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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Darlington County

Honorable R. Kirk Griffin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARIUS GRANT DICKEY,

APPELLANT

APPELLATE CASE NO. 2024-000145

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT #1 (VIDEO FOOTAGE (FLASH DRIVE)).**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DARLINGTON) The Court of General Sessions
) Fourth Judicial Circuit
) 2023-GS-16-01402; 00890;
) 00895; 00892; 00896; 00889

THE STATE,)
)
 Plaintiff,)
)
 vs.)
) Transcript of Record
 DARIUS G. DICKY,)
)
 Defendant.)
)
 _____)

Darlington, South Carolina
 January 22-25, 2024

B E F O R E:

The Honorable R. Kirk Griffin

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Ms. Marianna White, Esquire
 Mr. Jamie Scruggs, Esquire
 Mr. Nathan Scales, Esquire
 Attorneys for the Defendant

Lisa Carter
 Circuit Court Reporter

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P-R-O-C-E-E-D-I-N-G-S

Monday, January 22, 2024

(WHEREAS, this matter was scheduled for a trial, the plaintiff appeared along with their attorney of record. The defendant appeared along with his attorney. The proceedings began at 9:45 a.m.)

THE COURT: All right. The jurors that remain they are qualified and will be ---

THE CLERK: Yes, sir.

THE COURT: --- sworn in as jurors this week. Ladies and gentlemen, we have done two of the three steps in the qualification process. Now, we turn to the cases or case which will be tried this week and there is a separate question and answer process for that. At this time I'd recognize the solicitor's office to call the case.

MR. BELL: Your Honor, may it please, the Court?

THE COURT: Yes, sir.

MR. BELL: The State calls the following indictments: the State vs. Darius Grant Dickey. The first indictment is indictment 2020-GS-16-0896, indictment for murder. The next indictment is 2023-GS-16-1402, indictment for attempted murder. The next indictment, indictment 2020-GS-16-0889, assault and

1 battery of a high and aggravated nature. The next
2 indictment is, indictment 2020-GS-16-0890, indictment
3 for battery assault and battery of a high and
4 aggravated nature. The next indictment is 2020-GS-
5 16-0892, possession of a weapon during the commission
6 of a violent crime. The last indictment is 2020-GS-
7 16-0895, unlawful carrying of a pistol.

8 **Voir Dire**

9 THE COURT: All right. Mr. Solicitor, if you
10 could bring up the indictments please?

11 THE CLERK: I think we've got them right here.
12 Hang on just a second, judge.

13 THE COURT: All right. Everywhere does things a
14 little bit different, um, back in my home county the
15 solicitor brings them up, but that's fine.

16 All right. Ladies and gentlemen, the State has
17 called numerous indictments against, ah, in cases
18 titled The State of South Carolina versus Darius
19 Grant Dickey. And ladies and gentlemen, I'm going to
20 read to you the contents of these indictments just to
21 give you a sense of what the allegations are in this
22 case. And ladies and gentlemen, first and foremost,
23 I need to tell you that these indictments are the
24 formal documents which brings, formal documents which
25 bring these cases to court. They are not proof of

1 anything. They are merely the allegation that the
2 State has made against the defendant. And again, I'm
3 gonna read you the contents of the charges of the
4 indictment just to give you a sense of what this case
5 is about. Indictment 2020-GS-16-0896, alleges count
6 of murder and that indictment states that Darius
7 Grant Dickey did in Darlington County on or about
8 January 26, 2020 willfully, feloniously, and
9 intentionally killed the victim, Garrett Baksh with
10 malice forethought either expressed or implied by
11 means of shooting and the victim did die as an
12 approximate result, thereof, on or about January 29,
13 2020 in Darlington County in violation section 16-3-
14 10 of the South Carolina Code of Laws.

15 Indictment 2023-GS-16-1402 it's for attempted
16 murder, the State alleges that Darius Grant Dickey
17 did in Darlington County on or about January 26, 2020
18 with specific intent to kill, did attempt to kill
19 Davijon McCall with malice forethought either
20 expressed or implied in violation of Section 16-3-29
21 of the South Carolina Code of Laws.

22 Indictment 2020-GS-16-0889 it's for assault and
23 battery of a high and aggravated nature. The State
24 alleges that Darius Grant Dickey did in Darlington
25 County on or about January 26, 2020 unlawfully

1 injured Leonard Sweetenburg and that act was
2 accomplished by means likely to produce death or
3 great bodily injury in violation of Section 16-3-600
4 of the South Carolina Code of Laws.

5 Indictment number 2020-GS-16-0890, is also for
6 assault and battery of a high and aggravated nature.
7 The State alleges that Darius Grant Dickey did in
8 Darlington County on or about January 26, 2020
9 unlawfully injured Mr. Ivan Grandados and the act was
10 accomplished by means likely to produce death or
11 great bodily injury in violation of Section 16-3-600
12 of the South Carolina Code of Laws.

13 Indictment 2020-GS-16-0892 is for possession of a
14 weapon during the commission of a violent crime. The
15 State alleges that Darius Grant Dickey did in
16 Darlington County on or about January 26, 2020
17 possess a firearm or visibly display what appeared to
18 be a firearm or visibly displayed a knife during the
19 commission or a attempted commission of a violent
20 crime in violation Section 16-23-490 of the South
21 Carolina Code of Laws.

22 Indictment 2020-GS-16-0895, alleges unlawful
23 carrying of a pistol. The State alleges that Darius
24 Grant Dickey did in Darlington County on or about
25 January 26, 2020 carry about his person a pistol and

1 that carrying was not authorized by law in violation
2 of Section 16-23-20 of the South Carolina Code of
3 Laws.

4 Ladies and gentlemen, again, those are just the
5 allegations that the State has made against the
6 defendant and these indictments not evidence. They
7 were read to you to give you a sense of the nature of
8 this case.

9 Ladies and gentlemen of the jury panel, is any
10 member of the jury panel related by blood or marriage
11 to Darius Grant Dickey, if so, please stand?

12 (Whereupon, no one stands)

13 THE COURT: Does any member of the jury panel
14 have a close, personal, social or business
15 relationship with Darius Grant Dickey?

16 (Whereupon, no one stands)

17 THE COURT: All right. Ladies and gentlemen of
18 the jury, I'm going to have the attorneys who will be
19 participating in this case introduce themselves to
20 you along with anybody who will be assisting them and
21 I will start with the solicitor, ah, yes, sir?

22 MR. BELL: Yes, Your Honor. May it please, the
23 Court?

24 THE COURT: Yes, sir.

25 MR. BELL: My name is Monty Bell. I'm the

1 assistant solicitor for the Fourth Circuit
2 Solicitor's Office and that serves Darlington County,
3 Dillon, Marlboro, and Chesterfield. But primarily I
4 serve Darlington County. I'm a Hartsville, South
5 Carolina resident.

6 MR. REDMOND: May it please, the Court?

7 THE COURT: Yes, sir, Mr. Redmond.

8 MR. REDMOND: Ladies and gentlemen, my name is
9 Kenard Redmond. A native of Hartsville, but I'm now
10 head of court in Chesterfield County but still serve
11 the entire circuit. I am Deputy Solicitor working
12 for the pleasure of our elected solicitor, Mr. Will
13 Rogers.

14 Thank you, Your Honor.

15 THE COURT: All right.

16 MRS. WHITE: My name is Marianna White. I work
17 with the Public Defender's Office of the Fourth
18 Circuit and I work in the Darlington County and I
19 live in Florence.

20 MR. SCRUGGS: May it please, the Court, Your
21 Honor?

22 THE COURT: Yes, sir.

23 MR. SCRUGGS: Good morning. My name is Jamie
24 Scruggs and I'm an attorney with the Fourth Circuit
25 Public Defender's Office. I work primarily in Dillon

1 and Darlington County.

2 MR. SCALES: And I'm Nathan Scales. I'm the
3 Deputy Public Defender also in the same office under
4 Matt Rivers who is our Chief Public Defender.

5 THE COURT: All right. Ladies and gentlemen, the
6 questions are going to apply to both sides, is any
7 member of the jury panel related by blood or marriage
8 or have a close personal, social, or business
9 relationship with any of these attorneys?
10 (Whereupon, no one stands)

11 THE COURT: Is any member of the jury panel
12 currently being represented by or have you been
13 represented in the past by any of these attorneys, if
14 so, please stand?
15 (Whereupon, no one stands)

16 THE COURT: All right. Folks, we have proposed
17 witness lists?

18 MR. REDMOND: I beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 MR. REDMOND: And the court reporter does already
21 have a copy.

22 THE COURT: Okay.

23 (Whereupon, someone from the jury panel speaks out)

24 THE COURT: Hold on! Hold on a second, Ms.
25 Gainey. Hold on! All right. Ms. Gainey, if you'd

1 come forward please?

2 (Whereupon, a white female comes forward)

3 THE COURT: Yes, ma'am.

4 POTENTIAL JUROR #57: I was just saying I didn't
5 remember who represented me whenever I was here.

6 THE COURT: Okay. So you've been in court here -
7 --

8 POTENTIAL JUROR #57: Yeah.

9 THE COURT: And you don't know which one of these
10 attorneys represented you.

11 POTENTIAL JUROR #57: (Shaking of the head yes)

12 THE COURT: Okay. All right. Thank you, ma'am.
13 You can have a seat.

14 MR. BELL: It's Teresa?

15 COURT REPORTER: That was Kathryn.

16 MR. BELL: Kathryn? Fifty-seven?

17 THE COURT: All right. Ladies and gentlemen,
18 the following is a list of witnesses who may testify
19 in this case and the question is the same. I'm gonna
20 read out this list of potential witnesses and if you
21 are related by blood or marriage or have a close,
22 personal, or social or business relationship with any
23 of these witnesses, any of these potential witnesses,
24 please stand for me: Jeremy Curtis, Hartsville
25 Police Department; John Specht, Hartsville Police

1 Department; Morris Goodman, Hartsville Police

2 Department ---

3 MR. REDMOND: Your Honor, if I may? Some of them
4 are present in the courtroom, I'd just ask if they'd
5 stand ---

6 THE COURT: All right. Yeah, if I call your name
7 and you are, um, if I call a name and that person is
8 present in the courtroom just please stand and face
9 the jury.

10 Erica Norton, Hartsville Police Department; Kyle
11 Hause, Hartsville Police Department; Johnny Winburn,
12 Hartsville Police Department; Edwin Pate, Hartsville
13 Police Department; Ben Watford, formerly with the
14 Hartsville Police Department; Justin, Justin
15 Cottingham, formerly with the South Carolina Highway
16 Patrol; Kelly Rose, MD; Maggie Pauli with SLED; Tracy
17 Thrower with SLED; Britt Dove with SLED; Jerry
18 Grantham; Tanner Holloman; Angelena Deason; Ivan
19 Granados; Michael Gryder; Angelica Garcia; Zyriq
20 Thomas; AJ Wright; Mikayla Wingate; Cynthia Dickey;
21 and Alan Rogers.

22 (Whereupon, several jurors stand)

23 THE COURT: All right, ma'am, are you standing as
24 a witness or standing as some or as a respond ---

25 MS. DICKEY: You called my name out. I'm Cynthia

1 Dickey.

2 THE COURT: All right. You can have -- you can
3 have a seat now. Any of the witnesses can go ahead
4 and have a seat now. All right.

5 All right. Just -- before -- before y'all tell
6 me anything just give me your name and number.

7 POTENTIAL JUROR #97: Juror number 97, Patrick
8 Jones.

9 THE COURT: All right. All right. Mr. Jones,
10 which witness?

11 POTENTIAL JUROR #97: Edwin Pate, um, Brandon
12 Pate. My brother works for him at ---

13 THE COURT: All right. All right. Would the fact
14 that you have somewhat of a relationship with this
15 witness, would that impact your ability to be fair
16 and impartial to both the State and the defense in
17 this trial?

18 POTENTIAL JUROR #97: No, sir.

19 THE COURT: You can set aside your personal
20 relationships and base your verdict solely upon the
21 evidence which is presented to you from within this
22 courtroom?

23 POTENTIAL JUROR #97: Yes, sir.

24 THE COURT: All right. Thank you, sir. You can
25 have a seat. Yes, sir?

1 POTENTIAL JUROR #86: Justin Howle, juror 86.

2 THE COURT: All right. Mr. Howle, which witness
3 applies to you?

4 POTENTIAL JUROR #86: Kyle Hause.

5 THE COURT: All right. Would the fact that you
6 have a relationship with that witness, would that
7 impact your ability to be fair and impartial to both
8 the State and the defense in the trial of this case?

9 POTENTIAL JUROR #86: No, sir, it wouldn't.

10 THE COURT: You can set aside your personal
11 experience and base your verdict solely upon the
12 evidence that was presented from within this
13 courtroom?

14 POTENTIAL JUROR #86: Yes, sir.

15 THE COURT: All right. Thank you. You can have a
16 seat.

17 COURT REPORTER: I'm sorry, again, what was his
18 witness?

19 THE COURT: He's 86.

20 COURT REPORTER: No ---

21 THE CLERK: Kyle Hause.

22 THE COURT: Kyle H-a-u-s-e.

23 COURT REPORTER: Thank you.

24 THE COURT: Yes, sir, in the back?

25 POTENTIAL JUROR #49: Arnold Floyd.

1 THE COURT: All right. Mr. Floyd, which witness?

2 POTENTIAL JUROR #49: Kyle Hause.

3 THE COURT: Kyle House or Hause or ---

4 POTENTIAL JUROR #49: Yes.

5 THE COURT: All right. Would the fact that you
6 have a relationship with that witness, would that
7 impact your ability to be fair and impartial to the
8 State and the defense in the trial of this case?

9 POTENTIAL JUROR #49: No, sir.

10 THE COURT: You can set aside your personal
11 relationship and base your verdict solely upon the
12 evidence that was presented to you from within this
13 courtroom?

14 POTENTIAL JUROR #49: Yes.

15 THE COURT: All right. Thank you, sir. All
16 right. Ladies and gentlemen, this incident concerns
17 a shooting at Mac's Lounge, a social club located in
18 Hartsville, South Carolina. Does any member of the
19 jury panel have any knowledge about this case,
20 whether that knowledge is personal knowledge or
21 through print, social, or any other broadcast media,
22 if so, please stand.

23 (Whereupon, several jurors stand)

24 THE COURT: All right. Folks, it's probably a
25 good idea for y'all to come up one at a time.

1 (Whereupon, a line is formed for the jurors)

2 MR. BAILIFF: One forty-nine.

3 THE COURT: You're juror 149?

4 POTENTIAL JUROR #149: Mmm, hmm.

5 THE COURT: All right. How did you hear about it?

6 POTENTIAL JUROR #149: On the news. Facebook.

7 THE COURT: Okay. So you seen reports on the
8 news and read ---

9 POTENTIAL JUROR #149: Mmm, hmm.

10 THE COURT: --- accounts on Facebook?

11 POTENTIAL JUROR #149: Mmm, hmm.

12 THE COURT: Would the fact that you've read these
13 things, heard these things, and seen these things
14 with that impact your ability to be fair and
15 impartial?

16 POTENTIAL JUROR #149: No, sir.

17 THE COURT: Okay. You can set aside that prior
18 information and base your verdict solely upon the
19 evidence from with in this courtroom?

20 POTENTIAL JUROR #149: Mmm, hmm.

21 THE COURT: All right. All right. You can have
22 a seat. Thank you.

23 POTENTIAL JUROR #149: Thank you.

24 MR. BAILIFF: Seventy-one.

25 THE CLERK: Mr. Hamilton?

1 POTENTIAL JUROR #71: Yes, sir.

2 THE COURT: All right. Mr. Hamilton, how did you
3 hear about this case?

4 POTENTIAL JUROR #71: I was just leaving, just
5 leaving when all this ---

6 THE COURT: Okay. You were there that night?

7 POTENTIAL JUROR #71: Yeah, I left. Previously, I
8 was and then I left and then it happened so....

9 THE COURT: Okay. All right. So you weren't
10 there when ---

11 POTENTIAL JUROR #71: No.

12 THE COURT: --- it actually went down so you
13 didn't have any contact with law enforcement or
14 anything like that?

15 POTENTIAL JUROR #71: No, sir.

16 THE COURT: Okay. Would the fact that you have
17 been a patron of that location in the past, would
18 that impact your ability to be fair and impartial to
19 the State and the defense in the trial of this case
20 if you were seated as a juror?

21 POTENTIAL JUROR #71: No, sir.

22 THE COURT: You could set aside your personal
23 experiences and base your verdict solely upon the
24 evidence which was presented to you?

25 POTENTIAL JUROR #71: Yeah.

1 THE COURT: All right. Thank you, sir. You can
2 have a seat.

3 MR. BAILIFF: Number 8.

4 THE CLERK: Mr. Anthony?

5 POTENTIAL JUROR #8: Yes.

6 THE COURT: All right. Tell me about your prior
7 knowledge, sir?

8 POTENTIAL JUROR #8: I just know of it. I got to
9 Mac's sometimes.

10 THE COURT: You've been there as a patron before?

11 POTENTIAL JUROR #8: Yeah.

12 THE COURT: Okay. And you've heard about it --
13 how did you hear about it?

14 POTENTIAL JUROR #8: On the news. On Facebook.

15 THE COURT: Okay. Would the fact that you've
16 been a patron of this location and fact that you've
17 heard some publicity about this situation, would that
18 impact your ability to be fair and impartial to the
19 State and the defendant in this trial?

20 POTENTIAL JUROR #8: No, sir.

21 THE COURT: You can set aside your personal
22 experience and base your verdict solely upon the
23 evidence that was presented to you?

24 POTENTIAL JUROR #8: Yes, sir.

25 THE COURT: All right. Thank you, sir. You can

1 have a seat.

2 MR. BAILIFF: Seventy-three.

3 THE CLERK: Ms. Hardee?

4 POTENTIAL JUROR #73: Correct.

5 THE COURT: Yes, ma'am. How did you hear about
6 it?

7 POTENTIAL JUROR #73: Until November I was
8 employed with the Darlington County Coroner's Office.

9 THE COURT: Okay. All right. And in your
10 capacity as a former employee of the coroners office
11 did you actually work on this case?

12 POTENTIAL JUROR #73: I did not.

13 THE COURT: Okay. Would the fact that you were
14 employed with the coroner's office, were you employed
15 at times this thing occurred or....

16 POTENTIAL JUROR #73: What's the date ---

17 THE COURT: In 2020 in January?

18 POTENTIAL JUROR #73: I -- I don't recall anything
19 about this case so....

20 THE COURT: Okay. So even though you've heard
21 about this case and know of it, would that, prior
22 knowledge, would that impact your ability to be fair
23 and impartial to the State and the defense in the
24 trial of this case?

25 POTENTIAL JUROR #73: No.

1 THE COURT: You can set aside any of that prior
2 knowledge and base your verdict solely upon the
3 evidence and testimony which is presented to you?

4 POTENTIAL JUROR #73: Yes, sir.

5 THE COURT: All right. Thank you, ma'am.

6 MR. BAILIFF: Ninety-seven.

7 THE CLERK: Mr. Patrick Jones?

8 POTENTIAL JUROR #97: Mmm, hmm.

9 THE COURT: All right. What was that number
10 again?

11 THE CLERK: Ninety-seven, Your Honor.

12 THE COURT: Ninety-seven. Yes, sir?

13 POTENTIAL JUROR #97: I read about it and seen it
14 on the news and things.

15 THE COURT: Okay.

16 POTENTIAL JUROR #97: I just read about it.

17 THE COURT: All right. The fact that you've been
18 made aware of this case through news media, would
19 that impact your ability to be fair and impartial to
20 the State and the defense in this trial?

21 POTENTIAL JUROR #97: No.

22 THE COURT: You can set aside any of that personal
23 knowledge and base your verdict solely upon the
24 evidence which was presented to you from within the
25 courtroom?

1 POTENTIAL JUROR #97: Yes, sir.

2 THE COURT: All right. Thank you, sir. You can
3 have a seat.

4 MR. BAILIFF: Eighty-one.

5 THE CLERK: Ms. Hopkins?

6 POTENTIAL JUROR #81: Yes, sir.

7 THE COURT: All right. Yes, ma'am?

8 POTENTIAL JUROR #81: I know just strolling
9 through articles and stuff.

10 THE COURT: Okay. And the fact that you've read
11 news articles and gotten some information about this
12 case, would that impact your ability to be fair and
13 impartial to the State and the defense if you were
14 seated as a juror ---

15 POTENTIAL JUROR #81: I -- I -- yeah, I can be
16 fair to either one of them.

17 THE COURT: Okay. You can set aside that
18 personal knowledge and base your verdict solely upon
19 the evidence that's presented from within the
20 courtroom?

21 POTENTIAL JUROR #81: Yes, sir. Thank you.

22 THE COURT: All right. Thank you, ma'am. You can
23 have a seat.

24 MR. BAILIFF: Fourteen.

25 THE CLERK: Ms. Loretta Bonaparte?

1 POTENTIAL JUROR #14: Yes.

2 THE COURT: All right. Ms. Bonaparte, how did you
3 hear about it?

4 POTENTIAL JUROR #14: The news.

5 THE COURT: You've seen -- if you'll get a little
6 bit closer?

7 POTENTIAL JUROR #14: Yeah. I saw it on the news.

8 THE COURT: Okay. Would the fact that you've
9 seen news reports about this case, would that impact
10 your ability to be fair and impartial to the State
11 and the defendant if you were seated as a juror?

12 POTENTIAL JUROR #14: No.

13 THE COURT: Okay. You can set aside your
14 personal knowledge and base your verdict solely upon
15 the evidence that was presented to you from within
16 the courtroom?

17 POTENTIAL JUROR #14: Yes.

18 THE COURT: All right. Thank you, ma'am.

19 MR. BAILIFF: Twenty-three.

20 THE CLERK: Ms. Capell?

21 POTENTIAL JUROR #23: Yes.

22 THE COURT: Yes, ma'am. How did you hear about
23 the case, ma'am?

24 POTENTIAL JUROR #23: To start with social media.

25 THE COURT: Okay.

1 POTENTIAL JUROR #23: I am previously a 911
2 dispatcher so...we have association group.

3 THE COURT: Okay. Were you employed as a
4 dispatch ---

5 POTENTIAL JUROR #23: I was not at that time.

6 THE COURT: Okay. All right. Given that you've
7 heard about it and given, given your prior
8 employment, would those things impact your ability to
9 be fair and impartial to the State and the defense?

10 POTENTIAL JUROR #23: No.

11 THE COURT: You can set aside your personal
12 knowledge and your prior relationships and base your
13 verdict solely upon the evidence that was presented
14 to you from within the courtroom?

15 POTENTIAL JUROR #23: Yes.

16 THE COURT: All right. Thank you, ma'am.

17 MR. BAILIFF: Forty-nine.

18 THE CLERK: Mr. Floyd?

19 POTENTIAL JUROR #49: Yes.

20 THE COURT: All right. Mr. Floyd, how did you
21 hear about this case, sir?

22 POTENTIAL JUROR #49: The news. And I work for
23 the City of Hartsville.

24 THE COURT: Okay. All right.

25 POTENTIAL JUROR #49: But I heard it from other

1 people that were in the area as far as other
2 employees ---

3 THE COURT: Okay. Would the fact that you have
4 prior knowledge about this case, would that impact
5 your ability to be fair and impartial to the State
6 and the defense in the trial of this case?

7 POTENTIAL JUROR #49: Yeah, I think so.

8 THE COURT: You can set aside your prior knowledge
9 or personal relationships and base your verdict
10 solely upon the evidence and testimony that's
11 presented, presented to you from within this
12 courtroom?

13 POTENTIAL JUROR #49: Yes, sir.

14 THE COURT: Okay. Thank you, sir. You can have
15 a seat.

16 MR. BAILIFF: Sixty-two.

17 THE CLERK: Ms. Grant?

18 POTENTIAL JUROR #62: Yes.

19 THE COURT: Yes, ma'am.

20 POTENTIAL JUROR #62: I happen to knowledge of
21 this case.

22 THE COURT: Okay. And how do you have knowledge?

23 POTENTIAL JUROR #62: Well, I live in Hartsville.

24 THE COURT: Well, have you seen news accounts or
25 just talking with people or....

1 POTENTIAL JUROR #62: Just from family. Family.

2 THE COURT: Family of the defendant or families of

3 ---

4 POTENTIAL JUROR #62: Victim.

5 THE COURT: The alleged victims?

6 POTENTIAL JUROR #62: Mmm, hmm.

7 THE COURT: Okay. All right. Would the fact
8 that you have this prior relationship with these, um,
9 with the family of the victim, would that impact your
10 ability to be fair and impartial to the State and the
11 defense in the trial of this case?

12 POTENTIAL JUROR #62: Yes.

13 THE COURT: You can set aside that personal
14 experience and base your verdict solely upon the
15 evidence which was presented to you from within the
16 courtroom?

17 POTENTIAL JUROR #62: Yes.

18 THE COURT: All right. Thank you.

19 MR. BAILIFF: Eighty-six.

20 THE CLERK: Mr. Howle?

21 POTENTIAL JUROR #86: Yes, sir.

22 THE COURT: All right. Yes, sir, tell me about
23 how this applies to you?

24 POTENTIAL JUROR #86: So I go to school in
25 Hartsville and so I heard about it through people

1 going to school. The following weekend I was at
2 Mac's Lounge earlier that day before that took place.

3 THE COURT: Okay. All right. But you weren't,
4 you weren't there that night?

5 POTENTIAL JUROR #86: No, sir.

6 THE COURT: Would the fact that you have some
7 prior knowledge about this case, would that impact
8 your ability to be fair and impartial to the State
9 and the defense in the trial?

10 POTENTIAL JUROR #86: No, sir.

11 THE COURT: You can set aside that personal
12 knowledge and experience and base your verdict solely
13 upon the evidence which is presented to you?

14 POTENTIAL JUROR #86: Yes, sir.

15 THE COURT: All right. Thank you. You can have
16 a seat.

17 MR. BAILIFF: One hundred.

18 THE CLERK: Ms. Kelley?

19 THE COURT: Come on up. All right. Ma'am, how did
20 you hear about this case?

21 POTENTIAL JUROR #100: I'm verily certain I saw it
22 on a social media post to hear about it.

23 THE COURT: Okay. Would the fact that you've
24 gotten some prior knowledge through social media,
25 would that impact your ability to be fair and

1 impartial to the State and the defense in the trial
2 of this case?

3 POTENTIAL JUROR #100: No, sir.

4 THE COURT: You can set aside that prior knowledge
5 and base your verdict solely upon the evidence that's
6 presented to you from within the courtroom?

7 POTENTIAL JUROR #100: Yes, sir.

8 THE COURT: All right. Thank you. You can have a
9 seat.

10 MR. BAILIFF: Forty-eight.

11 THE COURT: Come on up, sir.

12 THE CLERK: Mr. Flowers?

13 THE COURT: All right. What kind of information
14 have you got about this case?

15 POTENTIAL JUROR #48: I've seen it on Facebook,
16 I'm pretty sure.

17 THE COURT: Social media and stuff?

18 POTENTIAL JUROR #48: Yeah.

19 THE COURT: All right. Would the fact that you've
20 got some prior information about this case through
21 social media, would that impact your ability be fair
22 and impartial to the State and the defense in the
23 trial?

24 POTENTIAL JUROR #48: No, sir.

25 THE COURT: You can set aside that knowledge and

1 base your verdict solely upon the evidence that's
2 presented to you?

3 POTENTIAL JUROR #48: Yes, sir.

4 THE COURT: All right. Thank you, sir. You can
5 have a seat.

6 MR. BAILIFF: That's all.

7 THE COURT: All right. Thank you.

8 All right. Folks, these next questions I'm gonna
9 ask have a tendency to make people want to share a
10 lot of information so, again, I stress to you it's
11 important that if any of these questions that follow
12 apply to you, I just need you to stand and wait for
13 further instructions. We may bring you to the bench
14 or we may be able to deal with it right where you
15 are. But what I want to guard against is sharing
16 information that's not asked for is, I guess, the
17 best way to put it. So just listen closely to the
18 questions and if any of them apply to you please
19 stand.

20 Has any member of the jury panel or a member of
21 your immediate family or a close personal friend ever
22 been the victim of a crime, if so, please stand?

23 (Whereupon, several jurors stand)

24 THE COURT: All right, ma'am, on the front, first
25 just tell me your name and number?

1 POTENTIAL JUROR #193: Andrea Williams, 193.

2 THE COURT: All right. And without going into any
3 detail tell me if it was you, a family member, or a
4 friend and the nature of the crime?

5 POTENTIAL JUROR #193: A family member and purse
6 snatching personal.

7 THE COURT: All right. Thank you. Ma'am you can
8 have a seat. Yes, ma'am?

9 POTENTIAL JUROR #26: Heidi Clark-Fields, number
10 26.

11 THE COURT: Was it you, a family member, or
12 friend?

13 POTENTIAL JUROR #26: Family member.

14 THE COURT: Okay. What was the nature of the
15 crime?

16 POTENTIAL JUROR #26: Murder.

17 THE COURT: Okay. And you said it was a family
18 member was a victim of a murder case. Ma'am, if
19 you'd come forward please?

20 (Whereupon, potential juror number 26 comes forward)

21 THE COURT: And what was her name?

22 THE CLERK: Juror number 26, Your Honor.

23 THE COURT: All right. I figured you probably
24 didn't want to talk about the specifics in front of
25 everybody. But where, did the event occur?

1 POTENTIAL JUROR #26: Hartsville.

2 THE COURT: Okay. And how long ago was it?

3 POTENTIAL JUROR #26: Maybe ten years ago, maybe.

4 THE COURT: Okay.

5 POTENTIAL JUROR #26: He's in jail now.

6 THE COURT: The -- and what close or ---

7 POTENTIAL JUROR #26: It's my husband's cousin.

8 THE COURT: Your husband's cousin?

9 POTENTIAL JUROR #26: Yeah.

10 THE COURT: So he was the victim?

11 POTENTIAL JUROR #26: No.

12 THE COURT: Or he was charged

13 POTENTIAL JUROR #26: (shaking of head yes)

14 THE COURT: Okay. All right. Would the fact that
15 you had a family member convicted of murder, would
16 that impact your ability to be fair and impartial to
17 the State and the defendant in this trial?

18 POTENTIAL JUROR #26: I don't know. I can't
19 answer that question.

20 THE COURT: Okay. All right. Could you set
21 aside your personal experience and be fair and base
22 your verdict solely upon the evidence that's was
23 presented to you?

24 POTENTIAL JUROR #26: I believe so.

25 THE COURT: Okay.

1 POTENTIAL JUROR #26: But since I'm standing here,
2 I have a question for you.

3 THE COURT: Okay. I might be able to answer it or
4 I might not.

5 POTENTIAL JUROR #26: Well, Wednesday I have to go
6 out of town to watch my grandchildren so that my son
7 can go out of town. It's not me personally, but it's
8 my son.

9 THE COURT: Okay. What's your number, ma'am?

10 POTENTIAL JUROR #26: Twenty-six.

11 THE COURT: All right. Thank you. You can go
12 back and have a seat, okay.

13 POTENTIAL JUROR #26: Thank you.

14 (Whereupon, bench conference on the record)

15 MR. REDMOND: So these questions just to be clear,
16 we just got them a little while ago ---

17 THE COURT: Okay.

18 MR. REDMOND: And we objected to several of them
19 so I just wanted to you to be aware ---

20 THE COURT: Well, let me, let me know which one?

21 MR. REDMOND: Okay.

22 COURT REPORTER: You want this on the record?

23 THE COURT: Yeah.

24 MR. REDMOND: We're objecting to is star number 5,
25 number 5, of course, all of this is in your

1 discretion, 7, 8, 9, 10, 11 we would object to, I'm
2 sorry, not 9, 10 and 11. Fourteen, we would object
3 to. Yes, 14, we object to because I think 13 comes
4 in. Fifteen I've got a question mark by it and that
5 question is usually asked.

6 THE COURT: It's usually asked.

7 MR. REDMOND: Sixteen, I'm okay with. Then 17
8 through and I think that through -- as a matter of
9 fact, 17 through 28 and then 29, that question is
10 usually asked.

11 THE COURT: So you're ---

12 MR. REDMOND: Fifteen is a question mark. Sixteen
13 I'm okay with. And then the rest of them I object
14 to.

15 THE COURT: Okay. All right. Well, I will use
16 my discretion ---

17 MR. REDMOND: Except for twenty, um, I'm okay with
18 twenty ---

19 THE COURT: I will use my discretion.

20 MR. REDMOND: Yes, sir. Thank you.

21 THE COURT: Thank you. All right. Sir?

22 POTENTIAL JUROR #32: Jeremie Davis. I don't know
23 the number. Um ---

24 THE COURT: Hold on one second. That's juror
25 number 32. All right. Mr. Davis, was it you, a

1 family member or friend?

2 POTENTIAL JUROR #32: Father, I believe. He had a
3 warrant for child support ---

4 THE COURT: A child support issue.

5 POTENTIAL JUROR #32: (shaking of head yes)

6 THE COURT: All right. Thank you, sir. You can
7 have a seat. Yes, ma'am?

8 POTENTIAL JUROR #111: My name is Danielle
9 Lombardi, juror number 111. I had a friend who was
10 raped.

11 THE COURT: Okay. And would that impact your
12 ability to be fair and impartial to both the State
13 and the defendant in the trial of this?

14 POTENTIAL JUROR #32: No.

15 THE COURT: You can set aside that personal
16 experience and base your verdict solely upon the
17 evidence that was presented to you?

18 POTENTIAL JUROR #32: Yes.

19 THE COURT: All right. Thank you. You can have a
20 seat.

21 POTENTIAL JUROR #63: Amber Gardner.

22 THE COURT: Juror number 63.

23 POTENTIAL JUROR #63: It was a close friend.

24 THE COURT: Okay. And what, what type of case
25 was it?

1 POTENTIAL JUROR #63: Murder.

2 THE COURT: Ma'am?

3 POTENTIAL JUROR #63: Murder.

4 THE COURT: Okay. If you'd come forward, ma'am.

5 (Whereupon, potential juror number 63 comes forward)

6 THE COURT: All right. You had a friend that was
7 murdered, is that correct?

8 POTENTIAL JUROR #63: Yes.

9 THE COURT: Where was that?

10 POTENTIAL JUROR #63: In Hartsville at the
11 Markett.

12 THE COURT: Okay. How long ago was that?

13 POTENTIAL JUROR #63: It's been about two years.

14 THE COURT: Two years?

15 POTENTIAL JUROR #63: Mmm, hmm.

16 THE COURT: Would the fact that you had a friend
17 who was a victim of murder, would that impact your
18 ability to be fair and impartial to the State and the
19 defense?

20 POTENTIAL JUROR #63: I can.

21 THE COURT: Give him your number again.

22 POTENTIAL JUROR #63: Sixty-three.

23 THE COURT: Sixty-three. All right. Thank you,
24 ma'am.

25 MR. BAILIFF: Number 43.

1 THE COURT: Come on up, ma'am. How does that apply
2 to you, ma'am?

3 POTENTIAL JUROR #43: It was myself, actually,
4 armed robbery.

5 THE COURT: Okay.

6 POTENTIAL JUROR #43: I guess, I'm ---

7 THE COURT: How long ago was that?

8 POTENTIAL JUROR #43: Maybe a few years ago.

9 THE COURT: Okay. Would the fact that you were a
10 victim of an armed robbery, would that impact your
11 ability to be fair and impartial to the State and the
12 defendant in the trial of this case?

13 POTENTIAL JUROR #43: No. It shouldn't. No. I
14 can't answer that one hundred percent. I don't ---

15 THE COURT: All right. What's your number, ma'am?

16 POTENTIAL JUROR #43: Forty-three.

17 THE COURT: All right. Let me ask you this way,
18 um, could you set aside your personal experience and
19 base your verdict solely upon the evidence that was
20 presented to you from within the courtroom?

21 POTENTIAL JUROR #43: Yes.

22 THE COURT: So to ask you another way, would your
23 personal experience, um, cause you to have any bias
24 in favor of the solicitor or against the defendant?

25 POTENTIAL JUROR #43: It should not.

1 THE COURT: Okay. All right. Thank you, ma'am.
2 All right. Folks, this next question is basically
3 the opposite of the last one I just asked. Has --
4 have you, a member of your immediate family, or close
5 personal friend ever been accused of, investigated,
6 arrested, or charged with a criminal offense, if so,
7 please stand?

8 (Whereupon, several jurors stand)

9 THE COURT: All right. We probably need to have
10 them come forward as well.

11 MR. BAILIFF: Fifty-eight.

12 THE CLERK: Mr. Robert Gainey?

13 POTENTIAL JUROR #58: Yes, sir. I've done talked
14 to you earlier.

15 THE COURT: You talked about earlier that you had
16 that domestic violence situation. All right. With
17 the fact that you've been charged with a crime, would
18 that impact your ability to be fair and impartial to
19 the State in the defendant in the trial of this case?

20 POTENTIAL JUROR #58: No, sir.

21 THE COURT: All right. Thank you.

22 MR. BAILIFF: Number 97.

23 THE CLERK: Mr. Patrick Jones.

24 THE COURT: Yes, sir, Mr. Jones, how does that
25 apply to you?

1 POTENTIAL JUROR #97: A few years ago, I don't
2 remember exactly how long ago, I got charged with an
3 unlawful possession of a firearm. It was quite a few
4 years ago. Possession of a firearm. I think unlawful
5 discharge of a firearm.

6 THE COURT: All right. Would the fact that you
7 were charged with a those offenses would that impact
8 your ability to be fair and impartial to the State
9 and the defendant in the trial of this case?

10 POTENTIAL JUROR #97: No, sir.

11 THE COURT: All right. Thank you. You can have a
12 seat.

13 MR. BAILIFF: Number 43.

14 THE CLERK: Ms. Mackenzie Evans.

15 THE COURT: Yes, ma'am?

16 POTENTIAL JUROR #43: My brother.

17 COURT REPORTER: Come up closer.

18 THE COURT: Come up closer.

19 POTENTIAL JUROR #43: I'm sorry. My brother.
20 He's actually currently on probation ---

21 THE COURT: All right. Would the fact that your
22 brother's had that situation in his life, would that
23 impact your ability to be fair and impartial to the
24 State and the defense?

25 POTENTIAL JUROR #43: No.

1 THE COURT: All right. Thank you. You can have a
2 seat.

3 MR. BAILIFF: Eighty-eight.

4 THE CLERK: Ms. Danita Jackson?

5 POTENTIAL JUROR #88: Mmm, hmm.

6 THE COURT: How does that question apply to you,
7 ma'am?

8 POTENTIAL JUROR #88: My daughter, stabbing, got
9 six months probation.

10 THE COURT: So you're daughter was charged?

11 POTENTIAL JUROR #88: Yes.

12 THE COURT: All right. Would that impact your
13 ability to be fair and impartial to the State and the
14 defense in the trial of this case?

15 POTENTIAL JUROR #88: No.

16 THE COURT: Thank you, ma'am. You may have a
17 seat.

18 MR. BAILIFF: Fifty-nine.

19 THE CLERK: Ms. Gainey?

20 POTENTIAL JUROR #59: Mmm, hmm. My husband was
21 convicted of assault and battery with a high and
22 aggravated, a high and aggravated.

23 THE COURT: Uh, uh.

24 POTENTIAL JUROR #59: He had gotten 10 years with
25 5 years probation. It's been forever ago, though.

1 It's been years.

2 THE COURT: Okay. All right. Would the fact
3 that your husband went through that situation, with
4 that impact your ability to be fair and impartial to
5 the State and to the defense?

6 POTENTIAL JUROR #59: No. No, it wouldn't.

7 THE COURT: Okay. You can base your verdict on
8 the evidence that was presented to you ---

9 POTENTIAL JUROR #59: Oh, yes.

10 THE COURT: --- involving this case? All right.
11 Thank you, ma'am. You can have a seat.

12 MR. BAILIFF: Thirty-one.

13 THE CLERK: Mr. Damron?

14 POTENTIAL JUROR #31: Yes, sir.

15 THE COURT: All right. How does that apply to
16 you, sir?

17 POTENTIAL JUROR #31: My great uncle was convicted
18 of murder in the early '90s, for selling drugs, still
19 does. Still in prison for it.

20 THE COURT: Okay. All right. Would the fact
21 that you've had the situation and your family, with
22 that impact your ability to be fair to the State and
23 the defense?

24 POTENTIAL JUROR #31: I would assume so.

25 THE COURT: Okay. You don't believe so, you can

1 set aside your personal experience and base your
2 verdict solely upon the evidence that was presented
3 to you from within this courtroom?

4 POTENTIAL JUROR #31: Yes, to that. If your
5 question is can a judge it fairly?

6 THE COURT: Yes.

7 POTENTIAL JUROR #31: Yes.

8 THE COURT: Okay. That's what we're -- that's
9 what we're getting at. All right. Thank you, sir.
10 You can have a seat.

11 MR. BAILIFF: Twenty-six.

12 THE CLERK: Ms. Clark-Fields.

13 THE COURT: All right. Ma'am, is the same
14 situation that we talked about earlier?

15 POTENTIAL JUROR #26: Mmm, hmm.

16 THE COURT: Okay. You can go back and have a
17 seat.

18 POTENTIAL JUROR #26: Thank you.

19 MR. BAILIFF: Number 60.

20 THE CLERK: Mr. Melvin Gale?

21 POTENTIAL JUROR #60: Yes, sir.

22 THE COURT: Yes, sir. How does that apply to you,
23 sir?

24 POTENTIAL JUROR #60: My daughter has been in a
25 physical altercation with her boyfriend. He tried

1 to hit ---

2 COURT REPORTER: He needs to speak up just a
3 little bit.

4 THE COURT: Okay. So she's been charged? Your
5 daughter has been charged or the boyfriend has been
6 charged?

7 POTENTIAL JUROR #60: It's still going on. She's
8 been charged.

9 THE COURT: Okay. She got served with warrants?
10 Is that right?

11 POTENTIAL JUROR #60: It's -- it's still going on.

12 THE COURT: Okay. Well, the fact that your
13 daughter has been through this, would that impact
14 your ability to be fair and impartial to the State
15 and the defense in the trial of this particular case?

16 POTENTIAL JUROR #60: No.

17 THE COURT: All right. Thank you, sir. You can
18 have a seat.

19 MR. BAILIFF: Number 8.

20 THE CLERK: Mr. Anthony?

21 THE COURT: How does that apply to you?

22 POTENTIAL JUROR #8: My uncle.

23 THE COURT: You uncle?

24 POTENTIAL JUROR #8: Yeah.

25 THE COURT: Okay. And he was charged?

1 POTENTIAL JUROR #8: Yeah, he's in court. He
2 hasn't been to court yet.

3 THE COURT: Okay. What's he charged with?

4 POTENTIAL JUROR #8: He's three DUI's. He was
5 charged with possession of pills.

6 THE COURT: Okay. Would the fact that your uncle
7 has that situation going on, with that impact your
8 ability to be fair and impartial to the State and the
9 defendant in this trial?

10 POTENTIAL JUROR #8: It wouldn't.

11 THE COURT: Okay. You can have a seat. Thank
12 you, sir.

13 MR. BAILIFF: That's all right now, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, it's
15 come to my attention that some of you are moving in
16 and out of the courtroom. It's very important as we
17 go through these questions that we have the entire
18 jury panel present so I will give you an opportunity
19 to take a break. I understand that it's warm in
20 here. I promise you I'm warm under this robe, but
21 you can't just get up and leave the courtroom without
22 permission so if there's something that arises that
23 makes, um, you need to leave the courtroom and it's
24 an emergency, you need to get one of the bailiff's
25 attention and let, and let them know so they can let

1 me know. But we can't go through this qualification
2 process without all of you being here. So we're
3 gonna take a moment and make sure that all of the
4 jurors are present. But if you need to excuse
5 yourself you have to get permission for that. That's
6 not because I'm trying to keep y'all in here for no
7 good reason it's because everyone has to be here to
8 listen to these questions and the attorneys need to
9 know the answers to the questions and if they apply
10 to all of the jurors. So we're gonna sit tight for a
11 second and make sure we've got everybody.

12 (Whereupon, the Court takes a moment to make sure all
13 jurors are in compliance)

14 THE COURT: All right. Has any member of the jury
15 -- is any member of the jury panel or a member of
16 your family involved in, participate in, or follow
17 the Facebook Group Darlington County Residents Crime
18 Information Group or any other similar group, if so,
19 please stand?

20 (Whereupon, several jurors stand)

21 THE COURT: All right. Folks, if y'all would just
22 give me your name and number, sir?

23 POTENTIAL JUROR #97: Patrick Jones, 97.

24 THE COURT: All right. You can have a seat.
25 Thank you, sir. Yes, ma'am?

1 POTENTIAL JUROR #43: Mackenzie Evans. I don't
2 know my number.

3 THE COURT: You said Evans?

4 POTENTIAL JUROR #43: Yes, sir.

5 THE CLERK: Forty-three, Your Honor.

6 THE COURT: All right. Thank you, ma'am. You can
7 have a seat. Yes, ma'am?

8 POTENTIAL JUROR #81: Chelsea Hopkins, 81.

9 THE COURT: You said 81?

10 POTENTIAL JUROR #81: Yes, sir.

11 THE COURT: All right. You can have a seat.
12 Thank you.

13 Has any member of the jury panel or any member of
14 your immediate family, and that means people that
15 live in the house with you, been employed by any law
16 enforcement agency, if so, please stand?
17 (Whereupon, several jurors stand)

18 THE COURT: All right. Sir, on the front row?

19 POTENTIAL JUROR #179: Lucas Tolson, 179 I think.

20 THE COURT: Okay. And ---

21 POTENTIAL JUROR #179: I was involved ---

22 THE COURT: Just hold on! Hold on one second.
23 Let me ask the questions and we'll handle it that
24 way. All right. Which agency?

25 POTENTIAL JUROR #179: South Carolina Department

1 of Corrections.

2 THE COURT: Okay. And that -- you were employed
3 with the Department of Corrections?

4 POTENTIAL JUROR #179: Yes.

5 THE COURT: All right. Thank you, sir. You can
6 have a seat. Yes, sir, in the blue?

7 POTENTIAL JUROR #31: Corey Damron, 31.

8 THE COURT: Which -- was it you or a family
9 member?

10 POTENTIAL JUROR #31: Myself and my wife. We were
11 both employed by Ohio Department of Corrections.

12 THE COURT: Ohio?

13 POTENTIAL JUROR #31: Correct.

14 THE COURT: All right. Thank you, sir. You can
15 have a seat. Yes, ma'am?

16 POTENTIAL JUROR #182: Rachael Toole, 182. My
17 nephew works for Dillon County Sheriff's Department.

18 THE COURT: Okay. Thank you. You can have a
19 seat.

20 THE CLERK: What's your name again, ma'am?

21 POTENTIAL JUROR #182: Rachael Toole.

22 THE COURT: Yes, sir?

23 POTENTIAL JUROR #106: Daniel Kovach, 106. I
24 worked for Claudia Williamsburg Security Department
25 in 1985.

1 THE COURT: All right. Thank you, sir. You can
2 have a seat.

3 POTENTIAL JUROR #23: Carmen Capell. I employed
4 with the Darlington County 911 Center.

5 THE COURT: And that was you?

6 POTENTIAL JUROR #23: Yes.

7 THE COURT: All right. Thank you.

8 COURT REPORTER: What was her name and number
9 again?

10 THE COURT: Twenty-three.

11 THE CLERK: Got one more, judge.

12 POTENTIAL JUROR #182: My stepsister is a
13 dispatcher in Bishopville.

14 THE COURT: Thank you, ma'am. That was juror
15 number 182. Has any member of the jury panel or any
16 member of your immediate family, again, that means
17 people that reside in the home with you, ever worked
18 for the Fourth Circuit Solicitor's Office or the
19 Fourth Circuit Public Defender's Office?

20 (Whereupon, no one stands)

21 THE COURT: Have you or any member of your
22 immediate family ever been represented by the Fourth
23 Circuit Solicitor's Office or the Fourth Circuit
24 Public Defender's Office, if so, please stand?

25 (Whereupon, a juror stands)

1 THE COURT: Yes, sir. Your name and number again?

2 POTENTIAL JUROR #58: Robert Gainey. It's 58.

3 SinceTHE COURT: Okay. Was it you or a family
4 member?

5 POTENTIAL JUROR #58: It was myself.

6 THE COURT: Okay. Was it the solicitor office or
7 the public defender's office?

8 POTENTIAL JUROR #58: Public defender.

9 THE COURT: All right. Thank you. You can have a
10 seat. Has any member of the jury panel ever been a
11 member of and donated money or time to any victims
12 rights organizations such as MADD, SADD, CAVE, or the
13 South Carolina Sheriff's Association, if so, please
14 stand?

15 (Whereupon, no one stands)

16 THE COURT: Has any member of the jury panel ever
17 served as a member of a jury in a criminal trial?
18 Have you served as a juror in a criminal trial
19 before, if so, please stand?

20 (Whereupon, several jurors stand)

21 THE COURT: All right. Just give us your name and
22 number, ma'am, on the front?

23 POTENTIAL JUROR #59: Teresa Gainey, 59.

24 THE COURT: All right. Thank you. You can have a
25 seat.

1 POTENTIAL JUROR #200: Lula Wright, 200.

2 THE COURT: You said Ms. Wright?

3 POTENTIAL JUROR #200: Yes.

4 THE COURT: And that's....

5 THE CLERK: Two hundred, Your Honor.

6 THE COURT: All right. Two hundred. Thank you.

7 And yes, sir?

8 POTENTIAL JUROR #128: William Moore, 128.

9 THE COURT: Yes, sir?

10 POTENTIAL JUROR #106: Daniel Kovach, 106.

11 THE COURT: All right. One more?

12 POTENTIAL JUROR #120: Beverly McCutcheon, 120.

13 THE CLERK: What's your name again, ma'am?

14 POTENTIAL JUROR #120: Beverly McCutcheon.

15 THE COURT: Yeah. That's right, 120. Is any

16 member of the jury panel aware of any bias or

17 prejudice towards either the State or the defendant

18 in the trial of this case?

19 (Whereupon, no one stands)

20 THE COURT: Has any member of the jury panel

21 formed or expressed any opinion about any issue which

22 may be raised in this case, if so, please stand?

23 (Whereupon, no one stands)

24 THE COURT: Does any member of the jury panel

25 know or have any reason whatsoever why he or she

1 should not serve as a juror in this case with
2 particular emphasis being placed on your ability to
3 be fair and impartial to both the State and the
4 defendant, if so, please stand?

5 (Whereupon, no one stands)

6 THE COURT: All right. And, folks, just to be on
7 the safe side I don't believe he stood when I called
8 his name earlier, if we could have Mr. Dickey, if he
9 could please stand and face the jury?

10 (Whereupon, the defendant complies)

11 THE COURT: And just out of the abundance of
12 caution I'm going to ask the question again, is any
13 member of the jury panel related by blood or marriage
14 or have any close, personal, social, or business
15 relationship with the defendant, Darius Grant Dickey,
16 if so, please stand?

17 (Whereupon, no one stands)

18 THE COURT: All right. Sir, thank you. You can
19 have a seat. All right. Let me see the attorneys up
20 front.

21 (Whereupon, bench conference is held on record)

22 THE COURT: I think that's all I'm gonna ask.
23 Based on the responses that we got earlier 26, 63,
24 23, I believe need to be set aside for cause. All
25 right. And obviously, we gonna need, I think two

1 that drum and that's how a random jury was selected.
2 Well, we don't do it that way anymore. I understand
3 y'all have been in here a while. I understand it's
4 plenty warm in here. The individual that worked for
5 the Electric Co-op their getting their money's worth
6 out of the courthouse, I'm sure. So I'm gonna give
7 y'all a little bit of a break. We're gonna be back
8 at 12:25 and we will draw the jury who will sit and
9 hear this case. So you are excused until 12:23.

10 Thank you.

11 (Whereupon, the Court takes a short break)

12 (Whereupon, the Court is back on the record at 12:32
13 pm)

14 THE COURT: All right. Mr. Clerk, are we ready to
15 select the jury?

16 THE CLERK: Yes, sir.

17 THE COURT: All right. Can I get a copy of
18 the....you beat me to it. Thank you. All right.
19 Mr. Clerk, whenever you're ready.

20 **Jury Selection #1**

21 THE CLERK: All right. Thank you, Your Honor.
22 This process, again, as I explained to you earlier,
23 if your name is called, if your name is called if
24 you'll come forward around this way and if you'll
25 stand in the center right here and face back this way

1 for me, please. Juror number 189, Rickya Washington.
2 Stand in the middle right there and face back out to
3 the audience for me, please.

4 (Whereupon, a black female comes forward)

5 THE CLERK: What saith the State?

6 MR. REDMOND: I beg the Court's indulgence?

7 THE COURT: Yes, sir.

8 MR. BELL: Please present the juror.

9 THE CLERK: What saith the defense?

10 MS. WHITE: Seat the juror.

11 THE CLERK: Ms. Washington, if you'll have a seat
12 over here in the jury box for me please, ma'am.
13 Juror number 120, Beverly McCutcheon.

14 (Whereupon, a black female comes forward)

15 THE CLERK: What saith the State?

16 MR. REDMOND: Beg the Court's indulgence?

17 THE COURT: Yes, sir.

18 MR. BELL: Please present the juror.

19 THE CLERK: What saith the defense?

20 MS. WHITE: Seat the juror.

21 THE CLERK: Please have a seat in the jury box for
22 me, Ms. McCutcheon. Juror number 179, Lucas Tolson.

23 (Whereupon, a white male comes forward)

24 THE CLERK: What saith the State?

25 MR. BELL: Please present the juror.

1 THE CLERK: What saith the defense?

2 MS. WHITE: Please excuse the juror.

3 THE CLERK: You've been excuse from this
4 particular case, Mr. Tolson. If you'll just have a
5 seat back out with the audience for me, please.
6 Juror number 49, Arnold Floyd.

7 (Whereupon, a white male comes forward)

8 THE CLERK: What saith the State?

9 MR. BELL: Please present the juror.

10 THE CLERK: What saith the defense?

11 MS. WHITE: Please excuse the juror.

12 THE CLERK: You've been excused In this particular
13 case, Mr. Floyd. You can have a seat back out the
14 audience for me please, sir. Juror number 20,
15 Raenell Brooks.

16 (Whereupon, a white female comes forward)

17 THE CLERK: What saith the State?

18 MR. BELL: Please present the juror.

19 THE CLERK: What saith the defense?

20 MS. WHITE: I beg the Court's indulgence?

21 THE COURT: Yes, ma'am.

22 MS. WHITE: Please excuse the juror.

23 THE CLERK: You've been excused in this particular
24 case, Ms. Brooks. If you'll have a seat back out in
25 the audience for me, please. Thank you. Juror

1 number 51, Betty Ford.

2 (Whereupon, a black female comes forward)

3 THE CLERK: What saith the State?

4 MR. REDMOND: I beg the Court's indulgence?

5 THE COURT: Yes, sir.

6 MR. BELL: Please present the juror.

7 THE CLERK: What saith the defense?

8 MS. WHITE: Seat the juror.

9 THE CLERK: Please have a seat in the jury box for
10 me, Ms. Ford. Juror number 52, Tychiana Ford.

11 (Whereupon, a black female comes forward)

12 THE CLERK: What saith the State?

13 MR. REDMOND: Beg the Court's indulgence?

14 THE COURT: Yes, sir.

15 MR. BELL: Please present the juror.

16 THE CLERK: What saith the defense?

17 MS. WHITE: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box for
19 me, Mr. Ford. Juror number 71, Kenneth Hamilton.

20 (Whereupon, a black male comes forward)

21 THE CLERK: What saith the State?

22 MR. BELL: Please excuse this juror.

23 THE CLERK: You've been excused in this particular
24 case, Mr. Hamilton. If you'll have a seat in the
25 audience for me please, sir. Juror number 37, Leslie

1 Dority.

2 (Whereupon, a white female comes forward)

3 THE CLERK: What saith the State?

4 MR. BELL: Please present the juror.

5 THE CLERK: What saith the defense?

6 MS. WHITE: Please seat the juror.

7 THE CLERK: Please have a seat in the jury box for
8 me, Ms. Dority. Juror number 111, Danielle Lombardi.

9 (Whereupon, a white female comes forward)

10 THE CLERK: What saith the State?

11 MR. BELL: Please present the juror.

12 THE CLERK: What saith the defense?

13 MS. WHITE: Please excuse the juror.

14 THE CLERK: You've been excused in this particular
15 case, Mss. Lombardi. If you'll have seat in the
16 audience for me, please. Juror number 81, Chelsea
17 Hopkins.

18 (Whereupon, a white female comes forward)

19 THE CLERK: What saith the State?

20 MR. REDMOND: Beg the Court's indulgence?

21 THE COURT: Yes, sir.

22 MR. BELL: Please present the juror.

23 THE CLERK: What saith the defense?

24 MS. WHITE: Please excuse the jury.

25 THE CLERK: You've been excused in this particular

1 case, Ms. Hopkins. If you'll have a seat in the
2 audience for me, please. Juror number 59, Teresa
3 Gainey.

4 (Whereupon, a white female comes forward)

5 THE CLERK: What saith the State?

6 MR. REDMOND: Beg the Court's indulgence?

7 THE COURT: Yes, sir.

8 MR. BELL: Please present the juror.

9 THE CLERK: What saith the defense?

10 MS. WHITE: Please excuse the juror.

11 THE CLERK: You've been excused in this particular
12 case, Ms. Gainey. Thank you. Juror number 62,
13 Beverly Grant.

14 (Whereupon, a black female comes forward)

15 THE CLERK: What saith the State?

16 MR. REDMOND: Beg the Court's indulgence?

17 THE COURT: Yes, sir.

18 MR. BELL: Please present the juror.

19 THE CLERK: What saith the defense?

20 MS. WHITE: Please excuse the juror.

21 THE CLERK: You've been excuse in this particular
22 case, Ms. Grant. If you'll have a seat in the
23 audience for me, please. Juror number 73, Jennifer
24 Hardee.

25 (Whereupon, a white female comes forward)

1 THE CLERK: What saith the State?

2 MR. BELL: Please present the juror.

3 THE CLERK: What saith the defense?

4 MS. WHITE: Please excuse the juror.

5 THE CLERK: You've been excused in this particular
6 case, Ms. Hardee. If you'll have a seat in the
7 audience for me. Thank you. Juror number 181, Lenora
8 Toney.

9 (Whereupon, a black female comes forward)

10 THE CLERK: What saith the State?

11 MR. REDMOND: Beg the Court's indulgence?

12 THE COURT: Yes, sir.

13 MR. BELL: Please present the juror.

14 THE CLERK: What saith the defense?

15 MS. WHITE: Seat the juror.

16 THE CLERK: Please have a seat in the jury box for
17 me, Ms. Toney. Juror number 57, Kathryn Gainey.

18 (Whereupon, a white female comes forward)

19 THE CLERK: What saith the State?

20 MR. REDMOND: Beg the Court's indulgence?

21 MR. BELL: Please excuse the juror.

22 THE CLERK: You've been excuse in this particular
23 case, Ms. Gainey. If you'll have a seat in the
24 audience for me, please. Juror number 60, Melvin
25 Gale.

1 (Whereupon, a black male comes forward)

2 THE CLERK: What saith the State?

3 MR. REDMOND: Beg the Court's indulgence?

4 THE COURT: Yes, sir.

5 MR. BELL: Please present the juror.

6 THE CLERK: What saith the defense?

7 MS. WHITE: Seat the juror.

8 THE CLERK: Please have a seat in the jury box for
9 me, Mr. Gale. Juror number 150, Victoria Robinson.

10 (Whereupon, a black female comes forward)

11 THE CLERK: What saith the State?

12 MR. REDMOND: Beg the Court's indulgence?

13 THE COURT: Yes, sir.

14 MR. BELL: Please present the juror.

15 THE CLERK: What saith the defense?

16 MS. WHITE: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box for
18 me, Ms. Robinson. Juror number 83, Hermena Hough.

19 (Whereupon, a black female comes forward)

20 THE CLERK: What saith the State?

21 MR. BELL: Beg the Court's indulgence?

22 THE COURT: Yes, sir.

23 MR. BELL: Please present the juror.

24 THE CLERK: What saith the defense?

25 MS. WHITE: Please seat the juror.

1 THE CLERK: Please have a seat in the jury box for
2 me, Ms. Hough. Juror number 170, Jessica Stephens.

3 (Whereupon, a black female comes forward)

4 THE CLERK: What saith the State?

5 MR. BELL: Beg the Court's indulgence?

6 THE COURT: Yes, sir.

7 MR. BELL: Please present the juror.

8 THE CLERK: What saith the defense?

9 MS. WHITE: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box for
11 me, Ms. Stephens. Juror number 100, Susan Kelley.

12 (Whereupon, a white female comes forward)

13 THE CLERK: What saith the State?

14 MR. BELL: Please present the juror.

15 THE CLERK: What saith the defense?

16 MS. WHITE: Please seat the juror.

17 THE CLERK: Please have a seat in the jury box for
18 me, Ms. Kelley. Juror number 152, Melinda Rolfe.

19 (Whereupon, a white female comes forward)

20 THE CLERK: What saith the State?

21 MR. BELL: Please present the juror.

22 THE CLERK: What saith the defense?

23 MS. WHITE: Please excuse the juror.

24 THE CLERK: You've been excuse in this particular
25 case, Ms. Rolfe. If you'll have seat in the jury

1 box, I mean, in the audience for me, please. Juror
2 number 68, Terry Graham.

3 (Whereupon, a black male comes forward)

4 THE CLERK: What saith the State?

5 MR. BELL: Beg the Court's indulgence? Please
6 present the juror.

7 THE CLERK: What saith the defense?

8 MS. WHITE: Seat the juror.

9 THE CLERK: Please have seat in the jury box for
10 me, Mr. Graham. Okay. Three alternates, one and
11 two on each. Juror number 193, Andrea Williams.

12 (Whereupon, a black female comes forward)

13 THE CLERK: What saith the State?

14 MR. BELL: Please present the juror.

15 THE CLERK: What saith the defense?

16 MS. WHITE: Please seat the juror.

17 THE CLERK: Please have a seat in the first chair
18 outside of the jury box for me, Ms. Williams. Juror
19 number Tiana Robinson.

20 (Whereupon, a black female comes forward)

21 THE CLERK: What saith the State?

22 MR. BELL: Please excuse this juror.

23 THE CLERK: You've been excused in this particular
24 case, Ms. Robinson. If you'll have a seat out in the
25 audience for me please, ma'am. Juror number 58,

1 Robert Gainey.

2 (Whereupon, a white male comes forward)

3 THE CLERK: Would there the any chauffeur calls
4 from the State?

5 MR. BELL: No. No cause from the State

6 THE CLERK: What saith the defense?

7 MS. WHITE: Please seat the juror.

8 THE CLERK: Please have a seat in the second chair
9 outside of the jury box for me, Mr. Gainey. Juror
10 number 109, James Lee.

11 (Whereupon, a white male comes forward)

12 THE CLERK: What saith the State?

13 MR. REDMOND: Beg the Court's indulgence?

14 MR. BELL: Please present the juror.

15 THE CLERK: What saith the defense?

16 MS. WHITE: Please excuse the juror.

17 THE CLERK: You've been excuse in this particular
18 case, Mr. Lee. If you'll have a seat back out in the
19 audience for me please, sir. Juror number 128,
20 William Moore.

21 (Whereupon, a white male comes forward)

22 THE CLERK: What saith the State?

23 MR. BELL: What number was that?

24 THE CLERK: Juror number 128.

25 MR. REDMOND: Beg the Court's indulgence?

1 THE COURT: Yes.

2 MR. BELL: Please present the juror.

3 THE CLERK: What saith the defense?

4 MS. WHITE: Please excuse the juror.

5 THE CLERK: You've been excused in this particular
6 case, Mr. Moore. If you'll have a seat back out in
7 the audience for me, please. Juror number 106,
8 Daniel Kovach.

9 (Whereupon, a white male comes forward)

10 THE CLERK: What saith the State?

11 MR. BELL: Please present the juror.

12 THE CLERK: Would there be any show for cause from
13 the defense?

14 MS. WHITE: No.

15 THE CLERK: If you'll have a seat in the third
16 chair outside of the jury box for me.

17 THE COURT: Let me see the lawyers up front.

18 (Whereupon, a bench conference was held on the
19 record)

20 THE COURT: Do we have any issue with the jury.

21 MR. REDMOND: We very may have. That's what we
22 were talking about. I beg the Court's indulgence?

23 THE COURT: Yep.

24 MR. REDMOND: Yeah, I think we are gonna have to
25 make a Batson. I below to do it, but I think we've

1 got to. And it's not all of them, obviously, but
2 there are some, I think they're five jurors that I've
3 highlighted that I might need to ask about.

4 THE COURT: And what would we do with the ---

5 THE CLERK: We'll just ask them to step out in the
6 hall and in the grand jury room.

7 THE COURT: All right. Where will we ---

8 THE CLERK: Sir?

9 THE COURT: We'll send these 15 to ---

10 THE CLERK: To the jury room behind us. Yes, sir.
11 We'll take them outside into the grand jury room.

12 THE COURT: All right. Ladies and gentlemen, the
13 15 of you that were selected to serve as a juror,
14 jury in this case I'm going to send you to your jury
15 room for a few moments. And with this instruction
16 you don't know anything about this case other than
17 what's been alleged and please do not discuss this
18 case amongst yourselves or with anybody else.
19 Certainly don't begin any sort of deliberations as we
20 haven't truly started the case yet. So if you'd go
21 to the jury room, you'll probably be there for a few
22 moments so just relax. But just, again, you can talk
23 about anything in the world other than this case. So
24 if you go to your jury room for a moment we'll have
25 you back out shortly.

1 (Whereupon, the selected jury exits the courtroom at
2 12:58 p.m.)

3 (Whereupon, the jury panel exits the courtroom at
4 1:00 p.m.)

5 **Batson Hearing**

6 THE COURT: All right. As results of the bench
7 conference, I believe the State has a motion.

8 MR. REDMOND: Yes, sir, Your Honor, and let me say
9 a below to make this motion. It's rare that I make
10 Batson motions, but this is one I feel compelled to
11 make. Just for the record, I note that the state --
12 I've asked the Court to note that even though that it
13 appears that there were, in total it looks like there
14 were, excuse me, in the primary panel there were at
15 least white, eight white individuals who were struck.
16 And then there were, in the alternate phase there
17 were an additional two that was struck. We're not
18 challenging all of those because there's some that,
19 obviously, there were reasons that were stated some
20 of those folks came up here. The ones I'm
21 challenging for the record starting with 179, he was
22 a black male that was called third, I believe. I did
23 not note -- I didn't have any notes indicating that
24 he had come up there so we'd just ask for them to
25 provide a race neutral reason for that strike. So

1 that'd be 179. Twenty, was the fifth juror called.
2 That's a white female. We'd also make that a part of
3 this motion. And then as it relates to the primary
4 panel, skipping down to I've got the 22nd juror that
5 was called, that was a white female, 152. We would
6 also challenge the defense strike on her.

7 And then moving on to the alternate phase with
8 the third alternate it looks like white male, 109,
9 was struck, we would challenge that. And 128, that
10 being a white male, was also struck. As I said the
11 other ones, there were more that were stricken or
12 struck by the defense, however, in looking at notes
13 it appears that they probably did have a race neutral
14 reason on those. So I narrowed it down to the ones
15 that I am not aware of a race neutral reason and
16 would ask that the Court inquire of the defense's to
17 reasons for those strikes.

18 THE COURT: All right. Thank you, Mr. Redmond.
19 All right. I think it incumbent upon us to take these
20 one at a time so I'll be happy to hear from the
21 defense in response to the assertions made by the
22 State.

23 MS. WHITE: Your Honor, number 179 ---

24 COURT REPORTER: You've got to speak up a little
25 bit.

1 MS. WHITE: I'm sorry. I'm so sorry. Number 179
2 is a former SCDC employee that, obviously, raises
3 concerns to us. Moving on here -- I beg the Court's
4 indulgence?

5 THE COURT: Yes, ma'am.

6 MS. WHITE: Your Honor, regarding juror number
7 20, she had an age exemption. She chose to stay and
8 I believe she had quite a conservative demeanor and,
9 therefore, chose to exercise the strike.

10 MR. REDMOND: And Your Honor, to be clear -- oh,
11 I'm sorry, I didn't mean to interrupt Ms., Ms. White
12 unless she is finished. I did not mean to
13 interrupt, but I think when I say race neutral, of
14 course, the law on Batson is not just race gender
15 neutral, age neutral. I think we've just nailed the
16 age neutral reason based on defense position. The
17 State would contend I think that would implore us to,
18 unfortunately, have to redraw this panel.

19 THE COURT: All right. Let me, let me go through
20 the remaining jurors and get the the reasons for the
21 strikes and then we'll see where we are. I believe
22 the next is 152?

23 MS. WHITE: I beg the Court's indulgence? Your
24 Honor, it appeared that juror number 152 displayed
25 conservative demeanor, we, therefore, chose to

1 exercise the strike.

2 MR. REDMOND: Your Honor, the State respectfully
3 argue that that is not a race neutral reason because
4 for one, what is the definition of conservative
5 demeanor? I think that is very broad. Given, given
6 the circumstances if they were to, basically, say
7 they have conservative demeanor. I think that goes
8 right to heart of pretext. I mean, you can exercise
9 pretext pretty regularly if that rationale was
10 allowed to be upheld so we would ask also as it
11 relates to that jury. For the record we'll withdraw
12 our motion as it relates to number 179. I had missed
13 the fact that that was an SCDC employee. So to keep
14 the record clean I will withdraw that one.

15 THE COURT: All right. How about the the
16 alternates 109 and 120 -- well, let's 129, I mean,
17 109?

18 MS. WHITE: Your Honor, when juror number 109
19 stood before us he glared quite severely at the
20 defendant and I, therefore, chose to exercise the
21 strike.

22 THE COURT: All right. How about 128?

23 MS. WHITE: Your Honor, one of the State's main
24 witnesses is either actively serving or a veteran,
25 um, of some branch of the military. This gentleman

1 was also indicated that he was a veteran and we had
2 concerns of bias and we chose to exercise the strike.

3 THE COURT: Okay.

4 MR. REDMOND: Your Honor, we would say, again --
5 I'm a veteran, I mean, so I think if we, again, get
6 into those particular reasons I don't think that is a
7 reason under, under Batson to allow somebody to be
8 stricken. I think there's -- again, I think it's a
9 reach and again it's sets a dangerous precedent if a
10 veteran is being eliminated from jury work because
11 they're a veteran. Especially considering all most
12 of them have gone through, not including myself, I'm
13 talking about other veterans who have actually
14 actively worked, um, fought in combat, so we would
15 think that was improper and strongly opposed that
16 reason. So again, I think that might be the last
17 one, I think.

18 THE COURT: Yep. That's the one.

19 MR. REDMOND: So with that, Your Honor, I think we
20 would -- we, the State, the way I understand it we
21 have stated reasons for at least three that we would
22 ask that the jury panel be redrawn.

23 MS. WHITE: Your Honor, if I may? Regarding
24 number, juror number 20, again, we did not excuse her
25 due to her age. We viewed the fact that she did have

1 an exemption yet chose to stay, um, as just a factor
2 along with her demeanor. Again, I merely stated the
3 fact that she chose to stay as a circumstance and her
4 being given cause is the prime, Your Honor.

5 THE COURT: All right. The two that, that I think
6 are an issue are 20 and 152. I know demeanor can
7 sometimes be used as a sufficient reason for a
8 strike, but I don't know how one exhibits a
9 conservative demeanor. If they exhibit a demeanor, a
10 demeanor that would give off the impression that they
11 did not want to serve as a juror or had some sort of
12 bias one way or the other,
13 but a conservative demeanor, I don't know what that
14 means and I don't know what, um, that there's been
15 anything offered to me to display why that conclusion
16 was made by the defense. It just seems like a
17 pretextual reason for strikes. So I think the
18 strikes exercise on 20 and 152 were pretextual, I
19 grant the State's motion. We're going to draw this
20 jury again.

21 MR. REDMOND: Thank you, Your Honor. I apologize
22 for ---

23 THE COURT: No. I don't -- no, you don't have to
24 apologize. That's, that's what Batson's for. Again,
25 there's been no specifics offered as to why these

1 folks were considered to be conservative and the
2 Court can only conclude they were excluded based upon
3 their race, based upon their race and, you know, even
4 though it was with, the argument was withdrawn by the
5 defense, just because somebody chooses not to make
6 themselves available of an exemption because of age
7 that certainly is by no means any reason for them to
8 be stricken. Certainly, our folks that are aged 65
9 years of age or older, I've heard judges my whole
10 career say we'd love to have your wisdom experience
11 on this jury and I just, I believe 20 and 152, um,
12 those reasons were pretextual. Obviously, 179, the
13 State's withdrawn their challenge to that juror as he
14 was an SCDC employee. And just for the sake of the
15 record, I think the reason given by the defense for
16 striking 109 was valid. And juror 128, I think the
17 fact that this, that he was a veteran and a proposed
18 witness could also be a veteran, I think that's at
19 least a neutral reason for, for exercising a strike.
20 All right.

21 MR. REDMOND: Thank you, Your Honor.

22 THE CLERK: Bring in the jury, Your Honor.

23 THE COURT: Hold on one moment. All right. You
24 can can bring the jury panel back in. Hold on one
25 second.

1 MR. BELL: Your Honor, I wanted to make the Court
2 aware that juror number 170, Jessica Stephens,
3 apparently told the bailiff that she wanted to talk
4 with me. I did not talk with her. Apparently, she
5 told them that when she went to the back, he came out
6 and told me and I wanted to make the Court aware and
7 I wanted the defense to know that.

8 THE COURT: Juror number 170?

9 MR. BELL: Yes, 170.

10 THE COURT: And ---

11 MR. BELL: Jessica Stephens. I've never
12 represented her or anything, but she is a classmate
13 of mine. But I don't know what she wanted to ask me,
14 but I did want to make y'all aware.

15 THE COURT: All Right. Obviously, if she comes
16 up again it would be sufficient reason to exercise a
17 strike.

18 MR. BELL: Right. Thank you, Your Honor.

19 **Jury Selection #2**

20 THE COURT: Ladies and gentlemen of the jury
21 panel, a matter of law arose which required or
22 requires us to begin the jury selection process over
23 and that's what we're going to do now. So again,
24 follow the same procedure. If Mr. Clerk calls your
25 name please come to the middle, face the attorneys in

1 the back of the courtroom. Bring your personal
2 belongings with you. And we will start again. Mr.
3 Clerk?

4 THE CLERK: Yes, sir. Thank you, Your Honor.
5 Juror number 106, Daniel Kovach.

6 (Whereupon, a white male comes forward)

7 THE CLERK: What saith the State?

8 MR. BELL: Please present the juror.

9 THE CLERK: What saith the defense?

10 MS. WHITE: Please excuse the juror.

11 THE CLERK: You've been excused in this particular
12 case, Mr. Kovach. Thank you. You can have a seat
13 back in the audience for me. Juror number 59, Teresa
14 Gainey.

15 (Whereupon, a white female comes forward)

16 THE CLERK: What saith the State?

17 MR. BELL: Please present the juror.

18 THE CLERK: What saith the defense?

19 MS. WHITE: Please excuse the juror.

20 THE CLERK: You've been excused in this particular
21 case, Ms. Gainey. Please have a seat back in the
22 audience for me, please. Juror number 193, Andrea
23 Williams.

24 (Whereupon, a black female comes forward)

25 THE CLERK: What saith the State?

1 MR. BELL: Please present the juror.

2 THE CLERK: What saith the defense?

3 MS. WHITE: Please seat the juror.

4 THE CLERK: Please have a seat in the jury box for
5 me, Ms. Williams. Juror number 89, Randy Jackson.

6 (Whereupon, a black male comes forward)

7 THE CLERK: What saith the State?

8 MR. BELL: Beg the Court's indulgence?

9 THE COURT: Yes.

10 MR. BELL: Please excuse this juror.

11 THE CLERK: You've been excused in this particular
12 case, Mr. Jackson. If you'll have a seat back out in
13 the audience for me please, sir. Juror Number 52,
14 Tychiana Ford.

15 (Whereupon, a black female comes forward)

16 THE CLERK: What saith the State?

17 MR. BELL: Please present the juror.

18 THE CLERK: What saith the defense?

19 MS. WHITE: Please seat the juror.

20 THE CLERK: Please have a seat in the jury box for
21 me, Ms. Ford. Juror number 179, Lucas Tolson.

22 (Whereupon, a white male comes forward)

23 THE CLERK: What saith the State?

24 MR. BELL: Please present the juror.

25 THE CLERK: What saith the defense?

1 MS. WHITE: Please excuse the juror.

2 THE CLERK: You've been excused in this particular
3 case, Mr. Tolson. If you'll have a seat out in the
4 audience for me. Juror number 100 Susan Kelley.

5 (Whereupon, a white female comes forward)

6 THE CLERK: What saith the State?

7 MR. BELL: Please present the juror.

8 THE CLERK: What saith the defense?

9 MS. WHITE: Please seat the juror.

10 THE CLERK: Please have a seat in the jury box for
11 me, Ms. Kelly. Juror number 97, Patrick Jones.

12 (Whereupon, a white male comes forward)

13 THE CLERK: What saith the State?

14 MR. BELL: Please present the juror.

15 THE CLERK: What saith the defense?

16 MS. WHITE: Please excuse the juror.

17 THE CLERK: You've been excused in this particular
18 case, Mr. Jones. If you'll have a seat back out in
19 the audience for me. Juror number 18, Gregory
20 Brigman.

21 THE CLERK: What saith the State?

22 MR. BELL: Please present the juror.

23 THE CLERK: What saith the defense?

24 MS. WHITE: Please excuse the juror.

25 THE CLERK: You've been excusing this particular

1 case, Mr. Brigman. Thank you. Juror number 43,
2 Mackenzie Evans.

3 (Whereupon, a white female comes forward)

4 THE CLERK: What saith the State?

5 MR. BELL: Please present the juror.

6 THE CLERK: What saith the defense?

7 MS. WHITE: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box for
9 me, Ms. Evans. Juror number 111, Danielle Lombardi.

10 (Whereupon, a white female comes forward)

11 THE CLERK: What saith the State?

12 MR. BELL: Please present the juror.

13 THE CLERK: What saith the defense?

14 MS. WHITE: Please excuse the juror.

15 THE CLERK: You've been excused in this particular
16 case, Mr. Lombardi. If you'll have a seat in the
17 audience for me. Juror number 31, Corey Damron.

18 (Whereupon, a white male comes forward)

19 THE CLERK: What saith the State?

20 MR. BELL: Please present the juror.

21 THE CLERK: What saith the defense?

22 MS. WHITE: Beg the Court's indulgence?

23 THE COURT: Yes, ma'am.

24 MS. WHITE: Please excuse the juror.

25 THE CLERK: You've been excused in this particular

1 case, Mr. Damron. Thank you. Juror number 30 Rachel
2 Crawford.

3 (Whereupon, a white female comes forward)

4 THE CLERK: What saith the State?

5 MR. BELL: Please present the juror.

6 THE CLERK: What saith the defense?

7 MS. WHITE: Please seat the juror.

8 THE CLERK: Please have a seat in the jury box for
9 me, Ms. Crawford. Juror number 182, Rachael Toole.

10 (Whereupon, a white female comes forward)

11 THE CLERK: What saith the defense?

12 MR. BELL: Please present the juror.

13 THE CLERK: What saith the defense?

14 MS. WHITE: Please excuse the juror.

15 THE CLERK: You've been excused in this particular
16 case, Ms. Toole. If you'll have a seat in the
17 audience for me. Juror number 83, Hermena Hough.

18 (Whereupon, a black female comes forward)

19 THE CLERK: What saith the defense?

20 MR. BELL: Please present the juror.

21 THE CLERK: What saith the defense?

22 MS. WHITE: Please seat the juror.

23 THE CLERK: Have a seat in the jury box for me,
24 Ms. Hough. Juror number 120, Beverly McCutcheon.

25 (Whereupon, a black female comes forward)

1 THE CLERK: What saith the defense?

2 MR. BELL: Please present the juror.

3 THE CLERK: What saith the defense?

4 MS. WHITE: Please seat the juror.

5 THE CLERK: Have a seat in the jury box for me,

6 Ms. McCutcheon. Juror number 181, Lenora Toney.

7 (Whereupon, a black female comes forward)

8 THE CLERK: What saith the State?

9 MR. BELL: Beg the Court's indulgence?

10 THE COURT: Yes, sir.

11 MR. BELL: Please present the juror.

12 THE CLERK: What saith the defense?

13 MS. WHITE: Please seat the juror.

14 THE CLERK: Have a seat in the jury box for me,

15 Ms. Toney. Juror number 149 Tiana Robinson.

16 (Whereupon, a black female comes forward)

17 THE CLERK: What saith the State?

18 MR. BELL: Please excuse the juror.

19 THE CLERK: You've been excuse in this particular
20 case, Ms. Robinson. If you'll have a seat out the
21 audience for me, please. Juror number 86, Justin
22 Howle.

23 (Whereupon, a white male comes forward)

24 THE CLERK: What saith the State?

25 MR. BELL: Beg the Court's indulgence? Please

1 present the juror.

2 THE CLERK: What saith the defense?

3 MS. WHITE: Beg the Court's indulgence?

4 THE COURT: Yes, ma'am.

5 MS. WHITE: Please seat the juror.

6 THE CLERK: Please have a seat in the jury box for
7 me, Mr. Howle. Juror number 81, Chelsea Hopkins.

8 (Whereupon, a white female comes forward)

9 THE CLERK: What saith the State?

10 MR. BELL: Please present the juror.

11 THE CLERK: What saith the defense?

12 MS. WHITE: Please excuse the juror.

13 THE CLERK: You've been excused in this particular
14 case, Ms. Hopkins. If you'll have a seat out in the
15 audience for me, please. Juror number 62, Beverly
16 Gant.

17 (Whereupon, a black female comes forward)

18 THE CLERK: What saith the State?

19 MR. BELL: Please present the juror.

20 THE CLERK: What saith the defense?

21 MS. WHITE: Beg the Court's indulgence?

22 THE COURT: Yes, ma'am.

23 MS. WHITE: Your Honor, may we approach?

24 THE COURT: Yes, ma'am.

25 (Whereupon, a bench conference is held on the record)

1

THE COURT: Yes, ma'am.

2

3

MS. WHITE: Your Honor, she indicated that she knew the victim's family. We'd just ask that she specified whom she knows or her relationship is to them. I think that's important for us to know.

4

5

6

7

THE COURT: All right.

8

MS. WHITE: There's several victims.

9

THE COURT: If she can come back up.

10

THE CLERK: If you'll come back up here for us,

11

please.

12

THE COURT: Ms. Gant, if you can come, come closer to me.

13

14

THE CLERK: You can stand right here, ma'am.

15

THE COURT: All right. Ms. Gant, you indicated that you knew one of the victims family when I

16

17

questioned you at the bench. Can you tell who

18

exactly it is that you that you know that you may be

19

20

MS. GANT: The Robinsons.

21

THE COURT: --- that you may be associated with -

22

--

23

MS. GANT. The Robinsons

24

THE COURT: The Robinsons?

25

MS. GANT: Mmm, hmm.

1 THE COURT: Is that sufficient?

2 MS. WHITE: Yes.

3 THE COURT: Okay. All right. Thank you, ma'am.

4 All right. If you'll go back to the middle there.

5 Yes, ma'am, Ms. White?

6 MS. WHITE: Please seat the juror.

7 THE CLERK: Please have a seat in the jury box for
8 me, Ms. Gant. Juror number 82, Matthew Houck.

9 (Whereupon, a white male comes forward)

10 THE CLERK: What saith the State?

11 MR. BELL: Present the juror.

12 THE CLERK: What saith the defense?

13 MS. WHITE: Beg the Court's indulgence?

14 THE COURT: Yes, ma'am.

15 MS. WHITE: Please seat the juror.

16 THE CLERK: Please have a seat in the jury box for
17 me, Mr. Houck. Juror number 60, Melvin Gale.

18 (Whereupon, a black male comes forward)

19 THE CLERK: What saith the State?

20 MR. BELL: Please present the juror, please.

21 THE CLERK: What saith the defense?

22 MS. WHITE: Please seat the juror.

23 THE CLERK: Please have a seat in the jury box for
24 me, Mr. Gale. Three alternates, again. It will be
25 one and two. Juror number 109, James Lee.

1 (Whereupon, a white male comes forward)

2 THE CLERK: What saith the State?

3 MR. BELL: Please present the juror.

4 THE CLERK: What saith the defense?

5 MS. WHITE: Please excuse the juror.

6 THE CLERK: You've been excused in this particular
7 case, Mr. Lee. Juror number 88, Danita Jackson.

8 (Whereupon, a black female comes forward)

9 THE CLERK: What saith the State?

10 MR. BELL: Beg the Court's indulgence?

11 THE COURT: Yes, sir.

12 MR. BELL: Please present the juror.

13 THE CLERK: What saith the defense?

14 MS. WHITE: Please seat the juror.

15 THE CLERK: Please have a seat in the first chair
16 outside of the jury box for me, Ms. Jackson. Juror
17 number 152 Melinda Rolfe.

18 (Whereupon, a white female comes forward)

19 THE CLERK: What saith the State?

20 MR. BELL: Please present the juror.

21 THE CLERK: What saith the defense?

22 MS. WHITE: Please seat the juror.

23 THE CLERK: Please have seat in the second chair
24 outside of the jury box for me, Ms. Rolfe. Juror
25 number 12, Franklin Bollinger.

1 (Whereupon, a white male comes forward)

2 THE CLERK: What saith the State?

3 MR. BELL: Please present the juror.

4 THE CLERK: What saith the defense?

5 MS. WHITE: Beg the Court's indulgence?

6 THE COURT: Yes, ma'am.

7 MS. WHITE: Please seat the juror.

8 THE CLERK: Please have a seat in the second,
9 third chair outside the jury box for me, Mr.
10 Bollinger.

11 THE COURT: All right. Let me see the attorneys
12 at the bench for a brief moment.

13 (Whereupon, a bench conference is held on the record)

14 THE COURT: Any matters regarding the jury?

15 MR. BELL: None from the State, Your Honor

16 MR. REDMOND: None from the State

17 MS. WHITE: No, sir.

18 THE COURT: All right. Ladies and gentlemen,
19 those of you who were selected to serve as jurors in
20 this case, I'm going to send you to our jury room
21 just for a brief moment so you can see where it is
22 and where you will be required to report tomorrow
23 morning when we come back to get this case started.
24 The lawyers tell me they have some issues that we
25 need to address this afternoon that does not require

1 your juror information, the clerk's office has a call
2 in system, if you'll call that number after 6 o'clock
3 tonight it'll, ah, there'll be a message on that
4 machine that tells you what we need you to do and
5 it'll be one of three things: It will be, ah, you'll
6 be instructed to call back at some later time to
7 report back to the courthouse at some specific time;
8 or that you have been released for the week and your
9 service has concluded. Obviously, towards the
10 beginning of the week the likelihood that the first,
11 one of the first two messages will be on there. As
12 we get closer to the end of the week the likelihood
13 increases that you'll be excused. But if you would
14 call that number after 6 o'clock tonight it'll tell
15 you what to do. That is far more efficient than
16 having y'all report to the courthouse every morning
17 and every afternoon. That's what people used to have
18 to do so if you'll listen to that message and do what
19 it instructs you to do. I appreciate you being here
20 today and hopefully, we will see you later in the
21 week. You are excused with the instructions to call
22 back after 6 o'clock tonight.

23 (Whereupon, the jury panel exits the courtroom at
24 1:46 p.m.)

25 THE COURT: All right folks. Before we go any

1 further, I need to put a couple things on the record.
2 First, the State made a Batson motion after the first
3 jury was selected. That motion was granted. And I
4 just want to put on the record that the proper
5 procedure with regard to re-selecting a jury pursuant
6 to State v. Hayward is that the jury selection
7 process begins de novo from the beginning. So State
8 v. Hayward 357 S.C. 577, 594 S.E. 2d 168, as the
9 Court of Appeals case from 2004. And after the
10 second jury was selected, I brought the attorneys up
11 and asked if there were any matters of law with the
12 jury selection process or the jury as it was
13 selected. Both sides answered that there were no
14 jury, no issues of law, matters of law with the jury
15 selection process of the second jury, is that
16 correct, Mr. Redmond?

17 MR. REDMOND: That is correct, Your Honor.

18 THE COURT: Ms. White?

19 MS. WHITE: That is correct.

20 THE COURT: All right. I know we have some
21 matters of law to take up and I am aware that it is
22 lunchtime so we're gonna be back at 3 o'clock. It's
23 a little over an hour. How many motions just
24 ballpark were we, ah, that will be before the Court
25 this afternoon.

1 on the case of State vs. Darius Dickey. And I'll be
2 happy to hear any pretrial motions.

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

5 THE COURT: Yes. Yes, sir.

6 MR. SCRUGGS: Your Honor, we filed four written
7 motions with the Court. I'll start first with our
8 motion to quash indictment. Your Honor, before we
9 got started today I had a conversation with Deputy
10 Solicitor Redmond, throughout the pendency of this
11 case the solicitor's office has informed us that they
12 were going to be proceeding under mutual combat
13 theory based on the recent State v. Young case out of
14 a Supreme Court from 2020. So we have -- we have
15 prepared based on that and drafted this motion partly
16 to address that issue, that issue which we believe
17 the indictments were defective because it did not
18 allege mutual combat. But I believe that issue is
19 moot. I would just as a housekeeping matter and
20 probably bigger than that because we need to know how
21 to address the State's theory going forward. I just
22 wanted to confirm going forward the State is only
23 going forward on one murder count. It's my
24 understanding that the, the other two murder counts
25 the State will not be going forward on. And I'd just

1 like the Court to inquire the State so that the
2 defense can be on notice on how to address its
3 opening statements to the jury; what issues are going
4 to be at play; and, also how to prepare to cross-
5 examine some of the state's witnesses to confirm that
6 the State intends to prove an intentional killing of
7 Mr. Bakhsh in this case.

8 MR. REDMOND: May it please, the Court, Your
9 Honor?

10 THE COURT: Yes, sir.

11 MR. REDMOND: And that's pretty, um, except the
12 State believes we've narrowed it down to six charges.
13 Obviously, when it comes to murder, transferred
14 intent is allowed to take place. And even though
15 we're not alleging that he purposely killed Garrett
16 Bakhsh, we do allege that he attempted to kill
17 Davijon McCall. And in doing so, he ended up
18 striking, well, he ended up killing Garrett Bakhsh
19 and ended up striking Ivan Granados and Leonard
20 Sweetenburg. So that is what we -- we are not going
21 under State v. Young. There are a host of reasons
22 that the State has decided not to go under State v.
23 Young with the other two decedents and the other
24 person that was actually shot in this incident. So
25 we are actually going forward on the theory that he

1 actually shot three people and then, of course, the
2 attempted murder charge on Davijon McCall.

3 THE COURT: So the, the specific intent to kill
4 would have been the shots fired at Davijon McCall ---

5 MR. REDMOND: That is correct.

6 THE COURT: And then the transferred intent ---

7 MR. REDMOND: To Garrett Bakhsh. And again, to
8 the other ones who were struck.

9 THE COURT: Okay.

10 MR. SCRUGGS: And, judge, just briefly, in the,
11 the indictment pleas an intentional killing of Mr.
12 Bakhsh. I understand that transferred intent is a
13 theory that the State can use to prove murder, but
14 the defense would argue just kind of using the same
15 argument we would have used with mutual combat.
16 These things are not pled in the indictment. The
17 defendant was not on notice until just now of this,
18 um, of the State's intent to use a transferred intent
19 theory that he was attempting to kill somebody else.
20 And -- and that malice is transferred to Mr. Bakhsh.
21 And, Your Honor, I think that that gets into the
22 territory of State v. Gentry, State v. Baker where
23 the indictment is so vague that it puts Mr. Dickey's
24 due process rights at, um, at risk. And we would
25 argue that the indictments are not sufficiently or

1 not stated with enough particularity for Mr. Dickey
2 to be able to know whether to plead to them or take
3 this case to trial. And at this late date, literally
4 that the morning that the State called the case is,
5 essentially, changing horses midstream. And we would
6 argue that on a constitutional basis for both the
7 State Constitution and the Federal Constitution that
8 the indictment should be quashed on those grounds.

9 Additionally, Your Honor, of Page 3 of the
10 defense's motion, the State has also failed to comply
11 with the statutory provisions concerning, concerning
12 indictments in cases of murder, assault and battery
13 of a high and aggravated nature. And also cited in
14 the defense's motion is State v. King. It's the
15 Court of Appeals decision from 2015. It noted that
16 because this statute was in place before the omnibus
17 was passed that the language from Section 17-19-40
18 also applies to attempted murder. So on this basis
19 the statutory defect, the defense argues that the
20 murder indictment, the attempted murder indictment,
21 and the two counts of assault and battery of a high
22 and aggravation, excuse me, aggravated nature should
23 be quashed because the State has failed to comply
24 with Section 17-19-40. Your Honor, the allegations
25 in this case are that Mr. Dickey use a concealed

1 up at the directed verdict stage and I understand
2 because there are elements both of the notice
3 requirement of the indictment and also the material
4 variance that comes into play after all the evidence
5 has been submitted by the State in this case.

6 But to sum this up, Your Honor, the transferred
7 intent theory not plead in the indictment, the
8 individuals involved not pled in the indictment. And
9 taken into it totality of the circumstances, judge,
10 we're just getting noticed today that the State is
11 adopting a new theory after this case has been
12 pending for almost four years that they are going to
13 try and use to convict Mr. Dickey.

14 And lastly, the statutory provisions regarding
15 concealed weapons has not been complied with.
16 There's no special count in the indictment. It's not
17 even incorporated by reference. There is a count,
18 um, a separate indictment for unlawful carrying of a
19 handgun, but that is not referenced. And we believe
20 that these defects, both constitutional and statutory
21 are substantial and require that this motion be
22 granted.

23 THE COURT: Thank you, sir. Mr. Redmond?

24 MR. REDMOND: May it please, the Court?

25 THE COURT: Yes, sir.

1 MR. REDMOND: First, as it relates to the, I guess
2 -- I guess I'll address the language concerning, I
3 think the defense has mentioned the, um, the notice
4 aspect of it, and I would state the indictment in
5 South Carolina is a notice document. It is not a fact
6 document. I've never, quite frankly, in the thirty
7 plus years I've been practicing haven't pled
8 specifically transferred intent because, think about
9 it, somewhat of a misnomer to do that. The whole
10 point is that the intent transferred. So that when
11 we say the person intentionally killed so-and-so, the
12 law allows for transfer intent. There's nothing
13 under the writ that says we actually have to plead
14 transferred intent. So when it says that he
15 intentionally killed Garrett Bakhsh, we'd argue that
16 is the case under the doctrine of transferred intent.
17 Do we have to specifically plead it? No. However,
18 it's a notice document. When you think about all of
19 the discovery literally hundreds if not thousands of
20 pages and documents in discovery, the defense is
21 clearly, I would contend, on notice that this, this
22 was a -- as it relates to Garrett Bakhsh,
23 specifically, this is where the State was going of
24 when it comes to that.

25 Furthermore, up until I think August, um, Mr.,

1 Mr. Monty Bell can correct me, but I think this case
2 was indicted in August or September where we added on
3 Brian Robinson and, and DiCaprio Collins under the
4 State v. Young. Well, I haven't had a chance to
5 look at State v. Young closer and, quite frankly,
6 based on the way the case is developed in
7 preparation, the State actually agrees that it is
8 best that we back off for this. But for the time, I
9 guess, three plus years, three and a half years, up
10 to that point, he was charged exactly with what we're
11 going forward on today. So again, it's a notice
12 document. And one of the things the defense did not
13 mention is that particular fact. It's not that we
14 were under State v. Young from the beginning, that
15 was something that was done in February, I mean,
16 excuse me, in September. So up until this time,
17 exactly the charges that we have now are the charges
18 that were in place back then. So the defense is not
19 prejudiced by that. And, you know, I can't speak for
20 them and how they go about preparing their case. But
21 from a notice standpoint, when you put all those
22 things together, the defense has had more than
23 adequate notice as it relates to the theory that the,
24 that the State would proceed specifically as it
25 relates to Garrett Bakhsh.

1 All right. Anything further, Mr. Redmond?

2 MR. REDMOND: Nothing further from the State, Your
3 Honor.

4 THE COURT: Anything further?

5 MR. SCRUGGS: No, sir.

6 THE COURT: All right. All right. Ladies
7 gentlemen, now if you will give Mr. Clerk your
8 attention he is going to swear you in as jurors.

9 THE CLERK: Okay. If all of you would please
10 stand including
11 the alternates to take the oath of jurors. Raise
12 your right hand. You shall well and truly try a true
13 deliverance made between the State of South Carolina
14 and the defendant, you shall have him charged in a
15 true verdict render according to the law and the
16 evidence, so help you God. If you accept it please
17 indicate by stating, I will?

18 (Whereupon, the jurors all indicate I will)

19 THE CLERK: Everyone that took the oath may have a
20 seat.

21 (Whereupon, all jurors are seated)

22 THE CLERK: All jurors have taken their seats.

23 THE COURT: Thank you, Mr. Clerk.

24 **Judge's Instructions**

25 All right. Yes, sir.

1 MR. BELL: Yes, Your Honor. May it please, the
2 Court?

3 THE COURT: Yes, sir.

4 MR. BELL: Ms. Marianna White, Jamie Scruggs,
5 Nathan Scales.

6 **Opening Statement- Mr. Bell**

7 Ladies and gentlemen, of the jury, good morning.
8 (Whereupon, the jury greets Mr. Bell)

9 January 26 2020, Hartsville, South Carolina,
10 early morning. Now, a night club, Mac's Lounge. A lot
11 of Coker students. Followed up with patriots.
12 Having a good time. Music. Alcohol. Good time.
13 Darius Dickey is at Mac's Lounge on January 26, 2020,
14 in the early morning hours. He's there maliciously
15 walking around, hand in pants. A fight breaks out.
16 A shooting ensues. What's the result? Six people
17 shot. Three people dead. Why are we here? Darius
18 Dickey accused of attempted murder of Davijohn
19 McCall. Murder of Garrent Bakhsh. Assault and
20 battery of a high and aggravated nature of Ivan
21 Granados. Unlawful carrying of a handgun, possession
22 of weapon during the commission of a violent crime.
23 He sits there accused. He is innocent. There's a
24 cloak of innocence on Mr. Dickey right now. It is
25 the State's job to remove that cloak of innocence.

1 We must do that beyond a reasonable doubt.

2 Now, what is proof beyond a reasonable doubt?

3 Proof beyond a reasonable doubt is proof that we

4 would leave one firmly convinced of the defendant's

5 guilt. Now, it's important that you know the law

6 doesn't require the State to prove beyond all doubt.

7 But if you are firmly convinced at the conclusion of

8 this case that Darius Dickey is guilty, you must find

9 him guilty. And how do you do that? We will present

10 evidence and you, ladies and gentlemen of the jury,

11 were gracious enough to take oath that you will weigh

12 that evidence and you will hear this case. That'll

13 be types of evidence. There's direct. Now, what is

14 direct evidence? Direct evidence is like eyewitness

15 testimony. It's something that you actually see.

16 Then there's circumstantial evidence. Circumstantial

17 evidence is a chain of facts that would tend to lead

18 to the existence of that fact. What do I mean by

19 that? Let's talk about circumstantial evidence. You

20 wake up in the morning your car is wet, the grass is

21 wet, the trees are wet, your roof is wet. You didn't

22 see it raining. If you saw it raining that's direct

23 evidence that you can testify that it was raining.

24 But through those chain effects, the wet car, the wet

25 ground, the wet trees, the wet roof, you could, you

1 could tend to lead yourself to believe that it
2 rained. Guess who weighs circumstantial evidence and
3 direct evidence? Ladies and gentlemen of the jury,
4 you do. You get to contribute the weight that's put
5 to this evidence.

6 Now, let's talk specifically about these crimes.
7 And I'm gonna talk about them in a, in a peculiar
8 order, but there's a reason for it. Attempted
9 murder. Attempted murder is the attempting killing
10 of, unlawful killing of another human being with
11 malice aforethought. Ladies and gentlemen, as you
12 listen to this case you're gonna hear that on January
13 26, 2020, Darius Dickey intended on killing Davijon
14 McCall. But he was unsuccessful. Unfortunately,
15 Garrett Bakhsh, 18-year-old Coke student was in the
16 wrong place at the wrong time and the bullet that was
17 meant for Davijon McCall unfortunately struck Garrett
18 Bakhsh.

19 Now, what is murder? Murder is the unlawful
20 killing of another human being with malice
21 affordable. And that malice has to be express or
22 implied. Now, the State is not saying that Darius
23 Dickey intended on killing Garrett Bakhsh. The State
24 is saying that Darius Dickey intended to kill Davijon
25 McCall and when he missed Davijon McCall, and he hit

1 Garrett Bakhsh, that intent transferred. And you'll
2 hear the judge talk about transferred intent.

3 The last one, assault and batter of a high and
4 aggravated nature. That is the unlawful injury of
5 another person that causes great bonding injury and
6 it was accomplished in a way that could have produced
7 death. Well, while Mr. Dickey was maliciously
8 shooting in this crowded nightclub, the State is
9 gonna show he struck Ivan Granados. And by striking
10 him, he is also guilty of a assault and battery of a
11 high and aggravated nature. He -- all three,
12 attempted murder, murder, assault and battery of a
13 high and aggravated nature, all of violent nature.
14 We will show that he was possessed a gun while he
15 committed those violent offenses.
16 And lastly, that it was unlawful for him to even have
17 that handgun in the first place.

18 That's our burden. We'd ask that and we know
19 that you're gonna pay close attention. This is not
20 like t.v. It's not gonna be a lot of fireworks and
21 whatnot. It's very important. This -- this Friday
22 will be the four year anniversary of this shooting
23 that took place. The Bakhsh family has waited a long
24 for this, for justice. Ivan Granados has waited a
25 long time for justice. The Darlington County

1 community has waited a long time for justice. And
2 you can see -- when you look at Lady Justice and you
3 see her with her scales, and you weigh that evidence
4 and in the conclusion of this case that scale has
5 tipped, and you're firmly convinced. That sword that
6 Lady Justice has, you have to swing it and that's
7 what we expect you to do.

8 We thank you for your time. And we look forward
9 to talking with you.

10 THE COURT: Thank you, sir.

11 **Opening Statement- Ms. White:**

12 What happened at Mac's Lounge that night almost
13 four years ago was horrific. The Bakhsh family, all
14 the families should have never had to go through what
15 they have most likely endure for these past several
16 years. It was awful. And you'll hear testimony of
17 that. But I want you all to keep an open mind and do
18 not let the horrific events of that night cloud in
19 your judgment here today. What the State cannot show
20 is motive. They cannot prove that the bullets that
21 were fired from Darius injured any person in the club
22 that night. They cannot prove that the bullet that
23 killed Mr. Bakhsh came from any weapon that was fired
24 by Darius or any weapon that was recovered that
25 night. And what's more the State's own witness will

1 testify to that, that they cannot show what bullet
2 killed Mr. Bakhsh. And most importantly there's no
3 motive. There's no match for the bullet that ended
4 Mr. Bakhsh's life. And there's no murder here. They
5 cannot prove that Mr. Dickey went to Mac's intending
6 to kill that night. What he did was he went to Mac's
7 with a friend, one of the deceased, Mr. DiCaprio
8 Collins. He went with his cousin, Zyriq Thomas.
9 They went there to have a good time. They were only
10 there a short time before shots erupted. They didn't
11 go there with any intent to start anything. Darius
12 did not go with any intent to engage in any kind of
13 beef with anyone. But there was beef there. There
14 was beef between somebody. Darius had nothing to do
15 with it, though. Nothing! This was not his beef.
16 Why did he have a gun? Lots of people had guns that
17 night. You'll hear testimony to that, that there
18 were multiple guns seen that night. There was only
19 one gun ever recovered and that gun is going to be
20 linked to another defendant and I'll tell you more
21 about that gun and what it did. The State's evidence
22 is not going to show that even if you hear testimony
23 that Darius fired a gun, it will not show that he
24 fired first or any shot that injured or killed
25 anybody. What you know what the testimony will show,

1 it will show that it was the gun that was found with
2 another defendant, Mr. Davijon McCall that killed at
3 least two people that night. That's what the
4 evidence will show. And there is no disputing that
5 fact. None whatsoever! It will show also that it
6 was Davijon McCall who fired first that night in
7 disputing. If we are looking for somebody to blame
8 here follow the evidence. The evidence goes to Mr.
9 McCall.

10 And again, this is what the State can and will
11 prove. There's no motive. There's no match. And
12 there's simply no murder. Darius Dickey is innocent
13 here.

14 I thank you all for your time.

15 THE COURT: Mr. Redmond?

16 MR. REDMOND: Yes. Your Honor, with the first the
17 is the issue that we had addressed with the Court in
18 chambers.

19 THE COURT: All right. Ladies and gentlemen, as
20 I instructed you in my opening remarks sometimes
21 matters of law arise which require me to send you
22 outside and back to your jury room so we can address
23 these matters. One of those matters has arisen and
24 so at this time I'm going to send you back to your
25 jury room with a reminder do not begin deliberations,

1 do not discuss the case amongst yourselves or with
2 anybody else and we will bring you back out in a few
3 moments. Thank you.

4 (Whereupon, the jury exits the courtroom at at 10:32
5 a.m.)

6 THE COURT: All right. Mr. Redmond or Mr. Bell?

7 MR. BELL: Yes, Your Honor. The State calls
8 Jeremy Curtis.

9 THE COURT: All right.

10 THE CLERK: Place your left hand on the Bible and
11 raise right. You swear the testimony you give this
12 court would be the truth, the whole truth, and
13 nothing but the truth so help you God?

14 MR. CURTIS: Yes, ma'am.

15 THE CLERK: Have a seat in that chair.

16 JEREMY CURTIS, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mr. Bell:**

19 Q. Good morning.

20 A. Good morning.

21 Q. Could you please state your full name for the
22 record?

23 A. Jeremy Todd Curtis.

24 Q. And Mr. Curtis, where do you work?

25 A. The Hartsville Police Department.

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1 Q. And were you working for Hartsville Police
2 Department on January 26, 2020?

3 A. I was.

4 Q. And did you work the Mac's, Mac's Lounge
5 shooting?

6 A. I did.

7 Q. Could you tell the Court what you did? What kind
8 of, kind of duties you performed on that day?

9 A. I was the second officer to arrive.

10 Q. And what time did you arrive, approximately?

11 A. I can't -- I can't recall right off....

12 Q. And you say you was the second officer to arrive?

13 A. Yes, sir.

14 Q. And what did you see?

15 A. Chaos.

16 Q. And did you talk with anyone?

17 A. I did. As soon as I arrived it was process
18 overload as far as everything that was going on.

19 Trying to secure the scene. You know, there were
20 bodies everywhere. And trying to figure out exactly
21 what happened.

22 Q. And when you say trying to secure the scene, what
23 do you mean?

24 A. You know, there were, there were people that were
25 shot and needing to secure the scene so that we have

1 EMS come in. And it was just chaotic! Chaotic!

2 Q. And so by secure -- when you say securing the
3 scene, what did you do in the nightclub?

4 A. Trying to get everyone out to lock down the scene
5 and trying to figure out exactly what happened?

6 Q. And did you do that?

7 A. I tried the best I could.

8 Q. And did you interview anyone?

9 A. I did. Several.

10 Q. What's the name of some of the people you
11 interviewed?

12 A. Can you say that one more time?

13 Q. What is -- can you give me the names of some of
14 the people you interviewed?

15 A. I know Angelena, one. There were -- there were
16 several other individuals that I did interview.

17 Q. All right. When you interviewed Angelena, can
18 you describe to the Court what you observed about
19 Angelena?

20 A. She was hysterical. She was just, you know,
21 crying, very distraught and in tears. She was
22 thinking that she was getting shot -- that one of the
23 bullets was intended for her.

24 Q. And what did she say? What did she say to you
25 when you was talking to her?

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1 A. She told me that it was Darius. She saw Darius
2 with a gun.

3 Q. Did she say anything else about Darius?

4 A. I was trying to get a clothing description from
5 her, but she did said it was Darius Dickey.

6 Q. And then were you outfitted with your body camera
7 on that date in questions?

8 A. I did. I was.

9 Q. And was it functioning?

10 A. Yes sir.

11 MR. BELL: I beg the Court's indulgence, Your
12 Honor?

13 THE COURT: Yes, sir.

14 MR. BELL: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes, sir.

17 Q. Mr. Curtis, what I'm showing you is pre-marked as
18 State's Exhibit 1, do you recognize that exhibit?

19 A. Yes, sir.

20 Q. Where do you recognize it from?

21 A. It's from evidence. It contains body camera
22 footage.

23 Q. Have you had a chance to review the body camera
24 footage on States Exhibit pre-marked, State Exhibit
25 1?

1 A. Yes, sir.

2 Q. Is it a true accurate depiction of the body
3 camera footage that you took on this day in question?

4 A. Yes, sir.

5 MR. BELL: Your Honor, at this time I move to play
6 the body cam footage on State's Exhibit 1?

7 THE COURT: I mean, any objection for the purposes
8 of this, of this in-camera?

9 MR. SCALES: Not for purposes of this proffer,
10 Your Honor.

11 MR. REDMOND: And Your Honor, if I may, sorry to
12 interrupt, but just for clarity as record, we have
13 provided the defense with, um, the technology the way
14 it is, we've actually got several exhibits on that
15 particular flash drive. For instance, we do have the
16 body cam of Curtis. We do have 911 calls. We've
17 got, I think, there may be some photos on there as
18 well. And there's some other videos and evidence,
19 we've got that list. So to do an introduction, if
20 it's okay with the Court, we would just introduce
21 that particular item on the flash drive so that if
22 something is not admitted, if the Court does not
23 allow the admitting of certain evidence on there, all
24 we got to do is delete it off before we actually
25 close of the trial.

1 THE COURT: Okay. All right.

2 MR. REDMOND: Thank you, Your Honor.

3 THE COURT: You can publish the body camp
4 footage.

5 (Whereupon, the video is played for the Court)

6 MR. REDMOND: And Your Honor, while he's doing
7 that just to put in context, we've gone through some
8 redactions. I actually sent those to defense, Your
9 Honor, last week and so and, of course, in my haste I
10 did not make an extra copy, but during the break I'll
11 make a copy of it to make it a Court's Exhibit. I
12 usually like to do that just to make sure the record
13 is complete ---

14 THE COURT: Okay.

15 MR. REDMOND: --- of what we're gonna be
16 redacting. I think today, this is the only thing
17 we're gonna be redacting. Looking forward toward
18 tomorrow there'll be some more exhibits that we've
19 got redactions for.

20 (Whereupon, the video is played for the Court)

21 Q. Mr. Curtis, again, that was your body cam
22 footage?

23 A. Yes, sir.

24 Q. Could you also tell the Court the individuals
25 that were injured versus the ones that were killed

1 based on your investigations, um, who was all injured
2 and who was all killed at this scene?

3 A. Right as you walk in that was Garrett that was on
4 the ground right by the front door. To the left of
5 the front door, Sweetenburg, um, that would be
6 Country's real name is, but that was his ---

7 Q. If I said Michael Grider, would that sound
8 familiar?

9 A. I would think so, yes, sir. DiCapro collins who
10 was by the pool table and then Mr. Robinson was on
11 the back porch.

12 Q. And Mr. Robinson was deceased, correct?

13 A. Yes, sir.

14 Q. DiCaprio was deceased, correct?

15 A. Yes, sir.

16 Q. Michael Grider was injured?

17 A. Yes, sir.

18 Q. Leonard Sweetenburg, injured?

19 A. Yes, sir. There was also another -- I don't know
20 if we ever identified who that was, but there was
21 somebody that was shot in the leg that, ah, that I
22 found as I was on the way to Mac's, and I told him
23 get to the hospital because I was -- I had needed to
24 get to the scene.

25 MR. BELL: I beg the Court's indulgence. Please

1 answer any questions the defense may have for you.

2 A. Yes, sir.

3 **Cross-Examination by Mr. Scales:**

4 Q. Officer Curtis, you know that Angelena was
5 distraught?

6 A. Yes.

7 Q You noted that Angelina was too distraught?

8 A. Yes, sir.

9 Q. She thought people were shooting at her?

10 A. Yes, sir.

11 Q. And she used the word people?

12 A. I don't recall. I thought that she was saying
13 that it was

14 Darius, but she could have.

15 Q. Okay. Do you remember writing a report about
16 this incident?

17 A. Yes, sir.

18 Q. Would you like to see your report to refresh your
19 memory?

20 A. Yes.

21 MR. SCALES: May I approach?

22 THE COURT: Yes, sir.

23 Q. You've got a chance to look at your report?

24 A. Yes, sir.

25 Q. So you did note that, um, that Angelena did use

1 the word "people" when she described the shooting
2 incident?

3 A. In the report, yeah, I'm -- may have used
4 "people."

5 Q. Okay. It is safe to say she feared for her
6 life?

7 A. Sir?

8 Q. Is it safe to say she feared for her life in that
9 incident?

10 A. Yes, sir.

11 Q. And Angelena told you that she saw Darius Dickey
12 pull out a pistol?

13 A. Yes, sir.

14 Q. And cocked it?

15 A. Yes, sir.

16 COURT REPORTER: I'm sorry, is that a yes?

17 A. Yes, sir.

18 Q. And Angelena did not tell you that she saw Darius
19 Dickey fire a gun?

20 A. No, sir.

21 Q. She did not tell you that Darius Dickey said he
22 was going to kill anyone?

23 A. I don't recall.

24 Q. She didn't tell you he said anything at all?

25 A. I don't recall.

1 Q. But that would be in your report, if she said
2 anything of that nature?

3 A. I would -- yes, sir.

4 Q. Okay.

5 COURT REPORTER: Did you say yes, sir?

6 A. Yes, sir.

7 Q. Was there other officers with you when you were
8 speaking with Angelena Deason?

9 A. Yes, sir.

10 Q. You saw them on your ---

11 A. An officer -- I think so.

12 Q. It's -- how long after the incident would you say
13 that, that conversation occurred with Miss Deason,
14 your best guess?

15 A. Ten minutes.

16 Q. Okay.

17 A. Give -- give or take.

18 Q. And -- and she approached you wanting to talk
19 about this information, correct?

20 A. I think so.

21 Q. Okay.

22 A. I -- I may have approached her. I don't recall.

23 Q. Okay.

24 A. Whatever the body camera ---

25 Q. Okay. And you're familiar with Miss Deason?

1 A. Yes, sir.

2 Q. How do you know her?

3 A. From over the years. Hartsville is a fairly
4 small town. But earlier in that week there was a
5 domestic violence with one of the deceased involved
6 that happened at Coker College.

7 Q. And who was that? Who's the deceased?

8 A. DiCapro Collins.

9 Q. Okay. And DiCapro Collins was her boyfriend?

10 A. Yes. I guess, it wasn't technically domestic
11 violence but they were boyfriend and girlfriend.

12 Q. Okay. An assault of some sort?

13 A. Yes, sir.

14 Q. Okay. So when Miss Deason approached you or you
15 talked with Miss Deason, the shooting had stopped?

16 A. Yes, sir.

17 Q. You said that it was ten minutes after the
18 incident, roughly, ten minutes ---

19 A. Right.

20 Q. --- after the incident?

21 A. Yes, sir.

22 Q. Some time had passed?

23 A. Yes, sir.

24 MR. SCALES: Beg the Court's indulgence?

25 THE COURT: Yes, sir.

1 MR. SCALES: No further questions, Your Honor.

2 MR. BELL: Your Honor, no further questions from
3 the State.

4 THE COURT: All right. Let me -- let me hear
5 arguments on the excited utterance issue from the
6 State.

7 MR. BELL: Yes, Your Honor. May it please, the
8 Court? Your Honor, the State feels like that we've
9 more than satisfied, um, both excited utterance and
10 present sense impression. Your Honor, Mr. Curtis
11 testified that under the condition and the state that
12 he found Miss Angelena in. She was hysterical. She
13 was frantic. And he talked to her within the ten
14 minutes than when he first arrived on scene. And
15 being that she just saw people getting shot, um, Your
16 Honor, I think this type of exception to the hearsay
17 rules apply, allow for and I think we more than
18 satisfied our burden.

19 THE COURT: All right. Let me hear from the
20 defense.

21 MR. SCALES: Thank you, Your Honor. We,
22 obviously, object to what to them playing body cam.
23 We believe it's testimony on nature. The purpose was
24 just to inform law enforcement of the events that
25 occurred. As a practical matter, she's available to

1 testify this. This video would be cumulative in
2 nature. State vs. Standen, it's a 2007 Court of
3 Appeals case Stapers looks at the totality of the
4 circumstances when dealing with excited utterance.
5 Three prongs to that is related to startling or to a
6 startling event or condition. Second is statement
7 must have been made while the declarant was under
8 that stress of the excitement. The third is the
9 stress of the excitement must be caused by that
10 startling event or condition. Your Honor, I would
11 argue that Miss Deason was no longer under the stress
12 of that. She was visibly more calm when she spoke to
13 the officer on the body cam. Some time had passed,
14 roughly, ten minutes was the testimony. She had
15 calmed down. Again, it was informative in nature.
16 And it's my understanding that she may have
17 approached law enforcement. Should -- should this
18 Court allow any body camera footage, we would ask the
19 Court to consider leaving it on mute. And also if
20 there are any images of bodies, we would ask that
21 that be redacted. That body cam hands around pretty
22 fast throughout these incidents when people were bum-
23 rushing the bar. But we believe that is more
24 prejudicial or primitive. The State has the ability
25 to call any of these witnesses to testify.

1 MR. BELL: Your Honor, first of all the fact that
2 Miss Angelena is available to testify and under Rule
3 803, the availability of the declarant is immaterial.
4 Your Honor, in regards to the, asking that the video
5 as it's panned around there are some bodies
6 associated with. Your Honor, me and Mr. Redmond, I
7 think, did a very good job and from what you see. We
8 redacted a lot of things that we felt like would be
9 prejudicial. We do, however, think it's very
10 probative that the placement of these bodies and seen
11 in the general area they are in, I think that is very
12 much so a big part of the State's case in chief. The
13 way that it comes down to prove whose bullets did
14 what and the placement of this defendant. And so we
15 ask that those, that we not -- we don't have to
16 redact where those bodies are. And as regards to the
17 muting, Your Honor, we think that, that is not more
18 prejudicial than it is probative. We think that is
19 very material and relevant. We'd ask that you don't
20 mute the sound on that body cam.

21 THE COURT: All right. Let's take these issues
22 in order. The first was the excited utterance issue
23 and that rule, South Carolina Rules of Evidence 803
24 (2), "an excited Utterance is a statement relating to
25 a startling event or condition made while the

1 declarant was under the stress of excitement caused
2 by the event or condition." Based on my review of
3 the body cam footage it's obvious to me that the
4 witness or the declarant Miss Deason was under the
5 same is certainly related to a startling event or
6 condition. Shots ringing out in a nightclub would,
7 in my view, be a startling event or condition. The
8 declarant was under the stress or excitement,
9 excitement caused by the event or condition when she
10 makes contact the officer or the officer makes
11 contact with her, however, you want to view that.
12 She is obviously upset. Crying. Her voice is
13 raised. She made the statement that she felt like
14 the bullets were coming after her. And I believe she
15 said that she felt like one of the bullets may have
16 grazed her back. And so under the totality of the
17 circumstances I think based on my view of this
18 recording certainly she, um, her condition in her
19 interaction with law enforcement that night certainly
20 falls under the excitement utterance exception to
21 hearsay. So I believe her statement meets that
22 threshold.

23 With regard to the other issues raised, I think
24 the orientation of the individuals who were involved
25 in this, in this event at the nightclub I think their

1 location within the bar is certainly more probative
2 than prejudicial. Now, I listened closely, there's
3 not really any, any narration by Officer Curtis as
4 he's going through this scene. He's not making any,
5 any out of court statements in relation to the
6 bodies. I mean, the jury, the jury can certainly
7 will need to be oriented as to where these people
8 were with, within the bar when this event happened.
9 So I don't think the showing of these, of these
10 bodies or the injured individuals is more prejudicial
11 than probative. So I would allow those portions of
12 the tape who played in front of the jury and I'm not
13 going to require the tape to be muted or the video to
14 be muted. I think that there's anything specifically
15 objectionable that's been included with, with the
16 portions of the body cam that have been played in
17 this in-camera hearing. Now, if anything else is
18 gonna be played, you know, I assume not, you know, if
19 you're gonna go beyond what's been presented here
20 this morning, tere may be some issues. But based
21 upon what I've seen under the totality of the
22 circumstances under Rules 803 (2) and 403, I'm gonna
23 allow the portions that have been presented in-camera
24 hearing to be played in front of the jury.

25 MR. BELL: Thank you, Your Honor.

1 MR. SCALES: Thank you, judge.

2 MR. REDMOND: And Your Honor, I do have extra
3 copies. I would ask that the redactions be Court's
4 Exhibit Number 1.

5 THE COURT: Okay. Now, you're offering that, Mr.
6 Redmond, as a Court Exhibit ---

7 MR. REDMOND: Yeah.

8 THE COURT: --- and not as a State Exhibit.

9 MR. REDMOND: Not a State's Exhibit. And I'll
10 need to actually -- there's a part in there I'll
11 write in at the appropriate time. I'll go ahead and
12 write it in and then during the break I'll present it
13 as a Court's Exhibit.

14 THE COURT: All right. Anything else before we
15 deal with the jury?

16 MR. BELL: No, Your Honor. I just moved the t.v.

17 THE COURT: Okay. And I'm gonna, I'm gonna step
18 off the pitch for about five minutes. If anybody
19 needs to step out of the courtroom for a moment,
20 let's say, we'll come back in at 11:25. Officer
21 Curtis you can step down but don't discuss your
22 testimony with anybody, okay. We'll be in recess
23 until 11:25

24 (Whereupon, the Court takes a short recess at 11:25
25 a.m.)

1 MR. REDMOND: Yes, sir. Thank you, Your Honor.

2 THE COURT: All right. Anything else before we
3 bring in the jury?

4 MR. REDMOND: Nothing from the State, Your Honor.

5 MS. WHITE: Nothing from the defense.

6 THE COURT: All right. Bring us the jury please.

7 COURT REPORTER: Kenard?

8 MR. REDMOND: And while they're coming in I have
9 marked Sate's Exhibit, ah, Court's Exhibit Number 1.

10 THE COURT: All right. It will be admitted as a
11 Court's Exhibit.

12 (Whereupon, the Redactions has been marked and
13 entered into evidence as Court's Exhibit No. 1)

14 THE COURT: Ladies and gentlemen, thank you for
15 your patience with us here this morning. We will
16 begin the trial and I'll recognize the State to call
17 it's first witness.

18 MR. BELL: Thank you, Your Honor. May it please,
19 the Court? The State calls Jeremy Curtis to the
20 stand.

21 THE CLERK: Place your left hand on the Bible and
22 raise right. You swear the testimony you give this
23 court would be the truth, the whole truth, and
24 nothing but the truth so help you God?

25 MR. CURTIS: Yes, ma'am.

Jeremy Curtis, first being
duly sworn, testified as follows:

Direct Examination by Mr. Bell:

Q. Good morning, Mr. Curtis.

A. Good morning.

Q. Could please state your full name for the record?

A. Jeremy Todd Curtis.

Q. And Mr. Curtis, where do you work?

A. The Hartsville Police Department.

Q. On January 26, 2020 where did you work?

A. At the Hartsville Police Department?

Q. And what do you do for the Hartsville Police Department?

A. At the time of the incident, I was a patrol officer for City of Hartsville.

Q. And did you go out and cover the Mac's Lounge shooting that occurred on January 26, 2020?

A. I did.

Q. And, roughly, about what time did you get there?

A. Moments after. I think, I was a block or maybe two away whenever the initial call came out.

Q. And when you got to scene what did you do?

A. Whenever, I initially arrived on scene I was trying to figure out exactly what was going on, what had happened. We were alerted of gunshots and so I

1 was trying to assess everything.

2 Q. And describe to the ladies and gentlemen of the
3 jury of what you saw when you got there?

4 A. Absolute chaos. Absolute chaos.

5 Q. How many people would you estimate that you saw?

6 A. There was a couple hundred people. It -- it felt
7 like a couple hundred people. As I was approaching
8 in my vehicle there was just people running
9 everywhere, screaming. It was a lot.

10 Q. And when you got out of your car, what did you
11 see?

12 A. Again, people running everywhere, screaming. As
13 I went into the building, you know, there were
14 bodies. There was people caring for people that have
15 been shot. And, yeah, that was it.

16 Q. And what -- so what was your next plan of action?

17 A. Try to secure the scene. To try to get everyone
18 out of the building so that we could have EMS arrive
19 and, and help so....

20 Q. And -- and did you do that?

21 A. The best -- the best of my ability.

22 Q. And did you talk with anybody?

23 A. I did. I was constantly asking if any, anybody
24 saw what happened.

25 Q. And did anybody tell you they saw what happened?

1 A. Yes, sir.

2 Q. What were some of the names of the individuals
3 that you talked to?

4 A. Angelena Deason, um, and there were several
5 other.

6 Q. Well, let's talk about Angelena Deason. You did
7 talk with Miss Deason, correct?

8 A. Yes, sir.

9 Q. Tell the ladies and gentlemen of the jury, what
10 did you observe about Miss Deason when you talked
11 with her?

12 A. Very distraught. Crying. Very visibly upset.

13 Q. How long was it after you arrived at Mac's Lounge
14 did you talk to Miss Deason?

15 A. Give or take ten minutes, roughly.

16 Q. And what did Miss Deason tell you while she was
17 upset?

18 MR. SCALES: Objection, Your Honor. Hearsay.

19 THE COURT: Overruled.

20 A. She told me that she observed Darius Dickey with
21 a gun prior to the gunshots.

22 Q. Did she tell you anything else about Darius
23 Dickey?

24 A. That she thought that he was trying to kill her.

25 Q. At anytime did she describe anything about Darius

1 Dickey?

2 A. I did ask for a clothing description.

3 Q. And was ---

4 A. And she ---

5 Q. And was she able to provide one?

6 A. She was.

7 Q. After securing the scene, did you attempt to
8 retrieve video footage?

9 A. I did.

10 Q. Were you successful?

11 A. I had it paused. I got it right before the
12 incident happened. Had it paused for the
13 investigators that were going to respond.

14 MR. BELL: Judge, may I approach?

15 THE COURT: Yes sir,

16 Q. I'm showing you what's been marked as State's
17 Exhibit 1, pre-marked as State's Exhibit 1, do you
18 recognize this?

19 A. Yes, sir.

20 Q. What's on this exhibit?

21 A. My body camera footage from that night.

22 Q. Have you had a chance to review the body camera
23 footage that's on this exhibit?

24 A. Yes, sir.

25 Q. Is it a true accurate depiction of the body cam

1 footage you had on the date in question?

2 A. Yes, sir.

3 MR. BELL: Your Honor, at this time the State
4 moves State's Exhibit 1, specifically, the body cam
5 footage of Mr. Curtis into evidence.

6 MR. SCALES: And the defense would like to renew
7 it's previous objections, Your Honor.

8 THE COURT: All right. The body cam footage
9 contained in State's Exhibit 1 will be admitted
10 subject to the defense's objection.

11 MR. BELL: Thank you, Your Honor. Your Honor,
12 may I publish the body cam footage to the jury?

13 THE COURT: Yes, sir.

14 MR. BELL: Beg the Court's indulgence?

15 THE COURT: Yes, sir.

16 (Whereupon, the State prepares the set of the camera
17 for the jury)

18 MR. BELL: I apologize for the language.

19 (Whereupon, the video is played for the jury)

20 Q. Mr. Curtis, was that a true and accurate
21 depiction of your body cam on that night in question?

22 A. Yes, sir.

23 Q. Now, based on your investigation were you able to
24 assess whether or not anyone was killed on that
25 night?

1 A. Yes.

2 Q. And who were those individuals?

3 A. Right when you walk in Mr. Bakhsh.

4 Q. Bakhsh?

5 A. Bakhsh, sorry. By the, like two o'clock, by the
6 pool table was DiCaprio Collins. And then on the
7 back porch was Bryant Robinson.

8 Q. And were there individuals that were injured?

9 A. There were several.

10 Q. Could you tell us about the ones that you know
11 about and where there, just about, locations were?

12 A. Mr. Sweetenburg was on, he was the gunshot victim
13 to through the chest that was on the ground by the,
14 to the left of the door. Q. Would I be correct
15 based on your camera footage, was he the one that
16 went out on a stretcher?

17 A. Yes.

18 Q. Go ahead. Was anybody else injured?

19 A. There was -- what was Big Country, that's his
20 nickname. I can't remember his ---

21 Q. If I said the name Michael Grider, does that
22 sound familiar?

23 A. Michael Grider. And also whenever I was in route
24 to the scene somebody did approach me and said that
25 they had been shot and I think it may have been a

1 Coker student, but they had been shot in the leg, I
2 think. And I told he needed to get to the hospital
3 and then we'd get back up with him at the hospital?

4 A. Based on your camera footage, would I be correct
5 in saying it was Michael Grider that was walking out
6 with his shirt off at the end?

7 A. Yes, sir.

8 MR. BELL: Beg the Court's indulgence?

9 THE COURT: Yes, sir.

10 MR. BELL: Please answer any questions the defense
11 may have for you.

12 A. Yes, sir.

13 MR. BELL: Thank you, Mr. Curtis.

14 **Cross-Examination by Mr. Scales:**

15 Q. You're a veteran of the Hartsville Police
16 Department, is that correct?

17 A. Yes, sir.

18 Q. What was your rank?

19 A. Corporal.

20 Q. Corporal Curtis, you've been with the department
21 for about 10 years?

22 A. Yes, sir. Going on 11.

23 Q. Okay. And you graduated from the police academy
24 in Columbia, I'm assuming?

25 A. Yes, sir.

1 Q. You received a lot of training there, obviously?

2 A. Yes, sir.

3 Q. You're one -- one of the areas you received
4 training in was incident report writing, is that
5 correct?

6 A. Yes, sir.

7 Q. You agree that it's important that an incident
8 report be truthful?

9 A. Yes, sir.

10 Q. That it be accurate?

11 A. Yes, sir.

12 Q. And you agree that an incident report should be
13 complete?

14 A. Yes, sir.

15 Q. In the event that is not complete at any
16 particular time, you have the option to add an extra
17 report at a later date, right?

18 A. Yes, sir.

19 Q. That's called a supplemental report?

20 A. Yes, sir.

21 Q. And you wrote one of the supplemental reports
22 regarding the Mac's Lounge shooting, right?

23 A. Yes, sir.

24 Q. And that was done the day after the shooting?

25 A. I believe so. If you have a copy of the

1 supplement it should tell you the approximate time
2 that, that it was done.

3 Q. Okay.

4 A. Date and time.

5 Q. And that -- that report, basically, gives an
6 account of what you saw?

7 A. Yes, sir.

8 Q. And what you heard?

9 A. Yes, sir.

10 Q. Basically, everything you encountered that night
11 of the shooting is in that report?

12 A. Yes.

13 Q. Okay. And it represents your personal knowledge
14 of this case?

15 A. Yes. In major cases like this most of the time
16 reviewed body camera footage while typing the report
17 just to make sure that there isn't any mix up.

18 Q. Okay. And that's why sometimes that it takes a
19 few days to write a supplemental report?

20 A. Yes, sir.

21 Q. Okay. Because you want to make sure that
22 everything is truthful, accurate, and complete?

23 A. Yes, sir.

24 Q. Okay. Let's walk through that report, on the
25 night of the shooting a call came over to the radio?

1 This was on the 26th of January?

2 A. Yes, sir.

3 Q. It was an all units call?

4 A. Yes.

5 Q. Is it safe to say a call you dread the most?

6 A. Very much so.

7 Q. And that call was in reference to three people
8 being shot?

9 A. I don't recall, but I do believe that all of them
10 was, was shots fired at Mac's Lounge.

11 Q. Okay. And that bar is located in Hartsville?

12 A. Yes, sir.

13 Q. And you're familiar with that bar?

14 A. Yes, sir.

15 Q. It was a popular bar especially with the Coker
16 University being so close?

17 A. Yes, sir.

18 Q. And at the time of this call, you were close to
19 Mac's Lounge?

20 A. Yes sir. Prior -- myself and another officer that
21 was on my shift, we were actually -- when the call
22 came out we were at an alarm call. There was an
23 alarm call that was in the downtown area within a
24 quarter of a mile ---

25 Q. Okay.

1 A. --- from the bar.

2 Q. Okay.

3 A. We were on the scene checking the, checking the
4 building, the alarm whenever that call came out.

5 Q. Okay. So you had to be a little confused when
6 that call came in because you were so close to the
7 bar at that time, you didn't hear anything?

8 A. Yes.

9 Q. After that call came in, you heard some shots?

10 A. Right after it's -- it seemed like as they gave
11 that call out I remember being confused because I
12 haven't heard anything and then I did I hear, heard
13 more shots.

14 Q. Okay. So you ran to your vehicle. Got -- got
15 in -- got in your police car. You tried to get to
16 Mac's Lounge as fast as you could?

17 A. I did.

18 Q. On -- on the way to Mac's Lounge you came across
19 a car?

20 A. I did.

21 Q. Do you remember anything interesting about that
22 car?

23 A. Upon the -- so whenever I was approaching Mac's I
24 was looking for anything that was out of the
25 ordinary. Most of the time if they're shots fired

1 everybody's going to be fleeing, but anybody that
2 might be trying to, doing something different and,
3 for instance, like seeing law enforcement they're
4 gonna go the opposite direction.

5 Q. Sure.

6 A. And that car caught me off guard because it was
7 maybe parked in the middle of the road and I think
8 that it was the sister of Angelena Deason that was in
9 that car and she was looking for Angelena.

10 Q. Okay. And you considered it suspicious because
11 the scene was unfolding rapidly, you didn't know what
12 that car contained?

13 A. Every -- it seemed like there were people running
14 and this car was stopped.

15 Q. Okay.

16 A. So that would caught my attention.

17 Q. I believe you noted in your report that you
18 thought it may have been, or could have been the
19 shooters?

20 A. It caught my attention.

21 Q. Yeah. And as you mentioned there were two
22 females in that car?

23 A. I ---

24 Q. Is that correct?

25 A. Yeah. I believe so.

1 Q. Okay. They were upset?

2 A. Yes, sir.

3 Q. And you knew one of the females?

4 A. Yeah, I think that one of the females was the
5 sister of Angelena Deason.

6 Q. And that's Mikayla Wingate?

7 A. Yes, sir.

8 Q. How do you know Mikayla?

9 A. Through the years I know their mom.

10 Q. She ---

11 A. And I think my wife taught them in school too.

12 Q. Okay.

13 A. I think just in passing.

14 Q. Yeah.

15 A. Running across each other.

16 Q. Small town?

17 A. Yes, sir.

18 Q. And you stated earlier that she couldn't find her
19 sister that's why she was upset?

20 A. Yes, sir.

21 Q. Her sister being Angelena Deason?

22 A. Yes, sir.

23 Q. And you know Angelena Deason, I'm assuming?

24 A. Yes, sir.

25 Q. And how do you know her?

1 A. Again, small town. Earlier in that week my shift
2 actually worked assault and battery with the victim,
3 with Angelena where the DiCaprio Collins whose one of
4 the victims, assaulted her to the point that she had
5 to go to the hospital. And again, that might have
6 happened three or four days before the Mac shooting.

7 Q. Okay. And you also know Angelena and Mikayla's
8 mother?

9 A. Yes, sir.

10 Q. Did you talked to her earlier that day?

11 A. I don't recall. May -- maybe.

12 MR. SCALES: Beg the Court's indulgence?

13 THE COURT: Yes, sir.

14 Q. I have your supplemental report, would you like
15 to review to refresh your memory?

16 A. Sure.

17 MR. SCALES: May I approach, Your Honor.

18 THE COURT: Yes, sir.

19 Q. Can you talk about? What you just read.

20 A. It seemed as if the mother -- the mother had
21 reached out to me and said that Angelena was at the
22 bar and that DiCaprio was there and she was, um, she
23 was worried and I told Ms. Mandy to tell - Ms. Mandy
24 is Angelena's mom, that to tell Angelena to leave.
25 She needed to leave. She was reaching out, if I'm

1 not mistaken because there was a no contact order
2 between them that was for the bond court.

3 Q. Okay. And she told you that either she or ---

4 MR. BELL: Objection, Your Honor. Hearsay.

5 MR. SCALES: Withdrawing, Your Honor.

6 THE COURT: All right. Withdrawn.

7 Q. You were under the assumption that neither
8 approved of Angelena and DiCaprio Collins
9 relationship?

10 A. Can you repeat that?

11 Q. I said, you were under the assumption that
12 neither Mikayla or her mother, Ms. Mandy, approved of
13 Angelena and DiCaprio Collins' relationship,
14 basically?

15 MR. BELL: Objection, Your Honor. Calls for
16 speculation.

17 MR. SCALES: He has personal knowledge of the
18 incident, Your Honor.

19 THE COURT: He can answer that question.

20 A. I mean, three days before he put her in the
21 hospital.

22 Q. And you said that she called you concerned?

23 A. Yes. Yes, sir.

24 Q. And did you say how long that you've known that
25 family? Best guess.

1 A. I think probably -- at that time or now? It
2 seems like, um, I met them whenever I first got into
3 law enforcement. They were at a summer camp while,
4 before I went to the police academy ---

5 Q. Okay.

6 A. --- so a number of years.

7 Q. Okay. And you just testified that you told
8 Angelena's mom, um, to make Angelena leave the bar as
9 she spoke with her?

10 A. I believe I told her to tell Angelena, Angelena
11 to leave.

12 Q. Okay. But because of the call, you realized
13 that she must
14 not have left Mac'?

15 A. Because I ran into Mikayla looking for Angelena,
16 I realized that she must not have left the bar.

17 Q. Okay. So after this encounter, you mentioned,
18 you started looking around and people were running
19 down the street, is that correct?

20 A. Yes, sir.

21 Q. A truck suddenly stopped in the street where you
22 were or close to you?

23 A. Yes. I think it was the intersection of Fifth
24 and Laurens which is right there by Applebee's. It's
25 like a block away from Mac's Lounge.

1 Q. Okay. You jump back in your police car at that
2 point?

3 A. Yes. I realized that Officer Johnson, who was
4 the one that was at the alarm call with me, was there
5 and by hisself.

6 Q. Okay. You activated your blue lights,
7 presumably?

8 A. I think they were going, they were going the
9 entire time.

10 Q. Okay. You pulled -- did you pull up to that
11 truck?

12 A. I -- yeah, I think so.

13 Q. Yeah. How many people were in that truck?

14 A. I don't recall.

15 Q. More than one?

16 A. I think. I don't recall the number, but yeah.

17 Q. Okay.

18 A. Yes, sir.

19 Q. What did you see when you got to the truck?

20 A. I don't recall.

21 Q. Okay.

22 A. There was the victim that I said had a gunshot
23 wound. I think that he -- I told him to get on the
24 back of the truck. They were saying that their
25 friend was shot and I told him to get on, get him to

1 the hospital.

2 Q. Okay. That hospital was Carolina Pines?

3 A. Yes, sir.

4 Q. So after you had cleared that incident you
5 immediately went to Mac's Lounge?

6 A. Yes, sir.

7 Q. And let's go back and talk about what you saw
8 when you pulled up to Mac's Lounge. People were
9 everywhere when you arrived?

10 A. There was.

11 Q. I believe you described the scene as chaotic?

12 A. Yes, sir.

13 Q. Actually, you used the phrase mass chaos in your
14 report, is that right?

15 A. Yes, sir.

16 Q. Can you go into why you chose to describe it like
17 that?

18 A. The screaming. The, um, so many people were just
19 intoxicated and belligerent and trying to -- just --
20 it was just chaotic. It was tough to assess exactly
21 what to do knowing, knowing what needed to be done
22 and then trying to get to, get started on that when I
23 didn't feel like anybody was, everybody was in shock.

24 Q. Yeah. You actually spoke briefly about this
25 earlier, you know, people react to situations

1 differently when faced with fear, right?

2 A. Yes, sir.

3 Q. As you mentioned police officers going towards
4 that fear?

5 A. Yes, sir.

6 Q. I'm assuming you're, ah, experienced in law
7 enforcement 11 years, experienced in law
8 enforcement, you've seen this many times?

9 A. That type of environment?

10 Q. The way people respond to fear?

11 A. Yes.

12 Q. More commonly, this is known as the fight or
13 flight response?

14 A. Yes sir.

15 Q. You'd agree that it's a survival response?

16 A. I would agree.

17 Q. It's a rapid response in a time of a critical
18 situation, is that correct?

19 A. Yes, sir.

20 Q. Okay. Some people freeze, um, like hunker down
21 seeking cover?

22 A. Yes, sir.

23 Q. You saw that?

24 A. Can you repeat that?

25 Q. Did you -- did you see anyone taking cover when

1 you arrived or shelter?

2 A. By the time -- yes.

3 Q. Okay.

4 A. By the time I had gotten there it had been a
5 minute or two since the last gunshots so....there
6 were people taking cover in the bathroom.

7 Q. Okay. And you said people were running ---

8 A. Yes.

9 Q. --- down the street trying to escape the bar, is
10 that correct?

11 A. Yes, sir.

12 Q. That would be known as the flight response?

13 A. Yes, sir.

14 Q. And the last response is how law enforcement and
15 some people react when faced with danger and choose
16 to fight, is that correct?

17 A. Yes, sir.

18 Q. They confront the danger, right?

19 A. Yes, sir.

20 Q. This group puts their life on the line to defend
21 other people?

22 A. Can you repeat that?

23 Q. This group puts their life on the line to defend
24 other people?

25 A. The fight group, yes, sir.

1 Q. To combat a threat, right?

2 A. Yes, sir.

3 Q. Upon arriving at Mac's Lounge you immediately
4 went inside?

5 A. I -- I did.

6 Q. Okay. It was a very overwhelming scene, right?

7 A. Yes, sir.

8 Q. It was a lot going on?

9 A. Yes, sir.

10 Q. Understandably you had somewhat of a mental
11 overload due to this?

12 A. Yes, sir.

13 Q. Have you ever encountered anything like this in
14 your career?

15 A. Not to that extent.

16 Q. It was a lot to process, right?

17 A. Yes, sir.

18 Q. It's a large scene, vault areas inside Mac's
19 Lounge and outside of Mac's Lounge, right?

20 A. I think -- yes, sir,

21 Q. It's a lot of area to cover?

22 A. Yes, sir.

23 Q. And what role, specifically, did you have in this
24 incident from a law enforcement perspective?

25 A. Again, trying to secure the scene. Trying to get

1 everyone out so that not only can the EMS come in and
2 assist, but so that the scene is actually secured ---

3 Q. Okay.

4 A. --- and no evidence is damaged, moved, or
5 anything of that sort.

6 Q. Okay.

7 MR. SCALES: Beg the Court's indulgence?

8 THE COURT: Yes, sir.

9 Q. As you and I were just talking, there's a lot of
10 things to consider when arriving to a crime scene,
11 especially, a crime scene involving a shooting,
12 right?

13 A. Yes, sir.

14 Q. Did you attempt to assess the situation when you
15 arrived?

16 A. Yes. Are you asking about this particular one or
17 just ---

18 Q. --- this particular one.

19 A. This particular one?

20 Q. Yeah.

21 A. Tried.

22 Q. Or anyone for that matter?

23 A. Yes. Get there. Figure out what happened.

24 Q. You have to quickly determine whether a threat is
25 ongoing?

1 A. Yes.

2 Q. Because all you know at that time is there is a
3 shooter?

4 A. Yes.

5 Q. And there are people who have been injured?

6 A. Yes.

7 Q. And most likely have passed or have died?

8 A. Yes, sir.

9 Q. And you also don't know, you know, because things
10 are folding, unfolding rapidly, where that shooter is
11 or multiple shooters?

12 A. That's correct.

13 Q. Shooters could have been inside the bar, correct?

14 A. The scene ---

15 Q. --- when you arrived on scene?

16 A. When I arrive on scene they could have.

17 Q. Yeah. They could have been running ---

18 A. Yes.

19 Q. --- with everyone else?

20 A. Could have.

21 Q. They could have -- it's possible they could have
22 been hunkered down with those seeking cover?

23 A. Could have been.

24 Q. You have to scan the area and use your senses,
25 right?

1 A. Yes, sir.

2 Q. And, you know, also fall back on your experience
3 and training ---

4 A. Yes, sir.

5 Q. --- doing those times? And all of these mental
6 processes take place in mere seconds, would you
7 agree?

8 A. Yes. Yes, sir.

9 Q. You and other officers are attempting to locate
10 that threat, right?

11 A. Yes. I would say that we were trying to figure
12 out exactly what happened ---

13 Q. Right.

14 A. --- to be able to determine where the -- yes.
15 Locate the threat.

16 Q. And to eliminate that threat, if necessary,
17 right?

18 A. Yes, sir.

19 Q. So you assisted Officer Johnson in securing the
20 scene when you arrived?

21 A. Yes, sir.

22 Q. And you mentioned, you went into this a little
23 bit earlier, but can you explain what securing the
24 scene means to the jury?

25 A. To make sure that, one, that there, for EMS and

1 fire personnel to come and assist with the patients
2 that have been shot. Got to make sure that there
3 isn't any one there that is going to hurt them, for
4 one. But, two, to make sure that again no evidence
5 is contaminated. No people pulling on, messing up
6 the scene. And messing up the evidence with shell
7 casings, with anything else that would, that would
8 possibly harm the case for the prosecutors to
9 actually prosecute the case. I need to secure it and
10 then put up crime scene tape and, you know, so....

11 Q. Thank you. Basically, you want the crime scene
12 exactly how it was when you found it?

13 A. Yes, sir.

14 Q. And were there any other law enforcements inside
15 Mac's Lounge when you got there?

16 A. When -- when I first got there?

17 Q. Yes, sir.

18 A. I think it was just Officer Johnson and I.

19 Q. Okay. And because the scene was so large, you
20 found yourself separated from Officer Johnson at one
21 point, right?

22 A. I believe at several points I was separated.

23 Q. Okay. You went outside to find him?

24 A. Yes, sir.

25 Q. Still a lot of people outside, right?

1 A. Yes, sir.

2 Q. You began walking around asking people what
3 happened?

4 A. Yes, sir, I did.

5 Q. Approximately, how many people do you think you
6 spoke to? I know that's hard.

7 A. I can't recall. I mean, just watch -- I don't
8 know exactly how many I spoke with, but....a handful.

9 Q. What's that?

10 A. A handful.

11 Q. Okay. No one outside you spoke to identify the
12 shooter, right?

13 A. Can you ask that one more time?

14 Q. No one you spoke to outside say they saw anyone
15 shoot a firearm?

16 A. I believe there was one person that, that thought
17 that they were being shot at.

18 Q. But no one saw someone shoot a firearm?

19 A. I -- yes, sir.

20 COURT REPORTER: I'm sorry, what was that answer?

21 A. Yes, sir.

22 Q. And I think this was covered on your body cam,
23 but at some point you look over and there are people
24 bum-rushing Mac's to try to get in?

25 A. I don't -- I don't recall exactly what happened

1 with that. I've seen that, the footage, and I can't
2 remember exactly what
3 was going ---

4 Q. People were trying ---

5 A. --- why he was trying to bum -- why they were
6 trying to bum-rush, I'm not sure.

7 Q. But people were trying to get back into the bar?

8 A. Yes.

9 Q. And you yelled out for them to stop?

10 A. Yes.

11 Q. They didn't listen to you, right?

12 A. No, sir.

13 Q. They went inside that bar?

14 A. We were having a hard time containing.

15 Q. Understandably.

16 A. Yes, sir.

17 Q. But they did go inside that bar?

18 A. Yes.

19 Q. I believe later you found out that those were the
20 family members of Mr. Collins and Mr. Robinson?

21 A. You're referring to the ones that were on the
22 back porch?

23 Q. Correct. The ones that were so upset.

24 A. Okay. Yeah. I -- okay. I thought you were
25 referring to the ones that were trying to bum-rush,

1 come into the door, I thought they were college kids,
2 but were not.

3 Q. Okay.

4 A. I was confused.

5 Q. So another set of people bum-rushed the door?

6 A. They was a lot of mayhem.

7 Q. I understand.

8 A. So....

9 Q. Officer Johnson tried to help you remove these
10 people?

11 A. We were begging to listen and please get out.

12 Q. And you were outnumbered?

13 A. Yes, sir.

14 Q. You said earlier that people were hiding in the
15 bar inside Mac's Lounge?

16 A. There were people in the bathrooms.

17 Q. Okay. So part of securing the scene was getting
18 everyone outside?

19 A. Yes, sir.

20 Q. Because you were trying to lock down that scene
21 as you described earlier?

22 A. Yes, sir.

23 Q. And when those people were leaving Mac's Lounge
24 you were also questioning them?

25 A. Will you repeat that please?

1 Q. When those people in the bathroom were leaving
2 Mac's Lounge you were also questioning them?

3 A. I think that I was just telling them get out.

4 Q. Okay. But you were trying to see if they saw
5 anything?

6 A. I think during that point, at that point, I was
7 just trying to secure the scene. I'm not -- I can't
8 recall whether or not I was asking them anything that
9 happened. I think that at that point I was just
10 trying to get everyone out.

11 Q. Okay. But no one from that group saw anybody
12 shooting a gun?

13 A. I don't recall ---

14 Q. Okay.

15 A. --- hearing that.

16 Q. Once you got that group outside, you had to be a
17 little relieved to look over and see Angelena around
18 the front of the bar, right?

19 A. Yes.

20 Q. And Angelena was distraught?

21 A. She was.

22 Q. She thought that people were shooting at her?

23 A. Yes.

24 Q. And again, she used to the word "people", you
25 wrote that in your report, right?

1 A. Yes, sir.

2 Q. And it's safe to say she feared for her life?

3 A. I would say so in my opinion.

4 Q. Angelena told you that she saw Darius Dickey pull
5 a pistol and cocked it?

6 A. Well, if -- yes, sir.

7 Q. Angelena did not tell you she saw Darius Dickey
8 fire a gun first?

9 A. Can you repeat that?

10 Q. Angelena did not tell you she saw Darius Dickey
11 fire a gun first?

12 A. I'm -- I'm not sure word for word of what she
13 said. I think she said that she saw a gun, heard
14 gunshots and ran.

15 Q. Okay.

16 A. She did not say ---

17 Q. She did not see who fired first?

18 A. She ran when she heard gunshots.

19 Q. Okay. She did not see who, who fired first
20 because she ran?

21 A. Okay. Yes.

22 Q. She did not mention she saw Darius Dickey fire
23 gun at all?

24 A. I think she stated that Darius was shooting at
25 her.

1 Q. She stated ---

2 A. --- in the body camera footage.

3 Q. She stated that Darius Dickey pulled a pistol out
4 and cocked it?

5 A. Yes, sir.

6 Q. She then stated that he put it back in his pants?

7 A. Yes, sir.

8 Q. And in this interaction, you asked her why
9 Darius?

10 A. Yes, sir.

11 Q. You asked her that multiple times?

12 A. Yes, sir.

13 Q. And she said I don't know, right?

14 A. Yes, sir.

15 Q. She could not give you one reason why in that
16 moment Darius Dickey would be shooting at her?

17 A. I think given the circumstances of DiCaprio
18 Collins being dead and her being shot at, it didn't
19 make sense to her and it didn't make sense to me
20 because I knew that DiCaprio Collins and Darius
21 Dickey were friends.

22 Q. Were there any other officers with you when you
23 were speaking with Angelena that you can recall?

24 A. Looking at the body camera footage I think that
25 it was Officer Johnson, Johnson that was with me.

1 Q. Okay.

2 A. But there was multiple points where I was
3 speaking multiple times that I did, as you observe,
4 speak with Angelena.

5 Q. And how long after the shooting did this
6 conversation occur, to the best of your knowledge?

7 A. Give or take ten minutes.

8 Q. Okay. And during this time more officers are
9 arriving on scene?

10 A. Yes, sir.

11 Q. You exchange numbers with Angelena, right?

12 A. Yes, sir.

13 Q. And you told her she needed to call her sister if
14 she was worried about her?

15 A. I believe so.

16 Q. Okay. After Angelena left you attempted to
17 locate camera footage, right?

18 A. I believe so.

19 Q. Do you remember meeting with the owner of Mac's
20 Lounge?

21 A. I think that's what I did after Angelena left.
22 I'm not -- I'm taking you for your word that that's
23 what I did.

24 Q. Would you like to see your report?

25 A. Well, I'm -- I'm just -- yeah.

1 Q. Do you remember that?

2 A. Yeah.

3 Q. You remember looking for video footage?

4 A. Yes.

5 Q. Okay.

6 A. Yes, sir.

7 MR. SCALES: Beg the Court's indulgence?

8 THE COURT: Yes, sir.

9 Q. So you reviewed that camera footage, right?

10 A. Sir?

11 Q. You reviewed that camera footage?

12 A. Right now or then?

13 Q. Then, at Mac's Lounge?

14 A. Yes.

15 Q. Okay. You noted in your report that it took a
16 bit to find the footage of the incident?

17 A. I believe so.

18 Q. Okay. You also noted in your report that you
19 saw nothing that would help in the investigation?

20 A. Okay. I said that in the report?

21 MR. SCALES: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 A. I think that what I was referring to was the
24 really grainy footage of what actually, around the
25 pool table. It was very grainy.

1 Q. Okay.

2 A. At the time whenever I read the report.

3 Q. And there were multiple cameras in Mac's Lounge?

4 A. I don't recall if, how many was there. I believe
5 that the owner that was in the body camera footage
6 was saying exactly how many cameras were there and he
7 was talking about the picture of the camera but....

8 Q. But multiple cameras were in Mac's Lounge?

9 A. Yes, sir.

10 Q. So on those cameras, you did not see Darius
11 Dickey shooting a gun?

12 A. Again, the footage on the camera, as you saw on
13 my body camera whenever I was viewing it, it was very
14 grainy and hard to
15 see ---

16 Q. Okay.

17 A. --- exactly what transpired.

18 Q. So you're saying you did not see Darius Dickey
19 shoot a gun on that camera footage?

20 A. It was very hard to view the footage to see from
21 the footage
22 because the picture was grainy.

23 Q. Okay. After you viewed the footage, you went
24 back outside the bar?

25 A. Yes, sir.

1 Q. You continued with your investigation?

2 A. Yes, sir. I think after I finished with that I
3 passed along what information I had to First Sergeant
4 Weatherford.

5 Q. Okay. And who is First Sergeant Weatherford?

6 A. At the time, he was the ranking officer that had
7 arrived on scene. I think he was the staff on call.

8 Q. He's the lead investigator?

9 A. I think either lead investigator or staff on
10 call. He was one of two.

11 Q. What is staff on call?

12 A. A staff officers.

13 Q. Can you explain that to the jury?

14 A. Staff on call is the staff officer that's on
15 call. If a major incident happens that the police
16 department needs to be aware about, then notify the
17 staff officer that's on call and at the time, um,
18 First Sergeant Weatherford was actually over the
19 entire Investigations Division. So I'm unaware he
20 was staff on call or if he was the investigator that
21 was on call ---

22 Q. Okay.

23 A. --- that was called out.

24 Q. So you reported to him directly?

25 A. I went directly to him and told him what I had.

1 Q. Okay. Because he was in charge?

2 A. Yes, sir.

3 Q. And others reported to him directly because he
4 was in charge?

5 A. At that scene or in general?

6 Q. At that scene?

7 A. Yes, sir.

8 Q. Okay. And I'm sure you had multiple meetings
9 during this investigation with other law enforcement
10 members? Briefings?

11 A. I don't recall.

12 Q. Okay.

13 MR. SCALES: Beg the Court's indulgence?

14 THE COURT: Yes, sir.

15 MR. SCALES: I have no further questions.

16 THE COURT: Any redirect?

17 MR. BELL: Yes. Just one question.

18 **Redirect Examination by Mr. Bell:**

19 Q. I just want to clarify, Officer Curtis, you did
20 have firsthand knowledge of a relationship between
21 DiCaprio Collins and Darius Dickey, correct?

22 A. Yes, sir.

23 Q. And they were friends, correct?

24 A. Yes, sir. Associate.

25 MR. BELL: Nothing else from the State.

1 THE COURT: All right. anything else?

2 MR. SCALES: Nothing from the defense, Your Honor.

3 THE COURT: Thank you, sir. You can step down.

4 MR. BELL: Your Honor, at this time can Officer
5 Curtis be release from his subpoena?

6 THE COURT: Any objection?

7 MR. SCALES: No objection.

8 THE COURT: All right. You can go back to work.

9 MR. CURTIS: Thank you.

10 MR. BELL: Your Honor, do we have time for another
11 short witness?

12 THE COURT: Why don't y'all approach real quick.
13 (Whereupon, a bench conference is held off the
14 record)

15 THE COURT: The State may call it's next witness.

16 MR. BELL: Yes, Your Honor. The State calls
17 Morris Goodman to the stand.

18 THE CLERK: Place your left hand on the Bible and
19 raise right. You swear the testimony you give this
20 court would be the truth, the whole truth, and
21 nothing but the truth so help you God?

22 MR. GOODMAN: I do.

23 MORRIS GOODMAN, first being
24 duly sworn, testified as follows:

25 **Direct Examination by Mr. Bell:**

M. Goodman- Direct Examination by Mr. Bell

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1 Q. Good afternoon, Mr. Goodman.

2 A. Good afternoon, sir.

3 Q. Please state your full name for the record?

4 A. Morris Goodman.

5 Q. And Mr. Goodman where do you work?

6 A. Hartsville Police Department part-time.

7 Q. And what do you do for them?

8 A. Just patrol.

9 Q. And on January 26, 2020, where did you work?

10 A. Hartsville Police Department.

11 Q. And did you have any involvement with the Mac's
12 Lounge shooting?

13 A. Yes, sir.

14 Q. And what -- could you tell the ladies and
15 gentlemen of the jury what was your involvement?

16 A. During that time I was investigator with the
17 Hartsville Police Department and I got a call from
18 First Sergeant Weatherford in reference to a shooting
19 that happened at Mac's Lounge.

20 Q. And what were you asked to do? What duties were
21 you asked to perform?

22 A. So once I got there Mike asked me to go to
23 Washington Street because they had a vehicle that was
24 stopped on Washington Street, So he asked me would I
25 go and process that scene.

1 Q. And -- and was there any reason why he asked you
2 to go process that scene for that vehicle?

3 A. I think if I remember correctly that car was
4 reported stolen and it was seen leaving Mac's.

5 Q. Do you remember what type of vehicle that was?

6 A. It was a Nissan Versa.

7 Q. And did you go to Washington Street and find that
8 Nissan Versa?

9 A. I did.

10 Q. And what did you do once you arrived on scene?

11 A. I processed that Nissan Versa.

12 Q. Could you tell the ladies and gentlemen of the
13 jury, what do you mean by process the Nissan Versa?

14 A. So once I arrived I just kind of see what's in
15 the vehicle, to see if we can get any evidence from
16 the vehicle that can link anything to either the
17 Mac's Lounge or the possible shooting.

18 Q. Do you take an inventory of what you find?

19 A. Yes, sir.

20 Q. Did you take an inventory in this case?

21 A. I did.

22 Q. Did you find any casings?

23 A. Yes, sir. I found about 740 caliber casings in
24 the vehicle.

25 Q. And what location did you find them, do you

M. Goodman- Direct Examination by Mr. Bell

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1 remember?

2 A. Some was front passenger floorboard, drivers
3 floorboard and I think the rear passenger floorboard.

4 Q. And what did you do with those casings once you
5 found them?

6 A. I collected them. Put them envelopes. Aand I
7 turned them over to SLED that night.

8 Q. So you collected them and you turn them over to
9 SLED?

10 A. Yes.

11 MR. BELL: Your Honor, may I approach the witness?

12 THE COURT: Yes, sir.

13 Q. Mr. Goodwin, I'm showing you what is the mark as
14 State's Exhibit 78 for identification only. Could
15 you look at that and tell me do you recognize the
16 State's Exhibit?

17 A. Yes. This is evidence property sheet.

18 Q. And what does that envelope contain according to
19 the evidence property sheet?

20 A. Shell casings.

21 Q. Were those the shell casing that you collected on
22 January 26, 2020 from that Nissan Versa on Washington
23 Street?

24 A. Yes, sir.

25 MR. BELL: Beg the Court's indulgence?

1 THE COURT: Yes, sir.

2 Q. Do you happen to remember who, specifically, who
3 you turn it over to SLED to?

4 A. I think his name was Sprouse.

5 MR. BELL: May I approach again?

6 THE COURT: Yes, sir.

7 Q. I'm showing you again State's Exhibit No. 78 for
8 identification only?

9 A. Yes, sir, Sprouse.

10 Q. And for the record that's Sprouse?

11 A. Yes, sir.

12 MR. BELL: Please answer any questions that the
13 defense may have for.

14 MR. SCRUGGS: May it please, the Court, Your
15 Honor?

16 THE COURT: Yes, sir.

17 **Cross-Examination by Mr. Scruggs:**

18 Q. Good afternoon, Officer Goodman. How you doing?

19 A. Good afternoon, sir.

20 Q. I just have a few brief questions for you,
21 because you also did some other work on this case,
22 isn't that correct?

23 A. Yes, sir.

24 Q. Do you recall early that morning also meeting up
25 with Officer Scotty Galger at McLeod Hospital?

1 A. Yes.

2 Q. Some of the victims in this case were transported
3 to McLeod Hospital for treatment?

4 A. Yes.

5 Q. Okay. Also a number of individuals who were
6 present that night had gathered at McLeod Hospital,
7 is that correct?

8 A. Yes.

9 Q. And one of the reasons you went to McLeod
10 Hospital was to get statements from these people?

11 A. Yes.

12 Q. Without telling me what these people told you, do
13 you recall that they were approximately 15 to 20
14 people who had gathered at the hospital?

15 A. Yes.

16 Q. And they were present during the incident?

17 A. From my understanding, yes, sir.

18 Q. You and other officers advise those people not to
19 talk amongst themselves about what they saw?

20 A. I can't recall that.

21 Q. Okay. Do you recall telling them to write down
22 only what they saw?

23 A. That sounds like what I would have told them.

24 Q. Okay. And -- and to report only what they heard
25 or knew about this case?

1 A. Yes.

2 Q. That would include identifying any of the
3 shooters in this case?

4 A. Yes.

5 Q. And again, there were 15 to 20 people that y'all
6 received statements from that, that early morning?

7 A. Yes. Most of them were Coker College students.
8 Most of them were ---

9 Q. And those statements -- they were Coker College
10 students?

11 A. Yes.

12 Q. And those statements were collected by Hartsville
13 Police Department officers after they were written?

14 A. Yes. I'm not quite sure who all collected them.

15 Q. The standard procedure would be to take those
16 statements ---

17 A. Yes.

18 Q. --- into custody?

19 A. Yes.

20 Q. They would then be turned into evidence, is that
21 correct?

22 A. Yes.

23 Q. And they would be incorporated into the case
24 file?

25 A. Yes.

1 Q. For use in a potential prosecution?

2 A. Yes.

3 MR. SCRUGGS: I don't have any further questions.
4 Thank you, Your Honor.

5 THE COURT: Any redirect?

6 MR. BELL: None from the State, Your Honor.

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

9 MR. GOODMAN: Thank you.

10 MR. BELL: Your Honor, we'd ask that Mr. Goodman
11 be released from his subpoena?

12 THE COURT: Any objection?

13 MR. SCRUGGS: No objection.

14 THE COURT: All right. He is released from his
15 subpoena. Ladies and gentlemen of the jury, I see
16 that it is almost 1 o'clock now is a good time, we're
17 gonna break for lunch. At this point in time, and
18 I'm gonna ask that you be back in the jury room at
19 2:15, we'll resume the trial then. One thing I'd
20 like for you to do when you come back in, ladies and
21 gentlemen, I'm going to have you all elect a
22 foreperson who is going to be the jury spokesperson
23 as this trial goes forward. The only requirements
24 are that the foreperson must be one of the 12 primary
25 jurors. So the alternate jurors are not eligible to

1 All right. we will resume State's case. Mr.
2 Redmond?

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

5 THE COURT: Yes, sir.

6 MR. REDMOND: The State would next call Maggie
7 Pauli.

8 THE CLERK: Place your left hand on the Bible and
9 raise right. You swear the testimony you give this
10 court would be the truth, the whole truth, and
11 nothing but the truth so help you God?

12 MS. PAULI: Yes, ma'am.

13 THE COURT: Just have a seat in that chair.

14 MARGARET PAULI, first being
15 duly sworn, testified as follows:

16 **Direct Examination by Mr. Redmond:**

17 Q. And if could just please state your name for the
18 record?

19 A. My name is Margaret Puali.

20 Q. Okay. I'm gonna ask you to speak up, you're soft
21 spoken. If you could speak up, the reason I stand
22 here so if I can hear you I know the ladies and
23 gentlemen of the jury can hear you. So let's
24 proceed. Ms. Pauli, by whom are you employed?

25 A. I'm employed by the South Carolina Law

M. Pauli- Direct Examination by Mr. Redmond

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1 Enforcement Division commonly known as SLED ---

2 Q. Okay. And ---

3 A. --- the Crime Scene Unit.

4 Q. And how long have you worked there?

5 A. About seven years.

6 Q. Okay. And I think I interrupted you, do you
7 work with the Crime Scene Unit?

8 A. I do. Yes.

9 Q. And how long have you worked with the Crime Scene
10 Unit?

11 A. About seven years.

12 Q. Your time at SLED?

13 A. Yes.

14 Q. Okay. From an educational end experience
15 background, could you let the, ladies and gentlemen
16 of the jury, know that your, I guess, your history in
17 this field?

18 A. Absolutely. So I have an undergraduate degree
19 from the University of Montana in physical
20 anthropology with a focus on human osteology, the
21 human skeletal system. And then I have a master's
22 degree in forensic science from George Mason
23 University. From there I worked at the FBI for about
24 a year and then moved down to SLED in February of
25 2017 and have been working in the Crime Scene Unit

1 ever since.

2 Q. Okay. And with that, just to give ladies and
3 gentlemen of the jury an idea of what it means to be
4 in Crime Scene at SLED, just what, what are your
5 duties at SLED?

6 A. So SLED is an assisting agency which means that
7 when a local agency needs assistance in a myriad of
8 ways, if SLED can offer assistance we get called and
9 we respond. So if a crime scene occurs in a local
10 jurisdiction and they don't have the manpower or the
11 resources or the training to handle the magnitude of
12 the scene they will call and request us. We respond
13 everywhere in the State and a team usually of two
14 people will come out to assess the scene, document
15 the scene, make decisions on what is forensically
16 relevant to the scene, and then collect those items
17 and bring them back to the forensic laboratory to
18 then be distributed to the appropriate parts of the
19 lab like DNA or fingerprints and then we log that
20 evidence in and transfer it.

21 Q. And as one of the departments that you also
22 you've also sent evidence in, it if applies, would be
23 firearms?

24 A. Correct.

25 Q. Okay. And we'll get into that, obviously, in

1 just a little while. Now, let me call your attention
2 to January 20, 2020, were you dispatched to
3 Hartsville?

4 A. On the 26th of January in 2020, yes.

5 Q. Okay. And could you tell us about that and once
6 you got here tell us what your observations were?

7 A. So we were requested to Hartsville by the
8 Hartsville Police Department for a shooting that had
9 occurred at a nightclub and
10 we responded. We arrived at 5:17 a.m. It was clear
11 and cold, 39 degrees. We saw, basically, a crime
12 scene can look different in a myriad of ways. But
13 there were a lot of tipped over items such as tables
14 and chairs and trash cans, a lot of debris strewn
15 about around the exterior of the scene. The scene
16 was the nightclub which was a rectangular brick
17 building and it kind of just looked like whatever had
18 happened there had been very chaotic. Lots of
19 movement and lots of different people moving about.
20 Clothing items were strewn about. Suspected blood
21 was observed. Then when you moved inside the
22 nightclub there was suspected blood and cartridge
23 cases and, again, tipped over items. So it just
24 looks like there had been, in my experience, what
25 looked like it had been a panicked situation. There

1 were two deceased victims on scene. One inside the
2 building and then one in a fenced in patio area
3 outside.

4 Q. And you mentioned that you usually come in pairs,
5 did you have a partner with you that evening ---

6 A. I did.

7 Q. --- or morning, actually?

8 A. Yes. Yes, I did. Agent Nick Sprouse.

9 Q. Okay. Now, so you see, and to use your term and
10 I think we've heard a good bit today, chaotic?

11 A. Yes.

12 Q. You come to this chaotic scene. Tell the ladies
13 and gentlemen of the jury after you made your initial
14 observations what were your next steps, you and your
15 partner?

16 A So for documentation purposes we always take
17 exterior and interior photographs. We do these in a
18 series so that we take photographs that are from a
19 distance. Then we move closer into kind of a mid
20 range photograph and then for items of evidence such
21 as a cartridge case or a spot of suspected blood
22 we'll do close up photographs of that. So my job on
23 this scene was to document with photographs and my
24 partner Nick Sprouse's job was to document the scene
25 with notes and with measurements and a sketch. So I

1 took the photographs and he started documenting with
2 those items.

3 Q. Now, so in going about documenting the scene and,
4 of course, you indicated that you took photographs
5 and we'll also get to that as well. Now, is it safe
6 to assume you took more than the
7 74, I believe, or 70 plus photograph that we'll show
8 you today?

9 A. Yes. I believe I took somewhere between 506 and
10 600 photographs of this scene.

11 Q. And so -- and is that common when you go to a
12 scene, a crime scene?

13 A. Yes. Absolutely. The nature of the scene, if
14 there is a lot of evidence you'll have several more
15 photos because as I explained you take a lot of
16 photographs of the same item in different ways and
17 because of the, not to over exhaust the word, but the
18 chaos of this scene, there were a lot of photographs
19 needing to be taken just to orient us so that we
20 would know where we were and what we were looking at
21 to not be confused later.

22 Q. Now, getting into your work, so, I guess, I'd
23 stop you, but what did you do next? Did you do
24 photographing? Notes? Taking sketches are done?
25 Markers placed?

1 A. Yes. So we were advised by the Hartsville Police
2 Department that markers 1 through 15 had already been
3 placed by their personnel on scene prior to our
4 arrival. However, when we got on scene we found some
5 additional items of evidence so placed additional
6 markers. Those markers are going to be placed next
7 to anything that is deemed of evidentiary value. In
8 this case a lot of firearms evidence.

9 Q. And so when you marked those and, again, are
10 those markers photographed?

11 A. Yes.

12 Q. Okay. And are they photographed as they are
13 found? In other words, are they moved and touched
14 and then you put them back down once you arrive on
15 the scene?

16 A. Once we arrive, the goal is to document
17 everything exactly as we see it without moving
18 anything.

19 Q. Okay.

20 A. So the markers will be placed next to evidence
21 where we find it as we can see it. Some of the
22 firearms evidence in this scene, in particular, was
23 up against a wall. So in those kind of instances the
24 marker might not be exactly next to evidence, but we
25 do our best to show and represent in the most honest

1 way possible.

2 Q. Okay. Now, so -- and, of course, with the
3 markers of evidence, what's the next step, you
4 marker, photograph, take sketches, and take notes, so
5 what's the next step for you and your partner in this
6 particular case?

7 A. So after everything has been documented both with
8 photographs and with notes, then we would move on to
9 the collection process of picking that evidence up,
10 utilizing the appropriate collection techniques and
11 eventually moving it back to the lab.

12 Q. Okay. And that's what I was going to ask you,
13 is the purpose of collecting it to then take it for
14 further testing?

15 A. Correct.

16 Q. With the appropriate department?

17 A. Yes.

18 Q. Okay. Now, in this particular case, were you
19 also given, and I say you, you and your partner or
20 your partner, given evidence from Hartsville PD?

21 A. We were. Yes.

22 Q. Okay. And could you tell us about that briefly?

23 A. Yes. So a vehicle had been located that was
24 believed to be in association with this crime and
25 Hartsville PD did a search of that vehicle and

1 located firearms evidence, some unfired cartridges
2 and then some cartridge cases so fired bullets, or
3 the casing from, from firing of a bullet. And that
4 evidence was collected by Hartsville PD and then
5 brought to the scene and given to us via a Chain of
6 Custody Form.

7 Q. And is that standard operator procedure?

8 A. It is. Yes.

9 Q. Now -- and, now, let's continue, so you're
10 collecting evidence. So tell us about the process of
11 collecting evidence, did you -- do you just put it
12 in one, all in one bag? Just enlighten us on to the
13 process of that?

14 A. So for firearms evidence such as cartridge cases,
15 when we collect it we wear the appropriate protective
16 equipment so we would have gloves that are sterile so
17 that we're not administering our DNA onto any of the
18 evidence as we collect it. And you collect the
19 cartridge case once it's been photographed. You put
20 it in a small manila coin envelope and you write a
21 description of what the head stamp was, which marker
22 you collected it from, the day, the time and who
23 collected it. That gets sealed and then that gets
24 put into paper bags that then get brought back to the
25 lab.

1 Q. And is that would happened in this case?

2 A. It is.

3 Q. Okay. And so -- and so with that, once you, and
4 I guess we're getting toward a conclusion of your
5 work at the scene -- now, obviously, we're going
6 about this pretty fast, but do you recall about how
7 long you were out there at this scene?

8 A. I believe we were on scene for approximately five
9 hours.

10 Q. So, obviously, we're -- like I said we're going a
11 lot faster. You were out there whole lot longer than
12 what we're discussing today. With that said, so
13 after the evidence is collected tell us what the next
14 step will be? Evidence is collected, guess --
15 and we'll get into that, but what was next taken?

16 A. So once we're at the lab, what are the next
17 steps?

18 Q. Oh, no, I mean, once you collected the evidence
19 then you talked about taking to the lab. So once you
20 get it to the lab, what, how does that work?

21 A. So once evidence is brought back to the lab it is
22 logged in to our computer system, and then we assign
23 what part of the lab, what department that evidence
24 is going to go to. So if we have collected firearms
25 evidence it's going to go to the Firearms Department.

1 If that evidence needs to be tested for DNA it would
2 go to both the DNA and the Firearms Department. If
3 it's a latent print it would go to that department.
4 So evidence does not just have to go to one area, but
5 it goes to the most relevant area it can as soon as
6 possible.

7 Q. Now -- so let's talk about diagrams. You talked
8 about those in this case. Let's talk about diagrams.
9 Was there a diagram done in this case?

10 A. There was, yes.

11 Q. And let me show you -- well, let me pass this,
12 that was a diagram done. Was there a subsequent
13 diagram done with color coding at my request,
14 actually?

15 A. There was, yes.

16 Q. Tell us about that?

17 A. So the initial diagram done by Special Agent
18 Sprouse did not have the markers color coded and a
19 request was made for the markers to be associated
20 with specific colors so that it was easier to tell
21 the difference between the different head stamps and
22 calibers of cartridge cases on scene which will make
23 more sense once you can see the diagram. That was
24 done by me in 2022.

25 MR. REDMOND: Your Honor, may I approach with

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1 State's Exhibit 86?

2 THE COURT: Yes, sir.

3 Q. and I'm gonna ask you to peruse that exhibit and
4 let me know if that is an accurate true copy of the
5 diagram that we just discussed?

6 A. Yes. This appears to be the diagram that I color
7 coded for you that Nick Sprouse created.

8 MR. REDMOND: We would, respectfully, move State's
9 86 into evidence at this time?

10 MR. SCRUGGS: No objection.

11 THE COURT: State's 86 is admitted without
12 objection.

13 MR. REDMOND: Thank you.

14 (Whereupon, the Diagram has been marked and entered
15 into evidence as State's Exhibit No. 86)

16 MR. REDMOND: My approach with State's Exhibits -
17 - well, I'll just approach with State's Exhibit 78,
18 79, 80 and 81.

19 Q. And let's start with State's 78, I think that's
20 right, 78. Do you recognize that particular exhibit
21 being evidence that was collected at the scene?

22 A. So this appears consistent with what evidence
23 that we would have collected on scene would look
24 like. It has Nick Sprouse's initials and the date
25 and time that items were collected. My initials are

1 not on here as I did not submit this evidence.

2 Q. Okay. But, of course, you were there with Mr.
3 Sprouse?

4 A. On, on the scene, yes. Absolutely.

5 Q. Thank you. Let's move on to State's 79. The
6 same ---

7 A. The same is true, yes. Looks consistent with
8 what we collected on scene and has Nick Sprouse's
9 initials and the appropriate lab number and date and
10 time.

11 Q. Thank you. Let's move on to State's 80.

12 A. The same is true.

13 Q. Okay. Thank you. And finally State's 81? And
14 just for the record these are for ID only. The State
15 would not seek to introduce these at this time.

16 A. Again, the same is true.

17 Q. Thank you. Now, we talked about photos that were
18 taken and

19 I'm going to ask -- well, let me just ask you this,
20 did you have an opportunity prior to today to see the
21 photos that were, I think, 74 or something that I
22 sent that I plan on using today?

23 A. Yes. I have reviewed the photos.

24 Q. And were those photos the photos taken from, um,
25 at the scene, at Mac's Lounge on the 26th of January,

1 2020?

2 A. They were. Yes.

3 Q. And I'm gonna hand what's several exhibits of
4 photos, for the record they have State's 2 through
5 77, excuse me 2 through 75, 2 through 75 with the
6 ones that we had, obviously, previously, discussed
7 and have been removed. I'm just gonna show you this
8 in bulk and if you could quickly peruse those ---

9 A. Absolutely.

10 Q. --- because we're gonna get to them in more
11 detail.

12 MR. REDMOND: And pardon me, Your Honor, my
13 throat just, as soon as I stood up frog hopped in my
14 throat. I apologize.

15 THE COURT: Take your time.

16 Q. And while you perusing, I'll just ask you, once
17 you finish perusing, if you could just let me know if
18 those accurately reflect what you and Nick Sprouse
19 saw at the scene at Mac's Lounge to what you've
20 testified to? And I would just tell you to stop at
21 75, there's two more in that were not chosen.

22 A. Great. Those are the only ones I didn't
23 recognize.

24 Q. And, of course, apologies for having to go
25 through this but, obviously, pursuant to the rules

1 we've got to establish these things. So I asked you,
2 are those pictures of the reflection, that being
3 State's 2 through 75, are they an accurate depiction
4 of what observed?

5 A. They are. Yes.

6 MR. REDMOND: We would move, respectively, Your
7 Honor, at this time, State's 2 through 75 into
8 evidence subject agreement earlier?

9 MR. SCRUGGS: And, judge, we would just ask the
10 Court to note our previous objection to exhibit
11 numbers 12, 15, 17, 21, 23, 24, 26, 43, 46, 63 and
12 69.

13 COURT REPORTER: And what were the first two? I'm
14 sorry, somebody coughed.

15 MR. SCRUGGS: The first two were 11 and 12.

16 COURT REPORTER: Thank you.

17 THE COURT: All right. State's 2 through 75 will
18 be admitted subject to the prior objection to the
19 photos listed by defense counsel.

20 MR. REDMOND: Thank you, Your Honor.

21 (Whereupon, the Photos has been marked and entered
22 into evidence as State's Exhibit No. 2 thru 77)

23 MR. REDMOND: And with that, I would ask if,
24 excuse me, Special Agent Pauli could step down and we
25 can show her, and I've got the laser pointer, I want

1 to go through the diagram, State's 86 first before we
2 get into the pictures.

3 THE COURT: Okay.

4 Q. And I would just ask Ms. Pauli if you would speak
5 as loud as you can, not just for the jury but so that
6 Madam Curt Reporter would be able to hear what you're
7 saying. Could be dull, I don't know how y'all
8 usually do it, dulling the lights so that we can see.
9 I said dull the lights. I meant to say deem the
10 lights. So, Agent Pauli, first of all this is
11 State's 86, could you tell us what this particular
12 page of the record, State's 86 is four pages, this is
13 Page 1, what is this?

14 A. So this is -- so this is the nightclub and this
15 is the street that the nightclub runs along, West
16 Camden Avenue. Marker 17 here, is an unfired
17 cartridge that we located in the parking lot. This
18 is just an example of when we take measurements, how
19 we measure and where we measure inside of a building
20 or a structure so we try to get length and width of
21 the various rooms and the measurements of markers.
22 Marker 20 here is a cell phone.

23 Q. And we can move on to the next one. And let's
24 talk about this, this is Page 2. Please explain Page
25 2? I'm sorry.

1 A. No, not a problem. So in this, this is the
2 example of markers being color coordinated. It's
3 color quoted, excuse me, so the yellow markers are
4 going to be cell phones. The purple markers are
5 fired projectiles or bullets. The light blue markers
6 are cartridge cases that were head stamped with a
7 Augila 9 mm. There were 9 mm cartridge casings. And
8 then the green markers were cartridge cases that were
9 head stamped with Wind 40 S&W so 40 cartridge cases.

10 Q. Let me scroll on to Page 3.

11 A. So, which I should have said, Page 2 was inside
12 of the car, this on Page 3 is outside. So this
13 victim is on the exterior patio area outside and we
14 have a cell phone and a fire projectile.

15 Q. And the last one?

16 A. And then this page is our key so that we know
17 what the different colors represent on the diagram
18 pages. And then a description of what all of those
19 markers were and then the subsequent measurements
20 that we took on scene to reference points and then a
21 list of what those reference points on scene would
22 be. Q. And, of course, that's the aid anybody
23 that's actually looking over these items?

24 A. Yes. Absolutely.

25 Q. All right. Now -- thank you. Now, let's switch

1 to the photographs....

2 MR. REDMOND: If the Court would indulgence us,
3 we've got to switch flash drives.

4 THE COURT: Yes, sir.

5 Q. All right. And this should State's -- okay, just
6 to tell us what this exhibit represents? I think the
7 order somehow got changed so....

8 A. Okay. That's not a problem.

9 Q. Yeah ---

10 A. So this is the front side of Mac's, the nightclub
11 and at the shooting occurred, so the roadway is going
12 to be running parallel here and then the parking lot
13 that you saw on the first page of the diagram would
14 be over here so you're oriented. This is gonna be
15 the main door that we used to come in and out of the
16 bar. So anytime you see photograph looking through a
17 door way, it's gonna be through this main door.
18 There were three doors on this side of the building
19 and we utilized the middle one as our entrance and
20 exit point.

21 Q. Okay. What about our next picture?

22 A. So this is looking at the same side of the
23 building so you can see the blue sign that I was
24 referencing earlier. This is that same doorway. And
25 then this is a photograph just kind of a

1 representation of the disarray that we saw. So signs
2 and tables knocked over, things looking as if there
3 has been movement within the scene or struggle.

4 So again, almost the same photo just it's just
5 slightly more of inside the building, but same
6 doorway -- so this is moved slightly over so we're on
7 the same side of the building, but this awning is
8 over the patio area that is fenced off if you're
9 facing Mac's from the roadway. This is on the right
10 side of the building.

11 So this is that same awning and then this is just
12 a continuation of the fencing and then there's our
13 blue sign in that doorway. So if you kept walking
14 around the building this is now the back side of
15 Mac's and this is, for all time scenes we try to
16 document 360 degrees around our scene and that
17 includes buildings, so I would have been documenting
18 this just to show the outside of the entirety of the
19 building.

20 So this is a continuation of that backside and
21 this fence on the other side of this fence is where a
22 dumpster is located where some clothing where
23 suspected was located. So this is that dumpster, so
24 this is the other side of that red fence once you
25 come around and Mac's is on this side. And then,

1 there's Mac's and there is the dumpster.

2 So this is in that parking lot that was across
3 the street from Mac's. This does not have a marker
4 down, but this is marker 17. This is the unfired
5 cartridge.

6 So now this is inside Mac's, the doorway that we
7 utilized was right here kind of by a jukebox and a
8 little ATM machine. Again, just items strewn about,
9 disarray.

10 This is coming in from that main doorway and this
11 bar was on the left and then marker 2 is right there
12 at the end of the bar.

13 This is a continuation just to show more of the
14 markers that had been placed and what it looked like
15 inside. So there was a stage area that raised up to
16 step up onto the stage area. So on
17 this lower level we had some suspected blood pooling
18 markers placed for firearms evidence and then this
19 just shows more of the bar and the stage.

20 So this is that door that we were coming in. And
21 again, this is the same area just a different angle.

22 So this is standing at the edge of that bar.
23 Again, we have our stage here and then this is the
24 doorway that leads to the back patio so the step up
25 and then seats where we also have just

1 debris, bottles, trash, personal effects, belongings
2 scattered amongst the floor. Again, a different
3 wider photo step back of that.

4 Same photo -- same area just a different
5 viewpoint, different is showing.

6 This is that same pool table that the victim who
7 was inside is next to and that same doorway leading
8 out to the patio and just a different representation
9 of more markers within the scene.

10 So this is if you've turned and now are facing
11 the street so the bar now on your right, the doorway
12 on your left, marker 2.

13 This is a more head on view of the entrance to
14 the patio and then that staging area and, again, the
15 bar is now on your right with the seating on your
16 left.

17 This is just a closer up example of the debris
18 and another indication of just movement and some of
19 that chaos that we were talking, so crushed plastic
20 cups, bottles knocked over, just kind of looks like a
21 panic may have ensued.

22 This is the pool table much closer up. The
23 victim is on the floor on the other side of the pool
24 table. And then this is the doorway to the patio.

25 So these are more markers. Again, I had said

1 that there were some items of evidence that were up
2 close to a wall so this is the area that I'm talking
3 about where there is firearms evidence just kind of
4 up around these pool cues against the wall, but the
5 same pool table for reference on the stage.

6 Another reference point, but that's your access
7 to the patio.

8 This is looking towards the street so the doorway
9 that I've been talking about is over there, pool
10 table here. The victim is on the other side of the
11 pool table. This is your step down to get off the
12 stage.

13 This is looking out onto the patio. This is the
14 second victim who was on scene and marker 12 which
15 was also outside.

16 So now, we are on the back patio looking in
17 towards the pool table and our marker 12 is here and
18 the victim is here.

19 This is also on the patio so that is the doorway
20 to get back into Mac's and this is just from a
21 different angle to show what the rest of that back
22 patio looked like.

23 This is on the stage. We're looking down seat.
24 There were suspected footwear observed on some of the
25 seats which again, people climbing up on furniture, a

1 lot of movement, and this doorway right here goes out
2 onto the back patio. So this is just a bird's eye
3 view down of this. It's just very hard to see in
4 this photograph, but it's suspected footwear that's
5 being documented.

6 So again, the footwear -- so that would be the
7 heel right there. So again, very hard to see on the
8 wall, but documenting footwear and then additional
9 markers for firearms evidence. And again, this is
10 your patio threshold.

11 This is the one of the walls within Mac' and I
12 believe this is an area that we thought might have
13 been where a bullet may have struck the wall to make
14 a defect and then more markers that were placed on
15 scene.

16 So this view are the same pool cues that I talked
17 about earlier and the pool table and then those are
18 just the markers with evidence that was close to the
19 wall.

20 So this is going to be marker 1, and it's a
21 cartridge case that is being documented.

22 Marker 2, is gonna be a fired projectile.

23 Marker 3, and some suspected footwear. And
24 marker 3 is one of the Aguila 9 mm cartridge cases.

25 And marker 4, same type of cartridge case.

1 This is an overall picture just showing the next
2 series of markers that we would be going through so 5
3 through 9.

4 So 5 is the same type of cartridge case.

5 Six is the same.

6 Seven is the same.

7 This is more overall depicting marker 8, 9, and
8 15. So 8 is gonna be one of our 40 S&W cartridge
9 cases. Nine is gonna be one of our Aguila 9 mm.

10 This is again, overall view of markers 10 and 11.
11 So 10 is going to be a 40 S&W. And 11 is gonna be
12 the same.

13 This is out on the patio. So this is marker 12
14 and then our
15 victim. And marker 12 is gonna be a fire projectile
16 which is in the crack there.

17 This is overall of 13 and 14. Thirteen is gonna
18 be a fire projectile. And this is, again, 13 and 14
19 from a different angle. Fourteen gonna be the cell
20 phone that's on that countertop.

21 And then 6 through 9, we've already discussed.
22 So this is just to show that that's where 15 is in
23 the sequence. And 15 is the Aguila 9 mm cartridge
24 case.

25 This is an overall of 11, 16 and 18. So 16 is

1 gonna be -- sixteen is a fired projectile. Eighteen
2 is a fire projectile. It is hard to tell in this
3 photograph, but it is sticking into the leather of
4 that seat. This is a cell phone for 19.

5 Overall of where marker 20 is, and 20 is a cell
6 phone.

7 Overall of where marker 21 is, and 21 is a fired
8 projectile.

9 Twenty-two is underneath, this is the pool table
10 near our victim that's inside the bar near his feet
11 and then that's the fire projectile.

12 This is another example of where we believed
13 there may be a bullet strike on the interior near the
14 Mac's sign on the wall. Because of the brick
15 interior and exterior, if a bullet were to strike the
16 brick it would leave kind of, this kind of mark
17 instead of what you would see if it was wood or
18 plaster. So that's part of a defect, it gonna look a
19 little bit different. So that's just a closer up of
20 the same strike.

21 This is that same seating area with potential
22 strikes on the brick and a closer up of that.

23 Marker 23 which is in the threshold to the patio
24 and that's gonna be some fired projectile.

25 MR. REDMOND: Beg the Court's indulgence?

1 THE COURT: Yes, sir.

2 MR. REDMOND: That'd be all the questions that I
3 have at this time. Ms. Pauli, please answer any
4 questions that the defense may have.

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

7 THE COURT: Yes, sir.

8 MR. SCRUGGS: If I may please have a second to
9 move this podium a little bit closer?

10 MR. REDMOND: Oh, absolutely.

11 **Cross-Examination by Mr. Scruggs:**

12 Q. Good afternoon, Agent Pauli, how are you doing?

13 A. I'm doing very well. Thank you.

14 Q. So I want to circle back to where you started off
15 with Mr. Redmond just talking generally about SLED.
16 As you mentioned SLED is assisting agency?

17 A Yes.

18 Q. It has resources and capabilities that some law
19 enforcement agencies don't?

20 A. Correct.

21 Q. Right? On one level you have experts who work in
22 the lab in Columbia who analyze items of evidence
23 that are collected in the field?

24 A. That is correct.

25 Q. You also have individuals like yourself who

1 actually go out to the crime scene and collect items
2 that may be relevant?

3 A. Correct.

4 Q. Right? And you also have regional agents who
5 investigate crimes and interview witnesses?

6 A. Correct.

7 Q. Okay. And sometimes everything is, um,
8 everybody is working together and other times there
9 are components of a case you may not know about is
10 that fair to say?

11 A. That's very fair to say.

12 Q. Okay. And you mentioned when you first started
13 that one of your objectives is to locate forensically
14 relevant items?

15 A. Yes.

16 Q. And you collect those?

17 A. Yes.

18 Q. Make sure that they are in your custody and taken
19 care of?

20 A. Yes.

21 Q. And then transferred to departments that would
22 test for what evidence you think may be gleaned from
23 that item of evidence?

24 A. Correct.

25 Q. And I want to, next, talk a little bit about

1 crime scene preservation. There are several standard
2 operating procedures that apply to preserving a crime
3 scene, would you agree?

4 A. Yes. In a perfect world, absolutely.

5 Q. And law enforcement uses stuff like crime scene
6 tape to court an off an area?

7 A. Yes.

8 Q. And that is used to prevent people from coming
9 into that area?

10 A. That is the goal. Yes.

11 Q. And not everything is perfect, but that you work
12 to the best of your ability to preserve that crime
13 scene?

14 A. Correct.

15 Q. Because there are critical pieces of potential
16 evidence in that crime scene?

17 A. Yes.

18 Q. And you do not want evidence to be hidden, right?

19 A. Correct.

20 Q. You don't want it to be destroyed?

21 A. Correct.

22 Q. You don't want it to be contaminated?

23 A. Correct.

24 Q. And you certainly don't want someone to go into
25 the crime scene and take a piece of evidence and take

1 it to another location?

2 A. Correct.

3 Q. And law enforcement, to aid in this goal, keeps a
4 crime scene locked, right?

5 A. They should. Yes.

6 Q. There's, typically, an officer on scene who will
7 stand with the clipboard and keep track of who goes
8 in, right?

9 A. Correct.

10 Q. Everybody has to sign in, right?

11 A. Yes.

12 Q. Good. And this is done as quickly as humanly
13 possible, right?

14 A. Yes.

15 Q. And just kind of looking at this crime scene you
16 mentioned several things that I want to circle back
17 to, chaos?

18 A. Yes.

19 Q. Right?

20 A. Mmm, hmm.

21 Q. Panic?

22 A. Yes.

23 Q. Items tipped over?

24 A. Yes.

25 Q. Chairs overturned?

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1 A. Yes.

2 Q. You mentioned people climbing on furniture?

3 A. Correct.

4 Q. A panic frenzy to get out, fair?

5 A. Yes.

6 Q. Okay. And you arrived at approximately 5:17
7 that morning?

8 A. Yes.

9 Q. The crime occurred about three hours before that?

10 A. I believe so, yes.

11 Q. And Hartsville Police Department was the first
12 agency to respond?

13 A. That is correct.

14 Q. And were you aware that they had difficulty
15 keeping people out of the crime scene?

16 A. I would have imagined so.

17 Q. Okay. And it wouldn't have been any surprise
18 that there were people rushing back in?

19 A. No. It would not.

20 Q. Two family members of the victims, right?

21 A. Correct.

22 Q. That's not surprising?

23 A. No, it is not.

24 Q. When you were called in that morning, you were
25 given, you or Agent Sprouse were given the name of

1 the local liaison officer on scene?

2 A. Correct.

3 Q. Do you recall who that was?

4 A. I believe it was Michael ---

5 Q. Weatherford?

6 A. Weatherford.

7 Q. Okay.

8 A. Thank you very much. Yes.

9 Q. And as the late liaison officer with y'all, was
10 he in charge locally of that crime scene?

11 A. He would have been in charge of disseminating the
12 initial information to us making sure that we knew as
13 much about what information they had at the time.
14 Whether or not he was the lead at the time I am not
15 sure.

16 Q. In other words, whenever you got there he gave
17 you what information he deemed to be relevant about
18 what just happened?

19 A. Correct.

20 Q. Okay. And that's your source of information at
21 the time?

22 A. Yes.

23 Q. Okay. And when you arrived, Hartsville Police
24 Department had crime scene tape up?

25 A. Yes, they did.

1 Q. They had put markers out?

2 A. They had.

3 Q. But you mentioned that, they, you found other
4 items that they had not found yet?

5 A. Correct.

6 Q. And you marked those and took photographs of
7 those?

8 A. We did.

9 Q. But until y'all got there, they were responsible
10 for the crime scene?

11 A. That is correct.

12 Q. And when y'all left five hours later you turn the
13 crime scene back over to them?

14 A. The crime scene would have been released when we
15 left, yes.

16 Q. Okay. And they were responsible for it before
17 y'all got there?

18 A. Yes.

19 Q. And, obviously, this was a crowded nightclub?

20 A. Yes.

21 Q. And as you mentioned earlier, it's not surprising
22 that multiple people went into the crime scene after
23 this occurred?

24 A. Correct.

25 Q. And you've gone over a little bit of your report

1 and I just want to note a few things.

2 MR. SCRUGGS: If I can beg the Court's
3 indulgence, I want to grab this photograph ---

4 THE COURT: Yes, sir.

5 MR. SCRUGGS: --- that's in evidence. I apologize
6 we're getting there.

7 Q. All right. Okay. And if I can direct your
8 attention to Page 2 of 4 of your written report, if
9 you have it with you.

10 MR. PAULI: Your Honor, do you mind if I access my
11 report?

12 THE COURT: No, ma'am. That's fine. You may.

13 MR. PAULI: Thank you.

14 Q. And towards the bottom of, I guess, the second
15 paragraph, you note on the wall behind the stage that
16 you observe a defect in the wall next to the back
17 side?

18 A. The one to the left of marker 18?

19 Q. Let me show you, maybe this will cleared up.

20 MR. SCRUGGS: Your Honor, may I approach?

21 THE COURT: Yes.

22 Q. I'm showing you what's been admitted into
23 evidence as State's Exhibit 65.

24 A. Okay.

25 Q. Okay. Does that show a bullet defect in the

1 wall next to the M side?

2 A. Yes. A suspected bullet defect.

3 Q. Okay. And if that is right behind the, for lack
4 of better word, stage?

5 A. Correct.

6 Q. Is that correct?

7 A. Yes.

8 Q. Okay. All right. And you also note in your
9 report that a defect was observed on the M of the
10 illuminated sign, is that correct?

11 A. I -- I apologize, give me one second.

12 Q. Sure. No problem.

13 A. I just ---

14 THE COURT: While she's looking for that it might
15 help if we bring the lights back up. Are you gonna
16 use the ---

17 MR. SCRUGGS: No. That's perfectly fine.

18 THE COURT: Let's bring the lights back up so the
19 witness can review her report.

20 A. Yes.

21 Q. Okay. So you have a defect on the wall and also
22 a defect on the actual M of the sign?

23 A. Correct.

24 Q. Okay. And also you noted and testified to on
25 direct that you noted a defect on the, um, if you're,

1 if you're facing the stage ---

2 A. Yes.

3 Q. --- there's a defect on the left side of the
4 wall?

5 A. Yes. That is correct.

6 Q. Okay. So if, if I were looking towards the
7 stage ---

8 A. Yes.

9 Q. --- where I'm standing ---

10 A. Yes.

11 Q. --- there would be a bullet defect in the wall
12 straight ahead next to the M side ---

13 A. Yes.

14 Q. --- a bullet defect on the M of the side?

15 A. Correct.

16 Q. And a bullet defect on the wall over here?

17 A. Correct.

18 Q. And you also note in your report that there were
19 projectiles located towards the bar area, is that
20 correct?

21 A. Yes.

22 Q. Okay. And I mentioned stage earlier and I say
23 stage because it's an elevated platform, right?

24 A. Correct.

25 Q. And when you leave the bar area you step up,

1 right?

2 A. Yes.

3 Q. And I believe in your report you even noted that
4 there was a nine inch step up?

5 A. The step up is noted. If it was nine inches that
6 would have been something that Nick Spouse
7 documented.

8 Q. Okay. But you do note that there's a, and if you
9 can't refer to page 12 of 15, the scene overview?

10 A. Yes.

11 Q. And I use the word "step up" but it's -- is it
12 fair to say it says, "a nine inch step down"?

13 A. It does. On the diagram.

14 Q. Okay. So that elevation is noted?

15 A. Yes.

16 Q. So, obviously, anyone standing in that area is
17 elevated above the people in the bar area?

18 A. That is correct.

19 Q. And as you've mentioned in direct your report
20 also notes items that you gathered and took with you
21 back to SLED headquarters in Columbia?

22 A. Correct.

23 Q. And you or Agent Sprouse directly took custody of
24 those items of evidence, is that correct?

25 A. It is.

1 Q. Do you recall how many items you took that night
2 or that morning?

3 A. Including -- do you want me to include the items
4 that were given to us by chain of custody?

5 Q. I am asking, specifically, about the items that
6 were included in your report.

7 A. So there would be 32 items listed for our report
8 that were not including our photographs. So 33 items
9 in total were ---

10 Q. Okay.

11 A. --- submitted for this lab number.

12 Q. And that includes the items that you and Agent
13 Sprouse gathered?

14 A. It does.

15 Q. As well as shell casings that came from the
16 vehicle that was stopped?

17 A. Correct.

18 Q. And when you left around 10:15 that morning those
19 are the only items you left with?

20 A. Correct.

21 Q. And you noted earlier, just speaking generally,
22 about how SLED operates that sometimes items of
23 evidence are assigned to specific departments for
24 testing?

25 A. Correct.

1 Q. Is that correct? And you did that in this case
2 with several items, is that right?

3 A. Yes.

4 Q. For example, the cartridge cases that you
5 received were sent to two places. They were sent to
6 DNA for touch?

7 A. Mmm, hmm.

8 Q. Right?

9 A. Yes.

10 Q. And they were also sent to firearms, correct?

11 A. Correct.

12 Q. And the reason they were sent to DNA was to see
13 if there was any DNA on those cartridge cases to
14 match to anyone, is that fair to say?

15 A. Correct.

16 Q. Because whenever a gun is loaded, a magazine is
17 loaded, a person touches the cartridge, right?

18 A. Correct.

19 Q. And when that gun is shot the cartridge comes
20 out, right?

21 A. Mmm, hmm. Yes.

22 Q. And the reason y'all gather that item is
23 hopefully to see if there's any evidence of who put
24 that cartridge case in the gun, right?

25 A. Correct.

1 Q. Okay. And that's why you sent it to DNA?

2 A. Yes.

3 Q. You also sent it to firearms, right?

4 A. Yes.

5 Q. And the reason you sent it to firearms was so
6 that they could test that cartridge case against any
7 other items whether it's a gun or other projectiles
8 or other shell casings, is that correct?

9 A. Correct. Yes.

10 Q. To try and determine how many guns were used that
11 night, right?

12 A. As a part of many other things, yes.

13 Q. Okay. And as you mentioned earlier, those 32
14 items were the only items that y'all collected that
15 morning?

16 A. Correct.

17 Q. And it probably would not surprise you to, to
18 know that after that day Hartsville Police Department
19 was still collecting evidence?

20 A. It would not surprise me at all.

21 Q. And any items of evidence they collect, they
22 maintain responsibility for collecting and keeping
23 those items in custody?

24 A. Correct.

25 Q. And if they are needed to sent to SLED for

1 testing it's their responsibility, correct?

2 A. Correct.

3 Q. Okay. But those, any items that they found are
4 not included in your report?

5 A. Correct.

6 Q. And you probably are not even aware of them?

7 A. No.

8 Q. And you wouldn't have been aware if they did find
9 other items?

10 A. Correct.

11 Q. Okay. And any items that were found or brought
12 to Hartsville Police Department were not included in
13 your report?

14 A. Correct.

15 Q. Okay.

16 MR. SCRUGGS: I beg the Court's indulgence one
17 moment?

18 THE COURT: Yes, sir.

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

20 THE COURT: Redirect?

21 MR. REDMOND: No redirect. And we would ask that
22 special Agent Pauli be excused from her subpoena
23 under the stipulation that she returned the Paul
24 point.

25 MR. SCRUGGS: No objection.

1 THE COURT: All right. Subject to the stipulation
2 she is released from her subpoena.

3 MR. REDMOND: Thank you, Your Honor. And, Your
4 Honor, our next witness is the pathologist. I see Dr.
5 Kelly Rose. The State is prepared to go ahead and
6 call her.

7 THE COURT: All right. Call your next witness.

8 THE CLERK: Place your left hand on the Bible and
9 raise right. You swear the testimony you give this
10 court would be the truth, the whole truth, and
11 nothing but the truth so help you God?

12 DR. ROSE: I do.

13 MR. REDMOND: I beg the Court's indulgence. May
14 it please, the Court, Your Honor?

15 THE COURT: Yes, sir.

16 DR. ROSE KELLY, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mr. Redmond:**

19 Q. Dr. Rose, how you doing today?

20 A. I'm good.

21 Q. Let me ask you this -- let me start asking you
22 this, could you please tell the ladies and gentlemen
23 of the jury, what it is that you do?

24 A. I am a forensic pathologist. I do that in
25 Newberry, South Carolina. A forensic pathologist is

1 the type of doctor. It's a sub-specialty of
2 pathology. And what we do is, we do autopsies to
3 determine the cause and manner of death.

4 Q. And we'll get into these autopsies in just a
5 little while. But let's go through some back ground
6 first. Give us your educational background and
7 training?

8 A. I went to college at College of Charleston. I
9 got my Bachelor of Science in Biology, and went to
10 the medical school at the Medical University of South
11 Carolina. I started my pathology residency there. I
12 finished it at Emory in Atlanta. I stayed on in
13 Atlanta and did a year of just forensic pathology
14 through Emory. The Fellowship was at the Fulton
15 County Medical Examiner's Office in Atlanta.

16 Q. Now, let's talk about your employment experience.
17 Take us through that please?

18 A. I have done forensic pathology, autopsy
19 pathology. I started doing that in Newberry when I
20 graduated from my Fellowship. I then went down to
21 Florida where I practiced hospital pathology, did
22 autopsies, and then I kind of sub-specialized into
23 cancer pathology and I was continuing to do autopsies
24 down there. Then in 2018 I came back to Newberry and
25 I've been doing only forensic pathology since that

1 time.

2 Q. Now, let's talk about the number of times you've
3 been qualified as an expert in the field of forensic
4 pathology. Tell us about that?

5 A. Fifty-two. So after today at fifty-three.

6 MR. REDMOND: Your Honor, with that, we would
7 respectfully ask that Dr. Rose be qualified as an
8 expert in the field of forensic
9 pathology?

10 THE COURT: Any voir dire or any objection.

11 MS. WHITE: No objection.

12 THE COURT: All right. Ladies and gentlemen, give
13 me your attention for a brief second. Ladies and
14 gentlemen, normally a person cannot give opinion
15 testimony. Normally when a person testifies they
16 must testify as to what they either saw, heard, or
17 sensed by smell or something of that nature.
18 However, there is an exception when someone is
19 qualified because of education or experience.
20 They're permitted to give their opinion in certain
21 areas if the court qualifies them that way. This
22 witness will be qualified as an expert in the area of
23 forensic pathology to give opinion testimony in that
24 area. And that does not mean you must accept the
25 opinion, but it's evidence for you to use in any way

1 you see fit and give the weight and credibility you
2 believe is appropriate. Mr. Redmond?

3 MR. REDMOND: Thank you, Your Honor.

4 THE COURT: All right.

5 MR. REDMOND: May it please, the Court?

6 Q. Dr. Rose, let's talk about forensic pathology a
7 little bit more. What is forensic pathology?

8 A. Okay. So it's a sub-specialty of pathology. So
9 pathology is the study of disease and then you can go
10 into different areas of it. So forensic pathology is
11 a sub-specialty of pathology and you do autopsies and
12 what you're trying to diagnose in an autopsy is what
13 killed this person or what is their cause of death
14 and then what was the manner of death. So what kind
15 of circumstances did this death occur in.

16 Q. Okay. And in directing your attention to this
17 particular case -- well, one other question, what, I
18 guess, what equipment, what tools do you utilize to
19 do your work?

20 A. A lot of hands on stuff. We take photos. We do
21 diagrams. We then, after we've looked at the body on
22 the outside from head to toe looking for injury or
23 disease, we will open the body and I will cut each
24 individual organs using a knife and then I will take
25 that tissue and we put it in cassettes in case we

1 need to look at it under the microscope.

2 Q. And once you have completed your autopsy, do you
3 compile a report?

4 A. I do.

5 Q. Okay. And, of course, did you do so in this
6 case?

7 A. I did.

8 Q. All right. Let's talk about this case. First, I
9 am going to direct your attention to -- well, let me
10 just ask you this, did you perform three autopsies
11 related to this case?

12 A. I did. I performed three autopsies.

13 Q. All right. And let's first talk about DiCaprio
14 Collins. And at this point, I just want to tell the,
15 ladies and gentlemen of jury, what you're finding
16 were as it relates to Mr. Collins? And then I'm
17 going to show you a couple of exhibits.

18 Q. Okay. So with Mr. Collins when I was performing
19 his autopsy, I saw that he had some gunshot wounds.
20 After examining the wounds in the body, they I
21 noticed ---

22 MS. WHITE: Your Honor, objection. May we
23 approach?

24 THE COURT: Yes.

25 (Whereupon, a bench conference is held on the record)

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1 gentlemen. And we will resume the direct examination
2 of Dr. Rose. Mr. Redmond?

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

5 THE COURT: Yes, sir.

6 MR. REDMOND: May I approach the witness ---

7 THE COURT: Yes, sir.

8 MR. REDMOND: --- with State's 84 and 85?

9 THE COURT: Yes, sir.

10 Q. Dr. Rose, I'd ask you to take a look at both of
11 those exhibits and let me know if you recognize
12 those?

13 A. I do.

14 Q. Could you tell ladies and gentlemen of the jury,
15 what's first State's Exhibit 84?

16 A. These are bullets that I recovered during an
17 autopsy.

18 Q. And which autopsy of who?

19 A. Of Mr. DiCaprio Collins. So I recovered a bullet
20 fragmented and I recovered the top of it and the
21 bottom of it. And another bullet went out that left
22 behind some of the metal. So part of it went out and
23 part of it stayed in. I recovered the part that
24 stayed in.

25 Q. And then State's 85?

1 A. Is also a bullet that I recovered from the
2 autopsy of Mr. Brian Robinson.

3 Q. Were both of those autopsies conducted in
4 Newberry on the 27th of January, 2020?

5 A. Yes. Yes, they were.

6 Q. Okay. And pursuant to your standard operating
7 procedure, did you, once recover, um, did you package
8 and then hand them off to law enforcement?

9 A. I packaged them and sealed them and then they
10 were picked up by Erica Norton of the Hartsville
11 Police Department.

12 Q. Now, let's move on to Eric Bakhsh. On the 30th of
13 January, 2020, did you perform an autopsy on Mr.
14 Bakhsh?

15 A. I did.

16 Q. Okay. Could you go through your findings as it
17 relates to Mr. Bakhsh?

18 A. Okay. He looked very swollen in general from
19 head to toe. He'd been in the hospital for several
20 days. He did not die instantly. So he looked like
21 someone had been in the hospital critically ill for
22 several days. That was the first thing that I
23 noticed. Then I found that he had suffered a gunshot
24 wound to his head. It was on the right side of his
25 head. And I found a partial exit wound or an exit

1 wound to the top of his head. Throughout the course
2 of the autopsy, we take x-rays and when I opened the
3 skull and looked in the brain, I saw the, um, the
4 pathway of the bullet and the jacket and some pieces
5 of metal from the bullet that had been left on it.

6 So he had bilateral, we call them periorbital
7 ecchymoses. That's a big fancy word for like raccoon
8 eyes. The black eyes. As indicative of the base of
9 your skull being fractured, he had fractures to the
10 top of his skull. His brain was extremely swollen
11 and there was a lot of bleeding inside the brain.

12 Q. And with that -- with that particular finding as
13 it relates to the cause of his death, could you
14 explain - and I hate to have to do this, obviously -
15 but could you explain, how, to what you just testify
16 to, what damage, what was the mechanism that
17 ultimately led to Garrett's death?

18 A. So on his cause of death I put perforation and
19 edema of brain. Edema means swelling. Perforation
20 means exactly what you think it means that something
21 went through it. When the brain is injured and
22 bleeds, because it's in the skull it has very little
23 room to expand such as, you know, if your arm can
24 swollen it can swell a whole lot, but the brain
25 can't. There's a skull there. But the sheer trauma

1 of a bullet going through the brain just causes all
2 kinds of dysfunction. So I put his cause of death
3 was cerebral perforation and edema due to single
4 indeterminate range of gunshot of head.

5 Q. Now, let's explain when you say indeterminate
6 range, could you explain that?

7 A. Well, in this case, he'd been in the hospital for
8 several days. So the what -- what pathologists use
9 to determine range of fire, like whether something is
10 close range or contact, has to do with gunshot
11 residue. So when you fire a bullet out of a gun the
12 bullet comes out, but with it comes some of the gun
13 power or the, you know, the substances that they're
14 putting in guns nowadays. And when it comes out some
15 of it it's going to be all the way burned up and
16 that's gonna be like soot. Just like what you might
17 have in your chimney or fireplace. Some of the
18 particles don't burn up and they hit the skin kind of
19 abraded like sand would if sand was flung at the
20 skin, and this is moving at like 900 feet per second.
21 Guns, um, bullets move very fast and they leave
22 abrasions. He'd been in the hospital. So I don't
23 know if there was any soot present originally. And I
24 also will say indeterminate if I'm not sure if they
25 had clothing on or something got in the way that

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1 might have collected the gunshot residue and not
2 allowed me to see it. In general, though, it can
3 mean distant range because if you exclude the other
4 things from investigation then you know that it was
5 fired from some distance. Q. Now, I and hate to ask
6 you this, how old was Garrett Bakhsh?

7 A. He was 18-years-old.

8 Q. And let's talk about, if I may approach -- well,
9 let me ask you this, and I think I asked you already,
10 but do you do a report?

11 A. I do.

12 Q. Okay.

13 MR. REDMOND: May I approach with those State's
14 Exhibits 90 and 83?

15 THE COURT: Yes, sir.

16 Q. I'mma show you first State's Exhibit 90, and then
17 I'll - just leave this right here. But you go
18 through State's Exhibit 90, is that accurate copy of
19 autopsy report in the case of Eric Bakhsh's death?

20 A. It is.

21 Q. Okay.

22 MR. REDMOND: At this time State we moved to
23 introduce State's Exhibit Number 90 into evidence.

24 MS. WHITE: No objection.

25 THE COURT: All right. State's 90 is admitted

1 without objection.

2 (Whereupon, the Autopsy Report has been marked and
3 entered into evidence as State's Exhibit No. 90)

4 Q. Now, the State's -- I think that was 83, I'd ask
5 that you look at -- could you look at State's 83, and
6 once you look at it, do you recognize State's 83?

7 A. I do.

8 Q. And could you tell the ladies and gentlemen of
9 the jury, what State's 83 is?

10 A. This is part of the bullet that was left behind
11 that I was able to recover from the brain at autopsy.

12 Q. And again, I'll ask you the same as I asked in
13 Exhibits 84 and 85, was that packaged, sealed, and
14 then given to Erica Norton?

15 A. Yes. I packaged it. I sealed it. I initialed
16 it. And then it was transferred to Erica Norton.

17 MR. REDMOND: Beg the Court's indulgence?

18 THE COURT: Yes, sir.

19 MR. REDMOND: That's be all the questions I have.
20 Please answer any questions that the defense may
21 have.

22 **Cross-Examination by Ms. White:**

23 Q. Hello, Dr. Rose, how you doing?

24 A. I'm good.

25 Q. Good. You've been doing this for quite a while,

1 pathology of some sort?

2 A. Yes, ma'am.

3 Q. Your entire career some kind of pathology?

4 A. Yes.

5 Q. And then 53 times, now, you've been qualifying as
6 an expert, correct?

7 A. Mmm, hmm. And I've done 6000 autopsies.

8 Q. That is a lot of autopsy. So it's fair to say
9 you know what you're doing?

10 A. I hope so.

11 Q. Us too. I don't have any doubts. So I just want
12 to draw your attention then to Page 3, here, and I
13 believe it is the evidence of acute injury section on
14 Page 3 it says about midway down, "the direction of
15 the wound track is front to back right to left and
16 upwards," that's your opinion, correct?

17 A. Okay. That is the path of the bullet through the
18 body. That's what I'm talking about there. So like
19 in his body that's what the bullet, how the bullet
20 traveled.

21 Q. Mr. Bakhsh, to be clear?

22 A. Mr. Bakhsh.

23 Q. So that would be, the trajectory was from, um, it
24 was upward?

25 A. Yes.

1 Q. At an angle, upward angle?

2 A. Yes. It doesn't mean how the body was positioned
3 when they were shot. It just means how it went
4 through the body that I can see. So in standard
5 anatomic position someone standing, standard anatomic
6 position means someone is standing like this with
7 their hands out and their head up. It went in lower
8 than it came out.

9 Q. Okay.

10 A. So that doesn't mean up. That doesn't mean his -
11 - that has nothing to do with the position of the
12 body, though, when he was shot.

13 Q. And it was front to back, correct?

14 A. It went from his front towards the back so it
15 moving towards the back.

16 Q. And then I'll also direct your attention to the
17 very first page, um, the final autopsy diagnosis,
18 Section G, and again, you just restate that opinion?

19 A. Yes.

20 Q. Of the trajectory of the bullet path?

21 A. Yes.

22 Q. All right. And again, just to be clear, front to
23 back, right to left, and upward, that's your opinion?

24 A. That is.

25 Q. All right. Thank you so much, Dr. Rose. I

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1 appreciate your time.

2 MS. WHITE: It's all the questions I have.

3 THE COURT: No redirect, Your Honor.

4 THE COURT: All right. Thank you, Dr. Rose. You
5 can step down.

6 MR. BELL: The State calls Ivan Granados.

7 THE COURT: All right. Mr. Granados.

8 MR. REDMOND: The State would ask that Dr. Rose be
9 excused from her subpoena?

10 THE COURT: Dr. Rose, you are excused.

11 DR. ROSE: Thank you.

12 MR. REDMOND: Thank you, Dr. Rose.

13 THE CLERK: Place your left hand on the Bible and
14 raise right. You swear the testimony you give this
15 court would be the truth, the whole truth, and
16 nothing but the truth so help you God?

17 MR. GRANADOS: Yes.

18 THE CLERK: Have a seat in that chair.

19 IVAN GRANADOS, first being
20 duly sworn, testified as follows:

21 **Direct Examination by Mr. Bell:**

22 Q. Good after, Mr. Granados.

23 A. Good after, Mr. Monty. How are you?

24 Q. Please state your full name for the record?

25 A. My name is Ivan Granados.

1 Q. Where do you work?

2 A. I'm self employed. I have been ever since the
3 incident of 2020. I use to do car dealership work.
4 I own my dealership, excuse me, now I do
5 construction.

6 Q. On January 26, 2020, were you ar Mac's Lounge?

7 A. Yes, sir.

8 Q. And were you shot?

9 A. Yes, sir.

10 Q. Can you tell me about the events that night that
11 led up to you being shot?

12 A. As multiple people have pointed out that night
13 the bar, itself, was packed. Pertaining to before I
14 got shot, I was sitting alone when you're looking at
15 stage to the wall to the left waiting to go out to
16 the patio to meet up some friends. Before I actually
17 had the chance to do that fighting ensued and then it
18 just, it was chaotic. People running everywhere
19 trying to go out the way. Then the shooting happened
20 -- well, it commenced like ---

21 Q. Mr. Granados, let me stop you there. Let me --
22 let me do this.

23 MR. BELL: Your Honor, the Court would like, ah,
24 the State would like to republish the State's Exhibit
25 86, to allow, it's already been moved into evidence

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1 and allow him to talk from there. That would be the
2 diagram.

3 THE COURT: Okay. Yes, sir.

4 MR. BELL: I beg the Court's indulgence?

5 THE COURT: All right.

6 MR. BELL: It's gonna have to warm up.

7 THE COURT: I guess, we're gonna have to dim the
8 lights a little bit so the projection can be seen.

9 MR. REDMOND: Your Honor, I hate, while we wait
10 for that, I hate to interrupt, but we got Britt Dove
11 from SLED that been sitting here, talking with the
12 defense, I think - he's the chain of custody witness
13 as it relates to a video from Mac's Lounge - we have
14 agreed that we would not need to him as far as the
15 chain of custody. I think the defense state are
16 willing to stipulate to the chain of custody on the
17 video and we'll authenticate it through one of other
18 witnesses. So I asked if there's no objection for
19 him to be excused and allow him to return back to
20 Columbia?

21 THE COURT: Any objection from the defense?

22 MS. WHITE: No, Your Honor.

23 THE COURT: The witness is excused.

24 Q. All right. Mr. Granados, if you'd come stand
25 down here with me.

1 (Whereupon, the witness complies)

2 MR. REDMOND: Beg the Court's indulgence?

3 Q. All right. Again, I will repeat the question
4 that I just asked, could you please tell the ladies
5 and gentlemen of the jury, about the events that led
6 up to your shooting and where we you located?

7 A. I was located around this area. This would be
8 with pool sticks and the change machine were and this
9 is the area that I would have been standing at. I
10 was actually going to make my way out to the patio
11 through that door right there and that, before I had
12 the chance to, I was stuck right here. I actually
13 not long before, then, had shaken Mr. DiCaprio
14 William's hand, Collins, I'm sorry, talked to him and
15 while I was standing there waiting to get out the
16 door a fighting broke out right here near the pool
17 table and it kind of pinned me against the wall. Not
18 long after the fighting started gunshots started
19 ringing and that's when it just turned into
20 pandemonium. You had people coming in through the
21 patio kind of make their way out the front door and
22 vice versa. You have people trying to get out the
23 little area of the stage through the patio and
24 whatnot. Before I actually realized that I had
25 gotten shot in the chaos that ensued, I'm not sure if

1 I had gotten spun around or what had happened, and it
2 wasn't until I was trying to take cover near this
3 knee wall right here that a young man had pointed out
4 to me that I had been shot. And sure enough not long
5 after he said that I felt a burning sensation through
6 my body almost like I was melting and I looked at my
7 jacket to see that, in fact, I had got shot. After
8 that or, honestly, it's a blur, I mean, it's been
9 four years of a traumatic experience to try not to
10 think about it a lot. But I believe while I was
11 actually spun around I happened to have witnessed Mr.
12 Garrett gotten shot at the bar. He had looked -- he
13 appeared as if he was still looking towards the
14 bartender like if he was about to order a drink and
15 it did, in fact, seemed like he had gotten shot
16 through the head from the right side and I saw his
17 body kind of jerk and he fell flat on his back.
18 After that I was trying to make my way out the front
19 door and, luckily, one of my friends had ran inside
20 the bar and seen me struggling to step down the
21 platform and he helped me get out the door and that's
22 where we had to step over, over Mr. Garrett's body to
23 make our way out the front door.

24 Q. And where was Mr. Garrett's body?

25 A. He was laying right here in front of the bar kind

1 of exactly where the puddle of blood was in one of
2 the photos that you guys showed earlier.

3 Q. And tell me when the fighting and shooting
4 ensued, why didn't you try to go out the back door?

5 A. To me it just, I didn't want to be enclosed. And
6 being local to the Hartsville area, I knew that the
7 patio was always enclosed and fenced off so it didn't
8 seem like the right way for me to go out. And also
9 sounded like the gunshots were actually coming from
10 the left side of my head out towards the patio. So I
11 was trying to make my way to the front to get to my
12 vehicle to actually drive myself to the hospital.

13 Q. Now -now briefly, Mr. Granados, please tell the
14 ladies and gentlemen of the jury, what happened once
15 your friends got you outside?

16 A. Once we got outside, he had parked not too far
17 from the entrance of the bar and he helped me into
18 his truck. It was a struggle to put the seatbelt on
19 me because I had actually gotten shot on the left
20 side, a couple inches below my heart, and it appeared
21 as a cell phone that I had in my head had blown up in
22 my hand so I'm not sure if it was due to a gunshot or
23 what. So I couldn't really do anything for myself.
24 So he hopped in the driver's seat and we proceeded to
25 Carolina Pines.

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1 Q. And what happened once you got to Carolina Pines?

2 A. My friend, on the way there, was, you know,
3 slapping me trying to keep me awake. So I had enough
4 adrenaline in my body to when I, we got to Carolina
5 Pines I actually opened the door to his truck where I
6 was sitting and I could walk myself into the
7 emergency room and as soon as I got there I was asked
8 by a couple of nurses that surrounded me if I had
9 been at the Mac's Lounge and to which I remember
10 replying, yes, and lifted up my shirt and showing my
11 gunshot and then they carted me in a stretched into
12 the back.

13 Q. And once you were seen by doctors, what did they
14 diagnose that happened to you?

15 A. I had gotten ---

16 MS. WHITE: Objection. Hearsay.

17 MR. BELL: Your Honor, I feel like he could give a
18 medical diagnosis as to what, what ---

19 A. In fact, I had gotten shot ---

20 THE COURT: Hold on one second! Don't answer.

21 All right. Ladies and gentlemen, again, I'm gonna
22 need to send you out to the jury room at this point
23 in time. Don't discuss case amongst yourselves or
24 with anybody else. Don't begin your deliberations.
25 We will bring back here shortly.

1 MR. REDMOND: And so that's, that will be pretty
2 short.

3 THE COURT: All right. Bring us the jury please.
4 (Whereupon, the jury enters the courtroom at 4:31
5 p.m.

6 Q. All right. Mr. Granados, again, when you went to
7 the emergency room on the morning of January 26,
8 2020, what did they diagnose happened to you?

9 A. I was a victim of a gunshot wound.

10 Q. And what -- were you able to leave that day?

11 A. No, sir. I was not.

12 Q. Well, what type of room did they put you in?

13 A. At first I started in the emergency room and then
14 they moved me to the ICU.

15 Q. Do you have a permanent scar?

16 A. I do.

17 Q. And where is that permanent scar?

18 A. It is on my abdomen underneath, right here, I
19 mean, I don't know if you guys want to see it. It's
20 -- yeah, but it's ---

21 Q. But is it permanent ---

22 A. It's in my front, the entrance wound, and then I
23 still have like a hole in my back from the exit
24 wound.

25 MR. BELL: Beg the Court's indulgence? Please

1 answer any questions the defense may have for you.

2 MS. WHITE: I don't have any questions for this
3 witness. Thank you, Mr. Granados.

4 THE COURT: Thank you, Mr. Granados. You can step
5 down.

6 MR. GRANADOS: Thank you.

7 MR. BELL: Your Honor, I'd ask that Mr. Granados
8 be relieved of his subpoena?

9 THE COURT: All right. Any objection?

10 MS. WHITE: No objection.

11 THE COURT: All right. Thank you, sir, for being
12 here.

13 MR. BELL: Thank you.

14 MR. REDMOND: The State would call Erica Norton.

15 THE COURT: All right.

16 THE CLERK: Place your left hand on the Bible and
17 raise right. You swear the testimony you give this
18 court would be the truth, the whole truth, and
19 nothing but the truth so help you God?

20 MS. NORTON: I do.

21 ERICA NORTON, first being
22 duly sworn, testified as follows:

23 **Direct Examination by Mr. Redmond:**

24 Q. Ms. Norton, by whom are you employed?

25 A. Hartsville Police Department.

1 Q. And at what capacity are you employing with HPD?

2 A. I'm the evidence officer.

3 Q. Okay. And how long have you been employed with
4 Hartsville Police Department?

5 A. I've been with Hartsville nine, nine and a half
6 years.

7 Q. Okay. And how long have you been the evidence
8 custodian?

9 A. I've been the evidence custodian for almost five
10 years.

11 Q. Now, just from -- you were here and heard Dr.
12 Rose testify, is it common for you, in a case where
13 there's death involved where there's an autopsy, is
14 it common for you to go and attend the autopsy?

15 A. Yes.

16 Q. Okay. And when you attend that autopsy, is it
17 also common for you for the evidence, any evidence
18 that is collected at autopsy, to be turned over to
19 you?

20 A. Yes, sir.

21 Q. And once it's turned over to you from the
22 standard operating procedure, what do you do?

23 A. So once I get the evidence anything of
24 evidentiary value toxicology, and firearm related
25 evidence I'll take it to SLED so that it can be sent

1 for analysis.

2 Q. Now, did you attend the autopsies of DiCaprio
3 Collins, Brian Robinson and Garrett Bakhsh?

4 A. I went to Bakhsh's autopsy. The other two were
5 already done.

6 Q. Okay. And -- but did you go and collect the
7 evidence in each of those?

8 A. Yes. I collected all the evidence when I went to
9 Bakhsh's.

10 MR. REDMOND: May I approach the witness, Your
11 Honor?

12 THE COURT: Yes, sir.

13 Q. I approach you with State's 83, 84 and 85, do you
14 recognize those exhibits?

15 A. Yes, sir.

16 Q. And could you tell us what those, start with 83,
17 what is 83? Oh, let me, before you do that, did Dr.
18 Rose give each -- on each of those exhibits, did you
19 receive those from Dr. Rose?

20 A. Yes, sir.

21 Q. Now, go back to what I ask you, State's, starting
22 with 83, could you tell us what that exhibit is?

23 A. Eighty-three are the projectile fragments
24 collected from Mr. Bakhsh.

25 Q. Okay. Bakhsh?

1 A. Bakhsh.

2 Q. And then 84?

3 A. Eight-four are the fragments collected from the
4 autopsy of the DiCaprio Collins.

5 Q. And, then, finally 85?

6 A. And 85 are the projectiles collected from Brian
7 Robinson's autopsy.

8 Q. And, of course, you collected them. You got
9 these in Newberry, at Newberry Pathology. What did
10 you do with each of those once you collected them?

11 A. So once I collected these I took them to SLED.

12 Q. And again, was that standard operating procedure?

13 A. Yes, sir.

14 Q. Okay. And you take them to SLED and deposit
15 them with their evidence staff?

16 A. Yes, sir.

17 Q. And so once it leaves your hand -- obviously,
18 it's is here and you have it. At some point is it
19 returned to the agency and are you responsible for
20 that protocol as well?

21 A. It is. Once it's returned to the agency, I
22 collect it from sled on my next visit.

23 Q. Okay. Now, let's briefly talk about the DVR
24 that you collected. Did you collect the DVR from
25 Mac's Lounge?

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1 A. I did.

2 Q. And was that collected, I believe, that night?

3 A. It was.

4 Q. Okay. And was it collected from Preston
5 Grantham, the owner of Mac's Lounge?

6 A. Yes, sir.

7 Q. And did you -- did you take that, I guess, that
8 piece of evidence to SLED's computer crimes for
9 further, I guess, to have it download?

10 A. I did.

11 Q. Okay. And, in fact, was it downloaded and was
12 it, was it returned to Hartsville PD?

13 A. It was.

14 Q. In other words, was video able to be extracted,
15 downloaded and the actual physical evidence returned
16 to Hartsville PD?

17 A. Yes, sir.

18 Q. Okay.

19 MR. REDMOND: Beg the Court's indulgence?

20 THE COURT: Yes.

21 MR. REDMOND: That'd be all the questions I have
22 at this time. Please answer any questions defense may
23 have.

24 MR. SCRUGGS: Thank you. May it please, the
25 Court, Your Honor?

1 THE COURT: Yes, sir.

2 MR. SCRUGGS: Beg the Court's indulgence. I'm
3 gonna grab the podium again.

4 MR. REDMOND: Oh, I'm sorry.

5 MR. SCRUGGS: That's fine. That's fine.

6 **Cross-Examination by Mr. Scruggs:**

7 Q. Officer Norton, how are you doing?

8 A. I'm good. How are you?

9 Q. Good afternoon. As you said, you're the evidence
10 custodian so you're responsible for all evidence
11 turned in for a case on the HPD is involved in, is
12 that fair to say?

13 A. Yes, sir.

14 Q. And I've seen you up here this week, you've got
15 the actual evidence with you, right?

16 A. I do.

17 Q. And it's in your custody and control?

18 A. Yes, sir.

19 Q. Sometimes whenever you're called to a crime scene
20 you personally process the crime scene?

21 A. Yes, sir.

22 Q. And that means you personally gather the evidence
23 yourself?

24 A. Yes, sir.

25 Q. Other times other officers will gather the

1 evidence and then drop the evidence in an evidence
2 bin, right?

3 A. Yes, sir.

4 Q. And then you collect the evidence from that bin?

5 A. Yes, sir.

6 Q. A lot of your work is paperwork, right?

7 A. It is.

8 Q. You fill out a bunch of chain of custody forms,
9 right?

10 A. Yes, sir.

11 Q. Okay. And the purpose of that is to keep track
12 of the evidence as it moves through a process ---

13 A. Right.

14 Q. --- right -- because evidence is gathered, right?

15 A. Mmm, hmm.

16 Q. It's turned into the evidence custodian?

17 A. Yes, sir.

18 Q. Rright?

19 A. Yes, sir.

20 Q. And some of that evidence is sent to SLED for
21 testing, right?

22 A. Yes, sir.

23 Q. And throughout this whole process you're
24 responsible for it?

25 A. Yes, sir.

1 Q. And you're responsible for the paperwork that
2 goes along with it?

3 A. Yes, sir.

4 Q. Okay. So in this specific case First Sergeant
5 Weatherford, at that time, called you in the early
6 morning hours to respond?

7 A. He did.

8 Q. And he was the head guy in charge for this case?

9 A. He was.

10 Q. Okay. And he kind of coordinated the local
11 response to that?

12 A. Yes, sir.

13 Q. He liaison with SLED when they were called in?

14 A. He did.

15 Q. Correct?

16 A. Yes, sir.

17 Q. And he also liaison with other SLED agents who
18 actually interviewed other witnesses in this case, is
19 that fair to say?

20 A. I guess, yes, sir.

21 Q. Okay. And -- but you reported to him that night
22 or that morning?

23 A. Yes, sir.

24 Q. Okay. And before SLED got there you helped
25 photograph and place markers where there was

1 potential evidence, is that correct?

2 A. Yes, sir.

3 Q. And I believe you were in here earlier but, would
4 you agree with me that SLED was there for about five
5 hours?

6 A. Yes, sir.

7 Q. And at that time they relinquished control to
8 the, to HPD of the crime scene, right?

9 A. You talking about when they were done?

10 Q. When they were done they turn the sceene back
11 over to y'all?

12 A. Right.

13 Q. Okay. Are you aware that after the scene was
14 turned back over to y'all and as the crime scene tape
15 was being pulled up, Officer Michael Stokes found a
16 shell casing that no one had found yet?

17 A. I can't remember if it was a shell casing on
18 unfired bullet. But as we were taking the crime
19 scene tape down there was another one that was
20 recovered.

21 Q. Okay. So there was ---

22 A. I believe in the parking lot, if I recall
23 correctly.

24 Q. Okay. So that was something recovered that was,
25 that was not recovered by SLED while they were there?

1 A. Right.

2 Q. Okay. And throughout the -- while y'all were
3 there processing the scene, would you agree that the
4 parking lot adjacent to or across the street from
5 Mac's became an area of interest as well?

6 A. Yes, sir.

7 Q. And the crime scene tape was, was put up around
8 that area?

9 A. Yes, sir.

10 Q. Okay. And that -- the reason for that was
11 because law enforcement received information that
12 they were shooting in the parking lot after the
13 shooting in the bar?

14 A. Yes, sir.

15 Q. Okay. So y'all are looking for items of evidence
16 in that area as well?

17 A. Right.

18 Q. Because after the shooting in the bar y'all
19 received information that there was another shooting
20 ---

21 A. Yes.

22 Q. --- just like that? And there's a car wash in
23 that area as well or used to be, right?

24 A. There is.

25 Q. Okay. There were also cell phones collected, is

1 that correct?

2 A. Yes, sir.

3 Q. Do you recall that there was a cell phone
4 collected from the left pocket of DiCaprio Collins?

5 A. Yes, sir.

6 Q. And also from the back left pocket of Brian
7 Robinson?

8 A. Yes, sir.

9 Q. Those items were placed into evidence, correct?

10 A. They were.

11 Q. One thing I noted from your report as well as
12 SLED is there was no gun or guns found on the scene
13 at Mac's, is that correct?

14 A. I believe there was one found on the scene.

15 Q. Where was it?

16 A. I think in the toilet in the bathroom. I didn't
17 personally collect it.

18 Q. Okay. Are you aware that a handgun was recovered
19 from a toilet in Durham, North Carolina?

20 A. Maybe that's what it was.

21 Q. Okay. You're aware that one of the shooters,
22 Davijon McCall fled to Durham, North Carolina after
23 this incident?

24 A. Yes, sir.

25 Q. And law enforcement had to track him down?

1 A. Yes, sir.

2 Q. And they had to ask for the assistance of the
3 Durham, North Carolina Police Department?

4 A. Probably so, yes, sir.

5 Q. And they had to get a search warrant for the
6 house that he was or the apartment that he was in?

7 A. Yes, sir.

8 Q. And when they searched the house, they found two
9 handguns, right?

10 A. Yes, sir.

11 Q. And you know this because those handguns were
12 eventually transferred to SLED and is part of the
13 chain of custody, right?

14 A. Yes, sir.

15 Q. And one of those handguns was a Glock 43 handgun
16 that had eight rounds of Aguila 9 mm rounds in it,
17 right?

18 A. Probably so.

19 Q. Okay. And they found another handgun, an
20 sccycpx2 9 mm handgun as well, is that right?

21 A. It sounds right. Yes, sir.

22 Q. And those items were sent to SLED for testing by
23 the firearms department?

24 A. Yes, sir.

25 Q. Okay. After January 26th the Hartsville Police

1 Department was still receiving items of evidence from
2 this case, is that right?

3 A. Yes, sir.

4 Q. Brandon Pate was an officer with the Hartsville
5 Police Department at that time, is that correct?

6 A. Yes, sir.

7 Q. And he found 9 mm, ah, five 9 mm handgun, um,
8 excuse me, let me back up. Officer Pate found five 9
9 mm Luger cartridge cases close to that car wash after
10 the scene had been processed, is that correct?

11 A. Probably.

12 Q. Okay. And those items were logged into evidence?

13 A. Yes, sir.

14 Q. And while he was out, an unknown citizen brought
15 another shell casing up to him and gave it to him,
16 isn't that correct?

17 A. I wasn't there at the time so I don't know.

18 Q. But that ---

19 A. But if it's in evidence then I got it ---

20 Q. But that item was turn into evidence, right?

21 A. I have to look back at the evidence sheets, but
22 probably so.

23 Q. Okay. Because you know that because you're in
24 charge of the evidence?

25 A. Right.

1 Q. And Officer Michael Williamson who was the
2 liaison officer with Coker Campus Security, two Coker
3 students who were there that night brought a fire
4 projectile that they had taken from the crime scene
5 to him, didn't they?

6 A. I don't recall right off.

7 Q. Okay. But that item would be in evidence,
8 right?

9 A. Right.

10 Q. And you would have been aware of that?

11 A. Right.

12 Q. Because you have custody ---

13 A. I would have ---

14 Q. --- and control of that?

15 A. Right. I would have logged it in.

16 Q. And all of these new items of evidence were not
17 collected by Hartsville Police Department the night,
18 the morning of, nor SLED when they processed the
19 scene, correct?

20 A. Correct. Not if they were found later.

21 Q. Yeah.

22 MR. SCRUGGS: I beg the Court's indulgence?

23 THE COURT: Yes, sir.

24 MR. SCRUGGS: Just one moment. Nothing further,
25 Your Honor,

1 THE COURT: Any redirect?

2 MR. REDMOND: Thank you, Your Honor. May it
3 please, the Court?

4 THE COURT: Yes.

5 **Redirect Examination by Mr. Redmond:**

6 Q. First of all, I've heard Mike Weatherford's
7 mentioned a lot, just to make it clear, is Mike
8 Weatherford currently employed by the Hartsville
9 Police Department?

10 A. No, sir.

11 Q. And, in fact, as far as I know I think he's now
12 out of the state?

13 A. Correct.

14 Q. Now, just to clear that up. So I've got exhibits
15 -- let me hold those exhibits 83 and 85 and let me
16 show you State's, with you being the evidence
17 custodian, let me show you State's Exhibits 78
18 through 81. Now, were talking about, I guess, asked
19 about items that were not collected and may not have
20 been collected and tested, just to be clear, were
21 there several items that were picked up in Mac's
22 Lounge that night that, in fact, were collected?

23 A. Yes, sir.

24 Q. And were those items, in fact, sent to SLED and
25 tested?

1 A. They were.

2 Q. Okay. And, in fact, were they tested in the
3 Firearms Department among other places but,
4 specifically, I'm asking about the Firearms
5 Department?

6 A. Yes, sir.

7 Q. And everything that you've got in your hand, are
8 those things firearms evidence?

9 A. Yes, sir.

10 Q. And just be clear, firearm evidence collected at
11 Mac's Lounge?

12 A. Yes, sir.

13 MR. REDMOND: That'd be all the questions I have,
14 Your Honor.

15 MR. SCRUGGS: Nothing further.

16 THE COURT: All right. Thank you, ma'am. You can
17 step donw. MR. REDMOND: And since she is the
18 evidence custodian there's still a few more pieces of
19 evidence that she has possession of that -- so we're
20 not asking for her to be released at this time.

21 THE COURT: She's gonna -- she's gonna stay with
22 us.

23 MR. REDMOND: She's gonna hang around with this a
24 little bit longer, Your Honor.

25 THE COURT: All right. Ladies and gentlemen of

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1 jurors, I know you've been following my instructions
2 about staying away from any media coverage in this
3 case. It's been brought to my attention that another
4 more articles have been published about the events of
5 this trial and they just want to affirm that none of
6 you have seen any of these media stories. So if you
7 have seen anything in, in the media over last night
8 please raise your hand?

9 (Whereupon, no one raised their hands)

10 THE COURT: All right. Thank you, ladies and
11 gentlemen. We are in a position to resume the
12 State's case and I'll recognize the State to call
13 it's next witness.

14 MR. REDMOND: Thank you, Your Honor. May it
15 please, the Court? The State would next call
16 Angelena Deason.

17 THE COURT: All right.

18 THE CLERK: Place your left hand on the Bible and
19 raise right. You swear the testimony you give this
20 court would be the truth, the whole truth, and
21 nothing but the truth so help you God?

22 MISS DEASON: I do.

23 THE COURT: Have a seat in that chair.

24 ANGELENA DEASON, first being
25 duly sworn, testified as follows:

1 **Direct Examination by Mr. Redmond:**

2 Q. And Miss Deason, could you state your name for
3 the record?

4 A. Angelena Deason.

5 Q. Okay. And I'm gonna ask you to speak as loudly
6 as we can so that if I can hear you that means the
7 ladies and gentlemen of the jury can be able to hear
8 you, okay?

9 A. Okay.

10 Q. So let's say that again. Please state your name?

11 A. Angelena Deason.

12 Q. Okay. That's better. Miss Deason, first to
13 start off with, by whom are you employed?

14 A. I'm employed by a dental office in North
15 Carolina.

16 Q. Okay.

17 A. And the military.

18 Q. And?

19 A. Military.

20 Q. And let's talk about that. The military, tell us
21 about that, your experience with the military?

22 A. I'm going on three years as a military police
23 officer.

24 Q. Okay. What branch?

25 A. Army.

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1 Q. All right. And what rake have you obtained?

2 A. Right now a specialist.

3 Q. Okay. And have you been deployed?

4 A. Yes.

5 Q. Okay. Tell us about that?

6 A. I just got back from overseas October 19th on a
7 refugee mission.

8 Q. Okay. And where was that at?

9 A. The Middle East.

10 Q. Okay. And I think -- were there different
11 places within the Middle East that you ended up
12 traveling?

13 A. Yes.

14 Q. Okay. And how long, again, have you been in the
15 reserves, it is the Army Reserves?

16 A. Army Reserves.

17 Q. Okay. And how long have you been reserves?

18 A. Going on three years.

19 Q. Okay. Thank you for your service. Now, were you
20 previous to that, prior to that a student at Coker
21 College?

22 A. Yes.

23 Q. And let me just ask you this, are you originally
24 from Hartsville?

25 A. Yes.

1 Q. Okay. I forgot to mention that to start with.
2 Now, -- and again, were you a student in at Coker
3 College in January of 2020?

4 A. Yes.

5 Q. And -- and when did you start at Coker? Did you
6 start in the fall semester of 2019?

7 A. Yes.

8 Q. Okay. And so then we moved to January of 2020,
9 were you still enrolled at Coker?

10 A. Yes.

11 Q. And at that time, what was your intention to
12 study? Had you decided what you were gonna study at
13 Coker?

14 A. I was undecided.

15 Q. Okay. I can definitely identify with that. Now,
16 with, um, with that said, did you know the defendant,
17 Darius Dickey?

18 A. Not really personally. We have some mutual
19 friends.

20 Q. Okay. But did you know of him?

21 A. Yes.

22 Q. Okay. And did you know DiCaprio Collins?

23 A. Yes.

24 Q. Okay. And we'll get into that a little bit
25 later. Did you know Davijon McCall?

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1 A. I've known of him.

2 Q. Known of him, okay. Antonio Mills?

3 A. Yes.

4 Q. And did you know Brian Robinson? Did you know
5 Brian?

6 A. No.

7 Q. Okay. Did you know Garrett Bakhsh?

8 A. Yes. From school.

9 Q. Okay. Tell me about that. You knew from school
10 at Coker?

11 A. From Coker, yes.

12 Q. Yes. Was he a student at Coker?

13 A. Yes.

14 Q. And tell us a little bit about that?

15 A. I know he played Lacrosse and we had a class
16 together, but we didn't really speak to each other.

17 Q. Okay. But you knew of him?

18 A. Yes.

19 Q. And was he also a freshman?

20 A. Yes.

21 Q. Okay. And I think there's a freshman group, were
22 y'all in that same, I guess, freshman group, or ---

23 A. We went on the thing ---

24 Q. --- an orientation group ---

25 A. --- trip and we had like some of the same mutual

1 friends that also -- they had like this thing called
2 Families at Coker as freshmen to kind of hook you in
3 with other freshmen to get you migrated into a
4 university. And so like some of his mutual friends
5 was in the same family as my friends.

6 Q. Now, let's go to January 26, 2020 -- well, before
7 that, let me, let me actually go before that, before
8 that talking about the DiCaprio Collins, how did you
9 know DiCaprio -- well, let me ask you this, was there
10 an incident with you and DiCaprio prior to the 26th of
11 January?

12 A. On January 22nd.

13 Q. Okay. And -- and -- did that -- well tell us a
14 little bit about the incident you had?

15 A. He was at my school visiting and we got into a
16 verbal altercation that turned physical and I ended
17 up in the hospital.

18 Q. Okay. And was law enforcement notified?

19 A. Yes.

20 Q. And I think we heard Jeremy Curtis talk a little
21 bit about, was he one of the officers involved in
22 that?

23 A. Yes.

24 Q. Okay. And -- and the reason I'm asking that is
25 because then we moved to the 26th of Januar. And tell

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1 us about what you were doing that day leading up to
2 or, I guess, immediately prior to going to Mac's
3 Lounge?

4 A. Some of my friends wanted to get me out of my
5 room from always staying inside since the incident on
6 the 22nd and so we wind up going to Mac's that night
7 to hang out.

8 Q. And just make sure, is everybody okay hearing
9 her?

10 (Whereupon, the jury panel indicate yes)

11 THE COURT: Okay. So -- so -- so y'all -- you
12 and your friends, y'all decided to go to Mac's. do
13 you remember about what time it is, that was?

14 A. No

15 Q. Okay. And that's fine. So did you end up at
16 Mac's Lounge?

17 A. Yes.

18 Q. All right. And once you got the Mac's Lounge,
19 tell the ladies and gentlemen of the jury, what you
20 did? When you first got there what was taking place?

21 A. When we first got there, we were in the bar kind
22 of at the stage area just hanging out. Prior to the
23 incident, we went outside and I actually seen the
24 defendant arrive with one of the deceased. And then
25 we went back into the bar and we still hung out.

1 Q. And when talking, the defendant, are you
2 referring to Darius Dickey? Do you see him in the
3 courtroom today?

4 A. Yes.

5 Q. And could you point him out to us? Where is he
6 now?

7 A. In the ---

8 MR. REDMOND: I'd ask the record reflect that she
9 has wanted to Mr. Darius Dickey.

10 THE COURT: Yes, sir.

11 Q. Thank you. Now, so you saw him pull up and who
12 was with him when they pulled up?

13 A. DiCaprio Collins and one other person.

14 Q. Okay. Did you know who that person was?

15 A. The third person, no.

16 Q. Okay. And do you remember what he was driving?
17 And what -- what -- do you remember what kind of car
18 it was?

19 A. I don't remember the car, but I remember it was
20 silver.

21 Q. Okay. Now, so let's move forward. So they get
22 to the club, what did you do? What took place next?
23 What did you do?

24 A. So me and DiCaprio Collins we had a no contact
25 order. So I messaged my mom to let her know like

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1 where I was and just so she was aware that I was in
2 the same vicinity as the other person and I also
3 notified law enforcement and after that we went back
4 inside.

5 Q. Okay. And did you have any encounters with
6 DiCaprio Collins that night?

7 A. No.

8 Q. Okay. But you made everybody in your family and
9 law enforcement aware that he was there -- were you
10 there to have fun?

11 A. Yes.

12 Q. Okay. And did you want to leave?

13 A. No.

14 Q. Okay. And again, so you just -- did you make the
15 decision to stay there?

16 A. Yes.

17 Q. Just to be clear, did you have friends of yours
18 with you?

19 A. Yes. I had a couple of friends from Coker with
20 me.

21 Q. Okay. And, of course, were they a lot of people
22 there?

23 A. Yes.

24 Q. Okay. So at that point, did you feel threatened?

25 A. Not really. No.

1 Q. Okay. Now -- because the reason you contacted --
2 was the reason you contacted everybody was because of
3 the no contact order?

4 A. Yes.

5 Q. Okay. All right. Fair enough. Now, let's move
6 on to the events of, of what happened. So again, to
7 be clear, did you have any encounters with DiCaprio
8 Collins that night?

9 A. No.

10 Q. Okay. So just to put it in that context. So
11 let's move on to what transpired during the course of
12 the night. So after he gets there, tell us what
13 happened?

14 A. So right before ----

15 Q. And when I say he, the defendant, and DiCaprio
16 Collins and the unknown person.

17 A. So right before that incident happened we were,
18 there was a black bench on the wall by the back door.
19 And me and my friends were over there singing having
20 a good time. And at the corner of the pool table
21 Capo was standing there ---

22 Q. And Capo -- just to be clear when we say Capo,
23 are we
24 talking about DiCaprio Collins?

25 A. DiCaprio Collins, yes.

A. Deason- Direct Examination by Mr. Redmond

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1 Q. Okay.

2 A. And the defendant walked past and that's when
3 I've seen him pull a gun out, cock it back, and put
4 it back on his hip. And I looked at my friend and I
5 was just like, he had a gun, we need to get out of
6 here. And commotion started and then shots fired and
7 we ran for the door.

8 Q. Okay. And let me ask you this, how long did, it
9 if you can say, about how long was he there, he being
10 the defendant, Mr. Collins, how long were they there
11 before the fight broke out?

12 A. I don't recall.

13 Q. Okay. And that's fair. So, of course, the fight
14 breaks out. Let's go back a little bit. So where
15 were you -- we'll get into this in more detail.
16 Where were you at when the fight broke out?

17 A. Right in between the back door and the stage at
18 the black benches.

19 Q. And where was the -- where was the defendant when
20 you saw him? When you saw him with the gun, where
21 was the defendant?

22 A. Coming from the left of me.

23 Q. Okay. And again, we'll have the diagram so we
24 can actually illustrate these things. So you see
25 that and then you tell -- did you tell your friends

1 y'all needed to leave?

2 A. When I seen the gun, yes.

3 Q. Okay. And where were you at, if you can recall,
4 when you first heard the shots being fired?

5 A. Right beside it.

6 Q. And did you, I guess, did you run?

7 A. Yes.

8 Q. And where did you run towards?

9 A. Towards the main entrance.

10 Q. Okay. And the be clear, to be fair, did you see
11 anybody shoot? Did you see the defendant shoot?

12 A. No.

13 Q. Okay. Did you see the defendant with a gun?

14 A. Yes.

15 Q. Did you see a cock the gun?

16 A. Yes.

17 Q. But to be fair, did you see him shoot?

18 A. No.

19 Q. Okay. But did the shooting start shortly after
20 you saw him with gun?

21 A. Yes.

22 Q. Okay. Now, moving on. So you, when you said you
23 were running, where did you run to when the shots
24 started? Where did you run to?

25 A. Back towards the main entrance.

A. Deason- Direct Examination by Mr. Redmond

318

1 Q. Okay. And the main entrance -- and again, we'll
2 have the diagram - would the main entrance sort of be
3 of what I refer to as the side door?

4 A. Yes.

5 Q. All right. And tell us what happened? And as
6 you're running just tell us what happened?

7 A. I remember hearing shots fired. I seen one body
8 drop as I was taking off for the door and more shots
9 going off as we're like hurtling over people going
10 out the door and that's when I've made it outside and
11 I realized one of the victims had died.

12 Q. You you realized?

13 A. One of the victims that died.

14 Q. Okay. And I didn't ask you this, but you go
15 back real quick, I apologize, do you know or were you
16 able to see exactly what kind of gun it was that he
17 had?

18 A. Not the exact type. I know it was black. And I
19 know it was handheld.

20 Q. Okay. All right. So -- now -- so again, tell us
21 again as you're running out, recount that again just
22 to make sure everybody heard what you actually
23 observe as you were running?

24 A. So after first couple of shots we was running
25 towards the door and I seen like a body falling

1 beside me. And we continued towards the door and
2 hurtling over each other as more shot were going off.

3 Q. And you mentioned knowing or, I guess, knowing
4 somebody ---

5 A. Mmm, hmm.

6 Q. --- who had been struck. Do you remember who
7 that was?

8 A. The one that fell beside me.

9 Q. And who was that?

10 A. Capo. DiCaprio Collins.

11 Q. Okay. And then as you were going out of the
12 door ---

13 A. Mmm, hmm.

14 Q. --- were you near anybody that you knew?

15 A. Garrett.

16 Q. And, in fact, did you walk -- you said -- where
17 with Garrett at? Let me ask you that?

18 A. Behind me.

19 Q. Okay. Garrett was behind you?

20 A. Mmm, hmm.

21 COURT REPORTER: Is that a yes or no?

22 A. Yes.

23 Q. Okay. And, of course, you did come to know that
24 Garrett had been struck and, ultimately, died?

25 A. Yes.

A. Deason- Direct Examination by Mr. Redmond

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1 Q. So when you get outside, tell us what you did?

2 You got outside -- were you shot?

3 A. No.

4 Q. Okay. But tell us what happened when you got
5 outside?

6 A. That's when I tried looking for my sister because
7 I wasn't known of her whereabouts. And then Officer
8 Curtis and wind up talking and he asked me everything
9 that happened. Prior to the State Trooper, I was on
10 the phone ---

11 Q. Yes, I was gonna ask you about that ---

12 A. --- 911 dispatch and I let them know like there
13 was a shooting at Mac's. as I was on the phone with
14 911 a State Trooper pulled in and he was grabbing his
15 rifle out of his trunk. And as all of this is going
16 on I seen the defendant going for his car and he
17 started backing out with no lights on. And I
18 directed the State Trooper like he's in this car.

19 Q. And, in fact, I think did you say something along
20 to the fact that he was getting away?

21 A. Yes.

22 Q. Okay. So then -- what happened then? Okay. So
23 first you encountered the Trooper?

24 A. Mmm, hmm.

25 Q. And then tell me about your encounter with Jeremy

1 Curtis, Officer Curtis?

2 A. After that Jeremy Curtis he was asking me like if
3 I was all right. He was asking like what happened
4 that night. Asking for like description of clothing
5 that people were wearing, what all I seen.
6 Basically, trying to see what all happened in the
7 counter that I'd, all things that I've seen that
8 night.

9 Q. And -- and did you, I guess, -- okay, and,
10 obviously, you were here and heard what was playing
11 on the body cam video. Did that accurately depict
12 what you said and what you saw at that time?

13 A. Yes.

14 Q. Okay. Now, did you also, subsequently, give a
15 statement at Hartsville PD, I guess, they brought you
16 in and did they give you, did you -- did you give a
17 statement at Hartsville PD?

18 A. Yes.

19 Q. I think that was around the 31st?

20 A. Mmm, hmm.

21 Q. Okay. Any doubt in your mind that it was, that
22 you saw the defendant with a gun?

23 A. No.

24 Q. Now, let me, if I may ask for the Court's
25 permission that Miss Deason step down, let me put

1 this diagram up. And I'm going to ask if you can
2 step down.

3 THE COURT: You can step down.

4 (Whereupon, the witness complies)

5 Q. And Miss Deason, I know your, yourself spoken,
6 but I'm gonna ask you to use your military voice and
7 speak as loud as you can so that Madam Court Reporter
8 can hear you, but the jurors will be able to hear
9 you, but she also needs to hear. Okay. Now, I want
10 you to first show me where you were before the fight
11 broke out, but when you, um, before the fight broke
12 out, but where you were standing when you first saw
13 the defendant with a gun?

14 A. Right by ---

15 Q. That's all right.

16 COURT REPORTER: She's got speak up. She's gonna
17 have to speak up.

18 Q. Oh, speak up.

19 A. Right here.

20 Q. Okay. Right there. In other words, right near
21 the door, by the bench near the door?

22 A. Yes.

23 Q. Okay. Where was the defendant when you saw,
24 what path was he taking when you saw him do that?

25 A. He was coming from in between the pool table

1 walking this way.

2 Q. Okay. So you were, basically, walking right by
3 him?

4 A. Yes.

5 Q. Okay. So when you saw the gun what path did you
6 take trying to get out of the situation?

7 A. Back through here.

8 Q. Okay. And when you said that you actually were,
9 you know, when Capo got shot and went down, you were
10 right near there when it happened?

11 A. Yes.

12 Q. But did you see who shot Capo?

13 A. No.

14 Q. Okay. And so then tell us what direction you took
15 as far as where were you at when you said that
16 Garrett was behind you?

17 A. I was right in this area.

18 Q. Okay. Thank you. You can have a seat. Now, just
19 so we can put into context you told Jeremy, Officer
20 Curtis -- I meant to ask you this earlier. I forgot.

21 But you had said you thought -- you were upset and
22 you thought that it was meant for you?

23 A. Mmm, hmm.

24 Q. But then you later said that you don't know why
25 you thought that. I'm not gonna ask you to

1 speculate, but I'm just going to ask you this, did
2 you believe at that time that that bullet was meant
3 for you?

4 A. A part of me, yes.

5 Q. Okay. And were are you also upset that the
6 bullet hit the person that was right behind, Garrett,
7 that being Garrett?

8 A. Can you repeat?

9 Q. I said were you also upset that, that the bullet
10 I think you even mentioned on the video that you
11 thought that the bullet that hit Garrett was meant
12 for you?

13 A. Yes.

14 Q. Okay. Now, just to be clear, did -- did you have
15 any conversation with the defendant DiCaprio Collins
16 or any of his group that night at Mac's?

17 A. No.

18 Q. Okay. Do you know why the fight broke out?

19 A. No.

20 Q. Were you involved in the fight?

21 A. No.

22 Q. Despite your history with the DiCaprio Collins,
23 did you have anything to do with whatever happened
24 that night?

25 A. No.

1 MR. REDMOND: I beg the Court's indulgence?

2 THE COURT: Yes, sir.

3 MR. REDMOND: That'd be all the questions I have.

4 Please answer any questions the defense may have.

5 I'm sorry I keep doing that.

6 MS. WHITE: That's okay. I'm stronger than I
7 look.

8 **Cross-Examination by Ms. White:**

9 Q. Good morning, Miss Deason.

10 A. Good morning. My name is Marianna White. Thank
11 you for being here today. So you, I believe you and
12 Mr. Redmond went over, you were a student at Coker
13 when this all happened, correct?

14 A. Yes, ma'am.

15 Q. Okay. And prior to being at Mac's that night you
16 were at a party in a dorm, correct?

17 A. No, ma'am.

18 Q. No. Incorrect. Okay. So you went to Mac's
19 around what time again?

20 A. I do not recall the time.

21 Q. And when you were at Mac's you called law
22 enforcement?

23 A. I messaged law enforcement.

24 Q. You messaged law enforcement. Who did you
25 message?

A. Deason- Cross-Examination by Ms. White

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1 A. One of the detectives and my mom reached out to
2 Officer Curtis.

3 Q. Okay. So despite seeing DiCaprio Collins at
4 Mac's you, you did stay there?

5 A. I did decide to stay.

6 Q. And just to talk a little bit, on a note, you
7 know, I don't mean to bring it up I know that dealing
8 with any kind of assault is traumatizing. But you
9 did report that Mr. Collins had assaulted you?

10 A. On the 22nd, yes.

11 Q. Okay. So this was what three, three days, four
12 days before?

13 A. Yes.

14 Q. And he had been banned from Coker premises?

15 A. Yes.

16 Q. And you had a restraining order?

17 A. I didn't personally take one out on him, no.

18 Q. Okay. It was just part of the charges?

19 A. I guess.

20 Q. And that made you feel safer?

21 A. Yes. And we had a no contact order. I hadn't
22 talked to him since that day.

23 Q. Okay. So at the time that you saw him at Mac's
24 Lounge y'all we're not in contact?

25 A. No.

1 Q. But y'all had been together romantically prior to
2 that, correct?

3 A. I guess, you could say that.

4 Q. Would you say that you were boyfriend and
5 girlfriend?

6 A. No.

7 Q. About how long had y'all been together?

8 A. Not sure.

9 Q. Months? Years?

10 A. Not years.

11 Q. Okay. So you were not in a relationship, in any
12 kind of relationship with him at a time of the
13 shooting?

14 A. No.

15 Q. As part of the, and again, I apologize for
16 bringing up sensitive subjects, but did you also
17 report that he had potentially sexually assaulted
18 you?

19 A. I don't recall.

20 Q. This incident report here from Hartsville Police
21 Department did, did indicate, perhaps, a potential
22 sexual assault, but that was unfounded in the end?

23 A. I don't recall.

24 Q. You don't recall. But there was, obviously,
25 something going on there, he had physically assaulted

1 you?

2 A. Yes.

3 Q. There was some ill will perhaps?

4 A. Can you specify?

5 Q. I guess, you didn't intend on, on ever being
6 involved with him again after that point in time,
7 correct?

8 A. After the incident on the 27th, no.

9 Q. Okay. And so you knew that DiCaprio Collins and
10 Darius were friends, correct?

11 A. Yes.

12 Q. Is that how you knew of Darius through DiCaprio?

13 A. Give or take, yes.

14 Q. Okay. And you saw them arrive together at Mac's
15 Lounge, correct?

16 A. Yes.

17 Q. And do you recall, I believe, that Mr Redmond ask
18 you this, but I just want to be clear, you don't
19 recall how long you were there and they were there
20 before law enforcement was called?

21 A. No. You're talking about from when he pulled up
22 to Mac's or like from an incident when the shooting
23 started?

24 Q. From when he pulled up to Mac's, how long?

25 A. A few minutes after.

1 Q. And and you said that you didn't have any contact
2 with DiCaprio that night, correct?

3 A. No.

4 Q. On the projector there it looked like you would
5 have been standing almost right next to him?

6 A. At one point of the night, he was almost directly
7 in front of me, but we still did not talk to each
8 other, looking in each other's direction, or anything
9 like that.

10 Q. It's a crowded club ---

11 A. Yeah.

12 Q. --- I understand. So you didn't speak to him
13 that night?

14 A. No.

15 Q. You didn't speak to Darius over there that night
16 ---

17 A. No.

18 Q. --- either and you didn't speak to the other
19 gentleman that was with them, correct?

20 A. No.

21 COURT REPORTER: Okay. Wait a minute. We've got
22 to let her finish the question and then you answer
23 it, okay.

24 A. Yes, ma'am.

25 COURT REPORTER: Thank you. I appreciate it.

A. Deason- Cross-Examination by Ms. White

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1 Q. And your testimony here today and what you
2 pointed out on a the screen, you were standing beside
3 DiCaprio when he was struck with, with a bullet?

4 A. Not beside him, no.

5 Q. Oh, okay. So where were you?

6 A. He was -- I was by the black bench. He was at
7 the coroner of a pool table.

8 Q. Okay. So -- but -- within five feet or so?

9 A. I guess.

10 Q. Okay. And then you said you heard a shot?

11 A. Yes.

12 Q. And then you ran?

13 A. Yes.

14 Q. And Garrett fell behind you?

15 A. Garrett was by the door as I was running out,
16 yes.

17 Q. Okay. So -- and your testimony here today was
18 you called 911 ---

19 A. Yes.

20 Q. --- at that point in time?

21 A. When I got outside, yes.

22 Q. Okay. And you were looking for your sister?

23 A. Yes.

24 Q. Your sister was looking for you?

25 A. Yes.

1 Q. And you -- did you call your sister to let her
2 know where you were?

3 A. I don't recall.

4 Q. Okay. And you spoke to multiple officers that
5 night?

6 A. Two.

7 Q. Two officers that night. And about how long
8 after the shooting, did you speak to the first
9 officer?

10 A. Whenever he arrived on scene.

11 Q. Five minutes?

12 A. I don't recall when he arrived. It was right
13 after it happened.

14 Q. So right after. Immediately afterwards. It was
15 -- he was there?

16 A. Whenever the State Trooper arrived I went up to
17 him and I let him know that the defendant was getting
18 away in the silver car, pulling out with no lights
19 on.

20 Q. Okay. So you were here for Corporal, Corporal
21 Curtis's testimony yesterday, is that correct?

22 A. Yes.

23 Q. And he testified that it was within ten minutes
24 for sure of the incident that he spoke with you.

25 Does that sound accurate?

1 A. I guess.

2 Q. Okay. And where were you when you spoke to him?

3 A. Right outside of Mac's Lounge.

4 Q. Okay. And you gave a description of one of the
5 shooters to Corporal Curtis, correct?

6 A. Yes.

7 Q. And part of that description was that he was
8 wearing a black hat?

9 A. Yes.

10 Q. Okay. And you also indicated that there were
11 people shooting
12 according to the body cam in the testimony yesterday?

13 A. Well, according to the body came, yes.

14 Q. Okay. So that would indicate more than one
15 person?

16 A. The definition of people is more than one, yes.

17 Q. And -- well, you didn't actually see anybody
18 shoot?

19 A. I ain't never seen anyone shoot, no.

20 Q. You just wanted to get to safety as quickly as
21 possible?

22 A. Yes.

23 Q. Okay. Now, you heard the testimony yesterday and
24 then I believe you testified again today that you saw
25 Darius with a gun?

1 A. Yes.

2 Q. And then again you were here for the testimony
3 yesterday where you stated on the body cam footage
4 that he put the gun back in his waist?

5 A. So what I seen is he had -- he looked at his
6 hoodie jacket. He pulled the gun out and cocked it
7 with his left hand. Put the tip of the barrel back
8 in his pants.

9 Q. So he put the gun back in his pants?

10 A. Yes.

11 Q. And then immediately, thereafter, shots rang out?

12 A. Not too long after, yes.

13 Q. Okay. So you didn't see him shoot?

14 A. No.

15 Q. And, in fact, you saw him put his weapon away?

16 A. Given, yes.

17 Q. Okay. So that was a yes?

18 A. Yes.

19 Q. Okay. So he wouldn't -- he certainly wouldn't
20 have been shooting with the gun in his, in his waist,
21 correct?

22 A. Yes.

23 Q. Okay. And you told, according to the body cam
24 that was played yesterday and that you were present
25 in the audience to hear, you told Corporal Curtis

1 that you couldn't think of one reason why Darius
2 would be shooting, not only to you, but anyone?

3 A. Correct.

4 Q. Okay. And again, you spoke to multiple officers,
5 correct?

6 A. Two.

7 Q. Two. And you told them all the same thing,
8 correct?

9 A. The only one I had talked to about any details
10 was Jeremy Curtis.

11 Q. Okay. But you told him all substantially the
12 same story? You're a military police officer,
13 correct?

14 A. Yes.

15 Q. So you know how important it is to give full
16 information, correct?

17 A. Yes.

18 Q. Complete information, correct?

19 A. Yes.

20 Q. True information, correct?

21 A. Yes.

22 Q. Okay. So everything that you told each officer
23 you talked to was the same that you did not see
24 Darius shoot a weapon, you saw him put his weapon
25 back in his waist?

A. Deason- Redirect Examination by Mr. Redmond

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1 A. Yes, sir.

2 Q. Okay.

3 MS. WHITE: Beg the Court's indulgence, Your
4 Honor?

5 THE COURT: Yes, ma'am.

6 MS. WHITE: No further questions for this
7 witness. Thank you, Miss Deason.

8 THE COURT: Any redirect, Mr. Redmond?

9 MR. REDMOND: Briefly, Your Honor.

10 **Redirect Examination by Mr. Redmond:**

11 Q. Just to make sure we're clear ---

12 A. Mmm, hmm.

13 Q. Before he put it in, the gun back in his waist,
14 did he cock the gun?

15 A. Yes.

16 Q. So was the gun cocked, then put back in his waist
17 and how was it put back in again?

18 A. Not fully as it came out. So when he initially
19 had it in his waist, when I seen it the first time,
20 you can only see like the magazine, the back end of
21 the pistol.

22 Q. Yes.

23 A. When he put it in the second time you can see all
24 the way up to the trigger.

25 MR. REDMOND: That's be all the questions I have,

1 Your Honor.

2 THE COURT: All right. Thank you, ma'am. You can
3 step down. MR. REDMOND: The State would next call
4 Jerry Grantham. Oh, and we'd ask that Miss Deason be
5 excused from her subpoena. She's still sitting out
6 there?

7 THE COURT: Any objection?

8 MS. WHITE: No, Your Honor.

9 THE COURT: All right. She is released from her
10 subpoena.

11 THE CLERK: You swear the testimony you give this
12 court would be the truth, the whole truth, and
13 nothing but the truth so help you God?

14 MR. GRANTHAM: Yes, ma'am.

15 THE CLERK: Just have a seat right there.

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

18 THE COURT: Yes, sir.

19 JERRY GRANTHAM, first being
20 duly sworn, testified as follows:

21 **Direct Examination by Mr. Redmond:**

22 Q. Mr. Grantham, how you doing this morning?

23 A. Good.

24 Q. All right. And I don't think we have a problem
25 hearing you based on my prior kind of conversations

1 with you. But I'm standing over here just in case.

2 So again, you can speak -- if I can hear you

3 everybody will be able to hear you. Tell us a little

4 bit about yourself? What do you do now? What -- how

5 are you employed? What do you do now?

6 A. Right now I'm just doing a little part-time

7 driving for Uber over in Colombia.

8 Q. Okay. And before that, back in January 26th,

9 excuse me, January 26, 2020, what were you doing?

10 A. I was owner of Mac's Lounge.

11 Q. And as the owner of Mac's Lounge, excuse me,

12 just, just to kind of make it clear for the jury,

13 what -- what was Mac's Lounge? And what is Mac's

14 Lounge? What was Mac's Lounge at that time? I'll

15 put it that way?

16 A. Mac's has been in Hartsville for close to 60

17 years. It's just like a local lounge really and the

18 college kids would come over and hang out on Saturday

19 night usually three or four hours late at night til

20 closing.

21 Q. And is that -- what was happening up until,

22 obviously, the events that we're in court about? Was

23 that what was happening on the 26th of January, 2020?

24 A. Yeah. Mostly of them -- I remembered like in

25 January school normally, when school starts back it's

1 usually a little bit slower so the bar wasn't nearly
2 as busy as, you know, normal. But, yeah, I mean, it
3 was kind of an average night.

4 Q. Okay. Now, with that said, let's talk about that
5 night. So you were there -- were you there that
6 night?

7 A. Yes, sir.

8 Q. And what were you doing leading right before
9 gunshots started ringing?

10 A. Well, it was almost closing time so what I
11 normally do is make my way behind the bar and there's
12 a light switch behind the bar that turns the overhead
13 lights on and I have the ability to kind of poke my
14 head around the door to see DJ and tell her to make
15 the last call. But the most effective way to do the
16 last call is to just tell the bartender to stop
17 serving. So it was about that time so that's where I
18 was, behind the bar.

19 Q. Okay. So you were behind the bar. And then tell
20 us about what happened when you first, I guess, when
21 things went awry? What -- what -- what were your
22 observations? What did you see? What did you hear?
23 Tell the ladies and gentlemen about, the ladies and
24 gentlemen of the jury about that.

25 Q. I can't tell you exactly how long I was behind the

1 bar, but it was close to maybe ten to fifteen minutes
2 to two which is closing time on Saturday. I heard, I
3 can't even tell you how many shots, gunshots. You
4 can definitely tell they were gunshots. So, I mean,
5 it was bang! Bang! Bang! It was really, really
6 loud. And I could see the fire coming out at the end
7 of the pistol over near the pool table.

8 Q. All right. And let's -- let's -- let's talk
9 about that for a second. So you saw a fire coming
10 out of a gun over near the pool table and where's the
11 pool table at again as it relates to the patio?

12 A. So it's, it's next to the back door that goes to
13 the patio.

14 Q. Okay.

15 A. Slightly so -- on the left hand side of the
16 stage.

17 Q. So, I'll just ask you like this, did you see
18 gunfire coming from that area, the back area of Mac's
19 Lounge? Did you see gunfire coming ---

20 A. Absolutely.

21 Q. And where was the gunfire being directed?

22 A. Well, it's fire, but it looked like -- it's kind
23 of hard to say, you know, it's kind of like a
24 flashing light. So it appeared to be from the door
25 side of the pool table towards the front door.

1 Q. Okay. What -- what I've -- what I've been
2 calling the side door. In other words, the door ---

3 A. So the main entrance and then there's another
4 little side door that nobody ever uses and then the
5 back door to the bar, it was, back wall to the front
6 wall, basically.

7 Q. Towards the main entrance?

8 A. That's right.

9 Q. Okay. All right. And I'll have the -- I'll have
10 some pictures in just a minute for you to look at.

11 But ---

12 MR. REDMOND: Beg the Court's indulgence?

13 THE COURT: Yes, sir.

14 MR. REDMOND: Your Honor, may I approach with
15 State's 76 and 77?

16 THE COURT: Yes, sir.

17 Q. Do you recognize those two pictures?

18 A. I do.

19 Q. And could you tell us what State's Exhibit 76, I
20 think it's 76, tell us what State's 76 is?

21 A. Seventy-six is, this is an after the fact photo
22 of myself. It's like a selfie. This is, basically,
23 where I was standing with my hand on the light switch
24 and you can see there's a bullet hole in the ice
25 machine right behind me. So apparently one of them

1 had whizzed right by me and the bartenders behind the
2 bar.

3 Q. And State's 77?

4 A. So this is from the upstairs of Mac's Lounge it's
5 an overhead view of the bar. It's like a layout
6 from, it'd be center, left to right, you can see the
7 pool table and this is where I saw the gunfire.

8 MR. REDMOND: Okay. Now, thank you. Let me
9 show the defense. And the State would move State's
10 76 and 77 into evidence at this time.

11 MR. SCALES: Without objection.

12 THE COURT: All right. Seventy-six and 77 are
13 admitted without objection.

14 MR. REDMOND: Thank you, Your Honor.

15 (Whereupon, the Photo has been marked and entered
16 into evidence as State's Exhibit No. 76)

17 (Whereupon, the Photo has been marked and entered
18 into evidence as State's Exhibit No. 77)

19 Q. So -- and we'll have -- we'll show you these
20 pictures in a little while, but moving forward so the
21 shooting happens. You see what looks like -- were
22 you able to see who was shooting?

23 A. No, I did. All I saw was the gunfire.

24 Q. And so what did you do? And what were your
25 observations after that? So just take us the rest of

1 the way.

2 A. Well, I mean, that -- it was, obviously, really
3 chaotic. I mean, people were running. The bartender
4 ran by me. They were people coming through the
5 little side door where, ah, to the kitchen area. I
6 felt people pushing against my back. I felt people
7 crawling and banging into my legs on the floor. It
8 couldn't have lasted more than a couple of minutes, I
9 mean, that's really, I mean, I can't, other than
10 that, I can't really say anything.

11 Q. Well, let me ask you this -- so in the aftermath,
12 let's talk about the aftermath of it. In the
13 aftermath, what were your observations? Tell the
14 ladies and gentlemen of what your observations were
15 in the aftermath once the shooting stopped?

16 A. So when I first came out of the kitchen area it
17 was a matter, like I said a matter of minutes. There
18 was a person on the floor that had been shot,
19 apparently, to the right hand side of the bar. There
20 was another person. I didn't know any of these guys
21 and girls. There was another person shot beside the
22 jukebox beside the front door. I saw a person that
23 was shot on the corner of the pool table and then I
24 saw another person shot on the deck.

25 Q. The patio, we've been calling it.

1 A. A deck, yeah. The same thing.

2 Q. And -- and so, of course, did law enforcement and
3 EMS arrived within a few ---

4 A. So what -- what I did was once I walked, you
5 know, in a matter of minutes I walked out I saw a
6 person here -- once I did kind of initial inspection,
7 I walked outside and it was the same time the Highway
8 Patrol had showed up. I don't know who he was. I
9 was trying to explain to him, you know, there were
10 people shot inside. I think some of them are dead.
11 I wasn't hundred percent sure about a couple of them.
12 He received a long gun from the back of his, from
13 his, from his trooper car. And And then I kind of
14 just got out of the way, at that point, and went back
15 inside and I was kind of telling the bartender, you
16 know, listen, we gotta get these people out of here.
17 Law enforcement is outside. EMS is on the way.

18 Q. And once law enforcement arrived and, of course,
19 we've seen some of the body cam footage and all. But
20 once law enforcement arrived, EMS arrived and, of
21 course, later on, were you -- I don't know if you
22 were there when SLED arrived to process the scene at
23 Mac's?

24 A. Yeah. I think the first SLED agent showed up
25 about four or 4:30 in the morning.

1 Q. Okay. And you was -- were you still out there
2 during that time, I mean ---

3 A. I was there. Yes, sir.

4 Q. Now, let me go back, though, to and I think we
5 saw this on the body cam video and that is when you,
6 and I think it was Jeremy Curtis, when y'all went up
7 to look at the surveillance system, I'd say the
8 camera system. Let's talk a little bit about that
9 camera system. Did Mac's have a camera system in
10 place at that time?

11 A. It was. It was old. I think -- it was supposed
12 to be eight cameras, but none, they weren't all
13 working because we had tried to fix a few of them.
14 Move them around. But they weren't -- a couple of
15 them weren't working.

16 Q. And have you had a chance to view -- have you had
17 a chance to view those?

18 A. Yes, sir.

19 Q. And, in fact, full disclosure, where the cameras
20 are set up, are you able to actually see the
21 shooting?

22 A. No.

23 Q. Are you able to see the people scurrying and some
24 of the people who may have been, who had been shot?

25 A. You can.

1 Q. Okay. But just to be clear, did you see -- do
2 you see, actually, anybody shooting at all?

3 A. I didn't even see the gun fire on the video.

4 Q. Okay. So -- but does it again, show what the
5 crowd was doing and the chaos that of what was
6 occurring?

7 A. That's right.

8 Q. All right. Now -- and the videos that you've had
9 a chance to view, are they truly and accurately
10 depicting what the scene was like that night?

11 A. Absolutely.

12 Q. Okay. Now, let's talk about the quality, full
13 disclose. Of course, this was 2020, but the system,
14 itself, was older?

15 A. That's right. It's like a 8 mm resolution or
16 something. It's -- it's terrible.

17 Q. Okay. And so is not the most clear camera
18 footage?

19 A. No, it's not.

20 Q. But, of course, it is footage. It does show what
21 was transpiring. And did Hartsville PD -- I think --
22 did you go up there to see if you can, I guess, find
23 where everything, everything had occurred and,
24 ultimately, the Hartsville PD end up taking the
25 system?

1 A. Yeah. I don't know much about it. I didn't at
2 the time and I still don't know much about this.
3 It's like a DVR box, you know, how to rewind and all
4 that stuff. We managed to figure out, me and one of
5 the officers, had to rewind it so that he could see,
6 basically. And then I finally said, listen why don't
7 you just take this thing and, you know, your guys can
8 figure it out on their own. I mean, I don't know
9 anything about it. Let these guys, you know ---

10 Q. And ---

11 A. --- technicians work on it, people that know.

12 MR. REDMOND: And at this time, Your Honor, I
13 would move -- its on State's Exhibit 1 but, of
14 course, he has indicated he has seen the video
15 footage and all and it's a true and accurate. I'd
16 move to introduce that portion, the video inside
17 Mac's Lounge into evidence at this time. That being
18 on State's 1.

19 MR. SCALES: Without objection, Your Honor.

20 THE COURT: All right. That portion of State's 1
21 will be admitted without objection.

22 MR. REDMOND: Thank you, Your Honor.

23 (Whereupon, the Flash Drive has been marked and
24 entered into evidence as State's Exhibit No. 1)

25 Q. Now -- and, of course, again, getting back to the

1 video system, you allowed them to take the system
2 and, as far as you know it's still in Hartsville PD'S
3 ---

4 A. Yeah. I don't have a clue where it's at. But,
5 yeah, I gave it to them that night.

6 Q. And -- and after this, you were no longer the
7 owner of Mac's?

8 A. After this night?

9 Q. But it ---

10 A. Not right now, currently. No! No! No! It was I
11 think it was June of the same year that I, that I
12 closed.

13 Q. Okay. All right. And I think it's reopened, but
14 somebody else owns it now?

15 A. I hadn't been in there since June of 2020.

16 Q. Okay.

17 MR. REDMOND: With that, Your Honor, with the
18 Court's permission I asked Mr. Grantham be allowed to
19 step down. I want to show him a couple of pictures.

20 THE COURT: Sir, step down and watch your step.

21 (Whereupon, the witness complies)

22 Q. And again, I don't think there's gonna be a
23 problem for you, but just make sure to to speak
24 loudly so that Madam Court Reporter can hear you.

25 A. I'll do it.

1 Q. And that State's -- that State's Exhibit 76,
2 could you tell us, again, what State's 76 shows?

3 A. Yeah. That's the video, ah, a picture you just
4 showed me up there. This is kind of a selfie after
5 the fact. This is the bullet hole in the ice
6 machine. This is my hand on the light switch, right.

7 Q. Okay.

8 A. And then so ---

9 Q. And where is the bullet hole again?

10 A. Right there ---

11 Q. Right there.

12 A. --- in the ice machine. And one of the officers
13 retrieved that out of the ice machine.

14 Q. And we've heard some talk about that already. So
15 that is one of the things that was at the scene.

16 Thank you. Next is gonna be -- and as this is
17 State's 77.

18 A. Okay. And this is the picture that shows ---

19 Q. And you can use the pointer to show about where,
20 where it was that you, I guess, where you've would
21 have been and also where you saw the muzzle fire?

22 A. I got you. So this -- behind this -- this is
23 what I'm calling behind the bar. The bar is a U
24 shape.

25 Q. Yes, sir.

1 A. And there's an ice machine up under here and this
2 is where I am with the light switch. The DJ booths
3 -- the DJ booth is over here and there's some booths
4 right here. This is the pool table. The shots that I
5 saw were fire going in this direction. That's the
6 door to the deck. Y'all call it the patio. It's a
7 deck.

8 Q. Okay. And where's the door -- everybody is
9 leaving the main door, where was the main door?

10 A. Okay. This is the juke box, right here is the
11 main door. There is another little door right here,
12 but nobody ever uses it. That's for bands kind of
13 load in and out and this is stage and dance floor.
14 This little area right here it's called a drum riser,
15 that's where the drum sets up.

16 Q. Okay.

17 A. The drummer.

18 Q. Okay. And again, just to be clear, did you
19 testify that the shots that you saw fire was being
20 fired towards the front door, the main entrance?

21 A. From there to there.

22 COURT REPORTER: I'm sorry, what did you say?

23 A. I'm sorry, from there to there.

24 Q. Okay.

25 A. It's on the left to right.

1 Q. All right. Please have a seat. Oh, no, I'm
2 sorry, not have a seat yet. I will need to show you,
3 but with the Court's indulgence we need to swap up
4 and put the t.v. in place. It might take a couple
5 minutes, if the Court will indulge us?

6 THE COURT: Yes, sir. Take your time.

7 (Whereupon, the Court takes a moment for the attorney
8 to set up)

9 Q. All right. And Jerry I'm gonna have you come
10 over here. And I want you to, again, you see the
11 quality, but if you could, I'mma get you to step over
12 here so that you aren't in any of the jurors way and
13 just try to explain what it is we're seeing. So we
14 can go ahead plat it.

15 A. So this camera view is, this is the back wall
16 looking at the front door ---

17 COURT REPORTER: Speak up just a little bit
18 more.

19 A. That's what I was trying. So this is the back
20 wall looking at the front door. The front door is
21 right here in the top left corner with the jukebox.

22 Q. Okay. If you'll indulge me a minute ---

23 THE COURT: It might be better if he stands on the
24 other side of the television that way he's speaking
25 towards the court reporter and you'll be able hear

1 him better.

2 A. Is that better?

3 COURT REPORTER: (Thumps up)

4 A. I'm sorry.

5 MR. REDMOND: Your Honor, it appears there's a
6 control of that, for some reason is not on this
7 computer, it's on my computer. My computer is not
8 HDMI ready, but I've got an adapter.

9 THE COURT: Okay.

10 MR. REDMOND: If the Court and the jury can
11 indulge me for a minute, if I can try to bring my
12 computer up and use that adapter we might get it
13 where I can move it to where the incident occurred.

14 THE COURT: Okay. Let's do this, while, while
15 these technical difficulties are be sorted out,
16 ladies and gentlemen of the jury, I'm gonna send you
17 to your jury room until we are ready to present the
18 rest of this video. So do not begin your
19 deliberations. Don't do any research about any issue
20 which may have been raised. Don't discuss the case
21 amongst yourselves or with anybody else and we'll
22 bring you back out as soon as this issue gets sorted
23 out. You can go to your jury room.

24 (Whereupon, the jury exits the courtroom at 10:41
25 a.m.)

1 THE COURT: All right. We're gonna be in recess
2 for a few moments while you're sort out ---

3 MR. REDMOND: Yes, sir.

4 THE COURT: Mr. Grantham, you're still under oath.
5 Don't discuss your testimony with anybody while we're
6 at recess, okay. And I'mma step back in the back for
7 a moment. Y'all just let me know when y'all are
8 ready to proceed.

9 MR. BELL: Yes, sir. Thank you.

10 (Whereupon, the Court takes a short recess)

11 THE COURT: All right. Folks, are we ready for
12 the jury?

13 MR. REDMOND: The State's ready, Your Honor.

14 MR. SCALES: We're ready, Your Honor.

15 THE COURT: Bring us the jury please.

16 (Whereupon, the jury enters the courtroom at 10:57
17 p.m.)

18 THE COURT: Mr. Redmond?

19 MR. REDMOND: May it please, the Court?

20 THE COURT: Yes, sir.

21 MR. REDMOND: My apology.

22 Q. Finally, got the -- I'm gonna start a few seconds
23 before everything so....what's happening here?

24 A. Well, this is right after it happened. You can
25 see everybody is trying to get out the front.

1 Somebody, obviously -- it looks like maybe somebody
2 tripped or fallen and it created all that pile of
3 people trying to get out. I don't know what else to
4 say, I mean, the bartenders are ducking for cover
5 back here. At this point I'm ninety-nine percent
6 sure the shooting is done. It couldn't, like I said,
7 it couldn't have been more than, more than twenty or
8 thirty seconds worth of gun firing, you know.

9 Q. Now -- and, of course, do you see any thing,
10 maybe legs ---

11 A. Yeah, I see the Collins guy ---

12 COURT REPORTER: I'm sorry, I couldn't hear you.

13 A. I saw Garrett and Collins kids, down there. You
14 can see his feet.

15 Q. Now, I'mma let it play a little bit longer, you
16 can still see people scurrying and everything. And
17 again ---

18 A. That's me right there talking to the bartenders.
19 At this point, I went out the back door and I'm
20 thinking I'm meeting the Highway Patrol I said.

21 Q. Let me go the -- now, I'm gonna go to -- okay.
22 Now, tell us what angle is this?

23 A. So this is -- so at the front door right here
24 this is above, like the second story and looking down
25 toward the front door toward the pool table. So

1 front left corner in the middle toward the patio
2 area except you can see the patio. And back here, up
3 here, is where the pool table was so this is where
4 everything started. And right here is where you'll
5 see Garrett and....you can see everybody kind of look
6 after the first shot goes off. It's just a mess.
7 People are melee. People trying to get out the front
8 door. At this point, like I said I'm ninety-nine
9 percent sure the shooting is done. I don't know for
10 sure, though.

11 Q. And again, I'm gonna ask you if you see someone -
12 --

13 A. Garrett ---

14 COURT REPORTER: I can't hear you, Kernard.

15 Q. I'm sorry, is there someone that you see laying
16 on the floor?

17 A. Yeah. This is Garrett right there.

18 Q. Okay. And---

19 A. There's somebody down here, but I don't know who
20 it is.

21 Q. Okay. I was gonna say, and just for the record,
22 when you say down here is that near next to the bar?

23 A. Yeah. This is the front door side of the bar.
24 There's like a church pew and a ATM machine over here
25 and this the door that goes to the kitchen and then

1 outside. There's that one to go outside as well.

2 Q. And just from what you see in the picture was
3 Garrett in the group of people that was trying to get
4 out of door?

5 A. I really can't tell who he was with, at this
6 point.

7 Q. I'm saying ---

8 A. There was definitely a pile of people trying to
9 get out right
10 there.

11 Q. Okay. And, of course, at the end of this, the
12 immediate aftermath?

13 A. This -- this can't be more than three minutes
14 after I've heard the first shot. That's one of my
15 security guards, Chad.

16 Q. And again, are you able to see -- are those, I
17 guess, the best angles of what took place on the
18 video?

19 A. Unfortunately, yeah.

20 Q. You can have a seat, sir.

21 MR. REDMOND: That's be all the questions I have
22 for Mr. Grantham. Please answer any questions the
23 defense may have.

24 **Cross-Examination by Mr. Scales:**

25 Q. How you doing, Mr. Grantham?

1 A. How you doing, boss?

2 Q. Just briefly you describe the, the last call
3 procedure, you said you flipped the lights on?

4 A. Yeah. It looks like the lights were already on
5 in that video. You can't really see the light from
6 the video, but it's normally around 1:45 the lights
7 go on. Poke my head around the side and wave to DJ
8 booth, last call.

9 Q. Yeah.

10 A. And then, of course, the other bartender, no more
11 drinks.

12 Q. And that just kind of cues everybody ---

13 A. Yeah ---

14 Q. --- who's that the bar?

15 A. It's usually the last couple of songs are kind of
16 the same so like once the bartender hears, Semisonic
17 is the name of the band closing time, they don't
18 serve any more alcohol.

19 Q. Okay. And I think you pointed out a security
20 guard, there was -- there was security at the
21 nightclub that night?

22 A. Yeah. There were two, one outside and one
23 inside. One at the front door and then myself.

24 Q. And they, when somebody walks up they check their
25 ID?

1 A. Yeah. There's a retired police officers that
2 checked ID's at the front door.

3 Q. Okay. Do you recall his name?

4 A. Dominique, um, Big Don's. Dominique Abruzzo. I
5 don't know how to spell it.

6 Q. And you are aware that there were underage people
7 in the bar that night?

8 A. There always are. It's eighteen and up.

9 Q. And you are aware that weapons were snuck into
10 the bar that night, obviously?

11 A. Well, I wasn't aware, obviously, it happened. I
12 mean, I'm aware now.

13 Q. Okay.

14 A. I would have never allowed that to happen if
15 that's your question.

16 Q. Sure. And Mac's is facing a lawsuit because of
17 those two allegations, right?

18 A. Several.

19 Q. Okay.

20 MR. SCALES: I have no further questions.

21 **Redirect Examination by Mr. Redmond:**

22 Q. Just one question just to clarify. The
23 procedures, is there procedure as it relates to
24 underage folks and above age, drinking age folks?

25 A. Yeah ---

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1 Q. Are was there a procedure at the time, could you
2 explain that to the jury?

3 A. Yeah. What I -- what we've always done is
4 segregate the population from 18 and 21 able to
5 drink, is everybody gets, everybody that comes
6 through gets a wristband. If you're over 21 you get
7 one color. If you're under 21 you get another color.
8 And that way keeps the underage person from ripping
9 the wristband off. They still have to have a
10 wristband. And if nobody comes to the bar with a
11 wristband then the bartender checks the ID.

12 Q. Gotcha.

13 MR. REDMOND: That'd be all the questions I have,
14 Your Honor.

15 THE COURT: All right. Thank you, sir. You can
16 step down.

17 MR. REDMOND: I'd ask that Mr. Grantham be excused
18 from the subpoena.

19 THE COURT: Any objection?

20 MR. SCALES: Without objection.

21 THE COURT: All right. He is excused. The State
22 would next call Angelica Garcia.

23 THE CLERK: Place your left hand on the Bible and
24 raise right. You swear the testimony you give this
25 court would be the truth, the whole truth, and

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1 nothing but the truth so help you God?

2 MS. GARCIA: Yes.

3 THE CLERK: Okay. Have a seat in front of that
4 microphone.

5 ANGELINA GARCIA, first being
6 duly sworn, testified as follows:

7 **Direct Examination by Mr. Redmond:**

8 Q. And could you state your name for the record?

9 A. Angelica Garcia.

10 Q. Okay. I think that's loud enough. Just make
11 sure everybody can hear you. Ms. Garcia, I'll just
12 full disclosure, where do you work?

13 A. The Fourth Circuit Solicitor's Office.

14 Q. Okay. Our office. Do you work in Chesterfield?

15 A. Yes, sir.

16 Q. Now, were you working with us in January of 2020?

17 A. No, sir.

18 Q. And, in fact, were you a student at Coker
19 College, January of 2020?

20 A. No, sir.

21 Q. Okay. Were you at Mac's Lounge in January of
22 2020?

23 A. Yes, sir.

24 Q. And tell us about that? I think you are from
25 Marlboro County?

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1 A. Yes, sir.

2 Q. And tell us, I guess, how you ended up coming to
3 Mac's Lounge that particularly evening?

4 A. A group of me and my friends from Marlboro
5 County, we had all gotten together and drove to Mac's
6 Lounge that night. We got there maybe around 10
7 o'clock. We got our ID checked and we got a wrist
8 bands and we went in. We were there for quite some
9 time. In and out from the back to the patio to the
10 inside. Went to the bathroom. We ended up on the
11 dance floor at the end of the night.

12 Q. Okay. And, of course, you know, I guess, you're
13 out there, out there to have a good time?

14 A. Right.

15 Q. Now, to be clear, were you interviewed by SLED
16 agents on the 29th of January, 2020?

17 A. Yes, sir.

18 Q. And did you give them a statement?

19 A. Yes, sir.

20 Q. And did you also do a diagram?

21 A. Yes, sir.

22 Q. And I'll get into that in a minute. So -- and,
23 of course, all of this -- does all this predate the
24 time of you coming to work with our office?

25 A. Right.

1 Q. Okay. Now -- so y'all are they're having a good
2 time. Tell us what happened -- well -- well, tell us
3 what happened and where you were in relation to
4 everything that was going on?

5 A. We were on the dance floor the right side of it.
6 So if, say you're standing at the bar facing the
7 Mac's letters, you would, I would be on the right
8 side of the pool table and the back door would be on
9 the left side. So we're on the far right side by the
10 windows and we were just dancing, having a good time
11 as you said. And ---

12 Q. So would you have been facing the pool table? In
13 other words, ---

14 A. Right.

15 Q. --- where I'm standing -- where you are would be
16 about where the pool table is?

17 A. Right.

18 Q. Okay. Go ahead, I'm sorry.

19 A. Okay. And I remember certain song actually
20 coming on and during towards the middle or the end of
21 that song, I was facing towards the pool tables and I
22 see fire, like somebody shooting, and then fire
23 coming from a barrel of a gun and as that happens,
24 me and my friends, we all go to the ground and we're
25 all trying to get out. As we're trying to get out I

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1 am in a puddle of blood and stumble across a body.
2 And I can see a description of the body. It was a
3 white male with curly hair. And I was just -- I was
4 picked up and I was pushed towards the exit of the
5 door. It was crowded. Everybody was trying to get
6 out. We couldn't get out. So I know I was pushed.
7 And we, we got out. Once we were out, we ran across
8 the street and we got in our vehicle and we left.

9 Q. Okay. Now Angelica, when you hit the ground,
10 when the shots -- when you first heard the shots,
11 when you hit the ground, did you see anything?

12 A. When the shots were first fired, when that
13 happened, all I seen was red fire coming from a gun.
14 We went straight to the ground. And then I seen the
15 body by, it was close to the exit and by the jukebox.

16 Q. And -- now, did you see who is shooting? Full
17 disclosure, did you see who was shooting?

18 A. No, I did not.

19 Q. And, of course -- again, law enforcement came and
20 talked with you, I think, in Marlboro County, if I
21 remember right?

22 A. Yes.

23 Q. And that was on the, again, on the 29th of
24 January, 2020.

25 Let me show you what has been marked as State's 91 --

1 -

2 MR. REDMOND: If I may approach the witness?

3 THE COURT: Yes, sir.

4 Q. Do you recognize that diagram?

5 A. Yes.

6 Q. Did you, in fact, draw that diagram at the
7 request of law enforcement?

8 A. Yes.

9 Q. Okay. And please take us through what that
10 diagram shows?

11 A. I drew the bar. It's kind of a layout of Mac's
12 and my events. I drew the bar. I drew the dance
13 floor and area where me and my friends were. I drew
14 a pool table and the back door. And I also drew the
15 entrance door which was the main entrance. And I
16 drew the jukebox and the body and me and my boyfriend
17 and where we ended up.

18 Q. Okay. And -- and again, is that to the best of
19 what you recall happening that night ---

20 A. Yes.

21 Q. --- at Mac's? And again, the gunfire you saw was
22 from the pool table area?

23 A. Yes. I drew -- I have a spot where I seen the
24 gunshot come from.

25 Q. Okay. And do you remember what direction the

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1 gun, the gunfire was going, if you remember?

2 A. It was to the left of me which would have been
3 towards like the jukebox and the exit or well, the
4 main entrance door.

5 Q. All right. Thank you.

6 MR. REDMOND: Your Honor, I'd move to move to
7 introduce State's 91 at this time.

8 MS. WHITE: No objection.

9 THE COURT: State's 91 is admitted without
10 objection.

11 MR. REDMOND: Thank you, Your Honor.

12 (Whereupon, the Angelina Garcia's Diagram has been
13 marked and entered into evidence as State's Exhibit
14 No. 91)

15 MR. REDMOND: I beg the Court's indulgence. And,
16 Your Honor, this is one that I actually did not have
17 on the screen so I would ask to be able to publish
18 this to the jury?

19 THE COURT: Yes, sir. You may publish into the
20 jury.

21 MR. REDMOND: And that would be all the questions
22 that I have for Ms. Garcia. Please answer any
23 questions the defense may have.

24 MS. WHITE: No questions for Ms. Garcia.

25 THE COURT: All right. Thank you, ma'am. You can

1 THE COURT: Okay.

2 MR. SCRUGGS: Okay.

3 MR. REDMOND: May it please, the Court?

4 THE COURT: Yes, sir.

5 The State would next call Tracy Thrower.

6 THE CLERK: Place your left hand on the Bible and
7 raise right. You swear the testimony you give this
8 court would be the truth, the whole truth, and
9 nothing but the truth so help you God?

10 MR. THROWER: I do.

11 MR. REDMOND: May it please, the Court, Your
12 Honor?

13 THE COURT: Yes, sir.

14 TRACY THROWER, first being
15 duly sworn, testified as follows:

16 **Direct Examination by Mr. Redmond:**

17 Q. Agent Thrower, by whom are you employed at this
18 time?

19 A. I'm currently the owner of an excavation
20 business.

21 Q. All right. Now, of course, excavation has
22 nothing to do with firearms analysis. But in your
23 prior life before retiring from SLED, I guess, I've
24 given it away, what did you do at SLED?

25 A. I was employed by the South Carolina Law

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1 Enforcement Division also known as SLED in the
2 Forensic Services Building and I was the Lieutenant
3 of the Firearm and Tool Mark Identification
4 Department.

5 Q. Okay. And let's get your background first,
6 before we qualify you. Could you give us your
7 educational background? Your employment background?
8 Experience in training, any pertinent background for
9 the ladies and gentlemen of the jury?

10 A. I attended Winthrop University and got a Bachelor
11 of Science Degree in Biology. After graduating, I
12 was hired by the South Carolina Law Enforcement
13 Division in the firearms department where I went,
14 underwent approximate three year training program to
15 learn how to do firearm and tool mark identification.
16 This was a Mentorship style training program that was
17 taught by more qualified firearm examiner's. I had
18 to do extensive reading and studying. I would sit
19 side by side on a training microscope so examiner's
20 could explain what they were looking at and the
21 markings they were looking at which markings can be
22 trusted, which mark, type markings could not be
23 trusted. I had written exams, practical exams, oral
24 exams. They sent me to various seminars and schools
25 like an armor school where the manufacturer teaches

1 you how to disassemble their firearms and reassemble
2 their firearms, how to troubleshoot any kind of
3 potential problems with their firearms. Upon
4 completion of that three year course of training and
5 passing my final exam, I was allowed to start
6 examining cases.

7 Q. And to that end, how many times, if you could
8 estimate, how many times if you've been asked to
9 testify as an expert in the field of firearm
10 analysis?

11 A. Believe around sixty-six, now.

12 MR. REDMOND: And with that, Your Honor, I would
13 ask that Former Lieutenant Thrower -- and, of course,
14 were you a lieutenant with SLED at the time?

15 A. Roughly, the last half of my career I was the
16 supervisor of the Firearm Department, lieutenant as a
17 title.

18 Q. Okay. I would ask that Lieutenant Thrower,
19 former Lieutenant Thrower be qualified as an expert
20 in the field of firearm analysis.

21 MR. SCRUGGS: No objection.

22 THE COURT: All right. Ladies and gentlemen,
23 again, as I told you yesterday normally a person
24 cannot give opinion testimony and normally when a
25 person testifies they testify to what they either

1 saw, heard, or sense by smell or something of that
2 nature. However, an exception exists when someone is
3 qualified because of education or experience.
4 They're permitted to give their opinion in certain
5 areas if the Court qualifies them that way. This
6 witness will be qualified in the area of, as an
7 expert in the area of firearms analysis. To give
8 opinion testimony in that area that does not mean you
9 must accept the opinion, but it is evidence for you
10 to use it any way you see fit and give the weight and
11 credibility you believe is appropriate.

12 Mr. Redmond?

13 MR. REDMOND: Thank you, Your Honor. May it
14 please, the Court?

15 THE COURT: Yes, sir.

16 Q. Now, Lieutenant Thrower, let's talk about --
17 before we get into this particular case, let's talk,
18 in general, about what it is you do? What you --
19 what equipment you use to do your job? And how do
20 you go about making identification related to
21 firearms? So if you'd could give us a rudimentary
22 background of what it is you used to do and how you
23 went about doing it?

24 A. First, when evidence would be submitted I would
25 go to evidence control. I would pick up the evidence

1 that had been assigned to me. Bring it back to my
2 office where I would print out the submission forms
3 and other case related information, print out copies
4 of the departmental worksheets that I would be using
5 to document the evidence. I would open evidence. I
6 would compare the evidence that received to the
7 submission documentation to make sure that I had the
8 correct evidence and make sure I had all the
9 evidence. I photographed the evidence and the
10 packaging as I opened it, making sure that I
11 preserved, you know, how the evidence had been
12 submitted. Once you got into the evidence it would
13 be simply handwriting, documenting various aspects of
14 the evidence to fill out the worksheet. Placing the
15 evidence on a comparison microscope. A comparison
16 microscope is, essentially, it's like two microscopes
17 that sit side by side. They are connected through an
18 ocular bridge. So when I look through the eyepieces
19 I can actually see two separate pieces or two
20 separate items side by side with simply a hairline in
21 between and that's how I can prepare the items. I
22 can adjust the lighting so I can adjust the oblique
23 lighting or the angle of the shadows that I'm making.
24 I can also adjust focus, that sort of thing. If a
25 firearm would be submitted I can test fire the

1 firearm. We have a, at that time we have a 3 foot
2 diameter steel pipe that went down into the floor, it
3 was filled with water. The bottom of this tank was
4 shaped like a cone. So when you would shoot down
5 into the water, the water would slow the bullets to a
6 safe speed, and then the bullet would tumble along
7 the cone and fall into a cup. That had a chain
8 attached. We'd pull the chain up and I can recover
9 the fire bullets that I test fired from that gun so
10 that I know exactly how that gun marks. We would
11 close the lid on the tank and we would put a
12 container right next to the opening that we would
13 shoot into. So for semi-automatic type firearms that
14 expel or eject cartridge cases in between shots,
15 every time you would shoot the cartridge case would
16 be collected in a container so I could then also
17 collect those. I would, then -- I could also examine
18 or compare test or fire bullets or cartridge cases to
19 evidence bullets using that same that method of the
20 comparison microscope for I could see them side by
21 side.

22 Q. Now, and in doing those comparisons, once you do
23 those comparisons, are you able to -- are you always
24 able to come up with a match?

25 A. No.

1 Q. Okay. And explain -- well, I just asked you
2 this, are there times -- well, I'll ask you to
3 explain, when are there times where you might not be
4 able to come up with a match? You might not even be
5 able to identify certain firearms or, or ammunition.

6 A. The first and easiest one to say not a match is
7 when you have cartridge cases or bullets that were
8 fired by multiple guns. Beyond that, if you have
9 bullets or projectiles that had been fired and were
10 damaged as the result of impact of being fired into
11 dirt, fired into a tree, going through a car, metal
12 blast, you know, anything that projectile goes
13 through can damage the outside where those
14 microscopic markings are. So in those instances, you
15 know, I may not have what I need to do those
16 comparison.

17 Q. And -- now, let me ask you about this, and if
18 you've already answered it, I apologize, but are you
19 able to take shell casings, bullets, fired bullets,
20 fragments, and compare that with other shell casings,
21 bullets, fragments, etc., if you do not have the gun
22 to compare it to? In other words, if there's
23 evidence collected, but you don't have a gun, is
24 there still value in being able to test the recovered
25 ammunition?

1 A. Absolutely. You know, if you have a crime scene
2 where all you have is fired bullets and fired
3 cartridge cases and we're trying to aid investigators
4 in doing their job, one of their first questions is,
5 how many shooters did we have? So I can take these
6 bullets and cartridge cases and I can take certain
7 measurements on bullets such as the weight of the
8 bullet, the diameter of the bullet at the base. I
9 can look at the rifling on the bullet. If you look
10 down the barrel of a bullet you'll see that there are
11 raised areas called lands separated by depressed
12 areas called grooves and they spiral or twist as they
13 go down the barrel. The purpose of this rope, spiral
14 of this rifling is to cause the bullet to spin like a
15 football. If you ever seen a quarterback throw a
16 football, a nice tight spiral will go farther and
17 more accurate. A gun manufacturers take care of that
18 same scientific principle to make their firearms more
19 accurate. The benefit to a firearm and tool mark
20 examiner is the different manufacturers can choose
21 how many lands and how many grooves are in their, in
22 their rifling. They also can decide if those lands
23 and grooves spiral clockwise or counterclockwise.
24 That is another what we call general rifling
25 characteristic. They can decide if it's going to be

1 conventional rifling or polygonal rifling or one of
2 the new ones on the market is the Glock marksman
3 barrel which is a little bit of both. We can take
4 all these general rifling characteristics that we
5 documented, we placed them into a database that is
6 provided by the Federal Bureau of Investigation and
7 from that database it will give us a list of possible
8 gun manufacturers that make guns that fit those
9 groups. So instead of the investigators having to
10 look at every gun, every manufacturer I can give them
11 a nice list by sorting based on the general rifling
12 characteristics. Beyond general rifling
13 characteristics which is simply a way of grouping
14 items. There are individual identifying
15 characteristics that are left on the bullet or
16 cartridge case from having been fired in the firearm.
17 For instance, in the barrel of a firearm as is being
18 produced there can be tiny little scratches left
19 inside the barrel in that rifling imperfections that
20 the manufacturer could not help. As the cutting
21 device that places those lands and grooves in the
22 barrel changes microscopically because it's slowly
23 dulling from item to item as it's making these
24 barrels. It can change the way these barrels mark
25 from one firearm to the next. We also have things

1 like use and abuse of a firearm. Does the person
2 owning the firearm claim the firearm? Have they
3 purposely tried to damage the firearm so that it
4 couldn't be matched back to a particular crime scene.
5 There's many things that go into the fact that these,
6 each gun is an individual in the way that it marks
7 cartridge cases and bullets. So by looking at these
8 individual identifying characteristics we are able to
9 and many times, not always, decide which bullets from
10 a crime scene were fired by gun number one which ones
11 are fired by gun number two, etc.

12 Q. Now, in this particular case, were you given --
13 well, I'll just start with, with this question - and
14 there were, and in talking with the defense, I don't
15 think there's any objection to me asking this, there
16 were some guns, I think four or five guns submitted
17 from Sumter County in this case, were there any
18 matches or any value that those, from those guns that
19 are submitted in this case from Sumter, did they
20 yield any evidence that was used?

21 A. No, sir. None of those guns had anything to do
22 with this case.

23 Q. Now, let's go into this case. I'm going to with
24 the Court's permission, approaches with State's 78
25 through 85, actually. And with the Court's

1 permission to approach the witness ---

2 THE COURT: Yes, sir.

3 Q. --- I think for brevity sake, if I could just
4 stay close by, I'm gonna hand you first what's been
5 marked the State's 78 for ID purposes. I'm gone hand
6 you that. And take a second to look it over and see
7 if you recognize that, that particular exhibit?

8 A. This exhibit is SLED Lab Number L20-00974,
9 container Number F. It holds SLED Item Numbers 28,
10 29, 30, 31, 32, 58, 59, 60 and 61. It is still
11 sealed at the bottom. It's a heat seal with my
12 initials and the date that I sealed it.

13 Q. And let me ask you this, excuse me, so you do
14 recognize that as being an exhibit that you did test
15 in this case?

16 A. Yes, sir.

17 Q. Okay. Let me hand you State's Exhibit 78 and
18 I'll ask you the same question as it relates to that,
19 I'm sorry, 79.

20 A. State's Exhibit 79 is SLED Lab Number L20-00974,
21 container Number A. It is indicated as containing a
22 SLED Items 1, 3, 4, 5, 6, 7, 9, 14, and 21. It also
23 bears the heat seal with my initials and the date
24 that I sealed it.

25 Q. And the same questions for 80?

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1 A. State's Exhibit 80 is SLED Lab Number L20-00974,
2 container Number B. It is indicated as containing
3 Items 8, 10, and 11. It also bears my heat seal with
4 my initials and the date that I sealed it.

5 Q. Okay. And I'm gone show you State's 81?

6 A. State's Exhibit 81 is SLED Lab Number L20-00974,
7 container Number C. It is indicated as containing
8 SLED Item 2, 12, 13, 15 17, 18, 19, and 20. It also
9 bears my heat seal with my initials and date.

10 Q. And I'm gonna show you State's Exhibit 83?

11 A. State's Exhibit 83 is SLED Lab Number L20-00974,
12 Item Number 57 or container Number 57. It also bears
13 my heat seal with my initials and the date that I
14 sealed it.

15 Q. And the same question for State's Exhibit 84?

16 A. State's Exhibit 84 is once, again, SLED Lab
17 Number L20-00974, container Number I. It is
18 indicated to contain Item, SLED Item 42, 43, and 44.
19 It also bears my heat seal with my initials and the
20 date.

21 Q. And finally, State's 85? Well, almost finally
22 State's 85.

23 A. State's Exhibit 85 is SLED Lab Number L20-00974,
24 indicated as Item 51 or container Number 51. It also
25 bears my heat seal with the date and my initials.

1 Q. And were you, and I can show you those, those
2 exhibits, did you conduct testing on the exhibits
3 that I have presented to you and with those exhibits
4 I think 78 through 85 with the exception of 82?

5 A. I did perform analysis on all the items laid out
6 here before me.

7 Q. Now, once you do those analysis and you go
8 through your process and you come up with your
9 findings, do you generate a report?

10 A. Yes, sir. I do.

11 Q. And I'm gonna show you what's been marked as
12 State's Exhibit 92. Now, it is redacted. But I'm
13 going to ask you if that represents substantially,
14 obviously, subject to, um, with the redactions, does
15 that represent a copy of the report that you
16 generate, generated, excuse me, in this particular
17 case?

18 A. Yes, sir.

19 Q. And again, there are redactions. And for the
20 record in talking with the defense ---

21 MR. REDMOND: Well, first of all at this time, I
22 would move to introduce State's 92, I think, that is
23 into evidence not to, obviously, to publish some of
24 the findings, but not to publish the document itself
25 until we can get with the defense and make sure all

1 the redactions are correct?

2 MR. SCRUGGS: And that's correct. I have no
3 objection subject to the agreement we discussed at
4 the bench.

5 THE COURT: And that was number....

6 MR. REDMOND: Ninety-two.

7 THE COURT: All right. State's 92 is admitted
8 subject to certifying that the redactions are
9 correct?

10 MR. REDMOND: Yes, sir. Thank you, Your Honor.
11 (Whereupon, the Firearms Report has been marked and
12 entered into evidence as State's Exhibit No. 92)
13 Q. Now, let me go directly into your findings and
14 let me start by asking you if you had, had the
15 opportunity ---

16 THE COURT: All right. Anybody who has a cell
17 phone this is the last warning. If it's not off or
18 on silent, ah, if disrupts the Court in any way
19 whatsoever that phone will be confiscated. So if you
20 have one on you might want to check. If you have a
21 phone on you, this for everybody not just people in
22 the audience, attorneys too, if it's not on silent
23 mode or off let's make sure now.

24 MR. REDMOND: I just want to double check mine.
25 I'm pretty sure I did but at my age I....it is off.

1 May it please, the Court?, Your Honor?

2 THE COURT: Yes, sir.

3 MR. REDMOND: May I approach with Exhibit 93?

4 THE COURT: Yes, sir.

5 Q. And this is for ID. Do you recognize State's 93?

6 A. State's Exhibit 93 is SLED Lab Number L20-00974,
7 SLED Item Number 80, container Number 80, which also
8 is a box that bears evidence taped seals with my
9 initials and the date.

10 Q. Okay. And did you also test that particular
11 item, the gun, that was recovered?

12 A. Yes, sir. I did.

13 Q. Okay. And I think that was the gun that was
14 recovered. I think the parties agree in North
15 Carolina belonging to Davijon McCall. Now, with that
16 said, let's talk about first Exhibit 80. So again,
17 did you have a chance to conduct testing related to
18 State's Exhibit 80?

19 A. Yes, sir, I did.

20 Q. All right. Let's -- let me ask you about certain
21 particular items as -- and I'm going to ask you these
22 items and if you can tell the, ladies and gentlemen
23 of the court what your findings were. First as it
24 relates to a cartridge casing, a Luger 9 mm, excuse
25 me, 9 mm Luger case, cartridge case for marker 1,

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1 what were your findings as it relates to that
2 exhibit?

3 A. That would be SLED Item Number 1?

4 Q. Yes. That's SLED Item 1, excuse me, yes.

5 A. Okay. my finding -- my findings were, in my
6 opinion, the item one cartridge case was fired by the
7 SLED Item 80 pistol.

8 Q. Okay. So in other words, the cartridge casing,
9 Item 1, marker 1, excuse me, was fired by Davijon
10 McCalls gun, Item 80?

11 A. Yes.

12 Q. How about Number 3, Item 3, what were your
13 findings on SLED Item 3, that being a bullet that
14 was, excuse me, a cartridge case for marker 3?

15 A. Item 3, cartridge case was also fired by the SLED
16 Item 80, pistol.

17 Q. Okay. And again, that was a 9 mm -- was that a 9
18 mm Luger cartridge case?

19 A. Yes.

20 Q. And let me ask you about Item 4, as a matter of
21 fact I'll just go ahead and ask you about Items 4, 5,
22 6 and 7, all of them being cartridge cases found at
23 different markers, marker 4, 5, 6 and 7. Could you
24 tell us what your findings were on those items?

25 A. SLED Items 4, 5, and 6 and 7 were also all fired,

1 in my opinion, by the SLED Item 80, pistol.

2 Q. And that was Item 9, SLED Item 9 also from marker
3 9, was that a 9 mm Luger and what were you finding on
4 that? A Luger cartridge casing, excuse me, and what
5 were you finding on that

6 A. Yes, sir. Item -- SLED Item 9 was also a fired 9
7 mm Luger caliber cartridge case. That was also, in
8 my opinion, fired by the SLED Item 80, a Glock
9 pistol.

10 Q. Okay. Now, let's move to SLED Item 14 and SLED
11 Item 14 is where the number get a little screwy, was
12 found at marker 15 -- well -- and also that was a 9
13 mm Luber cartridge case. What were your findings on
14 that?

15 A. Yes, sir. SLED Item Number 14 was also fired,
16 in my opinion, fired by the SLED Item 80 pistol.

17 Q. And let's go to SLED Item 21 which was a 9 mm
18 Luger cartridge case at marker 16?

19 A. SLED Item 21, in my opinion, was also fired by
20 the SLED Item 80 pistol.

21 Q. Now, those were cartridge cases, let me go back,
22 because now, let's talk about some fire bullets
23 starting with Item 12, SLED Item 12 which was found
24 at marker 12. What were your findings as it relates
25 to that fired bullet?

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1 A. SLED Item 20, I meant to say, SLED Item 12, fired
2 bullet was also, in my opinion, fired by the SLED
3 Item 80 pistol.

4 Q. And the same question with the fired bullet
5 that's SLED Item 15 That was found at marker, that
6 was also found at marker 16. So to be clear, it was
7 a shell casing and a fired bullet found at marker 16.
8 As it relates to SLED Item 15 that being marker 16.
9 What were your findings on that fired bullet?

10 A. The bullet, SLED Item 15, was also in, my
11 opinion, fired by the SLED Item 80 pistol.

12 Q. SLED Item 17, A fired bullet jacket fragment and
13 one lead fragment as well from marker 18. Tell us
14 what your findings were as it relates to that item?

15 A. The SLED Item 17, bullet jacket fragment which is
16 just a piece of the outer portion of the bullet, in
17 my opinion, was fired by the SLED Item 80 pistol.
18 And the Item 17, lead fragment was unsuitable for
19 identification. It was -- it did not bear any
20 markings of value.

21 Q. Now, I am going to direct you to State's Exhibit
22 51 that I showed you. State's 51, for the record if
23 the Court would indulge me, it will be State's
24 Exhibit 84 that being a bullet from the autopsy of
25 Brian Robinson. What were your finding on State's,

1 on Exhibit 51? I mean, excuse me, not exhibit, SLED
2 Item 51?

3 A. You said 51?

4 Q. Yes.

5 A. SLED Item 51 was also fired by the SLED Item 80
6 pistol, in my opinion.

7 Q. And just to be clear, SLED Item 51 was that a
8 bullet that was submitted from the autopsy of Brian
9 Robinson?

10 A. Packaging indicated that SLED Item 51 was from
11 Brian Robinson.

12 Q. Okay. Thank you. Now, I'm going to direct your
13 attention to items, I guess, State's Exhibit 85 which
14 will be SLED Items 42 through 44. Specifically, I'm
15 going to ask you about 42 and 44. Could you tell the
16 ladies and gentlemen of the jury, what, what Items 42
17 and 44 were and what you're finding were as it
18 relates to each of those items?

19 A. SLED Item 42 was one fired bullet jacket
20 fragments and three lead fragments. They were
21 indicated as being from DiCaprio Collins. SLED Item
22 44 was one fired bullet fragment and it was also
23 listed as from DiCaprio Collins.

24 Q. Okay. And what were your findings as it relates
25 to that, those two items?

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1 A. SLED Item 42 the fired bullet jacket fragment and
2 Item 44 are similar general rifling characteristics
3 to those found on the bullets test fired by Item 80.

4 Q. And could you explain? What does that mean?

5 That's a little different wording than the, as far as
6 it being most consistent with. Explain that to the
7 ladies and gentlemen please?

8 A. As we previously discussed general rifling
9 characteristics, these are characteristics determined
10 by the firearm manufacturer prior to ever starting
11 making the gun. So these would be found in the
12 barrel or inside or core of the firearm. The area
13 where the bullet travels. These are the land and
14 groove impressions or these are the lands and grooves
15 it's the rifling. It's the direction of twist, lands
16 and grooves spiral. It's the width of the lands and
17 grooves. It's the type of rifling whether it's
18 polygonal, conventional, or this Glock mark, marksman
19 barrel style of rifling. These are all things
20 determine prior to manufacture. It's just the way
21 that we use to sort every gun ever made into
22 groupings so that we can say these particular
23 manufacturers use similar rifling in their guns.

24 Q. And Agent Thrower, because you have the same
25 problem I have, would a cup of water ---

1 A. That'd be ---

2 Q. Okay. I've been going back and forth with water
3 myself. Now -- I beg the Court's indulgence?

4 THE COURT: Yes, sir.

5 MR. REDMOND: If I may I approach the witness?

6 THE COURT: Yes, sir.

7 Q. It's not cold, but ---

8 A. Thank you.

9 Q. You're welcome. Now, let's move on to Item 5757.
10 Item 57, first tell the ladies and gentlemen of the
11 jury, what Item 57 is which, for the record, Item 57
12 is State's 83.

13 A. SLED Item 57, one fired bullet jacket fragment
14 and four lead fragments listed as from Garrett,
15 Garrett ---

16 Q. Bakhsh?

17 A. Bakhsh.

18 Q. And what were your findings as it relates to
19 that?

20 A. That the item, SLED Item 57, bullet jacket
21 fragment may or may not be suitable for
22 identification with other firearms related evidence
23 due to damage and limited marks of value. However,
24 that item could be, is suitable for you elimination
25 purposes. So for instance, if I have this projectile

1 has polygonal rifling and the firearm has
2 conventional rifling, I can say that this projectile
3 was definitely not fired by that gun. I can
4 eliminate guns as suspects and what could have fired
5 it. I just may not be able to ever identify that
6 bullet to a specific gun due to how much damage it
7 has and the remaining markings.

8 Q. Okay. And let's move on to Item 2, excuse me,
9 yes, Item 2. Talk to me about Item 2. That is --
10 what is Item 2, SLED Item 2 and what were your
11 findings?

12 A. SLED Item 2 was one fired bullet listed as from
13 marker number 2. SLED Item 2 was not fired by SLED
14 Item 80 or 81 due to differences in class
15 characteristics.

16 Q. And -- and -- and again, explain what that means?

17 A. Once again, this class characteristics is just
18 another term for general rifling characteristics. So
19 different type of rifling, different twist, different
20 number of lands and grooves, these sorts of features.
21 And, therefore, Item 2 could not have been fired by
22 the SLED Item being the pistol.

23 Q. And so now we've got another -- so this is --
24 this is one that you were able to determine was not
25 fired by Item 80. So in other words, from an

1 investigative standpoint, does that indicate a second
2 firearm being involved?

3 A. Yes, sir. It does.

4 Q. Thank you. Now, let's go to Item 8. Keeping up
5 with that second -- now that we're into the second
6 firearm, let's keep that going. Item 8, could you
7 tell us what Item 8 is and what Item 8, what your
8 findings were as it relates to Item 8?

9 A. SLED Item 80 was one fired 40 Smith and Wesson
10 caliber cartridge case listed as from marker 8. And
11 the fact that Item eight was fired by a second
12 firearm it was not fired by Item 40. It may be a
13 board markings. It may be suitable for
14 identification with another firearm if the correct
15 firearm is submitted.

16 Q. So Item 8 is a 40 caliber S&W cartridge?

17 A. Yes, sir.

18 Q. Okay. And again, this is the second -- this is -
19 - in other words, indicative of a second gun being at
20 that crime scene?

21 A. Yes, sir. The SLED Item 80 was a 9 mm Luger
22 caliber firearm pistol. This cartridge cases from a
23 40 Smith and Wesson caliber. It's a second firearm.

24 Q. Thank you, sir. Now, let's move on to 10, Item
25 10. What is Item 10? And again, what were your

1 findings?

2 A. Item 10, once again, is a, is one fired 40 Smith
3 and Wesson caliber cartridge case listed as from
4 marker 10. And Item 10 was fired by the same firearm
5 as item, SLED Item 8, but was not fired by SLED Item
6 80.

7 Q. And Item 11?

8 A. The same. SLED Item 11, one fired 40 Smith and
9 Wesson caliber cartridge case listed as from marker
10 11. SLED Item 8, 10, and 11 Were all fired by this
11 second firearm, not my SLED Item 80.

12 Q. And to be clear, these were all -- the three that
13 we talked about before, were those exhibits all
14 found, I guess, they indicated as being marked
15 consistent with how crime scene does their analysis,
16 does their work?

17 A. Yes, sir.

18 Q. Okay. So let's move on to a different location
19 and that's gonna start with State's 29. And if I
20 could direct -- not State's 29, Item 29, excuse me.
21 Let me direct your attention to Item 29. What is
22 Item 29 -- what is an Item 29 indicated to be and
23 what were your findings?

24 A. SLED Item 29 was one fired 40 Smith and Wesson
25 caliber cartridge case indicated as being from a

1 Nissan Versa. SLED Item 29 was also fired by the
2 second firearm, the same one that fired by SLED Items
3 8, 10, and 11, but was not fired by SLED Item 80.

4 Q. So to be clear, is, are your findings that bullet
5 that was, ah, the shell casing that was found in the
6 Versa match the shell casings that were found at the
7 scene?

8 A. Yes, sir.

9 Q. Okay. By this second firearm?

10 A. Yes, sir.

11 Q. Thank you. Now -- but let's continue. Item 30,
12 could you tell us what that is and what your findings
13 were?

14 A. Item 30 was one fired 40 Smith and Wesson caliber
15 cartridge case also listed as from Nissan Versa. The
16 findings are still the same. SLED Item 30, SLED
17 Items 8, 10, 11 and 29 all fired by this second
18 firearm, in my opinion, not fired by SLED Item.

19 Q. How about Item 30 -- and I'll just ask you, from
20 Items 30, ah, Items 30 and 32, let's start with that,
21 could you tell us about Items 30 and 32?

22 A. I'm sorry, I don't understand the question.

23 Q. Items, oh, I'm sorry. Items 30 and 32, could you
24 tell us what they are and your findings as it relates
25 to those?

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1 A. Items 30 and 32 or both fired 40 Smith and Wesson
2 caliber cartridge cases. Item 30 was from Nissan
3 Versa. Item 32 was also listed as from Nissan Versa.
4 They were both fired, once again, by this second
5 firearm that also fired SLED Items 8, 10, 11, 29, 30
6 and 32.

7 Q. Okay. And let's move on to Items 58 through 61,
8 could you explain how they became Items 58 through
9 61, and then what your findings, what they were and
10 then what your findings are?

11 A. Fifty-eight was one fired 40 Smith and Wesson
12 caliber cartridge case listed as from Nissan Versa.
13 And I have a note here that this was the second of
14 two cartridge cases originally submitted as Item 30.
15 As we discussed before, when I open the evidence and
16 I start comparing my evidence to the evidence
17 submission paperwork, one thing that we do is every
18 piece of evidence must have its own individual
19 results. So if I opened a container and it has two
20 cartridge cases in it, I take one of those and I
21 separate it. So I'm made Item 32 which was a, or
22 Item 30, which was originally two cartridge cases, I
23 took one out, left one as Item 30, and made the
24 second one Item 58. It indicated where Item 58
25 originated from so we have a complete chain of

1 custody to show how it got there. SLED Items 59 and
2 60 and 61 each are one fired 40 Smith and Wesson
3 caliber cartridge case indicated as from Nissan
4 Versa. Each of these SLED Item 59, 60, and 61 were
5 originally submitted as part of SLED Item number 31.
6 But as I received them I separated them. Maintained
7 chain of custody. And giving them each their
8 individual item number so I can report my results
9 individually to those items and not to a group.

10 Q. And were your findings -- were your finding --
11 what were your findings as it relates to the matching
12 of the items that were submitted ---

13 A. Once ---

14 Q. Fifty-eight through 61?

15 A. Once again, SLED Items 8, 10, 11, 29, 30, 32 now
16 adding SLED Items 58, 59, 60 and 61, in my opinion
17 they we're all fired by this second firearm and not
18 by the SLED Item 80, pistol.

19 Q. And to be clear, in a conclusion, SLED Items 29,
20 30, 32, 58, 59, 60 and 61, were those all indicated
21 to be found in the Nissan Versa, 29, 30, 32 and 58,
22 59, 60 and 61?

23 A. Yes, sir.

24 Q. All right. So those were all in the Nissan
25 Versa. Did they match Items 8, 10, and 11 which were

1 found in Mac's Lounge?

2 A. Yes, sir. They did.

3 Q. And to be clear, when I say matched, were they
4 fired by the same weapon?

5 A. Yes, sir. A single fireare fired SLED Items 8,
6 10, 11, 29 30, 32, 58, 59, 60, and 61, in my opinion.

7 MR. REDMOND: Thank you, Lieutenant Thrower.
8 That's all the questions I have. Please answer any
9 questions the defense.

10 MR. SCRUGGS: May it please, the Court, Your
11 Honor?

12 THE COURT: Yes, sir.

13 MR. SCRUGGS: May I have moment just to set up
14 the podium. I've got ---

15 MR. REDMOND: Oh, I'm sorry.

16 MR. SCRUGGS: No. It's fine. I've got it.

17 **Cross-Examination by Mr. Scruggs:**

18 Q. Good afternoon, Lieutenant Thrower.

19 A. Good afternoon, sir.

20 Q. I know that was a lot of information and some of
21 it I want to kind of go over and summarize. And
22 first, just at a more bird's eye view, you received
23 evidence that were, was collected from this
24 Hartsville Police Department case?

25 A. Yes, sir.

1 Q. And you also received evidence from a related
2 case from Sumter County?

3 A. Yes, sir.

4 Q. Okay. I want to first talk about the evidence
5 you receive from Hartsville and then we'll, we'll
6 incorporate the Sumter County as well, okay.

7 A. Yes, sir.

8 Q. Generally speaking, from the Hartsville case, you
9 received two handguns?

10 A. Yes, sir.

11 Q. That is Item 80 which is the Glock 43?

12 A. Yes, sir.

13 Q. And you also received a secondhand gun which is
14 noted in your report as Item 81?

15 A. Yes, sir.

16 Q. Can you tell the jury what that handgun was which
17 is Item 81?

18 A. Item 81 was a Sccy Industries, Sccy is spelled S-
19 c-c-y Industries Model CPX-2 semi-automatic pistol 9
20 mm Luger caliber, serial number 364183 with a
21 magazine, and 8 unfired 9 mm caliber cartridges
22 listed as number 152 through 155.

23 Q. Okay. And let's just make things simple, that
24 Sccy handgun did not match any of the projectiles or
25 casings from Hartsville?

1 A. Correct.

2 Q. It had no evidentiary value?

3 A. It did not match any -- it did not match any of
4 the fired components in this case. No, sir.

5 Q. Okay. And, in addition to those two hand guns,
6 you were asked to compare projectiles and bullet
7 fragments?

8 A. Yes, sir.

9 Q. And shell casings?

10 A. Yes, sir.

11 Q. Okay. Shell casings are what injects out of a
12 handgun when a bullet is fired?

13 A. Yes, sir.

14 Q. And the fired bullet is what shoots out of the
15 gut?

16 A. Correct. The easiest way to picture this is an
17 unfired cartridge is made up of several components.
18 One is the projectile or the bullet that travels down
19 the barrel and towards the target. The cartridge
20 case is simply the container that holds all the other
21 components, okay. The cartridge case holds the
22 primer which is the ignition component. It holds the
23 gunpowder inside and then it holds the projectile
24 which is placed in the end of the cartridge case.
25 Whenever you fire, for instance, a semi-automatic

1 handgun the bullet travels down the barrel. The
2 gunpowder is consumed. And the fired cartridge case
3 is what ejects outside the gun and it's typically
4 left on the ground.

5 Q. Okay. And I want to start first with, and just
6 picking up on that, sometimes the projectiles are
7 intact and sometimes they're damaged?

8 A. Yes, sir.

9 Q. And as you mentioned sometimes they're suitable
10 for comparison and sometimes they're not?

11 A. Yes, sir. Sometimes there are simply very good
12 condition. Sometimes they may be slightly scratched
13 or dented. Sometimes they are in fragments and tiny
14 pieces.

15 Q. Okay. Let me first start, I want to direct your
16 attention to Item 51. And that is a fired bullet
17 from Brian Robinson, is that correct?

18 A. Yes, sir. SLED 51 is one fire bullet listed as
19 from Brian Robinson.

20 Q. And just for illustration from the jury, that
21 bullet is recovered during the autopsy, correct?

22 A. Yes, sir.

23 Q. And it is transported to SLED for analysis?

24 A. That will be correct. Yes, sir.

25 Q. And you were able to determine that the Glock 43

1 which is Item 80 shot that bullet?

2 A. Yes, sir. That is correct.

3 Q. Okay. And that's Item 51 from Brian Robinson?

4 A. Correct.

5 Q. Okay. I want to next direct your attention to
6 Items 42 through 44. Would you agree with me that
7 those are bullet fragments from a DiCaprio Collins?

8 A. Yes, sir. Yes, sir.

9 Q. Okay. And when you compared it to -- did you
10 compare Item 80 and the test round from it Item 80,
11 you noted that there were similar rifling
12 characteristics to bullets fired from the Glock 43
13 which is Item 80, but it was inconclusive as to
14 whether that gun fired those bullets?

15 A. Yes, sir. SLED Items, let's see, 43, it did --
16 it did have similar general rifling characteristics
17 or class characteristics as SLED Item 80. I did also
18 note a, you know, some agreement of individual
19 characteristics, but I was inconclusive. I could not
20 tell if it had been fired by that gun. And then
21 SLED, let's see SLED Item 42, bullet jacket fragment
22 and SLED Item 44, yes, it also board the same general
23 rifling characteristic or class characteristics as
24 the Item 80, pistol. But that was as far as I could
25 go. It's just a general grouping.

1 Q. So similar rifling characteristics from the
2 bullets pulled from, pulled from DiCaprio Collins as
3 to Item 80, the Glock 43 handgun?

4 A. Yes, sir.

5 Q. Inconclusive as to matching, does that mean
6 you're, you're not able to rule out that those could
7 have come from that weapon?

8 A. That is correct. It could have come from that
9 particular weapon or a another similar weapon.

10 Q. In other words, you can't exclude the possibility
11 that that handgun was used to shoot those bullets?

12 A. No, sir. I can't say if it was this one or
13 another one.

14 Q. Okay. I want to next direct your attention to
15 Item 57. And you'd agree with me that's one fired
16 bullet jacket fragment and four lead fragments from
17 Mr. Bakhsh?

18 A. Yes, sir.

19 Q. And I will direct your attention to Page 2 of
20 your report. And the second full paragraph from the
21 bottom, you noted when you compare that bullet
22 fragment, jacket fragment from Mr. Bakhsh to Item 80,
23 the Glock -- I beg the Court's indulgence. You see
24 the paragraph I'm referring to ---

25 A. Yes, sir. The third ---

1 Q. Right. You noted that the results were
2 inconclusive due to insufficient corresponding
3 individually, individual identifying characteristics?

4 A. That is correct.

5 Q. So you could not determine whether it was a
6 match?

7 A. I could not. Once again, SLED Item 57 had
8 similar general rifling characteristics to SLED Item
9 80 And to some agreement of individual, but that was
10 it. I could not include -- I could not exclude it.

11 Q. So similar rifling characteristics to the Glock?

12 A. Yes, sir.

13 Q. From the bullet fragment from Mr. Bakhsh?

14 A. Yes, sir.

15 Q. Inconclusive as to matching?

16 A. Correct.

17 Q. But you cannot rule out the possibility that that
18 Glock 43 shot the bullet fragment in Mr. Bakhsh's
19 head?

20 A. No, sir. I can not.

21 Q. So I want to now turn our attention to what I'll
22 call the Sumter County case, okay, just for ease of
23 understanding. You were asked to compare five hang
24 guns that Sumter county recovered to the bullet
25 fragments, projectiles, and shell casings from the

1 Mac's Lounge in Hartsville?

2 A. Yes, sir.

3 Q. The reason you were asked to do that was to
4 determine whether there was a match from those five
5 handguns found in Sumter County two projectiles at
6 Mac's or shell casings at Mac's, is that right?

7 A. Yes, sir. They wanted to know if any of those
8 firearms may have been used in that incident.

9 Q. Okay. I want to, again, redirect your attention
10 to Item 2 from the Hartsville case. And that is a
11 fired projectile from marker 2 in Hartsville, that
12 correct?

13 A. Yes, sir.

14 Q. You determined that the Glock did not shoot that
15 projectile, correct?

16 A. That is correct. The Glock was a 9 mm Luger
17 caliber pistol and Item 2, SLED Item 2 was most
18 consistent with either being a 40 Smith and Wesson
19 caliber bullet or a 10 millimeter auto caliber
20 bullet.

21 Q. Okay. And so you compared Item 2, then, now that
22 you have the Sumter firearms ---

23 A. Yes, sir.

24 Q. --- you compared Item 2 to the five Sumter
25 firearms, correct?

1 A. Yes, sir.

2 Q. And you determined that none of those five
3 firearms fired Item Number 2 at Mac's Lounge?

4 A. That is correct.

5 Q. Okay. Now, let me direct your attention to Items
6 8, 10 and 11 from Hartsville. Those are 40 caliber
7 Wind cartridge cases, correct?

8 A. I do have them listed as 40 caliber, fired
9 caliber, or 40 Smith and Wesson caliber cartridge
10 cases.

11 Q. I'm sorry, I said Wind, they are -- you're
12 right.

13 A. Yeah.

14 Q. Smith and Wesson 40 caliber cartridge case?

15 A. Yes, sir.

16 Q. From Hartsville?

17 A. Yes, sir.

18 Q. Those were compared with the five firearms from
19 Sumter?

20 A. Yes, sir.

21 Q. All three cartridge cases not a match to any of
22 those five handguns, correct?

23 A. Correct. The Firearms from Sumter did not fire
24 those items. Those cartridge cases.

25 Q. Okay. Next Item 19 from the Hartsville case.

1 You'd agree with me that that's one fired bullet
2 jacket fragment from marker 22 in Hartsville?

3 A. Yes, sir. That is correct.

4 Q. You compare that to the five firearms recovered
5 in Sumter County?

6 A. Yes, sir.

7 Q. Again, not a match to any of the five handguns
8 from Sumter County?

9 A. That is correct.

10 Q. Item 20 from Hartsville. You'd agree with me
11 that that is one fired bullet jacket fragment and one
12 live fragment from marker 23 in Hartsville?

13 A. Yes, sir. That is correct.

14 Q. Also compared to the Sumter County guns?

15 A. Correct.

16 Q. Not a match to any of those five handguns?

17 A. No, sir.

18 Q. Okay. Next Items 29, 30, and 32. You'd agree
19 with me that these are fired Smith and Wesson caliber
20 shell case, excuse me, fired 40 Smith and Wesson
21 caliber cartridge cases recovered from a Nissan
22 Versa?

23 A. Yes, sir. That's correct.

24 Q. Those three cartridge cases were also compared
25 with the Sumter County guns?

1 A. Yes, sir. That's correct.

2 Q. Not a match to any of those five guns from Sumter
3 County?

4 A. No, sir.

5 Q. Next, again, referencing Items 42 through 44 from
6 Hartsville. Those are fired bullet jacket fragments
7 from recovered during the autopsy of DiCaprio
8 Collins, is that correct?

9 A. That is correct. Yes, sir.

10 Q. Also compared to the hand guns from Sumter
11 County?

12 A. Yes, sir.

13 Q. Also not a match to any of those five handguns?

14 A. Correct.

15 Q. And, lastly, Item 57. It's a bullet jacket
16 fragment recovered during Mr. Bakhsh's autopsy, is
17 that correct?

18 A. Yes, sir.

19 Q. You also compared that to the handguns recovered
20 in Sumter County?

21 A. That is correct. Yes, sir.

22 Q. And that also was not a match to any of those
23 five handguns from Sumter County?

24 A. Correct. The handguns from Sumter did not fire
25 that bullet.

1 MR. SCRUGGS: No further questions.

2 MR. REDMOND: I think in fairness to the jury,
3 brief recess, Your Honor.

4 THE COURT: Yes, sir.

5 **Redirect Examination by Mr. Redmond:**

6 Q. What were the firearms from Sumter? If -- you
7 have a list of the firearms that were submitted. I
8 think they at least need to know what the firearms
9 are, then I'll ask you some more questions.

10 A. SLED Lab Number L 20-00963, SLED Item Number 1
11 was one Smith and Wesson Model sd9ve semi-automatic
12 pistol; 9 mm Luger caliber serial number fwr5453 with
13 magazine and 16 on unfired 9 mm Luger caliber
14 cartridges.

15 Q. And to be clear, not to interrupt you, so that's
16 a 9 mm, of course, you were talking about matches
17 being of a Smith and Wesson 40 caliber?

18 A. Correct.

19 Q. Okay.

20 A. This was a 9 mm firearm. It did not fire these,
21 obviously, the 40 Smith and Wesson caliber
22 cartridges.

23 Q. And then next, I'm sorry, I interrupted you, the
24 next handgun that was found?

25 A. SLED Item 2, one Glock model 17 semi-automatic

1 pistol 9 mm Luger caliber serial number ybu926 with
2 magazine and 16 unfired 9 mm Luger caliber
3 cartridges.

4 Q. Again, not a Smith and Wesson 40 caliber?

5 A. Again, this was a 9 mm Luger caliber firearm, not
6 a Smith and Wesson.

7 Q. Please continue.

8 A. SLED Item 3, one Taurus model PT 111g2c semi-
9 automatic pistol; 9 mm Luger caliber, serial number
10 tmc96458 with two magazines, 13 on unfired 9 mm Luger
11 caliber cartridges and a plastic pouch containing red
12 tape.

13 Q. Again, I hate not to be repetitive, but not a S&W
14 40 caliber?

15 A. Nine millimeter Luger caliber, not 40 Smith and
16 Wesson, no.

17 Q. Let's go to the fourth one?

18 A. SLED Item 4, once again, one Taurus model
19 pt111g2c semi-automatic pistol; 9 mm Luger caliber,
20 serial number tlr95057 with magazine and 11 unfired 9
21 mm Luger caliber cartridges. SLED Item 5 ---

22 Q. And again -- I'm sorry -- again, not an S&W 40
23 caliber?

24 A. Nine millimeter -- SLED Item 4 was a 9 mm Luger
25 caliber, not a 40 Smith and Wesson caliber.

1 Q. And last one.

2 A. The final firearm was SLED Item number 5, One
3 Charter Arms model undercover revolver; 32 Smith and
4 Wesson long caliber, serial number 446378 with five
5 unfired 32 Smith and Wesson long caliber cartridges.
6 One fired 32 Smith and Wesson long caliber cartridge
7 case and a plastic pouch containing black tape.

8 Q. Okay. So again, not a S&W 40 caliber?

9 A. Correct.

10 Q. Okay. And we're those the five items that were
11 submitted, the five guns that was submitted from
12 Sumter County?

13 A. Yes, sir. That is correct.

14 Q. So to be clear, would you expect to get a match
15 of the S&W 40 calibers that were found at Mac's
16 Lounge and the 40 caliber Smith and Wesson that were
17 found in the Nissan Versa, would you expect to have a
18 match with the items and the guns that you just told
19 us were submitted from Sumter County?

20 A. No, sir. Nine millimeter Luger caliber firearms
21 and 32 Smith and Wesson long and caliber firearms, I
22 would not expect a match due to differences in
23 caliber.

24 MR. REDMOND: That'd be all questions I have, Your
25 Honor. Thank you so much for your time.

1 MR. SCRUGGS: No further questions.

2 THE COURT: All right.

3 MR. REDMOND: We would ask that Lieutenant
4 Thrower be allowed to return back to the Midlands.

5 THE COURT: All right. Any objection to ---

6 MR. SCRUGGS: No objection.

7 THE COURT: All right. He is excused.

8 MR. BELL: The State call A.J. Wright to the
9 stand.

10 THE COURT: All right.

11 THE CLERK: Place your left hand on the Bible and
12 raise right. You swear the testimony you give this
13 court would be the truth, the whole truth, and
14 nothing but the truth so help you God?

15 MR. WRIGHT: I do.

16 THE CLERK: All right. If you'll have a seat in
17 that chair.

18 A.J. WRIGHT, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Mr. Bell:**

21 Q. Good afternoon, Mr. Wright.

22 A. Good afternoon.

23 Q. I need you to speak up.

24 A. Good afternoon.

25 Q. Mr. Wright, could you state your full name for

1 the record?

2 A. Eugene Wright.

3 Q. Do you have any nicknames, Mr. Wright?

4 A. A.J.

5 Q. Do you mind if I call you A.J.

6 A. You can.

7 Q. Now, Mr. Wright, were you at Mac's Lounge on
8 January 26, 2020?

9 A. I was.

10 Q. And did you see DiCaprio Collins there?

11 A. Yes.

12 Q. Did you see anybody with him?

13 A. Yes.

14 Q. Who was with him?

15 A. It was Darius with him and another individual.

16 Q. And by Darius, do you mean Darius Dickey?

17 A. Yes, sir.

18 Q. All right. Could you tell the ladies and
19 gentlemen of the jury, were you there when the
20 shooting took place?

21 A. I was.

22 Q. All right. Before the shooting took place, did
23 you notice anything out of the ordinary?

24 A. As they walking through a seen Darius with his
25 hands in his pants.

1 Q. Now, could you, if you don't mind could you stand
2 up for the ladies and gentlemen of the jury, could
3 you show them exactly how you saw him with his hands
4 in his pants if you don't mind?

5 (Whereupon, the witness complies)

6 A. He had his down in his pants, something like
7 this.

8 Q. And why did you think that was weird?

9 A. 'Cause we was in the bar and that just looked
10 funny.

11 Q. Did you say anything to him about it?

12 A. No.

13 Q. And what were you doing at the time?

14 A. I was talking.

15 Q. And what happened shortly after you saw him with
16 his hands in his pants?

17 A. They walked back towards the stage a lot of
18 commotion went on.

19 Q. When you say they walked back toward the stage,
20 who do you mean?

21 A. DiCaprio, Capo, and Darius and another
22 individual.

23 Q. By Capo, do you mean the DiCaprio Collins?

24 A. I do.

25 Q. So DiCaprio Collins, Darius Dickey, and another

1 individuals start walking back towards the stage and
2 then what happened?

3 A. Commotion went on. They hollered -- I looked up
4 to see what happened. Shots fired and I ran out the
5 door.

6 Q. So -- and just to be clear, did you see who shot?

7 A. No.

8 Q. Did you see who started the commotion?

9 A. I didn't.

10 Q. What happened when you heard the gunshots?

11 A. I headed for the door.

12 Q. And what happened next?

13 A. I fell at the door. I ran cross the street.
14 When I got out I ran across the street and come back
15 and help my brother-in-law up.

16 Q. We'll talk to me about when you fell while you
17 were trying to get out of Mac's, where did you fall
18 at?

19 A. At the bottom of the doorway, in the bottom of
20 the pile.

21 Q. And ---

22 A. I was on the bottom.

23 Q. And did a pile ensue?

24 A. Yeah.

25 Q. Were people on top of you?

1 A. Yeah. People on top of me.

2 Q. And then you struggled your way out?

3 A. Correct.

4 Q. Were you still hearing gunshots?

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

6 Q. Tell me what happened once you got outside?

7 A. I ran across the road. My brother-in-law was
8 still on the bottom. He was still down there and I
9 went back and pulled him out and we went across the
10 road to my truck.

11 Q. And what did you see after that? What happened
12 after that?

13 A. That's when I saw Darius, he was jumping up and
14 down asking who did it with the gun in his hand.

15 Q. And to be clear, he was jumping up and down and
16 you saw him with a gun in his hand?

17 A. I did.

18 MR. BELL: Beg the Court's indulgence?

19 THE COURT: Yes, sir.

20 Q. All right. Mr. Wright, what I'm going to show
21 you is what's already been entered as State's Exhibit
22 86. I'll put it up on the projector.

23 A. Okay.

24 Q. And I want you to tell the ladies and gentlemen
25 of the jury, I'm gonna give you this pointer, I want

1 you to show them where you were when you saw Darius,
2 when the shooting started, and then when you saw him
3 outside, okay.

4 A. Okay.

5 Q. If you would could you step down. All right.
6 Tell me where were you when you saw Darius with his
7 hand, with his hand in his pants?

8 A. At the edge of the bar here.

9 Q. Okay. And you testified that after you saw him
10 with his hands in his pants, him and DiCaprio Collins
11 and a third individual started walking toward the
12 stage area. Would you show the ladies and gentlemen
13 of the jury, where that is?

14 A. Like right in this area. I was there walking
15 this way.

16 Q. Okay. And then when the commotion started and
17 the gunshots rang out which direction did you head?

18 A. I was right here heading for the door.

19 Q. And where did you fall at?

20 A. Right there in the doorway.

21 Q. Now, what I'm showing you is a view of Mac's
22 Lounge that shows the outside street parking lot.
23 Again, could you show me what entranceway did you
24 leave out of when you was running out of Mac's when
25 the gunshot started?

1 A. This entryway right there.

2 Q. And where did you go next?

3 A. Across the road right here.

4 Q. And where did you see Darius at with the gun?

5 A. About right, somewhere in there.

6 Q. And do you remember what type of gun it was?

7 A. Huh?

8 Q. Did you -- did you see what type of gun it was?

9 A. No.

10 Q. Have a seat. On lastly, Mr. Wright, do you see
11 Mr. Darius Dickey in the courtroom today?

12 A. Yes.

13 Q. Could you point to him?

14 (Whereupon, the witness complies)

15 MR. BELL: Your Honor , may the record reflect
16 that Mr. A.J. Wright has identified Darius Dickey.

17 THE COURT: u

18 MR. BELL: No further questions. Please answer any
19 questions the defense may have.

20 **Cross-Examination by Ms. White:**

21 Q. Hello, Mr. Wright.

22 A. How you doing?

23 Q. I'm good. Thanks. I just have a few questions
24 for you, oaky.

25 A. Yes, ma'am.

1 Q. So you gave your statement to Detective Goodman
2 in the Hartsville Police Department, correct?

3 A. Yes, ma'am.

4 Q. Do you remember about how long after the shooting
5 that was?

6 A. It was a good while after.

7 Q. A good while after the shooting?

8 A. Yes, ma'am.

9 Q. Okay. So maybe like two weeks?

10 A. I think a little longer than that.

11 Q. Longer than two weeks, okay. And when you stood
12 up just now to demonstrate how you believe you saw
13 Mr. Dickey with his hand in his pants, you used your
14 right hand, correct?

15 A. Correct.

16 Q. Okay. And moving on here, um, you said a fight
17 broke out by the pool table, correct?

18 A. Correct.

19 Q. Well, you didn't see who was fighting?

20 A. No. I didn't see who was fighting.

21 Q. Okay.

22 COURT REPORTER: You need to speak up just a
23 little bit.

24 A. No, ma'am. I didn't see who was fighting.

25 Q. Okay. So you didn't see who was fighting. And

1 you didn't see who started things?

2 A. No, ma'am.

3 Q. You didn't see who shot?

4 A. No, ma'am.

5 Q. So after you heard a gunshot you ran towards the
6 exit?

7 A. Correct.

8 Q. And you fell?

9 A. I did.

10 Q. And you got outside?

11 A. Yes, ma'am.

12 Q. So you were across the street?

13 A. I was.

14 Q. And you say that you saw Mr. Dickey?

15 A. After I ran back and got my brother-in-law,
16 helped him out. I come back across there and I seen
17 him.

18 Q. And you couldn't -- you could not describe a gun?

19 A. It wouldn't -- no, ma'am.

20 Q. Okay. And then your statement what to Detective
21 Goodman you went back inside the crime scene?

22 A. later on, yes, ma'am.

23 Q. Later on, how much later?

24 A. It was after all the police -- it done cleared
25 out and the police had got there.

1 Q. So you -- the officers let you back inside the
2 crime scene?

3 A. Correct.

4 MS. WHITE: I don't have any further questions
5 for you. Thank you so much, Mr. Wright.

6 MR. WRIGHT: All right.

7 THE COURT: Any redirect, Mr. Bell?

8 MR. BELL: No redirect from the State.

9 THE COURT: Thank you, sir. You can step down.

10 MR. BELL: Your Honor, may Mr. Wright be excused
11 from this subpoena, released from his subpoena?

12 THE COURT: Any objection to him be released?

13 MS. WHITE: No objection.

14 THE COURT: All right. You can be released.

15 Thank you.

16 MR. REDMOND: Your Honor, may be approach
17 regarding the next witness.

18 THE COURT: Yes, sir.

19 (Whereupon, a bench conference is held on the record)

20 MR. REDMOND: The next witness is gonna be long.
21 That's Zyrig Thomas. He's downstairs. He's the one
22 that -- I had mentioned about doing a proffer.

23 THE COURT: Right.

24 MR. REDMOND: Just to keep things clear. If -- I
25 think I can do it before 1:00, I mean, do the proffer

1 MR. REDMOND: And with that, the State is ready
2 to proceed.

3 THE COURT: Is the defense ready?

4 MS. WHITE: Yes, Your Honor.

5 THE COURT: All right. Bring us the jury please.
6 (Whereupon, the jury enters the courtroom at 2:42
7 p.m.)

8 MR. REDMOND: May it please, the Court, Your
9 Honor?

10 THE COURT: Yes, sir, Mr. Redmond.

11 MR. REDMOND: The State would next call Cynthia
12 Dickey.

13 THE COURT: All right.

14 THE CLERK: Come stand right here please. If
15 you'll place your left hand on the Bible and raise
16 right. You swear the testimony you give this court
17 would be the truth, the whole truth, and nothing but
18 the truth so help you God?

19 MS. DICKEY: Yes, ma'am.

20 MR. REDMOND: May it please, the Court, Your
21 Honor?

22 THE COURT: Yes, sir.

23 CYNTHIA DICKEY, first being
24 duly sworn, testified as follows:

25 **Direct Examination by Mr. Redmond:**

1 Q. Could you please state your name for the record?

2 A. Cynthia Dickey ---

3 Q. Okay.

4 A. --- McCall.

5 Q. And we can hear you pretty loud, Ms. McCall, I

6 believe, it's McCall now. It's Dickey McCall. And

7 just to put out there from the beginning, are you the
8 defendant's mother?

9 A. Yes, I am.

10 Q. Okay. And let me direct your attention to

11 January 26, 2020. Prior to that time had you been in
12 an auto accident that requires you getting your
13 rental vehicle?

14 A. Yes.

15 Q. Okay. And was that a -- was that vehicle a
16 Nissan Versa, to the best that you can recall?

17 A. I think so. It's a gray car.

18 Q. Yes, okay. And -- and was that a rental because
19 your car had been damaged in the auto accident?

20 A. No.

21 Q. Okay. Well, why did you have to rent the car,
22 I'm sorry?

23 A. I was invited to a wedding.

24 Q. Oh, okay.

25 A. And didn't want to drive the taxicab to the

1 wedding.

2 Q. Okay. And so -- but, now, you had the rental
3 and, I think, and we'll get into this later, but did
4 Darius Dickey, the defendant, did he use that car
5 from time to time? Did he drive the car?

6 A. He drove it ---

7 Q. Okay.

8 A. --- with my permission.

9 Q. And with your permission, yeah. I'm not implying
10 anything. You gave him permission to drive the car.
11 Now, on January 26, 2020, in the early morning hours
12 of January, 2020, did you get a call from your son
13 regarding that car being stolen?

14 A. Yes.

15 Q. Okay. And when that call came in, did you then
16 call 911 to report the car stolen?

17 A. Yes.

18 Q. Okay. And again, was Darius driving the car that
19 day or that night?

20 A. Yes.

21 Q. And again, did he call you to tell you the car
22 had been stolen?

23 A. Yes.

24 Q. Okay. But he did not tell you where it was
25 stolen from? You just knew he had called to you it

1 was stolen?

2 A. No.

3 Q. Okay. Well, that's fine if you don't remember.

4 Do you also remember Hartsville police officers
5 coming over to your house not too long after you
6 placed that 911 call?

7 A. Yes.

8 Q. Okay. As a matter of fact, you were -- I think
9 you -- had you been asleep?

10 A. Yes.

11 Q. Okay. So when they came, did they ask you
12 questions first about the car?

13 A. No.

14 Q. Okay. Do you remember them asking you questions
15 about the car and asking you questions about Darius?

16 A. I don't remember.

17 Q. You don't remember, okay.

18 A. No.

19 Q. Let me ask you this, do you remember being at
20 your kitchen table talking with the officers from
21 Hartsville PD?

22 A. Yes.

23 Q. Okay. And so -- and I think they were there
24 probably for about an hour maybe a little longer than
25 an hour?

1 A. I don't know.

2 Q. Okay. But again, you don't remember what they
3 asked you about, but the fact of the matter is were
4 the Hartsville PD officers at there are the time? Do
5 you remember whether or not there was an attempt by
6 you or them to call your son from the, from your
7 house?

8 A. Yes.

9 Q. Okay. And were there some unsuccessful attempts
10 to call him and answer? In other words, were they
11 times where y'all called or where you call and he
12 didn't answer, if you remember?

13 A. I don't remember.

14 Q. Okay. That's fair. So were there times where he
15 actually did answer and talk with you and the police
16 officers, to the best that you can remember?

17 A. Yes. Okay. And if I told you that the officers
18 had that on body camera, would what happened at your
19 house be reflected on the body cam video of the
20 police officers?

21 A. Yeah. If they body cam, yeah.

22 Q. Okay.

23 MR. REDMOND: Beg the Court's indulgence?

24 THE COURT: Yes, sir.

25 MR. REDMOND: That's all the questions I have.

1 Please answer any questions the defense may have.

2 MR. SCALES: Beg the Court's indulgence, Your
3 Honor?

4 THE COURT: Yes, sir.

5 **Cross-Examination by Mr. Scales:**

6 Q. How are you doing, Ms. Cynthia?

7 A. I'm okay.

8 Q. Just two questions? How tall is Darius?

9 A. I don't know. He's probably five something -- I
10 don't know.

11 Q. Can you take a guess how tall? Is he closer to
12 six foot or five foot?

13 A. Probably close to six. He's five ---

14 Q. Okay.

15 A. He taller than me.

16 Q. Okay. And how tall are you?

17 A. Five.

18 Q. And on the night of the incident, Darius was a
19 student at Florence-Darlington Tech, right?

20 A. Yes, sir.

21 Q. He was studying business administration?

22 A. Yes.

23 MR. SCALES: I have no further questions.

24 **Redirect Examination by Mr. Redmond:**

25 Q. One final question, did you see him at all that

1 night? In the early morning hours? Do you recall
2 seeing him? I'll ask you like that.

3 A. I don't know.

4 MR. SCALES: Your Honor, I'm gonna object ---

5 MR. REDMOND: Oh --

6 MR. SCALES: --- being outside the scope of ---

7 MR. REDMOND: I'll withdraw. I'll withdraw.

8 THE COURT: Sustained.

9 MR. REDMOND: Nothing further.

10 THE COURT: Thank you, ma'am. You can step down.

11 MR. REDMOND: The State would next call Zyrig
12 Thomas.

13 THE CLERK: Place your left hand on the Bible and
14 raise right. You swear the testimony you give this
15 court would be the truth, the whole truth, and
16 nothing but the truth so help you God?

17 MR. THOMAS: Yes, ma'am.

18 ZYRIG THOMAS, first being
19 duly sworn, testified as follows:

20 **Direct Examination by Mr. Redmond:**

21 Q. And I'm gonna ask you to sit as close as you can
22 to the microphone so that we can hear you. And could
23 you state your name for the record?

24 A. Zyrig Thomas.

25 Q. All right. Could you speak a little bit louder

1 so the ladies and gentlemen can you hear you.

2 A. Zyrig Thomas.

3 COURT REPORTER: Okay. You're gonna have to pull
4 -- come up a little bit closer to the microphone.
5 You need to lean forward into it, okay.

6 A. Yes, ma'am.

7 COURT REPORTER: Thank you so much. You're gonna
8 have to lean into it, okay.

9 Q. And Mr. Thomas, let's just put it out there. Are
10 you the cousin of the defendant?

11 A. Yes.

12 Q. Okay. And did you see him on the -- in the early
13 morning hours of January 26, 2020 did you see, did
14 you see the defendant?

15 A. Before we went to the basketball game.

16 Q. Okay. And just tell me what y'all did that night
17 and then leading up to the early morning hours of, of
18 January 26th? So the basketball game, after the
19 basketball game, tell me what -- what -- when did you
20 see him?

21 COURT REPORTER: Don't lean back in the chair.
22 Make sure you lean forward, okay.

23 A. Can you say that one more time?

24 Q. Okay. What did y'all do? You said you saw him
25 after the basketball game. Tell me when you saw him

1 and where are you saw him first?

2 A. At the game.

3 Q. Okay. And then after the game, what happened?

4 A. I left -- I mean, the game was over. I got re-
5 picked back up at Cook-Out.

6 Q. Okay. So you got re-picked back up by whom at
7 Cook-Out?

8 A. Darius.

9 Q. By Darius, okay. Your cousin, Darius Dickey.
10 All right. So from Cook-Out, where did y'all go?

11 A. To the bar.

12 Q. And what bar was that? Was that Mac's Lounge?

13 A. Yes, sir.

14 Q. Okay. And just to be clear, that's your cousin,
15 ah, are you here under a subpoena? Are you here
16 under a subpoena? Were you subpoenaed to be here?

17 A. Yes.

18 Q. And and let's just be honest, do you -- do you
19 want to be here right now?

20 A. No.

21 Q. Because this is your cousin. Now, let me ask you
22 this, getting back to that night. So once y'all got
23 the Mac's Lounge tell the ladies and gentlemen of the
24 jury, what, what happened? Who -- well, let me ask
25 you this, when you got picked up the second time,

1 who was with you and your cousin?

2 A. It was me and Capo.

3 Q. Okay. And is that DiCaprio Collins?

4 A. Yes.

5 Q. Okay. And do you remember what kind of car he
6 was driving?

7 A. I can remember the color. It was gray, but I
8 don't know what kind of car it was.

9 Q. Okay. And that's fair. So once y'all got to
10 Mac's tell the ladies and gentlemen of the jury, what
11 happened? Once y'all got Mac's Lounge, what
12 happened?

13 A. From what, like, where do you want me to start
14 at?

15 Q. Well, I guess, when y'all got there.

16 A. When we got there we start walking around.

17 Moving around. Just in, in a crowd, me and Capo. And
18 a bunch of other people. And Davijon walked through.

19 Davijon walked through the club. Q. And when

20 Davijon walked through, did you notice anything?

21 What happened with Davijon? You're talking about
22 Davijon Mccall, right?

23 A. Right. Yeah.

24 Q. What happened? Just tell us what happened?

25 A. I mean, it was -- he walked to a section by

1 hissself. He was only by hissself. And, I mean,
2 DiCapro started to fight with Davijon.

3 Q. Okay. So let me be clear because we're having
4 trouble hearing you. Let ask you to speak up. Did
5 you just testify that Capo, DiCaprio Collins and
6 Davijon McCall started fighting?

7 A. Yes, sir.

8 Q. Do you remember about where that was that they
9 started fighting?

10 A. Like where it was in the club?

11 Q. Yes. Yes, sir.

12 A. From what I remember it was by the pool tables.

13 Q. Okay. By the pool tables. So then what happened
14 next? So this fight breaks out with Capo and
15 Davijon, what happened next?

16 A. That's all I remember was the fight.

17 Q. Okay. But then, what happened after? The fight
18 happens, tell the ladies and gentlemen of the jury,
19 what happened after ---

20 A. I just told them what happened. Like the only
21 thing I remember was the fight.

22 Q. Okay. So you don't remember anything else?

23 A. No, sir.

24 Q. All right. Let me ask you this, do you recall
25 making a statement at the Hartsville Police

1 Department, Kyle Hause, as a matter of fact, later
2 on, on January 26, 2020?

3 A. Say that one more time.

4 Q. Did you give a statement at Hartsville PD? Do
5 you remember getting picked up and taken to
6 Hartsville PD, I believe your stepdad was also there,
7 taken to Hartsville PD for them to ask you questions
8 and to get your statement?

9 A. Yes.

10 Q. You do remember that. And do you recall actually
11 talking to Kyle Hause and telling him, I guess,
12 telling him what happened?

13 A. I ain't gone say I was telling them -- I was
14 really was scared. I was talking just talk ---

15 Q. You were talking just talk. Well, with that
16 let's just, let's talk about what you talked about.
17 Do you remember telling Kyle Hause that your cousin
18 got involved in the fight by grabbing Davijon at some
19 point?

20 A. Nah. I don't remember saying that.

21 Q. You don't remember saying that. Okay. That's
22 fair. So you don't remember telling them that. Do
23 you recall telling them at the time that Davijon was
24 grabbed, that you saw, excuse me, at the time that
25 Davijon was grabbed by your cousin that you saw his

1 arm go up?

2 A. No. I ain't never said -- I ain't never tell him
3 my cousin grabbed him.

4 Q. You ain't never say -- okay. That's fair. All
5 right. So do you also, then, remember saying after
6 that happened that you did not see Capo get shot, but
7 Capo got shot at that point?

8 A. Right.

9 Q. You remember saying that?

10 A. Right.

11 Q. Okay. So that's the point the Capo got shot.
12 And do you, then, remember saying that after that is
13 when your cousin started shooting?

14 A. Wait, say that again.

15 Q. After Capo got shot, do you remember telling Kyle
16 Hause that the defendant, your cousin, started
17 shooting?

18 A. No, sir. I don't remember.

19 Q. Do you remember telling him, in fact, that your
20 cousin was going toward the back door leading to the
21 patio while Davijon was going toward the front main
22 entrance? Do you remember telling him ---

23 A. You say going to patio?

24 Q. Yeah. In other words, your cousin was going
25 toward the patio -- once the shooting was starting,

1 do you recall telling Kyle Hause that your cousin was
2 shooting as he was going towards the patio and
3 Davijon McCall was running, shooting as he went
4 toward the front door? In other words, your cousin
5 is by -- do you recall telling Kyle Hause that your
6 cousin is by the back door of the patio and that he's
7 shooting? Do you recall telling him that?

8 A. I ain't remember saying that.

9 Q. Okay. That's fair. Do you, then, recall telling
10 Kyle Hause that Davijon McCall was making his way to
11 the front main entrance from Mac's, to Mac's and that
12 he was shooting back towards your cousin, do you
13 recall telling Kyle Hause that?

14 A. No. I don't even remember that.

15 Q. Okay. That's fair. That's fair. So after that,
16 after the shooting happens, when did you notice that
17 Capo had been shot?

18 A. When I leaving out the club.

19 Q. Okay. And what did -- tell us -- tell the
20 ladies and gentlemen, what your observations were at
21 that time?

22 A. On what?

23 Q. When you saw Capo, tell us what happened? Who
24 was there when you saw Capo? Was your cousin still
25 there when you saw ---

1 A. I mean, a lot of people -- everybody was running
2 out. Everybody running out ---

3 Q. But were you -- were you still in the club,
4 though?

5 A. I was.

6 Q. Okay. And did you see Capo lying dead on the
7 floor?

8 A. Yes, sir.

9 Q. Was your cousin still there at that time? Did
10 you see your cousin at that time?

11 A. Did I see him? Yes, sir.

12 Q. Okay. What was your cousin doing?

13 A. I mean, we was both standing over ---

14 Q. Okay.

15 A. --- over Capo and I decided to leave.

16 Q. And that's when y'all decided to leave?

17 A. Yes, sir.

18 Q. All right. So -- so Capo is laying there. Y'all
19 came with Capo. And did either of y'all wait for law
20 enforcement to arrive or ---

21 A. Oh, I didn't.

22 Q. Okay.

23 A. I left. I know I left before them.

24 Q. Okay. And so just to be clear, didn't you also
25 indicate that, um, that your cousin actually left

1 before you, leaving out of the back of the, of the
2 club, leaving from the patio area and then you ended
3 up running home. So in other words, didn't y'all
4 separate?

5 A. Yes, sir.

6 Q. Okay. So just to be clear, you went there with
7 your cousin; fight; shooting happens; but then y'all
8 separate after that and I think is that the last time
9 that you'd seen him before today?

10 A. Yes, sir.

11 Q. Okay. And y'all had actually gone to their
12 together? Gone, excuse me, gone to Mac's together?

13 A. Yes, sir.

14 Q. And after the shooting and everything that
15 happened, basically, your cousin -- did your cousin
16 leave?

17 A. I didn't see -- I mean, I left before him. How
18 would I know?

19 Q. Well, if you left before then, then you don't
20 remember telling Kyle Hause that he actually exited
21 out from the patio area. So if you remember that
22 then, doesn't it stand the reason that he actually
23 left before you did?

24 A. He did leave before me.

25 Q. That's fine. That's fine. I'm not - we don't

1 have to go back and forth.

2 MR. REDMOND: With that, Your Honor, that'd be all
3 the questions I have at this time for this witness.
4 Please answer any questions the defense may have.

5 **Cross-Examination by Ms. White:**

6 Q. Mr. Thomas, how are you? Probably have been
7 better. All right. I just have a few questions for
8 you, okay. I'll be brief, I promise. All right. So,
9 talked a lot about the statement that you gave to
10 Kyle Hause, you remember giving him that statement,
11 don't you?

12 COURT REPORTER: Is that a yes or no?

13 A. No, ma'am, I don't remember.

14 Q. January, um, January 26th at the Hartsville Police
15 Department?

16 A. I remember going up there.

17 Q. Okay.

18 A. I don't remember exactly what I said.

19 Q. That's fine. I'm not, you know, I'm not gonna
20 get into that. That's just -- I'm asking you if you
21 remember just making the statement?

22 A. Yes, ma'am.

23 Q. Correct? Okay. And when you made the statement
24 who was with you, do you remember?

25 A. My stepdad was with me.

1 Q. Your stepdad.

2 A. Well, he wasn't in the same room with me.

3 Q. Okay. Did you live with your stepdad at the
4 time?

5 A. Yes, ma'am.

6 Q. And you drove -- did your stepdad drive you
7 there?

8 A. No. I got picked up.

9 Q. By whom?

10 A. The sheriffs.

11 Q. Okay. So you and your stepdad went to HPD
12 together?

13 A. Yes, ma'am.

14 Q. Okay. And was he in the room with you when you
15 gave a statement at any point in time?

16 A. No, ma'am.

17 Q. You're close with your stepdad, correct?

18 A. I mean, I use to. It just fell off, but by then
19 it was.

20 Q. That's your, your father figure back then,
21 correct?

22 A. No. That's just my mama's boyfriend.

23 Q. But do you look up to him kind of at the time?
24 He means something to me when you lived, you lived
25 with him, correct?

1 A. Right.

2 Q. Okay. Now, is he -- he's not related to Davijon
3 McCall that you know of?

4 A. (Shaking of the head no)

5 Q. No?

6 COURT REPORTER: Is that a ---

7 A. No, ma'am.

8 Q. Is that a blood related -- they're not blood
9 related at all?

10 A. No, ma'am.

11 Q. Not at all. Going back to your statement to
12 Detective Hause, did you mention -- do you recall
13 using Facebook to identify somebody other than
14 Davijon McCall as being the one that shot Capo?

15 A. Can you say that one more time?

16 Q. Did you point out anybody else as being the
17 person who shot Capo to Detective Hause?

18 A. Yes, ma'am.

19 Q. Who was that?

20 A. I don't know this person at all. It was just a
21 friend I had on Facebook.

22 Q. Okay. And that's the person who you said I, um,
23 identified as having shot Capo?

24 A. I mean, I'mma keep -- I ain't see no gun at all.
25 But he was there. He was there.

1 Q. Okay. So did Davijon McCall shoot Capo like you
2 testified today or did the gentleman that you pointed
3 out to Detective Hause shoot Capo?

4 A. I ain't see anybody shoot nobody.

5 Q. Okay. So you don't know who shot Capo?

6 A. No, ma'am.

7 Q. But it wasn't Darius, right?

8 COURT REPORTER: Yes or no?

9 A. No, ma'am.

10 MS. WHITE: All right. Thank you for your time,
11 Mr. Thomas. I appreciate you answering my questions.

12 MR. REDMOND: No redirect, Your Honor.

13 THE COURT: All right. Mr. Thomas, you can step
14 down. Thank you very much.

15 MR. REDMOND: And Your Honor, we do not object to
16 him excused or we'd actually asked that he be excuse
17 from his subpoena?

18 THE COURT: Any objection from the defense?

19 MS. WHITE: No objection.

20 THE COURT: All right. Mr. Thomas is released
21 from his subpoena.

22 MR. REDMOND: Thank you, Your Honor. The State
23 would next call Kyle Hause.

24 THE CLERK: Place your left hand on the Bible and
25 raise right. You swear the testimony you give this

1 court would be the truth, the whole truth, and
2 nothing but the truth so help you God?

3 MR. HAUSE: Yes, I do.

4 MR. REDMOND: Your Honor, may we approach?

5 THE COURT: Yes, sir.

6 (Whereupon, a bench conference is held on the record)

7 MR. SCRUGGS: So there's a body cam footage that's
8 gonna come in from the defendant on the phone with
9 the investigator. There are several times that the
10 investigator says something to the effect of this
11 isn't -- you need to come in and clear this up. We
12 would say it's burden shifting and an improper
13 comment on his statements that we think need to be
14 redacted. It might be easier just for a flow of this
15 to take before we get started.

16 MR. REDMOND: I've got them marked off so, I mean,
17 their not that long so we can do a proffer and that
18 way address it. I mean, in total it's about, with
19 everything, probably 10 to 12 minutes. We -- it was
20 over an hour. We redacted it down to that so....

21 THE COURT: So y'all want me to send the jury out?

22 MR. SCRUGGS: And I've got this specific portions
23 that I'm concerned with and we can go straight to
24 that so it might be even quicker.

25 MR. REDMOND: That'll be fine. It might not take

1 able to come to an agreement on the redactions from
2 the body cam. I believe there's a portion that's
3 being redacted around the 43:55, 43:55 part that
4 makes reference to gang rivalry on that. We have
5 agreed it's not gonna be shown to the jury ---

6 MR. REDMOND: Yes.

7 THE COURT: All right.

8 MR. SCRUGGS: --- but the rest.

9 THE COURT: All right. Bring us the jury
10 please.

11 (Whereupon, the jury enters the courtroom at 3:34
12 p.m.)

13 MR. REDMOND: May it please, the Court, Your
14 Honor?

15 THE COURT: Yes, sir.

16 KYLE HAUSE, first being
17 duly sworn, testified as follows:

18 **Direct Examination by Mr. Redmond:**

19 Q. I guess, I say Detective Hause, but could you
20 state your name for the record please?

21 A. Yes. Kyle David Hause.

22 Q. All right. And we have no problem hearing you at
23 all.

24 A. Okay.

25 Q. That's great. By whom are you employed?

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1 A. Hartsville Police Department.

2 Q. And in what capacity?

3 A. As an investigator.

4 Q. Okay. And how long have you worked as an
5 investigator, specifically?

6 A. Seven years.

7 Q. Okay. And let's talking about your career in
8 law enforcement, how long have you been in law
9 enforcement?

10 A. Nineteen years.

11 Q. Okay. And where is that law, law enforcement
12 experience with -- who is that with?

13 A. Hartsville Police Department and Darlington
14 County Sheriff's Office.

15 Q. All right. And agin, you've been investigated
16 for seven years?

17 A. Yes.

18 Q. And so during that time were you, excuse me, on
19 January 26, 2020, were you employed with the
20 Hartsville Police Department as a, in the detective
21 division?

22 A. Yes.

23 Q. At that time, did you receive call related to the
24 incident Mac's Lounge?

25 A. Yes, I did.

1 Q. Could you tell, the ladies and gentlemen of the
2 jury, how you became involved in this case?

3 A. Yes. My supervisor, at the time, First Sergeant
4 Weatherford called me and I responded shortly after 2
5 a.m. to Mac's.

6 Q. And once you responded, tell us, give us your
7 observations and what did you see? What took place?
8 What did you see? What did you do once you got
9 there?

10 A. Once I got there I met with Corporal Williamson
11 and walked into the bar. And we walked in there was
12 a large amount of blood on the right next to the
13 jukebox. And we continued to walk through. There
14 were spilled drink containers everywhere and that
15 sort of thing. We walked to the back near where the
16 pool tables are towards, Poole Street, and saw
17 DiCaprio Collins body face up by the pool table. And
18 consider -- and continued out towards Poole Street to
19 the where the deck area is on the Poole Street exit
20 and Mr. Robinson's body was there.

21 Q. And so by the time you got there, I guess, you
22 were not -- were you the first officer that arrived?

23 A. No. I was not.

24 Q. So once you got there, were there other officers
25 on the scene? And, in fact, were there some of the

1 injury that had already been taken to the hospital?

2 A. Yes.

3 Q. So just to be clear as to when you got there. So
4 you make these observations. Take us through the
5 next step of your role in this investigation?

6 A. I spoke with, came out and spoke with First
7 Sergeant Weatherford, and he said that Cynthia Dickey
8 and called to report her, a vehicle being stolen.
9 And during that time it was said that Darius was one
10 of the shooters. And so me and Detective Winburn
11 went to Ms. Dickey's residence on Clyburn.

12 Q. Okay. So just to be clear, you got to Mac's, you
13 made these observations, but were you there long
14 before you were summoned to go to Cynthia Dickey's --
15 -

16 A. No. I wasn't there very long.

17 Q. Okay. So you go -- you and Johnny Winburn go to
18 the, to the residents of Cynthia Dickey. And tell us
19 what happened once you got to the residence, Ms.
20 Dickey's residence?

21 A. Ms. Dickey answered the door. She had a brace on
22 her neck and said that she'd been involved in an
23 automobile accident. And as a result of that had a
24 rental car that she rented in Hartsville. And we
25 went inside and sat down and started talking.

1 Q. And at first, were you, I guess, interested in
2 the, the rental. Let me ask you this, just by the
3 nature of the investigation in your role, why was the
4 stolen car, that particular stolen car, of interest
5 to Hartsville PD?

6 A. Because we believe that's what Darius drove to
7 leave.

8 Q. Okay. And did you already have Darius's name as
9 a suspect?

10 A. Yes.

11 Q. So, of course, you're interested in this vehicle.
12 So you get to Ms. Dickey's residence and at some
13 point, do you sit down and have a conversation with
14 her about the rental car?

15 A. Yes.

16 Q. Then does it lead, your conversation lead to a
17 discussion about Darius and talking to Darius,
18 himself, getting in touch with Darius?

19 A. Yes.

20 Q. Please tell us about that?

21 A. She -- I asked her if she'd been in touch with
22 him that night and she said that she had and that he
23 left in the vehicle earlier that day.

24 Q. Okay. And so once y'all, I guess, once you get
25 that information, at any point, were they attempts to

1 get in contact with Darius, to call Darius?

2 A. Yes.

3 Q. While you were at Ms. Dickey's house?

4 A. Yes. That's correct.

5 Q. Okay. And did, at any point, were y'all - I say
6 y'all, her or y'all - successful and actually making
7 contact with the defendant, Darius Dickey?

8 A. Yes.

9 Q. Okay. Tell us about that?

10 A. She got Darius on the phone first. And she was
11 talking to him. Told him to talk to the police
12 officer, excuse me. The police officer was there.
13 And he said that, um, I explained to him that I
14 needed to talk to him about what happened. And that
15 I was interested in meeting with him and he said, no,
16 you're gonna lock me up. And continued on. There
17 were several back and forth phone calls. I think at
18 times the phone lost reception as well. And....

19 Q. Okay. And at any point, did he tell you during
20 one of the times, I mean, were there times where
21 y'all were able to get back in contact with the
22 defendant?

23 A. Yes.

24 Q. Okay. Did you tell him that you needed to talk
25 with him? You needed to meet with him? Where can we

1 meet?

2 A. Yes.

3 Q. At anytime did the defendant ever meet with y'all
4 that night?

5 A. No.

6 Q. Okay. But you did, at least, talk to him over
7 the phone?

8 A. Yes.

9 Q. So let's talk about that. He said that you were
10 gonna -- he was concerned about y'all locking him up.
11 What else did he tell you during any of these calls?

12 A. He said that he had went to Mac's with Capo,
13 DiCaprio Collins and that his cousin, Zyriq and ---

14 Q. Let me stop you there. He said with his cousin,
15 Zyriq. That he had gone with his cousin Zyriq. Is
16 that the first time that y'all had heard Zyriq's
17 name?

18 A. Yes.

19 Q So based on Darius giving you Zyriq's name is
20 that why y'all went to talk to Zyriq?

21 A. Yes.

22 Q. And we'll get into that in just a little while so
23 please proceed. I'm sorry.

24 A. Okay. Anyway, so there was a lot of different
25 conversations with him on the phone mostly about

1 that. He said they went there and that there had
2 been a fight and a shooting and then he ran out of
3 the back and jumped the fence and ran home.

4 Q. And at anytime did he indicate that he was
5 involved in the fight or that he had a gun? Did he --
6 -

7 A. No.

8 Q. --- did he admit to anything?

9 A. No.

10 Q. Okay. In fact, did he indicate that the car had
11 been stolen and -- did he indicate that the car had
12 been stolen?

13 A. Yes.

14 Q. Do you recall where he said the car had been
15 stolen from?

16 A. He said it was stolen from there. He went, and
17 whenever everything started he ran outside; got the
18 car; pulled it up; and then when he came back out the
19 car was gone.

20 Q. Okay. So according to him the car is gone.
21 Somebody had stolen the car?

22 A. Correct.

23 Q. Okay. Now, after that did he say what took place
24 after that -- well, let me ask you this, did he,
25 specifically, say that he ran home?

1 A. Yes.

2 Q. Okay. To be clear, he says that he left and ran
3 home. Did he say that he left Tyriq, Zyriq -- I keep
4 saying Tyriq. Did he say he left Zyriq?

5 A. Yes.

6 Q. Okay. And that he ran, talking about Darius, the
7 defendant, ran home?

8 A. Yes.

9 Q. But didn't you go to his home?

10 A. Yes.

11 Q. With his mom there?

12 A. Yes.

13 Q. Was Darius there?

14 A. No.

15 Q. Had Darius been there?

16 A. I believe so.

17 Q. Okay. And -- but was he there when y'all got
18 there?

19 A. No.

20 Q. Okay. So when he, I guess, when, after this
21 part, after the phone call, or during the phone call,
22 at any point, did y'all still keep trying to get him
23 to come in?

24 A. Yes.

25 Q. Did he ever come in?

1 A. No.

2 Q. Now, when y'all concluded your call -- well, let
3 me ask you this, I'm sorry, did you have a body cam
4 video when you went there, a body cam?

5 A. Yes.

6 Q. And what was the purpose of you going there with
7 the body cam?

8 A. To video the conversation.

9 Q. Okay. And so -- and did you, in fact, -- were you
10 able to video the conversation that you had with
11 Cynthia Dickey and with Darius Dickey on the phone?

12 A. Yes.

13 Q. Okay. And we'll get to that in just a little
14 while. So you've recorded this exchange. You're
15 unsuccessful in getting Darius to come. What
16 happened next?

17 A. After we were unsuccessful ---

18 Q. Yes. After you were unsuccessful.

19 A. Okay. So we went back to Hartsville Police
20 Department and me and Detective Winburn, we met with
21 Supervisor Weatherford, again and at that point the
22 Marshals Task Force was there. And we believe that
23 based on those conversations between Darius and Ms.
24 Dickey that, and they've given us directions to
25 Zyriq's house on Howard. So we believe that Darius

1 may be there hiding.

2 Q. Okay.

3 A. And so we went over there to go talk to, attempt
4 to locate Darius and talk to Zyriq as well.

5 Q. Okay. And were you able to find and talk to
6 Zyriq?

7 A. Yes.

8 Q. Were you able to find Darius?

9 A. No.

10 Q. Okay. And, in fact, did you then take Zyriq to
11 the Hartsville Police Department?

12 A. Yes.

13 Q. I think you even stopped at Hardee's on the way,
14 if I recall?

15 A. Yes.

16 Q. Okay. And so once Zyriq, and you were in here
17 and you heard what he had, what he had to say and
18 I'll just ask you, specifically, did Zyriq give you a
19 statement at Hartsville Police Department?

20 A. Yes.

21 Q. You had a chance to talk with him. What did
22 Zyriq and I'm gonna ask you, specifically, about
23 Darius because he testified, and some other things,
24 but the main thing is about Darius. What did he
25 testify -- well, not -- excuse me, scratch that.

1 What did he tell you Darius did at that time? Just
2 tell, the ladies and gentlemen of the jury, what
3 Zyriq described to you took place as it relates to
4 the defendant?

5 A. He said that Capo and Davijon we're about to get
6 into a fight or they had started fighting. And that
7 Darius was coming up and he grabbed Davijon from the
8 back. And as he grabbed Davijon from the back then
9 that's when he pulled his gun, Darius pulled his gun
10 out and started shooting and exited towards the back.

11 Q. And just in full disclosure, at the time, did he
12 show you a picture and did he show you a picture, I
13 think, on Facebook or something he pulled up at that
14 time?

15 A. Yes.

16 Q. And you heard him testify here today. The person
17 that he pulled up at the time is that the same
18 person, Davijon McCall that we've discussed?

19 A. No.

20 Q. Okay. And -- and -- and so just to make sure
21 we're clear, so he pulls up the picture but, of
22 course, you heard him talk about Davijon today. And
23 we'll talk about Davijon in a little while. So --
24 and so he's telling you about this fight that's
25 ongoing. Take us through -- and I interrupted you,

1 I'm sorry. Please take us through what he indicates
2 happens next?

3 A. He said that Davijon, Davijon's arm comes up and
4 to shoot and when he does that Darius is backing up
5 as well and pulls his gun and starts to shooting back
6 while he's going back towards the Poole Street.

7 Q. Okay. Now, when you say back towards Poole
8 Street, would that be going toward the deck/ patio?

9 A. Yes. Deck/patio, yes.

10 Q. Okay. And if you're going toward Camden Street
11 where would you be going if you're going toward
12 Camden, ah, Camden Street?

13 A. You would go out of the entrance exit at Camden
14 Street?

15 Q. Yeah. I'm asking which if you are going toward
16 Camden Street would that be the main entrance,
17 rather?

18 A. Yes.

19 Q. Okay. And where did he indicate Darius was at
20 the time the shooting was going on?

21 A. Going backwards towards the deck.

22 Q. Okay. Where did he indicate Davijon was as it
23 relates to the, um, where in Mac's Lounge was
24 Davijon?

25 A. Going backwards the other way.

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1 Q. Okay. The other way towards the entrance ---

2 A. Towards -- yes. The entrance exit.

3 Q. So just to be clear, it's common sense, I guess,
4 but were they shooting across the bar at each other?

5 A. Yes.

6 Q. Okay. So with that -- and I'm sorry, I
7 interrupted, again. So Davijon said they were
8 shooting -- what else did Davijon tell you, I'm
9 sorry? I meant, excuse me, not Davijon. What else
10 did Zyriq tell you?

11 A. Um ---

12 Q. After he says they was shooting back and forth
13 then what else did he tell you?

14 A. Then he said he was just standing there shaking
15 and that Darius came back in and flipped Capo over.
16 And I believe slapped him across the face is what he
17 told him. And he said he was, obviously, dead. And
18 then they left.

19 Q. And did he say they left together?

20 MR. SCRUGGS: Your Honor, I need to object. This
21 is outside the scope of what Mr. Thomas has denied
22 saying to Detective Hause. So I think the solicitor
23 has gotten through what the purposes of Rule 613 Mr.
24 Thomas has denied.

25 MR. REDMOND: I can withdraw that last question

1 because Mr. Thomas did testify that they left
2 separately.

3 THE COURT: All right. All right. The question
4 is withdrawal.

5 Q. Now, with -- so you talked with Zyriq. After
6 talking with Zyriq were warrants obtained against the
7 defendant for murder?

8 A. Yes.

9 Q. Okay. And I say warrants, but warrant for murder
10 against, um, for murder, for murder against Garrett
11 Bakhsh, I believe it was?

12 A. Yes.

13 Q. Now, when After talking with Zyriq -- let's talk
14 about the defendant, are you aware, of course, in
15 your role as an investigator with Harksville Police
16 Department, are you aware of when the defendant was
17 actually apprehended?

18 A. Yes. He was arrested later on.

19 Q. Okay. Later on, I think that next evening?

20 A. I believe so.

21 Q. I say, well later on that same evening, I'm
22 sorry?

23 A. Yes.

24 Q. Okay. And did that occur in Hartsville? Was he
25 found in Hartsville?

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1 A. I heard that it happened in Sumter.

2 Q. Okay. So in other words, you weren't present,
3 but based on your role in the case, is it your
4 understanding he was arrested in Sumter County?

5 A. Yes.

6 Q. Not Hartsville?

7 A. Correct.

8 Q. Not Darlington?

9 A. Correct.

10 Q. But all the way over in Sumter County?

11 A. Yes.

12 Q. Okay. So now let's talk about Davijon. Was
13 Davijon apprehended, I believe, in Durham, North
14 Carolina?

15 A. Yes. That's correct.

16 Q. And I believe it was around the 29th or 30th that
17 he was apprehended, to the best of your recollection?

18 A. That's my recollection.

19 Q. All right. Now, did -- before I get into
20 Davijon, I did forget to ask you one thing -- I mean,
21 excuse me, before I get into, yeah, Davijon, let me
22 ask you this, did Zyriq ever come to you trying to
23 recant what he had told you?

24 A. Yes, he did.

25 Q. Please tell, the ladies and gentlemen of the

1 jury, about that?

2 A. I was pulling into my office and he pulled in
3 behind me. I -- I didn't know who he was at first,
4 you know, initially he jumped out of the car and said
5 that he needed to talk to me ---

6 MR. SCRUGGS: Objection. This is hearsay.

7 THE COURT: Y'all approach real quick.

8 (Whereupon, a bench conference is held on the record)

9 MR. SCRUGGS: I don't know why this is being
10 offered. It's hearsay and it wasn't covered whenever
11 Zyriq testified.

12 MR. REDMOND: I'm just asking him about what -- I
13 just asked him -- I won't ask him what Zyriq said but
14 I can ask him about whether or not he tried to
15 recant.

16 MR. SCRUGGS: Why is that -- why is that relevant.
17 It wasn't brought up.

18 MR. REDMOND: I mean, just because of the way he
19 was acting up there. Plus it goes -- I can ask him
20 questions that can go to state of mind. I can try to
21 get it in without just so much leading and ---

22 THE COURT: Just don't ask him anything specific
23 ---

24 MR. REDMOND: I won't ask him anything specific.
25

1 THE COURT: Ask if he tried to recant.

2 MR. REDMOND: Your Honor, I'll rephrase.

3 THE COURT: All right. The objection is
4 sustained. Rephrase the question, Mr. Redmond.

5 MR. REDMOND: Yes, sir.

6 Q. Without saying what Zyriq said, but did he try to
7 come to you trying to recant?

8 A. Yes.

9 Q. And would -- how would you state his demeanor was
10 when he tried to recant? Not what he said, but just
11 his demeanor. How would you describe his demeanor?

12 A. He was nervous and scared.

13 Q. Okay. And at that time, did you get in contact
14 with us to let us know that he had tried to recant?

15 A. Yes, I did.

16 Q. Okay. Immediately, I believe it was.

17 A. Yes.

18 Q. I think while he was still there?

19 A. Yes, sir.

20 Q. If I recall, correctly. All right. And at that
21 point, did you take any further action or just, you
22 know, let us know that he had tried to recant?

23 A. No. I just let you guys know and that was it.

24 Q. Okay. All right. So -- and was that a few
25 months ago, I believe, that was back in August, I

1 think, around August or September?

2 A. I believe that's correct. Yes.

3 Q. Okay. Now, I was talking about Davijon, so was
4 Davijon apprehended in North Carolina, Durham, I
5 believe?

6 A. Yes.

7 Q. When he was apprehended was he brought back to
8 Hartsville PD?

9 A. Yes.

10 Q. And did he give a statement?

11 A. Yes.

12 Q. Now, I'm not gonna ask you what he said because,
13 obviously, that's hearsay. But after talking to
14 Davijon was he able to -- did he give a statement?
15 Let me ask you that. Did he give a statement?

16 A. Yes.

17 Q. After his statement was he arrested and charged
18 with the murders on Capo and Brian Robinson?

19 A. Yes.

20 Q. And did his statement, without saying what was
21 said - let me be clear - without saying what he said,
22 but in your role as an investigator, did what he tell
23 you aid in getting the overall picture of what
24 happened?

25 A. Absolutely.

1 MR. SCRUGGS: Objection. He can't weigh a
2 witness's credibility, testifies to that.

3 MR. REDMOND: Based on the investigation ---

4 THE COURT: Sustained.

5 MR. REDMOND: Oh, I'm sorry.

6 THE COURT: Sustained.

7 MR. SCRUGGS: I'd ask that that'd be stricken,
8 Your Honor.

9 THE COURT: That last, last answer should be
10 stricken from the record.

11 MR. REDMOND: Yes, sir.

12 Q. Let me ask you this, after talking with, with,
13 um, after talking with Davijon, were you able to
14 follow up on information that had been given to you
15 by Davijon McCall?

16 A. Yes.

17 Q. Okay. Now, let's -- we talked about the body cam
18 video and have you had a chance to view that video?

19 A. Yes.

20 Q. And I, for the record, I think it's on State's
21 Exhibit Number 1, subject to the redactions that
22 we've agreed to, and did it accurately reflect your
23 encounter with Cynthia Dickey on the night of January
24 26, 2020?

25 A. Yes.

1 Q. All right.

2 MR. REDMOND: Your Honor, at this time, I would
3 move to introduce the body cam video on State's 1
4 into evidence and would ask to publish it at this
5 time.

6 MR. SCRUGGS: Judge, the only thing I would note
7 for the record, it appears that Mr. Dickey has
8 testified fully about what occurred and Detective
9 Hause has testified as to what Mr. Dickey said. I
10 think this is getting to be cumulative evidence under
11 Rule 403 and I don't know that we need it at this
12 point.

13 MR. REDMOND: If I may counter, Your Honor.

14 THE COURT: Yes, sir.

15 MR. REDMOND: I think it is very helpful for the
16 jury to hear to defend himself even though Mr. Hause
17 has testified to that, we have got actual video
18 showing this exchange. I think that is absolutely
19 helpful for the jury to be able to hear so that they
20 can make their own assessments of what it is he had
21 to say.

22 THE COURT: All right. I think the video would
23 certainly, if nothing else, would potentially go to
24 credibility more than one witness so I will allow --
25 I'mma allow the, the video to be published over, the

1 over the defense's objection.

2 MR. REDMOND: Thank you, Your Honor. And with
3 that if we can....

4 (Whereupon, the video is played for the jury)

5 MR. REDMOND: Your Honor, that's all the questions
6 I have for Detective Hause at this time. Please
7 answer any questions that counsel may have do have.

8 MR. SCRUGGS: May it please, the Court, Your
9 Honor?

10 MR. SCRUGGS: Yes, sir.

11 **Cross-Examination by Mr. Scruggs:**

12 Q. Good afternoon, Detective Hause.

13 A. Good afternoon, sir.

14 Q. Is it fair to say that the response by Hartsville
15 Police Department to the shooting at Mac's Lounge was
16 an all hands on deck response?

17 A. Yes.

18 Q. I mean. It was a -- it was a massive scene,
19 right?

20 A. Yes.

21 Q. A lot of moving parts?

22 A. Yes.

23 Q. And a lot of officers got called out to respond
24 and help in the response and the investigation?

25 A. Yes.

1 Q. Is that fair to say?

2 A. Yes.

3 Q. Okay. And you were assigned to help with the
4 investigation?

5 A. That's correct.

6 Q. Okay. And during the course of the
7 investigation, did you report, at that time, to First
8 Sergeant Michael Weatherford?

9 A. Yes.

10 Q. Okay. I mentioned all hands on deck, did
11 Hartsville Police Department also call in for
12 assistance from SLED?

13 A. Yes.

14 Q. Okay. We heard earlier in the trial from the
15 SLED, SLED Crime Scene Unit, they helped process the
16 scene, correct?

17 A. Yes, sir.

18 Q. Did investigators from the PD Regional Office
19 also help conduct interviews?

20 A. PD Regional SLED office?

21 Q. Yes.

22 A. I'm not sure where everybody worked.

23 Q. Well, let me -- let me ask you this way.

24 A. Okay.

25 Q. You're aware that Special Agents Jared Barkdoll,

1 Jackie Gause, and Eric Johnson also assisted in the
2 investigation?

3 A. I know that Gause did.

4 Q. Okay. And she was working with SLED at that
5 time?

6 A. Yes.

7 Q. She's a former Darlington County Sheriff's Office
8 deputy?

9 A. Yes.

10 Q. Okay. And we've heard throughout this trial that
11 items that were gathered by Hartsville Police
12 Department, Durham, North Carolina law enforcement,
13 and Sumter County Sheriff's Office, items of
14 potential evidence was sent to SLED for analysis,
15 right?

16 A. Yes, sir.

17 Q. A lot of moving parts on this case?

18 A. Yes.

19 Q. As an investigator, you were aware of these
20 moving parts, correct?

21 A. Yes.

22 Q. You are aware of interviews that other officers
23 conducted with individuals who may have knowledge
24 about this case?

25 A. I mean, some of them. Maybe not all of them.

1 Q. Right. But as a detective who's trying to put
2 together a case, you want to know all pertinent
3 information about this incident ---

4 A. Yeah.

5 Q. Right?

6 A. Yes.

7 Q. And a lot of times especially in a complex case
8 like this, you have to depend on others?

9 A. Yes.

10 Q. Right? Y'all are acting as a team, right?

11 A. Yes.

12 Q. And doing your best to know what the other one is
13 doing, right?

14 A. Yes.

15 Q. You don't want to be tripping over another
16 officer who's, who's doing the same thing, right?

17 A. Right.

18 Q. And throughout the investigation you've had
19 access to supplemental reports and also written and
20 audio statements from witnesses, right?

21 A. Yes.

22 Q. Because when you interview suspects you need to
23 know what potential evidence there is against a
24 person, correct?

25 A. Correct.

1 Q. Is that fair to say?

2 A. Yeah.

3 Q. Okay.

4 A. Yes.

5 Q. From the investigation that night it's,
6 obviously, fair to say that multiple firearms were in
7 that bar that night?

8 A. I -- well, I mean, I know of two.

9 Q. Right. Are you also aware that there was
10 information received that a handgun fell out of
11 someone's pocket in the men's bathroom before the
12 shooting?

13 MR. REDMOND: Your Honor, I'm gonna object it's
14 not the proper foundation. I think that's actually I
15 think based on hearsay so I'mma have to object based
16 on hearsay at this point. Based on the way questions
17 is phrased.

18 MR. SCRUGGS: Well, Your Honor, this is part of
19 the narrative. It's not offered for the truth of the
20 matter.

21 THE COURT: He can -- he can answer whether,
22 whether he knows if a gun fell out or not.

23 MR. SCRUGGS: Okay. I'll -- I'll rephrase.

24 THE COURT: All right.

25 Q. Are you aware that a gun fell out of someone's

1 pocket in the bathroom before the shooting?

2 A. I can't say for sure that I recall hearing that,
3 I'd have to....

4 Q. Okay. Are you also aware that someone shot a
5 handgun up in the air after the shooting started?

6 A. It -- it seems like I remember, may have remember
7 hearing something like that. I can't recall exactly.

8 Q. Sure.

9 A. I wasn't....

10 Q. And you may not remember the specifics, but
11 that's some -- that rings -- that rings a little
12 familiar to you?

13 A. Yes, sir.

14 Q. Okay. After the inside of Mac's was processed by
15 both HPD and the SLED Crime Scene, do you recall that
16 the crime scene was expanded to include the parking
17 lot adjacent to Mac's?

18 A. No.

19 Q. Okay.

20 A. I do not recall.

21 Q. You don't recall that there were reports of
22 shootings in the parking lot after Mac's?

23 A. I think initially that did come out.

24 Q. Right.

25 A. Yes.

1 Q. And you're aware that rounds were found in the
2 parking lot later?

3 A. Possibly.

4 Q. Okay. Do you recall that Officer Brandon Pate
5 found five 9 mm rounds in the parking lot a few days
6 later?

7 A. I was not present.

8 Q. Okay. All right. I want to shift a little bit
9 and talk, circle back to Davijon McCall, you
10 mentioned him in your direct testimony. After the
11 shooting you received information that led you to
12 believe that he was one of the shooters involved,
13 correct?

14 A. Yes.

15 Q. And law enforcement began efforts to try and
16 locate Mr. McCall?

17 A. Yes.

18 Q. And you received information that Mr. McCsll had
19 fled to North Carolina?

20 A. Yes.

21 Q. Specifically, Durham?

22 A. Yes.

23 Q. And Hartsville Police Department liaison with the
24 law enforcement in Durham County, North Carolina for
25 assistance?

1 A. Yes. And I believe that. I wasn't a part of
2 that, but I believe that through the Marshals.

3 Q. Right. But you have knowledge of this?

4 A. Yes.

5 Q. And it's correct that law enforcement had to get
6 a search, search warrant for the apartment that he
7 was in?

8 A. Davijon?

9 Q. Yes.

10 A. I was not present.

11 Q. Okay. But you're aware that during the search of
12 the apartment they found a Glock 43 that Mr. McCall
13 had hidden in the back of a tote?

14 A. Yes.

15 Q. Okay. And they also recovered a another handgun
16 during the search of the apartment?

17 A. I -- okay.

18 Q. Does that sound familiar?

19 A. Yes.

20 Q. I know I'm getting into specifics, but when they
21 went to apprehend Mr. McCall ---

22 A. Mmm, hmm.

23 Q. --- they found a Glock 43 that was recovered and
24 later sent SLED.

25 A. Okay.

1 Q. Right? And they found another hand gun and
2 rounds for that handgun?

3 A. Yes, sir.

4 Q. Okay.

5 A. I mean, I wasn't ---

6 Q. Right. And I know you weren't present.

7 A. Okay.

8 Q. But you're -- you're the investigator and the
9 reason I bring this up is because you are the officer
10 who interviews Mr. McCall?

11 A. Yes.

12 Q. Right?

13 A. Yes, sir.

14 Q. And when -- because when he's brought back to
15 South Carolina you pick him up. I think y'all go by
16 Hardee's too, right?

17 A. No.

18 Q. No. Okay.

19 A. I did not take him to Hardee's.

20 Q. Okay. But anyway you, you are the officer who
21 interviews Mr. McCall?

22 A. Yes.

23 Q. Okay. And as you stated to the solicitor at the
24 conclusion of that interview you obtained warrants
25 for the murder of Brian Robinson and the DeCaprio

1 Collins?

2 A. Yes.

3 Q. Okay. In addition to the murder warrant you
4 also obtained warrants for the use of a weapon during
5 the commission of violent crime ---

6 A. Yes.

7 Q. Is that right?

8 A. Yes.

9 Q. And that covers the handgun that Mr. McCall had
10 in his possession when he was arrested, correct?

11 A. Yes.

12 Q. The handgun that was sent to SLED?

13 A. Yes.

14 Q. Okay. Now, I want to talk a little bit about
15 your conversation with Mr. Dickey. When you spoke to
16 him on the phone at that time were you aware that
17 Hartsville Police Department had already gotten a
18 warrant for unlawful carrying of a pistol?

19 A. Not at that time, I was not.

20 Q. Okay. And since you didn't know that you,
21 obviously, couldn't have inform him of that?

22 A. Correct.

23 Q. Okay. And the Nissan Versa that was the subject
24 of the, of the 911 call on the stolen vehicle report,
25 was that Versa recovered by law enforcement?

1 A. Yes.

2 Q. Okay. You're aware that that vehicle was
3 processed for potential evidence?

4 A. I'm aware of that, but I was not present.

5 Q. Right. And I know a lot of this, like I said
6 earlier, you had to depend and delegate to other
7 people ---

8 A. Yes.

9 Q. --- fair to say -- but as the investigator you
10 have access to information that they glean that may
11 assist you in the direction of this investigation, is
12 that fair to say?

13 A. Yes.

14 Q. Okay. So this vehicle was processed and a search
15 warrant was obtained to search that vehicle, right?

16 A. (Shaking of the head yes)

17 Q. And you're aware that the vehicle was swabbed for
18 both touched DNA and gunshot residue or GSR?

19 A. Yeah. I mean, I was not present, sir, but ---

20 Q. Okay.

21 A. --- yes.

22 Q And I know you're, you weren't present, but you're
23 aware of that?

24 A. Okay.

25 Q. And Mr. Dickey was ultimately arrested in Sumter

1 County?

2 A. Yes.

3 Q. I know you weren't there for that ---

4 A. Yes, sir.

5 Q. --- but you're aware that, because that's outside
6 of your jurisdiction HPD liaison with the Sumter
7 County Sheriff's Office, is that correct?

8 A. Can you say that again?

9 Q. Okay. So it's obviously in Sumter County another
10 jurisdiction, right?

11 A. Yes.

12 Q. Hartsville Police Department work with Sumter
13 County Sheriff's Office and the US Marshals to find
14 Mr. Dickey?

15 A. Yes.

16 Q. Okay. And he was located at a residence in
17 Sumter County?

18 A. Yes.

19 Q. You're aware this search warrant was executed at
20 the residence where he was?

21 A. Yes.

22 Q. And you're aware that five hand guns were found
23 in the residence where Mr. Dickey was?

24 A. Yes.

25 Q. And you're also aware that those five handguns

1 from Sumter County were sent to SLED for testing for
2 any connection with the crime at Mac's?

3 A. Yes.

4 Q. Okay. And you spoke earlier about your
5 conversation with Zyrig Thomas On January 26th. And
6 you testified to some of the things that he said, you
7 stated, um, and this is referenced in your report,
8 supplemental 39, is it correct, that he stated that
9 the individual that DiCaprio Collins hit that he
10 could identify that person through Facebook?

11 A. Yes.

12 Q. And he opened his phone to show you a picture?

13 A. Yes.

14 Q. Okay. And that person was later identified as
15 Leonard Sweetenbrug?

16 A. Yes.

17 Q. Did he also tell you that after DiCaprio struck
18 Mr. Sweetenburg that they struggled?

19 A. Yes.

20 Q. And that Mr. Sweetenburg shot DiCaprio Collins?

21 A. Yes.

22 Q. Okay.

23 MR. SCRUGGS: Beg the Court's indulgence just one
24 moment?

25 THE COURT: Yes, sir.

1 Q. From your investigation, is it fair to say that
2 Davijon McCall was the first person to shoot a gun
3 that night?

4 MR. REDMOND: Your Honor, I'm going to object --
5 actually, I'll withdraw to objection because I think
6 the presentation the State has given it doesn't, it
7 doesn't make any difference.

8 THE COURT: All right. Well ---

9 MR. REDMOND: I'll withdraw that objection.

10 THE COURT: All right. Objection is withdrawn.

11 A. Yes.

12 Q. Okay.

13 MR. SCRUGGS: I beg the Court's indulgence just
14 one moment. I think I'm....

15 Q. And just briefly, you're aware -- let me rephrase
16 that, as part of your investigation you spoke with
17 Angelena Deason about what she witnessed that night?

18 A. Yes.

19 Q. And you are aware at that time that she was a
20 victim of an earlier assault by DiCaprio Collins?

21 A. Yes.

22 Q. You were aware that Mr. Collins had been arrested
23 and charged?

24 A. Yes.

25 Q. You were aware that he was out on bond at that

1 time?

2 A. Yes.

3 Q. You were aware that as a condition of his bond
4 that he was restrained from having contact with Miss
5 Deason?

6 A. Yes.

7 Q. That contact includes both social media contact,
8 third-party contact, and physical contact, right?

9 A. Typically, yes.

10 Q. He's not -- he wasn't supposed to be anywhere
11 around her?

12 A. Yes.

13 Q. And is it correct that you noted in your report
14 that you found it a little odd that she was in the
15 same vicinity as Mr. Collins based on what had
16 happened earlier in the week?

17 A. Yes.

18 Q. Okay. And one of the reasons you found that odd
19 was because when you spoke to her she showed you a
20 video that night of DiCaprio Collins dancing just a
21 few feet away?

22 A. That's correct.

23 MR. SCRUGGS: Nothing further.

24 THE COURT: Redirect, Mr. Redmond?

25 MR. REDMOND: Yes, Your Honor.

Redirect Examination by Mr. Redmond:

Q. You were asked about Angelena Deason, did that -- did it indicate any activity because you heard her testify about the proximity that they were, ah, that they were from each other, did that indicate any illegal activity either by Mr. Collins or Miss Deason that ---

A. Not -- no, sir.

Q. Okay. Thank you. Just to put things in its proper context. Now, you were asked about Mr. Sweetenburg and I'm glad you were, because based on your investigation, obviously, you talked to a lot of people in this -- did you talk to a lot folks in this ---

A. Yes.

Q. Did you did you interview a lot of these folks?

A. Yes.

Q. At lot of folks in this case -- and did your investigation yield that Davijon McCall and Leonard Sweetenburg were actually friends?

A. Yes.

Q. And, in fact, did your investigation yield that they actually went there together ---

A. Yes.

Q. --- at Mac's Lounge -- and finally, one of the

K. Hause- Re-cross Examination by Mr. Scruggs

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1 people that was shot, but survived was one of those
2 people Leonard Sweetenburg?

3 A. Yes.

4 MR. REDMOND: No further questions.

5 THE COURT: All right.

6 MR. SCRUGGS: Just briefly.

7 THE COURT: All right.

8 **Re-cross Examination by Mr. Scruggs:**

9 Q. Mr. Redmond asked you about the video that there
10 was nothing, seemed to be nothing illegal about that.

11 You said earlier that he was under a bond condition
12 not to be in her physical vicinity. That would be --
13 that is not legal to violate that order, is it?

14 A. Well, now they weren't right next to each other.
15 They weren't next to each other or anything.

16 Q. Okay. But they were -- they were in the
17 physical vicinity of each other?

18 A. They both inside Mac's.

19 Q. Okay.

20 A. Yes.

21 THE COURT: Anything further?

22 MR. REDMOND: Nothing further from the State, Your
23 Honor.

24 THE COURT: Anything further?

25 MR. SCRUGGS: No, sir.

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

3 MR. BELL: The State call Brandon Pate

4 THE CLERK: Place your left hand on the Bible and
5 raise right. You swear the testimony you give this
6 court would be the truth, the whole truth, and
7 nothing but the truth so help you God?

8 MR. PATE: Yes, ma'am.

9 BRANDON PATE, first being
10 duly sworn, testified as follows:

11 **Direct Examination by Mr. Bell:**

12 Q. Good afternoon, Mr. Pate.

13 A. Hey, how are you?

14 Q. Please state your full name for the record?

15 A. Brandon Pate.

16 Q. And Brandon Pate, where were you working on
17 January 26, 2020?

18 A. At the Hartsville Police Department.

19 Q. And were you involved in any kind of way with the
20 investigation of this case, the Mac's Lounge case?

21 A. Yes. A few days after the incident took place.

22 Q. All right. And what did you actually do? Tell
23 the ladies and gentlemen of the jury, what you did?

24 A. We received information the next day or I did. I
25 think the supposedly stolen vehicle was recovered

B. Pate- Direct Examination by Mr. Bell

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1 off, I believe, it was 300 block of Washington Street
2 right here there at Eighth Street. It was a gray
3 Nissan Versa. And I knew the homeowner at that
4 address and I contacted him because I knew he had
5 some video footage of video cameras outside his
6 house. And he told me I was more than welcome to
7 come by and look at the video footage. And I
8 obtained the video footage from prior -- well, right
9 after the incident, the night prior to me being over
10 there at that address and....

11 Q. And how did you obtain that video footage?

12 A. I'm not sure. Me and Officer Goodman went over
13 there. I don't know if we used his phone or my phone
14 at the time. But I think we're having some issues
15 trying to get it off of the DVR so we just recorded
16 it with a cell phone.

17 Q. And did you record the footage on a cell phone?

18 A. Yes, sir.

19 Q. And did you turn that into the Hartsville Police
20 Department?

21 A. Yes, sir.

22 Q. And was that an accurate depiction of what was on
23 that home security camera from that night in
24 question?

25 A. Yeah. So there was a highway patrolman out with

1 the vehicle and you could see, I think, a guy ran to
2 the back of the yard and then Darius Dickey was out
3 by the vehicle.

4 MR. BELL: Your Honor, at this time State moves,
5 offers State's Exhibit 1, the Washington Street video
6 into evidence.

7 MR. SCALES: Without objection, Your Honor.

8 THE COURT: All right. That portion of State's 1
9 is admitted without objection.

10 (Whereupon, the Video Footage has been marked and
11 entered into evidence as State's Exhibit No. 1)

12 MR. BELL: Your Honor, at this time, I'd like to
13 publish the
14 Washington Street video for the jury.

15 THE COURT: All right.

16 MR. BELL: Beg the Court's indulgence?

17 THE COURT: Yes, sir.

18 (Whereupon, the video is played for the jury)

19 Q. Mr. Pate, is this an accurate depiction of what
20 you recorded on the cell phone?

21 A. Yes, sir.

22 Q. Mr. Pate, do you recognize anyone from this
23 video?

24 A. Everybody in the video. That's Darius.

25 Q. Darius Dickey?

B. Pate- Cross-Examination by Mr. Scales

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1 A. Yes, sir.

2 Q. Who's this individual smoking the cigarette?

3 A. I believe that's Gage Holloman.

4 Q. Is that also known as Tanner Holloman?

5 A. Yes, sir.

6 Q. This vehicle over here to the right, what type of
7 vehicle is that?

8 A. I think that's a Nissan Versa.

9 COURT REPORTER: You've got to speak up a little
10 bit.

11 A. Yeah. That's the Nissan Versa.

12 Q. Who is that just running off the screen?

13 A. Gage Holloman.

14 Q. Again it's Tanner Holloman ---

15 A. Yes, sir.

16 MR. BELL: I'll stop right there.

17 Q. All right. Mr. Pate, did you have any other
18 involvement with this case?

19 A. I received information from some individuals at
20 Mac's a few days later. It was the 29th that there
21 was some shell casings found in the parking lot and I
22 just collected them and dropped them into evidence.

23 Q. Did you do a supplement in regards to this video
24 that was taken from the Washington video?

25 A. No, sir. I was injured at the time. Corporal

1 Goodman did a supplement. I had a broke hand so I
2 was in a cast and he just supplemented that me and
3 him were at residence obtaining the video.

4 MR. BELL: I beg the Court's indulgence?

5 THE COURT: Yes, sir.

6 MR. BELL: Please answer any questions the defense
7 may have for you.

8 MR. PATE: Yes, sir.

9 **Cross-Examination by Mr. Scales:**

10 Q. How are you doing, Officer Pate?

11 A. Good.

12 Q. I believe you stated that you recorded that
13 recording of the home surveillance?

14 A. Yes, sir.

15 Q. Okay. And you reviewed it in its entirety?

16 A. Yes, sir. That was all in the video.

17 Q. That video did not continue when the trooper
18 approached that car?

19 A. I'm not sure. It was stopped. I don't -- that's
20 the first time I seen the video since I recorded it.

21 MR. SCALES: I beg the Court's indulgence?

22 THE COURT: Yes, sir.

23 MR. SCALES: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Whereupon, a bench conference is held on the record)

1 yeah.

2 THE COURT: Play the video for him because he was
3 there to proceed. Just ask him questions based upon
4 the evidence. I mean, if they affirm and call him
5 tomorrow, I think that would cure anything.

6 MR. SCRUGGS: So that's in evidence. Y'all
7 admitted it into evidence, you just haven't published
8 ---

9 MR. REDMOND: --- the whole thing ---

10 MR. SCRUGGS: --- the full thing, is that fair?

11 MR. REDMOND: That's right.

12 MR. SCRUGGS: Okay.

13 MR. REDMOND: Exactly. That's right. That's
14 exactly right.

15 THE COURT: So you can question the trooper about
16 it tomorrow if you feel necessary.

17 MR. BELL: Because I still -- I can still admit --
18 if I need to, I'll publish the whole thing through
19 Tanner Holloman. It's no problem. I'll play again -
20 --

21 MR. SCALES: Okay. We'll just do it tomorrow or
22 whenever.

23 MR. BELL: Okay.

24 Q. Officer Pate, I want to draw your attention to a
25 supplement report that you did write about collecting

1 some shell casings?

2 A. Yes, sir.

3 Q. I believe that was done three days after the
4 Mac's Lounge shooting?

5 A. Yes, sir.

6 Q. And that was at the carwash across the street
7 from Mac's Lounge?

8 A. Yeah. At a carwash that's kind of like part of a
9 parking lot and it was in between the roadway and the
10 carwash somewhere in that general area.

11 Q. Okay. And you had received information from
12 numerous people of the location of these casings?

13 A. Yes, sir.

14 Q. And you ended up finding five rounds?

15 A. I believe it was five.

16 Q. And the caliber or size of these rounds were 9
17 mm?

18 A. Correct.

19 Q. And the manufacturer was Luger?

20 A. Yes, sir.

21 Q. And -- and again, they were picked up after the
22 Mac's Lounge shooting?

23 A. Yeah. Approximately three days after.

24 Q. Then you went back -- so you collected that
25 evidence and went back to the police department?

B. Pate- Cross-Examination by Mr. Scales

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1 A. Yes, sir.

2 Q. Then an individual, an unknown male I think you
3 characterized it, walked in with another shell
4 casing?

5 A. Yeah. If that's what it says in supplemental. I
6 don't have it in front of me. But I think somebody
7 actually brought some to the police department.

8 Q. Okay.

9 A. And said they found them.

10 Q. Is that what you remember what ---

11 A. Yes, sir.

12 Q. --- happened or would you like to see your
13 report?

14 A. I'll take a look at it.

15 MR. SCALES: May I approach?

16 THE COURT: Yes, sir.

17 A. Yes, sir.

18 Q. And he's -- that male stated that he found that
19 casing in this exact same area that you were just
20 searching?

21 A. Yes, sir.

22 MR. SCALES: I beg the Court's indulgence?

23 THE COURT: Yes, sir.

24 Q. And just briefly, in the recording that was just
25 watched, you recognize Tanner Holloman?

B. Pate- Cross-Examination by Mr. Scales

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1 A. Yes, sir.

2 Q. And you noted that he was running? He took off
3 running ---

4 A. Yes, sir.

5 Q. --- and the trooper came by?

6 A. Mmm, hmm.

7 Q. And you acknowledge that one of the reasons he
8 could have been running was he was out on bond for
9 charges?

10 A. I don't recall if he was out on bond ---

11 MR. BELL: Objection. This call for speculation.

12 THE COURT: Well, either he knows or he doesn't.
13 You can answer the question.

14 A. I don't know that to be certain.

15 MR. SCALES: Nothing further.

16 THE COURT: Redirect?

17 MR. BELL: No redirect, Your Honor.

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

20 MR. BELL: I would asked that Mr. Pate be excused
21 from his subpoena?

22 MR. SCALES: Without objection.

23 THE COURT: All right. He is excused.

24 MR. BELL: The State call Tanner Holloman.

25 THE COURT: All right. Mr. Holloman.

T. Holloman- Direct Examination by Mr. Bell

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1 THE CLERK: Place your left hand on the Bible and
2 raise right. You swear the testimony you give this
3 court would be the truth, the whole truth, and
4 nothing but the truth so help you God?

5 MR. HOLLOMAN: Yes, ma'am.

6 TANNER HOLLOMAN, first being
7 duly sworn, testified as follows:

8 **Direct Examination by Mr. Bell:**

9 Q. Good afternoon, Mr. Holloman.

10 A. Good afternoon.

11 Q. State your full name for the record?

12 A. Tanner Gage Holloman.

13 Q. Mr. Holloman, were you at Mac's Lounge on the
14 morning of January 26, 2020?

15 A. No.

16 Q. Is that no?

17 A. No.

18 Q. All right. Did you see the defendant, Darius
19 Dickey, on the morning of January 26, 2020?

20 A. No. Other than in that video, yeah. Is that the
21 morning you're talking about?

22 Q. Yeah. So were you ever on Washington Street on
23 the morning of January 26, 2020?

24 A. Yes, sir.

25 Q. Did you see Darius Dicky that morning at that

1 residents on Washington Street on January 26, 2020?

2 A. Yes, sir.

3 Q. Well, what I want to show you now is what's been
4 entered as State's Exhibit 1, the Washington Street
5 video.

6 THE COURT: If he needs to step down he can ---

7 MR. BELL: I would like for you to step down.

8 THE COURT: Yeah, you need to step down to see it.

9 Q. Stand over here and I want you to explain ---

10 COURT REPORTER: Make sure he speaks up.

11 Q. --- and point to who all the characters are in
12 this video.

13 (Whereupon, the video is played for the witness)

14 A. That's Malik. That's Edward and that's me.

15 Q. You on the driver side of that vehicle?

16 A. Yes, sir.

17 Q. Is Darius Dickey there at the time?

18 A. No, sir.

19 Q. Who is that walking over to the car?

20 A. That's me. And that's Darius walking towards the
21 house. That's me walking back towards the car.

22 Q. And what was Edward's last name?

23 A. Crajack. (Ph)

24 Q. What's Malik's last name?

25 A. Woodham.

T. Holloman- Direct Examination by Mr. Bell

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1 Q. And whose home is this?

2 A. Malik's grandmother, I believe.

3 Q. Did Darius say anything to you that night?

4 A. No, sir.

5 COURT REPORTER: Is that a no?

6 A. No.

7 Q. Now, where are you right now? So that's you, you
8 went running?

9 A. Yes, sir.

10 Q. Why did you start running?

11 A. I seen the police ride by without it's lights on
12 so I ran.

13 Q. All right. You can go back and have a seat on
14 the stand. Mr. Holloman, you, for the record, you
15 don't have any idea what happened at Mac's Lounge?

16 A. No. Not at all.

17 Q. Because you weren't there?

18 A. I wasn't there.

19 Q. But you did see Darius early that morning at that
20 resident on Washington Street?

21 A. That's right.

22 Q. And he was driving that vehicle that you saw that
23 pulled up?

24 A. Right.

25 Q. And he was by himself?

1 A. Right. Correct.

2 Q. And how do you know Darius?

3 A. I mean, I just know they're from school. I've
4 known, you know what I'm saying from school.

5 Q. And let's, let's the, ladies and gentlemen of the
6 jury, know right now, I mean, you're -- you've been
7 locked up before?

8 A. Right.

9 Q. That's why you ran?

10 A. Correct.

11 Q. You pled back in November of 2018 to unlawful
12 carrying; possession with intent to distribute a
13 schedule 4 substance; failure to stop for a blue
14 light; and, possession with intent to distribute
15 marijuana, correct?

16 A. Correct.

17 Q. And you've done some time? You did two years on
18 probation revocation, correct?

19 A. Correct.

20 Q. I did not -- the State did not promise you, I did
21 not promise you or threaten you to make you come here
22 and testify?

23 A. No.

24 MR. BELL: Please answer any questions the defense
25 may have.

1 **Cross-Examination by Ms. White:**

2 Q. Hello, Mr. Holloman. How you doing?

3 A. Hi.

4 Q. So you don't know what happened at Mac's Lounge?

5 A. No. No, ma'am.

6 Q. And I heard you just tell Mr. Bell as well that
7 you haven't been promised anything for your testimony
8 today?

9 A. No, ma'am.

10 Q. Okay. So the only time you saw Darius was on
11 Washington Street?

12 A. That's right.

13 Q. And you -- and it's your testimony that you saw a
14 highway patrol car drive by without his lights on and
15 you ran?

16 A. Correct. Yes.

17 Q. Because you were out on bond for a criminal
18 offense?

19 A. Yeah.

20 Q. A criminal offense that's being prosecuted by
21 this office?

22 A. Yes, ma'am.

23 Q. And you identify Malik Woodham as well in that
24 video, correct?

25 A. Yes, ma'am.

1 Q. He didn't have a shirt on?

2 A. No, ma'am.

3 Q. He went inside and changed his shirt?

4 A. I don't know what he went inside for, but I know
5 he walked outside with no shirt on, yeah.

6 Q. Okay. And he put a shirt on while he was
7 outside?

8 A. I didn't see him put no shirt on outside.

9 Q. Okay. This is January, it's cold. No reason to
10 not have a shirt on, correct?

11 A. Yeah.

12 Q. All right. So Mr. Bell covered that you have a
13 prior criminal history to include unlawful carrying
14 of a firearm; possession with intent to distribute a
15 schedule 4 drug, correct?

16 A. Correct.

17 Q. Failure to stop for blue light, correct?

18 A. Correct.

19 Q. So you ran from police that's what that means,
20 correct?

21 A. That's what that means, yeah.

22 Q. Possession with intent to distribute marijuana,
23 correct?

24 A. Correct.

25 Q. And you got, it looks like, you got probation for

1 that. Did you successfully complete your probation?

2 A. Nah. I violated probation and went to prison for
3 two years.

4 Q. Two years, okay. And it appears that since that
5 time you have accumulated a few more charges,
6 correct?

7 A. Yeah.

8 Q. At the time of this event, you were out on bond
9 for possession with intent to distribute drugs,
10 correct?

11 A. Correct.

12 Q. That occurred about a month prior to seeing you
13 on this video here?

14 A. Something like that, yeah.

15 Q. Okay. Moving on, you were also charged with
16 attempted murder; driving under suspension; malicious
17 injury to real property; and, another attempted
18 murder. Does that sound correct?

19 A. That's correct.

20 Q. And that occurred in May of 2020. And do you
21 know the potential, um, the maximum sentence you
22 could be facing on those charges ---

23 MR. BELL: Objection, Your Honor.

24 THE COURT: Y'all approach.

25 (Whereupon, a bench conference is held off the

1 record)

2 THE COURT: The objection is sustained.

3 Q. I'll keep going because there's, there's more as
4 you know. All right. So we're moving on now to
5 December of 2020, and you were charged with
6 manufacturing; possession of a schedule 1, 2, or 3
7 substance, and that is a third subsequent offense,
8 correct?

9 A. Correct.

10 Q. And you were also charged with distribution of
11 that drug within a proximity of a school, correct?

12 A. Correct.

13 Q. Okay. So let's move on, just two days after that
14 offense, you were charged with trafficking cocaine 10
15 grams or more, but less than 28 grams, correct?

16 A. Correct.

17 Q. And also driving under suspension, correct?

18 A. Correct.

19 Q. Okay. So moving on, you were charged, this is in
20 January of 2021, so this is maybe about six weeks
21 after that, that you were then charged with
22 possession with intent to distribute a schedule 1, 2,
23 3, substance, correct?

24 A. Correct.

25 Q. Along with that you are charged with possession

1 with intent to distribute a schedule 4 substance,
2 correct?

3 A. Correct.

4 Q. Okay. And then in 2023 it looks like you were
5 charged with hit and run with property damage,
6 correct?

7 A. Correct.

8 Q. And then as the finale, you were charged in
9 September of 2023 with trafficking in heroin or
10 morphine or another drug in that class, um, more than
11 14 grams, but less than 28 grams, correct?

12 A. Correct.

13 Q. So in total, if all of these charges - if you
14 were to be sentenced for all these charges, let's
15 just say - you would be looking at over, if they ran
16 all the sentences consecutively you'd be looking at
17 over 100 years in prison, correct?

18 A. Correct.

19 Q. And you are here testifying on your own free will
20 and accord today, correct?

21 A. Correct.

22 Q. All right.

23 MS. WHITE: I don't think I have any more
24 questions for you. Thank you, Mr. Holloman.

25 THE COURT: Any redirect?

1 MR. REDMOND: Beg the Court's indulgence?

2 THE COURT: Yes, sir.

3 MR. BELL: No redirect, Your Honor.

4 THE COURT: All right. Thank you, sir. You can
5 step down.

6 MR. BELL: May Mr. Holloman be excused from his
7 subpoena?

8 THE COURT: Yes, sir.

9 MR. REDMOND: Your Honor, it looks like we are
10 about to hit 5 o'clock right on the dot. I could not
11 have planned it better, quite frankly.

12 THE COURT: Well, some, sometimes things work out
13 the way, the way they're supposed to without a plan
14 being in place.

15 Ladies and gentlemen, it's a good time to stop
16 right at 5 o'clock on the nose and calling any other
17 witnesses would keep you here past five and we don't
18 want to do that unless it's absolutely necessary so
19 I'm gonna excuse you for the rest of the day and give
20 you the same instruction. Please don't discuss this
21 case amongst yourselves or with anybody else. Don't
22 do any research about any issue which has been raised
23 in this case by any means whether that's television,
24 internet, social media. Don't look for any news
25 accounts of anything that may have gone on during the

1 THE COURT: All right. Bring us the jury please.

2 (Whereupon, the jury enters the courtroom at 9:51 a.m.)

3 THE COURT: Good morning, ladies gentlemen. We will
4 now resume the State's case.

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

7 THE COURT: Yes, sir.

8 MR. REDMOND: The State would now call Justin
9 Cottingham.

10 THE CLERK: Place your left hand on the Bible and raise
11 right. You swear the testimony you give this court would
12 be the truth, the whole truth, and nothing but the truth so
13 help you God?

14 MR. COTTINGHAM: I do.

15 JUSTIN COTTINGHAM, first being
16 duly sworn, testified as follows:

17 **Direct Examination by Mr. Redmond:**

18 Q. Could you state your name for the record please?

19 A. Justin Cottingham.

20 Q. Okay. And let me start by asking you in January of
21 2020, were you working with the South Carolina Highway
22 Patrol?

23 A. I was.

24 Q. And how long had you been with the highway patrol?

25 A. About four years.

1 Q. Okay. And what was your role as a highway patrol?

2 A. Assigned to Darlington and Marlboro County to work
3 traffic collisions and enforce traffic laws.

4 Q. Okay. And so this situation, directing your attention
5 to January 26, 2020, are you -- being that you are in the
6 highway patrol, but law enforcement agencies in this area,
7 are y'all able to hear radio calls for help from dispatch
8 centers?

9 A. Yes.

10 Q. Okay. And where are you, in fact, dispatched -- or
11 did you hear dispatch and respond to Mac's Lounge in
12 Hartsville?

13 A. I did. I heard county radio come over and state that
14 shots fired at Mac's Lounge.

15 Q. Okay. And, of course, in your capacity with law
16 enforcement, did you respond to Mac's Lounge to see what
17 assistance you may give the officers?

18 A. Yes, I did.

19 Q. Okay. Now, upon getting to Mac's Lounge, tell the
20 ladies and gentlemen of the jury, what your observations --
21 what did you do?

22 What we observations once you arrived on the scene?

23 A. Upon my arrival on scene I believe I was the first one
24 there, the first officer on scene. I grabbed out my rifle
25 and everything was chaotic. So I slowly approached the

1 door to Mac's Lounge and by that time another officer,
2 another couple of officers had responded as well. I stood
3 at the door just to make sure nobody could come back into
4 the lounge or into the bar. While I was standing there a
5 young, a black female approached me and was very hysterical
6 stating that I was letting the shooter get away. And she
7 was pointing to this silver compact vehicle. I tried to,
8 first, tell her to calm down, you know, I understand, you
9 know, this is very chaotic scene and she was emotional.
10 But she was still very adamant about, you know, no, you're
11 letting the shooter get away. So I started to walk over to
12 that vehicle and as soon as I started to walk to that
13 vehicle, the vehicle sped off. So I ran back to my vehicle
14 and tried to get out to take after, ah, to pursue it, but
15 was unable to do due to traffic and everybody leaving.

16 Q. Okay. Let me stop right there for a second. So just
17 to be clear, were you, after being told by Angelena Deason
18 - we now know - about the fact that you were "letting the
19 shooter get away". Did you go toward that vehicle?

20 A. Yes, I did.

21 Q. Okay. And in going toward the vehicle, did, um, tell
22 us again what happened as you were trying to approach that
23 vehicle?

24 A. When I went to approach the vehicle it did not have any
25 lights on. It was just kind of creeping in the parking lot

1 which was very unusual because everybody else in the
2 parking lot was trying to get out as fast as they could.
3 When I approached it their headlights cut on and they took
4 off. While they were leaving I noticed that they had out
5 of state tags. They weren't bearing South Carolina license
6 plate.

7 Q. And do you remember if they were Florida tag?

8 A. I believe they were Florida tags, yes.

9 Q. So you, then, did what? After this, then -- and I
10 interrupted you, then what did you do?

11 A I tried to pursue the vehicle. I worried the vehicle
12 got away initially because I was unable to get out so I
13 canvassed the area, and for about a few minutes, and then
14 happen to come across a vehicle matching that description,
15 parked at a residence was an out of state tag.

16 Q. And was that on Washington Street in Hartsville?

17 A. That is correct.

18 Q. And what did you do? So you see this -- going --
19 you're riding around -- and we'll get into how long because
20 we're talk about your dashcam video. But a few minutes
21 later, you see the vehicle, what did you do once you saw
22 that vehicle located at a residence on Washington Street?

23 A. I actually passed it to start with and immediately
24 stopped and backed up and then got behind the vehicle and
25 got out. At first, I did not see anybody in the vehicle or

1 really close by the vehicle, it was very dark. After
2 standing for a second, an individual approached me and
3 asked something to the effect of, you know, what's going
4 on? I said, is this your vehicle? He says, it's not my
5 vehicle. I don't know whose vehicle this is, but this is
6 my driveway. And -- and so many words into the effect that
7 I needed to leave.

8 Q. And so did you leave?

9 A. No. I did not. Because when I looked inside the
10 vehicle I could see spent shell casings inside the vehicle.

11 Q. All right. Let's stop there. So you were looking for
12 a car. At that point, did you only have the description of
13 the car you were looking for?

14 A. That's correct.

15 Q. Okay.

16 A. I only had the description of vehicle.

17 Q. So when you got there and you saw the shell casings,
18 your interest became where? Where did you interest ---

19 A. The vehicle.

20 Q. Okay. So tell us what happened next? So you see these
21 -- did you see spent shell casings in the vehicle?

22 A. I did

23 Q. Okay. In plain view?

24 A. In plain view, yes.

25 Q. So then what happened next?

1 A. I notified the sergeant with the county that was on
2 duty that I, I believe I was out with the suspect vehicle.
3 And I didn't -- there was nobody in the vehicle. I was
4 gonna be standing by until they could get another unit to
5 me. I did notice while sitting there, other people came
6 out from other directions and just stood with the vehicle
7 until backup arrived.

8 Q. Okay. And, subsequently, did -- was there another
9 vehicle there that ended up leaving the scene?

10 A. There was a couple individuals got into another vehicle
11 and took off and went into the other direction.

12 Q. Okay. But again, your primary focus at that time was
13 on what?

14 A. The vehicle.

15 Q. Because at that point is that the only thing you had
16 information on?

17 A. 'Cause that is the only thing that I had.

18 Q. Okay. Now, let's talk about your dash cam video.

19 Well, before we get to that. So -- let's go ahead and
20 finish up and then we'll get to the dash cam video. So you
21 call, of course, the -- you put out the call that you
22 locate the car, did other officers arrived?

23 A. They did, eventually.

24 Q. Okay.

25 A. Due to, once I found it, they were still responding to

1 Mac's Lounge.

2 Q. I gotcha.

3 A. And since I wasn't in immediate threat and there was
4 nobody really around, they just continued on to Mac's
5 Lounge.

6 Q. Okay. And -- but, eventually, did other officers come
7 there to, I guess, relieve you, for lack of a better term?

8 A. Yes, they did.

9 Q. So -- but to be clear, you -- did you stay with that
10 vehicle until other folks arrived?

11 A. I did, yes.

12 Q. And the purpose of you staying with that vehicle was
13 what?

14 A. To secure that vehicle and make sure nothing happened
15 to it.

16 Q. Now, did you, eventually, once being relieved, did you
17 end up leaving the scene and conclude your role in this
18 case?

19 A. I did. Once other deputies arrived on scene, I did
20 turn it over to them and I left.

21 Q. Now, let's talk about your dash cam video. I'mma show
22 you two videos. One is already in evidence from Washington
23 Street. The other one is your dash, is your dash cam
24 video. Was there a dash cam video in your car?

25 A. Yes. There was.

1 Q. And have you had an opportunity to view the videos in
2 your car?

3 A. Yes.

4 Q. All right. And do they truly and accurately depict
5 what was transpiring at the time that you just testified
6 to?

7 A. Yes, they do.

8 MR REDMOND:, Your Honor, we would introduce, it's on
9 State's Exhibit 1, it's the Cottingham in car video. We
10 will move that into evidence at this time.

11 MR. SCALES: Without objection.

12 THE COURT: All right. That portion, the Cottingham
13 dash cam -- the Cottingham dash cam video, is that correct?

14 MR. REDMOND: In car video.

15 THE COURT: In car video will be admitted without
16 objection.

17 MR. REDMOND: Thank you.

18 (Whereupon, the Cottingham Dash Cam Video has been marked
19 and entered into evidence as State's Exhibit No. 1)

20 MR. REDMOND: And with that, Your Honor, if I could ask
21 Mr. Cottingham to step down and if we could get it rigged
22 up. And while your're coming down Mr. Cottingham I would
23 ask that you stand over here and speak as loudly as you can
24 so both the jurors and Madam Court Reporter and His Honor
25 can hear what you're saying.

1 (Whereupon, the video is played for the jury)

2 Q. Now, explain to us what's transpiring here? Is this
3 your -- is this the view from your car?

4 A. That is the view from the in-car video of my patrol
5 vehicle.

6 Q. And what is that we just seen?

7 A. That is me getting out the vehicle and getting my
8 rifle.

9 Q. And is that you over here?

10 A. I'm sorry -- right there, yes.

11 Q. And is that other officers arriving?

12 A. That is.

13 Q. And I think that's Angelena Deason, is that you running
14 ---

15 A. That is me running back to my vehicle to attempt to
16 pursue the vehicle that I saw.

17 Q. And is this after the exchange you described having
18 with Angelena Deason?

19 A. Yes, it is.

20 Q. Okay. All right. And this is you getting into the
21 vehicle and is that a car blocking -- is that a car
22 blocking ---

23 A. So it was virtually almost impossible to get out quick
24 enough.

25 Q. And, of course, that car obviously still block -- is

1 that car still blocking your vehicle?

2 A. It is.

3 Q. And, of course, is that you now getting around that car

4 ---

5 A. Yes.

6 Q. --- trying to search for the car ---

7 A. That is correct. Yes.

8 Q. All right. Now, I'm gonna switch to -- now, what are
9 strolling pass, is this just showing you the path you took
10 trying to find this car?

11 A. That is correct. Yes.

12 Q. Again, we're not gonna bore the jury with all of that.
13 Let's just jump straight to more pertinent -- well -- now,
14 do you recall as far as -- what's going on here? Take us
15 through what's going on here ---

16 A. I'm just trying to ride around and look for, for that
17 vehicle since I had lost sight of that vehicle that's why
18 there's no blue lights or anything is going on. I'm just,
19 just riding around trying to locate that vehicle.

20 Q. And is this near Hartsville High School or is this ---

21 A. I believe so. I believe it is, yes.

22 Q. And is this you turning left on Washington Street?

23 A. That is correct. Yes.

24 Q. And is this still you going down Washington Street
25 heading towards, heading towards Sixth Street?

1 A. That's correct. Yes.

2 Q. Now, what happens when you slow down?

3 A. I just, I just saw the vehicle.

4 Q. Okay.

5 A. And I put it in reverse and backed up.

6 Q. And was it to your right or left?

7 A. To my right.

8 Q. Okay. So now, where you pull in -- and what are we
9 seeing there?

10 A. That's me getting out the vehicle. Actually, the
11 vehicle that I saw and we're talking about it's right here.
12 It's just how I angled my patrol vehicle it showed the
13 actually vehicle.

14 Q. Which is why we have the other Washington Street videos
15 that's already in evidence. You can go ahead and keep -- I
16 appreciate Mr. Bell doing the technical along with
17 everything else he's doing. Is that you passing by?

18 A. That was.

19 Q. Okay. And is that car?

20 A. That is me, right there. Correct.

21 Q. What's taking place here?

22 A. This is the gentleman that approached me. We had a
23 brief conversation about the vehicle.

24 Q. And we've already heard from other evidence that that's
25 Darius Dickey. And what is he telling you at that point?

1 A. I cannot remember verbatim, but something to the effect
2 of he did not know whose vehicle that was, but it was his
3 driveway and that I needed to leave.

4 Q. And just to be clear, is that the same Nissan Versa
5 that you saw and tried to approach that was leaving Mac's
6 Lounge?

7 A. That is.

8 Q. Okay.

9 A. It was.

10 Q. And, of course, that's why you stopped it because you
11 saw the same vehicle that you saw pulling out of Mac's?

12 A. Due to the out of state tags, yes, that's why.

13 MR. REDMOND: That'd be all the questions I have. Mr.
14 Cottingham, please answer any questions that the defense
15 may have.

16 **Cross-Examination by Mr. Scales:**

17 Q. Good morning, Trooper Cottingham. So you're driving
18 down Washington Street and you saw a vehicle that you just
19 saw minutes late or minutes before at Mac's Lounge?

20 A. That matched that description of that I just saw, yes.

21 Q. And that had out of state plates?

22 A. Out of state tags.

23 Q. And that was suspicious to you, obviously,

24 A. Correct. Yes.

25 Q. So you pull your car behind that vehicle and you see

1 three males?

2 A. At first, I did not see anybody in or around that
3 vehicle.

4 Q. Okay.

5 A. Due to it being, it's pitch black dark, at that point.
6 So I didn't initially see anybody ---

7 Q. Because you had your flashlight ---

8 A. --- some time -- I didn't have a flashlight. But some
9 time later or a few seconds later that gentleman approaches
10 me.

11 Q. And when you're walking up the driveway you look into
12 the car?

13 A. Correct. Yes.

14 Q. And that's where you see ---

15 A. That's where I see ---

16 Q. --- shell casings?

17 A. --- I see the shell casings in between the driver's
18 seat and the driver door.

19 Q. Okay.

20 A. Which led me to believe that this is the vehicle, in
21 fact, that or most likely the vehicle that I just saw at
22 Mac's Lounge.

23 Q. And then, as you saw on the surveillance video, Darius
24 Dickey approaches you?

25 A. Or a gentleman approached me. I have -- I had no idea

1 who that.

2 Q. Okay. That gentleman was walking?

3 A. Correct. Yes.

4 Q. You said he walked up to you?

5 A. Yes.

6 Q. He engaged with you?

7 A. Yes.

8 Q. Okay. So you have a vehicle that you just saw at
9 Mac's Lounge, it has shell casings in it, and you have an
10 individual in close proximity to that car, you did not
11 detain that individual?

12 A. I had no idea who was driving that vehicle or nothing
13 to tie any individual person to it.

14 Q. You didn't hold on him for any questions?

15 A. I didn't have no reason to.

16 Q. You didn't hold the other two individuals ---

17 A. Had no reason to ---

18 Q. --- for any questions?

19 MR. SCALES: Beg the Court's indulgence?

20 THE COURT: Yes, sir.

21 MR. SCALES: That's all the questions I have, judge.

22 MR. REDMOND: Brief redirect.

23 THE COURT: Yes, sir.

24 **Redirect Examination by Mr. Redmond:**

25 Q. Because based on what you were asked, again, did you

J. Winburn- Direct Examination by Mr. Bell

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1 have a description of -- did you even have description of
2 anybody who you were looking for or was your only
3 description of the car itself?

4 A. Only description of the car itself. I was not told
5 about any person or anything like that. No.

6 Q. And again, this is a rapidly unfolding situation?

7 A. It was a very fluid situation. Yes.

8 Q. And just to be clear, did you do, um, make the best
9 judgment you could in the moment with the information that
10 you had?

11 A. I believe so.

12 MR. REDMOND: That'd be all questions I have, Your
13 Honor.

14 THE COURT: All right. Anything further?

15 MR. SCALES: No, Your Honor.

16 THE COURT: All right. Thank you, sir. You can step
17 down.

18 MR. BELL: May it please, the Court? Your Honor, the
19 State calls Johnny Winburn to the stand.

20 THE CLERK: Place your left hand on the Bible and raise
21 right. You swear the testimony you give this court would
22 be the truth, the whole truth, and nothing but the truth so
23 help you God?

24 MR. WINBURN: Yes, ma'am.

25 JOHNNY WINBURN, first being

1 duly sworn, testified as follows:

2 **Direct Examination by Mr. Bell:**

3 Q. Good morning, Mr. Winburn.

4 A. Good morning.

5 Q. Please state your full name for the record?

6 A. Johnny Winburn.

7 Q. And Mr. Windburn, where do you work?

8 A. The Hartsville Police Department.

9 Q. And where were you working on January 26, 2020?

10 A. I was assigned to the to the United States Marshal's
11 Task Force, but I was employed through Hartsville Police
12 Department.

13 Q. And did you have any involvement with the case
14 involving Mr. Darius Dickey?

15 A. Yes, sir.

16 Q. Could you please, tell the ladies and gentlemen of the
17 jury, what your involvement was with this case?

18 A. I was assigned to locate and apprehend Darius Dickey.

19 Q. And did you do that?

20 A. I did.

21 Q. Based on your investigation, where did your
22 investigation lead you and your pursuit of Mr. Dickey?

23 A. We started at a Sergeant Hause, an investigator with
24 Hartsville Police Department and I responded to Darius's
25 residence or his mother's residence. And we began

1 interviews that eventually took us to Sumter County. And
2 then I correspond with Sumter County and the United States
3 Marshal Service, we were able to locate Darius in Rembert,
4 South Carolina which is in Sumter County.

5 Q. And when you say y'all apprehended him, did he come
6 peacefully?

7 A. He did. We surrounded the trailer and called him out.
8 He came out willingly and we placed him in handcuffs
9 without incident.

10 Q. And was a search warrant conducted on that home?

11 A. Yes, sir. Sumter County obtained a search warrant and
12 then, Sumter searched the property.

13 Q. And were any items given to you that were found there?

14 A. No, sir.

15 Q. Okay. What did you do with Mr. Dickey after that?

16 A. Whenever I placed him in handcuffs I put him in my
17 passenger seat and, and I -- once the search warrant was
18 completed I took him back to Hartsville Police Department.
19 I served him with his warrant and I turned him over to the
20 sergeant on patrol to take him to the jail.

21 Q. And did you observe anything about him after you placed
22 him under arrest and took him back to Hartsville?

23 A. Within five minutes he was asleep in my passenger seat.

24 MR. BELL: I beg the Court's indulgence?

25 THE COURT: Yes, sir.

1 MR. BELL: Please answer any questions the defendant my
2 have?

3 MR. WINBURN: Yes, sir.

4 MR. SCALES: I beg the Court's indulgence, Your Honor?

5 **Cross-Examination by Mr. Scales:**

6 Q. Good morning, Investigator Winburn.

7 A. Good morning.

8 Q. What time did you arrive at Mac's Lounge when you
9 received a call from First Sergeant Weatherford?

10 A. I'm not sure what time I arrived. I got the call
11 around two so it would have been shortly after that ---

12 Q. Okay.

13 A. --- in the morning.

14 Q. And you would agree with other officers that have
15 testified that the scene was chaotic?

16 A. Once I arrived all that was over.

17 Q. Okay.

18 A. Yes, sir.

19 Q. And you met with Sergeant Specht when you arrived on
20 scene?

21 A. I did. To see where I was needed. I didn't know where
22 everyone was. He was first the officer I come up to.

23 Q. Okay. And you wrote a supplement report in this case,
24 right?

25 A. I did.

1 Q. Okay. And you say in your supplement report that he
2 updated you on what little information he had at the time?

3 A. Yes, sir. Just that there was a shooting that took
4 place that there were several people shot and that Sergeant
5 Weatherford, he's the one that contacted me, was talking to
6 a witness ---

7 Q. Okay.

8 A. --- I believe. It was either Specht or Officer Curtis
9 that told me that.

10 Q. I believe you said you spoke with Curtis after you met
11 with Specht?

12 A. Yeah. It would have been right there together.

13 Q. Okay.

14 A. 'Cause I was only, I was only at Mac's for maybe two or
15 three minutes before I left.

16 Q. And Corporal Curtis advised you that Sergeant
17 Weatherford was meeting with Angelena Deason?

18 A. I'd need to refer to my ---

19 Q. Sure.

20 A. I believe that's correct. Yes. That's correct.

21 Q. And Corporal Curtis told you that Angelena Deason had
22 knowledge that Darius Dickey was the shooter?

23 A. Yes, sir.

24 Q. And you didn't speak to anyone else on scene?

25 A. No. I was sent to Washington Street to stand by with

1 Detective Goodman while he processed the silver car.

2 Q. Okay. And let's back up a little bit, you're an
3 investigator on this case?

4 A. No, sir. I was -- I was just assigned to locate and
5 apprehend Darius.

6 Q. Okay.

7 MR. SCALES: Beg the Court's indulgence?

8 THE COURT: Yes, sir.

9 Q. Okay. I believe that you wrote your incident report
10 that First Sergeant Weatherford briefed you that he
11 obtained a warrant on Leonard Sweetenburg?

12 A. Yes, sir.

13 Q. And he had been identified as a suspect in the Mac's
14 Lounge shooting?

15 A. Yes, sir. So Lieutenant or Sergeant Weatherford, at
16 them time, would brief me anytime he obtained a warrant and
17 then I would be assigned to go track down that person.

18 Q. Okay. And you learned that Mr. Sweetenburg was at
19 Carolina Pines Hospital?

20 A. He was at McLeod. McLeod ---

21 Q. McLeod ---

22 A. --- in Florence.

23 Q. Okay. Sorry. And he had been shot?

24 A. That's correct.

25 Q. Okay. And then you later arrested Mr. Sweetenburg for

1 on February 3, 2018?

2 A. That sounds correct.

3 Q. And you were also part of the US Marshals Team who
4 apprehended Mr. McCall?

5 A. Yes, sir.

6 Q. And that was in Durham, North Carolina?

7 A. Yes, sir.

8 Q. In an apartment complex?

9 A. Yes, sir.

10 Q. Okay. And you met with law enforcement up there?

11 A. I did.

12 Q. Okay. And when you approached the door or when the
13 team approached the door they knocked on the door?

14 A. Yes, sir.

15 Q. And you note in your report that someone came to the
16 door and look through the peep holes?

17 A. Yes, sir.

18 Q. And then it appeared they retreated deeper back into
19 the apartment?

20 A. Yes, sir.

21 Q. And you also had to obtain a search warrant for that
22 apartment?

23 A. Durham PD did.

24 Q. Okay. And you found two firearms?

25 A. They did.

1 Q. That particular firearm was linked to the deaths of two
2 people at Mac's Lounge?

3 A. I'm not sure.

4 Q. Okay. You just mentioned that Sergeant Weatherford
5 would brief you anytime he executed a warrant?

6 A. Yeah. So he contacted me for the defendant, Dickey,
7 for Davijon McCall and Leonard Sweetenburg.

8 Q. Okay.

9 A. That was the three in this case that I was assigned to
10 apprehend.

11 Q. So then if he contacted you about Darius Dickey you'd
12 be aware of that Darius Dickey, he had a warrant just in
13 September of last year for the attempted murder of Mr.
14 McCall?

15 A. No, sir. So once I take him into custody and get them
16 to the jail, once they're in jail they just if they add
17 additional warrants they'll take care of that. I'm only in
18 charge of finding them at the time.

19 Q. Fair enough.

20 MR. SCALES: Beg the Court's indulgence?

21 THE COURT: Yes, sir.

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

23 THE COURT: Any redirect?

24 MR. BELL: Briefly.

25 **Redirect Examination by Mr. Bell:**

1 Q. Investigator Winburn, did you serve that warrant on
2 Leonard Sweetenburg?

3 A. I don't recall. But I would assume I did if I took him
4 into custody.

5 Q. Do you recall that warrant being for assault and
6 battery, third?

7 A. Yes, sir.

8 MR. BELL: No further questions.

9 THE COURT: Thank you, sir. You can step down.

10 THE COURT: Let me see the attorneys at the bench.

11 (Whereupon, a bench conference is held off the record)

12 THE COURT: Ladies gentlemen of the jury, at this
13 time, I'm going to send you to your jury room so I and the
14 attorneys can discuss some matter of law and it needs to be
15 done outside your presence. Please do not begin your
16 deliberations. Don't discuss this case amongst yourselves
17 or with anybody else. And we will bring you back out as
18 soon as we can.

19 Thank you.

20 (Whereupon, the jury exits the courtroom at 10:27 a.m.)

21 THE COURT: All right. Ladies and gentlemen, while
22 we're in recess I want the attorneys to make sure that the
23 items of evidence that needed, there were things that were
24 presented and offered that needed to be redacted so I'm
25 gonna allow the attorneys to get together and make sure

1 defense -- well, I know he's not gonna testify. Does the
2 defense plan to offer any evidence?

3 MS. WHITE: No, Your Honor.

4 THE COURT: All right. I will allow you to rest and
5 then I think it's probably a good idea to send the jury to
6 lunch early. That way we can put the issues with regard to
7 the jury charge on the record. And then, frankly, it'll
8 give, give me time, based upon the decisions that I make
9 and based upon your arguments, to put together a charge in
10 full and prepare the verdict forms as well and bring the
11 jury back at 1:15 and we'll start, we'll proceed with
12 closing arguments then. Is that -- does the State have any
13 objection to that plan?

14 MR. BELL: No objection from the State.

15 THE COURT: Does the defense have any objection?

16 MS. WHITE: No, Your Honor.

17 THE COURT: All right. Brings us the jury please.

18 (Whereupon, the jury enters the courtroom at 11:22 a.m.)

19 THE COURT: Ladies and gentlemen of the jury, thank
20 you for your patience as we work through these matters of
21 law. We will resume the case at this time. Mr. Bell?

22 MR. BELL: Yes, Your Honor. May it please, the Court?

23 THE COURT: Yes, sir.

24 MR. BELL: The State at this time rest.

25 THE COURT: All right. Ladies and gentlemen of the

1 jury, you've heard all of the evidence that the State
2 intends to present in this case in chief in this matter.
3 So at this time the State has closed his case and rested.
4 And I will recognize the, the defense, Ms. White? Mr.
5 Scruggs? Mr. Scales?

6 MS. WHITE: Your Honor, we'll rest our case at this
7 time as well.

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, that means you've heard all of the evidence and
10 testimony that will be presented in this case, but the case
11 is not over yet. We still have two important parts this
12 case left to come and those being the closing arguments
13 from counsel and then my charge on the law. This may be a
14 little bit unorthodox because it's not quite lunchtime yet,
15 but I think it's the best use of our time to go ahead and
16 send you to an early lunch and ask that you be back at
17 1:15. At 1:15 we will begin with the closing arguments of
18 counsel and then I will charge you on the law which is
19 applicable to this case.

20 Now, even though you've heard all of the evidence and
21 testimony or seen all of the evidence and heard all of the
22 testimony that will be presented in this case, you cannot
23 begin your deliberations yet so don't discuss this case
24 amongst yourselves or with anybody else. And don't do any
25 research about any issue which may have been raised in this

1 case while you're on your lunch break because it's not over
2 yet. So while you're at lunch don't discuss this case with
3 anybody. When you come back to your jury room don't start
4 talking about what you've seen and heard over the course of
5 the last few days. And with that being said, I will excuse
6 you now for lunch. And if you'll be back at, at 1:15,
7 we'll be in a position to begin closing arguments. I hope
8 you have a good lunch and we'll see you back this
9 afternoon.

10 Thank you.

11 (Whereupon, the jury exits the courtroom at 11:25 a.m.)

12 THE COURT: All right. Mr. Scruggs, any motions at
13 this time?

14 MR. SCRUGGS: Your Honor, we would just renew our
15 motion for directed verdict and renew the motions we made
16 on Monday, again.

17 THE COURT: All right. And thank you, Mr. Scruggs. I
18 will rely on my reasoning for my rulings here earlier today
19 and respectfully, deny all those motions. I think while
20 we're here now it's a good time to, at least, discuss the
21 proposed jury charge. I sent a rough draft yesterday to
22 counsel via email. And I know there was a couple of issues
23 that we'll, we'll need further argument and discussion. So
24 as far as what's been presented at this time in my draft,
25 any problems with the draft charge, with what's contained

1 in the, the the draft charge?

2 MR. BELL: Nothing from the State.

3 MR. SCRUGGS: Judge, there are a few things the defense
4 would ask the Court to consider. As I mentioned during the
5 motion for directed verdict, I think that they're
6 reasonable inferences from the evidence the State has
7 presented that would allow the Court to charge both self-
8 defense and defense of others. I handed up to the Court
9 and provide the solicitor a copy of State v. Hendricks.
10 That's H-e-n-d-r-i-x, 270 S.C. 653. It's an opinion from
11 the Supreme Court of South Carolina from 1978. Your Honor,
12 I found no contrary precedent or negative treatment of this
13 case. And I bring this case up because in that case, just
14 like here, the defendant in that case did not testify and
15 did not offer any evidence of a subject to reasonable fear
16 or fear of, of death or bodily harm. As the Court knows
17 the elements of self-defense without bringing, without
18 fault in bringing on the difficulty, the second and third
19 provisions it's an either or standard. Either the
20 defendant can testify that he was in fear of reasonable, in
21 fear of death or great bodily injury. And then that third
22 element that a reasonable person would be, would feel the
23 same way under similar circumstances; or as that second, to
24 that second element is kind of an objective standard. A
25 person in that situation actually would have been in fear

1 of death or great bodily injury and, and examined under
2 that objective standard as well for the third element. And
3 lastly, the last element, is basically was not able to get
4 away without putting themselves in further harm.

5 We think the reasonable inferences that have been
6 shown from the State's witnesses, specifically, Detective
7 Hause's recounting of what Mr. Thomas told him, initially,
8 would support a jury charge on self-defense and defense of
9 others even though the defendant has not testified here.

10 Your Honor, the, the other issues that, that the
11 defense has is there is a portion of the murder charge that
12 references a burden malice and goes on to define the deadly
13 weapon. And I'm citing - we object to that - and I'm
14 citing State v. Burdette, B-u-r-d-e-t-t-e. That's 427 S.C.
15 490. And the Supreme Court notes that there was evidence
16 presented at trial that tended to reduce, mitigate,
17 excuse, or justify for debts killing of victim, making the
18 trial Court's inferred malice instruction inappropriate.
19 So we would ask the Court not to, to charge inferred malice
20 based on the reasonable inferences that support self-
21 defense and defense of others.

22 Additionally, Your Honor, as the Court is aware of
23 the, the case law surrounding attempted murder right now
24 and South Carolina is pretty fluid, from my understanding
25 is that implied malice and the context of attempted murder

1 should not be charged. And the states supporting that --
2 the case supporting that proposition is The State v. Smith
3 430 S.C. 226. That's a case where the victim was injured
4 at five points on Colombia.

5 Your Honor, those are the two major objections that
6 defense has. I know there has been some discussion about
7 the State requesting an accomplice liability charge as it
8 relates to mutual combat here. I don't want to be long
9 winded about this. But first of all, I think there are
10 factual reasons not to do it. Because the, the evidence is
11 that Mr. Dickey came to the location to Mac's Lounge with
12 Zyrig Thomas and DiCaprio Collins. We have no idea what
13 the fight was about between Mr. Collins and Mr. McCall.
14 That's where the fight happens. If there's no evidence
15 that Mr. Dickey was acting in concert, giving assistance
16 to, or encouraging, nor that a natural and probable
17 consequence of a fistfight would turn into a, a barroom
18 shoot out. Factually, I don't think it's appropriate.
19 Procedurally, I don't either. Because I have the utmost
20 respect for both, professionally and personally, for this
21 solicitors involved in this case, but I almost feel like
22 the defense has had to play legal, Whac-a-Mole. We've had
23 to respond to one theory. Another one comes up, and it was
24 before Monday, it was mutual combat. Monday morning it was
25 transferred intent. And now it's a maybe, maybe a modified

1 version of the mutual combat from State v. Young. We've -
2 - we've tried to tailor our response, but then opening and
3 through cross-examination, the procedurally also, there's
4 no count, either by special count or a separate indictment
5 that alleges a conspiracy. There is no allegation of
6 planning beforehand. And in the murder indictment and the
7 indictments that have been called there's no allegation or
8 pleading that anyone was acting in concert with one
9 another, and nor does it mention the people that Mr. Dickey
10 would have been notably in concert with.

11 So to summarize, Your Honor, the defense would request
12 charges on self-defense, defense of others. We would ask
13 the Court not to charge mutual combat or accomplice
14 liability. And we would ask the Court to redact or remove
15 language that includes inferred malice and deadly weapon as
16 it relates to murder. The State is free to argue that to
17 the jury. But I believe it would be error for the Court to
18 charge it. And we also would ask the Court to redact the
19 implied malice as it relates to attempted murder. And just
20 a -- those are the major objections. There's one thing I
21 noted and I was trying to find it in the order, it might be
22 under the transferred intent part where it mentions assault
23 and battery with intent to kill, um, I think that's the
24 only portion that might have to be amended to.

25 THE COURT: All right. I'll check on that. Mr.

1 Redmond?

2 MR. REDMOND: Thank you, Your Honor. May it please,
3 the Court?

4 THE COURT: Yes, sir.

5 MR. REDMOND: I'll try to go as close to the order as
6 best argument as I can. As it relates to self-defense,
7 their request to instruct on self-defense, the State would
8 oppose that because, one, we think when looking at evidence
9 that's in the record and I think the Court alluded to it in
10 the, with the redirected verdict motion, we've got evidence
11 in the record that -- and, of course, we're not, and know
12 we cannot argue regarding the defense case and engage in
13 burden shifting so....to be clear my comments are strictly
14 what's been presented by the State and any information
15 gleaned or gathered from cross-examination. But as it
16 relates to this particular issue you've got evidence,
17 again, from Angelena Deason and even AJ Wright about the
18 actions of the defendant prior to the shooting and I won't
19 go back into those. Your Honor, heard those in my earlier
20 response. But you also have Zyrig Thomas who talks about
21 the fact, and I think the Court alluded to this, that he
22 actually became engaged in the, in what was transpiring in
23 the fight. He became involved in the fight and then that's
24 when things escalated. So I do not think that the
25 defendant is entitled to self-defense. And so for those

1 particular reasons, again, based on the evidence that's in
2 the record, I think when we're talking about allowing
3 certain inferences I think that, that might be a bridge too
4 far to let, um, have them make that inference based on the
5 evidence in the record regarding the defendant's
6 activities. Strategically, I'm not addressing you as to
7 whether or not or what they should have to prove, but to
8 keep in mind self-defense as I recall and I'll be corrected
9 if I'm wrong, the defense, obviously, puts up evidence or,
10 at least, alludes to evidence of self-defense and it's our
11 burden to disprove that. And so I think with what we have
12 just discussed, I think that, that has been done. I think
13 if there is an issue lurking out there for self-defense,
14 just them putting it out there and saying it's self-defense
15 is out there does not make it so. You know, just because I
16 say it does not make it so. And I think we're dealing with
17 that situation here. Just because they say it doesn't make
18 it so. I don't think that there is enough in the record to
19 justify for the reasons that I've just stated.

20 As it relates to the inferred malice, I did have the
21 chance to read Burdette and I read Burdette differently.
22 Because everything I read in Burdette dealt with implied
23 malice regarding the Court instructing that a deadly weapon
24 can be indicative of implied malice. I did not read
25 Burdette to say you cannot have an implied malice

1 instruction. If I'm wrong, obviously, Your Honor would,
2 would definitely correct me on that. But my reading of
3 Burdette it's strictly talked about, again, implied malice
4 as it relates to a deadly weapon. And we all agree, I
5 think, even from Belcher that we can't do that. We haven't
6 been doing that for years from the prosecution side. We
7 know we can argue it. But we know that Your Honor cannot
8 instruct it. I think that's been since 2009. But I don't
9 think that Burdette moved the needle saying that implied,
10 that implied malice period could not be instructed. We
11 would, we would disagree with the defense's request in that
12 regard.

13 And to kind of segue into the attempted, excuse me,
14 the implied malice on the attempted murder charge,
15 obviously, we know attempted murder kind of has its own
16 little path that it still evolves. We all have grappled
17 with that. But in the context that the defense is talking
18 as far as implied malice, again, if I'm wrong I'll be
19 corrected, but my understanding is the big issue with
20 attempt murder, really the biggest issue, I think comes
21 down to the, the specific intent aspect of it. When it
22 comes to that intent I think inferences are allowed in that
23 regard it's just it has to be made clear that those
24 inferences must lead to the specific intent to target a
25 particular individual. I think the evidence in this case

1 is such that the State will be able to make that particular
2 argument based, again, on everything that's come out. So
3 we would disagree with the State on that. I will confess I
4 have not had the chance to read State v. Smith. I'll read
5 it if necessary. But that's just, again, my recollection
6 and understanding of the law on attempted murder.

7 And finally, as it relates to hand of one is the hand
8 of all, looking, again, at State v. Young, and just to be
9 cleared, when we're talking about mutual combat, we're
10 talking about accomplice liability, those, they can work
11 together but they're two different things as well. And --
12 because accomplice liability exists whether or not there's
13 mutual combat. This just happens to be a situation where
14 those things have sort of crystallized. And I will direct
15 the Court's attention to a couple of cases and I apologize
16 I did not write them out, but I did go make a copy of the
17 case. But one is a case from New York that is discussed
18 with the Court and our Supreme Court is talking about these
19 situations. And in those cases it's talking about
20 shootouts where innocent bystanders are struck. Again, one
21 of those cases is from New York where the Court talks about
22 the hand of one is the hand of all. But then,
23 interestingly, you know, Garrett Bakhsh is from Maryland,
24 but one of the cases cited in the Young opinion is a
25 Maryland case. And it, again, talks about innocent

1 bystanders and, specifically, talks about the fact where
2 you have combat 'cause we think of accomplices as being,
3 you know, acting together. They go to a robbery together.
4 They're working together. And, of course, we know that's
5 not necessarily the case. Here we have a situation where
6 you've got individuals who are armed. As we've heard at
7 nauseam, the defendant was armed before, during, and after.
8 You've got -- of course, we've heard about Davijon McCall.
9 You've got two individuals that decided to start shooting
10 at each other in a crowded bar. You had people that were
11 like fishing in a barrel at that point and we saw what
12 happened in that particular episode. At that point, and,
13 of course, it's stated in Young, at that point, they, in
14 essence, aided and abetted each other by shooting at each
15 other, engaging in that illegal activity. So we think, and
16 we would highlight -- and to the defense's point about
17 having to play catch up, you know, obviously, it's not our
18 job to do their job, but I would say that Young has been
19 discussed for months, that case has been discussed. So
20 it's not like it's any secret what the whole issues are in
21 Young so I would ---

22 THE COURT: And I, I didn't see any requirement in
23 Young. I read it last night, again, last night that
24 requires any specific reference to mutual combat in the
25 indictment. It's not like pleading special matters in

1 civil court or something like that. Now, if there was a
2 bright line rule that if the State intends to relying on
3 this theory it must be noticed, specific notice of the
4 theory must be included in within the indictment, you know,
5 it maybe a different story. But as far as I can tell from
6 reading Young that's not a requirement. Even though
7 Solicitor Stone in the Young case did plead mutual combat,
8 um, the Court didn't make any finding regarding - or plead,
9 he did specifically refer to mutual combat in the
10 indictment. I don't know that there's necessarily a
11 specific requirement that it be included within the the
12 language of the indictment so that's just an aside.

13 MR. REDMOND: Yes, sir.

14 THE COURT: Go ahead Mr. Redmond.

15 THE COURT: Yes, sir. And just for the record and I
16 think counsel has noted even as far as Monday, from Monday
17 and till now, that Young has been an issue that they've
18 been aware of for some time. So this is, from a notice
19 standpoint, this is not like they have been ambushed.

20 So I say all that to say, Your Honor, for those
21 reasons we think the hand of one is the hand of all should
22 be instructed. And the last thing, I say, I'll say and I'd
23 ask the Court to pardon me, but as I was coming in today,
24 I'm thinking about the situation that evolved and it's just
25 hard for me to fathom the fact that just because we may not

1 be able to definitively say who fired the fatal shot in a
2 shootout in a bar that anyone should be able to benefit
3 from, from that, if the Court understands what I'm trying
4 to say. I don't see where somebody should benefit from the
5 fact that, yeah, we engaged in a shootout at the bar, but
6 since we don't know who shot whom, hey, tough luck. I just
7 don't see that. And I don't think the Court, I don't think
8 the law is designed for that. So I think that hand of one
9 is the hand of all absolutely applies in this situation,
10 Your Honor.

11 Thank you.

12 MR. SCRUGGS: And, judge, can I just briefly respond
13 because I -- I didn't go in so much too Young, but I do
14 want to put a few things on the record.

15 THE COURT: Yeah, I mean if ---

16 MR. SCRUGGS: And I agree with, Your Honor, the State
17 v. Young case did not address whether it had to be pled in
18 the indictment. But I did note which is attached to our
19 motion to quash as Solicitor Stone did plead that in his
20 case and put the defense on notice that that was the
21 theory. The problem with the State requesting it now isn't
22 the fact that they have been telling us for months that
23 they were going to do it. The problem is Monday morning
24 before they took, before we started they said we're going
25 to change courses midstream and do transfer intent. And

1 that matters because we went into specific questioning with
2 Lieutenant Thrower about whose bullet that was. That is
3 extremely important on transfer intent. But I'll agree
4 it's not important on mutual combat.

5 THE COURT: Well -- and again, we're just talking about
6 jury charge, I mean, you know, my view on jury charges if,
7 if there's evidence that supports the charge in the record
8 it probably should be charged. I understand your due
9 process argument and, and, you know, happened to be
10 flexible during trial. I understand that. That is
11 preserved for the record. And that, you know, depending on
12 the outcome of the case that may be something that a higher
13 court will reach one day. But, you know, I guess -- and
14 I'm not trying to cut you off and I know you need to make a
15 complete, complete record and I think you've done that.
16 But, you know, my -- like I said my view on the jury
17 charges, if there's evidence in the record to support it,
18 then I think the judge is, I won't use the word required,
19 but if it's there and it's for the jury to consider and if
20 the issue is before the jury, you know, I think, you know,
21 that may -- that may -- these issues may cut both ways if I
22 decide to charge mutual combat and accomplice liability.
23 If there's mutual combat that may increase the likelihood
24 that I charge self-defense or defense of others. Now, that
25 doesn't, just because I charge it, doesn't necessarily mean

1 that I believe that anybody has proven anything beyond a
2 reasonable doubt because that's not my role. That's the
3 jury's role. And my job is to charge the law accurately
4 and charge the areas of law that are present before the
5 jury. So -- and I apologize for cutting you off. I just
6 want to make sure we don't get ---

7 MR. SCRUGGS: Right.

8 THE COURT: --- too far down the rabbit hole on, on
9 issues that really are outside the scope of the trial
10 judge's determination when dealing with the specific issue
11 of whether or not to charge something.

12 MR. SCRUGGS: And -- thank you, Your Honor. And just
13 briefly, I promise I'm gonna sit down, but Young said that
14 there has to be a pre-existing dispute and that the State
15 is required to approve the gravel combatants were armed for
16 the mutual combat with deadly weapons and each combatant
17 knew the others were armed. And that's our, the basis of
18 our objection.

19 THE COURT: All right. I'm gonna go back and review
20 State v. Burdette and State v. Smith with regard to the,
21 the malice components of the murder charge and the
22 attempted murder charge. And then I'm going to think about
23 the self-defense and defense of other coupled with the
24 request from the State for the accomplice liability due to
25 the mutual combat. You know, they may perhaps go hand in

1 hand if there's, if there's combat perhaps and this is not,
2 I mean, this is not a final ruling, I'm just kind of
3 thinking through this. You know, if there is mutual combat
4 then could there potentially be a presence of, of self-
5 defense and/or defense of others. I'm gonna have to bat
6 that around in my head for a while and make a final
7 decision.

8 Anything else with regard to the charge ---

9 MR. REDMOND: Just briefly ---

10 THE COURT: --- before we adjourn?

11 MR. REDMOND: --- for the record sake so the State's
12 position is clear based on what the defense just read. If
13 you go further, the State's arguing that, and I want to
14 make sure because I write wrote it down, accomplice
15 liability hand one is the hand of all, exists regardless of
16 whether mutual combat applies. That's why I've stressed
17 the fact that those are two things that are equal. Now, a
18 mutual combat situation it is within expanded where mutual
19 combat can fall within hand of one is the hand of all, but
20 standing on his own, and in the Young case, the Court use
21 the cases from Maryland and from New York to highlight the
22 law as it relates to accomplice liability. I just wanted
23 to make that clear for the record.

24 THE COURT: I gotcha. I understand. All right. Well,
25 I will come up with what I believe to be an appropriate

1 charge. I'll email it to all of you and based upon my
2 reading of these cases that have been submitted. And then,
3 as far as verdict forms, there'll be six separate verdict
4 forms. Each referring to the appropriate indictment. And
5 each one of them will just say not guilty or guilty. And
6 should be -- should be pretty, pretty standard. There's no
7 -- since nobody is requesting any lesser included and it'll
8 be very simple, straightforward verdict forms.

9 MR. REDMOND: Yes, sir.

10 THE COURT: All right. We will be in recess until
11 1:15.

12 MR. REDMOND: Thank you. Your Honor

13 THE COURT: All right.

14 (Whereupon, the Court takes a recess until 1:15 p.m.)

15 (Whereupon, the Court goes back on the record at 1:31 p.m.)

16 THE COURT: All right. Everyone, are y'all ready
17 for the jury to be brought in?

18 MR. BELL: Yes, Your Honor.

19 THE COURT: The defense ready?

20 MS. WHITE: Yes, Your Honor.

21 THE COURT: All right. Please bring us the jury,
22 please.

23 (Whereupon, the jury enters the courtroom at 1:32 p.m.)

24 THE COURT: Good afternoon, ladies and gentlemen.
25 Thank you for your prompt return. As I told you before we

1 broke for lunch you have heard all of the evidence and
2 testimony you're going to hear in this case and now it is
3 time for the attorneys to make their closing arguments to
4 you.

5 Now, unlike the opening statements that you heard at
6 the beginning of this trial these arguments are true
7 arguments. The sides will be able to argue to you or
8 advocate for the positions they believe in and what they
9 believe the evidence has shown over the course of this
10 trial. So please give the attorneys your undivided
11 attention as they make their closing arguments. And I'll
12 now recognize the State to make it's closing argument. Mr.
13 Bell?

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

16 THE COURT: Yes, sir.

17 MR. BELL: Defense counsel, Ms. White, Mr. Scruggs, Mr.
18 Scales and Deputy Solicitor, Mr. Redmond.

19 **Closing Argument- Mr. Bell**

20 Ladies and gentlemen of the jury, good afternoon.
21 Well, interesting enough I woke up this morning, I know we
22 talked on Tuesday, we talked about circumstantial evidence.
23 We talked about the rain analogy. Well, interesting
24 enough, the ground was wet - now, be it, I'm in Hartsville
25 - so the ground was wet, my car was wet, the roof of my

1 house was wet, the trees was wet. I didn't see it rain,
2 but I was able to take those pieces of fact to tie them
3 together to show that it, in fact, rained. And I was able
4 to conclude it, in fact, rained. And that's what you're
5 going to have to do with this case.

6 Now, again, the State has the burden of proof, who
7 Darius Dickey, guilty of attempted murder of Davijon
8 McCall, murder of Garret Bakhsh, assault and battery of a
9 high and aggravated nature of Ivan Granados, assault and
10 battery of a high and aggravated nature of Sweet, Leonard
11 Sweetenburg, and two weapon charges. That's possession of
12 weapon during the commission of a violent crime, unlawful
13 carrying of a pistol.

14 And so now you have heard the evidence. And again,
15 like I told you Tuesday you will weight the evidence. And
16 only you will get determined what weight you place on
17 evidence. So what I would like for you to first look at
18 and analyze is the attempted murder. What is attempted
19 murder again?

20 Attempted murder is the attempted, attempted killing
21 of another with malice aforethought either express or
22 implied. Now, we've heard testimony. We've heard there
23 was a Davijon McCall involved. And we heard that gunshots
24 were fired. We heard that a fight ensued. And where did
25 we hear that from? Well, Zyrig Thomas, if you remember,

1 Zyrig Thomas is the cousin of Darius Dickey. And when
2 Zyrig Thomas came up to testify, did he look like he wanted
3 to testify? No. He didn't. Did he tell you wanted to
4 testify? He made it clear he didn't want to be here. Why?
5 That's his cousin. But what he did tell us was that one,
6 Darius Dickey was Mac's Lounge on January 26, 2020 because
7 they came together. He also told you and admitted that
8 DiCaprio Collins was there and that's important. That's
9 important because that puts Zyrig over here with Darius
10 Dickey and DiCaprio Collins. What else did Zyrig Thomas
11 tell us? He told us that a fight ensued. He said that he
12 didn't know who started the fight, but DiCaprio Collins and
13 Davijon McCall got in a fight. And when they got in a
14 fight, then it gets tricky with Zyrig, he doesn't remember
15 telling Kyle Hause this and he remember giving a statement,
16 but he doesn't remember telling Kyle Hause, but Kyle Hause
17 came back and told you that Zyrig told you, told him htat
18 Davijon at the point where the fight ensued and with
19 Davijon and DiCaprio and when Darius grabs Davijon, when
20 Darius grabs, at that point, that's when Davijon starts
21 shooting.

22 Ladies and gentlemen of the jury, I submit to you that
23 at that point there was malice being shown by Darius
24 Dickey. And again. what is malice? Malice is ill will.
25 It's hatred. And the judge is going to give you the law.

1 But I'm telling you of what my definition of malice is.
2 It's ill will. It's hatred. It's mean for no reason.
3 It's acting reckless. It's indifference for life. It's --
4 to me it's walking around a club with your hands in your
5 pants with a gun. That's malice. But that malice has to
6 be expressed or implied and, and, and the judge is gonna
7 tell you that. But at the point when Darius involved
8 himself with the fight between DiCaprio and Davijon, he was
9 choosing at that point to express his malice. And once --
10 and once gunshot went out, they exchanged gunfire. He was
11 then attempting to kill Davijon McCall.

12 Now, from there, we do still have the murder of Garret
13 Bakhsh. We have the assault and battery of a high and
14 aggravated natures of Ivan Garandos as well as Leonard
15 Sweetenburg. I contend to you that evidence shows that
16 these people were just fish in a barrel caught in the
17 crossfire. What I'd like to bring y'all's attention to
18 this diagram and I'd like to go over some of the testimony
19 you've heard and who you've heard it from. And you will
20 have this with you back in the jury room when you
21 deliberate.

22 First you heard from Jeremy Curtis. What did Jeremy
23 Curtis tell you? We saw his body cam. They showed you the
24 entrance of Mac's Lounge. Through his body cam, who do we
25 see over here? We saw Leonard Wweetenburg who had been

1 shot. We saw them working on him. Jeremy Curtis also
2 identified this body, DiCaprio Collins. This is the
3 outside patio area. Jeremy Curtis identified this body,
4 Brian Robinson. This is important. Jeremy Curtis body cam
5 also showed him talking to Angelena Deason. Angelena
6 Deason was able to tell us that she saw Darius Dickey with
7 a gun. She was also able to describe what Darius had on.
8 On his body cam she said he had on a hat, multicolored
9 jacket. We saw that later. Where did we see that? We saw
10 that on the Washington Street video.

11 But moving along, Morris Goodman testified after that.

12
13 Morris Goodman testified that he inventoried a vehicle.
14 That vehicle was found at Washington Street. That was the
15 Nissan Versa. In that vehicle there were seven 40 Cal
16 cartridges, spent cartridges. What's important about that?
17 We found out later from Tracy Thrower with SLED is that
18 those light green, and you'll have this chart back there
19 with you, those light green markers are 40 Cal Smith and
20 Wesson cartridges. Well, the seven 40 Cal Smith and Wesson
21 cartridges that were found in that Nissan verse off of
22 Washington Street was shot by the same gunman that shot
23 those cartridges. That's important.

24 Next, we talk to Kelly Rose. That's your pathologist.
25 Kelly Rose testified that even though we knew that Garret

1 Bakhsh's body was in this area, she testified that he was
2 hit from the right side of his head. That's important.
3 She also testified that the path of the bullet is not
4 indicative of how he was standing.

5 Ivan Granados, where did he tell us he was? Ivan
6 Granados said he was back there by the pool table. He said
7 when the fighting ensued, he said he did not see who was
8 shooting, but what he did say, is he couldn't go out the
9 patio door because he heard gunshots coming from that
10 direction and he got turned around. He said he started
11 looking back to this door and that's when he saw Garret
12 Bakhsh take a shot to the side of the face.

13 Jerry Grantham. Jerry Grantham is, was the owner of
14 Mac's Lounge at the time and what did he testify to? He
15 had a bird's eye view that fire and gunshots were coming
16 from this area over toward the front of the door.

17 AJ Wright testified that he saw Darius Dickey, hand in
18 pants, that which looked very weird. And shortly after he
19 saw, AJ Wright, DiCaprio Collins come from the bathroom,
20 when they walked toward the stage area that's when a fight
21 ensued and gunshots rang out. That is very important.

22 Kyle Hause did testify that based on his investigation
23 Leonard Sweetenburg, who was found here and Davijon McCall
24 were friends. And that's very, very important because as
25 we're putting these pieces together you need to know who's

1 on whose side.

2 Tanner Holloman testified and, you know, Tanner
3 Holloman is no stranger to law enforcement. He let us know
4 that. But Tanner Holloman testified that he pulled up in
5 Washington Street and he saw Darius Dickey driving that
6 vehicle, that Nissan Versa, he was by himself.

7 Cottingham, the trooper, then pulled up on Dickey.
8 Darius told him that that was his driveway and he needed to
9 leave, but Cottingham stayed with the vehicle. And again,
10 later in that vehicle, the contents of that vehicle was
11 linked directly to the cartridges that was shot in this
12 club.

13 And lastly, Johnny Winburn. Johnny Winburn had to
14 apprehend Darius Dickey all the way in Sumter. So this is
15 what I think happened. I think the evidence shows this.
16 This is DiCaprio Collins, if you see these baby blue
17 cartridge shells, those are 9 mm cartridges. You will have
18 this. You'll be able to look at it. You can always come
19 back and hear testimony. The Purple represents bullet
20 fragments or projectiles. This bullet fragment, this
21 bullet fragment, and this bullet fragment all have
22 characteristics associated with being shot by the 9 mm that
23 was taken from Davijon McCall. So it's safe for us to know
24 that Davijon McCall was shooting in this direction. The
25 light green markers those, again, are 40 Smith and Wesson.

1 The 40 Smith and Wesson cartridges, cartridges that was
2 found and shot by the same gun that was, that shot in this
3 club, those cartridges match the ones that was found in
4 Darius Dickey vehicle. This bullet, this projectile right
5 here has similar characteristics as being one that was shot
6 by a 40 Smith and Wesson. And I, ladies and gentlemen of
7 the jury, feel the evidence shows that there was shooting
8 coming across here. Who also testified to that? Angelena
9 Garcia who was right here testified that she saw shooting
10 going here.

11 So let's put all this together. Davijon and DiCaprio
12 fight somewhere here. Darius grabs him. Gunshots go here.
13 Darius -- DiCaprio falls. Darius shoots here. And Davijon
14 is trying to get out and exit on to Camden Avenue.
15 Unfortunately, Garret Bakhsh is shot on the right side of
16 his head.

17 Now, you're gonna hear some legal terms from the
18 judge. He's going to talk to you about the hands of one is
19 the hands of all. And I want you to know that hands of one
20 is the hands of all to me what it means is two people
21 joined together for a legal purpose, then they both are
22 responsible for anything that happens as a result of that.
23 Ladies and gentlemen of the jury, when Darius Dickey chose
24 to go to this club, this 18 and over club,
25 with this firearm in his pocket, pulls it out, he cocks it.

1 Angelena Deason to you he put it in to make sure he was
2 ready. He was cocked. Loaded. Ready. And when his
3 friend got into a fight, he was just looking for it. As
4 the young, young folks would say he was looking for smoke.
5 Older people would say he was looking for trouble. Well,
6 he was looking for trouble. He brought trouble with him.
7 And he was gonna fight. Ladies and gentlemen of the jury,
8 when that fight broke up that was all Darius Dickey needed.

9 Now, the defense is going to try to argue self-
10 defense. They're gonna try to say that Darius Dickey was
11 defending himself and by his acts defending others. One
12 thing you're going to hear the judge said when it comes to
13 self-defense, self defense does not apply when you bring
14 about the difficulty. If you play any part that bring
15 about the difficulty self-defense doesn't apply. Remember
16 that. Remember what AJ Wright said he saw. Remember
17 what Angelena Deason said she saw. And we'll talk about
18 what happened and when it happened, but let's talk about
19 after it happened. What happened afterwards? What did
20 Darius Dickey do? What does the evidence show that he did?

21 Well, we had to talk to his mom and, unfortunately, he
22 got his mom involved. He had his mom's rental car. We see
23 her on video. She got a neck brace on and you hear him not
24 wanting to come to talk to Kyle Hause; not wanting to make
25 things right; scared he's going to get locked up. And you

1 even hear him saying after he, after he comes up with this
2 elaborate story about how the car got stolen he tells Kyle
3 Hause I ran home. I stay right down the street. When you
4 hear his mom trying to talk to him, he's telling, saying
5 that I got home and told my mom the car was stolen. And if
6 you go back and listen to Kyle Hause's body cam you'll
7 hear, she's saying, no, you called me and told me to report
8 it stolen.

9 Ladies and gentlemen of the jury, why is he lying?
10 He's hiding something. Why did he lie and say that car was
11 stolen?

12 He's hiding something. He went back -- he -- he told Kyle
13 he went back in the scene; went to go look for DiCaprio and
14 his cousin. His 17-year-old cousin sitting over DiCaprio
15 crying. He says he rolls DiCaprio over and slaps him and
16 then leaves. Now, I showed you that diagram, there were
17 three 40 Cal cartridges found at the scene. There were
18 seven 40 Cal cartridges spent cartridges found in that
19 vehicle. And even after all of that, did he turn himself
20 in? He did not. They had to go apprehend him in Sumter.
21 You heard the defense talk about when they did find him in
22 Sumter and he -- after they got a search warrant and
23 surrounded the place, they find five guns. The defense
24 wants to harp on that. Five guns. Four 9 mm, one 32
25 revolver. No 40 Cal. But four 9 mms, one 32 revolver.

1 Ladies and gentlemen of the jury, there's no such
2 thing as a perfect case. There's cases that we have to
3 call on you to put pieces together. And ladies and
4 gentlemen of the jury, I feel the State has more than
5 carried their burden. When you go back and examine and you
6 look, you start with the attempted murder against Davijon
7 McCall. Based on Darius Dickey's actions before the fight,
8 during the fight, after the fight, ladies and gentlemen of
9 the jury, I find that the evidence shows that the malice
10 required for attempted murder was shown. Darius had that
11 malice. He expressed that malice. And, unfortunately,
12 that intent that he had to kill Davijon, unfortunately, got
13 transferred over to Garret Bakhsh and unfortunately, the
14 fallout was also the injury, a great bodily injury to Ivan
15 Granados and Leonard Sweetenburg.

16 Ladies and gentlemen of the jury, I thank you for your
17 time. I thank you for your attention in this matter.
18 Tomorrow is the four year anniversary.

19 Thank you for helping us resolve this case.

20 THE COURT: Thank you, Mr. Bell. Ms. White?

21 **Closing argument- Ms. White**

22 That book there it's large, right? A lot of chapters
23 in that book. And you see the words on that book also.
24 It's a lot to cover. This is a huge case. And I'mma walk
25 through it chapter by chapter with you all. Highlight to

1 y'all what is important in this case. What the State
2 proved. What the State didn't prove. So I'll start with
3 chapter one.

4 Let's talk about Angelena Deason and Corporal Curtis.
5 You heard testimony from Corporal Curtis and body cam
6 footage about Angelena Deason statement immediately after
7 the event. This is when your memory burns brightest. It
8 is in your head. All the details are fresh. You are
9 recalling things immediately. You don't have time to add
10 to subtract to inflate details to omit details. You are
11 recounting your immediate memory. And that's what we saw
12 on that body cam. That is the most true and most accurate
13 version of her story that we have today. It's not the
14 story that she recounted to officers days later. It's not
15 the story that she recounted on this stand four years
16 later. Keep in mind she also recounted this story after
17 hearing three days of other people's testimony about this
18 very same event. That is not how the memory works. Her
19 most reliable and most true and most accurate statement was
20 the one that she made on that body cam that you and I, we
21 all listened to. And now I want to talk about those
22 details.

23 She said people, people were shooting. People were
24 shooting at her. Those bullets were meant for her.
25 Corporal Curtis asked her why? Why -- why would Darius be

1 shooting? She could not articulate one single reason why
2 Darius would be shooting. Why would you be shooting? She
3 was right there. She testified that she was standing on
4 Mr. Bell's diagram that he just put up, she was standing
5 right next to DiCaprio Collins's deceased body at the time
6 of the shooting. She was right next to him. She testified
7 as to that on the stand. So it is not accurate for her to,
8 to not understand why those bullets were being fired. She
9 also indicated that she decided to leave her dorm for the
10 night. She had been so crippled by fear of DiCaprio
11 Collins that she had been locked in her dorm since January
12 22nd when she alleged that he physically assaulted her.
13 She also alleged that he sexually assaulted her and there
14 was never any proof of that and she failed to recall that
15 on the stand. She was so terrified of him and yet here she
16 was standing next to him at the bar, dancing. This is a
17 large bar. She had all the choice in the world to remove
18 herself. Why would she choose to be right next to DiCaprio
19 Collins, if she is so scared of him? What beef did she
20 bring to the bar that night? What isn't she telling us
21 about that night?

22 She also showed us right up there on the stand how
23 Darius supposedly reached into his waistband and cocked a
24 weapon with his, that was on his right hip, with his left
25 hand. And I know I'm sure that some of y'all have got to

1 be familiar with firearms either personally or have family
2 members that have firearms, friends that have them. You
3 can't cock a gun across your body with your left hand like
4 that. She's a military police officer she should know
5 that. So what story is she trying to tell us? It doesn't
6 make any sense. But the thing I want you all to remember
7 about Miss Deason's testimony is after she said that he
8 cocked the gun, the gun was put back in his pants.
9 Immediately, thereafter, there were gunshots. She did not,
10 did not see Darius Dickey fire a gun that night. She
11 didn't see it. This is the State's star witness. She
12 didn't see anything that night. Nobody.

13 And now I want to talk a little bit about Darius.
14 Darius, because of what Angelena told Corporal Curtis
15 immediately after the shooting, Darius was made out to be
16 the antagonist of this story from the jump. The game of
17 telephone began. Police got tunnel vision and they made it
18 their mission, as soon as they heard Darius Dickey's name,
19 they made it their mission to arrest first, ask questions
20 later as soon as they find him. Witnesses put him all over
21 the place in that bar. It wasn't consistent as to where he
22 was standing in that bar. He's not the flash. He can't be
23 eight places at once. It doesn't make sense. He can't be
24 by the stage, by the back wall, by the jukebox, on the
25 patio, by the pool table, all at once. It doesn't fit. It

1 doesn't make sense.

2 Now, Darius lied. Darius lied about the car being
3 stolen. But lying about the car being stolen does not make
4 him a murderer. It does not. Does it show that he was
5 scared? Terrified of being arrested for a crime that he
6 didn't commit? Absolutely! Absolutely! Like I said the
7 game of telephone had already begun. Of course, he was
8 scared. And he made a stupid, I mean, monumentally idiotic
9 decision to lie about that car. But you saw on the
10 Washington Street surveillance video and you heard
11 testimony from Trooper Cottingham, they had a conversation.
12 You saw the video. Darius walks right up to it him, right
13 up to him. He's not trying to run from him. Not at all.
14 The State would have you think that this is a man on the
15 run. He is not. He talks to the officer. And you know
16 what Trooper Cottingham said, do y'all remember? Trooper
17 Cottingham said after speaking with him he did not feel as
18 if there was any reason to detain him. He did not feel
19 that. At that point, when Darius Dickey left that
20 residence he was just as free to go as you or I or anybody
21 else here right now.

22 Now, let's talk about chaos. We have heard a lot
23 about chaos. That's what this case has been about. We've
24 heard it all week. You heard law enforcement testify as
25 having mental overload at the sheer size of the crime

1 scene. The crowds of people that were surrounding and
2 inside of, still, this scene when law enforcement arrived.
3 You heard testimony from witnesses such as Mr. Eugene
4 Wright that said after the shooting, law enforcement let
5 them walk right back into the crime scene. Just let them
6 walk in. You had civilians coming in there and collecting
7 souvenirs from the crime scene and lingering about. Law
8 enforcement did not secure that scene. That scene was not
9 secure. And there is no way that those shell casings
10 cartridges, bullet fragments that you saw up there on that
11 screen, that, while it might have been their final resting
12 place, it was not the first resting place. We cannot rely
13 on that. There were crowds of people rushing, surging
14 around. And y'all have seen cartridges, cartridge casings,
15 they're small. Quite small. You've got a crowd of people
16 running; things are getting kicked around; rolling all over
17 the place. We have no idea where these items initially
18 fell. You had citizens, college students, patrons at the
19 bar coming in that night, days later, weeks later bringing
20 their little souvenirs that they pocketed. Their bullet
21 fragments and cartridge casings, bringing them into law
22 enforcement because law enforcement did not secure the
23 scene. The scene was not preserved as it should have been.
24 There was no crime scene log even after the scene was
25 secured by law enforcement. We don't know who went in and

1 out. We don't know who took what. We don't know! There
2 were two law enforcement agencies combing the scene that
3 very night and there was still evidence being found at the
4 bar days and weeks later.

5 Now, what was missed? What is the excuse for that?
6 There's one person we could ask, but he's not here to
7 answer for it and it's the Hartsville Police Department's
8 investigator in charge, Michael Weatherford. The State
9 brought him up several times. We should be able to ask him
10 questions about why the investigation happened as it was,
11 rather than the piecemeal information that we had to throw
12 together from these various officers testifying pertaining
13 to their particular duties. There is always an
14 investigator in charge, particularly, of a crime scene in
15 an investigation of this magnitude. Where was
16 Investigator Weatherford here? He wasn't here! You didn't
17 hear testimony from him. He cannot answer as to the
18 condition of the crime scene; the preservation of the crime
19 scene; why things weren't done; why things were done. We
20 cannot ask those questions because the State chose not to
21 call him. Why would that be? Because this chaotic scene
22 and the lack of answers helps their case, that's why!

23 Now, there were shell casings found in the Nissan that
24 Darius reported as stolen. Those shell casings as Mr. Bell
25 said were found in the passenger floorboard and in the back

1 seat. Darius was driving the car. Law enforcement also
2 found several guns in Sumter County where Darius was
3 staying at the time. The State's own witness testified
4 that not one of those guns were linked to the shooting at
5 Mac's Lounge. Not one of those guns were linked to Darius
6 by fingerprints or DNA testing. It didn't happen. None of
7 the shell casings or unfired bullets that were located on
8 the scene were linked to Darius with fingerprints or DNA.
9 Nothing! Law enforcement didn't attempt to perform a
10 gunshot residue test on Darius when they apprehended him.
11 Why? Because if there wasn't any gunshot residue on it, it
12 wouldn't have fit their case. When you fire a gun there is
13 gunshot residue that flows in the air. There wasn't any of
14 that testing performed.

15 MR. BELL: Your Honor ---

16 MR. REDMOND: Your Honor, may we approach please?

17 THE COURT: Yes.

18 (Whereupon, a bench conference is held on the record)

19 MR. BELL: Your Honor, I hate to have to do that, but
20 she's misspeaking when it comes to GSR. I don't know where
21 she was going with that.

22 MS. WHITE: I'm done talking about it. I'll move on
23 now.

24 MR. BELL: She can talk about point in time but she
25 can't talk about what it means.

1 MR. REDMOND: --- 'cause they all mechanism there --
2 she's getting into to testifying now.

3 MS. WHITE: I'll move on.

4 THE COURT: All right.

5 Now, I'll move on to the next chapter, if that's okay
6 with y'all. This happened at a nightclub. Who here has
7 been to a club? It might have been a minute for some of
8 us, but we've been to clubs. We've been to crowded bars.
9 It's elbow to elbow. A lot of people there. It was crowded
10 there that night. It was packed full of college students
11 and other patrons that night. So and you saw how many
12 people were there. There were a ton of people there. How
13 many witnesses that were there that night, did you hear
14 from? How many? Three? Maybe. I think it was three.
15 Three witnesses that were there that night that could
16 identify Darius. That's it. You didn't hear testimony
17 from any witnesses that came in and just gave a
18 description. You didn't hear testimony from any witnesses
19 that identified Darius through a photo lineup. You didn't
20 hear that testimony. Why is that? They brought in three
21 people who were already familiar with Darius. And that's
22 it! That's it! Out of those three people, one person said
23 maybe that he fired a weapon and that was his cousin,
24 Zygrig Thomas. I don't know if you were paying attention
25 to his testimony up there. I'm sure you were. But he did

1 not, as the State says, seemed like he wanted to be here.
2 We could hardly get more than a mumbled yes or no from him.
3 He gave inconsistent statements on the stand compared to
4 what he gave Detective Hause the day after the incident.
5 Many of his answers indicated that it was Davjivon McCall
6 the shot DiCaprio Collins. Your Honor. However, he told
7 Detective Hause that I was Leonard Sweetenburg. Which one
8 do we believe? How do we know he's being truthful? Was he
9 being truthful to Detective Hause? Was he being truthful
10 to us? We don't know. We do not know. Why would he
11 fabricate something like that? Why would he flip flop like
12 that?

13 We also heard that Darius was behind Davijon when
14 Davijon killed DiCaprio. He gave two different
15 statements, Zyrig did. I -- he did not mention that in
16 his initial statement. Why is that? How -- what do we
17 believe here? He's the only one who testified to him being
18 involved, Darius being physically involved in a scuffle
19 with Davijon. And his credibility, should be negligible.
20 We both saw him up there. He is a frightened suggestible
21 young man. I believe he would have said anything in this
22 world to get off that stand. And I imagine that's how he
23 felt when he was sitting in Detective Hause's office
24 talking to him, recounting these events that more than
25 likely had been so suggested to him. He is just bubbling

1 up with facts that he believes the officers want to hear.
2 The facts that he believes the officers will here and let
3 him walk out of there and not have handcuffs on. He was
4 being pressured by law enforcement, by his stepfather. We
5 cannot take his story as believable. It's too
6 inconsistent. And this is too vital of an issue, his
7 testimony. It has not been corroborated by anything.
8 Nothing!

9 Now, that brings me to the fight. Darius did not
10 start any fight. That beef was between Davijon McCall and
11 DiCaprio Collins. Darius Dickey did not fire the first
12 shot that killed DiCaprio Collins. And the State talked a
13 lot about malice. How because AJ Wright Saw Darius walking
14 around with his hand in his pants that means that, that was
15 malice. Doesn't sound right to me. What does walking in
16 your hand, walking with your hand in your pants, how does
17 that show that you had any kind of malicious intent? Any
18 ill will towards anybody? It doesn't show that. It is a
19 stretch at best to say that. Again, this beef was between
20 Davijon McCall and DiCaprio Collins. Darius was there,
21 sure. But he did not start this beef and he didn't
22 escalate it to the mayhem that it became after Davijon
23 McCall executed DiCaprio Collins. And that -- here again,
24 there's no motive! There's no motive here for murder. Why
25 Darius? Again, as Corporal Curtis asks Angelena, why

1 Darius? Detective Hause said it doesn't add up. And it
2 still doesn't add up. Nobody has been able to articulate a
3 single reason why Darius would have been shooting in that
4 club that night. There is no reason that the State has
5 presented why Darius would want to or intend on firing a
6 gun that night in Mac's Lounge. Darius didn't have any ill
7 will towards Davijon McCall prior to that night. And there
8 were no -- that means that the other victims of this
9 shooting, there wasn't any intention to harm anybody. He
10 did not, Darius did not have this specific intent to kill
11 that night. And just possessing a firearm does not show
12 that he intended on killing anybody.

13 Now, I want to talk about something very important.
14 You heard Dr. Rose up here talk about the fatal wound to
15 Mr. Garret Bakhsh. The trajectory of that wound, I'm sure
16 you saw the, the diagram up here. There is a nine inch
17 raised platform. And all of the witnesses are consistent
18 of saying he's somewhere in this raised platform stage area
19 is what they call it. Nine inches. I didn't bring my my
20 ruler with me, but this is elevated. If I am pointing a
21 gun, the trajectory, the path of that bullet is going
22 downwards. Downwards! What did Dr Rose testify to? She
23 testified that that trajectory was front to back and
24 upwards. Upwards! Front to back! If the State's theory
25 is that he, Mr. Bakhsh is running away from the area that

1 they allege that Darius is, again, it makes no sense. The
2 trajectory doesn't fit. It does not fit their theory. It
3 fails.

4 Another thing that fails, the fragment removed from
5 Mr. Bakhsh did not match any gun. And that means, the
6 State cannot say that Davijon McCall didn't fire the shot
7 that killed him.

8 What they can say is that Davijon McCall's weapon, the
9 Glock 43 handgun, fired the shot that killed Brian
10 Robinson. They can say that the fragments pulled from
11 Decaprio Collins bore similarities to items fired by that
12 Glock 43. That's the Glock 43 that was found in Durham,
13 North Carolina where Davijon McCall was hiding out after
14 this incident. The test results on the bullet fragment
15 from Garret Bakhsh showed that Davijon McCall's weapon
16 could have killed him. The State has not ruled out that
17 Davijon McCall killed Garrett Bakhsh. And this is what
18 Tracy Thrower from SLED, their, the State's witness
19 testified to. The State is asking you to find Darius Dickey
20 fired a weapon with the intent to kill Davijon McCall and
21 that the projectile from that weapon is what killed Mr.
22 Bakhsh. The State has not proven beyond a reasonable doubt
23 that Davijon McCall didn't fire the bullet that ended Mr.
24 Bakhsh's life. They have not proven it.

25 Now, he's charged with attempted murder. And like I

1 just talked about there's no ill will. There's no specific
2 intent to kill Davijon McCall. And by extension there's no
3 intent to kill Mr. Garrett Bakhsh.

4 As far as the assault and battery of a high and
5 aggravated nature on Lenoard Sweetenburg, we didn't hear
6 any testimony from him as to his injuries. Didn't hear any
7 testimony. We heard that Mr. Granados has a scar. Here
8 again, though, we don't know who shot them. Mr Sweetenburg
9 didn't testified. Mr. Granados could not identify anybody.
10 We don't know. That doesn't sound like beyond a reasonable
11 doubt to me.

12 Now, that judge is going to read you instructions on
13 what you need to consider, the charges that you need to
14 consider when you're listening to all the evidence, when
15 you're talking about it back there. Now, one thing that
16 the judge is going to ask you about or he's going to tell
17 you about is the theory of the hand of one, hand of all.
18 It's two people, two or more people acting together in
19 concert to commit of crime. First of all, we haven't heard
20 this theory all week. Not once has the State said hand of
21 one, hand of all. Not once! Why are they bring up today,
22 hand of one, hand of all? Because they are grasping at
23 straws. Two people acting in concert. Who would they
24 allege that he's acting in concert with to commit a crime,
25 DiCaprio Collins? So they're acting in concert to commit

1 the crime of assault and battery, third degree by punching
2 Mr. McCall? We didn't hear any testimony as to that. No
3 testimony as to two people acting together to commit any
4 crime. Not one bit of testimony! They're going to say
5 that those two people acting together, they're responsible
6 equally for the natural consequences of that crime and of
7 that act. You tell me, is a natural consequence of
8 somebody walking up and punching you, is that getting shot
9 for it? Is that a natural consequence? I wouldn't expect
10 that. I would not expect that. I don't believe that it's
11 fair to say that is a natural consequence of assault and
12 battery, third degree which is a misdemeanor crime here.

13 Now, the State has to disprove self-defense and
14 defense of others. The judge is going to tell you all
15 this. I'll give you the cliff notes of it. I know it was
16 hard enough for me to listen to it one time in, in law
17 school so I'll keep it brief for y'all. Self-defense, you
18 have to be without fault in bringing about the difficulty.
19 Darius was without fault. He didn't bring this on! He did
20 not bring this on! You actually have to be in danger. And
21 a reasonable person would have acted the same. Darius was
22 actually in danger. Davijon McCall actually pulled out a
23 gun and shot his friend in front of him. That is actual
24 danger! Actual danger! And you know what else, Darius
25 could not have avoided that danger. There was one exit in

1 that bar that night and that was the front door. There
2 wasn't a patio exit. It's fenced in by a tall wooden
3 fence. There's no exit out there. It was a one exit. He
4 could not avoid it. He couldn't have avoided Davijon
5 McCall. He tried.

6 Now, defense of others, again, a punch is not
7 reasonably calculated to provoke a deadly assault. A
8 reasonable person wouldn't have responded to a punch that
9 way. Davijon McCall wasn't being reasonable. You know who
10 was? Darius Dickey, acted reasonably that night.

11 Now, I'll finally read you all the last chapter of
12 this book. You heard the word a lot this week, chaos. The
13 scene was chaotic. You know what else is chaotic? The
14 state's case. Where is the motive? Where is the evidence
15 that Darius Dickey had the specific intent to kill Davijon
16 McCall? You'll have a copy of the indictment back there.
17 He wasn't even charged with Davijon's, Davijon McCall's
18 attempted murder until September of 2023. Almost -- three
19 years and nine months after this incident. Why is that?
20 Why is that? The State is trying to write the final
21 chapter of this book for you. Trying to prove their case
22 against Darius any way they can. But it's you, all of you
23 and only you who can write that final chapter and I am
24 asking you to hold the State to its very heavy burden and
25 make them prove their case against Darius beyond a

1 reasonable doubt. He is not guilty! Not guilty of
2 attempted murder; not guilty of murder; not guilty of
3 assault and battery of a high and aggravated; and, not
4 guilty of the weapons charges.

5 Thank you all. I appreciate you for your time.

6 **Judge's Charge**

7 Members of the jury, please give me your attention.
8 It now my duty as a trial judge to instruct you on the law
9 which is applicable to this case. And in that regard, it's
10 your duty as jurors to accept and apply the law as I now
11 state it to you. Furthermore, it is your exclusive duty to
12 decide all of the issues of fact in this case and to
13 determine the effect, value and weight of the evidence.
14 The State and the defense have the right to expect that you
15 will carefully consider and evaluate the evidence and apply
16 the law of this case to it. So that in the end, both the
17 State and the defense have received a fair and impartial
18 trial.

19 I remind you that during this trial you and I have had
20 certain duties to perform. As the trial judge it is my
21 responsibility to preside over the trial of this case. And
22 I also have the duty to rule on the admissibility of
23 evidence, evidence offered during this trial. You are to
24 consider only the competent evidence before you. And if
25 there was any testimony ordered stricken from the record in

1 this case during the trial, you must disregard that
2 testimony. You are to consider only the testimony which
3 has been presented from the witness stand, any exhibits
4 which have been made a part of the record in this case, and
5 any stipulations of counsel.

6 I have the additional duty to charge you the law which
7 is applicable to this case. And as the presiding judge, I
8 am the sole judge of the law of the case and it is your
9 duty, as jurors, to accept and apply the law as I now state
10 it to you. If you already have any idea as to what you
11 think the law is or what the law ought to be and it does
12 not agree with what I tell you now the law is, you must
13 abandon your idea because you're sworn to accept and apply
14 the law exactly as I state it to you.

15 In every case tried in this court before a jury, the
16 jury becomes the sole and exclusive judge of the facts in
17 the case. A judge cannot intimate, state, comment on or
18 make any statement to a trial jury about the facts in a
19 case. Since you, the jury, are the sole judge of the facts
20 in the case, you are not to infer from what I've said
21 during the progress of this trial and ruling upon the
22 admissibility of evidence or otherwise or anything that I
23 may say now during the course of this instruction to you
24 that I have any opinion about the facts of the case. The
25 law does not allow me to have an opinion about the facts in

1 this case. This is a matter of solely for you, the jury,
2 to determine. As jurors it is your duty to determine the
3 effect, value, weight, and truth of the evidence presented
4 during this trial.

5 Ladies gentlemen, the indictments in this case charged
6 the defendant with murder, attempted murder, two counts of
7 assault and battery of a high and aggravated nature,
8 unlawful carrying of a pistol, and possession of a weapon
9 during the commission of violent crime. I remind you, the
10 fact that the defendant was charged, arrested, and indicted
11 in this case is not evidence in this case and that cannot
12 be considered by you as evidence of guilt in the case, nor
13 does it create any presumption or inference of guilt. The
14 documents are simply the formal written instruments which
15 contain the charges made against the defendants, against
16 the defendant. They are the formal documents by which this
17 case is brought before the Court.

18 The indictments in this case allege multiple counts
19 against the defendant. Each charge is a separate and
20 distinct offense. You must decide each count separately on
21 the evidence and the law applicable to it uninfluenced by
22 your decision as to any other count. The defendant may be
23 convicted or acquitted on any or all of the charges. You
24 will be asked to write a separate verdict of guilty or not
25 guilty for each.

1 The defendant has pled not guilty to these indictments
2 and that plea puts the burden on the State to prove the
3 defendant guilty. A person charged with committing a
4 criminal offense in South Carolina is never required to
5 prove himself innocent. I charge you that is an important
6 rule of law that the defendant in a criminal trial no
7 matter what seriousness of the charge maybe will always be
8 presumed to be innocent of the crime in which the
9 indictment was issued unless guilt has been proven by
10 evidence satisfying you of that guilt beyond a reasonable
11 doubt.

12 This presumption of innocence does not end when you
13 begin your deliberations, but it accompanies the defendant
14 throughout the trial until you reach a verdict of guilt
15 based upon evidence satisfying you of that guilt beyond a
16 reasonable doubt.

17 The presumption of innocence is like a robe of
18 righteousness placed above the shoulders of the defendant
19 which remains with the defendant until it hasn't been
20 stripped from the defendant by evidence satisfying you of
21 the defendant's guilt beyond a reasonable doubt.

22 The presumption of innocence is not a mere legal
23 theory. It is not just a legal phrase. It is a
24 substantial right to which every defendant is entitled
25 unless you, the jury, are satisfied from the evidence of

1 the defendant's guilt beyond a reasonable doubt.

2 Ladies and gentlemen, what is a reasonable doubt in
3 the law? A reasonable doubt is the kind of doubt that
4 would cause a reasonable person to hesitate to act. The
5 State has the burden of proving the defendant guilty beyond
6 a reasonable doubt. Some of you may have served as a juror
7 in civil cases where you are told that is only necessary to
8 prove that a fact is more likely true than not true, such
9 as by the greater weight or preponderance of the evidence.
10 In criminal cases the State's proof must be more powerful
11 than that. It must be beyond a reasonable doubt.

12 Beyond a reasonable doubt is proof that leaves you
13 firmly convinced of the defendant's guilt. There are very
14 few things in this world that we know with absolute
15 certainty and in criminal cases the law does not require
16 proof that overcomes every possible doubt. If, based upon
17 your consideration of the evidence, you are firmly
18 convinced that the defendant is guilty of the crime charged
19 you must find the defendant guilty. If on the other hand
20 you think there is a real possibility that the defendant is
21 not guilty, you must give the defendant the benefit of the
22 doubt and find him not guilty.

23 Ladies gentlemen, there are two types of evidence
24 which are generally presented during a trial. Direct
25 evidence and circumstantial evidence.