club.

6 Q: You never went there?

7 A: No, sir.

8 Q: Okay. Well, you indicated that there were so many  
9 places requiring forensics. The Downbeat wasn't one of them?

10 A: Well, let me explain. Eric was the crime scene  
11 investigator that was initially on call that night. I was  
12 off. He needed help and he called me to go to the roadside  
13 to assist Investigator Tilton.

14 Q: And so Mr. Barnes -- is that Eric?

15 A: Yes, sir.

16 Q: Okay. Cpl. Barnes was at the Downbeat and you never  
17 went there?

18 A: No, sir.

19 Q: Okay. You collected no evidence there?

20 A: No, sir.

21 Q: Okay. You collected -- you went to, I guess, Carolinas  
22 Hospital; right?

23 A: Yes, sir.

24 Q: To do a GSR and that was on Mr. Spates?

25 A: Yes.

## CHASE MCDANIEL - CROSS BY MR. EDGEWORTH

1 Q: Okay. Did you do the GSR on Mr. Jackson first?

2 A: Yes, sir.

3 Q: Okay. And when you do those GSRs, you have to make a  
4 record of that; correct?

5 A: Yes, sir.

6 Q: Okay. And those records are something that you fill  
7 out?

8 A: Yes, sir.

9 Q: Okay. And when you -- when you make that record, is it  
10 -- is it something that looks similar to this?

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

12 THE COURT: You may.

13 MR. EDGEWORTH: Thank you.

14 BY MR. EDGEWORTH:

15 Q: I'm going to show you this and ask you if you recognize  
16 it?

17 A: Yeah, I recognize it.

18 Q: Is this something that you complete?

19 A: No, sir.

20 Q: Okay. Who does these?

21 A: The individual's name that's listed right here.

22 Q: Can you show me that, sir?

23 A: Right here.

24 Q: Okay. So this information is input by someone, not you?

25 A: Yes, sir.

## CHASE MCDANIEL - CROSS BY MR. EDGEWORTH

1 Q: Someone that is not involved in collecting the  
2 documents? Or excuse me. The forensic evidence?

3 A: Yes.

4 Q: How do you confirm whether or not that the information  
5 is accurate on those documents? Do you ever see them?

6 A: Which documents are you referring to?

7 Q: Well --

8 A: That document?

9 Q: On the property record.

10 A: Okay.

11 Q: You don't have to review these?

12 A: No. We fill out the evidence sheets and submit them to  
13 the evidence technician, who then puts it in the computer.

14 Q: Okay. But do you fill out the documentation that  
15 indicates what should go on the forms?

16 A: Yes, sir.

17 Q: Okay. And that information is transferred over to --

18 A: The computer.

19 Q: -- the computer? Okay.

20 MR. EDGEWORTH: May I approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. EDGEWORTH:

23 Q: So on this particular example, you would have provided  
24 all the information that goes into this document?

25 A: Yes, sir.



## CHASE MCDANIEL - CROSS BY MR. EDGEWORTH

1 Q: Okay. Can you look at this document and tell me whether  
2 you believe it to be accurate?

3 A: That's correct. Yes, sir.

4 Q: Okay. All right. So then it would be accurate that you  
5 obtained a GSR kit from Malcolm Spates?

6 A: Yes, sir.

7 Q: All right. I'm going to show you another document and  
8 ask you do you recognize that and whether the information  
9 contained therein is accurate?

10 A: The address on here where it says location obtained is  
11 not correct on here.

12 Q: Okay. So only the address is inaccurate?

13 A: Right.

14 Q: That is correct?

15 A: Yes, that's correct.

16 Q: So then it is accurate that you have a gun that was  
17 obtained from Mr. Malcolm Spates?

18 A: No. That's not correct.

19 Q: Oh, it's not correct now, sir?

20 A: No. I did not obtain a gun from Malcolm Spates.

21 Q: Well, you just said the only thing that was inaccurate  
22 on this document was the address.

23 A: Let me see it.

24 Q: It says a gun was obtained from Mr. Malcolm Spates?

25 A: Yeah. That is not correct.

CHASE MCDANIEL - CROSS BY MR. EDGEWORTH

1 Q: So did the person who entered this information on this  
2 document do it wrong or did you do it wrong? Who did it  
3 wrong if there was no gun?

4 A: I didn't do it wrong.

5 Q: You did not do it wrong?

6 A: No, sir.

7 Q: So you're blaming someone else for the inaccuracy of  
8 this document?

9 A: I can't say anything about that document, sir.

10 Q: You do agree with me though that this document indicates  
11 that there was a gun retrieved from Mr. Malcolm Spates;  
12 correct?

13 A: Yes, sir.

14 Q: Okay.

15 MR. EDGEWORTH: No further questions, Your Honor.

16 THE COURT: All right. Redirect?

17 MR. TUCKER: Just briefly.

18 REDIRECT EXAMINATION

19 BY MR. TUCKER:

20 Q: Cpl. McDaniel, did you obtain a gun or take into custody  
21 a gun from Malcolm Spates?

22 A: No. I took a gun from Deputy Bradley Bazen on the side  
23 of the road.

24 Q: Okay. Now, when it says gun obtained, could that be  
25 short for gunshot residue kit taken from Malcolm Spates?

## CHASE MCDANIEL - RECROSS BY MR. EDGEWORTH

1 A: Yes, it could.

2 MR. TUCKER: Thank you, Your Honor. Those are all the  
3 questions I have.

4 MR. EDGEWORTH: Redirect or recross?

5 THE COURT: Sure.

6 RECROSS-EXAMINATION

7 BY MR. EDGEWORTH:

8 Q: You would agree with me that there's two separate  
9 documents, one that's for the GSR obtained from Mr. Malcolm  
10 Spates?

11 A: Yes, sir.

12 Q: And then the one indicating that there's a gun from Mr.  
13 Malcolm Spates and one indicating that there's a magazine to  
14 the gun that was obtained from Mr. Malcolm Spates? You would  
15 agree with me that that's what that says?

16 A: Yes, sir.

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

18 THE WITNESS: Okay.

19 THE COURT: Call your next witness.

20 MR. TUCKER: Your Honor, at this time, we would call  
21 Chad Smith.

22 THE CLERK: Sir? Sir, please place your left hand on  
23 the Bible and raise your right hand. Do you swear that the  
24 testimony you will give in this case will be the truth, the  
25 whole truth, and nothing but the truth, so help you God?

CHAD SMITH - DIRECT BY MR. TUCKER

1 THE WITNESS: I do.

2 THE CLERK: Please be seated in the witness stand and  
3 please state your name for the record.

4 THE WITNESS: My name is Chad Smith.

5 MR. TUCKER: May it please the Court.

6 THE COURT: Yes, sir.

7 CHAD SMITH, being first duly  
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. TUCKER:

11 Q: Mr. Smith, where are you presently employed?

12 A: I'm employed with the South Carolina Law Enforcement  
13 Division. It's commonly known as SLED. Specifically, I work  
14 in the firearms department at SLED's forensic services  
15 laboratory in Columbia.

16 Q: And what is your official title there with SLED?

17 A: I'm a forensic scientist, also known as an examiner, a  
18 firearms examiner.

19 Q: Now, did you have to have any sort of specialized  
20 education to obtain the job that you currently hold?

21 A: Specialized training, yes. Education wise, I received a  
22 Bachelor's of Science degree from Clemson University in  
23 biological sciences. When I came on board with SLED, I  
24 entered the training program in the firearms department to  
25 become a firearms examiner.

## CHAD SMITH - DIRECT BY MR. TUCKER

1       That training program lasts between 3 to 5 years and  
2       it's supervised by the court-qualified examiners of the  
3       firearms department. It involves extensive reading and  
4       studying. There are multiple examinations and tests given  
5       during that time.

6       I've also attended various classes and courses. Later  
7       in my training, I was able to help the other examiners  
8       prepare their casework and, at the end of my training, I  
9       received a comprehensive multipart examination, which I  
10      successfully completed, and then I began receiving my own  
11      casework.

12     Q:   Now, with regards to coming on board with SLED, is there  
13     like a mentorship? You have to work under the supervision of  
14     a more experienced firearms individual before you are  
15     conducting tests on your own or how does that work?

16     A:   That is correct. We're assigned a training officer.  
17     There is a court-qualified examiner in the department and  
18     then so I would work with he or she during my time, but also  
19     would work with the other examiners during the training.

20     Q:   And do you have to undergo any sort of annual training  
21     to maintain your credentials or to maintain your job status  
22     there?

23     A:   We do take annual proficiency tests in different areas,  
24     but there's no actual certification. Once you're qualified  
25     and certified to perform the firearms analysis, you would

CHAD SMITH - DIRECT BY MR. TUCKER

1 just take the annual examinations and proficiency tests.

2 Q: And would you have any idea ballpark-wise how many  
3 different types of analyses on pieces of firearms that you've  
4 done since you've been at SLED?

5 A: I've worked probably in the hundreds of cases. With  
6 respect to certain examinations, I would say probably in the  
7 thousands of certain examinations.

8 Q: Now, have you ever testified in court as an expert  
9 before?

10 A: Yes, sir, I have.

11 Q: Okay. And in what field?

12 A: Firearms identification.

13 MR. TUCKER: And, Your Honor, I would move Mr. Smith be  
14 admitted as an expert in the field of firearms  
15 identification.

16 THE COURT: Any objections?

17 MR. EDGEWORTH: No objection, Your Honor.

18 THE COURT: All right. Motion is granted.

19 BY MR. TUCKER:

20 Q: Now, Mr. Smith, drawing your attention specifically to  
21 some work you did with regards to this case and specifically  
22 I'm referring to -- well, let me first ask you, how does  
23 evidence come to SLED from the different departments around  
24 the state?

25 A: When a submitting agency brings evidence to be analyzed

CHAD SMITH - DIRECT BY MR. TUCKER

1 to SLED, it is brought to the forensic services laboratory  
2 and it is brought to the evidence control department. What  
3 they do there is they would take the evidence, assign it a  
4 certain barcode under a specialized case number. Each case  
5 has its own barcode and each piece of evidence or container  
6 would have its own barcode. So they would store that  
7 evidence until an examiner is ready to come down and get that  
8 evidence and take it into their custody.

9       So in this particular instance, I would have come down  
10 to the evidence control department, taken the evidence into  
11 my custody, brought it up to my office, where I could store  
12 it in my own evidence locker until it's ready to be worked.

13 Q:    Okay. And when it's ready to be worked, what's the  
14 process involved there?

15 A:    I would just take it out of the evidence locker, which  
16 is still in my custody, and then I would start to examine the  
17 evidence.

18 Q:    Okay. And how do you keep track of the different ones?  
19 I guess what I'm asking is how do you ensure that one gun  
20 doesn't get confused with another gun you're working on with  
21 another case or different pieces of evidence that you may be  
22 analyzing?

23 A:    Well, again, the outer container would have a specific  
24 barcode. So we could look at that and make sure we're  
25 working on it, but we would actually have a list of evidence.

CHAD SMITH - DIRECT BY MR. TUCKER

1 Submission documents would have a list of the evidence  
2 submitted. We would basically complete an inventory to make  
3 sure that all the evidence that was supposed to be submitted  
4 is the correct evidence that we received.

5 Q: Okay. And with regards to this specific case -- and  
6 specifically, I'm referring to your Lab Number L18-06747. Do  
7 you recall obtaining the evidence from the general evidence  
8 area with regards to this case and performing any kind of  
9 analysis on it?

10 A: Yes, sir, I do.

11 Q: Okay.

12 MR. TUCKER: And if I may approach, Your Honor?

13 THE COURT: You may.

14 BY MR. TUCKER:

15 Q: And, Agent Smith, I'm handing you a manila envelope and  
16 I'll ask you if there's anything on that envelope that you  
17 recognize?

18 A: Yes. This is a container that I received for analysis  
19 that has the barcode that I mentioned and it has my heat-seal  
20 tape. Not heat-seal, but tape sealed with my initials and  
21 the date that I sealed it up when it was ready to be  
22 returned.

23 Q: Okay. And could you open that up and explain what's  
24 inside?

25 A: Do you have a pair of scissors or --



## CHAD SMITH - DIRECT BY MR. TUCKER

1 Q: I'm sorry.

2 MR. TUCKER: (To clerk) Are there any scissors? Have  
3 you got a pair of scissors?

4 (WHEREUPON, the envelope was opened.)

5 BY MR. TUCKER:

6 A: Yes. These are four pieces of evidence that I received  
7 for examination.

8 Q: And what are those pieces specifically?

9 A: I received three fired 9-millimeter caliber --  
10 9-millimeter Luger caliber cartridge cases, as well as one  
11 fired bullet.

12 Q: And were you able to perform any kind of examination  
13 with regards to the shell casings and draw any conclusions  
14 therefrom?

15 A: Yes, sir. I was able to compare the cartridge cases  
16 with each other and what we're looking for is marks that are  
17 created on the cartridge case during the firing process from  
18 the firearm.

19 So when the firearm fires a cartridge, it leaves marks,  
20 microscopic marks, on the -- on the cartridge case and the  
21 bullet as well during the firing process. So we can use  
22 those marks to compare with each other to try to determine if  
23 they were fired by the same firearm.

24 And how we do that is we have what's called a comparison  
25 microscope and it's basically two microscopes connected by an

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1 optical bridge system that we can look into and we can  
2 compare two samples simultaneously and try to -- try to look  
3 for those markings that are created during the firing  
4 process, again to try to determine if they were fired by the  
5 same gun.

6 Q: And were you able to reach such a conclusion with  
7 regards to these specific shell casings?

8 A: Yes, sir. I was able to determine that all three of  
9 those 9-millimeter Luger caliber cartridge cases were fired  
10 by the same gun.

11 Q: Now, when you say Luger type, what specifically is that?

12 A: Nine-millimeter Luger is a cartridge designation. In  
13 other words, that's the name of that specific cartridge.  
14 There are other types of 9-millimeter caliber cartridges.  
15 The 9-millimeter Luger is a -- is a specific cartridge. So  
16 if you had a gun chamber for 9-millimeter Luger, you'd go to  
17 the store and you'd buy ammunition, 9-millimeter Luger  
18 caliber ammunition, for that specific gun.

19 Q: Okay. Now, with regards to the bullet fragment, were  
20 you able to draw any conclusions for comparison purposes with  
21 regards to it?

22 A: I was able to determine that the bullet submitted was  
23 most consistent with being 9-millimeter Luger caliber. So  
24 again, it could have been loaded into those 9-millimeter  
25 Luger caliber cartridge cases.

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1           It was highly damaged. A lot of the jacket material was  
2 missing. So even if I had a gun to compare it to, I don't  
3 think I could've matched it back to a specific gun. It may  
4 have not been suitable for identification back to that gun  
5 just basically due to the damage.

6 Q:    Now, if I'm understanding you correctly, while you  
7 weren't able to make any identifications in terms of a  
8 specific pistol that it was fired from, the bullet fragment  
9 was consistent with the shell casings that you found in terms  
10 of they appear to be the same caliber?

11 A:    That's correct.

12           MR. TUCKER: And, Your Honor, if I may approach?

13           THE COURT: You may.

14           MR. TUCKER: Your Honor, if I may approach?

15           THE COURT: Sure.

16           (WHEREUPON, a bench conference was held in the presence  
17 of the jury but out of the hearing of the jury off the  
18 record, after which the proceedings resumed as follows.)

19 BY MR. TUCKER:

20 Q:    And, Agent Smith, I'm going to ask you to take a look at  
21 what I'm handing you and see if there are any identifying  
22 features on there that allows you to identify at least what  
23 it is?

24 A:    Yes, sir. This is the firearm that I received for  
25 comparison. It has the SLED lab barcode on it, as well as my

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1 markings, and it has the evidence tape that I placed on the  
2 gun when I was ready to return it and it has the dates and my  
3 initials on the evidence tape as well.

4 Q: Okay. And if you could, take the scissors and, if you  
5 could, open it up and please take great care when you take it  
6 out just so that we can get an idea of the looks of the  
7 firearm.

8 A: Ladies and gentlemen, this firearm is safe to handle.  
9 I've inspected it to make sure it is unloaded so it is safe  
10 to handle.

11 Q: Okay. And are you able to identify that as the firearm  
12 that was submitted by the Florence County Sheriff's Office  
13 for analysis purposes in connection with this particular  
14 case?

15 A: Yes, sir. This is the firearm, the Hi-Point pistol that  
16 was submitted for examination, and how I can tell that is on  
17 a firearm we place our initials, as well as the SLED lab  
18 number, case number, as well as the SLED lab item number on  
19 various locations. I would have placed it here in the  
20 magazine well, as well as on the slide and the barrel.

21 Q: Now, what kind of analysis did you perform on that  
22 particular firearm?

23 A: I was able to test fire the firearm and collect test  
24 specimens, test bullets and cartridge cases, to compare with  
25 the submitted test -- I mean the submitted evidence bullet

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1 and evidence cartridge cases.

2 Q: And what kind of conclusions were you able to draw?

3 A: I was able to determine that neither the fired bullet  
4 that was submitted nor the cartridge cases were fired by this  
5 particular firearm. That's based on just differences in  
6 class characteristics. It is the same caliber, 9-millimeter  
7 Luger, but the differences in the markings were grossly  
8 enough that I could tell that it was not fired by this  
9 particular gun.

10 MR. TUCKER: I believe those are all the questions I  
11 have of Agent Smith.

12 THE COURT: All right. Cross?

13 MR. EDGEWORTH: Court's indulgence, Your Honor.

14 THE COURT: Sure.

15 MR. EDGEWORTH: Your Honor, I have no questions for this  
16 witness.

17 THE COURT: All right. You may step down. Thank you.

18 MR. TUCKER: And, Your Honor, briefly, I may have -- in  
19 terms of the firearm, I would ask that the firearm be moved  
20 into evidence.

21 THE COURT: Any objections?

22 MR. EDGEWORTH: No objection, Your Honor.

23 THE COURT: All right. That will be what number?

24 THE COURT REPORTER: 54.

25 THE COURT: 54 is into evidence without objection.

TYLER STURKIE - DIRECT BY MR. TUCKER

1 (WHEREUPON, State's Exhibit Number 54, a firearm, was  
2 admitted into evidence.)

3 THE COURT: All right. Call your next witness.

4 MR. TUCKER: Your Honor, at this time, we would call  
5 Tyler Sturkie.

6 THE CLERK: Sir, please place your left -- please place  
7 your left hand on the Bible and raise your right hand. Do  
8 you swear that the testimony you will give in this case will  
9 be the truth, the whole truth, and nothing but the truth, so  
10 help you God?

11 THE WITNESS: I do.

12 THE CLERK: You may be seated in the witness stand and  
13 please state your name for the record.

14 THE WITNESS: My name is Tyler Sturkie, S-t-u-r-k-i-e.

15 THE COURT: Yes, sir.

16 MR. TUCKER: Thank you, Your Honor.

17 TYLER STURKIE, being first  
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. TUCKER:

21 Q: Mr. Sturkie, where are you presently employed?

22 A: I'm employed by the South Carolina Law Enforcement  
23 Division in the forensic services laboratory.

24 Q: And how long have you been employed with them?

25 A: Five years.

TYLER STURKIE - DIRECT BY MR. TUCKER

1 Q: Prior to that, were you in any other law enforcement  
2 agency?

3 A: No, sir.

4 Q: And in terms of your educational background, could you  
5 tell us what that may be?

6 A: I received a Bachelor of Science degree in chemistry  
7 from Newberry College and, when I began at SLED, I was  
8 assigned to the trace evidence department and began a year-  
9 long training program in the analysis of gunshot residue.  
10 This training consisted of written and practical examinations  
11 on the theory and practice of gunshot residue. I've also  
12 attended courses at the Hooke College of Applied Sciences  
13 titled *Gunshot Residue Identification*, *Scanning Electron*  
14 *Microscopy*, and *Advanced X-ray Microanalysis*.

15 Q: Now, do you have to attend any sort of annual training  
16 to maintain your expertise in the field?

17 A: We do a proficiency test every year to remain competent  
18 in our analysis.

19 Q: And do you work under the supervision of a more  
20 experienced scientist in that department?

21 A: We do have a supervisor who is able to be competent in  
22 gunshot residue analysis as well.

23 Q: And what is your official title there?

24 A: A forensic scientist.

25 Q: Now, with regards to the department, you work in the

TYLER STURKIE - DIRECT BY MR. TUCKER

1 trace evidence department; is that correct?

2 A: Yes, sir.

3 Q: And have you ever been qualified as an expert as a trace  
4 evidence scientist?

5 A: I've been qualified as a gunshot residue.

6 Q: Okay.

7 MR. TUCKER: And, Your Honor, I would ask that Mr.  
8 Sturkie be qualified as an expert in the field of gunshot  
9 residue analysis.

10 MR. EDGEWORTH: No objection, Your Honor.

11 THE COURT: All right. Your motion is granted.

12 BY MR. TUCKER:

13 Q: Now, Agent Sturkie, with regards to how evidence arrives  
14 at SLED, could you tell us a little bit about how that works?

15 A: Yes, sir. When a case is submitted to the laboratory  
16 and any evidence is submitted, it goes through our evidence  
17 control department. From there, it is assigned a lab number  
18 and item numbers as well. If an item applies to the trace  
19 evidence department, it will be assigned to our department  
20 for its specific analysis.

21 With trace evidence, we analyze gunshot residue, fire  
22 debris, glass, paint, fibers in general, unknowns. If it  
23 applies to that, it will be assigned to us and when it --  
24 when it is time for us to analyze this evidence, one of the  
25 analysts will proceed to the evidence control department,



TYLER STURKIE - DIRECT BY MR. TUCKER

1 pick it up from its secure location, and begin analyzing it  
2 or place it in another secure location in the trace evidence  
3 department.

4 Q: Okay. And with regards to this specific case, drawing  
5 your attention specifically to SLED Lab Number L18-06747, did  
6 you perform an analysis on three separate gunshot residue  
7 kits in connection with this case?

8 A: Yes, sir, I did.

9 Q: And could you tell us a little bit about how that  
10 worked?

11 A: When evidence is submitted for gunshot residue, it's a  
12 gunshot residue kit from an individual. These kits contain  
13 four particle lifts; generally, the right palm, right back,  
14 left palm, and left back. These areas indicate the areas of  
15 the hand from which the particle lifts were collected from  
16 the collecting officer. These particle lifts will then be  
17 analyzed by myself on a scanning electron microscope. I will  
18 manually confirm any particles that may have been found  
19 through this analysis and I will issue a report based on  
20 those findings.

21 Q: Now, specifically Items 15, 16, and 17 that you analyzed  
22 yourself, drawing your attention to Item 15, in your report  
23 that's one gunshot residue kit from Diondrae Jackson?

24 A: Yes, sir. That is correct.

25 Q: And could you tell us a little bit about how the

TYLER STURKIE - DIRECT BY MR. TUCKER

1 examination occurred and what the results were?

2 A: Yes, sir. When this item was submitted to the  
3 laboratory, I performed an automated analysis through SEM or  
4 scanning electron microscope. This automated analysis  
5 includes me setting up the run with certain parameters to  
6 find any particles that may be on the particle lifts. After  
7 the automated analysis, I will manually confirm these  
8 particles that may have been found on the particle lift.  
9 After I manually confirm them, I will issue a report based on  
10 my results for each item that is submitted.

11 Q: Okay. And were you able to draw any conclusions from  
12 Item 15 following your examination?

13 A: Yes, sir, I was.

14 Q: And what was that?

15 A: The results from one GSR kit from Diondrae Jackson were  
16 particles characteristic of gunshot primer residue were  
17 found.

18 Q: Okay. Now, directing your attention to Item 16, one  
19 gunshot residue kit from Malcolm D. Spates, the victim in  
20 this case, were you able to perform an examination or  
21 analysis of that gunshot residue kit?

22 A: Yes, sir.

23 Q: And what conclusions did you come to with regards to the  
24 kit?

25 A: The results were particles characteristic of gunshot

TYLER STURKIE - DIRECT BY MR. TUCKER

1 primer residue were found.

2 Q: Okay. And with regards to 17 --

3 A: One GSR kit --

4 Q: -- GSR residue kit from Ronald D. Oliver?

5 A: Yes, sir.

6 Q: Okay. And what were your conclusions with regards to  
7 that kit?

8 A: The results from one GSR kit from Ronald Oliver were  
9 that no particles characteristic of gunshot primer residue  
10 were detected.

11 Q: Okay. Now, let me ask you with regards to a person who  
12 has gunshot residue, if they were shot by a firearm, would  
13 that explain how some gunshot residue got on them if they, in  
14 fact, had not fired a weapon?

15 A: It could. When we find a positive result for gunshot  
16 residue, I can tell you one of three scenarios. Either the  
17 individual -- individual fired the weapon, the individual was  
18 in the vicinity or the area when that weapon was fired or the  
19 individual touched an object that had gunshot residue on it.  
20 Unfortunately, I cannot identify which of those three is  
21 certain, although I can analyze whether or not gunshot  
22 residue is present or absent.

23 Q: Okay.

24 MR. TUCKER: I believe that's all the questions I have,  
25 Your Honor.

## TYLER STURKIE - CROSS BY MR. EDGEWORTH

1 THE COURT: All right. Cross?

2 MR. EDGEWORTH: Thank you.

3 CROSS-EXAMINATION

4 BY MR. EDGEWORTH:

5 Q: Good morning, Mr. Sturkie.

6 A: Good morning.

7 Q: When a GSR kit -- or are you familiar with the taking of  
8 the kit itself?

9 A: I am. Yes, sir.

10 Q: Okay. And can you explain that process briefly?

11 A: Sure. When an officer or collecting official receives  
12 the gunshot residue kit to perform on an individual, inside  
13 is a kit with instructions and the kit contains particle  
14 lifts. These particle lifts -- if you can picture a roofing  
15 nail, it has a larger head with a smaller stem. This  
16 particle lift has a carbon sticky tab or tape on top of it,  
17 and each of the particle lifts are labeled for the areas of  
18 the hands in which they need to be collected.

19 The officer, for example, for the right back will take  
20 that particle lift and dab the area of the right back from  
21 the back to the fingers and the same for the right palm, left  
22 back, and left palm. Once that is performed, the collecting  
23 officer will then seal the envelope and submit it to the lab.

24 Q: So when they do it, the testing procedure is to do the  
25 hands; right?

## TYLER STURKIE - CROSS BY MR. EDGEWORTH

1 A: Typically, for an individual, the hands. Clothing can  
2 be submitted. However, the clothing samples are usually  
3 taken by us at the lab.

4 Q: And in this case, you didn't take any clothing; correct?

5 A: No, sir. Just three individuals.

6 Q: So these kits would have been done like you just  
7 described on the hands?

8 A: Correct.

9 Q: Okay. So referring to your report, do you have a copy  
10 of that?

11 A: Yes, sir, I do.

12 Q: Okay. You've indicated that there is positive GSR on  
13 the kit from Mr. Jackson; correct?

14 A: Yes, sir.

15 Q: And there's positive GSR from the kit with Mr. Spates?

16 A: Yes, sir.

17 Q: And both of those kits would have been done on the  
18 hands?

19 A: That is correct.

20 Q: And therefore, based on your testimony, one of the  
21 possibilities, likelihoods, is that it could have come from a  
22 gunshot itself; correct?

23 A: Yes, sir.

24 Q: Now, in regards to Mr. Oliver, that test came back with  
25 no particles?

## TYLER STURKIE - CROSS BY MR. EDGEWORTH

1 A: Correct.

2 Q: Okay. Are you familiar with where this kit was taken?

3 A: It also was taken from the hands?

4 Q: Okay. And do you know where it was taken from?

5 A: The same location. It's the right palm, right back,  
6 left palm, and left back.

7 Q: Okay. Are you familiar with where the officer actually  
8 did the test?

9 A: When I received the particle lifts, the indication --  
10 they are labeled. It's my assumption that the collecting  
11 officer collected it from those specific locations.

12 Q: Okay. So -- and so for Mr. Oliver and the information  
13 that you have at hand, he would have -- that test would've  
14 been done with his hands as well?

15 A: Yes, sir.

16 Q: Okay. Now, some of the indications on your report  
17 showed that some -- and if I may, I'll show it to you.

18 A: Yes, sir.

19 Q: I think you already have a copy. It talks about the  
20 absence of primer residue could be some of these scenarios.  
21 Could you tell the Court or the jury some of those scenarios?

22 A: Some of these scenarios include for an individual's  
23 hands sweating or rubbing of the hands. We have a timeframe  
24 of six hours from the time of shooting to the time of  
25 collection in which we will analyze the kit. If it is beyond

## TYLER STURKIE - CROSS BY MR. EDGEWORTH

1 six hours, we will not analyze it. The reason being is  
2 gunshot residue is a very fragile piece of evidence. The  
3 more active the individual is, the more likely any gunshot  
4 residue that could have been there would be removed, such as  
5 sweating, environmental factors, wind or rain can also remove  
6 gunshot residue.

7 Q: So since this list of things that says, you know,  
8 including but not limited to, there are other reasons why it  
9 might not show up; correct?

10 A: That is correct.

11 Q: Okay. And would one of those reasons be that if a test  
12 was done after the individual had had some medical procedures  
13 or things like that where the hands could have been washed or  
14 cleaned or, you know, sterilized because of the need for  
15 medical treatment?

16 A: That is a possibility, yes.

17 Q: And then that way -- or excuse me. Therefore, it would  
18 potentially cause the absence of the primer on the hands?

19 A: Yes, sir.

20 MR. EDGEWORTH: No further questions, Your Honor.

21 THE COURT: All right. Redirect?

22 MR. TUCKER: Nothing on redirect, Your Honor.

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

24 THE WITNESS: Thank you.

25 THE COURT: Does the jury need a break or are you okay?

ADRIENNE RILEY-HEFNEY - DIRECT BY MR. TUCKER

1 (WHEREUPON, there was no verbal response.)

2 THE COURT: All right. Call your next witness.

3 MR. TUCKER: All right. Your Honor, at this time, we  
4 would call Adrienne Hefney.

5 THE CLERK: Ma'am, please place your left hand on the  
6 Bible and raise your right hand. Do you swear that the  
7 testimony you will give in this case will be the truth, the  
8 whole truth, and nothing but the truth, so help you God?

9 THE WITNESS: I will.

10 THE CLERK: Please be seated in the witness stand and  
11 please state your name for the record.

12 THE WITNESS: Adrienne Riley-Hefney.

13 MR. TUCKER: Thank you, Your Honor. May it please the  
14 Court.

15 ADRIENNE RILEY-HEFNEY, being  
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. TUCKER:

19 Q: And you said it's Ms. Hefney-Riley?

20 A: Riley-Hefney.

21 Q: Okay. Where are you presently employed?

22 A: With the South Carolina Law Enforcement Division, more  
23 commonly known as SLED.

24 Q: And how long have you been employed there?

25 A: Since November of 1997. So about almost 22 years.



ADRIENNE RILEY-HEFNEY - DIRECT BY MR. TUCKER

1 Q: And what's your educational background, Agent Hefney?

2 A: I have a Bachelor of Science degree in biology from the  
3 University of South Carolina. I also have a Master's of  
4 Business Administration from Winthrop University.

5 And I was trained on the job by a court-qualified  
6 analyst, and each year we are required to attend at least  
7 eight hours of continuing education, whether it be a  
8 conference or in-house training, to stay abreast of any  
9 changes in the field of forensic DNA analysis.

10 Q: And would you have any idea, given the scope of your  
11 experience, how many particular or DNA analyses you have  
12 completed?

13 A: Thousands of cases.

14 Q: Okay. Have you ever been qualified as an expert before?

15 A: Yes, sir, I have.

16 Q: And in what field?

17 A: In the field of forensic DNA analysis and serology.

18 MR. TUCKER: And, Your Honor, I would ask that Agent  
19 Hefney be considered or moved as an expert in the field of  
20 DNA, serology, and analysis.

21 THE COURT: Any objections?

22 MR. EDGEWORTH: No objection, Your Honor.

23 THE COURT: All right. The motion is granted.

24 BY MR. TUCKER:

25 Q: Now, Agent Hefney, I direct your attention to a case

ADRIENNE RILEY-HEFNEY - DIRECT BY MR. TUCKER

1 involving this matter, L18-06747. That's the SLED lab  
2 number. Were you asked to perform a DNA analysis on several  
3 items submitted to you for examination purposes?

4 A: Yes, sir, I was.

5 Q: And could you tell us a little bit about how you go  
6 about conducting that?

7 A: Sure. Forensic DNA analysis is a comparison of unknowns  
8 and knowns. DNA is what makes us who we are. A lot of our  
9 DNA is DNA that we -- that comes from us being human. So  
10 it's the same, but we look at the DNA that's different.

11 And in this case, we used the evidence and developed a  
12 DNA profile and then compared it to any known standards that  
13 we received in the case. And in this case, the known  
14 standards came from two victims and a subject in the case.

15 Q: Okay. And specifically drawing your attention to  
16 comparison standards, I believe it's Item 11, blood standard  
17 from Malcolm Spates, and could you tell us a little bit about  
18 what that means and the conclusions you drew therefrom?

19 A: Yes, sir. A known standard or a blood standard from  
20 Malcolm Spates would be blood that was drawn directly from  
21 him. So it would be a known, not an unknown which would be  
22 left behind at a crime scene. From that, I developed a DNA  
23 profile and that DNA profile was suitable to use for  
24 comparison to evidence.

25 Q: Okay. And if you will look at Comparison Standard 12,

ADRIENNE RILEY-HEFNEY - DIRECT BY MR. TUCKER

1 buccal swabs from Ronald Oliver?

2 A: Uh-huh.

3 Q: Could you explain how buccal swabs kind of factor in to  
4 your exam or analysis rather?

5 A: Yes, sir. A buccal swab is another known standard.

6 It's a swab taken from the inside of your cheek cells and so  
7 we're able to get a DNA profile from that and it was suitable  
8 enough to compare to any evidence, DNA profiles from  
9 evidence.

10 Q: And with regards to Comparison Standard 13?

11 A: Same thing. It was buccal swabs from Diondrae Jackson.  
12 So swabs taken from the inside of his cheek cells and the DNA  
13 profile was suitable for use as a known standard with that as  
14 well.

15 Q: Okay. And now directing your attention to items of  
16 evidence, specifically Number 6, swabs from the floor in the  
17 back corner, and what were the results of that examination?

18 A: Yes, sir. First, I did a serology test, which was a  
19 presumptive test for blood to see if what I was looking at on  
20 the swab was blood. The -- the presumptive test for blood  
21 was positive. What I do is look for a color change. When I  
22 add chemicals to it, it will turn up a bright hot pink or  
23 fuchsia.

24 Once that was positive, I developed a DNA profile from  
25 it, and the DNA profile developed matches the DNA profile of

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1 Malcolm Spates. Once we make a visual match, we'll apply  
2 statistical weight to it, and I'll read directly from my  
3 report again. The probability of randomly selecting an  
4 unrelated individual having a DNA profile matching this item  
5 is approximately one in 26 nonillion.

6 Q: Okay. And when you say nonillion, what does that mean  
7 exactly?

8 A: Nonillion is like a one followed by 27 zeros.

9 Q: That sounds like I'd like my bank account to look, but I  
10 doubt that --

11 A: Same here.

12 Q: -- that's going to happen. How do you square that  
13 number when there's not that many people on the planet?

14 A: It's not. It's only about 7 billion people in the world  
15 now. So when you think a billion is a one followed by nine  
16 and this is one followed by 30, so that's 3 billion times --  
17 at least 3 billion times more, I think. That's doing math in  
18 my head. So --

19 Q: Okay. Now, with regards to Item 7, that's a swab from a  
20 bathroom floor. What sort of analysis did you do on evidence  
21 Item 7?

22 A: Okay. A presumptive testing for blood was positive and  
23 the DNA profile developed matches the DNA profile of Ronald  
24 Oliver. The probability of randomly selecting an unrelated  
25 individual having a DNA profile matching this item is

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1 approximately 1 in 26 septillion.

2 Q: Now, septillion sounds like a big number also.

3 A: That's a one by groups of seven groups of threes --  
4 seven groups of zeros.

5 Q: Okay. Now, with regards to evidence Item 8, what kind  
6 of conclusions did you draw from your analysis of that  
7 particular evidentiary item?

8 A: Yes. The presumptive testing for blood was positive.  
9 It was a weak positive, but it was positive and the partial  
10 DNA profile developed was insufficient for interpretation.

11 Q: Now, what is --

12 A: So we were unable to make a comparison to anyone in that  
13 one.

14 Q: Okay. Then does that mean could it have been a blood  
15 sample or blood from one of the two that you've done, it was  
16 just too weak of a sample to draw any conclusions therefrom?

17 A: Yes, sir.

18 Q: Okay. And with regards to the first two items, Item 6  
19 again, that was a profile match to Malcolm Spates and 7 was a  
20 profile match for Ronald Oliver; is that correct?

21 A: That is correct.

22 MR. TUCKER: I believe those are all the questions I  
23 have, Your Honor.

24 THE COURT: All right. Cross?

25 CROSS-EXAMINATION

ADRIENNE RILEY-HEFNEY - CROSS BY MR. EDGEWORTH

1 BY MR. EDGEWORTH:

2 Q: I apologize. May I get your name one more time?

3 A: Adrienne Riley-Hefney.

4 Q: Hefney? Okay. I know there was a little confusion  
5 earlier. I just wanted to make sure I wrote it down  
6 correctly. Ms. Hefney, when you performed these tests,  
7 obviously you're told, you know, where these swabs were  
8 taken; right?

9 A: Yes, sir. They are in the item description.

10 Q: But -- but you can't draw any conclusions as to any  
11 origins of any injuries as a result that led to this blood;  
12 correct?

13 A: No, sir.

14 Q: Okay. So in other words, like, you can bleed in one  
15 spot and then bleed in another spot, but only take the sample  
16 from the one spot and that's the one you're testing?

17 A: Yes, sir.

18 Q: Now, in regards to the item of evidence Number 8 --

19 A: Yes, sir.

20 Q: Okay. And I just want to make sure that I understand  
21 your testimony correctly. Since you can't -- you couldn't  
22 develop a full profile; correct?

23 A: That is correct.

24 Q: Okay. It was your testimony that the -- the profile was  
25 a mixture or was it one that could have been one of any of

ADRIENNE RILEY-HEFNEY - CROSS BY MR. EDGEWORTH

1 the other three people in general?

2 A: The profile was so weak I couldn't make an  
3 interpretation at all. So it was the partial DNA profile  
4 developed was insufficient for interpretation.

5 Q: So when you have a partial DNA profile, you can't draw  
6 any conclusions whatsoever?

7 A: Sometimes you can, but in this case it was so partial  
8 that we could not.

9 Q: Okay. So you couldn't even utilize any other tests that  
10 SLED would be certified to use to try to extrapolate any of  
11 the -- any profile of that; correct?

12 A: No, sir. It was that weak.

13 Q: Okay. So you can't rule out whether that -- that blood  
14 drop came from Mr. Oliver?

15 A: No, sir. It was so weak, I couldn't make an  
16 interpretation at all either way.

17 Q: Okay. But you can't rule it out?

18 A: I mean I can't make an interpretation.

19 Q: Right.

20 A: It was insufficient.

21 Q: Well, that's what I mean. We're kind of talking in the  
22 negative. I mean you can't make any determination  
23 whatsoever?

24 A: That is correct.

25 Q: You can just only say that it's blood?

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1 A: And I can say that the presumptive testing was positive  
2 for blood, but it was weak. It was a very weak positive.

3 Q: What are -- what, if any, reason could there have been  
4 why it was weak?

5 A: There can be other things that can cause a weak  
6 positive, even sometimes sand has been known to cause it.  
7 You know, blood from other origins, such as animal blood if  
8 we don't get an DNA profile, but I don't think that was the  
9 case in this one because we did get a partial DNA profile.  
10 It was just insufficient.

11 Q: To create the profile?

12 A: Yes, sir.

13 MR. EDGEWORTH: Thank you. No further questions.

14 THE COURT: Redirect?

15 MR. TUCKER: Nothing on redirect, Your Honor.

16 THE COURT: All right. Thank you. Have a good day.

17 THE WITNESS: Thank you.

18 THE COURT: Call your next witness.

19 MR. TUCKER: Your Honor, might now be a good time for a  
20 break?

21 THE COURT: All right. Let's take a short break. If  
22 you would, go into the jury room. Do not discuss the case.

23 (WHEREUPON, the jury exited the courtroom at 11:03 a.m.)

24 MR. TUCKER: And, Your Honor, if we could approach  
25 briefly?



1 THE COURT: Yeah.

2 (WHEREUPON, a bench conference was held off the record,  
3 after which the proceedings resumed as follows.)

4 MR. TUCKER: Okay. From a scheduling standpoint, Your  
5 Honor, the next witness I would call would be Dr. Schandl,  
6 the pathologist.

7 THE COURT: Okay.

8 MR. TUCKER: We stipulated to some witnesses. I  
9 anticipated not being able to reach her until 2 o'clock this  
10 afternoon. So I told her to be here at two.

11 THE COURT: Okay.

12 MR. TUCKER: So, you know, again, I'd ask to take a  
13 break, but we can actually just take a -- kind of a longer  
14 lunch. But I'd be ready to go at 2 o'clock with her and then  
15 Investigator Tilton, and I may have one or two additional  
16 witnesses as well.

17 THE COURT: Okay. So we'll start back at two.

18 MR. EDGEWORTH: That'll be fine because that'll give me  
19 an opportunity -- they did the redacted disk and I need to  
20 review it anyways.

21 THE COURT: Okay.

22 MR. TUCKER: Absolutely.

23 THE COURT: Sounds good. Well, we'll tell -- tell the  
24 jury they are excused until 2 o'clock.

25 THE BAILIFF: Until 2 o'clock?

1 THE COURT: Until 2 o'clock. Do not discuss the case.  
2 Don't research the case.

3 MR. TUCKER: And I think actually this will make it  
4 faster. It may not seem like it, but being able to do some  
5 of the witnesses without calling them.

6 MR. EDGEWORTH: Okay. No problem. Thank you.

7 THE COURT: Everybody else in the courtroom remain  
8 seated until the jury is out of the courthouse.

9 (WHEREUPON, there was a break in the proceedings from  
10 11:04 a.m. until 2:26 p.m., after which the proceedings  
11 resumed as follows.)

12 THE COURT: Is everybody ready?

13 MR. TUCKER: Ready, Your Honor.

14 THE COURT: All right. Go ahead and bring them out.

15 (WHEREUPON, the jury entered the courtroom at 2:27 p.m.)

16 THE COURT: All right. Call your next witness.

17 MR. TUCKER: Thank you, Your Honor. At this time, the  
18 State calls Dr. Cynthia Schandl.

19 THE COURT: She was stuck in traffic. That's why we're  
20 late. We weren't sitting out here doing nothing. She was on  
21 I-95, if I'm not mistaken.

22 THE CLERK: Ma'am, please place your left hand on the  
23 Bible and raise your right hand. Do you swear that the  
24 testimony you will give in this case will be the truth, the  
25 whole truth, and nothing but the truth, so help you God?

DR. CYNTHIA SCHANDL - DIRECT BY MR. TUCKER

1 THE WITNESS: I do.

2 THE CLERK: Please be seated in the witness stand and  
3 please state your name for the record.

4 THE WITNESS: Cynthia Anna Schandl, S-c-h-a-n-d-l.

5 MR. TUCKER: Thank you, Your Honor.

6 DR. CYNTHIA SCHANDL, being  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. TUCKER:

10 Q: And, Doctor, where are you presently employed?

11 A: I am employed at the Medical University of South  
12 Carolina in Charleston, South Carolina.

13 Q: And in what capacity?

14 A: I am a pathologist. So I am a medical doctor who  
15 practices in the field of pathology, which is the field of  
16 study of disease, and as a subspecialist I also practice in  
17 the field of autopsy pathology and specifically forensic  
18 pathology.

19 Q: And how long have you been employed in that capacity?

20 A: I've been employed at MUSC as a forensic pathologist and  
21 an anatomic and clinical pathologist since 2004.

22 Q: Okay. And could you please give us a little bit about  
23 your educational background?

24 A: Sure. So in order to become a forensic pathologist,  
25 first you go to finish your bachelor's degree in college and

DR. CYNTHIA SCHANDL - DIRECT BY MR. TUCKER

1 then you go to medical school. During medical school, I also  
2 went to graduate school. So after those eight years, I had  
3 my M.D. and my Ph.D. degrees. And then after that, there's  
4 some board exams to become licensed as a medical doctor.

5 And then after that, you start to specialize in whatever  
6 field of the practice of medicine that you're interested in.  
7 In my case, it was anatomic and clinical pathology. So that  
8 was called a residency program and that's a four-year  
9 program. And then in addition to that, I did a fellowship  
10 program specifically in forensic pathology. And following  
11 those trainings, I then took board examinations to become  
12 certified in anatomic pathology, clinical pathology, and  
13 forensic pathology.

14 Q: And, Doctor, are there any kind of annual, for want of a  
15 better description, continuing educational programs that you  
16 must attend in order to maintain certification?

17 A: Yes. So in the State of South Carolina, there are  
18 specific ones. So you just have continuing medical education  
19 every year to stay -- to keep your medical license.

20 Q: Okay. And with regards to autopsies, how many autopsies  
21 would you say ballpark you have conducted?

22 A: I've performed over 2,000 autopsies.

23 Q: And have you ever been qualified as an expert in court  
24 in South Carolina?

25 A: Yes, sir.

DR. CYNTHIA SCHANDL - DIRECT BY MR. TUCKER

1 Q: Do you recall approximately how many times?

2 A: Somewhat over a hundred times.

3 Q: And in what field were you qualified as an expert?

4 A: In forensic pathology.

5 MR. TUCKER: Your Honor, at this time, I would move Dr.  
6 Schandl as an expert in the field of forensic pathology.

7 MR. EDGEWORTH: No objection, Your Honor.

8 THE COURT: All right. Granted.

9 BY MR. TUCKER:

10 Q: And, Doctor, if you could, just in general terms explain  
11 what a forensic pathologist does?

12 A: Yes, of course. So forensic pathology is sort of the  
13 intersection of the law and medicine, and our main tool is  
14 the autopsy. So what we are trying to do is discover how  
15 people died and, you know, basically what killed them by  
16 using a surgical tool called the autopsy procedure.

17 So that's our main tool. Ancillary tools that go along  
18 with the autopsy include toxicological examination, looking  
19 at the tissues and organs under the microscope if it's  
20 appropriate, performing x-ray analysis, and various other  
21 things, but generally speaking, our context is frequently  
22 going to be the autopsy examination.

23 Q: And typically, how do bodies come to you by way of a  
24 referral for autopsy?

25 A: In this state, which is a coroner state, the coroner is

DR. CYNTHIA SCHANDL - DIRECT BY MR. TUCKER

1 responsible for determining whether an autopsy is warranted  
2 or not and then, at that point, the coroner will send the  
3 individual to a forensic pathologist to perform the autopsy.  
4 So to the medical doctor. We have an office in Charleston at  
5 the Medical University of South Carolina where we have six  
6 forensic pathologists, and there are a couple of other areas  
7 in the state as well that have some forensic pathology  
8 programs.

9       So that's how they come to us. They're referred to us  
10 by the coroner and the coroner is responsible for  
11 transportation of the person to our facility. So we don't  
12 become involved until that person comes to MUSC and then  
13 comes up to autopsy and then we're involved.

14 Q: And could you explain a little bit about what manner and  
15 cause of deaths are?

16 A: Sure. So on our reports we're asked to designate both a  
17 cause of death and a manner of death. The cause of death is  
18 essentially what killed the person. So if they were in a car  
19 crash, maybe they were killed because they had a lot of head  
20 trauma. Right? So that would be a cause of death. In that  
21 same example, if they were in a car crash, the manner of  
22 death would probably be accident.

23       So cause of death can be any number of things. It can  
24 be a heart attack. It can be a stroke. It can be from  
25 trauma.

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1 Manner of death we have five choices: homicide, suicide,  
2 natural, undetermined, and accidental. And so we choose from  
3 those five manners of death as well.

4 Q: And, Doctor, let me direct your attention to May the 7<sup>th</sup>,  
5 2018. Were you employed as a forensic pathologist for MUSC  
6 on that date?

7 A: Yes.

8 Q: And do you recall receiving a body referred to you by  
9 Danny Taylor, the deputy coroner of Florence County, with the  
10 Session Number FA18-381.

11 A: Yes, sir.

12 Q: And were you ultimately able to identify the body or was  
13 the identity furnished to you as Malcolm Spates?

14 A: Yes. That's the individual.

15 Q: Okay. And I would imagine probably identifying a body  
16 is probably one of the things that you do initially; is that  
17 correct?

18 A: So much of the identification is from the coroners. The  
19 coroner is responsible for sending us identifying  
20 information. If they don't have it, then we work with the  
21 coroner to provide them information to get it.

22 So for example, if it's somebody that nobody knows who  
23 they are, we might provide a DNA sample so that they can  
24 compare it to other people and try to figure out who that  
25 person is. In this particular instance, it was the coroner

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1 who provided us with the identification.

2 Q: Okay. And what is typically the first thing you do in  
3 an autopsy and what was the first thing you did in this  
4 particular case?

5 A: So as you can imagine, an autopsy has moving parts. So  
6 first, I'll come to the autopsy room and the decedent or the  
7 dead person will be placed onto an autopsy table. At this  
8 point, the person will come to us as we find them. So if  
9 they still have their clothes on, then they have their  
10 clothes on and I see them as they were taken from the field  
11 essentially, whether -- you know, sometimes emergency medical  
12 personnel will have taken some clothing off and so forth. So  
13 however they were when they died, that's how they should be  
14 coming to my attention.

15 So my first thing to do is to take a set of photographs  
16 exactly as I see them first, right as they sit there. Then  
17 after that, I will start to pay attention to the clothing, to  
18 any medical devices, mark those down, write down what the  
19 clothes are, take pictures of the clothing, take the clothing  
20 off, and then do another set of pictures with no clothing on  
21 so that I have all of the surfaces of the body also  
22 photographed for -- for reference for later.

23 And during that point, in this case, this individual had  
24 a gunshot wound. And in cases of gunshot wound, we like to  
25 figure out where the bullet is before we start the rest of



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1 the case, before we start what most of us think of as the  
2 autopsy where we're cutting into the body. And so in order  
3 to do that, we do a set of x-rays.

4 And so we took a set of x-rays in order to figure out  
5 whether or if and where the bullet was, and we did see a  
6 bullet on the x-rays. And then following that and another  
7 set of photographs --

8 Q: And, Doctor, let me interject one point here.

9 A: Yes, sir.

10 Q: With regards to the x-rays that you took --

11 MR. TUCKER: Your Honor, if I may approach?

12 THE COURT: You may.

13 BY MR. TUCKER:

14 Q: And let me show you what's been marked State's Exhibit  
15 56 and 55 and ask first if you recognize them?

16 A: Yes, I do. So --

17 Q: Okay. How do you recognize them?

18 A: So these are paper representations of what the x-rays  
19 looked like that I took during autopsy.

20 MR. TUCKER: And, Your Honor, at this time, I would move  
21 State's 55 and 56 into evidence.

22 THE COURT: Any objections?

23 MR. EDGEWORTH: No objection, Your Honor.

24 THE COURT: 55 and 56 are in evidence without objection.

25 (WHEREUPON, State's Exhibit Number 55, x-ray photograph,

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1           and State's Exhibit Number 56, x-ray photograph, were  
2           admitted into evidence.)

3 BY MR. TUCKER:

4 Q:   And, Doctor, if you would, look at the screen in front  
5 of you there. If you could, explain what we're looking at  
6 here?

7 A:   Yes, of course. And I assume the jury is looking at it,  
8 as we see.

9 Q:   They are.

10 A:   All right. Good. So what we see here is towards the  
11 right side of the screen is sort of this -- this thing here.  
12 That's the bullet. This is his back. This is his neck. So  
13 just trying to orient you. This is his arm.

14       So here is the bullet. It's in the soft tissue of the  
15 right shoulder. That's why it's sort of looks like it's  
16 floating in space there because there's nothing bony to  
17 obscure it. So it's actually in the muscle and fat of the  
18 right shoulder.

19 Q:   Okay. And after x-raying and after you take a look at  
20 the x-ray, what, if anything, occurs next?

21 A:   So we -- in order to really figure it out, we also -- so  
22 this is a lateral x-ray. So the x-ray film is coming this  
23 way. So then we need -- in order to put the thing in 3-D  
24 space, we need also an AP or an anterior to posterior, front  
25 to back x-ray. And so now this tells us a little bit more

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1 about the story.

2       So at this point -- thank you, sir -- the bullet -- you  
3 can now see we're looking like if you were facing somebody.  
4 So this is his right side and this is his left side, and so  
5 now you can tell here's the bullet, this bright thing, and  
6 this is his arm and you can see this is his spine. And so  
7 this -- here's the bullet and these little things here are  
8 bullet fragments.

9       And the other thing you can tell from this front to back  
10 view is that the arm is broken. So this is the humerus or  
11 the upper arm bone and that's been fractured by the gunshot  
12 wound and that's why you have all the little fragments  
13 because the bullet actually hit the arm bone, and then here's  
14 the bullet.

15 Q:    Okay.

16       MR. TUCKER: And, Your Honor, for the record, the front  
17 x-ray we're looking at is State's 56. The previous one was  
18 State's 55.

19       THE COURT: All right.

20 BY MR. TUCKER:

21 Q:    And, Doctor, after you were able to make these  
22 determinations and observations, what, if anything, did you  
23 do next?

24 A:    So at this point, I -- and you could actually feel a  
25 bump there in this shoulder. So since it was easy pickings,

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1 I went ahead and got the bullet from the body by making a  
2 little incision over that bump and removing the bullet. So  
3 at that point, I removed the bullet before starting the rest  
4 of the autopsy examination.

5 Q: Okay. And when you say started the rest of the autopsy,  
6 what step did you take next in that regard?

7 A: So the rest of the autopsy is kind of what we think of  
8 as the autopsy where I do an incision and you take the chest  
9 plate off and you start to examine organs one by one to see  
10 what's going on inside the body. So I'm looking for any  
11 evidence of injury, any disease processes. And in cases like  
12 this where there's been a gunshot, we're looking for the  
13 pathway of the bullet. What structures did the bullet hit on  
14 its way through the body?

15 Q: And were you able to make any sort of conclusions after  
16 removing that and conducting that examination or observation?

17 A: Yes. So by the end of the autopsy -- and we kind of  
18 skipped a major thing is that -- do you guys still have that  
19 picture up in front of you?

20 So over here is where you can tell on the skin that  
21 there was a gunshot wound. So the entrance gunshot wound was  
22 over here on the left-hand chest side and then the bullet was  
23 coming up. As I went through the whole examination -- and it  
24 just looks -- you know, you can kind of tell where the bullet  
25 ended, but the bullet was going this direction.

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1           And so with my autopsy examination, I found that the  
2 bullet went through the left lung and then it went through  
3 the heart and then it went through the aorta and then it went  
4 through the right lung and then it went through ribs over on  
5 the left-hand side and then into the shoulder, hitting the  
6 humerus, that long bone in the arm, and then ending up where  
7 we found it. So just what you would think. If it started  
8 over here kind of where that one is and ended up over in the  
9 shoulder.

10           So along with all of that trauma to the organs and  
11 tissues, there were also collections of blood that totaled  
12 about a liter and a half collected in his body cavities, in  
13 his chest body cavities, which is a good bit to bleed out.

14 Q:    Okay. And what sort of effects would the injuries that  
15 you observed have on a person suffering from this kind of  
16 injury?

17 A:    Well, so he had a fairly large hole in his heart and his  
18 aorta from -- from this injury and in addition to the other  
19 -- the other defects to the lungs. So you have a large  
20 defect in your heart in your aorta, anytime you pump blood,  
21 that blood is not going to go where you want it to. It's  
22 going to go into your chest cavity.

23           And so that -- it's a fairly rapid loss of blood and so  
24 in most circumstances you're going to lose consciousness  
25 fairly quickly because you're going to quickly not have

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1 enough blood to beat to get to your brain to keep you awake  
2 and then eventually not enough to feed your heart and so your  
3 heart stops. So generally speaking, you have a hole in the  
4 heart, a hole in the aorta, and the heart is still pumping,  
5 you're going to lose blood very quickly.

6 Q: Okay. And, Doctor, do you have your autopsy report in  
7 front of you?

8 A: I do.

9 Q: And if you could, go to the second page. And let me  
10 first ask your copy is the same as my copy? It is --

11 MR. TUCKER: If I may approach, Your Honor?

12 THE COURT: You may.

13 BY MR. TUCKER:

14 A: Yes, sir.

15 Q: Okay. And again, this is the autopsy report that you  
16 generated after the examination of Mr. Spates?

17 A: Yes. I wrote this report.

18 Q: Okay.

19 MR. TUCKER: And, Your Honor, at this time, I would move  
20 the autopsy report into evidence.

21 THE COURT: Objections?

22 MR. EDGEWORTH: No objection, Your Honor.

23 THE COURT: Okay. 57 is in evidence without objection.

24 (WHEREUPON, State's Exhibit Number 57, autopsy report,  
25 was admitted into evidence.)

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1 MR. TUCKER: Okay.

2 BY MR. TUCKER:

3 Q: And, Doctor, before I hand it to the clerk, I just want  
4 to direct your attention to -- I believe it's about -- under  
5 the evidence of injury, the last sentence, the trajectory of  
6 the gunshot wound pathway is right, comma, up, comma, and  
7 forward. Could you explain what you mean by that?

8 A: Sure. So when I'm describing the way that the bullet is  
9 moving through the body, it's with the person basically  
10 standing straight up and down with their arms facing forward  
11 and it's -- it would be like thinking of yourself. So if it  
12 starts over here on your left side -- and if you look at --  
13 you can look at the diagram too.

14 It's going up because it's going, you know, from his  
15 feet towards his head. It's going towards his right and it's  
16 also going a bit forward because it's starting sort of in the  
17 mid-body and it ends up here where I could feel it in the  
18 front of his body. So that's the forward part. So we try to  
19 give it a three dimensional how did it move through space  
20 trajectory.

21 Q: And were you able to, after the conclusion of your  
22 autopsy, reach a conclusion with regards to manner and cause  
23 of death?

24 A: Yes, sir.

25 Q: And what were those?

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1 A: And I'll read them. The cause of death is gunshot wound  
2 to the chest and the manner of death is homicide.

3 MR. TUCKER: Your Honor, I believe that's all the  
4 questions I have.

5 THE COURT: All right. Cross?

6 MR. EDGEWORTH: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. EDGEWORTH:

9 Q: Good afternoon, Dr. -- and I apologize -- Schandl?

10 A: Schandl.

11 Q: Schandl. Okay. Thank you. So I'd like to make sure  
12 that we do have a clear picture of the -- of this bullet  
13 trajectory, and you were -- you were explaining to us the  
14 right, forward, up. And, you know, you're looking --

15 MR. EDGEWORTH: May I approach, Your Honor?

16 THE COURT: You may.

17 MR. EDGEWORTH: Okay. Thank you.

18 BY MR. EDGEWORTH:

19 Q: So you're looking at me and let's pretend that I am Mr.  
20 Spates. So we're talking about -- I believe you indicated  
21 that -- and if I may just kind of for the purposes of just  
22 getting to understand it, if -- if the bullet entered over  
23 here?

24 A: Yes. That's about right.

25 Q: Okay. So -- and this would be the same orientation for



## DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 Mr. Spates? Meaning, like, it wouldn't be coming through  
2 here; right?

3 A: No. It entered on his left chest side.

4 Q: Right. And that was indicated on that -- on the x-ray  
5 we saw, the kind of white spot?

6 A: Well, it's not really indicated on the x-ray.

7 Q: Okay.

8 A: Since it's a skin finding.

9 Q: Okay. But it would be somewhere, like, in between right  
10 in here; right?

11 A: Yes. Right on the left chest.

12 Q: Okay. So right in here. And then it ends up over here;  
13 right?

14 A: Yes.

15 Q: Okay. So it's coming like that; right?

16 A: Essentially.

17 Q: Okay. So if I'm standing here with a gun pointed at  
18 someone, it would -- it could very easily have entered here  
19 and come to there?

20 A: It just depends on how the two people are moving in  
21 space. So I can't place two people in space based on how the  
22 bullet goes through the body because people move all over the  
23 place.

24 Q: Okay. But clearly, it came this way?

25 A: Well, I know it --

DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 Q: It didn't go through the body from the front is what I'm  
2 saying?

3 A: I know how it moved through the body. So it moved  
4 through the body from the left chest to the shoulder. That's  
5 what I know.

6 Q: Okay. Well -- and then that's my point. It didn't go  
7 straight through here; correct?

8 A: No. This bullet went from the left side of his chest to  
9 his shoulder.

10 Q: Like this; correct?

11 A: Yes, essentially, but there's no need to think that he  
12 was standing still.

13 Q: Well, I get that, but I'm just saying if you were  
14 standing like this, that could -- that would be the right  
15 direction?

16 A: If you were standing like that.

17 Q: Right.

18 A: That sounds about right.

19 Q: Okay. Now, as part of your autopsy, you had indicated a  
20 blood ethanol level, did you not?

21 A: Yes. So as I mentioned at the beginning, one of the  
22 parts of an autopsy is going to be toxicological examination.  
23 And in this case, we did draw some blood samples and send  
24 them for toxicological exam.

25 Q: And what were those findings?

DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 A: His blood alcohol was .185 and we compare that to what  
2 is legal in the state, which is .08.

3 Q: Okay. Are you familiar with the effects of alcohol,  
4 Doctor?

5 A: They vary from person to person.

6 Q: Okay. And you already indicated that we have a,  
7 quote/unquote, legal limit here in South Carolina; right?

8 A: We do. Most states have a legal limit. That's for  
9 driving.

10 Q: Are you familiar with that?

11 A: I don't think he was driving.

12 Q: Are you familiar with that?

13 A: Yes, sir. I mentioned that the legal limit in South  
14 Carolina is .08 if you're driving.

15 Q: Right. Okay. So -- and one of the reasons why we have  
16 that limit is because we believe that you may be unable to  
17 drive due to the effects of alcohol; right?

18 A: I was not privy to those discussions.

19 Q: Okay. But you're familiar with DUIs?

20 A: Yes. That's when you can get a DUI is when your level  
21 is higher than that.

22 Q: Okay. So in this particular circumstance, can you tell  
23 us -- obviously, it's more than twice the legal limit because  
24 it's a .185; right?

25 A: It is.

## DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 Q: Okay. And can you tell the jury what the effects of  
2 alcohol is as it relates when the alcohol levels are this  
3 high?

4 A: Not specifically in this case because I don't know this  
5 individual or how he metabolizes alcohol.

6 Q: Okay. Well, we're talking about alcohol effects on any  
7 individual when the levels are that high.

8 A: Well --

9 Q: What would we expect?

10 A: Well, they vary. They vary from person to person. So I  
11 don't know what the effects would be on this individual.

12 Q: Right. And that's not what I'm asking. My question is  
13 simply -- you're a doctor; correct? And you're familiar with  
14 the effects of alcohol on the body, on people, on persons?

15 A: And again, they vary. So in many individuals, it can  
16 make them have a slower response to things going on around  
17 them. Some people become more activated and agitated. Some  
18 people become more calm and sedate. So again, the changes  
19 are very variable between individuals.

20 Q: Would alcohol at this level cause someone to become  
21 aggravated?

22 A: Potentially.

23 Q: Agitated?

24 A: In some cases.

25 Q: Unreasonable?

## DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 A: I can't answer that without knowing the individual.

2 Q: Okay. Well, but you know what reason is. Can alcohol  
3 cause someone to be unreasonable?

4 MR. TUCKER: Objection, Your Honor. I think she's asked  
5 and answered that. I think she's answered it. These  
6 questions are kind of beyond the scope. She doesn't know the  
7 individual, and the effects of alcohol, you know, vary from  
8 person to person. And without knowing the individual, these  
9 questions would be impossible for her to answer.

10 THE COURT: Why don't you go ahead and ask four more  
11 questions in that regard --

12 MR. EDGEWORTH: Okay.

13 THE COURT: -- and then move on?

14 MR. EDGEWORTH: Thank you, Your Honor. My apologies.  
15 One moment.

16 BY MR. EDGEWORTH:

17 Q: Would you agree that .185 is a relatively high alcohol  
18 level?

19 A: It is a high -- high level, yeah. It's, again, above  
20 what we consider the legal limit for driving, but nowhere  
21 near a lethal level.

22 Q: And what is a lethal level?

23 A: Well, that varies as well. We have sort of a benchmark  
24 at .35. So quite a bit higher than his.

25 Q: Okay. At the .185, do -- would you be able to opine

DR. CYNTHIA SCHANDL - CROSS BY MR. EDGEWORTH

1 that the individual, no matter who they are, would be  
2 intoxicated?

3 A: They would probably be under the effects of alcohol,  
4 such as it were for their physiology.

5 Q: And we colloquially call that intoxicated?

6 A: We do.

7 MR. EDGEWORTH: Thank you. No further questions, Your  
8 Honor.

9 THE COURT: All right.

10 MR. TUCKER: Nothing on redirect, Your Honor.

11 THE COURT: All right. You have a good day.

12 THE WITNESS: Thank you, sir.

13 THE COURT: Thank you. Good luck traveling back.  
14 Call your next witness.

15 MR. TUCKER: Thank you, Your Honor. At this time, we  
16 would call Roger Tilton.

17 THE CLERK: Please place your left hand on the Bible and  
18 raise your right hand. Do you swear that the testimony you  
19 will give in this case will be the truth, the whole truth,  
20 and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Please be seated in the witness stand and  
23 state your name for the record.

24 THE WITNESS: My name is Roger Tilton.

25 MR. TUCKER: Thank you, Your Honor.

## ROGER TILTON - DIRECT BY MR. TUCKER

1 ROGER TILTON, being first duly  
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. TUCKER:

5 Q: Investigator Tilton, where are you presently employed?

6 A: I am a criminal investigator for the Florence County  
7 Sheriff's Office.

8 Q: And how long have you been employed in that capacity?

9 A: I have been a criminal investigator since the year 2000.  
10 I've been at the Sheriff's Office for the last five years.

11 Q: When you say the year 2000, do you have law enforcement  
12 experience going back beyond or before 2000?

13 A: I've been in law enforcement for 23 years.

14 Q: So suffice it to say, most of your time has been spent  
15 as a criminal investigator?

16 A: I was promoted in 2000 and have been an investigator  
17 since.

18 Q: Now, in reference to your responsibilities, duties, and  
19 training as an investigator, what are some of the classes  
20 that you have attended in becoming an investigator?

21 A: Well, I attended the Criminal Justice Academy on  
22 numerous occasions to become a certified police officer.  
23 After my patrol days, I've gone back for basic detective  
24 training, homicide investigation training, criminal  
25 processing of crime scenes, interrogation and interviews. We

ROGER TILTON - DIRECT BY MR. TUCKER

1 have -- every month we do legal and live updates via the  
2 Internet.

3 Q: Is that to maintain your Class I certification?

4 A: That is so we can maintain our certification in the law  
5 enforcement field.

6 Q: Now, directing your attention specifically to the date  
7 May 6<sup>th</sup>, 2018, were you employed by the Florence County  
8 Sheriff's Office as a criminal investigator on that date?

9 A: I was the on-call investigator for Florence County on  
10 that date.

11 Q: Explain what on-call investigator is, please?

12 A: We have 13 criminal investigators. About once a week,  
13 we each take a call rotation where we're notified. We're the  
14 ones that are notified of any incidents that occur that we  
15 come out after hours to investigate any crimes. When you're  
16 not on call, you just work Monday through Friday regular  
17 hours.

18 Q: Now, do you recall specifically getting notified of a  
19 shooting at the Downbeat Club, which is in Coward?

20 A: I was. I was at home that evening. I was asleep. It  
21 was late in the morning and I received a phone call from Lt.  
22 Robert Hooks in reference to a shooting incident with two  
23 victims that occurred at the Downbeat Club on Karisma Road in  
24 the Coward area of Florence County.

25 Q: Now, do you recall about what time this call came to



## ROGER TILTON - DIRECT BY MR. TUCKER

1 you?

2 A: I received a call from Lt. Hooks at 2:10 a.m.

3 Q: And after receiving the call from Lt. Hooks, what, if  
4 anything, did you do?

5 A: I got up, got ready, got my uniform ready. He told me  
6 that one was possibly deceased. So I prepared myself and got  
7 my paperwork and stuff to speak with victims and responded to  
8 the location in Coward.

9 Q: And so the location meaning the Downbeat Club?

10 A: That's right.

11 Q: And what, if anything, did you do when you first  
12 arrived?

13 A: When I arrived on the scene, patrol deputies and  
14 supervisors were on the scene. Lt. Hooks was there. Sgt.  
15 McFadden and Cpl. Mack were there. The scene was roped off.  
16 I approached the taped area, signed in the crime scene log  
17 with Cpl. Mack. I then proceeded inside, met with Sgt.  
18 McFadden, and he briefed me on the details of what he knew  
19 and had several witnesses that were ready to speak with me.

20 Q: What were you able to ascertain in terms of what  
21 happened at that stage of the investigation?

22 A: At this stage, I was told that there was a disturbance  
23 in the club earlier. That an individual had fired several  
24 shots. One victim was transported by family members to a  
25 local hospital and the second victim was in the bathroom but

ROGER TILTON - DIRECT BY MR. TUCKER

1 was also transported prior to my arrival.

2 Q: Ultimately, were you able to identify the person who was  
3 shot in the bathroom?

4 A: I was. I spoke with the bartender and the bouncer.  
5 They were able to describe him to me. Around the same time,  
6 I heard over -- I was told over the radio that Deputy Bazen  
7 had pulled the vehicle over that was described by the  
8 witnesses when the call came out. He was a short distance  
9 away. He said that the description of the subject matched  
10 someone in the vehicle. They told me -- the witness said it  
11 was a light-skinned black male with curly hair. He was  
12 wearing some sort of camouflage and he had a gray T-shirt on  
13 that said three strikes on it.

14 Q: Okay.

15 MR. TUCKER: And let me approach, if I may, Your Honor?

16 THE COURT: Yes.

17 BY MR. TUCKER:

18 Q: And show you what's been marked State's Exhibit 4 and  
19 ask if you recognize first what I'm showing you?

20 A: I do.

21 Q: How do you recognize it?

22 A: This is a picture of the T-shirt that I took from the  
23 vehicle at the traffic stop.

24 Q: Okay.

25 MR. TUCKER: And, Your Honor, at this time, I would move

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1 State's 4 into evidence.

2 THE COURT: I think 4 is an evidence, isn't it? Yeah.

3 MR. TUCKER: Okay.

4 BY MR. TUCKER:

5 Q: And I ask also if you would look at what's been marked  
6 State's 53 and ask if you can identify that?

7 A: This is the gray T-shirt that was found in the front  
8 seat where Mr. Jackson was sitting. It says "Three-Strike  
9 Life" on it.

10 Q: Okay. Now, going back, if I could briefly just a bit,  
11 you mentioned that there was an individual you learned had  
12 been shot in the bathroom. Were you ultimately able to put a  
13 name to that victim?

14 A: Yes, sir. Investigator Edwards was assisting me on this  
15 case and I called him. He was sort of training. I called  
16 him and asked him to respond to the hospital to meet with the  
17 victim that was still alive, and we were able to identify him  
18 as Ronald Oliver.

19 Q: And ultimately, were you able to identify the other  
20 victim who was shot inside the Downbeat Club?

21 A: Yes, we were. The coroner was able to identify him as  
22 Mr. Spates.

23 Q: And you ultimately learned that he passed away as a  
24 result of his gunshot wound?

25 A: That is correct.

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1 Q: Now, you mentioned that you were there. You mentioned  
2 that you left the Downbeat Club and went to the traffic stop;  
3 is that correct?

4 A: I did. Once I finished speaking with the two witnesses  
5 at the Downbeat, I made arrangements for them to come in at a  
6 later time and do a formal statement. I left and met with  
7 Deputy Bazen and Sgt. McFadden on North 52 just past  
8 Effingham Highway at the post office.

9 Q: Okay. And what, if anything, did you do when you  
10 arrived there?

11 A: When I first arrived, they already had the five  
12 individuals detained in handcuffs. I approached Deputy  
13 Bazen. He informed me of the traffic stop. He informed me  
14 that he had observed the T-shirt in the front seat that  
15 matched the description, with the defendant in the front  
16 right seat being Mr. Jackson matched the description. I  
17 observed him, observed that he did match the description. I  
18 then spoke with the driver of the car first, the owner of the  
19 black Dodge Charger. I brought her to the rear of my  
20 vehicle, verbally gave her her Miranda rights because it was  
21 a criminal investigation and she was a possible suspect  
22 involved at the time.

23 Q: Were you able to identify her by name at this point?

24 A: I did.

25 Q: What was that name?

## ROGER TILTON - DIRECT BY MR. TUCKER

1 A: Latesha Newton.

2 Q: And after giving her Miranda warnings, what, if  
3 anything, did she tell you?

4 A: She told me that while inside the club --

5 MR. EDGEWORTH: Objection. Hearsay.

6 THE COURT: Sustained.

7 MR. TUCKER: All right.

8 BY MR. TUCKER:

9 Q: As a result of your conversation with Ms. Newton, what,  
10 if anything, did you do then?

11 A: I pulled out Mr. -- Ms. Lawanda Johnson and did the same  
12 with her.

13 Q: And after having a discussion with her, what, if  
14 anything, did you do?

15 A: Pulled Mr. Frierson out -- Frierson out and spoke with  
16 him.

17 Q: And after speaking to Mr. Frierson, what happened next?

18 A: I pulled Ms. Ernestine Mack to the back of my vehicle  
19 and spoke with her.

20 Q: And after speaking with Ms. Mack, what, if anything, did  
21 you do at that point?

22 A: I then brought Mr. Jackson to the rear of my vehicle,  
23 verbally read his Miranda rights, started questioning him  
24 about the incident. He said he had no idea what I was  
25 talking about and he didn't match any description that he

ROGER TILTON - DIRECT BY MR. TUCKER

1 heard on the radio when the deputies were there earlier.

2 Q: Now, Investigator Tilton, you mentioned that you've been  
3 in law enforcement for 20+ years?

4 A: Yes, sir.

5 Q: Now, you've had an opportunity to come across people who  
6 have been inebriated or impaired; is that correct?

7 A: Yes, sir.

8 Q: Now, how would you describe Mr. Jackson's demeanor as  
9 you witnessed it there at the traffic stop?

10 A: Mr. Jackson was very calm and collected.

11 Q: Did he appear to be unsteady on his feet?

12 A: No, sir.

13 Q: Did he slur his words in any way?

14 A: He did not.

15 Q: Did he in any other way exhibit any characteristics of  
16 someone who was impaired?

17 A: No, sir. He was very calm.

18 Q: Okay. Now, after he indicated he didn't know what you  
19 were talking about, did you assist Deputy Bazen in a search  
20 of the 2014 Dodge Charger?

21 A: The search was given consent by the owner of the car,  
22 Ms. Latesha. She did say there was a weapon in the center  
23 console of her vehicle. At the time, she did tell me it was  
24 hers. So we took it for evidence because it matched the same  
25 as the weapon that fired the 9-millimeter. We also took the

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1 T-shirt that was found in the front seat where Mr. Jackson  
2 was sitting.

3 Q: With regards to the firearm, were you the one who  
4 removed it from the console?

5 A: I did. I removed the pistol from the console.

6 Q: Okay.

7 MR. TUCKER: I beg the Court's indulgence.

8 BY MR. TUCKER:

9 Q: Now, you were here earlier for Deputy Chase McDaniel's  
10 testimony; correct?

11 A: I was.

12 Q: Now --

13 MR. TUCKER: If I may approach, Your Honor?

14 THE COURT: You may.

15 BY MR. TUCKER:

16 Q: This is an evidence stored property record. I would ask  
17 if you would look at it, and that was the form that was  
18 referenced by Mr. Edgeworth when he was talking to Mr.  
19 McDaniel about a gun being taken from Malcolm Spates; is that  
20 correct?

21 A: This is the form he was talking about, yes.

22 Q: Now, as lead investigator, during the course of your  
23 investigation were you aware of any guns that were obtained  
24 or taken from Malcolm Spates?

25 A: No weapons were taken from Mr. Spates.

## ROGER TILTON - DIRECT BY MR. TUCKER

1 Q: Now, with regards to that particular form that was shown  
2 to Mr. McDaniel, does it identify the type and caliber of the  
3 weapon?

4 A: This says it was a Hi-Point C9 Luger 9-millimeter pistol  
5 with serial number P, as in Papa, 10003865.

6 Q: And ultimately, when you found out who owned the pistol,  
7 were you able to ascertain the make and caliber of it as  
8 well?

9 A: Of this pistol?

10 Q: Of that pistol, yes.

11 A: This was a black Hi-Point 9-millimeter.

12 MR. TUCKER: And if I could approach, Your Honor?

13 THE COURT: Yes.

14 BY MR. TUCKER:

15 Q: And I'd ask you to look at State's 54 and, if you would,  
16 carefully remove it from the box? And can you make the  
17 serial number out?

18 A: Papa 10003865.

19 Q: So that, in fact, is the same serial number of the gun  
20 that was taken from the vehicle; correct?

21 A: This is the weapon that I removed from the center  
22 console of the black Dodge Charger.

23 Q: And that is the weapon that's described in that evidence  
24 form?

25 A: It is.



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1 Q: Okay. So again, there was no gun taken from Mr. Spates;  
2 is that correct?

3 A: No, sir.

4 Q: And the gun on that form is the one that was taken out  
5 of the Dodge Charger by you that morning; correct?

6 A: Yes, sir.

7 Q: Now, after the search of the vehicle and you retrieved  
8 both the firearm and the shirt, was there any other  
9 evidentiary item that you removed from the vehicle?

10 A: There was a magazine clip that didn't belong to this  
11 weapon, but there was no other weapon in that car. But I did  
12 take the weapon.

13 Q: Okay. Now, what, if anything, did you do with it?

14 A: The gun, the magazine, and the T-shirt were all given to  
15 Investigator McDaniel with forensics to put into evidence.

16 Q: Okay. Now, after those items were turned over to Mr.  
17 McDaniel, what, if anything, did you do that morning with  
18 regards to the investigation?

19 A: Well, at that time, Mr. Jackson was placed under arrest.  
20 I had probable cause to believe he was involved in the  
21 shooting of two individuals. Sgt. McFadden transported him  
22 to the jail. I went to the hospital and met with the family  
23 of Mr. Spates at Carolinas Hospital System.

24 Q: And again, that's where you were able to put a name and  
25 an identity with the person who was shot?

## ROGER TILTON - DIRECT BY MR. TUCKER

1 A: That is correct.

2 Q: Now, after you met with the family, was there anything  
3 that you did that morning?

4 A: The following morning, we got up, we came in. The  
5 witnesses came back down to the Sheriff's Office from the  
6 vehicle and --

7 Q: Investigator Tilton, let me stop you. When you say the  
8 following morning, so now we're talking about May the 7<sup>th</sup>?

9 A: We're talking still the 6<sup>th</sup>.

10 Q: Still the 6<sup>th</sup>? Okay.

11 A: Yes. It's just the daylight hours now.

12 Q: All right.

13 A: They came down, gave verbal statements, video-recorded  
14 statements. After I took their statements, I showed photo  
15 lineups to the bartender and she was able to identify Mr.  
16 Jackson.

17 Q: Now, was the bartender Samantha Gibson?

18 A: It was.

19 Q: Okay.

20 MR. TUCKER: And if I may approach, Your Honor?

21 THE COURT: You may.

22 BY MR. TUCKER:

23 Q: And I'm showing you what's been marked as State's  
24 Exhibit 52 and ask first if you recognize it?

25 A: I do.

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1 Q: And how do you recognize it?

2 A: This is a photo lineup that I requested from the South  
3 Carolina Law Enforcement Division. They have a name for the  
4 department, but I can't remember what it is.

5 Q: Okay. And after showing that to Ms. Gibson, was she  
6 able to identify the person she identified to you as the  
7 shooter in that club?

8 A: She did. She circled number three, which is a picture  
9 of Mr. Diondrae Jackson.

10 MR. TUCKER: And at this time, Your Honor, I don't  
11 believe this has been moved into evidence yet; so I would  
12 move 52 into evidence.

13 THE COURT: Any objections?

14 MR. EDGEWORTH: No objections, Your Honor.

15 THE COURT: 52 is in evidence without objection.

16 (WHEREUPON, State's Exhibit Number 52, photo lineup, was  
17 admitted into evidence.)

18 MR. TUCKER: Okay.

19 BY MR. TUCKER:

20 Q: Now, after speaking to the witnesses, Investigator  
21 Tilton, did you have an occasion to speak to the defendant,  
22 Mr. Jackson, in this case?

23 A: I did. Yes, sir.

24 Q: Could you explain the circumstances?

25 A: Myself and Investigator Edwards pulled Mr. Jackson from

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1 the booking area of the jail. And at the Sheriff's Office,  
2 we have two interview rooms. We have a large one and we have  
3 a small one. Since there was two investigators and one  
4 defendant, we brought him into the larger room, turned the  
5 recorder on, sat him down, and began an interview with him.

6 Q: Now, when you began the interview, is there anything  
7 that you commonly do when questioning a suspect?

8 A: The first thing I do is we have a form in the Sheriff's  
9 Office called a Miranda rights form. It's the same rights  
10 that we read to people when we arrest them on the street.  
11 It's just a written form that I read off to them, ask them if  
12 they understand their rights, and then knowing their rights  
13 do they wish to speak with me. If they do, they sign the  
14 form saying they agree to speak without a lawyer present and  
15 no pressure or anything has been put against them.

16 MR. TUCKER: And, Your Honor, if I may approach again?

17 THE COURT: You may.

18 BY MR. TUCKER:

19 Q: And, Investigator Tilton, I am showing you what's been  
20 marked State's Number 1 and ask first if you recognize it?

21 A: I do.

22 Q: And secondly, how do you recognize it?

23 A: This is the form issued that we use in investigations at  
24 the Sheriff's Office that we use to read defendants their  
25 Miranda rights and have them sign that they agree to speak

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1 with us.

2 Q: Okay. And is this the form that you used in reference  
3 to the interview you conducted with Diondrae Jackson?

4 A: This is the Miranda warning that I read and he signed  
5 agreeing to speak with me, and Investigator Edwards witnessed  
6 it.

7 Q: Okay. And if you could, read the Miranda warnings as  
8 they appear on that paper?

9 A: This says Miranda warning. The case number was 2018-  
10 050142. Location, I put LEC, which means law enforcement  
11 center. The date was May 6<sup>th</sup>, 2018, at 2:15 p.m.

12 The Constitution requires that I inform you that, one,  
13 you have the right to remain silent. Two, anything you say  
14 can and will be used against you in a court of law. Three,  
15 you have the right to talk to a lawyer and have him present  
16 with you while you are being questioned. Four, if you cannot  
17 afford to hire a lawyer, one will be appointed to represent  
18 you before any questioning if you wish. Five, you can decide  
19 at any time to exercise these rights and not answer any  
20 questions or make any statements. Six, I asked him do you  
21 understand each of these rights as I explained them to you.  
22 Seven, having these rights in mind, do you wish to talk with  
23 us now?

24 If he agrees, I also read him the waiver of his rights.  
25 It says I have read this statement of my rights and

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1 understand what my rights are. I am willing to make a  
2 statement and answer questions. I do not want a lawyer at  
3 this time. I understand and know what I am doing. No  
4 promises or threats have been made to me. No pressure of any  
5 kind has been used against me by anyone. 1`

6 He initialed each number and signed his name at the  
7 bottom.

8 Q: And did you take that as an indication that he both  
9 understood what he was waiving and, in fact, he did waive his  
10 rights as you explained to him based on that Miranda form?

11 A: I felt he understood his rights and he did waive them of  
12 his own free will.

13 Q: And did you sign the form as well?

14 A: I did.

15 Q: And did Investigator Edwards, who was present -- did he  
16 sign the form as a witness?

17 A: He did.

18 Q: Okay. Now, with regards to Mr. Jackson, did he appear  
19 in any way confused by what you were saying to him?

20 A: He seemed eager to want to talk to me. He didn't seem  
21 confused. He wanted to give his side of the story.

22 Q: Did he appear to be impaired in any way?

23 A: None whatsoever.

24 Q: Did he appear to be suffering from any sort of mental  
25 defect that would've prevented him from understanding what it

## ROGER TILTON - DIRECT BY MR. TUCKER

1 was he was doing?

2 A: No, sir.

3 Q: Did you in any way have any concerns about his ability  
4 to understand what he was doing both in terms of what he was  
5 saying and in what he was waiving by way of his  
6 constitutional rights?

7 A: Absolutely not.

8 Q: Now, after he signed the Miranda form and it was  
9 witnessed by both you and Investigator Edwards, what happened  
10 next?

11 A: We began to talk about the incident. I asked him to  
12 explain to me how his day went, how he led up to being at the  
13 club, his relationship status with the people that were in  
14 the vehicle. He stated that after Latesha picked him up and  
15 before they picked up the others that they stopped and he was  
16 given a drink that he was not sure what it was. They then  
17 picked up the others and went to the club in Coward.

18 While in the club, he played a game of pool and lost.  
19 There were quarters on the table that belonged to someone  
20 else, but he could not find them at the time; so he used the  
21 quarters and played again. While doing so, a male subject  
22 came up to him and started arguing about him using his  
23 quarters. They exchanged words and then he walked outside  
24 with Latesha.

25 Q: So this -- he indicated to you that this was over four

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1 quarters that were left on a pool table that started  
2 initially?

3 A: That's what he said. Yes, sir.

4 Q: All right. Now, did he indicate to you what happened  
5 after he went outside with Latesha?

6 A: He says that he sat in the vehicle and Latesha told him  
7 that there was a gun in the glove box and for him to use it  
8 if he needed to. He reached in the glove box and remembers  
9 touching the gun. He remembered walking back in the club and  
10 something popping off, but he stated he did not remember if  
11 he took the gun back inside and if he shot anyone. He says  
12 he blacked out as a result of the drink he had.

13 Q: Okay. Now, this exchange was recorded on both audio and  
14 video recording devices?

15 A: It was.

16 Q: And have you had an opportunity to look at that?

17 A: I have.

18 MR. TUCKER: And, Your Honor, if I may approach?

19 THE COURT: You may.

20 BY MR. TUCKER:

21 Q: Now, I'm showing you what's been marked State's Exhibit  
22 2 and ask if you recognize that as the disk containing the  
23 audio and video interview with Mr. Jackson?

24 A: I do.

25 Q: Okay.



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1 MR. TUCKER: Your Honor, at this time, I would move  
2 State's 2 into evidence.

3 THE COURT: Any objections?

4 MR. EDGEWORTH: No objection, Your Honor.

5 THE COURT: State's 2 is in evidence without objection.

6 (WHEREUPON, State's Exhibit Number 2, statement on disk,  
7 was admitted into evidence.)

8 MR. TUCKER: And I would also ask that the interview be  
9 published to the jury at this time.

10 THE COURT: Yes.

11 (WHEREUPON, State's Exhibit Number 2 was played and was  
12 then stopped. Not transcribed herein.)

13 BY MR. TUCKER:

14 Q: And before the conversation begins, that's you and  
15 that's also Investigator Edwards?

16 A: It is.

17 Q: And that's Diondrae Jackson?

18 A: It is.

19 (WHEREUPON, State's Exhibit Number 2 resumed playing.  
20 Not transcribed herein.)

21 (WHEREUPON, State's Exhibit Number 2 was muted while it  
22 continued playing.)

23 BY MR. TUCKER:

24 Q: And what we're muting now, Investigator Tilton, is where  
25 Mr. Jackson goes into detail about where he lives and

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1 personal information about a cell phone; is that correct?

2 A: That's right.

3 (WHEREUPON, State's Exhibit Number 2 was unmuted and  
4 resumed playing. Not transcribed herein.)

5 (WHEREUPON, State's Exhibit Number 2 was stopped at the  
6 end of the interview.)

7 BY MR. TUCKER:

8 Q: Now, as he's going out the door, Mr. Jackson says how do  
9 y'all know Latesha didn't do it?

10 A: Yes, sir. That's what he said twice.

11 Q: Was there anything in your investigation other than Ms.  
12 Newton being with Mr. Jackson and driving him there and back?  
13 Was there anything that indicated she was the one who fired  
14 the shots at Malcolm Spates and Ronald Oliver?

15 A: No. There was no evidence, no witness testimony or  
16 evidence to show that she shot anybody.

17 Q: Now, with regards to one of the things that he said, he  
18 described a guy wearing a wife beater. Again, you're in law  
19 enforcement for over 20 years. What exactly is a wife  
20 beater?

21 A: It's a white undershirt tank top that men wear and  
22 sometimes they wear it under a shirt, sometimes they would  
23 just wear it.

24 Q: Okay. Now, with regards to his characterization, he  
25 indicated to you in the statement that that individual tried

ROGER TILTON - DIRECT BY MR. TUCKER

1 to diffuse the situation and he identified that person as the  
2 brother of the guy that he got into the confrontation with to  
3 begin with; is that right?

4 A: That's correct.

5 Q: Now, you indicated that you went to the hospital where  
6 Malcolm Spates was located; is that correct?

7 A: I did.

8 Q: Do you recall what he was wearing by way of a shirt?

9 A: A wife beater, a white tank top.

10 Q: Okay. So that would be consistent with what Mr. Jackson  
11 told you?

12 A: That is consistent with what Mr. Jackson told me.

13 Q: Okay. Now, with regards to the statement that he made,  
14 did he ever mention -- I think we all saw it, but he never  
15 mentions that anybody he saw in the club had a gun, did he?

16 A: No. He never mentioned anything about anybody else  
17 having a gun. He said he didn't remember what happened.

18 Q: And he didn't mention anybody making any sort of direct  
19 threats towards him, did he?

20 A: Nobody making any threats toward him.

21 Q: Now, in the course of your investigation, did it reveal  
22 any evidence of anybody else in the Downbeat Club when this  
23 happened being armed?

24 A: There was no one that said anything about anyone else  
25 being armed during this altercation or any time.

ROGER TILTON - DIRECT BY MR. TUCKER

1 Q: Now, let me ask you this some questions about when you  
2 asked him about -- initially, you said you threw the gun out  
3 the window and then his response was right?

4 A: If you observed in the video when I'm talking with him,  
5 I said -- he says he reaches back for a cigarette and the  
6 motion that he reached back to get a cigarette, which was  
7 corroborated by Mr. Frierson's testimony that he heard the  
8 window crack, and when I asked him that's when you threw the  
9 pistol out, he says, yeah, and shakes his head yes.

10 Q: And then he said right?

11 A: Right.

12 Q: Okay. Now, later he said, no, that's what you said and  
13 he disagreed saying that to begin with; correct?

14 A: Yes, sir. He -- he didn't remember shaking his head and  
15 saying yes. But during interrogations and interviews, most  
16 of the time defendants may not say something, but their body  
17 -- their body will tell you what they're trying to say.

18 Q: Now, ultimately, were you able to find that gun?

19 A: No, we weren't. We actually called the county out to --  
20 there was really high grass on the median. I don't know if  
21 you're familiar with McCall Farms on 52. The median is very  
22 high on the ditch banks where he -- where they describe the  
23 gun was thrown out at. We backtracked to where Deputy Bazen  
24 turned around all the way to where they were pulled over. We  
25 had the county come out and bush hog the tall grass. We

ROGER TILTON - DIRECT BY MR. TUCKER

1 brought metal detectors. I had two dogs that were trained to  
2 sniff for firearms. We searched for two days solid and  
3 weren't able to find the weapon.

4 Q: Now, with regards to the clip that was mentioned. That  
5 clip did not match that Hi-Point 9-millimeter that belonged  
6 to Ms. Johnson; is that correct?

7 A: It did not. And let me back up just a second. I  
8 interviewed Mr. Jackson before I interviewed the other  
9 witnesses. I apologize for that. I told you that morning.  
10 I didn't interview the witnesses until May 7<sup>th</sup>, which would  
11 have been the following morning, but during that interview is  
12 when I discovered that the pistol we found in the center  
13 console did belong to Ms. Lawanda, not Ms. Latesha, and the  
14 pistol that was used in the crime belonged to Latesha and the  
15 magazine that we found was a spare magazine for her weapon,  
16 which was the one that was thrown out the window.

17 Q: Okay. And again, her testimony was the gun was in the  
18 car in the glove box and then after this it was gone;  
19 correct?

20 A: That's right. She said that she keeps her gun in her  
21 glove box, which is totally legal, and she had a spare  
22 magazine for it, but that after she came in for her  
23 interview, formal interview, she informed me that she had  
24 told deputies that the gun in the center console was hers to  
25 begin with. She felt her friend might have been in trouble,

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1 but she said the gun belongs to me. We were able to trace it  
2 back that it was her weapon that she received from someone  
3 else. And at that time, I entered the serial number for the  
4 missing weapon into our national crime computer so in case it  
5 did get found by someone or turn up, we would be able to get  
6 it.

7 Q: Has it ever turned up?

8 A: It has not.

9 Q: Now, with regards to the statement that Mr. Jackson  
10 makes regarding -- he mentions that drink. He stopped by the  
11 carwash and there was some guy selling some kind of drink and  
12 he recalls drinking it and then he goes back out to the car  
13 after this initial altercation over the four quarters and he  
14 got that drink and then he mentioned he kind of got a little  
15 foggy and things were not quite right or he couldn't  
16 remember. Do you recall that in the statement?

17 A: He did say that whatever he was drinking caused him to  
18 black out and not remember.

19 Q: And did you at some point after the interview ask him to  
20 consent to having blood drawn?

21 A: Actually, I did on May 9<sup>th</sup>. I asked him to consent to a  
22 blood draw to see if there was any narcotics or illicit drugs  
23 still in his system.

24 MR. TUCKER: May I approach, Your Honor?

25 THE COURT: You may.

ROGER TILTON - DIRECT BY MR. TUCKER

1 BY MR. TUCKER:

2 Q: And I'm showing you what's been marked State's 45 and  
3 that -- is that the consent form that he signed?

4 A: This is a Florence County Sheriff's Office Consent to  
5 Search form. We use these forms to get consent from property  
6 owners to search their property, their vehicles.

7 In this situation, I asked for -- I asked Diondrae  
8 Jackson to voluntarily of his own free will consent and  
9 permit Investigator Roger Tilton of the Florence County  
10 Sheriff's Office to draw blood and a DNA swab located at the  
11 Florence County Detention Center. This consent to search  
12 granted to the above-named officer without fear of threats of  
13 any kind. And Mr. Diondrae Jackson signed it, I signed it,  
14 and Cpl. Eric Barnes from the forensic unit signed it.

15 Q: And then blood was drawn from him?

16 A: He was transported to the jail nurse where the tubes of  
17 blood were drawn.

18 Q: And that blood ultimately was sent to SLED toxicology  
19 for analysis?

20 A: It was.

21 Q: And were you made aware of the results of that blood  
22 analysis?

23 A: I did receive a toxicology report back showing negative  
24 for any illicit narcotics.

25 MR. TUCKER: And may I approach, Your Honor?

## ROGER TILTON - DIRECT BY MR. TUCKER

1 THE COURT: You may.

2 BY MR. TUCKER:

3 Q: Is this the SLED report that you received?

4 A: It is.

5 Q: And again, is that negative for alcohol?

6 A: Completely negative for alcohol or any narcotics.

7 Q: Okay. Any other substances that it lists there?

8 A: Absolutely none.

9 MR. TUCKER: And, Your Honor, at this time, I would move  
10 this into evidence as State's 58.

11 THE COURT: Any objections?

12 MR. EDGEWORTH: No objection, Your Honor.

13 THE COURT: 58 is in evidence without objection.

14 (WHEREUPON, State's Exhibit Number 58, SLED toxicology  
15 report, was admitted into evidence.)

16 BY MR. TUCKER:

17 Q: And this took place -- the blood draw itself was about  
18 two days after the incident?

19 A: It was not until May 9<sup>th</sup>. Yes, sir.

20 Q: Okay. Now, with regards to Mr. Jackson, anything he  
21 told you in the statement in addition thereto, after you made  
22 the -- took the statement from him, what, if anything, did  
23 you do in regards to the investigation?

24 A: After I took his statement is when I met with Samantha  
25 Gibson, Latesha Newton, Charles Frierson and Lawanda Johnson



ROGER TILTON - DIRECT BY MR. TUCKER

1 and Ernestine Mack and took their statements.

2 Q: Okay. And without going into the substance of their  
3 statements, they testified in court yesterday and you were  
4 present for that, were you not?

5 A: Yes.

6 Q: Were those statements that they testified to -- were  
7 they consistent with the statements that you took from them?

8 A: They were very consistent.

9 Q: All right. Now, after conducting those interviews,  
10 what, if anything, did you do thereafter?

11 A: After I took the interviews, I went and met with a local  
12 magistrate, presented the probable cause, and he issued a  
13 warrant for murder and attempted murder.

14 MR. TUCKER: I believe that's all the questions I have  
15 for Investigator Tilton.

16 THE COURT: All right. Cross?

17 MR. EDGEWORTH: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. EDGEWORTH:

20 Q: Good afternoon, Investigator.

21 A: Good afternoon.

22 Q: Okay. You were talking to Mr. Jackson on that video  
23 about how the physical evidence supports your case; right?

24 A: I was talking with him about that.

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

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 THE COURT: You may.

2 BY MR. EDGEWORTH:

3 Q: When you testified earlier -- do you still have the  
4 document there? You indicated that they -- that the evidence  
5 log was inaccurate; is that correct?

6 A: Are you talking about the evidence stored property  
7 record?

8 Q: Yes. Thank you. That's -- according your testimony,  
9 that that document is inaccurate; is that correct?

10 A: It is inaccurate, yes.

11 Q: Okay. It's indicating on here that you obtained a gun  
12 from Mr. Spates and that's inaccurate; is that right?

13 A: Yes.

14 Q: So I'm going to show you another document and let me ask  
15 you if that is accurate?

16 A: No, it's not.

17 Q: Okay. Let me show you another document and ask you if  
18 that is accurate?

19 A: No, it's not accurate.

20 Q: You did not obtain a 1997 Mercury Grand Marquis from Mr.  
21 Spates?

22 A: I did recover it from Mr. Spates, but it was not  
23 obtained from his address. These forms are entered into a  
24 computer system and they are assigned the case number. So  
25 when you enter in this evidence, the computer automatically

ROGER TILTON - CROSS BY MR. EDGEWORTH

1 prints out the victim and the victim's information. So it  
2 would say obtained from and his information because that's  
3 generic in the RMS system, the Record Management System.

4       Someone would have to physically go in and change it to  
5 obtained from Mr. Spates or obtained from LEC, wherever the  
6 location is. These forms -- the officer that entered the  
7 information just hit the tab button and it continued and it  
8 just filled in automatically. So they would not be accurate  
9 as far as who from and where from they were received.

10 Q:    So is it your testimony that none of the evidence  
11 records are accurate?

12 A:    If they read that it was obtained from the Olanta  
13 address, they're not correct because nothing was taken from  
14 the victim's home address. That's just generically in the  
15 system.

16 Q:    So when it says that you took 11 bullets from Mr.  
17 Spates, that's inaccurate?

18 A:    That's correct. I never went to Olanta Circle and took  
19 anything from Mr. Spates. It's just generically entered in  
20 the system.

21 Q:    So you never took a S&B 9 by 1914 round from Mr. Spates?

22 A:    I have not taken any rounds from Mr. Spates at Olanta  
23 Circle in Olanta.

24 Q:    You haven't taken an HMA 15 round from Mr. Spates?

25 A:    No rounds were taken from Mr. Spates in Olanta.

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Q: Did you take a magazine with Winchester bullets from Mr.  
2 Spates?

3 A: No magazine with any bullets were taken from Mr. Spates.

4 Q: Did you obtain a black suede holster from Mr. Spates?

5 A: No black suede holster was taken from Mr. Spates in  
6 Olanta.

7 Q: Did you take a Luger round from Mr. Spates?

8 A: No. No Luger round was taken from him in Olanta at his  
9 home.

10 Q: How about a Spirit 9-millimeter Luger round from Mr.  
11 Spates?

12 A: No Spirit 9-millimeter Luger round was taken from Mr.  
13 Spates.

14 Q: How about a Winchester 9-millimeter Luger round from Mr.  
15 Spates?

16 A: No Winchester 9-millimeter round was taken from Mr.  
17 Spates.

18 Q: How about a CEC 9-millimeter Luger round from Mr.  
19 Spates?

20 A: No CEC 9-millimeter Luger round was taken from Mr.  
21 Spates in Olanta.

22 Q: How about an FC 9-millimeter Luger round from Mr.  
23 Spates?

24 A: No 9-millimeter Luger round was taken from Mr. Spates in  
25 Olanta.

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Q: How about right-hand fingernail clippings from Mr.  
2 Spates?

3 A: That was taken from Mr. Spates at autopsy, not at Olanta  
4 Circle.

5 Q: Okay. So this one is kind of right?

6 A: But as you see, it's generically entered into every one  
7 of them.

8 Q: Okay. How about a pulled scalp hair from Mr. Spates?

9 A: At the autopsy.

10 Q: Pair of black sweatpants?

11 A: Autopsy.

12 Q: Pair of purple boxer shorts?

13 A: Autopsy.

14 Q: A pair of yellow metal necklace?

15 A: Autopsy.

16 Q: And then I believe this one was redundant. No. This is  
17 left-hand fingernail clippings?

18 A: Autopsy.

19 Q: Okay. Now, we can't really trust any of these records,  
20 can we?

21 A: Those records were printed from my RMS system. I did  
22 not enter them. The officer that did enter them, like I  
23 said, hit the tab button and continued.

24 Q: Okay. Now, I noticed during your testimony just now  
25 that you would respond nothing was taken or obtained from Mr.

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Spates at Olanta Circle; is that correct?

2 A: Nothing was taken from Mr. Spates by us except a GSR kit  
3 by Cpl. McDaniel.

4 Q: So if that evidence record says that you took it, is  
5 that one accurate or inaccurate?

6 A: If it says it was taken at the Carolinas Hospital  
7 System, it's accurate.

8 Q: All right. Now, you indicated just now that, you know,  
9 obviously you spoke to witnesses, but now you indicate that  
10 you spoke to many witnesses after you spoke to Mr. Jackson,  
11 at least recorded those -- those statements after you had  
12 spoken to Mr. Jackson; is that correct?

13 A: I spoke with witnesses the night of and I spoke with  
14 them again two days later when I got their official  
15 statements.

16 Q: Okay. And why do you call it official?

17 A: Just video recorded.

18 Q: Were there changes between, you know, overnight to the  
19 next day?

20 A: No. They come into the sheriff and we take a video-  
21 recorded statement for court purposes.

22 Q: Okay. If they were to tell you something different  
23 during that statement, would that statement become  
24 unofficial?

25 A: If they told me something different, I would question

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 them as to why they said what they said the prior time.

2 Q: But the official -- you're calling it the official  
3 statement because it was what you wanted to hear during those  
4 statements, even though they were after you had spoken with  
5 Mr. Jackson?

6 A: The official statement because it was taken and video  
7 recorded at the Sheriff's Office, made a CD copy, and handed  
8 to the Solicitor's Office for prosecution. That's the  
9 official statements.

10 Q: Well, I mean you tell Mr. Jackson that you had already  
11 spoken to the witnesses, but they hadn't given their official  
12 statements yet?

13 A: I had already spoken with the witnesses.

14 Q: But they hadn't made their official statements?

15 A: I never told him I got the official statements from the  
16 witnesses. I told him I had spoken with the witnesses.

17 Q: Okay. Well, in a -- when you tell him that, you know,  
18 everything lines up, you know, therefore, you know, you're  
19 going to charge him -- and did you already have the warrants  
20 right there in front of you? It looked like you did in the  
21 video.

22 A: Yeah. I did have the warrants already.

23 Q: And you --

24 A: I was expecting on that part. I had already talked with  
25 the judge.

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Q: And you had already made up your mind that you were  
2 going to charge him with the crime before you even spoke to  
3 the witnesses and got their official statements; is that  
4 correct?

5 A: I did.

6 Q: Okay. And these witnesses that you spoke to, do you  
7 recall -- I believe it was Cpl. Mack that said when he got  
8 there, there was, like, 20 to 30 people outside and maybe  
9 more at this facility; is that right?

10 A: That's correct.

11 Q: Okay. And you took -- you took statements from four  
12 people; is that right?

13 A: Yes, sir.

14 Q: Okay. Why didn't you take statements from everybody  
15 else?

16 A: No one wanted to talk to us.

17 Q: And why do you think that is?

18 A: Because they don't like talking to law enforcement.

19 Q: Do you think that the fact that Mr. Jackson was  
20 obviously -- according to everyone, is down in a place that  
21 they don't even know who he is and never seen him before, is  
22 that -- is -- does that not lead you to any other  
23 conclusions?

24 A: Absolutely not. I go to places people don't know me all  
25 the time.



## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Q: Okay. Does the Downbeat have a reputation at all in the  
2 law enforcement community?

3 A: There's been some fights there and some shootings.

4 Q: Okay. And has there been -- there was one recently;  
5 correct?

6 A: I don't think there's been one there since this  
7 incident.

8 Q: Okay. Well --

9 A: Not that I've investigated, I don't think.

10 Q: Okay. But it's possible there's been others?

11 A: Anything is possible.

12 Q: Okay. Now, do you think that if you had spoken -- if  
13 you had spoken to any of the witnesses, you would have gotten  
14 any information from them? I mean you basically said they  
15 weren't going to talk to you.

16 A: I have no idea what they would have told me. They  
17 didn't want to talk to me. They -- most of them left before  
18 I got there. There wasn't 20 people there when I got there.

19 Q: Right. But -- but Cpl. Mack indicated there were 20 to  
20 30 people. Did you ask anybody there who the other people  
21 were that were there?

22 A: No. I didn't ask anybody else who the other people were  
23 there. I looked for witnesses that were willing to testify  
24 and talk to me.

25 Q: Okay. But if you're looking to get the whole story, why

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 wouldn't you try to find anybody you possibly can to get as  
2 many versions of the events as possible?

3 A: I spoke to everyone who was willing to talk to me to  
4 give me a statement. I can't force anyone to talk to me.  
5 You don't have to talk to me at all. I can come up to you  
6 and you can say I don't want to talk to you. I can't make  
7 you talk to me. The ones who wanted to talk to me, I talked  
8 to.

9 Q: I mean that's a good story, but you just said you didn't  
10 even try. You said they weren't going to talk to me. Yet I  
11 asked you if you had -- if you spoke to at least four people  
12 and you didn't ask any of those people who else was there?

13 A: After I spoke with the witnesses, I had an idea of who  
14 the subject was. They had him stopped. I proceeded to where  
15 he was at and continued my investigation.

16 Q: You ended the investigation; right?

17 A: No. I continued it.

18 Q: You had your man? You had your man? Okay. So you  
19 indicated that, you know, Mr. -- Mr. Jackson was calm and  
20 collected when you spoke to him on the side of the road;  
21 right?

22 A: That's right.

23 Q: Do you recall what he was wearing?

24 A: He had on a white wife beater when I got to him.

25 Q: Thank you. Exactly. All right. When you gave Ms. --

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 Ms. Gibson, who was one of the people that you actually  
2 talked to, a SLED lineup, do you recall her laughing and  
3 saying, well, which one of these people am I supposed to pick  
4 out essentially because I know more than one?

5 A: She may have said something about knowing more than one,  
6 but she picked out Mr. Jackson as the one that pulled the  
7 trigger.

8 Q: Right. She picked Mr. Jackson out as being at the club  
9 that night, not the other person?

10 A: She said Mr. Jackson fired the weapon.

11 Q: Gotcha. Now, are you familiar with Mr. Spates?

12 A: No.

13 Q: Have you ever had any run-ins with him?

14 A: I've been doing this 23 years. If -- I don't know if I  
15 -- I don't know him personally. If I've dealt with him in  
16 law enforcement before, I don't remember him.

17 Q: Okay. Were you employed with the Sheriff's Office in at  
18 least 2015?

19 A: I was.

20 Q: Okay. Do you recall him being arrested for armed  
21 robbery and possession of a firearm by a felon?

22 A: No.

23 Q: Okay. If I said that he was, would you disagree?

24 A: No.

25 Q: Okay. Do you know what he looks like?

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 A: From his -- the pictures I took of him at the hospital  
2 and his DMV photo.

3 Q: Okay. I'm going to show you what's been marked as  
4 Defendant's Exhibit 2 for identification and ask you if you  
5 recognize that?

6 A: It is a picture of Mr. Spates.

7 Q: Okay. And that's a true and fair -- true and accurate  
8 representation of Mr. Spates?

9 A: According to his DMV photo, yes, sir.

10 Q: Okay.

11 MR. EDGEWORTH: Your Honor, I ask to move this into  
12 evidence.

13 THE COURT: Any objections?

14 MR. TUCKER: No, Your Honor.

15 THE COURT: All right. Defendant's Number 1.

16 THE COURT REPORTER: 2.

17 THE COURT: 2 in evidence.

18 (WHEREUPON, Defendant's Exhibit Number 2, a photograph,  
19 was admitted into evidence.)

20 MR. EDGEWORTH: Thank you.

21 BY MR. EDGEWORTH:

22 Q: All right. Now, this being Mr. Spates, do you see the  
23 caption above his head?

24 A: I do.

25 Q: What does it say?

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 A: Long live Bloody.

2 MR. EDGEWORTH: I'd like this marked for identification  
3 purposes, please.

4 BY MR. EDGEWORTH:

5 Q: I'm going to show you this picture and ask if you can  
6 recognize the photo on the T-shirts. I'll give you a  
7 reference.

8 A: I'm trying to read them.

9 Q: Sure.

10 A: My eyes aren't that great. It's something about Little  
11 -- Little Mack, LL Mack, something like that, with a picture  
12 of somebody on it that could possibly be that picture, yes.

13 Q: Okay. So you would agree with me that this photo here  
14 you've identified as Mr. Spates is the same photo that's on  
15 the -- on the T-shirts that were made there?

16 A: It appears to be.

17 Q: And therefore, do you think that's a fair and accurate  
18 representation?

19 A: Sure.

20 MR. EDGEWORTH: Your Honor, I'd like to move this into  
21 evidence.

22 THE COURT: Any objections?

23 MR. TUCKER: No objection, Your Honor.

24 THE COURT: Number 3 is in evidence without objection.

25 (WHEREUPON, Defendant's Exhibit Number 3, photograph,

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1           was admitted into evidence.)

2 BY MR. EDGEWORTH:

3 Q:    Now, can you tell the jury -- I know you kind of tried  
4 to read it a little bit, but what color are all the shirts  
5 that they're wearing?

6 A:    Well, all but two have on -- well, all but three have on  
7 red shirts. Two have wife beaters on and one has a black T-  
8 shirt on and one has a pink shirt on.

9           MR. EDGEWORTH: Your Honor, permission to publish this  
10 to the jury?

11          THE COURT: All right. Yes, sir.

12          MR. EDGEWORTH: Court's indulgence, Your Honor, while --

13          THE COURT: Sure.

14          MR. EDGEWORTH: Thank you.

15               (WHEREUPON, there was a pause in the proceedings, after  
16 which the proceedings resumed as follows.)

17 BY MR. EDGEWORTH:

18 Q:    Now, you stated on direct examination that -- that no  
19 one said that anyone was making any threats, but that's not  
20 true, is it?

21 A:    Not in my statements they didn't.

22 Q:    Okay. Well, do you not recall recording your video  
23 statement with Mr. Frierson, who was clearly scared and even  
24 asked for protection, and that he had seen it in the mirror  
25 at the bar that the people back there that Mr. Jackson was

ROGER TILTON - CROSS BY MR. EDGEWORTH

1 looking at was making gang signs and threatening?

2 A: He was scared that he was in the vehicle and associated  
3 with Mr. Jackson and that he may be blamed for shooting. He  
4 was scared of that.

5 Q: Okay. You don't recall him telling you in his statement  
6 to you that he saw the individuals that Mr. Jackson was  
7 looking at making gang signs and making threatening gestures?

8 A: He said that in his testimony yesterday, yes.

9 Q: He also said that in his recorded statement, did he not?

10 A: He said what he thought was gang signs.

11 Q: Okay.

12 A: But he wasn't -- he doesn't -- he's not in a gang he  
13 said.

14 Q: They were threatening, were they not?

15 A: That's what he said. I don't know.

16 Q: Do you recall Ms. Newton telling you that she was  
17 likewise scared and was -- and was fearful for her life in  
18 her statement to you?

19 A: Once again, she was scared because she was with Mr.  
20 Jackson, that she would be associated with him.

21 Q: But who would she have been scared of?

22 A: You'd have to ask her that.

23 Q: Would it be the other people at the Downbeat?

24 A: You'd have to ask her that.

25 Q: Would it be that she would believe that their threats

## ROGER TILTON - CROSS BY MR. EDGEWORTH

1 were real?

2 A: You'd have to ask her that. I don't know what she would  
3 be scared of.

4 Q: Did you take that into consideration during your  
5 investigation?

6 A: I took everything into consideration.

7 Q: With the exception of the other 20 people that were  
8 there at the bar; right?

9 A: There were not 20 people at the bar when I was there.

10 MR. EDGEWORTH: No further questions.

11 THE COURT: Okay. Redirect?

12 MR. TUCKER: Just a few questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. TUCKER:

15 Q: Investigator Tilton, is it easy or difficult to find  
16 somebody who has not given a name to other law enforcement  
17 officers to run them down afterwards to find out what they  
18 know, if anything?

19 A: It's hard to find anyone who doesn't want to cooperate.

20 Q: Now, Mr. Edgeworth asked you about what Mr. Frierson  
21 testified to in his statement that he gave you about looking  
22 to see gang signs being drawn in the mirror as he was looking  
23 backwards and those as threatening gestures. Did Mr.  
24 Frierson indicate that he saw any of those individuals with  
25 guns?



## ROGER TILTON - REDIRECT BY MR. TUCKER

1 A: No.

2 Q: With knives?

3 A: No.

4 Q: With baseball bats?

5 A: No.

6 Q: With chains?

7 A: No.

8 Q: Now, he also asked you about the Bloods street gang or  
9 about the pictures there and the inference being Bloody and  
10 reference thereto. Now, with regards to the statement that  
11 Mr. Jackson gave you, did he ever mention the term Bloods  
12 street gang?

13 A: No.

14 Q: Did he ever mention to you during that interview that he  
15 saw and knew right away that there were all these guys  
16 wearing red were with the Bloods street gang?

17 A: He said he didn't -- he said he remembered a guy with a  
18 red shirt on.

19 Q: And that's about the only reference to the color red he  
20 made during the interview, wasn't it?

21 A: Yeah.

22 Q: And he never mentions the Bloods street gang at all  
23 during his interview?

24 A: He does not.

25 Q: He doesn't mention that he's afraid of them?

## ROGER TILTON - REDIRECT BY MR. TUCKER

1 A: No.

2 Q: He doesn't mention that he even identified any of them  
3 as actually being a Bloods street gang member, did he?

4 A: No.

5 Q: Now, with regards to what Mr. Edgeworth asked you about  
6 Ms. Newton and Mr. Frierson being afraid, you mentioned again  
7 that you thought that they were referencing the fact that  
8 they were with Mr. Jackson on the night in question?

9 A: Correct.

10 Q: In fact, Ms. Newton, even though she knew Mr. Jackson  
11 for 30 years, she was concerned about being associated with  
12 Mr. Jackson and people thinking that she's the one who  
13 brought him there and he had done this thing; is that  
14 correct?

15 A: Yes. She was scared that she was going to be involved  
16 and was going to be blamed.

17 MR. TUCKER: Those are all the questions I have, Your  
18 Honor.

19 THE COURT: Yes, sir.

20 MR. EDGEWORTH: Yes, Your Honor. Thank you.

21 RECROSS-EXAMINATION

22 Q: So it is your testimony that the video that you just  
23 made us watch at no time Mr. Jackson mentions the Bloods  
24 gang?

25 A: He said they had on a red shirt. I don't know. Maybe

## ROGER TILTON - RECROSS BY MR. EDGEWORTH

1 they're Bloods.

2 Q: That --

3 A: That's it.

4 Q: So are you mincing words now or are you saying you  
5 didn't acknowledge that comment --

6 A: We can play the video back.

7 Q: -- as mentioning the Bloods gang?

8 A: I mean it's not --

9 Q: Are you saying that?

10 A: He could have said blood in the body. He said maybe a  
11 blood. It could be maybe --

12 Q: You do not recall him talking about being the only  
13 person down there and out of place and that he didn't know  
14 whether or not it was the Bloods?

15 A: No. He said they had on a red shirt, maybe a Blood.  
16 And that's the only mention we talked of a gang because he  
17 blacked out, he doesn't remember.

18 MR. EDGEWORTH: Maybe the jury should watch the video  
19 again.

20 MR. TUCKER: Those are all the questions I have, Your  
21 Honor.

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

23 MR. EDGEWORTH: Nothing further.

24 THE COURT: Next witness?

25 MR. TUCKER: And, Your Honor, at this time, the State

1 would rest.

2 THE COURT: All right. Members of the jury, I'm going  
3 to excuse you for the day. We're going to do a little bit  
4 more work here and we're going to come back and we're going  
5 to finish this trial tomorrow. I'll see you at 9:30 in the  
6 morning. Do not discuss the case with anyone. Do not  
7 research the case.

8 (WHEREUPON, the jury exited the courtroom at 4:10 p.m.)

9 THE COURT: All right. Any motions from the defense?

10 MR. EDGEWORTH: Yes, Your Honor. May it please the  
11 Court. At this time, the defense is moving this Court for a  
12 directed verdict as to the count to murder.

13 My apologies. Hold on, Your Honor.

14 The State has not presented any evidence for this -- for  
15 this case to go to the jury regarding Mr. Jackson's intent,  
16 either express or implied. Based on the circumstances on the  
17 video, even from the -- from the investigator's testimony by  
18 and through the video, they specifically acknowledged that  
19 there was no intent. They just said that it was just random  
20 and that he was unwilling to, quote/unquote, cop to -- cop to  
21 the shooting.

22 In regards to the second count of attempted murder, I  
23 don't think there's been any evidence whatsoever to support  
24 the component under State v. King, which requires specific  
25 intent to kill. And that count goes to Mr. -- my apologies

1 -- the second victim, not Mr. Spates. Mr. Oliver. Mr.  
2 Oliver.

3 I believe the gunshot wound was to his stomach area.  
4 Obviously, there was no intent to kill. It was -- it  
5 appeared to have been an ancillary component of -- of the  
6 shooting that -- that took place and I don't think that the  
7 State has shown a specific intent to kill as it relates to  
8 Mr. Oliver and, therefore, we would move for directed verdict  
9 as to attempted murder.

10 THE COURT: All right. Let me hear from the State.

11 MR. TUCKER: And, Your Honor, certainly the State would  
12 disagree. We think that the record is replete with enough  
13 evidence, plenty of it in fact, to demonstrate Mr. Jackson's  
14 intent towards Mr. Spates.

15 Certainly, the use of an inherently dangerous firearm  
16 certainly affected it. When Investigator Tilton talked about  
17 I don't think he had any intent to go there, I think he was  
18 referring to the fact that he didn't intend to go down to the  
19 Downbeat Club, but that it happened after he got to that  
20 altercation. He goes out to the car, reflects, grabs a gun  
21 from the glove box, goes inside, sits on the stool, stares,  
22 pulls the gun, and then fires, striking Mr. Spates, killing  
23 him, and then pursuing Mr. Oliver or going down to the  
24 bathroom in which he sees Mr. Oliver at, opens the door, and  
25 shoots Mr. Oliver in the stomach.

1           So we certainly think the use of an inherently dangerous  
2 weapon like a firearm certainly satisfies the intent. We  
3 certainly think that it's malice aforethought and we  
4 certainly think that we have met our burden with regards to  
5 the elements of murder and attempted murder.

6           A shot in the stomach, as Mr. Oliver told you, he was in  
7 the hospital for a month the first time. He had to go back  
8 in after a complication and was in there for almost a month  
9 and a half, a total of about two-and-a-half months.  
10 Certainly, shooting someone in the stomach, death is a likely  
11 and foreseeable consequence and it's just a miracle that it,  
12 in fact, didn't occur with regards to Mr. Oliver.

13           And as the Court is aware with a motion for directed  
14 verdict, the Court needs to be concerned about the existence  
15 of evidence, the sufficiency, not the actual weight. That's  
16 for the jury to determine and we certainly think the State  
17 has met its burden with sufficiency of evidence for both  
18 murder and attempted murder.

19           THE COURT: All right. I think we have a factual  
20 question for the jury and I'm going to deny the motions.

21           Do you want to look at the charge real quick?

22           MR. TUCKER: Yes.

23           THE COURT: And the verdict form?

24           (WHEREUPON, a bench conference was held as follows.)

25           THE COURT: And is your client going to testify?

1 MR. EDGEWORTH: I'll have to confirm that.

2 THE COURT: Can we do that in the morning or today?

3 MR. EDGEWORTH: You can advise him of that.

4 THE COURT: Okay.

5 MR. TUCKER: I'll let you look at that.

6 And, Judge, I told you I wanted to be heard on the self-  
7 defense, but I see where you've got that the jury can find  
8 the elements there. So I'm fine with that.

9 THE COURT: All right.

10 MR. EDGEWORTH: Yeah.

11 MR. TUCKER: With regards to the last one, Your Honor,  
12 is it just going to be murder and attempted murder or is it  
13 going to be voluntary manslaughter?

14 THE COURT: What do y'all think?

15 MR. EDGEWORTH: I'll have to talk to my client about  
16 that.

17 MR. TUCKER: And I certainly think that based on the  
18 evidence I think there is an argument to be made that it  
19 could be. You know, the jury could say-- I mean there's  
20 enough evidence to I think support a voluntary manslaughter  
21 lesser-included.

22 THE COURT: In what regard?

23 MR. TUCKER: Well, with regards to the -- it being an  
24 altercation to begin with and then, of course, going out to  
25 get the gun. I mean I maintain it's a murder, but I could

1 certainly see how the jury might conclude it might be  
2 something lesser than that if it follows an argument, which I  
3 think puts it in the voluntary manslaughter category.

4 MR. EDGEWORTH: Well, I don't see the facts that way at  
5 this time. Either the argument is as far as the facts are  
6 that he comes back in --

7 THE COURT: He got the gun supposedly and came back in  
8 with it and sat down.

9 MR. TUCKER: And then there's that testimony from Mr.  
10 Frierson about the other guy doing this and then he jumps up  
11 at that point and starts shooting. I think a jury might  
12 could say that that is re-provocation or at least some sort  
13 of furtherance of the altercation. But again, I mean the  
14 State's theory is murder and that's what I'm going to argue,  
15 but I think voluntary could be included.

16 (WHEREUPON, the bench conference ended and the  
17 proceedings resumed as follows.)

18 MR. TUCKER: And the State doesn't have any objections  
19 to any of these.

20 THE COURT: All right. And that's for the record. The  
21 defense doesn't have any objections so far?

22 MR. EDGEWORTH: No objection, Your Honor.

23 THE COURT: And the verdict form so far looks good to  
24 everybody?

25 MR. TUCKER: Yes, it does.



1 MR. EDGEWORTH: Yes, sir.

2 THE COURT: All right. And, Mr. Jackson, if you would,  
3 stand up. I'm going to have the clerk swear him in, if you  
4 would.

5 (WHEREUPON, the defendant complied.)

6 THE CLERK: Sir, please raise your right hand. Do you  
7 swear to tell the truth, the whole truth, and nothing but the  
8 truth, so help you God?

9 THE DEFENDANT: Yes, I do.

10 THE COURT: All right. Mr. Jackson, I want you to  
11 understand that this is your trial and if you would like to  
12 come over here and be sworn in and testify, you have that  
13 right. However, I want to let you know that if you do  
14 testify, you may be cross-examined on any and all relevant  
15 issues in connection with your case.

16 Furthermore, if you have a criminal record and it  
17 involves crimes of dishonesty or false statements or a  
18 criminal record that involves crimes that carry punishment of  
19 more than one year and the Court determines that the  
20 probative value of admitting your criminal record outweighs  
21 its prejudicial effect, then your criminal record will be  
22 introduced to attack your credibility.

23 Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: However, do you understand that you do not

1 have to testify because you have the constitutional right to  
2 remain silent? And if you chose to exercise that right, I  
3 would tell the jury they cannot use that against you in any  
4 way. I would tell the jury the fact that you did not testify  
5 is to have absolutely no prejudice against you. I would even  
6 go so far as to tell the jury they cannot even talk about  
7 that fact in the jury room.

8 Do you understand your constitutional right to remain  
9 silent?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Have you talked with your lawyer about  
12 whether you wish to testify or not?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Has he answered all of your questions?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Have you made a decision as to whether you  
17 wish to testify or not?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And what is that decision?

20 THE DEFENDANT: Yes.

21 THE COURT: All right. Do you agree with that, Mr.  
22 Edgeworth?

23 MR. EDGEWORTH: Well, Your Honor, as I mentioned at  
24 sidebar, I did want the opportunity to speak with him  
25 additionally about that to confirm that decision and then

1 maybe in the morning he can put on the record the final  
2 decision.

3 THE COURT: Is that okay with you?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. We'll do that in the morning.  
6 Don't let me forget.

7 MR. EDGEWORTH: Yes, Your Honor.

8 THE COURT: All right. We'll see you at 9:30 in the  
9 morning.

10 MR. TUCKER: Thank you, Your Honor.

11 (WHEREUPON, the proceedings adjourned for the day at  
12 4:20 p.m.)

13 APRIL 18, 2019

14 (WHEREUPON, the proceedings resumed at 9:33 a.m.)

15 THE COURT: All right. And, Mr. Jackson, as we  
16 discussed yesterday and with the warnings I gave you in mind,  
17 along with your constitutional right to remain silent, do you  
18 still wish to testify?

19 THE DEFENDANT: Yes. Yes, Your Honor.

20 THE COURT: Have you discussed that with your lawyer?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Has he answered all of your  
23 questions?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. I'll make the finding that he is

1 doing so freely, voluntarily, and with the advice of  
2 competent counsel for sure.

3 MR. EDGEWORTH: Thank you, Your Honor.

4 THE COURT: All right. Do we need to go over the 609?

5 MR. TUCKER: Exactly, Your Honor.

6 THE COURT: All right.

7 MR. TUCKER: With regards to the defendant's prior  
8 record, Your Honor, we need to go over in particular those  
9 that carry more than one year within the 10-year window.

10 THE COURT: Uh-huh.

11 MR. TUCKER: The defendant has a conviction that the  
12 State would intend to use. 2009, October 22<sup>nd</sup>, criminal  
13 sexual conduct, third degree, carried -- it looks like he  
14 received a five-year sentence.

15 The next one would be the 2014 conviction for burglary  
16 third, first offense. It looks like he received a sentence  
17 of two years suspended to 60 days' time served, one year's  
18 probation.

19 And then in 2017, it's receiving stolen goods, value  
20 \$2,000 or less. Because, again, that's a crime that involves  
21 fraud and moral turpitude, we would look to use that one as  
22 well.

23 THE COURT: All right. So we have CSC, burglary,  
24 receiving stolen goods?

25 MR. TUCKER: That is correct, Your Honor.

1 THE COURT: All right. Is that okay with you?

2 MR. EDGEWORTH: Thank you, Your Honor.

3 In regards to the CSC, this -- this charge actually  
4 arises out of a -- an incident that occurred in 2007. The  
5 date of the offense was May 19<sup>th</sup>, 2007, and it just -- it was  
6 not adjudicated until 2009.

7 You know, on behalf of my client, certainly I believe  
8 that given the nature of today's environment, any sexual  
9 assault offenses, you know, carry -- can carry too much  
10 weight as it relates to a person's character otherwise and  
11 that it would be unduly prejudicial to my client for this  
12 particular charge to come to light in response to any  
13 testimony that he may give. We would ask that that be  
14 excluded.

15 In regards to the -- the other two offenses --

16 THE COURT: Is the CSC within the last 10 years?

17 MR. TUCKER: It would be, Your Honor, particularly in  
18 the way the rule reads to my understanding is is that it is  
19 when the sentence is completed in all aspects.

20 THE COURT: Okay.

21 MR. TUCKER: So even though it was in two thousand --

22 THE COURT: Seven.

23 MR. TUCKER: -- and seven, it would be the date of  
24 sentencing plus five.

25 THE COURT: Okay.

1           MR. TUCKER: When he satisfies the complete sentence is  
2 when that 10-year window starts to run.

3           THE COURT: Got it. All right. Go ahead. I didn't  
4 mean to interrupt you. Go ahead.

5           MR. EDGEWORTH: And that's okay, Your Honor. With full  
6 acknowledgment of that, that it was, you know, delayed  
7 adjudication in a sense and obviously the sentence in that  
8 takes place, but we still would argue that it's unduly  
9 prejudicial as to my client in relationship to, you know, the  
10 character involved, especially given today's environment, you  
11 know, in relation to sexual assault. I just think that it  
12 would, you know, blind the jury as to the context and nature  
13 in which it would be used against him. So we would ask that  
14 it be excluded.

15          THE COURT: All right.

16          MR. EDGEWORTH: As to the other charges, let's see. My  
17 apologies, Your Honor. The burg third and receiving stolen  
18 goods. I've spoken to my client about those and we can move  
19 forward on those, Your Honor.

20          THE COURT: All right. Let me hear from the State.

21          MR. TUCKER: Yes, sir. And certainly, Your Honor, under  
22 Rule 403, pretty much all prior criminal offenses by way of  
23 conviction are prejudicial. It's whether or not it's  
24 outweighed by its probative value.

25                 Here, certainly by taking the stand, the defendant has

1 put his credibility at issue. The CSC is totally different  
2 in all aspects and all elements from what he's being tried  
3 for here in terms of murder and attempted murder and,  
4 certainly, we don't think that the prejudicial effect  
5 outweighs its probative value.

6 MR. EDGEWORTH: Your Honor, if I may respond to that?

7 THE COURT: You know, with the CSC, the only thing that  
8 concerns me is the law has changed a lot in that regard over  
9 the past three or four years and the conviction in which he  
10 may have gotten the CSC might have a different standard than  
11 what we're having today.

12 MR. TUCKER: And, Your Honor, I certainly wouldn't  
13 inquire about the facts and circumstances. I would just ask  
14 whether or not he was convicted. I wouldn't ask whether or  
15 not he has had to register as a sex offender. I would not go  
16 into any particulars, just the fact that he was convicted of  
17 this particular charge.

18 THE COURT: I'll tell you what. I'm going to exclude  
19 the CSC but allow the burglary and receiving stolen goods.

20 MR. EDGEWORTH: Thank you, Your Honor.

21 THE COURT: I think the prejudicial effect would be  
22 extremely intense and would outweigh any probative value that  
23 would have, especially going back 12 years.

24 MR. EDGEWORTH: Thank you, Your Honor.

25 THE COURT: All right. Anything else we need to take

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1 up?

2 MR. EDGEWORTH: Not at this time, Your Honor.

3 THE COURT: All right. Bring them out.

4 (WHEREUPON, the jury entered the courtroom at 9:39 a.m.)

5 THE COURT: All right. The defense is recognized.

6 MR. EDGEWORTH: Thank you, Your Honor.

7 THE COURT: Yes, sir.

8 MR. EDGEWORTH: The defense calls Mr. Diondrae Jackson.

9 THE CLERK: Sir, please place your left hand on the  
10 Bible and raise your right hand. Do you swear that the  
11 testimony you will give in this case will be the truth, the  
12 whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: Please be seated in the witness stand and  
15 please state your name for the record.

16 THE WITNESS: Diondrae Jackson.

17 THE COURT: Yes, sir.

18 MR. EDGEWORTH: Thank you, Your Honor. May I approach  
19 the witness?

20 THE COURT: You may.

21 DIONDRAE JACKSON, being first  
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. EDGEWORTH:

25 Q: Good morning, Mr. Jackson.



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- 1 A: Good morning.
- 2 Q: Could you tell the jury where you're from?
- 3 A: I'm from Florence, South Carolina.
- 4 Q: How long have you lived here?
- 5 A: Forty-one years.
- 6 Q: Is that all your life?
- 7 A: All my life.
- 8 Q: Okay. Are you married?
- 9 A: No, I'm not.
- 10 Q: Okay. Do you have any children?
- 11 A: Yes.
- 12 Q: Okay. How old are they?
- 13 A: I have a 20-year-old son, I have a 10-year-old son, and
- 14 I have an 11-year-old daughter.
- 15 Q: Okay. Have you been involved in their life?
- 16 A: Oh, yes.
- 17 Q: Okay. Do you support them?
- 18 A: Yes.
- 19 Q: Okay. Do you go to events and things like that with
- 20 them?
- 21 A: Exactly.
- 22 Q: Okay. Are you in communication with their mother?
- 23 A: Yes.
- 24 Q: Okay. Do you talk to them often?
- 25 A: Yes.

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1 Q: Now, obviously, we're here and we want to give you the  
2 opportunity to tell your side of the story. So I want to  
3 point your attention to the day of, you know, May 6<sup>th</sup>, 2018.  
4 Do you recall that day?

5 A: Yes, I do.

6 Q: Okay. What do you recall about that day?

7 A: Well, I was on the way to a friend's house and to get to  
8 his house I have to pass Athens Street, which is where  
9 Latesha Lawson lives. Well, Latesha Newton. And as I was  
10 passing by, someone yelled my name and I backed the car up,  
11 not intending to stay, but I got out the car, stood in the --  
12 in the fence way where the sidewalk at and I talked for a  
13 little while. I realized that the car still was sitting in  
14 the street; so I backed it out the street because it's a  
15 police station right next door to their house on Athens  
16 Street. So I left the car running, sitting on the porch.  
17 And --

18 Q: Let me -- let me ask you who was -- who was on the porch  
19 with you?

20 A: A friend of mine whose name is T, last name James,  
21 Latesha, her mother, Della, and her daughter.

22 Q: Okay. So the car is still running off to the side and  
23 you're on the porch hanging out?

24 A: Yes.

25 Q: And what are you doing?

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1 A: Okay. We were talking, laughing a little while. I  
2 realized the car is still running. So I go pull the car a  
3 little closer to the driveway, turn the car off, go back on  
4 the porch.

5 Q: Now, was -- was anybody enjoying some drinks that  
6 afternoon?

7 A: Yes.

8 Q: Okay. Who? Who was?

9 A: Latesha, her mother, and T was already drinking.

10 Q: What were they drinking?

11 A: They were drinking a wine called Taylor Port.

12 Q: Okay. And were you drinking at that time?

13 A: No, I wasn't.

14 Q: Okay. Did there come a time that you were drinking at  
15 all?

16 A: Yeah. They offered me a drink.

17 Q: Okay.

18 A: And poured me some wine and I engaged in drinking a  
19 little bit.

20 Q: Okay. And -- and did there come a time that you guys  
21 were joking around about Ms. Newton's daughter?

22 A: Yes.

23 Q: Okay. What was that about?

24 A: Like I say, I hadn't seen Latesha in years and I guess  
25 she was joking. She told her daughter -- she said you know

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1 that's your daddy; right? So I'm a joking person. So I look  
2 at her and I said can I see your forehead? I said to see if  
3 you got a forehead like mine. And, you know, we laughed. I  
4 said let me see your teeth. I got big teeth. I said if  
5 you've got big teeth, yeah, you could be mine. So we laughed  
6 and joked about it.

7 Q: Okay. So while -- how long do you think you were  
8 hanging out on the porch?

9 A: Maybe about 15 or 20 minutes.

10 Q: Okay. And did there -- did there come a time that Ms.  
11 Newton discussed going out that evening?

12 A: No.

13 Q: Okay.

14 A: Not then.

15 Q: How did that come about?

16 A: I noticed she got on her cell phone and went into the  
17 house. When she came back outside, she asked me and T -- she  
18 said y'all want to hang out tonight. I was, like, I don't  
19 know. I don't know the club. I'm, like, I don't know about  
20 that. So I'm, like, T, you want to go? He was, like, no, I  
21 got to work. So she was like come on, man. Come on, let's  
22 go. So I was, like, I guess I'll go. I haven't been out in  
23 a while. I guess I'll go.

24 Q: Did she tell you where -- where she wanted to go?

25 A: She didn't say at first.

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1 Q: Okay. So what happened next?

2 A: Okay. I lost my cell phone earlier that day. So I  
3 didn't have a cell phone. She gave me her work phone and she  
4 had another phone. So I had to drive the car that I had and  
5 go park it so I can get into the car with her. So once I got  
6 there and dropped the car off to the shop and she told me you  
7 -- she was going to call the phone. Okay. She called the  
8 work phone and she was parked down the street from where I  
9 was at another apartment complex. So I was, like, I'm coming  
10 outside. I'm standing in the street so you can see me. So I  
11 came outside and I flagged her down and she came and picked  
12 me up.

13 Q: Okay. Now, this was about what time in the day?

14 A: I want to say this was probably about 11 o'clock at  
15 night.

16 Q: Well, okay. And when I say day, I just meant during --

17 A: Right.

18 Q: -- that particular day. Okay. So what did you do next?  
19 Where did you go?

20 A: Okay. We went to the ATM machine. We stopped at an ATM  
21 machine off of Gregg. I think it was Gregg Avenue. It's an  
22 ATM machine right behind Krispy Kreme. She stopped by there.  
23 She got \$20 out of the ATM machine.

24 Okay. When we left the ATM machine, we went and met a  
25 friend of mine named Corey Ham -- I call him Corenzo -- at

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1 the car wash off of Hoffmeyer right next door to the -- I  
2 think it's a homeless shelter. It's a carwash there. He was  
3 already pulled in one of the bays.

4 We pulled in the bay beside him. She got out of the car  
5 first. She went around. They had a conversation. She came  
6 back. She said, Drae, come here. She called me Drae. So I  
7 get out of the car, walk around, and, like, Corey had a  
8 drink. I said, Corey, what kind of drink you got? He said I  
9 got something I put together. So I got the drink. I tasted  
10 it. She be, like, Drae, you can keep that drink right there  
11 for yourself. I got some more Taylor Port in the car. Okay.  
12 We gets in the car. We --

13 Q: Are you saying Latesha told you that?

14 A: Right.

15 Q: Okay.

16 A: Okay. We gets in the car. We leave. Now, we're on the  
17 way to -- to go get the other people. So we go down --

18 Q: Now, let's stop right there for a moment. When you are  
19 on your way to get the other people, did you know at that  
20 time you were stopping to get other folks to go with you?

21 A: She said she was going to pick up her friends.

22 Q: Okay. And at this point, did you know where you were  
23 going?

24 A: No.

25 Q: Okay.

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1 A: No.

2 Q: All right. So what happened next?

3 A: Okay. We get on Pamplico Highway. We comes out to --  
4 it's a store. It's a convenience store and I think it's  
5 Greenwood School right across from it. We make a right. I  
6 don't know the name of the street. We make a right. We go  
7 around by Park City trailer park. It's a plaza right across  
8 from it. If you turn beside the plaza, it's a trailer right  
9 behind that plaza.

10 So when we get there, we're sitting in the car for a  
11 little -- probably about five minutes waiting on these people  
12 to come out. Okay. She's on the phone with the guy in the  
13 house, but they was, like, kind of whispering. And she says  
14 I have my firearm in the car. I was, okay, but I never  
15 really -- she never mentioned it no more while we were  
16 driving. Okay. Lawanda got out. Lawanda, I think  
17 Ernestine, and Charles did come out the house.

18 Q: Okay. Now, when they come out the house, do you know  
19 these people at all?

20 A: No.

21 Q: Okay. But you know their names now; right?

22 A: I know them now, yeah.

23 Q: Okay. But at that time, you did not know them?

24 A: Right.

25 Q: Okay. So they come out of the house and what happens

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1 next?

2 A: Everybody get in the car. She started introducing me as  
3 Drae and, Drae, this is Charles and, Ernestine, this is Drae,  
4 and, Lawanda, this is Drae, and I'm, you know, nice to meet  
5 y'all, you know. We get in the car. We start to leave.

6 Q: Okay. And at this point, do you know where you're going  
7 yet?

8 A: No, I don't know.

9 Q: Okay. So what happens next?

10 A: Okay. We get back on the highway. We go -- we pass  
11 Tara Village. We cross a railroad track. We come out to  
12 South Florence High School. We make a left at that light.  
13 We goes all the way down to the light where you turn to go to  
14 Effingham, the Friendfield Road, but instead of going  
15 straight or making a left, we made a right. All I know is we  
16 was going deep and deep and deep.

17 Q: Okay. And did you ever ask where you were going?

18 A: All I know is we was going to a club.

19 Q: Okay. And when you -- I assume you arrived there,  
20 obviously?

21 A: Yes.

22 Q: Okay. And at that point, do you know the name of the  
23 club?

24 A: No.

25 Q: Okay. So you're there at the club?



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- 1 A: Right.
- 2 Q: Okay. What happened next?
- 3 A: Okay. We're sitting in the parking lot and there were a  
4 lot of people outside the club, a lot of people, you know,  
5 mingling outside the club, coming in and out, and the other  
6 three passengers exit the car. Me and Latesha sat in the car  
7 smoking a cigarette, and she brings up this gun again. She  
8 said I have my gun in the glove compartment. She says it's  
9 fully loaded. One is in the head. If anything pop off for  
10 you, it's in there. So now --
- 11 Q: Okay. And did she show you where the gun was?
- 12 A: Right.
- 13 Q: Okay. And what happened next?
- 14 A: She took her key, opened the glove compartment. I  
15 couldn't see inside because it was dark, but she was, like --  
16 I said I don't see it. She was, like, take your hand and  
17 feel in there. So I felt in there and I felt the gun. So I  
18 got the gun.
- 19 Q: Okay. And when she -- she opened the glove box, did you  
20 understand that to mean you need to take this gun inside?
- 21 A: Right. Because I'm -- this is the second time she's  
22 mentioned this gun.
- 23 Q: Okay. And so had the others, Lawanda and Charles and  
24 Ernestine, had they already gone inside at this point?
- 25 A: Yes.

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1 Q: Okay. And so did you take the gun inside?

2 A: Yes.

3 Q: So you took the gun inside the first time you went in  
4 the club?

5 A: Yes.

6 Q: Okay. Was there a bouncer there?

7 A: Yes.

8 Q: Okay. Did he pat you down?

9 A: Yes.

10 Q: Okay. What did he do? Did you and Miss Latesha go in  
11 together?

12 A: Right.

13 Q: Okay. Tell us what happened?

14 A: Okay. While were at the door, she paid our \$10. They  
15 charged us \$10 apiece. So she paid our way in the club.

16 Once we got in, he pat us down. He pat us down all the way  
17 around. Once we get inside the club --

18 Q: And you have the gun on you at this point?

19 A: Right.

20 Q: Okay. Go ahead.

21 A: Once we get inside the club, it's a bar right beside the  
22 door and we stood there for a second. And me personally,  
23 when I'm at a club somewhere out of town, I don't mingle with  
24 too many people. This particular female came from behind the  
25 bar, which is Samantha Gibson. I remember her because she

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1 was a little slimmer then. And when she came from behind the  
2 bar, she stood right beside me and I noticed her just kind of  
3 looking me up and down. So my first thing was I'm about to  
4 leave and go to the back because I know how guys act about  
5 women in certain areas and clubs. So I avoid that by going  
6 to the back.

7 Q: Okay. And when you got to the back, what did you see?

8 A: I saw a pool table.

9 Q: Okay. Did you see anything else?

10 A: I saw a pool table. I saw a lot of guys in the corner.  
11 The back -- the other bar -- the bar, like, runs from the  
12 front to the back. It was barstools here. You had some  
13 other chairs lined up on the corner and you got a little  
14 small bathroom that sits in the back.

15 Q: And did you notice anything about the people in the back  
16 corner?

17 A: Yeah. I noticed all of them had a lot of red on.

18 Q: Okay. Did that mean anything to you at the time?

19 A: Oh, yeah.

20 Q: And what did you think it meant?

21 A: Gang members. Bloods.

22 Q: Okay. How did you feel about that?

23 A: I mean I felt like I -- I mean I'm not bothering nobody,  
24 nobody is bothering me. I mean pretty much come to the club  
25 to have a good time.

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1 Q: Okay. So you decided to shoot a game of pool?

2 A: Exactly.

3 Q: Okay. How did that come about?

4 A: Okay. I got on the pool table. Me and the guy began to  
5 play. I lost. I didn't have no money. So I approached  
6 Lawanda. I said, Lawanda, let me have four quarters. She  
7 said, no, I got a \$20 bill. So she gave me the \$20 bill. I  
8 got four quarters and she let me keep a \$5 bill. Okay. Me  
9 and the other guy waited on whoever the next -- there was  
10 some more quarters on the table. Okay.

11 Q: Had you shot a game of pool yet?

12 A: Right.

13 Q: You had?

14 A: I had done shot the game, but lost.

15 Q: Okay.

16 A: I lost the pool game.

17 Q: Uh-huh.

18 A: So now we're sitting around waiting on whoever is next  
19 to come play pool. Probably about two or three minutes  
20 passed. The guy never showed up. So the guy I was shooting  
21 pool with, he was, like, man, just go ahead and use the  
22 quarters. So I got the quarters and put them in the table.  
23 I mean no sooner did we start playing he come in like he was  
24 waiting on this or something. Like, he just popped out the  
25 blue. He's got on all red. He had on a red hat, red shirt,

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1 red pants, if I'm not mistaken.

2 Q: Okay.

3 A: The first thing he did was start pushing the balls on  
4 the pool table. Why you using my MF'ing quarters? I said --  
5 I said, man, look, I don't want no problems. I said I'm here  
6 with some people. I said I don't know nobody. I said I  
7 apologize for using your quarters. I said, but I got a \$5  
8 bill on the table. That's why I put it there, in case  
9 somebody come back. I can give you your quarters out of this  
10 five.

11 I get the \$5 bill. I goes to hand it to him. He knocks  
12 it out of my hand. I don't want that. You go to the bar and  
13 get my quarters now. So I'm standing there holding a pool  
14 stick like we're serious. He's, like, go to the bar and get  
15 my four quarters. By that time, one of his friends walked  
16 up.

17 Q: At this point, the person you're arguing with --

18 A: Yes.

19 Q: Do you know who that person is at this time?

20 A: No, I don't.

21 Q: Okay. Do you know who that person is now?

22 A: Yes.

23 Q: Who is that?

24 A: Malcolm Spates.

25 Q: Okay. Go ahead.

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1 A: Okay. After I keep telling him -- like, I mean I'm a  
2 man. I mean I'm a man before I met a man and I just felt  
3 like I wasn't going to get you no quarters. I'm trying to  
4 give you a whole \$5, like you can keep the whole five to keep  
5 for your quarters.

6 So by this time, one of his friends walked up and said  
7 -- I never get it. He said, McBee. He said, leave the guy  
8 alone, man. He said -- as a matter of fact, he gave him his  
9 property. He pulled out five ones. He said here, take the  
10 ones. He didn't want that either. He knocked that out of  
11 his friend's hand also.

12 So by that time, Mr. Spates walked up to me and started  
13 mooshing me in my chest. Go to the bar and get my quarters.  
14 So I'm just standing there looking, like, I've got all these  
15 guys around me. I got this gun on me. I don't want to have  
16 to use this gun. I don't want these guys to hurt me either.

17 Okay. He grabs a quarter off the pool table. He  
18 flicked it right in my face. It hit me right in the corner  
19 of my eye. By that time, Latesha comes over. She just says  
20 leave him alone, like that. She takes me outside.

21 Q: And when she said leave him alone, she was talking to  
22 the other fellows?

23 A: Right. So we goes outside. I sits in the passenger  
24 seat of the car. I'm sitting out, with my legs out, smoking  
25 a cigarette. Latesha is standing outside the car. This guy

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1 walks by. He comes from this side with a black hoodie on and  
2 that looked kind of odd because it felt pretty nice outside  
3 to have a black hoodie on.

4 When he walked past the car, he walks over and he looks  
5 in the car at me and Latesha. I said, Latesha, watch out. I  
6 said I don't know this guy, what he up to. He just looked  
7 kind of strange. So by that time, the bouncer came out and  
8 he walked off.

9 And I was, like, man, Latesha, you ain't ready to go?  
10 She was, like, just wait a minute. I said all right. So I'm  
11 looking around. I notice that we're blocked in anyway. I  
12 mean this little club is packed. I mean you got cars on this  
13 side, you got cars behind us and on this side. We couldn't  
14 get out anyway if we wanted to.

15 Q: You couldn't leave even if you wanted to?

16 A: Right.

17 Q: It wasn't your car?

18 A: It wasn't my car. I don't know nobody.

19 Q: Latesha wanted to stay?

20 A: Right.

21 Q: Go ahead.

22 A: So the bouncer comes up. He says are you all right. I  
23 said, man, I'm good.

24 MR. TUCKER: Objection. Hearsay, Your Honor.

25 THE COURT: Sustained.

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1 BY MR. EDGEWORTH:

2 A: I said --

3 Q: What did you say?

4 A: I said I'm good.

5 Q: Let me stop you right there just for a moment.

6 A: Okay.

7 Q: The bouncer is out at your -- at Latesha's car; correct?

8 A: Right.

9 Q: Was he the only bouncer there that night?

10 A: He was the only one I saw.

11 Q: So no one is manning the door as far as you know?

12 A: Not as far as I know.

13 Q: Go ahead.

14 A: Okay. Now, he's, like, what's going on. I explained --

15 MR. TUCKER: Objection, Your Honor, to hearsay again.

16 THE COURT: Sustained. Don't say what somebody else  
17 said.

18 THE DEFENDANT: Okay.

19 BY MR. EDGEWORTH:

20 Q: I'll stop you right there.

21 A: All right. He was, like -- he kept saying, like, are  
22 you okay.

23 THE COURT: Sustained.

24 MR. TUCKER: Hearsay.

25 THE COURT: Don't say what somebody else said.



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1 BY MR. EDGEWORTH:

2 Q: Just say what you did.

3 A: Okay. I said I got into a confrontation with a guy. I  
4 don't know him.

5 Q: What did this bouncer do? Not what he said, what did he  
6 do?

7 A: Well, he basically came --

8 Q: He was checking on you?

9 A: Right.

10 Q: Okay. At some point in time, did he leave away from the  
11 conversation with you and Latesha?

12 A: Right.

13 Q: Okay. And then where did he go?

14 A: He went back to the door.

15 Q: Okay. What did you do?

16 A: We sat there for a while after I finished smoking a  
17 cigarette.

18 Q: Okay. And is Latesha still out there with you at this  
19 point?

20 A: Uh-huh.

21 Q: Okay. Then what happened next?

22 A: We go back to the door. He pats her down. He pat us  
23 down again. We go back in the club. I goes to the back. I  
24 sits at the bar.

25 While I'm sitting at the bar, Ernestine Mack is at the

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1 first table -- at the first chair. Lawanda Johnson is  
2 sitting beside her. I'm next. Latesha is standing in front  
3 of me. Okay. Latesha comes and stands in front of me. She  
4 say you all right. I say, yeah, I'm fine. I said I'm good.

5 And I noticed these guys over there in the corner are  
6 the same guys. There's about eight of them and they keep  
7 watching me. So I'm watching them. And I lean over. I say  
8 can I get a Bud Light. The girl got me a Bud Light and  
9 poured it in a white Styrofoam cup and charged me two  
10 dollars. I'm sipping on this Bud Light, but I'm still  
11 watching these guys.

12 And Latesha looked back at them. She was, like, don't  
13 pay them no attention. So I said I'm not. I said I'm just  
14 watching. Okay. While I'm watching these guys, they're  
15 throwing up gang signs. Throwing up gang signs, pointing at  
16 me, like trying to get me to fight. So --

17 Q: Did you perceive that as a threat?

18 A: No. I mean I know how guys do stuff like that. I mean  
19 I know guys that I've seen it done, but I didn't see that as  
20 a threat. I was just thinking like they was trying to be  
21 funny or trying to scare me or something. But at that time,  
22 I was scared, but I didn't want to show anybody I was with  
23 that I was scared.

24 Q: Okay.

25 A: Because, like, I know how a group of guys -- these

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1 Bloods, I know how they act and they're very territorial.

2 And when you're in their turf or on their side of town, you  
3 don't --

4 MR. TUCKER: Your Honor, I'm going to have to object. I  
5 don't know that he's been qualified as an expert in gang  
6 activity or gang behavior.

7 MR. EDGEWORTH: Your Honor, he's just talking about what  
8 he perceived at the time, his observation.

9 MR. TUCKER: But he's talking about in generalities  
10 about what gangs do and what gangs are involved in.

11 THE COURT: Just based on what he knows.

12 MR. EDGEWORTH: His knowledge.

13 THE COURT: Right. Overruled.

14 MR. EDGEWORTH: Thank you, Your Honor.

15 BY MR. EDGEWORTH:

16 Q: So you're there; right?

17 A: Uh-huh.

18 Q: You're perceiving all this?

19 A: Right.

20 Q: Okay. What happens next?

21 A: Okay. Here comes this guy with the black hoodie again.  
22 He comes through the door. He comes around the pool table.  
23 He walks up to Malcolm, Mr. Spates. He pulls out a handgun.  
24 He hands it to Mr. Spates. And I'm looking. My eyes are  
25 getting big and Spates took the gun and tucked it. Okay.

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1 Now, my eyes are getting real big because I'm, like, this guy  
2 just walked in with a gun and handed it to him and, like, I'm  
3 the only one seeing this.

4       Okay. When the guy walk off with the hoodie on, he went  
5 back through the door. Mr. Spates went to go pull his gun.  
6 When I see Mr. Spates coming out with his gun, I pushed  
7 Latesha out of the way because I wasn't going to let her get  
8 shot. I wasn't going to let another one of those females get  
9 shot or myself because we came there together and in my mind  
10 was going to leave together. When Mr. Spates pulled that  
11 gun, I pulled. I got off a shot, he got off a shot.

12 Q: Now, were you -- were you sitting in a chair at the time  
13 this happened?

14 A: Yes.

15 Q: Okay. And he was back there in the back standing up?

16 A: He was standing in the back.

17 Q: Okay. Go ahead.

18 A: He got off a shot, I got off a shot. Okay. Mr. Spates  
19 dropped the gun and falls into the bathroom. Mr. Ronald  
20 Oliver was already on the floor. He proceeds to go pick the  
21 gun up off the floor. When Mr. Ronald Oliver reached for the  
22 gun, I shot Mr. Ronald Oliver in his hip. I didn't intend to  
23 kill nobody. I didn't intend to try to kill nobody, but to  
24 stop these guys from what they was doing and I had in my mind  
25 that I'm going home and I'm not going to let people with me

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1 get hurt either.

2 Q: So at this point, did you follow them or do anything or  
3 go back to the back of the room?

4 A: No, I didn't.

5 Q: Okay. What did you do?

6 A: We run and leaves out the door.

7 Q: Okay. And tell us about that? What happens next?

8 A: When we runs out the door, everybody is in a panic.  
9 Everybody is running. So Latesha is already in the car.  
10 She's in the driver's seat. I goes and get in the passenger  
11 seat. The other three passengers are not in there.

12 So Latesha -- like, she's ready to pull off. I'm like,  
13 no, we're not leaving them. One of the girls loses her shoe  
14 running to the car. I runs back to help her get her shoe.  
15 Come on, let's get in the car, let's go. And we take off and  
16 we leave.

17 We get on the highway. The police car -- we saw -- we  
18 saw the car coming as we were leaving. He shined a spotlight  
19 first on the car. When he shined a spotlight on the car, he  
20 turned around the car with the blue lights on.

21 Q: What did you do?

22 A: Okay. When I saw the police turn around -- I'm not  
23 going to lie. I threw the gun out the window.

24 Q: Okay. And why did you do that?

25 A: I mean, first of all, I didn't want to get nobody else

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1 involved. Second of all, you've got a black man that is a  
2 shooting suspect. I didn't want to get killed either by a  
3 cop.

4 Q: Okay. And -- and whose gun was it?

5 A: It was Latesha's gun.

6 Q: Okay. And that was the one that she told you to take  
7 from the glove box?

8 A: Exactly.

9 Q: Okay. So then you get pulled over?

10 A: Uh-huh.

11 Q: Right?

12 A: Right.

13 Q: You stand on the side of the road talking to law  
14 enforcement?

15 A: They had us on the side of the road for a long time.

16 Q: I understand. And you're transported to -- to the  
17 detention center at some point; right?

18 A: Not -- not quite.

19 Q: Okay. Well, go ahead and tell us what happened?

20 A: Okay. When they got all of us out of the car, they  
21 stood all of us together in a circle and Mr. Bazen read all  
22 us our rights. They had us out there for at least about two  
23 hours in handcuffs. I mean we want to sit down, they won't  
24 let us sit down. Everybody complaining about they're tired,  
25 they're ready to go home to their kids, things like that.

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1 I guess when Mr. Tilton rolled up, they separated me  
2 from the rest. They put me in the back of Mr. McFadden's  
3 car. Now, while I'm in the back of Mr. McFadden's car, I  
4 guess he is getting statements from the rest of the people.

5 Okay. When Mr. Tilton comes to me, they pull me out the  
6 car. I guess they be doing the GSR kit, whatever that is,  
7 because they had me in cuffs and putting something on my  
8 hands and they took a picture of my hands. So I'm trying to  
9 speak to Mr. Tilton while this is going on. I don't want to  
10 talk to you. You're going to jail for murder. I done looked  
11 at your record. That going to get you locked up. Okay. He  
12 never read me my rights, not once. He put me in the car and  
13 took me to jail.

14 Q: Okay. And when you arrived and you -- you were booked  
15 in? You recall seeing the video?

16 A: Right.

17 Q: Right? Okay. Tell us about -- about that incident?

18 A: It was a guy -- well, first of all, I don't know whether  
19 you could hear the other officer talking. I think they had  
20 it kind of low. You can't hear them talking, but they was  
21 talking about what I came in there for and I was, like, I  
22 don't know, man. They're trying to say I killed somebody and  
23 attempted murder like that.

24 Okay. Moving from the counter, that's when the guy took  
25 my shoes and slammed them together saying gunshot. That's

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1 why he did that. So I'm sitting down. Get up to the  
2 counter. I proceed to go through the metal detectors and  
3 there was another guy over there and he was, like, what you  
4 in here for. I said, man, they say I killed somebody and the  
5 other one going to die, like that. So --

6 Q: So you were talking to the fellow that was over there on  
7 the little phone situation?

8 A: Right. And I did say, well, my mama gonna cry and they  
9 mama gonna cry because I mean if you're locked up, my mama is  
10 gonna cry too because she can't see her son.

11 Q: Okay. Now, I want to draw your attention to -- I guess  
12 it would be the next day.

13 A: Uh-huh.

14 Q: And you had the interview with Investigator Tilton;  
15 right?

16 A: Right.

17 Q: And -- and you proceeded to tell him your version of the  
18 events; correct?

19 A: Yeah, but we can back up a little bit.

20 Q: Sure.

21 A: I called to speak to him. You need to come see me. I  
22 got Lt. Black. As a matter of fact, the next day I was  
23 crying. I was sitting on the bench crying because now  
24 reality is setting in. They're telling me I'm locked up for  
25 murder and attempted murder. That night, it didn't really



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1 set in.

2 And I'm, like, what? So Lt. Black calls him around  
3 about 2 o'clock and she said he's coming. Okay. You go  
4 through a sally port door. I asked him -- I said, well, Mr.  
5 Tilton, I said, man, will you give me a cigarette? I said,  
6 man, I'll tell you everything you want to know. Okay. We  
7 gets in the room. The notice on the table. I asked him for  
8 a cigarette. He says we'll get to that.

9 Q: Okay. And you began talking to him about the events  
10 that you just testified to; right?

11 A: Right.

12 Q: Okay. And then what happens during -- during this  
13 interview?

14 A: He started reading me my rights and I was trying to be  
15 sure what I was doing because I mean I was scared. Being  
16 charged with the murder and attempted murder, yeah, I was  
17 scared. I wasn't -- I wasn't being truthful with him at  
18 first because I didn't know what to think, what was going on,  
19 and he read me my rights and I kind of hesitated like I  
20 didn't want to sign. But I was, like, I want to get this out  
21 of the way. I mean I really don't got nothing to hide.  
22 That's why I wanted to talk to him.

23 Q: Now, did there come a point in time during the  
24 conversation where you realized that -- that you were -- you  
25 were going to be charged with the crime anyways?

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1 A: Yeah. Because he had the two warrants in front of him  
2 already. He had the two. He had the warrants sitting in  
3 front of him already.

4 Q: Okay. And what did that cause you to do?

5 A: Like, they're going to lock me up anyway.

6 Q: Okay. And is that when you became evasive in your  
7 questions?

8 A: Right.

9 Q: Okay. You realized you were going to be charged?

10 A: Charged.

11 Q: And it didn't matter what you said?

12 A: Exactly.

13 Q: Okay. And that's why when he was asking you about --  
14 about that gun and he claimed you admitted to it, there was a  
15 confrontation about whether or not you had thrown the gun out  
16 the window?

17 A: Right.

18 Q: In your mind, you were protecting Latesha as well?

19 A: Right.

20 Q: You have no idea what she was doing at the time?

21 A: Exactly.

22 Q: Now, during your conversation with Investigator Tilton,  
23 did you not tell him about the Blood -- the Bloods gang?

24 A: Yes.

25 Q: Okay. What did you say? Do you recall what you said?

## DIONDRAE JACKSON - DIRECT BY MR. EDGEWORTH

1 A: I told him -- I said this guy had on all red. I'm sure  
2 he's a Blood.

3 Q: So you let him know during the investigation that the --  
4 that these people were involved; correct?

5 A: Correct.

6 Q: And when you went there that night, you didn't go there  
7 with any intent to kill anyone?

8 A: No, I didn't.

9 Q: In fact, when you went in the first time, you had a gun  
10 the first time; right?

11 A: Right.

12 Q: When you were threatened the first time, you had easy  
13 opportunity to pull that gun if you wanted to; correct?

14 A: Right.

15 Q: It wasn't until Mr. Spates pulled a gun that you pulled  
16 the firearm; correct?

17 A: Correct.

18 Q: And you felt like you were protecting not only yourself  
19 but Latesha and the others?

20 A: Correct.

21 Q: You were defending them?

22 A: Right. I didn't want to take that man's life. I didn't  
23 want to take the man's life. I just wish I never went. If I  
24 could take that day back, I would take it back. Not a night  
25 go by that I don't think about it. That was a young man.

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1 I've got a son 20 years old.

2 MR. TUCKER: Objection, Your Honor. This has no  
3 relevance --

4 THE COURT: Sustained.

5 MR. TUCKER: -- in the matter at all.

6 THE COURT: Let's go ahead and keep going.

7 MR. EDGEWORTH: Sure. Thank you, Your Honor.

8 BY MR. EDGEWORTH:

9 Q: Mr. Jackson, so the jury is aware, you do have a  
10 conviction for burglary, third degree; is that correct?

11 A: That's correct.

12 Q: And you do have a conviction for receiving stolen goods;  
13 correct?

14 A: Correct.

15 MR. EDGEWORTH: No further questions, Your Honor.

16 THE COURT: All right. Cross?

17 CROSS-EXAMINATION

18 BY MR. TUCKER:

19 Q: Now, Mr. Jackson, there's so much I hardly know where to  
20 begin, but let's start with your chivalrous nature. Now, you  
21 indicated just a second ago and I was touched that you were  
22 trying to protect Latesha when you spoke to Investigator  
23 Tilton when you gave that first statement. Do you recall?

24 A: Can you -- can you repeat that?

25 Q: Sure. Do you recall just a minute ago talking about

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 trying to protect Latesha when you were giving that first  
2 statement to Investigator Tilton; right?

3 A: What first statement?

4 Q: The first statement that you gave Investigator Tilton  
5 there at the Sheriff's Office when you came in. Do you  
6 remember talking to him? Y'all sat down.

7 A: I never said nothing about protecting Latesha.

8 Q: Okay. You just testified just a second ago that you  
9 were trying to protect Latesha. That's why you were being  
10 evasive with your questioning and with your answers; right?

11 A: Right. But you just asked me did I give him that  
12 statement. I didn't give him that statement.

13 Q: I understand. You just testified though that the reason  
14 you were being evasive was to protect Latesha and some of the  
15 other people; correct?

16 A: And myself as well.

17 Q: Okay. Now, is that why on the way out after you gave  
18 your statement that you told Investigator Tilton or you made  
19 the statement how do y'all know Latesha didn't do it? How do  
20 you know Latesha didn't do the shooting?

21 A: Yes. I --

22 Q: Do you recall saying that?

23 A: Yes.

24 Q: Is that your idea of protecting Latesha?

25 A: Well, the idea was that I was scared.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: You were scared, but you just testified that you were  
2 trying to protect Latesha. You were a little concerned?

3 A: Uh-huh.

4 Q: But at the very first opportunity you got on the way  
5 out, you actually told Investigator Tilton how do you know  
6 Latesha didn't do it, didn't you?

7 A: Yes, I did.

8 Q: And do you recall when that statement first started when  
9 you came in, Investigator Tilton read what is commonly  
10 referred to you as a Miranda form? You were in here when we  
11 played the tape yesterday; correct?

12 A: Correct.

13 Q: And he read those individual rights to you; correct?

14 A: Correct.

15 Q: You initialed that for each one that you understood  
16 those; correct?

17 A: Correct.

18 Q: And that you waived those rights; correct?

19 A: Correct.

20 Q: And he signed it and you signed it; correct?

21 A: Correct.

22 Q: And Investigator Edwards signed it as a witness;  
23 correct?

24 A: I'm sure. I guess he did.

25 Q: Okay. Let me show you.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 MR. TUCKER: If I may I approach, Your Honor?

2 THE COURT: You may.

3 BY MR. TUCKER:

4 Q: What's been marked as Exhibit -- State's 1, is that the  
5 form that you signed?

6 A: Yes.

7 MR. TUCKER: Your Honor, at this time, I would move  
8 State's 1 into evidence.

9 THE COURT: Any objections?

10 MR. EDGEWORTH: No objection, Your Honor.

11 THE COURT: State's Number 1 is in evidence without  
12 objection.

13 (WHEREUPON, State's Exhibit Number 1, Miranda form, was  
14 admitted into evidence.)

15 BY MR. TUCKER:

16 Q: Now, let's talk a little bit about the statement that  
17 you made. Now, when you first came in, this was within hours  
18 of this incident occurring; right?

19 A: Correct.

20 Q: Now, this is your first best opportunity to tell your  
21 side of the story; correct?

22 A: Correct.

23 Q: Now, Investigator Tilton didn't try to stop you, didn't  
24 try to persuade you, didn't coerce you, did he?

25 A: No, he didn't.

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: He asked you what happened, Diondrae, didn't he?

2 A: Yes.

3 Q: And you told him a far different story than you  
4 testified here to today, didn't you?

5 A: Yes.

6 Q: In fact, you testified that you made this reference  
7 about the guy at the carwash that gave you the drink and you  
8 didn't know quite what was in it, but you took a drink of it;  
9 correct?

10 A: Right.

11 Q: And that y'all go and y'all get in the car. Then y'all  
12 go down to the Downbeat Club; correct?

13 A: Correct.

14 Q: Now, you also told Investigator Tilton during that  
15 statement that when you got out of the car the first time,  
16 Latesha tells you, just like you've testified here to today,  
17 there's a gun in there if anything kind of pops off. Do you  
18 recall telling Investigator Tilton that?

19 A: In the statement, yes.

20 Q: Okay. And you testified that again today; right?

21 A: Right.

22 Q: And you admitted here today and in the statement pulling  
23 the glove box down or the glove box being down and you  
24 feeling around in there and finding the gun; correct?

25 A: Correct.



DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: Now, here's where things get a little interesting, Mr.  
2 Jackson, I must tell you because when you tell Investigator  
3 Tilton when you're making that statement within hours of this  
4 thing happening during this first best opportunity to tell  
5 the truth and to get your side of the story for the record,  
6 you tell him at the statement you don't take the gun at that  
7 time, you go into the club with everybody else and you don't  
8 have the gun with you then; correct?

9 A: No, I didn't.

10 Q: You didn't tell him that during that statement?

11 A: No, I didn't.

12 Q: Did you tell him that you put the gun in your waistband  
13 and went in the very first time with it?

14 A: No, I didn't.

15 Q: Okay. So where's the discrepancy? You didn't tell him  
16 that during the first statement, but you've testified that  
17 today?

18 A: I told you before because I was scared to tell him.

19 Q: Okay. So you just kind of kept that nugget to yourself,  
20 is that what you're saying?

21 A: (No verbal response.)

22 Q: I'm going to need you to answer, Mr. Jackson.

23 A: Yes, sir.

24 Q: Okay. All right. So again, that's one difference.

25 Now, you tell him during the statement that you go inside,

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 there's this altercation over a pool game, the four quarters  
2 issue comes up, and that you and Latesha go outside at this  
3 point and that you go outside and sat down in the car to  
4 smoke a cigarette; correct?

5 A: Correct.

6 Q: Now, at this point, you could have just stayed in the  
7 car for the rest of the evening, couldn't you?

8 A: No, sir.

9 Q: You could not have stayed in the car?

10 A: No, sir.

11 Q: What would have prevented you from staying in the car?

12 A: Because I was somewhere I didn't know and I was --  
13 already felt uncomfortable with these guys that I don't know.

14 Q: Well --

15 A: I'm in a place I don't know.

16 Q: Wouldn't that be even more reason to stay in the car?  
17 You could've gotten in the backseat, couldn't you?

18 A: No, sir.

19 Q: You could not have? What would have prevented you from  
20 climbing in the backseat?

21 A: Not the type of club that was. I promise you wouldn't  
22 have stayed out there neither.

23 Q: Well, wouldn't it be safer -- if it's a dangerous club  
24 on the inside, wouldn't it be safer on the outside of the  
25 club?

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: No, sir.

2 Q: It wouldn't be?

3 A: No, sir.

4 Q: You're telling me that it would be more safe in the club  
5 where all the dangerous people are?

6 A: What I'm saying is I could have got shot inside the car.  
7 Nobody would have never knew.

8 Q: Well, but again, by putting yourself into the club where  
9 all the dangerous people are, as you've testified here to  
10 today, weren't you going to the danger rather than away from  
11 it?

12 A: My thing is at least somebody could see me.

13 Q: Well, let me ask you this. Instead of staying in the  
14 car, couldn't you have just stayed or walked down the road  
15 back towards 52?

16 A: I don't even know where I'm at.

17 Q: Well, again, couldn't you have -- anywhere but the club  
18 you could have gone; correct?

19 A: No.

20 Q: You had many choices besides going back into the club?

21 A: No.

22 Q: You didn't? That was your only choice at this point was  
23 to go into the club with a loaded weapon in your waistband?

24 A: Correct.

25 Q: Okay. Now, you told Investigator Tilton that you go

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 back out to the car during that statement that you made at  
2 the Sheriff's Office and that you had some more of that  
3 drink, as you call it. Do you recall telling him that?

4 A: Uh-huh.

5 Q: And that you started to get a little fuzzy and you  
6 started to get a little woozy and that you weren't quite sure  
7 what you were doing and you don't really recall what happened  
8 next. Do you recall telling Investigator Tilton that?

9 A: Correct.

10 Q: Now, in the statement you claim that Latesha comes out  
11 and there's a bouncer and y'all go back into the club at this  
12 point, and you tell Investigator Tilton I don't even think I  
13 had the gun on me at that point because, again, we go by the  
14 bouncer and he patted me down. I don't think that I could  
15 have had it on me. Do you recall telling him that?

16 A: Yes, I do.

17 Q: Now, when you go into the club during the statement that  
18 you give Investigator Tilton, you tell him that you go in and  
19 there's this chaos and that things just kind of pop off and  
20 you're not quite sure what's going on and then you run out  
21 the door and you're in the car. Do you recall telling him  
22 that?

23 A: Yes, I do.

24 Q: And then do you recall telling him that everybody else  
25 kind of got in the car and y'all go towards Florence?

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: Yes, I do.

2 Q: Now, again, you're not quite sure what happened because,  
3 as you told him in the statement, I was asking what happened  
4 and everybody was saying there was a shooting. Do you recall  
5 saying that?

6 A: Say that again?

7 Q: Do you recall telling Investigator Tilton during that  
8 statement that you were kind of confused as to what happened,  
9 but you recall everybody else and they're talking about there  
10 was a shooting and somebody got shot?

11 A: That's what I said.

12 Q: Right. Now, do you also recall during that statement  
13 when he asked you about whether or not you knew the guy that  
14 you got into the altercation with in the club, you told him  
15 it was some guy who had on a red shirt, he might be a Blood?  
16 Do you recall telling him that?

17 A: No, I didn't.

18 Q: You don't recall saying that to him at all?

19 A: I told him that guy had on red from head to toe.

20 Q: Okay. Well, we've got the tape. We'll play that again.

21 A: Uh-huh.

22 Q: But again, you told him that it might be a Blood, you  
23 weren't sure?

24 A: No, I didn't.

25 Q: Okay.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: I told him it was a Blood.

2 Q: All right. Now, again, let me ask you this. Now, based  
3 on your testimony here today, when you walk into a club  
4 you've never been to before --

5 A: Uh-huh.

6 Q: -- at a place you've never been before --

7 A: Uh-huh.

8 Q: Correct?

9 A: Correct.

10 Q: And you walk in and you see all these guys clad in red  
11 and you instinctively, intuitively know that this is a gang  
12 hangout apparently and that the whole Blood Nation is in  
13 there --

14 A: Uh-huh.

15 Q: -- you decide to stay and shoot pool?

16 A: Yes.

17 Q: While you're armed with a weapon?

18 A: Yes.

19 Q: And then there's this altercation with one of them and  
20 you leave and you decide to go back in where all these guys  
21 are?

22 A: Yes.

23 Q: Now, when you talked to Investigator Tilton, again  
24 shortly after this thing happened when all the events were  
25 freshest in your mind, you get the first best opportunity to

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 talk to him, he asks you about whether or not you knew the  
2 guy and again you said you didn't know who it was; correct?

3 A: Correct.

4 Q: And you said that there was this other guy that came up  
5 that might've been his brother that had on a wife beater.  
6 Could you tell me what a wife beater is, please, in your own  
7 words?

8 A: A white tank top.

9 Q: Okay. Now, again, you testified here to today though  
10 that everybody was wearing red?

11 A: Right.

12 Q: So apparently there was at least this one guy or was  
13 that a lie too that had the wife beater on?

14 A: What did you say now? Can you repeat that?

15 Q: When you told Investigator Tilton that there was a guy  
16 who came over to try to calm the situation down, this was the  
17 guy who was wearing a wife beater?

18 A: White tank top. Right.

19 Q: Now again, were you in here when Investigator Tilton  
20 testified yesterday that when he went to the hospital to  
21 identify Malcolm Spates, Malcolm Spates had on a white wife  
22 beater? Do you recall him saying that?

23 A: Yes. That's the -- I guess. Yeah. Yeah.

24 Q: But now you testified here to today Malcolm Spates had  
25 on a red shirt?

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: He did.

2 Q: Red pants? Is that right?

3 A: He did.

4 Q: Okay. But again, you didn't tell Investigator Tilton  
5 that when you first talked to him, did you?

6 A: We never spoke about what -- about the tank top he had  
7 on. I said another guy had on a tank top.

8 Q: You -- he asked you about what the guy had on and you  
9 told him there was this one guy that came over that tried to  
10 calm the situation down and that the guy had on a white wife  
11 beater?

12 A: Correct.

13 Q: Now, you also testified today that you saw -- and you  
14 know this is Malcolm Spates now, but you didn't know it was  
15 Malcolm Spates or you lied about knowing it was Malcolm  
16 Spates then when you gave that first statement, but today you  
17 testified it was Malcolm Spates and you see Malcolm Spates  
18 with a gun in his hand; correct?

19 A: Correct.

20 Q: Now, at this point, you leave the club, knowing that  
21 there's at least one person in there that's got a gun; right?

22 A: Repeat that?

23 Q: You testified that you saw Malcolm Spates with a gun?

24 A: Correct.

25 Q: But did you leave the club and then come back or did



DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 this happen while you were in there after going and coming  
2 back?

3 A: This happened --

4 Q: The first time or the second time?

5 A: This happened the second time.

6 Q: All right. So the second time you see Malcolm Spates  
7 with a gun; correct?

8 A: Correct.

9 Q: And you testified that you saw Malcolm Spates in the  
10 back go for the gun and then that's when you pulled your gun  
11 and you chivalrously kind of moved Latesha out of the way and  
12 got yourself between Mr. Spates and the females there to  
13 protect them; is that correct?

14 A: Correct.

15 Q: And then you shot once and apparently hit Mr. Spates; is  
16 that right?

17 A: He got off a shot. I got off a shot.

18 Q: He got off a shot? That's what I'm getting at. He got  
19 off a shot. You got off a shot?

20 A: Correct.

21 Q: And then you walk towards the bathroom and Ronald  
22 Oliver, who is there -- now, was Ronald Oliver also in red?

23 A: Yes, he was.

24 Q: Okay. You left that out during your direct testimony;  
25 so I wanted to clear that up. So now it's Ronald Oliver also

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 had on red; correct?

2 A: Correct.

3 Q: Now, you testified that Malcolm Spates fell into the  
4 bathroom; right?

5 A: Correct.

6 Q: And he must have dropped the gun because as Ronald  
7 Oliver reached to pick up the gun, that's when you shot Mr.  
8 Oliver in the hip?

9 A: Correct.

10 Q: So you fired a total of two times?

11 A: Correct.

12 Q: Now, there were three shell casings found in the crime  
13 scene. Do you recall being present for that testimony?

14 A: Correct.

15 Q: And that the testimony from the SLED expert was that all  
16 three shell casings were fired from the same gun?

17 MR. EDGEWORTH: Objection, Your Honor. That's not what  
18 he says.

19 MR. TUCKER: I believe the testimony was that all three  
20 shell casings --

21 THE COURT: Overruled.

22 MR. TUCKER: -- came from the same gun.

23 THE COURT: It's cross-examination. You can.

24 BY MR. TUCKER:

25 Q: But all three shell casings were fired from the same

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 gun?

2 A: I think that what he said.

3 Q: Okay. So if you fired two times, how were there three  
4 shell casings fired from the same gun?

5 A: I'm not sure.

6 Q: You're not sure? Now, the blood spot that we saw when  
7 we had the pictures up, the blood spot that was attributed to  
8 Malcolm Spates, was over outside the bathroom over to where  
9 the bleachers were or where the benches were where people  
10 were sitting; correct?

11 A: I don't -- they never said whose blood that was.

12 Q: Well, I believe the DNA expert said that that particular  
13 blood sample came back as belonging to Malcolm Spates. Now,  
14 that blood was not in the bathroom, but it was outside the  
15 bathroom over where those seats were; correct?

16 A: Yeah. I don't know whose blood it was though.

17 Q: Now, you were also present when the pathologist  
18 testified about the bullet wound to Mr. Spates, were you not?

19 A: Yes.

20 Q: And in fact, she indicated that it was -- it looked as  
21 if it went from kind of an upward angle, but it was kind of  
22 hard to tell how the bodies were in motion with one another.  
23 But it was almost as if Mr. Spates was over and he was trying  
24 to lean away from somebody and got shot as a result?

25 A: I can't say that. I mean not unless you're an expert in

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 that, you can't either.

2 Q: Well, no, but the pathologist was.

3 A: The way you did that like you saw what happened. So I  
4 don't know.

5 Q: Well, again, it would be consistent with the blood spot  
6 being found where it was, would it not?

7 A: The pathologist didn't say that.

8 Q: Well, okay. Let's get back to what you told  
9 Investigator Tilton. Now, again, these are all things that  
10 you're telling here first today that you didn't tell  
11 Investigator Tilton when you gave that statement the first  
12 time; correct?

13 A: Correct.

14 Q: Now, let's go back to the people that were with you.  
15 There was Latesha Newton; correct?

16 A: Correct.

17 Q: There was Charles Everett Frierson; correct?

18 A: Correct.

19 Q: Ernestine Mack?

20 A: Correct.

21 Q: And Lawanda Johnson?

22 A: Correct.

23 Q: Now, with the exception of Latesha, the other  
24 individuals you had never met before?

25 A: Correct.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: And you were present when they testified, were you not?

2 A: Correct.

3 Q: Now, they all said they saw you with a gun in your hand  
4 and that you were shooting; correct?

5 A: No.

6 Q: They didn't say that?

7 A: They said they saw me with a gun. They didn't say they  
8 saw me shooting it.

9 Q: Okay. But they -- but you admit here today you were the  
10 one shooting; right?

11 A: Correct.

12 Q: All right. So that was true?

13 A: Correct.

14 Q: Now, they also indicated that nobody saw anybody else  
15 with the other group with a firearm. Do you recall them  
16 testifying to that?

17 A: No.

18 Q: They didn't say that?

19 A: No.

20 Q: Their testimony was not that no one else had a gun in  
21 their hand but you?

22 A: They said they didn't know because they was paying  
23 attention to me.

24 Q: Well, Charles Everett Frierson testified. Remember  
25 that?

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: Yes.

2 Q: And in fact, Charles Everett Frierson got a pretty good  
3 look at what caused the fight and he testified that it was  
4 you who got upset about the four quarters and that it was you  
5 who escalated the situation every time that the other party  
6 tried to calm you down by giving you your money and you  
7 weren't having any of it. Do you recall him testifying to  
8 that?

9 A: Yes.

10 Q: And do you recall him saying that you left, you came  
11 back, and that you were kind of staring a hole towards those  
12 guys and he even admitted that in the mirror he could see  
13 them kind of throwing up gang signs and one of them doing  
14 kind of like this? So he had a pretty good view of their  
15 hands and when I asked him about whether or not any of them  
16 had a firearm, do you recall what his response was? I  
17 believe it was no; right?

18 A: I guess that would be his.

19 Q: So again, these were all four eyewitnesses and Latesha  
20 Newton also said the same thing, that you had the gun and  
21 that you went to the car and you came back and that was when  
22 the shooting started, but again, these were four people.  
23 Latesha Newton had known you all her life; correct? Pretty  
24 much?

25 A: Correct.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: And the other three had never met you before; correct?

2 A: Correct.

3 Q: So why would they lie?

4 A: Charles Frierson lied because he said he was scared of  
5 those people from Olanta.

6 Q: No, I believe Charles Frierson testified that he was  
7 afraid of being associated with you because he rode in the  
8 car down there with you?

9 A: He said people from Olanta was threatening him, not me.

10 Q: And you were present when Samantha Green [sic]  
11 testified. She's the bartender. She'd never met you before  
12 either, had she?

13 A: No.

14 Q: And she testified she saw you with a gun in hand;  
15 correct?

16 A: She said she was at the front bar. She --

17 Q: Well, she also said she looked back and saw you with a  
18 gun in your hand; correct?

19 A: No.

20 Q: Well, like I said, I'm sure the jurors can draw their  
21 own conclusions from the testimony, but with regards to Mr.  
22 Oliver --

23 THE COURT: Mr. Tucker, you might want to slow down just  
24 a little bit.

25 MR. TUCKER: Yes, sir.

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 THE COURT: I think the court reporter right here is  
2 about to have a heart attack.

3 MR. TUCKER: I understand, Your Honor.

4 THE COURT: Just talk a little bit slower. You can go  
5 as long as you want. Just go a little bit slower.

6 BY MR. TUCKER:

7 Q: Now, Ronald Oliver. He testified. You were here for  
8 that; right?

9 A: Correct.

10 Q: Now, Mr. Oliver had never met you before that night;  
11 correct?

12 A: Correct.

13 Q: Now, Mr. Oliver testified that he was in the bathroom;  
14 correct?

15 A: Correct.

16 Q: He came out, saw you with a gun, and then immediately  
17 went back into the bathroom; correct?

18 A: Correct.

19 Q: Now, Mr. Oliver also testified that he was trying to  
20 hide, that everybody was kind of running in, and that you  
21 came, opened the door, looked right at him, and shot him in  
22 the stomach. Do you recall him testifying to that?

23 A: That's what he said.

24 Q: That's what he said; right?

25 A: Uh-huh.



DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: Now, let's talk about when you got arrested or when you  
2 got pulled over. Now, also in the statement that you made to  
3 Investigator Tilton when Investigator Tilton asked you about  
4 where the gun was, you were rather emphatic. Do you recall  
5 your demeanor? You were, like, I didn't -- first, there was  
6 this conversation about whether or not you threw the gun out  
7 and Investigator Tilton asked you, well, you threw the gun  
8 out and you said right, yeah. And then about five minutes  
9 after that, he says, well, you threw the gun out and you  
10 said, no, I didn't. You said that. I didn't say that. I  
11 didn't throw the gun out?

12 A: Yeah. That's what I said.

13 Q: In fact, you got kind of rather indignant that he  
14 suggested that you had said it originally? Do you recall  
15 that?

16 A: Yes.

17 Q: But in fact, you did throw the gun out; right?

18 A: Yes.

19 Q: Okay. And the reason that you testified that you threw  
20 the gun out was because you were an African-American and you  
21 were a shooting suspect and you didn't want anything to  
22 happen?

23 A: Correct.

24 Q: You were also aware that there was another firearm in  
25 the car also, weren't you?

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 A: I didn't know that until the initial stop.

2 Q: Okay. But again, you testified that when you talked to  
3 Investigator Tilton that there was this other gun in there  
4 because you were drawing comparisons between one and the  
5 other?

6 A: Yes. That's after we -- after they stopped us. That  
7 was the next day. I didn't know until they stopped us  
8 another gun was in the car.

9 Q: Okay. But again, this throwing the gun out, not  
10 throwing the gun out, that's yet one more lie that you told  
11 Investigator Tilton; right?

12 A: If you say so.

13 Q: Well, I don't say so. You said so; correct? Didn't you  
14 tell Investigator Tilton --

15 A: I told him --

16 Q: -- I didn't throw the gun out?

17 A: Yes, I did.

18 Q: And then also didn't you tell him I'm not the kind of  
19 guy who would just walk up into a club and start shooting  
20 people?

21 A: Correct.

22 Q: I don't feel I could have done that?

23 A: Right.

24 Q: That was a lie, wasn't it?

25 A: No, that's not a lie.

## DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 Q: Because you --

2 A: I'm not that type of person.

3 THE COURT: Slow down. Slow down.

4 Q: But you just testified here today that you, in fact, did  
5 go into a club; right?

6 A: Right.

7 Q: And in fact, you did shoot two people; right?

8 A: Correct.

9 Q: So you are that kind of guy, aren't you?

10 A: No, I'm not.

11 Q: Well --

12 A: I was protecting myself.

13 Q: Well, I understand, but that's what you say. But you  
14 did shoot two people, didn't you?

15 A: Correct.

16 Q: Now, let's go to when you were -- a minute ago, you  
17 testified that it was Deputy Bazen who test -- who issued  
18 Miranda warnings but not Investigator Tilton; right?

19 A: Right.

20 Q: Now, you heard Deputy Bazen testify. He testified that  
21 he was present when it was Investigator Tilton who  
22 administered the Miranda warnings; right?

23 A: Right.

24 Q: Now -- and let's go to the jail. Now, it was Cpl. Fludd  
25 and it was Sgt. McFadden. Sgt. McFadden is the one who

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 transported you to the jail; correct?

2 A: Correct.

3 Q: And it was Cpl. Fludd who was primarily dealing with you  
4 in terms of doing the processing in terms of booking;  
5 correct?

6 A: Correct.

7 Q: Now, you mentioned that they were talking back and forth  
8 and there was something that the audio and video didn't pick  
9 up. Now, you had no idea there was audio and video  
10 capabilities in that booking area, were you?

11 A: No.

12 Q: Now, when you --

13 A: I know it had video. I didn't know about the audio.

14 Q: All right. But now, when you are towards the back of  
15 the booking area when somebody says something about murder  
16 and attempted murder and then it's clearly your voice that  
17 says I caused one murder, I hope the other one dies too, and  
18 you said that was you being, well, I think the other guy is  
19 just going to die?

20 A: I didn't say I caused one murder. I didn't say that.  
21 The tape will clearly see I didn't say that.

22 Q: Well, you freely admit to shooting Malcolm Spates, don't  
23 you?

24 A: Yes.

25 Q: All right. Now, you also said in that jail video my

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 mama is gonna cry, their mama gonna cry too?

2 A: Yes.

3 Q: And you said that was just a statement of fact because  
4 you knew, well, my mom is going to cry --

5 A: Yes. She cried.

6 Q: -- and I imagine theirs is too?

7 A: Yes. I talk to her on the phone. She cries every day.

8 Q: And you said that your mom -- she's going to cry because  
9 she has to come and visit you in jail?

10 A: She can't come visit me. That's the problem.

11 Q: Well, Malcolm Spates' mom can't come visit him either,  
12 can she? Ever? Would that be fair to say?

13 A: Yes. I mean I hate -- I hate that. I really do. Both  
14 of us in bad situations. It shouldn't have happened.

15 Q: All right.

16 A: It shouldn't have happened.

17 Q: On that we can completely agree, Mr. Jackson, but again,  
18 is it fair to say then that you will change your story at any  
19 time at a moment's notice to try to fit the narrative that  
20 you're trying to convince this jury of here today?

21 A: No. No.

22 Q: Well, you told Investigator Tilton one thing in the  
23 statement that you made to him; correct?

24 A: Correct.

25 Q: And you've testified in a manner that is totally

DIONDRAE JACKSON - CROSS BY MR. TUCKER

1 different here today; correct?

2 A: Correct.

3 MR. TUCKER: Court's indulgence.

4 THE COURT: All right.

5 BY MR. TUCKER:

6 Q: And there was one other thing, Mr. Jackson. You  
7 indicated that you shot Ronald Oliver in the bathroom while  
8 he was reaching for the gun?

9 A: I didn't say that. I said Ronald Oliver was already on  
10 the floor.

11 Q: Okay.

12 A: That's when I shot him in his hip.

13 Q: And he was reaching for the gun though; right?

14 A: Correct.

15 Q: And that you are outside the bathroom?

16 A: I was nowhere near the bathroom.

17 Q: Nowhere near the bathroom? Well, you watched the crime  
18 scene photos. The one of the shell casings of the three that  
19 were recovered were recovered in the sink of the bathroom.  
20 How do you suppose that shell casing got in the bathroom  
21 sink?

22 A: I have no idea.

23 Q: You have no idea?

24 A: I have no idea.

25 MR. TUCKER: I believe those are all the questions I

## DIONDRAE JACKSON - REDIRECT BY MR. EDGEWORTH

1 have, Your Honor.

2 THE COURT: Redirect?

3 MR. EDGEWORTH: Yes, Your Honor. Thank you.

4 REDIRECT EXAMINATION

5 BY MR. EDGEWORTH:

6 Q: All right. Mr. Jackson, you can take a breath now.

7 That was a lot of words crammed down your throat.

8 A: Yeah.

9 Q: Okay. So let's clarify some of these. Okay? Now,  
10 obviously, you're -- you've acknowledged that when you spoke  
11 to Investigator Tilton you did not tell him the whole story;  
12 correct?

13 A: Correct.

14 Q: And that was because you realized that he had already  
15 made up his mind about arresting you; correct?

16 A: Correct.

17 Q: You saw the arrest warrants on the table?

18 A: Correct.

19 Q: He was not interested in anything that you had to say?

20 A: Correct.

21 Q: And that's why you felt the need not to give him any  
22 additional information because you didn't want to get anybody  
23 else in trouble?

24 A: Correct.

25 Q: Okay. Now, when you were talking about the fact that

DIONDRAE JACKSON - REDIRECT BY MR. EDGEWORTH

1 you had the -- you had the gun when you went in the very  
2 first time; right?

3 A: Correct.

4 Q: And that you did not change that story?

5 A: No.

6 Q: In fact, you took it in from the time you got there  
7 because Latesha told you to and you had it on you the whole  
8 time?

9 A: Correct.

10 Q: And you did not use that gun when you were in an  
11 argument with Mr. Spates; is that correct?

12 A: Correct.

13 Q: Okay. You only used that gun when he pulled a gun on  
14 you?

15 A: Correct.

16 Q: And when they -- when the State is trying to cram words  
17 down your throat about no one else saw --

18 MR. TUCKER: Objection. Characterization, Your Honor.

19 THE COURT: Sustained. Go ahead and rephrase it.

20 MR. EDGEWORTH: Yes, Your Honor.

21 BY MR. EDGEWORTH:

22 Q: When the State asked you to admit that no one else said  
23 they saw anybody with a gun, they had you say that; right?

24 A: Correct.

25 Q: Okay. That was because no one else was looking at the



## DIONDRAE JACKSON - REDIRECT BY MR. EDGEWORTH

1 other people; correct?

2 A: Correct.

3 Q: And in fact, Mr. Frierson was the one who said he didn't  
4 say he never saw a gun, he said that once he saw them making  
5 the signs, he looked to you and was no longer looking at  
6 them. Do you recall that?

7 A: Correct.

8 Q: Okay. So he would have never had the opportunity to see  
9 Mr. Spates pull a gun?

10 A: Correct.

11 Q: Okay. When you fired the second shot, what did you do?

12 A: When I fired the second shot, I took off running.

13 Q: Okay. And did you recall hearing everybody else running  
14 around scurrying as well?

15 A: Right.

16 Q: Okay. The State has made a big deal about a blood spot  
17 here and a blood spot there; right?

18 A: Right.

19 Q: Okay. And do you recall where they said they found Mr.  
20 Spates when the first officer arrived on the scene?

21 A: He was outside on the ground.

22 Q: Do you recall hearing any testimony about any blood  
23 outside?

24 A: No, sir.

25 Q: We don't really know where the bodies went?

## DIONDRAE JACKSON - REDIRECT BY MR. EDGEWORTH

1 A: Correct.

2 Q: In fact, do you recall Mr. Oliver talking about he -- he  
3 had to get his sister to help him out of there? He was  
4 obviously moving around; correct?

5 A: Correct.

6 Q: Are you telling your version of events today because  
7 they're the truth?

8 A: Correct. I feel like it's no more than right for the  
9 family to hear the truth instead of them to stop lying to  
10 that guy's family. I mean that's wrong. They need to know  
11 the truth about what really happened.

12 And because all them affiliated together, that's a  
13 family-owned club, like two of them testified, and it's gang  
14 affiliated. Instead of them being honest about what  
15 happened, that's what they need to do and give them people  
16 closure instead of lying to them about this guy didn't do  
17 nothing wrong.

18 That's -- that's the whole thing about this testimony  
19 today. They need to stop lying to this family because I'm  
20 not lying to this family. I lied to this investigator. I  
21 did. I did. No doubt.

22 MR. EDGEWORTH: Thank you, Mr. Jackson.

23 MR. TUCKER: Just one question, Your Honor.

24 RECROSS-EXAMINATION

25 BY MR. TUCKER:

DIONDRAE JACKSON - RECROSS BY MR. TUCKER

1 Q: Mr. Jackson, you mentioned that you gave that lie about  
2 what happened to Investigator Tilton because you thought he  
3 had already made his mind up about to charge you; correct?

4 A: Correct.

5 Q: Now, Investigator Edwards was in the interview room.  
6 Could you have said to him, hey, man, can I talk to you a  
7 little bit later? I need to talk to you. I don't want to  
8 talk to him. You could have done that, couldn't you?

9 A: I don't know if I could have.

10 Q: Well, nothing would have prevented you from leaning over  
11 and saying, hey, man, can I talk to you later? Just you, not  
12 Investigator Tilton? You could have done that, couldn't you?

13 A: I don't know if I could have did that. I don't know.  
14 He never told me that I can talk to the other investigator.  
15 I don't know.

16 Q: Fair enough. Let me ask you this. Did you ever send an  
17 inmate request form up to ask to speak to, say, Mr. Tilton's  
18 supervisor?

19 A: No.

20 Q: To the sheriff?

21 A: No.

22 Q: You never did that?

23 A: What do you mean? In Effingham?

24 A: Yeah. You could have called or asked to speak to  
25 anybody in supervision over Investigator Tilton so that you

DIONDRAE JACKSON - RECROSS BY MR. TUCKER

1 could now tell them the entire truth about what happened and  
2 not have to worry about Investigator Tilton? You could have  
3 done that, couldn't you?

4 A: I don't know who -- who you mean.

5 Q: But you didn't make any effort to contact anybody else  
6 about telling what you knew to be the truth as you testified  
7 here today; right?

8 A: No. Because I know how people can twist the truth.

9 Q: I understand that.

10 A: Right.

11 Q: Just like you're doing here today; right?

12 A: If you say so.

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

14 Call your next witness.

15 MR. EDGEWORTH: The defense has no other witnesses, Your  
16 Honor.

17 THE COURT: All right. Members of the jury, we have to  
18 take up some matters. If you would, step into the jury room  
19 for just a few minutes. Hopefully, we'll come back and  
20 conclude the trial.

21 (WHEREUPON, the jury exited the courtroom at 10:40 a.m.)

22 THE COURT: All right. Yesterday, the State had  
23 requested a charge on voluntary manslaughter. How do you  
24 feel about that, Mr. Edgeworth?

25 MR. EDGEWORTH: Your Honor, may I briefly consult with

1 my client?

2 THE COURT: All right.

3 (WHEREUPON, there was a pause in the proceedings, after  
4 which the proceedings resumed as follows.)

5 THE COURT: Yes, sir.

6 MR. EDGEWORTH: All right. Your Honor, his position is  
7 that involuntary [sic] manslaughter and the elements of  
8 involuntary manslaughter have not been shown through the  
9 evidence and that the defendant does not wish to have that  
10 included in the charges to the jury.

11 THE COURT: I tend to think that it is applicable. You  
12 know, we have some testimony that there were -- there were  
13 gang signs being made in the background and that there were a  
14 bunch of people, maybe eight people, and a lot of them were  
15 wearing red. We have testimony that the Bloods were there,  
16 which are gangs. Those could be threatening signs made to --  
17 overt signs of provocation made to the defendant.

18 And then we have a witness who said she was facing the  
19 defendant and she started seeing his face change and mold and  
20 he was getting agitated. And then I guess there's a  
21 possibility that he just exploded and threw her out of the  
22 way and then shot him.

23 So I think there is a possibility of voluntary  
24 manslaughter. I think it's a fact question. Clearly, I've  
25 thought about it a lot and I listened to his testimony

1 carefully and I listened to the witness' testimony carefully  
2 and then I reviewed the voluntary manslaughter while they  
3 were testifying and I think it's possible.

4 How do you feel about that, Mr. Tucker?

5 MR. TUCKER: I agree, Your Honor, and that's why I asked  
6 that it be submitted as a lesser-included to the murder.

7 THE COURT: All right. That's what I'm going to do.

8 Do you want to come up here and take a quick look at the  
9 charge after I put that in there and change the verdict form?

10 (WHEREUPON, a bench conference was held off the record,  
11 after which the proceedings resumed as follows.)

12 THE COURT: For the record, are you okay with the charge  
13 and the verdict form for the State?

14 MR. TUCKER: Yes, Your Honor.

15 THE COURT: Okay. All right. For the record, is the --

16 MR. EDGEWORTH: No objection.

17 THE COURT: -- defense okay with the charge as is?

18 MR. EDGEWORTH: Yes, Your Honor.

19 THE COURT: All right. And the verdict form?

20 MR. EDGEWORTH: Yes, Your Honor.

21 THE COURT: Sounds good. Let's take a quick break and  
22 get everything together and we'll come back.

23 MR. TUCKER: Thank you, Your Honor.

24 THE COURT: All right. Any motions from the defense  
25 that you would like to renew?

1 MR. EDGEWORTH: Your Honor, yes. On behalf of the  
2 defense, I would like to renew our motion for directed  
3 verdict as to both counts, the murder and attempted murder,  
4 based on our previous argument that no -- no additional  
5 evidence supports the -- the charge.

6 THE COURT: All right. I think there's clearly a fact  
7 question for the jury; so I'm going to deny those motions.

8 MR. EDGEWORTH: Thank you, Your Honor.

9 THE COURT: All right. Be back out shortly.

10 MR. TUCKER: Thank you, Your Honor.

11 (WHEREUPON, there was a break in the proceedings from  
12 10:46 a.m. until 11:17 a.m., after which the proceedings  
13 resumed as follows.)

14 THE COURT: Is the State ready to proceed?

15 MR. TUCKER: Ready, Your Honor.

16 THE COURT: Is the defense ready?

17 MR. EDGEWORTH: Yes, Your Honor.

18 THE COURT: All right. So we're going to go State,  
19 defense, reply.

20 MR. TUCKER: Yes, Your Honor.

21 THE COURT: All right. Go ahead and bring out the jury.

22 (WHEREUPON, the jury entered the courtroom at 11:18  
23 a.m.)

24 THE COURT: All right. The State is recognized for your  
25 closing statement.

CLOSING ARGUMENT ON BEHALF OF THE STATE

1  
2 MR. TUCKER: Life. It's cheap in Diondrae Jackson's  
3 world. In fact, it's worth one dollar.

4 (WHEREUPON, counsel placed four quarters on the rail of  
5 the jury box.)

6 MR. TUCKER: Four quarters, to be exact. This is a case  
7 about needless violence, this is a case about senseless  
8 tragedy and, sadly, now that you've heard all the evidence,  
9 this is a case about a man who lost his life for one dollar.  
10 Four quarters, to be exact.

11 (WHEREUPON, a Powerpoint display was shown.)

12 MR. TUCKER: Murder, the killing of another with malice  
13 aforethought. Malice aforethought, four possible mental  
14 states that encompass both general and specific intent,  
15 intent to kill, intent to inflict grievous bodily harm,  
16 extreme reckless indifference to the value of human life.

17 Malice. Definition, malice is the doing of a wrongful  
18 act intentionally and without just cause or excuse. Malice  
19 does not necessarily require ill will toward the person  
20 injured but signifies rather a general malignant recklessness  
21 of the lives and safety of others. All that is required of  
22 murder is the mental state of malice.

23 Implied malice. Malice cannot be presumed but may be  
24 inferred or implied if there is brutal conduct or excessive  
25 force, intentional killing during the commission of a felony,



1 use of a deadly weapon, words of hatred or ill will.

2       Aforethought. Aforethought is the timing where the evil  
3 is conceived, like when a man sits on a barstool and he  
4 stares at another group of human beings with whom he's had a  
5 conflict with over four quarters. The time it takes to walk  
6 from a car with a loaded weapon in your waistband and murder  
7 in your heart.

8       Aforethought. When you take the time to point, aim,  
9 fire, and then walk like you're in a park down to the end,  
10 open a door, and shoot a poor defenseless man while he's  
11 lying on the floor in the stomach. Aforethought.

12       Attempted murder. A person who with intent to kill  
13 attempts to kill another person with malice aforethought,  
14 either express or implied.

15       You will hear another charge that the judge will give  
16 you regarding voluntary manslaughter, but I want to talk to  
17 you now about self-defense because at the crux of Mr.  
18 Jackson's deceptions, at the center of his lies, both when he  
19 talked to Investigator Tilton on May the 7<sup>th</sup> and when he  
20 talked to you good folks here today, he claims self-defense.

21       The defense is raised, the defense of self-defense.  
22 Self-defense is a complete defense and, if it is established,  
23 you must find the defendant not guilty. The State has the  
24 burden of disproving self-defense by proof beyond a  
25 reasonable doubt.

1           If you have a reasonable doubt of the defendant's guilt  
2 after considering all of the evidence, including the evidence  
3 of self-defense, then you must find the defendant not guilty.  
4 On the other hand, if you have no reasonable doubt of the  
5 defendant's guilt after considering all of the evidence,  
6 including the evidence of self-defense, then you must find  
7 the defendant guilty.

8           Every eyewitness that got up on that stand and told you,  
9 the ones that rode to the Downbeat Club with Diondrae  
10 Jackson, that were in the Downbeat Club with Ronald Jackson  
11 -- Diondrae Jackson, and got in the car and came back towards  
12 Florence with Diondrae Jackson all told you the same thing.  
13 Nobody else in that club had a weapon that they saw. Only  
14 Diondrae Jackson. Nobody else fired a gun in that club  
15 except Diondrae Jackson. Three shell casings, all fired from  
16 the same gun. No other testimony, no other witnesses about  
17 another gun except from Diondrae Jackson.

18           Without fault. First, the defendant must be without  
19 fault in bringing on the difficulty. If the defendant's  
20 conduct was the type which was reasonably calculated to and  
21 did provoke a deadly assault, the defendant would be at fault  
22 in bringing on the difficulty and would not be entitled to be  
23 acquitted based on self-defense.

24           The man took a loaded firearm in his waistband and  
25 murder in his heart into a club after he got into a fight

1 with a guy over four quarters. That is having a hand in  
2 bringing the situation to bear. For Mr. Jackson, he took a  
3 loaded firearm to a confrontation where the other guys had  
4 nothing at all.

5 Contemptuous language. Self-defense is not available to  
6 a person who uses language which is so contentious that a  
7 reasonable person would expect it to bring on a physical  
8 encounter.

9 What did Charles Everett Frierson tell you? He told you  
10 that he was sitting close to the pool table. He didn't have  
11 an axe to grind in this case. He didn't know Diondrae  
12 Jackson before that night. And what did he tell you? He  
13 told you he heard what the pool game was about and about the  
14 four quarters being at the very heart of this altercation.

15 And of course, Mr. Jackson testified here today. Oh, it  
16 was a far different story than what he told Investigator  
17 Tilton, and you'll have that back there and I suggest that  
18 you look at it and see the differences.

19 He tells Investigator Tilton I don't really recall what  
20 happened because of that drink, but today he remembers it in  
21 vivid clarity. He's had exactly one year almost to get his  
22 story right because he knows that one he told Investigator  
23 Tilton back on May the 7<sup>th</sup> wasn't going to get it. That  
24 didn't get him out of the jam that he was in. This one,  
25 however, he's covered his bases or at least he thought he

1 had.

2 But again, Charles Frierson told you that when the other  
3 side or the other guy that he was arguing with, Mr. Jackson,  
4 tried every opportunity to give him his four quarters, hey,  
5 man, here's the money. Hey, here it is. Just, hey, it's not  
6 worth all this. Do you remember what Everett said? Mr.  
7 Jackson wasn't having any of it and he wanted his MF'ing  
8 quarters put back on the table just like they were before he  
9 left to go to the front part of the club.

10 And then he left and he comes back with the gun and  
11 starts blasting. And Charles Everett Frierson told you,  
12 again, that he saw the look on the man's face. He looked and  
13 saw the other guys in the window. Yep, they were throwing  
14 signs up he said and, yep, one of them was doing this, but  
15 none of them -- he had a look at all of their hands. None of  
16 them had a knife. None of them had at gun. None of them had  
17 a baseball bat, flamethrower, slingshot, BB gun, nothing.

18 And the man pulled a loaded firearm and started  
19 blasting. He shot Malcolm Spates and he shot Ronald Oliver,  
20 both of whom were defenseless, and the most ironic part of  
21 this is neither of those individuals were the ones with whom  
22 he was arguing over the four quarters.

23 Mutual combat is if the defendant voluntarily  
24 participated in mutual combat for purposes other than  
25 protection, the killing of the victim would not be self-

1 defense. This is true even if during the combat the  
2 defendant feared death or serious bodily injury. However, if  
3 before the killing was committed the defendant withdraws and  
4 tried to evade to avoid conflict and either by word or fact  
5 makes the fact known to the victim, he would be without fault  
6 in bringing on the difficulty.

7 He could have stayed in the parking lot after that  
8 initial confrontation. He chose not to. He could have  
9 stayed in that black Dodge Charger. He chose not to. He  
10 could have took off walking down the road, maybe catch a ride  
11 back to Florence. This is getting too much for me, he could  
12 have said to himself. He chose not to. He chose to go back  
13 into that club with a loaded weapon in his waistband and  
14 murder in his heart.

15 For mutual combat, there must be mutual intent and  
16 willingness to fight. The intent may be shown by the facts,  
17 acts of the parties and the circumstances surrounding the  
18 combat. In addition, it must be shown that both parties are  
19 armed with a deadly weapon.

20 Folks, I bring you back to the testimony of the  
21 eyewitnesses, the victim, Ronald Oliver, the bartender,  
22 Samantha Green. None of them -- none of them knew Mr.  
23 Jackson before the night in question and no one saw anybody  
24 else in that club except Diondrae Jackson with a firearm.

25 Imminent danger. The second element of self-defense is

1 that the defendant was actually in imminent danger of death  
2 or serious bodily injury or that the defendant actually  
3 believed he was in imminent danger of death or serious bodily  
4 injury.

5 If the defendant was actually in imminent danger, it  
6 must be shown that the circumstances would have warranted a  
7 person of ordinary firmness and courage to strike the fatal  
8 blow to prevent death or serious bodily injury. If the  
9 defendant believed he was in imminent danger of death or  
10 serious bodily injury, it must be shown that a reasonably  
11 prudent person of ordinary firmness and courage would have  
12 had the same belief.

13 He had the gun. They had nothing other than their  
14 hands. They weren't armed with anything other than their  
15 hands. He had the gun; they did not.

16 And this story about trying to push Latesha out of the  
17 way and to protect those other women, in that video when he  
18 talks to Investigator Tilton, listen to the very last of it  
19 as he's heading out the door. He threw Latesha under the bus  
20 right quick, didn't he, when he said how do y'all know  
21 Latesha didn't do it, how do you all know Latesha didn't  
22 shoot him.

23 And for him now to come in here and say he was  
24 chivalrous and trying to move her out of the way and that he  
25 was kind of protecting her and the other women as much as

1 himself is almost laughable if there wasn't one man who was  
2 almost shot to death and another one who was killed.

3 In deciding whether the defendant actually was or  
4 believed he was in imminent danger of death or serious bodily  
5 injury, you should consider all facts and circumstances  
6 surrounding the crime, including the physical condition and  
7 characteristics of the defendant and the victim.

8 Again, by all accounts, Malcolm Spates was the  
9 peacemaker in this situation and was trying to calm the  
10 situation down and he got shot for his efforts. By all  
11 accounts, Ronald Oliver was simply in the bathroom. He came  
12 out, saw a gun, went back into the bathroom and got on the  
13 floor and tried to hide. He got shot for his efforts.

14 Right to act on appearances. The defendant does not  
15 have to show that he was actually in danger. It is enough if  
16 the defendant believed he was in imminent danger and a  
17 reasonably prudent person of ordinary firmness and courage  
18 would have had the same belief. The defendant has the right  
19 to act on appearances, even though the defendant's beliefs  
20 may have been mistaken.

21 It is for you to decide whether the defendant's fear of  
22 immediate danger or death or serious bodily injury was  
23 reasonable and would have been felt by an ordinary person in  
24 the same situation. Would an ordinary person have done what  
25 Mr. Jackson did? I say no.

1           Now, if you believe his version of what happened today,  
2 that he tells you he walked in and immediately saw all red  
3 and knew automatically that this was some kind of Blood  
4 street gang hangout. And what did he tell you he did? He  
5 was in there with a gun. He stayed.

6           Now, if he felt threatened at that point, he could have  
7 left. He could have stayed outside. He could have stayed in  
8 the car. He didn't. By his own admission, he goes in once,  
9 sees it, goes out, and then comes back in a second time.

10           Would a reasonable ordinary person who felt threatened  
11 by the presence of all that red have gone back in there?  
12 Plus, I asked him. He wasn't going to admit to that. I  
13 asked him 20 different ways why couldn't you just have done  
14 something else. Well, I had to go back in that club. It was  
15 safer in there than it was out here. It just doesn't make  
16 sense.

17           And the only person who saw all this red? Diondrae  
18 Jackson. You heard from the others. You heard from the four  
19 people with whom he was with. You heard from Ronald Oliver.  
20 You heard from the bartender, Samantha Green. There was a  
21 red shirt or two. That's a fairly common color. But in Mr.  
22 Jackson's world, he sees red, he starts blasting.

23           Words accompanied by hostile acts. Words accompanied by  
24 hostile acts may, depending on the circumstances, establish  
25 self-defense. Again, hand gestures with nothing more I don't



1 feel is sufficient provocation, but it's up for you to  
2 decide. Is someone wearing a red shirt, moving their hands  
3 in a certain way, is that enough to let you know, oh, they're  
4 going to kill me, I better shoot them first?

5 Prior difficulties. Evidence of prior difficulties  
6 between the defendant and the victim may be considered in  
7 deciding whether a threat exists, whether the defendant had a  
8 reason to believe a threat existed, and how serious a threat  
9 it was.

10 Everybody to a person testified the only person of that  
11 whole group that knew Diondrae Jackson was Latesha Newton.  
12 Everyone else was meeting him for the first time. No prior  
13 difficulties with anybody.

14 Size and age. The sizes, ages, and weights of the  
15 defendant and the victim may be considered. Again, these  
16 were all grown men, some a little older than others. That  
17 does not factor in.

18 The victim's violent reputation. The reputation of the  
19 victim as a violent person may be considered in deciding  
20 whether there was a need for force, whether the defendant had  
21 reason to believe there was a need for force, and whether  
22 deadly force was reasonably necessary.

23 Now, Mr. Oliver told you I've been in trouble, had a  
24 little trouble, an arrest, and they made much of Mr. Spates'  
25 prior run-in with the law. Mr. Jackson didn't know either

1 one of them. How could he have known that? And the fact  
2 that you've been charged or convicted of a crime, nothing  
3 more, is that reason to just gun somebody down? He couldn't  
4 have known it. He didn't know it. That couldn't have played  
5 a factor in this.

6 Prior violence with the victim. Again, he didn't know  
7 anybody. That was not a factor.

8 Threats by the victim. Again, everyone to a person  
9 testified no threats made. Charles Frierson was close enough  
10 to hear. Lawanda Johnson was close enough. Ernestine Mack.  
11 Everybody. Nobody heard any threats made towards Mr.  
12 Jackson. The only person who heard threats made towards him  
13 was Mr. Jackson and, again, that depends on which version of  
14 his story you're willing to listen to. Was it the one he  
15 gave Roger Tilton or the one he tried to feed you folks in  
16 here today?

17 Intoxication. Intoxication of the victim may be  
18 considered in deciding whether defendant's fear of death or  
19 bodily harm was reasonable. Again, you heard testimony that  
20 Malcolm Spates had a blood alcohol content of .18. Mr.  
21 Edgeworth asked the pathologist several times does that make  
22 somebody mean, somebody dangerous, and she said I don't know.  
23 It depends on the person. I can tell you the legal limit is  
24 .08, but Malcolm Spates wasn't driving a car. He was in  
25 there having a good time. I'm sure he did drink.

1 But I know this. Everybody -- everybody testified that  
2 Malcolm Spates' only crime, his only offense that night, was  
3 to try to calm the situation down, and Diondrae Jackson shot  
4 him for it.

5 Increased risk of harm. The defendant had no duty to  
6 retreat if by doing so the danger of being killed or  
7 suffering serious bodily injury would increase.

8 Again, if for one moment you believe there was a threat  
9 inside the Downbeat Club to Diondrae Jackson, he had every  
10 opportunity to leave. Now, he talked about the car being  
11 blocked in, there was no way out, nobody could have moved.  
12 He could've gotten in the back and laid down. He could've  
13 walked down the road. He could have done any number of  
14 things. He chose not to.

15 Degree of force. A person cannot be required to make an  
16 exact calculation as to the degree or amount of force that  
17 may be needed to avoid death or serious bodily injury.

18 The man pulled a loaded firearm in a crowded club and  
19 started shooting. He shot Malcolm Spates once. He died. He  
20 shot Ronald Oliver twice, once in the stomach, once in the  
21 hip. There were a total of three shell casings found.

22 Now, Mr. Jackson tried to say Mr. Spates must've cranked  
23 off a shot, but you heard what the firearms identification  
24 expert testified from SLED to yesterday. All three shell  
25 casings were fired from the same weapon -- the same weapon.

1 Not two shots, not one shot. All three shell casings were  
2 fired by the same weapon, and we know based on the comparison  
3 that it was not Lawanda Johnson's weapon that was taken out  
4 of the Charger.

5 So what happened to the weapon? Well, it depends on  
6 which version you believe, that Mr. Jackson wants to try to  
7 convince you of, the one that they -- he freely admits he  
8 threw the gun out.

9 Now, it's a shame law enforcement didn't recover the  
10 weapon because that would've been the weapon that the shell  
11 casings matched. It was the same caliber and the same type.  
12 But Mr. Jackson knew law enforcement was closing in. He got  
13 rid of that weapon and he also took that shirt off he was  
14 wearing.

15 Now, if this is a man who acted in self-defense, why  
16 would he do such a thing? You would think that he would jump  
17 at the opportunity to tell law enforcement what happened now  
18 that he's clear from the scene and he's away from all those  
19 dangerous people. He could not wait to tell the first police  
20 officer what had happened and how he had acted in self-  
21 defense and how he actually saved a couple of ladies from  
22 getting shot. You would think that would be the first words  
23 out of his mouth, but oh, no, they were not. They were not.

24 The first words out of his mouth when he gets to the  
25 jail, I caused one murder, the other one got to die too. My

1   mama is gonna cry, their mama has gotta cry too. Those are  
2   the words that came out of his mouth that night, not that I  
3   acted in self-defense, not that I was in fear from these  
4   other guys at the Downbeat Club.

5           Continuing until threat of harm has ended. If the  
6   defendant is justified in defending himself from others and  
7   firing the first shot, then the defendant is also justified  
8   in continuing to shoot until it is apparent that the danger  
9   of death or serious bodily injury has completely ended.

10          Again, he's the only one with a gun. In Diondrae  
11   Jackson's world, eyewitness testimony doesn't count if they  
12   all know one another. Eyewitness testimony doesn't matter if  
13   they can't find the gun. Eyewitness testimony doesn't matter  
14   if you can blame your actions on someone wearing a red shirt.

15          Eyewitness testimony doesn't matter if you can find some  
16   magical drink with the power to cause selective amnesia and  
17   loss of control as a ground and if you can now change your  
18   story court time to now suggest that everybody had on red,  
19   red pants, red shirt, everybody had on red, but that's not  
20   what he told Roger Tilton.

21          Of course, he now admits he lied the entire time. Was  
22   he lying then or is he lying now?

23          But fortunately for the Spates family, fortunately for  
24   Ronald Oliver, and fortunately for all of us, this trial  
25   takes place in this world, not Diondrae Jackson's world. We

1 heard from law enforcement. We heard from experts in GSR,  
2 DNA, firearms. We've heard from a forensic pathologist.

3 And the way that the wound was inflicted almost makes  
4 you think that the angle -- of course, she said from the  
5 angle she really couldn't tell because bodies were in motion,  
6 but where the blood was, if you look at the pictures in the  
7 back, it almost looks like he was sitting and when he saw Mr.  
8 Jackson coming at him with that pistol, he just kind of threw  
9 his arm up like he was leaning and he got shot and that's the  
10 direction of the bullet. But he bled and he dropped right  
11 there. That's where his blood was, not in the bathroom.  
12 Right there.

13 We heard from the detention center officer, but the most  
14 compelling evidence in this case comes from the eyewitnesses  
15 who were in the back room of the Downbeat Club, all of whom  
16 saw Jackson pull a pistol and start shooting. And now,  
17 folks, we don't just have to rely on them. Diondrae Jackson  
18 got up here and testified today, yeah, I did shoot them, but  
19 you'd have to believe all the other stuff.

20 Again, Latesha Newton, she's known Jackson all her life.  
21 She had plans to go with other friends when he invites  
22 himself along. She takes her wallet out of the glove box  
23 when they arrive in front of Jackson, who sees the pistol.  
24 And now he testifies, well, she told him it was there and  
25 actually showed it to him and he actually felt around in