



STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIFFANY REBECCA OWENS,

APPELLANT

APPELLATE CASE NO. 2024-000085

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
 DEFENSE EXHIBIT #1 (VIDEO), DEFENSE EXHIBIT #2 (BODY CAM VIDEO),
 DEFENSE EXHIBIT #4 (PHOTOGRAPHS (3)), DEFENSE EXHIBIT #5
 (STATEMENTS, PHOTOS), STATE’S EXHIBIT #7 (911 DISK), STATE’S EXHIBIT #8
 (VIDEO DISK), STATE’S EXHIBIT #9 (BODY CAM), AND STATE’S EXHIBIT #38
 (GOOGLE MAP).**

STATE OF SOUTH CAROLINA	) COURT OF GENERAL SESSIONS
	)
COUNTY OF HAMPTON	) FOURTEENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA	) NOS. 2021-GS-25-00181;
	) 2022-GS-25-00346
VS.	) <u>TRANSCRIPT OF RECORD</u>
	)
TIFFANY REBECCA OWENS	) Stand-Your-Ground Hearing

B E F O R E:

The Honorable Robert J. Bonds, Judge

DATE: Wednesday, November 9, 2022

9:50 a.m.

Hampton, South Carolina

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Reported by: Cathy J. Provost, RMR, Official Court Reporter

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By Attorney Evans

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COURT REPORTER LEGEND:

dash -- intentional/purposeful interruption; change in thought

ellipses ... trailing off

[ph] phonetically written

[sic] written as said

[indiscernible] unable to be understood due to low volume or
quality of audio

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

2 THE COURT: All right. Mr. Kuhn, good morning.

3 ATTORNEY KUHN: Good morning, Your Honor.

4 THE COURT: Mr. Kuhn, are we here today on your motion in
5 The State of South Carolina versus Tiffany Rebecca Owens, sir?

6 ATTORNEY KUHN: Yes, Your Honor.

7 THE COURT: Okay. And have you gentlemen had an opportunity
8 to discuss how we're going to proceed or how y'all might like to
9 proceed in this matter? I mean, do you want to go ahead and
10 present your case? Other times I've had the State go ahead and
11 call a witness initially, and then you'd put on our case. Or
12 however you'd like to do it. I don't know if y'all have had the
13 opportunity to talk about that or what you would like to do,
14 Mr. Kuhn.

15 ATTORNEY KUHN: Your Honor, I'd defer to the solicitor's
16 office, how they would like to proceed. I'm amenable either way.

17 SOLICITOR EVANS: Judge, I don't think -- and I'm Reed Evans
18 for the State, madam court reporter. I don't think that we need
19 testimony in this particular case. I think that the issues
20 presented by Mr. Kuhn's motion and the statute are adequately
21 covered by the video which I dropped a copy off of --

22 THE COURT: Yes, sir.

23 SOLICITOR EVANS: -- at your chambers. I think Mr. Kuhn and
24 I each have in our filings -- and by the way, Judge, may I
25 approach with the clerk's files --

1 THE COURT: Sure.

2 SOLICITOR EVANS: -- just in case you need something out of
3 there?

4 THE COURT: All right.

5 SOLICITOR EVANS: We each got some affidavits that cover the
6 substance of what the witness would testify to today, and we had
7 a previous stand your ground in a different case where it worked
8 out well with just argument. Obviously if Your Honor would care
9 to watch the video again, we're fully prepared to do that.

10 THE COURT: All right. Well, in that case, Mr. Kuhn, I'm
11 happy to hear from you, sir. We'll go ahead and get started.
12 I'm happy to hear from you. You can present your case as you
13 would like, sir.

14 ATTORNEY KUHN: Just to clarify, Your Honor has the video?

15 THE COURT: What I will tell you is a video was dropped off,
16 a disk was dropped off, at my office. That disk had what I
17 believe to be, what I would call, four separate bits of video. I
18 reviewed all of them at least twice, and there was one that shows
19 the actual shooting itself, and I think I reviewed that one four
20 or five times.

21 But as it relates to those videos -- now, I'm assuming what
22 he's provided me is, in fact, the information that you would be
23 putting forth. Yes, sir?

24 ATTORNEY KUHN: Sounds like it is. Your Honor, the first
25 thing I'd like to do is move to put that video into evidence

1 then.

2 THE COURT: That's fine. Yes, sir.

3 (Defendant's Exhibit 1 is marked for identification.)

4 ATTORNEY KUHN: And I believe I need to have that video
5 explained, so I'd like to call Ms. Owens as a witness to run
6 through it.

7 THE COURT: All right. That's fine. Yes, sir.

8 ATTORNEY KUHN: Call Tiffany Owens, Your Honor.

9 TIFFANY REBECCA OWENS,

10 having first been duly sworn, was examined and testified as
11 follows:

12 THE COURT: Mr. Kuhn, your witness, sir.

13 ATTORNEY KUHN: For the record, we stipulate it's for the
14 limited purpose of this hearing that I'd call Ms. Owens as a
15 witness.

16 THE COURT: Yes, sir.

17 **DIRECT EXAMINATION**

18 BY ATTORNEY KUHN:

19 Q Will you state your full name, please, ma'am.

20 A Tiffany Rebecca Owens.

21 Q What is your address?

22 A [REDACTED]
23 [REDACTED]

24 Q How old are you?

25 A I'm 33 years old.

1 Q Do you have any children?

2 A Yes, sir.

3 Q How many and how old are they?

4 A I have three boys; 13, 14 and one-year old.

5 Q And the one-year old, what's his name?

6 A D.H. D.H.

7 Q Do you know Ms. Johnson? Did you know Ms. Johnson?

8 A Yes, I did.

9 Q And how did you know her?

10 A Because we were all from the same neighborhood. We were
11 all, you know, raised up. She was older than me but we were all
12 raised up together.

13 Q Describe your relationship with her.

14 A Uhm, until I got about, uhm, I'd say about 27 - 28 years
15 old, I really didn't have too many problems with Mrs. Johnson
16 until she had some problems with my sister, and then that's when
17 her problems started with me.

18 I tried to avoid her. Before the incident, about a year
19 before, I had already seen her before and she did let me know at
20 that time that she was not pleased with me about the situation
21 her and my sister had going on.

22 Q What kind of problem was that?

23 A She was upset because my sister had gotten involved with her
24 son's father, they had a relationship, and so she was not happy
25 about that.

1 Q Was her attitude towards you friendly? Antagonistic? How
2 would you describe it?

3 A I would say antagonistic, uhm, always a problem, uhm,
4 wanting to know why I don't acknowledge her, speak to her. So it
5 was always a problem when we would see each other, so I tried my
6 best to always avoid her.

7 Q Were you afraid of her?

8 A Yes, I was.

9 Q Do you know what her reputation was for violence?

10 A Yes.

11 Q What was her reputation?

12 A Uhm, she was, you know -- she wasn't one to, you know, be
13 messed with. She was known to fight. And she would, you know,
14 approach you if she had a problem with you. If she did have a
15 problem with you, you would know it.

16 Q Why did you go to the Galaxy Food Store that day?

17 A I went that day because we were gonna go -- I was gonna
18 leave my mom's house and go to my house and cook on the grill, so
19 I went to Galaxy to buy some food items.

20 Q And were you to meet anybody there?

21 A Yes. I was supposed to meet my boyfriend, Dontae, Mr.
22 Hutchinson, there to get the rest of the money to purchase the
23 rest of the items.

24 Q Who got there first, you or Dontae?

25 A I got there first.

1 Q And what did you do?

2 A I went inside the store. I got some of the things. I was
3 waiting. I left out of the store because I was waiting on
4 Mr. Hutchinson at that point.

5 Q So when you went in the store did you know Ms. Johnson had
6 followed you to the store?

7 A I did not know at that time she had followed me to the
8 store. I didn't even know she was there at all.

9 Q So you didn't know she was outside waiting?

10 A No, I did not.

11 Q When you exited the store, you got in your car, and you were
12 then waiting for Dontae to show up?

13 A Uh-huh.

14 Q Why didn't you get all the groceries? Why were you waiting
15 on him?

16 A So I could get the rest of the money to pay for everything
17 else that we were wanting to get.

18 Q So you didn't have enough money?

19 A Right.

20 Q So you were sitting in your car. You had your door open?

21 A Uh-huh. Yes, sir.

22 Q And when you first saw Ms. Johnson what was your reaction?

23 A I didn't even know -- she let me know that, you know, I
24 didn't speak to her. I didn't know she was there because I was
25 sitting in my car, and she said "Oh, you're not going to speak to

1 me" and, you know, I explained to her that I didn't notice that
2 she was there.

3 Q And what happened?

4 A At that point she told me that I was lying, and that I
5 always do it, and she started cursing at me.

6 Q The video shows you opened your door to get something. What
7 were you trying to get?

8 A I was looking for my cellphone.

9 Q And was anything else said?

10 A She then told me that I should leave the store and I better
11 not be there when she gets back. She wanted to see what I had to
12 say once she comes out of the store.

13 Q And the video then shows you went to back seat of your car.
14 What you were you trying to find then?

15 A That's when I got my phone out, because it was not in the
16 front seat.

17 Q When she went in the store what were you doing then? You
18 sat there for a while. What were you doing?

19 A I called my mom to let her know. I was supposed to be
20 waiting on Dontae. She knew we were supposed to be meet each
21 other at the store, but I called to let her know what had
22 happened between me and Mrs. Johnson.

23 Q And why were you calling your mom to tell her that?

24 A Because I was afraid. I thought something was going to
25 happen, that she was going to jump on me, because she had already

1 told me not to be out there when she comes back.

2 Q Did you ask your mom to call the police?

3 A I did.

4 Q And do you know if she did?

5 A I was not sure. My mom instructed me that she was going to
6 call the police and just for me to leave.

7 Q Your mom advised you not to wait on Dontae?

8 A Right. "Don't wait on Dontae. Just get out of there."

9 Q When you finished your phone call was Ms. Johnson coming out
10 of the store?

11 A Yes, sir.

12 Q And did you start to leave?

13 A Yes, sir. I tried to leave at that point, but as I was
14 pulling off Mrs. Johnson, like, kind of jumped in my window,
15 striking me. I just felt burning and seen a little blood. I
16 didn't know where it was coming from or what happened. I thought
17 it was maybe a knife or something, but it was her car keys that
18 she was striking me with.

19 Q At the time you didn't know it was her keys?

20 A I did not know it was her keys. No.

21 Q Did she reach into your car?

22 A Yes, she did.

23 Q And you said blood. It was your blood?

24 A It was my blood, uh-huh.

25 Q And where was she cutting you?

1 A Right on my neck/shoulder area. I took pictures.

2 Q Were you afraid?

3 A I was very afraid.

4 Q Were you in fear for your life?

5 A Yes, I was.

6 Q And what did you do?

7 A At that point I went in my console and I grabbed my weapon.

8 I thought that it would scare her, but she grabbed it, and then

9 when she grabbed it I shot her. I panicked.

10 Q You say it was in the console. Was it in the glovebox or
11 was it in the console?

12 A Yes, right in the middle of my seat there.

13 Q At that time were you in good physical shape?

14 A No, I was not.

15 Q Why not?

16 A I was -- before that I was hit by a motor vehicle, and I was
17 also four-and-a-half months pregnant at the time.

18 Q The video shows you had a cast or a splint on your right
19 arm?

20 A Uh-huh.

21 Q Is that a result of that accident?

22 A From that accident, yes.

23 Q Had you missed about a week of work because of that?

24 A I had already been out a week of work, been out of work a
25 week already. Yes, sir.

1 Q So you were fearful not just for your life but for your
2 unborn child's life?

3 A Yes, sir.

4 Q This is the child that's a year old now?

5 A Yes.

6 Q Was she acting funny when you saw her?

7 A Yes.

8 Q Describe that. What do you mean?

9 A Like I thought maybe she was intoxicated, because she was
10 just so erratic, telling me that she was tired of me and she was
11 going to do what she had to do. So she was just very erratic and
12 upset with me, and I couldn't understand why because I honestly
13 did not see her.

14 I went that day to get my food and go home with no intent to
15 hurt anybody, so I don't know where the anger came from, but I
16 tried to leave.

17 Q And where did you go?

18 A I went to my mom's house.

19 Q Did you tell her what happened?

20 A Yes, I told my mom what happened.

21 Q And from there where did you go?

22 A My mom took me to the police station.

23 Q And at the police station did they photograph your injuries?

24 A They did. They took pictures of my injuries. My shirt was
25 torn, cut, everything. They took pictures of it all.

1 Q Do you still have a scar from the cuts?

2 A Yes.

3 ATTORNEY KUHN: That's all the questions I have, Your Honor.

4 THE COURT: Solicitor.

5 SOLICITOR EVANS: Thank you, Your Honor.

6 **CROSS-EXAMINATION**

7 BY SOLICITOR EVANS:

8 Q Ms. Owens --

9 A Yes, sir.

10 Q -- it's your testimony that Ms. Johnson followed you to the
11 store?

12 A Yes, sir.

13 Q What was she doing in the 14 minutes in between you first
14 appearing on camera and her first appearing on camera if she
15 followed you to the store?

16 A Uhm, I'm not sure. I wasn't aware that she followed me
17 until I saw the video. And as I get to the store, and as I'm
18 pulling up, she's behind me, but she come in from the opposite
19 direction of where I went in the store. And as I parked, her car
20 pulls up.

21 And as I'm going in the store, she just sits there and
22 waits. That's how I know she was following me. I didn't know it
23 until I saw the video.

24 Q You would agree with me that you first -- you reviewed the
25 video with Mr. Kuhn, I assume?

1 A Uh-huh.

2 Q And you would agree with me that you first appear at
3 timestamp 16:19:40?

4 A I'm not sure of the timestamp, so I can't say.

5 Q You went inside and shopped; is that right?

6 A Yes, sir.

7 Q It took you about five minutes?

8 A Yes, sir.

9 Q You got back in the car, and you didn't leave; is that
10 right?

11 A No, sir, I did not.

12 Q You were parked in the fire ring -- fire ring -- fire lane?

13 A Yes, sir. Where I'm from, and then my whole life, if you're
14 at Galaxy, a lot of people park in that lane. It's not unusual.
15 If you watch the video, there's probably a couple more cars
16 parked there. A lot of people park in the fire lane and go in
17 and get groceries and come out. It's not just that day I did
18 that. I always used to park there.

19 Q It's your -- go ahead, I'll let you finish. I'm sorry.

20 A No. I'm done.

21 Q It's your testimony that Ms. Johnson followed you, and you
22 were afraid of her?

23 A Yes. I do believe she followed me and, yes, I was afraid of
24 her.

25 Q But she doesn't appear on the video until 16:25:43?

1 A And once I come out of the store, that's when Mrs. Johnson
2 exited her car to come in the store, and that's when she asked me
3 why I didn't speak to her, did I not see her.

4 Q So the only evidence before this Court at this time that she
5 followed you is your testimony; is that right?

6 A And the video shows that she followed me.

7 Q The video shows that?

8 A From what I could see, yes.

9 Q So you shopped, and you took about five minutes. And it's
10 your testimony that you didn't leave because you were waiting for
11 your boyfriend to arrive with more money to buy more groceries?

12 A To get the rest of the groceries. Yes, sir.

13 Q Why not just wait until he got there? And why shop in two
14 trips and check out twice?

15 A Because I didn't have enough money, so I had to wait till he
16 come so I could pay for the rest of the groceries.

17 Q But why check out even once if you knew you were going to
18 have to go back in?

19 A Well, I knew he was coming. I had already talked to him, so
20 I knew he was coming to the store.

21 Q When you reviewed the video, you saw yourself talking to
22 Ms. Johnson for more than a minute as she walked into the store;
23 is that right?

24 A Yes, sir.

25 Q And you had the opportunity to leave at that time? I need a

1 verbal answer for the court reporter, please, ma'am.

2 A I had a chance to leave at that time.

3 Q But you didn't do so?

4 A I was waiting because I didn't know that it would result in
5 that. I didn't know she would come attack me in my car as I'm
6 trying to leave.

7 Q You didn't know but --

8 A Because she --

9 THE COURT: Wait. Hold on. Wait a second. Solicitor,
10 don't interrupt her. Ma'am, go ahead. You'll be able to finish
11 your question. And then once she finishes, then the solicitor
12 will have an opportunity to respond. Okay. And the reason, it's
13 just difficult. Y'all are having a conversation, but when we
14 have a court reporter, when people start talking like that they
15 talk over each other, so just one at a time.

16 So, all right. What I want do is go ahead and ask your
17 question, solicitor. And then assuming you understand it,
18 Ms. Owens --

19 THE WITNESS: Yes, sir.

20 THE COURT: -- then you can answer.

21 THE WITNESS: Okay.

22 THE COURT: Go ahead, solicitor.

23 Q So you didn't know that she was going to strike you?

24 A No.

25 Q And, in fact, she didn't make any effort to strike you on

1 her way into the store; isn't that correct?

2 A She did not on her way in the store.

3 Q But today you say she had a reputation for violence.

4 A She did.

5 Q So knowing her reputation for violence, as you're saying you
6 did, you still didn't take the opportunity to leave?

7 A Because my mom told me she was gonna call the police, and at
8 that point I thought I needed to wait on them to get a statement,
9 they would do something. But when I told my mom, she said, "Just
10 don't even wait on him. We'll go up there. You can just go
11 ahead and leave."

12 That was the only bad decision I made that day. That minute
13 I did not leave then.

14 Q That was the only bad decision you made?

15 A I think so. Yes, sir.

16 ATTORNEY EVANS: Beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 Q Now, when Ms. Johnson left the store, she had been in there
19 for about five minutes just like you, correct?

20 A I'm not sure how long she was in there, sir.

21 Q Okay. You didn't pick up on that when you reviewed the
22 video?

23 A I thought it was about two - three minutes. I didn't
24 realize it was about five minutes.

25 Q All right. And she walked out of the store, and she was

1 being followed by a gentleman who worked at the store; is that
2 right?

3 A Yes.

4 Q Mr. Calvin Lester?

5 A Yes.

6 Q And did you review -- you reviewed the video with Mr. Kuhn,
7 as you previously said.

8 A Yes.

9 Q Did you see what she did as she walked out of the store?

10 A Uhm, she was -- she was walking with Mr. Lester but she was
11 still talking to me as she was coming out of the store.

12 Q Did you see her wave to a person on her right?

13 A I did.

14 Q And you were on her left?

15 A Uh-huh.

16 Q So when she left the store her attention wasn't fixed on
17 you?

18 A It was. She was talking to me. And I don't know if
19 Mr. Lester said it or not, she was cursing me from the time she
20 walked out of the store with her groceries. Before she spoke to
21 that person -- sorry.

22 THE COURT: That's all right. Go ahead, ma'am.

23 A Before she spoke to that person, she looked at me and asked
24 me why was I still there. She looked at me and she said "You
25 still here?"

1 Q And then you put your car in drive?

2 A Yes, to leave at that point.

3 Q How long was that after you finished talking to your mother?

4 A Maybe -- maybe 20 - 30 seconds after I got off the phone
5 with my mom.

6 Q And then you chose to drive right up to --

7 A No.

8 Q No?

9 A I'm sorry. I didn't mean ...

10 THE COURT: Let him finish. Yes, ma'am. Thank you.

11 THE WITNESS: I'm sorry.

12 THE COURT: It's okay.

13 Q You drove right up next to Ms. Johnson and slowed down?

14 A I did not.

15 Q You were holding something in your left hand?

16 A I had my cellphone still in my hand.

17 Q And do you commonly hold it up --

18 A My left hand.

19 Q -- the way I --

20 THE COURT: Hold on. Ma'am, you've got to let him finish
21 the question, and then you can answer assuming you understand and
22 have an answer to the question. Okay. So, solicitor, please
23 continue.

24 Q Do you typically hold it up away from your face like this
25 (indicating) when you're driving?

1 A When I'm driving, no.

2 Q But that's what you were doing on this day?

3 A My phone -- it wasn't -- on the camera, I didn't see my
4 phone up to my face. I knew I had it in my hand when I was
5 leaving because I had just got off the phone with my mom.

6 Q If you had gotten off the phone, why would you have any
7 reason to hold the phone up?

8 A I don't know why, sir.

9 Q Were you filming her?

10 A No, sir.

11 Q So it's your testimony that you did not slow down?

12 A No. I just was leaving out. I didn't slow down at all.
13 When I was -- as I was pulling out, that's when -- it wasn't even
14 about 10 seconds. As you can see on the video, as I pulled off,
15 that's when she comes to the car. I didn't pull up on the side
16 of her, close to her, or anything.

17 Q And it's your testimony that you didn't -- you weren't
18 talking to her at that time?

19 A When I was pulling off, no. No. I was just trying to leave
20 the store.

21 Q So she came up on you for no reason?

22 A When I was leaving, yes. She came in the car as I was
23 leaving.

24 Q You reviewed the video and you saw her walking towards her
25 car. She nearly made it to her car; did she not?

1 A Yeah, she did.

2 Q She had --

3 A And as I -- go ahead.

4 Q And she had groceries?

5 A Uh-huh.

6 Q Mr. Lester was helping her with those groceries, correct?

7 A Yes.

8 Q So she was going about her business at the store; was she
9 not?

10 A No, she was not. But she came -- because she made a point
11 to let me know, she asked me, was I still there. And if she was
12 doing, supposed to be doing, put her groceries in her car, but
13 she didn't put her groceries in her car. She came to attack me
14 in my car as I was trying to leave the situation at that point.

15 Q You reviewed the entire case file with Mr. Kuhn?

16 A Yes.

17 Q So you're familiar with the statement of Nash Elliott?

18 A Yes, uh-huh. Yes, I am.

19 Q Do you recall when he said "The lady in the car said 'Don't
20 worry, I'll be here when you get out,'" directed towards
21 Ms. Johnson?

22 A Yes. I don't remember telling her that, but I do remember
23 her telling me not to be there when she got there. So I don't
24 know if I told her that, but Mr. Nash made a statement that I
25 did.

1 Q You were afraid for your life even though you were in a
2 running car? If you didn't slow down -- first let me get an
3 answer to that last question. That's still your testimony, you
4 were afraid for your life --

5 A Yes, sir.

6 Q -- despite being in a running car --

7 A Yes.

8 Q -- in drive?

9 A Yes.

10 Q If you didn't show down how was she even able to get to you?

11 A Because as I was leaving out, sir, I wasn't doing 30 - 40
12 going out of the parking lot; I was just leaving at a, you know,
13 steady pace, but I didn't slow down at all for her to jump in the
14 car.

15 Q Did you come to a standstill in the car?

16 A At that point, yes. When she started striking me, I did.
17 You can kind of see my car kind of like jerking, moving, from the
18 struggle. I tried. I couldn't pull her off because it's like
19 when she was striking me I couldn't see. I didn't want to just
20 run off and just wreck or something like that. I was actually
21 just trying to get away.

22 Q Did you put the vehicle in park?

23 A No. My vehicle wasn't in park.

24 Q You applied the brake?

25 A I think I had my foot on the brakes.

1 Q If she's attacking you why is your foot on the brake?

2 A Because how was I gonna go anywhere? How was I gonna see?
3 All I know, I thought she was cutting me with something, but it
4 was the car keys. I felt blood and I felt burning at that point.
5 I had to save myself, because she had already tried to get the
6 car door open. My door was locked.

7 Q You went to the police station at your mother's
8 encouragement; is that right?

9 A She took me to the police station.

10 Q She didn't tell them any of this?

11 THE COURT: What was the response? Was there a response to
12 that question?

13 THE WITNESS: No, sir.

14 THE COURT: Okay.

15 SOLICITOR EVANS: I think those are all the questions I have
16 at this time, Judge.

17 THE COURT: All right. Mr. Kuhn, any redirect, sir?

18 ATTORNEY KUHN: No, sir, Your Honor.

19 THE COURT: All right. Thank you. All right, ma'am. Thank
20 you very much. You can step down.

21 (Defendant's Exhibit 2 is marked for identification.)

22 ATTORNEY KUHN: I'd like to put into evidence a portion of a
23 police officer's bodycam footage that was taken after the police
24 arrived on the scene. I'm not sure how to show that to you.

25 THE COURT: Go ahead, sir. I can see the video.

1 ATTORNEY KUHN: It's called Axon [ph] body 3, footage of one
2 of the officers when they arrived on the scene. There were two
3 witnesses to this incident. He is interviewing them. The sound
4 is what's important. I'm showing all my sound as on. Shall I
5 bring mine forward?

6 THE COURT: Sure. That's absolutely fine. Mr. Evans, have
7 you seen this video?

8 SOLICITOR EVANS: Yes.

9 THE COURT: All right. That's no problem.

10 (Video published to the Court.)

11 ATTORNEY KUHN: Ms. Johnson's in the doorway here. This
12 gentleman here.

13 ATTORNEY KUHN: Your Honor, if I could introduce the autopsy
14 report of Ms. Johnson that was done at the Medical University of
15 South Carolina at the request of a coroner.

16 THE COURT: Sir, any objection?

17 SOLICITOR EVANS: No objection.

18 THE COURT: Any objection to 3, Defendant's 3, Mr. Evans?

19 SOLICITOR EVANS: No, Your Honor.

20 (Defendant's Exhibit 3 is marked for identification and
21 admitted into the record.)

22 THE COURT: The video? And, Mr. Evans, I may not have asked
23 you, any objection to Defendant's 2, which was the video of the
24 scene that you provided me?

25 SOLICITOR EVANS: None whatsoever.

1 THE COURT: All right.

2 (Defendant's Exhibit 2 is admitted into the record.)

3 ATTORNEY KUHN: And, Your Honor, the report is quite long,
4 but the key part is the toxicology report. Mrs. Johnson had
5 delta-9-THC, level of 2.4 nanograms per milliliter, over 1, has
6 an effect on people; and then plus THCCOOH, 16.1 nanograms per
7 milliliter, safe level is 3, so about --

8 THE COURT: Well, hold on. Who is that, and who's saying
9 it's safe versus effect on people?

10 ATTORNEY KUHN: It's the toxicology -- I think it's page 1
11 of the actual toxicology report that's part of the autopsy.

12 THE COURT: Okay. Okay. I see -- come here and show me
13 where you're referring to, Mr. Kuhn?

14 ATTORNEY KUHN: Sure. May I approach?

15 THE COURT: Oh, yeah. All right. So what you're referring
16 to is you're referring to the Axis Forensic Toxicology Report
17 that shows a delta-9 positive 2.4; THCCOOH positive 16.1; and
18 then ketamine, there was a positive there.

19 But as it relates to the effect on somebody, that report,
20 this is just saying that there's some level in her --

21 ATTORNEY KUHN: That would be more accurate. Yes, sir.

22 THE COURT: All right. Because I thought you said something
23 about affecting. So there's no evidence about that?

24 ATTORNEY KUHN: That's true. At this point there is no
25 evidence.

1 THE COURT: I don't know what that means. I guess there's
2 no evidence what 2.4 means. I don't know if that's like .08 or
3 what. I have no idea.

4 SOLICITOR EVANS: And that, if he's trying to, you know,
5 argue to Your Honor that there is some affect on her, I do think
6 that's something where we would need expert testimony, even in a
7 pretrial hearing such as this.

8 And I should add, Judge, of course, if you need more
9 evidence to make a ruling -- I believe the case you're hearing
10 this afternoon is one in which you had to take a break and folks
11 are coming back -- certainly the State would have no objection if
12 that's how Your Honor would care to proceed if Mr. Kuhn does want
13 to subpoena somebody.

14 THE COURT: I don't know that I need more. It's just that
15 at some point I thought I understood Mr. Kuhn a moment ago to
16 indicate that it showed an effect on people, or words similar to
17 that, and so I was wondering if that was in the report.

18 It appears that perhaps that's not in the report, but it
19 does show positive results for those drugs. Is that fair, it
20 shows a positive result?

21 ATTORNEY KUHN: Yes, sir. That's a fair statement.

22 THE COURT: Thank you, sir. Go ahead, Mr. Kuhn.

23 ATTORNEY KUHN: It corroborates her testimony as to how
24 Mrs. Johnson was acting.

25 THE COURT: All right.

1 ATTORNEY KUHN: Your Honor, I'd also like to -- and I do not
2 have hard copies of these photographs, but Ms. Johnson's car was
3 inventoried after she passed, and something that appears to be a
4 marijuana joint and marijuana in a plastic bag was found. I'd
5 like to put those photographs into evidence.

6 SOLICITOR EVANS: No objection.

7 (Defendant's Exhibit 4 is marked for identification and
8 admitted into the record.)

9 ATTORNEY KUHN: If I can get hard copies, Your Honor, or I
10 can show them to you.

11 THE COURT: You can show them to me. That's fine. So
12 photos.

13 ATTORNEY KUHN: And these are photos I20217920, 110, 98, and
14 106. This photograph shows this object in Mrs. Johnson's car at
15 the scene. This was found in her car, weighing 2.8 grams that
16 the officer had looked at earlier. They weighed it.

17 THE COURT: Okay. So let me ask you, are we stipulating
18 that's marijuana? I mean, basically he indicated -- I mean, I
19 guess I am trying to be technical. I'm just trying to be --
20 there was no objection to some photographs that were taken.
21 Mr. Kuhn has indicated, I think, that it's marijuana, and so I
22 guess, again, what I'm asking is there's no testimony to
23 substantiate that?

24 SOLICITOR EVANS: Judge, I don't believe that that was ever
25 tested. I don't think that that's the be-all and the end-all of

1 the case. I'm happy to stipulate that there were, you know,
2 remnants of THC in her system, and Your Honor can take that for
3 what it's worth.

4 THE COURT: All right. What I'll do is I'll note that
5 Mr. Kuhn has purported that it appears to be, perhaps, a
6 marijuana cigarette, and loose marijuana in a baggy. Is that
7 sufficient, Mr. Kuhn?

8 ATTORNEY KUHN: Yes, sir, Your Honor.

9 THE COURT: All right. That's fine. Go ahead, Mr. Kuhn.

10 ATTORNEY KUHN: Then, Your Honor, attached to my motion were
11 some witness statements.

12 THE COURT: Yes, sir.

13 ATTORNEY KUHN: Anna Fields, the new Jasper County Coroner
14 as of yesterday.

15 THE COURT: I'm sorry?

16 ATTORNEY KUHN: The new Jasper County Coroner as of
17 yesterday.

18 MS. FIELDS: Hampton County.

19 THE COURT: Congratulations.

20 MADAM CLERK OF COURT: Thank you.

21 ATTORNEY KUHN: Jeanette, who is Tiffany's mother. Both of
22 those are in the courtroom. And then Alexander Singleton. I
23 would just move to introduce these statements, but Jeanette
24 Fields and Anna Fields are here to be examined by the Court, if
25 that's desired. So I would like to introduce those statements

1 into evidence.

2 THE COURT: So any objection to those statements and the
3 photographs?

4 SOLICITOR EVANS: None, Your Honor.

5 THE COURT: All right. So that's the statement of
6 Ms. Fields?

7 ATTORNEY KUHN: Jeanette Fields.

8 THE COURT: And Mr. Singleton?

9 ATTORNEY KUHN: Alexander Singleton.

10 THE COURT: I've got one, two, three, four photographs of
11 the vehicle. And Jeanette Fields.

12 ATTORNEY KUHN: Jeanette Fields, Your Honor. Yes, sir.

13 THE COURT: Page 2, page 3 of Janet Fields; page 4, Janet
14 Fields; and I've got what looks like a blurred copy of someone's
15 driver's license.

16 ATTORNEY KUHN: Those are all the deponents, the people
17 making the statements.

18 THE COURT: Any objection to any of those?

19 SOLICITOR EVANS: None, Your Honor.

20 (Defendant's Exhibit 5 is marked for identification and
21 admitted into the record.)

22 THE COURT: Okay. Fine. Yes, sir? What else, Mr. Kuhn?

23 ATTORNEY KUHN: Your Honor, that's it.

24 THE COURT: All right. Mr. Kuhn, let me ask you this: The
25 folks who made the statement to the officer in the video that you

1 showed me that had on the black shirts which I assume are Galaxy
2 Food Mart shirts, do we have statements from them?

3 ATTORNEY KUHN: I do not believe so, Your Honor. I hesitate
4 because this file was so huge --

5 THE COURT: Right.

6 ATTORNEY KUHN: -- they may be in there and I just did not
7 see them.

8 THE COURT: All right. I'm just asking, sir.

9 ATTORNEY KUHN: I do not think we have statements from them
10 other than what's on the video.

11 THE COURT: Yes, sir. All right. Mr. Evans.

12 SOLICITOR EVANS: Thank you, Your Honor. I don't have any
13 witnesses to call, but I would like to play some of the video,
14 the security camera video, in light Ms. Owens's testimony. Not
15 too long of it.

16 THE COURT: Whatever you want to do, sir.

17 SOLICITOR EVANS: Thank you, Your Honor. Are we queued up?

18 CLERK OF COURT: Yes, sir. Did you tell me 2 or 1?

19 SOLICITOR EVANS: It says 2. I see 2 over here.

20 THE COURT: Yes, sir.

21 (Video is published to the Court.)

22 SOLICITOR EVANS: Thank you, Judge. The timestamp up here
23 is a little bit difficult to read because they use this black
24 font, but I think it says 16:38:59. I was wrong. It's 16:30.

25 Would you care to watch it again, Judge, or any other

1 portions?

2 THE COURT: No, sir. I watched that --

3 SOLICITOR EVANS: Yes, sir.

4 THE COURT: -- a dozen times, probably, between Monday and
5 yesterday.

6 SOLICITOR EVANS: I suspected you had, Judge. I just wanted
7 you to have an opportunity to see it one more time following her
8 testimony.

9 THE COURT: Yes, sir.

10 SOLICITOR EVANS: The State's ready to argue, I think, but,
11 of course, it's Mr. Kuhn's motion, so.

12 THE COURT: All right. Anything else, Mr. Kuhn, that you
13 want me to consider? And I'm happy to hear any arguments that
14 you'd like to make, sir, and then I'd have the solicitor respond.
15 Is that satisfactory, sir?

16 ATTORNEY KUHN: You're the boss. Yes, sir, Your Honor.

17 THE COURT: No, sir. Whatever you guys want to do is fine
18 with me. I'm here till 5:00 this afternoon, as it turns out.

19 ATTORNEY KUHN: That is all the evidence, Your Honor, at
20 this time. This, of course, is a statutory defense. They have
21 made a lot of the fact that Tiffany did not leave when she saw
22 Ms. Johnson. That seems to be the State's only objection to this
23 motion being granted. Of course a duty to retreat is not an
24 element of my motion, doesn't need to be an element. There is no
25 duty to retreat. If she had not stopped to call her mom to see,

1 What should I do, mom? Should I leave? Should I wait on Dontae?
2 Should I call the police? Should I wait on the police? If she
3 had not done all that this would not have happened, but that's
4 not the point. There is no duty to retreat. She was lawfully in
5 the parking lot, where she lawfully had a place to be. She was
6 under no legal obligation to leave when she saw Ms. Johnson enter
7 the parking lot and go into the store.

8 The question is did she have a -- was she in fear for her
9 life when Ms. Johnson attacked her. This case is somewhat
10 unique. We have video that shows conclusively that my client was
11 being attacked. She was in her car, a place she had a right to
12 be, doing something she had a right to do when Ms. Johnson,
13 quote, the eyewitness who had a better view of that view than
14 what we have in the video, says, one of them, she went into her
15 window with her fist raised like this, the witness says.

16 And the other witness says she, Ms. Johnson, made a beeline
17 to my client's car, went, quote, straight to her and then, quote,
18 started beating the hell out of her.

19 My client was cut, had visible injuries, thought she was
20 being attacked with a knife. One arm is impaired at the very
21 least because it was in a cast; the other, she was holding her
22 cellphone, driving like this. Again, in her car, a place she had
23 a right to be, doing something she had a right to do, and
24 Ms. Johnson stops loading her groceries, makes a beeline to my
25 client, goes into her car, according to the eyewitness1.

1 You can see Ms. Johnson raise her fist and strike in the
2 video when she first gets to the car. She tries to open the door
3 but thankfully it's locked. And then she leans in the car, and
4 there's clearly a struggle because you can see the car shaking.

5 This is about as strong as a stand-your-ground case castle
6 doctrine as I think we can do. We've got two eyewitnesses that
7 confirm that the decedent was attacking my client. The video
8 confirms she was attacking my client.

9 All this stuff that took place before that just sets the
10 stage. They have a long history between them. My client is
11 afraid of her. She's aggressive. She's upset. My client and my
12 client's sister had a relationship with her baby's daddy, and her
13 only error, if any, is she calls her mom for advice and then
14 follows her mom's advice and tries to leave.

15 The keys were found. Well, we didn't get that into
16 evidence, but she did have keys in her hand. Turns out those are
17 what my client testified to she was being cut by, but she thought
18 it was a knife.

19 So, Your Honor, if I can pass up Section 16-11-440, this
20 goes in hand with the castle-doctrine statute and creates a
21 presumption of a reasonable fear of imminent peril, in this case,
22 if Ms. Johnson is in the process of unlawfully and forcefully
23 entering an occupied vehicle. So there's a presumption of
24 imminent peril.

25 She was obviously using force. She was obviously not

1 invited. She's raising her fist. She's reaching through the
2 window. The presumption applies in this case.

3 We have a presumption of reasonable fear, which puts the
4 burden on the State to overcome that presumption. I submit that
5 even without that presumption it's clear from the eyewitnesses,
6 two eyewitnesses, who have no dog in this fight, and the video,
7 that my client was being attacked. That's in the video. Plus we
8 have the presumption, which even makes it more forceful. So I
9 respectfully request that the motion be granted, Your Honor.

10 THE COURT: You know, that's one of the things about the
11 eyewitnesses that I didn't understand in evidence in the video
12 presented to me, because the video shows those people were inside
13 when this attack happened. They weren't there. And that's what
14 I'm having trouble with. The videos don't show that they were
15 there. The videos show they went out after she was shot, didn't
16 they?

17 DEFENSE ATTORNEY: They showed them coming and going but I
18 don't think it shows where they were at the time.

19 THE COURT: Doesn't show. They were inside when she was
20 shot. If you watch the videos, you can see after she's shot the
21 lady comes, after she's shot, after she's left, the lady comes
22 out, then the lady looks around, talks to somebody, I think
23 probably the young man who's pushing the groceries out. Then the
24 lady goes back in; then the lady comes back out.

25 The video also shows -- and the gentleman, I'm not positive

1 about the gentleman, I think it shows him coming out also.

2 And that's was what I was trying to figure out is -- that's
3 why I wanted to know if we had any statements from them because I
4 didn't see them -- I didn't see them in the parking lot. I saw
5 them after she was shot and on the ground and Ms. Owens had left.
6 That's when I saw them coming out of the store.

7 ATTORNEY KUHN: I do not know what their perspective was or
8 what they based their statement on, but I do know what they said.

9 THE COURT: Yes, sir.

10 ATTORNEY KUHN: That's all I can say, Your Honor.

11 THE COURT: Yes, sir. Go ahead, Mr. Kuhn. What else?

12 ATTORNEY KUHN: That's all, Your Honor.

13 THE COURT: I didn't mean to cut you off. I'm just asking.

14 ATTORNEY KUHN: You didn't. I was done. I can take a hint.

15 THE COURT: No.

16 ATTORNEY KUHN: That's it, Your Honor. My client was in her
17 car trying to leave, and this lady ran up on her, and started
18 beating up on her, and did beat up on her. That's it.

19 THE COURT: All right. Thank you, sir. Mr. Evans.

20 SOLICITOR EVANS: Thank you, Your Honor. First I think it
21 would be helpful to go over the procedure. I know Your Honor has
22 heard a number of these but it's always helpful for me to have a
23 refresher on what it is exactly that you're being presented with.

24 The Supreme Court and Court of Appeals, you know, the
25 legislature didn't lay out much in the way of procedure for these

1 hearings. They've given us plenty of elements. But the courts
2 have said the first thing is that Your Honor does have to make a
3 factual finding. Merely finding that the evidence is in conflict
4 is not enough, because this isn't a directed verdict analogous
5 type of hearing. So it is a preponderance of the evidence
6 standard, looking at it in the light most favorable to the State
7 as the nonmoving party.

8 The first thing that Your Honor has to decide is can
9 Ms. Owens make out a proper case for self defense absent the duty
10 to retreat. Mr. Kuhn is quite right that that is not something
11 that she has to show or that Your Honor needs to find in this
12 hearing.

13 Every other element, however, you do have to establish --or,
14 she does have to establish that prior to even moving on to the
15 statutory elements. So the elements of self-defense in South
16 Carolina are, first, that the defendant must be without fault in
17 bringing on the difficulty.

18 Second, the defendant must have actually believed she was in
19 imminent danger of losing her life, or sustaining serious bodily
20 injury, or she actually was in such imminent injury.

21 Third, if her defense is based upon her belief of imminent
22 danger, a reasonably prudent woman of ordinary firmness and
23 courage would have entertained the same belief. If the defendant
24 actually was in imminent danger, the circumstances must be such
25 that those which warrant a woman of ordinary prudence, firmness,

1 and courage to strike in order to save herself from serious
2 bodily harm or losing her own life. And then, of course, fourth,
3 is the element we're not worried about here, the duty to retreat.

4 The first argument that I have, Judge, that that she can't
5 even get past the first element of self-defense. She has to be
6 without fault in bringing on the difficulty. And if all Your
7 Honor had was her testimony from the stand today, I could see how
8 somebody might be inclined to believe that. But this video,
9 which we just played a refresher for Your Honor, is grossly
10 contradictory to what she said today.

11 She believes -- she testified essentially that Ms. Owens --
12 excuse me, she's Ms. Owens -- that Ms. Johnson, when she came out
13 of the store, was immediately back into the argument with her,
14 cursing at her and, you know, making her feel unsafe.

15 But the first thing Ms. Johnson does when she walks out of
16 the store is waves, a friendly wave to somebody on the right, and
17 she proceeds directly to the area where it's clear that she's
18 parked because we have the affidavit of Mr. Lester. I'm sure
19 he'd be flattered to hear you call him a young man, Judge; he's
20 actually, he's well into, at least, his 50s if not 60s, but he
21 took out an affidavit in our office saying, you know, that he was
22 helping her unload the groceries and as -- they were walking
23 straight to the car, straight to the car. And unfortunately he
24 doesn't remember the specifics of the words that were being used,
25 but he did put in his affidavit that they were cursing at each

1 other.

2 So for Ms. Owens to say that Ms. Johnson was the aggressor
3 in this situation is really not at all accurate. It's quite
4 clear that her testimony today that she did not slow down is
5 simply false. That is as clear as day on this video, Judge, that
6 she pulled out of this fire lane where she had been waiting. She
7 had every opportunity to leave while Ms. Johnson was in the --
8 obviously she's under no duty to retreat, but she had every
9 opportunity to avoid the conflicts completely, having sat there
10 with her door open for several minutes while Ms. Johnson was
11 inside shopping. She then takes her car and drives it directly
12 towards the area where Ms. Johnson is unloading -- or, loading
13 her groceries into her own car, or about to. She quite clearly
14 slows down as she's getting close to Ms. Johnson.

15 If you watch closely enough and slowly enough you can see
16 that she's holding up something in her left hand, which I suspect
17 was her cellphone. She says today that she had finished the
18 call, yet she is holding it up at the driver's, you know, her
19 left-hand side window as she approaches the victim in this case.
20 She comes to a complete stop.

21 And once we get into the actual statutory elements, no, she
22 doesn't have the duty to retreat but the ability to retreat, I
23 haven't found a case yet that says that you can't factor that
24 into the reasonableness-argument side of things.

25 So Mr. Kuhn is not correct that it's, you know, it's the end

1 of the inquiry if somebody is attacked. That would be the
2 legislature essentially granting everyone in this state, as long
3 as you're in a car, practically a license to kill. That is not
4 what they intended.

5 These are two people who know each other. They don't like
6 each other. That is abundantly clear from just the first portion
7 of the video when Ms. Johnson is walking in.

8 And I know that his witnesses want to make a big, a big,
9 point out of her reputation, but Ms. Anna Fields is the
10 defendant's sister and Ms. Jeanette Fields is the defendant's
11 mother. And you, as a finder of fact, Judge, acting as the, you
12 know, the, quote-unquote, jury today are entitled to take witness
13 credibility into account.

14 The two gentlemen who wrote affidavits which we've attached
15 to our memo don't know these folks and are not interested in the
16 outcome. I already told you about Mr. Lester. The other
17 gentleman was Mr. Nash Elliott. He's the gentleman with the sort
18 of sandy blonde hair who's walking in near Ms. Johnson on the
19 earlier portion which we haven't played today but which I know
20 you reviewed, and in his affidavit he remembers -- it's in his
21 written statement, as well, from the day of. So unlike
22 Ms. Owens, his story is consistent.

23 But he said on the day of, and then in a sworn affidavit,
24 that he heard Ms. Owens -- he didn't know her by name but he
25 heard the lady in the car, say words to the effect of -- Don't

1 worry, I'll be waiting on you right here. And he was in the
2 store the entire time that Ms. Johnson was. In fact, he was
3 still inside checking out when she was shot.

4 But he also says that Ms. Johnson didn't act strangely,
5 rudely, abrasively in any way while she was in the store for
6 those few minutes, which contradicts the statement of their other
7 witness, Mr. Singleton.

8 Judge, I can't sugarcoat the fact that Ms. Johnson ran up to
9 the car. That's abundantly clear in the video. And the police
10 know about that, they have seen it. And Mr. Kuhn is correct that
11 a set of keys were found later in Ms. Owens's vehicle which law
12 enforcement did determine to be the keys which belonged to
13 Ms. Johnson's vehicle.

14 But when he says that's the end of the inquiry, that simply
15 can't be the case. You have to make a decision, Judge, as the
16 finder of fact, that her actions were reasonable. That's if she
17 gets past the first element of self-defense, which I've argued
18 she can't, bringing on the difficulty herself. It's clear from
19 this video that she was goading Ms. Johnson into some kind of
20 confrontation.

21 Turning to the actual statutory elements, 16-11-440(A), a
22 person is to have reasonable fear of imminent peril of death or
23 great bodily injury if the person against whom the deadly force
24 is used is in the process of unlawfully and forcibly entering an
25 occupied vehicle.

1 The only evidence we have that she was trying to open the
2 door is, of course, Ms. Owens's own testimony, which is about as
3 interested a party as there can be in any case. Certainly there
4 was a physical fight happening.

5 But when deadly force is introduced, Judge, that's where the
6 determination of reasonableness is so critical. And the fact of
7 the matter is Ms. Owens was in a running car. She sought out the
8 victim. She was not an anonymous victim herself getting into a
9 car and suddenly attacked by a stranger attempting to steal her
10 car. She knew that Ms. Johnson wasn't trying to steal her car.
11 She knew exactly who she was.

12 And to say that the legislature intended a result like this
13 when they enacted the Protection of Persons and Property Act
14 just -- it practically borders on the absurd, Judge.

15 So if the Court has any questions for the State or any other
16 evidence that it wants to review, I'm happy to answer anything.
17 But it's just plain, Judge, that they cannot, in the light most
18 favorable to the nonmoving party, prove this by a preponderance
19 of the evidence. Thank you.

20 THE COURT: Mr. Kuhn, anything else, sir?

21 ATTORNEY KUHN: Just briefly, Your Honor.

22 THE COURT: Yes, sir.

23 ATTORNEY KUHN: There's no evidence of goating.

24 THE COURT: I'm sorry?

25 ATTORNEY KUHN: There's no evidence of goating, my client

1 goated Mrs. Johnson into doing anything. If you look at the very
2 beginning of this incident, what started the whole thing,
3 Tiffany's in her car waiting on her boyfriend to show up. The
4 door's open. Ms. Johnson gets out of her car, starts walking
5 towards my client, and my client shuts the door. She wants
6 nothing to do with her.

7 Ms. Johnson approaches her car, and Ms. Johnson initiates an
8 altercation. She starts to leave. She turns around and shouts
9 some more. She starts to leave. She turns around and shouts at
10 my client some more. This whole thing started with Mrs. Johnson
11 approaching my client, who clearly wanted nothing do with her and
12 and shut the door in her face as she came up to her car. That's
13 what started this whole thing.

14 Ms. Johnson was in a bad mood that day. If you look at
15 Mr. Singleton's statements, he's an elderly guy. He says he's in
16 the store in seasonings, minding his own business. She walks up
17 to him, and she starts cussing me out for no reason, calls me a,
18 quote, mother-fucker, and says, I don't care how old you are.
19 He's got nothing to do with this. She's obviously in a
20 combative, bad mood that day.

21 My client is in her car, minding her own business. Under
22 the State's theory, I can be sitting in my car with the window
23 down, someone approaches my car, and if I don't take off, even if
24 I know them, if I don't like them, if they reach in the car and
25 start cutting on me and trying to kill me, it's my fault. That's

1 absurd, Your Honor.

2 It's clear from the video that Ms. Johnson attacked my
3 client severely. This wasn't just she pushed her over, wasn't
4 that she slapped her in the face; she cut her repeatedly, causing
5 visible injuries, put her in fear of her life. Under the
6 statutory presumption, a reasonable fear does exist. This was
7 clearly self-defense, even under the old rules. Thank you, Your
8 Honor.

9 THE COURT: All right. Well, as I understand it, what I've
10 got to do first is look to, basically I must necessarily consider
11 the elements of self-defense in determining a defendant's
12 entitlement to the acts of immunity. That's coming from the
13 *Curry* case.

14 What I'll say is, if I immediately skip over that and went
15 straight to 16-11-440(C), the act provides the following: A
16 person who is not engaged in an unlawful activity -- and I don't
17 know that Ms. Owens was engaged in an unlawful activity -- and
18 who is attacked in another place where he or she has a right to
19 be -- I think certainly she had a right to be at Galaxy in Estill
20 that day -- that she has no duty to retreat and has the right to
21 stand her ground and meet force with force, including deadly
22 force if she reasonably believes it's necessary to prevent death
23 or great bodily injury to herself.

24 Now, what I do see in the video, solicitor, I mean, the
25 decedent is going right over to that car and is, with fist

1 raised, and is throwing punches or attempting to throw punches.

2 So I'm with you on that, Mr. Kuhn.

3 But what I think I've got to look at first, and the thing
4 that causes me perhaps the most pause, is I take the four
5 elements of self-defense, basically knocking away the last, the
6 defendant had no other means to avoid the danger, that is, a duty
7 to retreat, let's just remove that completely, the first thing
8 that I look at is the defendant must be without fault in bringing
9 on the difficulty.

10 What I will tell you is, that's the issue today. I don't
11 know that I've made my mind up on that. I know *State v. Bryant*
12 says that one who provokes or initiates the assault cannot escape
13 criminal liability by invoking self-defense. And obviously I
14 don't think Ms. Owens initiated this matter.

15 And the question to me is the word "provoke" and, you know,
16 to me, that's the issue. And I know there's case law out there
17 that talks about prior ill will and bad feelings, and things of
18 this nature. I'm not -- I don't think that's appropriate to take
19 into consideration because I think that it's almost got to be
20 like a proximate, like you've got to have almost a proximate
21 cause of what this is, not relying upon things in the past like
22 ill will and things of that nature. Bringing on the difficulty
23 requires more than simply having prior animus, ill will, or
24 previous disagreements. That's what I'm making reference to.

25 In order to feed an accuse [ph] assertion of self-defense,

1 it must be -- it's got to be proximate cause producing the
2 occasion for the unlawful conduct. So that, to me, is the issue
3 in this case as I look at and evaluate this matter.

4 And so I'm going to take this under advisement, but I'll
5 have a decision this week. Friday's a holiday for the state and
6 so Carlos won't be there to send everything out, so it will
7 probably be no later than Monday. But I may have a decision this
8 week. And what I'll do is I'll send something very briefly
9 outlining my decision, and then would have the individual that I
10 consider to be the prevailing party provide a proposed order.
11 And so I will let you all know. But I'll let you know this week.

12 While I've got you here let me just ask, Mr. Kuhn, as it
13 relates to the analysis that I -- and I haven't made my mind up,
14 Mr. Kuhn, but as it relates to my analysis, I think you see where
15 I think the issue is. I don't know if you -- am I missing
16 something? I think you've indicated that you don't think there's
17 a lot of evidence, or any evidence, as it relates to the
18 provocation, and I understand that, but is there anything that
19 you want to address as it relates to the evaluation as in my
20 analysis?

21 ATTORNEY KUHN: No.

22 THE COURT: I'm assuming -- I mean, I've had these hearings
23 come up four and five times now -- this is probably my fifth
24 one -- and I think that's where I start with, is looking at the
25 self-defense, and then moving into the actual act itself. And do

1 you agree with that?

2 ATTORNEY KUHN: I think your analysis is correct, Your
3 Honor.

4 THE COURT: All right. Go ahead. I'm listening to you,
5 sir.

6 ATTORNEY KUHN: No. I think your analysis is correct. And
7 my client cannot provoke the attack. But saying that, I
8 anticipate I point a gun at you, I'm provoking you. So if you
9 then attack me, I can't claim I acted in self-defense because you
10 were the one really acting in self-defense.

11 THE COURT: All right.

12 ATTORNEY KUHN: That's the kind of provocation. If I call
13 you a dirty rotten S.O.B., that doesn't justify you trying to
14 kill me. I get in a fight with you in the parking lot, that
15 doesn't justify you trying to kill me. I mess around with my
16 sister's -- my brother's girlfriend, that doesn't justify you
17 trying to kill me. I think provocation needs to be pretty
18 substantial. I think your analysis is correct, Your Honor.

19 THE COURT: All right. Mr. Evans. I'm asking, sir --

20 SOLICITOR EVANS: You're certainly -- you're 100 percent
21 right on the procedure, Judge, but since he made a little bit
22 more argument on the facts, I appreciate the chance, too. I
23 think that words alone, one of the charges that we hear so often
24 is that words alone are not enough. Certainly if Ms. Owens had
25 been seriously injured and Ms. Johnson were the defendant, that's

1 exactly what I would be asking the Court to think about.

2 But when you get into the fact that the person delivering
3 the words is the eventual defendant, I think that that's quite a
4 bit different. I think that a defendant can provoke someone
5 getting into a physical altercation, and not be entitled to the
6 protection of self-defense or, down the road, stand your ground.

7 THE COURT: All right.

8 SOLICITOR EVANS: Thank you, Your Honor.

9 THE COURT: All right. Thank you very much, Ms. Owens.
10 Thank you.

11 (End of Transcript of Record.)
12

13 CERTIFICATE OF REPORTER

14 I, Cathy J. Provost, Official Court Reporter for the
15 Fourteenth Judicial Circuit of the State of South Carolina, do
16 hereby certify that the foregoing is a true, accurate and
17 complete Transcript of Record of the proceedings had and evidence
18 introduced in the trial/proceedings of the captioned case in the
19 Court of General Sessions for Hampton County, South Carolina, on
20 the 9th day of November, 2022.

21 I do further certify that I am neither of kin, counsel, nor
22 interest to any party hereto.

23 Date: October 18, 2024

24 \s\ Cathy J. Provost
25 Cathy J. Provost, RMR
Official Circuit Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF THE GENERAL SESSIONS
	)	
COUNTY OF HAMPTON	)	Warrant Nos.: 2021A2520200037
STATE OF SOUTH CAROLINA,	)	2021A2520200038
	)	
Plaintiff,	)	MOTION TO DISMISS PURSUANT TO
	)	§16-11-420 SOUTH CAROLINA CODE
v.	)	OF LAWS
	)	
TIFFANY REBECCA OWENS,	)	
	)	
Defendant.	)	
_____	)	

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through her undersigned counsel, will move for an order to dismiss the above-referenced warrants and charges pursuant to §16-11-420 et seq. of the South Carolina Code of Laws. The Defendant's motion is based upon the following:

1. On or about May 29, 2021, the Defendant was arrested for the alleged murder of Tijuana Demetruis Deloach. This incident is alleged to have occurred on May 29, 2021, in the area of 746 Columbia Highway (the Galaxy Food Store), Estill, Hampton County, South Carolina at approximately 1720 hours.

2. In support of this Motion, the voluntary statement of Anna Fields is attached, in which Ms. Fields states the following:

"As long as I known Tijuana (the deceased) she has always been a person that is aggressive and she was always a bully, as a matter of fact about 2 wk ago she tried to start a fight with me outside of a store."

3. In support of this Motion, the voluntary statement of Alexander Singleton is attached, in which Mr. Singleton states the following:

"I was inside the Galaxy by the seasoning salt when the woman who got shot started cussing at me for no reason – "she told me

mother fucker I'm back" I (Mr. Singleton) got upset she told me
 "I don't care how old you is"

4. In support of this Motion, the voluntary statement of Jeanette Fields is attached, in which Mrs. Fields states:

"Tiffany (the Defendant) has always had problems with Tijuana Johnson (the Deceased) and these problems have been going on for about 7 years. On Saturday, May 29, 2021, my daughter, Tiffany, called me from inside the Galaxy Grocery Store. Tiffany told me she had just got in the store when Tijuana Johnson walked up behind her and began cussing her as she was entering the store I told Tiffany to pay for her plums and just get out or to just leave her plums and get out."

5. In support of this Motion, movant directs the Court's attention to the video footage of the subject incident which was captured on the surveillance camera of the Galaxy Food Store. This video footage conclusively establishes the following sequence of events:

a. (16:18)¹ Tiffany Owens, driving her car, arrives at the Galaxy Food Store, parks her car in front of the store, exits her car and walks directly into the store.

b. (16:18) The Decedent, apparently having followed Tiffany in her car, pulls into the Galaxy Food Store parking lot and parks her car.

c. The Decedent does not exit her car, but instead sits in her car, obviously waiting for Tiffany to exit the store.

d. As the minutes pass, several customers enter and exit the store. The Decedent continues to wait in her car for Tiffany to come out of the store.

e. (16:25) Tiffany, carrying her purchase, exits the store and gets into her vehicle.

¹ Times are from the video footage and are very approximate.

f. (16:25) Upon Tiffany exiting the Store, the Decedent promptly exits her vehicle and APPROACHES TIFFANY, who is seated in her car.

g. (16:26) The Decedent is seen saying something to Tiffany while Tiffany remains seated in her car. The Decedent walks away, yelling something over her shoulder. When Tiffany exits her vehicle momentarily to retrieve an item from the back seat, the Decedent AGAIN approaches Tiffany and has words. As the Decedent walks away, she stops twice to turn around and yell at Tiffany.

h. (16:31) The Decedent exits the store and goes to her car. Tiffany, in her car, starts to pull out of the parking lot. The Decedent runs up to Tiffany's car, forcing Tiffany to stop, and violently and repeatedly strikes Tiffany several times through the open driver's window.

i. (16:31) Tiffany, while in her occupied vehicle², a place where she had a right to be³, in reasonable fear of imminent peril, as well as reasonably believing it was necessary to prevent the commission of a violent crime, then shoots the Decedent in self defense.

j. The Defendant's fear of Tijuana Johnson was reasonably justified, inasmuch as Tijuana Johnson had a reputation for causing trouble with individuals. Her criminal record shows that Ms. Johnson was arrested for Criminal Domestic Violence in Allendale County, South Carolina on June 17, 2007.

k. The Defendant at all times during the incident was not engaged in an unlawful activity.

l. Tijuana Johnson was following, stalking, threatening, bullying, yelling at and "walking up on" the Defendant.

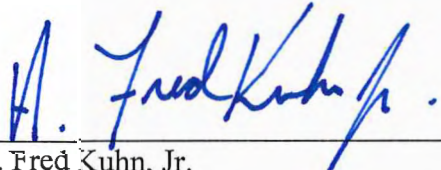
² Section 16-11-440(A)(1)

³ Section 16-11-440(C)

6. The Defendant knew or had reason to believe that an unlawful and forcible act was occurring or about to occur. The video is proof positive that the Decedent (1) was following the Defendant; (2) lay in wait to ambush the Defendant; (3) repeatedly approached and confronted the Defendant; (4) yelled at the Defendant; (5) ran up to the Defendant as the Defendant was trying to leave; and (6) was violently striking the Defendant multiple times before being shot.

7. The Defendant was not engaged in an unlawful activity and was threatened and attacked by Tijuana Johnson and had no duty to retreat; had the right to stand her ground; had the right to meet force with force; had the right to engage in self-defense; and reasonably believed that her actions were necessary to prevent death or great bodily injury to herself or another person or to prevent the commission of a violent crime as defined in §16-1-60, South Carolina Code of Laws.

Therefore, the Defendant requests an Order finding that the Defendant was justified in using deadly force and is immune from criminal prosecution pursuant to §16-11-420 et seq. of the South Carolina Code of Laws.



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Beaufort, South Carolina
August 25, 2022

STATE OF SOUTH CAROLINA)	INDICTMENTS 2021GS2500181 and	FILED AM/PM
COUNTY OF HAMPTON)	2022GS2500346	
)		NOV 03 2022
STATE OF SOUTH CAROLINA)		
)		MYLINDA D NETTLES
vs.)	WARRANTS 2021A2520200037 and	CLERK OF COURT
)		HAMPTON COUNTY, SC
TIFFANY REBECCA OWENS,)	STATE'S MEMORANDUM OF LAW IN	
)	RESPONSE TO DEFENDANT'S MOTION	
Defendant)	TO DISMISS PURSUANT TO §16-11-420	
)		

COMES NOW the State, by and through Reed Evans, Assistant Solicitor for the Fourteenth Judicial Circuit, and respectfully submits this memorandum in opposition to the Defense's motion for immunity.

ISSUE

- I. Can the Defendant establish a case of self-defense, save the element of a duty to retreat, by a preponderance of the evidence?
- II. Was the Defendant's fear of imminent great bodily injury or death reasonable?

LAW

The Protection of Persons and Property Act (hereafter "the Act") is codified as §§16-11-410 through 450 of the South Carolina Code of Laws. The Act provides that "a person who is not engaged in an unlawful activity and who is attacked in another place where [she] has a right to be ... has no duty to retreat and has the right to stand [her] ground and meet force with force, including deadly force, if [she] reasonably believes it is necessary to prevent death or great bodily injury to [herself] or another person or to prevent the commission of a violent crime." *S.C. Code Ann. § 16-11-440(C)*. Further, "a person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to [herself] or another person when using deadly force that is intended or likely to

cause death or great bodily injury to another person if the person ... against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a[n] ... occupied vehicle....” *S.C. Code Ann. §16-11-440(A)*. Finally, “a person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution...” *S.C. Code Ann. §16-11-450*.

The elements of Self-Defense in South Carolina are that “first, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed [she] was in imminent danger of losing [her] life or sustaining serious bodily injury, or [she] actually was in such imminent danger. Third, if [her] defense is based upon [her] belief of imminent danger, a reasonably prudent [woman] of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a [woman] of ordinary prudence, firmness and courage to strike the fatal blow in order to save [herself] from serious bodily harm or losing [her] own life. Fourth, the defendant had no other probable means of avoiding the danger of losing [her] own life or sustaining serious bodily injury than to act as [she] did in this particular instance.” *State v. Glenn*, 429 S.C. 108, 116 , 838 S.E.2d 491, 495 (2019), *quoting State v. Dickey*, 394 S.C. 491, 499, 716 S.E.2D 1132, 136 (2016).

FACTS

On May 29, 2021, the Defendant, Tiffany Owens, drove to the Galaxy Food Store, located at 746 Columbia Highway, in Estill, Hampton County, arriving at 16:19:40, according to the time stamp on the security camera footage, which will be

made a court's exhibit during the hearing on the Defendant's motion. Owens parked in the fire lane and proceeded inside. Owens exited the store at 16:24:56 and returned to her car, but did not leave the premises.

The Victim, Tijuana Johnson, first appears on the video at 16:25:33. Though her vehicle is not visible in the frame, she appears walking from the parking lot, several yards away from where Owens remained parked. Johnson approaches the front door but notices Owens and walks towards her car.

From 16:25:50 through 16:26:42, Johnson and Owens speak to each other. Even as Johnson walks away and approaches the store once more, Owens opens her car door and stands up to continue addressing Johnson. A witness later told the police that "the argument was getting heated" and heard Owens tell Johnson "Don't worry, I will be here when you get out." *Attachment A, Affidavit of Nash Elliott*. Johnson exits the frame as she enters the store.

At the same time, Owens, now standing just outside her car, opens the back driver's side door. Though a column is in the camera's way, a small shadow can be seen, which appears to be Owens moving about in the back seat. At 16:26:52, she returns to the front seat, but does not leave.

Owens remained in her car for the next four minutes while Johnson shopped. During this interval, a 911 call was made by Jeanette Fields, the Defendant's mother. In this call, Fields reports that her daughter was being harassed by Johnson *inside* the store. The 911 recording will also be made a court's exhibit during the hearing.

At 16:31:06, Johnson emerges from the store. She walks straight back in the direction from which she originally appeared. Johnson was followed by Calvin Lester, a

store employee pulling a cart of groceries. *Attachment B, Affidavit of Calvin Lester.*

Johnson gives a friendly wave to somebody on her right at 16:31:13. Two seconds later, she turns her head to her left, in Owens' direction, and appears to speak while continuing to walk. However, Johnson does not deviate from her course. She and Lester reach the top of the frame at 16:31:29.

At this moment, Owens begins to pull out of her parking spot, having sat idle for nearly five minutes since the end of her initial conversation with Johnson. She turns up the middle lane of the parking lot, directly towards Johnson. Owens is holding an object, is facing directly towards the victim, and appears to be speaking to her while driving.

At 16:31:34, it is clear that Owens has gotten Johnson's attention, as she turns and begins approaching Owens' car. Johnson takes a few slow steps then accelerates. It should be noted that, at this point, Owens' car is still moving in Johnson's direction. Johnson reaches Owens' car as it pulls to a stop. She swings her fists towards Owens' seat. It is unclear whether, and to what extent, Johnson was able to strike Owens, but Owens would not request medical attention when she turned herself in later that evening.

Johnson and Owens struggle. At 16:31:41, a puff of smoke emerges from Owens' car, indicating a gunshot. Johnson staggers away from the car, back towards her own parking space. Owens immediately begins to drive away, but pauses at 16:31:46, Johnson falls to the ground. The pause is brief, however, as Owens pulls away again at 16:31:48, turns left onto Highway 321, and leaves the frame by 16:32:01. Johnson later died of her injuries.

ANALYSIS

I. The Defendant cannot establish a valid claim of self-defense

Before addressing the elements of immunity under the Act, this Court should first “consider whether the defendant has proved the elements of self-defense by a preponderance of the evidence.” *State v. Glenn*, 429 S.C. 108, 118, 838 S.E.2d 491, 496 (2019).

The Defendant in this case cannot do so, as the video clearly demonstrates that Owens was not “without fault in bringing on the difficulty.” *Glenn*, at 116. Contrary to the Defendant’s claim in her motion, the video shows that Johnson did not arrive at the store until Owens had finished shopping and returned to her car. In a community as small as Estill, to assert that one person is intentionally following another, just because they see each other across the parking lot of the only grocery store in town, strains credulity.

Further, upon seeing Johnson, Owens clearly engaged in a conversation with her. Then, rather than leave the parking lot to go on with her day, Owens remained in her car and waited for Johnson to come back outside. Finally, as Johnson approached her own car, Owens drove *towards* Johnson, holding up an object and facing Johnson directly. Clearly Owens was seeking a confrontation. On this foundational question, the Court should find that a preponderance of the evidence shows that the Defendant brought on the difficulty herself, and therefore, the provisions of the Act should not apply.

II. The Defendant's fear was not reasonable,

Should this Court determine that the Defendant can establish a valid claim of self-defense, it should still deny her motion for immunity. While § 16-11-440(A) creates a presumption of reasonableness on the part of those using deadly force against others attempting to enter their vehicle, that presumption can, and in this case should be, rebutted.

The Defendant in this case was not a helpless driver, suddenly and unsuspectingly attacked by a carjacker who may have been prepared to take her life. Rather, this was an ongoing argument between two women obviously familiar with each other, in which one party goaded the other into escalation. Owens knew that Johnson had no intention of taking her car or her life, for the confrontation took place immediately adjacent to Johnson's own vehicle.

Further, while the Act does not include a *duty* to retreat as common law self-defense does, the Defendant's *ability* to easily retreat, by merely moving her foot from the brake to the accelerator, should be considered by this court as evidence that her fear was not reasonable. For this court to conclude anything else would pervert the legislature's intentions when enacting the Act, and grant permission to provoke violent confrontations wherever one may wish, provided one is within an automobile.

CONCLUSION

For the foregoing reasons, the Defendant cannot meet her burden of proof by a preponderance of the evidence. Therefore, her motion for immunity should be denied.

Respectfully,



Asst. Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

vs.)

TIFFANY OWENS,)
Defendant)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT #s 2021GS2500181,
2022GS2500346

WARRANT #s 2021A2520200037, 38

AFFIDAVIT OF NASH ELLIOTT

FILED
AM/PM

NOV 03 2022

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

Personally appeared before me Nash Elliott, who, being duly sworn, deposes and
states as follows:

1. I, Nash Elliott, am over eighteen years of age and am competent to give this Affidavit. All matters stated herein, unless expressly noted otherwise, are based upon my own direct personal knowledge.
2. On May 29, 2021, I went shopping at the Galaxy Food Store, located at 746 Columbia Highway in Estill. As I walked through the parking lot, I noticed two women arguing. One of the women was in a car, and the other was, like me, walking through the parking lot. I do not recall everything that was being said between the two women, but they were each using harsh language. As the woman walking through the parking lot got close to the entrance to the store, the woman in her car said something to the effect of "don't worry, I'll be waiting on you right here." I went inside the store and started shopping.
3. While in the store I did not notice any unusual or inappropriate behavior by the woman who had been walking through the parking lot. She finished her shopping while I was still inside. I could see her walk towards her car.
4. As she was approaching her car, I saw the other woman pull her own car right up next to her. Though I was inside I could tell that they were yelling at one another,

and soon saw that the woman outside the car was rushing towards the other woman's car. After that, it was clear that she'd been shot.

5. I am not available to testify in court the week of November 7, when I understand a pretrial hearing is scheduled. However, I will testify in a trial if subpoenaed by either party.



Nash Elliott

Sworn to before me this 2nd
day of November, 2022



Notary Public for South Carolina

My Commission Expires: _____

STATE OF SOUTH CAROLINA)
COUNTY OF HAMPTON)

vs.)

TIFFANY OWENS,)

Defendant)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT #s 2021GS2500181,
2022GS2500346

WARRANT #s 2021A2520200037, 38

AFFIDAVIT OF CALVIN LESTER

FILED
AM/PM

NOV 03 2022

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

Personally appeared before me Calvin Lester, who, being duly sworn, deposes

and states as follows:

1. I, Calvin Lester, am over eighteen years of age and am competent to give this Affidavit. All matters stated herein, unless expressly noted otherwise, are based upon my own direct personal knowledge.
2. On May 29, 2021, I was at my job at the Galaxy Food Store, located at 746 Columbia Highway in Estill. As part of my job, I walked outside with a woman dressed in yellow, to help her load her groceries into her car. I had seen this woman in the store before and never saw her cause any trouble.
3. As the woman in yellow and I walked towards her car, I heard another woman to our left, sitting in a car and cursing at the woman in yellow. I had also seen this woman at the store before, and had not experienced any trouble from her, either. I do not remember the specific things either woman said, but I know they were each using profanity towards each other.
4. I kept walking towards the woman in yellow's car. I saw the other woman pull her car up towards the area where we were standing. I soon saw the woman in yellow run towards the other woman's car. I began to turn away, wanting to avoid any trouble.

C.L.

5. I did not see the rest of the fight, but soon heard two loud "pop" sounds. I did not realize at first that they were gunshots. I soon saw the woman in yellow fall to the ground, and the other woman drove off in her car. I was afraid for my own safety.
6. After the woman in the car left the parking lot, I went back into the store. I was uncomfortable giving a written statement to the police at the time, but this affidavit contains the information that I remember from that day.


Calvin Lester

Sworn to before me this 3rd
day of November, 2022


Notary Public for South Carolina

My Commission Expires: 03/26/2031

STATE OF SOUTH CAROLINA	)	INDICTMENTS 2021GS2500181 and
COUNTY OF HAMPTON	)	2022GS2500346
	)	
STATE OF SOUTH CAROLINA	)	
	)	
vs.	)	WARRANTS 2021A2520200037 and 38
	)	
TIFFANY REBECCA OWENS,	)	ORDER DENYING DEFENDANT'S
	)	MOTION TO DISMISS PURSUANT
Defendant	)	TO §16-11-420
	)	

This matter comes before me as a motion by the Defendant, Tiffany Rebecca Owens, to grant her immunity from prosecution pursuant to §16-11-420 through 450 of the South Carolina Code of Laws, known as the Protection of Persons and Property Act (hereafter “the Act”). The Defendant is charged with the murder of Tijuana Johnson, as well as the possession of a weapon during commission of a violent crime, on or about May 29, 2021. A hearing was held on November 9, 2022, during a term of the Court of General Sessions over which I presided. The Defendant was represented by her attorney, Fred Kuhn, and the State was represented by Assistant Solicitor Reed Evans.

Prior to the hearing, the Defendant filed a written motion which contained the statements of Anna Fields, Alexander Singleton, and Jeanette Fields, all provided as part of the Estill Police Department’s case file. The State filed a memorandum of law in response, to which was attached two affidavits, by Nash Elliot and Calvin Lester, both of whom were present at the incident but did not write statements at the time, and neither of whom were available to testify. The State also provided this Court with a copy of the key piece of evidence which both parties relied upon in their submissions: A security camera video from the incident location, Galaxy Foods in Estill. I reviewed this video recording several times prior to the hearing, and made it a Court’s Exhibit.

At the hearing, the Defendant largely relied upon its written submissions and the video for the facts, and focused the hearing on arguing the law. However, Mr. Kuhn did call Ms. Owens as a witness, and Mr. Evans cross-examined her. Mr. Kuhn also played a portion of a law enforcement body-worn-camera, and Mr. Evans played a brief portion of the security camera video and asked the Defendant about Nash Elliot's affidavit.

Having considered the evidence presented, the arguments of the parties, the statutory language, and the available case, I now respectfully deny the Defendant's motion.

FACTS

The Defendant, Tiffany Owens, was an acquaintance of the victim, Tijuana Johnson, prior to the incident. The Defendant testified that they were amiable until approximately a year prior to the incident, at which point their relationship became antagonistic, due to the Defendant's sister entering into a romantic relationship with the father of the Victim's child. According to the statements of Anna and Jeanette Fields, Owens' mother and sister, Johnson had a reputation for violent and/or erratic behavior. Owens testified that she was fearful of Johnson and also knew of her reputation for violence and fighting.

On May 29, 2021, Owens drove to the Galaxy Food Store, located at 746 Columbia Highway, in Estill, Hampton County. She parked next to the store in the fire lane, proceeded inside, and returned to the camera's view a few minutes later, getting back into her car. Owens testified at the hearing that the Victim had followed her to the store, but she did not leave after finishing her shopping. She further testified that this was

because she was waiting for her boyfriend to arrive with more funds so she could finish her shopping.

Johnson appears on camera only after Owens returned to her car. Though Johnson's vehicle is not visible in the frame, she appears walking from the parking lot, several yards away from where Owens remained parked. Johnson approaches the front door but notices Owens, and walks towards her car.

For most of the following minute, Johnson and Owens speak to each other. Even as Johnson walks away and approaches the store once more, Owens opens her car door and stands up to continue addressing Johnson. Owens was informed during cross-examination that Nash Elliott told the police that "the argument was getting heated" and heard Owens tell Johnson "Don't worry, I will be here when you get out." Owens testified that she did not recall making that statement to Johnson, but that it was possible. Johnson then exits the frame as she enters the store.

At the same time, Owens, now standing just outside her car, opens the back driver's side door. Though a column is in the camera's way, a small shadow can be seen, which appears to be Owens moving about in the back seat. Owens soon returned to the front seat, but still did not leave the parking lot. Owens testified that she spoke on the phone with her mother after this first interaction with Johnson and her mother told her to leave the store. Owens claims that as soon as she finished her conversation with her mother she started to leave, but at the same time Johnson was exiting the store. She remained parked until Johnson crossed her path and reached her car before pulling out.

At approximately 4:30 PM, Johnson emerges from the store, heading in the direction from which she originally appeared. She was followed by Calvin Lester, a store

employee pulling a cart of groceries. Shortly after coming outside, Johnson's attention appeared to be pulled to her left, the direction of Owens' car. However, Johnson does not deviate from her course. Less than thirty seconds after exiting the front door of the store, she reached the top of the camera's visible range – presumably just next to her car.

At this moment, Owens began to pull out of her parking spot. From the security camera video, it seems there are multiple paths that Owens could have taken to exit the store's parking lot. She turned up the middle lane of the parking lot, directly towards Johnson. She appeared to be speaking to Johnson while driving, though she disputed that on cross-examination during the hearing.

Johnson turned and began approaching Owens' car, taking a few slow steps, then accelerating. At that point, Owens' car was still moving in Johnson's direction. Johnson reached Owens' car as it pulled to a stop. Owens testified that Johnson was wielding her car keys as a makeshift weapon and swinging her fists at her. The parties agreed that Johnson's keys were later found in Owens' car. Owens testified that she was afraid for her life, and that Johnson was attempting to open her car door. Owens said that she showed Johnson her gun, attempting to frighten her into withdrawing, but Johnson did not. Owens fired upon Johnson, striking her in the abdomen. Owens testified that she did not know where the anger came from. Owens paused then drove away, and Johnson later died from her injuries.

LAW

The Act provides that “a person who is not engaged in an unlawful activity and who is attacked in another place where [she] has a right to be ... has no duty to retreat and has the right to stand [her] ground and meet force with force, including deadly force,

if [she] reasonably believes it is necessary to prevent death or great bodily injury to [herself] or another person or to prevent the commission of a violent crime.” *S.C. Code Ann. § 16-11-440(C)*. Further, “a person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to [herself] or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person ... against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a[n] ... occupied vehicle....” *S.C. Code Ann. §16-11-440(A)*. Finally, “a person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution...” *S.C. Code Ann. §16-11-450*.

In order to invoke the immunity protection of the Act, a defendant must, by a preponderance of the evidence, establish a valid case of self-defense, and the trial court must necessarily consider the elements of self-defense in determining a defendant’s entitlement to the Act’s immunity, save the duty to retreat. *State v. Curry*, 406 S.C. 364, 752 S.E.2d 263 (2013).

It is well settled in South Carolina that there are four elements required by law to establish a case of self-defense:

- (1) The defendant must be without fault in bringing on the difficulty;
- (2) The defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger;
- (3) If his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence,

firmness and courage to strike the fatal blow to save himself from serious bodily harm or losing his own life.

- (4) The defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance

Curry at 372, FN4, citing *State v. Davis*, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984). It is the fourth element- the duty to retreat- that is excused under the Act. *Curry* at 372.

ANALYSIS

Our Supreme Court has established that before addressing the elements of immunity under the Act, trial courts presented with motions such as these should first “consider whether the defendant has proved the elements of self-defense [other than the duty to retreat,] by a preponderance of the evidence.” *State v. Glenn*, 429 S.C. 108, 118, 838 S.E.2d 491, 496 (2019). In the instant case, Owens fails to meet at least two of the necessary elements of self-defense. We first turn to the question of whether Owens was not “without fault in bringing on the difficulty.” *Glenn*, at 116.

Clearly, “one who provokes or initiates an assault cannot escape criminal liability by invoking self-defense...”. *State v. Bryant*, 336 S.C. 340, 345, 520 S.E.2d 319, 322 (1999), quoting Ferdinand S. Tinio, *Comment Note: Withdrawal, After Provocation of Conflict, As Reviving Right Of Self-Defense*, 55 A.L.R.3d 1000, 1003 (1974).

Evidence exists that shows Owens did contribute to the difficulty. Having viewed the video, it appears that Owens continued her prior verbal argument with Johnson after Johnson had left the store and appeared to be going about her business. Owens attempted to leave the store’s parking lot only after Johnson had exited the store. Owens testified that as soon as she finished her conversation with her mother, who told her to leave,

Owens began to leave but this was at the same time Johnson was exiting the store. It is clear that when Owens decided to put her car in drive and depart, that she chose a route taking her directly past where Johnson stood. Owens had other routes she could have taken to exit the store's parking lot, but she chose a path that took her directly next to Johnson. It is not believable that Owens' conversation with her mother ended, and Owens began to leave the store's parking lot, at the exact moment Johnson was exiting the store.

Furthermore, it is obvious that Owens' car window was down because she testified that Johnson was hitting her with her keys. Additionally, Johnson's keys were found in Owens' car. Johnson's physical pivot from her own car to Owens', followed by what was without question a physical attack, was so abrupt that it is more likely than not that she was provoked by some word or phrase uttered by Owens. Thus, the evidence shows that Owens was not completely without fault in bringing on the difficulty.

Next, we turn to the question of whether Owens actually believed that she was in imminent danger of losing her life or sustaining great bodily injuries. Evidence exists that shows Owens did not actually believe she was in imminent danger of losing her life. Johnson's own reputation for violence, as Owens testified to, in particular her reputation for fighting, serves to undermine the Defendant's position on this question. If she was considering Johnson as a dangerous individual, then continuing to argue with her, and driving towards her, appear to represent Owens seeking out a confrontation, rather than attempting to leave the parking lot and being attacked out of the blue.

Moreover, Owens did not deny saying "Don't worry, I will be here when you get out." to Johnson. This tends to show that Owens was not scared of Johnson. Further, Owens testified that she doesn't know where the anger came from which the Court

believes was the Defendant acknowledging that she was not in fear for her life and merely angry.

Additionally, the route Owens chose to exit the store's parking lot tends to show that she was not in fear of losing her life. Owens had other routes she could have taken to exit the store's parking lot, but she chose a path that took her directly next to Johnson. Owens also had her window down as she approached Johnson. It is simply not believable that if Owens was in fear of losing her life, she would have slowly passed Johnson and bring her car to a stop only feet from the violent individual with her window down. This version of events does not make it believable that Owens was fearful of Johnson. Thus, the evidence shows that Owens did not actually believe she was in imminent danger of losing her life or sustaining great bodily injuries.

Considering all the evidence presented, I find that the Defendant has not, by a preponderance of the evidence, proven that she was without fault in bringing on the difficulty nor did the Defendant actually believe she was in imminent danger of losing her life or sustaining great bodily injuries. Thus, the Defendant has failed to show a valid case of self-defense.

In the alternative, in the event Owens proved self-defense by a preponderance of the evidence, the question then becomes whether Owens actions were based on the reasonable belief that such actions were necessary to prevent death or great bodily injury to herself, or to prevent the commission of a violent crime(s). The Court finds that Owens failed to show this by a preponderance of the evidence.

At the hearing, I noted that there appeared to be no dispute about the fact that the Defendant was in a place where she had a legal right to be and was not engaged in

unlawful activity.; however, the Defendant has failed to show there was a reasonable belief for her actions. While *S.C. Code Ann. §16-11-440(A)* creates a presumption of reasonableness on the part of those using deadly force against others attempting to enter their vehicle, the presumption can be rebutted. The evidence tends to rebut the presumption of reasonableness of Owens' actions. The Court fails to find the Defendant credible in this respect. It is not reasonable to believe that someone who was in fear of losing their life would ride right by the person who they are fearful of, at a very slow rate of speed, bring her car to a stop, all the while the car window is down. Additionally, there is evidence that Owens may have told Johnson that she would be waiting for Johnson when she left the store. Therefore, Owens' actions were not reasonable making her unable to prove an entitlement to immunity under the Act.

CONCLUSION

Having considered the evidence presented in the filings as well as in the hearing, the common law elements of self-defense, and the available case law, I find that the Defendant has failed to prove an entitlement to immunity under the Act by a preponderance of the evidence. Therefore, her motion for immunity is respectfully, **DENIED.**

AND IT IS SO ORDERED!

11/30, 2022
Walterboro, S.C.


 Hon. Robert J. Bonds
 Presiding Judge
 14th Judicial Circuit

**Department of Pathology and Lab Medicine**

165 Ashley Avenue, Suite 309

MSC 908

Charleston, SC 29425-9080

Req.: xAutopsy, For Coroner
Add.:
Loc: AHAM-Hampton Co. Coroner
Client: Medical University Hospital Authority

Patient: JOHNSON, TIJUANA
Med Rec: 5749517
DOB: 2/6/1984 (Age: 37)
Sex: F Race: Black

Autopsy Final Report

Date and Time of Autopsy: 6/2/2021 11:45

Accession Number: **FA21-597**

Hospital/County: Medical University Hospital Authority
Submitting Physician: xAutopsy, For Coroner
Attending Pathologist: Angelina I. Phillips, M.D. (1-4803)
Date/Time of Death: 5/29/2021 19:56
Autopsy Reason: Requested by Coroner
Authorized By: Angela Topper, Coroner
Autopsy Restrictions: None

This is a true and accurate copy of the original.

Maxine T. Robinson
Notary Public, State of South Carolina
My Commission Expires April 15, 2024

Pathologist Assistant: Jennifer Sosebee

(If Injury) How occurred: Subject was shot
Date of Injury: 5/29/2021 Time: PM
Place of Injury: Grocery store At Work: No

Diagnosis**I. GUNSHOT WOUND TO THE CHEST**

- a. Entrance: Right side of the chest
- b. Range: No soot or stippling is on the skin
- c. Injuries: Disruption of the skin and subcutaneous tissues on the right side of the chest with hemorrhage in the adipose tissue along the pathway, muscles of the right side of the chest, right rib 9 laterally, the lower lobe of the right lung and right rib 11 posteriorly, and muscles of the back; right hemothorax (850 ml)
- d. Exit: Right side of the back
- e. Trajectory: Right to left, front to back, and slightly down

II. OTHER INJURIES

- a. Abrasions to the chest and right forearm
- b. Contusion and abrasion to the left leg

Cause of Death

Gunshot wound to the chest

Manner of Death

Homicide

Case History

The decedent was a 37 year old woman who was shot while at a Grocery Store on 5/29/2021. She was transported to the emergency room by EMS where death was pronounced at 19:56 hours. Please see the coroner's report for additional details.

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Med Rec: 5749517

Location: AHAM-Hampton Co. Coroner



JOHNSON, TIJUANA**FA21-597****Gross Description****EXTERNAL EXAMINATION**

The body is received in a bag sealed with a tag bearing the name "Johnson, Tijuana".

The body is that of a well-developed, well-nourished, adult black female, who weighs approximately 213 pounds, is 63 inches in length, and appears compatible with the stated age of 37 years. The calculated body mass index (cBMI) = 37.7 Kg/m².

The body is identified by the coroner; a tag bearing the decedent's name is on the right great toe. The body is clad in previously cut yellow pants and black underwear, and a black sock on the left foot. A black sock accompanies the body. A yellow metal hoop earring is on the left earlobe. All items are released to authorities as stated below.

The body is cold to the touch. Rigor is partially fixed in all extremities and jaw. Diffuse, fixed red-purple livor extends over the posterior surfaces of the body, except in areas exposed to pressure. The scalp hair is fashioned into long, red-black braids over the crown. False eye lashes are on the upper eyelids bilaterally. The irides are brown; the pupils are bilaterally equal. The corneae are clouded. The sclerae and conjunctivae are unremarkable. The nose and ears are not unusual. The earlobes are remotely pierced. The lips and gums are intact. The teeth are in good condition. The neck is without masses, and the larynx is in the midline. The thorax is symmetrical. The breasts are unremarkable, without palpable masses. The abdomen is obese and striae are on the lower quadrants. The genitalia are those of a normal adult female. The anus and back are unremarkable except for as stated under "Evidence of Injury". The upper and lower extremities are well-developed and symmetrical, without absence of digits.

Identifying marks and scars include tattoo of "Tijuana" on the upper left side of the chest, a 5 inch scar on the left anterior axillary-shoulder region, tattoo of poorly discernible tattoos on the lower back, two 6 1/2 inch scars on the lower abdomen, tattoo of footprints and three names on the right arm, and butterfly designs on the bilateral feet.

Evidence of emergency resuscitation and / or medical therapy includes an endotracheal tube extending into the mouth and affixed to the head with a strap, defibrillation pads and electrocardiogram pads on the torso, chest decompression skin punctures on the upper chest, an incision with inserted tube containing bloody liquid on the right side of the chest, intraosseous catheters on the bilateral shoulders, blood pressure cuffs around the bilateral arms, gauze with tape over two skin punctures on the right forearm, and single lumen intravascular catheters on the left antecubital fossa and back of the left hand.

EVIDENCE OF INJURY

GUNSHOT WOUND TO THE CHEST: An approximately 1/4 x 1/4 inch entrance gunshot wound is to the right side of the chest, located at the midaxillary line and 11 1/2 inches below the top of the shoulder. The chest tube incision is through the gunshot wound and obscures some wound features. A 1/16 inch circumferential abrasion border is noted. No soot or stippling is on the skin.

The projectile disrupts the skin and subcutaneous tissues on the right side of the chest with hemorrhage in the adipose tissue along the pathway, muscles of the right side of the chest, right rib 9 laterally, the lower lobe of the right lung and right rib 11 posteriorly, and muscles of the back before exiting the skin. Additional injuries include 850 ml of blood and clot in the right pleural cavity.

A 1/4 x 3/8 inch ovoid exit gunshot wound is to the back located at 1 1/4 inch to the right of midline and 9 inches below the top of the shoulder. The wound has skin splits to 1/4 inch at the 7 and 11 o'clock positions. No soot or stippling is on the skin.

The trajectory is from right to left, front to back, and slightly down.

OTHER INJURIES: A 2 inch abrasion is on the right side of the chest near the medial aspect of the inframammary crease. A 2 1/4 x 3/16 inch abrasion in a near vertical orientation is on the back of the right forearm. A 6 x 2 inch area of contusion and abrasion is on the lateral aspect of the left leg.

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Med Rec: 6748517

Location: AHAM-Hampton Co. Coroner

JOHNSON, TIJUANA

FA21-597

RADIOGRAPHS: Anterior-posterior x-rays of the chest, abdomen and pelvis does not reveal any radiopaque projectiles.

EVIDENCE TRANSFER: The following items are collected, packaged in appropriately labeled containers and transferred to Shamae Smith representing the Estill Police Department at 13:39 hours on 6/2/2021:

- Clothing and personal effects
- Right and left hand fingernail clippings
- Pulled scalp hair
- Blood spot on filter paper
- CD with autopsy images

INTERNAL EXAMINATION

BODY CAVITIES: Except for 50 ml of serosanguineous fluid in the left pleural cavity and blood in the right pleural cavity, no adhesions or abnormal collections of fluid are in any of the body cavities. All body organs are present in normal anatomical positions.

HEAD (CENTRAL NERVOUS SYSTEM): The brain weighs 1260 grams. The dura mater and falx cerebri are intact. The leptomeninges are thin and delicate. The cerebral hemispheres are symmetrical. The structures at the base of the brain, including cranial nerves and blood vessels, are intact and free of abnormality. Sections through the cerebral hemispheres reveal no lesions within the cortex, subcortical white matter, or deep parenchyma of either hemisphere. The basal ganglia, thalami, and hippocampi are unremarkable. The cerebral ventricles are normal caliber. Sections through the brainstem and cerebellum are unremarkable.

NECK: Examination of the soft tissues of the neck reveals no abnormalities. The hyoid bone and larynx are intact. The lingual mucosa is intact; the underlying firm red-brown musculature is devoid of hemorrhage.

CARDIOVASCULAR SYSTEM: The heart weighs 460 grams. The pericardial and epicardial surfaces are smooth, glistening and unremarkable; the pericardial sac is free of significant fluid or adhesions. The coronary arteries arise normally, follow the usual distribution and are patent, although affected by a mild degree of atherosclerosis, with up to 20 % narrowing of the left anterior descending coronary artery. The chambers and valves bear the usual size-position relationships and are unremarkable. The myocardium is dark red-brown, firm, and unremarkable; the atrial and ventricular septa are intact. The left ventricular thickness = 1 cm, right ventricular thickness = 0.2 cm, and the interventricular septum = 1 cm. The aorta and its major branches arise normally, follow the usual course and are patent, although affected by a mild degree of atherosclerosis. The venae cavae and their major tributaries return to the heart in the usual distribution and are free of thrombi.

RESPIRATORY SYSTEM: The right and left lungs weigh 440 and 700 grams, respectively. The upper airway is clear of debris and foreign material; the mucosal surfaces are smooth, yellow-tan and unremarkable. The pleural surfaces are smooth, glistening and unremarkable except for as stated under "Evidence of Injury". Lobar divisions are of the usual configuration. ~~The pulmonary parenchyma is dark red-purple, exuding slight to moderate amounts of blood and frothy fluid.~~ The pulmonary arteries are normally developed, patent, and without thrombus or embolus.

LIVER AND BILIARY SYSTEM: The liver weighs 1430 grams. The hepatic capsule is smooth, glistening and intact, covering red-brown parenchyma, with no focal lesions noted. The gallbladder contains 2 ml of yellow-green-brown, slightly mucoid bile; the mucosa is velvety and unremarkable. The extrahepatic biliary tree is patent, without evidence of calculi. The portal vein and its tributaries are unremarkable.

ALIMENTARY TRACT: The esophagus is lined by gray-white, smooth mucosa. The gastric mucosa is arranged in the usual rugal folds, and the lumen contains 100 ml of tan-pink mucoid liquid. The small and large bowels are unremarkable. The appendix is present. The pancreas has a normal tan-yellow, lobulated appearance, and the ducts appear clear.

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JOHNSON, TIJUANA**FA21-597**

GENITOURINARY TRACT: The right and left kidneys weigh 160 and 180 grams, respectively. The renal capsules are smooth and thin, semi-transparent, and strip with ease from the underlying, smooth, red-brown, firm, cortical surfaces. The cortices are sharply delineated from the medullary pyramids, which are red-purple to tan and unremarkable. The calyces, pelvis, and ureters are unremarkable. The relationships at the trigone are unremarkable. The urinary bladder contains 60 ml of yellow urine; the mucosa is gray-tan and smooth. The uterus has multiple fibroids with the largest measuring 5 cm; the endometrial cavity is filled with yellow mucoid material and the endometrial stripe appears thickened. The vaginal is unremarkable except for thick caseous white exudate coating the mucosa. A 2 cm hemorrhagic cyst is on the right fallopian tube; the left fallopian tube and ovaries are unremarkable. The breast tissue has the usual fibrous and adipose mixture, without abnormality.

RETICULOENDOTHELIAL SYSTEM: The spleen weighs 200 grams and has a smooth, intact capsule covering red-purple, moderately firm parenchyma; the lymphoid follicles are unremarkable. The regional lymph nodes appear normal. Focally, the bone marrow is red-purple and homogeneous, without evidence of focal abnormality.

ENDOCRINE SYSTEM: The pituitary, thyroid, and adrenal glands are unremarkable.

MUSCULOSKELETAL SYSTEM: Except for as described under "Evidence of Injury" and resuscitation related injuries including disruption of the right 5th intercostal space laterally, the bony framework, supporting musculature, and soft tissues are not unusual.

AP:klg:mtr
06/05/2021
06/11/2021
06/22/2021
06/23/2021

Case Summary

A complete autopsy was performed on the body of Tijuana Johnson at the Medical University of South Carolina Autopsy Suite on June 2, 2021. The postmortem examination began at 11:45 a.m. The pathologist was Dr. Angelina Phillips. The autopsy technician was Mr. Raymond Edwards. The autopsy was authorized by the Colleton County Coroner, Mr. Richard Harvey.

Significant findings at autopsy included a perforating gunshot wound to the right side of the chest.

Samples of urine and peripheral blood were submitted to AXIS Labs for toxicologic analysis. A urine screen for common drugs of abuse was negative. Toxicologic analysis of peripheral blood revealed ketamine = 1784 ng/ml, delta-9 THC = 2.4 ng/ml, THC-COOH = 16.1 ng/ml, and cotinine = positive. Blood ethanol was negative. Results were reviewed by Kevin S. Shanks, Forensic Toxicologist.

In light of the historical information and the toxicological and gross autopsy findings, it is the opinion of the pathologist that the decedent died as the result of a gunshot wound to the chest. Furthermore, the manner of death is best deemed homicide.

Certification Statement

I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

Angelina I. Phillips, M.D. (1-4803)
(Electronically signed by)
Verified: 06/23/2021 10:37
KG/6/11/2021

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Patient: JOHNSON, TIJUANA

Med Rec: 5749517

Location: AHAM-Hampton Co. Coroner

Geroulis, Karen

From: Richard Harvey, Sr <rhinos4life@lowcountry.com>
Sent: Wednesday, June 2, 2021 2:55 PM
To: Geroulis, Karen
Subject: Tijuana Johnson

CAUTION: External

I have been asked by Coroner Angela Topper of Hampton County to take the case of Tijuana Johnson and I have accepted this case from her.

Richard M Harvey
Colleton County Coroner

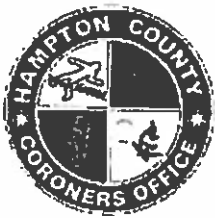
Geroulis, Karen

From: Angie Topper <atopper@hamptoncountysc.org>
Sent: Wednesday, June 2, 2021 1:52 PM
To: Geroulis, Karen
Cc: rmharvey@colletoncounty.org
Subject: TIJUANA JOHNSON CASE

CAUTION: External

PLEASE EXCUSE ME FROM THIS CASE AND ALLOW INFORMATION TO GO TO CORONER HARVEY FROM COLLETON COUNTY. WE HAVE SPOKE AND I EXPLAINED SITUATION WITH HIM THAT MY DEPUTY CORONER'S SISTER WAS INVOLVED WITH THIS CASE. DIDNT WANT TO HAVE ANY CONFLICT WITH THE CASE. THANK YOU FOR YOUR HELP.
v/r,

Angela C. Topper
Hampton County Coroner
703 2nd St. W
Hampton, SC 29924
o:(803)914-2157
c:(803)942-2610
f:(803)914-2187



WED
1130

Hampton County Coroner's Office

ANGELA C. TOPPER
CORONER, HAMPTON COUNTY
HAMPTON, SC 29924
(803) 914-2157 FAX: (803) 914-2187



AUTHORIZATION FOR
CORONER'S AUTOPSY

I, Angela C. Topper, duly authorized Coroner for Hampton County, South Carolina, do hereby authorize MUSC or designee, to perform a complete examination of the body and head of the below named decedent with the object of establishing the cause of death. Authority for this autopsy is granted pursuant to the South Carolina Code of Laws, as amended, Section 17-7-10.

Authority is also granted to remove unexposed tissues and parts for preservation and study or to otherwise dispose of these tissues in a proper and suitable manner.

Date: JUNE 1, 2021

Signed: Angela C. Topper
Angela C. Topper, Coroner

Decedent Information

NAME	TIJUANA D. JOHNSON		
AGE	37 YARS		
DOB	2/6/1984		
SEX	FEMALE		
RACE	BLACK AMERICAN		
SOCIAL SECURITY NUMBER	248-79-2508		
HOME ADDRESS	PO. BOX 1043 ESTILL, SC 29918		
DATE OF INJURY OR DEATH	5/29/2021		
TIME OF INJURY OR DEATH	TOD: 1956		
SUSPECTED MODE OF DEATH	GUNSHOT WOUND		
ADDRESS OF DEATH	595 CAROLINA AVENUE WEST VARNVILLE SC (HAMPTON REGIONAL MEDICAL CENTER)		
LOCATION BODY FOUND	HRMC ER ROOM (SCENE SHOOTING LOCATION: GALAXY GROCERY IN ESTILL SC)		
TYPE OF PREMISES	SHOOTING SCENE GROCERY STORE		
DECEDENT'S OCCUPATION	HAMPTON COUNTY COUNCIL ON AGING EMPLOYEE		
DECEDENT FOUND BY	UNKNOWN		
DATE AND TIME FOUND	5/29/2021		
DECEDENT LAST SEEN ALIVE BY	UNKNOWN		
DATE AND TIME LAST SEEN ALIVE			
ACTIVITY ENGAGED BEFORE DEATH	PHYSICAL ALTERCATION IN GALAXY GROCERY STORE EXTENDING TO SHOOTING		
RIGOR PRESENT WHEN FOUND	NO		
ALCOHOL BOTTLE FOUND	NO, RUMER IS THAT SUBJECT WAS UNDER THE INFLUENCE OF ETOH		
INVESTIGATING OFFICERS NAME	CHIEF A. WILLIAMS / DEPUTY CORONERS PRESTON ALTMAN, CHRIS ALTMAN		
OFFICERS DEPARTMENT	ESTILL POLICE DEPT / HAMPTON COUNTY CORONER'S OFFICE		
CONTACT INFORMATION	803-842-7926 / 803-914-2157		
CHEMICAL ANALYSIS	YES		
MEDICAL HISTORY	UNKNOWN		
DATE OF LAST VISIT	UNKNOWN		
HISTORY OF DRUG/ALCOHOL ABUSE	UNKNOWN		
FORWARD TOXICOLOGY SPECIMENS	NMS	AXIS	SLED



FA21-597
06/02/2021

AHAM-Hampton Co Coroner
JOHNSON, TIJUANA
A- Autopsy

Office of the Hampton County Coroner

Angela C. Topper
Coroner
Preston M. Altman
Assistant Coroner



Susanne D. Peebles
Chief Deputy Coroner
Office: 803-914-2157
Fax: 803-914-2187

RE: Ms. Tijuana D. Johnson
SSN: 248-79-2508
DOB: 2/6/1984
DOD: 5/29/2021
TOD: 1956

Home Address: PO Box 1043 Estill, SC 29918
Place of Death: Hampton Regional Medical Center Emergency Room
Next of Kin: Kelvin Brown, Jr. (son) – 803-842-1680
Dorothy Jones (sister) – 803-842-6094
Tammy Johnson (sister) – 706-755-5716 (point of contact)

Attending Physician: N/A
Cause/Diagnosis: Gunshot wound
Autopsy: YES – 6/2/2021 at 12:00 pm
Investigating Officers: Chief A. Williams – Estill Police Department
Funeral Home: _____
DC Certifier: Preston Altman – Assistant County Coroner
Brief Report:



FA21-697
06/02/2021

AHAM-Hampton Co. Coroner
JOHNSON, TIJUANA
A- Autopsy

I, Deputy Coroner Preston Altman, responded to the Hampton Regional Medical Center Emergency Room (HRMC ER) at the request of the Emergency Room staff on 5/29/2021 after being notified at 8:02 pm by Hampton County Dispatch. Upon arrival at the HRMC ER, I found subject Tijuana Demetrius Johnson deceased from what was concluded to be injuries from a gunshot wound. I was informed by the Varnville Police Department (who was on the scene for crowd control) and HRMC ER staff that the subject had been shot at the Galaxy Grocery in Estill, SC with EMS initially being called out at 5:32 pm. The subject had been shot at Galaxy Grocery in Estill and was transported to the HRMC ER after not being stable enough to fly out by Hampton County EMS. I then informed the Estill Police Department that they now had a fatality in the incident. Two officers then came to the HRMC ER and confirmed the scene information I had been given that was the cause and manner of death would be properly pronounced. I urged the police officers to have SLED called in but they swiftly declined my suggestion. I then spoke with the subject's family and gathered Ms. Johnson's demographics as well as updated them of the things that would be completed while investigating the case. I informed them and the police officer's that I would be sending the subject for a forensic autopsy at MUSC. I then returned to the ER room which the subject was in and photographed the ER room and the decedent with the aid of Deputy Coroner Christopher Altman. Photos are on file. I learned that the patient was given three (3) bags of blood (one photographed) and a strong attempt was made to save the subject's life. The entry and exit of the gunshot wounds were found and photographed as well. Upon completion of investigating the subject and her wounds, HRMC Staff moved the body to the Hampton Regional/Hampton County Morgue. An autopsy was scheduled at MUSC for 6/2/2021 at 12:00 pm. Photographed and a Galaxy Grocery Scene video are on file in the Office of the Coroner. I, Deputy Coroner Preston Altman, preliminarily pronounce the cause of death as a Gunshot wound with the manner of death determined as a homicide. The case is PENDING INVESTIGATION and PENDING AUTOPSY RESULTS at this time.



Department of Pathology and Lab Medicine
165 Ashley Avenue, Suite 309
MSC 908
Charleston, SC 29425-9080

Req.: xAutopsy, For Coroner
Att.:
Loc: AHAM-Hampton Co. Coroner
Client: Medical University Hospital Authority

Patient: JOHNSON, TIJUANA
Med Rec: 5749517
DOB: 2/6/1984 (Age: 37)
Sex: F Race: Black

Autopsy Preliminary Report

Date and Time of Autopsy: 6/2/2021 12:00

Accession Number: **FA21-597**

Hospital/County: Medical University Hospital Authority
Submitting Physician: xAutopsy, For Coroner
Attending Pathologist: Angelina I. Phillips, M.D. (1-4803)
Date/Time of Death: 5/29/2021 19:56
Autopsy Reason: Requested by Coroner
Authorized By: Angela Topper, Coroner
Autopsy Restrictions: None

Pathologist Assistant: Jennifer Sosebee

(If Injury) How occurred: Subject was shot
Date of Injury: 5/29/2021 Time: PM
Place of Injury: Grocery store At Work: No

Whole organs retained for diagnostic purposes: None

Probable Cause of Death
Gunshot wound to the chest

Manner of Death
Homicide

Certification Statement

I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

Angelina I. Phillips, M.D. (1-4803)
(Electronically signed by)
Verified: 06/02/2021 14:54
AP/6/2/2021

Department of Pathology and Laboratory Medicine

Chair: Steven L. Carroll, M.D., Ph.D.

Anatomic Pathology
Phone: 843-792-3821
Fax: 843-792-8974
Patient: JOHNSON, TIJUANA

Autopsy Pathology
Phone: 843-792-3556
Fax: 843-792-8974

Client Services
Phone: 843-792-0707
Fax: 843-792-4896

Clinical Pathology
Phone: 843-792-0707
Fax: 843-792-4896

Med Rec: 5749517

Location: AHAM-Hampton Co. Coroner



FORENSIC TOXICOLOGY

Testing Report
 Web: www.axisfortox.com
 Phone: (317) 759-4TOX

Laboratory Case Number: 3223774	Subject's Name: JOHNSON, TIJUANA
Client Account: 17990 / hamcc01 Report To: Hampton Co. Coroner's Office ATTN: Maxine Robinson 703 2nd Street West Room 108 Hampton, SC 29924	Agency Case #: FA21-597 Date of Death: 05/29/2021 Test Reason: Other Investigator: ANGELA TOPPER Date Received: 06/04/2021 Date Reported: 06/16/2021
Laboratory Specimen No: 40943048 Container(s): 01:GRT Blood, PERIPHERAL	Date Collected: 06/02/2021 Test(s): 70510 Comprehensive Drug Panel, Blood

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
VOLATILES	Negative					
Methanol	Negative			Not Established		
Ethanol	Negative			Not Established		
Acetone	Negative			Not Established		
Isopropanol	Negative			Not Established		
AMPHETAMINES	Negative					
ANALGESICS	Negative					
ANESTHETICS	POSITIVE					
Ketamine	POSITIVE	1784	10		ng/mL	
ANTICHOLINERGICS	Negative					
ANTICONVULSANTS	Negative					
ANTIDEPRESSANTS	Negative					
ANTIDIABETICS	Negative					
ANTIFUNGALS	Negative					
ANTIHISTAMINES	Negative					
ANTIPSYCHOTICS	Negative					
BARBITURATES	Negative					
BENZODIAZEPINES	Negative					
CANNABINOIDS	POSITIVE					
Delta-9-THC	POSITIVE	2.4	1		ng/mL	
THC-COOH	POSITIVE	16.1	3		ng/mL	
CARDIOVASCULARS	Negative					

JOHNSON, TIJUANA

Laboratory Case #: 3223774

Printed Date/Time: 06/16/2021, 08:27

RECEIVED JUN 17 2021



FORENSIC TOXICOLOGY

Testing Report
 Web: www.axisfortox.com
 Phone: (317) 759-4TOX

Laboratory Specimen No: 40943048

Continued..

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
GASTROINTESTINALS	Negative					
HALLUCINOGENS	Negative					
MISCELLANEOUS	Negative					
MUSCLE RELAXANTS	Negative					
OPIOID ANALGESICS	Negative					
SEDATIVE/HYPNOTICS	Negative					
STIMULANTS	POSITIVE					
Cotinine	POSITIVE					
Analyte is qualitatively POSITIVE, but has not been confirmed by an alternate analytical method.						
UROLOGICALS	Negative					

Specimens will be kept for at least one year from the date of initial report.

JOHNSON, TIJUANA

Laboratory Case #: 3223774

Printed Date/Time: 06/16/2021, 08:27

Page: 2 of 5



FORENSIC TOXICOLOGY

Testing Report
 Web: www.axisfortox.com
 Phone: (317) 759-4TOX

Laboratory Specimen No: 40943050	Date Collected: 06/02/2021
Container(s): 01:YTT Urine, Random	Test(s): 80080 Basic Drugs of Abuse, Urine

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
AMPHETAMINES	Negative					
Amphetamine	Negative					
Methamphetamine	Negative					
MDMA	Negative					
BENZODIAZEPINES	Negative					
7-Aminoclonazepam	Negative					
Alprazolam	Negative					
a-OH-Alprazolam	Negative					
Lorazepam	Negative					
Nordiazepam	Negative					
Oxazepam	Negative					
Temazepam	Negative					
HALLUCINOGENS	Negative					
Phencyclidine (PCP)	Negative					
MUSCLE RELAXANTS	Negative					
Meprobamate	Negative					
OPIOID ANALGESICS	Negative					
6-Monoacetylmorphine	Negative					
Buprenorphine	Negative					
Codeine	Negative					
EDDP	Negative					
Fentanyl	Negative					
Hydromorphone	Negative					
Hydrocodone	Negative					
Methadone	Negative					
Morphine	Negative					
Norfentanyl	Negative					
Norbuprenorphine	Negative					
O-Desmethyltramadol	Negative					
Oxycodone	Negative					
Oxymorphone	Negative					
Tramadol	Negative					

JOHNSON, TIJUANA

Laboratory Case #: 3223774

Printed Date/Time: 06/16/2021, 08:27

Page: 3 of 5



Testing Report
Web: www.axisfortox.com
Phone: (317) 759-4TOX

Laboratory Specimen No: 40943050

Continued..

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
STIMULANTS	Negative					
Benzoylcegonine	Negative					

JOHNSON, TIJUANA

Laboratory Case #: 3223774

Printed Date/Time: 06/16/2021, 08:27

Page: 4 of 5



FORENSIC TOXICOLOGY

Testing Report
 Web: www.axisfortox.com
 Phone: (317) 759-4TOX

Laboratory Specimen No: 40943051	Date Collected: 06/02/2021
Container(s): 01:GRT Blood, PERIPHERAL	Test(s): 49900 Not Tested

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
< No Testing Performed	>					

The Specimen Identified by the Laboratory Specimen Number has been handled and analyzed in accordance with all applicable requirements.

Laboratory Director

JOHNSON, TIJUANA

Case Reviewer

George S. Behonick, Ph.D., F-ABFT

Laboratory Case #:3223774
 Print Date/Time:06/16/2021, 08:27

Page: 5 of 5

This Individual may not have performed any of the analytical work.



axisfortox.com
labclientsupport@axisfortox.com
Phone: (317) 759-4869

TOXICOLOGY REQUISITION FORM



FC954528

Section 1: Account Information

- ☐ 17799 - Bamberg
☐ 17883 - Clarendon
☐ 18573 - Florence
☐ 18047 - Georgetown
☒ 17990 - Hampton
☐ 17860 - Horry
☐ 17797 - Marion
☐ 17823 - Marlboro
☐ 19868 - Orangeburg
☐ 17580 - MUSC

Send Additional Reports To: (Please include account #, name, address, or fax number. Email not accepted.)

Section 2: Collection / Chain of Custody Information

Investigator: Angela Topper County: Hampton State: SC
 Pathologist: Dr. Phillips (MUSC)

Specimens obtained/
sent to laboratory by: Jennifer Suschke
 Date: 6.2.2021 Jennifer Suschke
 (Printed name)

Please note all individuals listed will be authorized access to final report.

Section 3: Subject Information

Last Name: Johnson First Name: TIJUANA Middle Initial:
 Date of Death: 05-29-2021 Age: 037 Days / Months Years (circle one) Gender: Male ☒ Female
 Agency Case #: PA 21-597

Section 4: Specimens Submitted

TYPE	SOURCE	DATE/TIME COLLECTED	TYPE	SOURCE	DATE/TIME COLLECTED
Blood	<u>peripheral</u>	<u>6/1/2021</u>	Urine	<u>Bladder</u>	<u>6/1/2021</u>
Blood	<u>peripheral</u>	<u>6/2/2021</u>	Vitreous		
Blood			Tissue/Other		

Additional Instructions:

Section 5: Test Request Information (Test subject to change without notice. Please refer to our test catalog at www.axisfortox.com for an up-to-date test menu)

- ☒ 70510 COMPREHENSIVE DRUG PANEL (Blood, Urine, Vitreous)
☐ 70510T COMPREHENSIVE DRUG PANEL (Tissue)
☐ 70530 DRUGS OF ABUSE PANEL (Blood, Urine, Vitreous)
☐ 70530T DRUGS OF ABUSE PANEL (Tissue)
☐ 13810 DESIGNER OPIOIDS PANEL (Blood)
☐ 13610 PSYCHOACTIVE SUBSTANCES PANEL (Blood)
☐ 42130 SYNTHETIC CANNABINOIDS [K2/Spice] (Blood)
☐ 32400 ELECTROLYTE PANEL (Vitreous)
☐ 44060 CARBON MONOXIDE (Blood)

Additional test requests (order code):

Specimen Labels: Place one label on each specimen container.

Section 6: Brief Case History (Please identify the manner of death, if known, and drugs to which the subject may have had access)

Shot by another

Section 7: Laboratory Use Only

Received at laboratory and placed into temporary storage by: _____ Date: _____

Complete all sections 1 through 6. COPY 1: Original must accompany specimen(s) to the laboratory. COPY 2: Retain for your records.
 By submitting this requisition, Client acknowledges that it relies upon Axis to select an appropriate method for the requested testing and accepts a simplified report without the method listed. For method information, please contact labclientsupport@axisfortox.com

AXIS-REQ-01

06/02/2021



AHAM-Hampton Co. Coroner
JOHNSON, TIJUANA
A- Autopsy

Weight: 213

Length: 63

Temp: Cold

Rigor: 2+

Livor: post purple fixed.

Scalp hair: Red black braids long

Hirsutism: 0

Eyes: Brown, clonided artificial lashes

Ears: remote pierced.

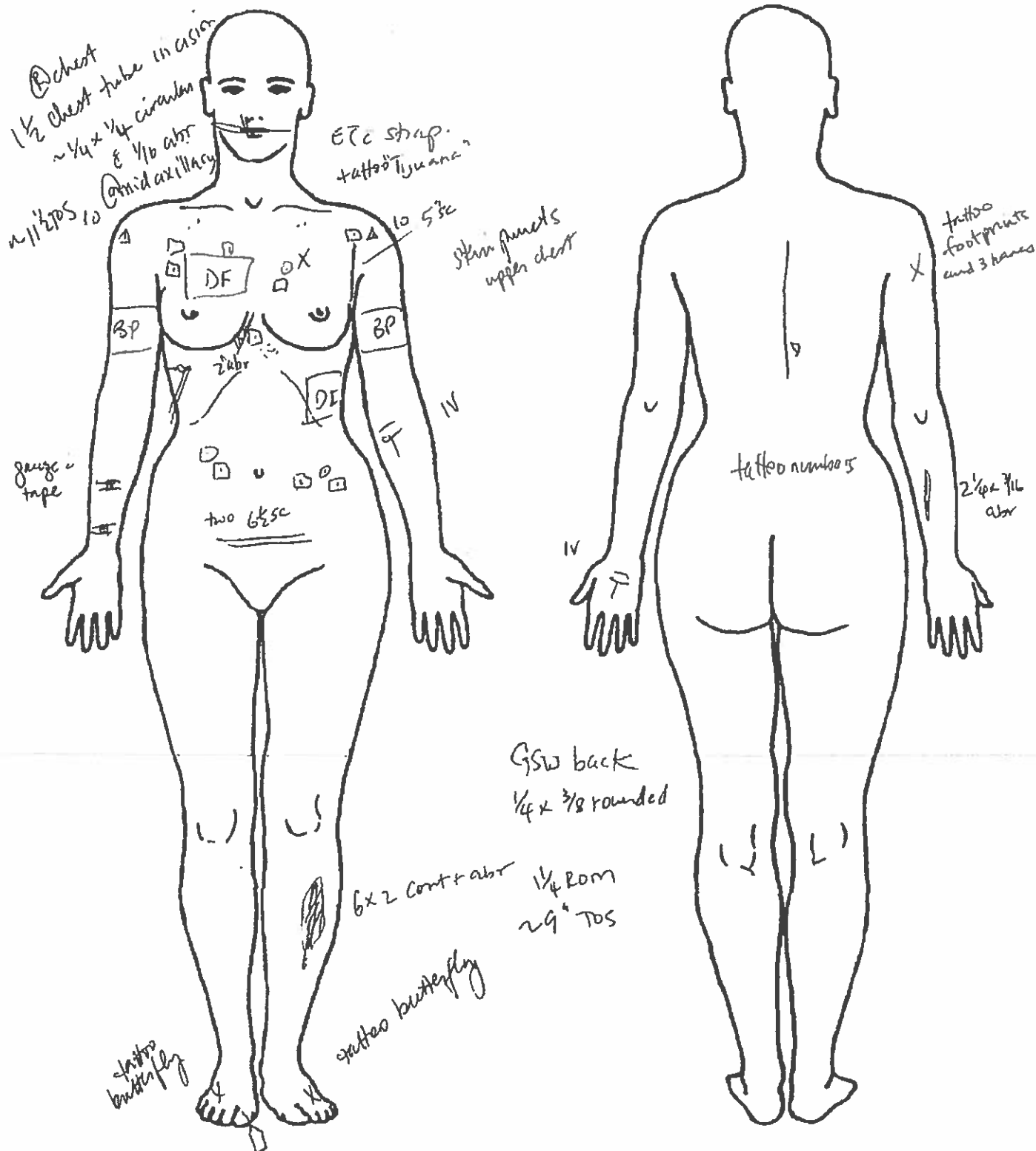
Nose: ✓

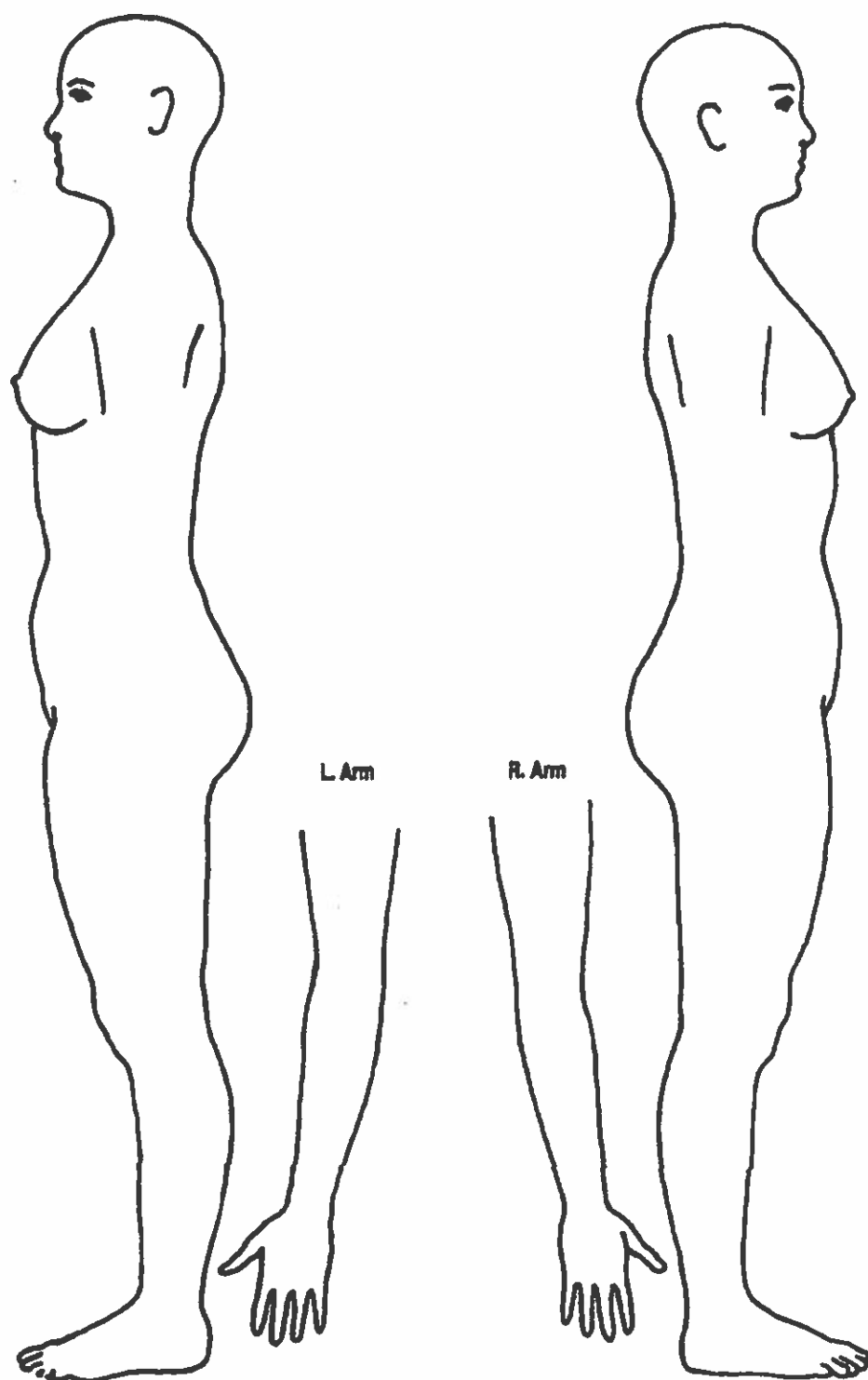
Teeth: Good

Neck: ✓

Abdomen: obese & strae

Genitalia: ✓







MUSC DEPARTMENT OF PATHOLOGY
MEDICAL & FORENSIC AUTOPSY SECTION
 171 Ashley Avenue, Rm EH 309, MSC 908, Charleston, SC, 29425-9080
 Office (843) 792-3500 Fax (843) 792-3537



FA21-597
 06/02/2021

AHAM-Hampton Co Coroner
 JOHNSON, TIJUANA
 A- Autopsy

Case Number: FA21-597

EVIDENCE AND PERSONAL EFFECTS TRANSFER SHEET

DESCRIPTION OF ITEMS

Yellow pants - previously cut
 Black sock @ foot
 Black sock accompanies
 Black underwear
 Yellow metal hoop earring @ ear
 @ + @ fingernail clippings
 Pulled scalp hair
 CD w/ Autopsy photos
 blood spot card

Transferred By: Karen Gennus
(PRINT)
Karen Gennus
(SIGN)

Representing: MUSC Forensic Pathology

Transferred At: MUSC Medical & Forensic Autopsy Section

Date: 6/2/2021

Transferred To: Shanaz Smith
(PRINT)
Shanaz Smith
(SIGN)

Representing: Estill Police Department

Time: 1339

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
	2021-GS-25-00181
	2022-GS-25-00346
COUNTY OF HAMPTON	
-----)	
State of South Carolina)	
)	
Plaintiff,)	
vs.)	TRANSCRIPT OF JURY TRIAL
)	VOLUME I
TIFFANY OWENS,)	(PAGES 1 - 70)
)	
<u>Defendant.</u>)	

January 8, 2024
Hampton, South Carolina

B E F O R E:

The Honorable **CARMEN T. MULLEN**, Judge Presiding

Kymerlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

Appearing for The State of South Carolina:

REED EVANS, ESQ.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing For the Defendant:

FRED KUHN, ESQ.
MOSS & KUHN
1501 North Street
Beaufort, South Carolina 29902

CERTIFICATE OF REPORTER

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 14th Circuit of the State of South Carolina do hereby certify that the foregoing is a true, accurate and complete transcript of the proceedings held in this case, relative to appeal, in the General Sessions Court for Beaufort County, South Carolina on the 8th Day of January, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

This, the 16th day of July, 2024.

Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
	2021-GS-25-00181
	2022-GS-25-00346
COUNTY OF HAMPTON	
-----)	
State of South Carolina)	
)	
Plaintiff,)	
vs.)	TRANSCRIPT OF JURY TRIAL
)	VOLUME II
TIFFANY OWENS,)	(PAGES 71 - 407)
)	
Defendant.)	

January 10, 2024
Hampton, South Carolina

B E F O R E:

The Honorable **CARMEN T. MULLEN**, Judge Presiding

Kymerlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
Post Office Box 8091
Beaufort, South Carolina 29903

A P P E A R A N C E S

Appearing for The State of South Carolina:

REED EVANS, ESQ.
14th Circuit Solicitor's Office
P.O. Box 11449
Beaufort, South Carolina 29211

Appearing For the Defendant:

FRED KUHN, ESQ.
MOSS & KUHN
1501 North Street
Beaufort, South Carolina 29902

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CERTIFICATE OF REPORTER 407

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PROCEEDINGS

**

WEDNESDAY, JANUARY 10, 2024

HAMPTON, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: All right.

Let's bring in the jury.

(Jury enters courtroom.)

THE COURT: Juror 115, you're now an official member of this jury, all right. So again, as I told you before, you need to pay attention, because it's very important in this day and age that we have people that are sitting and move in an actual network.

So thank you for being here, and thank you for your willingness to serve, sir. Again, I'm gonna go ahead and put you in the place of the juror I had to excuse.

So with that said, ladies and gentlemen, if you will all please rise and raise your right hand. Ms. Nettles is going to administer the oath, and when you accept the oath I need you to say, "I do", and take a seat, all right?

1 CLERK: Do you solemnly swear or affirm
2 that you shall well and truly try in true
3 deliverance make between the State of South
4 Carolina and the accused at the bar, and a true
5 verdict given, according to the evidence, so
6 help you God?

7 JURORS: I do.

8 THE COURT: Thank you, please be seated.
9 Thank you.

10 Ladies and gentlemen, what I'm now going to
11 tell you is intended to serve as an introduction
12 to the trial of this case. These remarks are
13 not a charge on the law. I will instruct you on
14 the law that is applicable to this case at the
15 end of the trial before you retire to consider
16 your verdict.

17 This is merely an explanation of the
18 procedure that we're going to follow in the
19 trial, so that you may better understand what is
20 happening.

21 Now, the Defendant in this case, Ms. Owens,
22 is charged by an indictment that is filed in
23 this Court with the offense of murder and
24 possession of a weapon during the commission of
25 a violent crime.

1 not just walk, or drive, away. See, on May
2 29th, 2021, Ms. Owens, the Defendant in this
3 case, and Tijuanna Johnson, both of Estill, went
4 to the Galaxy Foods right there on Colombia
5 Highway in the City of Estill in Hampton County,
6 like so many of us do practically everyday of
7 every week in Hampton County, all across it, to
8 go shop for groceries.

9 Estill's a small town, not that many places
10 to go for groceries. The Galaxy's pretty much
11 it. So they arrive around the same time in the
12 afternoon, both driving black sedans. Ms. Owens
13 was driving a black Honda, Ms. Johnson was
14 driving a black Hyundai. They both pull into
15 parking spots.

16 Ms. Owens gets out, goes and shops for her
17 groceries. In about 4 or 5 minutes, she emerges
18 from the store, puts her groceries into her car,
19 but doesn't leave. Around this same time, Ms.
20 Johnson, who had arrived at more or less the
21 same time as Ms. Owens in the parking lot, but
22 not getting out of her car yet, she gets out of
23 her car. She starts walking towards the front
24 door of the Galaxy Foods. That's when they
25 start getting into a conversation.

1 Ms. Johnson keeps trying to go in the
2 store, Ms. Owens keeps on talking to her. Ms.
3 Johnson keeps trying to go in the store, Ms.
4 Owens keeps talking to her. Eventually, Ms.
5 Johnson is able to get inside, and she does her
6 shopping. As she is going into the store, Nash
7 Elliott, also on his way to just do some grocery
8 shopping, he hears Ms. Owens tell Ms. Johnson
9 that she'll be waiting for her.

10 After about another 4 or 5 minutes, Ms.
11 Johnson emerges from the store, starts walking
12 straight to her black Hyundai. She gives a
13 friendly wave to somebody on her right, and Ms.
14 Owens is on her left, and as she is just about
15 to get to her Hyundai, escorted by a man named
16 Calvin Lester, who worked at the store, he was
17 pushing her cart, just as she's about to get to
18 her car, and go about with the rest of the day,
19 and the rest of her life, Tiffany Owens pulls
20 out of her parking space in her black Honda and
21 drives directly towards Ms. Johnson.

22 There's cursing, yelling, and Ms. Johnson -
23 - she snaps. She runs at Ms. Owens, and starts
24 swinging at her through the open car window.
25 Ms. Owens could have just driven away, but

1 instead she took a handgun, and fired not once,
2 but twice, at Ms. Johnson, hitting her once in
3 her side.

4 Ms. Johnson staggers away from the vehicle,
5 falls to the ground. Ms. Owens finally just
6 leaves, she drives away.

7 And how do I know all this to be able to
8 tell it to you? Well, this is an interesting
9 case, because many of the cases, especially the
10 murder cases that we try in this State, in this
11 courtroom, are interesting cases. At least with
12 everything that happened, we try to figure out
13 who. We know what happened to the victim, but
14 we have to figure out who did it to the victim.

15 This is not one of those cases, because
16 everything that I just described to you, you
17 will see on that screen, because Galaxy Foods,
18 like most businesses these days, is equipped
19 with security cameras, and everything I just
20 described was captured by the security camera at
21 the front entrance, you'll see it all. It'll be
22 a video that lasts about 16 minutes, and we'll
23 get to that in just a few witnesses this
24 morning.

25 You're gonna hear a lot from other

1 witnesses too, because, of course, when the
2 police, Estill PD, first got to the scene, they
3 didn't know that they were gonna have this
4 video, so they did their usual work, usual
5 gathering of evidence.

6 You're gonna hear about some of the other
7 things that they did to make sure that the
8 person that they thought they were looking for
9 was the correct person.

10 You're gonna hear from Mr. Lester, who I
11 mentioned, pushing the grocery cart, and Mr.
12 Elliott. They're both gonna testify, but by
13 far, the singular piece of evidence in this case
14 will be that video.

15 I'm gonna ask you to pay extremely close
16 attention. You'll see it a number of times, but
17 what the Judge just said is so important, so
18 important, that you wait, that you wait until
19 all of the evidence is before you to make your
20 decision. Why? Because, Mr. Kuhn, I think, is
21 about to stand up and make his own opening
22 statement, where he agrees with a lot of what I
23 just said, not all of it obviously, but he's, I
24 think he's going to agree that his client,
25 Tiffany Owens, shot, as a result, killed

1 Tijuanna Johnson right there at Galaxy Foods on
2 May 29th, 2021, but I think he's going to tell
3 you that she did this in self-defense, and
4 that's why it is so critical.

5 It is so very critical that you wait to
6 hear what the Judge tells you about the law in
7 South Carolina. What are the elements? Because
8 every crime is made up of elements that we might
9 think of as pieces of a puzzle. You have to
10 hear what the elements are of murder, and
11 possession of a weapon during the commission of
12 a violent crime, but just as importantly, what
13 are the elements of self-defense.

14 Mr. Kuhn might also tell you that the State
15 has to prove Ms. Owens guilty beyond a
16 reasonable doubt. In fact, we have to disprove
17 self-defense beyond a reasonable doubt. He'll
18 be absolutely right if he tells you that, but
19 again, wait, pay close attention. There may be
20 parts of this trial that are deliberate.

21 You might not understand the point until
22 it's all put together for you at the end, but
23 everything that comes from that witness stand
24 and appears on that screen is critical to your
25 final determination, when at the end of this

1 trial, after I've had a chance to speak with you
2 again, and the Judge has instructed you, what is
3 the law, what is murder, what is self-defense,
4 you'll retire again back to that jury room,
5 you'll have the Exhibits, you'll have heard the
6 testimony.

7 It will be your job to apply the facts to
8 the law as the Judge instructs you and decide
9 what is the truth. Just before that, like I
10 said, I'll have one more chance to speak with
11 you directly. At that time, I'm going to ask
12 you to find her guilty of the murder of Tijuanna
13 Johnson. Thank you.

14 THE COURT: Mr. Kuhn?

15 MR. KUHN: May it please the Court, Your
16 Honor?

17 THE COURT: Yes, sir.

18 **

19 **OPENING STATEMENT BY MR. KUHN**

20 MR. KUHN: Know this, Tiffany Owens did not
21 murder Ms. Johnson. She was acting in self-
22 defense. As she was trying to walk away, drive
23 away, leave the parking lot, Ms. Johnson ran up
24 to her vehicle, ran up to her vehicle, with a
25 raised fist, struck her, entered the window, and

1 struggled with her. She had a gun on her
2 console. They fought over that gun. That gun
3 went off twice, unfortunately.

4 Tragically, one of those shots hit Ms.
5 Johnson, and she died in the parking lot of the
6 Galaxy Food Mart in broad daylight, half a dozen
7 witnesses, as Mr. Evans has said, captured on
8 video. There's not a whole lot of dispute as to
9 the facts of the case. At the conclusion of the
10 trial, it will be facts. Because a murder
11 charge is so serious, it's as serious as it
12 gets, a murder charge, the State has the burden
13 of proof, as Mr. Evans said, beyond a reasonable
14 doubt, and Our Honor will define that for you at
15 the conclusion of the trial, and I agree, please
16 listen to Your Honor's charge carefully.

17 You need to be convinced beyond a
18 reasonable doubt, which is the highest standard
19 of proof known to the law, that Tiffany is
20 guilty of murder, and beyond a reasonable doubt,
21 if you've seen civil cases, there's a burden
22 called the preponderance of the evidence.
23 That's what is more likely than not. That's a
24 much lower standard.

25 Beyond a reasonable doubt, I mean, you have

1 to believe, beyond, not just to a reasonable
2 doubt, but beyond a reasonable doubt, that she
3 was not provoked, she was not acting in self-
4 defense, she was not attacked.

5 Murder is a heinous crime, because it
6 requires a criminal intent. A lot of our crimes
7 don't require criminal intent. Speeding is a
8 common example. If I'm going 45 in a 35 zone,
9 I'm guilty. It doesn't matter if I didn't
10 realize I was going 45, it doesn't, you know,
11 there's no defense I didn't realize the speed
12 limit changed from 45 to 35.

13 If I'm doing it, I'm guilty. Murder, on
14 the other hand, requires a criminal intent that,
15 Her Honor will define to you as the unlawful
16 killing of another human being with malice
17 aforethought, without just cause, or excuse.
18 The malice aforethought is what is in the
19 person's mind.

20 If I intentionally, deliberately,
21 maliciously, want to shoot you and kill you, and
22 there's no reason for it, that's murder. That's
23 not what happened here. If we could set the
24 clock back, turn the clock back, we would do so.
25 Hindsight is always 20/20, but this young lady

1 did not commit murder.

2 To find her guilty of murder you have to be
3 convinced beyond a reasonable doubt, and,
4 lastly, that she was not being attacked, that
5 she was not provoked, she was not in fear, that
6 she was not acting in self-defense, that she
7 deliberately, intentionally, maliciously, wanted
8 to kill Ms. Johnson. That's not what happened.
9 I agree with Mr. Evans, you need to watch this
10 video, and watch it carefully.

11 If he doesn't put it into evidence, I will.
12 It's not the best. Once you have seen the
13 evidence in this case, applied it to the law
14 that Your Honor will charge you of reaching a
15 verdict that the law requires, that justice
16 requires, not guilty. Thank you.

17 THE COURT: Call your first witness, Mr.
18 Evans.

19 MS. MUSSER: Your Honor, the State calls
20 Tenisha Smith.

21 **TINISH BRYSON-SMITH,**
22 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

23 ***

24 MS. MUSSER: May it please the Court?

25 THE COURT: Yes.

DIRECT EXAMINATION

BY MS. MUSSER:

Q Good morning, ma'am. Where do you work?

A Hampton County 911.

Q And what position do you hold?

A Director.

Q How long have you held that position?

A Since December of last year.

Q How long have you worked in total for the Hampton County?

A 17 years.

Q And as Director, what are some of your responsibilities?

A Manage the day-to-day activities of the Hampton County 911 Dispatch Center, make phone and radio recordings as requested by law enforcement, or lawyer conferences.

Q So when someone calls 911, is it fair to say it's recorded?

A Yes, ma'am, every call is recorded.

Q Every call is recorded?

A Correct.

Q And once it comes into the system, could it be manipulated, or altered, or

1 anything?

2 A No, ma'am.

3 Q With respect to that, did you receive a
4 request to pull any 911 calls, with respect to
5 this case?

6 A Yes, ma'am.

7 Q And did you make a copy of those
8 recorded calls, exactly as how they came in?

9 A Correct, I did.

10 Q And are those calls, do they have a
11 date and time stamp of when the call came in?

12 A They do.

13 MS. MUSSER: Your Honor, may I approach?

14 THE COURT: You may.

15 MS. MUSSER: And I've previously shown this
16 to Mr. Kuhn.

17 BY MS. MUSSER:

18 Q Ma'am, I've handed you what's been
19 marked as State's Exhibit 7. Are you familiar
20 with that item?

21 A Yes, ma'am, I am.

22 Q What is it?

23 A It is the 911 call that came in
24 pertaining to this case.

25 Q And did you have an opportunity to

1 listen to that disk?

2 A I did, on the 8th of this month.

3 Q And was it a fair and accurate copy of
4 the calls that came in to the 911 center that
5 day?

6 A It was.

7 Q And did you -- after reviewing it, did
8 you mark your initials and date it?

9 A I did.

10 Q So you know that's the exact copy that
11 you listened to?

12 A Correct.

13 Q All right.

14 MS. MUSSER: Your Honor, at this time I
15 would move State's Exhibit 7 into evidence.

16 MR. KUHN: No objection.

17 THE COURT: Without objection, would you
18 like to publish?

19 MS. MUSSER: Yes, Your Honor.

20 (State's Exhibit 7 was admitted into
21 evidence.)

22 THE COURT: Okay, then go ahead and
23 publish.

24 (Audio being played for jury.)

25 MS. MUSSER: Your Honor, no further

1 questions for this witness.

2 MR. KUHN: Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 **

5 **CROSS-EXAMINATION**

6 BY MR. KUHN:

7 Q How far apart are these 2 phone calls,
8 in terms of time?

9 A I would have to listen back again, and
10 see how far apart they were.

11 Q The time stamp that's on these, that's
12 accurate?

13 A Yes, sir. Yes, sir.

14 Q It's got 2 minutes.

15 A They are accurate.

16 Q And the first call is from Tiffany
17 Owens' mama, Jeanette Fields, asking for the
18 police to go to the Galaxy Food Mart, correct?

19 A Correct.

20 Q The second call is apparently after the
21 shooting has taken place; is that correct?

22 A Correct.

23 MR. KUHN: That's all I have, Your Honor.
24 Thank you.

25 THE COURT: Anything further, Mr. Evans?

1 MS. MUSSER: No, Your Honor.

2 THE COURT: I'm sorry, any objection to
3 this witness being excused?

4 MS. MUSSER: No, ma'am. Thank you.

5 THE COURT: All right, you are excused.
6 Thank you. Go ahead and leave that here,
7 please.

8 State's next witness.

9 MR. EVANS: The State calls Laura Meyer.

10 LAURA MEYER,

11 BEING DULY SWORN TESTIFIED AS FOLLOWS:

12 ***

13 DIRECT EXAMINATION

14 MR. EVANS: Thank you, Your Honor.

15 BY MR. EVANS:

16 Q Ms. Meyer, where do you work?

17 A Hampton County EMS.

18 Q And what do you do at Hampton EMS?

19 A I'm a paramedic.

20 Q All right. What's the difference
21 between a paramedic, and an EMT? Can you define
22 it for us.

23 A It's three different levels of care.

24 You start off with your EMT basic, goes to
25 school about 40 hours, and it progresses as you

1 go up. So I'm allowed to do IV's, monitor your
2 heart rhythms, that kind of thing.

3 Q Okay. So you drive out in ambulances,
4 and go to the scenes of emergencies?

5 A Yes.

6 Q How long you been doing that?

7 A 19 years.

8 Q All right, all here in Hampton County?

9 A Yes.

10 Q Were you working in that capacity in
11 May of 2021?

12 A Yes.

13 Q Do you recall going to Estill on the
14 29th? What, well I'll get an answer first, do
15 you recall that?

16 A Yes.

17 Q All right, what day of the week was
18 that; do you know?

19 A I'm not sure.

20 Q Okay. What took you out there? Why
21 did you go to Estill on May 29th?

22 A We responded to a gunshot at -- in the
23 Galaxy parking lot at 746 Railroad Avenue.

24 Q All right, and what -- when you say you
25 responded to, what does that mean? How does

1 that information come to you?

2 A So dispatch calls us across the radio,
3 and gives us a complaint, and a location. So
4 that's how we know where we're going, and what
5 we're going for, typically.

6 Q All right, and you proceed there as
7 fast as humanly possible?

8 A Yes.

9 Q All right. How long did it take you to
10 get there, about?

11 A It looks like, maybe 2 minutes.

12 Q Okay. What did you find when you got
13 to Estill?

14 A So the patient was laying on the ground
15 in the parking lot between 2 cars, and there
16 were a number of bystanders. I'm not sure how
17 many, but there were several people surrounding
18 her.

19 Q All right. Were you informed that the
20 scene was safe for you to have access to the
21 patient?

22 A Yes, I'm sorry. When it comes to those
23 particular types of scenes, yes, we have law
24 enforcement secure the scene before we proceed.

25 Q All right, and why is that?

1 A Because unlike law enforcement, we
2 don't have the means to protect ourselves.

3 Q You don't go out there with a gun. You
4 go out there with --

5 A No, it's a jump bag, and an oxygen
6 tank, so, yes, we have law enforcement secure
7 the scene.

8 Q All right, and so you were confident
9 that you and your crew were safe to help her?

10 A Yes.

11 Q All right, and how did you begin to
12 treat her?

13 A So the first thing we did was, of
14 course, try to stop the immediate bleeding, and
15 also our concern is moving her to the truck
16 quickly; and with the wounds being where they
17 were at, we immediately launched a helicopter.

18 Q All right, and why did you do that?

19 A Because Hampton is not able to handle
20 certain types of wounds or issues, so we go
21 ahead -- we know that they need to be at a
22 bigger hospital, and we go ahead and call for a
23 helicopter.

24 Q Are there some type of gunshot wounds
25 that Hampton Regional Medical Center can handle;

1 is that what you're saying?

2 A Typically, they would be transferred
3 out from Hampton anyways, but with the more life
4 threatening ones, we like to get them to a
5 bigger hospital faster.

6 Q Okay. So your assessment, upon seeing
7 her, was it was a life-threatening injury?

8 A Correct.

9 Q And after you had launched the
10 helicopter, I assume that doesn't mean you
11 actually, you know, get the keys to the
12 helicopter and take off, right?

13 A No.

14 Q You just send word?

15 A We call dispatch, advise them to go
16 ahead and launch the helicopter, and then we go
17 to a LZ, waiting for the helicopter to arrive.

18 Q What is an LZ?

19 A A Landing Zone.

20 Q All right, so the helicopter was gonna
21 come to Estill?

22 A Correct.

23 Q Okay. What did you do after you sent
24 that word?

25 A So then we go ahead and load the

1 patient in the truck, and we continue treatment
2 of that patient.

3 Q And how did you continue to treat her?

4 A In this particular instance, we needed
5 to put on occlusive dressings. Occlusive
6 dressings, when you have any penetrating wounds
7 to your chest, and/or neck, our biggest goal is
8 not letting air get into those areas. Once air
9 gets into your chest cavity, not your lung, your
10 chest cavity, basically, it starts putting
11 pressure on your other lung.

12 So then you have an issue with breathing.
13 We attempted to do that multiple times, but that
14 did not work, because she was bleeding. She was
15 bleeding a good bit.

16 So the next thing we tried to do was just
17 do a standard sterile dressing, which is
18 basically just your 4x4's and your 5x5's, and
19 that is to stop the bleeding.

20 Anything was better than nothing at that
21 point, and still she was bleeding so much that
22 the tape would not stick.

23 Q I see. So it was a heavy loss of blood
24 right there?

25 A Yes.

1 Q And you get her in the ambulance?

2 A Yes.

3 Q You're doing all this while you're in
4 transit?

5 A Yes. That, and waiting for the
6 helicopter to land.

7 Q I see. So eventually, the ambulance
8 did stop driving?

9 A Yes.

10 Q Where was that, that you stopped toward
11 the landing zone?

12 A Behind the Estill Fire Department. We
13 have a landing zone set up there.

14 Q So not too far away from the Galaxy
15 Foods?

16 A No.

17 Q What was happening with the patient?
18 First of all, did you determine her name?

19 A It was a Tijuanna Johnson.

20 Q Okay. What if anything was, other than
21 the, you know, physic symptoms you described,
22 was she doing or saying anything?

23 A So because she felt like she couldn't
24 breathe, and that was one of her -- probably her
25 only complaint, was she could not breath, which

1 comes along with the air getting trapped into
2 your chest cavity, she kept saying, "I'm gonna
3 die", and she repeated that over, and over, and
4 over, until eventually that's what happened.

5 Q So did you witness her expire before
6 you were able to load her on the helicopter
7 then?

8 A Yes. Actually, we had to divert and go
9 to Hampton, because she went into cardiac
10 arrest.

11 Q Okay, so you took -- you were at the
12 landing zone by the Fire Department?

13 A Yes.

14 Q And then it was so immediate that you
15 couldn't afford to wait any longer?

16 A Yes. Because there's certain things
17 that can't be done, such as compressions, in the
18 helicopter, she had to go to Hampton at that
19 point.

20 Q Okay.

21 MR. EVANS: I beg the Court's indulgence.
22 I sent Mr. Clapp to get some physical evidence.
23 He's about to come in right now.

24 BY WITNESS:

25 A Also with the lack of oxygen, or gas

1 exchange, she would have been very anxious, so
2 she was moving, left to right, to her stomach,
3 to her back, sitting up. She was just all over
4 the stretcher.

5 Q And did anything unusual happen, or did
6 you notice anything, when she moved like that?

7 A When she sat up, I actually found a
8 bullet underneath her.

9 Q On the stretcher?

10 A Yes.

11 Q Would that have been there before for
12 any reason?

13 A No.

14 Q All right. What did you do to that
15 bullet?

16 A That bullet I kept with me until I
17 could give it to the Estill PD officer on duty
18 that day.

19 MR. EVANS: Can I approach the witness,
20 Your Honor?

21 THE COURT: You may.

22 BY MR. EVANS:

23 Q I'm gonna past you what's been
24 previously marked as State's Exhibit 4. Can you
25 tell me what that is?

1 A Yes, that is the bullet that I found
2 underneath Ms. Johnson.

3 Q How can you tell that that's the same
4 bullet? Is your name anywhere on the packaging?

5 A Yes.

6 Q All right. So that's the same one that
7 you picked up? What did you do with it after
8 you collected it?

9 A I actually stuck it in a glove so that
10 there would be no contaminants of it, and I
11 actually stuck it in my pocket, and kept it on
12 my person until I physically gave it to that
13 officer.

14 Q You gave it to Officer Heany?

15 A Yes.

16 Q Of Estill Police Department?

17 A Yes.

18 Q The same day?

19 A Yes.

20 Q All right. After you had finished
21 doing everything you could for Ms. Johnson?

22 A After we finished with patient care and
23 cleanup, and made it back to Estill, I give him
24 the bullet, and I actually wrote a report for
25 him to let him know what had happened, and how I

1 had found that bullet.

2 Q All right.

3 MR. EVANS: Your Honor, the State would
4 move the bullet into evidence as State's Exhibit
5 4.

6 MR. KUHN: No objection.

7 THE COURT: Without objection, it's in
8 evidence.

9 (State's Exhibit 4 was admitted into
10 evidence.)

11 BY MR. EVANS:

12 Q Ms. Meyer, those are all the questions
13 that I have. Please answer any questions Mr.
14 Kuhn may have.

15 MR. KUHN: No questions.

16 THE COURT: All right.

17 Any objection to this witness being
18 excused?

19 MR. EVANS: None, Your Honor.

20 THE COURT: Your excused. Thank you.

21 Call your next witness.

22 MR. EVANS: The State calls Charlie Deloach
23 Copeland.

24

25

1 **CHARLIE DELOACH COPELAND,**
2 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

3 *******

4 **DIRECT EXAMINATION**

5 BY MR. EVANS:

6 Q Ms. Copeland, what do you do for a
7 living?

8 A I own and operate the Galaxy Foods Center
9 in Estill.

10 Q That's in Estill, South Carolina?

11 A Correct.

12 Q In Hampton County?

13 A Yes, sir.

14 Q How long have you owned and operated
15 this?

16 A Me personally owning it, since 2019,
17 but I've worked there since 1992.

18 Q All right, and in 2021 was your name
19 Copeland, or was it --

20 A It was Deloach.

21 Q Okay, so what happened in between 2021
22 and now?

23 A I got married.

24 Q To the owner of the store?

25 A No, sir. The owner was my father, and

1 he passed away in 2020.

2 Q All right.

3 A So my current husband runs the meat
4 department.

5 Q Okay, you'all work together right
6 there?

7 A We do.

8 Q Is that the only grocery store in
9 Estill?

10 A Yes, sir.

11 Q Has it always been, or is that kind of
12 a recent thing?

13 A I think it was about 3 years ago, there
14 was a * IGA, and it closed.

15 Q Okay. Where in Estill, roughly?

16 A It's on Highway 321, on the north end
17 of town.

18 Q Okay, but in the city limits?

19 A Correct.

20 Q Were you working there, and, obviously,
21 running it, in May of 2021?

22 A I was.

23 Q Could you describe the events of that
24 day for us?

25 A So I was --

1 Q May 29th.

2 A -- on the aisle, putting up some
3 charcoal, because it was a holiday weekend.

4 Q Was that Memorial Day?

5 A I think it was the holiday weekend,
6 yes, Memorial Day. So I was putting up charcoal
7 on the shelf, and one of the cashiers came and
8 got me, and said that there was a shooting in
9 the parking lot.

10 Q So you were not in the parking lot --

11 A I was not.

12 Q -- when this happened.

13 A No.

14 Q Did you see any of the build up to it?

15 A No, sir.

16 Q All right. Just the aftermath?

17 A Right.

18 Q What did you see when -- well, tell us
19 what you did when you got the news.

20 A So when I got the news, I walked
21 outside to see what was going on, and when I saw
22 Tijuanna on the ground, and she had been shot,
23 then I went back inside, and got gloves, and
24 some market towels, to try to help her.

25 Q Okay. Did you know her prior to this?

1 A I did.

2 Q As a customer?

3 A Just as a customer.

4 Q Okay, but she was -- was she a regular
5 customer?

6 A Pretty much, uh-huh.

7 Q And when you went outside, did you know
8 there had been a shooting, or was it just sort
9 of a general commotion?

10 A Well, everything was already said and
11 done when I got out there.

12 Q Sure.

13 A But when the cashier said that there
14 was a shooting in the parking lot, then I went
15 out there and saw what was going on, then that's
16 when I realized something terrible had happened.

17 Q Okay. Were you alarmed about that?

18 A Yes.

19 Q And you tried to help her the best you
20 could?

21 A I did.

22 Q Okay. Did you call 911? Do you
23 know --

24 A I don't remember calling 911.

25 Q All right. Did you tell any of your

1 staff to --

2 A I told some of my employees to make
3 sure that they called, and I think several of
4 them did call.

5 Q All right, and what did you do in
6 between discovering her out in the parking lot
7 -- you said -- did you say between 2 cars?

8 A Yes, she was laying down in between 2
9 cars on the pavement.

10 Q All right. Could you see her
11 breathing?

12 A Yes.

13 Q What did you do in between that
14 discovery, telling your staff what to do, and
15 the arrival of, you know, authorities?

16 A So I, obviously, wanted to see how bad
17 that it was, so that I could be prepared to try
18 to help her the best way that I could until
19 emergency personnel got there, so I lifted up
20 her shirt, lifted up her bra, and put a
21 pressure, applied pressure, on the entrance and
22 the exit wound.

23 Q I see.

24 A Yeah.

25 Q About how long until police, or a

1 fireman, or whoever show up? Who did show up?

2 A It felt like a really long time. I
3 want to say it was maybe 5 minutes, that might
4 be pushing it. I really cannot remember how
5 long it took for the emergency personnel to get
6 there.

7 Q Okay.

8 A I know the police department was there
9 first.

10 Q The police were there first?

11 A Uh-huh.

12 Q Were you treating her then that whole
13 time?

14 A Yes.

15 Q The best you could?

16 A Uh-huh.

17 Q Are you trained in that in any way?

18 A No.

19 Q Okay. Just following your instincts?

20 A Civil duty.

21 Q Okay. What happened when the police
22 arrived? What did you do?

23 A I stayed there.

24 Q Right by Ms. Johnson?

25 A I did, until the EMS got there, and

1 then they took over from there, but I stayed in
2 the parking lot, because I was trying to get
3 everybody calmed down, because there was so much
4 commotion, and so many family members were
5 coming up. They were just spread everywhere,
6 all over the parking lot, so we were trying to
7 get everybody calmed down, and at least away
8 from what was going on.

9 Q Okay. How about later on when the
10 police were doing their investigation? Did you
11 speak with them --

12 A I did.

13 Q -- about what you witnessed?

14 A I did. I told them everything that,
15 you know, had happened, and then I put -- they
16 wanted to review the cameras.

17 Q Sure, so tell us about your security
18 system there.

19 A So I had an Alibi Witness security
20 system, security cameras, I'm sorry, and so I
21 went and reviewed the footage. Then the police
22 department asked me to put it on a disk.

23 Q When you say Alibi Witness, is that a
24 name brand?

25 A It is.

1 Q Okay, because that term has got a
2 significant meaning in here. That's just a
3 company that you bought it from?

4 A Right.

5 Q Okay, and about how many cameras did
6 you have at that time?

7 A Let's see, I have 46 now. I want to
8 say I had about 20.

9 Q Okay.

10 A 20 to 30.

11 Q You've upgraded significantly.

12 A Oh, absolutely.

13 Q All right. Do these cameras, did they
14 have microphones on them at that time?

15 A At that time, the outside ones did not.

16 Q Okay. The inside ones would have?

17 A Uh-huh.

18 Q All right. So what did you find when
19 you reviewed the security camera footage? Tell
20 us about the system, how you go about accessing
21 that.

22 A So you go into a playback mode, and you
23 click on what camera you want to review.

24 Q It's all stored in your computer?

25 A Yes.

1 Q Back in the office?

2 A Correct. So after reviewing, finding
3 which cameras that would give me the best angle
4 of exactly what happened, it was the right
5 entrance, I believe it's the right entrance,
6 coming into the store. So after I reviewed
7 that, then I saw that -- do you want me to tell
8 you what I saw?

9 Q Well, one second, we'll get there.

10 A Okay.

11 Q Did you review all the cameras that you
12 had running?

13 A I did.

14 Q Did you find anything unusual on any of
15 the other cameras?

16 A No.

17 Q And so did you provide footage,
18 eventually, from any of the other cameras to
19 Estill Police Department?

20 A Just the parking lot one.

21 Q Just the one that you were --

22 A Right.

23 Q -- getting ready to describe.

24 A Just the one that would show anything
25 that, you know, because all the other cameras

1 didn't show -- there was nothing to show on
2 there.

3 Q And where is that camera positioned,
4 roughly?

5 A So when you walk in, if you're facing
6 my building, it would be the right entrance.

7 MR. EVANS: May I approach the witness,
8 Your Honor?

9 THE COURT: You may.

10 BY MR. EVANS:

11 Q I'm gonna pass you what's been
12 previously marked as State's Exhibit 13.

13 A That's a photograph.

14 Q Do you recognize that?

15 A Yes.

16 Q What is this a photograph of?

17 A This is the front of my building, and
18 that's the right entrance.

19 Q All right, and does it show the camera
20 that we're talking about here?

21 A Yes.

22 Q Okay, right about in the middle, upper
23 middle, of it?

24 A Yes.

25 MR. EVANS: Okay, Your Honor, the State

1 moves to --

2 BY MR. EVANS:

3 Q Let me ask you this, does it fairly and
4 accurately depict the way the store appeared on
5 May 29th --

6 A Yes.

7 Q -- 2021?

8 A Yes.

9 MR. EVANS: Your Honor, the State would
10 move this photograph into evidence as State's
11 Exhibit 13.

12 MR. KUHN: No objection.

13 THE COURT: Without objection admitted
14 into evidence.

15 (State's Exhibit 13 was admitted into
16 evidence.)

17 MR. EVANS: And I'll just publish by
18 hand really quick, and I'll show it again.

19 BY MR. EVANS:

20 Q Ms. Copeland, what did you see when you
21 watched the camera that's depicted in State's
22 13?

23 MR. KUHN: I would object to this. I think
24 the videos the best evidence.

25 THE COURT: I think --

1 MR. EVANS: That's fine, we'll go ahead and
2 show the video.

3 THE COURT: Okay.

4 BY MR. EVANS:

5 Q You did then provide a segment of the
6 footage to the Estill Police Department?

7 A Yes, sir.

8 Q All right, and have you reviewed that
9 with me in preparation for trial this week?

10 A I did.

11 MR. EVANS: May I approach the witness,
12 Your Honor?

13 THE COURT: You may.

14 BY MR. EVANS:

15 Q I'm going to pass you what's been
16 marked as State's Exhibit 8.

17 Do you recognize this, this way?

18 A I do.

19 Q What is that?

20 A That is the disk that has the video on
21 there, as we reviewed it.

22 Q Was it initialed and dated?

23 A Correct.

24 Q This has 2 copies of the video; is that
25 right?

1 A Yes.

2 Q One that's long, and one that's short?

3 A One, I believe, is 16 minutes. I think
4 the other one is about 3 minutes.

5 Q All right. Are either of those, does
6 the short one show a portion of the 16-minute
7 one?

8 A Yes.

9 Q All right. Have either of those been
10 changed or altered in any way?

11 A No.

12 Q Other than trimming them down to the
13 appropriate length?

14 A They have not been changed.

15 Q Did they fairly and accurately, well,
16 as far as you're aware, does the security camera
17 generally, fairly, and accurately, depict things
18 that are going on at the store when it records
19 them?

20 A Yes.

21 MR. EVANS: Your Honor, the State would
22 move the disk and the video that's on it into
23 evidence as State's Exhibit 8.

24 MR. KUHN: I'd like to talk to the
25 Solicitor for just a second.

1 THE COURT: Okay.

2 MR. KUHN: No objection, Your Honor.

3 THE COURT: Okay, without objection.

4 (State's Exhibit 8 was admitted into
5 evidence.)

6 MR. EVANS: May I publish, Your Honor?

7 THE COURT: You may.

8 MR. EVANS: Judge, can you see that
9 okay there?

10 THE COURT: I can.

11 MR. EVANS: All right.

12 BY MR. EVANS:

13 Q Ms. Copeland, can you see it okay?

14 A Yes.

15 Q This still appears to be the same video
16 you reviewed?

17 A Correct.

18 Q Almost three years ago, and there's no
19 sound; is that correct?

20 A Right.

21 Q All right.

22 (Vido being played for the jury)

23 BY MR. EVANS:

24 Q Ms. Copeland, that's the main portion
25 of the video that you turned over to the Estill

1 Police Department?

2 A That's it.

3 Q All right. Did you see yourself
4 depicted in that video?

5 A I did.

6 Q Well who -- which one were you?

7 A I had on shorts and a blue *DeLoach
8 shirt.

9 Q Okay, you walked out to --

10 A I walked out first, and then --

11 Q -- and then ran back?

12 A -- ran back.

13 Q Did you recognize the woman in the red
14 shirt?

15 A I did.

16 Q All right. Who is she to you?

17 A Just a customer.

18 Q All right. Did you know her name?

19 A At the time I did not.

20 Q Okay.

21 A I knew her face.

22 Q You knew her face. Do you see her face
23 in the courtroom today?

24 A I do.

25 Q All right. Can you point her out by

1 something she's wearing, and where she's
2 sitting?

3 A Yes, sir. She has on a black sweater.

4 MR. EVANS: Your Honor, may the record
5 reflect she's identified the Defendant?

6 THE COURT: For the record, yes.

7 BY MR. EVANS:

8 Q And you learned her name after these
9 events?

10 A I did.

11 Q All right. Was that Tiffany Owens?

12 A Correct.

13 Q Okay. What happened after the end of
14 this video? Is that roughly when the police
15 were arriving? I think we saw some blue lights.

16 A Yes.

17 Q Okay. Did you step back and let them
18 take over at that point?

19 A I did.

20 Q Okay.

21 MR. EVANS: I beg the Court's
22 indulgence. May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25 BY MR. EVANS:

1 Q Ms. Copeland, I'm gonna pass you what's
2 been previously marked as State's Exhibit 38.
3 Do you recognize that?

4 A Yes.

5 Q What is this?

6 A That's my building and parking lot.

7 Q All right. This is a Google Maps
8 image?

9 A Yes.

10 Q All right. Does this fairly and
11 accurately depict the way your store would look,
12 if you were flying above it?

13 A Yes.

14 MR. EVANS: All right. Your Honor, the
15 State would enter this printout into evidence as
16 State's Exhibit 38.

17 MR. KUHN: No objection, Your Honor.

18 THE COURT: Without objection, it's in
19 evidence.

20 (State's Exhibit 38 was admitted into
21 evidence.)

22 MR. EVANS: Thank you, Your Honor.

23 BY MR. EVANS:

24 Q Ms. Copeland, those are all the
25 questions that I have. Please answer any

1 questions Mr. Kuhn may have.

2 MR. KUHN: I have no questions, Your
3 Honor.

4 THE COURT: All right. You may step
5 down. Any objections of Ms. Copeland being
6 excused from anyone?

7 MR. EVANS: None, Your Honor.

8 THE COURT: You are excused. Thank
9 you.

10 Ladies and gentlemen, let's just take a
11 really short recess. You're free to leave,
12 ma'am. Thank you. I need to remind you, when
13 you go back to your jury room, do not discuss
14 this case with each other. It wouldn't be
15 appropriate to do so at this time.

16 You haven't heard all the evidence. Grab a
17 cup of coffee, ladies and gentlemen, or a coke,
18 and we'll bring you right back out here. I
19 intend on continuing until roughly 1 o'clock.
20 We're gonna go ahead and take a lunch break.
21 Over the lunch hour, you'll be free to go about
22 your business, grab a bight to eat, and then
23 we'll come back after that.

24 So, again, I just want you to know that for
25 scheduling purposes -- so, again, you are

1 excused back to your Jury room. Do not discuss
2 the case. Thank you.

3 (Jury exits the courtroom.)

4 (RECESS)

5 **

6 **PROCEEDINGS CONTINUED**

7 (Jury enters the courtroom.)

8 THE COURT: All right, Mr. Evans, call
9 your next witness.

10 MR. EVANS: The State calls Calvin
11 Lester.

12 **CALVIN LESTER,**

13 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

14 ***

15 THE COURT: Mr. Lester, take a seat,
16 and sir, will you please lower your mask while
17 you're testifying, sir. Thank you. Actually do
18 it as low as you can, so we can understand you.
19 Thank you, sir, and actually sir, will you give
20 us your name for the record, and spell your last
21 name.

22 MR. LESTER: Calvin Lester.

23 THE COURT: And spell your last name.

24 MR. LESTER: L-E-S-T-E-R.

25 THE COURT: Thank you, sir.

1 MR. EVANS: Thank you, Your Honor.

2 **

3 DIRECT EXAMINATION

4 BY MR. EVANS:

5 Q Mr. Lester, what do you do for a
6 living, sir?

7 A Nothing right now.

8 Q All right, have you ever worked at the
9 Galaxy Foods?

10 A Yes, sir.

11 Q Okay. Were you working there in May of
12 2021?

13 A Yes, sir.

14 Q Do you live there in Estill?

15 A Yes.

16 Q All right, and what -- when you worked
17 at Galaxy Foods, what was your -- what were your
18 duties at work? What did you do?

19 A Stocking, unloading trucks, helping the
20 customers bring their groceries to the car, you
21 know, retrieve the buggies from out in the
22 parking lot, so on and so --

23 Q More of kind of whatever needed to be
24 done?

25 A Yes.

1 Q All right, and did you help every
2 single customer take their groceries?

3 A Mostly the ladies.

4 Q Mostly --

5 A I'll ask them if they need help,
6 especially if they had water, or drinks, or
7 anything of that nature.

8 Q Heavy stuff?

9 A Yes.

10 Q All right, and did a lot of ladies take
11 you up on that offer?

12 A Half, half and half.

13 Q Okay, and when they did what did you
14 do? How would you go about it?

15 A I would help them to the car, you know,
16 they'd open the trunk. I'd ask if they wanted
17 me to put it in the front seat, or the trunk. I
18 would ask them, and I'd unload them, and let
19 them be on they way.

20 Q All right, do you remember the events
21 of May 29th, 2021?

22 A As I recall, when I was coming out to
23 help her with these groceries, there was a
24 confrontation between the 2 people, and I don't
25 know exactly the 2 words -- the words they say,

1 but --

2 Q Let me slow you down just a bit. You
3 witnessed a conversation between 2 people?

4 A Yes.

5 Q Were these 2 women?

6 A Yes.

7 Q Did you know either of their names?

8 A No.

9 Q Was one of them a woman that you were
10 helping?

11 A Yes.

12 Q All right. Before you saw that
13 conversation, how did it come to be that you
14 started helping that woman?

15 A When she was in the store, I asked her
16 did she needed help with her groceries to her
17 car. She said, "Yes," and we continued on
18 outside.

19 Q The same way you would?

20 A Any other customer.

21 Q All right, and so you proceeded outside
22 with that woman?

23 A Yes.

24 Q All right. What happened after you got
25 outside with her?

1 A I noticed the 2 women were going, you
2 know, saying words to each other, not nice
3 words, and I continued to go on to the car,
4 and her car --

5 Q Do you recall where the other woman,
6 not the woman you were helping, where the other
7 woman was positioned when they were talking
8 outside?

9 A Her car was parked on the right-hand
10 side going into the store.

11 Q On the right as you're going in?

12 A Yes.

13 Q On the left as you're coming out?

14 A Yes.

15 Q All right, and the 2 of them were
16 talking to each other?

17 A Yes.

18 Q Do you recall specifically what they
19 said?

20 A Not specific words, but they weren't
21 nice.

22 Q I see. Were either of them being more
23 not nice than the other, or was it --

24 A About the same. They was giving each
25 other bad words.

1 Q Oh, they were using profanity?

2 A Yes, uh-huh.

3 Q Okay. Were you alarmed at any point
4 before you, you know, finished your walk to her
5 vehicle?

6 A I thought about not even taking the
7 groceries out, but since I was already there, I
8 wanted to get it done, so I could get back in
9 the store.

10 Q I see.

11 A Yes.

12 Q You had started, so you had to finish?

13 A Yes.

14 Q Okay. What happened as you and the
15 lady you were helping proceeded out to the
16 parking lot?

17 A Once I got out there, the black Honda
18 came from the side, and came behind her, and
19 then the girl who got shot, she went over to
20 that car, and started hitting her.

21 Q When you say the girl that got shot, is
22 that the lady you were helping?

23 A Yes.

24 Q Okay, and when you say started hitting
25 her, what do you mean by her?

1 A She came up to the Honda, and started
2 giving her, you know, punching her through the
3 window of the car.

4 Q I just want to clarify, because you
5 don't know either of their names, correct?

6 A No.

7 Q And had you recognized either of them
8 as regular customers?

9 A I've seen both of them in the store
10 several times, but not personally, no.

11 Q Okay. So I'm just gonna ask you to,
12 instead of saying she, and her, because that
13 could apply to either of them, can you refer to,
14 I guess the woman you were helping, and the
15 woman in the Honda; does that work?

16 A The woman in the Honda would be her.

17 Q Okay.

18 A Yeah, she the one I was helping.

19 Q Fair enough.

20 A Uh-huh.

21 Q All right, so the woman you were
22 helping started hitting the woman in the Honda?

23 A Yes.

24 Q You actually saw that with your own 2
25 eyes?

1 A Yes.

2 Q What happened after you saw it? What
3 did you do?

4 A I kind of stood there for a moment.

5 Q Were you taken by surprise?

6 A Yes.

7 Q Why?

8 A I started to walk away, but then 2
9 shots went out.

10 Q I see.

11 A That's what I heard, and then I started
12 to move my way over to 321, and then after that
13 it was a blur, yeah.

14 Q Could you tell where the shots came
15 from?

16 A No, but I just heard them.

17 Q You definitely heard 2?

18 A Yes.

19 Q And did you recognize them as gunshots?

20 A Yes.

21 Q About how long after the woman you were
22 helping started swinging at the woman in the
23 Honda, did you hear those shots?

24 A 2, 3 seconds, 5 seconds at most.

25 Q Just a moment.

1 A A moment, yes.

2 Q And what did you do after that
3 happened? Well, what else did you see if
4 anything?

5 A The girl that got shot, she kind of
6 like wobbled away, and said, "She shot me", and
7 then she went to the ground.

8 Q Did you see what happened to the Honda?

9 A The Honda sped out of the parking lot.

10 Q You actually saw that with your own 2
11 eyes?

12 A Yes.

13 Q What did you do after you saw the Honda
14 leave the parking lot?

15 A I just stood there for a second. I
16 didn't know what to do, and I just stood there.

17 Q Had you ever seen anything like this
18 before?

19 A No.

20 Q At the Galaxy, or anywhere else for
21 that matter?

22 A Sure, you know, people arguing, but not
23 to that point.

24 Q No violence?

25 A No violence.

1 Q So were you shocked?

2 A Yes.

3 Q What did you do after you sort of were
4 shocked?

5 A I left the buggy of groceries sitting
6 right there beside the woman's car, and kind of
7 made my way, excuse me, made my way back to the
8 store.

9 Q All right. Did you tell Ms. Deloach,
10 Ms. Copeland?

11 A She came out to help with some bandages
12 to try to stop the bleeding, and we were
13 conversating, and everything just went so quick.
14 Yes, sir.

15 Q Did you try to help the woman with
16 first-aid, the woman who had been shot?

17 A I didn't even know what to do. I had
18 no clue, sir, no medical experience.

19 Q Did you speak to the police when they
20 arrived?

21 A I said a few things, yes.

22 Q And you told them what you had, and had
23 not seen?

24 A Yes.

25 Q All right, and was that approximately

1 the same?

2 A Same thing I'm telling you. Yes, sir.

3 Q Okay, under oath here today?

4 A Yes.

5 Q Do you know who the person is that shot
6 the woman you were helping?

7 A Right there.

8 Q She's in the courtroom today?

9 A Yes.

10 MR. EVANS: Your Honor, may the record
11 reflect he's identified the Defendant?

12 THE COURT: Yes.

13 BY MR. EVANS:

14 Q And that's the same woman that sped
15 away afterwards?

16 A Yes.

17 Q And you heard 2 shots?

18 A 2 shots.

19 Q All right. Well, I'm gonna play a
20 short portion for you as what's been entered as
21 State's Exhibit 8. I'll let Mr. Kuhn see this.
22 All right, Mr. Lester, do you see yourself?

23 A I see myself coming behind the woman
24 now.

25 Q That's you in the blue tee-shirt?

1 A Yes.

2 Q All right, and about when did you start
3 to notice that they were cursing?

4 A About right there. They looking back.
5 I kind of look back at the same time, and saw
6 them start talking to each other.

7 Q All right.

8 A Right about there, yes.

9 Q Okay. And at this point are they still
10 going at it, to the best of your knowledge?

11 A Yeah, still words are still being
12 screamed at each other, yes, and they're still
13 talking at that point, yes.

14 Q Are they still yelling as --

15 A They're still yelling at each other,
16 yes.

17 Q All right, and at that point had you
18 heard the shots that you described?

19 A Yes. When she went up to the car, not
20 even 2 seconds afterwards, that's when I heard
21 it.

22 Q Could you describe how -- what kind of
23 length of time in between the first shot and the
24 second shot?

25 A They were right behind each other,

1 simultaneously, yes.

2 Q Like that, bang, bang?

3 A Yes.

4 Q Okay, but they were, you heard
5 distinctly 2 different gunshots?

6 A Yes.

7 Q All right. Were they both coming from
8 the same area?

9 A Yes.

10 Q That black Honda?

11 A Yes.

12 MR. EVANS: I beg the Court's
13 indulgence.

14 BY MR. EVANS:

15 Q Mr. Lester, when you walked out of the
16 store, initially, as we've seen here on the
17 video, was your attention immediately on the
18 black Honda to your left?

19 A No.

20 Q Okay.

21 A Not at all.

22 Q Do you recall whether it was running at
23 that time?

24 A The car itself?

25 Q Yes, sir.

1 A I don't know. I didn't pay attention
2 to that, but like I said, once we got to that
3 point when they start talking to each other,
4 right after we got past that, you know, fire
5 lane, that's when I thought I heard them start
6 to talk.

7 Q Do you recall, and tell me the truth,
8 if you don't, you don't, but do you remember who
9 was the first person of the 2 ladies to start
10 talking?

11 A I think I heard something -- well we
12 both, me and the one that got shot, we both
13 looked that way.

14 Q I see.

15 A So -- well, I heard something coming
16 from that side, yes, sir.

17 Q From your left?

18 A Yes.

19 Q The left of this screen here?

20 A Yes.

21 Q Mr. Lester, those are all the questions
22 that I have. Please answer any questions that
23 Mr. Kuhn may have.

24 A Okay.

25 MR. EVANS: Mr. Lester, thank you. I

1 have no questions.

2 THE COURT: All right, any objection to
3 Mr. Lester being excused?

4 MR. EVANS: None.

5 MR. KUHN: No, Your Honor.

6 THE COURT: You're excused, sir. Thank
7 you.

8 Call your next witness.

9 MR. EVANS: Nash Elliott.

10 NASH ELLIOTT,

11 BEING DULY SWORN TESTIFIED AS FOLLOWS:

12 ***

13 THE COURT: Mr. Elliott, if you'll give
14 us your full name for the record and spell your
15 last name for the court reporter.

16 MR. ELLIOTT: Roderick Nash Elliott, E-
17 L-L-I-O-T-T.

18 THE COURT: Thank you, sir.

19 **

20 DIRECT EXAMINATION

21 BY MR. EVANS:

22 Q Mr. Elliott, where do you live, sir?

23 A I'm sorry.

24 Q Where do you live?

25 A Estill.

1 Q All right. Estill, South Carolina?

2 A I do.

3 Q In Hampton County?

4 A Yes.

5 Q And have you lived there all your life?

6 A Outside of 5 years in Columbia during
7 college, I've lived in Estill my whole life,
8 yeah.

9 Q All right. Were you in Estill on May
10 the 29th of 2021?

11 A I believe so.

12 Q Do you recall the events of that day?

13 A Yes. I attended a birthday party with
14 my child, and had come back into town, dropped
15 them off at the house, and went to the Galaxy
16 grocery store.

17 Q All right. Is that where you regularly
18 purchased groceries?

19 A Yes.

20 Q So you had been there a number of
21 times?

22 A Yes.

23 Q What happened as you went to the store?

24 A As I got out of my car in the parking
25 lot, I was approaching the entrance to the

1 building, I noticed 2 women having a pretty
2 heated argument outside of the store, you know,
3 cursing at one another, and very animated, and
4 one of the ladies walked into the store as I was
5 walking in.

6 She walked in right in front of me, and the
7 lady that was either in, or by her car, said,
8 "I'll be waiting for you", "Don't worry, I'll be
9 waiting for you when you get out".

10 Q All right. The woman in the parked car
11 was the woman that said that?

12 A Yes.

13 Q And you saw a woman proceeding into the
14 store?

15 A Correct.

16 Q Could you -- did you hear the entire
17 conversation, or did you sort of come in at the
18 tail end?

19 A At kind of the tail-end, yeah.

20 Q All right, and do you recall any other
21 specific, you've given us one, but do you recall
22 any other specific statements that either of
23 them made?

24 A No. Like I said, it was just -- there
25 was some shouting, and some cursing at one

1 another, and the last thing I heard the woman in
2 the car say to the other lady was, "Don't worry,
3 I'll be waiting for you when you come out".

4 Q All right, and what happened after you
5 got inside the store?

6 A I just continued to shop, got my
7 groceries, I don't know, maybe in there 5 to 10
8 minutes. The lady that had walked into the
9 store right in front of me checked out right in
10 front, in the line I was in, right in front of
11 me.

12 As I was checking out, she walks out, and I
13 noticed a car kind of pull up by her, and --

14 Q Could you tell which car it was that
15 pulled up?

16 A I don't recall. I don't recall.

17 Q Because you were, just back up, you
18 were still inside the store --

19 A I was inside the store.

20 Q -- when that happened?

21 A Correct.

22 Q And you were looking out through the
23 front window?

24 A Yeah, through the front window.

25 Q All right.

1 A And I said, I made a comment to the
2 cashier, who I've known, because he'd been
3 working there a while. I said, "I think these 2
4 ladies are probably gonna get in a fight. They
5 were arguing earlier", and at that point, you
6 could see them gesturing back and forth at each
7 other, or I could see the woman gesturing.

8 I couldn't see the woman in the car, as to
9 what she was doing, or saying, I couldn't really
10 hear them from being inside, and the one lady
11 outside of the car, I see her reach into the car
12 like she was trying to maybe hit her, or do
13 something, I don't know, then I hear gunshots.

14 Q And the lady who was reaching into the
15 car, was that the lady that had just checked
16 out?

17 A Correct, yes.

18 Q Okay. Turn back just a moment.

19 A Yep.

20 Q Did you know the woman who was shopping
21 right in front of you, did you notice anything
22 unusual about her behavior inside the store?

23 A No.

24 Q Any commotion, any kind of cursing,
25 like you had heard, and seen, outside the store?

1 A No.

2 Q All right. It was just a normal
3 shopping experience for you --

4 A Yes.

5 Q -- and for her, as far as you could
6 tell?

7 A Yes.

8 Q And, again, and so you saw the actual
9 shooting --

10 A Correct.

11 Q -- from within the store.

12 A Yeah.

13 Q More or less?

14 A Yes.

15 Q Could you actually see someone with the
16 gun, and aim it and fire?

17 A I could not.

18 Q Okay. Did you hear?

19 A I did hear the gunshots.

20 Q Gunshots, plural?

21 A Yeah, I think it was 2 or 3.

22 Q All right, but definitely more than
23 one?

24 A Yes.

25 Q Could you tell where they came from?

1 A It sounded like inside the car, yes.

2 Q Did you call 911, or do anything like
3 that?

4 A I did not. When I heard the gunshots,
5 and kind of put together what had happened, and
6 I saw the one lady kind of run off like she had
7 been shot, and the car kind of started speeding
8 off, I ran out the door, because it's fairly
9 close to the front of the store, and got the
10 license plate number, and relayed it to somebody
11 in the store to call 911.

12 Q All right. So you gave what you could
13 tell, to the best --

14 A Yes.

15 Q -- of your vision, was the license
16 plate --

17 A Correct.

18 Q -- speeding away?

19 A Yeah.

20 Q I'm gonna play a small portion of
21 what's previously entered as State's Exhibit 8,
22 and ask if you can identify yourself.

23 A Okay.

24 Q Here?

25 A Yes.

1 Q Do you need to see it again?

2 A Yeah, if you could.

3 Yeah, there you go. Okay, yep.

4 Q Mr. Elliott, do you see anything that
5 you just described in your testimony on the
6 video so far?

7 A Yep, I think that's me pulling in, in
8 that truck right there, and the two ladies that
9 I viewed arguing with one another.

10 Q All right. This is you?

11 A That is correct.

12 Q Okay, and that would still be you
13 looking to your right there?

14 A Correct.

15 Q Is that when you heard?

16 A I believe so. I mean, that's what it
17 -- for me to be looking back over there towards
18 her, that must've been when she was kind of
19 saying the, "Hey, I'll be waiting for you".

20 Q All right. After all this happened,
21 did you speak to the Estill Police Department
22 about what you had seen and heard?

23 A Yes.

24 Q All right, and did they ask you to
25 write a written statement?

1 A I believe so, yes.

2 Q Okay.

3 A I did, I did write a statement.

4 MR. EVANS: I beg the Court's
5 indulgence.

6 BY MR. EVANS:

7 Q All right. Just to clarify one more
8 time, then I'm gonna turn you over to Mr. Kuhn.
9 What were the words that you heard coming from
10 your right?

11 A To my best recollection, she said,
12 "Don't worry, I'll be waiting for you", there
13 may have been some exploitive in that as well.

14 Q Yeah, fair enough, yep. Those are all
15 the questions I have, Mr. Elliott. Please
16 answer any questions Mr. Kuhn has.

17 A Okay.

18 **

19 **CROSS-EXAMINATION**

20 BY MR. KUHN:

21 Q Mr. Elliott, could have been what you
22 heard, actually been, "Don't worry, the police
23 will be waiting for you when you get out"?

24 A I don't believe so, no.

25 Q Were you focused on that, or were you

1 more shocked about this altercation?

2 A I wouldn't say I was focused on what
3 they were saying, but I -- as I walked up, I'd
4 been listening to it for a minute, and she knew
5 I could've kind of subsided in that, it was --
6 it definitely stood out to me that that's what I
7 heard.

8 Q And from inside the store, you saw the
9 lady who got shot reach inside Ms. Owens car,
10 and start hitting?

11 A I did.

12 Q Up until then, this was purely a verbal
13 altercation?

14 A To the best of my knowledge, yes, sir.

15 Q All right. Thank you.

16 THE COURT: Anything further for Mr.
17 Elliott?

18 MR. EVANS: No, Your Honor.

19 THE COURT: Any objection to Mr.
20 Elliott being excused from anybody?

21 MR. KUHN: No, Your Honor.

22 THE COURT: You're excused. Thank you.
23 Call your next witness.

24 MR. EVANS: The State calls Deshawn
25 Maner.

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DESHAWN MANER,

BEING DULY SWORN TESTIFIED AS FOLLOWS:

THE COURT: Mr. Maner, if you could give us
the record, and state your last name for our
court reporter?

WITNESS: DeShawn Maner, M-A-N-E-R.

THE COURT: Thank you, sir.

**

DIRECT EXAMINATION:

BY MR. EVANS:

Q Mr. Maner, where do you work, sir?

A Now?

Q Yeah.

A Belmont Esso.

COURT REPORTER: I'm sorry, say that
again.

BY WITNESS:

A Belmont, B-E-L-M-O-N-T.

Q And were you ever in law enforcement
before?

A Yes.

Q Where in law enforcement did you work?

A Estill.

Q All in Estill?

1 A Yes.

2 Q At the police department?

3 A Yes.

4 Q Were you a certified officer in May of
5 2021?

6 A Yes.

7 Q How long had you been at the Estill
8 Police Department at that point?

9 A Going on 5 years.

10 Q And what was your rank at that time?

11 A Executive Officer.

12 Q Executive Officer?

13 A Yes.

14 Q What does that mean in English?

15 A Right underneath the Chief, pretty much
16 like an Assistant Chief.

17 Q Assistant, I like that, Assistant
18 Chief. All right. Were you on duty on May the
19 29th of 2021?

20 A No.

21 Q Did you become involved, however, in
22 the case that we're here about?

23 A Yes, I got called in.

24 Q How did you get called in, if you were
25 not on it?

1 A The Chief called me in, and he told me
2 that there was an incident at the -- a shooting
3 at the Galaxy store, and he needed somebody to -
4 - he needed an officer to come in to help with
5 the on-duty officers.

6 Q What was the name of the Chief of
7 Estill PD at that time?

8 A Alex Williams.

9 Q And where was he on May 29th, 2021?

10 A He was out of town.

11 Q Out of town, on a personal trip, or
12 something?

13 A Yes.

14 Q All right. So were you then the
15 highest ranking officer of Estill PD --

16 A Yes.

17 Q -- who was in town?

18 A Yes.

19 Q Okay, and all you were told was that
20 there had been a shooting?

21 A Yes.

22 Q All right, and --

23 A So --

24 Q Oh, go ahead.

25 A There was a shooting at the Galaxy Food

1 Store, and he wanted me to go assist with them.

2 Q There were already officers --

3 A Yes.

4 Q -- on their way, who were on-duty?

5 A Yes.

6 Q Do you recall who was the lead officer
7 who was sent to the Galaxy?

8 A The officer that was on duty was Heany
9 at that time, it was Officer Heany.

10 Q Kevin Heany?

11 A Yes.

12 Q Okay, and when you got word from Chief
13 Williams, what did you do?

14 A First -- or the first thing I did, when
15 I left home, Allendale, when I got into Estill,
16 I went straight to the Galaxy store, and I made
17 contact with Heany. He was downloading the
18 footage of the shooting, and at that time, I
19 left and went to the Police Station.

20 Q All right, so was the scene at Galaxy,
21 more or less, under control?

22 A Yes, it was already taped off, roped
23 off.

24 Q Taped off--

25 A Yes.

1 Q --secure?

2 A Yes.

3 Q Heany didn't need you there?

4 A No.

5 Q Why did you go to the Police Station?

6 A Because, Heany told me that Tiffany was
7 at the Police Station. She came to give her
8 statement.

9 Q All right, and when you say Tiffany,
10 who do you mean?

11 A Ms. Owens.

12 Q You're pointing at the Defendant?

13 A Yes.

14 Q Okay. Did you know her prior to this?

15 A I have seen her, and talked to her here
16 and there.

17 Q Okay.

18 A Yes.

19 Q And you were told that she was waiting
20 at the Police Department?

21 A Yes.

22 Q Where is the Estill Police Department?

23 A It's right behind the Town Hall. It's
24 right next to the Shell gas station.

25 Q All sort of one building, right?

1 A Yes.

2 Q And this may sound like a funny
3 question, but is that in the Town of Estill?

4 A Yes.

5 Q And is the Town of Estill in Hampton
6 County?

7 A Yes.

8 Q What did you find when you got there?

9 A When I got there, it was Deputy
10 Sheriffs, and one of my other Officer's that was
11 on-duty, we pulled up at the same time, and
12 Tiffany was standing on the outside with the
13 Deputies.-

14 Q When you say Deputies, you mean members
15 of the Hampton County Sheriff's Office?

16 A Yes.

17 Q All right, so this didn't become their
18 case?

19 A No.

20 Q All right. Were they just out there to
21 help you?

22 A Yes.

23 Q And sort of be the first people who
24 could get there?

25 A Yes.

1 Q Who was the Officer of Estill that you
2 met there?

3 A Officer Antwaun Duncan.

4 Q All right, and what did you do when you
5 arrived, and you saw the Deputies, and you saw
6 Mr. Duncan there?

7 A The first thing we did, we put her in
8 a, we took her in custody, we put handcuffs on
9 her, and took her inside the building.

10 Q When you say her you mean, again, Ms.
11 Owens, the Defendant?

12 A Yes.

13 Q Okay. Where was she waiting for you?

14 A On the outside, outside the courtroom.

15 Q Was anybody else there with her?

16 A I think her sister, and we had a couple
17 of people there from the victim's side.

18 Q All right. Was there any kind of
19 commotion, any problems, between those 2 groups?

20 A No.

21 Q Okay. Everything was calm?

22 A Yes.

23 Q When you say you took her in custody,
24 what does that mean?

25 A That means we just handcuffed her, and

1 took her inside, so we could get her statement.

2 Q Okay.

3 A Yeah.

4 Q Was she under arrest, or charged with
5 murder, at that time?

6 A Not at that time, no.

7 Q Okay, but she was in custody?

8 A Yes.

9 Q Did you notice anything about her
10 appearance?

11 A I noticed when we was putting the --
12 when we was trying to get the handcuffs on her,
13 and she had a wrist band on, I think her left-
14 hand arm, and evidently, she had some --
15 something was going on with her left arm, so we
16 couldn't put the handcuffs on her, so we had to
17 shackle her feet, so that we, you know, so we
18 can detain her.

19 Q All right. So you ended up not
20 handcuffing her wrist --

21 A Yeah.

22 Q -- like we see on TV.

23 A Yes.

24 Q You ended up handcuffing --

25 A Yes.

1 Q -- her legs.

2 A Yes.

3 Q Okay, but that secured her sufficiently
4 for your safety --

5 A Yes.

6 Q -- and everybody else's?

7 A Yeah.

8 Q Okay. Did you notice any injuries
9 about her?

10 A Only the wrist thing.

11 Q Only the wrist?

12 A Yes.

13 Q What happened after you had her legs
14 shackled?

15 A Well, we escorted her inside the actual
16 police office, and we started doing the
17 paperwork, and she started giving us a statement
18 of what happened.

19 Q Now, did anybody read her, her Mianda
20 rights? I meant to say, did you personally read
21 her any Maranda rights?

22 A No, I did not.

23 Q Okay. Did anybody interview her
24 formally?

25 A No.

1 Q Okay. So you were just sort of getting
2 the file started at that point?

3 A Yes.

4 Q Okay. Let me ask you this, were you
5 wearing a body-camera during all this?

6 A Yes.

7 Q Okay, and did you hit the correct
8 button to record your actions, at least from the
9 perspective of that camera?

10 A Yes.

11 Q Where does the camera sit on your
12 person when you wear it?

13 A Right here-on the chest.

14 Q Right on your chest?

15 A Yes.

16 Q So it's not exactly showing what your
17 eyes are showing, but it's facing out --

18 A Yes.

19 Q -- from where you are?

20 A Yes.

21 Q And did -- so you did hit the button,
22 and --

23 A Yes.

24 Q -- made a couple of recordings?

25 A Yes. As a matter of fact, usually

1 before, when I go to a scene, before I get out
2 the vehicle, I usually hit the button to start
3 the recording before I get out, because it's a
4 30-second delay of the voice recording, so --

5 Q Oh, I see.

6 A Yeah.

7 Q So the visual comes on before the
8 voice?

9 A Yes.

10 Q And you had that running when you were
11 with her at the Estill Police Department?

12 A Yes.

13 Q We're gonna move to enter in just a
14 moment, but I'm gonna move on, very briefly to
15 did you do anything in the investigation the
16 same day after seeing her at the Estill Police
17 Department?

18 A After the Estill Police Department, I
19 left the Police Department, and went to the home
20 of her mom's.

21 Q Okay, is that also --

22 A I think that's where she reside, at
23 that time.

24 Q That's, to the best of your
25 knowledge --

1 A Yes.

2 Q -- that's where the Defendant lived?

3 A Yes.

4 Q Do you recall that address?

5 A Not off the top of my head.

6 Q Would it have been on Rooster --

7 A Yes.

8 Q -- Ridge?

9 A Yes.

10 Q Also in Estill?

11 A Yes.

12 Q And in Hampton County?

13 A Yes.

14 Q And did you go straight there after
15 dealing with Ms. Owens at the Police Department?

16 A Yes.

17 Q Was your body-cam running on that
18 occasion as well?

19 A Yes.

20 Q I'm going to pass you what's been
21 previously marked, but not yet entered, as
22 State's Exhibit 9. Do you recognize this?

23 A Yes.

24 Q What is that?

25 A That's the disk from my camera?

1 Q The body-camera segments that we
2 discussed here this morning?

3 A Yes.

4 Q And does it -- how do you know that
5 this is the same?

6 A Because --

7 Q Did we review it --

8 A Yes.

9 Q -- prior to your testimony?

10 A Yes.

11 Q Did you initial, and date it?

12 A Yes.

13 Q Does it contain portions of the same
14 body-cameras that we've been discussing here?

15 A Yes.

16 Q Do they appear, other than being edited
17 down a little bit for time, do they appear to be
18 changed, or altered, in any way?

19 A No.

20 Q Are they a fair, and accurate,
21 representation of what you saw, and heard, on
22 May 29th, 2021?

23 A Yes.

24 MR. EVANS: Your Honor, the State would
25 move State's Exhibit 9, the disk, and the 3

1 videos on it, into evidence as State's Exhibit
2 9.

3 THE COURT: Without objection?

4 MR. KUHN: No objection.

5 (State's Exhibit 9 was admitted into
6 evidence.)

7 MR. EVANS: May we go ahead and publish
8 those, Your Honor?

9 THE COURT: Go ahead.

10 (Video being played for the jury)

11 BY MR. EVANS:

12 Q I'm just going to pause it very
13 briefly, Mr. Maner. What was that that you were
14 doing with the leg shackles, with that little
15 tool that we see?

16 A I was locking them, so they won't get
17 too tight on her legs.

18 Q Trying to make sure that they were
19 secure, but comfortable?

20 A Yes.

21 Q Okay.

22 (Vide being played for the jury)

23 BY MR. EVANS:

24 Q And at this point, which for the record
25 is 3 minutes and 10 seconds into the video,

1 she's gone inside?

2 A Yes.

3 Q Is that correct?

4 A Yes.

5 Q All right, and did you ever yourself,
6 proceed inside the building?

7 A Yes.

8 Q Is that captured on another portion of
9 this video?

10 A Yes.

11 MR. EVANS: Just for the record, the
12 file name for that first portion is 9.1. We're
13 now going to publish 9.2 with the Court's
14 permission, and let's skip ahead, Mr. Clapp.

15 BY MR. EVANS:

16 Q While we're going forward to get up to
17 the 3-minute mark, Mr. Maner, are you just, are
18 you investigating at this point, or just, you
19 know, still getting started?

20 A Still getting started. I'm pretty much
21 doing the paperwork.

22 Q Still doing the paperwork. Who's this
23 gentlemen, here at the desk?

24 A That's Antwaun Duncan.

25 Q All right. Was he a certified officer

1 at that point?

2 A Yes.

3 Q Okay. Was he new to the Estill Police
4 Department?

5 A He's new.

6 MR. EVANS: All right, and for the
7 record, Judge, we've published from 2:58 to 3:28
8 of 9.2

9 BY MR. EVANS:

10 Q You testified a moment ago about then
11 proceeding out to Rooster Ridge?

12 A Yes, Rooster Ridge.

13 Q Did I get the name right? - Rooster
14 Ridge Road?

15 A Yes.

16 Q Where you understood the Defendant's
17 mother to live?

18 A Yes.

19 Q Why did you go out there?

20 A Because that's where I was told that
21 she was, where Tiffany was last seen at, and
22 that's where her car was at.

23 Q All right.

24 A Yes.

25 Q And were there already officers there,

1 or at least on the way?

2 A Yes.

3 Q Okay, and was there body-cam video --

4 A Yes.

5 Q -- of this as well?

6 MR. EVANS: All right, we're gonna
7 publish that now, Judge. It's 9.3.

8 (Video being played for the jury)

9 BY MR. EVANS:

10 Q All right, Mr. Maner, I'm gonna pause
11 it there. For the record, that's at the 3, 3:30
12 mark, on the lower left time stamp. What are
13 you doing at this point in your body-cam video?

14 A Over there looking for the gun.

15 Q All right, and is that because you were
16 given an indication that it might be over there?

17 A Yes.

18 Q Were you able to find it, find the gun
19 on May 29th, 2021?

20 A No.

21 Q Were you ever able to find it?

22 A Yes.

23 Q We'll get to there later, but did you
24 search in this wooded area for a bit?

25 A Yes.

1 Q All right. After you weren't able to
2 find it, did you make your way back towards the
3 vehicle?

4 A Yes.

5 MR. EVANS: All right, let's go ahead
6 to the 10:40 mark, Mr. Clapp. That'll work.
7 All right, we're gonna pick it up from 10:00.

8 BY MR. EVANS:

9 Q Mr. Maner, I've paused it at the 11:41
10 mark, and I'm gonna --

11 MR. EVANS: May I approach the witness,
12 Judge?

13 THE COURT: You may.

14 BY MR. EVANS:

15 Q I can hear you snapping some pictures
16 with your phone; is that what we heard?

17 A Yes.

18 Q I'm gonna pass you what's been marked
19 as State's Exhibit 22. Do you recognize that
20 photograph?

21 A Yes.

22 Q What is that a photo of?

23 A That's a photo of me taking a picture
24 of the shell casing.

25 Q Could this be one of the photos we just

1 heard you taking --

2 A Yeah.

3 Q -- in the video?

4 A Yeah.

5 Q All right, and does it fairly and
6 accurately represent the way the inside of the
7 car looks?

8 A Yes.

9 Q On May 29th, 2021?

10 A Yes.

11 MR. EVANS: Your Honor, the State would
12 move this photograph into evidence as State's
13 Exhibit 22.

14 MR. KUHN: No objection, Your Honor.

15 THE COURT: Without objection. Thank
16 you, sir.

17 (State's Exhibit 22 was admitted into
18 evidence.)

19 BY MR. EVANS:

20 Q All right, and what do we see in
21 State's Exhibit 22, Mr. Maner?

22 A The inside of the car, from the
23 passenger side, is the keys of the victim, and
24 the shell casing.

25 Q Would you mind pointing that out?

1 A That's the victim's keys, and the shell
2 casing.

3 Q All right. How can you tell that they
4 were the victim's keys?

5 A Because the red J on it, and the victim
6 said that when they was fighting, the keys flew
7 out her hand inside the car.

8 Q All right, and you said there was a
9 shell casing as well?

10 A Yes.

11 Q You pointed that out in the photograph.

12 A Yes.

13 Q All right. Did you'all end up like
14 that?

15 Are we gonna see that in the body-cam
16 video?

17 A Yes.

18 Q Okay.

19 (Video being played for the jury)

20 BY MR. EVANS:

21 Q Who is the female officer that we see?

22 A That's Officer Smith.

23 Q What's her first name?

24 A Shamae.

25 Q Shamae?

1 A Yes.

2 Q All right, and she was with the Estill
3 PD at that point?

4 A Yes.

5 Q All right. Was she under you, I take
6 at as --

7 A Yes.

8 Q -- you were the Assistant Chief more or
9 less?

10 A Yes.

11 Q Okay.

12 (Video being played for the jury)

13 MR. EVANS: And that's paused at the 8:35
14 mark. Let's go to 18:02, Mr. Clapp. We're at
15 17:59.

16 (Video being played for the jury.)

17 BY MR. EVANS:

18 Q All right. What's Ms. Smith doing at
19 that point?

20 A She's, at that point, we were just
21 putting the shell casing inside of the evidence
22 bag.

23 Q All right.

24 A And when she was putting the
25 information on it, the case number, and time

1 stamp, and everything.

2 Q And what's the purpose of doing all
3 that?

4 A So that we can make sure that
5 everything is sealed and collected for evidence
6 to send off to SLED.

7 Q Okay. I'm passing you what's been
8 previously marked as State's Exhibit 3.

9 Do you recognize that item?

10 A Yes.

11 Q What is that?

12 A That's the envelope where we put the
13 shell casing inside.

14 Q Is it just the envelope, or is the
15 shell casing there as well?

16 A The shell casing is supposed to be
17 inside.

18 Q Well, I'll point you towards it. Is
19 that the shell casing?

20 A Oh, yeah.

21 Q But this is the same envelope where you
22 saw her start to draw it on the video?

23 A Yes.

24 Q How can you tell that?

25 A Because that's the same information

1 that we put on.

2 Q Got her name, and your name?

3 A Yes.

4 Q Okay, and the date, and the case
5 number?

6 A Yes.

7

8 MR. EVANS: Your Honor, the State would
9 move this shell casing in the envelope into
10 evidence as State's Exhibit 3.

11 MR. KUHN: No objection, Your Honor.

12 THE COURT: Without objection, into
13 evidence.

14 (State's Exhibit 3 was admitted into
15 evidence.)

16 BY MR. EVANS:

17 Q So that's the shell casing that you
18 found with Officer Shamae Smith?

19 A Yes.

20 Q In the Defendant's vehicle?

21 A Yes.

22 Q All right.

23

24 MR. EVANS: May I approach the witness,
25 Your Honor?

1 THE COURT: You may.

2 BY MR. EVANS:

3 Q I'm going to turn back to one of the
4 earlier body-camera videos, and show you 2 more
5 photographs. These have been previously marked
6 as State's Exhibit 10 and 11. Do you recognize
7 those photos?

8 A Yes.

9 Q What are those?

10 A Those are photos of Tiffany. It looks
11 like she has scratch marks on her chest, and her
12 arm.

13 Q Yeah, okay. So Exhibit 10 is one
14 photograph of Ms. Owens, and 11 is another angle
15 of her?

16 A Yes.

17 Q All right. Are these photographs that
18 you took, or are they screenshots from the body-
19 cam 9.1 that we just watched?

20 A Yes.

21 Q Screenshots from the body-cam?

22 A Yes.

23 Q Okay. So we've seen these already,
24 these are just still versions of them?

25 A Yes.

1 Q And do they, again, do they fairly and
2 accurately depict the way that she looks on the
3 body-cam, and in your memory, on May 29th, 2021?

4 A Yes.

5 MR. EVANS: Your Honor, the State would
6 move these photos in as State's Exhibit 10 and
7 11.

8 MR. KUHN: No objection, Your Honor.

9 THE COURT: Without objection.

10 (State's Exhibit 10 was admitted into
11 evidence.)

12 BY MR. EVANS:

13 Q What else, if anything, did you do on
14 May the 29th, 2021, as part of this
15 investigation?

16 A Pretty much, actually, I called the
17 Chief, and gave a update on everything that was
18 going on, because like I said, he was out of
19 town.

20 Q He was out of town, and you wanted --
21 but this was a significant incident?

22 A Yes.

23 Q So you wanted him to be up-to-date?

24 A Yes.

25 Q Okay. Was it your case? Were you the

1 assigned case officer?

2 A No.

3 Q Okay, and that was Mr. Heany?

4 A Yes.

5 Q All right. So after you had taken her
6 into custody, been out to her and her mother's
7 home, was that more or less, the end of your
8 role on that day?

9 A Yes.

10 Q Okay. What, if anything, did you do 2
11 days later in this case?

12 A 2 days later, I was on day shift,
13 Miller and myself, and --

14 Q Tell us who Miller is.

15 A Officer Miller is another Officer that
16 works with the Estill Police Department.

17 Q What is his first name?

18 A Marcus Miller.

19 Q Marcus Miller?

20 A Yes.

21 Q Does he still work with the Estill PD?

22 A No, he does not.

23 Q Where does he work now? Do you know?

24 A He works out of town in Savannah.

25 Q Okay.

1 A I think he just started a SRO position.

2 Q What's an SRO?

3 A Student Resource Officer.

4 Q Okay. So he's gonna be a school police
5 officer out-of-state?

6 A Yes.

7 Q Okay, but at the time he was at the
8 Estill Police Department?

9 A Yes.

10 Q And were you and he both on duty on May
11 the 31st?

12 A Yes.

13 Q Would that have been Memorial Day?

14 A Yes.

15 Q What did you do on Memorial Day, when
16 you were both on duty?

17 A We both went back to the residence of
18 Tiffany's mom.

19 Q The same one that we saw in State's
20 9.3?

21 A Yes.

22 Q The white home by the woods?

23 A Yes.

24 Q Why did you go back to that scene?

25 A Because we never found the gun, and we

1 knew that she tossed it back there, so we were
2 just trying to get another look at it, because
3 it was early in that day, and on the 29th it was
4 late in the evening, and it was getting dark.
5 So that's why we decided to come back on that
6 other day.

7 Q Okay, and did you have any other
8 assistance, you and Officer Miller?

9 A Yeah, it was the * K-9 unit that came
10 out with their dog.

11 Q And what does a K-9 dog, police dog, do
12 in that sort of situation?

13 A Usually they -- it depends on the
14 situation, they usually good for hunting down
15 victims, drugs, any kind of weapons, anything.
16 They usually good at finding weapons, and
17 everything.

18 Q They use their nose to --

19 A Yes.

20 Q -- match the smell?

21 A Yes.

22 Q Okay. Are you trained in that?

23 A No.

24 Q That's a pretty specialized field,
25 right?

1 A Yes.

2 Q Does Estill PD, at that time, or now,
3 if you know, you don't have a K-9?

4 A No.

5 Q Okay. So is it common for you to bring
6 another agency?

7 A Yes.

8 Q It's common for agencies to help each
9 other out?

10 A Yes.

11 Q Okay, and did you actually ask * to
12 come out with the dog?

13 A Yes.

14 Q What did they offer, if you recall, the
15 dog to get a scent to start looking for
16 whatever?

17 A Yes. They got, the * unit came, and we
18 asked them to actually go out, and see if they
19 could find the gun.

20 Q Okay, and did that give you a good
21 place to start looking?

22 A Yeah, the dog hinted on a certain area,
23 but at that time it was a lot of overgrown, and
24 a lot of over-brushing. The dog couldn't go in,
25 and the officer didn't want to get his dog hurt,

1 so he pulled the dog back up.

2 Q Okay, so it was pretty thick back
3 there?

4 A Yes.

5 Q But it gave you a good idea of where to
6 start?

7 A Yes.

8 Q And this, again, 2 days later on May
9 the 31st?

10 A Yes.

11 Q Did you find the gun?

12 A No.

13 Q Who did?

14 A Officer Miller did.

15 Q Officer Miller did?

16 A Yes.

17 Q Were you in his presence the whole
18 time?

19 A Yes.

20 Q Did you see the moment when he found
21 it?

22 A Yes.

23 Q And did you'all collect it at that
24 point?

25 A Yes, before we collected it, we took a

1 picture of the area, and then we collected the
2 gun.

3 Q Could you describe, generally, based on
4 the videos that we've seen so far, were, you
5 know, in 9.3, the first segment, when you
6 started looking, were you on the right track,
7 based on what you learned 2 days later?

8 A Yes. The mom told us to go in the
9 right direction, based on that, the left side of
10 the house, right side of the house, all the way
11 to the back, and that's in the overgrown area.
12 That's where we found the gun at.

13 Q Okay. Just not on that day, 2 days
14 later?

15 A Yes.

16 Q All right, and you said you took
17 photographs of it?

18 A Yes.

19 Q I'm gonna pass you what have been
20 marked as State's Exhibits 29 and 30. Do you
21 recognize those photos?

22 A Yes.

23 Q What are those, by number?

24 A That's the overgrown lot, that was in
25 the back side of her mom's house, where we found

1 the gun.

2 Q And you're holding in your left hand,
3 29?

4 A Yes.

5 Q Okay. How about 30? What's the
6 difference between 29 and 30?

7 A It's a blown-up view, zoomed in on the
8 gun, so that we could see that's the gun.

9 Q Okay.

10 A This is our view, and this is more
11 zoomed in.

12 Q Got it. Both of these are photos of
13 the gun --

14 A Yes.

15 Q -- before you picked it up?

16 A Yes.

17 Q One's further and one's close?

18 A Yes.

19 MR. EVANS: All right. Your Honor, the
20 State would move these photos into evidence as
21 State's 29 and 30.

22 MR. KUHN: No objection, Your Honor.

23 THE COURT: Without objection.

24 (State's Exhibit 29 and 30 was admitted
25 into evidence.)

1 BY MR. EVANS:

2 Q Then after these photos were taken, you
3 and Officer Miller collected this firearm?

4 A Yes.

5 Q All right. Did he pick it up,
6 physically, or did you?

7 A He did.

8 Q He did.

9 MR. EVANS: May I approach the witness,
10 Your Honor?

11 THE COURT: You may.

12 BY MR. EVANS:

13 Q I'm gonna pass you what's been marked
14 as State's Exhibit 1, and ask if you recognize
15 that?

16 A Yes.

17 Q What is that?

18 A That's the evidence box that we put the
19 gun in.

20 Q All right. Does it have Officer
21 Miller's name on it?

22 A Yes.

23 Q And the case number, and date from this
24 incident?

25 A Yes.

1 Q All right. What's inside of State's
2 Exhibit 1?

3 A That's the gun that we found.

4 Q All right, and that's been marked as
5 1.1?

6 A Yes.

7 Q All right. How about what's been
8 marked as State's 1.2, do you recognize that?

9 A Yes.

10 Q What is that?

11 A That's the clip that came out the gun.

12 Q And how is that --

13 COURT REPORTER: I'm sorry, it was
14 what, 1.2?

15 BY MR. EVANS:

16 Q Repeat yourself for the Court Reporter.

17 A That was it, the clip that came out of
18 the gun.

19 MR. EVANS: Thank you, I'm sorry.

20 BY MR. EVANS:

21 Q I need to slow down, so she can get
22 your answers. What about State's 1.3, do you
23 know what that is?

24 A Yes, that's a bullet that came out of
25 the gun.

1 Q All right.

2 A Out of the clip.

3 Q Okay.

4 MR. EVANS: Your Honor --

5 BY MR. EVANS:

6 Q Have these been changed or altered in
7 any way?

8 A No.

9 Q All right, and what about this orange
10 thing that's inside the gun? What is that; do
11 you know?

12 A That's a gun safety, so that we -- it
13 can't be shot at anybody.

14 Q It can't be fired here in the
15 courtroom, correct?

16 A No.

17 Q All right, and all this was collected
18 by you and Mr. Miller on May 31st, 2021?

19 A Yes.

20 MR. EVANS: Your Honor, the State would
21 move State's Exhibit 1, 1.1, 1.2, and 1.3 into
22 evidence at this time.

23 THE COURT: Without objection?

24 MR. KUHN: No objection.

25 THE COURT: Okay. The safety's on,

1 correct?

2 MR. EVANS: Yes, ma'am.

3 THE COURT: Thank you.

4 (State's Exhibit 1, 1.1-1.3 were admitted
5 into evidence.)

6 MR. EVANS: I beg the Court's indulgence.

7 BY MR. EVANS:

8 Q Those are all the questions I have, Mr.
9 Maner. Please answer any questions Mr. Kuhn may
10 have.

11 MR. KUHN: May it please the Court?

12 **

13 **CROSS-EXAMINATION**

14 BY MR. KUHN:

15 Q Mr. Maner, if I understand correctly,
16 when you arrived at the Estill Police
17 Department, Tiffany was already there waiting on
18 the Police; Is that correct?

19 A Yes, sir.

20 Q And while she was there, she asked the
21 young officer, the new officer, to take
22 photographs of injuries that she had sustained
23 from Ms. Johnson's assault; is that correct?

24 A Yes, sir.

25 Q Were those photographs ever taken?

1 A I don't know.

2 Q The only evidence that we have, that
3 you know of, of the injuries that Tiffany
4 sustained are just what happened to show up on
5 the video; is that correct?

6 A Yes, sir.

7 Q After you went to the Estill Police
8 Department, had Tiffany handcuffed, you went to
9 Tiffany's mom's house; is that right?

10 A Yes.

11 Q And you went there because Tiffany had
12 said that's where she put the gun -- threw the
13 gun?

14 A No, Tiffany didn't say that.

15 Q Her mom said that?

16 A Her mom.

17 Q Her mom said it.

18 A The mom said she threw something, she
19 seen her throw something in the back., so we
20 just automatically assumed that that's what it
21 was.

22 Q Well, one of the black ladies you're
23 talking to in the video at the house, they're
24 saying, "Go out back". That's Tiffany's mom?

25 A Yes.

1 Q Do you know who the other one was?

2 That was her sister?

3 A Her sister, yes.

4 Q So they're telling you where to go look
5 for the gun?

6 A Uh-huh.

7 Q And lo and behold, 2 days later, that's
8 where you find the gun?

9 A Yes.

10 Q And they gave you permission to search
11 her car?

12 A Oh, we wasn't searching the car.

13 Q Well, you had permission to go in the
14 car. You got the keys that belong to Ms.

15 Johnson --

16 A Uh-huh.

17 Q -- and you got the shell case; is that
18 correct?

19 A Yes.

20 Q Nobody objected, nobody tried to stop
21 you?

22 A No.

23 Q Her mom assisted, correct?

24 A Yes.

25 Q They were being cooperative, would that

1 be fair to say?

2 A Yes, yes.

3 Q That's all I have.

4 MR. EVANS: Briefly, Your Honor.

5 **

6 **REDIRECT EXAMINATION**

7 BY MR. EVANS:

8 Q Did Ms. Owens ask to go to the
9 hospital, or receive any treatment, in the time
10 that you were in her presence?

11 A No.

12 Q Concerning the vehicle that we saw you
13 looking inside, the black Honda was it?

14 A Yes.

15 Q At Rooster Ridge, where did that
16 vehicle go after you'all were through with it
17 there?

18 A Our impound yard.

19 Q And it -- why is that?

20 A Because that was the vehicle that the
21 incident occurred in, and we always impound that
22 vehicle.

23 Q All right.

24 A And we keep it for whenever we have
25 cases like this.

1 Q Were you'all planning to do a more
2 exhaustive search of the vehicle later on?

3 A Yes, yes.

4 Q Okay.

5 A And we cannot touch it, because we
6 didn't have a search warrant at that time.

7 Q You did go inside it.

8 A Yes, because the reason we were going
9 inside of --

10 Q Tell us why.

11 A -- because whenever we tow a vehicle,
12 we have to get the mileage, and the information
13 off the car, so I had to get the keys, and turn
14 it on to actually get the mileage.

15 Q Okay.

16 A And we also have to take a picture of
17 what's inside, or take an inventory, or what's
18 inside the vehicle, so that we, if anything get
19 missing, or if the owner of the vehicle can't
20 say that, you know, something was missing out of
21 the car.

22 Q Okay.

23 A So we do an inventory of what's in the
24 car.

25 Q Because you don't know what direction

1 this case is going in?

2 A No.

3 Q All right, and in the process of making
4 those general observations before it could be
5 towed, that's when you saw the shell casing, and
6 the keys?

7 A Yeah, that was in plain view, yes. As
8 I went around the passenger side to actually get
9 the registration, so I can put down the
10 information of the vehicle, that's when I seen
11 it, and we just took pictures of everything that
12 was inside the car. It was in plain view. So
13 that we, nothing won't get missing, or --

14 Q Because you didn't turn the car upside
15 down --

16 A No.

17 Q -- looking for anything--

18 A No.

19 Q -- and everything --

20 A No.

21 Q Okay. You had it, we didn't see in the
22 video, but it was eventually towed to a lot?

23 A Yes.

24 Q Okay. Also in the City of Estill?

25 A Yes.

1 MR. EVANS: Nothing further.

2 THE COURT: Anything further?

3 MR. KUHN: No, Your Honor. Thank you.

4 THE COURT: Any objection to this
5 witness being excused?

6 MR. EVANS: None, Your Honor.

7 THE COURT: You're excused, sir. Thank
8 you. You want to call your next witness?

9 MR. EVANS: The State calls Kevin
10 Heany.

11 **

12 KEVIN HEANY,

13 BEING DULY SWORN TESTIFIED AS FOLLOWS:

14 ***

15 THE COURT: Sir, if you could give us
16 your name for the record, and spell your last
17 name for the Court Reporter?

18 WITNESS: Lieutenant Kevin Arthur
19 Heany, last name I H-E-A-N, like in November, -
20 Y.

21 THE COURT: Thank you, sir.

22 **

23 DIRECT EXAMINATION

24 BY MR. EVANS:

25 Q Lieutenant, where do you work, sir?

1 A Estill Police Department.

2 Q All right, and have you been at Estill
3 PD for a while?

4 A Since January of 2021.

5 Q Okay. Where, if anywhere, in law
6 enforcement did you work before January 2021?

7 A Over in Port Royal, and then prior to
8 that, Beaufort County.

9 Q Okay, so all here in the 14th Circuit
10 Low Country area?

11 A Yes, sir.

12 Q About how many years have you been a
13 police officer?

14 A Roughly 23.

15 Q 23, and so you started at Estill PD in
16 January of 2021?

17 A Yes, sir.

18 Q Do you recall the events of May the
19 29th of 2021?

20 A Yes, sir.

21 Q Were you on duty that day?

22 A Yes, sir.

23 Q How did you become involved in this
24 case that we're here about today?

25 A We were dispatched to Galaxy. We were

1 told that there was a woman complaining that her
2 daughter was being harassed inside the grocery
3 store, and then while in route, we were told
4 that somebody had been shot.

5 Q So, initially, you were going there not
6 expecting a homicide investigation, just sort of
7 a public disorderly type of thing?

8 A That's correct, sir.

9 Q Based on the first 911 call?

10 A Yes, sir.

11 Q And when you say the Galaxy, do you
12 mean the grocery store on Columbia Highway?

13 A Yes, sir.

14 Q That's in -- and that's in the Town of
15 Estill?

16 A Yes, sir.

17 Q In Hampton County?

18 A Yes, sir.

19 Q So you learned that the situation
20 changed while you were still on your way?

21 A Yes, sir.

22 Q About how far out were you when you
23 learned that?

24 A I was over in Zone 2.

25 Q What does that mean for most of us who

1 aren't Estill Police Officers?

2 A I'm sorry.

3 Q It's okay.

4 A I was over near Morrison Avenue.

5 Q Okay.

6 A 5 minutes away, maybe.

7 Q Uh-huh. That's when you learned that
8 the situation had changed?

9 A Yes, sir.

10 Q Did you speed up at that point?

11 A Yes, sir.

12 Q Okay. What -- about how long did it
13 take you to get from Morrison Avenue to Galaxy?

14 A Probably less than 5 minutes.

15 Q Okay, running lights, and doing
16 everything police officers would need to do?

17 A Yes, sir.

18 Q What did you find when you got there?

19 A I saw Ms. Deloach over by a vehicle.
20 There was another lady on the ground, which knew
21 the victim.

22 Q Did you know the victim, prior to this
23 day?

24 A Not that I can recall, sir.

25 Q Okay, but you learned her name later?

1 A Yes, sir.

2 Q What was her name?

3 A Tijuanna Johnson.

4 Q Okay, and Ms. Deloach, did you know her
5 from being an Estill Police Officer?

6 A We've met a couple times, yes, sir.

7 Q Okay. What was Ms. Deloach doing, and
8 what was Ms. Johnson doing, when you arrived?

9 A Ms. Johnson was lying on the ground
10 between, I later learned it was her vehicle, and
11 a red pickup truck. Ms. Deloach was attempting
12 to stem the flow of blood from a frontal gunshot
13 wound. I'm sorry.

14 Q Had you been at any gunshot scenes
15 before, in your more than 20 years of
16 experience?

17 A I'd been to a couple.

18 Q Okay.

19 A I went back to my vehicle and got my
20 med kit out. I had been advised that EMS was
21 already on the way, but when I looked at the
22 victim, I noted that there was also an exit
23 wound from behind, and that there was some
24 frothing blood coming out. In my experience of
25 assault, as a police officer, is that indicates

1 what we call a sucking chest wound.

2 Q Okay.

3 A A sucking wound. She was gonna have
4 trouble breathing, so I took the plastic
5 wrappings off of 2 bandages, and had her place
6 one on either side to create the vacuum back in
7 her abdomen, so that she could breathe easier.

8 Q So you're taking your military and law
9 enforcement, I mean, you're not a paramedic, or
10 an EMT, or a doctor, but you have some in the
11 field type of --

12 A Yes, sir.

13 Q -- emergency training. Were you doing
14 everything you could to save Ms. Johnson's life?

15 A Trying.

16 Q Trying. About how long did it take for
17 Ms. Meyer, and the paramedics to arrive?

18 A To tell you the truth, sir. I don't
19 know. The Chief was there, the Fire Chief was
20 there, got there, he was coordinating that.
21 When I spoke with him, he said he was
22 coordinating getting a helicopter to fly her
23 out. The way we do things is, we stop the
24 killing, we stop the dying, and then we start
25 worrying about --

1 Q Yeah.

2 A -- securing the scene.

3 Q Yeah.

4 A And the evidence. In this case --

5 Q But had you secured the scene enough
6 for EMS to get there?

7 A Oh, yes, sir.

8 Q Okay

9 A We -- there was nobody there that was a
10 threat at that point.

11 Q All right. After EMS arrived, did they
12 take Ms. Johnson away?

13 A Yes, sir.

14 Q And is that when you began your
15 investigation, you know, proper?

16 A Yes, sir.

17 Q What did you do to start?

18 A Corded off the area, put up crime scene
19 tape. I had already asked a few people, you
20 know, looking for witnesses during the whole
21 process, but for the most part, I didn't
22 actually start the processing scene until we'd
23 gotten Ms. Johnson on her way to go get some
24 help.

25 Q The emergency was over, at least as far

1 as your part in it, correct?

2 A Yes, sir.

3 Q Okay, and so you started asking who had
4 seen what, and who would be --

5 A Yes, sir.

6 Q -- able to help. Did you document the
7 scene in any way?

8 A Well, I had my body-camera on. I
9 believe by that point I had learned that the
10 Galaxy had a camera facing that direction.

11 Q Did you take any still photographs
12 yourself --

13 A Yes, sir.

14 Q -- of the scene?

15 A I ran around taking digital images of
16 the entire scene, as many as I felt necessary,
17 and in this case, a lot were necessary.

18 MR. EVANS: May I approach the witness,
19 Your Honor?

20 THE COURT: You may.

21 BY MR. EVANS:

22 Q I'm going to pass you, Officer,
23 Lieutenant?

24 A I'm a lietenant now?

25 Q What was your rank then?

1 A Just a patrolman.

2 Q Patrolman, all right. Well, you're a
3 lieutenant now, so I'll give you credit.
4 Lieutenant, I'm gonna give you what have been
5 marked as State's Exhibit 12, 14, 15, 16, 17,
6 18, and 19, and I'm gonna ask if you recognize
7 those. Just look through them quickly.

8 A Yes, sir.

9 Q Are those some of the pictures that you
10 took at Galaxy on May 29th, 2021?

11 A Yes, sir.

12 Q Have they been changed, or altered, in
13 any way?

14 A Not that I can see.

15 Q Do they fairly, and accurately, depict
16 the way that the scene looked on May 29th, 2021?

17 A Yes, sir.

18 MR. EVANS: Your Honor, the State would
19 move these photographs into evidence as 12, 14,
20 15, 16, 17, 18, and 19.

21 THE COURT: Without objection?

22 MR. KUHN: No objection.

23 THE COURT: All right.

24 (State's Exhibit 12, 14-19 were admitted
25 into evidence.)

1 MR. EVANS: And we'll publish with our
2 monitor.

3 THE COURT: Yes.

4 BY MR. EVANS:

5 Q Can you see that okay, Lieutenant?

6 A Yes, sir.

7 Q I'm gonna ask you, and we got some
8 photographs, I think, that are already in, but
9 I'm gonna ask you to tell us what we see as we
10 walk through these one-by-one, and I'm gonna
11 make sure to hang onto these, so that I can
12 refer to the Exhibit numbers as we go. Is that
13 State's Exhibit 12, the same one I just showed
14 you?

15 A Yes, sir.

16 Q All right. What do we see in State's
17 Exhibit 12?

18 A You're looking from the parking lot of
19 the Galaxy Food Store in Estill. From where I
20 was standing, I was closer to 321, taking it
21 from a distance. You've got the crime scene
22 tape that I put up around the area, and
23 everything inside that area was my crime scene.

24 Q So the shopping carts indicate, those
25 weren't there when you arrived?

1 A No, sir. I used those just to hold the
2 tape.

3 Q Okay, and how about these vehicles on
4 the right. What are those? I mean, obviously,
5 they're automobiles, but were either of them
6 significant to your case?

7 A Yes, sir. One of them was Tijuanna
8 Johnson's vehicle. The other was just a vehicle
9 that was in the parking lot next to hers.

10 Q All right. When we're looking at it,
11 we've got a red pickup, and a black sedan.
12 Which one is Ms. Johnson's?

13 A The black sedan.

14 Q This one here that I'm pointing to with
15 my pen --

16 A Yes, sir.

17 Q -- on the right of the photograph.
18 Okay. How about State's Exhibit 13? What do we
19 see in State's Exhibit 13? Did you take this
20 one as well?

21 A I believe so, sir.

22 Q Okay. What does that depict?

23 A That's the entrance that was used. I'm
24 standing closer to the red pickup that you saw
25 in the prior photo. That's the entrance that

1 both, Ms. Owens and Ms. Johnson used to enter
2 and exit the store.

3 Q Is that the only public entrance and
4 exit to the store?

5 A There's an entrance on the other side
6 of that --

7 Q Foyer, I guess you'd call it maybe?

8 A -- yeah, that's it.

9 Q All right. How about up here where I'm
10 pointing? You can see that? I'll give you a
11 hard copy as well.

12 A Yeah, that's the video camera at one of
13 the doors.

14 Q Okay, and you -- I think you touched on
15 this already, you've got a copy of the video
16 camera from Ms. Deloach, Ms. Copeland.

17 A Yes.

18 Q Not of the camera, of the video that
19 the camera captured.

20 A We've got a video that that camera
21 depicts.

22 Q All right. How about State's Exhibit
23 14? Is this another angle of --

24 A Yes, sir.

25 Q -- those vehicles.

1 A That's over by hilltop.

2 Q Okay, and so the black sedan is the
3 same one we saw in 12?

4 A Yes.

5 Q That's Ms. Johnson's vehicle. Go to
6 15, Mr. Clapp. What are we seeing in State's
7 Exhibit 15?

8 A Well, because a shell casing is small,
9 I used one of my gloves to mark where it was on
10 the pavement in relation to the red pickup, and
11 Ms. Johnson's vehicle.

12 Q So this glove here, that sort of neon
13 green one.

14 A Uh-huh.

15 Q That's yours, that wasn't part of the
16 scene when you arrived?

17 A That's mine.

18 Q And you said you were marking a shell
19 casing?

20 A Yeah, there's a shell casing right next
21 to it.

22 Q And I think we see that in State's
23 Exhibit 16; is that right?

24 A Yes, sir.

25 Q That's the same thing you're trying to

1 mark --

2 A Yes, sir.

3 Q -- to zoom in. Do you have, so did
4 you collect that shell casing?

5 A Yes, sir. I did.

6 MR. EVANS: May I approach, Your Honor?

7 THE COURT: Yes.

8 BY MR. EVANS:

9 Q You have here what's been previously
10 marked, but not yet entered as State's Exhibit
11 2. Can you tell me what that is?

12 A This is the shell casing that I
13 collected from the parking lot, that's depicted
14 in that photo right there.

15 Q All right, and the packaging that you
16 put it in?

17 A Yes, sir.

18 Q All right. How can you tell that it's
19 the same one?

20 A Here on the packaging, it's got my
21 name, the date that I collected it, the time
22 that I collected it, a description of what I
23 collected, and where I collected it from, as
24 well as the case number for this case.

25 Q Your number will be the case number?

1 A Yes.

2 Q All right. So this is the same one
3 that we see in State's Exhibit 60?

4 A Yes.

5 MR. EVANS: Your Honor, the State would
6 move the shell casing and the contents of the
7 envelope into evidence as State's Exhibit 2.

8 MR. KUHN: No objection, Your Honor.

9 THE COURT: Without objection.

10 (State's Exhibit 2 was admitted into
11 evidence.)

12 BY MR. EVANS:

13 Q So State's Exhibit 7, what do we have
14 there?

15 A We got another depiction of the scene.

16 Q Yeah, but specifically, can you make
17 out? Do you want the hard copy back?

18 A If I could.

19 Q Sure.

20 A Thank you, I worked last night.

21 Q You hang onto those, so you can get a
22 closer look.

23 A So you've got the red pickup truck to
24 the left, the victim's vehicle to the right, and
25 a large puddle of blood where originally she had

1 been standing/laying.

2 Q All right. How about State's Exhibit
3 8? Is this just a closeup of 17?

4 A That's a closeup of the blood that was
5 on the ground with, I used a dollar bill, just
6 as a kind of give a measurement.

7 Q Another improvised scene marker here --

8 A Yes, sir.

9 Q -- the dollar bill. Okay. So that
10 wasn't part of the scene, just like the gloves?

11 A True.

12 Q Okay. Well, we've got the same blood
13 that we saw in 17 here, depicted closer in 18?

14 A Yes, sir.

15 Q And how about State's Exhibit 19?

16 A Once again, I'm using my dollar bill.
17 I used that to measure, give some kind of depth.
18 This is more blood in between the 2 vehicles
19 lost by the victim.

20 Q All right, and is that the spot, more
21 or less, where you found her, where you
22 encountered her first, or was she further out,
23 at that point?

24 A If you were to go back to 17.

25 Q Sure.

1 A She was closer to the rear. She was
2 closer to the rear wheels of the 2 vehicles.

3 Q I'm gonna try to point where I see you
4 pointed on the hard copy. About there?

5 A Yeah.

6 Q Okay.

7 A Yeah, and then from the video, you can
8 see she goes in between, and then comes back
9 out, and then goes and falls.

10 Q So you collected the shell casing?

11 A Yes, sir.

12 Q We've put it in as State's Exhibit 2.
13 You took all these photographs as well, at the
14 scene that day, and then you testified, I
15 believe, that you got a copy of the security
16 camera video?

17 A First, I viewed the video. I was shown
18 the video by Ms. Deloach, and made arrangements
19 to get, acquire a copy of it, yes.

20 Q And you did eventually, successfully,
21 acquire?

22 A Yes.

23 Q All right. I'm gonna pull up a portion
24 of what's been previously entered as State's
25 Exhibit 8, and ask if you can tell us when you

1 arrive? I think we're gonna just go towards the
2 end.

3 A Okay.

4 Q We're about 90 seconds from the end of
5 this clip, Lieutenant. So I'm just gonna ask
6 you, when Mr. Clapp gets it up on the screen, if
7 you can see, and if not, let me know.

8 A I can see it.

9 Q All right. Just let us know when you
10 arrive, if you can see yourself in the video.

11 A I'll be at the top, right-hand corner.

12 Q You've watched this a number of times I
13 expect?

14 A Yes, sir.

15 Q That's your vehicle on the upper right?

16 A Yes, sir.

17 Q And you're getting out of it to assess
18 the scene?

19 A Yes, sir.

20 Q Let's just go back to *. I want to
21 show you one other portion of the video,
22 Lieutenant, and just ask you to confirm, is the
23 lady that we see in the yellow here; is that the
24 woman that you treated?

25 A Yes, sir.

1 Q Between the vehicles?

2 A Yes, sir.

3 Q Okay, and whom you saw the EMS take
4 away?

5 A Yes, sir.

6 Q And you reviewed this portion of the
7 video extensively?

8 A Yes, sir.

9 Q You made some detailed notes in your
10 report, didn't you?

11 A Yes, sir. I went through the video,
12 and tried to list what I felt were significant
13 parts of the video, by the timeline of the
14 video.

15 Q All right, as you were determining what
16 to do in this case?

17 A Yes, sir.

18 Q Okay. On the day of the incident, or
19 afterwards, back in the comfort of the office?

20 A I was back in the office.

21 Q Okay. All right. Did you ever have
22 the occasion to get a look at the Honda that we
23 can see in video?

24 A Yes, sir.

25 Q Can you tell us about how that came

1 about?

2 A I acquired a search warrant.

3 Q All right, and had you, were you aware
4 of what was going on at the Defendant's mother's
5 home, with Officer Maner, while you were still
6 at the Galaxy?

7 A I had some idea, just because different
8 bits of information that were coming into me. I
9 had different things that I was paying attention
10 to, and then we had since Officers over to
11 Tiffany Owens' mother's house in an attempt to
12 make contact with her.

13 Q Did you feel like getting a look at the
14 car itself would be important in your case?

15 A Yes, sir.

16 Q And so you said you got a search
17 warrant for the vehicle?

18 A Yes, sir. We seized that vehicle.

19 Q Do you recall when you executed the
20 search warrant?

21 A It was days later.

22 Q Days later?

23 A I'd have to look at the search warrant
24 to catch an exact date.

25 Q That's okay. Did you document your

1 findings with photographs again?

2 A Yes, sir.

3 Q Let me ask you, did you execute the
4 search warrant, personally, yourself?

5 A Yes, sir.

6 Q All right, and when we say execute a
7 search warrant, what does that mean to execute a
8 search warrant?

9 A Perform the search.

10 Q Actually, get inside and take a look
11 around?

12 A Yes, sir. I didn't want to look inside
13 either vehicle until I had a search warrant to
14 make sure everything was, you know, legal by the
15 book.

16 Q And you said it was some days after the
17 incident --

18 A Yes.

19 Q -- that you were actually able to do
20 that?

21 A Yes.

22 Q How do you know that the vehicle was
23 secure, and safe, and that nobody was messing
24 with it in those days in between?

25 A We had it held in our impound lot,

1 surrounded by a fence, and security cameras.

2 Q All right, is that the common practice
3 for whenever you've got a vehicle that needs to
4 be searched --

5 A Yes, sir.

6 Q -- at the Estill PD? And that impound
7 lot is safe and secure, and people can't get out
8 a vehicle?

9 A Yes, sir. We've got a video alarm
10 system in there. Somebody is monitoring that
11 place.

12 Q Where is that lot located, physically,
13 in Estill?

14 A 516 Nixville Road.

15 Q All right. I didn't think you were
16 gonna give me an address. Okay. Somewhere
17 where you can keep an eye on it?

18 A Yeah.

19 Q All right, and did you get any
20 indication that there, that the black Honda,
21 which was towed from the Defendant's mother's
22 home, that had been tampered, altered, in any
23 way?

24 A No, sir.

25 Q All right, and you mentioned that you

1 took photographs when you executed the search
2 warrant?

3 A Yes, sir.

4 Q I'm gonna pass you some photos that
5 have been marked as State's Exhibit 20, 23, 24,
6 25, and 26. See if you recognize those.

7 A Yes, sir.

8 Q All right. Are those some of the
9 photographs that you took when you searched the
10 Defendant's car in this case?

11 A Yes.

12 Q And do they -- have they been altered
13 in any way since you took them?

14 A They do not appear to have been
15 altered. No, sir.

16 Q Do they have a time stamp, some of
17 those photographs?

18 A Yes, sir.

19 Q What was the date that you took those?

20 A June 5th, 2021.

21 Q All right. So they haven't been
22 changed, or altered, since June 5th, 2021?

23 A No, sir.

24 Q And do they fairly, and accurately,
25 depict some of the results of your search --

1 A Yes.

2 Q -- of the vehicle, on June 5th, 2021?

3 A Yes.

4 MR. EVANS: Your Honor, the State would
5 move the photographs into evidence at this time.

6 MR. KUHN: No objection.

7 (State's Exhibit 20, 23-26 were admitted
8 into evidence.)

9 MR. EVANS: And those again were 23,
10 24, 25, 26, and number 20. I'll leave you the
11 hard copies we have, and we'll publish those on
12 the screen.

13 BY MR. EVANS:

14 Q All right, so what do we see in State's
15 Exhibit 20?

16 A I'm sorry? Say it again, sir?

17 Q What do we see in State's Exhibit 20?
18 You can use the hard copies, if you want.

19 A Oh, that's the license tag on the
20 vehicle.

21 Q That's the same on that was towed out
22 to the impound lot?

23 A Yes, sir.

24 Q All right. State's Exhibit 23, what do
25 we have there?

1 A A receipt from Galaxy Food Mart --

2 Q Okay.

3 A -- where the incident took place.

4 Q And in 24, do we just have a closeup of
5 that, we see it spread out a little bit?

6 A Yes, sir.

7 Q Okay. Can you make out the date and
8 time? They're actually on the receipt.

9 A The 29th. 5:30 p.m.

10 Q All right. That's State's Exhibit 25.
11 What's in that?

12 A A birth certificate for Tiffany Owens.

13 Q And you found that inside the black
14 Honda as a part of your search?

15 A Yes, sir.

16 Q Okay. How about this one? This one's
17 a bit zoomed in; isn't that right?

18 A Yes, sir.

19 Q What do we have in State's 20?

20 A South Carolina driver's license for
21 Tiffany Owens.

22 Q All right, and is that something that
23 you found in the vehicle as well?

24 A Yes, sir.

25 Q All right. Inside of her purse, or

1 something like that? If you recall
2 specifically, if not --

3 A I can't really recall.

4 Q -- but it was definitely in the car?

5 A Yes, sir.

6 Q Okay. What else did you do as part of
7 your search of the vehicle, if anything?

8 A I performed what we call a gunshot
9 residue kit.

10 Q Now, tell us, you're not an expert in
11 that are you?

12 A No.

13 Q But have you been trained in how to
14 collect gunshot residue kits?

15 A Yes, sir.

16 Q Can you tell us, just a Laymen's
17 explanation of what that is, and how you collect
18 it.

19 A It's got, the kit itself, has little
20 sticky things, if you, forgive me, it's got
21 sticky things in it, and you go over the area
22 that you're testing, to see if there's any
23 residue left by a gunshot. I went over the
24 steering wheel, the driver's door, areas like
25 that, where if a gun was fired in close

1 proximity to those areas, residue may have been
2 cast from the weapon onto those things.

3 Q And you send that off for an expert to
4 look at it?

5 A Yeah, we send that off to SLED, with
6 the science experts over there.

7 Q Okay. I'm passing you what has
8 previously been marked, but not entered, as
9 State's Exhibit 6. Do you recognize that?

10 A It's a gunshot residue kit.

11 Q All right. Is that the one that you
12 took from the black Honda when you were
13 executing the search warrant?

14 A Yes, sir.

15 Q How can you tell that it's the same?

16 A It's got Tiffany Rebecca Owens listed
17 as the subject's name, and I put on there that
18 it was from her vehicle, my name's on there, my
19 badge number at the top, Estill Police
20 Department, and the case number for this case.

21 Q And we're actually physically looking
22 at a sort of a white envelope type thing, right?
23 Not the actual kit that's inside?

24 A Right.

25 Q What do you do when you've got the kit

1 with that envelope that is currently holding it?

2 A Say again?

3 Q How do you make sure that nobody messes
4 with that on it's way up to Columbia?

5 A Oh, it's sealed after you're done
6 collecting it, just so that there can be no
7 contamination, we put everything back in the
8 bag, seal it. I've got my name on it.

9 Q And then do you turn it into, at the
10 actual Police Department building?

11 A Yes. The evidence is taken to SLED and
12 signed over to them.

13 Q Are you the evidence custodian at
14 Estill PD?

15 A I am now.

16 Q Now you are?

17 A I wasn't, at the time.

18 Q Who was, at the time?

19 A It was Chief Alex Williams.

20 Q Okay, the Chief himself?

21 A Yes, sir.

22 Q He wasn't in town on May the 29th?

23 A No, sir.

24 Q What about June the 5th? Was he back
25 in town at that point?

1 A I believe so.

2 Q All right, so would you have taken
3 then, the shell casing that you entered as
4 State's 2, and this State's Exhibit 6, and put
5 them into evidence, securely, in his possession?

6 A Yes, sir.

7 Q All right. I don't think I've moved
8 any --

9 MR. EVANS: Your Honor, the State would
10 move the GSR kit that he's identified in as
11 State's Exhibit 6.

12 MR. KUHN: No objection.

13 THE COURT: Without objection.

14 (State's Exhibit 6 was entered into
15 evidence.)

16 BY MR. EVANS:

17 Q So you turned this over, along with the
18 shell that was State's Exhibit 2?

19 A Yes, sir.

20 Q Was there any other physical evidence
21 collected, not by you, but that you were aware
22 of as a part of your investigation?

23 A There was a shell casing from inside
24 the vehicle that was collected.

25 Q All right. State's Exhibit 3, is that

1 the same case number and all?

2 A That is the same case number, yes.

3 Q All right, so these were all put into
4 evidence, and secured, and, eventually, taken up
5 to SLED?

6 A Yes, sir.

7 Q All right. I'm gonna just ask you,
8 were you aware what was found? I'm gonna pass
9 you State's Exhibit 22, and I realize you didn't
10 take that picture, but were you aware of the
11 items depicted in that photograph that were
12 collected from the Defendant's car before your
13 search warrant was executed?

14 A Yes.

15 Q All right. What were those items?

16 A The keys that were between the seat,
17 that way could secure the vehicle, and still get
18 into it, and the shell casing right here.

19 Q All right. Did those keys come back to
20 the victim's vehicle?

21 A I'm sorry?

22 Q Were these keys that were found by
23 Officer Maner? Did they come back to unlock the
24 victim's car, which was back at Galaxy?

25 A I believe so.

1 Q Okay.

2 MR. EVANS: I beg the Court's
3 indulgence. BY MR. EVANS:

4 Q Those are all the questions that I
5 have. Please answer any questions that Mr. Kuhn
6 may have.

7 A Yes, sir.

8 THE COURT: Mr. Kuhn?

9 **

10 **CROSS-EXAMINATION**

11 BY MR. KUHN:

12 Q Officer Heany, as I understand it, you
13 were already on your way to the Galaxy Food
14 Mart, because you had been dispatched there,
15 because Tiffany's mom had called dispatch and
16 said that a female subject was harassing her
17 daughter; Is that correct?

18 A Yes, sir.

19 Q While in route to investigate this
20 harassment of Tiffany, you got the call that --

21 A Somebody was shot.

22 Q -- there was a shooting.

23 A Yes, sir.

24 Q When you inventoried Tiffany's car, did
25 you take photographs of these documents also?

1 A Yes, sir. I do believe I did.

2 Q Lieutenant, as I understand it, you
3 know that these keys that were found in
4 Tiffany's car belonged to Ms. Johnson, because
5 later on you took the keys, and they cranked up
6 Ms. Johnson's car; is that correct?

7 A Somebody used them to open Ms.
8 Johnson's car.

9 Q Was that you, or was that somebody
10 else?

11 A I can't really recall for sure. It was
12 a couple years ago.

13 Q Did you, in addition to getting a
14 search warrant for Tiffany's car, also get a
15 search warrant for Ms. Johnson's car?

16 A Yes, sir.

17 Q And did you execute that search
18 warrant?

19 A Yes.

20 Q And did you take photographs?

21 A Yes, sir.

22 Q And are these photographs of the car,
23 and some of the things you found inside the car?

24 A Yes, sir.

25 Q And in executing the search warrant of

1 Ms. Johnson's car, you followed the same
2 protocols, procedures, and so forth, that you --

3 A Yes.

4 Q -- did with Ms. Owens' car that you
5 discussed with Mr. Evans; is that correct?

6 A Yes, sir.

7 Q And these photographs fairly, and
8 accurately depict what you saw?

9 A Yes.

10 Q What you found.

11 MR. KUHN: I move to introduce these.

12 MR. EVANS: No objection.

13 THE COURT: Without objection.

14 (Defendant's Exhibit 7 was admitted into
15 evidence.)

16 BY MR. KUHN:

17 Q So now, Heany, one of these
18 photographs, Defendant's Exhibit 7, shows a
19 purse, a bunch of objects laid out --

20 A Yes.

21 Q -- beside the purse. Are these the
22 objects that were found inside the purse?

23 A Yeah.

24 Q So you emptied the purse, and just laid
25 everything out that was inside the purse?

1 A Yes, sir.

2 Q And this would have been Ms. Johnson's
3 purse?

4 A Yes, sir.

5 Q The lady who got shot. You took a
6 large photograph of a clear plastic bag that
7 contains a green, leafy, substance. Why the
8 close-up of that?

9 A Because I believed that to be
10 marijuana, and I wanted to get a picture of the
11 pills as well.

12 Q Did you determine what the pills were?

13 A No, sir. At least, I can't recall.

14 Q And one of the photographs shows that
15 on a scale. Are you the one who weighed it?

16 A Yes, sir.

17 Q Weighed it, and was that scale accurate
18 to the best of your knowledge?

19 A Yes, sir.

20 Q The scale shows 2.8. That's 2.8 what?
21 Ounces? Grams?

22 A Grams.

23 Q Then there's a long, brown, thin
24 object. Describe what that was.

25 A I believe that to be a marijuana

1 cigarette.

2 Q That's all the questions I have. Thank
3 you.

4 THE COURT: Anything further?

5 MR. KUHN: Nothing else, Your Honor.

6 THE COURT: Any objection to the
7 Lieutenant Heany being excused?

8 MR. EVANS: None, Your Honor.

9 THE COURT: All right, Lieutenant
10 Heany, you're excused sir. Thank you. Ladies
11 and gentlemen, this is a very good time for a
12 lunch break as well. I need to remind you
13 before we break, you must not discuss this case
14 with each other, or anyone else you may come in
15 contact with.

16 By the clock in the back of the
17 courtroom, I am gonna ask that you be back in
18 your Jury room at 2:15, and we'll go ahead and
19 continue with the trial of this case. Ladies
20 and gentlemen, go grab a bite to eat, go relax,
21 stretch your legs, and we'll see you back at
22 2:15. All right, thank you.

23 (Jury exits the courtroom.)

24 THE COURT: So just for the record.
25 How many more witnesses do you have, Mr. Evans?

1 MR. EVANS: Either 4 or 5.

2 THE COURT: 4 or 5. You are gonna
3 finish today; Correct?

4 MR. EVANS: Yes, definitely expect to.

5 THE COURT: All right. Anything else we
6 need to put on the record, Mr. Kuhn, before we
7 go ahead and break for lunch?

8 MR. KUHN: No, Your Honor.

9 MR. EVANS: I might just, to protect
10 the record, I probably should have done this
11 before they were sworn, but there was a plea
12 offer made in this case, which was voluntary
13 manslaughter, straight up. Mr. Kuhn indicated
14 to me by email, and phone conversations, that
15 they were not interested in accepting that.
16 Obviously, once the Jury took their oath, that
17 was withdrawn.

18 THE COURT: All right, is that correct,
19 sir?

20 MR. KUHN: That is correct.

21 THE COURT: Okay, thank you you'all. I
22 appreciate it. All right, go ahead and go to
23 lunch, and I'll see you'all back shortly.

24 (Luncheon recess)

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PROCEEDINGS CONTINUED

THE COURT: Are we ready to start again?

MR. EVANS: The State's ready.

THE COURT: Are you ready, Mr. Kuhn?

MR. KUHN: Yes.

THE COURT: All right, let's go. Bring them in. Yes, please.

(Jury enters the courtroom.)

THE COURT: All right. You'all be seated. Welcome back, ladies and gentlemen. If the State will call their next witness.

MR. EVANS: Thank you, Your Honor. The State calls A. J. Williams.

A. J. WILLIAMS

BEING DULY SWORN TESTIFIED AS FOLLOW:

DIRECT EXAMINATION

BY MR. EVANS

Q Mr. Williams, where do you work, sir?

A Currently in the Fairfax Police Department.

Q All right. How long have you been in law enforcement?

A This year makes, roughly, about 15

1 years.

2 Q Okay.

3 THE COURT: Mr. Williams, could you
4 speak up just a little bit for me? Thank you.

5 BY MR. EVANS:

6 Q Where have you worked, other than
7 Fairfax Police Department, in Allendale, where
8 you are now?

9 A I worked in the City of Hardeeville
10 Police Department, and Estill Police Department.

11 Q Were you working at Estill Police
12 Department on May 29th, 2021?

13 A I was.

14 Q Were you on-duty that day?

15 A I was not on-duty that day.

16 Q All right. Tell us about how you
17 became involved in this case that we're here
18 about today?

19 A I was just in the office, finishing up
20 some paperwork from the night before my shift,
21 just happened to come in, and I was at the
22 office when the call came out.

23 Q Okay, is that something that you'all do
24 regularly, even though it's a day off, go in to
25 wrap up the night before, that sort of thing?

1 A Well, if we didn't get an opportunity
2 to finish the paperwork the night before, you
3 needed to have it done before that Monday
4 morning.

5 Q Okay, and this was a Saturday?

6 A This was a Sunday.

7 Q Sunday?

8 A Yes.

9 Q Okay, and what happened then? When you
10 said the call came in, what is that?

11 A I'll just say what I heard on the radio
12 when the call came out. As I was just sitting
13 in the office, I do recall dispatch saying
14 something about, officers respond to the Galaxy,
15 in regards to a disturbance that was happening
16 inside the store.

17 Q And you did, or did not, leave the
18 department, and go to --

19 A I did not --

20 Q -- okay.

21 A -- leave the department.

22 Q That's because you were off-duty?

23 A Yes, and because I was in plain clothes
24 that day. I was not in uniform that day, which
25 is why I did not respond to that call.

1 Q All right. What happened that did get
2 you involved in the case?

3 A She came to the office, and dispatch
4 said that she was outside, wanting to turn
5 herself in. I didn't make contact with her at
6 that time, only because, again, I was not on-
7 duty, or in uniform.

8 Q When you say he, excuse me, she, did
9 you know who that was supposed to be?

10 A So based on what dispatch said, yes,
11 but I was not familiar with her as an
12 individual.

13 Q All right. You had not encountered her
14 in your --

15 A No.

16 Q -- work at Estill PD, or personal?

17 A No.

18 Q All right, and so what did you do when
19 you heard that, that there was somebody outside?

20 A I then went to look out the window, and
21 I saw Ms. Owens, but I really didn't later
22 identify her until she came into the station,
23 and she was escorted in, and detained, by
24 Officer Maner --

25 Q All right.

1 A -- if I'm not mistaken on that.

2 Q What was your rank at that time, and
3 what is it now?

4 A Sergeant.

5 Q Sergeant, at Fairfax?

6 A Yes.

7 Q As a Corporal, was Maner above you in
8 the Estill PD hierarchy?

9 A At the time.

10 Q Okay.

11 A At the time.

12 Q Where was the Chief, when all this was
13 going on? -

14 A He was off, and I would like to say he
15 was out of town that day.

16 Q All right, he was out of town.

17 What, if anything, happened when you were
18 there with Maner, and Ms. Owens arrived?

19 A What, if anything, actually happened?

20 Q Yeah, just tell us about what you
21 observed with your own eyes.

22 A Oh, when they came in the office,
23 Officer Maner sat her, you know, up front, in
24 the patrol room, at which time I think I asked
25 him if she had been Mirandized.

1 Q All right, and what does that mean, for
2 those of us who aren't Police Officers? What
3 does it mean to Mirandize somebody?

4 A To basically give them their Miranda
5 warnings, in regards to whether or not they
6 wanted to give testimony, or refuse to give
7 testimony.

8 Q What are those warnings?

9 A The Miranda warnings.

10 Q Yeah, yeah, tell us. Can you recite
11 them from memory?

12 A I might be able to recite them from
13 memory. You have the right to remain silent.
14 Anything you say can and will be used against
15 you in the court of law.

16 You have the right to have an attorney
17 present with you before any questioning, and you
18 can refuse to answer any questions, if you
19 refuse.

20 Q Okay, and is that something that
21 you'all regularly do when you come into contact
22 with people, whether their turning themselves
23 in, or otherwise?

24 A Considering the nature of this
25 incident, that was the number one priority.

1 Q I see, and when you asked Officer Maner
2 if anybody had Mirandized her yet, what did you
3 learn?

4 A I understood that she had not been
5 Mirandized, at that time.

6 Q What then, did you do?

7 A I proceeded to give her her Miranda
8 warnings at that time.

9 Q Did you recite them from memory as you
10 just did with me, or did you read from a form,
11 or a card?

12 A I read from a form.

13 Q And why did-you do that?

14 A To make sure that the, basically, that
15 there was no question, in regards to whether or
16 not there is a mishap in the Miranda.

17 Q You don't want to miss any part of the
18 questions?

19 A Yeah, make sure that they understand
20 their rights at the time.

21 Q When you read her those rights, did she
22 indicate that she understood all of them?

23 A She did indicate that she understood it
24 immediately, and denied to talk.

25 Q She told you that she did not wish to

1 speak?

2 A Yes.

3 Q All right. Was she taken away from the
4 Estill Police Department at that time, or were
5 there more things that you'all had to do before
6 she could leave?

7 A No, there was a lot that really needed
8 to be done at that point. I do know during the
9 time that, or shortly after Mirandizing her, she
10 posed a question, in regards to taking pictures
11 of her injuries.

12 Q I see. Did she pose that question to
13 you, or to somebody else?

14 A I want to say it was myself, and maybe
15 Officer Duncan at the time.

16 Q Okay. You certainly, you were close
17 enough to hear the question?

18 A Yeah.

19 Q Was that in response to any of the
20 questioning by either you, or Officer Duncan?

21 A No, I think it was just a statement,
22 just asking if we were going to take pictures.

23 Q She just came out with this question,
24 and just asked you guys?

25 A Yeah, it was in the charts.

1 Q Okay. What else did you, yourself, do
2 with Ms. Owens before she was taken out of the
3 Police Department that day?

4 A Other than taking the pictures of her
5 injuries, which was an injury on her left wrist,
6 and her left arm, that was pretty much the end
7 of what I'd done.

8 MR. EVANS: All right. May I approach
9 the witness, Your Honor?

10 THE COURT: You may.

11 BY MR. EVANS:

12 Q I'm gonna show you what has been
13 previously entered into evidence as State's
14 Exhibits 10, and 11. Do you recognize those
15 photographs?

16 A Yes, I do.

17 Q All right. Are these the photos that
18 you, yourself, took of her injuries?

19 A Those aren't the ones that I took of
20 her injuries.

21 Q Okay, but do these show the same
22 injuries that you observed on her person, in
23 2021?

24 A Yes.

25 Q Do they fairly, and accurately, show

1 them the same way that the photos that you took
2 showed them?

3 A They do. I know the one of her, top of
4 her left wrist, is covered just a little bit,
5 but I believe the other ones were showing a
6 little more.

7 Q Okay. Did you observe any other
8 injuries other than those shown in State's 10,
9 and 11.

10 A No, I don't.

11 Q Just the one, a scratch on her left
12 breast --

13 A Yes.

14 Q -- and a bruise on her left shoulder?

15 A Yes.

16 Q Did you document those in a
17 supplemental report?

18 A I did, as far as me taking the
19 photographs, yes.

20 Q Okay. Did you observe any other
21 injuries to her person?

22 A No.

23 Q Did she complain about any of the pain,
24 or discomfort, or ask to go to the hospital?

25 A No, not at all. Not to me anyway.

1 Q Okay. Have you ever taken a suspect to
2 the hospital before they go to the detention
3 center, in Hampton, or anywhere else?

4 A I have, yeah.

5 Q Okay, so that's something that can be
6 done if somebody needs emergency medical
7 treatment?

8 A Yes.

9 Q All right. That wasn't done here?

10 A Not to my knowledge.

11 Q That's all you can answer, so I
12 appreciate that. What else? Did you collect
13 any evidence from her person?

14 A I did. I did do the GSR kit.

15 Q All right, and what's a GSR kit?

16 A It's a gun residue kit.

17 Q Okay, and where were you trained to
18 collect that sort of evidence?

19 A In my first department, which is in
20 Hardeeville.

21 Q Okay. Do they teach that at the
22 academy as well, or is that something you learn
23 on the job?

24 A That's something that you learn on the
25 job.

1 Q Okay. Could you give us a quick
2 description of how that works? What do you do?

3 A So the GSR kit works, where I can't
4 really describe the actual components, it's kind
5 of complicated without actually showing them.

6 Q You're not the expert.

7 A Okay.

8 Q Right?

9 A No.

10 Q You're just the guy who collects, to
11 confirm?

12 A Yeah.

13 Q Okay.

14 A So the kit itself, basically what you
15 do is, you'll just take whatever they provide, I
16 can't really give you the description of it
17 again, but you rub them on the back of their
18 hand, and it collects the residue from the
19 actual firearm that was used at the time of the
20 incident.

21 Q When you're doing that, you don't know
22 whether they'll be a positive, or negative
23 result, do you?

24 A Yes, because you can't really see the
25 residue. The kit itself, it takes it, and we of

1 course, collect it for evidence, and send it off
2 to SLED, and they'll send us the results back.

3 Q Is there any kind of a timeframe that
4 you have to do that in, when you're taking it
5 from a person?

6 A I can't be certain on the timeframe.

7 Q Okay.

8 A But I will say that it's best to do it
9 as soon as possible, if at all possible.

10 Q And you did it how many minutes,
11 roughly, after she -- just very approximate. I
12 know it was 3 years ago.

13 A I would say not even 20 minutes.

14 Q All right, soon after she was in your
15 presence at the Police Department?

16 A Soon after, yeah.

17 MR. EVANS: May I approach the witness,
18 Your Honor?

19 THE COURT: You may.

20 BY MR. EVANS:

21 Q I'm gonna pass you what's been
22 previously marked as State's Exhibit 5, and ask
23 if you can identify that?

24 A I can identify that.

25 Q What is that, sir?

1 A This is the gun residue kit, and as far
2 as the evidence itself, placed in this bag.

3 Q All right. So how can you tell that
4 this is the same one that you collected from Ms.
5 Owens in 2021?

6 A Because I initialed the back of it --

7 Q All right.

8 A -- showing that I sealed it.

9 Q Does it show the same, that it's the
10 same case that we've been dealing with all
11 today?

12 A Yeah.

13 Q It's got her name on it?

14 A Yeah, it shows the name, the case
15 number on there, it still matches the same.

16 Q Is this your handwriting, or somebody
17 else's?

18 A This is not my handwriting, but this
19 is.

20 Q Okay, on the back where it's --

21 A Yes.

22 Q All right, and why do you seal it up?

23 A You seal it just to show that no one is
24 tampering with it, until it gets to the proper
25 destination.

1 Q Once you've sealed it, what do you do
2 with it?

3 A Place it in a locked evidence locker.

4 Q Okay. Is that what you did with this
5 particular GSR kit, in this particular case?

6 A Yes.

7 Q Those are all the questions that I
8 think that I need.

9 MR. EVANS: Your Honor, the State would
10 move this into evidence as State's Exhibit 5.

11 MR. KUHN: No objection.

12 THE COURT: Without objection, it's in
13 evidence.

14 (State's Exhibit 5 was admitted into
15 evidence.)

16 BY MR. EVANS:

17 Q So after you took the GSR sample from
18 Ms. Owens, you had taken some photographs of her
19 injuries, which we've also gone over, State's
20 10, and 11, did you have any further involvement
21 with this case?

22 A I did not.

23 Q Okay. She was sent on her way, and you
24 got back to your day off, and your paperwork in
25 other cases?

1 A Yep.

2 MR. EVANS: I beg the Court's
3 indulgence. Your Honor, those are all the
4 questions I have.

5 BY MR. EVANS:

6 Q. Mr. Williams, please answer any
7 questions for Mr. Kuhn.

8 THE COURT: Mr. Kuhn.

9 **

10 **CROSS-EXAMINATION**

11 BY MR. KUHN:

12 Q Mr. Williams, do you know if gunshot
13 residue samples were taken from the hands of Ms.
14 Johnson?

15 A The victim?

16 Q Yes, sir.

17 A I'm not aware, but I wasn't on-scene at
18 the time.

19 Q The photographs that you took were of
20 Tiffany's injuries; correct?

21 A Yes, sir.

22 Q And she indicated at the station there,
23 that she had suffered injuries during the
24 incident; is that correct?

25 A She didn't quite say it outright, she

1 just asked if anyone was gonna take pictures of
2 her, and then later we understood that there was
3 something that happened, I guess to her areas
4 that she indicated.

5 Q She says, "Is there anybody who could
6 take pictures of my injuries;" is that how she
7 phrased it?

8 A No.

9 Q Or do you recall?

10 A I don't recall that. All I recall is,
11 "Is anyone going to take pictures of me?".

12 Q And you took photographs that depicted
13 2 areas of injury, her left arm, and her left
14 wrist?

15 A Yes.

16 Q Is that correct?

17 A Yes.

18 Q Have you been informed that I've asked
19 you repeatedly to see those photographs?

20 A I'm not aware of that, no.

21 Q I have. Do you know where those
22 photographs are, and what happened to them?

23 A I can't be certain, no.

24 Q Did you turn them into somebody? Did
25 you --

1 A As far as what I can remember what I
2 did with them, and, typically, what I do do with
3 them, is place them in the case file, and attach
4 them to the report.

5 Q And have you been able to find them in
6 the case file, attached to a report, anywhere?

7 A I don't have access to that
8 information.

9 Q But the Police Department has access to
10 that, correct?

11 A Yes, I'm the one who worked there.

12 Q And the injury to her left wrist,
13 fortunately, a little bit of it was caught on
14 video, but it extended down below where it's
15 covered up in State's Exhibit 10.

16 A Yes, the other photo, I believe if you
17 take a look, it gives you a better perspective.

18 Q That shows part of the injury, not the
19 entire injury; is that fair to say?

20 A Yes.

21 Q That's all I have. Thank you.

22 THE COURT: Anything further?

23 MR. KUHN: We retire.

24 THE COURT: Thank you. You can step
25 down, sir. Thank you. There's no objection to

1 this witness being excused?

2 MR. EVANS: Not from the State.

3 THE COURT: Very good. Call your next
4 witness.

5 MS. MUSSER: The State calls Lieutenant
6 Jennifer Nates.

7 **JENNIFER NATES,**

8 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

9 ***

10 **DIRECT EXAMINATION**

11 BY MS. MUSSER:

12 Q Good afternoon, Lieutenant.

13 A Hello.

14 Q Ma'am, please tell the ladies and
15 gentlemen of the jury where you are employed.

16 A I'm employed by the South Carolina Law
17 Enforcement, in the trace evidence section of
18 the laboratory.

19 Q How long have you been with SLED?

20 A This August, I've been with SLED for 27
21 years.

22 Q Have you always been with the trace,
23 and what was, you said, forensic science
24 department?

25 A I was. I was hired at SLED in the drug

1 analysis department, where I completed one year
2 in that department, and then I transferred into
3 trace evidence.

4 Q And what are some of your, what were
5 some of the training, and education that you had
6 to go to have to be employed in this position?

7 A I was hired in the drug analysis
8 department, and one of the requirements that I
9 had a Bachelor of Science degree in chemistry,
10 which I received from California University of
11 Pennsylvania, which is a small state school in
12 California, PA.

13 Once I was hired, I completed the South
14 Carolina Police Academy, and then began the drug
15 training program in the drug analysis
16 department. This training consisted of,
17 basically, an apprenticeship program under the
18 supervisor, and the senior analyst. It
19 included, I would take classes offered by the
20 vendors of the instrumentation that was used. I
21 would take classes from different universities
22 and courses, and then I would take tests. They
23 were oral, written, and practical examinations.
24 When I passed all of those tests, I then took a
25 competency test, and a mock trial, and once I

1 completed everything, I was then deemed
2 competent to accept drug analysis, or drug and
3 poison cases.

4 I then began taking drug and poison cases
5 for approximately 8 months, and then an opening
6 came up in trace evidence, and I requested a
7 transfer. I then began the same type of
8 training program in the trace evidence section,
9 but the trace evidence section has many
10 different disciplines.

11 In trace evidence you train in gunshot
12 residue analysis, fiber analysis, paint
13 analysis, glass analysis, physical fit analysis,
14 fire debris, explosives, the identification of
15 bleach, and the identification of unknown
16 substances, and possible comparisons of these
17 substances.

18 So I had to go through the training of each
19 one of those separate modules. I completed
20 those prior to 2010, and in 2010, I became the
21 supervisor for that department.

22 Q And then do you have to, is there a
23 continuing education, or ways that SLED keeps
24 you up-to-date on the science for these
25 evidence?

1 A We cannot have required continuing
2 education, but we do try to take courses as the
3 budget allows. We do have a quality program
4 that requires us to participate in proficiency
5 testing. So outside agencies will provide us
6 with proficiency testing in each of those areas
7 in which we provide examinations.

8 So I have to take yearly proficiency tests,
9 in which I have to pass to show that I'm still
10 competent in those areas of analysis.

11 Q And you have successfully completed all
12 of those?

13 A I have.

14 Q Thank you, and have you, in your
15 capacity with SLED, have you had an opportunity
16 to testify before in General Sessions?

17 A Yes, I have.

18 Q Approximately, how many times?

19 A I have testified in General Sessions,
20 including Federal Court, 169 times.

21

22 MS. MUSSER: Your Honor, at this time the
23 State would move Lieutenant Nates as an expert
24 in the field of forensic science and trace
25 evidence.

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THE COURT: Ladies and gentlemen, in this case Lieutenant Nates is being qualified as an expert in the area of forensic science, and trace evidence analysis. That allows her to give her opinion, and the reason for her opinion, and that's for you to use as you see appropriate as compared to other evidence in this case.

MS. MUSSER: Thank you, Your Honor.

BY MS. MUSSER:

Q Lieutenant Nates, you indicated as a part of your testimony that you have worked with what's known as GSR. Could you explain to the ladies and gentlemen of the Jury what GSR means, and what that type of testing involves, typically?

A GSR is a term to describe gunshot residue. Gunshot residue is any and all residue that's produced when a firearm is discharged. Our laboratory, and the majority of the forensic laboratories in the world, analyze for a specific portion of that gunshot residue, and that is called primer gunshot residue. That portion of the residue consists of residue

1 specifically from the primer composition of the
2 cartridge that produces this residue during the
3 discharge.

4 So gunshot residue is the microscopic
5 material that can be deposited after a firearm
6 is discharged, and primer gunshot residue is
7 actually the part of it that we analyze for.
8 Gunshot residue is typically analyzed using what
9 is called a scanning electron microscope. This
10 is a high-powered microscope that uses a
11 constant filament to produce an electron beam.

12 The electron beam will scan over your
13 samples, and if they detect any matter of any
14 particles, microscopic particles on that sample,
15 it takes an image of that particle, and then
16 takes an x-ray of the particle, so the analyst
17 will know what that particle was made up of.

18 So for a gunshot residue analysis, as an
19 analyst, I'm going to look at these particles to
20 determine if they have the specific criteria
21 needed to classify it as gunshot residue.

22 Q So once you perform your test, is it
23 fair to say that you're looking for either the
24 presence of the gunshot residue particles, or I
25 guess, the non-presence of that?

1 A The lab does.

2 Q Right.

3 A That is the point of the test, to
4 determine if there is gunshot residue present on
5 the sample.

6 Q And in this case did you have an
7 opportunity to perform testing on a few
8 different items, gunshot residue tests?

9 A I did.

10 MS. MUSSER: Your Honor, may I
11 approach?

12 THE COURT: You may.

13 BY MS. MUSSER:

14 Q Ma'am, starting with State's Exhibit 5,
15 are you familiar with that item?

16 A Yes, this is a gunshot residue
17 collection kit. This is the envelope that the
18 samples will come in, and the way they will
19 identify it is, whenever I take evidence into my
20 custody for analysis, I will initial and date on
21 the evidence, or the outer envelope, or whatever
22 portion I can write on. In this case, this is
23 SLED's item number 7, that was submitted to the
24 laboratory on case number L2110795. When cases
25 come into the laboratory, they're assigned what

1 is called a laboratory number. It begins with
2 the year in which the case was submitted, and
3 then a sequential number for how many cases
4 we've received that year.

5 So each case is assigned a new laboratory
6 number, and then each item of evidence is given
7 a laboratory number, which this is item number 7
8 for that case.

9 Q And so how about State's Exhibit Number
10 6? Is that also something that you tested?

11 A Yes, State's Exhibit Number 6 is the
12 gunshot residue kit, which was signified as item
13 number 8, which was a GSR kit collected from a
14 vehicle.

15 Q When both of those items came to you,
16 were they properly packaged by the Officer,
17 like is that something that you would routinely
18 test for, before you start doing your analysis,
19 is to look and see if it was packaged correctly?

20 A We do for all evidence that the trace
21 lab analyzes, that is one of the first things
22 that we do. We will evaluate the packaging of
23 the evidence, and how we received it. Normally,
24 a proper seal and initial, means the evidence is
25 sealed from potential contamination, and it is

1 initialed and dated.

2 In this case, you can see that there was a
3 seal over this kit when I received it, and it
4 has an initial and date, so there was no
5 indication that this evidence had been
6 compromised when I received it.

7 Q And that would include tampering, or
8 anything like that?

9 A That's correct.

10 Q Okay, thank you. And when -- can you
11 describe briefly, like, the process when an
12 officer goes to use the kit, what's involved
13 with that, whether it's a -- just I guess how
14 the kit itself works.

15 A So a gunshot residue kit, they are
16 specific for the collection of gunshot residue.
17 The normal kits will have two, what we call
18 particle lifts. They're very small, round
19 object that has a very sticky substance on the
20 top of it.

21 So the officer will open the kit, and then
22 there is paperwork inside that they need to fill
23 out. The paperwork they fill out is the GSR
24 evidence collection form. This has, they fill
25 out their name, their rank, what the date of the

1 incident was, what time the incident was, who
2 they're collecting the sample from, and any
3 other notes that need to be taken.

4 Once they fill this out, they should wear
5 the gloves that are provided, or other gloves
6 that they have. They will take the cap off of
7 one of the samples and dab it over the suspect's
8 hands. One sample will collect from the right
9 palm, the right, back, of the hand. The other
10 sample is to collect from the left palm and left
11 back.

12 Q And then with respect to item number 5,
13 which I believe you testified is the gunshot
14 residue kit from the Defendant's hand, would you
15 mind opening that package with the scissors
16 there, and show it to the ladies and gentlemen,
17 of the jury?

18 A So this is the form that will come in
19 each of the GSR kits, that has all the
20 information that we need for analysis. The most
21 important thing is for gunshot residue to be
22 probative, it has to be collected within 6 hours
23 of the supposed shooting incident.

24 Gunshot residue is very fragile, and on a
25 living person, if I fire a weapon, and then they

1 collect a GSR kit 10 hours later, there's no
2 expectation to find anything on my hands,
3 because you will absorb the gunshot residue, you
4 can wash it off, you can brush it off with your
5 hands. Any activity that you engage in, in
6 which your hands touch something else can remove
7 that residue. So the optimal time for
8 collection after a shooting is 4 to 6 hours.

9 So we have to verify it on this sheet that
10 the kits are collected within 6 hours for us to
11 proceed with analysis. So these are the 2
12 samples that come in the kits. One is labeled,
13 right hand, and one is labeled, left hand.

14 The officer will take the top off, and then
15 just dab over the hand with that small circular
16 disk. It has an adhesive on it, and it will
17 pick up any particulate matter that is present
18 on a person's hands.

19 Q And did you test, ma'am, both of those
20 items, and would you -- did you test them?

21 A I did.

22 Q And what were the results of your test?

23 A So I tested these 2 items using the
24 scan electron microscope, and I found that there
25 were particles characteristic of primer gunshot

1 residue on these hands.

2 Q And then with respect to item, or
3 State's Exhibit 6, would you do the same thing?

4 A Did you want it opened?

5 Q Yes, please. And while you're cutting,
6 where was that kit taken from?

7 A This kit, the paperwork stated that it
8 was taken from the subject's vehicle, and then
9 each individual part of the list was collected
10 from an area of the vehicle. Since we don't
11 have specific kits for collection from a
12 vehicle, or from a table, or for other inanimate
13 objects, they all say right hand, left hand.

14 So when the officer collects something
15 that's not from the standard hand kit, they will
16 usually write in the notation area where the
17 sample was collected, and in this case, they
18 stated that the right-hand lift was collected
19 from the gear shift, and the steering wheel, and
20 the left hand lift was collected from the
21 interior driver door.

22 Q And what were the results of your test,
23 ma'am?

24 A So I also performed a scan electron
25 microscope test on these, and those samples had

1 particle characteristic of primer gunshot
2 residue present.

3 Q Okay, and is that something that --
4 were your findings consistent with a gun being
5 fired, either, within a vehicle, or in close
6 proximity to a vehicle?

7 A Usually, with gunshot residue, if I
8 find gunshot residue on a person or a thing, I
9 can state that that person or thing was in the
10 vicinity of discharging a firearm, something
11 with gunshot residue possibly transferred to
12 them, or if it's a person, they fired a weapon.
13 In this case, these samples were collected from
14 a vehicle, so the finding of gunshot residue
15 from within the vehicle is consistent with
16 either, a firearm being discharged from within
17 that vehicle, or a firearm being discharged into
18 the vehicle.

19 Q And then once you have run all your
20 tests, do you compile your findings in a report?

21 A Once all the tests are complete, I will
22 compile all my findings, all of the paperwork,
23 and I will compile a case packet.

24 All of my data is then uploaded to a
25 server, and the case is rounded to another

1 analyst, who is qualified in the analysis of
2 gunshot residue. They will perform an
3 administrative and technical case review. They
4 will actually go into the program and review all
5 of the data, and reports, that are generated to
6 confirm that they agree with my findings and to
7 what I reported.

8 Q And then once you're done, do you
9 reseal the envelopes with the tape that you just
10 cut off for us?

11 A I do. Once I'm done, I will reseal it,
12 initial, and date it, and then we take it down
13 to the evidence control department to return to
14 the submitting agencies.

15 Q Is it -- okay, moving on to the
16 victim's GSR kit. Is there like a SLED policy,
17 or is it common for a victim's hands to be
18 swabbed for, OR, excuse me, not swabbed, lifts
19 taken from a victim, with respect to a GSR kit?

20 A In the past it was common for officers
21 to collect GSR kits from people who sustained a
22 gunshot wound, but in January of 2022, we
23 enforced a policy in which we no longer
24 routinely accept or analyze GSR kits collected
25 from someone who has sustained a gunshot wound.

1 And the purpose of this was, because a gunshot
2 residue kit is collected, because an
3 investigator wants to try to form a link between
4 a person, or object, to the discharge of a
5 firearm.

6 When you have a person who has sustained a
7 gunshot wound, and you already have that link,
8 because they have sustained a gunshot wound,
9 they will have gunshot, more than likely, will
10 have gunshot residue present on their person.
11 So if an analyst finds gunshot residue on a
12 person who has sustained a gunshot wound, we're
13 not able to differentiate whether they
14 discharged a firearm, or they had gunshot
15 residue on them from being shot.

16 So we decided we were no longer going to
17 accept those cases, in most cases. There are
18 some exceptions, but we routinely do not analyze
19 victim GSR kits.

20 MS. MUSSER: Your Honor, I beg the
21 Court's indulgence. Thank you, Lieutenant, I
22 don't have any further questions for you at this
23 time, but please answer any questions that Mr.
24 Kuhn has.

25 THE COURT: Mr. Kuhn?

**

CROSS-EXAMINATION

BY MR. KUHN:

Q If I am sitting in the driver's seat of my car, and someone is reaching in, and there's a gun somewhere in this area, and that gun goes off twice, would you expect gunshot residue to be in the areas that you found it?

A Yes, sir.

Q Would you also expect it to be on the hands of the person who was reaching in the car?

A More than likely, it would be. Has that person sustained a gunshot wound, or are they just reaching into a vehicle where a firearm is discharged?

Q They are reaching into a vehicle where a firearm is discharged, and 2 shots were fired, and one of the shots hit them.

A Right. I would expect to find it on them, in most cases. Also, if you're saying that they were reaching into a car, even if they had been several feet outside of the car, and that gun had discharged, they potentially still could have gunshot residue on their hands from that.

1 Q Gunshot residue can be acquired on
2 someone's hands by firing a gun, correct?

3 A That is correct.

4 Q By having your hand somewhere near
5 where a gun has been discharged?

6 A That is correct.

7 Q Or if the gun has been discharged, say
8 right here, if I reach over, and wipe my hand on
9 it, I can get gunshot residue that way?

10 A Yes, those are the 3 ways you can have
11 gunshot residue positive.

12 Q There's no way to know beyond a
13 reasonable doubt, which of those possibilities,
14 or probabilities is the right one?

15 A No, the only thing we can tell you is
16 that if it's an inanimate object, as in a
17 vehicle, I can rule out that it discharged the
18 firearm, but I can't say that it wasn't
19 something that was contaminated in the GSR, if
20 the gun was in that vehicle and it brushed off
21 onto the dash, or if a gunshot was fired with a
22 gun.

23 Q Thanks.

24 MR. KUHN: That's all the questions I
25 have, Your Honor. Thank you.

1 THE COURT: Anything further, Mr. Evans?
2 I'm sorry, Ms. Musser.

3 MS. MUSSER: Thank you.

4 **

5 **REDIRECT EXAMINATION**

6 BY MS. MUSSER:

7 Q Just to make sure I understand your
8 testimony correctly, so when you are looking at
9 the particles under the microscope, the
10 particles don't have any way to differentiate
11 themselves from where they came from, correct?
12 In other words, you can't tell by just looking
13 at the presence of particles whether it came
14 from inside the car, or outside the car, or
15 whether somebody was reaching for the gun.

16 You can just tell that they were in the
17 presence of the car; is that right?

18 A I can tell where they were, if it is
19 indicated as collected from the interior
20 passenger door, then what I found was on the
21 interior passenger door when it was collected.

22 Q But you don't know exactly what was
23 happening at the time, correct?

24 A I do not.

25 Q Okay.

6	Q	Thank you.

9 THE COURT: All right. Anything
10 further?

12 THE COURT: Any objection to Lieutenant
13 Nates being excused?

15 THE COURT: You're excused. Thank you.

16 Call your next witness.

18 * *

20 BEING DULY SWORN TESTIFIED AS FOLLOWS:

21 **

23 BY MR. EVANS:

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1 A I work for the South Carolina Law
2 Enforcement Division, also known as SLED. I
3 work in the forensic lab, in the firearms
4 department.

5 Q And what do you do in the firearms
6 department?

7 A Our department is responsible for any
8 evidence from crime scenes that involve
9 firearms. So the firearms themselves, any fired
10 cartridge cases, or fired bullets.

11 Q All right, and what sort of training
12 and experience do you have to have to be able to
13 hold down a job like that?

14 A In order to be hired at SLED, you have
15 to have a Bachelor's Degree.

16 So I have a Bachelor's Degree in biology.
17 I also have a Master of Science in forensic
18 science. Unfortunately, to be a firearms
19 examiner, there's no class that you can attend
20 at school. You have to learn with the examiners
21 that are training you.

22 So once I was hired, it was a two-to-
23 three-year training program where I learned with
24 the examiners that were at SLED.

25 I did follow them doing case work. I did a

1 lot of reading, and practical exercises on my
2 own. At the end of the period I took a
3 competency test, a comprehensive final. I
4 passed that, and they told me I could do this
5 work on my own.

6 Q And about how long ago was that?

7 A That was in 2010.

8 Q All right, so in the last, starting
9 out, 14 years, have you ever been qualified as
10 an expert in firearms analysis?

11 A I have.

12 Q Okay, approximately, how many times?

13 A Approximately 120 times.

14 Q What is the just very general because
15 we'll get into specifics more, but the general
16 way of which you analyze firearms, like we're
17 about to get into in this case?

18 A It depends on what evidence we get in
19 the case, but whatever evidence we receive, we
20 document how we received it, then we'll check it
21 for safety, test fire the firearms, and then I
22 use a microscope to compare fired evidence to
23 test fires.

24 Q Okay. All right, and this is what
25 you've done all the, approximately 160, I think

1 you said, occasions when you've been qualified
2 before?

3 A 120, but yes.

4 Q 120, I'm sorry.

5 MR. EVANS: Your Honor, the State would
6 tender Ms. Eichenmiller as an expert in the
7 field of firearms analysis.

8 THE COURT: Ladies and gentlemen, in
9 this case Ms. Eichenmiller has been qualified as
10 an expert in firearms analysis. That allows her
11 to give her opinion, and the reasons for her
12 opinions, that's for you to use as you see
13 appropriate, as compared to other evidence in
14 this case.

15 BY MR. EVANS:

16 Q Ms. Eichenmiller, can you tell us about
17 what you received in this case, beginning with
18 the lab number I guess?

19 A Sure, I received -- would you like the
20 whole description?

21 Q Whatever you -- I mean, you're the
22 expert.

23 A Whenever evidence arrives at SLED, the
24 laboratory gets its own unique SLED lab number.
25 So the SLED lab number assigned to this case is

1 L21-10795.

2 I received a firearm, which was a Ruger
3 model LCP3 auto caliber, with the serial number
4 371833078.

5 I also received one Ruger grand magazine, 3
6 unfired .380 auto caliber cartridges, two fired
7 .380 auto caliber cartridge cases, and then one
8 fired bullet.

9 Q All right. I'm gonna approach you with
10 a number of items, if I can do so without making
11 too much of a mess. First, is State's Exhibit
12 1. Do you recognize State's Exhibit 1, and then
13 1.1, 1.2, and 1.3, which are inside of it?

14 A Whenever I receive evidence in a case,
15 I'll mark on it with my initials, the case
16 number, and the item number, so these are the
17 items that I examined.

18 Q That's the gun, the magazine associated
19 with that gun, and one lab bullet; is that
20 correct?

21 A Yes.

22 Q All right, how about State's Exhibit,
23 and, again, these are already in evidence, but
24 did you receive State's Exhibit 2 as well?

25 A Yes.

1 Q And what is State's Exhibit 2?

2 A It's a fired cartridge case. It was
3 SLED lab number item 4.

4 Q All right, how about State's Exhibit 3?

5 A Yes, this is another fired cartridge
6 case. That was my item 5.

7 Q All right, and last is State's Exhibit
8 4.

9 A And this was a fired bullet that I
10 examined, and it was SLED lab number item 6.

11 Q All right. Other than the items which
12 I've already passed up, was there anything else
13 that you received, not before you on the desk
14 right there?

15 A The only other thing were test
16 specimens that I created from laboratory
17 supplied ammunition, and then I had to use 2 of
18 the submitted unfired cartridges that I received
19 as evidence.

20 MR. EVANS: May I approach the witness,
21 Your Honor.

22 THE COURT: You may.

23 BY MR. EVANS:

24 Q I'm gonna pass you one more item. This
25 is not yet in evidence, that is marked as

1 State's Exhibit 39, and ask if you can identify
2 that?

3 A These are the 2 test specimens that I
4 created, that I test fired in the firearm, using
5 the submitted, the received ammunition, so the
6 evidence in the case that had to be used to test
7 fire in the firearm.

8 Q All right, how can you, we'll get into
9 why, but how can you tell that those are the
10 same?

11 A Item 3 was the unfired cartridges that
12 I received. I listed 3.1, so it's a sample of
13 the item 3.

14 Q And does that have your name, and the
15 lab number, and all that on it?

16 A Yes.

17 MR. EVANS: Your Honor, the State would
18 move these test firings into evidence as State's
19 Exhibit 39.

20 MR. KUHN: No objection, Your Honor.

21 THE COURT: Without objection, they're
22 in evidence.

23 (State's Exhibit 39 was admitted into
24 evidence.)

25 BY MR. EVANS:

1 Q All right, Ms. Eichenmiller, can you go
2 back and start, sort of from the beginning,
3 about how you analyze a firearm, shell casings,
4 and projectiles. Just walk us through your
5 process.

6 A Okay. I receive the evidence from
7 login, after an agency will submit it to the
8 lab. So I bring it back to my work area, I'll
9 document how I received it, the packaging it was
10 in. Once I open it up, I'll document any, if I
11 see trace evidence, if I see anything out of the
12 ordinary, we fill out worksheets, *, and write
13 down make, model, serial number, caliber, if the
14 safety is functioned, then I will test fire the
15 firearm in our bullet recovery tank.

16 Q Describe that tank for us, if you will.

17 A This was at the old laboratory, so at
18 the old laboratory, we had a 2-story bullet
19 tank, it was vertical. You would shoot in a
20 hole at the top, and then at the bottom it was a
21 little cup that would collect the bullets.
22 You'd bring the cup up on a chain, and then you
23 would have your test fires that you know came
24 from that firearm.

25 Q All right, and you know that because

1 you're the one who fired them, and you
2 physically recovered them from the tank?

3 A Correct.

4 Q Okay. Is it different at the new one?
5 I know things have --

6 A At the new lab we have a horizontal
7 tank, so it looks more like the ones you see on
8 TV, and CSI. It's just a long tub of water that
9 we shoot in one, and --

10 Q Do you physically pull the trigger
11 yourself, or do you have an apparatus that does
12 that? I don't even know the answer to this
13 question.

14 A Yes, I test fire most of the weapons.
15 Some weapons have come to the lab, and they're
16 unsafe, so we do have safe devices to use, but
17 most firearms are able to be fired by the
18 examiner.

19 Q You check it out before to see if it's
20 in good working order, and whether it is safe?

21 A Yes.

22 Q Did you do that with this, 1.1?

23 A Yes.

24 Q Was it in good working order?

25 A Yes.

1 Q All right, so you were able to create
2 some test firings?

3 A I did.

4 Q What is the purpose of creating the
5 test firings after you fire them into the tank,
6 and I assume you take them back to an actual lab
7 at that point?

8 A Yes. I'll take the test specimens back
9 to my microscope. It's a comparison microscope.
10 It looks like a pair of binoculars. So I can
11 put one bullet on one side, and one bullet on
12 the other side, and look through the binoculars,
13 and see both at the same time. I can increase
14 or decrease the magnification to try to examine
15 the marks that I'm looking for.

16 Q And what is it that you're -- what are
17 the kind of comparisons that you're trying to do
18 when you're putting one shell against another
19 shell like that?

20 A I mean if we're comparing cartridge
21 cases, we're looking at marks that were made by
22 the firearm on the cartridge case, to determine
23 if it was fired by a particular firearm.

24 Q How does the firearm make a mark on a
25 cartridge case? Can you describe that for us?

1 A During firing, a cartridge case is
2 loaded into the weapon, the trigger is pulled,
3 and the force of the little, tiny explosion
4 makes the bullet come out the barrel, and the
5 cartridge case hits the firing pin. So the
6 firing pin can make a mark. The breach face can
7 make a mark, which is just the area where the
8 firing pin protrudes from. As the firearm
9 recycles, the cartridge case will get ejected.

10 Q And are -- when it makes that mark, the
11 firearm actually strikes the cartridge casing,
12 is that unique to each firearm?

13 A Yes."

14 Q That's how you're able to tell whether
15 one cartridge case was fired by the same gun as
16 another?

17 A Correct.

18 Q All right. Can you compare? Let me
19 ask you this, I used the slang term before, I
20 said shells, that's the same as cartridge
21 casings, right?

22 A Yes.

23 Q You probably prefer cartridge casings?

24 A I do.

25 Q I'll do my best. Can you compare a

1 cartridge casing against a projectile?

2 A No, there's no testing for that.

3 Q Okay. Tell us why, quickly if you
4 would.

5 A There's no way to tell if a bullet came
6 from a particular cartridge case. There's just
7 no testing for that. The only way we can tell
8 if it came from the same weapon, is to compare
9 them to the weapon itself.

10 Q All right, so you can't. Can you
11 determine whether, let's say 2 projectiles, came
12 from the same firearm?

13 A Yes.

14 Q All right. Now, did you -- what is the
15 difference in the marks that are made on a
16 projectile, as opposed to the marks that are
17 made on a cartridge casing?

18 A The bullet will travel down the barrel,
19 and most barrels are rifled, so the riffling
20 that's in the barrel is what makes the marks
21 that we're looking at.

22 Q All right. Is it the same sort of
23 thing, where each gun makes a unique marking on
24 the projectile, the same way makes a unique
25 marking on the cartridge casing?

1 A Yes.

2 Q All right. You just can't compare
3 apples to oranges?

4 A Correct.

5 Q Okay. When you gathered your test
6 case, your test firings, you've got test
7 casings, as well as test projectiles; is that
8 how it goes?

9 A We collect both.

10 Q Okay. In this case, when you did that,
11 what did you find?

12 A In this case, I compared them to the
13 fired evidence that I had received, and I didn't
14 have enough marks to be able to determine if
15 they were fired by that firearm.

16 Q All right, so is it your opinion then,
17 that the shell casings which you received from
18 the scene were not fired by item 1, Exhibit 1.1,
19 or is it just you can't make a conclusion?

20 A So the firearm identification has 4
21 conclusions that we can reach. One is, it was
22 fired by that firearm.

23 One is, it was not fired by that firearm.
24 One, that it is unsuitable for a comparison, so
25 it just is too damaged, or too little piece of a

1 bullet, that we just can't use it.

2 The last answer is inconclusive. It just
3 means there aren't enough marks on there for me
4 to render an opinion, as if it was fired by that
5 firearm?

6 Q Was it inconclusive then? Your
7 conclusion was inconclusive for this particular
8 case?

9 A Yes.

10 Q And is that dealing with the cartridge
11 casings, the projectile, or both?

12 A Both. The cartridge cases, and the
13 bullet, were inconclusive with the firearm.

14 Q Does that happen regularly in your
15 field?

16 A Pretty regularly.

17 Q So it's not something that you're
18 shocked to find, that you can't get up here and
19 say this conclusively was fired by this
20 particular gun?

21 A No, I wasn't surprised.

22 Q Okay. That was kind of a poorly
23 phrased question. Tell us why sometimes you
24 don't get results that are very clear.

25 A Sometimes it depends on the caliber.

1 Some calibers are just less powerful, so they
2 don't mark as well.

3 Sometimes it's the ammunition's problem, it
4 doesn't take marks as well, or the firearm
5 itself just doesn't leave marks as well. So it
6 just kind of depends on all those things coming
7 together for me to have enough characteristics
8 to say it was fired by a certain firearm.

9 Q All right. Now, does that have
10 anything to do with why you took some of the
11 live rounds that you received? I think you said
12 that was item 3?

13 A Uh-huh.

14 Q Okay. Now, part of that is Exhibit
15 1.3, and part is Exhibit 39; do I have that
16 right?

17 A That's correct.

18 Q Okay. Is that usual, for you to take
19 live rounds collected from the scene, and turn
20 them into some of your test firings?

21 A It's not a usual thing that we do, but
22 we try to use the ammunition that we have at the
23 lab, and we try to match what came in as
24 evidence. So if it was a Winchester round, we
25 would try to use Winchester.

1 There are occasions that we've tried
2 everything we have in our collection at SLED,
3 and if it doesn't mark as well as we would like,
4 we sometimes use the submitted ammo that came
5 with the firearm. That submitted ammo would
6 have been, we assume, under the same conditions
7 as what was fired at the scene.

8 Q Okay, and those live rounds, which
9 became test firings, they were submitted all
10 together in the box that you have up there?

11 A Yes.

12 Q Okay. So then you did use, what is now
13 Exhibit 39, as some of your test firings, after
14 you had done other test firings?

15 A Yes.

16 Q Okay, and I take it that it did not
17 change your analysis, you were not able to draw
18 any conclusions based on those either?

19 A No, the answer would still be
20 inconclusive.

21 Q All right. However, what can you tell
22 us about the cartridge casings which you
23 received from the scene, versus the cartridge
24 casings that arrived as part of Exhibit 1?

25 Were they the same caliber?

1 A Yes.

2 Q All 5 that you received, the 2 fired
3 ones, as well as the 3 live, some of which you
4 turned into test firings?

5 A Let me look again just to make sure.
6 So the fired ones that I received had 2
7 different headstamps, just 2 different
8 manufacturers. One was Winchester, and one was
9 Prvi Partizan, which is a foreign manufacturer.
10 The unfired that I received were Winchester, so
11 we had 2 different manufacturers represented.

12 Q 4 Winchesters, and 1 PPU --

13 A Yeah.

14 Q -- is that the acronym? Okay. Is
15 there anything about a brand of a bullet that
16 makes it unsuitable for a gun, or is it more to
17 do with the caliber? Can you mix and match?

18 A You can mix and match, as long as it's
19 the right caliber for the firearm.

20 Q All right, so were all these, all 5
21 rounds, the 2 that were fired, and the 3, which
22 you received live, were they all the same
23 caliber?

24 A They were all .380 auto, yes.

25 Q All suitable for use in State's Exhibit

1 1.1, the firearm?

2 A That's correct.

3 Q All right, and the firearm was in good
4 working order?

5 A It was.

6 Q How many rounds does that magazine,
7 which is now State's Exhibit 1.2, hold?

8 A It holds 6.

9 Q Okay, and you received it with how many
10 live rounds?

11 A There were 3 unfired cartridges with
12 it.

13 Q What else can you tell us about State's
14 Exhibit 1.1? Were you able to make any
15 conclusions about how it would be fired? I
16 think we established it was in good working
17 order.

18 Can you tell us anything else about it?
19 Actually, that was A, way too wordy, and B, I'm
20 gonna back up. What is the difference between a
21 semi-automatic handgun, and a, let's say a
22 revolver? Can you describe that difference?

23 A A semi-automatic pistol takes a
24 magazine. So you load the magazine with unfired
25 cartridges. You put the magazine in the

1 magazine well. You pull the slide back, and
2 then let it go forward, so now one cartridge is
3 in the chamber.

4 Once you pull the trigger, the force of the
5 explosion will cycle the firearm, so the bullet
6 will come out. The cartridge case will get
7 ejected. The next cartridge will get loaded
8 from the magazine, and then it's ready to be
9 fired again.

10 A revolver has all of its cartridges in
11 different chambers of a cylinder. So if you
12 think back to when you watched the old west
13 movies of cowboys, that's what they shot. So it
14 would rotate around, so the firing pin would hit
15 the cartridge case, the bullet would come out,
16 and then the cylinder would turn, so the next
17 one's ready.

18 Q And you still handle, I mean, you refer
19 to the old west, but you still get revolvers in
20 your line of work; do you not?

21 A Yes, we do.

22 Q Okay. In either case, well, which kind
23 of gun is this?

24 A This is a semi-automatic pistol.

25 Q All right, so this is the kind where

1 the magazine sends each round up as the previous
2 round is fired?

3 A That's correct.

4 Q All right, and what happens to the
5 cartridge casing? I think you mentioned it a
6 moment ago, but tell us again. What happens
7 after the bullet is fired?

8 A The cartridge case will get ejected
9 from the firearm, and the next cartridge will
10 get loaded.

11 Q And that happens automatically, I mean,
12 the person firing the gun doesn't have to reach
13 in and pull the cartridge casing out, do they?

14 A No, with every pull of the trigger,
15 that whole cycle happens, until the magazine is
16 empty, and that means the gun's empty.

17 Q All right, and where did, I mean, did
18 the cartridge casings go anywhere after they're
19 ejected; is that just totally random?

20 A It depends on how the firearm is held,
21 and what side the ejection port is on. They
22 could bounce after they hit the ground, so it's
23 hard to tell where they could go.

24 Q Sure, but they're not, say, fired a
25 quarter mile away when they're ejected, there

1 somewhere in the rough vicinity where the gun
2 was fired?

3 A Correct.

4 Q Okay. How about the trigger of the
5 semi-automatic, like 1.1, and then what did you
6 find about 1.1, specifically?

7 A There's a certain weight that you need
8 to pull the trigger. As part of our
9 documentation of firearms, we do a trigger-pull-
10 weight determination.

11 Q And what did you find out when you did
12 that for State's Exhibit 1.1?

13 A The trigger pull weight for this
14 firearm is 7 1/4 pounds.

15 Q That's the amount of pressure that you
16 have to put on it, in order to pull the trigger
17 back?

18 A Yes.

19 Q And you have to do that every time you
20 fire a round?

21 A That's correct.

22 Q When you, or anybody else, pulls the
23 trigger of State's Exhibit 1.1, or semi-
24 automatic handguns like it, does one round come
25 out, or more than one?

1 A Semi-automatic pistols are designed to
2 shoot one round at a time.

3 Q Okay, so to fire more than once, you
4 have to pull the trigger more than once?

5 A Yes.

6 MR. EVANS: I beg the Court's
7 indulgence.

8 BY MR. EVANS:

9 Q I asked you about the cartridge casings
10 which you received, which were items 4 and 5,
11 and I think they're Exhibits 2 and 3. Those are
12 .380's; is that right?

13 A Yes.

14 Q How about the projectile? I don't
15 think I asked you about that yet. Were you able
16 to determine the caliber of the projectile?

17 A Yes, it was most consistent with being
18 .380 auto caliber as well.

19 Q And just to get into laymen's terms,
20 what is a projectile?

21 A It's the bullet that was loaded in the
22 cartridge case.

23 Q The actual -- the cartridge casing is
24 also part of a bullet; is that right?

25 A No, the cartridge case hold the bullet

1 and the gun powder together, and then once it's
2 fired, they become separate.

3 The bullet goes out the front of the
4 firearm, and the cartridge case usually goes out
5 the side.

6 Q All right, so this is the little actual
7 thing that's flying through the air, and you
8 know, could hit a target, or a person?

9 A Correct.

10 Q All right. Those are all the questions
11 that I have, Ms. Eichenmiller. Please answer
12 any questions that Mr. Kuhn may have.

13 MR. KUHN: May it please the Court, Your
14 Honor?

15 THE COURT: Yes, sir.

16 **

17 **CROSS-EXAMINATION**

18 BY MR. KUHN:

19 Q You have the gun in here?

20 A Uh-huh.

21 Q Where does the cartridge case get
22 ejected from this? How does that happen? Can
23 you show me?

24 A Yep. As the gun is cycled, it will
25 come out right here.

1 Q It will come out the top?

2 A It depends on how it was held. Its
3 opening is here, so it could come back, or come
4 out the side.

5 Q Which side would it come out?

6 A In general, it would probably come out
7 the right.

8 THE COURT: Okay, Mr. Kuhn, the jury
9 can't see what she's referring to, so if you
10 want to step down, you're welcome to, to show
11 them what you're talking about, and you might
12 want to, just as you say it, walk all the way
13 around the line. Thank you.

14 BY MR. KUHN:

15 Q If you would, show the jury how that
16 cartridge case gets ejected from that gun when
17 it's fired. Could you show the jurors here, and
18 then come down, and make sure everybody can see
19 that.

20 A So the bullet will come out the front,
21 and then the gun, the slide will do this. It
22 will open up. The cartridge case comes out
23 here.

24 There's a piece of metal in here, called
25 the ejector, that will kick the cartridge case

1 out. The opening is larger on this side, so it
2 should come out this side, or the top, depending
3 on how the firearm is held.

4 Q When you say this side, are you
5 referring to, if I'm a shooter pointing it out
6 to the right?

7 A To the right.

8 Q Okay, thank you, and this -- and how
9 far will that cartridge case fly for this
10 particular gun? Can you give us an estimate? I
11 mean are we talking 100 yards, 2 inches, just
12 your best --

13 A No, we don't have any guess for that.
14 No guesstimate, it just -- it gets kicked out.

15 Q Okay, and this particular gun came with
16 3 unfired rounds, and 2 fired cartridge cases?

17 A Correct.

18 Q That's all I have. Thank you.

19 THE COURT: Anything further?

20 MR. KUHN: No, Your Honor.

21 THE COURT: Any objection to this
22 witness beings excused?

23 MR. EVANS: None, Your Honor.

24 MR. KUHN: No, Your Honor.

25 THE COURT: Ms. Eichenmiller, you're

1 excused. Thank you.

2 MR. EVANS: May we approach, Your
3 Honor?

4 THE COURT: You may.

5 (Bench conference.)

6 THE COURT: Okay. All right, ladies
7 and gentlemen, we're gonna take a very brief
8 recess.

9 I understand the State has one more
10 witness, and we're gonna need to make sure that
11 that person is here. I need to remind you, do
12 not discuss this case, it wouldn't be
13 appropriate to do so.

14 Go back, refresh yourself, ladies and
15 gentlemen, we'll be right back, okay.

16 (Jury exits the courtroom.)

17 THE COURT: All right, we'll be at ease
18 for about 10 minutes. Will you send a word back
19 to chambers --

20 MR. EVANS: Yes, ma'am.

21 THE COURT: -- if she is here, or not?

22 MR. EVANS: May I put one thing on the
23 record --

24 THE COURT: Sure.

25 MR. EVANS: -- before we do?

1 THE COURT: Sure.

2 MR. EVANS: With both experts, I looked
3 over at Mr. Kuhn, because he started advising
4 the jury, and he had not weighed in yet, but I
5 took his gestures to indicate that he had no
6 objection to their qualifications; is that
7 right, Mr. Kuhn?

8 MR. KUHN: That is correct. I
9 stipulate they are qualified as experts.

10 THE COURT: He would have raised it, so
11 yes, I already know.

12 MR. EVANS: And we'll have some
13 stipulations, which I think we'll read in, just
14 prior to Dr. Phillips' testimony.

15 THE COURT: Okay.

16 MR. EVANS: I need to reprint them, and
17 show them to Mr. Kuhn again, but --

18 THE COURT: You need to agree on them,
19 and we'll put them on, and make them a Court's
20 Exhibit, okay.

21 MR. EVANS: Yes, ma'am.

22 THE COURT: Thank you.

23 MR. EVANS: Thank you.

24 THE COURT: Okay. We'll be at ease.

25 (RECESS)

PROCEEDINGS CONTINUED

1 you.

2 MR. EVANS: Thank you, Your Honor. The
3 State of South Carolina, and the Defendant,
4 Tiffany Owens, by, and through, her undersigned
5 counsel, do hereby stipulate to the following
6 facts. 1, the remains examined by Dr. Phillips
7 were those of Tijuanna Johnson, 2, the internal
8 chains of custody for all items examined at
9 SLED, in Columbia, are intact, and, 3, Tijuanna
10 Johnson's fingernails were clipped at autopsy,
11 and the clippings were examined by DNA expert
12 MaryAnne Bomme, of SLED, in Columbia.

13 Ms. Bomme found the presence of 2 DNA
14 profiles, Ms. Johnson's, and another person's,
15 signed by myself and Mr. Kuhn.

16 May I make that a Court's Exhibit,
17 Judge?

18 THE COURT: You can. Call your next
19 witness.

20 MR. EVANS: The State calls Dr.
21 Angeline Phillips.

22 **ANGELINA PHILLIPS, M.D.**

23 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

24 *******

25 MR. EVANS: Thank you, Your Honor.

1 the manner of death.

2 Q So what kind of education, and
3 training, do you need, in order to become a
4 forensic pathologist?

5 A In order to be a forensic pathologist,
6 first you have to complete all of your
7 undergraduate training, which is a basic
8 Bachelor's degree with MCAT, or, you know,
9 something geared toward getting into medical
10 school. I completed mine in anthropology at New
11 York University.

12 I have additional training in human
13 nutrition. I have a Master's degree in human
14 nutrition from Columbia University, in New York,
15 and then after you complete that, you go to
16 medical school.

17 That's 4 years of medical training, before
18 you can graduate, and call yourself a doctor,
19 but you're still not a useful doctor yet. You
20 have to go through more training, four more
21 years of residency, to become a pathologist, and
22 after that, for education in pathology, general
23 pathology, I get one more year of training,
24 before I can do forensic pathology, which is
25 what got me here.

1 Q All right, so we got NYU Bachelor,
2 Columbia Master's. Where was your med school?

3 A Upstate New York, Suni Upstate
4 University of New York.

5 Q Okay, and how about residency?

6 A Residency was in Western Massachusetts.

7 Q Okay. How did you end up at MUSC?

8 A I got off the plane, it was sunshine,
9 and I didn't want to leave.

10 Q And how long have you been performing
11 this kind of work?

12 A 8 years.

13 Q Approximately, how many autopsies have
14 you performed, in those 8 years?

15 A At least 1,000.

16 Q And, approximately, how many times have
17 you been qualified as an expert in forensic
18 pathology in Courts of this State or any others?

19 A At least 15.

20 Q All right.

21 MR. EVANS: Your Honor, the State would
22 tender Dr. Phillips as an expert in forensic
23 pathology.

24 THE COURT: No voir dire?

25 MR. KUHN: I stipulate she is so

1 qualified, Your Honor.

2 THE COURT: All right, ladies and
3 gentlemen, Dr. Phillips, in this case, is being
4 qualified as an expert in the area of forensic
5 pathology.

6 That allows her to give her opinion, and
7 the reasons for her opinion, and that's for you
8 to use as you see appropriate, and as compared
9 to other evidence in this case.

10 BY MR. EVANS:

11 Q All right, tell us about what you do
12 when you perform an autopsy, and then tell us
13 what you did in this particular case.

14 A Okay, so the basics of the autopsy
15 procedure, we get a request for an autopsy from
16 one of our County Coroners. They transport the
17 body to our facility, at the Medical University
18 of South Carolina, down near Charleston.

19 The body comes up, it's on the table as is,
20 we take photographs, I take photographs,
21 document what's there, clothing, if present, or
22 not present, any medical intervention that's
23 there.

24 Prior to beginning the full detail
25 examination, I'll collect any evidence that I

1 see. In general, for homicides, I'll collect
2 pulled scalp hair, fingernail clippings.
3 Anything pertinent, that's on the outside of the
4 body, will be collected at that time.

5 After that, the body is undressed, if there
6 is anything to remove. The blood, and any other
7 debris, is cleaned off the body, so we can see
8 the surface clearer. Then I'll look at the
9 surface, looking for any injuries, natural
10 disease.

11 I'll document that information on a diagram
12 I create, and I use that to help me write my
13 report after the autopsy. The steps go pretty
14 normally after that for us. It's photographs,
15 external documentation, we open up the body,
16 internal documentation, then we complete the
17 autopsy, and I put together a report with all of
18 that information, and that's when it's all done.

19 Q And are those the steps that you
20 followed when you examined Ms. Johnson, in this
21 case?

22 A Yes.

23 Q All right. Do you assign each case a
24 number, or something to use to keep track of
25 which autopsy it is?

1 A Yes, each case gets a unique number,
2 that comes through our office.

3 Q What was the number in this case?

4 A In this case, it's FA, forensic
5 autopsy, 21, the year, and 597.

6 Q Is that 597, is that just for the
7 autopsy, is that MUSC, or is that statewide?

8 A That's a consecutive number, just for
9 MUSC.

10 Q Okay, so this is the 597th autopsy of
11 2021, at MUSC?

12 A Correct.

13 Q And when did you perform the autopsy of
14 Ms. Johnson?

15 A This autopsy was performed in June of
16 2021, on the 2nd.

17 Q June 2nd, 2021?

18 A Yes.

19 Q All right. Would you describe how Ms.
20 Johnson appeared when you received her?

21 A When we received the body, she was not
22 wearing any clothing, and she had medical
23 intervention on her body, and blood obscuring
24 some of the findings.

25 Q What do you mean by medical

1 intervention?

2 A Medical intervention is referring to
3 the things that are there because of the life
4 saving measures that either, EMS, referring to
5 medical people in the field, or emergency
6 doctors, in the emergency room used, when trying
7 to save her life.

8 Q And it arrives with those various
9 apparatuses still attached sometimes, the body
10 will?

11 A Yes. Preferably, we like to leave them
12 place, so that I know what's there, and what is
13 injured, and I don't have to differentiate the 2
14 with much difficulty.

15 Q What sort of injuries did you find when
16 you examined Ms. Johnson?

17 A In this case, Ms. Johnson had a gunshot
18 wound, and she had a few scattered abrasions on
19 her body. The gunshot wound is the lethal
20 injury that we have. Would you like me to go
21 into the description of it?

22 Q You know what? In fact, I'm gonna
23 start passing you some documentation, because
24 you say you took photographs, and draw a
25 diagram; is that right?

1 A Yes.

2 Q All right. Just a moment.

3 MR. EVANS: May I approach the witness,
4 Your Honor?

5 THE COURT: You may.

6 BY MR. EVANS:

7 Q I'm gonna pass you what have been
8 previously marked as State's Exhibits 32, 35,
9 and 36, and ask you if you recognize those?

10 A Yes, I do.

11 Q What is number 32?

12 A Number 32 is the diagram I created at
13 the time of autopsy, documenting all my
14 findings.

15 Q Okay. It's obviously a copy of that,
16 not the original?

17 A Not the original.

18 Q Okay. How about 35?

19 A 35 is an image taken at the time of
20 autopsy, showing the entrance wound, with a
21 medical tube in place.

22 Q And how about 36?

23 A 36 is another autopsy photograph,
24 showing the exit gunshot wound on the back.

25 Q All right, and are those, are 35 and 36

1 color, or in black and white?

2 A Black and white.

3 Q Other than being in black and white,
4 have they been changed or altered in any way
5 since you took these photographs?

6 A They have not.

7 Q Do they fairly and accurately depict
8 the way Ms. Johnson's remains appeared when you
9 examined her?

10 A Yes.

11 Q And State's 32, the copy of the
12 diagram, that's your original writing?

13 A Yes.

14 Q All right.

15 MR. EVANS: Your Honor, the State would
16 move these items into evidence as State's
17 Exhibits 32, 35 and 36.

18 MR. KUHN: No objection, Your Honor.

19 THE COURT: Without objection, they're in
20 evidence.

21 (State's Exhibits 32, 35-36 were admitted
22 into evidence.)

23 BY MR. KUHN:

24 Q And we'll publish on the, or Dr.
25 Phillips, would you mind stepping down, and I'm

1 gonna, we'll get a little bit closer to it, and
2 we'll put those items up here, and you can refer
3 to them as you're testifying. Let's start with
4 State's 32, the diagram; is that right?

5 A Yes.

6 Q What do we see on the diagram there?

7 A So this is a generic diagram of the
8 female body, showing the front and back, and on
9 it, it has my documentation of findings at
10 autopsy. Up at the top, we have the basic
11 things that we look at for every autopsy,
12 weight, length, or the height, temperature,
13 post-mortem changes and just basics of what
14 makes up their appearance.

15 In the drawing on the diagram, not very
16 artistic, but in black, I usually document my
17 medical therapy, natural disease, findings,
18 marks, and scars, and in blue, I have the
19 injuries that are there.

20 Q Would you be so kind as to start
21 pointing out what those injuries were?

22 A Sure. So here on the right side of the
23 chest, we've got two black lines, and a blue,
24 kind of squiggle. That would be our entrance
25 gunshot wound, that's going to be on the right

1 side of the chest.

2 It's not a 3-dimensional figure, so you
3 kind of have to use your imagination. Inserted
4 right at that site, is a chest tube, so that's
5 in there when they were trying to drain the
6 blood that was building up around her lung.
7 That gunshot wound is the entrance.

8 This little mark right here on her right
9 side of her back, near the midline, that is the
10 exit gunshot wound.

11 Q How are you able to, I'm sorry to
12 interrupt --

13 A Uh-huh.

14 Q -- but how are you able to decipher
15 whether a wound is, A, from a gunshot, and B,
16 whether it was an entrance or an exit?

17 A If there's a bullet, it's usually very
18 easy. In this case, we know that, they gave us
19 the history, that she was shot, so I was looking
20 for a gunshot wound.

21 I initially saw the one on the back, and
22 that looks like an exit gunshot wound, and by
23 that I mean the wound itself has characteristics
24 consistent with an exit gunshot wound, which are
25 a slit-like appearance.

1 So as the bullet's coming through the skin,
2 tearing it, it splits it apart, and I can
3 usually re-approximate the ends of that, and
4 that usually looks like an exit gunshot wound.

5 I didn't have an entrance gunshot wound at
6 the time, to match it up with, until I realized
7 that that tube was going through my entrance
8 gunshot wound, and once the tube's removed, I
9 re-approximated the skin.

10 I was able to see that gunshot wound, and
11 the features that tell me that it was an
12 entrance gunshot wound is its shape being round,
13 and an abrasion, or a scrape, along the outer
14 edge of that wound. As the bullet's going in,
15 it's spinning. It creates a round whole,
16 usually, and creates an abrasion, or a scrape,
17 along the edge of the margin as it goes in.

18 Q Do we have any other injuries on your
19 diagram, State's 32, that are not from a
20 gunshot?

21 A Yes, we do. We have a 2-inch abrasion,
22 right here on the inner aspect of her right
23 breast.

24 Q And by abrasion, what do you mean?

25 A It's a scrape.

1 Q Okay.

2 A And then, on her left shin, leg region,
3 on the front, there is an abrasion, and
4 contusion. So, again, a scrape, and a bruise.

5 Q All right. How about on her right arm?
6 I see one on the right side that's in blue.

7 A Yes, there is another abrasion on the
8 back of that right arm.

9 Q Okay.

10 A Sort of elongated.

11 Q And, again, those were -- you found
12 those were not as a result of any gunshots?

13 A I couldn't say that the one on the
14 forearm was not necessarily related to gunshot
15 wound --

16 Q Okay.

17 A -- but it doesn't have any features
18 that tells me that it is.

19 Q All right. Moving onto State's Exhibit
20 35. What do we see in State's Exhibit 35?

21 A So this is the black and white
22 photograph, showing the region of the entrance
23 gunshot wound. This is the interior, on the
24 front of the body, and that's the back of the
25 body on the table.

1 You can see the curve of her breast right
2 there. This is the chest tube that's going in.
3 It is clamped to prevent blood from coming out
4 while maneuvering the body.

5 Q Those are some of the life-saving
6 measures that you discussed earlier?

7 A Yes.

8 Q Okay.

9 A And when you look closely, right along
10 here, you can see a little bit of a curvature,
11 in where the edge of the skin is somewhat
12 irregular.

13 When those pieces of skin come together,
14 that is where our entrance gunshot wound is.

15 Q All right. How about State's Exhibit
16 36?

17 A So this is looking at the back of the
18 body. It's been rolled up, so the right side is
19 up here, the left side is down here, top, and
20 bottom, and there is our exit gunshot wound.
21 You can see that it looks somewhat split-like,
22 or elongated, and that's one of the features I
23 was looking for to say it's an exit gunshot
24 wound.

25 Q All right. I think that's it for the

1 monitor, so you can return to the stand. All
2 right. We don't have any photographs to show of
3 the inside of her body, but did you -- after
4 taking these, and making an external
5 examination, did you have to operate on her, and
6 look inside her, as you described earlier?

7 A Yes, we did. We opened the body, and
8 traced the projectile pathway, and documented
9 what injuries there were.

10 Q And what were those injuries, inside
11 her body?

12 A The bullet would have went through her
13 body, went through the right side of her chest,
14 primarily. It punctured her right lung, and
15 there was approximately, if I'm recalling
16 correctly, 850 mL's, just shy of a liter of
17 blood, in that chest cavity.

18 Q Okay. What does that mean, in
19 layperson's English, for those of us who aren't
20 pathologist?

21 A For the blood lost, 800 mL's doesn't
22 sound, to a doctor, very significant. You can
23 lose over a liter of blood in donation, and not
24 have any problems.

25 So you would think she's got only 850 mL's

1 of blood in that chest cavity, that's not too
2 much, but that blood is filling up. There's
3 already injury to her lung, so it's very
4 difficult to breathe.

5 So the blood loss, plus the difficulty
6 breathing, eventually led to her dying.

7 Q Were you advised of blood loss that she
8 had suffered outside of her body that, you know,
9 doesn't come with it?

10 A The blood that she lost prior to
11 getting to the autopsy room, I don't have any
12 quantity provided to me on that. I can assume
13 that there was blood loss, based off of the
14 injury.

15 Q Okay. What does it mean to you, as a
16 forensic pathologist, when you see a gunshot to
17 the lower lung like that?

18 A It usually means that that person is
19 going to bleed quite profusely. Your lung gets
20 a lot of blood going to it to exchange for
21 oxygen, so it's a very vascular organ. So a
22 small injury to your lung will cause a lot of
23 blood loss.

24 It's also what you need, like I said, to
25 exchange oxygen, and really one blow to your

1 lung, you're really struggling to breathe.

2 Q Were you able to tell anything about
3 the trajectory of the bullet, based on your
4 external visual examination, and tracing the
5 path internally?

6 A Yes.

7 Q What could you tell us about that?

8 A The trajectory that I usually give, or
9 often a forensic pathologist, tend to give, is
10 with the body in the anatomical position, which
11 is basically what you see on that diagram,
12 upright, standing straight forward, with the
13 arms down by the side.

14 It does not take into consideration the
15 movement of the body at the time when the injury
16 was happening.

17 In this case, with the gunshot wound going
18 in on the right side of her chest, and exiting
19 out the back, the trajectory is going right to
20 left, front to back, and slightly down.

21 Q Right to left, front to back, and
22 slightly down?

23 A Yes.

24 Q Okay. Did you notice any soot or
25 stippling?

1 A I did not.

2 Q And even though you didn't, tell us
3 what those are, you know, for other cases in
4 which you do find them.

5 A Soot and stippling, refers to material
6 that's coming out of the gun, along with the
7 bullet, that can get deposited on the skin.
8 When we see it, it gives us a clue as to how
9 close the weapon was to the body when it was
10 fired.

11 So if I see soot, I can tell that it's
12 within so many inches, stippling, it's up to 3
13 feet or more. Depending on the weapon, you have
14 different patterns of soot, or stippling,
15 deposits.

16 Q Do you ever draw any conclusions, you
17 know, definitively, based on the absence of it,
18 or is it more where, if you find it, you can
19 actually say something about it?

20 A The absence of soot or stippling
21 doesn't necessarily give me any information.
22 It's not on the skin, but that doesn't mean it
23 wasn't on the clothing, and the clothing did not
24 come with her.

25 So there could be an intermediate target,

1 or something in between her and the gun, that
2 could prevent that from getting deposited on her
3 skin. So having no evidence of it doesn't
4 really give me much of a clue.

5 Q Did you find anything, any signs of
6 disease, or any other problems with Ms. Johnson
7 in your examination that were a contributing
8 factor to her passing?

9 A No.

10 Q Strictly the gunshot wound?

11 A Yes.

12 Q And earlier, when you were telling us
13 about what a forensic pathologist is, you
14 mentioned the words cause and manner. Would you
15 mind defining those terms for us now?

16 A So manner of death is, basically, a
17 classification system, based on the
18 circumstances of how the person died. We have 5
19 options, homicide, suicide, accident, natural,
20 and cannot be determined, and the cause of death
21 is the actual mechanism of what happened that
22 caused that person to die.

23 So in this case, the cause of death is the
24 gunshot wound. Without that gunshot wound, she
25 would not have died. The manner of death, in

1 this case, is homicide, which is death by the
2 hands of another.

3 Q And you're making that as a medical
4 determination, not a legal judgement of any
5 kind?

6 A Correct.

7 Q All right, and homicide, it, again,
8 just means death by the hands of another, as
9 opposed to suicide, or accident?

10 A Correct.

11 Q What are the other manners that I'm
12 leaving out?

13 A Suicide, you harm yourself, accident,
14 not intentional injury that led to the death,
15 natural, natural disease, and undetermined, when
16 we cannot decide between one or the other.

17 Q Here we have a homicide caused by the
18 gunshot wound?

19 A Yes.

20 Q Was it blood loss, or oxygen loss, or
21 difficult to determine specifically?

22 A It would be a combination for the
23 actual mechanism of what happened, the terminal
24 event, the last thing, which would be a
25 combination of blood loss, and reduced ability

1 to exchange oxygen, and provide that to the
2 body.

3 MR. EVANS: I beg the Court's
4 indulgence.

5 BY MR. EVANS:

6 Q Did you take any samples from Ms.
7 Johnson's remains?

8 A Yes. So for homicide cases, we'll
9 collect pulled scalp hair, fingernail clippings,
10 and sometimes a few other things. It depends on
11 the case, and for every autopsy case that we do,
12 we'll collect samples of blood, the vitreous,
13 which is the fluid from the eyes, bile, from the
14 gallbladder, urine, if it's present, and other
15 tissue samples to look at under the microscope
16 if necessary.

17 Q Do you send any of those off to other
18 experts in different fields?

19 A Yes.

20 Q Such as?

21 A The fingernail clippings, pulled scalp
22 hair, generally, gets transferred over to the
23 investigators who attend the autopsy, and they
24 can take that over to whichever laboratory, and
25 investigation office, that they choose, to get

1 tested.

2 They can use those for DNA testing, and the
3 blood that we draw, and urine, will generally
4 get sent to a toxicology lab, which is offsite,
5 and they perform our toxicology testing, and
6 result that to us at a different time.

7 Q And do you make their results, even
8 though you don't perform the toxicology, right?

9 A That is correct.

10 Q A different expert, in a different
11 field, does that?

12 A Correct.

13 Q Do you incorporate their results into
14 your report?

15 A Yes.

16 Q What were the results for Ms. Johnson?

17 A Ms. Johnson had marijuana, marijuana
18 metabolite, so a breakdown product of marijuana,
19 in her system, and ketamine.

20 Q And, again, that's done at a completely
21 different location, not by you, or at MUSC at
22 all; is that right?

23 A Correct. We collect the sample, we
24 ship it off for testing, and once that result
25 comes back, I incorporate that into my report.

1 test, but it's a reliable laboratory that you
2 routinely rely on; is that correct?

3 A Yes.

4 Q They're accredited, credible, do good
5 work?

6 A Yes. My understanding that is all of
7 these toxicology labs are accredited.

8 Q Okay, and one of the drugs found in the
9 system was something called ketamine; is that
10 correct?

11 A Correct.

12 Q And what is ketamine?

13 A Ketamine is a drug that has a few uses.
14 They tend to use it in resuscitation. I don't
15 resuscitate a lot of patients, so I couldn't
16 tell you the specifics of when they would choose
17 to use it, but it can be used in resuscitating a
18 patient. It has also gained some notoriety for
19 use as an illegal, illicit drug. It usually
20 gives, I guess, aggressive, up, kind of effect.

21 Q Okay, and the testing limit, I
22 understand, is 10 mana grams per milliliter; is
23 that correct?

24 A I believe so, from the toxicology
25 report, yes.

1 Q And they found 1,784 mana grams per
2 milliliters in Ms. Johnson; is that correct?

3 A Let me refer to the report to confirm,
4 but I believe that is correct. Yes.

5 Q 10's the limit. They found 1,784.

6 A 10's the limit for detection.

7 Q As far as cannabinoids go, marijuana,
8 THC-COOH, what is that?

9 A So THC, is marijuana metabolite, and
10 the COOH, is the carboxy form of that, which is
11 the metabolite, or breakdown product of
12 marijuana.

13 Q And the recording limit for that is 3
14 milliliters; is that correct? Please refer to
15 your report.

16 A I have to look at the toxicology report
17 for that one. I believe that is correct, and
18 that would be, so it says 1 is the recording
19 limit for the Delta-9 THC, which is the active
20 version of marijuana, and 3 mana grams per
21 milliliter is the recording limit for the
22 carboxy portion of marijuana.

23 Q So let's take those both up. On the
24 Delta, the recording limit is 1 nanogram, and
25 they found 2.4 in her system?

1 A Yes.

2 Q And the THC, the recording limit is 3
3 nanograms, and they found 16.1 nanograms in her
4 system; is that correct?

5 A Correct.

6 Q Thank you very much, Doctor.

7 THE COURT: Anything further?

8 MR. EVANS: Just very briefly, Judge.

9 **

10 **REDIRECT EXAMINATION**

11 BY MR. EVANS:

12 Q Can you explain, when you're talking,
13 the term was recording limit, would you explain
14 what that means?

15 A The recording limit that they provide
16 us on the toxicology report, generally, refers
17 to the limit at which they are able to detect
18 the substance in whatever they're testing. So
19 below the 1, or 3 for marijuana, it becomes
20 difficult for the laboratory to detect.

21 So if she had less than 1, or 3, they would
22 have difficulty picking that up on their test.
23 When it goes above that, they are better able to
24 determine, 1, that marijuana is there, and 2,
25 quantify how much they can find.

1 Q So it's a, a threshold might be another
2 way of putting it, above which it can be
3 detected.

4 A Yes.

5 Q Okay, that's all I got.

6 THE COURT: Anything further?

7 MR. KUHN: No, Your Honor. Thank you.

8 THE COURT: All right. Any objection
9 to Dr. Phillips being excused?

10 MR. EVANS: None, Your Honor.

11 MR. KUHN: No, Your Honor.

12 THE COURT: You're excused. Thank you.
13 All right, Mr. Evans, anything further from
14 the State?

15 MR. EVANS: I beg the Court's
16 indulgence. The State rests, Your Honor.

17 **

18 **STATE RESTS**

19 THE COURT: Ladies and gentlemen, at
20 this time the State has rested their case.
21 There is a matter that I need to take up with
22 the attorneys. I'm gonna send you back to your
23 jury room. Do not discuss this case, it
24 wouldn't be appropriate to do so, and we'll
25 bring you right back out as soon as I can, and

1 we'll go ahead, and figure out where we're going
2 for the rest of the day, all right.

3 You are excused.

4 (Jury exits courtroom.)

5 THE COURT: All right, any new motions,
6 Mr. Kuhn?

7 MR. KUHN: Yes, Your Honor. I would
8 renew my motion to dismiss pursuant of section
9 16-11-41, that was previously stated. I'd also
10 move for a verdict of, directed verdict of
11 acquittal. There's been no proof that my client
12 pulled the trigger or shot Ms. Johnson.

13 THE COURT: All right, and I'll
14 respectfully, taken all the evidence, and why it
15 was favorable to the nonmoving party, there is
16 evidence which was preserved and produced that
17 the Defendant shot the deceased in this case,
18 I'm gonna deny your motion.

19 MR. KUHN: Thank you, Your Honor.

20 THE COURT: All right. Mr. Kuhn, at
21 this point, obviously, it's time to go through
22 your client's rights with her, as to whether or
23 not she wishes to testify.

24 Are you gonna put up a case?

25 MR. KUHN: Yes, Your Honor.

1 THE COURT: You are? All right, so is
2 now the appropriate time for me to talk to your
3 client about her Fifth Amendment rights?

4 MR. KUHN: Yes, Your Honor.

5 **

6 **DEFENDANT'S RIGHT TO TESTIFY**

7 BY THE COURT:

8 Q All right, Ms. Owens, would you please
9 rise, and just raise your right hand.

10 Do you swear and affirm the testimony you
11 give will be the truth, so help you God?

12 A Yes.

13 Q All right, Ms. Owens, I'm gonna have to
14 ask you to speak up, so my court reporter can
15 hear you. You can put your hand down now.
16 Obviously, the jury is not here.

17 Ma'am, I'm gonna -- what I'm required to
18 do, as the trial judge, is to go over your Fifth
19 Amendment rights with you. We have reached that
20 stage in the trial, where you may present your
21 defense.

22 You may testify, or you are not required to
23 testify on your own behalf. That is something
24 that is completely up to you, but the Fifth
25 Amendment to the Constitution, the U.S.

1 Constitution, states, in part, "That no person
2 is ever required to be a witness against
3 themselves in a criminal trial."

4 Again, that means that no one can call you,
5 or make you testify, and of course, Ms. Owens,
6 you have the right to testify on your own behalf
7 if you choose to, and I expect that you will
8 talk to Mr. Kuhn, your attorney, about whether
9 or not you wish to testify, but I want to make
10 sure you understand whether or not to testify is
11 a personal decision that only you, and you can
12 make, and I want to make sure you understand
13 that; is that correct? -

14 A Yes, ma'am.

15 Q And I'm gonna go ahead, and give you
16 just a few minutes to be able to speak with your
17 lawyer, just for a bit of time, and then when we
18 come back, either Mr. Kuhn is gonna put on
19 whatever witnesses he chooses to, or including
20 you, if you'd like to, but I'm gonna come back,
21 and ask you whether or not you wish to
22 testify --

23 A Okay.

24 Q -- and I'm gonna make sure that I'm
25 gonna ask you, that's your own personal

1 decision, all right.

2 A Yes.

3 Q All right, so we're gonna sit down.

4 THE COURT: In addition to,
5 potentially, your client testifying, how many
6 witnesses do you anticipate calling, Mr. Kuhn?

7 MR. KUHN: Two or 3.

8 THE COURT: Okay.

9 MR. KUHN: I may have to adjust it
10 some.

11 THE COURT: Okay. Well, let's go ahead
12 and let's take about 10 minutes or so.

13 Let's come back at 4:20, and we'll go ahead
14 and open up your case, and we'll go as long as
15 we can today. I just don't know how long it's
16 going to be, and then we'll go from there, okay.

17 MR. KUHN: Appreciate it, thank you.

18 THE COURT: All right, thank you. I
19 appreciate it. Okay, we'll be at ease for 10
20 minutes.

21 (RECESS)

22 **

23 PROCEEDINGS CONTINUED

24 THE COURT: Let's bring the jury in.
25 And you're going to do three witnesses, Mr.

1 Kuhn?

2 MR. KUHN: Yes, ma'am, short ones.

3 They should be short ones.

4 THE COURT: Perfect. It doesn't matter
5 how long it is, I just don't like to say do you
6 have another witness, when you say, no, I don't,
7 so I was just checking for planning purposes.
8 Okay?

9 MR. KUHN: We have three short
10 witnesses and Ms. Owens.

11 THE COURT: Very good.

12 (Jury enters the courtroom.)

13 THE COURT: Welcome back, ladies and
14 gentlemen. Mr. Kuhn?

15 MR. KUHN: May it please the Court,
16 Your Honor, I'll call Alexander Singleton.

17 THE COURT: All right, bring Mr.
18 Singleton in.

19 **ALEXANDER SINGLETON,**

20 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

21 ***

22 THE COURT: All right, Mr. Singleton,
23 you'll sit around here, sir.

24 WITNESS: Thank you.

25 THE COURT: That's all right. I'm just

4 WITNESS: That's fine.

11 WITNESS: My name is Alexander
12 Singleton. First name is Alexander, my last
13 name is Singleton.

15 * *

17 BY MR. KUHN:

20 THE COURT: Can you hear?

22 BY MR. KUHN:

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1 BY MR. KUHN:

2 Q Have you and I ever met before?

3 A Night before?

4 Q No, have we ever met before?

5 A No.

6 Q Have you ever laid your eyes on me
7 before?

8 A Shaking head.

9 Q That's a no?

10 THE COURT: No, for the record.

11 BY WITNESS:

12 A Huh?

13 THE COURT: Is that a no, for the
14 record? You need to say yes, or no, verbally.

15 BY WITNESS:

16 A No.

17 THE COURT: All right, sir. I'm just
18 gonna ask Mr. Kuhn to come a little closer, and
19 you need to say yes, or no. You can't shake
20 your head, or do a head bob, because we can't
21 take that down, okay.

22 Go ahead, Mr. Kuhn.

23 MR. KUHN: All right.

24 BY MR. KUHN:

25 Q Mr. Singleton, were you in the Galaxy

1 Food Mart the day that lady got shot?

2 A Yes, sir.

3 Q What happened?

4 A I wasn't there when she got shot. I
5 just left there, but I went in the store, and
6 when I went in the store -- when I went in the
7 store, and I looked back, I went to the store to
8 get a bottle of hot sauce, a lady was standing
9 behind me, and she was standing behind me, and
10 when she was standing behind me, she said a word
11 to me.

12 I didn't recognize who she was, but when
13 she -- when I was standing, I looked, she was
14 standing behind me, and I don't want to say what
15 she said, but I have to say it.

16 She told me, she said, "Motherfucker, I'm
17 back". She was standing behind me when she said
18 that, and I said, "Lady, I told you I don't know
19 you", and I didn't.

20 I knew her brother, and I knew some of her
21 people, but I didn't -- she was so young that I
22 don't know her name, but her boyfriend told her
23 lies that I said something about her, and I mean
24 --

25 Q Okay.

1 A -- so she just took that on and on. So
2 when she said that to me, I left out the store,
3 and I went home and got on my knees. I asked
4 God, I said, "Lord, I ain't never hit a woman in
5 my life", and I said, "I don't want to hit this
6 woman".

7 That's the second time she had -- she
8 scolded me, and I said, "I don't want to hit
9 this woman, Lord, please, make her my foot
10 stool, and do something, and get her off me".
11 That's what I did, and my son called me from
12 Greenville, he said, "Daddy", he said, "that
13 lady who was looking at you, somebody just shot
14 her at the store".

15 I got off my knees, and he said, "What you
16 did there?", and I said, "Prayer, prayer did
17 it". I said, "I didn't want nothing to happen
18 to her, or nobody else.

19 I didn't know who did it," but I said,
20 "prayer, son", I said, "prayer". He said,
21 "Daddy, well, that's happened," that's all I
22 know".

23 Q Thank you, Mr. Singleton.

24 THE COURT: Mr. Evans?

25 MR. EVANS: Thank you, Your Honor.

* *

CROSS-EXAMINATION

BY MR. EVANS:

Q Good afternoon, Mr. Singleton. Can you hear me okay?

A Pardon me?

Q Can you hear me?

A Yeah.

Q Okay. It sounds like you have some hearing trouble, so I'm gonna speak a little bit louder than normal; is that all right?

A All right, that's cool.

Q Okay. You've never met Mr. Kuhn?

A No, I've met -- no.

Q No. And he asked you about being in the Galaxy Foods that day.

Do you remember what day it was?

A No, I couldn't remember what day. I was so disgusted when she bothered me, so --

Q All I asked you, sir, was --

A -- I really couldn't figure what day it was.

Q Okay, so you just -- you don't remember what day it was.

A No, I don't remember what day it was.

1 Q And you didn't know the woman who
2 cursed at you? You didn't know her name?

3 A I'd seen her a lot of times.

4 Q I understand that.

5 A But I don't know her, I didn't know her
6 name.

7 Q You did not know her name?

8 A No.

9 Q And you left the store?

10 A Right.

11 Q And you didn't see any shooting?

12 A Say what now?

13 Q You didn't see anybody get shot?

14 A No.

15 Q Do you know Ms. Owens?

16 A Yeah, I knew her.

17 Q You know her?

18 A Yeah, I knew her. I don't know her
19 name, but I know her. I'd seen her all the
20 time, like I seen the old lady, I seen her all
21 the time.

22 Q Did you see her on that day?

23 A I know I was -- when I went in the
24 store, I spoke to -- I -- when I went in the
25 store, she had to have been -- could've been out

1 there. I don't know.

2 I went in the store, but see, I know one
3 thing, like I said, that lady was scolding me,
4 she was standing behind me, so she had to follow
5 me in the store, that lady who got shot.

6 Q But you weren't there when anybody got
7 shot; is that correct?

8 A No, I wasn't there.

9 Q So a lady cursed at you in the store
10 from behind you?

11 A She was standing behind me in the
12 store.

13 Q She was standing behind you in the
14 store, and you heard her curse at you?

15 A No. When I looked back, she said, "Do
16 you remember me?". She said, "Motherfucker, I'm
17 back." She was standing right close to me. I
18 say to myself, I never hit a lady. I said,
19 "Miss --

20 Q Okay.

21 A -- I don't know you". I said, "I ain't
22 never said nothing. I ain't ever did nothing to
23 you".

24 Q How long were you in the store that
25 day?

1 A I went to pick up a bottle of hot
2 sauce. I ain't been there longer than about 5,
3 10 minutes, maybe less than that, about 5
4 minutes, but I didn't know whether I brang (sic)
5 my hot sauce back home or not, because I left
6 out of there angry, and I was talking to the
7 Lord all the way home.

8 I said, "Lord, I can't do this. I cannot
9 do anything to hurt her". I said, "I cannot do
10 that". I never hit a woman in my life, and I
11 never did, matter of fact, I ain't never been in
12 the courthouse.

13 Q How long did you speak to this woman,
14 whose name you don't know, before you left that
15 part of the store, and went to purchase your hot
16 sauce?

17 A Say what now?

18 Q How long did this conversation last,
19 that you've been testifying about?

20 A How long me and her had the
21 conversation?

22 Q Yep.

23 A Well, it wasn't less than about 5
24 minutes, I guess, because when she said that to
25 me, about she back, I keep telling her, I said,

1 "Lady, I told you I don't know you," because all
2 them young kids, I'm 75-years-old, I can't
3 remember all these little kids that just come up
4 in the world.

5 Q Okay.

6 A I don't want to see that happen to no
7 young kid.

8 Q How long did it take you to purchase
9 the hot sauce and leave?

10 A To get to mine?

11 Q No, no, not to get home. From the time
12 you left the conversation, how long until you
13 were out the door?

14 A Less than 2 to 3 minutes. I was
15 standing, walking, I was getting out of there.

16 Q 2 to 3 minutes.

17 A I made sure I got away from her.

18 Q And, again, you did not see anybody get
19 shot?

20 A I already had my mind made up about
21 getting home, and ask God, could I --

22 MR. EVANS: All right. Those are all
23 the questions I have, Your Honor.

24 MR. KUHN: Nothing further, Your Honor.

25 THE COURT: All right. Any objections

1 to Mr. Singleton being excused?

2 MR. KUHN: No, Your Honor.

3 THE COURT: You are excused, Mr.
4 Singleton. You may go.

5 MR. SINGLETON: Thank you.

6 THE COURT: Thank you, sir. Call your
7 next witness.

8 MR. KUHN: Anna Marie Fields.

9 THE COURT: Okay.

10 ANNA MARIE FIELDS,

11 BEING DULY SWORN TESTIFIED AS FOLLOWS:

12 ***

13 MR. KUHN: May it please the Court, Your
14 Honor?

15 THE COURT: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. KUHN:

18 Q State your full name please, ma'am.

19 A Anna Marie Fields.

20 Q How do you spell your last name?

21 A F-I-E-L-D-S.

22 Q Ms. Fields, do you know Tiffany Owens?

23 A I do.

24 Q How do you know her?

25 A My sister.

1 Q Did you know Tijuanna Johnson?

2 A I did.

3 Q How was it that you knew her?

4 A We all grew up down the same street
5 from my mom's house, so we know each other,
6 through like growing up together.

7 Q And this is your mother sitting on this
8 front row here --

9 A It is.

10 Q -- in the white shirt --

11 A It is.

12 Q -- on the left-hand side. How long
13 have you lived in this area?

14 A I've been in Hampton County all my
15 life, and I've been in Estill, I've been born
16 and raised back in Estill for about 47 some odd
17 years, and I moved over here about 11 years ago.

18 Q Okay. Are you employed?

19 A I am.

20 Q By who?

21 A Hampton County.

22 Q And what do you do for the county?

23 A I'm the Coroner of Hampton County.

24 Q And because of your connection with the
25 Coroner's officer, the Hampton County Coroner's

1 office recused itself from anything to do with
2 this case, correct?

3 A They did.

4 Q All right. What was the nature of your
5 relationship with Tijuanna Johnson?

6 A We really didn't have a relationship.
7 I was involved with her baby's, her children's
8 father, so that was the connection with the
9 dislike. We really didn't have any, you know,
10 connection together.

11 Q Did she ever express to you any adverse
12 feelings, regarding the fact you had a
13 relationship with her children's father?

14 A Multiple times.

15 Q In what way?

16 A It became physical at some point. It
17 got to the point where, if she was in a grocery
18 store, or in a convenience store, and I was
19 there, it became verbal. 2 weeks before this
20 happened there was a verbal altercation between
21 her and I.

22 Q Can you please answer any questions you
23 may be asked from the Solicitor.

24 **

25 **CROSS-EXAMINATION**

1 BY MR. EVANS:

2 Q Ms. Fields, you had known Ms. Johnson
3 for many years; is that correct?

4 A Yes.

5 Q All right, and you've obviously known
6 Ms. Owens her entire life?

7 A Correct.

8 Q And you're the older sister?

9 A Correct.

10 Q Okay. Did you ever witness Ms. Johnson
11 hit, strike, attack in any way, your sister?

12 A No, not my sister.

13 Q Do you love your sister?

14 A I do.

15 Q Those are all the questions I have.

16 MR. KUHN: We rest, Your Honor.

17 THE COURT: All right. Any objection
18 to Ms. Fields being excused from anyone?

19 MR. KUHN: No, Your Honor.

20 MR. EVANS: Not from the State.

21 THE COURT: You're excused. Thank you.

22 MR. KUHN: We call Tameka Wilson

23 THE COURT: All right. Tameka Wilson?

24 MR. KUHN: That's correct.

25 TAMEKA WILSON,

1 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

2 *******

3 MR. KUHN: May it please the Court,
4 Your Honor?

5 THE COURT: Yes, sir.

6 **

7 **DIRECT EXAMINATION**

8 BY MR. KUHN:

9 Q Ms. Wilson, are you employed?

10 A I am.

11 Q Where do you work?

12 A Wells Fargo.

13 Q And what do you do there?

14 A Teller.

15 Q Do you know Tiffany Owens?

16 A I do.

17 Q How long have you known her?

18 A Years.

19 Q And what is the nature of your
20 relationship with her?

21 A We're friends.

22 Q Did you know Tijuanna Johnson?

23 A Yes.

24 Q How long did you know Tijuanna Johnson?

25 A Years.

1 Q When you say years, are we talking 2
2 years, or --

3 A Just about my whole life.

4 Q And how old are you?

5 A I'm 36.

6 Q How long have you lived in this area?

7 A Just about my whole life.

8 Q Are you familiar then, with Tijuanna
9 Johnson's reputation?

10 A Reputation?

11 Q Her reputation in general.

12 A I'm familiar with her, yes.

13 Q And what is her reputation for
14 peacefulness?

15 A What, sir?

16 Q Being peaceful.

17 A Being peaceful? I haven't actually had
18 any confrontations myself with, but my sister
19 did.

20 A Okay, and tell us about them.

21 MR. EVANS: I'm gonna object to that.
22 I think she can testify reputation, but not
23 specific instances of other persons.

24 THE COURT: Thank you.

25 MR. KUHN: I agree with that.

1 THE COURT: Okay.

2 BY MR. KUHN:

3 Q What is her reputation? What's she
4 like? What does she know about for in the
5 community?

6 A As in?

7 Q Her personality, her demeanor, her
8 reputation.

9 A I mean sometimes, you know, she's
10 peaceful, sometimes she's not.

11 MR. KUHN: That's all the questions I
12 have, Your Honor.

13 THE COURT: Anything further?

14 MR. EVANS: Briefly, Your Honor.

15 **

16 **CROSS-EXAMINATION**

17 BY MR. EVANS:

18 Q Good afternoon, Ms. Wilson.

19 A Hello.

20 Q You knew Ms. Johnson most of your
21 entire life?

22 A Yes.

23 Q All right, from Estill in Hampton
24 County?

25 A Yes.

1 Q And you said sometimes she would be
2 peaceful?

3 A Sometimes?

4 Q Sometimes she would not?

5 A Yes.

6 Q Were you at the Galaxy Foods on May
7 29th, 2021?

8 A No.

9 MR. EVANS: That's all, Your Honor.

10 THE COURT: Anything further?

11 MR. KUHN: No, Your Honor.

12 THE COURT: All right. Any objections
13 to this witness being excused?

14 MR. KUHN: No, Your Honor.

15 THE COURT: Ms. Wilson, you're excused.
16 Thank you.

17 Mr. Kuhn?

18 MR. KUHN: The next witness will be
19 Tiffany Owens, Your Honor.

20 THE COURT: Come on forward, Ms. Owens
21 to be sworn.

22 **TIFFANY OWENS,**

23 **BEING DULY SWORN TESTIFIED AS FOLLOWS:**

24 *******

25 **DIRECT EXAMINATION**

1 BY MR. KUHN:

2 Q State your full name, please.

3 A Tiffany Rebecca Owens.

4 Q What's your address?

5 A [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

7 Q How old are you?

8 A 35-years-old.

9 Q Are you married?

10 A No, sir.

11 Q Do you have any children?

12 A Yes, sir.

13 Q What are their names, and how old are
14 they?

15 A Travion O. is 15, Trenton O. is 14, and
16 D.H. is 2.

17 Q How long have you lived in this area?

18 A I stayed in Hampton County my whole
19 life until I moved to Jasper County 2 years ago.

20 Q Okay, did you know Tijuana Johnson?

21 A Yes.

22 Q How did you know her?

23 A We were all raised up in the same
24 neighborhood. We stayed about 5, 6 houses down
25 from each other our whole life.

1 Q Okay and describe your relationship
2 with her.

3 A I didn't really have a relationship
4 with her, because she's much older than me,
5 well, a couple years older than me. So we
6 really didn't cross paths with each other until
7 the situation occurred, and my sister started
8 dating her ex-boyfriend.

9 Q Did Ms. Johnson seem to resent that?

10 A Yes, she was upset with me about it
11 also.

12 Q Did she, for some reason, blame you
13 also for that?

14 A Right.

15 Q Okay, tell us about what happened at
16 the Johnson Food Market that day. Why were you
17 there?

18 A I went to go purchase some things,
19 because I left my mom's house, so I went to go
20 get some regular things, just shopping from the
21 grocery store.

22 Q This was Memorial Day weekend?

23 A Yes, sir.

24 Q Okay.

25 A Yep.

1 Q Did you have any plans?

2 A Yep, we was supposed to go back to my
3 house, once I leave my mom's house, and we were
4 going to do a barbeque on the grill.

5 Q When you say we, who are you talking
6 about?

7 A Me and D.H.'s father.

8 Q And how did you get to the Galaxy?

9 A I drove my car.

10 Q By yourself?

11 A Yes, I was by myself.

12 Q Okay.

13 A Me and Dante, he had plans to come up
14 here and meet me to the store.

15 Q Dante is your boyfriend?

16 A Dante, yes. Yes, that's D.H.'s
17 father.

18 Q All right, and what were you going to
19 do when you'all met there? What was the
20 purpose?

21 A He was going to give me the rest of the
22 money, so I could get all of the groceries.

23 Q This was for the cookout you'all had
24 planned?

25 A Right.

1 Q So you ride to the Galaxy. What did
2 you do?

3 A I parked in the fire lane, and then I
4 go inside.

5 Q And do what?

6 A I got some groceries.

7 Q Did you know that Tijuana Johnson was
8 outside?

9 A I did not.

10 Q Okay, and after you got your groceries,
11 what did you do?

12 A When I went outside, because Dante just
13 hadn't made it there yet, so I went outside the
14 store. I didn't have enough money to purchase
15 the rest of the groceries.

16 When I was coming out of the store, Mrs.
17 Johnson was coming into the store.

18 Q Is that the first you knew she was
19 there?

20 A That was the first that I knew she was
21 at the store.

22 Q And what happened?

23 A As I'm coming out of the store, she
24 doesn't approach me, but she says to me that,
25 "Oh, you act like you don't see me again today,"

1 but she cursed, calling me the B word.

2 So that kind of caught me off-guard, and I
3 looked up at her, and at first, I didn't know if
4 she was serious, and I said, "I didn't even
5 notice you," I said, "I was just coming out of
6 the store," and we started arguing.

7 I can't remember exactly what she said to
8 me that day, but I know I told her not to follow
9 me to my car, because as we were arguing, she
10 was still talking, and like she was coming
11 towards my car when I was going to my car.

12 As I got in my car, before I could even
13 look, she was standing at the window.

14 Q This was where your car was parked
15 there at the fire lane --

16 A In the fire lane.

17 Q -- at the store?

18 A Uh-huh.

19 Q The video shows you turned your back on
20 her to get something out of your back seat. Do
21 you recall that?

22 A Yes, sir.

23 Q What were you doing?

24 A I was getting my phone, so I could call
25 my mom.

1 Q Okay, and what was going on while you
2 were doing that?

3 A I think she already walked back inside
4 the store, and she was telling me, when she went
5 in the store, she told me that I better not have
6 been outside when she got back.

7 Q Okay. Do you recall telling her
8 something like, you'll be waiting on her when
9 she gets back, or --

10 A Nope, and I told her, "And the police
11 will be here when you get back." I never
12 remembered telling her, "I'll be here when you
13 get back."

14 Q Why were you thinking the police would
15 be there?

16 A Because I had all the intentions of
17 calling the police. I got scared, frankly, so I
18 called my mom.

19 Q And where were you when you called your
20 mom?

21 A I was inside my car.

22 Q Parked at --

23 A Uh-huh.

24 Q -- where you arrived? All right, that's
25 a yes?

1 A Yes.

2 Q Okay. And did you call your mother?

3 A I did.

4 Q Say yes?

5 A Yes.

6 Q What did you and your mother talk
7 about?

8 A She told me that she was going to call
9 the police to come up there and see what was
10 going on, because she know it had already been
11 so many instances.

12 Q Okay. So you hang up after talking to
13 your mother. What did you do?

14 A I was about to leave the store. Ms.
15 Johnson was coming out of the store, and as I
16 was about to leave, she looked back and she told
17 me, she said, "Oh, you still here, you think I'm
18 playing."

19 So I got in the car, and then I go to pull
20 out of the parking lot. I wasn't pulling behind
21 her. I was leaving out the first lane. It's
22 nothing different, nothing ordinary, I've always
23 parked there, always left out in that direction,
24 since I was able -- old enough to drive and
25 everything, I always parked there.

1 Other people park there too in that fire
2 lane. If nobody's there, it's okay to park
3 there. That wasn't unusual for me to leave out
4 that way. So as I'm leaving out of the parking
5 lot, she runs up to my car, and my window was
6 already down.

7 Q What happened?

8 A She starts hitting me. I feel a
9 burning, and I reached for my weapon, because I
10 thought it would scare her, just to try and get
11 her out the window, and then we start
12 struggling, and I'm like shaking and everything.
13 We're struggling for it, and then the gun goes
14 off.

15 Q What happened?

16 A And then when it went off the first
17 time, we were still struggling at that point.
18 She was not shot.

19 The second one went off, and she got shot,
20 and how I knew she got shot, because she jumped
21 back from the car, and I heard her say, "You
22 shot me," and then I pulled off out of the
23 parking lot.

24 Q Where did you go?

25 A I went straight to my mom's house.

1 Q How far away does she live from the
2 Galaxy Food Market?

3 A About one to two minutes across the
4 track from the Galaxy Food Center.

5 Q Okay, when you got to your mom's house,
6 what happened?

7 A When I got to my mom's house, I was
8 scared, I panicked, so I told my mom what
9 happened. I went behind the house first,
10 because I was scared, so I threw the weapon, and
11 then I went in and told my mom what happened,
12 and she said, "Well, we gonna go up to the
13 police station, and I had done told you to
14 waited on them, you should have just waited."

15 And I said, "Well, I was, and when I
16 was," she told me that she was about to come to
17 the car, so I went ahead and pulled off then,
18 and she jumped in the car.

19 And then my mom took me straight to the
20 police department.

21 Q When you got there did you wait on the
22 police?

23 A Yes, I did.

24 Q And they eventually arrived there,
25 handcuffed you?

1 A Uh-huh.

2 Q Now, let's back up a little bit. When
3 you first saw Tijuana Johnson, at the Galaxy,
4 after you purchased your groceries, and went
5 outside, and she came up to you, and the
6 argument started, why didn't you just leave
7 right then and there?

8 A I didn't know that it was gonna turn
9 into that. I didn't know that she would jump in
10 my vehicle.

11 Like I said, before Ms. Johnson was there,
12 or I even knew she was there, I was already
13 going to the store to purchase my groceries, and
14 I was waiting on my son's father. I didn't know
15 - I wasn't doing anything illegal, and I didn't
16 do anything wrong.

17 And I did tell her I was gonna have the
18 police there when she get back. She came back
19 out with the animosity to fight.

20 Q Why did you decide not to wait for your
21 boyfriend, and decide to go ahead and leave?

22 A Because she told me, she said, "You
23 still here, huh?" She said she was coming --
24 she said, "Let me put my groceries in my car."
25 She said, "You still out here."

1 Q When she came up to you as you were
2 leaving, and came through the window, and the
3 gun went off, who pulled the trigger?

4 A I don't know, because --

5 Q Do you recall pulling the trigger?

6 A No, I don't recall pulling it, because
7 we were both struggling. When she saw it,
8 that's when she first reached for that.

9 Q Was it ever your intention to shoot
10 her?

11 A No, no.

12 Q How did you feel about it?

13 A I was scared, and I was five months
14 pregnant. I couldn't get off the fight. I
15 couldn't do anything. I couldn't even see, and
16 I just had surgery two weeks before that, so I
17 was scared and I was just trying to protect me
18 and my baby.

19 Q Now, the surgery you had two weeks
20 before, what was that for?

21 A Well, it's called hemorrhoids.

22 Q Is that why you had the pillow in your
23 car seat?

24 A That's why I had the pillow in the car.

25 Q So you were still suffering from that?

1 A Yep. All of my paperwork from the
2 hospital, all of that was in the car also.

3 Q And also in there was some records
4 where you had been to the emergency room 2 days
5 before?

6 A Yeah, for getting hit by a car.

7 Q Okay.

8 A I had no intentions of fighting
9 anybody, and I had no intentions of taking
10 nobody's life, ever, and I'm so sorry that
11 happened.

12 Q At that time, you had your right hand
13 in a cast?

14 A Right.

15 Q What was that from?

16 A I had a sling on from that accident.

17 Q And how far along was your pregnancy at
18 that time?

19 A I was 5 months. It was noticeable.
20 Even my arm was noticeable.

21 Q Did you have any concerns for your
22 unborn child?

23 A Yes.

24 Q And that's the 1-year-old you have?

25 A That's my 2-year-old --

1 Q 2-year-old.

2 A -- D.H. uh-huh.

3 Q Okay.

4 A And he has problems now. He's going to
5 MUSC. He has autism and everything.

6 Q Have you ever been in trouble like --

7 A No.

8 Q Have you ever been in trouble with the
9 law before?

10 A No. No.

11 Q That's all the questions I have.

12 Please answer questions from Mr. Evans.

13 THE COURT: Mr. Evans.

14 MR. EVANS: Thank you, Your Honor.

15 **

16 **CROSS-EXAMINATION**

17 BY MR. EVANS:

18 Q Good afternoon, Ms. Owens.

19 A Good afternoon, sir.

20 Q I'm sorry to hear about your son's
21 problems. You were pregnant with him at the
22 time; is that right?

23 A Yes, sir. Yes, sir.

24 Q And you testified with Mr. Kuhn a
25 little bit about some other health problems, not

1 that pregnancy is a problem, but you had various
2 health conditions at that time?

3 A At that time.

4 Q Did any of those affect your ability to
5 walk without pain inside the store?

6 A Without pain?

7 Q Were you able to move around and take
8 care of your own groceries and things like that?

9 A Yes, sir.

10 Q And we can see that in the video?

11 A Yes, sir.

12 Q Did it affect your ability to drive in
13 any way?

14 A Kind of. I wasn't supposed to drive
15 for long periods of time until I healed up from
16 the surgery.

17 Q But were you able to make it to the
18 Galaxy Foods --

19 A Yes.

20 Q -- on that day without any trouble?

21 A Yes.

22 Q You had the pillow in the car, correct?

23 A I had the pillow.

24 Q Okay. How about the car itself, the
25 black Honda, was it in good working order at

1 that time?

2 A Yes, sir.

3 Q And that car was registered to you; is
4 that correct?

5 A Yes, sir.

6 Q You didn't have any problems with the
7 car?

8 A No, sir. I had just had the car about
9 -- I had just got the car about 2 months before
10 that.

11 Q But in those 2 months you didn't notice
12 it stalling, any problems shifting gears, or any
13 problem getting it into or out of park, anything
14 like that?

15 A No.

16 Q Okay. So it was running fine?

17 A It was running fine.

18 Q And you were arrived at the Galaxy
19 Foods approximately the same time as Ms.
20 Johnson; is that right?

21 A No, I pulled up before her. The video
22 -- it shows, she actually saw me go in the --
23 she come after me. I parked in the --

24 Q Well, hang on, just --

25 A No, we didn't come at the same time.

1 I'm sorry.

2 Q Okay.

3 A The answer is, no, we did not.

4 Q And I --

5 A She came after me.

6 Q I'm gonna give you every chance to
7 explain your answers.

8 A Okay.

9 Q I'll take a yes, or no, to start, is
10 that okay?

11 A Okay.

12 Q All right. You didn't know until you
13 watched the video later on, that she had arrived
14 around the same time as you; is that correct?

15 A Right.

16 Q Okay, and so when you went into the
17 store, and shopped and bought your groceries,
18 and came out of the store, you did not know that
19 she was there yet; is that correct?

20 A Yeah.

21 Q It's your testimony, it's your feeling
22 that she followed you, but you didn't know that
23 at the time?

24 A I didn't know until I watched the
25 video. At that time I did not know.

1 Q All right. So all of the actions that
2 the video depicts, that wasn't a factor; is that
3 correct?

4 A No.

5 Q It's not correct? Please explain.

6 A Because she -- okay, I didn't know that
7 she followed me, but from the video I'm coming
8 out of the store, and she doesn't -- her car
9 door doesn't open, or she don't get out until I
10 get close to the fire lane. She doesn't come
11 in, and go to shopping, until I shop and come
12 out.

13 So she seen me go in the store, and she
14 seen me come out.

15 Q Well, you're not her, and she's not
16 you; is that right?

17 A Yes.

18 Q So you can't testify to what she did,
19 or did not see; is that correct?

20 A Correct.

21 Q Just like if she were here today, she
22 wouldn't be able to say what you did, or did not
23 see; is that correct?

24 A Correct.

25 Q Okay. So when you left the store, and

1 we've seen what happened, and you made the
2 decisions that you did, the fact that she
3 arrived at the same approximate time as you, and
4 hadn't gotten out of her car yet, that knowledge
5 that you have now was not in your head when you
6 shot; is that correct?

7 A I guess, I don't --

8 Q Okay.

9 A It wasn't -- that knowledge wasn't in
10 my head.

11 Q It wasn't a part of your decision-
12 making.

13 A No.

14 Q All right, and she had never physically
15 attacked you in the past; is that correct?

16 A She tried to.

17 Q Okay.

18 A But as the police department said, it's
19 15 years, so they don't have records of it.
20 I've been to the police, my sister's been to the
21 police.

22 She stopped my truck in the middle of
23 Rooster Ridge one day with my kids with me,
24 before I even had D.H.

25 Q All right. 15 years ago you said?

1 A Yes.

2 Q All right.

3 A I know this was 15, this is how long
4 it's been going on, and I've been scared, it
5 just wouldn't end.

6 Q You've been scared for her for 15
7 years?

8 A I've been scared for her for about 15
9 years. I knew not to say nothing, so I tried my
10 best to avoid her.

11 Q Okay.

12 A And that's the God's honest truth.

13 Q Is it possible that she was trying to
14 avoid you?

15 A No. She did not have to stop at
16 nobody's car. I'm telling her when you --

17 Q I'm not --

18 A -- when you see them, and she was not
19 avoiding me, sir.

20 Q I'm not asking about prior instances.

21 A Okay.

22 Q I'm talking about the day of. When
23 she's sitting in her car, is it possible that
24 she's trying to avoid you?

25 A No.

1 Q No? Okay, but if anything, you did not
2 notice her until she started walking towards the
3 grocery store front door; is that right?

4 A Until she said something to me.

5 Q Until she said something to you.

6 A My head was down. I wasn't even
7 looking who was coming in the store.

8 Q What did you say back to her?

9 A I told her I didn't even notice her,
10 and I told her -- I don't remember exactly what
11 I said, but I was trying to explain to her that
12 I didn't see her.

13 Q All right. What were the groceries
14 that you had bought before you had got back in
15 your car?

16 A I had -- I don't remember what I
17 bought. I didn't get no meat, because I didn't
18 have enough, but I bought -- because I was just
19 sitting outside, so I bought some peach rings,
20 an apple juice, I bought a hot sausage, and I
21 think a can of soup.

22 Q Okay.

23 A A Campbell's soup or something.

24 Q Some candy as well?

25 A Candy.

1 Q Did I hear that right?

2 A Peach rings, peach rings.

3 Q Peach rings, that's right, okay, and
4 you were waiting on --

5 A -- yes

6 Q -- your boyfriend to arrive with cash;
7 is that how you were gonna make the purchase for
8 the rest of those groceries?

9 A Yeah, he was gonna give me cash to get
10 the meat.

11 Q What are the -- and -- okay, meat, and
12 was this planned for -- was the cookout planned
13 for that day, the 29th, or later in the weekend?

14 A Yeah, we was gonna go back to my house
15 after we leave my mom's house and cook.

16 Q All right, and that's why you were
17 waiting in your car?

18 A Uh-huh.

19 Q Why'd you leave the door open?

20 A I didn't leave the door open. I had my
21 door closed. My door was open, until the point
22 where, I think she went in the store, and then
23 it was closed after that.

24 It was closed, because when she was at my
25 car cursing me out before she went in, it was

1 down, and I told her to get from my car then.

2 Q And you went into the backseat to get
3 your phone --

4 A Uh-huh.

5 Q -- was your testimony?

6 A Uh-huh.

7 COURT REPORTER: Is that yes?

8 BY WITNESS:

9 A Yes. Yes, ma'am.

10 COURT REPORTER: Thank you.

11 BY WITNESS:

12 A Yes.

13 Q Where was the gun during all of this?

14 A In the center console.

15 Q Okay, is that where you always kept it?

16 A No.

17 Q Okay, where else would you keep it?

18 A I didn't really have one. I didn't
19 have it until recently. Someone had left it in
20 there.

21 Q I see. How many rounds did it hold?

22 A I'm not sure.

23 Q Okay. How many were in there on that
24 day?

25 A I don't know.

1 Q Okay.

2 A I had never touched it before that day.

3 Q I see.

4 A Never.

5 Q Never touched it before?

6 A Not before that day?

7 Q All right, but you do admit touching it
8 on this day?

9 A Uh-huh.

10 Q And you do admit, I take it, that
11 State's Exhibit 1.1 is, in fact, that --

12 A I can see it. I just saw it.

13 Q Would you like to examine it now?

14 A Yes.

15 Q Is that the gun that was in your car?

16 A Uh-huh.

17 COURT REPORTER: Yes?

18 BY WITNESS:

19 A Yes. I'm sorry.

20 Q But you hadn't touched it before that
21 day?

22 A Uh-huh. Yes.

23 Q And you're not sure how many rounds
24 were in it?

25 A I'm not sure.

1 Q Okay. When you went into the backseat
2 of your car, and got your phone, you were able
3 to call your mother?

4 A Yes, I was.

5 Q And I think you testified with Mr. Kuhn
6 about what she told you?

7 A Yes.

8 Q What was that again?

9 A She told me that -- she asked me what
10 happened, and I was telling her.

11 Q Well, I guess -- okay, yeah. I'm
12 sorry, please finish your answer, I apologize.

13 A She asked me what happened. I was
14 telling her what happened, and I told her Tia
15 was the person that told me I'd better not be
16 out here when she get back, and I said, "I'm
17 gonna go ahead, and I'm gonna call the police".

18 Q And it's your testimony that when you
19 were talking to Tijuana before she went into the
20 store that she kept trying to prolong the
21 conversation?

22 A Yeah. I told her to get away from my
23 car.

24 Q Okay.

25 A And then she finally walked away and

1 went in the store.

2 Q You saw -- you've seen the video,
3 correct?

4 A Yes.

5 Q And she kept turning back, and looking
6 at you; is that right?

7 A Uh-huh, but I wasn't saying anything.

8 Q You weren't saying anything?

9 A No. I was -- no.

10 Q All right, and did you tell her that
11 you would be waiting for her when she got out?

12 A No, I told her the police would be here
13 when she get back?

14 Q "The police would be there when you got
15 back?"

16 A Because I had all intentions of calling
17 the police, but I was scared. I freaked out
18 like I always do. I know I'm 35, but I called
19 my mom for everything.

20 She was the first person that -- I know
21 that she not above the law, but she just always
22 there, so I called her first, and I should've
23 called the police first.

24 Q And your mom told you that she would be
25 calling the police?

1 A She was gonna call, yeah.

2 Q And she -- what else did she tell you?
3 Did she give you any advice?

4 A Yes.

5 Q What advice did she give you?

6 A She told me, she said, "Just go ahead
7 and leave."

8 Q Did you follow her advice?

9 A Yes. Yes.

10 Q After how long?

11 A I'd say about 10, 15, seconds after
12 that. I still had my phone in my hand still,
13 because she was coming out of the store.

14 Q Okay, so it took you --

15 A And I didn't want to pull off as she
16 was coming out, because she would have said I
17 tried to hit her. I know, well, I just know how
18 she was.

19 So I just said, okay, well, let her get in
20 her car, and she told me, she said, "Well, you
21 still here", and then I cranked up my car to
22 leave. I still had my phone and everything in
23 my hand, and I pulled out.

24 Q And where did you pull out?

25 A I pulled out in the first lane to leave

1 out the Galaxy, right there across from the fire
2 lane, where she was parked here, and I left out
3 in that lane.

4 Q All right. You pulled into the left
5 side of that lane, didn't you?

6 A I pulled into the left.

7 Q Isn't the --

8 A And I left out of the left lane --

9 Q And you're supposed to --

10 A -- on the --

11 Q Are you supposed to pull into the left
12 part, or the right part?

13 A I wasn't -- I know I wasn't parked the
14 correct way, but it does -- I usually park there
15 all the time.

16 Q Well, I'm not asking about the fire
17 lane, I'm talking about when you left, and you
18 drove up to her car.

19 A I didn't drive up to her car, sir. Her
20 car was --

21 Q Okay.

22 A -- parked on the side, on the left. I
23 drove up the lane leaving out --

24 Q I'm gonna show you.

25 A -- on the --

1 MR. EVANS: Can we pull up the State's
2 Exhibit 8? Is it 8 or 9?

3 COURT REPORTER: 8 is the security
4 footage.

5 MR. EVANS: Thank you.

6 BY MR. EVANS:

7 Q I want to make sure you can see this
8 okay. All right, Ms. Owens, can you see that?

9 A Yes.

10 Q Can you read the time in the upper
11 left?

12 A In the upper left?

13 Q Yes, ma'am.

14 A I can't see it.

15 Q Okay. I'll let you refer to Mr.
16 Clapp's computer.

17 A Okay.

18 Q Does that help at all? Right up there?

19 A Yes, sir. 16:09:20.

20 Q Is that a 19?

21 A A 19.

22 Q Okay. Is that you arriving in the
23 upper left?

24 A Yes. Yes, sir.

25 Q Okay.

1 A And that's her coming down now.

2 Q And I'm gonna say that's her, but you
3 did not see it.

4 A I did not.

5 Q Your vantage point is not the same as
6 the camera at this point; is that correct?

7 A Yes, sir, and --

8 Q Okay.

9 A -- I didn't even know what kind of car
10 she drove. I stayed in the car.

11 Q Okay, so we agree that you did not know
12 that she was there yet?

13 A Right.

14 Q Okay, and this is you walking into the
15 store?

16 A Yes, sir.

17 Q All right. I'm gonna try to find where
18 you come out; is that you coming out?

19 A Yes, sir.

20 Q Heading back to your car with the
21 groceries?

22 A Yes, sir.

23 Q All right, and does that look like,
24 your car is black, so it's obscuring that black
25 time stamp; right?

1 A Yes, sir.

2 Q Could it be 16:25? Let me ask you
3 this, can you see how much time has passed on
4 the bottom left in Mr. Clapp's video? Right
5 here where the mouse is.

6 A I'd say it's 5:46.

7 Q So 5 minutes, and 46 seconds have
8 passed since the beginning of the video, or at
9 least that's what the bottom left indicates?

10 A Yes, sir.

11 Q Okay. The doors open here; is that
12 correct?

13 A Yeah.

14 Q Okay. Is this Ms. Johnson, approaching
15 from the top, in the yellow?

16 A That's Ms. Johnson.

17 Q Okay. Did you see what she just did
18 there? Can you describe it for us?

19 A What she just did? She left from her
20 car and was going inside the store.

21 Q Okay, and it's your testimony that she
22 initiated the conversation with you?

23 A Yes, she did, I didn't.

24 Q She started cursing at you?

25 A Yes, sir.

1 Q Okay.

2 A And I have my door closed there, as you
3 can see.

4 Q I do agree with that. You're sitting
5 in your car with the window down?

6 A Yes.

7 Q Okay. Was the car running at this
8 point?

9 A No, the car was not running.

10 Q How hot was it?

11 A It was about -- I don't remember, but
12 it was hot that day though.

13 Q All right.

14 A Because I just remember I had my
15 windows down.

16 Q And did you just open the car door
17 there?

18 A Yeah.

19 Q So you're getting out to speak to her?

20 A No, I wasn't getting out to speak to
21 her.

22 Q What were you getting out for?

23 A I wanted to get my phone. My purse was
24 in the back.

25 Q Okay.

1 A And I couldn't reach over my seat and
2 get it, so I got out to get it.

3 Q All right. Did you do that before she
4 had left the immediate area of your car?

5 A Yes, I think I got back in my car after
6 that.

7 Q Okay. You're still talking with her at
8 this point?

9 A No.

10 Q Is she attacking you?

11 A No, she's not.

12 Q Is she running at you?

13 A No, not there.

14 Q She's walking into the store; is that
15 correct?

16 A Yes, sir, and telling me not to be
17 there --

18 Q And what are you telling her --

19 A -- at the store.

20 Q -- again, that the police would be
21 there? Was it your intention to wait until the
22 police arrived?

23 A It was my intention to wait.

24 Q All right. Did you see this gentleman
25 on the right, on the day of?

1 A I didn't recall seeing him. I didn't
2 remember seeing him.

3 Q You realize from the testimony today,
4 that that's who that is?

5 A Yes, sir.

6 Q Okay. You agree with that?

7 A Yes, I do.

8 Q All right. Is she inside the store at
9 this point? We're about 7 minutes and 26
10 seconds into the video.

11 A Yeah, she was already going back in the
12 store at this point.

13 Q And where's Mr. Elliot looking?

14 A He's behind her.

15 Q Where is he looking?

16 A He's looking back at my car.

17 Q Okay, and that's at 7:30? I know it's
18 hard for you to see. I apologize for that, I
19 just wanted to make sure we're on the same page.

20 A This is --

21 Q 7:30, in the lower left?

22 A yes.

23 Q You retrieved your phone from the back
24 seat at this point?

25 A I guess.

1 Q What was it inside? In a purse, or in
2 a --

3 A It was in my purse.

4 Q Okay. Where'd you keep the card that
5 you used for the groceries?

6 A The card?

7 Q Well, what did you use to purchase the
8 groceries? I know you were waiting for more
9 cash.

10 A On that day, I walked in, I only had my
11 card in my hand. I had about \$8.00 on my card.

12 Q Okay.

13 A And I walked back out with my card in
14 my hand also.

15 Q That's all you carried in?

16 A I didn't take my purse in. Yeah.

17 Q All right. So at this point, are you
18 calling your mother already?

19 A I'm not sure. I think I am. Yeah,
20 because I get back in. I had my door halfway
21 open. I think I am on the phone with mom at
22 this point.

23 Q All right.

24 A I was waiting for *Dantavius.

25 Q Had you called him?

1 A No, I didn't call him. Because when I
2 talked to him, he said he was on the way up
3 there, so --

4 Q All right, and --

5 A -- I didn't.

6 Q -- where was he coming from?

7 A Springfield Mobile, about 10 minutes
8 away.

9 Q So you expected him to be there very
10 shortly?

11 A Yeah, like any minute.

12 Q I'm just gonna click and drag, so I can
13 speed this up a bit. All right. This is the
14 point where she's coming out; is that correct?

15 A Yes, sir.

16 Q In the yellow?

17 A Yes, sir.

18 Q And one more time. So we're on the
19 same page --

20 A Yes, sir.

21 Q -- what's that time stamp?

22 A It's 11:50.

23 Q 11:50, and that's the elapsed time?
24 The lower left, the time of the video, not the
25 time on the clock?

1 A Uh-huh.

2 Q Okay. So she'd been in there about 4
3 minutes and 20 seconds? Because we agreed she
4 went in approximately 7:30 --

5 A Yes, sir.

6 Q -- on the video?

7 A Yes, sir.

8 Q Okay, so in those four minutes and 20
9 seconds, you called your mom?

10 A Yes.

11 Q And you had a 2-minute conversation
12 with her? I think that's what you testified.

13 A About a minute or so, about 2 minutes.

14 Q What did you do with the other 2 and a
15 half minutes?

16 A No, the first 2 minutes that I was out
17 there, right after I closed my door, and I
18 grabbed my phone, and I called, and I talked to
19 mom, I think it took us about 2 minutes, I
20 didn't realize it was a whole 4 minutes I was
21 out there, sir.

22 Q Okay. You heard the 911 call --

23 A I did.

24 Q -- earlier this morning; is that
25 correct?

1 A Yeah.

2 Q Was that your mother's voice?

3 A Which? I heard, yes.

4 Q The first call.

5 A The first call.

6 Q Okay, so she actually, she must have
7 finished speaking with you on the phone, and
8 called into 911; is that correct?

9 A Yeah, she had to.

10 Q Okay, so you had completed your phone
11 call at some point before you started to pull
12 out of your parking spot?

13 A Once I got off the phone with mom, it
14 wasn't even a minute before I pulled out, and
15 then she was coming out of the store.

16 Q All right, and the car was not running.

17 A My car was not running.

18 Q So you chose to -- you had to start the
19 car; is that right?

20 A I had to crank up to leave.

21 Q Okay, at what point did you start the
22 car? Can you tell from the video?

23 A Okay, right there I didn't start it,
24 because see, I didn't want her to think I was
25 gonna leave then, but she was already coming out

1 at this point.

2 I didn't want her to think that I was
3 trying to be funny, or trying to hit her, or
4 anything. So as soon as it was clear, and she
5 was almost to her car, she wasn't even, she was
6 about to put her groceries in, the guy was right
7 behind her, the bag guy.

8 They was almost to her car, and I pulled
9 out then.

10 Q Okay, let's watch that.

11 Was she waving at you, at 11:54 elapsed
12 time?

13 A She's not waving at me.

14 Q She's waving off to her right; is that
15 correct?

16 A Yes, sir. Yes, sir, and it looks like
17 she's --

18 Q Did she run at you?

19 A -- waving at somebody that's it.

20 Q Did she run at you when she left the
21 store?

22 A No, sir.

23 Q Did she curse at you as she left the
24 store?

25 A After that, after she spoke to them,

1 yes, she did.

2 Q But prior to this, building up to this
3 wave, that was my question.

4 A With her coming out right then, no, she
5 didn't say nothing to me until after she waved
6 at that person, and she looked over, and then
7 noticed I was still there, then she said it.
8 Then that's when she asked me was I still there,
9 and I thought she was playing.

10 Q You thought she was playing?

11 A Uh-huh.

12 Q Did you like that?

13 A I mean it didn't do anything to me. I
14 wasn't gonna bother her at all.

15 Q I see. All right.

16 A I was going to leave.

17 Q You were going to leave?

18 A Yes, sir.

19 Q What are you holding in your left hand
20 at this moment? We're at 12:13 elapsed time.
21 Is that your phone?

22 A I had to get my phone, it had to be my
23 phone.

24 Q Holding your phone up in your left hand
25 like so?

1 A Yeah, because I'm left-handed, and I
2 used my phone, probably so, yeah.

3 Q And your right hand was injured; is
4 that correct?

5 A I had my * under the left, I think it
6 was the --

7 Q And I'm probably, just remember, you're
8 the one who lived it, so you tell me, was it
9 your left hand, or your right hand, that was
10 injured? We can refer back to 10 and 12. I may
11 have --

12 A I think it was my left hand. No, it
13 was my right.

14 Q I'm gonna pass you State's Exhibit 10.
15 I'm not sure, but this was your left arm,
16 correct?

17 A Uh-huh.

18 Q All right, and that's the one they're
19 having trouble cuffing?

20 A Uh-huh.

21 Q Okay.

22 COURT REPORTER: I'm sorry, could you
23 please say yes or no?

24 BY WITNESS:

25 A Yes.

1 Q So I apologize, I think I put words in
2 your mouth. It was actually your left hand that
3 had a temporary brace --

4 A Yes.

5 Q -- is that correct?

6 A Yes.

7 Q Okay, and you were holding your phone
8 with that hand?

9 A Yes.

10 Q Steering with your right hand?

11 A Uh-huh.

12 Q Okay, any problems with the vehicle at
13 this point?

14 A Problems with my vehicle? No.

15 Q Okay. Operating as you expected it to?

16 A Uh-huh.

17 Q And which side of the lane are you on?

18 A The left.

19 Q The left side?

20 A Uh-huh.

21 Q Where the arrow pointing the opposite
22 direction is?

23 A Uh-huh. Yes. Sorry.

24 Q And I understand that. Did you come to
25 a stop there?

1 A As she was coming to the car, no, I was
2 still -- I still had my foot on the gas, trying
3 to leave, but she came directly in through the
4 window and --

5 Q And you --

6 A -- at that point, I had my foot on the
7 brakes. I never put the car in park, but I
8 couldn't see to drive off, because as she was
9 hitting me, we were struggling. I couldn't see
10 anything.

11 Q Okay, but did you come to a stop using
12 the brake pedal?

13 A Yup.

14 Q I didn't ask you if you put it in park.

15 A Yes, sir.

16 Q You stopped with the brakes?

17 A Yes, sir.

18 Q If you were afraid of this woman for 15
19 years, and she was charging at you, wouldn't it
20 have made more sense to keep going?

21 A No, sir. At that point she was already
22 in the car.

23 Q She was already in the car --

24 A Yep.

25 Q -- as you stopped?

1 A Sir, when -- if you -- as I'm stopping,
2 that's when she got right in the car. I didn't
3 even have a chance to pull off. As I'm pulling
4 off, if you can see, as soon as my car hits the
5 curb there, she comes directly to the window,
6 and that's how quick it was. I didn't have a
7 chance to pull off.

8 Q This is State's Exhibit 38, there were
9 other ways to leave, were there not?

10 A Yes, sir, but like I said, Mr. Evans,
11 it was that direction, was nothing unordinary
12 that day for me to leave out of that direction.
13 The old Dollar General -- Family Dollar, was
14 connected at that. That's been closed for
15 years.

16 I didn't leave out that exit, because I
17 always go out that way. I didn't know she was
18 gonna jump in my car. I was trying to leave
19 like she wanted me to do.

20 Q But you had told your mother that there
21 was a problem. She said she was sending the
22 police.

23 A Uh-huh.

24 Q You told her, your testimony is, that
25 the police would be waiting there for you, for

1 her --

2 A Yeah, because --

3 Q -- is that correct?

4 A -- I had all the intentions, before I
5 called my mom, to call the police. I called --

6 Q But you knew the police were coming?

7 A I didn't.

8 Q But you had an idea that your mom was
9 going to call the police?

10 A Uh-huh.

11 Q Did you expect your mom to not follow
12 through on that request?

13 A No.

14 Q So you knew the police were coming, or
15 at least they were gonna be called.

16 A Uh-huh. Yeah, but it still though --
17 even though I knew they were coming, she had
18 already said, "Well, wait until I put my
19 groceries up", so I knew right then, she never
20 should've said she was gonna, you know, come
21 over there. I knew it was about to be a fight.

22 Q You believed that Ms. Johnson was gonna
23 put her groceries away, and come attack you?

24 A Yes, I did.

25 Q But you chose to drive towards her?

1 A I didn't, I was trying to leave, sir.
2 I was not going towards Ms. Johnson.

3 Ms. Johnson was waiting over there. She
4 came to my car. If I was going towards her, I
5 would've went straight, directly at her, or in
6 that lane closest in the back of her car.

7 I was trying to go straight through that
8 parking lot, where you see on the end, to leave
9 out of there. I was trying to go straight out
10 of there.

11 I had no intentions of going behind her, to
12 run over, any of that. I was trying to leave.
13 -I didn't go behind her.

14 Q All right. Do you agree that you did
15 put the brakes on, and stopped the car?

16 A I had my foot on the brake.

17 Q You could have taken your foot off the
18 brake, and put on the gas?

19 A No, I couldn't see.

20 Q You need to be able to see in order to
21 do that?

22 A To drive, yes, sir.

23 Q And it's your testimony that she
24 reached in, and the gun just went off? The gun
25 goes off, is what I wrote in my notes; is that

1 what you're telling us?

2 A No, we were struggling for it.

3 Q Struggling for it?

4 A Uh-huh.

5 Q If it was in the glove, I mean, excuse
6 me, not the glove, in the center console, how
7 could she struggle for it?

8 A I told you in my testimony, when I
9 pulled it, I, when I reached for it, and I got
10 it, and I thought, you know, when she saw it,
11 she would then, but she tried to take it from
12 me, that's how we started struggling for it.

13 Q Okay.

14 A I did pull it, and she saw it.

15 Q Did you pull it before you put your
16 foot on the brake, or after you were coming to a
17 stop?

18 A It was after.

19 Q All right, after she had started
20 reaching at you?

21 A After she started hitting me, yeah, and
22 I felt burning, and saw the blood, yes.

23 Q She did injure you; is that correct?

24 A Yes.

25 Q And you saw that in those photos?

1 A Yes.

2 Q All right. Did you have to go to the
3 ER later?

4 A No, sir.

5 Q And you had been to the hospital
6 recently for some other issues?

7 A Yes, sir.

8 Q All right, but you didn't have to go as
9 a result of this incident?

10 A I should've went. They should have
11 took me. I didn't know I could go. They just
12 told me I had to go to jail. Nobody asked if I
13 needed to see -- or nobody said if I was okay,
14 or nothing, they took me straight to jail.

15 Q Were those the only injuries that you
16 -- I mean you didn't make a formal statement
17 under Miranda, we know that, correct?

18 A Yes.

19 Q But you indicated that you had those 2
20 injuries.

21 A Right.

22 Q Were there any other injuries?

23 A Not that I know.

24 Q Okay, and your testimony is that you
25 pulled the gun from the center console, okay,

1 having never touched it before, and you tried to
2 show it to her to scare her?

3 A Yeah, I wanted to scare her.

4 Q Okay, and you said you couldn't see in
5 order to drive, but you were able to reach in
6 and find the gun? Did you look for the gun, or
7 did you just do that with your hands without
8 looking?

9 A I knew it was in there, and when I went
10 to put my hand in, I grabbed it, and I was
11 getting hit the whole time though. It wasn't
12 like I was fighting back.

13 Q And it's your testimony today that you
14 don't know how the trigger was pulled or put it
15 in your own words.

16 A No.

17 Q You don't know?

18 A No.

19 Q Do you recall testifying at a previous
20 hearing in this case?

21 A Uh-huh.

22 Q Okay.

23 COURT REPORTER: Is that yes?

24 BY WITNESS:

25 A Yes.

1 COURT REPORTER: Thank you.

2 BY MR. EVANS:

3 Q Do you recall saying that when she
4 grabbed it, you shot her?

5 A No. I said that in a previous case?

6 Q In a previous hearing in this case.

7 A I don't recall.

8 Q Would you like to review your
9 transcript?

10 A Uh-huh. Yes.

11 Q Is that what you said on that occasion?

12 A Yes.

13 Q That was under oath, in this courtroom?

14 A Yes, sir.

15 Q All right. So what's your testimony?
16 Is it that you don't know how the trigger was
17 pulled, or that you shot her?

18 A I don't know, sir.

19 Q Do you recall testifying that you
20 panicked? Did you say that in your --

21 A I said that I panicked. I grabbed my
22 weapon to scare her, and she grabbed it, and
23 like it says, I said I shot, yes, sir.

24 Q Do you recall testifying that you don't
25 know where the anger came from?

1 A I saw that, and I was reading over
2 that, and I explained that to my lawyer, I don't
3 know how I got confused last time, but I thought
4 you were asking me where her anger came from,
5 not mine, and I'm -- that wasn't supposed to be
6 for me, I don't know where her anger came from
7 that day.

8 Q Okay. All right, after this happened,
9 you left the scene?

10 A Yes.

11 Q Okay, and you went to your mom's house?

12 A Yes.

13 Q Threw the gun in the woods?

14 A Yes.

15 Q And you spoke to your mom?

16 A Yes.

17 Q All right, and then you turned yourself
18 in; is that correct?

19 A Yes.

20 Q You've testified on direct about what
21 your mom told you?

22 A When?

23 Q At her home.

24 A Yes.

25 Q Was that your home as well?

1 A No.

2 Q Oh, okay.

3 A That's just my mom's home.

4 Q What did she tell you at her house?

5 A She told me that, to get in the truck,
6 she was taking me to the police department.

7 Q What else did she tell you before that?

8 A She said nobody had hurt anybody's
9 child, and that she told me that the police was
10 coming.

11 Q Did she tell you that you should have
12 left it alone?

13 A Yes, sir.

14 Q Those are all the questions I have.

15 THE COURT: Mr. Kuhn?

16 **

17 **REDIRECT EXAMINATION**

18 BY MR. KUHN:

19 Q When this is going on, she's reaching
20 in the car, you've got the gun now, do you know
21 where your fingers were?

22 A No.

23 THE COURT: I'm sorry? I couldn't hear
24 your answer.

25 WITNESS: No.

1 BY MR. KUHN:

2 Q Is it possible that it was your finger
3 on the trigger when the gun went off?

4 A It's possible.

5 Q You just don't know?

6 A I just don't know.

7 Q We know how long it took.

8 A Right.

9 Q Were you in any pain at the time?

10 A Right.

11 Q Were you in any pain at the time?

12 A Yes.

13 Q You mentioned blood. Where was the
14 blood?

15 A On the left shoulder area, and my
16 breast.

17 Q And was it a cut on your breast?

18 A Uh-huh.

19 Q Do you know what she was using to cut
20 you with?

21 A I did not know whether or not it was
22 the keys, the keys that she had in her hands.

23 Q At that time, what did you think she
24 was cutting you with?

25 A I thought it was a knife.

1 Q All right, thank you.

2 THE COURT: Anything else?

3 MR. EVANS: No, Your Honor.

4 THE COURT: All right, you may step
5 down. Can I see the attorneys?

6 (Bench conference.)

7 THE COURT: All right, Mr. Kuhn, I take
8 it that you're going to rest your case?

9 MR. KUHN: We rest, Your Honor.

10 **

11 **DEFENSE RESTS**

12 THE COURT: All right, ladies and
13 gentlemen, at this time the defense has also
14 rested their case. What we have left to do is
15 hear the closing arguments from the attorneys,
16 and I need to charge you on the law that's
17 applicable to this case, and there are some
18 matters I need to take up with the attorneys.

19 As you'all know, it's 5:30. It's late,
20 ladies and gentlemen. I am gonna go ahead and
21 send you home, and we will do all of that in the
22 morning. I need to remind you, ladies and
23 gentlemen, that even though you have heard all
24 the evidence in this case, you have not heard
25 the arguments from the attorneys, you have not

1 heard my charge on the law, and it would be
2 inappropriate for you to assess this case, or to
3 do any independent research whatsoever.

4 Ladies and gentlemen, go home, get a good
5 night's sleep. I am asking you to be back at
6 10:00 a.m. tomorrow morning. Hopefully, we'll
7 do the closing arguments, I will charge you, and
8 I will send the case to you.

9 Also, your Clerk of Court, Ms. Nettles, has
10 ordered lunch for you, your sandwiches. I'm not
11 exactly sure what our timing will be tomorrow,
12 but I just wanted you to know that when we do
13 send it to you for deliberations, we will keep
14 you here until you've reached a verdict, or
15 unless you tell me you'all want to go back home
16 again and come back later.

17 So that's certainly always an option, but
18 that is up to you. So, ladies and gentlemen, be
19 well, have a good night, get some rest, and I
20 will see you at 10:00 a.m. tomorrow morning.

21 (Jury exits the courtroom.)

22 THE COURT: Let's go ahead and -- any
23 motions, Mr. Kuhn?

24 MR. KUHN: I would renew my motion to
25 dismiss. No further motions.

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1 because we believe that the evidence could give
2 the jury a chance for that possibility.

3 That's obviously not what I'm gonna be
4 arguing for, but I do think it's appropriate,
5 given the evidence that's been played.

6 THE COURT: All right, Mr. Kuhn?

7 MR. KUHN: Unless she's charged with a
8 murder, we think it's the only offense that the
9 jury should be able to consider.

10 THE COURT: Voluntary manslaughter is a
11 lesser included in murder, and I do think that
12 based on the facts, as testified by the
13 witnesses in this case, I think the jury could
14 determine that she was guilty of voluntary
15 manslaughter. So I think I'm gonna charge it as
16 a lesser included offense, unless you can
17 provide me any case log, Mr. Kuhn, that says I
18 shouldn't. So --

19 MR. KUHN: Also include involuntary
20 manslaughter as a lesser included offense.

21 THE COURT: Okay, well, it's not that
22 the evidence meets involuntary manslaughter,
23 because in this case, I don't think there's any
24 negligence that you can argue. You're arguing
25 self-defense, not that she did any type of

1 negligence, or criminal negligence in this case.
2 I just don't think the facts fit involuntary
3 manslaughter.

4 MR. KUHN: Criminal negligent handling
5 of a firearm, Your Honor.

6 THE COURT: I'm sorry?

7 MR. KUHN: Criminal negligent handling
8 of a firearm.

9 THE COURT: I don't know. I'll think
10 about it, but I really don't think that the
11 facts fit. So right now what I'm charging, is
12 that the charge, and lesser indictments, are not
13 evidence. I'm charging the presumption of
14 innocence. I'm charging reasonable doubt.

15 The jury is judging the facts, and I'm the
16 judge of the law. I'm charging direct and
17 circumstantial evidence. I am charging that the
18 jury is to analyze, and to evaluate, the
19 credibility of the witnesses.

20 I am doing a charge on expert witnesses.
21 I'm charging as of right now, as I said, murder,
22 and then involuntary manslaughter as a lesser
23 included offense, and then also under that
24 portion, I'm also charging criminal intent.

25 I know that's something you spoke of in

1 your opening statement, Mr. Kuhn. So I
2 understand that you did want the criminal intent
3 charged.

4 I'm also charging possession of a weapon
5 during a commission of a violent crime. I am
6 charging self-defense, and/or the defense of
7 others, because your client was pregnant at the
8 time of this event; and, obviously, if it is
9 self-defense, that they can take into
10 consideration the sizes, any previous animosity
11 between the parties, you know, and any
12 reputation for either violence, or any previous
13 problems on behalf of the victim.

14 And then just the jury must be unanimous,
15 and it must be the verdict of all 12 jurors.
16 Anything else you can think of from the State?

17 MR. EVANS: We have three experts in
18 there, Judge.

19 THE COURT: Pardon?

20 MR. EVANS: We have 3 experts, so I
21 don't -- if I heard you say that, then I
22 apologize.

23 THE COURT: I said that. Yep, I did.

24 MR. EVANS: Then, other than that, no,
25 Judge.

1 THE COURT: Mr. Kuhn?

2 MR. KUHN: I'd submit a proposed
3 request to charge on the defense of accident, if
4 that'd be appropriate. It was unintentional, it
5 was actually lawfully good care of exercise of
6 handling a weapon, through the evidence.

7 THE COURT: I'll take a look at it. I
8 think that goes more to criminal intent but let
9 me take a look at those charges.

10 MR. KUHN: Thank you.

11 THE COURT: Let me just go back, and
12 I'm just going to re-group. I haven't charged
13 the defense of accident in a very long time, so
14 let me just go through and review what we're
15 doing in this case on it.

16 MR. KUHN: Would it be easy to email a
17 copy to the indictment?

18 THE COURT: Yeah, we do. We can email
19 you a copy.

20 MR. KUHN: Okay, Judge.

21 THE COURT: Let me just take this, and
22 let me consider it, Mr. Kuhn, and then we'll go
23 from there, okay, as to --

24 MR. KUHN: Okay.

25 THE COURT: -- the defense of accident.

1 I'm also going to go back and re-read. I will
2 also consider the involuntary manslaughter
3 charge, based on the evidence. Let me just go
4 back. I just need to re-read some examples of
5 evidence of criminal negligence. There's been
6 no testimony whether or not the Defendant was
7 lawfully in possession of a gun.

8 I think the matter is truthfully, so let me
9 just think through that as well, Mr. Kuhn.
10 Okay?

11 MR. KUHN: Thank you, Your Honor.

12 THE COURT: Thank you. All right,
13 anything else?

14 MR. EVANS: Not from the State.

15 THE COURT: All right, and whatever
16 your position is, Mr. Evans, on charging either
17 voluntary, or accident, if you will just email
18 me that.

19 MR. EVANS: Yes, ma'am. I know Mr.
20 Kuhn sent me an email of some, I think it's with
21 those charges in there; is that right, last
22 week, but I can't agree, I was focused more on
23 the evidence than on the charges.

24 THE COURT: Okay, and I'll have you
25 look at it as well tonight --

1 MR. EVANS: Yes, ma'am.

2 THE COURT: -- and let me go through
3 it, and I'll just look. And I just -- I haven't
4 charged it in a long time; so let me just -- I'm
5 trying to recall. I want to say that -- I won't
6 say that, anyway, let me look at it, okay.

7 MR. EVANS: We'll be prepared either
8 way, Judge.

9 THE COURT: I appreciate it.

10 Okay, so I told the jury to be back at
11 10:00 tomorrow. I was looking for maybe you'all
12 being here about quarter to 10:00 tomorrow, if
13 that's acceptable for everybody.

14 MR. EVANS: Yes, ma'am.

15 THE COURT: And we will be on time.
16 You have the verdict form, as it stands right
17 now.

18 So on the email, Mr. Kuhn, take a look at
19 the verdict form, as well Mr. Evans.

20 It right now, only includes murder,
21 voluntary manslaughter, and possession of a
22 weapon during the commission of a violent crime,
23 so, obviously, if I include it, involuntary
24 manslaughter, we can include that as well, okay.

25 MR. KUHN: Thank you, Your Honor.

1 THE COURT: So, obviously, that would
2 change, but other than that, can you think of
3 anything?

4 MR. KUHN: No, Your Honor.

5 THE COURT: No? Is there any
6 objection, obviously, that apply that you have
7 any concerns about, Mr. Evans?

8 MR. EVANS: In all candor on that,
9 Judge, she's been -- we know that she was
10 present there.

11 THE COURT: All right. Okay.

12 MR. EVANS: Obviously, when you provide
13 us that, we'll go forward.

14 THE COURT: Exactly, Mr. Evans knows
15 that obviously, we will do that prior to
16 closing arguments, and we'll charge the
17 jury, all right.

18 Anything else we need to put on the
19 record?

20 MR. KUHN: Not from the defense, Your
21 Honor.

22 MR. EVANS: Not from the State.

23 THE COURT: All right, and like I said,
24 please, we invite you to email both my Law
25 Clerk, and myself, if you have any strong

1 positions, or have any case log, as to charging
2 the voluntary, I'm sorry, the involuntary
3 manslaughter, or the defense of accident, okay?

4 MR. KUHN: Thank you, Your Honor.

5 MR. EVANS: Thank you, Your Honor.

6 THE COURT: Thank you.

7 (At 5:18 p.m. the proceedings were
8 continued until the following day without
9 interruption.)

10 **

11 END OF VOLUME II

12

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CERTIFICATE OF REPORTER

25

**

1 I, Kymberlee M. Williams, Certified Shorthand
2 Reporter/Registered Professional Reporter for the
3 14th Circuit of the State of South Carolina do hereby
4 certify that the foregoing is a true, accurate and
5 complete transcript of the proceedings held in this
6 case, relative to appeal, in the General Sessions
7 Court for Beaufort County, South Carolina on the ***
8 10th day of January, 2024.

9
10 I do further certify that I am neither of kin,
11 counsel, nor interest to any party hereto.

12
13 This, the 9th day of July, 2024.
14

15
16 
17 -----
18 Kymberlee M. Williams, CSR/RPR

STATE OF SOUTH CAROLINA	IN THE GENERAL SESSIONS COURT
	2021-GS-25-00181
	2022-GS-25-00346
COUNTY OF HAMPTON	
-----)	
State of South Carolina)	
)	
Plaintiff,)	
vs.)	TRANSCRIPT OF JURY TRIAL
)	VOLUME III
TIFFANY OWENS,)	(PAGES 408 - 512)
)	
Defendant.)	

January 11, 2024
Hampton, South Carolina

B E F O R E:

The Honorable **CARMEN T. MULLEN**, Judge Presiding

Kymerlee M. Williams, CSR/RPR
Official Circuit Court Reporter III
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EXHIBITS
(NONE OFFERED)

PROCEEDINGS

THURSDAY, JANUARY 11, 2024

BEAUFORT, SOUTH CAROLINA

(The following proceedings were held in open court. All parties were present.)

THE COURT: I have reviewed the case law as it pertains to this case.

As a result, I have decided and concluded that I am going to charge murder, voluntary manslaughter, involuntary manslaughter, self-defense, and defensive accident, which I think is appropriate under the circumstances, and the facts in this case, primarily based on Ms. Owens' testimony yesterday, as far as the defensive accident, when she said that she didn't know whether or not she, you know, pulled the trigger, or if it was the deceased; and so as a result of that I think there are evidence from which this jury could determine that a defensive accident is appropriate, or say that involuntary manslaughter is appropriate.

So anything we need to put on the record in regard to that, Mr. Evans?

MR. EVANS: No, ma'am, just to

1 apologize for not sending you my position, but I
2 sort of thought you might lean that way after I
3 took look at the case.

4 Clearly, you know, if you find it
5 appropriate, then it's, you know, it's,
6 obviously, a reversible error if you don't
7 charge it. There's not a lot of cases that we
8 can turn to as prosecutors, and be like, "Oh,
9 here's the silver bullet. It was a reversible
10 error, that she did charge", because we don't
11 deal --

12 THE COURT: Right.

13 MR. EVANS: So I'm a little behind the
14 8 ball when it comes to looking these things up,
15 but we're certainly prepared either way, and I
16 don't want to create issues when we can avoid
17 it.

18 THE COURT: I appreciate that. All
19 right, Mr. Kuhn, anything else?

20 MR. KUHN: No, Your Honor. Thank you.

21 THE COURT: Okay. Thank you. I
22 appreciate it. Okay. Do you have everybody?

23 THE CLERK: Yes, ma'am.

24 THE COURT: All right. We do have
25 everybody. Do you have any idea how long your

1 argument will be, Solicitor?

2 MR. EVANS: I'm gonna try very hard to
3 keep it under a half an hour.

4 THE COURT: Okay.

5 Mr. Kuhn, roughly, and I am not going
6 to limit you in any way --

7 MR. KUHN: Probably about an hour, it
8 should be.

9 THE COURT: Okay. Kymberlee, do you
10 need a break before we bring the jury in?

11 COURT REPROTER: No, no, ma'am, I'm
12 good. Thank you.

13 THE COURT: Okay. Do you have a cold?

14 COURT REPORTER: Oh, yes. I've had a
15 cold for three weeks.

16 THE COURT: All right, if everyone's
17 prepared, I'm gonna go ahead and have the jury
18 brought in.

19 Go ahead and bring them in, please.

20 (Jury enters the courtroom.)

21 THE COURT: Good morning, ladies and
22 gentlemen, as always, all we have left to do in
23 the trial in this case is to hear the closing
24 arguments from the attorneys, and then I am
25 going to instruct you on the law that's

1 applicable to this case, all right? So if you
2 would, you want to go ahead and give Mr. Evans
3 your attention, please.

4 MR. EVANS: Thank you, Your Honor. May
5 it please the Court?

6 THE COURT: Yes, sir.

7 **

8 **CLOSING ARGUMENT BY MR. EVANS**

9 MR. EVANS: Ladies and gentlemen, of the
10 jury, "I should have just left it alone," that's
11 what you heard Ms. Owens tell you yesterday,
12 that her mother told her, on May 29th, 2021, and
13 I couldn't have said it better herself. She
14 should have just left it alone. This was a
15 heated argument. It was an unfriendly
16 encounter.

17 I am not going to stand up here before you
18 this morning and tell you that Tijuanna Johnson
19 was a perfect angel her whole life, or that she
20 behaved perfectly on that afternoon, Memorial
21 Day weekend, 2021. That would be absurd, but
22 when you hear the Judge's instructions on the
23 law, like I told you yesterday morning, you're
24 going to understand why Tiffany Owens did, in
25 fact, murder Tijuanna Johnson, not just kill,

1 not just commit homicide that the Court defined
2 for you, but, in fact, committed the crime of
3 murder, for which she is charged.

4 So what is murder? What does that mean in
5 South Carolina? Well, the Judge is going to
6 instruct you. After Mr. Kuhn and I have our
7 last chances to speak with you, she's going to
8 tell you that murder is the unlawful killing of
9 another person with malice aforethought, malice
10 aforethought.

11 What is malice? She's gonna define that
12 too. That's one of those legal terms that you
13 might not have known walking in Monday morning,
14 Monday afternoon.

15 Malice is hatred, it's ill-will, it's the
16 doing of a wrongful thing without just cause, or
17 excuse. That's what malice is. Aforethought,
18 well, we sometimes refer to that. You might
19 have heard it called premeditation, and you
20 might have thought when you arrived to serve as
21 jurors this week, that premeditation means that
22 you have to plan it out for an extended period
23 of time. That's not the case.

24 Premeditation is a deliberate decision when
25 malice can arise in a moment. My colleague Ms.

1 Musser gave me an example. She said when she
2 got up to get breakfast this morning, walked to
3 her pantry, she knew she was hungry. She walked
4 over, opened it up, saw some cheerios, saw some
5 Corn Flakes and then picked the Cheerios. She
6 didn't know when she was going over to the
7 pantry, she was gonna pick Cheerios as opposed
8 to Corn Flakes, but she saw it, she decided, she
9 pulled the Cheerios down. That's what it means.

10 That's what it means to make a deliberate
11 decision in a moment. It doesn't mean you have
12 to plan it out. She didn't plan out her
13 Cheerios the night before, or the week, or the
14 month before, the year before. That's malice
15 aforethought.

16 Ms. Owens is also charged with the
17 possession of a weapon during the commission of
18 a violent crime, and I won't sugarcoat it.
19 You're gonna have some hard deliberation in
20 front of you, okay? You've got difficult issues
21 of law to wrestle with back in the jury room,
22 but there's one thing it's gonna be. The second
23 crime, possession of a weapon during the
24 commission of a violent crime that Ms. Owens is
25 charged with, that's gonna be a very easy

1 decision, because she could not have committed
2 murder in this manner without the use of a
3 weapon, a firearm.

4 The Judge is going to tell you that murder
5 is, under the law, a violent crime. It might
6 seem self-explanatory, but it does have an
7 actual definition in our law, so murder is a
8 violent crime. If she committed murder, she
9 also committed possession of a weapon during the
10 commission of a violent crime. The one easy
11 decision that you'll have today.

12 Now, the Judge is also gonna tell you about
13 a couple other crimes, which Ms. Owens is not
14 technically charged on the indictments with, but
15 they're what we call in law, lesser included
16 offenses. The first one is called voluntary
17 manslaughter.

18 And what is that? I'm gonna go to my
19 notes, so I don't make a mistake, but I think
20 the Judge is going to tell you that voluntary
21 manslaughter is taking the life of another in a
22 sudden heat of passion with sufficient legal
23 provocation. Taking the life of another without
24 malice, in a sudden heat of passion, with
25 sufficient legal provocation, and she's going to

1 tell you that if you find the Defendant not
2 guilty of murder, you then proceed to a second
3 question.

4 Is she then guilty of voluntary
5 manslaughter? So you'll take these questions in
6 a sequence that she'll lay out for you on your
7 verdict. Is she guilty of voluntary
8 manslaughter, only if she's not guilty of
9 murder. If you then find her not guilty of
10 voluntary manslaughter, the Judge is going to
11 tell you can't find her guilty of any voluntary
12 manslaughter, and she's going to charge you on
13 that as well.

14 The unintentional killing of another,
15 without malice, while engaged in unlawful
16 activity, and with reckless disregard for the
17 safety of others, which is what we call criminal
18 negligence.

19 So murder is the taking of another person's
20 life, with malice aforethought. Voluntary
21 manslaughter is taking someone's life in a heat
22 of passion, a sudden rush of excitement that
23 overcomes your will to be deliberate, and think
24 through things, but without malice, so
25 intentional, but without malice, and then

1 involuntary manslaughter is criminal negligence,
2 reckless disregard for human life. So you might
3 think of it as a stupid act, a very, very, bad
4 accident brought on by your own negligence,
5 which is usually something we talk about in
6 civil cases, not criminal cases, but it does
7 sometimes apply. Those are the charges that the
8 Judge -- the actual crimes that the Judge is
9 going to tell you to consider, and I think I've
10 roughly matched the language that she's going to
11 use. All right, that's the law.

12 What do we know about the facts in this
13 case? We've seen this several times. I told
14 you it would be the most important piece of
15 evidence. I think you'll agree. This is, of
16 course, State's Exhibit 8 that I have on the big
17 screen. We're starting at the beginning. I
18 don't think I'll show you all 16 minutes, but
19 I'll jump around here and there, and show you
20 what I think are the important issues. You've
21 got the time stamp up here.

22 It's approximately 4:19, now, Ms. Owens'
23 car pulls in, it's a black sedan. You've got
24 black font on the time stamp, so it does make it
25 a bit hard to see, I apologize for that, but we

1 have to take the evidence as it comes to us.
2 We're starting at approximately 16:19, which is
3 military time, it's 4:19. Pulling into this
4 spot, just there, around the same time, that's
5 Tijuanna Johnson's car. The black Honda here,
6 black Hyundai here, and I just noticed this last
7 night, as I pause, State's 8, and flip quickly
8 to State's 30.

9 This is the Google Maps screen shot of the
10 Galaxy Grocery Store. Now, of course, this
11 isn't from the same day. We don't know when
12 Google takes these, but we know that it's
13 reasonably accurate for a bird's eye view.

14 What's interesting about State's Exhibit
15 38, especially if you look at it in conjunction
16 with State's Exhibit 41, is that it shows us, we
17 can compare these 2, and see exactly on bird's
18 eye view, where Ms. Johnson was parked, even
19 though she's slightly out of frame in this
20 video. That's her black sedan, her black
21 Hyundai next to the red pickup truck in State's
22 Exhibit 14. Just outside of the top of the
23 screen here, if you look at State's Exhibit 38,
24 you can actually see and can differentiate all
25 these parking spots.

1 So on the day that Google took this one, her
2 spot, filled by the truck, was empty. The
3 second spot has a red vehicle, again, on
4 whatever day this was, that's where Ms.
5 Johnson's parked.

6 It also has a silver sedan, or silver
7 vehicle, parked, roughly, again, very roughly,
8 since this is just a satellite image, where Ms.
9 Owens' parks. You can use this to get a good
10 look at where they parked. So they're arriving
11 at the same time. We know that this is Ms.
12 Owens, she's walking into the store, and she
13 confirmed to you, yesterday on the witness
14 stand, that at this time, she did not know, did
15 not know that Tijuanna had arrived at
16 approximately the same time.

17 She believes now that Tijuanna followed
18 her, but she didn't have any knowledge of that
19 when she went in the store. She went in the
20 store, that's exactly what she did. We're at
21 about a minute into the running time of the
22 video, 16:29, roughly. And what do we see over
23 the next 4 minutes? Well, not a whole lot, do
24 we? And I told you'all that there would be
25 parts of this trial that would be deliberate,

1 and I'm sure that as you were watching this
2 yesterday for the first time, this was one of
3 those times.

4 Okay, at essentially 4 minutes of dead air,
5 nothing happened, all right, but it does serve
6 to show exactly how long Ms. Owens, and then
7 later, Ms. Johnson, were inside the store.
8 During all these 4 minutes, the lady in the
9 yellow outfit, coming from this parking spot.
10 If she was coming to the store to come after Ms.
11 Owens, why sit in your car and wait? Is it not
12 possible that she was trying to avoid Ms. Owens,
13 the way Ms. Owens claims she was trying to avoid
14 Tijuanna.

15 So we're still here, getting into the 5-and-a-
16 half-minute mark, and Ms. Owens is about to come
17 out of the store. She's carrying her groceries,
18 going back to the car, and she's gonna put those
19 groceries, of course, in the car.

20 So far a normal, ordinary day. I just want
21 to pause real quick and take a look at this
22 gentlemen, because you heard from a Mr.
23 Singleton yesterday, in the defense's case. We
24 can't see the front of this man's face here in
25 the plaid shirt, but did you notice how Mr.

1 Singleton, or Singletary, I think I got it
2 wrong, Mr. Singletary, did not know the person
3 who came up behind him, who cursed at him, and
4 he didn't see the shooting, only that, a lady,
5 person hanging in the store? Just food for
6 thought, as this gentlemen leaves.

7 Any second now we're gonna see for the
8 first time, Tijuanna Johnson is coming into the
9 frame in that clip. She's walking straight to
10 the store, until, again, we don't have volume,
11 it's not a perfect video. It's not what we
12 would have if the incident happened today,
13 because you heard that the store has updated
14 that, but watch that again.

15 Is she coming directly to Ms. Owens? She's
16 looking to her left, to the right of the screen,
17 when she first started walking. Is this a woman
18 to be afraid of for 15 years, to fear imminent
19 death, or great bodily injury from; or is this a
20 woman who is going about her business, and gets
21 called over to her right, by somebody who she
22 has, admittedly, not a great relationship with?
23 You can see the 2 of them talking.

24 You're about to see Ms. Johnson start to
25 walk away, and she keeps getting called back.

1 Now, we can't see everything that Ms. Owens is
2 doing, because of this column, but it's crystal
3 clear that Ms. Johnson, Tijuanna, is trying to
4 get in the store.

5 Here comes Nash Elliott, as the arguments
6 continues, what did, as I pause briefly, what
7 did Mr. Elliott testify to yesterday? What did
8 Mr. Lester, who we'll see in a few minutes,
9 testify to yesterday? That the 2 of them were
10 cursing back and forth at each other. Neither
11 of them knows how the argument started. Neither
12 of them could tell us exactly what the words
13 were, except for one statement. I pause at
14 7:26, elapsed. Mr. Elliott turns to the right,
15 looking directly at, as he described her, "The
16 woman in the car." What did he hear the woman
17 in the car say? "I'll be waiting for you."
18 Not, "The police will be here waiting for you."

19 He was asked on cross, if he wanted to
20 revise that, if it could have been the same
21 thing. He made it very clear, no, "I'll be
22 waiting for you when you get out." If I have
23 that quote a word or 2 off, use your memory of
24 his testimony, but that's what he heard. That's
25 why he looked suddenly to the right. You don't

1 do that when you're on your way to your regular
2 grocery store, to do just ordinary errands,
3 unless you hear something out of the ordinary.
4 We can see it.

5 At this point, it's 7-and-a-half minutes elapse,
6 into this video. Ms. Johnson is in the store,
7 Mr. Elliot's in the store. There's no credible
8 testimony about Tijuanna doing anything out of
9 the ordinary, inappropriate in the store, and
10 she's only in there for 4 minutes and 20
11 seconds, as we see, and comes out with a cart
12 full of groceries. I'm gonna argue that she
13 didn't have time to harass Mr. Singletary.

14 So what do we see, sort of, Ms. Owens doing
15 at this time period? She's going into the back
16 of her car. She tells you that she was
17 retrieving her cell phone, it could be. We know
18 that she called her mother. How do we know
19 that? We heard the 911 call of the mother doing
20 a responsible thing.

21 The mother wasn't there. She isn't a fair
22 judge of what Ms. Tijuanna Johnson was doing,
23 whether it was inappropriate or not, but you
24 hear that your daughter has a problem. It's in
25 a public place, perfectly appropriate response

1 to call the police, and to give your daughter
2 advice, telling her to leave it alone, just wait
3 for the police, you know, essentially, stay
4 calm; but during all this time Ms. Owens tells
5 you that she's waiting for her boyfriend to
6 arrive, bring some money so that they can
7 continue the grocery shopping.

8 She also wants you to believe that she is
9 so deathly afraid of Tijuanna Johnson, that she
10 had to take her life, in order to save her own.

11 If that's the case, look at all this, what
12 you must've thought yesterday, was dead air, all
13 these myths. All this time, minute, after
14 minute, after minute, after minute, and she's
15 just sitting there with the door open, not
16 leaving. She's waiting. Waiting for what, all
17 this time? We get up to, roughly, 11:41,
18 elapsed time.

19 You're gonna see Ms. Johnson appear in just
20 a few more seconds. That was more than 4
21 minutes. We know that, roughly, 2 minutes
22 passed from the timestamps on the 911 call,
23 between Ms. Owens' mother's call, and the call
24 for the shooting, the shooting we're about to
25 see. Let's watch that again. Out comes Ms.

1 Johnson and Mr. Lester, look at all these
2 groceries that she's got. Again, there's no way
3 that she had time, in 4 minutes and 20 seconds,
4 to go in, harass people, make a commotion,
5 purchase all of that, check out, and walk out
6 the door, it's ridiculous.

7 Mr. Lester is coming out, he's doing what
8 is, you might find, a very courteous thing that,
9 apparently, they do at the Galaxy Foods very
10 regularly, helping ladies with their groceries
11 out to their car. When she comes out here at
12 16:, I think it says 41, 4:31 in the afternoon,
13 again, these time stamps don't match the ones in
14 the upper left. I think they count the seconds
15 accurately, but they don't match the ones at the
16 911 center, because that call, I think, and you
17 can listen to all the Exhibits back again if you
18 want to, but I think it said 4:28 was the second
19 call coming in.

20 So they don't exactly match perfectly, but
21 I think they keep an accurate running time.
22 Anyway, at 11:53, elapsed time, in this video,
23 what's she doing? She's not coming out and
24 making a B-line to Ms. Owens. She's waiting in
25 a friendly manner, that somebody ought to like.

1 She's walking in a straight line, to this second
2 parking spot, where we know her to be, all
3 right. I understand it's not on the screen,
4 the cameras don't capture that, but this
5 photograph does, a straight line.

6 Now, a few seconds later, she starts to
7 turn to her left. Could it be because she
8 wanted to say something, not particularly nice,
9 to Ms. Owens? Perhaps. Could it be because Ms.
10 Owens is saying something not particularly nice
11 to her? Just as likely.

12 Mr. Lester, right now, he's looking to the
13 left, and he told you, just as Mr. Elliott did,
14 that they were cursing and yelling at each
15 other, saying things, I think he said, he didn't
16 want to say out loud. Giving, as good as they
17 got, both of them. Again, it's still a straight
18 line. Yes, there is, absolutely, a conversation
19 happening between this woman, in the yellow, and
20 Ms. Owens in her car. They are going back and
21 forth, as she continues to walk.

22 That is not in dispute. They're going back
23 and forth at each other. What direction does
24 she follow? Does she ever, at any point, turn
25 towards Ms. Owens, on this walk to her vehicle,

1 or does she continue straight to her car? And
2 they're still arguing, it looks like.

3 We've come to the crucial moment. We
4 talked about all those myths. The 4 minutes,
5 roughly, that Ms. Owens was in the car -- in the
6 store, before Ms. Johnson left her car, and came
7 in the store.

8 Let's talk about the 4-plus minutes that
9 Ms. Owens waited in her car, waited, and waited,
10 and waited, while Tijuanna shopped, and now,
11 we've come to the most important passing of the
12 seconds, in both of their lives. We've got
13 16:31:30 in the upper left, 12:11 in the bottom
14 right, as Ms. Owens starts driving, it shows
15 that moment.

16 Another 4 seconds have passed. She's
17 turning into the lane to leave. On State's 38,
18 that's this bottom one. It's not the center
19 one, it's the bottom lane, but notice on all of
20 these lanes in the parking lot, there are 3 -- 3
21 different ways to get out.

22 They all have cameras showing which
23 direction for which side of the lane. You can
24 park, pulling in, coming this way, or as Ms.
25 Johnson did, coming from the road, the other

1 way. It's a 2-way lane for parking, where the
2 spots are angled in that way. That means that
3 you have to follow the rules of the road, just
4 like you do out on the highway, drive on the
5 right. Which way is Ms. Owens going?

6 What did she say on the witness stand
7 yesterday? She pulled into the left half of
8 that parking lane, right on top of that arrow.
9 Why? She didn't say this, but I'm gonna argue
10 to you, that it's because -- precisely because
11 Ms. Johnson was right there. That's where her
12 car was. That's where she, Ms. Owens, wanted to
13 continue the confrontation.

14 She was holding something up in her left
15 hand. She testifies it was her telephone.
16 Could it be that she's trying to create a
17 violent moment? Trying to get some, visual, or
18 audio evidence, of what she thinks is Ms.
19 Johnson's terrible behavior. Could that be why
20 she drove over there?

21 Now, we see Ms. Johnson, you can see, and I
22 realize not all of you'all have as great a view
23 as I do, standing up right next to it, but you
24 can see her getting ready to run at the top of
25 the screen. We'll get into this when I talk

1 about the elements of self-defense, but the rest
2 of this could have all been avoided, right here.
3 We finally come to a stop. It's 12:16 on the
4 bottom left. 16:31:37 is on the upper right.
5 Six seconds have passed. We have never tried to
6 hide from you, the State, that Ms. Johnson did
7 something that she should not have done.

8 She, the victim in this case, did not
9 follow the anger management steps, that she
10 should have either. There's no disguising that,
11 there's no hiding it. Ms. Owens was injured,
12 but only 6 seconds have passed. Did you catch
13 that? I'll try to slow it down for you here.
14 Watch, in just a moment. I have to pause it.

15 Did you see that? That white puff, as it
16 goes past Ms. Johnson's black hair. You can see
17 the GSR, if you know where to look. I know it's
18 hard to see quite that close, and to go quite
19 that slow, but that's smoke. 12:23 on the
20 elapsed time.

21 We started this, this critical segment, at
22 12:11. She parked, well, not parked, we know
23 she didn't park. Hitting the brakes at 12:16, 7
24 seconds, she gave you a very, very,
25 descriptive, passionate story about what

1 happened, and we can't see everything that
2 happened.

3 Obviously, because her car obscured some of
4 what Ms. Johnson was doing. We have to take the
5 evidence as we find it. She would have you
6 believe that in 7 seconds, she stopped. Why did
7 she stop? Because she was being attacked, she
8 says. Let's go back just a touch.

9 She says she stopped because she was being
10 attacked. She's already slowing down there.
11 She's hitting the brakes, and in those 7
12 seconds, she says, she couldn't leave, she
13 couldn't take her foot off the brake, and put it
14 on the gas, and drive away.

15 She says that she was able to reach -- she
16 was attacked, felt pain, then, and only then,
17 reached into her center console, pulled out
18 State's Exhibit 1.1, which she had never even
19 touched before, got ready to hold it, in order
20 to scare Tijuanna, realized that Tijuanna was
21 reaching for the gun, and then it just went off.
22 All in 7 seconds.

23 Once more, what else do we know? That not
24 once, but twice, did she exert 7 pounds of
25 pressure, needed to fire this gun. Not once,

1 but twice. One shell found in the parking lot,
2 the other in the car later. It would have been
3 nice if Ms. Eichenmiller could have said,
4 definitively, "Yes, this is the murder weapon.
5 Yes, it fired these shells."

6 Again, we have to take the evidence as it
7 comes to us. We didn't try to hide the fact.
8 We knew that she didn't have a definitive
9 result, but Ms. Owens gave you that definitive
10 result when she acknowledged, "Yes, that's the
11 gun. Yes, I threw it in the woods." Drives off
12 from here.

13 She paused to look what she's done for a
14 moment, and heads on her way. Now, of all the
15 things she did that day, I certainly can't blame
16 her for going to her mother's. It makes all the
17 sense to me, but what did she do when she got
18 there? She threw State's Exhibit 1.1 into the
19 woods.

20 You've seen the rest. It doesn't really
21 have any bearing on what you have before you
22 today, but what else are you gonna hear from the
23 Judge? You've heard about murder. You've heard
24 about voluntary manslaughter. You've heard
25 about involuntary manslaughter, possession of a

1 weapon, malice. You're also going to hear about
2 the defense of self-defense, and defense of
3 others, because yes, of course, we know that the
4 Defendant was pregnant at the time. She's
5 testified to you that she was defending herself
6 and her unborn child.

7 The easy thing is, self-defense, and
8 defense of others, have the same elements in our
9 law. Again, I'm turning to my notes so I don't
10 miss anything, because it's important. Elements
11 of self-defense, and defense of others are, the
12 Defendant must be without fault. I'll say it
13 again, without fault, in bringing on the
14 difficulty.

15 Not that the Defendant must be less at
16 fault than the victim, but it means without
17 fault in bringing on the difficulty in those
18 critical seconds, and in those conversations,
19 those heated arguments, those inappropriate
20 displays of anger on both of their sides. Was
21 Ms. Owens without fault in bringing on those
22 difficulties?

23 The second element is that there must be
24 actual imminent danger, death, or great bodily
25 injury, or the Defendant must have reasonably

1 believed themselves to be in actual imminent
2 danger of death, or great bodily injury, and of
3 these elements this is -- I'll concede, I guess,
4 this is the closest one that Mr. Kuhn and Ms.
5 Owens are gonna be able to get, because, of
6 course, she was in it.

7 You can see that in State's Exhibit 10, and
8 States Exhibit 11. She was hurt, but was she in
9 danger of death sitting in that car, or great
10 bodily injury? She didn't have to go to the
11 hospital. She suffered a bruise and a scratch,
12 and I am sure that it hurt.

13 I am certain of that, but was it death, the
14 risk of death, or great bodily injury.

15 Finally, and critical, in order to prove
16 it's self-defense, or rather, we have the
17 burden, I want to make that clear. She has no
18 burden to prove self-defense. The State has to
19 disprove to you the final element, no other
20 probable means of avoiding, no other probable
21 means, as she was sitting in a running car with
22 her foot on the brake. She said the reason she
23 didn't lift her foot off the brake, and slam on
24 the gas, is because she couldn't see because she
25 was being attacked.

1 That's not what the video shows. It shows
2 her breaking before Ms. Johnson is within arm's
3 reach. She chose to stop, and she chose to keep
4 her foot on the brake. She chose not to drive
5 away. If she had slammed on the gas, and
6 somehow run over Ms. Johnson's foot, and she
7 said she was concerned about, I think, and
8 that's why she didn't pull away, initially, this
9 might be an entirely different case. This might
10 be a case against Tijuanna Johnson.

11 Ms. Owens made a choice. She chose to
12 escalate. She chose to turn an argument into a
13 gunfight, in which Ms. Johnson was only armed
14 with keys. She had every opportunity to follow
15 her mother's advice, so in the 4 minutes that
16 Ms. Johnson was in the store, and in those
17 seconds that she could've gone in the top lane,
18 in the middle lane, on the right side of the
19 freeway, or backed up and gone up Hilltop
20 Avenue.

21 There was no need for her to be anywhere
22 near Ms. Johnson, none. She chose that. You
23 can even see, I have it up already. You see
24 that? You see where the car lurched forward
25 just a few inches? She lifted her foot off the

1 brake and put it down again. No other probable
2 means of avoiding.

3 She chose to drive over there. She chose to
4 shoot, not once, but twice. She only hit Ms.
5 Johnson once, but each one of those was a
6 choice. It's not an accident.

7 You heard about the folks say that the
8 bullet went front to back. That's obvious, you
9 can see that in the pictures. We heard that it
10 went towards her midline, so slightly right to
11 left. You heard her say it went slightly
12 downward. The bullet went slightly downward.
13 If Tijuanna is reaching in that car, and she
14 accidentally pulls the trigger on herself, could
15 that bullet have gone down in her left breast,
16 or her right?

17 Sorry, just underneath her right breast to
18 the midsection of the back, or would it have
19 gone up? It's not an accident. It's not self-
20 defense. It might be hard to swallow. It might
21 not be what you expected when you came in, or
22 when you first watched the video.

23 When you take a look, and have a listen to
24 the Judge's charge, understand the law,
25 understand the facts, and apply those facts to

1 the law, you'll see, you will see, this is
2 murder, so find her guilty.

3 MR. KUHN: May it please the Court, Your
4 Honor?

5 THE COURT: Yes, sir.

6 **

7 **CLOSING ARGUMENT BY MR. KUHN**

8 MR. KUHN: Her Honor will shortly charge
9 you on the law. I want you to please pay
10 careful attention to charge.

11 You've been very patient so far, and on
12 behalf of Tiffany and her family, thank you for
13 your service today, and for paying close
14 attention to the evidence and the facts. As
15 jurors, your decision does not need to be based
16 upon conjecture, or speculation, guessing. It's
17 based upon the facts.

18 In this case we're fortunate to have a
19 video, and you can see with your own eyes what
20 happened. I ask you to trust your own eyes, and
21 what you see with your eyes, and apply your
22 common sense to what you see.

23 Your Honor is going to charge you on
24 several things, the burden of proof. The State
25 has the burden of proof, and she's gonna tell

1 you about it, but you have to be convinced
2 beyond a reasonable doubt, that whatever the
3 crime is, if they did it, you have to be
4 convinced beyond a reasonable doubt, that it was
5 not self-defense.

6 You have to be convinced beyond a
7 reasonable doubt, it was not an accident, and as
8 I discussed earlier, this is the highest
9 standard. You've got to be firmly convinced.

10 On your verdict form, when you go to
11 deliberate, there's going to be 3 charges. We
12 started off with murder, that's sort of evolved,
13 now we've got manslaughter charges. Your Honor
14 will tell you what that is, but you'll look at
15 it. So is she guilty of murder? If she is,
16 you'll check guilty. If you say she's not
17 guilty of murder, then you go down to voluntary
18 manslaughter.

19 Is she guilty of that? If she is, you
20 stop there, if not, then not guilty. You go
21 down to involuntary manslaughter. Is she
22 guilty, or not guilty of that? If she's guilty,
23 you check that and stop. If she's not guilty,
24 you check that, and that's the end it. The
25 weapons charge goes right along with the other

1 charges, quite frankly, because, obviously, if
2 she's guilty of any of those offenses, the gun
3 is involved.

4 They're all unlawful killings, that's
5 why you should base this case on the facts and
6 having proven beyond a reasonable doubt. Notice
7 I don't conjecture speculation is possible,
8 sympathy, or could have been convinced that in
9 20/20 hindsight.

10 All these 15 minutes that elapsed prior
11 to that gunshot, that's what sets the stage, but
12 hindsight is 20/20. Mr. Evans started this
13 case. His first words to you were, "Just walk
14 away". Man, that would be great advice. Yeah,
15 if you do it from the hindsight, yeah, that
16 would've been nice. Walk away.

17 Forget about going in the store.
18 Forget about your Memorial Day stuff. Forget
19 about waiting on your boyfriend, forget about
20 waiting for the police, just go. And instead
21 of leaving the parking lot, and finally decide,
22 yeah, I need to just go, enough is enough.

23 Take a different route from the one you
24 chose. Don't take the one you take every day
25 and go straight to your mom's house, but pull a

1 U-turn, call an Uber, take another lane,
2 whatever.

3 Yeah, that would've been great, but she
4 had absolutely no idea that that lady was going
5 to be running up to her car, banging on her,
6 grabbing her, and scuffling, and injuring her,
7 and she was frightened. Up until that time,
8 when she ran up to that car, and swung at her,
9 and slugged her, and started cutting on her, she
10 had no idea that it was gonna escalate like
11 that. It was a shouting match.

12 If Mr. Evans and I get into a fight and
13 disagree about something and it's verbal, that's
14 perfectly lawful. He can call me the lowest of
15 the low, sun of a gun, on the face of the earth,
16 and send me to hell. That's not against the
17 law, but if I turn around and start beating the
18 bejesus out of him, he has every right to defend
19 himself, if I do that.

20 If you escalate, that's when the person
21 goes, "Oh, my God, what do I do now?" That's
22 when the self-defense kicked in. Not 15 minutes
23 beforehand, when they're fussing in the parking
24 lot, it's when she assaults her, that's when
25 the self-defense kicks in.

1 So hindsight's great. If she hadn't
2 gotten up that morning, this wouldn't have
3 happened, but you don't decide a case based on
4 hindsight. You look at what was that person
5 doing at that time.

6 When did she become afraid? She didn't
7 like the lady. She knew that she was upset with
8 her, because her sister had stolen her
9 boyfriend, her baby daddy's friend away from
10 her, and she didn't like her, because that's her
11 sister, but there had never been violence. It'd
12 always been, yeah, I don't like you, and you
13 don't like me, and let's go our own separate
14 ways. I have people I don't like, but on the
15 contrary, there are people who don't like me,
16 but if I see them somewhere, I'm not gonna run,
17 not unless they run up to me, and start beating
18 on me, and then I'm gonna react.

19 So what are the facts? She followed
20 Tiffany to the Galaxy, that's pretty clear.
21 Here's Tiffany pulling in, and here's Ms.
22 Johnson, the exact same time she's pulling in,
23 so there's no way she would have seen her. I
24 agree with that, but she followed her there. I
25 mean that was very, very, coincidental, and on

1 the criminal case, the defendant's presumed
2 innocent, just the benefit of the doubt, but you
3 know, it really doesn't matter. It's what we
4 lawyers call red herrings.

5 Ms. Johnson waited in the parking lot
6 for Tiffany to come out, that is clear. She's
7 not waiting for Tiffany to leave. She came out
8 promptly, while Tiffany was still there. We
9 watched this. Tiffany come out. Notice she
10 doesn't have her purse with her. Her left arm
11 is in a cast. Life is good, as of right now.
12 She gets in her car. It's May 29th, Memorial
13 Day Weekend, it's hot. She's waiting on her
14 boyfriend, so she leaves the door open to stay
15 cool.

16 Ms. Johnson gets out of her car, starts
17 walking to the store, and what does Tiffany do?
18 See her, and she shuts her door. She's hoping
19 she won't see her. They then start arguing.
20 Tiffany tries to ignore her. Tiffany shut her
21 door, closed her door, I want you to know she
22 has the window up before this. She walks over
23 to her; she initiates this confrontation.
24 There's absolutely no evidence that Tiffany
25 sitting in her car, has done anything to

1 initiate this conversation.

2 The evidence shows that Ms. Johnson is
3 the one who's initiating. She then starts to
4 leave. Only when she's leaving and yelling
5 back, does Tiffany open her door to try to get
6 her phone, Johnson comes back. Tiffany thinks
7 she's going in the store. No, she turns around
8 and comes back, so Tiffany turns her back on
9 her, and is rummaging around, ignoring her.
10 Tiffany's not saying a word to her, her back's
11 to her, her face was on the floor board. She
12 turns around and yells some more stuff. Pulls
13 her mask down, so she can do it.

14 Tiffany's inside her car looking
15 around, her back's to her. She pulls her mask
16 down, and yells again, does it again. Tiffany's
17 going to the back seat to get her purse, to get
18 her phone. Let's just look at that a little
19 closer. Johnson goes up there, conversation,
20 altercation, cussing match, I don't care,
21 perfectly lawful.

22 Whatever, both -- either one of them is
23 doing, they have a right to do it. She starts
24 to leave, and only when she starts to leave, and
25 yells something, does Tiffany open her door, and

1 turn her back on her. She comes back, and
2 Tiffany kneels down, and does that. She's not
3 saying a word to her. She's looking down on the
4 floorboard of her car for something. She's just
5 ignoring her.

6 She starts to leave, and only then does
7 Tiffany pop back up again. Only when she's
8 leaving, does Tiffany stand up, and, again,
9 she's still walking away yelling, Tiffany goes
10 to the back, opens her back door to get her
11 purse and her telephone.

12 Those are the facts. Ms. Johnson turns
13 around, and shouts at Tiffany, as she's walking
14 away. She does it several times. Tiffany calls
15 her mom. Her mom's concerned enough, that she
16 calls the police. Her mom calls the police.
17 The police are on their way to the Galaxy.

18 A call of shots fired came through. A
19 very short period of time between the call from
20 mom, and the shots fired. This is the time
21 stamp on mom's call to the police saying, "Hey,
22 my daughter's being harassed. Will you send
23 someone there?". 17, which is 5:26, and one
24 second, and the phone call ends at 17:27:18.
25 You'all won't hear that, but that's the

1 timestamp on the phone. 61 seconds later is
2 this call.

3 (Audio being played for the jury.)

4 MR. KUHN: The first call there's been a
5 shot fired.

6 (Audio being played for the jury.)

7 MR. KUHN: So from the time Tiffany's mom
8 hangs up the phone, saying, "Can you'all send
9 someone down there?", this gentlemen's on the
10 phone, saying, "Hey, there's been a shooting."
11 That ties in exactly what Tiffany says happened.
12 "I sat there, I thought about it, waiting on my
13 boyfriend. What should I do?

14 I'm gonna call my mom." First of all,
15 what kind of coldblooded killer calls her mom,
16 if they're thinking about killing somebody?
17 Calls her mom, they have their conversation,
18 hangs up with her mom, only by doing this, gets
19 her hand on the steering wheel, and starts
20 driving away. 61 seconds later, they're
21 reporting that the lady's been shot. So it's
22 almost instantaneous, that call to her mom,
23 hanging up the phone, and she's leaving, and
24 then we see it with our own eyes.

25 Ms. Johnson runs up to Tiffany, she

1 swings at her at least once, reaches inside the
2 car window, a struggle takes place inside the
3 car. This is what Mr. Evans showed you already.
4 I'm gonna play it really quick.

5 (Video being played for the jury.)

6 MR. KUHN: See, she's steering with her
7 right hand, holding something in her left hand,
8 probably her cell phone. The assault takes
9 place, the gun is fired, she drives off. That's
10 very difficult to see.

11 Let's look at it a little bit closer.
12 See, so this is the case. I'm gonna show it one
13 more time. I want you to notice a few things.
14 Ms. Johnson has the key, lanyard thing, or
15 whatever, in her hand. She runs up to the car.
16 She takes a swing. She's then reaching inside
17 the car. There's a struggle going on inside the
18 car, and with all do respect, the pathologist
19 says it was a downward pattern.

20 That means the bullet, here, went down,
21 and exited, here, which means it's perfectly
22 compatible with, I'm leaning over, and the gun
23 goes off, and I get shot here, comes out, here,
24 flies up straight.

25 It looks like a downward path,

1 perfectly consistent to what we see on the
2 video. Believe your eyes. You'll also see,
3 they struggle inside the car, it's not long.
4 It's a few seconds, but they're very long
5 seconds, and then you'll see the puff of smoke
6 that Mr. Evans mentioned, the gunshot residue.

7 That's when the shots are fired. So
8 there's the lanyard, there's the first blow,
9 there's the reaching in the car, struggling for
10 something, and bang. There's the gun. She
11 still struggles for a while after the gunshot,
12 and then she runs, and falls, and trips over the
13 golf cart.

14 So what else do we know? Tiffany was
15 pregnant, 5 months pregnant with her third
16 child, who's now over 2-years-old. This
17 happened a long, long, time ago. I do not know
18 the mindset of someone who is 5 months pregnant.
19 Your Honor will give you a charge, not just on
20 self-defense, but self-defense of others, self-
21 defense of a loved one. That's the reason she's
22 giving you that charge, is that may have been a
23 concern of Tiffany's.

24 I don't know what it's like to be
25 pregnant, or how overprotective you are of your

1 own health, your own safety, your unborn child's
2 safety, when you're in that condition, but that
3 is a factor to consider. Tiffany was also
4 recovering from a car wreck. This is one of the
5 medical bills we put into evidence. 2 days
6 before, she had been in the emergency, in the
7 hospital, from a car wreck.

8 This is the diagnosis of a left wrist
9 sprain. That's where she had the raised cast on
10 her wrist, left hip sprain, and notice that
11 she's, you know, she was 19 weeks gestation,
12 pregnant, so 2 days before, she was recovering
13 from an injury, and she was also recovering from
14 a surgery.

15 This was a note we put in from Low
16 Country Urgent Care. She has had a hemorrhoid
17 surgery, and she had been out of work. She was
18 totally disabled for a week, earlier this same
19 month, just a couple weeks earlier. So you've
20 got someone who's partially disabled, at best,
21 pregnant, limited physical ability, and she's
22 being attacked. We also know Johnson's keys
23 were found in Tiffany's car afterwards. This is
24 one of the photographs. That's where they found
25 the keys on the lanyard that she's holding when

1 she attacked Tiffany. You can see at the top of
2 the photograph here, the cushion that Tiffany
3 had put in, the pillow, because of the
4 hemorrhoid surgery.

5 We know Tiffany suffered physical
6 injuries, and I wish we had the photographs,
7 because this is all we got, which is the video
8 of when they're handcuffing her, but if you look
9 right here, you'll see scrapes, cuts, scratches,
10 on her breast. In this area, you'll see the
11 scrape on her arm. You can see the cut, at
12 least the top of the cut, is partially obscured
13 by her blouse, and notice how the blouse is
14 pulled, and stretched, right in that same area.
15 So she's injured here, and here.

16 How far down, we don't know, because
17 they didn't produce the photographs, but we know
18 she was injured, on the left side, which sitting
19 in the driver side, and someone's assaulting you
20 through the window, they're grabbing you, and
21 scratching you, and doing all kinds of stuff,
22 that's where you'd expect the injuries to be,
23 and her shirt is not torn, but stretched out of
24 shape, and I pulled this from the earlier video.

25 This is Tiffany walking into the store.

1 I just did this so you can see that her shirt is
2 not pulled but stretched out of shape
3 beforehand. Obviously, it's a result of the
4 assault, that that shirt was done that, on the
5 side closest to the driver's window.

6 We do not know the exact extent of her
7 injuries, because the photos are lost. We can
8 see the top of the cut, but we don't know, we
9 don't see the worst part of it. Gunshot residue
10 on Tiffany's hands, that you would expect, but
11 didn't bother to test gunshot residue on
12 Johnson's hands.

13 And, of course, with gunshot residue,
14 you remember that she said there was gunshot
15 residue on the inside driver's door panel.
16 There was gunshot residue on the steering wheel.
17 So no matter who pulled the trigger, how it went
18 off, there's gonna be gunshot residue on
19 Tiffany, and on Ms. Johnson, I respectfully
20 submit that that doesn't tell us anything.

21 That doesn't tell us who, or how the
22 trigger was pulled. It just says that they were
23 in the area when the gunshot was pulled, and we
24 know that from the video. Ms. Johnson's
25 fingernails, this is something we put into

1 evidence, very briefly, to avoid having to bring
2 another expert down here. We had one on the
3 firearm stuff, one on the autopsy. There's one
4 who did fingernail DNA for the autopsy.

5 The doctor said they took fingernail
6 clippings off of Ms. Johnson's right and left
7 hands, sent those for analysis, and one of the
8 stipulations is, of course, Ms. Johnson's DNA is
9 under the fingernails, but so was somebody
10 else's, hers, because she's been in the car and
11 scratching at her. Again, evidence of an
12 assault, although, with the video, we really
13 don't need that.

14 More reasonable doubt, two shots fired
15 from the gun. If I want to kill somebody, and
16 I'm gonna shoot them, that might be a fair shot,
17 but the second one is way off who knows where.
18 They never found it, and the shell, she said,
19 ejects from the right-hand side. The shell was
20 found outside the car. So the shell ejected
21 through that opening window, somewhere around
22 Ms. Johnson.

23 So that means that if I'm Tiffany, and
24 I'm sitting here, and Ms. Johnson is leaning in,
25 like this, for that shell to go out the window,

1 the gun was like this when that second shot was
2 fired, or at an angle. So the bullet went out
3 the window, and the shell went out the window.

4 That's not the position of the gun if
5 somebody's gonna fire it, and I want to hurt
6 somebody with that gun. That shows that these
7 were not aimed, deliberate, pre-meditated shots,
8 and we had one shell casing found outside, means
9 it was ejected through that window, which means
10 there was no way the gun was pointed at Ms.
11 Johnson when it was fired. It eliminates that
12 totally, or both shell casings would have been
13 in the car.

14 Three rounds were still in this gun
15 when it was found by the deputies, and so if
16 there was an attempt to hurt somebody, instead
17 of just going, bang, bang, it could have gone
18 bang, bang, bang, bang, bang, just as easy, if
19 you were really trying to hurt somebody, or if
20 you were really trying to get out of it.

21 This was in broad daylight, in front of
22 a bunch of witnesses. She went straight to her
23 momma's house. They go straight to the police.
24 The police they don't have to look for her, they
25 get a call saying, "She's at the police station

1 waiting on you." She told them where to find
2 the gun, and this might explain why Ms. Johnson
3 assaulted Tiffany, is she had drugs in her car.
4 If you look right here.

5 There's the marijuana joint in Ms.
6 Johnson's car. There's the marijuana joint
7 right there, when that photograph was taken. I
8 think that was the one at the lot. This was
9 taken during the search warrant; it had fallen
10 down to the crack in the seat. This is just a
11 comparison for size when the officer weighed it,
12 2.8 ounces, and then they inventoried Ms.
13 Johnson's pocketbook.

14 They took all the contents out, and
15 you'll see these things right here. That's a
16 closeup, that's the marijuana and pills. They
17 weighed the marijuana, 2.8 ounces. So illegal
18 drugs in her car, criminal activity, and more
19 importantly, drugs were found in Johnson's,
20 first, the Ketamine. The expert testified that
21 the recording limit is 10 nanograms per
22 milliliter, and Johnson had in her system, 1,784
23 nanograms.

24 This is a street drug, I think she says
25 causes aggravation, exacerbation, or agitation,

1 something like that, or it makes you hyper.
2 That could very well explain why she lost it.
3 Marijuana, this is also in her system at the
4 time.

5 Apparently, there are 2 marijuana
6 compounds, THC compounds. One is the Delta-9,
7 the limit is 1. She had over double that in her
8 system. The other limit is 3, she had 5 times
9 that much in her system, and then Tiffany's
10 understandably nervous on the stand. She's
11 never been in here before, never been in trouble
12 before.

13 She got arrested, charged, accused.
14 She has been a law-abiding citizen, now a single
15 mother, raising her 3 kids, peacefully, her
16 entire life. This happened in May 2021. She's
17 been no problem since then. The only time she's
18 ever gotten into any kind of trouble,
19 unfortunately, we're here today for it.

20 The only reason we're here today, is
21 Ms. Johnson, high on drugs, mad, attacked her.
22 Self-defense is a complete defense to all these
23 charges. If I am being attacked by someone, I
24 have the right to defend myself. I don't have
25 to sit there. I can defend myself.

1 Accident is also a defense. If they're
2 fighting over this gun, and it went off
3 accidentally. That's just as likely, from what
4 we've seen. That's also a complete defense.
5 There's no criminal intent to that. I'm just
6 trying to get out of there, fighting over a gun,
7 it goes off. The evidence in this case, the
8 video, clearly shows she was being attacked. I
9 respectfully submit, the inquiry ends there.

10 It's not murder. It's not voluntary
11 manslaughter. It's not involuntary
12 manslaughter. You can defend yourself, if
13 someone runs up to you and starts beating on
14 you. All this other red herrings stuff, how did
15 you leave the parking lot? Why didn't you leave
16 earlier? Why didn't you listen to your mom?

17 It's all wrapped around all this, red
18 herrings. She was not fearful for her life
19 until she was being attacked. At that moment,
20 she reacted, like any of us would have reacted,
21 grab the closest thing to protect ourselves, and
22 our unborn child. The law in this case, Your
23 Honor, will give you.

24 I ask you to listen to it very
25 carefully. Tiffany is not guilty of any of

1 about the ketamine, he left out, what else? He
2 just wants you to hear the numbers, because
3 they're big, because it just means that it can
4 be detected in her system.

5 He left out what else Dr. Phillips told you
6 about ketamine. It's used to resuscitate
7 people, like people who are dying. He says that
8 Tijuanna definitely followed Tiffany to the
9 store, that it's clear.

10 That's not clear from the video. The
11 opposite is clear. This is the grocery store.
12 The grocery store. There was an IGA, I think,
13 that may have still been open at this time, but
14 this is the one that everybody goes to, because
15 the IGA eventually closed. She's going to the
16 grocery store.

17 If she was, first of all, you can see in
18 the video that they come in 2 completely
19 different entrances. State's 38, Ms. Owens
20 comes in this way, Ms. Johnson comes in up here.
21 Does that look like somebody who's following
22 someone, trying to get them, and if she was,
23 would she not have pulled right up to the same
24 spot, gotten out, and attacked her, or
25 confronted her?

1 It's ridiculous. That's a red herring. He
2 says his client was looking down on the
3 floorboard of his car for something. We don't
4 know what that something was. He wants you to
5 focus on the fact that Ms. Owens called her
6 mother and say that she wasn't planning.

7 A person who was planning on killing
8 somebody wouldn't have called their mother.
9 Okay. What the Judge will not tell you, because
10 it's not the law, is that you have to plan out a
11 murder. As I said before, you don't have to
12 show that she was thinking about doing this for
13 minutes, hours, weeks, months, years, in
14 advance.

15 Malice aforethought means, can mean, and,
16 of course, it can mean those other things, we
17 know that from TV, and from other cases, but it
18 can arise in a moment. The Judge is also not
19 going to tell you that Tiffany Owens even had to
20 specifically intend the death of Ms. Johnson.

21 That's not what malice means. It means
22 hatred, ill-will, the doing of a wrong thing,
23 without just cause, or excuse. You're not gonna
24 hear the Judge tell you that you have to find
25 Ms. Owens intended Ms. Johnson's death. That's

1 not the law in this State. He wants you to
2 focus on the fact that Ms. Owens was going
3 through some health problems, that she had
4 hemorrhoids, that she had a sprained wrist.
5 Those are unfortunate, obviously.

6 They didn't prevent her from driving to the
7 store that day. They didn't prevent her from
8 driving up right to where Ms. Johnson was, and
9 they didn't prevent her from pulling that
10 trigger, 2 times.

11 Remember, she testified that she had a
12 phone in her left hand. She reached for the
13 center console to get the gun. To call this an
14 accident is just as preposterous as the
15 marijuana story. Tijuanna could not have pulled
16 that trigger, and it would not have gone off
17 twice. That is preposterous, that is absurd.
18 He wants you to -- guns don't just go off. You
19 heard Ms. Eichenmiller testify, 7 pounds of
20 pressure to pull that trigger, and you have to
21 pull it each time.

22 It's not the pulling of, it's not a machine
23 gun. Each fire is a separate choice, 7 pounds
24 of pressure. He talks to you about the fact
25 that Estill PD lost the photos of the injuries.

1 Okay, yeah, they messed up on that, but they're
2 not on trial. There's no such thing as a
3 perfect investigation, and the evidence that
4 those photos would have shown you is here. It's
5 in these screenshots.

6 You have the evidence. You don't punish
7 Tijuanna for a small mistake by Estill, when the
8 mistake's been fixed. You have the evidence.
9 He wants to make a big deal about how they
10 didn't take the GSR sample from Tijuanna. GSR
11 is just metal, little dots, under a microscope.
12 It's really helpful in a case where we don't
13 have somebody turning themselves in, doing it on
14 video.

15 All right, and you heard Ms. Nates say they
16 have a policy. It wasn't in effect at the time
17 of the incident, but it has come into effect
18 since then, and * I think. You don't take the
19 victim's GSR sample. Why? Because all who is
20 in the vicinity of a fired gun, well. so does
21 the whole in her chest. That's a red herring.

22 If the GSR had been taken, had been tested,
23 and had shown up on Tijuanna's hands, it
24 wouldn't prove anything. It would prove that
25 she was shot, that's all, not that she was

1 reaching for the gun. It would show up the
2 same. It's just dots under a microscope.
3 That's a red herring. Then he wants to tell you
4 that, he wants to tell you that there was no way
5 that this gun could've been aimed at Tijuanna
6 when it went off.

7 No way, except for this hole in her.
8 Bullets travel straight. It wasn't an accident.
9 It may not have been planned out when Ms. Owens
10 got to the store that day, but it was decisive,
11 it was a choice, it was 2 shots, and it was
12 murder.

13 THE COURT: All right, ladies and
14 gentlemen, we are gonna take a 10-minute recess,
15 then I'm gonna bring you back here, and I'm
16 gonna charge you on the law that's applicable to
17 this case.

18 I need to remind you that even though
19 you've heard the evidence, and the closing
20 arguments, you have not heard my charge on the
21 law. It wouldn't be appropriate for you to
22 discuss this case. Go back, refresh yourselves
23 if you would, come on back. We're gonna bring
24 you back in 10 minutes, and we'll go ahead and
25 finish up this case, and send it to you.

1 Thank you. All right. We'll be at ease
2 for about 10 minutes. Thank you.

3 (Jury exits the courtroom.)

4 THE COURT: All right, we'll be at ease for
5 about ten minutes.

6	(RECESS)

7

**

8	PROCEEDINGS CONTINUED

9 THE COURT: All right, is the State ready?

10 MR. EVANS: The State's ready, Your Honor.

11 THE COURT: Is the defense ready?

12 MR. KUHN: Yes, Your Honor.

13 THE COURT: Thank you. I'll let you all
14 know, that are here in the gallery, that once I
15 begin charging the jury on the law, the doors
16 are gonna be locked from the back of the
17 courtroom, so you can't leave.

18 All right, so just make sure you'all keep
19 your seats, okay, until it's all over with, I
20 send it to them, and then, of course, you're
21 welcome to come and go, all right.

22 (Jury enters the courtroom.)

23 **

24	JURY CHARGE

25 THE COURT: All right, ladies and

1 gentlemen, it's now the time for me to charge
2 you on the law that's applicable to this case,
3 and I will tell you, Madam Foreperson, and
4 members of the jury, I'm required to read this
5 to you verbatim, and you are going to have this
6 during the jury's deliberations. All right, so
7 along with the evidence in the case, and the
8 verdict form, all right? So I just wanted you
9 to know that before we begin.

10 Madam foreperson, members of the jury,
11 you've followed very patiently, and listened
12 very attentively to the presentation of the
13 evidence in this case, and I want to thank you
14 for that. It now becomes the duty of the trial
15 judge, under the constitution of this state, to
16 charge and instruct you the law that's
17 applicable to this case, and it's your duty as
18 jurors, to accept and apply the law as I will
19 now state it to you.

20 As jurors, it is your exclusive duty to
21 decide all the issues of fact in this case. You
22 must determine the effect, the value, the
23 weight, and the truth of the evidence, but the
24 State and the Defendant have a right to expect
25 that you will carefully consider and evaluate

1 the evidence and apply the law of the case to
2 the evidence, and by doing that, both the State
3 and the Defendant, will receive a fair, and
4 impartial trial in this matter.

5 Now, the State of South Carolina, by the
6 bills of indictment in this case, charges the
7 Defendant, Tiffany Rebecca Owens, with the
8 offenses of murder, and possession of a weapon
9 during a violent crime. Now, I remind you that
10 the fact that the Defendant was arrested,
11 charged, and indicted in this case, is not
12 evidence in this case.

13 It cannot be considered by you as evidence
14 of guilt in this case, nor does it create any
15 presumption, or inference of guilt. An
16 indictment is simply the formal written
17 instrument, which contains the charge that's
18 made against the Defendant. It is the formal
19 document by which this case is brought into this
20 courtroom.

21 The Defendant, Ms. Owens, has pled not
22 guilty to these indictments, and that plea fits
23 the burden on the State, to prove the Defendant
24 guilty. A person charged with committing a
25 criminal offense in South Carolina is never

1 required to prove themselves innocent. I charge
2 you that it's an important rule of law, that a
3 Defendant in a criminal trial, no matter what
4 the seriousness of the charge, or charges, may
5 be, will always be presumed to be innocent of
6 the crime for which an indictment was issued,
7 unless guilt has been proven by evidence,
8 satisfying you, the jury, of that guilt beyond a
9 reasonable doubt.

10 This presumption of innocence does not end
11 when you begin your deliberations, but it
12 accompanies the Defendant throughout the trial,
13 until you reach a verdict of guilt, based on
14 evidence satisfying you of that guilt beyond a
15 reasonable doubt. Presumption of innocence is
16 like a robe of righteousness that's placed about
17 the shoulders of the Defendant, and it remains
18 with the Defendant until it has been stripped
19 from the Defendant by evidence satisfying you,
20 the jury, of that guilt beyond a reasonable
21 doubt.

22 The presumption of innocence is not a mere
23 legal theory. It's not just a legal phrase we
24 use. It is a substantial right to which every
25 defendant is entitled, unless you, the jury, are

1 satisfied from the evidence of the Defendant's
2 guilt beyond a reasonable doubt.

3 So what is a reasonable doubt in the law?
4 A reasonable doubt is the kind of doubt that
5 would cause a reasonable person to hesitate to
6 act in their most important decisions. The
7 State has the burden of proving the Defendant
8 guilty beyond a reasonable doubt, and the term
9 reasonable doubt must be given its plain and
10 ordinary meaning. However, to the extent that I
11 may define it for you, a reasonable doubt is the
12 kind of doubt that would cause a reasonable
13 person to hesitate to act in the most important
14 of their personal decisions.

15 The Defendant is entitled to every
16 reasonable doubt arising in this case. If upon
17 any issue of fact essential to a conviction, you
18 have a reasonable doubt, as to how that issue
19 should be resolved, you must resolve that
20 reasonable doubt in favor of the Defendant.
21 Now, some of you may have served as jurors in
22 civil cases, where you were told it was only
23 necessary to prove that a fact is more likely
24 true than not true, such as by the greater
25 weight, or the preponderance of the evidence.

1 In criminal cases, the State's proof must be
2 more powerful than that. It must be beyond a
3 reasonable doubt.

4 Suspicion, no matter how strong, is
5 insufficient to convict a person charged with a
6 crime. Though the facts and circumstances
7 presented may seem suspicious, and the
8 Defendant's guilt may seem probable, this is not
9 sufficient in the law to convict. Proof beyond
10 a reasonable doubt is proof that leaves you
11 firmly convinced of the Defendant's guilt.

12 Now there are very few things in this world
13 that we know with absolute certainty, and in
14 criminal cases the law does not require proof
15 that overcomes every possible doubt. If based
16 on your consideration of the evidence, you are
17 firmly convinced the Defendant is guilty of the
18 crime charged, you must find the Defendant
19 guilty. If on the other hand, you think there's
20 a real possibility that the Defendant is not
21 guilty, you must give the Defendant the benefit
22 of the doubt and find her not guilty.

23 Now, I remind you that during this trial
24 you and I have certain duties to perform. As
25 the trial judge it is my responsibility to

1 preside over the trial of this case, and I also
2 have the duty to rule on the admissibility of
3 the evidence that is offered during the trial.
4 You are to consider only the competent evidence
5 before you. You are to consider only the
6 testimony which was presented from the witness
7 stand, and any other exhibits which have been
8 made a part of the record in this case.

9 I have the additional duty to charge you
10 the law applicable to this case. As the
11 presiding judge, I am the sole judge of the law
12 of this case, and it's your duty as jurors to
13 accept and apply the law as I will now state it
14 to you. If you already have any idea as to what
15 the law is, or what the law ought to be, and
16 does not agree with what I now tell you the law
17 is, you must abandon this idea, because you are
18 sworn to accept the law, and apply the law
19 exactly as I state it to you.

20 In every case tried in this court before a
21 jury, the jury becomes the sole and exclusive
22 judge of the facts in a case. A trial judge
23 cannot intimate, state, comment on, or make any
24 statement to a trial jury about the facts in the
25 case, and since you the jury are the sole judge

1 of the facts in this case, you are not to infer
2 from what I have said during the progress in
3 this trial, in ruling upon the admissibility of
4 evidence, or otherwise, or anything that I say
5 now during the course of this instruction to
6 you.

7 I do not have an opinion about the facts in
8 this case. The law does not allow me to have an
9 opinion about the facts in this case. This is a
10 matter solely for you, the jury, to determine.
11 Now, there are 2 types of evidence that are
12 generally presented during a trial, direct
13 evidence and circumstantial evidence.

14 Direct evidence directly proves the
15 existence of a fact and does not require
16 deduction. Circumstantial evidence is proof of
17 a chain of facts and circumstances, indicating
18 the existence of a fact. Crimes may be proven
19 by circumstantial evidence. The law makes no
20 distinction between a rate, or value, to be
21 given to either direct, or circumstantial
22 evidence. However, to the extent the State
23 relies on circumstantial evidence, all of the
24 circumstances must be consistent with each
25 other, and when taken together point

1 conclusively to the guilt of the accused beyond
2 a reasonable doubt.

3 If these circumstances merely portray the
4 Defendant's behavior as suspicious, the proof
5 has failed. The State has the burden of proving
6 the Defendant guilty beyond a reasonable doubt,
7 and this burden rests with the State regardless
8 of whether the State relies on direct evidence,
9 circumstantial evidence, or some combination of
10 the 2.

11 Now, necessarily, you must determine the
12 credibility of witnesses who have testified in
13 this case, and credibility simply means
14 believability. It's your duty as jurors to
15 analyze and to evaluate the evidence, and
16 determine which evidence convinces you of its
17 truth. In determining the believability of
18 witnesses who have testified in this case, you
19 may believe one witness over several witnesses,
20 or several witnesses over one witness. You may
21 believe a part of a testimony of a witness and
22 reject the remaining part of the testimony of
23 that same witness. You may believe a testimony
24 of a witness in its entirety or reject the
25 testimony of a witness in its entirety. You may

1 consider whether any witness has exhibited to
2 you any interest, bias, prejudice, or other
3 motive in this case, and you may also consider
4 the appearance and manner of a witness while on
5 the witness stand.

6 Now, the rules of the evidence, ordinarily,
7 do not permit witnesses to testify to opinions,
8 or conclusions. The exception to this rule
9 exists for witnesses we call expert witnesses.
10 A witness who by education, and experience, has
11 become an expert in some art, science,
12 profession, or calling, may state an opinion as
13 to relevant and material matter, in which the
14 witness claims to be an expert, and they may
15 also state their reasons for the opinions.

16 You should consider any expert opinion
17 received in evidence in this case, and like any
18 other evidence, given the weight you think it
19 deserves. If you decide that an opinion of an
20 expert witness is not based on sufficient
21 education and experience, or if you conclude
22 that the reasons given in support of the opinion
23 are not sound, or that the opinion is outweighed
24 by other evidence, you may disregard the opinion
25 entirely.

1 An expert witness' testimony is to be given
2 no greater weight than that of other witnesses,
3 simply because the witness is an expert, and
4 further, you are not required to accept an
5 expert's opinion, even though it is not
6 contradicted.

7 Now, a statement alleged to have been made
8 by the Defendant has been admitted into evidence
9 in this case, and the court has determined the
10 statement is admissible, but I instruct you, the
11 decision as to whether the Defendant made the
12 statement, is for the jury to determine. If the
13 Defendant did make the statement, you must
14 determine whether the statement was made by the
15 Defendant voluntarily, and of her own freewill.
16 This means that the statement was not caused by
17 pressure, force, fears, threats, coercion, or
18 intimidation, by hope, or a promise of leniency,
19 or a reward of any kind.

20 In determining whether the statement was
21 voluntary, you should consider both, the
22 characteristics of the Defendant, and the
23 details of any questioning. Some of the factors
24 you must consider are, age of the Defendant, the
25 Defendant's education, or lack of education, the

1 Defendant's mental ability, or capacity, the
2 Defendant's IQ, or intelligence, the Defendant's
3 background, and environment, place and length of
4 detention, the nature of any questioning, the
5 advisement and lack thereof to the Defendant of
6 her constitutional rights, but not limited to
7 the right to remain silent, that any statements
8 can be used against her in a court of law, the
9 right to have a lawyer present, and if she
10 cannot afford a lawyer a lawyer would be
11 appointed to represent her without any cost, and
12 that she can stop making a statement at any
13 time.

14 You must carefully consider all the
15 surrounding circumstances before you give weight
16 to any alleged statement. If you determine any
17 alleged statement was given voluntarily, you
18 must decide the weight, if any, that should be
19 given to the alleged statement. If you
20 determine the alleged statement was not given
21 free and voluntarily by the Defendant, you
22 should not consider the statement at all.

23 Now, ladies and gentlemen, the Defendant in
24 this case is charged with two offenses, and the
25 first offense the Defendant's charged with is

1 the murder of Tijuanna Demetrius Johnson.

2 Now, to prove the offense of murder, the
3 State must prove, beyond a reasonable doubt, the
4 Defendant killed another person with malice
5 aforethought. Malice is hatred, ill-will, or
6 hostility, towards another person. It is the
7 intentional doing of a wrongful act without just
8 cause or excuse, and with an intent to inflict
9 an injury, or under circumstances that the law
10 would infer an evil intent.

11 Malice aforethought does not require that
12 malice exist for any particular time before the
13 act is committed, but malice must exist in the
14 mind of the Defendant just before, and at the
15 time, the act is committed. Therefore, there
16 must be a combination of the previous evil
17 intent and the act.

18 Malice aforethought may be expressed or
19 inferred. These terms expressed and inferred do
20 not mean different kinds of malice, but merely
21 the manner in which malice may be shown to
22 exist. That is either by direct evidence, or by
23 inference from the facts and circumstances which
24 are proved.

25 Now in this case, if the State has failed

1 to prove beyond a reasonable doubt that the
2 Defendant committed murder, you may consider
3 that the State has proved beyond a reasonable
4 doubt that the Defendant committed the lesser-
5 included offense called voluntary manslaughter.

6 To prove voluntary manslaughter, the
7 State must prove beyond a reasonable doubt that
8 the Defendant took the life of another in a
9 sudden heat of passion, based on sufficient
10 legal provocation. Both heat of passion, and
11 sufficient legal provocation, must be present at
12 the time of the killing to constitute voluntary
13 manslaughter. Sudden heat of passion may, for a
14 time, affect a person's self-control, and
15 temporarily disturb a person's reason. A sudden
16 heat of passion must be the type that would make
17 an ordinary person unable to coolly reflect on
18 her actions and produce an uncontrollable
19 impulse to do violence.

20 Sufficient legal provocation must be the
21 type that would make a person of ordinary reason
22 and caution become enraged, and to lose control
23 temporarily. The provocation needed for
24 voluntary manslaughter must come from some act
25 of, or related to, the victim. Words alone,

1 however vulgar, or insulting, are not enough to
2 be legal provocation. The words must be
3 accompanied by some overt, threatening act,
4 which could produce the heat of passion. The
5 exercise of a legal right, no matter how
6 offensive it is to another, is never sufficient
7 legal provocation for voluntary manslaughter.
8 If a heat of passion had cooled, or if there was
9 enough time between the provocation, if any, and
10 the killing for the passion of a reasonable
11 person to cool, the killing would not be
12 voluntary manslaughter.

13 In deciding whether a reasonable person
14 would have had enough time to cool off, you
15 should consider all the circumstances
16 surrounding the killing. You may consider the
17 nature of the provocation, if any, the
18 Defendant's mental and physical state, and the
19 circumstances and relationships between the
20 parties.

21 Now, ladies and gentlemen, criminal intent
22 is a state of mind, which operates jointly with
23 an act or a mission, in the commission of a
24 crime. Criminal intent is a mental state of
25 conscious wrongdoing. Criminal intent includes

1 those consequences which represent the very
2 purpose for which an act is done, or are known
3 to be substantially certain to result,
4 regardless of one's desire. Intent may be shown
5 by acts and conduct of the Defendant, and other
6 circumstances, from which you may naturally and
7 reasonably infer intent.

8 Criminal intent must be proven by the State
9 beyond a reasonable doubt, for you to find the
10 Defendant guilty of murder, or guilty of
11 voluntary manslaughter. Now, ladies and
12 gentlemen, in this case, if you find that the
13 State has failed to prove beyond a reasonable
14 doubt, that the Defendant committed murder, or
15 voluntary manslaughter, you must then consider
16 that the State has proved beyond a reasonable
17 doubt that the Defendant committed involuntary
18 manslaughter.

19 Involuntary manslaughter is the
20 unintentional killing of another without malice,
21 while engaged in a lawful activity, with
22 reckless disregard for the safety of others.
23 Unintentional means the Defendant did not intend
24 for anyone to be killed, or seriously injured.
25 A reckless disregard for the safety of others,

1 means the Defendant was indifferent to the
2 consequences of her actions. Recklessness is
3 the conscious failure to exercise ordinary care,
4 that a person of ordinary reason and prudence
5 would exercise in the same circumstances.

6 The burden is on the State to prove beyond
7 a reasonable doubt, the Defendant was reckless,
8 and that her recklessness was the direct cause
9 of the victim's death, to be able to prove
10 involuntary manslaughter.

11 Now, ladies and gentlemen, the Defendant in
12 this case is also charged with possession of a
13 weapon during the commission of a violent crime.
14 Now, the State must prove beyond a reasonable
15 doubt, the Defendant was in possession of a
16 firearm, or visibly displayed what appeared to
17 be a firearm during the commission of a violent
18 crime. A firearm means a machine gun, automatic
19 rifle, revolver, pistol, or any weapon which
20 will, or is designed to, or may be readily
21 converted to expel a projectile.

22 In order to consider whether the Defendant
23 is guilty or not guilty of possession of a
24 weapon during the commission of a violent crime,
25 you must first find the Defendant guilty of

1 either committing a violent crime or attempting
2 to commit a violent crime.

3 Ladies and gentlemen, I charge you that it
4 is the law of this state that murder is a
5 violent crime. I also charge you that the law
6 of this state is that voluntary manslaughter is
7 a violent crime.

8 Lastly, ladies and gentlemen, to prove this
9 charge, the State must also prove beyond a
10 reasonable doubt that the weapon furthered,
11 advanced, or helped, in the commission of the
12 crime.

13 Now, ladies and gentlemen, the Defendant in
14 this case has raised the defense of self-defense
15 and/or defense of others. The State has the
16 burden of disproving self-defense and/or the
17 defense of others, beyond a reasonable doubt.
18 The Defendant is presumed innocent, and never
19 has to prove herself innocent.

20 In the case of self-defense and/or the
21 defense of others, the State must prove to you
22 the Defendant did, in fact, not act in self-
23 defense, or in the defense of others, and the
24 State must prove this to you beyond a reasonable
25 doubt. Self-defense and/or the defense of

1 others is a complete defense. A person in South
2 Carolina is justified in using force, which is
3 intended, or, likely, to cause death, or great
4 bodily harm, if they reasonably believe that
5 such force is necessary to prevent death, or
6 great bodily injury to themselves, or to a third
7 person.

8 If you have a reasonable doubt as to the
9 Defendant's guilt after considering all the
10 evidence, including the evidence of self-defense
11 and/or the defense of others, then you must find
12 the Defendant not guilty. On the other hand, if
13 you have no doubt of the Defendant's guilt,
14 after considering all the evidence, including
15 the evidence of self-defense and/or the defense
16 of others, then you must find her guilty.

17 Now, there are 4 elements required by law
18 to establish self-defense, or the defense of
19 others, in this case. First, the Defendant,
20 and/or the third party, must be without fault in
21 bringing on the difficulty.

22 Second, the Defendant, and/or third party,
23 must have been in actual imminent danger of
24 death, or serious bodily injury, or the
25 Defendant actually believed she was in imminent

1 danger of death, or serious bodily injury.

2 Third, if the Defendant's defense is based on
3 her belief of imminent danger, it must be shown
4 that a reasonably prudent person, of ordinary
5 fondness and courage, would have the same
6 belief.

7 If the Defendant actually were in imminent
8 danger, it must be shown that the circumstances
9 would have warranted a person of ordinary
10 prudence, firmness, and courage, to strike the
11 fatal blow, in order to save themselves, and/or
12 the third party, from serious bodily harm, or
13 death.

14 Last, the Defendant, and/or third party,
15 had no other probable means of avoiding the
16 danger of losing their own life, or sustaining
17 serious bodily injury than for the Defendant to
18 act as she did, in this particular instance. In
19 deciding whether the Defendant actually was, or
20 believed she was, in imminent danger of death or
21 serious bodily injury, or whether the Defendant
22 believed a third party was, or the third party
23 actually was in imminent danger of death or
24 serious bodily injury, you should consider all
25 the facts and circumstances surrounding the

1 event.

2 The Defendant does not have to show that
3 she and the third party were actually in danger.
4 It is enough if the Defendant believed she
5 and/or the third party were in imminent danger,
6 and a reasonably prudent person, of ordinary
7 firmness and courage, would have had the same
8 belief. The Defendant has the right to act on
9 appearances, even if the Defendant's beliefs may
10 have been mistaken.

11 Now, in considering the actions of the
12 Defendant, you may consider the propensity for
13 acts of violence of the victim. If the
14 Defendant knew the victim was of such
15 propensity, then the Defendant would be
16 warranted in construing the victim's actions
17 more harshly, and acting upon hostile
18 appearances more readily than she would have
19 been entitled to do to a person who is not of
20 such propensity.

21 In considering the actions of the
22 Defendant, you may also consider the victim's
23 reputation, turbulence, and violence in the
24 community, as affairs on self-defense. If the
25 Defendant knew the victim was of such character