

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Feb 18 2025

SC Court of Appeals

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM MCKINNEY,

APPELLANT

APPELLATE CASE NO. 2023-001692

RECORD ON APPEAL

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Assistant Attorney General

PO Box 11549
Columbia, SC 29211-1549
(803) 734-3727

ATTORNEY FOR APPELLANT

W. WALTER WILKINS, III
Solicitor, Thirteenth Judicial Circuit

305 E. North Street
Greenville, SC 29601
(864) 467-8647

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRANSCRIPT OF IMMUNITY HEARING DATED JANUARY 5, 2023	1
MOTIONS	6
TESTIMONY	
WILLIAM MCKINNEY	
Direct Examination by Mr. Boatwright	34
Cross Examination by Mr. Polsinello	46
Redirect Examination by Mr. Boatwright.....	83
JEWELL SIMPSON	
Direct Examination by Mr. Boatwright	86
Cross Examination by Mr. Polsinello	90
Redirect Examination by Mr. Boatwright.....	95
ISAAC MCKENZIE	
Direct Examination by Mr. Boatwright	97
Cross Examination by Mr. Polsinello	98
SHAWN CUTTING	
Direct Examination by Mr. Boatwright	100
Cross Examination by Mr. Polsinello	109
BRYAN THRELKELD	
Direct Examination by Mr. Boatwright	111
Cross Examination by Mr. Polsinello	114
ALVIN TRACY KING	
Direct Examination by Mr. Boatwright	115
Cross Examination by Mr. Polsinello	141
Redirect Examination by Mr. Boatwright.....	158
Re-Cross Examination by Mr. Polsinello	162
THE DEFENSE RESTS	163
THE STATE RESTS	164
CLOSING ARGUMENT BY MR. BOATWRIGHT.....	164
CLOSING ARGUMENT BY MR. POLSINELLO.....	170

RULING OF THE COURT	181
ORDER DENYING IMMUNITY FILED JANUARY 9, 2023	182
TRIAL TRANSCRIPT DATED OCTOBER 16, 17, 18, 19, 2023	190
OPENING STATEMENT BY MR. POLSINELLO	198
OPENING STATEMENT BY MR. HELAMS.....	205
TESTIMONY	
SARAH YOUNG	
Direct Examination by Mr. Polsinello	213
WALTER BRYSON	
Direct Examination by Mr. Polsinello	217
Cross Examination by Mr. Hellams.....	227
JASON BROOKS	
Direct Examination by Mr. Polsinello	234
Cross Examination by Mr. Boatwright	240
TRACY KING	
Direct Examination by Mr. Polsinello	243
Cross Examination by Mr. Boatwright	319
Redirect Examination by Mr. Polsinello.....	363
Re-Cross Examination by Mr. Boatwright	373
ANDREW BROGDEN	
Direct Examination by Mr. Polsinello	375
Cross Examination by Mr. Hellams.....	384
NEAL NORRIS	
Direct Examination by Mr. Polsinello	409
Cross Examination by Mr. Hellams.....	414
Redirect Examination by Mr. Polsinello.....	430
Re-Cross Examination by Mr. Hellams	431
CHRISTOPHER PITTMAN	
Direct Examination by Mr. Polsinello	432
Cross Examination by Mr. Boatwright	453
CRYSTAL MINWEGEN	
Direct Examination by Mr. Polsinello	455
Cross Examination by Mr. Boatwright	474

JOHN RINKLIFF	
Direct Examination by Mr. Polsinello	485
JASON FOLK	
Direct Examination by Mr. Polsinello	500
CARLOS JENKINS	
Direct Examination by Mr. Polsinello	508
Cross Examination by Mr. Boatwright	543
Redirect Examination by Mr. Polsinello.....	575
Re-Cross Examination by Mr. Boatwright	579
MONIEQUE GREENE	
Direct Examination by Mr. Polsinello	584
Cross Examination by Mr. Hellams.....	612
Redirect Examination by Mr. Polsinello.....	633
THE STATE RESTS	634
DEFENSE RENEWAL OF STAND-YOUR-GROUND MOTION	634
MOTION FOR DIRECTED VERDICT ON THE CHARGE OF ATTEMPTED MURDER.....	634
RULING OF THE COURT DENYING MOTION FOR DIRECTED VERDICT	636
RULING OF THE COURT DENYING STAND-YOUR-GROUND MOTION	638
COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY	638
CLOSING ARGUMENT BY MR. POLSINELLO.....	663
CLOSING ARGUMENT BY MR. BOATWRIGHT	690
CHARGE ON THE LAW	731
VERDICT	760
MOTION FOR A NEW TRIAL	761
RULING OF THE COURT DENYING MOTION FOR A NEW TRIAL	761
SENTENCING	765

INDICTMENTS AND SENTENCE SHEETS.....	768
VERDICT FORM.....	778
CERTIFICATE OF COUNSEL	779

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT #2 FROM IMMUNITY HEARING DATED 1/5/23 (DVD IN-CAR VIDEO CAR CHASE); STATE’S EXHIBIT #3 FROM IMMUNITY HEARING DATED 1/5/23 (DVD INTERVIEW-DWIGHT LITTLES); STATE’S EXHIBIT #4 FROM IMMUNITY HEARING DATED 1/5/23 (DVD IN-CAR VIDEO AFTER CHASE); STATE’S EXHIBIT #6 FROM IMMUNITY HEARING DATED 1/5/23 (DVD CCTV VIDEO); DEFENSE EXHIBIT #1 FROM IMMUNITY HEARING DATED 1/5/23 (PHOTO OF DEFENDANT); DEFENSE EXHIBIT #2 FROM IMMUNITY HEARING DATED 1/5/23 (PHOTO OF DEFENDANT);

1 Q Did you say sports medicine?

2 A Yes.

3 Q Are you a doctor for any sports teams?

4 A I'm currently one of the physicians for the US ski
5 team.

6 Q United States Olympic ski team?

7 A Yeah. Yes.

8 Q As an arthroscopic hip surgeon, what does that
9 entail.

10 A It's an operation that we do for a particular
11 condition that has only recently been kind of elucidated
12 in which people have a tendency to pinch in their hip and
13 impinge. And so the operations I generally am doing in
14 the hip are trying to repair some of the damage that
15 occurs as a result of this impingement process but then
16 also correct that impingement as well. And it's
17 arthroscopic meaning just two small -- generally two small
18 fingernail incisions in an outpatient operation. But
19 historically, it was done by open surgical dislocation
20 which is big incisions. You dislocate the hip. You
21 detach all the muscles and tendons and then do the work
22 and then reattach it. It was -- you know, it took a year
23 to recover from. But now you do it through two small
24 little fingernail incisions.

25 Q So is it fair to say that you do arthroscopic hip

1 surgeries?

2 A Yes.

3 Q About how many a year do you do?

4 A 350 to 400.

5 Q And how many years have you been practicing?

6 A 27.

7 Q So rough math, is it fair to say that you've done
8 over it appears 7,000 types of hip surgeries?

9 A Probably. I didn't start doing hip scopes until
10 2001.

11 Q So you've done thousands?

12 A Yes.

13 Q Have you ever testified in court before?

14 A I have.

15 MR. POLSINELLO: Your Honor, pursuant to South
16 Carolina Rule of Evidence 702 and 705, the State moves to
17 qualify Dr. Jason William Folk as an expert in
18 arthroscopic surgery.

19 THE COURT: All right. Any objection?

20 MR. BOATWRIGHT: No, Your Honor.

21 THE COURT: He's so deemed qualified.

22 BY MR. POLSINELLO:

23 Q Dr. Folk, did you write a report and medical notes in
24 this case?

25 A Specific to the case or just in general?

1 Q In your treatment to the victim in this case,
2 Monieque Greene.

3 A Yeah. There's medical records associated with that,
4 yes.

5 Q What is a left hip arthroscopic removal of a foreign
6 body?

7 A It's essentially just I'm utilizing the hip
8 arthroscopy technique in order to -- if they're, you know,
9 it just so happened that this foreign body was in a place
10 that could be retrieved by me just simply putting a scope
11 into the hip and removing it.

12 Q Were you employed with Prisma Health on July 24,
13 2020?

14 A Yes.

15 Q Okay. And did you perform the left hip arthroscopic
16 removal of a foreign body on the victim, your patient in
17 this case, Monieque Greene?

18 A Yes.

19 Q Is he here present today in court?

20 A I believe he's there.

21 Q Sitting right here?

22 A Yes.

23 Q And where was this done?

24 A Well, one of the facilities. I'm not sure exactly as
25 to the -- whether it was at Hillcrest or Patewood

1 Hospital.

2 Q What does it entail in terms of obtaining a bullet
3 after a surgical fracture? What does that entail?

4 A So what I had to do is essentially the technique is
5 where I distract the hip joint to get enough room to get
6 into the hip. The bullet was lodged kind of into, you
7 know, the hip in a ball and socket joint. The inner wall
8 of the socket is where the bullet was lodged. And as part
9 of the impact, it created a fracture that was local to the
10 area. So basically, what I had to do was unroof the bone
11 a little bit in the deep portion of the socket. And it
12 was right there and so pulled it out.

13 Q So you removed the bullet fragment from this victim's
14 body?

15 A Yes.

16 Q Was he under anesthesia when you had to do this?

17 A Yes.

18 Q What are the dangers if a bullet is not removed
19 timely enough? What could happen?

20 A Well, the chief concern in his case was that where it
21 was, I was concerned that it would affect mechanically,
22 potentially abrade the joint, you know, where it would
23 lead to deterioration of the cartilage that caps the bone
24 on the ball.

25 And then the other concern is that you can within a

1 joint, you know, ballistic -- or a bullet in a joint, if
2 it's lead-based metal, that can actually create a lead
3 synovitis or an inflammatory condition in the joint that
4 can lead to early deterioration of the joint. And so
5 those were the two chief considerations for removal.

6 Q What are the reasons why medical professionals would
7 wait 20 some odd days to decide to remove the bullet? Why
8 would you wait so long?

9 A Well, it was -- we didn't feel compelled to do it
10 initially just because the -- you know, one reason to do
11 it more acutely would be if you were concerned about the
12 risk of an infection, you know. But fortunately, my
13 impression was that the bullet had not traversed, you
14 know, any of the -- you know, the hollow organs that, you
15 know, potentially can be contaminated with bacteria. So
16 we weren't really worried about bacterial seeding to the
17 area. So -- and fortunately where it was, it was -- you
18 know, I was worried it could create abrasion. But if we
19 kept him off of it, you know, for a period of time, it
20 could be done on an elective basis as opposed to in the
21 more acute setting.

22 Q So you were successful in removing the bullet?

23 A Yes.

24 Q The operation was a success?

25 A Yes.

1 Q Did the victim have to have a Foley catheter in
2 place?

3 A He did.

4 Q Do you recall, prior to the surgery, was the victim
5 in a wheelchair?

6 A He was, yes.

7 Q After the procedure, would he be required to be in a
8 wheelchair?

9 A Yeah. We kept him in -- you know, off of it for a
10 period of time after that as well.

11 Q Do you know how long?

12 A It was roughly a month to allow for the fracture to
13 heal.

14 Q In a wheelchair?

15 A That or walker or crutches. I don't recollect.

16 Q So would that imply with his injuries it
17 significantly impaired his mobility? Would that be fair
18 to say?

19 A Yes.

20 MR. POLSINELLO: Thank you, Doctor. No further
21 questions.

22 THE COURT: All right. Cross-examination.

23 MR. BOATWRIGHT: No questions, Your Honor.

24 THE COURT: All right. Sir, you can step down.

25 Is this witness able to be excused?

1 MR. POLSINELLO: Yes, Your Honor.

2 THE COURT: Any objection?

3 MR. BOATWRIGHT: No, Your Honor.

4 THE COURT: All right. Sir, you're free to go. Take
5 care of yourself.

6 All right. Is the State ready to call its next
7 witness?

8 MR. POLSINELLO: Your Honor, may I have one moment?

9 THE COURT: Yes, sir.

10 Y'all need a moment? No?

11 MR. POLSINELLO: Your Honor, can we have a brief five
12 minutes in terms of the State's next witness is en route?

13 THE COURT: Okay. All right. I'm going to give you
14 a moment. Take about a five- to seven-minute break and
15 I'll bring you back in.

16 Please, ma'am, please, sir, don't talk about the case
17 to each other.

18 (WHEREUPON, the jury exits the courtroom at 3:28 PM, and a
19 recess is taken.)

20 THE COURT: I think the State is ready to proceed, so
21 we can bring out the jury.

22 (WHEREUPON, the jury entered the courtroom at 3:49 PM.)

23 THE COURT: Okay. Mr. Polsinello.

24 MR. POLSINELLO: May it please the Court.

25 THE COURT: Yes, sir.

1 MR. POLSINELLO: Your Honor, the State calls Carlos
2 Jenkins to the stand.

3 THE COURT: All right.

4 THE CLERK: Mr. Jenkins, if you'll come to the Bible,
5 please, and place your left hand on the Bible and raise
6 your right hand.

7 WHEREUPON,

8 CARLOS JENKINS

9 After having been duly sworn, testified as follows:

10 THE CLERK: Thank you. Please take a seat and state
11 your name for the record.

12 THE WITNESS: Carlos Jenkins.

13 DIRECT EXAMINATION

14 BY MR. POLSINELLO:

15 Q Mr. Jenkins, are you currently employed?

16 A Yes, sir.

17 Q With whom?

18 A South Carolina Security Services.

19 Q What is South Carolina Security Services?

20 A It's a private security agency that provides security
21 for many companies.

22 Q There's water there if you need it. I'll give you a
23 moment.

24 A I appreciate it.

25 Q Okay. Sir, so you are employed by South Carolina

1 Security Services, LLC?

2 A Yes, sir.

3 Q And you perform security work?

4 A Yes, sir.

5 Q For whom?

6 A Different companies. We do like hotels, nightclubs,
7 bars and stuff like that.

8 Q So private businesses contract through you pursuant
9 to the law to hire you to provide security?

10 A Yes, sir.

11 Q Is the company SLED certified today?

12 A Yes, sir.

13 Q Was the company SLED certified on July 4, 2020?

14 A Yes, sir.

15 Q Were you SLED certified in performing your duties on
16 July 4, 2020?

17 A Yes, sir.

18 Q What does it entail to be SLED certified?

19 A Well, it gives you the same power that the sheriff
20 department in any county that you work in. So that gives
21 you arrest powers and detainments and stuff like that.
22 And then we'll either contact local law enforcement and
23 they take over from there.

24 Q And is this pursuant to your understanding of the
25 law?

1 A Yes, sir.

2 Q Through SLED's requirements?

3 A We are required to uphold the law, state and federal
4 law.

5 Q So to be SLED certified, you have communication with
6 SLED or SLED agents yearly to continue being certified?

7 A Yes, sir. You've got to requalify every year.

8 Q And how do you qualify?

9 A You go through the laws and legals of the state, and
10 then you go through the shooting class.

11 Q Shooting class on SLED's campus?

12 A No. You go through a private -- a SLED-certified
13 trainer.

14 Q Okay. And all the certification paperwork goes to
15 SLED?

16 A Yes, sir.

17 Q And SLED either approves it or denies it?

18 A Yes, sir.

19 Q So you guys were approved ---

20 A Yes, sir.

21 Q --- on July 4, 2020.

22 A Yes, sir.

23 Q On that incident date, were you employed or were you
24 hired by Club Dolce to provide security?

25 A Yes, sir.

1 Q Okay. And was it a special night for any event?

2 A It wasn't a special event. We do it every weekend.

3 Q Do you know the victim in this case, Monieque Greene?

4 A Yes, sir.

5 Q How do you know him?

6 A He's been working for me for a long time, and we
7 family.

8 Q You're family?

9 A Yes, sir.

10 Q Are you blood related?

11 A No, sir.

12 Q Okay. So family in terms of obviously nonblood, but
13 you've worked with him in the past?

14 A Yes. I've been knowing him since he was a kid.

15 Q Okay. So on July 4, 2020, how did the victim,
16 Monieque Greene, come to work for you or Club Dolce that
17 night?

18 A Well, I was working it, and sometimes on a weekend it
19 would be a large crowd so we usually be in control of the
20 cars and parking. So I asked him to come up and help me
21 patrol it and park it.

22 Q So was he paid -- was the victim paid for his
23 services that night?

24 A No. He was just up there helping.

25 Q Just helping?

1 A Yes.

2 Q He didn't even get paid?

3 A No. He wasn't getting paid.

4 Q Club Dolce didn't pay him?

5 A No. They pay -- they pay the security. And then
6 like I say, he was just up there.

7 Q Okay.

8 A He wasn't employed with Dolce then. He was with us.

9 Q Okay. On July 4, 2020, the incident date in this
10 case, did you have a valid concealed weapons permit?

11 A Yes, sir.

12 Q So it was valid at that time?

13 A Yes, sir.

14 Q And did you have a sidearm on you?

15 A Yes, sir.

16 Q What type of gun was that?

17 A It was a Glock 21, 45.

18 Q 45 caliber?

19 A Yes, sir.

20 Q Bear with me one moment while I show you a video.

21 A All right.

22 MR. POLSINELLO: Let the record reflect I am playing
23 State's Exhibit 93.

24 (WHEREUPON, State's Exhibit Number 93, a video, was played
25 in open court.)

1 BY MR. POLSINELLO:

2 Q Okay. Mr. Jenkins, is this you right here?

3 A Yes, sir.

4 Q On the back of your shirt, what does that say?

5 A South Carolina Security Services, SCSS.

6 Q And is that a bright yellow?

7 A Yes.

8 Q Did it have a star anywhere?

9 A On the front chest.

10 Q On the front chest there was a star?

11 A Yes, sir.

12 (WHEREUPON, State's Exhibit Number 93, a video, continued
13 to play in open court.)

14 BY MR. POLSINELLO:

15 Q So what did you see at this point?

16 A At the time I seen the subject who did the incident
17 at the gate trying to come over the gate to get back to
18 his truck.

19 Q When you say "the subject who did the incident," when
20 you say "subject," you mean this defendant?

21 A Yes, sir.

22 Q He's here sitting in court?

23 A Yes, sir.

24 Q William McKinney?

25 A Yes, sir.

1 Q And when you say "do the incident," you mean the
2 shooting that happened?

3 A Yes, sir.

4 Q The shooting which Monieque Greene got struck three
5 times?

6 A Yes, sir.

7 Q So you saw the defendant get in a truck here?

8 A He was trying to get over the fence to get back into
9 the truck, the truck that he came in.

10 Q Do you remember what type of vehicle it was that he
11 was getting in?

12 A It was a black big pickup truck. I think it was a
13 Dodge. I don't know. But I know it was a black pickup
14 truck.

15 Q Are you 100 percent certain and confident it was a
16 pickup truck?

17 A Yes, sir.

18 Q It couldn't have been another car?

19 A No.

20 Q So were you assisting law enforcement in trying to
21 tell them where the defendant is?

22 A Yes, sir.

23 Q And you had your gun drawn here?

24 A Yes, sir.

25 Q Did you fire at all right here?

1 A Not at that point, no, sir.

2 Q Did you fire anytime here?

3 A Yes, sir.

4 Q Right here?

5 A No. Not at that point. No, sir.

6 Q So why did you have your gun out?

7 A Well, if -- I didn't know if he still had his weapon
8 that he shot earlier. So I just had my weapon out for
9 cover.

10 Q Let the record reflect I'm showing you State's
11 Exhibit 25. I'm sorry. 95. State's Exhibit 95.

12 (WHEREUPON, State's Exhibit Number 95, a video, was played
13 in open court.)

14 BY MR. POLSINELLO:

15 Q Mr. Jenkins, do you know who this gentleman is
16 wearing the patriotic flag facemask?

17 A Yes, sir.

18 Q Who is that?

19 A Ulysses James.

20 Q Who is he to you?

21 A An employee.

22 Q So he worked there that night as well?

23 A Yes, sir.

24 Q Is that you in the background on the golf cart?

25 A Yes, sir.

1 (WHEREUPON, State's Exhibit Number 95, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q Okay. The deputy just asked you was it a beanbag
5 round and you said yes, but you followed up with a rubber
6 round.

7 A Yeah. It was a rubber round.

8 Q I'm showing you what's been previously marked as
9 State's Exhibit 106. Do you see that right there?

10 A Yes, sir.

11 Q Was that the rubber round that you shot that night?

12 A Yes, sir.

13 Q Is it rubber or plastic?

14 A Rubber.

15 (WHEREUPON, State's Exhibit Number 95, a video, continued
16 to play in open court.)

17 BY MR. POLSINELLO:

18 Q So clearly, you just stated you tried to not kill
19 him, correct?

20 A Yes, sir.

21 Q When you discharged your shotgun, if you wanted to,
22 could you have shot him in the back of the head?

23 A Yes, sir.

24 Q Could you have shot him in the face?

25 A Easily, yes, sir.

1 Q But you purposely made a conscious decision to shoot
2 him in the lower back?

3 A Yes, sir.

4 Q And what was that purpose for?

5 A To disarm him.

6 Q Could you have -- if you wanted to before the
7 shotgun, could you have had your 45 caliber gun out?

8 A Yes, sir.

9 Q And you could have pointed it at him trying to disarm
10 him?

11 A Yes, sir. Yes, sir.

12 Q Did you choose to do that?

13 A No.

14 (WHEREUPON, State's Exhibit Number 95, a video, continued
15 to play in open court.)

16 BY MR. POLSINELLO:

17 Q Okay. Mr. Jenkins, so as we just see you state, did
18 you receive information about this defendant that night?

19 A Yes, sir.

20 Q Is it your understanding, was he at the club earlier?

21 A Yes, sir.

22 Q Do you recall seeing him at the club earlier?

23 A Yes, sir.

24 Q And so he left?

25 A He was there early on a motorcycle and then he left.

1 He came back in the pickup.

2 Q And so he was on a motorcycle at one point. He left
3 on the motorcycle and then came back in that gray Ford
4 dually pickup?

5 A Yes, sir.

6 Q And before he even parked or circled ---

7 A It was black. The truck was black.

8 Q --- you received information that caused you to keep
9 eyes on him and his truck?

10 A Yes, sir.

11 Q Okay. And why was that? Did something happen
12 earlier in the night?

13 A Well, we -- we received information that he got into
14 it with someone earlier and to keep our eye out for him if
15 he come back. And when he came back, like several people
16 have said, they go -- they pointed out the truck. And we
17 just watched the truck circle around the parking lot over
18 and over and over.

19 Q Did you provide -- excuse me one moment. Were you
20 ever interviewed by law enforcement in this case?

21 A About the incident, yes, sir.

22 Q You were interviewed in a law enforcement room?

23 A Yes, sir.

24 Q With investigators with the Greenville County
25 Sheriff's Office?

1 A Yes, sir.

2 Q Did you give a written statement in this case as to
3 what happened?

4 A Yes, sir.

5 Q Do you recall in your written statement that the
6 reason that you had eyes on him is because that he was,
7 quote, beefing with someone, end quote?

8 A Yes, sir.

9 Q What's "beefing"?

10 A He had words with some individuals. And I guess he
11 made a threat to them. But the people that was telling us
12 that, that he was arguing with someone and he was going to
13 come back.

14 Q So you stated that in your written statement to law
15 enforcement, correct?

16 A Yes. Yes, sir.

17 Q And that was on -- in the early morning of July 4,
18 2020, correct?

19 A Yes, sir.

20 (WHEREUPON, State's Exhibit Number 95, a video, continued
21 to play in open court.)

22 BY MR. POLSINELLO:

23 Q So did you give the defendant multiple commands to
24 drop the gun?

25 A Yes, sir.

1 Q To take his hands out of his pockets?

2 A To take his hand out of his pocket and drop the
3 weapon.

4 Q So you knew he had a weapon on him.

5 A Yes, sir. I seen the butt of it.

6 Q Okay. And so with this prior knowledge that you had
7 that he left the club and was coming back looking, as you
8 state, to "beef" with someone, that knowledge coupled with
9 the fact that you saw a weapon in his pocket, that caused
10 concern for you?

11 A Yes, sir.

12 Q Is that the reason why you were following him?

13 A Yes. That's the only reason we followed him, because
14 when he got out of the truck, he put the weapon -- I seen
15 him with my own eye. He put the weapon in his right
16 pocket.

17 Q Did you see him clutching on the weapon in his
18 pocket?

19 A Yes, sir. Kept his hand in his pocket the whole
20 time.

21 Q And you gave him multiple commands to take it out?

22 A Yes, sir.

23 Q If he took his hands out of his pockets and went like
24 this (gesturing), would you have shot the gun at him?

25 A No. No, sir.

1 Q But he didn't take his hands out of his pockets like
2 this (gesturing), did he?

3 A No, sir.

4 (WHEREUPON, State's Exhibit Number 95, a video, continued
5 to play in open court.)

6 BY MR. POLSINELLO:

7 Q When you approached the defendant, can't help but
8 notice your hand motion is in a downward motion; is that
9 correct?

10 A Yes, sir.

11 Q So are you mimicking how you held the shotgun when
12 you approached him?

13 A Yes, sir. Yes, sir.

14 Q So would that indicate you were not pointing it at
15 him ---

16 A No, sir.

17 Q --- initially when you approached him?

18 A No, sir.

19 Q Could you have done that if you wanted to?

20 A Yeah. Because I had already seen the threat with my
21 own eyes. But we keep it down towards the ground just in
22 case we have a mistake discharge, it won't hurt no one or
23 hit no one. It'd hit the ground.

24 (WHEREUPON, State's Exhibit Number 95, a video, continued
25 to play in open court.)

1 BY MR. POLSINELLO:

2 Q When you said that when he turned, you don't mean
3 that he turned fully 180 degrees facing your face, do you?

4 A No, sir. When he -- go ahead.

5 Q No. Finish.

6 A When he went to turn, he had the weapon -- he had
7 took the weapon out of his pocket. So I seen the weapon,
8 that's when I discharged the firearm.

9 Q So you saw this defendant when he took his hand out
10 of his pocket, he had the gun?

11 A He had the gun.

12 Q Did you see the butt end of the gun?

13 A No. He -- yes. He had the gun in his hand, turned
14 it towards me. That's when I shot.

15 Q When he had it in his hand, did you see the butt end
16 of the gun?

17 A Yes, sir.

18 Q Do you remember what color the gun was?

19 A It was a black semiautomatic.

20 (WHEREUPON, State's Exhibit Number 95, a video, continued
21 to play in open court.)

22 BY MR. POLSINELLO:

23 Q When you fired the first round in the defendant's
24 back, what was your intention? What was going on in your
25 head?

1 A We just wanted to disarm him, just disarm him and let
2 local law enforcement deal with it.

3 Q Okay. If you were successful in disarming him,
4 meaning he dropped the gun, what would you have done?

5 A What we would have did was what we always do. We
6 would have cuffed him and called Greenville County.

7 Q Do you get the gun away from him?

8 A Yeah. We would have took the gun in custody. And we
9 would have told -- basically what we're doing now, told
10 Greenville everything that happened and give them the
11 firearm.

12 Q But when you shot him the first time, you were not
13 successful in disarming him, were you?

14 A No.

15 Q And you felt the need to shoot a second time?

16 A Yes, sir.

17 Q Why is that?

18 A Because he -- he -- when we -- when I hit him the
19 first time with the bean -- with the rubber round, it
20 didn't phase him. He didn't go down or anything. So he
21 didn't drop the weapon. So when I did it again, I thought
22 he was going down, but he didn't go down. He came up
23 shooting.

24 (WHEREUPON, State's Exhibit Number 95, a video, continued
25 to play in open court.)

1 BY MR. POLSINELLO:

2 Q So did you just state when he started shooting, you
3 dropped the shotgun?

4 A Yes. When he started firing, I dropped my shotgun.

5 Q And is that when you took out the 45 caliber?

6 A Yes, sir.

7 Q Did you fire back?

8 A Yes, sir.

9 Q Did you see this defendant shoot at the direction of
10 Monieque Greene?

11 A Yes, sir.

12 Q So were you firing back in your self-defense or in
13 Monieque's self-defense?

14 A Basically, I was firing back in everyone's
15 self-defense, mine, the patrons that was out there.
16 Everyone.

17 (WHEREUPON, State's Exhibit Number 95, a video, continued
18 to play in open court.)

19 BY MR. POLSINELLO:

20 Q Again, they weren't beanbag rounds, were they?

21 A No, sir.

22 Q So you were mistaken when you said beanbag?

23 A Yeah. It was a rubber round. We used to use
24 beanbags so long and so much, and then we crossed over to
25 rubber round. They're less lethal than beanbags. They're

1 more effective.

2 (WHEREUPON, State's Exhibit Number 95, a video, continued
3 to play in open court.)

4 BY MR. POLSINELLO:

5 Q Mr. Jenkins, were you cooperative with law
6 enforcement this early morning?

7 A Yes, sir.

8 Q Did you run from the scene?

9 A No.

10 Q Did you remain at the scene?

11 A Yes, sir.

12 Q Did you go to the law enforcement and give a
13 statement?

14 A Yes, sir.

15 MR. POLSINELLO: Let the record reflect that I'm
16 playing State's Exhibit 2.

17 (WHEREUPON, State's Exhibit Number 2, a video, was played
18 in open court.)

19 BY MR. POLSINELLO:

20 Q Okay. Mr. Jenkins, you see this time stamp right up
21 here?

22 A Yes, sir.

23 Q What time is that?

24 A 4:00, 4:01.

25 Q A.m?

1 A 4:00. 4:00.

2 Yes, sir.

3 Q Right under here (indicating) where I'm circling
4 under this light in this parking spot, do you see the
5 defendant's Ford F-450 there?

6 A No, sir.

7 Q He's not parked there yet?

8 A No, sir.

9 Q And it's your understanding that he left the club on
10 a motorcycle and came back in the truck?

11 A Yes, sir.

12 (WHEREUPON, State's Exhibit Number 2, a video, continued
13 to play in open court.)

14 BY MR. POLSINELLO:

15 Q Is this the truck you're referring to?

16 A Yes, sir.

17 Q The defendant's truck?

18 A Yes, sir.

19 Q Could that be gray, that color?

20 A Yes. It could be dark gray.

21 Q And so you saw the defendant driving this truck?

22 A Yes, sir. That's it.

23 Q And you stated he was circling the club multiple
24 times?

25 A Yes, sir.

1 Q Was that suspicious to you?

2 A Yes, sir.

3 Q Why was that suspicious?

4 A He wasn't trying to park. He wasn't really talking
5 to anyone. Because usually when cars ride around the
6 club, they either stop and talk to someone, looking for
7 someone or looking for a park. He never did either.

8 Q I'm showing you video time stamp 4 a.m., what we just
9 saw. Does it appear there's open parking spots back
10 here (indicating) ---

11 A Yes, sir.

12 Q --- towards White Horse Road?

13 A Yes, sir.

14 Q Are there parking spots back here (indicating)?

15 A Yes, sir.

16 Q And actually, this (indicating) parking spot where
17 I'm circling under the light, that's open, isn't it?

18 A Yes, sir.

19 Q Are there open spots right here (indicating) in front
20 of the club?

21 A Yes, sir. The whole -- the whole front was open.

22 (WHEREUPON, State's Exhibit Number 2, a video, continued
23 to play in open court.)

24 BY MR. POLSINELLO:

25 Q So were you watching the defendant circle the club

1 and did you see him stop here?

2 A Yes, sir.

3 Q So you recall him stopping?

4 A Yes.

5 Q Did you see Monieque Greene talking to the defendant
6 right here?

7 A Yes, sir.

8 Q When this was going down right here at 4:05 a.m. and
9 13 seconds, roughly, where were you? Where was your
10 vantage point?

11 A I was on the front door, right back front door.
12 Because I parked back -- front -- front door, maybe like
13 five or six parking spaces over.

14 Q From where you were, you saw this vantage point?

15 A Yes. I could still -- I had a straight vision, yes.

16 Q And you saw the victim, Monieque Greene, talking to
17 this defendant right here?

18 A Yes, sir.

19 Q Are you allowed to park here (indicating)?

20 A No. That's the road.

21 (WHEREUPON, State's Exhibit Number 2, a video, continued
22 to play in open court.)

23 BY MR. POLSINELLO:

24 Q I'm showing you time stamp 4:06 a.m. and 21 seconds.

25 Did the defendant finally park here (indicating)?

1 A Yes, sir.

2 Q So it took him roughly six minutes to find a parking
3 spot; is that correct?

4 A Yes, sir.

5 Q Right here (indicating), is this defendant wearing a
6 white undershirt and black basketball shorts with the red
7 stripes?

8 A Yes, sir.

9 Q Did you have eyes on him at this point?

10 A Yes, sir.

11 Q And you had eyes on him because of your prior
12 testimony, the information that you received?

13 A Already, yes, sir.

14 Q And you stated that in your written statement, didn't
15 you?

16 A Yes sir.

17 Q Because he was "beefing" with someone in the parking
18 lot, correct?

19 A Yes.

20 (WHEREUPON, State's Exhibit Number 2, a video, continued
21 to play in open court.)

22 BY MR. POLSINELLO:

23 Q I'm showing you the side angle of the club. It's
24 time-stamped 4:09 a.m., 7 seconds. Is this the defendant
25 right here (indicating)?

1 A Yes, sir.

2 Q And this (indicating) is where you saw him clutching
3 his right hand in his pocket?

4 A Yes, sir. From the time he left the truck, he never
5 took his hand out of the pocket.

6 Q Was that suspicious to you?

7 A Yes, sir. And like I said, I had already seen him
8 put the firearm in his pocket.

9 Q When he got out of the truck?

10 A Yes, sir.

11 Q Was the club closing at this time?

12 A Yes, sir.

13 Q What time did you start your shift that -- it would
14 have been the night before?

15 A We start at -- by 11:00.

16 Q 11?

17 A Usually get there between 11:00 and 12:00.

18 Q And have you worked there before?

19 A Yes, sir.

20 Q And the club closes at 4 a.m.?

21 A Yes, sir.

22 Q So obviously, there's patrons still hanging around
23 the club, correct?

24 A Yes, sir.

25 Q What are your duties and responsibilities when people

1 are doing this? What are you trying to do?

2 A To clear them out, get them off the property.

3 Q And how do you clear them out or get them off the
4 property?

5 A We usually get on the bullhorn and tell them to leave
6 or we'll walk up to each person, just tell them to leave.

7 Q Right here (indicating) and on the side of the club,
8 does it appear that they're leaving?

9 A No, sir. They're stationary.

10 Q And you see the defendant walking up to this group of
11 people right here (indicating)?

12 A Yes, sir.

13 Q Did you have reason to be concerned for those
14 people's safety?

15 A Yes, sir. I thought -- with the information that we
16 received, I thought the person that might have been in
17 danger would be in that crowd.

18 Q Did you relay all this -- did you guys have radios at
19 the time?

20 A Yes, sir, we did. Me and Ulysses had a radio.

21 Q Did the victim have a radio?

22 A No, no. He didn't have one.

23 Q So this information that you received about the
24 defendant, you relayed that via radio to Ulysses?

25 A Yes.

1 Q Did you ever verbally tell that to the victim,
2 Monieque Greene?

3 A Well, when we got closer we was talking about it,
4 yes. Because by the time we got on the radio and we all
5 came together about on the corner of the club, we was all
6 together. So we pretty much told Monieque and Ulysses
7 what was going on.

8 Q So you told him about the information -- the
9 concerning information you received and why y'all felt you
10 needed to keep eyes on the defendant?

11 A Yes, sir.

12 Q You told that to Monieque Greene?

13 A Yes, sir.

14 Q Okay. So with that information that you received,
15 the reason that you had to keep eyes on him, the fact that
16 you know he had the gun in his possession, that he came
17 back to the club with a gun, what is your thought process
18 right here?

19 A Well, we wanted to clear him from the people that
20 were out there for no innocent person to get hurt. So we
21 were just trying to clear him, keep our eye on him but
22 push everybody else out of the way, like go home or leave
23 the property. We didn't want to engage with him
24 weaponwise as talking to him or pleading to him to drop
25 the weapon in the middle of that crowd.

1 Q So this is you right here (indicating), isn't it?

2 A Yes, sir.

3 Q And your weapon's down, isn't it?

4 A Yes, sir.

5 Q So your goal and your intention was to get him away
6 from the crowd?

7 A Basically, yes, sir.

8 Q Because you were thinking about their safety?

9 A Yes, sir.

10 Q At this point -- is this (indicating) the back of the
11 club right here?

12 A Yes, sir.

13 Q So would the defendant's car, his truck, be parked in
14 the front over here (indicating)?

15 A Yes, sir.

16 Q So when were you giving him the commands to take his
17 hands out of your pockets?

18 A The command we -- I was giving right at that point
19 was for everybody to clear out of the property.

20 Q I'm sorry. I'm going to stop this for you to
21 explain. So right here at this moment, were you telling
22 the people to clear the property?

23 A Yes, sir.

24 Q Okay.

25 A I was telling everyone to disperse, go home, get in

1 your car. Pretty much to get -- well, the whole time we
2 kept eyes on him.

3 Q Did he have his hand in his pocket?

4 A The whole time.

5 Q So right now is when you start following the
6 defendant, correct?

7 A Yes, sir.

8 Q Did you point your gun at him yet?

9 A No.

10 Q Just tell me when the moments are when you give him
11 multiple commands to take his hands out of his pockets.

12 A When I gave him the first command and the second,
13 then when he turned, I pointed my weapon at him.

14 (WHEREUPON, State's Exhibit Number 2, a video, continued
15 to play in open court.)

16 BY MR. POLSINELLO:

17 Q Let's back up. So right now are you giving him
18 multiple commands to take his hands out of his pockets?

19 A Uh-huh.

20 Q Is he doing that?

21 A No, sir.

22 Q Again, if he just merely went like this (gesturing)
23 without the gun in his hand, what would you have done?

24 A Basically, just cuff him and secure the weapon and
25 call Greenville County. That we done done multiple times

1 before.

2 Q But he didn't comply, did he?

3 A Not at all.

4 Q In your opinion, could this been avoided?

5 A Yes.

6 Q How could it have been avoided?

7 A I felt he had opportunity to go home. Maybe that's
8 what he should have did was stay home, not come back there
9 to do anything.

10 Q So when he left on the motorcycle earlier before, he
11 could have stayed home?

12 A That was his opportunity not to come back.

13 Q If he stayed home, would this have ever happened?

14 A No, sir.

15 Q How else could this have been avoided?

16 A I mean, that's about the -- the best way not to come
17 back with a weapon to do any kind of wrong intention.

18 Q Well, how about right now when you gave him multiple
19 commands, could he have taken his hands out of his pockets
20 like this (gesturing)?

21 A He could have took his hand out of his pocket and lay
22 on the ground.

23 Q And then this could have been avoided?

24 A Yes, sir.

25 ///

1 (WHEREUPON, State's Exhibit Number 2, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q So right there, you can kind of see his arm go up.

5 A He's got the gun in his hand at that moment.

6 Q He took it out of his pocket?

7 A Yes, sir. He got it in front of him now.

8 Q And what was in your mind when he did that? When he
9 took his hand out and you saw the gun, what was going on
10 in your mind?

11 A I just basically -- like I said before, I -- we're
12 not out there to try to kill no one or hurt no one, injure
13 anyone. Basically, I just wanted to disarm him. And I
14 thought by hitting him with a rubber round in the corner
15 of his side would deter him to drop the weapon, but it
16 didn't.

17 Q Is this when he starts firing?

18 A No. Not at that moment. He's not firing yet.
19 That's one round. Now he's firing.

20 Q When he's firing, you were directly behind him,
21 weren't you?

22 A Yes.

23 Q So if you -- let's just say in the video, you're you
24 and I'm the defendant. Were you directly this far behind
25 him like this?

1 A Yes, sir.

2 Q Was it off to the side like this or more directly
3 behind him?

4 A When I fired the first round, it would have been
5 directly behind him.

6 Q About how many feet were you away?

7 A About the same distance.

8 Q This distance?

9 A Maybe a little further. About right there.

10 Q When the defendant, when he gets hit, you hit him
11 twice right here (indicating), right?

12 A Yeah. On the opposite side.

13 Q Lower left back?

14 A Yes, sir.

15 Q When he turned around with his gun, did the defendant
16 shoot at you or did he shoot at Monieque Greene?

17 A He shot at Monieque Greene.

18 Q And right now is Monieque Greene over to the left
19 here (indicating)?

20 A Yes, sir.

21 Q Monieque Greene wasn't behind you, was he?

22 A No.

23 Q Monieque Greene wasn't next to you, was he?

24 A No. He wasn't even in the scene. No, sir. He was
25 off -- like you said, off on -- the incident happened, but

1 he was off on the other side.

2 Q Let me back it up. So initially, Monieque Greene is
3 here (indicating).

4 A Yes, sir.

5 Q Starts breaking off to the left here (indicating),
6 doesn't he?

7 A Yes, sir. Basically, he had to move out of the way.

8 Q Is that Monieque running?

9 A Yes, sir.

10 Q And he's getting hit with fire?

11 A Yes, sir. Then he went down.

12 Q When you hit the defendant with the rubber bullets,
13 did Monieque fire his gun at the defendant first?

14 A No.

15 Q Did Monieque have his gun out pointing at the
16 defendant?

17 A No, sir.

18 Q So are you returning fire right now?

19 A Yes, sir.

20 Q Is this when you got out your 45 caliber?

21 A And I got behind the black car, yes, sir.

22 Q This car right here (indicating)?

23 A No.

24 Q Another one?

25 A That one. That's me right there.

1 Q So there's two cars between you and the defendant?

2 A Yes, sir.

3 Q And did you fire in his direction?

4 A Yes, sir.

5 Q Did you see the defendant run?

6 A Yes, sir.

7 Q When the defendant's running, did you know at that
8 exact moment what happened to Monieque Greene?

9 A No, sir.

10 (WHEREUPON, State's Exhibit Number 2, a video, continued
11 to play in open court.)

12 BY MR. POLSINELLO:

13 Q So what are you doing right now?

14 A Picking back up my shotgun and walking towards the
15 direction he ran.

16 Q It's a pretty chaotic scene right now; is that a fair
17 statement?

18 A Yes.

19 Q And right now you didn't know Monieque Greene was
20 lying there in his pool of blood, shot three times?

21 A No.

22 Q Did you see the defendant hop the fence?

23 A Yes.

24 Q Was there barbed wire back there?

25 A I don't recall.

1 (WHEREUPON, State's Exhibit Number 2, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q And obviously, in the beginning of your testimony
5 today, we played Investigator Bryson's body camera. So
6 you -- you ran around to the front of the club, correct?

7 A Sir?

8 Q You went to the front of the club at one point.
9 Officers were chasing the suspect in his BMW.

10 A Yes, sir. Yes, sir.

11 Q So at the end of the shooting, what did you do when
12 you saw the defendant hop over?

13 A Well, that's when James told me that Monieque was
14 shot on the ground. So I went over there. We stood by
15 him until Greenville County arrived. And then I walked --
16 once they arrived and they got EMS in, the Greenville
17 County were dealing with him, I walked over to secure his
18 truck and make sure it don't go nowhere.

19 Q And is that when you saw the defendant get in the BMW
20 type of car?

21 A Well, after he tried to get over the fence and I get
22 with Greenville County, he's at the gate. And I drew my
23 weapon. Then when I seen him run, he get in a black BMW
24 truck.

25 Q So just by coincidence, you were at the front. At

1 this timing you were at the front just by coincidence, the
2 timing, you saw him get in? You saw the defendant get in
3 the BMW?

4 A Yes.

5 Q You alerted law enforcement at the scene?

6 A Yes.

7 Q And we saw you draw your weapon?

8 A Yes, sir.

9 Q Do you know the exact path the defendant took when he
10 fled the scene? Like when he jumped over the back fence,
11 do you know where he went?

12 A No. We lost -- once we lost sight of him, I didn't
13 see him again until he was at the front of the gate on the
14 opposite side of the other nightclub that was on the
15 property at the time.

16 Q I'm showing you what's been previously marked as
17 State's Exhibit 3. So just take a moment to look at the
18 map and get your bearings and let me know when you're
19 ready.

20 A (Reviews exhibit) Okay.

21 Q So does this appear to be accurate positioning where
22 everyone was up till prior to the shooting and during it?

23 A Yes, sir.

24 Q So clearly, this (indicating) is Club Dolce, correct?

25 A Yes, sir.

1 Q And this (indicating) was a vacant restaurant-type
2 building?

3 A Yes, sir.

4 Q Was it being used that night, do you know?

5 A No. No, sir.

6 Q The club patrons, does it triculate [sic] over here?
7 Do people tend to go over in this (indicating) area?

8 A Yes, sir. For parking and hanging out.

9 Q So it's not uncommon for club patrons to congregate
10 in this (indicating) area?

11 A No, sir.

12 Q I'm showing you what's been previously marked as
13 State's Exhibit 46. So when the shooting happened, we
14 know that Monieque was over in this (indicating) area,
15 correct?

16 A Yes, sir.

17 Q Would you have been more over here (indicating)?

18 A Yeah. About the tip of that county car.

19 Q Right there (indicating)?

20 A No, sir.

21 Q Right there (indicating)?

22 A Yes, sir. Over there. That way. Right over there.

23 Q That (indicating) tip.

24 A Yes, sir.

25 Q That's where you were. And the defendant's back

1 would have been to you around here (indicating)?

2 A Yes, sir.

3 Q So when the defendant turned around and fired,
4 clearly, Monieque was over here (indicating)?

5 A Yes, sir.

6 MR. POLSINELLO: Thank you, Mr. Jenkins. No further
7 questions.

8 THE COURT: Cross-examination.

9 MR. BOATWRIGHT: Thank you, Your Honor. May it
10 please the Court.

11 THE COURT: Yes, sir.

12 CROSS EXAMINATION

13 BY MR. BOATWRIGHT:

14 Q Mr. Jenkins?

15 A Yes, sir.

16 Q You were SLED certified on the night of the incident,
17 correct?

18 A Yes, sir.

19 Q Monieque Greene was not SLED certified?

20 A No, sir.

21 Q Neither was Lamar James, were they?

22 A No, sir.

23 Q The law requires that they are SLED certified to act
24 as an armed security guard, doesn't it?

25 A Yes, sir.

1 Q You knew that, didn't you?

2 A Yes, sir.

3 Q And yet you still had them working for you?

4 A Yes, sir.

5 Q And you armed them as well.

6 A No, sir.

7 Q They had their own firearms?

8 A Yes, sir.

9 Q Were you wearing a bulletproof vest that night?

10 A Yes, sir.

11 Q Was it on top of your shirt or underneath your shirt?

12 A On top.

13 Q All right. So we watched the video. In the video
14 you testified -- or you told the officer that you told
15 William McKinney drop the gun, drop the gun, drop the gun,
16 right?

17 A Yeah. Take your hands out of your pocket and drop
18 the weapon. Yes, sir.

19 Q And on the video what you told the officers was drop
20 the gun, drop the gun, drop the gun, correct?

21 A Yes, sir.

22 Q And that was at the scene. That's what you said to
23 the officer.

24 A Yes, sir.

25 Q It wasn't until you got to the police station that

1 you started saying you said, "Take your hands out of your
2 pockets," correct?

3 A Don't remember.

4 Q In your written statement, did you ever put anything
5 in' there about saying drop the gun, drop the gun, drop the
6 gun?

7 A Yes, sir.

8 Q You did?

9 A Well, take his hand out of his pocket.

10 Q Well, "take your hands out of your pockets" and "drop
11 the gun" are two different phrases, right?

12 A Because I would have seen the firearm in his hand.

13 Q "Drop the gun" and "take your hands out of your
14 pockets," those are two completely different phrases,
15 right?

16 A Well, yes, sir. You can say that.

17 Q Okay. In your written statement, did you say
18 anything about "drop the gun"?

19 A Yes.

20 Q You did?

21 A I should have.

22 Q Identify in here where it says, "Drop the gun. Drop
23 the gun. Drop the gun."

24 A (Reviews document) No, it's not.

25 Q It's not in the written statement at all, is it?

1 A No, sir.

2 Q All right. So, in fact, talk about the written
3 statement a little more. You just testified on direct
4 that a woman came up to you and told you to watch him
5 because he was going to shoot somebody, correct?

6 A Yes, sir. Several patrons came up to us.

7 Q Several people.

8 A Yes, sir.

9 Q In your written statement, you didn't mention several
10 people coming up to you, did you?

11 A No, sir.

12 Q You said a young lady came up to you, right?

13 A Yes, sir.

14 Q That she said keep an eye on him, correct?

15 A Yes, sir.

16 Q Because he was "beefing" with someone.

17 A Yes, sir.

18 Q Not that he was going to shoot someone?

19 A No, sir.

20 Q Not that multiple people told you keep an eye on him?

21 A No, sir.

22 Q So you're saying one thing at the scene, and at the
23 police station you're saying different stuff, correct?

24 A Well, I gave the statement the best of my knowledge.

25 Q Okay. Which statement is the best of your knowledge,

1 the one at the scene or the one at the police station?

2 A The one you're looking at.

3 Q All right. So the one we're looking at here, did you
4 mention in here that you saw him put the gun in his
5 pocket? '

6 A Yes, sir.

7 Q You did. Please show me in this written statement
8 where you said ---

9 A I thought you was asking me. But no, sir. I didn't
10 mention that I seen him put his handgun in his pocket.

11 Q So in your written statement, you didn't say anything
12 about I seen him put the gun in his pocket when he got out
13 of the truck.

14 A No, sir.

15 Q But you're saying that today?

16 A Well, I said that then on the scene.

17 Q You said that on the scene?

18 A Yes, sir.

19 Q All right. And you didn't say it at the police
20 station.

21 A No, sir. Evidently.

22 Q You then said that you came up behind him and said,
23 "Let me see your hands," multiple times, right?

24 A Yes, sir.

25 Q You said, "When he removed -- and at that time he

1 removed a black gun from his right pocket."

2 A Yes, sir.

3 Q All right. And after that, this is, "He removed a
4 gun out of his right pocket. I fired two rubber rounds."

5 A Yes, sir.

6 Q So in your written statement, you're saying that as
7 soon as he pulled the gun out of his pocket, you fired
8 twice.

9 A Well, yes. When he pulled -- when he pulled the gun
10 out of his pocket, I fired twice.

11 Q Okay. But we just saw you testify on direct, and on
12 the video you said that he had the gun out by his side,
13 while he was walking he put it in front of him, and then
14 when he turned is when you shot him, right?

15 A No. When he pulled out -- when he was walking away,
16 he pulled his gun. When I ordered him to pull -- drop his
17 hand -- show me his hand and drop the weapon, he pulled a
18 gun. He turned around, looked at me, pulled a gun out,
19 seen it was us, turned around, had it in front of him.

20 Q But in your written statement, you said once he
21 removed the gun, you shot him.

22 A Yeah. Once he took the weapon out ---

23 Q You shot him.

24 A --- I fired.

25 Q But you just testified just now and again on direct

1 that he walked away from you with the gun in front of him.

2 A Well, we ordered him -- I ordered him to drop the
3 weapon. He could have easily put it down and laid it on
4 the ground.

5 Q So you ordered him multiple times drop the gun.

6 A Yes, sir.

7 Q And again, we don't see that in your written
8 statement.

9 A I guess not.

10 Q Now, in your SLED certifications, you get trained on
11 the law, don't you?

12 A Yes.

13 Q You get trained on how to handle these type of
14 situations, correct?

15 A Yes, sir.

16 Q You get told what's illegal and what is legal for you
17 to do.

18 A Yes, sir.

19 Q And that SLED-certified training that you did to
20 become a SLED security guard, doesn't it teach you to call
21 the cops if you suspect any criminal activity?

22 A Well, not necessary.

23 Q It doesn't tell you to call the cops?

24 A Well, one, because we had the power to assess any
25 situation before we carry firearms. And if we see a

1 threat, we could engage on a threat. And once it's all
2 over, then we could call local law enforcement.

3 Q And it teaches you in your training that you need to
4 call the cops at the soonest possible time from suspecting
5 crime, correct?

6 A Yes. We could call the cops if we had time. But at
7 that time, we didn't know his intentions.

8 Q Okay. So when the woman and the multiple patrons
9 that came up to you and told you he was going to shoot
10 somebody, before you approached him, you had time to call
11 the cops, didn't you?

12 A Well, people lives is in danger because he was over
13 there in the crowd with a gun.

14 Q Did you call the cops?

15 A No. I wanted to protect lives. I would have called
16 the cops afterwards.

17 Q All right. So you were so focused on protecting
18 lives at that point.

19 A Yes, sir.

20 Q All right. So that's why, when you walked over to
21 the group he was in, you just said, "Hey, everybody
22 disperse"?

23 A Yes, sir. We want to get him away from the group.

24 Q Okay. So let's think about that. You walked up and
25 you said, "Everybody disperse."

1 A Yes, sir.

2 Q What did William McKinney do when you said that?

3 A Start to walk away.

4 Q Is that not following your commands?

5 A Oh, yeah.

6 Q So he did exactly what you told him to do?

7 A Yes, sir.

8 Q Okay. So again, you were worried -- you testified
9 just a minute ago that the person that he was there to
10 shoot based on the information you had received that night
11 was in that group of people, right?

12 A We had no idea. We just know he was in a group of
13 people.

14 Q Yeah. But on direct just a few minutes ago you just
15 said, "I was concerned that the person he was going to
16 shoot was in that group of people."

17 A Yes. I was concerned that person was in that group.
18 Yes, sir.

19 Q Okay. So when he left that group, then there's no
20 longer a concern that he's going to shoot the person in
21 that group, right?

22 A He's still a threat. He's got a firearm.

23 Q Okay. Have you ever heard of a concealed weapons
24 permit?

25 A Yes, sir.

1 Q All right. So it's not illegal to have a weapon in
2 your pocket, is it, if you have a concealed weapons
3 permit?

4 A No, sir. It's not illegal.

5 Q Okay. So simply having a weapon doesn't necessarily
6 mean he's a threat.

7 A It's not against the law. But I have a weapons
8 permit, too. I went through the same class.

9 Q Okay.

10 A Any kind of law enforcement tell you to raise your
11 hand, you raise your hand and keep your hand off the
12 weapon, and then you identify yourself and what weapon you
13 have. You don't keep your hand on the weapon.

14 Q Okay. Well, that's interesting that you say any type
15 of law enforcement, because you're not law enforcement,
16 are you?

17 A On that property, I am.

18 Q On that property, you are.

19 A Yes, sir.

20 Q Because you're contracted to protect that property,
21 right?

22 A Yes, sir.

23 Q And that property being Club Dolce.

24 A Yes, sir.

25 Q But clearly, we just saw on the video when you

1 approached, he was in the parking lot of a Chinese
2 'restaurant, wasn't he?

3 A The whole -- the whole -- Dolce got the whole
4 property.

5 Q Dolce owns that whole property.

6 A Well, because that other business wasn't being
7 occupied, so they was allowed to use that property.

8 Q Do you know where the property lines are for that?

9 A No, sir.

10 Q Did you ever go out there and look at the property
11 lines?

12 A No, sir.

13 Q SLED gives you powers to protect a specific property
14 as you just testified to, correct?

15 A Yes, sir.

16 Q So if you went off of that property, you have no
17 power whatsoever, right?

18 A No, sir. We've got no power over the property.

19 Q It would be very important for you to know where your
20 property is that you're protecting, wouldn't it?

21 A No, sir.

22 Q And you don't know where that property line's at?

23 A No, sir.

24 Q All right. So back to the legalities of it. You
25 know SLED requires you to have written permission to carry

1 a shotgun as a SLED security guard, don't you?

2 A Yes, sir.

3 Q Did you have that written permission?

4 A No, sir.

5 Q So you were acting illegally, weren't you?

6 A Yes, sir.

7 Q So even on the property that you were there to
8 protect, you were illegally carrying a shotgun.

9 A Legally, yes, sir.

10 Q No, no. Illegally.

11 A No. I didn't have live -- live rounds in it.

12 Q Did you have written permission to carry a shotgun?

13 A I didn't have live rounds. You have to have
14 permission to carry live rounds. That's a less-lethal
15 weapon.

16 Q Okay.

17 A Once you take the live rounds out and put the rubber
18 rounds in there, that's less lethal.

19 Q Okay. And it's your testimony the only thing that
20 was in there was live rounds, right?

21 A No. Rubber rounds.

22 Q Or rubber rounds.

23 A Yes, sir.

24 Q No live rounds.

25 A No live rounds.

1 Q And so what you're saying is SLED only requires you
2 to have written permission if you load the weapon with
3 live rounds?

4 A That's -- that's what they say. You've got to have
5 special permission to carry long guns.

6 Q Special permission to carry long guns.

7 A Yes.

8 Q Shotgun is a long gun.

9 A Exactly.

10 Q So you need special permission to carry it.

11 A Yes, sir.

12 Q It doesn't say you need special permission to carry a
13 long gun with live rounds, right?

14 A Right. Yes, sir.

15 Q So you needed permission to carry that shotgun.

16 A Yes, sir.

17 Q And you didn't have it?

18 A No. I didn't have it at the time.

19 Q So therefore, you were acting illegally, weren't you?

20 A If you say so.

21 Q I mean, it's not if I say so. It's what the law
22 says. You just testified ---

23 A Yes, sir.

24 Q So in that same aspect then, could William McKinney
25 have shot you because you were carrying a firearm? You

1 were a threat.

2 A Yes, sir. He could have.

3 Q He could have. Anybody out there could have just
4 pulled a gun and shot you?

5 A Yeah. Anyone could of did it.

6 Q Because you were a threat, right?

7 A No.

8 Q You were carrying a shotgun out in the open.

9 A Yeah. But I wasn't pointing it at no one. I wasn't
10 using it in a manner of a criminal.

11 Q Okay. So to determine if they're a threat, what
12 you're saying is we've got to look more at how they're
13 actually using the gun.

14 A No. I'd say to become a threat, if you're out there
15 with a weapon with bad intention, I figure you're a
16 threat.

17 Q Okay. Well, you were out there with a shotgun that
18 night illegally.

19 A But I didn't have bad intentions.

20 Q How would I know that?

21 A Have to go on your feeling. Got to go with your gut.

22 Q You pointed that shotgun at William McKinney,
23 correct?

24 A Once he drew his weapon, yes, sir.

25 Q Okay. Was there bad intentions then?

1 A No, sir.

2 Q When William McKinney had the gun in his pocket, what
3 was his bad intentions?

4 A When he pulled it out. And we asked him to drop the
5 weapon -- when I asked him to drop the weapon, he could
6 have simply dropped the weapon.

7 Q But he didn't listen to you.

8 A No.

9 Q Did that bother you?

10 A I mean, yeah. I give him a command to drop the
11 weapon.

12 Q Is that when you shot him?

13 A I don't know what his intentions is.

14 Q Is that why you shot him, because he didn't listen?

15 A I shot him because he didn't drop the weapon.

16 Q Because he didn't listen.

17 A He didn't.

18 Q It wasn't because he was a threat.

19 A He was a threat by not dropping the weapon. Now,
20 that leads to believe you're a threat. Any trained person
21 -- I know if any -- like I say, any local law enforcement
22 -- any law enforcement, anyone with a security clearance,
23 law enforcement, anything point a weapon at you and tell
24 you to drop your weapon, you drop it. If I'm on the
25 property as a patron with a weapon on and if someone draw

1 a weapon on me, I'm going to drop it. And I'm going to be
2 -- I'm going to comply to what he's saying.

3 Q But there's no law that requires that, is there?

4 A I have no idea.

5 Q It's a law that you obey lawful commands, right?

6 A Yes. And that was a lawful command, drop the weapon.

7 Q But you were acting illegally in that capacity, in
8 that moment, were you not?

9 A No.

10 Q You were. You were carrying a shotgun.

11 A But I still had the authority.

12 Q Acting illegally?

13 A I still had the ---

14 Q You still had the SLED authority?

15 A I still had the authority to do my job.

16 Q On the other property. You still had the authority
17 on the other property as well?

18 A I had authority anywhere in that area. If a threat
19 is there -- I didn't have the authority on the road, but
20 he was a threat on the road.

21 Q But you didn't have the authority to do anything when
22 he was on the road, right?

23 A No. That's why I didn't -- that's why I told local
24 law enforcement while they was there.

25 Q And again, if he was on different property than Club

1 Dolce, you wouldn't have authority to do anything, would
2 you?

3 A As long as he's not a threat to me or anyone else.

4 Q I can deal with that. As a citizen you have
5 authority to be able to protect other people, right?
6 That's what you're doing?

7 A I could say not as a citizen, but as anyone, they
8 could protect theirselves.

9 Q But not as a SLED armed security guard. You had no
10 authority if he was not on Club Dolce property.

11 A No. No, sir.

12 Q Now, you're saying that he was a threat because he
13 had a gun. There were plenty of people out there that
14 night with guns, weren't there?

15 A I have no idea.

16 Q Didn't you tell law enforcement you believe there are
17 plenty of people out there with guns?

18 A I have no idea.

19 Q People were out there with guns all the time?

20 A I have no idea.

21 Q We know that there were plenty of other people out
22 there with -- illegally carrying firearms, though,
23 including yourself, right?

24 A I was legally carrying a firearm. I have no idea
25 about no one else.

1 Q Where was your shotgun?

2 A At what time?

3 Q When all this happened, at the time of the shooting,
4 where was your shotgun?

5 A I had it.

6 Q You had it. Did you have your written permission
7 slip saying and you could have it?

8 A No.

9 Q Okay. So again, you were illegally carrying a
10 shotgun, correct?

11 A I guess.

12 Q Your nephew Monieque Greene was illegally caring a
13 pistol, was he not?

14 A As you said, citizen can bear a firearm. He's not a
15 convicted felon.

16 Q He had an open carry, didn't he?

17 A No.

18 Q He had it strapped on his belly?

19 A No.

20 Q Waistband? It was concealed carry?

21 A I didn't -- I guess. I don't -- I don't know.

22 Q But he wasn't allowed to have it in his capacity as a
23 security guard, was he?

24 A He wasn't a security guard.

25 Q He was just there helping out?

1 A Yes.

2 Q Now, Lamar James, you said -- you testified on direct
3 he was an employee?

4 A Yes.

5 Q He had a pistol.

6 A Yes.

7 Q Illegally.

8 A Yes. He didn't get his card yet. Yes.

9 Q So he was illegally caring a firearm. Was he a
10 threat to all the patrons out there because he had a
11 firearm on him?

12 A No, sir.

13 Q So again, we get back to this idea of being a threat.
14 It's more than just having a firearm, right?

15 A Well, yeah.

16 Q Okay. So I'll pose to you a simple question. Assume
17 we're not in this courtroom. We're on the sidewalk. I'm
18 walking away from you in front of you, right hand in my
19 pocket. Am I a threat to you?

20 A No, sir.

21 Q I have a concealed weapons permit and I am open carry
22 and I have a gun on my right hip and I am walking away
23 from you. Am I a threat to you, gun right here
24 (indicating)?

25 A No, sir. Because you're not on my property. You're

1 on the sidewalk.

2 Q Okay. I have a gun in my hand and I'm walking down
3 the sidewalk away from you. Am I a threat to you?

4 A No, sir.

5 Q So William McKinney was not a threat to you when he
6 was walking away from you, was he?

7 A He was on my property. He was a threat. Because
8 once I asked him to drop, he should have just dropped the
9 weapon, simply drop the weapon.

10 Q Where was the property line at? Can you show me if I
11 give you the map?

12 A I have no idea.

13 Q So how do you know he was on your property?

14 A That's the property we paid to protect.

15 Q Well, the property is to Club Dolce, right?

16 A Well, like I say, anything past the black gate
17 towards the company beside Club Dolce is all Dolce
18 property.

19 Q Do you have a contract that says that?

20 A No. We don't have a contract anymore.

21 Q Do you have the contract that ---

22 A We had a contract. We had a contract for the
23 property.

24 Q And did that contract say that?

25 A Yeah. For the whole property.

1 Q Did you produce that contract to the State?

2 A No, sir.

3 Q Your wife is the owner of South Carolina Security
4 Services, right?

5 A Yes, sir.

6 Q Did she give that contract to the State?

7 A No, sir.

8 Q So you're -- but what you're testifying today is that
9 Club Dolce, that entire parking lot, the Chinese
10 restaurant and Lavish Lounge, which are two separate
11 businesses, was all owned by Club Dolce?

12 A Was all contracted through Dolce.

13 Q Was that property owned by Club Dolce?

14 A Yes.

15 Q That entire property.

16 A The whole property was contracted through Dolce.
17 Dolce hired us.

18 Q Okay. They hired you to legally protect and secure
19 the property.

20 A That's it.

21 Q So you violated that contract whenever you employed
22 Lamar James?

23 A No. They don't have nothing to do with who we
24 employ.

25 Q Well, they want you to do it legally. Wouldn't it

1 matter that the person you employ is a licensed security
2 guard?

3 A That would be on us.

4 Q All right. So I want to get back to this part where
5 you keep saying that he didn't listen, he didn't listen.
6 When you're walking up to him, you said you walked up to
7 the group of people and you told this group of people
8 "disperse," correct?

9 A Yes, sir.

10 Q And he started walking away, kept his hand in his
11 pocket, right?

12 A Yes, sir.

13 Q Did you say at that moment, "Drop the gun. Drop the
14 gun. Drop the gun"?

15 A When I seen the butt of it, as I was seeing he got
16 out of the truck with it, I ordered him take his hand out
17 of his pocket and drop the weapon.

18 Q Okay. So you told him both?

19 A Yes, sir.

20 Q Take your hands out of your pockets, take your hands
21 out of your pockets, take your hands out of your
22 pockets ---

23 A And drop the weapon.

24 Q --- and drop the weapon, drop the weapon, drop the
25 weapon.

1 A He turned around. He clearly looked at me. He
2 pulled his weapon. I raised my shotgun, and I fired
3 twice.

4 Q Okay. So walk me through that. You said he turned
5 around. He clearly looked at you. So if I'm right here,
6 tell me when to stop when I'm turning, okay?

7 A Right there. Look at me.

8 Q And this is when he pulled his weapon?

9 A Pulled his weapon out of his pocket.

10 Q And that's when you shot him.

11 A No. When he pulled his weapon out of his pocket, he
12 turned to walk away again. That's when I fired, when he
13 went to turn and walk away.

14 Q So he turned completely around facing you, reached in
15 his pocket, pulled his gun out.

16 A His hand was already on his gun.

17 Q Hand was already on the gun.

18 A Yes.

19 Q Pulled the gun out. How far out before he pulled the
20 gun out?

21 A About midways.

22 Q About midway?

23 A Yes.

24 Q And then just turned around?

25 A And walked away.

1 Q And walked away again.

2 A Yes, sir.

3 Q And this is when you shot him in the back.

4 A Once I ordered him again to drop it, drop it, he
5 didn't. That's when I used the shotgun.

6 Q We just talked about threats, right?

7 A Uh-huh.

8 Q If I'm facing you and I draw a gun out of my pocket,
9 am I not a threat?

10 A Yes. You're a threat.

11 Q That would be when you shoot me, right?

12 A I could have easily, yeah, just shot him in the head
13 and kill him.

14 Q Thousand percent.

15 A But why when I could have gave him a chance to live?
16 I mean, we're not there to kill no one. I gave him
17 multiple chances to drop it. So I put myself in danger to
18 protect him. Yes, I did.

19 Q Okay. But you're not supposed to shoot anyone unless
20 they're a threat, right?

21 A Exactly.

22 Q So again, even if he -- at this moment you could have
23 safely assumed he was a threat. He is facing you, gun
24 drawn.

25 A Yes, sir.

1 Q The moment he turns around just like we just talked
2 about two minutes ago, turned around and walking away from
3 you, he's no longer a threat. You've already agreed to
4 that. So he's no longer a threat, right?

5 A That's why I -- that's why I use less-lethal rounds.
6 It's no different than using a Taser.

7 Q So shooting someone with a gun is no different than
8 shooting someone with a Taser.

9 A Yeah. With less-lethal round, there'd be ---

10 Q Out of a shotgun.

11 A They rubber rounds.

12 Q Out of a shotgun.

13 A Yes, sir.

14 Q You're saying that that's the same as a Taser.

15 A Well, not the same with a Taser. Yes, sir.

16 Q Have you ever been tased?

17 A Yes.

18 Q Have you ever been shot with a less-lethal round?

19 A No, sir.

20 Q So how would you know?

21 A Training.

22 Q You're trained. What exactly are you trained?

23 A I said training over the time.

24 Q What in your training taught you that those two are
25 the exact same?

1 A Over the time we train different on different
2 things.

3 Q Okay. Tell me the training that taught you that that
4 was exactly the same.

5 A Well, like I said, it never happened to me so I
6 wouldn't know. I never got shot with a rubber round.

7 Q Did you tell William McKinney that you were shooting
8 him with a less-lethal round?

9 A No, sir.

10 Q Did he have reason to believe you were shooting him
11 with a less-lethal round?

12 A I have no idea.

13 Q He just knows he got shot in the back, correct?

14 A Yes, sir.

15 Q All right. Now, the less-lethal rounds, you said
16 that you could have shot him anywhere with a less-lethal
17 round. Are you familiar with the manufacturer's
18 specifications and warnings of less-lethal rounds, those
19 rubber bullets?

20 A Yes, sir.

21 Q And don't those manufacturers tell you, advise you
22 not to shoot anyone in the head or vital organ areas
23 because it may cause serious damage?

24 A Well, it's the head and the groin area.

25 Q So you're not supposed to shoot them anywhere with a

1 rubber round, right?

2 A But head and the groin area, yes, sir.

3 Q All right. Bear with me a second.

4 Did Monieque Greene ever radio over to you and say,
5 hey, this just happened?

6 A What just happened?

7 Q Anything that night. Right before this incident, did
8 he ever radio anything to you?

9 A I don't believe he had a radio.

10 Q Yeah. That's what I was going to say. On direct you
11 said he didn't have a radio. So he never radioed anything
12 to you, right?

13 A No, sir.

14 Q And when William McKinney pulled into the club and
15 circling around, was Lamar James with you or was he with
16 Monieque Greene?

17 A He was in the parking lot, so he might have been with
18 Monieque Greene.

19 Q And when the woman came up to you and told you to
20 watch him, was Lamar James with you or was he with
21 Monieque Greene?

22 A He was with Monieque. Because I remember radioing
23 him on the radio.

24 Q Did you identify the lady that came up to you and
25 told you to keep an eye on him?

1 A Yes, sir.

2 Q What was her name?

3 A I have no idea.

4 Q You just said ---

5 A Identifying, the detective showed me a picture and I
6 pointed her out.

7 Q You pointed her out in a lineup?

8 A No. It was like a picture. I think they got it off
9 the body cam.

10 Q And you pointed this out to a detective?

11 A Yes.

12 Q Do you remember the detective's name?

13 A No, sir.

14 Q What about any of the other patrons that you are now
15 claiming came up to you that night?

16 A I have no idea who they were.

17 Q Didn't identify them. Did you try to identify any of
18 them?

19 A No.

20 Q What time did William McKinney leave the club the
21 first time?

22 A I have no idea.

23 Q Do you know why he left?

24 A No.

25 Q All right. Just to verify again one more time, you

1 said Lamar was with Monieque when the lady came up to you,
2 correct?

3 A Yes.

4 Q All right. Because that's what you said in your
5 written statement as well, right?

6 A I think so.

7 Q Was Monieque carrying a shotgun?

8 A No, sir.

9 Q Are you just saying that you were carrying the
10 shotgun because you're the only SLED-certified licensed
11 agent?

12 A Yeah.

13 Q Yes?

14 A Say that again? Repeat.

15 Q Were you just saying that you were the one carrying
16 the shotgun because you're the only one SLED certified?

17 A Yes, sir.

18 MR. BOATWRIGHT: A moment to confer, Your Honor.

19 BY MR. BOATWRIGHT:

20 Q Just a few more questions for you. Do you remember
21 what body cam they showed, what officer's body cam they
22 showed you to identify the woman?

23 A No, sir.

24 Q Do you know if William McKinney had the gun when he
25 was at the club the first time?

1 A I have no idea.

2 Q Was Lamar wearing a body cam that night?

3 A I have no idea.

4 Q Did he ever show you a video that night? Did Lamar
5 specifically ever show you a video that night of the
6 incident?

7 A No.

8 Q All right. You said -- we saw the body cam where you
9 were talking with Officer Norris. And you said that when
10 William McKinney kind of ran away, he came around, he
11 ended up face-to-face with Monieque, correct?

12 A Yeah. When he ran away, I seen him shoot in the
13 area, yes.

14 Q And he was face-to-face with him?

15 A Yes.

16 Q How close was he to him?

17 A He was closer to me than him. He was a good little
18 piece away.

19 Q Did he ever shoot at you?

20 A No. He never shot at me. He immediately started
21 shooting at Monieque.

22 Q In your written statement, didn't you say that he was
23 shooting at you?

24 A No. Well, yeah, I did. (Reviews document) Yes, sir,
25 I did. I said me and Monieque Greene.

1 Q So he wasn't only shooting at Monieque.

2 A Correct.

3 Q Have y'all had other shootouts at Club Dolce?

4 A Me personally, no, sir.

5 Q But you were showing officers other shell casings
6 that were on the ground there were not from this night,
7 correct?

8 A No, sir.

9 Q You never showed an officer and said, oh, that's from
10 a different shooting?

11 A No, sir.

12 Q All right. You said you went and picked up your
13 shotgun after the incident whenever we saw you walking
14 back, right? When you picked the shotgun up, is that when
15 you went ahead and put it in the trunk of your car?

16 A Yes, sir.

17 Q Before the cops got there, you put it in the trunk of
18 your car?

19 A Yes, sir.

20 Q So why would we see Lamar holding the shotgun when
21 the cops showed up standing beside Monieque?

22 A When -- yeah. He was holding it while I go secure
23 the truck. And then he put -- and then I got it from him,
24 then I put it in the trunk.

25 Q Was he holding it because he picked it up from the

1 ground beside Monieque?

2 A No. I picked it up. And I asked him to hold it
3 while I tend to Monieque as well.

4 Q You said that there was an incident before William
5 McKinney left the club the first time. What incident?

6 A There was a -- like I said, they said he was getting
7 into it with someone. I have no idea what the incident
8 was.

9 Q Who told you about that?

10 A Just patrons. Just they mentioned it.

11 Q Did you put that in your written statement?

12 A No, sir.

13 Q I'm showing you what's been previously marked as
14 State's Exhibit 95.

15 (WHEREUPON, State's Exhibit Number 95, a video, was played
16 in open court.)

17 BY MR. BOATWRIGHT:

18 Q Did you hear that?

19 A I said it had to be.

20 Q So there was other shell casings out there?

21 A Had to be. It wasn't from us.

22 MR. BOATWRIGHT: No further questions, Your Honor.

23 THE COURT: Redirect, Mr. Polsinello.

24 MR. POLSINELLO: Very brief, Your Honor.

25 ///

REDIRECT EXAMINATION

BY MR. POLSINELLO:

Q Mr. Jenkins, the expressions "drop the gun" versus "take your hands out of your pocket," in your opinion, is that virtually the same thing?

A Yes, sir.

Q In terms of a reason that you had to believe this defendant was a threat, presented a threat, it wasn't just because when he parked at 4:06 a.m. and got out of the truck, it wasn't just because you saw him have a gun on his person, was it?

A No, sir.

Q The reason why he's a threat is because the information you received prior to him parking, correct?

A Yes, sir.

Q Did that information sound credible to you?

A Yes, sir.

Q That information coupled with the fact that you knew he had a gun, that he wouldn't follow your commands, multiple commands that you gave him, the fact that you saw him take his hand out of his pocket clutching a gun, did that make you feel like there was a threat?

A Yes, sir.

Q Did you have reason to believe that your life was in danger at that time?

1 A Yes, sir.

2 Q All those things coupled together.

3 A Yes, sir. It was, yes.

4 Q Your statement that you gave law enforcement, how
5 long had you been up during this whole night?

6 A We was going on probably around like 24 hours.

7 Q You'd been up about 24 hours when this happened?

8 A Yes, sir. Because we drive. We come from Columbia
9 so we drive about three hours to get to Greenville. And
10 then we work for the remainder and the morning.

11 Q When this happened around 4:10 a.m., it was a few
12 hours before you went to the Law Enforcement Center and
13 gave your written statement, correct?

14 A Yes, sir.

15 Q So it was the early morning on July 4th around -- do
16 you know what time?

17 A I would say around 6:00 because the sun's up.

18 Q 6 or 7 a.m.?

19 A Yeah.

20 Q Were you tired?

21 A Yeah.

22 Q Were you hungry?

23 A Yes, sir.

24 Q Were you exhausted?

25 A Yes, sir, we was.

1 Q So is your statement today more detailed than it was
2 when you gave it?

3 A Yes, sir. I'd say so.

4 Q And obviously, what we saw on the body camera, your
5 statements then were freshly after what you observed,
6 correct?

7 A Yes, sir.

8 Q So those statements on the body cameras would be more
9 correct in terms of definite language than what's in your
10 written statement, correct?

11 A Yes, sir. It would be.

12 Q Is it fair to say your written statement, how tired
13 and hungry and sleep deprived you were, it generally
14 corroborates what was on video?

15 A Yes. I could say I could have put more in, but I
16 just rounded off to the point.

17 Q If you put more in it, a more detailed statement, how
18 many pages could your statement have been?

19 A It would have been a lot more pages.

20 Q A lot more pages than one page?

21 A Yes, sir.

22 Q And you were tired?

23 A Yes, sir.

24 Q You were hungry. And you had been up nearly 24 hours
25 when you were asked to give that written statement?

1 A Yes, sir.

2 Q I'm showing you what's been marked previously as
3 State's Exhibit 3. Mr. Jenkins, where this shooting
4 occurred, these property lines, is it reasonably possible
5 that this occurred on the Dolce property line?

6 A Yes, sir.

7 Q Are you an expert in Greenville County property lines
8 and zoning?

9 A No, sir.

10 Q Did this club, when you were working that night, did
11 they have physical barriers between this (indicating) club
12 and this (indicating) vacant Chinese building? Were there
13 clear, physical barriers indicating property lines?

14 A No, sir.

15 Q In all likelihood, could this have occurred on the
16 property line, the shooting?

17 A I could say yes. I could say yes, sir.

18 Q And as you stated before, it was common practice for
19 all these club patrons that we saw on that video, they
20 trickle onto over here (indicating), don't they?

21 A Yes, sir. A lot.

22 Q Would that cause you to believe that you were in
23 charge with your duties of protecting anyone who may be at
24 the scene or near it?

25 A Yes, sir.

1 Q And just to be absolutely clear, did Monieque Greene
2 ever possess the shotgun during this incident?

3 A No, sir.

4 Q You're the one on video with the shotgun, correct?

5 A Yes, sir.

6 Q He never had the shotgun, did he?

7 A No, sir.

8 Q And it's in your written statement that the
9 defendant, when he turned around, he fired at Mr. Greene,
10 the victim, and you, correct?

11 A Yes, sir.

12 Q Do you recall who he fired at first?

13 A Thinking about it, it was me first and then Greene.

14 MR. POLSINELLO: Thank you. No further questions.

15 THE COURT: Recross.

16 MR. BOATWRIGHT: Thank you, Judge.

17 RE CROSS EXAMINATION

18 BY MR. BOATWRIGHT:

19 Q So you were tired, hungry, sleepy, been awake for
20 24 hours, and that affected your ability to give a written
21 statement as far as what happened?

22 A I could say yes, sir. And then we still had another
23 three hour drive back.

24 Q Wouldn't that same tired, sleepiness and hungriness
25 affect your ability to make a judgment call on whether or

1 not somebody's a threat?

2 A Not at that time.

3 Q No? You weren't tired and sleepy an hour before the
4 written statement?

5 A No, sir.

6 Q You weren't hungry an hour before the written
7 statement?

8 A I'm going to say no, sir.

9 Q So it was just that one hour that made the world of
10 difference, right?

11 A It was multiple hours. We stood out there for about
12 two to three hours before we went to the station.

13 Q You understand the law of when you can utilize deadly
14 force, right?

15 MR. POLSINELLO: Objection, Your Honor. Outside the
16 scope of redirect. Rehashing things that have already
17 been asked.

18 THE COURT: I'm going to allow it. Go ahead.

19 MR. BOATWRIGHT: Thank you, Judge.

20 BY MR. BOATWRIGHT:

21 Q You understand the basic law, right?

22 A Yes.

23 Q So basically, really quickly, out on my property, my
24 personal house, my personal property, I have the right to
25 use deadly force to protect that property, right? Myself

1 on that property.

2 A I have no idea if you have that right.

3 MR. POLSINELLO: Objection, Your Honor. We had a
4 pretrial motion on this line of questioning.

5 MR. BOATWRIGHT: This is not going into that, Judge.

6 MR. POLSINELLO: It appears it is, Judge.

7 THE COURT: All right.

8 MR. BOATWRIGHT: I'll skip over it, Judge.

9 THE COURT: All right. Go ahead.

10 BY MR. BOATWRIGHT:

11 Q How many times did you work at Club Dolce before that
12 night?

13 A Multiple times.

14 Q And patrons trickled over the property multiple
15 times?

16 A Yes.

17 Q Did you ever reach out to SLED and say, hey, I've got
18 this situation. I need guidance on where my authority
19 stops?

20 A No.

21 MR. BOATWRIGHT: No further questions, Your Honor.

22 THE COURT: All right. Sir, you can step down.

23 MR. POLSINELLO: Your Honor, may the witness be
24 relieved of the subpoena?

25 THE COURT: Any objection to that?

1 MR. BOATWRIGHT: No, Your Honor.

2 THE COURT: All right. Okay. Ladies and gentlemen
3 of the jury, I apologize for keeping you a little past
4 5:00. But, you know, we're going to start tomorrow
5 morning at the same time, 10:00.

6 Please ma'am, please, sir, do not talk about the case
7 to no one. And I'll see you tomorrow morning at 10:00
8 sharp.

9 (WHEREUPON, the jury exits the courtroom at 5:21 PM.)

10 THE COURT: All right. Gentlemen, anything further
11 before we adjourn for the day from the State?

12 MR. POLSINELLO: Nothing from the State, Your Honor.
13 The State believes we may rest tomorrow before lunch.

14 THE COURT: All right. Let the record reflect that
15 you've got as long as you like with me. I'm here this
16 week and next week and the week after. I'm here. So I
17 don't want you to rush. What I'm saying is, both sides
18 have ample opportunity presenting their case. So I'm
19 here.

20 Okay. We'll see you tomorrow morning at 10:00.

21 (WHEREUPON, proceedings recessed at 5:23 p.m.)

22

23

24

25

1 Thursday, October 19, 2023

2 (WHEREUPON, proceedings reconvened at 10:14 AM.)

3 THE COURT: We've got any matters before we get
4 started from the State?

5 MR. POLSINELLO: Nothing from the State, Your Honor.

6 THE COURT: Let me just ask you this. I think you've
7 got probably two more witness, right? Or three.

8 MR. POLSINELLO: Definitely one, Your Honor. We're
9 still considering two others.

10 THE COURT: All right. Let me ask you this. What
11 about from your side in terms of the defendant, is he
12 going to testify? Or you haven't made that decision yet?

13 MR. BOATWRIGHT: We haven't made that decision yet,
14 Your Honor. As soon as we -- honestly, really, it just
15 depends if they -- who all they call.

16 THE COURT: I'll revisit you.

17 MR. BOATWRIGHT: Yes, sir.

18 THE COURT: And you can let me know.

19 MR. BOATWRIGHT: Thank you, Judge.

20 THE COURT: Okay. All right. Bring them back.
21 Bring them back.

22 (WHEREUPON, the jury entered the courtroom at 10:17 AM.)

23 THE COURT: All right. Everybody's doing well?

24 Okay. The State's ready to proceed?

25 MR. POLSINELLO: Yes, Your Honor.

1 THE COURT: You can call your next witness.

2 MR. POLSINELLO: May it please the Court. Your
3 Honor, the State calls Monieque Greene to the stand.

4 THE CLERK: Please place your left hand on the Bible
5 and raise your right hand.

6 WHEREUPON,

7 MONIEQUE GREENE

8 After having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Take a seat and please state
10 your name for the record.

11 THE WITNESS: My name is Monieque Greene.

12 DIRECT EXAMINATION

13 BY MR. POLSINELLO:

14 Q Mr. Greene, are you currently employed?

15 A Yes, sir.

16 Q With whom?

17 A The South Carolina Department of Corrections.

18 Q What's your position there?

19 A Sergeant.

20 Q In the Department of Corrections?

21 A Yes, sir.

22 Q To get that position, do you have to pass SLED
23 background checks?

24 A Yes, sir. Before you get hired you have to.

25 Q Did you pass those background checks?

- 1 A Yes, sir.
- 2 Q How long have you been in this position?
- 3 A Going on four years now.
- 4 Q And on July 4, 2020, were you in that capacity?
- 5 A Yes, sir.
- 6 Q How do you know Carlos Jenkins?
- 7 A Pretty much I knew him since I was a child, so pretty
- 8 much like an uncle to me. Considered to be an uncle.
- 9 Q Is he older than you?
- 10 A Yes, sir.
- 11 Q Prior to this club shooting, did you work with him in
- 12 the past?
- 13 A Yes, sir.
- 14 Q At various clubs?
- 15 A Uh-huh.
- 16 Q On this early morning or later night before, did
- 17 Carlos ask you to work for him?
- 18 A Yes, sir.
- 19 Q Did you get paid to do that?
- 20 A Through the company.
- 21 Q And we know now at the time, were you SLED certified?
- 22 A No.
- 23 Q Did you have an application or any paperwork in?
- 24 A No. Not quite.
- 25 Q Prior to this night, you worked with him in the past?

1 A Yes.

2 Q Doing the same type of club security?

3 A Yes, sir.

4 Q So on this particular night, you thought nothing of
5 it? Thought it was just going to be another normal night?

6 A Just thought it would be a one-time thing because he
7 called me and said he needed some help. And it was just
8 going to be that one night. And pretty much that was it.

9 Q So you hadn't worked at Club Dolce before ---

10 A No.

11 Q --- this incident?

12 A No. That was my first time.

13 Q First time.

14 What time did you arrive at the club?

15 A Probably before midnight.

16 Q So would that be on July 3, 2020, you arrived shortly
17 before midnight?

18 A Yes, sir.

19 Q And what was your understanding of what time the club
20 was going to close?

21 A Between the hours of 4:00 and 5:00. Because he said
22 it was known to be like a late night spot, so he's closed
23 around 4:00 or 5:00 in the morning.

24 Q When you were asked to provide security, what was
25 your understanding that what your duties and

1 responsibilities would be that night?

2 A Just let me know the woods, patrol the parking lot,
3 make sure no one got -- nothing happens in the parking
4 lot. Just secure the parking lot.

5 Q And you had'a firearm on you that night?

6 A Yes, sir.

7 Q And that would have been a 40 caliber gun?

8 A Yes, sir.

9 Q Was that your own personal gun?

10 A Yes, sir.

11 Q Did you have a valid CWP on you at the time?

12 A No. Not at the time.

13 Q But you felt it was necessary to have that gun on
14 you?

15 A Yes, sir.

16 Q Why is that?

17 A Because from previous experiences of working at
18 nightclubs, like I say, a lot of shootings have happened
19 at nightclubs, and just protect myself and the people that
20 was there.

21 Q We've already seen State's Exhibit -- State's
22 Exhibit 121, the bloody shirt that was cut off of you
23 which we've seen on body cameras. There was a gold star
24 on your sleeve, wasn't there?

25 A Yes. It was an accessory on the front of the shirt.

1 Q Front of the shirt?

2 A Yes.

3 Q Were you wearing a bulletproof vest that night?

4 A Yes.

5 Q What was the reasoning behind wearing that
6 bulletproof vest?

7 A Protection.

8 Q Prior to this club shooting, did you know this
9 defendant?

10 A No.

11 Q You never had any interactions with him?

12 A No.

13 Q Did you receive information about this defendant that
14 night?

15 A Yes, sir, we did.

16 Q What did you learn?

17 A Basically, like towards the end of the night a female
18 had approached us and was like keep an eye out on the guy
19 in the gray truck because he's known to be a troublemaker.
20 And prior to that -- prior to the end of the night, there
21 was a big altercation where a lot of guys are fighting and
22 stuff. So it was just off of my instincts assuming that
23 he was part of the group that was fighting or something.
24 But she just told us to keep an eye on him.

25 Q Were they fighting inside the club or outside of the

1 club?

2 A Inside the club.

3 Q So at one point you were inside the club?

4 A No. No business. No one goes inside the club
5 because we had weapons. So they have bouncers that bring
6 them outside of the club.

7 Q So you were outside the whole time.

8 A Yes.

9 Q Did you see this defendant at the club prior to the
10 shooting?

11 A Not to my memory I can't recall if I'd seen him
12 there.

13 Q Okay. But obviously, you received some concerning
14 information that you had reason to believe to keep your
15 eyes on him?

16 A Yes.

17 Q In fact, did you see him come back around 4 a.m. in a
18 gray Ford 450 truck?

19 A Yes.

20 Q So you were certain when this truck came back and you
21 saw the person in the driver's seat, you were confident
22 that that's the person that you were warned to be on the
23 lookout for?

24 A Yes.

25 MR. HELLAMS: Objection, Your Honor. Leading the

1 witness.

2 THE COURT: All right. Don't lead him, Counsel.

3 MR. POLSINELLO: Okay.

4 THE COURT: Objection sustained.

5 MR. POLSINELLO: Let the record reflect I'm showing
6 you State's Exhibit 2.

7 (WHEREUPON, State's Exhibit Number 2, a video, was played
8 in open court.)

9 BY MR. POLSINELLO:

10 Q So Mr. Greene, at this time, 4 a.m., where were you
11 positioned in relation to the club?

12 A More like in the corner right behind this Mustang --
13 or this Camaro or Mustang.

14 Q You were over here (indicating)?

15 A Yes, sir.

16 Q Like on the side of the club?

17 A Yeah. I want to say I was over there already.

18 (WHEREUPON, State's Exhibit Number 2, a video, continued
19 to play in open court.)

20 BY MR. POLSINELLO:

21 Q Who are these two people here?

22 A Okay. The guy in the back would be me, and then that
23 would be Lamar.

24 Q Who's that (indicating)?

25 A Me right there.

1 Q That's you (indicating)?

2 A Yes.

3 Q Do you see where I'm indicating the mouse
4 (indicating)? The time stamp is 4 a.m. and 20 seconds
5 a.m. This parking spot here (indicating), that's vacant,
6 correct?

7 A Correct.

8 Q There's no Ford 450 parked there, is there?

9 A Correct.

10 Q Are there open parking spots here (indicating)?

11 A Yes, sir.

12 Q And right here (indicating)?

13 A Uh-huh.

14 Q There's open parking spots back here (indicating)?

15 A Yes.

16 Q And clearly in front of the club, correct?

17 A Yes.

18 (WHEREUPON, State's Exhibit Number 2, a video, continued
19 to play in open court.)

20 BY MR. POLSINELLO:

21 Q Okay. I'm showing you the camera angle from the
22 back of the club. Time stamp is 4 a.m., 39 seconds a.m.
23 Is this that gray Ford 450 with the defendant in the
24 driver's seat that you had reason to believe to keep your
25 eyes on?

1 A Yes, sir.

2 Q What did you notice about this truck? What was it
3 doing when you kept eyes on it?

4 A It was just circling around the parking lot numerous
5 times.

6 Q Did you find that odd?

7 A A little bit to a certain extent, because it was the
8 one and only car -- few cars that were still riding around
9 the parking lot.

10 Q And clearly, on surveillance video we've seen this
11 truck circle the parking lot multiple times, correct?

12 A Correct.

13 (WHEREUPON, State's Exhibit Number 2, a video, continued
14 to play in open court.)

15 BY MR. POLSINELLO:

16 Q Okay. Mr. Greene, right here I'm showing you a side
17 angle of the club. Time stamp 4 a.m., 2 minutes,
18 20 seconds. Are any cars allowed to park here where his
19 truck is?

20 A No.

21 Q Right here (indicating) alongside where this yellow
22 rope is?

23 A They are allowed to park right there where the rope
24 at on the curb, side curb.

25 Q The truck could have parked here (indicating)?

1 A Yes.

2 Q But not here (indicating) in the middle?

3 A No.

4 (WHEREUPON, State's Exhibit Number 2, a video, continued
5 to play in open court.)

6 BY MR. POLSINELLO:

7 Q So at around 4:02 a.m., you see a lot of patrons
8 congregate outside. Was the club ending that night?

9 A Yes, sir.

10 Q So there was no more activity going on inside the
11 club.

12 A No.

13 Q No music performances.

14 A No. The last people that were inside were like
15 getting food before they left.

16 (WHEREUPON, State's Exhibit Number 2, a video, continued
17 to play in open court.)

18 BY MR. POLSINELLO:

19 Q So now it's been about four minutes since we first
20 saw the defendant's truck on camera in the back at 4 a.m.,
21 and now it's 4:04 and 51 seconds and he's still circling,
22 isn't he?

23 A Yes.

24 (WHEREUPON, State's Exhibit Number 2, a video, continued
25 to play in open court.)

1 BY MR. POLSINELLO:

2 Q Right here (indicating), the side angle of the club,
3 it's 4 a.m., 4 minutes, 12 seconds. We see the defendant
4 stop his truck, correct?

5 A Yes.

6 Q Were you -- did you have any interaction with the
7 defendant right here?

8 A Yes, sir, I did.

9 Q But you're cut off from the screen?

10 A Yes, sir.

11 Q So you were standing right here (indicating)?

12 A Yes, sir. Right where your arrow is at.

13 Q Where the mouse is?

14 A Uh-huh.

15 Q So you interacted with the defendant?

16 A Yes, sir.

17 Q This person sitting at the table right here?

18 A Yes, sir.

19 Q And what did he say to you? Or what -- I'm sorry.
20 What did you say to him?

21 A I told him he had to move his truck because he was
22 clogging up the lanes. And that's when he got mad with me
23 about, hey, he wasn't clogging up any lanes or anything.
24 So I kept telling him he had to move his truck. So when
25 he decided to move his truck, that's when he reached down

1 and lifted up his pistol. It was like you're not the only
2 one with a firearm, only one with a gun, and drove off.

3 (WHEREUPON, State's Exhibit Number 2, a video, continued
4 to play in open court.)

5 BY MR. POLSINELLO:

6 Q So right here, Mr. Greene, he's been stopped for a
7 few seconds.

8 A Uh-huh.

9 Q It's your testimony now that this defendant flashed a
10 gun to you and said, "You're not the only one with a gun"?

11 A Yes, sir.

12 Q Did you take that as a threat?

13 A Yes, sir.

14 Q Is that a threatening move?

15 A Yes, sir.

16 Q When he said that to you, what did you do?

17 A Lamar was standing beside us, so I got with him to
18 make sure that he's seeing the same thing I was seeing on
19 this, you know. Sometimes, you know, late at night, eyes
20 play tricks on you. And he said the same thing, that he
21 saw the guy with the gun, too.

22 Q Did you ever provide a written statement in this case
23 to law enforcement?

24 A Yes.

25 Q But you weren't able to provide a written statement

1 the day you got shot, right?

2 A No.

3 Q In fact, you weren't able to provide a written
4 statement even a week after, were you?

5 A No.

6 Q How long did it take for you to be able to meet with
7 the sheriff's office and provided a written statement?

8 A I want to say around three months after the surgery
9 and everything. Once I was fully healed, could move
10 around.

11 Q It took you that long to be physically able to come
12 up and meet with the sheriff's office to give them a
13 formal written statement?

14 A Yes, sir.

15 Q And is it true in your written statement that you
16 stated the defendant, what you -- your testimony just now,
17 that he was clogging up traffic and he brandished a gun
18 and said, "You're not the only one with a gun," is it true
19 that you put that in your written statement?

20 A Yes.

21 (WHEREUPON, State's Exhibit Number 2, a video, continued
22 to play in open court.)

23 BY MR. POLSINELLO:

24 Q So after he said this to you, we see his vehicle
25 move, correct?

1 A Correct.

2 Q Okay. When the defendant did that to you, what were
3 your actions next?

4 A Basically, to keep an eye on him, let Lamar know and
5 let Carlos know what was going on, because after that, the
6 information that we received was pretty much true and
7 accurate at the time.

8 Q So you and Carlos got together and exchanged this
9 information?

10 A A little bit afterwards, because I tried to call him
11 on the radio but it wasn't working. So Lamar ran over
12 there, told him, told him what was going on, that we did
13 see the guy with the gun that the female had told us
14 about.

15 Q When the defendant flashed the gun at you and said,
16 "You're not the only one with a gun," did you keep eyes on
17 him?

18 A Uh-huh. Yes, sir.

19 (WHEREUPON, State's Exhibit Number 2, a video, continued
20 to play in open court.)

21 BY MR. POLSINELLO:

22 Q So I'm showing you the front of the club, time stamp
23 4 minutes and 6 seconds -- sorry -- 4 a.m., six minutes,
24 21 seconds a.m. We finally see the defendant park his
25 truck right here?

1 A Yes.

2 Q So you had eyes on him?

3 A Yes.

4 Q And is it your opinion that you were justified and
5 had reason to have eyes on him?

6 A Yes.

7 Q Did he pose a threat to you and the other patrons at
8 this time, in your opinion?

9 A Yes.

10 Q And this is the defendant right here (indicating) in
11 the white tank top, black basketball shorts, red stripes?

12 A Yes, sir.

13 Q Where are you right now at this camera angle?

14 A Off in the corner where that car was coming in the
15 frame. Still the same car.

16 Q Were you able to identify any of these individuals
17 the defendant was talking with?

18 A No.

19 (WHEREUPON, State's Exhibit Number 2, a video, continued
20 to play in open court.)

21 BY MR. POLSINELLO:

22 Q Okay. The front of the club angle, 4 a.m., eight
23 minutes, 38 seconds. This is Carlos right here
24 (indicating)?

25 A Yes, sir.

1 Q And this (indicating) is Lamar?

2 A Lamar, uh-huh.

3 Q And you stated you were somewhere back here
4 (indicating)?

5 A Yes, sir.

6 Q So y'all were coordinating about how to handle the
7 situation?

8 A Yes, sir.

9 Q So what was the game plan how to handle it?

10 A The game plan was to try, you know, isolate him by
11 himself and get him to surrender, hand over the firearm.

12 Q Mr. Greene, right here (indicating), this is the
13 defendant, correct?

14 A Right.

15 Q Is he walking in that back alley at the side of the
16 club?

17 A Yes, sir.

18 Q So he's not walking in his truck, is he?

19 A No.

20 Q He's not leaving the parking lot, is he?

21 A No.

22 Q So the game plan is we have Carlos and Lamar and then
23 you in a sort of coordinated effort to approach him.

24 A Right.

25 Q And to get him away from other people?

1 A Correct.

2 Q Because of the information you received?

3 A Yes, sir.

4 Q Because he flashed a gun at you?

5 A Yes, sir.

6 (WHEREUPON, State's Exhibit Number 2, a video, continued
7 to play in open court.)

8 BY MR. POLSINELLO:

9 Q This is the side of the club angle, 4:09 a.m.,
10 41 seconds. I'm going to back it up, actually. This is
11 4 a.m., 9 seconds, 29 minutes, 27 seconds where the
12 defendant is clearly congregating within a group of
13 individuals, correct?

14 A Correct.

15 Q Having the information that you received, the actions
16 of the defendant, were you concerned for these people's
17 safety?

18 A Yes. Their safety and our safety as well because I
19 didn't know who was who at the time or if they were
20 friends or enemies.

21 Q Is this you right here (indicating)?

22 A Yes.

23 Q Are you holding your gun right now?

24 A No.

25 Q Do you have your gun out?

1 A No.

2 Q Are you pointing your gun at the defendant right now?

3 A No.

4 Q And this is Carlos, correct?

5 A Yes.

6 Q And we know he's carrying a shotgun. And you can see
7 the muzzle of the shotgun in a downward angle, correct?

8 A Correct.

9 Q Carlos is not pointing the shotgun at the defendant,
10 correct?

11 A Correct.

12 Q What was the conversation that was going on right now
13 between you, Carlos and the defendant?

14 A Pretty much Carlos taking leave, so he was telling
15 everybody to clear the area, going to leave through the
16 area. And once he got close up towards the defendant,
17 that's when he started to tell him to keep his hands out
18 of his pockets.

19 Q You heard Carlos tell the defendant, "Get your hands
20 out of your pockets"?

21 A Yes, sir.

22 Q How many times did Carlos tell the defendant that?

23 A I want to say it was multiple because he was telling
24 get to get his hands out of his pockets and get on the
25 ground at the same time.

1 Q Multiple times?

2 A Multiple times, yes.

3 Q Did you have any conversation with the defendant at
4 this point?

5 A No.

6 Q He didn't make any statements to you?

7 A No.

8 Q After giving multiple commands, did the defendant
9 ever take his hands out of his pockets?

10 A No.

11 Q Did you ever see a gun in his possession?

12 A No. I was too far away to see it. But leading to
13 the events, that's when it happened.

14 Q But you knew the defendant had a gun because he
15 flashed it at you at 4:05 a.m. on the side of the club,
16 correct?

17 A Correct.

18 Q So you did know he had a gun in his possession.

19 A Right.

20 (WHEREUPON, State's Exhibit Number 2, a video, continued
21 to play in open court.)

22 BY MR. POLSINELLO:

23 Q And now this is a few seconds before the shooting.

24 Is this -- do you see the defendant turning around right
25 now?

1 A Yes.

2 Q Do you see where his right hand is?

3 A Yes, sir.

4 Q Where is it?

5 A In his pocket.

6 Q Did the defendant ever take his hands out of his
7 pockets like this (gesturing)?

8 A No.

9 Q Mr. Greene, if the defendant took his hands out of
10 his pockets like this (gesturing), what do you think would
11 have happened?

12 A Pretty much would have told him to get on the ground
13 and cuffed him and removed the firearm from him.

14 Q Have you done that before in situations like this?

15 A Yes.

16 Q That's normal protocol?

17 A Yes, sir.

18 Q So people have complied before?

19 A Yes. Plenty of times, yes.

20 Q What was your intent this night and for this
21 situation? What did you intend to happen?

22 A Basically, just get the firearm off him and call
23 Greenville County to deal with the rest of -- the rest
24 that I mentioned: the gun wasn't stolen or if he had any
25 priors or convictions for having a gun or not or anything.

1 (WHEREUPON, State's Exhibit Number 2, a video, continued
2 to play in open court.)

3 BY MR. POLSINELLO:

4 Q I'm stopping. So this (indicating) is you right
5 here, correct?

6 A Yes.

7 Q And this (indicating) is Carlos?

8 A Yes.

9 Q Do you recall seeing Carlos raise his shotgun at the
10 defendant right here? Do you recall seeing that in that
11 moment?

12 A No. Not exactly. Because I was still talking to
13 some of the people in the crowd. That's all. Stay back.

14 Q Right here (indicating), sir, I'm circling these
15 people that you just referred to.

16 A Uh-huh.

17 Q So you were telling them to stay back?

18 A Yes.

19 Q You were concerned for their safety?

20 A Yes.

21 (WHEREUPON, State's Exhibit Number 2, a video, continued
22 to play in open court.)

23 BY MR. POLSINELLO:

24 Q Right here, sir, when the gunfire goes off, this
25 (indicating) is you?

1 A Yes.

2 Q So it appears that you're taking an angle to the side
3 of the club, correct?

4 A Correct.

5 Q So you were taking cover?

6 A Yes, sir.

7 Q Because you just heard gunshots?

8 A Yes, sir. And the closest thing that was bigger than
9 my size was that sign that was back there for me to hide
10 behind.

11 Q Mr. Greene, in this moment, did you ever take your
12 40 caliber out and fire at the defendant in this moment
13 right here?

14 A Not yet.

15 Q Because you were taking cover?

16 A Trying to get to cover, yes, sir.

17 Q That was your natural instinct to do that?

18 A Just to get cover.

19 Q Do you recall when you got -- do you recall getting
20 hit by the bullets and when it was?

21 A I recall feeling one of the bullets and then falling
22 to the ground. And as I was on the ground, I heard more
23 gunshots going off. And then pretty much I guess once my
24 adrenaline started slowing down, that's when I started
25 feeling the other bullet holes that was in me.

1 Q So the first bullet that you felt penetrate your
2 body, were you standing up when you felt that?

3 A Yes. Yes, sir.

4 Q When did you -- at what moment -- let me back it up a
5 little. At what moment did you take out your side arm and
6 fire back in self-defense?

7 A It had to be right when I was coming around from the
8 other side of that sign right before I fell down.

9 Q So you were firing after you got hit first?

10 A Yes.

11 Q When you were firing back, were you standing up?

12 A Yes.

13 Q When you -- and obviously, you fell to the ground,
14 correct?

15 A Correct.

16 Q Did you also fire when you were on the ground?

17 A No.

18 Q So when you fired your gun, it was only in the
19 standing up position?

20 A Correct.

21 Q When you were on the ground, did you feel getting hit
22 by more bullets?

23 A I can't recall. I mean, all I know, I was in a lot
24 of pain, so it's kind of hard to tell.

25 Q So when you are on the ground, you weren't in a

1 position to fire back, were you?

2 A No.

3 Q It was over for you?

4 A That was it.

5 BY MR. POLSINELLO:

6 Q What were your first thoughts when you were on the
7 ground?

8 A I was in a lot of -- like it hurt. It was a lot of
9 pain. Again, a lot of pain, and hopefully the next time I
10 hear the other gunshot that I wasn't going to get killed
11 while I was lying on the ground.

12 Q Was that your first time getting shot?

13 A Second.

14 Q I'm showing you what's been previously entered into
15 evidence as State's Exhibit 3. Does this map and the
16 designations on here, does that appear to be accurate to
17 you ---

18 A Yes, sir. Yes, sir.

19 Q --- in terms of where you were when you got shot?

20 A Yes, yeah. That's pretty accurate.

21 Q And where the red X where the defendant was?

22 A Yes.

23 Q And the blue circle where Carlos was?

24 A Yes, sir.

25 Q Is it your understanding that night, based on these

1 people's positioning shortly before the shooting that we
2 just saw around 4:09 a.m., 40 seconds, was it your
3 understanding that that was Club Dolce's property?

4 A As far as I know, yes. Yes, it was.

5 Q Did you believe that you were acting lawfully like as
6 a security guard in terms of escorting, getting the club
7 patrons out and trying to usher the defendant away from
8 the people?

9 A Yes.

10 Q You thought you were on Dolce's property?

11 A Yes.

12 Q These parking lots and the pavement, were there any
13 physical barriers separating any of the parking lots ---

14 A No.

15 Q --- in terms of the property lines and parking lines?

16 A No, no. Because that building was actually boarded
17 up so it wasn't like it was occupied.

18 Q So let's talk about your injuries. Obviously,
19 yesterday we heard from Dr. Rinkliff and Dr. Folk. Were
20 you in here when they testified?

21 A Yes, sir.

22 Q Is it your understanding now that you likely could
23 have died that night ---

24 A Yes.

25 Q --- based on their testimony?

1 A Yes, sir.

2 Q Do you realize that Dr. Rinkliff was a part of saving
3 your life?

4 A Now I do.

5 Q Tell us what happened -- the day after when you
6 recovered, what were your physical injuries?

7 A Pretty much when I woke up in the hospital bed, I
8 know the nurse is telling me I couldn't really move
9 because I had a bullet fragment still lodged in my hip, my
10 arms were still wrapped up from where I got shot at in
11 both arms, and also finding out I had a catheter put in
12 because I had -- my bladder was punctured as well when the
13 bullet hit and entered my stomach. And it's possible that
14 I would have -- would need more surgery before I left the
15 hospital that day -- those couple days before I left.

16 Q So you were in the hospital for a few days?

17 A Three days, I believe. Three or four days.

18 Q When you got discharged, were you in a wheelchair?

19 A Yes.

20 Q Were you employed at that time?

21 A Yes, sir.

22 Q Were you able to work after this?

23 A No.

24 Q How long were you in the wheelchair for?

25 A All the way up until, let's see, wow, almost till

1 late August, so once I started my physical therapy. When
2 I started -- yeah, started going to my physical therapy
3 and everything.

4 Q Being in that wheelchair, did that limit your
5 mobility?

6 A Yes.

7 Q And your daily functions?

8 A Yes.

9 Q After the wheelchair, did you transition to another
10 device or were you able to walk right away?

11 A I transferred to a walker. I couldn't -- would need
12 to do crutches if I could, but the walker was more
13 comfortable for me at the time so I was moving around with
14 a walker.

15 Q How long did you have that walker for?

16 A For a few -- for quite -- I want to say once I
17 transitioned to the walker and the wheelchair. So around
18 the same duration.

19 Q And yesterday we heard Dr. Folk, how he's the one
20 that had extracted the bullet from your hip on July 24,
21 2020. So about 20 days after the shooting, he extracted
22 the bullet from your hip, correct?

23 A Right.

24 Q So for 20 days you had that bullet lodged in your
25 hip?

1 A Yes, sir.

2 Q And after he extracted that, did you still have to be
3 in a walker?

4 A Yes, sir.

5 Q And you went to physical therapy?

6 A Went to physical therapy for, I think, six weeks
7 after -- yeah, after the surgery. And had the walker up
8 until the last two weeks of my physical therapy.

9 Q And as of today, have you recovered 100 percent?

10 A Yes, sir.

11 Q You have no negative effects or no deficiencies in
12 your mobility?

13 A No. I still -- I pushed myself every now and then to
14 see if anything has changed over the time and stuff. No
15 -- no defects or anything like that.

16 Q Mr. Greene, in your opinion, based on what's in
17 evidence, based on what we've seen in the videos, do you
18 think this could have been prevented?

19 A Yes.

20 Q How?

21 A When he left the first time on the motorcycle, he
22 could have stayed home. The second time when -- after he
23 had flashed me the gun, he could have left right out of
24 the parking lot then. The other time was when Carlos was
25 telling him to keep his hands out of his pockets. And

1 let's see. That's all I can think of. Yeah.

2 MR. POLSINELLO: Okay. Thank you. No further
3 questions.

4 THE COURT: Cross-examination.

5 CROSS EXAMINATION

6 BY MR. HELLAMS:

7 Q Mr. Greene, how are you doing this morning?

8 A Good morning. How about yourself?

9 Q I'm doing well. Thank you.

10 Now, I want to start off, you just said he could have
11 stayed when he left on the motorcycle, right?

12 A Yes.

13 Q But you previously testified on direct that you
14 didn't know for sure that he was at the club that evening,
15 correct? That he had left and came back?

16 A Right.

17 Q Okay. So you don't know for sure that he was at the
18 club earlier?

19 A Not 100 percent sure, but . . .

20 Q Okay. That's fine. We'll get back to that.

21 A Okay.

22 Q You said you're a South Carolina Department of
23 Corrections officer?

24 A Yes, sir.

25 Q And you were at the time this event took place?

1 A Yes.

2 Q Is that a commission position? Do you carry a
3 commission with that?

4 A Be more specific.

5 Q Did you get sworn in?

6 A Yes.

7 Q Okay. Now, are you allowed to have two commissions
8 at the same time?

9 A Yes.

10 Q You can?

11 A Yes.

12 Q You can be a commissioned officer in South Carolina
13 and a commissioned security guard at the same time.

14 A Yes.

15 Q Are you sure about that?

16 A Uh-huh.

17 Q You didn't have a concealed weapons permit that
18 evening, did you?

19 A No.

20 Q You said you weren't breaking the law by being there,
21 correct?

22 A No.

23 Q But you were carrying a firearm that you were not
24 allowed to carry?

25 A Yes.

1 Q So you're breaking the law, correct? That's a yes or
2 no question. You were breaking the law, correct?

3 A If you want to say yes, I mean, it's only breaking
4 the license if you get caught.

5 Q Well, you're caught today, right?

6 A True.

7 Q Okay. And you were not a licensed security guard at
8 that time, correct?

9 A No.

10 Q So you couldn't be working as a security guard, as an
11 unlicensed security guard, correct?

12 A Correct.

13 Q And you couldn't be carrying a firearm as an
14 unlicensed security guard, correct?

15 A Correct.

16 Q So regardless of whether this property was or was not
17 contracted to be protected, any order that you gave was an
18 unlawful order that evening, correct?

19 A Right. But I didn't give any orders.

20 Q You didn't give any orders?

21 A I was telling him to move out of -- move his car.

22 Q Okay. But you didn't have the authority to do that,
23 right?

24 A Anybody can tell anybody to move their car.

25 Q Acting as a security guard?

1 A Just tell anybody move their car.

2 Q Okay. Mr. Polsinello made a big deal about the gold
3 star on your shirt.

4 A Uh-huh.

5 Q And we've seen your shirt. It's got markings on the
6 front and markings on the back. Did you see those
7 markings in that video?

8 A No.

9 Q Because you were wearing a tactical vest over the
10 outside of that?

11 A Yes. That is correct.

12 Q Okay. So covered all of that stuff up, right?

13 A (Nonverbal answer.)

14 THE COURT: Make sure you say "yes" or "no."

15 THE WITNESS: Yes, sir.

16 BY MR. HELLAMS:

17 Q In that tactical vest, were you carrying some AR-15
18 or AR-15 variant magazines?

19 A Yes, sir.

20 Q Did you have an AR-15 with you that evening?

21 A Yes, sir.

22 Q You did. Where was it at?

23 A In the trunk of my car.

24 Q Were you licensed to have that weapon as a security
25 guard?

1 A No.

2 Q Okay. You were not.

3 Why would you bring such a weapon as that?

4 A From past experiences dealing with nightclubs and
5 shootings, sometime you have to resort to another
6 secondary weapon to cover the patrons and yourself. It's
7 not like the person that's shooting at you is shooting
8 rocks or anything at you. Some of these guys are shooting
9 large caliber ammunitions at you.

10 Q But you weren't allowed to have that weapon.

11 A Right.

12 Q Okay. Do you think it's intimidating for someone to
13 be walking around with a bunch of magazines like that
14 looking like G.I. Joe?

15 A Yeah. That's the perspective of it, yes.

16 Q And do you do that somewhat to be intimidating so
17 people will follow your orders?

18 A No. Because if you're intimidating, a lot of people
19 are not going to ask you out or casually -- just casually
20 going about their day. They're not going to try to cause
21 a scene.

22 Q Earlier you spoke about an altercation inside the
23 club.

24 A Uh-huh.

25 Q You said it was your assumption that that's what

1 happened, right?

2 A Yes, sir.

3 Q You were not inside the club.

4 A No.

5 Q You have no knowledge that William was involved in an
6 altercation inside the club?

7 A No.

8 Q Did you ever see William inside the club?

9 A No.

10 Q And you didn't see William inside the club because
11 you didn't go inside the club, correct?

12 A Correct.

13 Q Okay. Was there video of this altercation from
14 inside the club, do you know?

15 A Not to my knowledge.

16 Q Okay. So you have no idea whether he was actually
17 there or not at the point in time that all of this is
18 going on, right? That's a bad question. Let me try that
19 again. You have no idea whether he had been at the club
20 and left and came back at the time all of this occurred,
21 correct?

22 A Yes.

23 Q I'm sorry. Yes you knew he was at the club and came
24 back or yes you have no idea?

25 A Yes. I knew.

1 Q That was probably -- you knew. How did you know
2 that?

3 A Because Carlos had said something about it earlier
4 when me and him was talking out there that the guy had
5 left -- he believed the guy had left or something and we
6 wasn't 100 percent sure.

7 Q Okay. So you did not know.

8 A Me ---

9 Q You did not know.

10 A Me seeing him there, no.

11 Q Okay. Now, there were a few cars circling the
12 parking lot multiple times. Did you identify any of those
13 people?

14 A No.

15 Q Okay. So it's not strange that they would be
16 circling the parking lot multiple times? You testified on
17 direct that several cars do that throughout the night?

18 A Yeah. A few of them circle the parking lot and they
19 never leave. But like I said, the young lady told us
20 about this -- one of the guy in particular, and he just
21 kept circling the parking lot, which, again, made us --
22 made me more suspicious of what his intentions were.

23 Q Okay. Now let's talk about him stopping right there
24 blocking traffic.

25 A Uh-huh.

1 Q Did he attempt to park there?

2 A No.

3 Q He didn't attempt to park there.

4 A No.

5 Q Okay. How wide do you think that area was? Was it
6 wide enough for two vehicles to go through? Wide enough
7 for three vehicles? I mean, you know, is it from say here
8 (indicating) to over here (indicating) wide? Do you think
9 we could fit two cars head on?

10 A If the other car wasn't parked on the curb, then yes,
11 you could fit two cars through there.

12 Q Okay. What about an F-450? That's a pretty wide
13 vehicle, wouldn't you say?

14 A Yeah.

15 Q What kind of car do you drive?

16 A What kind of car?

17 Q Yeah.

18 A A Hyundai.

19 Q Okay. So a Hyundai is a lot smaller than a big wide
20 F-450, right?

21 A Uh-huh.

22 THE COURT: Make sure you say "yes" or "no."

23 THE WITNESS: Yes, sir.

24 BY MR. HELLAMS:

25 Q So you can squeeze into some spots that an F-450

1 could not squeeze into, correct?

2 A Correct.

3 Q Now, if you had a couple of big vehicles meeting head
4 on in a narrow spot, would one maybe have to move over and
5 stop for a second so the other one -- so they kind of work
6 their way around?

7 A Correct, yes.

8 Q Looking at that video, did it look like that's what
9 was happening to you?

10 A Right. And then once the other car cleared out, he
11 still stayed there.

12 Q And once that other car worked its way through ---

13 A He still stayed there.

14 Q --- he still stayed.

15 Was that at the point when you were talking to him in
16 the window telling him he needed to move?

17 A Yes.

18 Q Okay. And then at that point is when he allegedly
19 flashed his firearm at you?

20 A Yes, sir.

21 Q Did you tell him to leave then?

22 A No. Because he drove off.

23 Q He just waved the gun at you and drove off?

24 A Yes.

25 Q Okay. And you were armed?

1 A Yes.

2 Q For your safety.

3 A Yes, sir.

4 Q And did you think he was a threat when he waved the
5 firearm at you?

6 A Yes.

7 Q You didn't do anything about it then?

8 A No. Because he drove off.

9 Q But he immediately drove off and went and parked,
10 right?

11 A Uh-huh. Yes, sir.

12 Q Did you follow him over there?

13 A No.

14 Q You had Lamar with you, right?

15 A Yes.

16 Q Y'all could have triangulated and walked over there
17 together and maybe dealt with the situation since you were
18 worried about him getting into the crowd of people, right?

19 A Could have.

20 Q Yeah. But you didn't do that.

21 A No.

22 Q Do you know how long he stayed over at his truck
23 after he parked?

24 A How long he stayed at his truck?

25 Q Yeah.

1 A I don't think he really stayed at his truck.

2 Q You don't think so?

3 A No.

4 Q Okay. We'll pull up some video in a minute and take
5 a look at it.

6 A Okay.

7 Q Would you be surprised -- would it surprise you if he
8 stayed there a few minutes?

9 A At the truck?

10 Q Yes.

11 A I know he stayed over talking to a group of people
12 over there.

13 Q Okay.

14 A But he wasn't at his truck.

15 Q He was nearby his truck. He did not walk across the
16 parking lot at that point. He was still in the general
17 vicinity of where he parked, correct?

18 A Like a car length away from his truck.

19 Q I'm sorry?

20 A A car length the other way because on the other side
21 that you saw on the video.

22 Q Okay. How far away were you from that?

23 A Right there on that corner, so it was -- I'm not
24 really good with distance. So it's a good, I don't know,
25 15, 20 feet, probably.

1 Q Okay. So you could have closed that distance in less
2 than two minutes? You could have walked over there?

3 A Uh-huh.

4 Q And Lamar was with you?

5 A At that time me and Lamar walked off to go let Carlos
6 know what was going on.

7 Q Why did Lamar have to go let Carlos know what was
8 going on?

9 A Because the radio wasn't working.

10 Q The radio wasn't working?

11 A Yes, sir.

12 Q Did you hear Carlos yesterday say you didn't have a
13 radio?

14 A Yes, sir.

15 Q Was that incorrect?

16 A Lamar had a radio.

17 Q Okay. So you didn't have a radio. Lamar had a
18 radio.

19 In your statement you say that you watched as he
20 moved around the parking lot talking to different groups
21 of people.

22 A Correct.

23 Q And you didn't think to walk over there and prevent
24 him from getting into any other groups of people?

25 A No. That's why I keep my eyes on him till I get

1 adequate backup, which would be Lamar, and call him to
2 come over.

3 Q Now, at one point did you send Lamar over to look
4 around the truck and see if he had left his firearm there?

5 A Yes. Because once -- once either the defendant saw
6 Carlos and Lamar approaching him in that crowd, at the
7 scene he was walking towards the back, he was by the
8 Nissan. So usually, commonly, when people have firearms,
9 they try to get rid of it by hiding it on the tires of
10 other cars. So I told Lamar to check out the Nissan to
11 make sure that he didn't leave the gun over there.

12 Q So then you weren't even convinced that he still had
13 the firearm at that point.

14 A Once Lamar verified that the gun wasn't over there.

15 Q Right. But you didn't know for sure that it wasn't
16 inside the truck, did you?

17 A No.

18 Q You didn't see it in the truck. I mean, you didn't
19 check at all. Lamar went and checked, right?

20 A Yeah. Lamar went and checked.

21 Q Okay. I'm going to go back to the truck for one
22 second. This was previously marked State's Exhibit 47.
23 Do you notice anything about the truck there?

24 A It's a truck.

25 Q How is it parked?

1 A Double parked.

2 Q It's double parked. Pretty wide, right?

3 A Yes.

4 Q Would it fit in one of those regular spots? If there
5 we're cars still parked there, would it fit into a regular
6 spot?

7 A It's possible.

8 Q But once the cars that were parked there moved, he
9 drove straight into that spot, right? The State pointed
10 out earlier there were some cars parked right where he
11 ended up parking, correct?

12 A Correct.

13 Q And once that car moved, he drove straight into that
14 spot, right?

15 A Okay. Yeah.

16 Q So it's entirely possible that he's circling the
17 neighborhood, for lack of a better term, to locate a spot
18 that would accommodate his truck, correct?

19 A No.

20 Q No, it wasn't possible?

21 A No. Because there's other parking spots in front.
22 He could have parked there.

23 Q Did you point those spots out to him?

24 A He didn't stop and ask us. I mean, he didn't stop
25 and ask us either. He just kept riding.

1 Q But if he stopped and asked you, he'd get in trouble
2 for blocking traffic, right?

3 A No.

4 Q No?

5 Those yellow spots right in front of the club that
6 everybody's pointed out, there's that strip of parking
7 spots right in front of the club. Is that VIP parking?
8 He couldn't have parked in those, right?

9 A The club was over with so he could have parked there.

10 Q Huh?

11 A The club was over with so he could have parked there.

12 Q The club was over with so he could have parked there.

13 A Uh-huh.

14 Q Okay. It was definitely closed at that point?

15 A Yes. Because people was coming out. Where it was --
16 they still had food. They was getting out of there.

17 Q Okay. And there was no music or anything going on
18 inside still?

19 A To the best of my knowledge, no, there wasn't any
20 music playing.

21 Q Okay. You were discharged from the hospital on
22 July 7th, correct?

23 A Something -- I'm not sure what date it was, but
24 sounds about right.

25 Q And then you had follow-up with ortho July 24th,

1 correct? That's when they removed the bullet from your
2 hip?

3 A Yes.

4 Q Were you discharged home? Did you go home when you
5 were discharged?

6 A Yes.

7 Q Where do you live at?

8 A Aiken.

9 Q You live in Aiken. Okay.

10 So you left and went home to Aiken on July the 7th?

11 A Uh-huh. Yes, sir.

12 Q And did you stay at home until July 24th when you
13 came back?

14 A No. I went to other doctor appointments I had in
15 between.

16 Q Did you come to Greenville for those doctor
17 appointments?

18 A Yes, sir.

19 Q Did you ever go out to get anything to eat during
20 that time period? Go to any restaurants?

21 MR. POLSINELLO: Objection, Your Honor. Irrelevancy.

22 THE COURT: Overruled.

23 BY MR. HELLAMS:

24 Q Did you go to any restaurants during that time
25 period?

1 A No.

2 Q Did you go anywhere other than between your home and
3 the doctor's office?

4 A No.

5 Q You stayed home that entire time?

6 A Yes.

7 Q And those doctors' offices were located in
8 Greenville?

9 A Yes, sir.

10 Q Okay. And you were in a wheelchair then?

11 A A wheelchair and a walker.

12 Q Okay. And so how many doctor appointments do you
13 think you came to in Greenville?

14 A I want to say maybe seven or eight different doctor
15 appointments I had. That's what I had up to that time I
16 had surgery.

17 Q Okay. So there were seven or eight opportunities to
18 go by the sheriff's office and give a statement?

19 A Yes.

20 Q Did you talk to Carlos Jenkins at any point between
21 July 7th and September 3rd when you finally gave your
22 statement?

23 A No.

24 Q You didn't speak to him at all?

25 A No.

1 Q He didn't check on you?

2 A No. At that time we were -- there was a lot of
3 heated tension going on with the family about me getting
4 injured.

5 Q Okay. So let's talk about when the shooting took
6 place. After you move around to the side, your statement
7 says -- before we get to your statement, are you right- or
8 left-handed?

9 A Left-handed.

10 Q You shoot right- or left-handed?

11 A Left.

12 Q Okay. Wouldn't that make a difference which side the
13 shells are ejected on?

14 A No.

15 Q No, it doesn't?

16 A No.

17 Q Okay. Do you hold your gun differently if you're
18 left-handed?

19 A What do you ---

20 Q I mean, I'm right-handed.

21 A Uh-huh.

22 Q I hold it like this (gesturing). Shells eject this
23 (indicating) side of my body, right? Right-handed
24 firearm. You're left-handed. My body don't even bend
25 that way. The shells are going to bounce off of you when

1 they're ejected? They're going to hit you different than
2 they hit me? They're going to go over my right shoulder,
3 right?

4 A That's possible.

5 Q Okay. So wherever those shell casings land may not
6 be indicative for a left-handed shooter where you were at
7 versus for a right-handed shooter, right? It could have
8 bounced off of you and go in a different direction?

9 A Yes.

10 Q Okay. All right. So I'm reading your statement
11 here. You said you returned two shots before you ended up
12 on the ground from being shot; is that correct?

13 A Yes, sir.

14 Q Okay. So he shot at you, and then you shot two
15 rounds, and then you ended up on the ground.

16 A If that's what the report says, yes.

17 Q Okay. But you shot five rounds, right?

18 A Correct.

19 Q And you just testified on direct that you didn't
20 shoot any more after you hit the ground, correct?

21 A Correct.

22 Q Now, when you come around the corner of that car, you
23 shot at William McKinney before he shot at you, didn't
24 you?

25 A Not to my memory.

1 Q Not to your memory?

2 A I mean, happened pretty quickly, so I'm not sure if I
3 shot at him first or he shot at me first.

4 Q Okay. You're not sure who shot first.

5 MR. POLSINELLO: Objection, Your Honor. Already
6 answered.

7 THE COURT: Overruled.

8 THE WITNESS: I want to say he shot first. Yeah. I
9 want to say he shot first.

10 BY MR. HELLAMS:

11 Q Okay. Where did those other three rounds come from
12 then?

13 A I possibly could have shot those three before I fell
14 to the ground too. But I can remember shooting two. But,
15 I mean, and that's not like I was actually counting how
16 many times I was squeezing the trigger when I was
17 shooting.

18 Q You could have said that in your statement, though,
19 right, that you weren't counting the rounds? You could
20 have just not given a number?

21 A Yeah.

22 Q Okay. Now, you said this is your second time being
23 shot?

24 A Yes.

25 Q Were you acting as a security guard the first time

1 you got shot?

2 A What do you mean, acting?

3 Q Well, you were acting as a security guard this night.
4 You weren't actually a security guard, right?

5 A On that night? On which night are ---

6 Q The first time you got shot. You said this is your
7 second time being shot.

8 A I was -- I was working as a security guard.

9 Q Okay. Were you acting lawfully that night?

10 A Yes.

11 MR. HELLAMS: A moment to confer, Your Honor.

12 THE COURT: Yes.

13 BY MR. HELLAMS:

14 Q I'm going to go back to your statement one more time.
15 You said you didn't have a radio, right?

16 A No.

17 Q No, you didn't have a radio or no, you didn't say
18 that?

19 A I didn't have a radio.

20 Q Okay. In your statement you said, "I asked Lamar did
21 he see what he did, and he stated 'yeah.'" Then you say,
22 "I called Carlos on the radio and told him what had
23 happened." So did you not have a radio or did you have a
24 radio?

25 A I didn't. I took Lamar's radio and used Lamar's

1 radio.

2 MR. HELLAMS: Okay. Nothing further, Your Honor.

3 THE COURT: Redirect.

4 MR. POLSINELLO: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. POLSINELLO:

7 Q Mr. Greene ---

8 A Yes, sir.

9 Q --- on video what we've seen, at any point were you
10 holding the AR-15?

11 A No.

12 Q And it's your testimony that was in the trunk?

13 A Yes, sir.

14 Q Did you ever have that out at all that night?

15 A No.

16 Q Did the defendant ever see it?

17 A No.

18 Q Would he have any reason to see it?

19 A No.

20 MR. POLSINELLO: Thank you. No further questions.

21 THE COURT: Anything on recross based on the limited
22 redirect?

23 MR. HELLAMS: No, Your Honor.

24 THE COURT: All right. Sir, you can step down.

25 THE WITNESS: Thank you, sir.

1 THE COURT: The State's ready to call its next
2 witness?

3 MR. POLSINELLO: The State rests its case, Your
4 Honor.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, I'm going to send you back to your jury room just
7 for probably a few minutes. Please, ma'am, please, sir,
8 do not talk about the case to anyone, and I'll bring you
9 back in here shortly.

10 (WHEREUPON, the jury exits the courtroom at 11:16 AM.)

11 THE COURT: All right. The first thing, the Court
12 will entertain any motions. Any motions?

13 MR. BOATWRIGHT: Yes, Judge.

14 THE COURT: Mr. Boatwright.

15 MR. BOATWRIGHT: At this time the defense renews all
16 objections. We would also renew our stand-your-ground
17 motion. The evidence presented, we would argue, clearly
18 shows our client was shot in the back and was acting in
19 self-defense. The security guards were not acting
20 lawfully. He was somewhere he had a lawful right to be.
21 So we renew our stand-your-ground motion.

22 And we would make a motion for a directed verdict on
23 the charge of attempted murder. Attempted murder, the law
24 states, is a person who, with intent to kill, attempts to
25 kill another person with malice aforethought. That was a

1 specific-intent crime. The State has presented no
2 evidence that Mr. William McKinney had a specific intent
3 to kill anyone that night, rather that he was shot in the
4 back and returning fire in self-defense.

5 THE COURT: All right. Let me hear your response on
6 both motions, Mr. Polsinello.

7 MR. POLSINELLO: May it please the Court.

8 THE COURT: Yes, sir.

9 MR. POLSINELLO: Your Honor, as to defense's motion
10 for a directed verdict, pursuant to State v. Wheeler,
11 Supreme Court, South Carolina 259 S.C. 571, December 1972
12 opinion, when there's any evidence tending to support the
13 inference of guilt, the Court must submit these issues to
14 the jury.

15 As Your Honor is aware, there's a lot of evidence in
16 this case, a lot of testimony from independent state
17 witnesses. There's video of the shooting. From the
18 angles, from the photos of the shell casings, where
19 everyone was, specific intent absolutely can be inferred,
20 and the State's position, that's an issue of fact for the
21 jury to decide.

22 The angle of the shells and the shooting can show
23 that, when the defendant turned around, in theory, maybe
24 he was justified in shooting Carlos. He never hit the
25 threat that was directly behind him, Your Honor. You can

1 see from the evidence, there's ample evidence that it's
2 almost nearly a 90-degree angle shooting the victim three
3 times.

4 And we know the defendant never was struck with any
5 live round. Only the victim was. Your Honor, there's
6 more witnesses and evidence saying that this defendant,
7 eluding that he presented a threat that night, that
8 security had reason to believe to keep eyes on him.

9 We've heard a witness testify that he saw him leave
10 his truck with a gun in his possession. We heard from the
11 victim at that 4:05 a.m. Time stamp the defendant flashed
12 his gun at the victim saying, "You're not the only one
13 with a gun." Your Honor, that's all specific intent.

14 And it's interesting because the defendant ended up
15 hitting the person, the victim, who he flashed his gun at.
16 These are all issues of fact that the State believes the
17 jury should decide. Again, there's a lot of evidence in
18 this case tending to support the inference of that, and
19 the State respectfully asks the Court to deny defense
20 counsel's motion for a directed verdict and allow the
21 trial to proceed.

22 THE COURT: All right. I think this is a lot of
23 factual dispute that I think must be sorted out by the
24 jury, so I'm going to go ahead and deny your motion for a
25 directed verdict.

1 I think counsel's also renewed his stand-your-ground
2 motion?

3 MR. BOATWRIGHT: Yes, Your Honor. On the same
4 arguments that we made at the stand-your-ground hearing
5 and just to reiterate them today. We renew it because the
6 evidence shows that William McKinney was shot in the back,
7 and he returned fire. The State just conceded that he
8 would have been okay if he'd shot Carlos Jenkins. When he
9 turned around, there's two threats to him: Carlos Jenkins
10 and Monieque Greene. Both are shooting at him. He's
11 acting in self-defense. He was in a place that he had a
12 lawful right to be. As Your Honor's well aware, the case
13 law says that having possession of a -- or illegally
14 possessing a firearm is not the illegal act, and that it
15 refers to under the statute of the Protection of Persons
16 and Property Act. So we'd ask the judge to grant immunity
17 under the stand-your-ground law.

18 THE COURT: All right. I'm assuming the State's
19 argument is the same as it was asserted during the
20 stand-your-ground hearing; is that right, Counsel?

21 MR. POLSINELLO: Yes, Your Honor. Your Honor has
22 already ruled on this, denied immunity. The State would
23 ask Your Honor to respect that decision.

24 And just to clarify, Your Honor, the State didn't
25 concede to anything about what Mr. Boatwright's opinion of

1 the shooting was. The State stated had the defendant shot
2 Carlos, that would be a different discussion. The State
3 didn't concede to anything.

4 THE COURT: All right. The Court adopts the same
5 ruling that it did at the time of the stand-your-ground
6 hearing and deny the motion. The same rationale that the
7 Court utilized in the order that the Court signed would be
8 asserted for this motion that was made on today.

9 So Mr. Boatwright, the State having rested, where is
10 the defense in terms of, one, first of all, in terms of
11 the involvement of the defendant? Does the defendant
12 intend to testify on his behalf?

13 MR. POLSINELLO: He does not, Your Honor.

14 THE COURT: All right. So let me do this before we
15 go on. Mr. McKinney, would you stand for me, please, sir.
16 Raise your right hand.

17 (WHEREUPON, WILLIAM L. MCKINNEY is duly sworn.)

18 THE COURT: All right. I'm going to ask you a series
19 of questions. Make sure you keep your voice up so the
20 court reporter can hear you.

21 I've made inquiry of your lawyer Mr. Boatwright
22 whether or not you intend to testify on your own behalf.
23 And he has indicated on the record that you do not intend
24 to do so; is that correct?

25 DEFENDANT MCKINNEY: Yes, sir.

1 THE COURT: Did you have an opportunity to discuss
2 your decision to testify with your lawyers, Mr. Boatwright
3 as well as Mr. Hellams?

4 DEFENDANT McKINNEY: Yes, sir.

5 THE COURT: And you don't need any additional time to
6 speak with either one of these lawyers about that
7 decision.

8 DEFENDANT McKINNEY: No, sir.

9 THE COURT: You're not under the influence of
10 anything that may impact your judgment.

11 DEFENDANT McKINNEY: No, sir.

12 THE COURT: This decision that you're making in open
13 court, is that your decision?

14 DEFENDANT McKINNEY: Yes.

15 THE COURT: All right. Do you have any questions of
16 me regarding that decision?

17 DEFENDANT McKINNEY: No.

18 THE COURT: Do you need any additional time to speak
19 with your lawyer about anything?

20 DEFENDANT McKINNEY: No. No, sir.

21 THE COURT: I will instruct the jury at the
22 conclusion that the mere fact that you did not testify,
23 that they cannot and must not hold that against you. I
24 think the law is pretty clear on that, and I will give the
25 jury the appropriate instruction at the end; do you

1 understand that?

2 DEFENDANT McKINNEY: All right. Yes, sir.

3 THE COURT: Okay. All right. Anything additional I
4 need to ask him, Mr. Boatwright?

5 MR. BOATWRIGHT: No, Your Honor.

6 THE COURT: All right. Okay, sir. Now you can be
7 seated.

8 All right. Now, do you have any additional
9 witnesses?

10 MR. BOATWRIGHT: No, Your Honor. Based on the
11 State's case, the defense rests.

12 THE COURT: The defense rests. All right. I'm going
13 to -- here is how we're going to do this. I'm going to
14 bring the jury back. I'm going to let you rest. The
15 State has rested on the record. I'm going to let you rest
16 on the record as well. I will not address to the jury
17 about the defendant not testifying until the end. I think
18 that's the appropriate time to do that, unless you see it
19 differently.

20 MR. BOATWRIGHT: No, Your Honor. We agree with that.

21 THE COURT: All right. Yes, sir.

22 JURY CHARGE CONFERENCE

23 MR. POLSINELLO: Your Honor, one issue. In terms of
24 charging, the charge for possession of a weapon by a
25 person convicted of a violent prior crime, I think the

1 State's pretrial -- the State is asking Your Honor when is
2 the instruction to the jury pursuant to Old Chief v.
3 United States, when is Your Honor inclined to give that
4 instruction about that charge? Because, Your Honor,
5 according to the State, pursuant to Old chief v. United
6 States and the Statute 16-23-500, part of the element of
7 that charge in the name is that the defendant has a prior
8 conviction of a felony. So the jury is going to have to
9 know that before the State begins closing argument. And
10 the State's just looking at guidance from the Court on
11 when that's going to be instructed to the jury.

12 THE COURT: What do you say, Mr. Boatwright?

13 MR. BOATWRIGHT: Judge, we're fine with whenever you
14 want to give it.

15 MR. POLSINELLO: Judge, we have the stipulation
16 order. If Your Honor remembers, they stipulated to this
17 issue beforehand, before the trial began. So we're just
18 looking to when is that going to be instructed to the
19 jury.

20 THE COURT: Do you have a copy of the stipulation?
21 Was it a written stipulation?

22 MR. POLSINELLO: Yes, Your Honor.

23 MR. BOATWRIGHT: It was a written stipulation.

24 THE COURT: Was it a Court's exhibit?

25 MR. BOATWRIGHT: Yes, it was, Your Honor.

1 THE COURT: Can I see it?

2 MR. POLSINELLO: Your Honor, I have a copy if it's
3 not up there.

4 THE COURT REPORTER: It is not a court exhibit yet.

5 THE COURT: I thought there was a written
6 stipulation.

7 MR. POLSINELLO: There was, Your Honor. I have a
8 copy here, but it's not the signed copy. We handed up the
9 signed copy.

10 THE COURT: To who?

11 MR. POLSINELLO: To Your Honor. And apparently, it
12 wasn't entered as a court's exhibit. And if it wasn't,
13 that's my fault.

14 THE COURT: I don't have a signed copy.

15 MR. POLSINELLO: Your Honor, I can ---

16 THE COURT: Well, let me see. Let me look. Let me
17 look.

18 (Pause in proceedings.)

19 THE COURT: I do have it signed by both.

20 All right. Let me make sure that I understand what
21 you're asking me. Obviously, you're asking the Court that
22 this stipulation must be shared with the jury before
23 closing arguments of either side.

24 MR. POLSINELLO: Yes, Your Honor. Pursuant to Old
25 Chief, that court's opinion. And if Your Honor wants to

1 look at South Carolina Code of Laws 16-23-500(D), it's the
2 State's belief that the law instructs the judge to inform
3 the jury of this stipulation about this charge prior to
4 closing. That's the way it's done in Old Chief.

5 And again, Your Honor, the Court will not state the
6 name of the prior conviction, the felony. In this case
7 for this defendant, it's a 2003 ABWIK, but you don't state
8 the name but just that ---

9 THE COURT: Look at this -- look at the first page of
10 the stipulation. Let's start with the first paragraph.
11 And I'm going to read and you tell me whether this is
12 satisfactory. In the stipulation that I have a copy of
13 that I will probably make a court's exhibit in just a
14 minute, the defendant's been charged with and is on trial
15 for attempted murder, possession of a weapon during the
16 commission of a violent crime and possession of a firearm
17 by a person convicted of a violent crime for a shooting
18 that occurred, that happened in Greenville County on
19 July 4, 2020. When I read at the beginning of the case
20 and I read all the indictments, I did include this
21 indictment. I just shared that that's what the defendant
22 was on trial for, so the jury is aware that that's one of
23 the charges.

24 But let me just say, I read that paragraph, and then
25 I'm going to say Indictment Number 2020-GS-23-005244A is

1 for possession of a firearm by a person convicted of a
2 violent crime. The prior violent crime the defendant has
3 been convicted of stems from a February 14, 2006,
4 incident.

5 MR. POLSINELLO: Incident, yes. We're not going to
6 say the name of the ---

7 THE COURT: And I'm stopping right there.

8 MR. POLSINELLO: Yes, Your Honor. Because of this,
9 Your Honor, the State has to prove -- one of the charges
10 the defendant's on trial for is this possession of a
11 weapon by a person convicted of a prior violent crime.
12 The State has to prove that prior violent crime.

13 THE COURT: I understand.

14 MR. POLSINELLO: Because defense counsel has
15 stipulated to that and consented to that, in closing the
16 State is relying on explaining that to the jury.

17 THE COURT: Well, so logistically, what I intend to
18 do is when I come back -- when the jury comes back in,
19 Mr. Boatwright will rest on the -- wait a minute. Make
20 sure he's listening to me.

21 (Pause in proceedings.)

22 THE COURT: All right. What I intend to do is when
23 the jury comes back in, I'll let Mr. Boatwright rest on
24 the record. Okay. After that, I'm going to -- and you
25 tell me whether this is satisfactory. I'm going to

1 indicate, ladies and gentlemen, before we get into any
2 closing arguments, I want to read to you this stipulation.
3 Then I'm going to read to the jury what I just read to you
4 guys. And I'm going to stop, saying it was a February 14,
5 2006, incident. And I'll stop right there. And then at
6 that point I'll go into the introduction to closing
7 arguments. Is that okay?

8 MR. BOATWRIGHT: Yes, Judge. Works for us.

9 MR. POLSINELLO: Yes for the State, Your Honor.

10 Would Your Honor be inclined to explain to them what
11 "stipulation" means?

12 THE COURT: You know, the thing about explaining to
13 people, you're just assuming, Mr. Polsinello, that they
14 didn't go to college like you did ---

15 MR. POLSINELLO: Oh, no, Your Honor. I'm not ---

16 THE COURT: --- and they don't understand what a
17 stipulation is. But if you think they don't understand
18 that, I'll be more than happy to define what a stipulation
19 is. And what I'll define is that a stipulation is what
20 the two lawyers have agreed upon.

21 MR. POLSINELLO: Thank you, Your Honor.

22 THE COURT: You want me to say that?

23 MR. POLSINELLO: That would be great, Your Honor.

24 THE COURT: More than happy to do that.

25 MR. POLSINELLO: Thank you, Your Honor.

1 THE COURT: Okay. Anything else?

2 MR. POLSINELLO: Nothing from the State on this
3 issue.

4 THE COURT: What about -- anything?

5 MR. BOATWRIGHT: No, Your Honor.

6 MR. POLSINELLO: Your Honor, are we going to do
7 closing arguments now?

8 THE COURT: No. Unless you want to.

9 MR. BOATWRIGHT: Defense is ready, Your Honor.

10 MR. POLSINELLO: We're ready, Your Honor. But I
11 would ask for a bathroom break.

12 THE COURT: Yeah. What I'm going to do, you want to
13 take the bathroom break now or want to come back and rest
14 and put this on the record? I don't want to send them out
15 again. So what do you want to do?

16 MR. POLSINELLO: Whatever Your Honor thinks the best
17 route is.

18 THE COURT: Let's do bathroom breaks now. And then
19 when I bring them back and do this stipulation -- then
20 he's going to rest, I'll do the stipulation, and then I'm
21 going to say a couple things about closing arguments and
22 then I'm going to send it on to you.

23 MR. POLSINELLO: Does Your Honor need the charges?

24 THE COURT: Yeah. I was going to do that if you can
25 give me the charges.

1 You've seen the charges that he's prepared?

2 MR. BOATWRIGHT: I have not, Judge.

3 THE COURT: Now, it may not be exactly like what
4 you're giving me, Counsel, because, you know, I do my own
5 charges sometimes. But -- so, you know, it may not sound
6 like you. It may sound like me a little bit. But give me
7 what you've got.

8 MR. POLSINELLO: Your Honor, these charges that I'm
9 presenting the Court were taken essentially from the
10 judge's bench book.

11 THE COURT: Wasn't taken from my judge's bench book.

12 MR. POLSINELLO: Not Your Honor's.

13 THE COURT: It was taken from the one you looked at,
14 right? Whatever one you looked at.

15 MR. POLSINELLO: Your Honor, let the record reflect
16 that I've handed defense counsel a list of the State's
17 proposed charges as well as the charges themselves that
18 I'm handing the Court.

19 THE COURT: And Mr. Boatwright, you'll have an
20 opportunity to look at -- you and counsel, because after
21 closing arguments, obviously, we'll take a break in
22 between that. And then we'll have a charging conference
23 right after closing arguments so we can go through the
24 charges and see if he objects to any of the ones that you
25 submitted.

1 MR. POLSINELLO: Do we do the charging conference
2 before closing, Your Honor?

3 THE COURT: Is that when you want to do it?

4 MR. POLSINELLO: No. I'm asking Your Honor what Your
5 Honor prefers.

6 THE COURT: When do you want to do it,
7 Mr. Boatwright? I don't have a preference. You want to
8 do it before closing? And I understand why you're asking
9 that. I understand.

10 MR. BOATWRIGHT: Yeah. I think it would be best to
11 do it before closing, Your Honor, just so we know exactly
12 what the charge will be.

13 THE COURT: Okay. Well, let's take a bathroom break,
14 and then when we come back, we'll go through the charges
15 when we come back from the break, okay?

16 MR. POLSINELLO: Yes, Your Honor.

17 THE COURT: Fair enough? Okay.

18 (WHEREUPON, a recess was taken at 11:34 AM; Court's
19 Exhibit Number 3 was marked for identification.)

20 THE COURT: Let me ask you this. You shared the
21 charge with him?

22 MR. POLSINELLO: Yes, Your Honor. We shared the
23 State's proposed charges.

24 THE COURT: I haven't looked at it yet, but the
25 charge on circumstantial evidence, is that from the Logan

1 case, the one you sent me?

2 MR. POLSINELLO: Logan case.

3 THE COURT: You're not familiar with that?

4 MR. POLSINELLO: No, Your Honor.

5 If Your Honor's inclined, the case law where it says
6 that both direct and circumstantial are to be weighed the
7 same and that it's the jury's decision, like I'm familiar
8 with that.

9 THE COURT: No. And she's going to pull that up.
10 There is a -- hang tight.

11 (Pause in proceedings.)

12 THE COURT: I think the Court of Appeals -- here it
13 is. It's -- let me give you the cite. 405 S.C. 83. It's
14 a 2013 case. And it says -- and the reason I cite this
15 case, because I think there's a case that I -- a trial
16 that I presided over, and I charged the old
17 circumstantial. And I think this is the Court of Appeal
18 reversed and said that -- I'll read it. "In Logan,
19 Supreme Court held that the trial court should instruct
20 the jury with the following circumstantial evidence charge
21 when requested by the defendant." And it goes on and
22 says, "There are two types of evidence which are generally
23 presented during trial: direct evidence and
24 circumstantial evidence. Direct evidence proves the
25 evidence -- the existence of a fact and does not require

1 deduction. Circumstantial evidence is proof of a chain of
2 facts and circumstances indicating the existence of a
3 fact."

4 When you hear this, it almost sounds like the same
5 thing, but it's a little deviant.

6 And then it says, "Crimes may be proven by
7 circumstantial evidence. The law makes no distinction
8 between the weight or value to be given to either direct
9 or circumstantial evidence; however, to the extent the
10 State relies on circumstantial evidence, all the
11 circumstances must be consistent with each other, and when
12 taken together, point conclusively to the guilt of the
13 accused beyond a reasonable doubt. If these circumstances
14 merely portray the defendant's behavior as suspicious, the
15 proof has failed. The State has the burden of proving the
16 defendant guilty beyond a reasonable doubt." And then it
17 goes on.

18 This particular language in that case is the language
19 that they want us to use. So it might be a little
20 different than what you gave me, but this is what they
21 want to use.

22 If you sit down and look at that charge in the Logan
23 case and look at what's been used in the past -- I've got
24 a copy of it. Got a couple extra copies of it. This is
25 exactly from the case. I think Charles Gross, who you

1 might know who is an attorney, argued this very
2 successfully. But that's what it says in that case.

3 MR. POLSINELLO: Your Honor, the State has no
4 objection to this reading of circumstantial evidence and
5 supports the Court's judgment on this issue.

6 THE COURT: All right.

7 MR. POLSINELLO: Your Honor, I forgot to hand you up
8 the verdict forms ---

9 THE COURT: Okay. Thank you.

10 MR. POLSINELLO: --- a copy of which has been given
11 to defense counsel.

12 THE COURT: You've seen it, Mr. Boatwright?

13 MR. BOATWRIGHT: Yes, Your Honor.

14 THE COURT: We're going to go through the charges in
15 just a minute. Let the record reflect that the Court
16 intends to charge circumstantial evidence, the definition
17 as defined in State v. Logan which is found at 405 S.C. 83
18 which is a 2013 case. Both sides have indicated that they
19 have looked at that charge and are not opposed to the
20 Court moving forward with that charge.

21 Okay. So let's go through a couple things, a few
22 things before we get started here. And we'll just go
23 through it not in any particular order. Duties of the
24 trial judge, of course, that's -- you know, that's
25 standard. I'm going to run through that. I don't think

1 there's anything -- I may see a few other things in there,
2 but that's pretty much it.

3 I am going to talk about -- I'm going to get to that
4 charge, failure of the defendant to testify. Y'all are
5 familiar with that standard charge on that, aren't you?
6 Mr. Boatwright, y'all know what that charge is, right?

7 MR. BOATWRIGHT: Yes, Your Honor.

8 THE COURT: And then let's go to the indictments.
9 Looking at the indictment charge, the defendant was --
10 y'all have read that in terms of going through the
11 indictments. You're okay with that because that's what it
12 says.

13 MR. BOATWRIGHT: Yes, Your Honor.

14 THE COURT: Okay. Presumption of innocence, that's
15 pretty much of a standard charge I'm going to do.

16 MR. POLSINELLO: Your Honor, in terms of the
17 indictment ---

18 THE COURT: Go back. Okay.

19 MR. POLSINELLO: Again, Your Honor, for purposes of
20 the record and I know Your Honor already knows this, but
21 for Indictment Number 2020-GS-23-005244, possession of a
22 firearm by a person convicted of a violent crime, Your
23 Honor, we're already aware the jury is not going to hear
24 the name of that prior conviction, the violent crime.
25 We're going to stop when it says "wit." And I believe

1 Your Honor said you're just -- you're going to phrase it
2 as an incident.

3 THE COURT: Where are you reading on the indictment?

4 MR. POLSINELLO: So that William McKinney did in
5 Greenville County, on or about the 4th day of July 2020
6 possess a firearm and/or ammunition ---

7 THE COURT: Are you reading straight from the
8 indictment?

9 MR. POLSINELLO: Yes. I'm reading from the
10 indictment.

11 THE COURT: I'm looking at your charge. I don't have
12 anything in here that specifically gets into that. It
13 just says what the charges are, multiple charges, the
14 indictment, attempted murder, and then multiple charges.
15 That language you're talking about comes specifically from
16 the indictment. I'm going to not mention that in the
17 stipulation, but in the document you just gave me, it
18 doesn't have anything about that.

19 MR. POLSINELLO: I'm sorry, Your Honor.

20 THE COURT: We're on the same boat? same zip code?

21 MR. POLSINELLO: Yes. I'm confusing the stipulation
22 order that you're going to instruct the jury. I'm
23 confusing that. You're reading -- you're going through
24 the charges.

25 THE COURT: You're confusing Kool-Aid with sweet tea.

1 MR. POLSINELLO: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. POLSINELLO: I'm just being extra cautious that
4 that ABWIK name does not get out.

5 THE COURT: I understand. I understand. I've got
6 you.

7 Okay. All right. Presumption of innocence, that's
8 pretty standard. Everybody's good on that.

9 Reasonable doubt, you've heard that a number of
10 times. You know exactly what I'm going to say.

11 On the circumstantial evidence issue, I'm going to
12 get into direct and then I'm going to jump into what's in
13 the Logan case because I'll handle that part of it.

14 Credibility of witnesses, pretty standard. You know
15 what I'm going to say. I may even use the word
16 "believability" in there a little bit.

17 Expert witnesses, that's a standard charge.
18 Everybody knows that. You've seen it before.

19 Attempted murder with malice aforethought, I'm going
20 to go through this. If you look at the second page --
21 well, let's talk about something. You've got a charge
22 that specifically is talking about defining "attempt." I
23 don't have -- I'm going to define "attempt" and "intent,"
24 but a lot of those definitions are incorporated in the
25 charge itself. I'll get into it a little bit and I'll

1 sort of make it bleed into one another, but I'll cover it.
2 I'll cover "intent" and I'll cover "attempt." I'll cover
3 both of them, okay?

4 MR. POLSINELLO: Yes, Your Honor.

5 THE COURT: All right. And then with specific
6 intent, we'll cover all of that.

7 Now let me talk about this. Lesser included, is
8 there -- I think -- are we going to charge ABHAN?

9 MR. POLSINELLO: Yes, Your Honor. The State is
10 specifically asking Your Honor to charge ABHAN as a
11 lesser-included offense of attempted murder. And
12 obviously, that's stated ---

13 THE COURT: On your verdict form?

14 MR. POLSINELLO: Your Honor?

15 THE COURT: Let me see.

16 MR. POLSINELLO: Yes, Your Honor. On Verdict
17 Form 3 ---

18 THE COURT: Okay.

19 MR. POLSINELLO: --- you're going to see bold
20 language with exclamations for the jury that they only
21 fill that out if it's not guilty for attempted murder, if
22 Your Honor's satisfied.

23 THE COURT: Do you think you can make it any bolder
24 than that, Counsel?

25 MR. POLSINELLO: I would if I could, Judge.

1 THE COURT: I've got you. All right. Okay.

2 So Mr. Boatwright, you're okay charging ABHAN?

3 MR. BOATWRIGHT: Yes, Your Honor.

4 THE COURT: No problem with that.

5 Okay. And possession of a weapon during the
6 commission of a violent crime, that's a pretty standard
7 charge. We'll do that.

8 Possession of a weapon, on that particular charge,
9 I'm going to read the statute Subsection A, and then I'm
10 going to skip D. I don't think I need to say that because
11 that's primarily for the judge. And then I'll read that
12 paragraph on the bottom.

13 MR. POLSINELLO: Yes, Your Honor.

14 THE COURT: Is that all right?

15 MR. BOATWRIGHT: Yes, Judge.

16 THE COURT: All right. Self-defense, we -- that's
17 pretty boiler-plate standard language.

18 Anything in addition to that you would like, Mr.
19 Boatwright?

20 MR. BOATWRIGHT: No, Your Honor.

21 THE COURT: You're good with that?

22 MR. BOATWRIGHT: Yes, Your Honor.

23 THE COURT: And I'm going to read everything on here,
24 everything that was submitted.

25 Okay. I'm going to read it word for word.

1 MR. POLSINELLO: If Your Honor's inclined to.

2 THE COURT: Word for word.

3 MR. BOATWRIGHT: Yes, Judge.

4 THE COURT: Take a minute for this.

5 Then the statement of the defendant, that's one that
6 comes in occasionally. But you're okay with it?

7 Everybody's okay with this?

8 MR. BOATWRIGHT: Yes, Your Honor.

9 THE COURT: Okay. All right.

10 MR. POLSINELLO: Your Honor, did you have a multiple
11 charges instruction as well? Or is that not -- I think I
12 included that, yeah, on the second page, Your Honor.

13 THE COURT: Of the indictment? On the second page
14 of ---

15 MR. POLSINELLO: Right under "indictments."

16 THE COURT: Yeah, yeah. I saw that. Let me go back
17 to it.

18 MR. POLSINELLO: A multiple charges charge as well.

19 THE COURT: Yeah. I'm going to read all that word
20 for word.

21 MR. POLSINELLO: Thank you, Your Honor.

22 THE COURT: Okay. All right. Okay. And the verdict
23 form, let's see. Let me ask you this. How does the
24 statement that Mr. Boatwright made at the beginning that
25 his client wanted to plead guilty to that last charge, how

1 does that -- because you're asking the jury to make a
2 decision now. How do we navigate that? I don't want that
3 to be an issue on the appellate side.

4 MR. POLSINELLO: Your Honor, I think Your Honor has
5 ruled on that.

6 So obviously, during pretrial motion, defense counsel
7 made an argument that they felt they are entitled and want
8 to plead guilty to -- I want to state the indictment
9 number.

10 THE COURT: Yeah. But I think the State came back
11 and said they wanted a jury trial.

12 MR. POLSINELLO: Under South Carolina Rule of
13 Criminal Procedure, under Rule 14, it clearly states that
14 the Court and the State have to agree for that to happen.
15 And, Your Honor, these charges have been on the trial
16 docket now for a while. The case is 1,199 days old. They
17 could have pled a long time ago to that specific charge.
18 They never indicated to that specific charge of when and
19 where they want to plead. I feel, Your Honor, Your
20 Honor's already ruled on this.

21 THE COURT: All right. I understand. This is one of
22 these few cases in which the State comes in and wants a
23 jury trial. Very rarely the State comes in here and wants
24 a jury trial. This is one of these ones they want a
25 jury ---

1 MR. POLSINELLO: We want all charges brought, Your
2 Honor. We want the jury to decide all charges because
3 that's what was on the trial docket. That's what Your
4 Honor has read before opening arguments, both indictments
5 and all three charges, and we feel, based under the law,
6 it goes to the jury at this point.

7 THE COURT: All right. I agree. And I understand
8 you take exception to that.

9 MR. BOATWRIGHT: Yeah. We would just renew it,
10 Judge.

11 THE COURT: Yeah. And it's noted for the record.

12 MR. BOATWRIGHT: Thank you, Judge.

13 THE COURT: Okay. So what we're going to do is --
14 this is how we're going to do it. We're going to bring
15 the jury back in. Mr. Boatwright is going to rest on the
16 record. And I will read this stipulation to the jury.
17 Then you would go into closing arguments; is that correct?
18 It's lunch time, so do you want to do it after lunch? Or
19 what do you want to do? Because y'all are going to be
20 pretty long.

21 MR. POLSINELLO: The State's ready. If the Court
22 would like to get opening arguments done, we're ready.

23 THE COURT: You mean closing arguments.

24 MR. POLSINELLO: I'm sorry. Closing arguments.

25 MR. BOATWRIGHT: The defense is ready as well, Judge.

1 But I do agree. I think it will be a ---

2 THE COURT: It will take a little while to get the
3 food anyway. So we can probably go ahead and go into
4 closing arguments.

5 Okay. All right. Bring them in.

6 (WHEREUPON, the jury entered the courtroom at 12:13 PM.)

7 THE COURT: All right. Let's go back on the record.

8 Mr. Boatwright, is the defense ready to proceed?

9 MR. BOATWRIGHT: Yes, Your Honor. At this time the
10 defense rests.

11 THE COURT: All right. Thank you, sir.

12 Ladies and gentlemen of the jury, before we get into
13 closing arguments and our comment on that in just a
14 second, the lawyers, both sides, at the beginning of the
15 trial, entered into an agreement. And you probably heard
16 the word "stipulation." And a stipulation is it's no more
17 than an agreement. And I'm going to read that stipulation
18 to you as it relates to this case. It says, "The above
19 defendant has been charged and is on trial for attempted
20 murder, possession of a weapon during the commission of a
21 violent crime and possession of a firearm by a person
22 convicted of a violent crime for a shooting that happened
23 in Greenville County on July 4, 2020. Indictment Number
24 2020-GS-23-005244 Subsection A is for possession of a
25 firearm by a person convicted of a violent crime. The

1 prior crime that the defendant has been convicted of stems
2 from a February 14, 2006, incident." That is the
3 stipulation that both sides have agreed and that is made a
4 part of the Court's record by being Court's Exhibit
5 Number 2.

6 All right. Okay. Now, I know you have been paying
7 attention, and I appreciate the fact that you have. But I
8 really, really want you to pay attention to what's
9 getting ready to happen going forward. Not that what you
10 didn't hear wasn't important, but I really need you to
11 focus in.

12 You have heard all of the testimony that you're going
13 to hear. You've also seen all of the evidence that's been
14 presented, whether that evidence was in the form of
15 witnesses' testimonies, physical evidence in terms of
16 sketches, videos, all of that information, the things that
17 are on that table sitting in front of you. All that's the
18 evidence. Now we get to the juncture or the portion of
19 the trial that's called closing arguments by the
20 attorneys.

21 In the beginning the lawyers gave you back on -- I
22 think we started on Monday, I believe it was. On Monday
23 the lawyers gave you opening statements. And at that time
24 I told all of you that opening statements was what the
25 lawyers were going to tell you from both sides, the State

1 as well as the defendant, what they thought that the
2 evidence that would be presented would show. And that's
3 what they said. I told you at that time do not attach any
4 significance to opening statements. They're not evidence.
5 They're not evidence just like these two indictments that
6 I have in my hand are not evidence. Don't attach any
7 significance to that. You can listen, but obviously,
8 don't attach any significance.

9 Now, after three or four days, all of the evidence
10 has been submitted. The lawyers get to tell you, okay,
11 we've received all the evidence, we've heard all the
12 testimony, here's where we think it goes. That's called
13 closing statements.

14 Closing statements is still not evidence. It's just
15 the lawyers' opportunity to tell you where they thought
16 the evidence that was received and where it led to. So
17 we're going to go directly into that.

18 Is the State ready to proceed?

19 MR. POLSINELLO: State's ready, Your Honor.

20 THE COURT: Defendant's ready to proceed?

21 MR. BOATWRIGHT: Yes, Your Honor.

22 THE COURT: All right. Okay. Mr. Polsinello. Yes,
23 sir. The State has the burden so they go first.

24 MR. POLSINELLO: May it please the Court.

25 THE COURT: Yes, sir.

CLOSING ARGUMENTS

1
2 MR. POLSINELLO: Good afternoon, ladies and gentlemen
3 of the jury. On Monday I told you all this wasn't going
4 to be a crime of if the defendant did it or how he did it.
5 I told you that on Monday. And now you can see why. It's
6 on video. It's clear on video. You heard from multiple
7 state witnesses what happened. I guess in some cases
8 there may be a question did the defendant do it? Was he
9 there? Not in this case, ladies and gentlemen. We know
10 this defendant violently shot at the victim, Monieque
11 Greene, hitting him three times, nearly costing Monieque
12 Greene's life.

13 And in a moment, defense counsel is going to ask you
14 to justify this. He's going to ask you and tell you the
15 defendant was justified in doing this, this bloody mess
16 that you see right there, that the defendant should be
17 found not guilty. Well, the State is here, ladies and
18 gentlemen, to tell you confidently, based on the mountain
19 of evidence that we have here, what you know happened to
20 Monieque Greene. You can be absolutely, firmly convinced
21 of what happened and why the defendant should be found
22 guilty of attempted murder, possession of a weapon during
23 the commission of a violent crime, and the charge of
24 possession of a weapon by a person convicted with a prior
25 felony, a prior violent crime. And I'm going to show you

1 why that is.

2 This is specific intent all day, ladies and
3 gentlemen. Forensic evidence doesn't lie. Positioning of
4 shell casings doesn't lie. The video doesn't lie. Video
5 is often described as a silent witness because it can't
6 lie. And you know and we saw and you can see from this
7 photo that the defendant's back was turned. You know
8 Carlos Jenkins was essentially right behind the defendant.
9 When the defendant gets shot twice, look where the
10 defendant shoots. Look who gets hit in this case. Look
11 where the damage is done. Carlos Jenkins never gets shot
12 with a live around. Monieque Greene standing at the side
13 gets shot. That's a near 90-degree angle.

14 So if there's a threat behind you and you know -- the
15 defendant knew Carlos was behind him with that shotgun,
16 it's on video, we've heard witnesses testify, you get
17 shot, you know that guy has a shotgun right behind you and
18 you have a gun and you're a law-abiding citizen and you're
19 using valid self-defense, wouldn't you shoot that threat
20 that shot at you first? Why would you turn a near
21 90-degree angle and unload six times, hitting the victim
22 three times? What's the intent?

23 The intent is there all day. Because remember, at
24 4:05 on the time stamp when the victim is clogging up the
25 traffic -- when the defendant's clogging up the traffic,

1 Monieque Greene, the victim, approached him, said, "Sir,
2 you've got to move your car," and the defendant brandished
3 his gun and flashed his gun and says, "You're not the only
4 one with a gun here."

5 The defendant knew Monieque Greene. He saw him.
6 They had an interaction at 4:05. And obviously, that's a
7 threatening action when anyone would brandish and present
8 you a gun and make a threat. It's absolutely reasonable
9 to perceive that person as a credible threat.

10 And who got shot in this case? The person that the
11 defendant brandished the gun to. By now we know the
12 positioning of everyone and what happened.

13 In terms of this property line issue, this was all
14 smoke and mirrors, ladies and gentlemen, by the defense
15 attorney. They're trying to take your focus off this
16 case. Here's the case. It's attempted murder. It's what
17 happened to Monieque Greene. This property line issue,
18 that's a civil issue. The defense attorney is trying to
19 bring that in to distract you from the real issues of the
20 case.

21 And we know that -- actually, we don't know where the
22 property lines are. There's never been anyone that came
23 in here from zoning ordinance saying where the property
24 lines were. And we know this vacant Chinese restaurant
25 was not in business and that it was common practice for

1 the patrons at Club Dolce to flow into the parking lot and
2 in the side of the building. There is no boundaries
3 separating property lines. So don't be -- don't let this
4 property line dispute in terms of where it occurred
5 distract you from the actual charges, because it's
6 irrelevant. It has nothing -- it doesn't negate the
7 defendant's criminal violent conduct. Even if it did
8 occur on another property line, why should that excuse
9 what happened to the victim, Monieque Greene? It's not an
10 excuse under the law for attempted murder.

11 We know this (indicating) is the defendant. You can
12 see him clutching on his right hand because that's where
13 the gun was. There's (indicating) the defendant after the
14 police chase. Same guy that had the gun on him that shot
15 Monieque Greene and ran from law enforcement. There he
16 his, the black shorts, the red Adidas stripe, the pieces
17 of the teared [sic] undershirt. They're all in here. You
18 got your shooter.

19 They're going to claim self-defense or imply it. The
20 State's here confidently telling you the defendant fails
21 the self-defense test multiple ways. Not one way, not two
22 ways, but three ways. Absolutely no legitimate
23 self-defense claim in this case based on the evidence and
24 facts. And we're going to find out why.

25 Under the law, self-defense test is a four-factor

1 test. Jackson v. State, State v. Brunor, the defendant is
2 entitled to self-defense if there's evidence establishing,
3 one, he was without fault in bringing on the difficulty.
4 So someone who's claiming self-defense, you can't bring on
5 the difficulty. This is per the law.

6 Number two, a person who's claiming valid
7 self-defense has to believe that they were in imminent
8 danger of losing their life or sustaining serious bodily
9 injury.

10 Number three, the person has to have no means of
11 avoiding the danger. The person had to have no means of
12 avoiding the danger.

13 And number four, that a reasonably prudent person of
14 ordinary courage and firmness, a law-abiding citizen, if
15 you will, that they would have entertained the same belief
16 as the defendant under these facts, would that person have
17 done the same actions as this defendant?

18 The defendant has to meet all four. You have to
19 check off all four. Not one of those, not two and not
20 three, but he must meet all four. And the State is here
21 to show you why he fails three.

22 He was with fault in bringing on the difficulty to
23 himself. He did have means of avoiding this danger. And
24 a reasonably prudent person of ordinary courage and
25 firmness, a law-abiding citizen, would not have

1 entertained the same belief as this defendant and done the
2 same actions. And here's why. He was at fault in
3 bringing on the difficulty to himself. Why? Multiple
4 testimonies up here he was at the club prior and he left
5 on a motorcycle. He came back to the club around 4 a.m.
6 with a gun. If you're home, if you leave a club, you come
7 back while the club's closing with a gun, why? What's the
8 person's intent and motive in doing that? He could have
9 stayed home. There's ill intent there all day.

10 Also, it has been stipulated -- as His Honor just
11 informed you all, it's been stipulated, agreed to by both
12 parties that on this incident night, the defendant was a
13 felon. He had a prior conviction of a violent crime on
14 his record. That's been stipulated and agreed to by both
15 parties, and now you the jury know that. Why would a
16 person with a conviction for a violent felony on their
17 record leave their home and come back to a club with a
18 gun? What's their motive, intent in doing that?

19 This would have never have happened if he stayed
20 home. No one forced him to come back to the club. And
21 even if coming back to the club, which we saw at 4 a.m.,
22 he shouldn't have had a gun on him, and now you know that
23 because he has the prior conviction of a felony on his
24 record. So he himself is doing something illegal. Before
25 the shooting even happened, he's doing something illegal,

1 violent. Again, smoke and mirrors by the defense counsel.

2 In terms of SLED certification, we know South
3 Carolina Security Services was SLED certified. SLED
4 approved them on this night, so the company was valid. We
5 know Carlos Jenkins was SLED certified. There's a lot of
6 requirements in doing that. The fact that Monique Greene
7 and the other security guard were not SLED certified, that
8 has nothing to do with the defendant's decision to bring a
9 gun to the club and commit the violent act that he did.
10 It's just the defense attorney trying to distract you from
11 the heart of the issues in this case.

12 This all could have been avoided, ladies and
13 gentlemen, by the defendant's own actions. When we grow
14 up, aren't we told there's consequences to our actions and
15 decisions? Children are taught that. What about now?
16 Now it's in play.

17 He fails Factor 1, again, in bringing on this
18 difficulty to himself because he flashed his gun at
19 Monique Greene right here (indicating) in this image. He
20 didn't have to do that. Arguably, this could have never
21 -- maybe have never happened if he didn't do that.

22 Anyone in law enforcement, anyone doing security
23 services responsible for protecting a group of people, if
24 someone comes up -- if they're doing their job and someone
25 comes up and flashes a gun and drives off, it's absolutely

1 reasonable for security and law enforcement to coordinate
2 and keep eyes on that person.

3 You heard testimony from Mr. Greene he didn't have an
4 opportunity to approach the defendant when he did this or
5 confiscate the weapon because the defendant drove off
6 right away, and you see that on the video. The video
7 doesn't lie.

8 And this is the moment right after here is when the
9 defendant parks under that stop light at 4:06 a.m. And
10 you heard testimony from Carlos he saw the defendant with
11 the gun. So there's ample reason, absolute reasonable
12 reason for these security guards to feel heightened, to
13 feel on alert. Because they're entrusted with the
14 protection of all those patrons. So they're not just
15 thinking about themselves. There's many other people
16 there. The defendant was at fault in bringing on this
17 difficulty to himself.

18 He's at fault, again, in bringing on this difficulty
19 to himself regardless if it's show me your hands or get
20 your hands out of your pockets. It's the same thing.
21 It's virtually the same things. And there's multiple
22 witnesses who stated that, ladies and gentlemen. In fact,
23 there's about five witnesses who stated that. We have
24 Carlos Jenkins stated that he gave multiple commands to
25 let me see your hands. That's one person. Monique

1 Greene stated he heard that. That's two people. And then
2 those three bystanders that you saw on Deputy Neal
3 Norris's body camera, they all stated they heard, "Show me
4 your hands. Show me your hands. Show me your hands."
5 That's five people, five independent witnesses to confirm
6 the defendant was given multiple opportunities to show him
7 his hands. And on Monday I did that. I did that in front
8 of you all. All the defendant would have to do is this
9 (gesturing). That's all he had to do. This would have
10 never have happened.

11 You heard from Mr. Greene and Mr. Jenkins. They
12 didn't want this to happen that night. They never
13 intended on that. Their only intent was to de-escalate
14 the possible threat that this defendant presented, and we
15 know now he did absolutely present a threat. Felon coming
16 back to a club in possession of a gun illegally and he
17 shot at Mr. Greene multiple times, the only one to get
18 shot with a live round in this case.

19 Would a law-abiding citizen, a person of ordinary
20 firmness and courage, would they have done the same things
21 as the defendant in this case? Absolutely not.
22 Absolutely not. We'd like to think better of that with
23 the average citizen and the people.

24 Again, all he had -- all the defendant had to do,
25 even if the gun is in here, this is the gun, all he had to

1 do was this (gesturing). Why didn't he do that?

2 This is not a Second Amendment case. The Second
3 Amendment is a very important amendment in this country.
4 It's arguably one of the top ten most important amendments
5 or Bill of Rights. Absolutely, any law-abiding citizen
6 who wants to own a firearm should have the opportunity to
7 do that and should feel safely and secure in doing that.
8 But this defendant's a convicted felon illegally in
9 possession of a weapon. This isn't about his right to
10 have a firearm is what they're going to want to tell you
11 and that he was just walking away. He was already
12 engaging in illegal activity with ill intent brandishing a
13 gun at Monieque Greene at 4:05, getting in "beef"
14 allegedly with some people in the club, leaving and coming
15 back. That's all ill intent. This all could have been
16 avoided by this defendant.

17 Got his hand in his pocket clutching on that gun.
18 Multiple commands to take your hands out of your pocket.
19 Multiple commands. Remember, Carlos had a .45 live-round
20 gun on him. He didn't have that out. Carlos didn't have
21 any ill intention. And we know in that shotgun it was not
22 real live ammo. It was a less-lethal orange rubber
23 bullet, orange rubber ball, which is in here. Carlos's
24 only intention was to get that weapon away from the
25 defendant.

1 The defendant would not take his hands out of his
2 pockets clutching on that gun. So easy. All of this
3 could have been prevented.

4 And look who receives the damage. Again, not the
5 possible interpreted threat of Carlós, but Monieque Greene
6 who's standing at a near 90-degree angle.

7 And then we see the defendant running. The defendant
8 doesn't remain at the scene. He runs. And we're going to
9 get to why he ran.

10 There's Monieque Greene, lying in his own pool of
11 blood.

12 So the defendant fails the self-defense factor test
13 numerous ways. He left the club, came back. He could
14 have stayed home. Not only did he come back, but he came
15 back with a gun. Leave the gun home. He flashed the gun
16 at Monieque and said, "You're not the only one with a
17 gun." That's in Monieque's statement. Monieque testified
18 to that today. Monieque is telling the truth.

19 All the State witnesses are telling the truth about
20 what happened and how these events unfolded. They have
21 nothing to hide. You've heard them admit he wasn't SLED
22 certified. He didn't have a CWP. Absolute truth and
23 honesty. So everything that they're telling you about
24 leading up to the event is also the truth. The defendant
25 was at fault, failing self-defense.

1 The third test -- element in the self-defense test,
2 the defendant is entitled to self-defense if there's
3 evidence establishing he had no means to avoid this
4 danger. The same exact reasoning for the failing of the
5 Factor 1 test can be applied in the Factor 3 element part.
6 Same exact reasons why there was absolute means to avoid
7 this danger. The same exact reasons. All this easily
8 could have been avoided by this defendant.

9 In the 9-1-1 calls that you guys heard on Monday, a
10 9-1-1 caller states, "The man never took his hands out of
11 his pockets." The 9-1-1 caller stated that.

12 One of these ladies called 9-1-1, and you saw them on
13 the body cam four or five minutes when officers arrive on
14 scene. She stuck to that. They stuck to that. They're
15 absolutely certain this defendant was given multiple
16 commands to get your hands out of his pockets. And again,
17 I've already stated this, but there's five, five
18 independent witnesses who confirmed that. That's a lot,
19 ladies and gentlemen. You don't need any more.

20 Defense might bring up look at all these guys over
21 here in this photo. Look at all these patrons. Law
22 enforcement could have got their statements. It's a
23 ridiculous argument because now, if you don't know
24 yourself, you've heard from witnesses, this night club
25 life, it can be dangerous. It can be sketchy. It's the

1 type of people that aren't going to want to cooperate with
2 law enforcement, that when violent shootings occur, they
3 flee. And we saw that on the video. You saw when the
4 shooting occurred all those cars go. And it's a chaotic
5 scene. Absolutely chaotic.

6 Investigator Bryson's body-worn camera, when he
7 arrived on scene, he's by himself. He had no backup.
8 It's not reasonable or feasible for him to get a
9 statement, to go to these people. His primary concern, as
10 you heard, securing the scene, protecting himself. The
11 shooter was active. It's a lot going on, ladies and
12 gentlemen.

13 Law enforcement did get witness statements in this
14 case. There's at least five. And again, the video
15 doesn't lie.

16 The defendant is entitled to self-defense if a
17 reasonably prudent person of ordinary courage and firmness
18 would entertain the same belief about the danger. Would a
19 law-abiding citizen have done the same actions? The
20 State's up here confidently telling you no. The
21 defendant's actions that night, inexcusable. Inexcusable
22 and preventable.

23 It's not reasonable to leave the club and come back
24 with a gun when you have a conviction of a violent crime
25 on your record and you know you're possessing that gun in

1 violation of the law. It's not reasonable to flash a gun
2 at security trying to intimidate them. Monieque, no
3 evidence. He didn't flash his gun. He's just trying to
4 tell the defendant move along. You've got to move your
5 truck. The defendant -- that's the defendant's first
6 reaction is to brandish a weapon. It's not reasonable to
7 keep your hands in your pockets if law enforcement or
8 security, if you're at any business, ask you to take your
9 hands out of your pockets. What's the big deal about
10 doing that? Why is that so difficult? It's not.

11 So the defendant fails this test in the self-defense
12 testing. Numerous fails. He was with fault in bringing
13 on the difficulty to himself. He had no means of avoiding
14 the danger and a reasonably prudent person of ordinary
15 courage confirm this, a law-abiding citizen would not have
16 entertained the same belief or done the same actions. The
17 State's just got to prove one. We've proved three.

18 Specific intent, attempted murder.

19 So in a moment, His Honor is going to give you all
20 the instruction on the law. And His Honor's instruction
21 on the law, that's what matters. That's what controls.
22 The State's here just to briefly give you guys a heads-up,
23 an idea of what to expect and why, based on all this
24 evidence, when you take the evidence and apply it to the
25 law, apply it to the elements that you're going to get

1 instructed on, why the defendant, why you can be firmly
2 convinced that he is guilty for what he's on trial for
3 this week. Because specific intent is that intent that
4 results which actually occurs not accidentally or
5 voluntarily.

6 So we know what results occurred. We know that at
7 almost a 90-degree angle the defendant shoots up not once,
8 not twice, but three times, hits the victim, Monieque
9 Greene. It's a good shot. You've got to have some
10 specific intent to do that. Ask yourselves if a club
11 patron or a bystander way in the back got hit, this would
12 be a whole different conversation. I don't know if we'd
13 be talking. But this specific individual who the
14 defendant flashed his gun at is the one that was struck
15 three times. That's intent.

16 It can be shown by acts and conduct of the defendant
17 or circumstances from which you may naturally and
18 reasonably infer intent. And that's what the State is
19 asking you, that throughout all this conduct, what you've
20 seen on video and the evidence, that you can reasonably
21 infer and it's natural for the defendant to turn around a
22 near 90-degree angle and shoot his intended target.

23 Intent may also be inferred from the defendant's own
24 conduct. And that's what we're asking you and showing
25 you, based on the evidence and the law of why the

1 defendant's guilty. Because this whole case is about the
2 defendant's conduct and his actions. None of this is an
3 accident. You already know how it could have been avoided
4 and prevented.

5 So you are absolutely allowed to infer specific
6 intent from his conduct. The law allows it. Why the
7 defendant had specific intent: left the club, came back,
8 came back with a gun, circling the club multiple times
9 when he could have parked. Again, smoke and mirrors.
10 Smoke and mirrors in terms of how wide the Ford 450 is.

11 Have you ever seen a truck -- big truck like that
12 park in a spot before? Absolutely, they can park in its
13 own spot. You saw all those vacant spots in the front of
14 the club and even in the side. The defendant did not
15 choose to park right away. He circled. He circled for
16 nearly six minutes. Something was going on. What was
17 that prior beef that the defendant was in? Who was he
18 looking for?

19 He flashed his gun at Monieque stating, "You're not
20 the only one with a gun." That's intent. Did not take
21 his hands out of his pockets when given multiple chances
22 to do so. Intent. Again, convicted violent felon, it's
23 illegal for him to possess a gun, yet coming back to the
24 club as it was closing. Intent. Conscious decision to
25 have that gun on him.

1 There he is circling. Look at all those parking
2 spots. Why didn't he park? He could have. He absolutely
3 could have. He had other means that night.

4 Right here, right here is a critical moment that
5 would change the course of this case. Who flashes a gun
6 at security when you're going to a business, private
7 business? If you're going to a club, a grocery store,
8 getting whatever your objective is, whatever you intend to
9 get on a good-faith basis, you don't flash a gun. You
10 have to have other motives, intent in order to do that.
11 This is where Carlos has eyes on the defendant and sees
12 the gun.

13 So we know that's the defendant's truck. You're
14 telling me that couldn't fit in a spot? Look at all that
15 room to the left of it. Absolutely could have parked at
16 4 a.m., 4:01 a.m., 4:02 a.m., 4:03 a.m., 4:04 a.m. Could
17 have parked anytime.

18 Again, specific intent. Angles matter. Angles
19 matter. That's a large angle, ladies and gentlemen. If
20 there's a threat behind you and you have reason to believe
21 you're under a threat and you get hit and you're lawfully
22 and legally allowed to own a firearm and fire back in
23 self-defense because there was no other means to avoid it,
24 you terminate, you shoot that threat that's behind you.
25 The defendant never shot Carlos. He intended to shoot

1 Monieque Greene, and his objective was accomplished.
2 Mission accomplished as Monieque Greene lies in his own
3 pool of blood fighting for his life.

4 Again, there's another angle showing you the
5 absurdity in this whole thing at the hands, at the choices
6 of this defendant.

7 Monieque Greene was nowhere near Carlos. If Monieque
8 Greene was near Carlos, they may have a reasonable
9 argument whatever they're about to say. That's not the
10 truth. That's not the evidence. That's not what
11 happened.

12 In a moment His Honor is going to charge you on
13 attempted murder. Attempted murder is a person who, with
14 intent to kill, attempts to kill another person with
15 malice aforethought, either expressed or implied. They
16 commit the offense of attempted murder.

17 So let's look at the beginning of that. A person
18 who, with intent to kill or attempts to kill another
19 person. Check that off. You know the defendant attempted
20 to kill Monieque Greene.

21 So what's malice aforethought? Malice aforethought
22 is hatred, ill will or hostility towards another person.
23 It's the intentional doing of a wrongful act without just
24 cause or excuse and with an intent to inflict an injury or
25 under circumstances that the law will infer an evil

1 intent. There must be a combination of the previous evil
2 intent and the act. Ladies and gentlemen, all the
3 evidence, all the arguments that the State made absolutely
4 confirms attempted murder. You can be confident of that
5 and firmly convinced.

6 Through the defendant's actions, did he have hatred,
7 ill will or hostility towards another person? Is it
8 hostile if you're a convicted felon to bring a gun to a
9 club that you know you should not be in possession of? Is
10 that a hostile act? Yes, it is. Is it a hostile act to
11 flash your gun at security and say, "You're not the only
12 one with a gun in the club"? Is that a hostile act? Yes,
13 it is.

14 If you're in illegal possession of a gun, you know
15 you are. You probably know club security knows you have
16 it. And you're given multiple commands to take your hands
17 out of your pockets and you don't and you're clutching on
18 it about to take it out, can that be interpreted as
19 hostility to security? Absolutely, it can.

20 Malice aforethought may be inferred from the
21 defendant's conduct showing a total disregard of human
22 life, absolutely checked and hit off on this case. You
23 can infer under the law the defendant's conduct, how it
24 shows a total disregard to the value of human life.
25 That's the human life right there (indicating), ladies and

1 gentlemen, Mr. Greene. Not once, not twice, but three
2 times. Absolute disregard. And then fleeing the scene.
3 You're allowed to examine the physical actions and conduct
4 of the defendant in deciding if there's a disregard of
5 human life in this case, and there is.

6 An attempt is an effort to accomplish a crime which
7 does not succeed. So obviously, the victim was not
8 murdered. And that's why he's been properly charged with
9 attempted murder, because the defendant attempted to do it
10 under the law. He attempted to kill the victim but did
11 not succeed.

12 Intent may be shown by acts and conduct of the
13 defendant and other circumstances for which you may
14 naturally and reasonably infer intent. And we've already
15 hit on that and proven that.

16 Okay. In a moment, His Honor is going to read to you
17 a lesser-included charge called assault and battery of a
18 high and aggravated nature. In terms of the spectrum of
19 the law, if this is attempted murder up here, assault and
20 battery of a high and aggravated nature under the law is
21 considered a lesser charge, a lesser-included offense.

22 And let's look at assault and battery of a high and
23 aggravated nature. It's when a person unlawfully injures
24 another person and great bodily injury occurs or the act
25 is accomplished by means to likely produce death or great

1 bodily injury.

2 So what's great bodily injury under the law? It's
3 that type of bodily injury which causes a substantial risk
4 of death which causes serious, permanent disfigurement or
5 protracted loss or impairment of the function of a bodily
6 member or organ.

7 So you the jury know now, you can feel confident that
8 victim Monieque Greene absolutely experienced great bodily
9 injury with what he had to go through: the protracted
10 loss in movement, he was in a wheelchair, all that.

11 Ladies and gentlemen, the State's up here to tell you, you
12 don't have to resort to that because the State feels
13 there's absolutely sufficient evidence beyond a reasonable
14 doubt you can be firmly convinced that the defendant is
15 guilty of attempted murder.

16 I guess if you want you can find the defendant guilty
17 of ABHAN. The State's confident -- and you're going to
18 get the instruction of ABHAN and that you're allowed to
19 find him guilty of ABHAN if you choose to. The State's up
20 here respectfully asking you, based on the law and the
21 evidence and applying it to the elements and you being
22 firmly convinced of what happened, the only true and just
23 verdict in this case is that guilty verdict for attempted
24 murder.

25 The defendant has been charged with possession of a

1 weapon during the commission of a violent crime. It's
2 pretty self-explanatory. You can't be in possession of a
3 weapon and commit a violent crime. In a moment His Honor
4 is going to explain this to you and you can be rest
5 assured attempted murder and ABHAN, assault and battery in
6 a high and aggravated nature, they are violent crimes
7 under the law of the state.

8 So we know the victim was shot by this defendant not
9 once, not twice, but three times while the defendant was
10 illegally in possession of a weapon. He was in possession
11 of a weapon. If you hear any arguments about self-defense
12 or his right to self-defense, that's essentially admitting
13 what happened on camera and the defendant being in
14 possession of that weapon. So that charge is proven.

15 The next charge is unlawful possession of a firearm
16 by a person convicted of a violent offense. As you know
17 in the beginning, the defense and the State, we've
18 stipulated, we've agreed and acknowledged that during this
19 incident, the defendant had a prior conviction of a
20 violent crime when this occurred. So the State's already
21 proven this charge. We've proven it because they've
22 stipulated to it and you know the defendant was in
23 possession of a weapon when he committed this crime.

24 If lawfully acting in self-defense as a reasonable,
25 prudent person of ordinary courage and firmness, a

1 law-abiding citizen, when you need to use self-defense and
2 you do, why run? Flight can be considered as evidence of
3 guilt. That's the law, ladies and gentlemen. State
4 v. Pagan. Evidence of flight has been held to constitute
5 evidence of the defendant's guilty knowledge of intent,
6 State v. Pagan. So you the jury are allowed to consider
7 flight as evidence of guilt, and the State's asking you to
8 do that.

9 People, law-abiding citizens, responsible citizens
10 who own firearms and have to use valid self-defense,
11 defense counsel wants you to include this defendant and
12 his actions into that pool, into that exception as
13 justified in this case. And the State's here to tell you
14 confidently that is not the law and that would not be a
15 just decision to do. Where's the gun? Where's the
16 defendant's 9 millimeter that he shot six times? If
17 lawfully acting in self-defense and running and we saw him
18 eventually get cornered at Dixie Estates, why didn't he
19 have the gun on him? He ditched it. He's ditching
20 evidence. Why get rid of the gun if you're acting
21 lawfully? You heard from Deputy Pittman when the
22 defendant was arrested, he didn't have a gun on him. They
23 never found a gun. Conscious decisions. And there's
24 consequences for your actions.

25 Here he is even after the shooting continuing to run.

1 Why won't the defendant get out of the car right now and
2 go like this (gesturing)? Why won't he get out? They'll
3 probably tell you he's scared. He's scared. He's on the
4 run. Law-abiding citizens don't run from the law, ladies
5 and gentlemen.

6 Still running. Still running. And we know that
7 that's not his home. His home is -- it's a scary thing
8 he's trying to get in that home. Still resisting. None
9 of this is reasonable. None of this is reasonable actions
10 by the defendant. And it all absolutely clearly explains
11 all the evidence that's already in here, what his intent
12 was, what was going on in his mind.

13 This is the likely path of his flight, hopping this
14 fence, running and then getting in that BMW. We're going
15 to talk about that real quick.

16 There's the part from his shorts that was ripped, the
17 shorts right here that have that missing rip. Part of
18 that shorts is right here, confirming the defendant, IDing
19 him. There he is. There he is from the back angle,
20 running.

21 Now, in a moment you'll probably hear he ran because
22 he was scared. They're going to tell you he was scared.
23 He was being fired upon. But that's because of his
24 actions. Remember, all this could have been avoided and
25 prevented, and that is the heart of this case.

1 Reasonable doubt, the State under the law, we have to
2 prove to you the jury why the defendant is guilty of these
3 charges beyond a reasonable doubt based on the evidence.
4 You already have seen the evidence. This isn't a question
5 of if the defendant did it or where was he. Reasonable
6 doubt, and His Honor is going to explain this to you in a
7 moment, is that type of doubt which leaves you firmly
8 convinced of the defendant's guilt for the charges which
9 he is on trial on. And the State is up here telling you,
10 ladies and gentlemen, we've met that burden. You can be
11 firmly convinced. This isn't a question of if he did it
12 or where was he. The evidence is here. Videotape is
13 often referred to as a silent witness. Why? Because
14 videotape doesn't lie.

15 (Pause while a video was played in open court.)

16 Y'all ain't caught him? He's trying to throw law
17 enforcement off the track. The defendant clearly knew
18 what he just did at Club Dolce: shot the victim three
19 times and then ran. Ran pretty far. Ran extensive, even
20 getting into someone's BMW, leading on a two-,
21 three-minute police chase. Y'all ain't caught him yet?
22 What's the intent? What's the motive behind saying that
23 to law enforcement?

24 (Pause while a video was played in open court.)

25 He didn't do shit. He didn't do nothing. What does

1 that say about the value of Monieque Greene's life as
2 Monieque Greene's lying in his own pool of blood trying to
3 fight for his life?

4 (Pause while a video was played in open court.)

5 Again, trying to mislead deputies as they're
6 investigating. It's a chaotic scene. It took over an
7 hour to put the pieces together. He's misleading them.

8 (Pause while a video was played in open court.)

9 Where's the gun, the gun that you just shot Monieque
10 Greene with three times, which you're claiming
11 self-defense? Where's the gun? Ladies and gentlemen,
12 isn't that important if you're a law-abiding citizens and
13 you're claiming self-defense and the shooting happens to
14 produce that weapon to law enforcement? Why hide it? It
15 just magically disappeared in this case? That's what the
16 defendant wants you to accept. None of it makes sense.
17 None of it adds up. It's all intent this whole time being
18 in the back of this car.

19 (Pause while a video was played in open court.)

20 It's not worth dying for. He's not dying in the back
21 of the patrol car. He didn't get hit with live rounds.
22 Is he referring to the victim who's nearly dying?

23 (Pause while a video was played in open court.)

24 Where's that gun? He got rid of it during the chase.

25 (Pause while a video was played in open court.)

1 Ladies and gentlemen, the State has presented its
2 case. You can be absolutely firmly convinced that the
3 defendant should be found guilty of all three charges in
4 this case: attempted murder, possession of a weapon
5 during the commission of a violent crime and possession of
6 a weapon by a person convicted of a prior violent crime.
7 The evidence is here. The video doesn't lie. Multiple
8 witnesses presented to you all week.

9 Trials in America are about justice, and every
10 defendant should be afforded his right to a fair trial,
11 entitled to all the Bill of Rights, the protections of the
12 Constitution. But justice cuts both ways, ladies and
13 gentlemen, up to a certain point when the State proves a
14 crime committed and the evidence is there to leave you
15 firmly convinced.

16 There's justice for other people in this case, too.
17 Justice for the victim, for the people and the State. And
18 there's only one true and just verdict in this case,
19 ladies and gentlemen, and that's a verdict of guilty on
20 all counts.

21 The State really appreciates your time. I know it's
22 been a long week. You've been away from your families and
23 your jobs, but true justice cannot happen without you and
24 your decision to come together. The State appreciates
25 your time and effort in this case.

1 Thank you.

2 THE COURT: All right. Mr. Boatwright.

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

5 THE COURT: Yes, sir.

6 MR. BOATWRIGHT: Can everybody see this board? If
7 you can't see it, raise your hand for me.

8 All right. So I'm up here with a bunch of smoke and
9 mirrors, but the State's up here not showing you
10 everything. You've seen the trial. You've watched the
11 videos. The State jumped around in those videos an awful
12 lot. Myself and Will Hellams had to come up here and show
13 you the actual parts of the video. Why? Let me tell you
14 why. Because the State knows that they don't have the
15 evidence to prove this case. And that's why they made you
16 sit here all week and they introduced 140 pieces of
17 evidence, a bunch of pictures, shell casings, basketball
18 shorts.

19 William McKinney was at Club Dolce, and William
20 McKinney returned fire because he was shot in the back.
21 You know that. All of this, the real smoke and mirrors,
22 that's all it shows. All right. The State is trying to
23 overwhelm you by giving you all of this to say look at all
24 the evidence we have. But the only thing that this is
25 evidence of is that a shooting happened. You knew that

1 before you even heard opening statements. You even heard
2 in opening statements, we told you William McKinney shot.
3 A mountain of evidence. For what?

4 Ignore all of this, because none of this matters.
5 This is a very simple case, and it boils down to Carlos
6 Jenkins or Monieque Greene, whoever it was because we
7 really don't know, shooting William McKinney in the back.
8 Was that legal? Were they justified in doing that?
9 Because if they aren't, then William McKinney has the
10 right to act in self-defense, no ifs, and or buts about
11 it.

12 You're all in high school at some point in your life.
13 Walking down the hallway and someone runs up and punches
14 you in the back of the head, that's not okay. That's not
15 acceptable. You just attacked me from behind. Got every
16 right to defend myself.

17 The State told you in their opening statement, and
18 they just argued a whole bunch to you in closing argument,
19 they said we're going to show you evidence that William
20 McKinney left the club that night, got a gun and came back
21 to the club. Where is it at? I don't see that anywhere.
22 In fact, the only -- only shred of evidence that they even
23 gave to you that he left the club came from Carlos
24 Jenkins.

25 So let's talk about Carlos Jenkins. Because to

1 evaluate the State's case, we need to look at the
2 statements and the testimony you heard on the stand. What
3 all did Carlos Jenkins tell you? What have you heard this
4 week from Carlos Jenkins, whether it's been from body cam
5 where he was talking to the police officers, whether it's
6 been from him on the stand or his written statement? What
7 all have we heard?

8 We heard that a woman came up to him and Lamar. We
9 heard that multiple people came up. We talked to him
10 about these statements. Because in his written statement,
11 he said, "A woman came up." On the body-cam footage that
12 you saw where he was talking to Officer Norris, he said,
13 "A woman came up to us, said, 'Keep an eye on him. He's
14 trouble.'" But then all of a sudden when he gets on the
15 stand 1,190 days later or whatever it is, multiple people
16 came up to him. He never said that to the cops on the
17 night of the incident. He never said that to the cops
18 when he was in the police station interviewing with them.
19 Oh, my apologies. That's because he was tired and hungry.
20 He'd been at work for 24 hours. He didn't have a good
21 memory of what happened that night. He had to wait two
22 and a half hours. Come on. This is the witness they're
23 asking you to believe.

24 And this is important because what else did we hear
25 from Carlos Jenkins? We heard he said, "Drop the gun," on

1 the body cam when he's talking to Officer Norris. So they
2 come up behind him, tell him, Drop the gun. Drop the gun.
3 Drop the gun. He started to turn towards me. I shot him
4 in the back.

5 In his written statement, he says, "Take your hands
6 out of your pocket." He says, I walk up behind him, gun's
7 pointed at the ground, he's walking away with his hands in
8 his pocket. I tell him, Take your hands out of your
9 pockets, three times. Take you hands out of your pockets.
10 He starts to draw his hand out of his pocket. He sees the
11 butt of the gun and he starts to turn a little bit, and
12 that's when he shoots him in the back. That is two
13 different stories as to why Carlos Jenkins shot somebody
14 in the back. And I don't care what the State tells you.
15 "Drop the gun" and "take your hands out of your pockets"
16 are two completely different statements. That's not the
17 same statement. It doesn't even remotely resemble the
18 same statement.

19 Now we've got his testimony from when he was on the
20 stand. And on the stand he says he told him, "Drop the
21 gun. Drop the gun. Drop the gun. Take your hands out of
22 your pockets. Take your hands out of your pockets. Take
23 your hands out of your pockets," and that he then pulled
24 the gun out of his pocket, put it in front of him, walked
25 away a little bit, turned, and that's when he shot him in

1 the back. It's a third statement.

2 And most impressively, when I talked to him on cross,
3 think back and remember, I said, "Hey, I'm going to turn
4 around with my hand in my pocket. I want you to tell me
5 to stop when you shot William McKinney." And I started to
6 turn around. When did he tell me to stop? Right here,
7 face-to-face. And he said William McKinney turned and
8 faced him and drew the gun out of his pocket, looking at
9 me in the eye, and he didn't shoot him? Then he turned
10 around, started walking away, and that's when he shot him
11 in the back. That is a fourth statement as to what
12 happened that night and why he shot William McKinney in
13 the back. Which one is true? I don't know. You don't
14 know. What we can say is that we've got four statements.
15 Can we believe that witness?

16 You've been children. You've been around children.
17 You say, "Hey, who took the cookie? Who took the last
18 cookie?" And the kid tells you four different stories
19 about what they were doing and where they were at. You
20 go, "Nah, you're lying to me. You took the cookie."
21 Well, Carlos Jenkins, you're lying to me. You've got four
22 different statements as to what happened. And if you're
23 just telling the truth, maybe your statements vary a
24 little on some stuff that don't matter, but it definitely
25 don't vary from I saw the butt of the gun so I shot him in

1 the back. He pulled the gun out, put it in front of him
2 and walked away, then I shot him in the back. He turned,
3 pointed at me, waved, said, "Hey, how you doing?" blew me
4 a kiss, turned around, shot him in the back. That's way
5 too much variance in those statements.

6 Carlos Jenkins is not credible. But he did say some
7 interesting things when we talked to him on the stand.
8 And when he first talked to the State, he fed you the
9 story that the State wanted him to feed you which is what
10 the State told you this case was about in opening
11 statements, that William McKinney was walking away, slowly
12 started pulling the gun out the pocket, he saw the butt of
13 the gun and he shot him. That was the State's theory at
14 the very beginning of this case, and that's what Carlos
15 Jenkins initially stuck with.

16 And then we started seeing evidence that maybe Carlos
17 Jenkins wasn't the one with the shotgun. Where is that
18 evidence? Well, that evidence is Neal Norris telling
19 Officer Minwegan -- Minwegan, my apologies -- that
20 Monieque Greene had the shotgun and that Monieque Greene
21 is the one that shot William McKinney with the shotgun.
22 Why did Officer Norris say that? He was one of the very
23 first people on the scene.

24 You also see in body-cam footage Lamar James standing
25 over there with Monieque Greene, and he's got Monieque's

1 gun. He's got Monieque's shotgun. The officer seeing him
2 with Monieque's pistol and he gives the pistol to the
3 cops, but they don't take the shotgun.

4 And I'm talking to him. I want you to think back and
5 I want you to remember this part because I asked him
6 twice, and he said the same answer both times. My
7 question was is the only reason that you are saying you
8 had the shotgun, is it because you're the only one that
9 was SLED certified and you don't want to get in trouble?
10 And he said yes. The very first time I asked him, he said
11 yes. Wait, what? And I repeated the exact same question,
12 exact same wording in a very slow manner, is the only
13 reason you were saying that you -- or that you had the
14 shotgun, because Monieque Greene and nobody else was SLED
15 certified, you didn't want them to get in trouble, and he
16 said yes. Think about that. Because if that's the case,
17 if Monieque Greene had the shotgun, and the State just
18 told you that it would have been okay to shoot him, right?
19 Because the State said if Monieque was next to Carlos,
20 maybe my argument would be reasonable, because then maybe
21 he is shooting his perceived threat. So if Monieque has
22 the shotgun, that changes up everything.

23 What else did Carlos Jenkins tell us that makes us
24 say, man, what is the State doing with these witnesses?
25 Why are they listening to these people? Why are they

1 arresting people based on talking to this witness?

2 He said Monieque Greene was not employed. You heard
3 from Monieque today. What did Monieque tell you?
4 Monieque said, "Yeah, I got paid. I got paid by the
5 company, South Carolina Security Services."

6 He told you that Greene did not have a SLED
7 certification, he told you that Lamar did not have a SLED
8 certification, and he told you that he did not have
9 written permission from SLED to carry the shotgun. And
10 yet, we made a big deal about this because that matters.
11 Because the State is sitting here saying why wouldn't you
12 take your hands out of your pockets? Why wouldn't you
13 take your hands out of your pockets?

14 Well, first off, these people aren't even lawfully
15 telling him to take his hands out of his pockets, drop the
16 gun, get on the ground, whatever it is they really said to
17 him. They're all acting illegally.

18 The State said this could have been avoided if
19 William McKinney had stayed home. Yeah. If he woke up
20 that morning and never left his house, this could have
21 been avoided. This also could have been avoided if they
22 didn't shoot him in the back. It could have been avoided
23 if they weren't at Club Dolce armed when they were not
24 supposed to be. It could have been avoided had they not
25 been walking around with a shotgun illegally. So yeah.

1 There's plenty of ways this could have been avoided.

2 At the end of the day, all we know, based on the
3 video evidence and based on the testimony, is that William
4 McKinney tried to avoid it. He was walking away. The
5 Bible tells you turn the other cheek. Somebody slaps you,
6 turn the other cheek, not to react.

7 William McKinney saw armed guys coming towards him
8 and walked away clearly saying I don't want nothing to do
9 with this. I'm leaving. I'm walking away after those
10 guys told that group of people y'all need to disperse.
11 Y'all need to leave. That's what he was doing. I'm going
12 to walk away.

13 Carlos told you something when I was talking to him
14 about this. I talked to him and I was like you weren't
15 SLED certified with a shotgun. No. Yeah, I was. No, I
16 wasn't. We fought back and forth. One minute he would
17 agree that it was illegal to carry the shotgun, the next
18 minute he was trying to say, well, it depends. Right.

19 But he told you they weren't SLED certified. He knew
20 they weren't SLED certified. He told you that he had SLED
21 training. He knows what's legal to do. He knows what's
22 illegal to do. He knows shooting someone in the back is
23 illegal. He knows he'd better tell these police that this
24 person did something to justify him shooting them in the
25 back so that he don't get arrested, because he's been

1 trained.

2 He also told you they didn't separate him or Lamar.
3 Him and Lamar got to stand around and talk. We don't know
4 if him and Monieque talked before Monieque gave his
5 written statement. We have to take that what Monieque
6 told you today. And we're going to get into Monieque's
7 statement here shortly.

8 But we know that Carlos Jenkins was the SLED
9 supervisor, supposed to be there protecting that property.
10 And he told you that when I put my hand in my pocket and
11 said I started walking away from him, I asked him, am I a
12 threat to you, and he said no. So imagine we're on the
13 sidewalk, right, not in this courtroom, on the sidewalk.
14 Am I a threat to you? No. There's a gun in my pocket and
15 my hand's on it. Am I a threat to you? No. I asked him,
16 I said if I pull the gun out of my pocket and I'm holding
17 it and I'm walking away from you, am I a threat to you?
18 And he said no. Why? Why would somebody not be a threat
19 if they're walking away from you? Because their back's
20 turned towards you. They're fleeing. His training says
21 you don't shoot somebody that's not a threat. So does
22 Investigator King's. So does every police officer that
23 took the stand.

24 You heard from one officer. I saw him with a gun but
25 he was fleeing. I didn't engage. You heard Tracy King

1 say, I mean, he was fleeing. Not a threat if you're
2 fleeing. You heard Tracy King say when I told him if I'm
3 walking away from you am I fleeing, he said yes.

4 So Carlos Jenkins knows what he should say which is
5 why his story is changing. Because he's got to -- he's
6 realizing I didn't give enough detail to justify it. And
7 see, South Carolina, we don't have a statute that puts a
8 time limit on when you can be charged criminally. So even
9 though Carlos Jenkins is a State witness, him up here
10 testifying as a State witness, theoretically, if they
11 wanted to tomorrow, they could go and arrest him and
12 charge him for shooting William McKinney in the back. So
13 he's got to stay with his story, and he's got to detail it
14 enough to justify his actions.

15 90-degree angle. The State tells you it was a
16 90-degree turn that William McKinney made to shoot
17 Monieque. Carlos Jenkins, he told us, Carlos says that
18 Monieque ran around to the left at the same time William
19 McKinney was running, and they ended up face-to-face. If
20 I'm face-to-face with you, I don't have to turn 90 degrees
21 to shoot you. We're face-to-face. I'm going to shoot
22 straight. I don't got to turn anywhere.

23 This 90-degree argument they've made up because the
24 evidence doesn't support it. Carlos Jenkins told me
25 that's not what happened. Carlos Jenkins told you, oh, he

1 shot at me. Once I shot him twice in the back, William
2 McKinney stood up and pulled his gun and shot at me. He
3 said at least twice he shot at me. Then he started
4 shooting at Monieque. Why does that matter? Because the
5 State says, well, Monieque didn't even shoot at William
6 McKinney until William McKinney shot at him. Monieque
7 told you right here today that he shot twice, got hit and
8 fell to the ground. But we all know, the State's already
9 introduced it into evidence with the five shell casings
10 that Monieque shot five times.

11 So what really happened? I'll tell you. Carlos
12 Jenkins, walking behind William McKinney, shoots him in
13 the back twice. William McKinney returns fire. Monieque
14 Greene starts shooting, boom, boom, boom. William
15 McKinney realizes he's being shot at from over here as
16 well, so he returns fire over there. That's what really
17 happened. Why? Because that's what the evidence
18 supports. Because we know for a fact that Monieque Greene
19 did not shoot no more after he was shot. We know William
20 McKinney only shot six times. Two of those were at Carlos
21 Jenkins.

22 Another little tidbit of information to remember from
23 Carlos is that Carlos refers to Monieque as his nephew.
24 Pretty good reason to lie for somebody. Pretty good
25 reason to say, you know what? I was the one with the gun.

1 I was SLED certified. I was the one with the gun.
2 Monieque wasn't employed. He was just there helping out.
3 He wasn't an armed guard that night. I don't want him to
4 get in no trouble with the law because that's my nephew.
5 Pretty good reason.

6 The State says that we're throwing smoke and mirrors
7 with the property lines. There's no smoke and mirrors
8 with the property lines. It's just basics. If you are
9 contracted to protect the property inside this box, that's
10 where your power lies and that's where your power ends. A
11 cop from Greenville can't come to Anderson and arrest you.
12 They don't have jurisdiction. They don't have the power.

13 Security guard, even though these weren't even real
14 security guards because they're all acting illegally, a
15 real SLED armed security guard would have power to protect
16 just Club Dolce, not the parking lot of the Chinese
17 restaurant, not the parking lot of Lavish Lounge, not the
18 parking lot of the Spinx down the street. Just Club
19 Dolce. And that matters.

20 And the reason we even bring it up is because the
21 State keeps trying to argue that these were lawful orders
22 even though the guards were acting unlawfully. They were
23 not armed guards. They were not SLED certified. They
24 were gangsters. They were thugs out there walking around
25 with a K-9 patch on, bullet-proof vest, shotguns,

1 magazines full of ammunition. And for what purpose? You
2 heard it. For intimidation. It's an intimidation factor.
3 People see that, they're going to listen to you.

4 And that's probably the last most important thing
5 I'll tell you that Carlos Jenkins told you on the stand.
6 You go back to when I crossed him. I asked him, "Why did
7 you shoot him?"

8 "Oh, he's walking away. He's not listening. I'm
9 telling him to pull his hands out of his pockets," blah,
10 blah.

11 I'm like, okay. Hands in the pockets, hands out of
12 the pockets really don't matter. It's not a threat with
13 hands in pockets, right? Right. You're not a threat
14 simply because your hands are in your pocket.

15 Did you shoot him simply because he didn't listen?

16 Yeah. He wouldn't listen.

17 You don't have the power to shoot somebody because
18 they don't listen even if you're a real cop. You get the
19 power to shoot somebody to protect your life or to protect
20 the lives of others. And that was not why Carlos Jenkins
21 or Monieque Greene, whoever had the shotgun, shot William
22 McKinney.

23 All right. Real quick because this one will be a
24 little shorter for us. Let's talk about Lamar James. Let
25 me talk about his testimony, okay?

1 So Lamar James got on the stand and testified to --
2 no. My bad. The State didn't call him. Why would the
3 State not call the third security guard that was there? I
4 mean, he wants to know why would you not pull your hands
5 out of your pockets, why would you not just get on the
6 ground, why not just do this. Why not call every security
7 guard that was there that night? Because we've got a
8 conflict in testimony here. We've got a conflict in this
9 evidence. Carlos Jenkins says he was with Lamar.
10 Monieque Greene says he was with Lamar. Lamar can
11 potentially back up one of their stories. Why did we not
12 hear from Lamar?

13 Not hearing from Lamar by itself is reasonable doubt.
14 That by itself is enough to find William McKinney not
15 guilty because the State didn't put him on the stand.

16 Do you know why the State didn't put him on the
17 stand? Because it's going to contradict their evidence.
18 It's going to conflict with what Monieque says. It's
19 going to conflict with what Carlos Jenkins says and it's
20 going to show exactly what we've been saying: The State
21 don't have the evidence to prove their case. It's the
22 same reason the State jumped around in their videos.

23 And most importantly with Lamar James, he had body
24 cam. You've got body cam on a security guard that is
25 there the night of the incident that was supposedly with

1 Monieque when William McKinney came by and said, "Oh, you
2 ain't the only one with a gun." That would be seen on
3 body cam. Where's the body cam? Supposedly, William
4 McKinney pulling the gun out of his pocket, that would be
5 seen on body cam. Where's the body cam?

6 The State is picking and choosing what evidence they
7 are giving you, and they're doing it strategically because
8 they're hoping to overwhelm you, confuse you with what
9 they actually presented, tell you it's one thing and hope
10 that you just come back with a guilty verdict. They don't
11 want you to actually sit down and look at it, strip this
12 case down to what it is. And that's why you didn't hear
13 from Lamar James. That's why I can't write nothing on
14 this board about Lamar James.

15 Let's talk about Monieque Greene. Now, Monieque's
16 testimony is important simply because it contradicts just
17 about everything Carlos Jenkins said, right? Monieque, in
18 his written statement, said, "William McKinney pulled up,
19 flashed a gun. I radioed to Carlos, told him what
20 happened. We then all grouped up and approached him."
21 But then Carlos Jenkins got on the stand and said, "No.
22 Monieque didn't have a radio. Lamar had a radio."

23 So Monieque had to fix his statement a little bit,
24 right? So what did he do? He got on the stand today and
25 instead of just saying, "Yeah, I didn't have a radio,"

1 "Oh, I did have a radio, but my radio wasn't working. My
2 radio, it was broken."

3 And what did he keep saying? He kept saying, "We
4 tried to radio Carlos, but the radio wasn't working." And
5 then when he was pushed on it, he said, "Oh, well, I
6 didn't have a radio. I used Lamar's radio." Well, on his
7 direct he said, no, he didn't radio Carlos. And Carlos
8 said he never heard anything about you ain't the only one
9 with a gun. Right?

10 That's a conflict in the evidence. That is two
11 security guards who are in cahoots with each other at this
12 job and in this trial trying to figure out what to say
13 because they don't want to get in trouble and they can't
14 get their stories right. And that matters because that's
15 reasonable doubt. That puts doubt in your mind as to what
16 really happened, why did they really shoot. Because
17 Monieque says that Carlos simply said take your hands out
18 of your pockets three times. And in his written
19 statement, take your hands out of your pockets, take your
20 hands out of your pocket, take your hands out of your
21 pockets. He started to pull his hand out of his pocket
22 and Carlos shot him in the back. Today on the stand it
23 was take your hands out of your pockets and get on the
24 ground. Take your hands out of your pocket and get on the
25 ground. Right? And when he was crossed, he was asked

1 about, well, did he take the gun out of his pocket?

2 I didn't see a gun. I was too far away. I didn't
3 see him pull a gun out of his pocket at that time. I
4 didn't see nothing.

5 He also said that a woman came up to him and told him
6 and Lamar to keep an eye on William McKinney. That is one
7 thing that him and Carlos Jenkins both say. Some woman
8 came up to them and said keep an eye on him because he was
9 "beefing" with somebody. That's it. All of their other
10 statements contradict with each other. That's the only
11 two things that they said that were the same. And even
12 then on the stand Jenkins told you something that they
13 said he was there to shoot somebody. In his written
14 statement it was he was beefing with somebody, and in
15 Monieque's statement it was that he was a known
16 troublemaker.

17 Lamar James was there with both of them when it
18 happened. But we didn't get to hear from Lamar James.
19 Instead, we've just got to imagine what Lamar James would
20 say to us.

21 Monieque Greene didn't mention anything about
22 multiple patrons coming up. He didn't say anything about
23 there was multiple people telling us anything. What he
24 did tell you, though, is that he never saw McKinney at the
25 club and leaving. He never saw McKinney leave the club.

1 Why does that matter? Because the State tried to say that
2 McKinney left and got a gun and came back to shoot
3 somebody and that they knew that based on their
4 information that they had. But Monieque Greene didn't see
5 that. He didn't know that. His interaction with him was
6 purely because a woman came up and said, hey, he's beefing
7 with somebody. Keep an eye on him, and then supposedly
8 him flashing a gun.

9 Now, Monieque Greene, he told you that he was an
10 employee on the night of the incident, completely
11 contradicting his uncle. Carlos said he wasn't an
12 employee. He says he is. He did admit that he wasn't
13 SLED certified. And when he was asked if it was illegal,
14 it was it's only illegal if you get caught. It's only
15 illegal if you get caught. That mindset says I can shoot
16 you in the back and as long as I've got a good story to go
17 with it, I'm good. It's not illegal unless I get caught.
18 That's not how it works. Illegal is illegal, period.
19 Whether you get caught or not, it's illegal and you need
20 to be held accountable.

21 Monieque Greene was shot. That's horrible for
22 anybody to get shot. I'll concede to that. But that
23 doesn't justify his actions. That doesn't wipe away
24 everything that he did wrong that night. That doesn't
25 tell us if he was the one that shot William McKinney in

1 the back or if it was Carlos Jenkins that shot William
2 McKinney in the back.

3 Him being shot is not a reason to find William
4 McKinney guilty. You can't just find William McKinney
5 guilty because you feel bad that Monieque Greene got shot.
6 Because Monieque Greene got shot because of his own
7 actions that night. He got shot because he pulled a gun
8 and he started shooting at William McKinney unlawfully.
9 His own actions is what got him shot.

10 And just like the State just told you, justice goes
11 both ways. It sure does. And justice for William
12 McKinney is William McKinney being found not guilty. But
13 it's also Monieque Greene and Carlos Jenkins and Lamar
14 James being charged. Because you can't just go around and
15 stand outside of a building with armed guns and shoot
16 people in the back.

17 Carlos told you that he shot William McKinney in the
18 back with a rubber bullet twice. Monieque today told you
19 and in his written statement that William McKinney was
20 shot in the back once with a rubber bullet. Carlos only
21 shot him once with a rubber bullet. That's not a big
22 deal, right, in just that simple little context. Because
23 we know he was shot twice. But it is a big deal in your
24 credibility. And in weighing his credibility, we've got
25 to sit back and look at that and say, well, is he

1 credible? Do we believe his statements? That is just
2 another thing that he's not being truthful on. It's
3 another thing that he is telling a different story than
4 what other people are saying.

5 There were three identified witnesses at the scene.
6 There was Keisha Dogan, Javaris Barksdale and Keema
7 Edgerton. Now, I'd love to talk to you about what they
8 said today on the stand or any this week, but again,
9 another witness the State didn't call. Why? Why not?
10 We've got statements luckily on body cam shortly after the
11 incident, very brief statements. You see them multiple
12 times trying to leave, telling them they want to leave,
13 and they're getting told they've got to stay, getting told
14 you're going to identify yourself or you're going to go to
15 jail. Right. Okay. So we'll give a written statement
16 really quick.

17 Keisha gave a written statement. And her written
18 statement matched what you saw on the body cam. And what
19 was her statement? It was somebody said, "Get your hands
20 out of your pockets," three times, and then they shot.
21 She didn't mention that they said, "Drop the gun." She
22 didn't mention that they said, "Get on the ground." She
23 didn't mention that they said, "Show me your hands." She
24 said they said, "Take your hands out of your pockets."

25 Javaris Barksdale says the exact same thing: Take

1 your hands out of your pockets three times, and then he's
2 shot. He doesn't say anything about drop the gun, get on
3 the ground, show me your hands, nothing.

4 And then Keema Edgerton, the State told you they
5 would talk to any witness when they had Tracy King up
6 here. Oh, they were telling you they'd talk to any
7 witness. Anybody that wanted to voluntarily come up and
8 give a statement, they would talk to them. We know they
9 didn't talk to Lamar. They also didn't talk to Keema.
10 She told them, "I've got to go, but I'll give you a
11 written statement. Here's my info. Contact me." Never
12 once did any of them contact her. No. Why not? Because
13 what she said on the night of the incident is the same
14 stuff as what Javaris Barksdale said and is what Keisha
15 Dogan said which was simply, "Take your hands out of your
16 pockets."

17 The most important part that I want to point your
18 attention to that the State just got up here and argued to
19 you about is that one of those three people called 9-1-1
20 that night, right? And what did he tell you they said on
21 his little PowerPoint? He said they said specifically he
22 never took his hands out of his pockets. Never. So why
23 was he shot in the back? He never took them out of his
24 pocket. You've got an eyewitness telling you that, and
25 you didn't get to hear from them on the stand because the

1 State don't want you to hear from the witnesses that
2 contradicted their theory. The State simply is trying to
3 push this through. Oh, let's push it through and find him
4 guilty. And it's ridiculous. That's not what justice
5 looks like. That's not what America stands for. And it's
6 not what we as citizens should stand for.

7 And yes, the State told you it's very important
8 you're here because justice doesn't happen without you.
9 They're exactly right. You've got to hold the State
10 accountable, because this is the best they can do? It's
11 not good enough. Nowhere near good enough to find a man
12 guilty.

13 And since we're talking about finding somebody
14 guilty, yes, William McKinney is a convicted felon. Yes,
15 it is illegal for him to possess a firearm just as it was
16 illegal for Monieque Greene to have a firearm that night,
17 just as it was illegal for Carlos Jenkins to carry a
18 shotgun that night, and just as it is illegal for Lamar
19 James to carry a firearm. Find him guilty of that. He
20 knows that what he did carrying that firearm was illegal.
21 Find him guilty of it. Okay. We're not fighting that.
22 We admit to that. We own up to that. He carries the
23 firearm for whatever reason he had.

24 There was no evidence as to why he had that firearm
25 on him. Nobody got up here and told you he's going to go

1 shoot John Smith from 314 South Main Street. No. He had
2 a firearm. Plenty of people at that club had firearms.
3 Plenty of people have firearms. Plenty of felons have
4 firearms. And while that may be illegal and that gives
5 you every right to find him guilty of felon in possession
6 of a firearm, that does not make him guilty of attempted
7 murder.

8 Let's talk about the police case, the police
9 investigation. Point out a few things. We'll start with
10 Officer Minwegan's report. She told you Monieque Greene
11 had the shotgun. It was in her report. What did the
12 State do about it? The State put her on the stand and
13 said, oh, you put that in your report. Is that a
14 scrivener's error? A typo? Yeah. A whole paragraph
15 about Monieque Greene having the shotgun and shooting
16 William McKinney in the back before being shot is a
17 scrivener's error. No. I clarified that for her when I
18 got her on cross. And she admitted, no, that information
19 was given to her. That is what she was told. That is not
20 an error.

21 She told you that she collected all shell casings. I
22 asked her, I said, "Did you collect the old ones?"

23 And what did she say? "I collected everything.
24 There's no way to tell if it's old or new. I collected
25 everything I saw." But we saw body-cam footage. We saw

1 officers talking to the security guards, Carlos Jenkins
2 specifically and saying, hey, is this you?

3 No. That's not me. That's from a previous one. It
4 was a different shooting.

5 Why does that matter? Because the picture's showing
6 you all these shell casings. That shows you where shell
7 casings were at.

8 Whose were they? The State's theory is one was
9 William McKinney, one was Monieque Greene and one was
10 Carlos Jenkins, and that's where the three of them were
11 at. But there were others shell casings out there. We
12 don't know anything about them, how long they've been out
13 there, what caliber they were. We don't know nothing.

14 They didn't do a rock solid investigation. Now, that
15 adds to it. This is just a simple little thing when you
16 look at it by itself. Okay, you didn't get all the shell
17 casings. Yes. But you've got to look at everything
18 together. This is another piece that's added to this mess
19 of a case that the State has put before you.

20 Another thing, if I can learn how to spell,
21 trajectory rod. She told you she found a bullet hole.
22 She didn't put a trajectory rod in it. That could be
23 useful because it will tell you the travel path of the
24 bullet where you can see the angle of where that bullet
25 came from. She testified she did not use a trajectory

1 round in this case -- or rod in this case. And you saw
2 Officer Norris's body cam where he said, "Hey, come here.
3 Look at this. You can put your little rod thingy in
4 there."

5 And she said, "You get points for calling it a rod,
6 but it's a trajectory rod." And yet she still didn't put
7 it in the bullet hole? Didn't find the trajectory path?
8 Yet again another problem with this case.

9 Now, this one I'll admit -- even all three of these
10 I'll admit each one individual are minimal, really stand
11 by themselves mean nothing, right? But when you put it
12 all together, when you add it with the investigation, when
13 you add it with the witness statements, when you add it
14 with this mountain of evidence, it really shows reasonable
15 doubt.

16 She didn't even collect the shotgun. Where's William
17 McKinney's gun? Where's the shotgun? Where's Monieque
18 Greene's gun? Where's Carlos Jenkins's gun? Where's
19 Lamar James's guns? How many times did Lamar James shoot?
20 We don't know. The video, he looked like he fled the
21 whole time. But maybe he shot. We don't know. They
22 could have easily popped a round out and checked to see,
23 pop the magazine out. Is it fully loaded? Is there some
24 missing? What caliber is it? Another piece.

25 So now we're going to bunch in a couple of officers

1 like Brogden, Bryson, Norris. They all told you they were
2 there to secure the scene, preserve the crime scene,
3 collect evidence and identify witnesses. Well,
4 identifying witnesses is the easiest part when they're
5 standing in the parking lot, when they're in their car in
6 the parking lot. But yet you saw on body camera somebody
7 in their car, "Hey, I'm trying to get out."

8 "All right. Yeah. You can go around me."

9 How do you let a witness go? I mean, really, you
10 could have at least let me get your name and number and
11 then you can leave. I know it's been a late night. We've
12 got other things to worry about something. Or just like
13 they told Keema, Keisha and Javaris, sit tight for a
14 minute, bud. Sit tight. We just need you to sit tight.
15 We'll get with you. We'll get you out of here as soon as
16 we can. But no. Instead, yeah, drive through the crime
17 scene. On top of that, oh, yeah, let's let Keema, Keisha
18 and Javaris walk around through the crime scene. Even
19 better, let's let two of these armed guards walk around
20 through the crime scene. Let's let them play cop. How
21 was that a secure scene? How was that preserving
22 evidence? How was that identifying witnesses? It's not.
23 They got there and they stood around and talked.

24 Actually, I think one of them, you heard Will
25 crossing them, and Will asked him, he was like, what did

1 you do? Did you talk to Monieque Greene?

2 No. I didn't get a statement. I was just trying to
3 give -- you know, I got there, gave some medical treatment
4 but I didn't get a statement. I don't recall getting a
5 statement.

6 And then the State got up and asked him, hey, well,
7 is the reason you didn't get a statement because you were
8 more worried and concerned with medical treatment?

9 Oh, yeah, yeah, yeah. It was medical treatment. I
10 was more concerned with that. That's why I didn't do my
11 job.

12 And then Will got up there and said what medical
13 treatment did you provide?

14 Well, I cut his shirt off. I looked for injuries..
15 That's medical treatment, right? No. That's not medical
16 treatment. You didn't do your job. Instead, you cut his
17 shirt off. You said, How are you feeling, bud? Feeling
18 like you got shot? Ha, ha. Lightheaded or anything like
19 that? Okay. Cool. You hang tight. I'm going to go over
20 here and dip and chit-chat with my buddy. Just a bad
21 investigation from the very beginning, from preserving the
22 crime scene, identifying witnesses, taking statements.
23 Just a bad investigation.

24 You heard from the one officer, oh, I didn't shoot
25 him because I didn't engage with him. He wasn't a threat.

1 He was clean.

2 So then we get to Tracy King. Tracy King is the lead
3 investigator. His job is to make sure that everybody
4 below him did their job. All right. Well, how is Officer
5 Minwegan going to do her job and be accurate in her job
6 when the officers that are there are letting people walk
7 around the crime scene and drive through the crime scene?
8 She can't.

9 You're only as good as your weakest link. But did
10 Tracy King acknowledge that in his investigation and
11 consider it? No. Instead, he got up here and he told you
12 that he didn't care if they weren't SLED certified, he
13 didn't care about property lines. None of that matters.
14 All that matters is that he's got a security guard that
15 says he went to pull his hand out of his pocket and had
16 the butt of it showing so I shot him in the back and
17 therefore William McKinney needs to be arrested.

18 But what about the fact that the security guards are
19 telling different statements? Why didn't he go and talk
20 to Lamar James? Why didn't he reach out to his other
21 detectives that were involved and say, "Hey, where's the
22 statement from Lamar James? We need a statement." Why
23 didn't he say, "Why didn't y'all separate these guys?
24 What are you doing? Separate them."

25 His job is to supervise. His job is to get out there

1 and make sure everybody below him is doing it right. But
2 you saw the videos. What did you see him doing? Walking
3 around talking to people.

4 Maybe, just maybe had he supervised, the witnesses
5 would have been separated, we'd have a statement from
6 Keema and we would have a statement from Lamar. But we
7 don't.

8 He's got three independent witnesses. And what that
9 means is there are three people that had absolutely
10 nothing to do with this case. They just happened to be
11 there. And they all say the same thing. We heard a man
12 say, "Take your hands out of your pockets," three times
13 and then they shot him. On the 9-1-1 call they tell 9-1-1
14 he never took his hands out of his pockets.

15 You've got a security guard who says I told him to
16 take your hands out of your pockets. I told him drop the
17 gun. I told him get on the ground. I told him show me
18 your hands. And he's got another one that says he told
19 him to take his hands out of his pockets and get on the
20 ground. I mean, he's got -- this is not rocket science.
21 This is, okay, I've got six different stories from two
22 different people, and then I've got three different people
23 telling me the same story. Which one happened? Which
24 one's more accurate? Which one's more believable. The
25 three that are the same. They have no interest in the

1 outcome of the case because they don't get in trouble no
2 matter what. They didn't do nothing wrong.

3 But instead, he says, okay. Yep. Carlos Jenkins,
4 you're SLED certified. All right. Cool. We're going to
5 arrest William McKinney. And we're not going to do
6 anything else. He even told you on the stand it wasn't
7 until later that he found out that they didn't have
8 written permission for the shotgun, that they had
9 unlicensed people out there acting as SLED security
10 guards. How do you do an investigation and not find that
11 out? How do you not call SLED and say, hey, what's the
12 powers here for an armed security guard? Did these guys
13 follow the book or did these guys do something wrong? How
14 do you not make these basic phone calls to get these basic
15 answers to further your investigation that you supposedly
16 did? Because they didn't investigate. They took Carlos
17 Jenkins at his word, and they ran with their charges.

18 Another thing just to point out, the officers, when
19 they were on the stand, do you remember Officer Norris on
20 direct examination, oh, yeah, we got there at this time.
21 We did this. We did that. This is why I did that. Yep.
22 Knew the answer to every question asked. But when my
23 cocounsel Will got up there and started talking to him,
24 what was his answer? I don't recall. I don't recall. I
25 don't recall. Will even had to call him out on it, said,

1 you just testified to this on direct. You literally just
2 said it on direct examination, and now you're saying you
3 don't recall? Why? Why are you being difficult? Why are
4 you not just answering the questions? Because you know
5 you did a bad job, and instead of owning up to it and
6 saying, yep, I did a bad job, you're trying to justify the
7 bad job.

8 Because think about it. Tracy King told you on the
9 stand when I asked him, "I'm walking away with my hand in
10 my pocket and I get shot on the back, do I have the right
11 to defend myself?" what did he say? Yes, I do. And, in
12 fact, because I was shot in the back, I have the right to
13 use deadly force to defend myself. I can turn around and
14 shoot. That's exactly what William McKinney did.

15 Tracy King even told you on the stand the story
16 happened the way I just said it, then he had every right
17 to act in self-defense. But by the time that he's saying
18 that now, he's already made his charging decision, and the
19 State's already decided that this case is going to go
20 forward for trial.

21 So the State told you why run if you're acting in
22 self-defense and that William McKinney was trying to
23 mislead the cops by saying who got shot, trying to mislead
24 the cops. But I submit to you if you're getting shot at,
25 you take cover, you run, you hide, even if you are

1 shooting back. It's called fight or flight. If you get
2 shot at, you take cover, you hide, you run. So why would
3 he run? He's getting shot at by at least two different
4 people.

5 Where's the gun? It could be in the parking lot
6 still since they did such a horrible investigation and
7 didn't pick up all the evidence that was out there. Or he
8 threw it away because he knew he was a convicted felon and
9 wasn't supposed to have a gun. And? Okay. You don't
10 have his gun. He's telling you he had a gun and he shot.
11 We're telling you he shot Monieque Greene in self-defense.
12 We're not arguing that he didn't. Having his gun wouldn't
13 change any of that. It wouldn't prove anything, it
14 wouldn't disprove anything. But I'm the one doing smoke
15 and mirrors. And really, William McKinney is trying to
16 mislead the cops because he said who got shot in a fire
17 fight, he didn't know exactly which person got hit? And
18 that is him misleading the cops. Carlos Jenkins ain't
19 misleading the cops. Monieque Greene's not misleading the
20 cops. No. Even though they told 18 different stories.

21 So lastly, let's talk about self-defense. Now,
22 you're going to hear from the judge in just a few minutes.
23 The judge is going to tell you that, you know, the State
24 has the burden. They've got to prove beyond any and all
25 reasonable doubt their charge. Okay. He's going to tell

1 you that reasonable doubt is the -- proof beyond a
2 reasonable doubt is the type of proof that leaves you
3 firmly convinced of the defendant's guilt. Okay. And it
4 can't be, oh, an alien came down and did this. It's got
5 to be, you know, oh, no, I know for a fact he did it, he
6 did it, I'm firmly convinced of that, in order for you to
7 find him guilty. If there's any doubt whatsoever that is
8 reasonable such as I don't know if he actually pulled the
9 gun out of his pocket, I don't know if he actually turned
10 around and faced Carlos Jenkins face-to-face, drew his
11 gun, and then turned around before he was shot, I don't
12 know if he kept his hand in his pocket the whole time, you
13 have those questions, those doubts, that's why you're
14 going to have to find William McKinney not guilty.

15 Let me tell you, there's a presumption of innocence.
16 So it's not, oh, because he's being charged he's probably
17 guilty. No. It is he is innocent. The way he sits right
18 now, he's innocent. And after today he's still going to
19 be innocent because you're going to find him not guilty.

20 He's then going to go and tell you that he has duties
21 and you have duties. Your duties are to determine the
22 facts. He's going to talk to you about all that. He's
23 going to tell you that you get to weigh the evidence, you
24 get to weigh the value that you think the 140 pieces of
25 evidence the State gave you actually had, that these

1 90 pictures prove anything to you. If you don't think it
2 has value, you get to throw it away. You don't have to
3 use it. You get to weigh the credibility of each witness
4 you heard from. You get to say do I believe this person
5 or do I think that person's lying? Do I think he's just
6 telling half-truths? That's all in your discretion. Just
7 like the judge told you at the beginning, you get to use
8 common sense to do that.

9 So I'm asking you, use your common sense. Why is
10 somebody saying a different story four different times?
11 Common sense tells you it's because they're lying.

12 He's going to tell you that the State used direct
13 evidence and circumstantial evidence. Direct evidence
14 would be the shell casings found at the scene.
15 Circumstantial evidence is evidence that is not within
16 someone's personal knowledge but the circumstances lead to
17 it. And really, if you look at it, this case is a
18 circumstantial evidence case.

19 Now, with circumstantial evidence, circumstances have
20 got to point to the same theory. It can't be that, well,
21 the circumstances under Monieque Greene say X happened and
22 circumstances under Carlos Jenkins say Y happened,
23 therefore, we're going to say, yep, Z happened. No.
24 Circumstances are going to point to the same theory, to
25 the same result, the same conclusion. And here you don't

1 have that. Because when you look at the circumstances
2 that Monieque Greene told you about, radioing, going out
3 and talking to him, a woman coming up to him, all these
4 different circumstances, they're different than the
5 circumstances that Carlos Jenkins told you about. So the
6 State has to have enough of that evidence to prove that
7 the defendant did not act in self-defense, because we are
8 asserting self-defense, and that the State showed you in
9 the PowerPoint, there are four things, four evidence of
10 self-defense: without fault, no other way to avoid. All
11 right. So reasonable fear and then a reasonable person.
12 I normally combine the reasonableness. So we're going to
13 talk about it for a second.

14 Without fault, the State said the defendant is with
15 fault because he came back to the club. Under that
16 theory, because you came to court today, if you go outside
17 and you get robbed, well, if you wouldn't have came to
18 court today, you wouldn't have been here to get robbed, so
19 you've got fault, right? No. That makes no sense. Talk
20 about a stupid argument. Without fault means that William
21 McKinney can't sit there and tell you I'm going to shoot
22 you, I'm going to beat you up, I'm going to rape somebody,
23 I'm going to kill somebody. He can't argue with you and
24 talk trash and provoke you. That's what without fault
25 means. And William McKinney did not provoke anybody.

1 Now, they claimed that he showed him a gun, right?
2 That's what Monieque Greene says. He showed me a gun. So
3 the State says that that is the fault. Well, even if that
4 really did happen, which it didn't, but even if that
5 happened, William McKinney then drove off, parked his car,
6 got out of his car, went and talked to some people, walked
7 up to another group of people and was talking to a second
8 group of people before he was ever approached by a
9 security guard clearly showing that he had left whatever
10 incident may have previously happened even if they had
11 gotten in an argument. He's like, man, I'll beat you up.
12 Well, he's left that now. He's onto bigger and better
13 things. He's no longer dealing with that. They
14 approached him.

15 The State says that he's with fault because he didn't
16 pull his hands out of his pockets? Not pulling my hands
17 out of my pockets don't give you permission to shoot me in
18 the back, period.

19 No other way to avoid. The State said he should have
20 stayed home. Well, with that theory, if we all stay home,
21 then we can never get robbed, we can never get, you know,
22 in a car wreck. We can avoid all these bad things that
23 could potentially happen to us. No. No other way to
24 avoid means that while he was there, he did what he could
25 to avoid the situation. What was the situation? He had

1 armed people coming up to him saying "disperse," and
2 that's what he did. He walked away. No other way to
3 avoid. How do you avoid getting shot in the back when
4 you're clearly walking away? There was nothing else he
5 could have done. He did everything he could. He walked
6 away from it, clearly indicating to them he didn't want
7 nothing to do this, he didn't want nothing to do with
8 them, leave him alone. He wasn't yelling back at them.
9 He wasn't throwing things at them. He was walking away.

10 Reasonable fear. The State harped on this throughout
11 the trial that it's a less-lethal round. And? Getting
12 shot in the back is getting shot in the back. Beanbag
13 round, less-lethal round, real bullet, doesn't matter.
14 The law doesn't differentiate. The law does not say that
15 you can only use deadly force when someone uses deadly
16 force against you. The law says you have to have a
17 reasonable fear of death or serious bodily injury.
18 Getting shot causes serious bodily injury, period. It's
19 reasonable to fear after you've been shot that you may die
20 or that you may be seriously injured. So did he have
21 reasonable fear? Yes. He was shot in the back.
22 Reasonable person standard.

23 Now, the State wanted to apply it to, oh, somebody's
24 walking away and tells you pull your hands out of your
25 pockets, a reasonable person will pull them out. No, a

1 reasonable person doesn't. A reasonable person, if
2 walking away and a police officer says, "Stop. You're
3 under arrest. Let me see your hands," stops, pulls their
4 hands out of their pockets. But otherwise, you're giving
5 me a lawful order telling me I'm under arrest or I'm
6 detained, I'm not listening and neither is a reasonable
7 person. Keep on walking, hands in my pockets, you've got
8 no authority over me. You're not my mommy, you're not my
9 daddy. So who are you? You're nobody. I'm going to keep
10 walking. I'm trying to get away. You just told me to
11 leave, and now I'm leaving.

12 A reasonable person is what do you do when you've
13 been put in that danger? What does a reasonable person do
14 after they've been shot in the back? Exactly what William
15 McKinney does. If you are walking away and you get shot
16 in the back and you have your own gun, a reasonable person
17 draws that gun and returns fire because I don't know how
18 many more times you're going to shoot me in the back.
19 You've already shot me twice in the back for walking away.
20 I don't know if it's real bullets or not. I simply know
21 you shot me in the back. I'm going to shoot you so that I
22 can live. That is what a reasonable person does.

23 This is South Carolina. This is America. This is
24 basic concepts that you were taught from a very young age
25 in life. You don't let nobody just come up and attack you

1 and you just don't do nothing about it. You don't let
2 somebody attack you from behind, beat on you, and you just
3 say, "Oh, I guess I should have -- you know, I don't know,
4 stand here." No. Someone attacks you, you defend
5 yourself. They shoot you in the back, you defend
6 yourself.

7 None of you were ever taught by your parents that
8 it's okay to attack somebody from behind. You're not
9 taught that. You're not taught that it's okay to shoot
10 somebody in the back because these are basic principles
11 that we live by as human beings, and the law says that he
12 had every right to defend himself, so that's what he did.

13 All of this is why you must find William McKinney not
14 guilty of attempted murder, not guilty of possession of a
15 weapon during the commission of a violent crime, and not
16 guilty for assault and battery, high and aggravated
17 nature. Because while it sucks that Monieque Greene got
18 shot, it sucks just as much that William McKinney was shot
19 in the back and then arrested and charged for it. Find
20 him not guilty.

21 Thank you.

22 THE COURT: Thank you, Mr. Boatwright.

23 Ladies and gentlemen of the jury, I have a question
24 to ask you. What I'm going to charge you is going to take
25 a minute. It's going to be -- and you've been sitting

1 there, and I thank you for sitting there very patiently.
2 I need to ask you, we've got lunch that was delivered in.
3 What I need to find out from you is I can charge you on
4 what the law is after you've eaten lunch here, but during
5 the period of time that you're eating lunch, you can't
6 talk about the case to each other at all. That is
7 absolutely, even though you've heard closing arguments,
8 there cannot be any discussion at all among you about the
9 case at all. You can eat lunch. That's the first option.

10 The second option is I can charge you -- if you feel
11 up to it, I can go ahead and charge you on the law and
12 then let you go and have lunch probably during the period
13 of time that you're deliberating or somewhere like that.

14 So I want to just -- I understand you've been sitting
15 awhile, so I want to sort of put that in your realm,
16 Mr. Foreman. And I guess the best way to do it is I'll
17 just do a survey. All of you who are in favor of having
18 lunch and coming back after that within -- we're not going
19 to have a long lunch. We'll say within an hour, come
20 back, and I'll charge you on the law. Everybody in favor
21 of doing that raise your hands. Okay. I see one hand.

22 All right. Everybody in favor of me just moving
23 forward with the charge on the law, raise your hand. All
24 right. Okay. I see what you want to do.

25 All right. If you need a five-minute break to stand

1 up, stretch, bathroom break, something like that; would
2 that be more in line with what you want to do?

3 All right. Mr. Bailiff, I'm going to let everybody
4 take about a ten-minute break and then we'll come back in
5 here and charge them the law. Okay.

6 (WHEREUPON, the jury exits the courtroom at 2:09 PM, and a
7 recess is taken.)

8 (WHEREUPON, the jury entered the courtroom at 2:22 PM.)

9 CHARGE ON THE LAW

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, I want you to really pay attention to me. I'm going
12 to be talking to you for a little bit.

13 At the beginning of this trial and when I spoke to
14 you back on Monday, I shared with you some preliminary
15 remarks that I'll probably repeat some of that today. I
16 said to you, even when you were a member of the larger
17 panel, that I told you that the vehicle by which these
18 matters come before the Court is by way of two documents
19 that are labeled "indictments." And they typically come
20 in the form of two pieces of paper. And I showed you
21 these two pieces of paper on Monday. And I said to you
22 that these two pieces of paper is the vehicle by which the
23 matter comes before the Court, and I likened it to going
24 to a movie theater and you're getting a ticket to come in.
25 So I don't want you to attach anything to these

1 indictments because these indictments do not reflect any
2 guilt or innocence on behalf of the defendant. It's just
3 how it gets into this court. That's just how it gets
4 here.

5 In our system of justice, in a criminal case, a
6 defendant walks into the Court with the presumption of
7 innocence. The best way to describe that is -- and I use
8 the word "cloak," and I spell cloak C-L-O-A-K. Throughout
9 this trial, Mr. McKinney sits at that counsel table with a
10 cloak of innocence upon him. That cloak of innocence
11 remains with him and has remained with him throughout the
12 course of this trial, and the only way that that cloak of
13 innocence can be removed from him is that the State must
14 have met its burden of proving the offenses upon which
15 Mr. McKinney is charged in these indictments beyond a
16 reasonable doubt. You'll hear me talk about that in just
17 a moment.

18 In civil cases, the burden of proof is a little
19 different. It's by the greater preponderance of the
20 evidence. And that's the term that you will hear if you
21 were sitting in a civil case and serving on a civil jury,
22 what is commonly called in the Court of Common Pleas. But
23 in here, the burden of proof is that the State must prove
24 the elements of all of the offenses upon which the
25 defendant is charged beyond a reasonable doubt. That's

1 the burden of proof in this court.

2 I also shared with you on Monday what my duties were,
3 what your duties were. I shared with you on Monday that
4 as the trial judge, my job as mandated by the State was to
5 dispense what the law -- the applicable law is in the
6 cases that come before me. That was what I was tasked
7 with. And I likened it to two judges in the courtroom:
8 the judge of the facts and the judge of the law. And I
9 specifically described myself as the judge of the law, and
10 I also called you, all 12 of you, all of you, all jurors,
11 as the judge of the facts. And I said as the judge of the
12 facts, how you do that, you brought with you on Monday and
13 you brought with you today and all this week your common
14 sense. Every time you step in those little boxes over
15 there, you brought your common sense with you. Because
16 you get to analyze and review and evaluate the facts and
17 evidence that's presented in this case.

18 I'll talk a little bit about -- in a minute about two
19 kinds of evidence: direct evidence and circumstantial
20 evidence. But generally, evidence can take the form --
21 different forms. Evidence can be the testimony of
22 witnesses that took this witness stand. And you've seen a
23 lot of those witnesses this past week. Evidence can take
24 the form of sketches, diagrams, pictures which you've seen
25 a lot of this week. Evidence can take the form of videos

1 that you've seen a lot of. Evidence can be tangible
2 things such as if there's -- in this case there were shell
3 casings and all those other kinds of things that are in
4 front of you. All these things are considered evidence.
5 And you, as the judge of the facts, you get to evaluate
6 that evidence that's been presented to you.

7 I'll talk a little bit about credibility in just a
8 minute, but I'll just touch upon that because what's the
9 litmus test that you the jurors use to determine the
10 credibility and believability of the evidence that's been
11 presented? Use your common sense. You can believe
12 everything a witness says, part of what a witness says or
13 none of what a witness says. You can make a determination
14 in your mind as judge of the facts whether or not the
15 witness who testifies has some bias, has some prejudice,
16 has some reason for the testimony. You can make that
17 determination as best you can.

18 You use that same litmus test when you determine the
19 believability and the credibility of the evidence that's
20 been presented to you, which means that even though it's a
21 photograph or even though it's a video or anything
22 tangible, you determine the believability, credibility of
23 that evidence. That's all within your purview.

24 The law that I'm charging you -- getting ready to
25 charge you as it relates to this case that's before the

1 Court, you must accept the law as I give it to you. You
2 cannot and you must not change it or you may have some
3 conception of what you think the law should be. You're
4 prohibited from doing that. You must accept the law as I
5 give it to you.

6 If, during the course of this trial, you got an
7 impression from my actions as I sit as a trial judge,
8 whether it's my interaction with counsel, whether it's my
9 sending you to your jury room so I can deal with an issue
10 of law or anything at all as it relates to me that you
11 think that I have exchanged seats with you and I have an
12 opinion about this case, I do not. I have absolutely no
13 opinion about the facts in this case.

14 So in this case, you probably -- you noticed that the
15 defendant did not testify in this case. I instruct you
16 and emphasize that the fact that the defendant did not
17 testify is not a factor to be considered by you the jury
18 in any way in your deliberation and in your consideration
19 of the question of the guilt or innocence of the
20 defendant. It should not have any impact whatsoever in
21 your deliberation. A defendant has the constitutional
22 right to remain silent, and that assertion of his right
23 must not be considered by you at all in your
24 deliberations. I repeat, under your oath, you are to draw
25 no conclusion whatsoever from the fact that the defendant

1 in this case did not testify. The fact that this
2 defendant did not testify should not even be discussed by
3 you at all in the jury room.

4 The burden of proof, as I stated to you, is on the
5 State. The defendant is not required to prove his or her
6 innocence. The burden of proof remains on the State to
7 prove the defendant guilty beyond a reasonable doubt as to
8 the offenses upon which the State has charged the
9 defendant with.

10 Now, what's the charges? I have these indictments
11 that I showed you earlier. In this case, the indictment
12 charges the defendant with attempted murder, possession of
13 a weapon during the commission of a violent crime, and
14 possession of a firearm by a person convicted of a violent
15 crime. I remind you that the defendant -- the fact that
16 the defendant was arrested, charged and indicted in this
17 case is not evidence in the case and cannot be considered
18 by you as evidence. I just told you that at the beginning
19 regarding the indictment.

20 So the indictments in this case allege several
21 different offenses against the defendant. The charges are
22 attempted murder, possession of a weapon during the
23 commission of a violent crime, and possession of a firearm
24 by a person convicted of a violent crime. Each indictment
25 charges a separate and distinct offense. Your evaluation

1 must be as to each separate offense. You must decide each
2 indictment separately on the evidence and the law
3 applicable to that particular law and to be uninfluenced
4 by your decision as to any other indictment. In other
5 words, you need to individually evaluate the law as it
6 applies to each indictment upon which the defendant is
7 charged.

8 The defendant may be convicted or acquitted on any or
9 all of the offenses charged. You will be asked to write a
10 separate verdict of guilty or not guilty for each
11 indictment which I'll go over with you in a little bit.

12 The cloak of innocence that I talked about just a few
13 minutes ago, or the presumption of innocence, in these
14 indictments, two of them, the defendant has pled not
15 guilty, and that plea puts the burden on the State to
16 prove the defendant guilty.

17 A person charged with committing a criminal offense
18 in South Carolina is never required to prove him or
19 herself innocent. I charge you that it is an important
20 rule of the law that the defendant in a criminal trial, no
21 matter what the seriousness of the charge may be, will
22 always be presumed to be innocent of the crime for which
23 the indictment was issued unless guilt has been proven by
24 the evidence satisfying you of that guilt beyond a
25 reasonable doubt.

1 This presumption of innocence does not end when you
2 begin your deliberations, but it accompanies the defendant
3 throughout the trial -- let me read this again. The
4 presumption of innocence does not end when you begin your
5 deliberations, but it accompanies the defendant throughout
6 the trial until you reach a verdict of guilt based on the
7 evidence satisfying all 12 of you that the defendant is
8 guilty beyond a reasonable doubt as to the offenses upon
9 which the defendant is being charged by the State.

10 The presumption of innocence is not a mere legal
11 theory. It is just not a legal phrase. It is a
12 substantial right to which every defendant is entitled
13 unless you the jury are satisfied from the evidence of the
14 defendant's guilt beyond a reasonable doubt.

15 Now, what is reasonable doubt? The State has the
16 burden of proving the defendant guilty beyond a reasonable
17 doubt. Some of you may have served in civil cases I
18 indicated earlier where you were told that it is only
19 necessary to prove that a fact is more likely true than
20 not true such as by the greater weight or preponderance of
21 the evidence. However, in criminal cases, the standard is
22 a little different. The State's proof must be more
23 powerful than that. It must be beyond a reasonable doubt.
24 Proof beyond a reasonable doubt is proof that leaves you
25 firmly convinced of the defendant's guilt.

1 There are few things in the world that we know with
2 absolute certainty, and in criminal cases, the law does
3 not require proof that overcomes every possible doubt.
4 If, based on your consideration of the evidence, you are
5 firmly convinced that the defendant is guilty of the crime
6 charged, you must find the defendant guilty. If, on the
7 other hand, you think that there is a real possibility
8 that the defendant is not guilty, you must give the
9 defendant the benefit of the doubt and find him not
10 guilty.

11 There are two kinds of evidence, and I talked about
12 that earlier. I told you the forms of evidence, but
13 there's two kinds. There's direct evidence and
14 circumstantial evidence. I'm going to define both of them
15 for you.

16 Direct evidence is the testimony of a person who
17 claims to have actual knowledge of a fact such as an
18 eyewitness. Direct evidence directly proves the existence
19 of a fact and does not require deduction.

20 Circumstantial evidence, on the other hand, is based
21 on inference and not on personal knowledge or observation.

22 The law makes absolutely no distinction between the
23 weight or value to be given to either direct evidence or
24 circumstantial evidence, nor is a greater degree of
25 certainty required of circumstantial evidence than direct

1 evidence. You should weigh all the evidence in this case,
2 and after weighing the testimony, if you are convinced of
3 the defendant's guilt beyond a reasonable doubt, you must
4 find the defendant -- let me read this again.

5 Circumstantial evidence is based on inference and not on
6 personal knowledge or observation. The law makes
7 absolutely no distinction between the weight or value to
8 be given to either direct or circumstantial evidence, nor
9 is a greater degree of certainty required of
10 circumstantial evidence than direct evidence. You should
11 weigh all the evidence in this case, and after weighing
12 the testimony, if you are not convinced of the defendant's
13 guilt beyond a reasonable doubt, you must find the
14 defendant not guilty.

15 Now, credibility of witnesses and credibility of the
16 evidence obviously is within your preview as the judge of
17 the facts. You must determine the credibility of the
18 witnesses who have testified in the case. Credibility
19 simply means believability. It becomes your duty as
20 jurors to analyze and evaluate the evidence and determine
21 which evidence convinces you of its truth.

22 In determining the believability of witnesses who
23 have testified in this case, you may believe one witness
24 over several or several over one; you may believe a part
25 of a witness's testimony and reject the other part as I

1 told you earlier; you may consider whether a witness has
2 any interest, bias or prejudice or any other motive in the
3 case as I indicated to you earlier; you may also consider
4 the appearance and manner of the witness while the witness
5 is on the witness stand.

6 Now, in this case you had the testimony of witnesses
7 that were called expert witnesses. The rules of evidence
8 ordinarily do not permit witnesses to testify about their
9 opinions or conclusions. However, there is an exception.
10 An exception to that rule exists for witnesses who we call
11 expert witnesses. A witness who, by education and
12 experience, has become an expert in some art, science,
13 profession or calling may state an opinion as to relevant
14 and material matter in which the witness claims to be an
15 expert and may state the reasons for that opinion. You
16 should consider any expert opinion received in evidence in
17 this case, and like any other evidence, give it whatever
18 weight you think it deserves. In other words, you don't
19 treat the testimony of an expert witness any different
20 than you would treat the testimony of a lay witness. You
21 can believe some of it, none of it or all of it.

22 If you decide that the opinion of an expert witness
23 is not based on sufficient education or experience, or if
24 you conclude that the reasons given in support of the
25 opinion are not sound or that the opinion is outweighed by

1 other evidence, you may disregard the opinion entirely.
2 An expert witness's testimony is to be given no greater
3 weight than that of any other witnesses simply because the
4 witness is an expert. Further, you are not required to
5 accept an expert's opinion even though that opinion may be
6 uncontradicted -- is not contradicted.

7 All right. In this case -- let's go to the meat of
8 the charges in this case. This defendant is charged with
9 attempted murder. In order to prove this crime, the State
10 must prove the defendant attempted to kill another person
11 with malice aforethought either expressed or implied. But
12 before I give you the specifics of this particular
13 offense, you're going to hear me use the word "attempt"
14 and "intent." Let me just define that to you.

15 An attempt is an effort to accomplish a crime which
16 does not succeed. An attempt includes a specific intent
17 to do a particular criminal act along with an act falling
18 short of the act intended.

19 The State must show more than mere preparation in
20 intent. There must be some overt act committed in an
21 effort to commit the crime.

22 "Intent" means intending the result which actually
23 occurs, not accidentally or involuntarily. Intent may be
24 shown by acts and conduct of the defendant in other
25 circumstances from which you may naturally and reasonably

1 infer intent.

2 These two words I'll be using in a minute.

3 The defendant is charged with attempted murder and
4 with malice aforethought. Listen very carefully. In
5 order to prove this crime, the State must prove the
6 defendant attempted to kill another person with malice
7 aforethought either expressed or implied.

8 Malice is hatred, ill will or hostility towards
9 another person. It is the intentional doing of a wrongful
10 act without just cause or excuse and with an intent to
11 inflict an injury or under circumstances that the law will
12 infer an evil intent.

13 Malice aforethought does not require that malice
14 exist for any particular time before the act is committed,
15 but malice must exist in the mind of the defendant just
16 before and at that time the act was committed. Therefore,
17 there must be a combination of the previous evil intent
18 and the act.

19 Malice aforethought may be expressed or inferred.
20 These terms, "express" and "inferred," do not mean
21 different kinds of malice, but merely the manner in which
22 the malice may be shown to exist, that is, either by
23 direct evidence or by inference from the facts and
24 circumstances which are proved.

25 Express malice is shown when a person speaks words

1 which express hatred or ill will for another or when the
2 person prepared beforehand to do the act which was later
3 accomplished. Malice may also be inferred from conduct
4 showing a total disregard for human life. Inferred malice
5 may be shown if a substance which is likely to cause death
6 or great bodily injury is used.

7 If facts are proved beyond a reasonable doubt
8 sufficient to raise an inference of malice to your
9 satisfaction, this inference would be simply an
10 evidentiary fact to be considered by you the jury along
11 with all the other evidence in the case, and you may give
12 it the weight that you decide it should receive.

13 Now, I don't want you to be alarmed because I'm
14 reading you a lot of legal stuff. But I'm going to send
15 back to your jury room exactly what I just read so you'll
16 have an opportunity to look at it and go back and review
17 what I just read. So don't be alarmed. You'll see these
18 documents again.

19 Specific intent and criminal intent, that's the word
20 I mentioned earlier. A specific intent to kill is an
21 element of attempted murder. Intent -- let me say that
22 again. A specific intent to kill is an element of
23 attempted intent.

24 Intent means intending the result which actually
25 occurs, not accidentally or involuntarily.

1 Intent may be shown by acts and conduct of the
2 defendant and other circumstances which you may naturally
3 and reasonably infer intent. Evidence of the character of
4 the act, the character of the instrument used, the manner
5 in which it was used, the purpose to be accomplished and
6 the resulting wounds or injuries may be considered in
7 determining the intent in which the act was committed.
8 Intent may also be inferred when it is demonstrated that
9 the defendant voluntarily and willfully commits an act and
10 the natural tendency of which is to destroy another's
11 life.

12 In order to establish criminal liability, criminal
13 intent is required. For example, the mental state
14 required to be proven by the State for a particular crime
15 might be purpose, intent, knowledge, recklessness or
16 criminal negligence.

17 Criminal intent must be proven by the State beyond a
18 reasonable doubt. Criminal intent is always a matter that
19 must be determined by you the jury from the circumstances
20 surrounding the situation. There is no way to prove
21 intent to a mathematical certainty. There is no way
22 medical science can dissect a person's brain and determine
23 what the person had in mind, so the law says that criminal
24 intent may be inferred from the circumstances shown to
25 have existed. This is how you make a determination of

1 whether or not the element requiring intent was present.

2 It is not necessary to establish intent by direct and
3 positive evidence, but intent may be established by
4 inference in the same way as any other fact by taking into
5 consideration the acts of the parties and all of the facts
6 and circumstances of the case.

7 Criminal intent is a mental state, a conscious
8 wrongdoing. It is up to you the jury to determine what
9 the defendant intended to do based on the circumstances
10 shown to have existed.

11 Criminal intent can arise from an action or failure
12 to act. It may arise from negligence, recklessness, or an
13 indifference to duty or to consequences that is considered
14 by the law to be the equivalent of criminal intent.

15 This language will also be sent back with you as
16 well.

17 Let's talk about there is what is termed in the law a
18 lesser-included offense of attempted murder. And that
19 lesser-included offense of attempted murder is called
20 assault and battery of a high and aggravated nature. I'm
21 going to define that to you.

22 If you find that the State has not proven that the
23 defendant is guilty of attempted murder, you must then
24 determine whether the State has proved that the defendant
25 is guilty of assault and battery of a high and aggravated

1 nature. Assault and battery of a high and aggravated
2 nature is a lesser-included offense of attempted murder as
3 defined in Code Section 16-3-29 of our South Carolina Code
4 of Laws.

5 A person commits the offense of assault and battery
6 of a high and aggravated nature if the person unlawfully
7 injures another person and great bodily injury to another
8 person results, or, B, the act is accomplished by means
9 likely to produce death or great bodily injury.

10 Great bodily injury means bodily injury which causes
11 a substantial risk of death which causes serious permanent
12 disfigurement or protracted loss or impairment of the
13 function of a bodily member or organ.

14 Assault and battery of a high and aggravated nature
15 is an unlawful act of a violent injury to the person of
16 another accompanied by circumstances of aggravation. An
17 assault occurs when a person unlawfully attempts or offers
18 to commit a violent injury upon another person and had the
19 present ability to complete the attempted injury. An
20 assault is the intentional creation of a reasonable fear
21 of immediate bodily harm.

22 It is not necessary that the attempted injury or harm
23 actually take place. For example, if I walk up to you and
24 when we are within arm's reach I draw back to hit you,
25 that is an assault.

1 A battery is the unlawful touching of another person
2 by a person who has committed the assault. An unlawful
3 touching can be caused by a part of the accused's body or
4 by an object the accused puts in motion. A battery is the
5 completion of the assault by using or applying force to
6 another person, however slight, in a rude injury or
7 resentful manner without legal justification for doing so.

8 So using the earlier example, if I carry through the
9 assault by hitting you, then that is called a battery.

10 The State must also prove a circumstance of
11 aggravation in this particular offense. Circumstances of
12 aggravation includes the use of a deadly weapon, the
13 intent to commit a felony, the infliction of serious
14 bodily injury, a great disparity between the ages or
15 physical conditions of the parties, a difference in the
16 genders of the parties, the taking of indecent liberties
17 or familiarities with a female through the use of force,
18 the purposeful infliction of shame and disgrace and the
19 resistance of lawful authorities. These are only some
20 examples of circumstances of aggravation.

21 This particular language I will also be sending back
22 with you to read as well.

23 The defendant is charged also with possession of a
24 weapon during the commission of a violent crime. The
25 State must prove in this particular offense beyond a

1 reasonable doubt that the defendant was in possession of a
2 firearm or visibly displayed what appeared to be a firearm
3 during the commission of a violent crime.

4 A firearm means any machine gun, automatic rifle,
5 revolver, pistol or any weapon which will, is designed to
6 or may be readily converted to expel a projectile.

7 A knife means an instrument or tool with a sharp
8 cutting blade whether or not fastened to a handle which
9 can be used to inflict a cut, slash or wound.

10 In order to find the defendant guilty of possession
11 of a weapon during the commission of a violent crime, you
12 must find the defendant guilty of either committing a
13 violent crime or attempting to commit a violent crime.
14 And I'll read that statement. In order to find the
15 defendant guilty of possession of a weapon during the
16 commission of a violent crime, you must first find the
17 defendant guilty of either committing a violent crime or
18 attempting to commit a violent crime.

19 The State must prove -- attempted murder and assault
20 and battery of a high and aggravated nature are considered
21 violent crimes. The State must prove beyond a reasonable
22 doubt that the weapon further advanced or helped in the
23 commission of the crime.

24 This will also be sent back with you.

25 The defendant is also charged with possession of a

1 weapon by a person convicted of a violent crime. This is
2 under Section 16-23-500 of our South Carolina Code of
3 Laws. It speaks to unlawful possession of a firearm by a
4 person convicted of a violent offense.

5 It is unlawful for a person who has been convicted of
6 a violent crime as defined in Section 16-1-60 of our South
7 Carolina Code of Laws to possess a firearm or ammunition
8 within this state. In this trial, the State and the
9 defendant have stipulated, which means they have agreed --
10 I read you that stipulation earlier -- that prior to the
11 incident date which the defendant is on trial for this
12 week, the defendant was convicted of a prior violent
13 crime. This stipulation, an acknowledgement by the
14 defendant, can be used in evidence in this case and as
15 evidence for the State in meeting its burden of proof,
16 proving this criminal charge.

17 The defendant has raised the issue of self-defense.
18 This is a lengthy code section that I need you to pay
19 attention to. The defendant has raised the defense of
20 self-defense. Self-defense is a complete defense, and if
21 it is established, you must find the defendant not guilty.

22 The State has the burden of disproving self-defense
23 by proof beyond a reasonable doubt. If you have a
24 reasonable doubt of the defendant's guilt after
25 considering all of the evidence including the evidence of

1 self-defense, then you must find the defendant not guilty.
2 On the other hand, if you have no reasonable doubt of the
3 defendant's guilt after considering all of the evidence
4 including the defendant's assertion of self-defense, then
5 you must find the defendant guilty.

6 The following elements are required to establish
7 self-defense. The defendant must satisfy all four
8 elements of self-defense should you the jury find the
9 defendant's self-defense claim to be valid. The four
10 elements of self-defense are as follows: First, the
11 defendant must be without fault in bringing on the
12 difficulty. The defendant must be without fault in
13 bringing on the difficulty. If the defendant's conduct
14 was the type which was reasonably calculated to and did
15 provoke a deadly assault, the defendant would be at fault
16 in bringing on the difficulty and would not be entitled to
17 an acquittal based on self-defense.

18 The second prong, second, the defendant must have
19 actually believed he was in imminent danger of losing his
20 life or sustaining serious bodily injury or he actually
21 was in such imminent danger. If the defendant was
22 actually in imminent danger, it must be shown that the
23 circumstances would have warranted a person of ordinary
24 firmness and courage to strike the fatal blow to prevent
25 death or serious bodily injury. If the defendant believed

1 that he or she was in imminent danger of death or serious
2 bodily injury, it must be shown that a reasonably prudent
3 person of ordinary firmness and courage would have had the
4 same belief.

5 In deciding whether the defendant actually was or
6 believed he in this instance was in imminent danger of
7 death or serious bodily injury, you should consider all of
8 the facts and circumstances surrounding the case including
9 the physical condition and characteristics of the
10 defendant and the victim.

11 The third prong, if his defense is based upon his
12 belief of imminent danger, a reasonably prudent man of
13 ordinary firmness and courage would have entertained the
14 same belief. If the defendant actually was in imminent
15 danger, the circumstances were as such would warrant a man
16 of ordinary prudence, firmness and courage to strike the
17 fatal blow in order to save himself from serious bodily
18 injury or losing his life.

19 The defendant does not have to show that he or she
20 was in actual danger. It is enough if the defendant
21 believed he was in imminent danger and a reasonably
22 prudent person of ordinary firmness and courage would have
23 had the same belief, the defendant has a right to act on
24 appearances even though the defendant's belief may have
25 been mistaken.

1 It is for you the jury to decide whether the
2 defendant's fear of immediate danger of death or serious
3 bodily injury was reasonable and would have been felt by
4 an ordinary person in the same situation.

5 The fourth prong, the defendant had no other probable
6 means of avoiding the danger or of losing his life or
7 sustaining serious bodily injury than to act as he did in
8 this particular instance.

9 The final element of self-defense is the defendant
10 had no other probable way to avoid the danger of death or
11 serious bodily injury than to act as the defendant did in
12 this particular instance. So I just repeated that again
13 for you.

14 And this whole area of self-defense, I will also send
15 that back with you to your jury room.

16 In this case, you heard statements that were given by
17 a plethora of witnesses. A statement alleged to have been
18 made by the defendant has been admitted into evidence in
19 this case. While the Court has determined that the
20 statement is admissible, I instruct you that you have the
21 ultimate decision of whether or not the defendant made the
22 statement. If the defendant did make the statement, you
23 must determine whether the statement was made by the
24 defendant voluntarily.

25 There were statements made by witnesses in the case.

1 If these statements were made by the witnesses, it's up to
2 you to determine whether any statement was freely and
3 voluntarily made. If any statement was made, that would
4 be within your purview as well.

5 Ladies and gentlemen, that's the law that's
6 applicable to this case. And as I indicated to you
7 earlier, I will send that information back to you in your
8 jury room for your consideration.

9 Mr. Foreman, I have a verdict form. And it will be
10 your responsibility to complete the verdict form once all
11 deliberations are complete.

12 The decision by the jury must be unanimous. Each
13 individual juror's opinion is their opinion. Once you
14 reach a unanimous verdict, then you would sign the verdict
15 form.

16 The verdict form that I have in front of me has a
17 couple of -- three pages. The State of South Carolina,
18 County of Greenville, in the Court of General Sessions,
19 State vs. William L. McKinney Verdict Form 1. And it
20 states this: As to Indictment 2021-GS-23-03551, as to the
21 charge of attempted murder, we the jury find the
22 defendant, and then there's a couple of lines. I had to
23 put this in some order so pay no attention that I've got
24 "guilty" in front of "not guilty." It had to be in some
25 order. So I have a line that says "guilty" and a line

1 that says "not guilty."

2 Secondly, as to Indictment 2021-GS-23-03551, as to
3 the charge of possession of a weapon during a violent
4 crime, we the jury find the defendant, and then there's a
5 line that says "guilty" and there's a line that says "not
6 guilty."

7 And then it says, Mr. Foreman, that I certify this
8 decision was a unanimous decision of the jury. You would
9 sign your name and date it the date that you sign it.

10 On the second verdict form, it goes -- it's the same
11 caption. It says: As to the Indictment
12 2020-GS-23-05244A, to the charge of possession of a
13 firearm by a person convicted of a violent crime, we the
14 jury find the defendant, then there's a line for "guilty"
15 or "not guilty," and you would sign your name and date it
16 once that decision is made.

17 Now, there's also a third form. And there's
18 something highlighted in bold, so read that before. It
19 says -- same caption. It says: You only fill this out --
20 only fill out if not guilty for attempted murder. As to
21 the Indictment 2021-GS-23-03551, the charge of assault and
22 battery of a high and aggravated nature, which is
23 considered a lesser-included offense of attempted murder,
24 we the jury find the defendant either guilty or not
25 guilty, and then you would sign your name and date it. So

1 you have -- and I know reading it sort of throws you off,
2 but once you see it, it really becomes simplified.

3 Now, what I'm going to do is there's lunch back
4 there. I know it's almost 3:00 so I know you may be a
5 little hungry. So I'm going to send you back to your jury
6 room. And please, ma'am, please, sir, don't start any
7 kind of deliberations, no conversation, no chatter about
8 anything because I need to talk with the attorneys and
9 then see if I need to bring you back out here for any
10 reason regarding some of the charges that I just made. So
11 I need to get that. So I'm not telling you -- Bailiff,
12 you can probably distribute the lunch to them so at least
13 you can maybe start that. But don't do any kind of
14 deliberation until he gives you some instructions to do
15 so.

16 And Mr. Foreman, if there's anything that occurs in
17 the jury room, anything that I need to be aware of, that
18 must come through you. You are in charge. And I'm saying
19 anything that happens back there, I need to know. It
20 still has to come through you; okay?

21 All right. So go back and wait for my instructions.

22 (WHEREUPON, the jury exits the courtroom at 3:03 PM.)

23 THE COURT: I hesitated. I guess you know where I'm
24 going. The statement of the defendant, I started reading
25 this and then I cut it off.

1 MR. POLSINELLO: I'm not sure the Court -- we
2 submitted that because of Pittman's in-car video. So the
3 defendant clearly gave statements in Pittman's in-car
4 video, so that's why we gave Your Honor that charge.

5 THE COURT: Okay. And I did not -- and I guess we
6 probably should have talked about it a little bit. But I
7 did not read it because in the back of my mind, I knew
8 there was no written statement. But that's where --
9 that's where this comes from.

10 MR. POLSINELLO: Yes, Your Honor. Because he did
11 give statements in the back of that car.

12 THE COURT: All right. Now, I can clean this up one
13 of two ways. I can bring them back out and read the
14 charge in its entirety, or I can send it back to them and
15 they can read it.

16 MR. BOATWRIGHT: I was actually going to say, Your
17 Honor, it's my understanding there's case law out there
18 that says if you send any part of the jury charge back,
19 you have to send the entire thing anyways. So I think if
20 we just send the entire jury instruction, that will clear
21 up anything.

22 THE COURT: The entire thing?

23 MR. BOATWRIGHT: Yes, Your Honor.

24 THE COURT: Even what I said?

25 MR. BOATWRIGHT: Yes, Your Honor.

1 The only thing I want to clarify as well is that we
2 don't send the indictments back, because the indictment
3 has ---

4 THE COURT: Yeah. I know that.

5 So I'm not opposed -- let me see. Hold on a second.

6 MR. POLSINELLO: Judge, when you get a moment, the
7 two alternates . . .

8 THE COURT: Oh, yeah. I'm going to take care of
9 them. They might want to eat lunch before I bring them
10 out.

11 (WHEREUPON, a recess is taken at 3:12 PM, and the jury
12 starts deliberating.)

13 THE COURT: Let's go back on the record just very
14 briefly, State vs. William McKinney.

15 Yes, sir.

16 MR. POLSINELLO: May it please the Court. Derek
17 Polsinello for the State.

18 Your Honor, as to the two alternates, the State can't
19 help but think a month ago Your Honor was in a trial,
20 actually a couple of months ago, the Eskew trial ---

21 THE COURT: I know where you're going.

22 MR. POLSINELLO: --- and that one juror, Your Honor,
23 who up and left. And it caused havoc for everyone, and
24 the case had to be mistried. We certainly don't want that
25 happening in this case. And in light of that experience

1 that Your Honor had, the State is respectfully asking the
2 two alternates, for you not to release them, for them to
3 be separated while the jury deliberates. And once we have
4 a verdict, then those alternates are released. We just
5 can't help about remembering that experience, Your Honor.

6 THE COURT: Yeah. Mr. Boatwright?

7 MR. BOATWRIGHT: That's understandable, Judge. I
8 would agree with it.

9 THE COURT: They're probably going to ask at one
10 point, because the two of them don't know each other so
11 they're going to be sitting in this room looking at each
12 other. They're not going to be playing checkers. They'll
13 be looking at each other. So they might ask why they're
14 still there. So I'll deal with that when I have to. But
15 we'll just keep them.

16 MR. POLSINELLO: Thank you, Your Honor.

17 THE COURT: And I think the bailiffs have got them
18 separated in a separate room anyway eating lunch or
19 something like that. So we'll just keep them in case
20 something happens.

21 MR. POLSINELLO: That's all from the State, Your
22 Honor.

23 MR. BOATWRIGHT: Thank you, Judge.

24 THE COURT: All right. Okay.

25 (WHEREUPON, a recess is taken at 3:31 PM.)

1 THE COURT: All right. It looks like everybody's
2 here.

3 (WHEREUPON, the jury entered the courtroom at 4:31 PM.)

4 THE COURT: All right. Mr. Foreman, the bailiff
5 indicates the jury's reached a verdict; is that correct?

6 JURY FOREMAN: Yes, we have, Your Honor.

7 THE COURT: All right. Could you pass the verdict
8 form to the bailiff?

9 Madam Clerk, would you publish the verdict.

10 VERDICT

11 THE CLERK: Your Honor, in the case of
12 2021-GS-23-3551, the State vs. William L. McKinney, as to
13 the charge of attempted murder, we the jury find the
14 defendant guilty. As to the charge of possession of a
15 weapon during a violent crime, we the jury find the
16 defendant guilty.

17 As to the Indictment 2020-GS-23-5244A, the charge of
18 possession of a firearm by a person convicted of a violent
19 crime, we the jury find the defendant guilty.

20 Ladies and gentlemen, if this is the verdict you
21 reached in your deliberation room, please raise your right
22 hand.

23 (All jurors complied.)

24 THE CLERK: Thank you.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury and also the two alternates in the back, I want to
2 thank all of you for your service this week. I applaud
3 all of you. You've been very attentive. I think both
4 sides, the State as well as the defense, thank you for
5 your service.

6 I'm going to excuse you for the week. We do not have
7 anything else for this week. Hopefully, you'll get an
8 opportunity in the not-too-distant future to serve as a
9 juror again, whether it's in this court, the Court of
10 Common Pleas or even Municipal Court or Federal Court or
11 wherever it is, jump at the opportunity to serve because
12 serving as a juror is a valuable service. So I thank you
13 as well as the two alternates in the back for your
14 service. And if our paths never cross again, I wish you
15 well.

16 Okay. Take care. Just follow the . . .

17 (WHEREUPON, the jury exits the courtroom at 4:33 PM.)

18 THE COURT: All right. Any motions of any kind?

19 MR. POLSINELLO: Nothing from the State, Your Honor.

20 MR. BOATWRIGHT: Yes, Judge. The defense would ask
21 for a judgment notwithstanding the verdict. We don't
22 believe a reasonable jury could have come to that
23 conclusion based on the evidence that was presented, and
24 we would also ask for a motion for a new trial.

25 THE COURT: All right. I'm going to go ahead and

1 deny your motions.

2 All right. Anything else before we enter sentencing?

3 MR. POLSINELLO: Just reminding the Court, based on
4 the jury's unanimous verdict of guilty for Indictment
5 Number 2021-GS-23-03551, as to the charge of attempted
6 murder, Your Honor, that is a most serious offense under
7 the law of the state, and as Your Honor and the Court's
8 aware, the pretrial motions and documents have been filed.
9 The defendant has a prior conviction for a most serious
10 crime, the 2006 assault and battery with intent to kill
11 guilty plea. It's the State's understanding, Your Honor,
12 under South Carolina Code of Laws Section 17-25-45, with
13 today's conviction, is an automatic life without parole
14 sentence based on the jury's unanimous verdict.

15 MR. BOATWRIGHT: Judge, it's the defense's position
16 under the law, you're required to have two most serious
17 offenses at the time of the conviction of the third in
18 order to be LWOP eligible. And you have to have -- or
19 three serious offenses at the time of this conviction. At
20 the time of this conviction, as the State just said, he
21 only has one most serious conviction, so therefore, we do
22 not believe he's LWOP eligible and we would ask the Court
23 to sentence him under the regular sentencing guidelines
24 for attempted murder.

25 THE COURT: All right. Why wasn't that dealt with

1 pretrial since you were served with the LWOP motion?

2 MR. BOATWRIGHT: I missed it on my part, Judge. I
3 literally just realized it when he said it and said it to
4 my opposing counsel.

5 THE COURT: Mr. Polsinello?

6 MR. POLSINELLO: Your Honor, we defer to the Court's
7 judgment. But it's my understanding two most serious
8 convictions triggers the LWOP sentence, and this would be
9 a second conviction.

10 THE COURT: That's my understanding of that
11 particular statute. You got something to show me
12 differently than that, Mr. Boatwright?

13 MR. BOATWRIGHT: One second, Your Honor.

14 Yes, Judge. I was actually looking at the law. I
15 misstated. It was only one serious offense that's
16 required -- or one most serious offense that's required.

17 THE COURT: So what counsel stated is correct.

18 MR. BOATWRIGHT: Yes, Your Honor.

19 THE COURT: All right. Okay. Do y'all want to
20 approach the bench? Bring your client.

21 Anybody got a sentencing sheet?

22 MR. POLSINELLO: I have them, Your Honor.

23 THE COURT: Come on up, Mr. McKinney.

24 What's the maximum penalty on those other offenses?

25 MR. POLSINELLO: Both gun charges, Your Honor, carry

1 up to five years.

2 THE COURT: Can I see you a second?

3 (WHEREUPON, a bench conference was held off the record;
4 Court's Exhibit Number 4 was marked for identification.)

5 THE COURT: All right. Mr. McKinney, Mr. Boatwright
6 and Mr. Hellams, I mean, it's just a -- I guess I can talk
7 to you, Mr. McKinney.

8 My hands are essentially tied, and I hate that. You
9 know, I get no enjoyment of writing what I've got to write
10 on this sentencing sheet. I get absolutely no joy in
11 that. I'll think about it. I'll always know that on this
12 date I wrote that I'm giving you a life sentence without
13 parole. Ten years from now, 20 years from now, however
14 long I'm on this earth, I'll always know that I did that
15 on this day because I had to, because I had no choice.

16 You know, life is about choices, and it's tough. But
17 I'll be glad to hear anything you want to tell me, I mean,
18 anything you want to say.

19 DEFENDANT MCKINNEY: No.

20 THE COURT: Yeah. Anything y'all want to say?

21 MR. BOATWRIGHT: No, Your Honor.

22 THE COURT: Anything else from the State?

23 MR. POLSINELLO: Just for the record, Your Honor, the
24 last and final offer that we made, if Your Honor's
25 inclined to hear that.

1 THE COURT: What was it?

2 MR. POLSINELLO: Assault and battery first degree,
3 ten years, credit for time served so far.

4 THE COURT: And that was turned down.

5 MR. POLSINELLO: In addition to one of the gun
6 charges.

7 MR. BOATWRIGHT: Our understanding, Judge, was the
8 offer was for him to serve an additional seven or eight
9 years on top of what he'd served already. If there was
10 ever any type of close to time-served offer, he would have
11 taken it.

12 MR. POLSINELLO: Your Honor, we have emails backing
13 this up. It was -- we gave him two options, and the
14 second option was assault and battery first degree and one
15 gun charge, ten years negotiated, credit for time served.
16 That was an option.

17 THE COURT: And that was not accepted.

18 MR. POLSINELLO: No, Your Honor. It was declined in
19 an email from defense counsel stating they wanted a jury
20 trial.

21 SENTENCING

22 THE COURT: All right. On indictment ending in
23 03551, the State vs. William L. McKinney, the sentence of
24 the Court is that you be sentenced to life imprisonment
25 without the possibility of parole.

1 On indictment ending in 03551, the sentence of the
2 Court is five years concurrent.

3 On indictment ending in 5244, the sentence of the
4 Court is five years concurrent.

5 Good luck to you, young man.

6 MR. BOATWRIGHT: Thank you, Judge.

7 (WHEREUPON, proceedings concluded at 4:46 PM.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF GREENVILLE)

5
6
7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 16th, 17th, 18th and 19th day of October, 2023.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17
18 February 15, 2024

19
20
21 Cheryl A. Smith

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

WITNESSES

Alvin T King

Am

Greenville County Sheriffs Office

7/4/2020

ARREST WARRANT NUMBER

DOB [REDACTED] DIRECT PRESENTMENT
BM SSN: [REDACTED]

ACTION OF GRAND JURY
TRUE BILL

Brian C. Bell

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2020-GS-23-

DFP

005244A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2020

THE STATE

vs.

WILLIAM L MCKINNEY

Indictment for

3434

**POSSESSION OF A FIREARM BY PERSON
CONVICTED OF A VIOLENT CRIME**

VIOLATION § 16-23-0500(A)

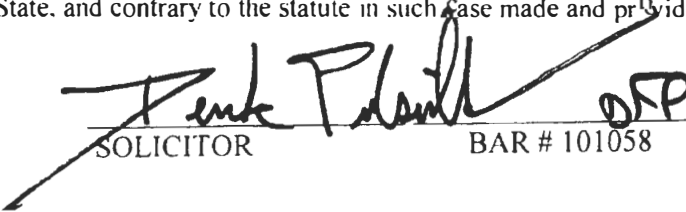
ENTERED
ACCT. *gm*

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE) INDICTMENT FOR
 POSSESSION OF A FIREARM BY PERSON CONVICTED OF A
 VIOLENT CRIME

At a Court of General Sessions, convened on **SEP 22 2020** the Grand Jurors of Greenville
 County present upon their oath:

That WILLIAM L MCKINNEY did in Greenville County on or about the 4th day of July, 2020, possess
 a firearm and/or ammunition within the State, the defendant having been convicted of a violent crime, to
 wit: Assault and Battery with Intent to Kill and/or Assault And Battery of a High and Aggravated
 Nature, as defined by Section 16-01-0060. This is in violation of §16-23-0500(A) of the South Carolina
 Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

BAR # 101058

STATE OF SOUTH CAROLINA

COUNTY OF **Greenville**

STATE

VS.

William L Mckinney

AKA:

Race: BLACK Sex: M Age: 44

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: _____

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020 - GS - 23 - 5244A

A/W#: 2020GS2305244A

Date of Offense: 7/4/2020

S.C. Code § 16-23-0500(A)

CDR Code #: 3434

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: **Weapons / Possession of Firearm or Ammunition by person convicted of violent felony**

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

101058
Polsinello, Derek SC Bar #

Defendant

BOATWRIGHT, ASHALEY
Attorney for Defendant

104078
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 5 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years, and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. William L McKinney INDICTMENT/CASE# 2020 - GS - 23 - 5244A

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning. _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 50.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 5.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 1287.50

Clerk of Court/ Deputy Clerk: Deice Elms
Court Reporter: C SmithPresiding Judge: HertJudge Code: 2763Sentence Date: 10-19-23

WITNESSES

Alvin T King

Greenville County Sheriffs Office

7/4/2020

ARREST WARRANT NUMBER

2020A2330206816 and 2020A2330206817

ACTION OF GRAND JURY

FOREMAN GRAND JURY

TRUE BILL

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-23-^{DFP} 003551

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2021

THE STATE

VS.

WILLIAM L MCKINNEY

Indictment for

3410/0549

ATTEMPTED MURDER AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-03-0029 and §16-23-0490

ENTERED
ACCT

[illegible]

**INDICTMENT FOR
ATTEMPTED MURDER AND POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME**

At a Court of General Sessions, convened on _____
County present upon their oath:

JUN 01 2021

the Grand Jurors of Greenville

COUNT I – ATTEMPTED MURDER

That WILLIAM L MCKINNEY did in Greenville County, on or about the 4th day of July, 2020,
unlawfully, with malice aforethought, and with the intent to kill, attempt to kill MONIEQUE GREEN.

This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II – POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That WILLIAM I. MCKINNEY did in Greenville County, on or about the 4th day of July, 2020, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Attempted Murder. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided

SOLICITOR

BAR # 101058

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

William L Mckinney

AKA:

Race: BLACK Sex: M Age: 44DOB: [REDACTED] SS#: [REDACTED]Address [REDACTED] StreetCity, State, Zip: Belton, SC 29627DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2021 - GS - 23 - 03551A/W#: 2020A2330206816Date of Offense: 7/4/2020S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder/Attempted Murderin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

101058
Polsinello, Derek SC Bar #

Defendant

104078
BOATWRIGHT, ASHALEY SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,
for a determinate term of Life w/Prob + the Possibility of Parole days/months/years/Time Served ☒ Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. William L McKinney INDICTMENT/CASE#: 2021 - GS - 23 - 03551**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>2.70</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.70Clerk of Court/ Deputy Clerk: Bruce Bennett
Court Reporter: C. SmithPresiding Judge: [Signature]Judge Code: 8763Sentence Date: 10-19-23

STATE OF SOUTH CAROLINA

COUNTY OF **Greenville**

STATE

VS.

William L McKinney

AKA:

Race: BLACK Sex: M Age: 44

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Street

City, State SC 29627

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021 - GS - 23 - 03551

A/W#: 2020A2330206817

Date of Offense: 7/4/2020

S.C. Code § 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16- 230490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Polsinelo, Derek	101058 SC Bar #	Defendant	BOATWRIGHT, ASHALEY Attorney for Defendant	104078 SC Bar #
------------------	--------------------	-----------	---	--------------------

WHEREFORE, the Defendant is committed to the ☒ **State Department of Correction**, ☐ **County Detention Center**,
for a determinate term of 5 days/months/~~years~~/Time Served ☐ **Youthful Offender Act** not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. _____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. William L McKinney INDICTMENT/CASE# 2021 - GS - 23 - 03551**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	

TOTAL \$ 120.75Clerk of Court/ Deputy Clerk: Bruce Barnett
Court Reporter: C. Smith

Presiding Judge: _____

Judge Code: _____

Sentence Date: 10-19-22

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) THIRTEENTH JUDICIAL CIRCUIT
 COUNTY OF GREENVILLE)
)
 THE STATE) Indictment: 2021GS2303551
 -VS-)
)
 WILLIAM L. MCKINNEY)
 DOB: [REDACTED])
)
 DEFENDANT)

VERDICT FORM 1

1. As to Indictment 2021-GS-23-03551, the charge of **ATTEMPTED MURDER**, we the Jury find the Defendant:

☒ Guilty
☐ Not Guilty

2. As to Indictment 2021-GS-23-03551, the charge of **Possession of a Weapon During a Violent Crime**, we the Jury find the Defendant:

☒ Guilty
☐ Not Guilty

I certify this decision was the unanimous decision of the jury:

William Metcalfe
 Jury Foreperson

October 19, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED

Feb 18 2025

SC Court of Appeals

Respectfully Submitted,



David Alexander

Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of February, 2025.

RECEIVED

Feb 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Alex Kinlaw, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

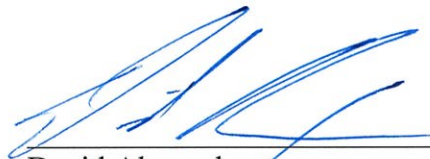
WILLIAM MCKINNEY,

APPELLANT

APPELLATE CASE NO. 2023-001692

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 18th day of February, 2025.



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT