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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DIMITRI TARION DICKENS,

APPELLANT.

APPELLATE CASE NO. 2024-000878

AMENDED RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State’s Exhibits 16 & 17 (Videos)

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY

2023-GS-08-01118

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) September 25, 2023

Isaiah Canales,)

Dimitri Dickens,)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge

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

F. Alexander Myers, Esquire
Olivia Lynch, Esquire
Attorneys for the State

Steve C. Davis, Esquire
Melisa White Gay, Esquire
Attorneys for the Defendants

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

Jury No.	Name	Race	Gender	Jury No.
112	Tina King	W	F	Def. Strike
145	Judy Morga	W	F	1
151	Veronica Myers	B	F	2
131	Herbert McCray	B	M	Def. Strike
92	Michael Healy	W	M	Def. Strike
81	Billie Guenther	W	F	Def. Strike
111	Daniel Keilty	W	M	Def. Strike
85	Steven Ham	W	M	3
78	Edward Graham	W	M	Def. Strike
34	Kaylea Caulder	W	F	4
38	Tia Clark	B	F	Plt. Strike
41	Mary Cooper	W	F	Def. Strike
129	James Mathews	W	M	5
178	Christopher Schicker	W	M	Def. Strike
216	Starla McGorty	W	F	Def. Strike
23	Samuel Boyd	B	M	Plt. Strike
186	Jared Sprangler	W	M	Def. Strike
31	Samuel Cable	W	M	6

1	172	Lynn Reilly	W	F	Plt. Strike
2	105	Mark James	W	M	7
3	123	James Lloyd	W	M	Def. Strike
4	32	Bryan Carlisle	W	M	Def. Strike
5	189	Shelton Stewart	B	M	8
6	29	Willie Bullard	B	M	9
7	171	Taylor Reale	W	F	Plt. Strike
8	84	Megan Hair	W	F	10
9	93	Michael Henning	W	M	Def. Strike
10	60	Isaiah Ficken	W	M	11
11	156	Amber Nobles	W	F	12
12	169	Matthew Powell	W	M	Def. Strike
13	113	Francis Kinloch, Jr.	B	M	Plt. Strike
14	39	Michael Clucas	W	M	Alt. No. 1
15	50	Jennie Diehl	W	F	Alt. No. 2
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1 THE COURT: All right. Thank you very much.
2 Please be seated. All right. Good morning. My name
3 is Bentley Price. I'm a circuit court judge here in
4 Berkeley and Charleston, so I will be here with everyone
5 for the week. First off, I had a tie this morning
6 whenever I went to the gym, and when I got out of my
7 car, I can't find it. So, I'm not trying to be casual;
8 I just -- I've lost my tie. So, I apologize for that.
9 I assume it is still hanging in the gym. All right.

10 What we're going to do now is we're going
11 to go through the jury qualifications, and then
12 we'll move onto the exemptions. What I mean by
13 that is qualifications are simply just to determine
14 your qualification to serve as a juror. They're
15 not overly-difficult questions. The first one is,
16 are you 18 years of age or older? So that's how easy
17 they are.

18 If any of these apply to you, you'll stand
19 up, give us your name -- I mean, excuse me, give us
20 your juror number, and then just tell us how it applies
21 to you, all right? Is anyone here not 18 years of age
22 or older? There are none. Is anyone here not a citizen
23 of the United States? There are none. Is anyone
24 no longer a resident of Berkeley County, meaning,
25 you have moved since you received your notice?

1 There are none. Can anyone not read, write, or speak,
2 or understand the English language sufficient enough
3 to serve on a jury? There are none.

4 Does anyone have a -- does anyone not
5 have a sixth-grade education, or its equivalent?

6 There are none. Does anyone have any mental or physical
7 infirmities that would preclude them from serving
8 on a jury? If you don't want to stand up and say it
9 in front of everybody, just hang tight, and I'll allow
10 you to come up at the end. There are none. Has anyone
11 been convicted of a crime in state or federal court,
12 that had a crime punishable by imprisonment for more
13 than one year, and has not had their civil rights
14 restored by pardon or amnesty, meaning, that the offense
15 itself carried up to one year, doesn't matter what
16 sentence you received. There are none.

17 Is anyone here a clerk, deputy clerk,
18 constable, sheriff, other commissioned law enforcement
19 officer, probate judge, county commissioner, magistrate,
20 or any county officer, or any person employed within
21 the walls of a courthouse? There are none. Has anyone
22 served on a jury in the past year? There are none.
23 Has anyone served as a member of the Berkeley County
24 Grand Jury in the past three years? There are none.
25 All right, that is the qualifications.

1 The next ones are exemptions. What I mean
2 by that is that you get a one-time exemption; that's
3 it. So this is going to be about a three-day trial,
4 so we'll be here until probably about Wednesday,
5 maybe Thursday morning. It is a criminal trial.
6 So if you -- this is not a good week for you, and you
7 want to claim one of the exemptions, just be reminded
8 that you may end up not being able to get exempt
9 from a much longer trial at some point down the road.
10 We know what I'm talking about. Some trials last six,
11 seven weeks, so you may want to think twice about
12 claiming your exemption for this week. It will
13 be a pretty quick week. All right.

14 Is anyone here 65 years of age or older
15 that would like to claim the exemption? All right,
16 there are none. Has anyone served on a jury in the past
17 three years? That's an exemption. There are none.
18 Does anyone have small children that are of the age
19 of seven or younger, you have legal custody, principal
20 care and control of the children, and you're unable
21 to make arrangements for the adequate care for them
22 while performing jury duty just this week? All right.
23 Your juror number?

24 THE JUROR: Seventy-four.

25 THE COURT: All right. Who's watching

1 the kids today?

2 THE JUROR: My husband; he had to take off
3 work.

4 THE COURT: All right. What's going
5 to happen whenever you've got to come back at
6 Christmastime? What are you going to do with the kids
7 then? You see my point; it will be just perpetual.

8 THE JUROR: Right. But my kids are very
9 young.

10 THE COURT: Okay. You're going to get
11 another notice pretty quick. All right. You can
12 be excused. Yes, sir.

13 THE JUROR: Juror 83, William Hagood.
14 I'm not married, but my spouse of eight years has
15 breast cancer surgery tomorrow, and I can't prove that
16 that will happen tomorrow, but she will be completely
17 reliant on me for travel and care.

18 THE COURT: All right. I'll excuse you.
19 All right. The same applies to anyone that cares for
20 someone who is 65 years of age or older. Okay, stand
21 up, give us your juror number, tell us how it applies.

22 THE JUROR: Juror 197. I just found out
23 that my mom has stomach cancer, and I take care of her.

24 THE COURT: All right. You understand this
25 is a one-time exemption?

1 THE JUROR: Yes.

2 THE COURT: All right. Okay, you can
3 be excused. What was your juror number?

4 THE JUROR: 197.

5 THE COURT: Is anyone here a full-time
6 student, schoolteacher, crossing guard, bus driver,
7 serves in any school-related function that this would
8 not be a good week for them? Yes, ma'am.

9 THE JUROR: Juror number 4. I work
10 at Whiteville Elementary, and we're short staffed.

11 THE COURT: All right. I'll transfer
12 you to the summer.

13 THE JUROR: Thank you.

14 THE COURT: All right. Does anyone perform
15 a service for a business, commercial or agricultural
16 enterprise, whose services are so essential to the
17 operation of that enterprise that it must close or cease
18 to function if you're required to perform jury duty?
19 To be honest with you, I know that's confusing.
20 It was designed for farmers. If you don't -- if this
21 was cropping week or whatever the case may be, you know,
22 next week will be perfectly fine, that's what that
23 means. Does anybody have something this week that they
24 just absolutely can't miss, such as a crop or anything
25 else? All right.

1 Is anyone here employed as a guard with
2 the department of corrections at a penitentiary?
3 All right. Anybody who has any extreme hardships that
4 they would like to share with the Court? You can just
5 go ahead and come up here, make a line, and we'll bring
6 you up one by one. All right.

7 THE BAILIFF: Juror number 108.

8 THE COURT: You just speak loud enough
9 for her to be able to hear you.

10 THE JUROR: All right. Good morning.
11 You want my name and number?

12 THE COURT: I can see it, 108.

13 THE JUROR: All right. I need to not be
14 here, because I'm not feeling well. I have a condition
15 in my body.

16 THE COURT: All right. You could just
17 transfer her; she doesn't want to be here.

18 THE JUROR: Thank you.

19 MS. GAY: What number was that, Your Honor?

20 THE COURT: 108.

21 THE BAILIFF: Juror number 15.

22 THE COURT: All right. Yes, ma'am.

23 THE JUROR: I have a doctor's appointment
24 tomorrow, and I also have a retreat that's been planned
25 for months the rest of this week.

1 THE COURT: Okay, I'll transfer you.

2 THE JUROR: Okay. Thank you.

3 THE BAILIFF: Juror number 51.

4 THE JUROR: I have a cardiac stress test
5 tomorrow.

6 THE COURT: Okay, I'll transfer you.

7 THE JUROR: Thank you.

8 THE COURT: She has a cardiac stress test
9 tomorrow that she can't miss. All right, is there
10 anyone else that has any issues as to why they will
11 not be able to serve on a jury? Now would be the time
12 to tell us. All right. Does the State have the voir
13 dire?

14 MR. MYERS: The State is just asking for the
15 standard voir dire questions. We would have objections
16 to any -- certain questions that they submitted.

17 (Pause.)

18 THE COURT: All right, ladies and gentlemen.
19 The case that is before you this week is Dimitri Tarion
20 Dickens. He is being charged with assault and battery
21 of a high and aggravated nature, armed robbery,
22 and possession of a weapon during the commission
23 of a violent crime. Alongside him is Isaiah Canales.
24 He is being charged with possession of a weapon during
25 the commission of a violent crime, armed robbery,

1 and assault and battery of a high and aggravated nature.
2 All right.

3 Ladies and gentlemen, what we are going
4 to now do, we are going to do voir dire specific to this
5 case, meaning, I'm going to ask you a set of questions
6 that will be very specific just to this case, meaning,
7 do you know the Defendants? That would be one of
8 the first questions. But in doing so, the first thing
9 I'm going to do is allow the parties to stand up,
10 introduce themselves and the parties in which they
11 represent, and then I will ask you two questions.

12 I will ask you, one, if anybody knows
13 anybody that works at the Ninth Circuit Solicitor's
14 Office, or has any close relationships with anybody
15 that works in the Ninth Circuit Solicitor's Office?
16 And then I'll ask anyone if they have ever been
17 represented by Mr. Davis or Ms. Gay, and if so,
18 in what capacity? I'll begin with the State.

19 MR. MYERS: Thank you, Your Honor. My name
20 is Alex Myers. I work for the solicitor's office,
21 we're often called district attorneys in other states.
22 The elected solicitor for the Ninth Circuit, which
23 includes Charleston and Berkeley, is Scarlett Wilson,
24 you may have heard that name. The deputy that handles
25 Berkeley is Anne Williams.

1 Again, my name is Alex Myers; this is Olivia
2 Lynch. This is Dave Soderburg, who's an investigator
3 with our office. This is Kamila Sas, which is a senior
4 litigator with our office. This is Alley Mills,
5 who is a paralegal, Kawohi Morris, who is an outstanding
6 prosecutor. This is John Meyer; he's also a solicitor.
7 This is Anita Brown, a paralegal, and the other
8 individuals in our office, who you may or may not know,
9 are Julie Rochester, Rachel Janowski, John Newlon,
10 Michelle Hart, Jaquon Irby, Nick Young, Michael Secrist,
11 and Kayla Donato. We have two other investigators,
12 David Young, Shane Musgrave, and that is everyone
13 in our office.

14 THE COURT: All right. Thank you very much.
15 Mr. Davis.

16 MR. DAVIS: Good morning. Judge, may it
17 please the Court. My name is Steve Christopher Davis.
18 I practice law, and I have also had the pleasure
19 of serving as counsel in Berkeley County. But this
20 morning, I have the pleasure of representing this young
21 man, Isaiah Canales. This morning, he stands before
22 you. Thank you.

23 MS. GAY: My name is Melisa Gay.
24 I represent Dimitri Dickens. I practice -- my office
25 is actually in Mount Pleasant. I practice throughout

1 the low country area, and I'm representing Mr. Dickens
2 this morning in this case.

3 THE COURT: All right. Does anyone
4 have any close personal friendship or any relatives,
5 or have anybody that is involved, or knows anybody
6 that works in the Ninth Circuit Solicitor's Office,
7 the names that they read off? All right. Has anyone
8 been represented by Mr. Davis, or have a close personal
9 friend or relative that's been represented by Mr. Davis?
10 All right. How about as to Ms. Gay? All right.
11 Let the record reflect that there are none.

12 All right. At this time, I'm going to read
13 you a list of potential witnesses. Not all of these
14 witnesses are going to testify, but we just need
15 to flesh out whether you know some of them, and whether
16 that will affect your ability to be fair and impartial
17 in this case. All right.

18 These firsts are from the Goose Creek
19 Police Department. It is Chimere Myers, Mindy Waites,
20 Andrew McAllister, Christopher Dowling, Sandra Favero,
21 Miranda Nation, Douglas Galluccio, Taveres Liggon
22 from the Summerville -- Summerville Police Department.
23 It just says Summerville, South Carolina.

24 MR. MYERS: Summerville, South Carolina,
25 Your Honor.

1 THE COURT: All right. Kenneth McGinnis,
2 Brayden Ward, Daniel Varner, Daniel Regino, Bailey
3 Haynes with the South Carolina Law Enforcement Division,
4 Olivia Cartwright with SLED, and Chad Smith with SLED.
5 Is anybody familiar with any of those individuals?
6 All right.

7 Gloria Martinez, Katie Capobianco,
8 Nicholas Smith, Katelyn Usher, Tommy Lawson, Chad Moree,
9 Kyle Bealer with the Berkeley County Sheriff's
10 Department, Linda Wilson with the Charleston Police
11 Department, James Mossman, Cody Dillon, Stephen Curtis,
12 Ashley Yopihua. I don't know how you pronounce
13 that, but it's Y-O-P-I-H-U-A. Keyson Rodriguez, James
14 Mackley, David Ottinger, Connor Reason, Destiny Weimer,
15 Jennifer Varner, Kendal Wiggins, Veronica Mancha, Erin
16 Nixon, Kimberley Milks, Bailey Haynes, Lesa Chapman,
17 Rachel Johnson, Hannah Jefferson, Christine Dabado,
18 Leigh Ann McGuinness, and Alan Cahall. Is anyone
19 familiar with any of those individuals? All right.
20 There are none.

21 All right. Ladies and gentlemen, I'm going
22 to ask you a series of questions. If any of these apply
23 to you, simply just do the same, stand up, give us your
24 juror number, and indicate how it applies to you.
25 Is any member of the jury panel related by blood

1 or marriage to a member of law enforcement? Okay.

2 Yes, ma'am.

3 THE JUROR: Juror 132, my cousin.

4 THE COURT: Thank you.

5 THE JUROR: Juror number 138, my father
6 and my mother worked in Charleston County Sheriff's
7 Office, retired now.

8 THE COURT: Thank you, ma'am.

9 THE JUROR: Juror number 6, my husband works
10 for Dorchester County.

11 THE COURT: I'm sorry?

12 THE JUROR: My husband for Dorchester
13 County.

14 THE COURT: Okay.

15 THE JUROR: Juror 86, James Hardwick,
16 retired, deceased, highway patrol.

17 THE COURT: All right.

18 THE JUROR: Juror 78, my wife's two brothers
19 retired NYPD.

20 THE COURT: Thank you, sir.

21 THE JUROR: Juror 112, my dad was a retired
22 Georgia state trooper.

23 THE COURT: All right: Anyone else?

24 Are any members of the jury panel a member of any
25 crime prevention organization, such as MADD, CAVE,

1 or any similar group? There are none. Have any members
2 of the jury panel, or their close personal friends
3 or family, been a victim of a violent crime? Yes,
4 ma'am.

5 THE JUROR: Juror number -- I can't read
6 it, 42, Elizabeth Copeland, domestic violence.

7 THE COURT: Who?

8 THE JUROR: Me.

9 THE COURT: You were the victim?

10 THE JUROR: I was the victim.

11 THE COURT: Thank you.

12 THE JUROR: Your Honor, Juror 47, my brother
13 was car jacked in our home driveway. And in a separate
14 incident years later, our home was burglarized.

15 THE COURT: All right. Thank you.
16 All right. Anyone else? All right. Will that,
17 in any way, affect y'all's ability to be fair
18 and impartial in this case? Ma'am?

19 THE JUROR: Yes.

20 THE COURT: You can go. Sir?

21 THE JUROR: Yes.

22 THE COURT: You can go. Do any members
23 of the jury panel have any specific feelings towards
24 crimes involving firearms that would preclude you from
25 being fair and impartial in this case? There are none.

1 All right. The indictments allege that
2 the Defendants did possess firearms, or did visibly
3 display what appeared to be firearms, or visibly
4 display a knife during the commission, or an attempted
5 commission, of a violent crime. That on April 25th
6 2021, in Berkeley County, the Defendants, by use
7 of force, threats, or intimidation, while armed with
8 a deadly weapon, while alleging -- either alleging,
9 or either actions or words, was armed while using
10 a representation of a deadly weapon, or any object
11 which present during the commission of the robbery,
12 reasonably believed to be a deadly weapon, did take
13 and carried away goods and/or monies from the person,
14 or immediate presence of the victim in this case,
15 which is Brayden McCall Ward and Daniel Varner,
16 with the intent to permanently deprive the victims
17 of their possessions. This offense located near 106
18 Central Avenue in Goose Creek, South Carolina.

19 Is anyone familiar with this case? Have
20 any belief that they've had any involvement with this
21 case or anything? Do you recall anything about the
22 case? All right. There are none.

23 Has any members of the jury panel, or their
24 immediate family, ever been convicted of a violent
25 crime? There are none. And as I indicated, does anyone

1 live or have any close personal friends or relatives
2 that live near 106 Central Avenue in Goose Creek,
3 South Carolina? All right. There are none. All right.
4 Anything else as to the voir dire from the State?

5 MR. MYERS: No, Your Honor.

6 THE COURT: From the defense?

7 MR. DAVIS: None, Your Honor.

8 THE COURT: All right.

9 MS. GAY: Not from me, Your Honor.

10 Thank you for using my questions.

11 THE COURT: All right. All right, ladies
12 and gentlemen of the jury, what they are doing now
13 is we've excused some people who indicated they could
14 not be fair and impartial in this case, so we are coming
15 up with a new random list, because as you're fully
16 aware, the Defendants have to be tried by a jury
17 of their peers, and so we are randomizing it, and making
18 a new list.

19 (Pause.)

20 THE COURT: All right, ladies and gentlemen,
21 what we're going to do now is select the jurors for this
22 trial. It's going to seem like a very awkward process,
23 because it is. We didn't pick it this way, but this
24 is the way it goes. So when you hear you named called,
25 you'll come up, and you'll stand right here. I'll give

1 the attorneys a little bit of time, they're going
2 to talk awkwardly about you amongst themselves,
3 then you'll either be seated or excused.

4 And if you're excused, you'll never, ever,
5 ever know why. You'll just have to go home, and just
6 say maybe it just wasn't my day, all right? I didn't
7 make this process up; it's just the way the process
8 is. So, I'm going to give it a couple of seconds,
9 whenever I call you up. So when you hear your name
10 called, bring your belongings, and just come stand
11 right here, and we'll just all stare at you awkwardly,
12 all right? It's ten and five, you have to share.
13 Obviously, you know you get five.

14 MR. MYERS: Yes, Your Honor, I believe ---

15 THE COURT: Share ten.

16 MR. DAVIS: We share ten, okay?

17 THE COURT: What?

18 MR. MYERS: No objection, Your Honor.

19 THE COURT: Okay.

20 THE CLERK: Juror number 112, Tina King.

21 MR. DAVIS: Judge, may we approach the
22 bench, Your Honor?

23 (Off-the-record conversation held at sidebar.)

24 (Back on the record.)

25 THE COURT: All right. Madam Clerk.

1 MS. GAY: What's her number?

2 THE CLERK: She's juror number 112, Tina
3 King. Ms. Gay, you're going to be defense one.

4 MS. GAY: Okay.

5 THE CLERK: And, Mr. Davis, you'll be
6 defense two, how about that?

7 MR. DAVIS: Okay.

8 THE CLERK: Okay. All right. What sayeth
9 the State?

10 MR. MYERS: Please present the juror.

11 THE CLERK: What sayeth defendant one?

12 MS. GAY: Please excuse the juror from
13 the trial of this case.

14 THE CLERK: Excuse the juror.

15 THE COURT: You may have a seat back
16 in the crowd, ma'am.

17 THE JUROR: All right, thank you.

18 THE CLERK: Juror number 145, Judy Morga.

19 MR. MYERS: Your Honor, may we approach
20 real quick?

21 (Off-the-record conversation held at sidebar.)

22 (Back on the record.)

23 THE CLERK: What sayeth the State?

24 MR. MYERS: Please present the juror.

25 THE CLERK: What sayeth the defense,

1 number one?

2 MS. GAY: Please seat the juror for the
3 trial of this case.

4 THE CLERK: What sayeth defense ---

5 MR. DAVIS: I concur.

6 THE CLERK: --- number two? Please seat
7 the juror.

8 THE COURT: Ma'am, you may have a seat
9 in the jury box.

10 THE CLERK: Juror number 151, Veronica
11 Myers. What sayeth the State?

12 MR. MYERS: Please present the juror.

13 THE CLERK: What sayeth defendant number
14 one?

15 MS. GAY: Please seat the juror for the
16 trial of this case.

17 THE CLERK: What ---

18 MR. DAVIS: I concur.

19 THE CLERK: Please seat the juror. Juror
20 number 131, Herbert McCray.

21 MS. GAY: 131?

22 THE CLERK: Yes.

23 MR. MYERS: Please present the juror.

24 THE CLERK: Okay. What sayeth defense
25 number one?

1 MS. GAY: One moment, please. Please excuse
2 this juror from the trial of this case.

3 THE CLERK: Excuse the juror. Juror number
4 92, Michael Healy. What sayeth the State?

5 MR. MYERS: Please present the juror.

6 THE CLERK: What sayeth defendant number
7 one?

8 MS. GAY: Hold on, please. Please excuse
9 the juror from the trial of this case.

10 THE CLERK: Excuse the juror. Juror number
11 81, Billie Guenther. What sayeth the State?

12 MR. MYERS: Please present the juror.

13 THE CLERK: What sayeth defendant number
14 one?

15 MS. GAY: Please excuse the juror from
16 the trial of this case.

17 THE CLERK: Please excuse the juror.
18 Juror number 111, Daniel Keilty. What sayeth the State?

19 MR. MYERS: Please present the juror.

20 THE CLERK: What sayeth defendant number
21 one?

22 MS. GAY: Please seat the juror for the
23 trial of this case.

24 THE CLERK: What sayeth defendant two?

25 MR. DAVIS: Please excuse the juror.

1 THE CLERK: Excuse the juror. Juror number
2 85, Steven Ham. What sayeth the State?

3 MR. MYERS: Please present the juror.

4 THE CLERK: What sayeth defendant number
5 one?

6 MS. GAY: Please seat the juror for the
7 trial of this case.

8 THE CLERK: What sayeth defendant number
9 two?

10 MR. DAVIS: I concur.

11 THE CLERK: Please seat the juror.
12 Juror number 78, Edward Graham. What sayeth the State?

13 MR. MYERS: Please present the juror.

14 THE CLERK: What sayeth defendant number
15 one?

16 MS. GAY: One moment, please. Please excuse
17 the juror from the trial of this case.

18 THE CLERK: Excuse the juror. Juror number
19 34, Kaylea Caulder. What sayeth the State?

20 MR. MYERS: Please present the juror.

21 THE CLERK: What sayeth defendant number
22 one?

23 MS. GAY: Please seat the juror for the
24 trial of this case.

25 THE CLERK: Defendant number two?

1 MR. DAVIS: I concur.

2 THE CLERK: Please seat the juror.

3 Juror number 38, Tia Clark. What sayeth the State?

4 MR. MYERS: Please excuse the juror.

5 THE CLERK: Excuse the juror. Juror number
6 41, Mary Cooper. What sayeth the State?

7 MR. MYERS: Please present the juror.

8 THE CLERK: What sayeth defendant number
9 one?

10 MS. GAY: Please excuse the juror from
11 the trial of this case.

12 THE CLERK: Excuse the juror. Juror number
13 129, James Mathews. What sayeth the State?

14 MR. MYERS: Please present the juror.

15 THE CLERK: What sayeth defendant number
16 one?

17 MS. GAY: Please seat the juror for the
18 trial of this case.

19 THE CLERK: Defendant number ---

20 MR. DAVIS: I concur.

21 THE CLERK: Thank you. Seat the juror.
22 Number 178, Christopher Schicker. What sayeth the
23 State?

24 MR. MYERS: Please present the juror.

25 THE CLERK: What sayeth defendant number

1 one?

2 MS. GAY: Please excuse the juror from
3 the trial of this case.

4 THE CLERK: Excuse the juror. Juror number
5 216, Starla McGorty. What sayeth the State?

6 MR. MYERS: Please present the juror.

7 THE CLERK: What sayeth defendant number
8 one?

9 MS. GAY: Please seat the juror for the
10 trial of this case.

11 MR. DAVIS: Please excuse the juror.

12 THE CLERK: Excuse the juror. Juror number
13 23, Samuel Boyd. What sayeth the State?

14 MR. MYERS: Please excuse the juror.

15 THE CLERK: Excuse the juror. Juror number
16 186, Jared Spangler. What sayeth the State?

17 MR. MYERS: Please present the juror.

18 THE CLERK: What sayeth defendant one?

19 MS. GAY: Please excuse the juror from
20 the trial of this case.

21 THE CLERK: Excuse the juror. Juror number
22 31, Samuel Cable. What sayeth the State?

23 MR. MYERS: Please present the juror.

24 THE CLERK: What sayeth defendant one?

25 MS. GAY: Please seat the juror for the

1 trial of this case.

2 THE CLERK: Defendant two?

3 MR. DAVIS: I concur.

4 THE CLERK: Seat the juror. Juror number
5 172, Lynn Reilly. What sayeth the State?

6 MR. MYERS: Please excuse the juror.

7 THE CLERK: Excuse the juror. Juror number
8 105, Mark James. What sayeth the State?

9 MR. MYERS: Please present the juror.

10 THE CLERK: What sayeth defendant one?

11 MS. GAY: One moment, please. Please seat
12 the juror for the trial of this case.

13 THE CLERK: Defense number two?

14 MR. DAVIS: I concur.

15 THE CLERK: Please seat the juror.
16 Juror number 123, James Lloyd, IV. What sayeth
17 the State?

18 MR. MYERS: Please present the juror.

19 THE CLERK: What sayeth defendant one?

20 MS. GAY: One second, please. Please seat
21 the juror for the trial of this case.

22 MR. DAVIS: Please excuse the juror.

23 THE CLERK: Excuse the juror. Juror number
24 32, Bryan Carlisle. What sayeth the State?

25 MR. MYERS: Please present the juror.

1 THE CLERK: What sayeth defendant one?

2 MS. GAY: Hold on one second. Please seat
3 the juror.

4 MR. DAVIS: Please excuse the juror.

5 THE CLERK: Excuse the juror. Juror number
6 189, Shelton Stewart. What sayeth the State?

7 MR. MYERS: Please present the juror.

8 THE CLERK: What sayeth defendant one?

9 MS. GAY: Please seat the juror for the
10 trial of this case.

11 THE CLERK: Defendant two?

12 MR. DAVIS: I concur.

13 THE CLERK: Please seat the juror.

14 Juror number 29, Willie Bullard. What sayeth the State?

15 MR. MYERS: Please present the juror.

16 THE CLERK: What sayeth defendant one?

17 MS. GAY: Please seat the juror for the
18 trial of this case.

19 MR. DAVIS: I concur.

20 THE CLERK: Please seat the juror.

21 Juror number 171, Taylor Reale. What sayeth the State?

22 MR. MYERS: Please excuse the juror.

23 THE CLERK: Excuse the juror. State has
24 exhausted four strikes. Juror number 84, Megan Hair.
25 What sayeth the State?

1 MR. MYERS: Please present the juror.

2 THE CLERK: What sayeth defendant one?

3 MS. GAY: Please seat the juror for the
4 trial of this case.

5 THE CLERK: Defendant two?

6 MR. DAVIS: I concur.

7 THE CLERK: Please seat the juror.

8 Juror number 93, Michael Henning. What sayeth
9 the State?

10 MR. MYERS: Please present the juror.

11 THE CLERK: What sayeth defendant one?

12 MS. GAY: Please seat the juror for the
13 trial of the case.

14 THE CLERK: Defendant two?

15 MR. DAVIS: Please excuse this juror.

16 THE CLERK: Excuse the juror. Juror number
17 60, Isaiah Ficken. What sayeth the State?

18 MR. MYERS: Please present the juror.

19 THE CLERK: Defendant one?

20 MS. GAY: Please seat the juror for the
21 trial of this case.

22 THE CLERK: Defendant ---

23 MR. DAVIS: I concur.

24 THE CLERK: Seat the juror. Juror 156,
25 Amber Nobles. What sayeth the State?

1 MR. MYERS: Please present the juror.

2 THE CLERK: Defendant one?

3 MS. GAY: One moment, please. Please seat
4 the juror for the trial of this case.

5 MR. DAVIS: I concur.

6 THE CLERK: Seat the juror. Alternate one.
7 Alternate number one. Juror number 169, Matthew Powell.
8 What sayeth the State?

9 MR. MYERS: Please present the juror.

10 THE CLERK: What sayeth defendant one?

11 MS. GAY: Please strike the juror from
12 the trial of this case.

13 THE CLERK: Excuse the juror.

14 MS. GAY: Excuse the juror. Sorry.

15 THE CLERK: Juror number 113, Francis
16 Kinloch. What sayeth the State?

17 MR. MYERS: Please excuse the juror.

18 THE CLERK: Excuse the juror. Juror number
19 39, Michael Clucas. What sayeth the State?

20 MR. MYERS: Please present the juror.

21 THE CLERK: What sayeth defendant number
22 one?

23 MS. GAY: One moment, please. Please seat
24 the juror for the trial of this case.

25 THE CLERK: What sayeth defendant number

1 two?

2 MR. DAVIS: I concur.

3 THE CLERK: Seat the juror. Juror number
4 50, Jennie Diehl. What sayeth the State?

5 MR. MYERS: Please present the juror.

6 THE CLERK: What sayeth defendant one?

7 MS. GAY: Please seat the juror for the
8 trial of this case.

9 THE CLERK: Defendant two?

10 MR. DAVIS: I concur.

11 THE CLERK: Seat the juror. Okay.

12 We're going to -- we're going to -- these are the seated
13 jurors. Number 145, Judy Morga.

14 THE COURT: Just do the numbers.

15 THE CLERK: Just the numbers? Okay.

16 Juror 151, juror 85, juror 34, juror 129, juror
17 31, juror 105, juror 189, juror 29, juror 84, juror
18 60, juror 156. Alternate one is juror number 39,
19 and alternate two is juror number 50. Does the State
20 concur?

21 MR. MYERS: Yes.

22 THE COURT: Does defense number one concur?

23 MS. GAY: Yes.

24 THE CLERK: And defense number two concur?

25 MR. DAVIS: Concur.

1 THE CLERK: Thank you.

2 THE COURT: All right, ladies and gentlemen
3 of the jury -- all right, ladies and gentlemen
4 of the panel, you have not been selected for the trial
5 of this case. However, we may be trying another
6 case later in the week, and so you will need to stay
7 empaneled for the remaining balance of the week.
8 So what I would ask you to do is call in tomorrow;
9 today, obviously, you know you didn't -- you're not
10 going to be able to, but call tomorrow after six,
11 and the voice recording will indicate whether you need
12 to come the following morning or not.

13 As soon as we know that we will no longer
14 need your services, we will indicate that on the
15 hotline, okay? All right. So as far as your employers
16 and loved ones know, you're in jury duty selection
17 all day. So, I wouldn't tell anybody what you're doing,
18 and enjoy the rest of your day.

19 (Jury panel exited the courtroom.)

20 THE COURT: All right, ladies and gentlemen
21 of the jury, let me kind of tell you how we're going
22 to proceed. Each day, we usually begin around 9:30
23 or 10:00; I'll indicate the night before what time
24 we're going to start, and we usually go for about
25 an hour, all right, and we'll normally take a break.

1 If there are any objections, or any legal
2 issues that I need to resolve outside of your presence,
3 I'll ask that you be excused, but don't worry about
4 a break. If you do need one, and I haven't called
5 one, just raise your hand, and I'll be happy to help
6 you out, all right?

7 First off, everybody that's in the
8 courtroom, I know that none of y'all have ever served
9 on a jury before, because I asked. And just so you
10 know kind of the lay of the land, you've been introduced
11 to all the parties there. All of these are our
12 wonderful clerks. This is your duly-elected clerk,
13 Ms. Dupree, Leah Dupree. And then, obviously, all these
14 clerks will be in -- you'll see them coming in and out.
15 They, basically, just run the courtroom, all right?
16 So you'll see them in and out the whole time, and that's
17 pretty common.

18 This is our wonderful Madam Court Reporter;
19 she is taking everything down. Oftentimes, you'll hear
20 her yell out slow down, or I didn't get that, or can
21 you speak up, and that's just because she has to take
22 everything down. So don't be alarmed if she speaks
23 up, all right?

24 This is Morgan; she's my law clerk.
25 She's on a one-year rotation. She is an attorney,

1 she hopes, and so you will see her and I talk a lot,
2 we are typing a lot, we're Skyping with each other,
3 and we have other people that are in our office
4 that have information for us. Whatever we're doing
5 up here has zero to do with the trial, so don't be
6 concerned if you see us passing notes. It's probably
7 where do you want to go to lunch, okay? So don't
8 be alarmed by -- and she has to get up and leave a lot
9 too, because I tell her to go do things, get me things,
10 that kind of stuff.

11 You've met plenty of our wonderful
12 deputies, and you'll meet them throughout the trial.
13 And, obviously, our wonderful bailiffs are here
14 in the maroon jackets, so they will assist you getting
15 in and out of the courthouse.

16 All right. It's 11:30, we've got some
17 matters that we need to take up before the trial gets
18 started, so I would ask that y'all come back around
19 1:15. All right, we'll see you then.

20 (The jury exited the courtroom at 11:36 a.m.)

21 (End of Transcript of Record)

22

23

24

25

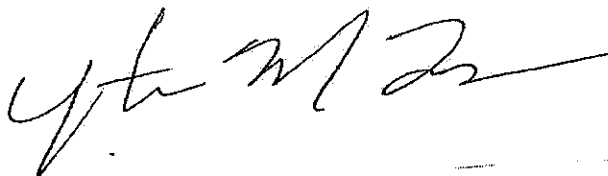
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 25th of September, 2023.

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

October 14, 2024



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
2023-GS-08-01118-23

State of South Carolina) .

) TRANSCRIPT OF RECORD

-vs-

)

) September 25, 2023 - Day 1

Isaiah Canales,)

Dimitri Dickens,)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge

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

F. Alexander Myers, Esquire
Olivia Lynch, Esquire
Attorneys for the State

Steve C. Davis, Esquire
Melisa White Gay, Esquire
Attorneys for the Defendants

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	911 Call Disc	5	28
S-2	Waites Body Cam	5	35
S-3	McAllister Body Cam	5	81
S-4	Photograph	5	100
S-5	Photograph	5	100
S-6	Photograph	5	100
S-7	Photograph	5	100
S-8	Photograph	5	100
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C-1	Supplemental Report	49 (ID Only)	

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1 (State's Exhibit Nos. 1 through 9 were premarked for
2 identification.)

3 THE COURT: All right. So it's my
4 understanding that the State has two motions, one
5 is a motion to suppress, which I think we have resolved.
6 And the other one is a motion for a third party -- to
7 exclude any third-party guilt testimony. But I believe
8 we discussed that y'all had no intention of doing that;
9 is that correct?

10 MR. DAVIS: Not at this point, Your Honor.

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

13 MR. MYERS: No, Your Honor.

14 THE COURT: All right. Any other motion
15 from the defense?

16 MR. DAVIS: None, Your Honor.

17 THE COURT: All right.

18 MR. DAVIS: Judge, I would ask that the
19 clients stay out on bond. The bondsman has agreed.
20 They've been out since two years ago, so there should
21 be no issue, Judge.

22 THE COURT: Not a problem, sir.

23 MR. MYERS: Your Honor, I would object
24 to that.

25 THE COURT: I'll put it on the record.

1 MR. DAVIS: Thank you.

2 THE COURT: But I'll -- they showed up
3 today.

4 MR. DAVIS: Thank you.

5 THE COURT: So, I can trust them at this
6 point. They know I'll go find them. I've got to do
7 some pleas, so y'all can be excused, and we'll see you
8 back here at 1:15.

9 MR. DAVIS: Thank you, Judge.

10 MS. GAY: Do you want to address my three
11 little motions, or do you want to ---

12 THE COURT: What are they?

13 MS. GAY: Well, I have a motion in limine
14 to determine the admissibility of prior convictions
15 for my client, Mr. Dickens. I don't think he has any.

16 THE COURT: We'll take that up if he
17 testifies.

18 MS. GAY: And a motion in limine to exclude
19 prior bad acts. I'm not sure if they're admitting
20 any, and also statements. I'm not sure they have
21 any; I haven't been provided any.

22 THE COURT: All right. We're good to go.

23 MR. DAVIS: See you at 1:15, Judge.

24 THE COURT: Absolutely.

25 (Recess taken.)

1 (Back on the record.)

2 THE COURT: All right. Thank you very much.
3 Please be seated. All right. Anything before we get
4 started?

5 MR. MYERS: Your Honor, just one thing.
6 I have -- and this is something that Mr. Davis
7 and I have discussed. I have 200 photos that have
8 to be individually admitted as exhibits. He's willing,
9 I believe, to discuss working out some stipulation
10 for those photos, and just to remove duplicates.
11 I believe he wants to do it after opening, which
12 I understand.

13 THE COURT: Okay.

14 MR. MYERS: And -- yeah, that was it.

15 THE COURT: All right.

16 MS. GAY: So, Your Honor, we have
17 a sequestration order, and they have people there
18 in the courtroom. Mr. Myers takes the position
19 that they're allowed to stay. There's only two victims
20 that we know of in this case, and there's three people,
21 I think, that he believes that are somehow victims.
22 And so, at least, we would like some clarification
23 on that, but we don't think that they ---

24 MR. MYERS: I'll concede about the third
25 person. I'm not going to have an argument. I can --

1 it's just two, the two that are listed in the
2 indictment.

3 THE COURT: All right.

4 MS. GAY: And we think that they should not
5 be hearing each other's testimony. That's the purpose
6 of the sequestration, because they are fact witnesses.
7 They could maybe come in after, like, one could be gone
8 until the other one testifies, and then the other one
9 testifies, and then they would both be in the courtroom
10 after that.

11 THE COURT: When do you -- when do you plan
12 on calling them?

13 MR. MYERS: Late in the trial.

14 THE COURT: All right. I'll allow them
15 to stay. It's pretty customary for the victims to stay.

16 MS. GAY: Well, we would -- please admonish
17 them not to speak to each other, you know, at all once
18 the trial starts.

19 MR. MYERS: Your Honor, I've separated them.

20 THE COURT: All right. All right. Bring
21 them out.

22 (The jury entered the courtroom at 1:30 p.m.)

23 THE COURT: You can be seated. All right,
24 Madam Clerk.

25 THE CLERK: Yes, sir. Ladies and gentlemen

1 of the jury, please stand and raise your right hand.
2 We're waiting on one.

3 (Pause.)

4 (Whereupon, the jury panel was duly sworn.)

5 THE CLERK: You may be seated.

6 THE COURT: All right. Ma'am, what's your
7 name?

8 THE FORELADY: Amber Nobles.

9 THE COURT: All right. You're going
10 to be our forelady. And so at this point in time,
11 I'll only ask you to -- I'll only ask you to do two
12 things for me. The first is, whenever we take breaks,
13 I would just make sure that you -- make sure that no
14 one else talks about the case, because the case isn't
15 over yet, so there's nothing to deliberate about.
16 So, I would ask that you monitor and make sure that
17 nobody is discussing the case when we take breaks.

18 And the second thing is, that any
19 emergencies come up with the jury or in the jury room,
20 just reduce whatever the issue is to writing, bring
21 it to me, and I'll resolve it. All right. Thank you
22 very much.

23 All right, ladies and gentlemen, at this
24 time, I'm going to allow the attorneys to give what
25 they call an opening statement. It's simply that.

1 It's not to be considered evidence by yourself;
2 it's simply just a statement of what the jurors --
3 I mean, what the attorneys believe that the evidence
4 will show. At the end, I'm going to let them do closing
5 arguments. And what they will argue is what they
6 believe the evidence did show. All right. So we will
7 begin with the State.

8 MS. LYNCH: May it please the Court,
9 Your Honor.

10 THE COURT: Yes, ma'am.

11 MS. LYNCH: Good afternoon. We're here
12 today because of an event that occurred on April 25th,
13 2021. On April 25th, 2021, the two Defendants, Isaiah
14 Canales and Dimitri Dickens, were parked in the parking
15 lot of Royal Lanes that is located in Goose Creek,
16 Berkeley County. They were parked in that parking
17 lot with three unknown Defendants. They sat outside
18 of that business, they waited in the car, they armed
19 themselves with guns, and they waited for the victims
20 to exit out of Royal Lanes.

21 Now, the victims exited Royal Lanes,
22 they began to walk back to their car. They crossed
23 across the parking lot and -- passing right in front
24 of the Defendants' vehicle. Once they reached
25 their car, then the Defendants got out of their car

1 and ambushed them at their own vehicle.

2 When that happened, Mr. Dickens approached
3 one of the victims, Mr. Ward, held a gun to his head,
4 and started rummaging through his pockets. He pulled
5 cash out of his pockets. And, at the same time,
6 we have the second Defendant, Mr. Canales. Mr. Canales
7 approached another victim, Mr. Varner. And, at that
8 point, told them, don't move, or don't try anything.

9 Now, to me, that's exactly what they were
10 both banking on. They were both believing that neither
11 of them will try anything; neither of them will
12 do anything, but that wasn't the case. When there
13 was this robbery going on, they approached them
14 without a mask. They approached them, and were known
15 to the victims, and they still thought that nothing
16 would be done.

17 Now, Mr. Varner decided to defend
18 himself at that moment. He had a firearm on him.
19 He took it out; he started to begin to defend himself.
20 And all of a sudden, the Defendants started shooting,
21 and they kept shooting. The victim tried to fend them
22 off with shots of his own, but not before he was shot
23 three times.

24 He's laying on the pavement outside
25 of Royal Lanes, and he's just trying to get them

1 to leave. He keeps firing, keeps firing. His gun
2 jams, he clears the jam, he's still having to fire.
3 And all the while, he's bleeding out from his own
4 gunshot wounds.

5 At that point, eventually, Mr. Ward --
6 Mr. Canales and Mr. Dickens both retreated to their
7 vehicle. They sped out of the parking lot, leaving
8 Mr. Varner laying on that pavement just bleeding out.
9 He was luckily rushed to the hospital and treated
10 for his injuries. And as a turn of events would have
11 it, Mr. Canales would also be brought to the same
12 emergency room with a gunshot wound at the same time
13 as Mr. Varner, and that's where he would be arrested
14 for this incident. Mr. Dickens was not arrested until
15 months later. The authorities were not able to arrest
16 him until later on.

17 So we'll begin with how Mr. Dickens
18 and Mr. Canales will be -- if you want to find them
19 guilty of the charges, the State must prove to you
20 each crime beyond a reasonable doubt. Now a lot
21 of you have probably heard this phrase. Reasonable
22 doubt is something that is our burden; it's the State's
23 alone. We must prove to you the case in a way that
24 leaves you firmly convinced. It doesn't mean every
25 single doubt has to be overcome; it doesn't mean every

1 single possibility. All that it leaves -- all it
2 requires is that you are firmly convinced. So just
3 keep that in mind when you're deliberating.

4 It's also important to understand a concept
5 called hand of one, hand of all. Now that is something
6 for when I'm explaining the different charges and the
7 elements. What it basically means is that if a crime
8 is committed by two or more people that are acting
9 together to commit that crime, then the act of one
10 is the act of both.

11 So an example of that is that the gun
12 in one's hand is like the gun is in the other person's
13 hand, based under the law. So that's important to
14 understand when you're trying to deliberate about the
15 actions of each person in this case. And, ultimately,
16 it means that if one Defendant is guilty of the action,
17 and the action of that person when he robbed the victim,
18 so is the other.

19 Now, they both received the same charges;
20 they were charged with armed robbery, possession of
21 a weapon during a violent crime, and assault and battery
22 of a high and aggravated nature. So, I'm just going
23 to go through very basically what those mean. The judge
24 will instruct you on the law and give you a lot of legal
25 definitions at the end of this case, but I'm just going

1 to run through what the basics are.

2 So for armed robbery, what it means
3 is that someone took property with the intent of taking
4 that property, and they did it while they were armed,
5 so that's just the basics. You'll get a full legal
6 definition at the end of this case.

7 So for assault and battery of a high
8 and aggravated nature, I have to show that Mr. Canales
9 and/or Mr. Dickens injured someone and that they caused
10 great bodily injury. Now great bodily injury does
11 have a high definition than just any injury. It has
12 to be something that's a substantial risk of death,
13 or that can cause serious or permanent disfigurement.
14 So we'll be -- we believe that you'll hear evidence
15 that that's what occurred.

16 Possession of a weapon during the commission
17 of a violent crime. Now this one, we have to prove to
18 you that there was a violent crime that was committed,
19 and that they were guilty of that. In this case, armed
20 robbery and assault and battery of a high and aggravated
21 nature are both violent crimes. So if we can prove
22 to you that they were in possession of a weapon during
23 those crimes, then we believe that you will find
24 that they were guilty of possession of a weapon during
25 a violent crime.

1 Now, today you'll be -- today and throughout
2 this week, you'll be presented with various different
3 types of evidence. We split them into direct and
4 circumstantial evidence. So direct is actual knowledge
5 of an event, an eyewitness account, something that
6 immediately proves a fact. So a good way to think about
7 that is if it's raining, and you observe it yourself,
8 you see the rain through the window, and you know
9 it's raining, that's direct evidence. Or you walk
10 in, someone tells you that it's raining outside,
11 that's considered direct evidence.

12 Now circumstantial evidence is facts
13 and circumstances that indicate the existence of a fact,
14 or you can base it on inference. So if someone walks
15 in with a rain jacket and an umbrella, and they're
16 dripping wet, you're probably going to infer that
17 it's raining outside. That's considered circumstantial
18 evidence.

19 What's important for you guys to understand
20 is that there's no difference between the two in
21 the eyes of the law. They're equal, and they should
22 be given the same weight. So as you're listening
23 to testimony, you'll be hearing a lot of different
24 things, seeing things, so just understand that they
25 both have the same weight in the eyes of the law.

1 As I've stated, you'll hear a lot
2 of evidence. You're going to hear testimony from
3 people who are going to sit up in the witness stand.
4 They're going to tell you about that night. They're
5 going to explain some investigation that happened.
6 They may explain what happened while they were there.
7 You'll hear from -- we believe you'll hear from
8 officers, from an EMS responder, and the victims
9 themselves. They'll give you an idea of what happened.

10 We also believe that you may be presented
11 with physical evidence, such as items that were taken
12 from the scene, videos, or photographs. And we ask
13 that you listen and pay close attention to everything
14 you see and hear while you are listening throughout
15 the trial.

16 We want you to just use your common sense,
17 and we're confident that when you do, at the end of
18 the trial that you will find Isaiah Canales and Dimitri
19 Dickens both guilty; guilty of the armed robbery, guilty
20 of the assault and battery of a high and aggravated
21 nature, guilty of possession of a weapon during
22 a violent crime, and just guilty of the things that
23 they did. Thank you.

24 MS. GAY: May it please the Court,
25 Your Honor.

1 THE COURT: Absolutely.

2 MS. GAY: Hi, there. If you recall,
3 my name is Melisa Gay, and I represent Mr. Dickens,
4 who's the man on the end, with Steve Davis, who
5 represents Mr. Canales. So you should know by now
6 that picking a jury in the state of South Carolina
7 is a bit complicated, and there's reasons for that.

8 One of things that is the most important
9 about our jurisprudence system is that we, when we're
10 charged with something, have a jury of our peers.
11 And so in the selection process of when we have
12 different people picked for jurors and different people
13 who are not, that you are the most important people
14 right now at all in both Mr. Canales's and Mr. Dickens's
15 life. You are the people who are going to be the fact
16 finders of this case.

17 And as a fact finder, it's real important
18 to understand your role, because your role is to listen
19 to all the evidence and make a factual determination
20 of what you think it is. I have a role, the solicitor
21 has a role, Mr. Davis has a role, the judge has a role.
22 We all have different roles that we do, but you guys
23 are the ones who are going to make the decision about
24 the facts.

25 You know, this is the situation where people

1 often say, oh, well, there's an appeal and things
2 like that. You know, legal questions are determined
3 by the judge, and legal questions are given -- the
4 decisions are given to us. But, ultimately, you all
5 are the fact finders. You know, when you have a trial,
6 and you're a Defendant in the state of South Carolina,
7 you're cloaked in innocence. What that means is that
8 you have, like, this protection of innocence.

9 And until such time as the State can prove
10 to you, the fact finders, beyond a reasonable doubt
11 that that innocence cloak should be taken off,
12 and the Defendant should be convicted, or my client,
13 Mr. Dickens, should be convicted, he is presumed
14 innocent, and that's a really hard legal concept,
15 because a lot of times people take this process,
16 and they think, oh, well, he's sitting over there so,
17 you know, there must be something to this. That's not
18 true at all. It's only up to you guys to decide whether
19 or not the State has met its burden beyond a reasonable
20 doubt.

21 And the solicitor discussed the fact
22 that beyond a reasonable doubt, it leaves you firmly
23 convinced and things like that. But, you know,
24 if you listen to it, there's that phrase of beyond,
25 and you need to understand that it really takes a lot

1 to decide whether or not the State has proven that,
2 the case, beyond a reasonable doubt.

3 This case, factually, is about an incident
4 that happened at night where a bunch of young people,
5 who were all armed, lots of guns involved, met up
6 in a parking lot at the bowling alley in Goose Creek,
7 and that situation is actually on video. And so the
8 good part is we have video; the bad part is it's not
9 really good video. It's from about, I don't know,
10 really far away.

11 So what we see if we could, you know,
12 peel it open and peel the onion back and see, you know,
13 really what happened, we would have a whole lot better
14 idea. But what happened -- you know, "but we can't see
15 that. We see this video in the distance where people
16 are alleging that my client stole something from them.
17 But, you know, it's up to you guys whether you see that
18 on the video.

19 I will tell you that juries are -- jury
20 trials are, you know, they have to prove it, Your Honor
21 --- ladies and gentlemen. They have to prove that
22 my client may have tried to arm rob this guy, you know.
23 There's a lot of guns involved, and there's an
24 allegation that there was a gun involved in the robbery.
25 But that's something y'all are going to have to decide

1 after you see this video.

2 The other thing is that one of the things
3 the State said is that Mr. Varner decided to defend
4 himself. That's going to really be interesting,
5 because I think what you'll see is it's going
6 to be the opposite, that Mr. Varner shot first.
7 And there's no doubt in this case that Mr. Canales
8 is shot, and that he ended up in the emergency room
9 also. No doubt whatsoever.

10 So, you know, the problem is that as we
11 now, years later, are trying to figure out exactly
12 what happened, and who's telling the truth, that's
13 what it really has to do with, who's telling the truth.
14 Who has the most to lose on what they say about how
15 things went down and to justify their own acts,
16 is a good way to put it.

17 You know, we have a man on our side
18 of the table that was in the hospital shot; they have
19 a man on their side of the table that was shot. And,
20 ultimately, y'all are going to have to decide whether
21 or not one or the other of these people shot first,
22 and whether or not any of the rest of these people
23 were acting in any type of self-defense or defense
24 of other's party.

25 And what I believe at the end of this case

1 is that you're going to find that our clients did
2 not start this, that our clients did not rob anybody,
3 that whatever possession of firearms that they may
4 have had is not a possession of a firearm during
5 the commission of a violent felony. And I think
6 at the end of this trial, you will find both of our
7 clients not guilty.

8 MR. DAVIS: Thank you, Ms. Gay. May it
9 please the Court, Your Honor.

10 THE COURT: Yes, sir.

11 MR. DAVIS: Ladies and gentlemen of the
12 jury, I'm the old fellow in this case. Let me introduce
13 myself. Steve Davis. I had the distinction of being
14 a prosecutor for ten years, and I took that job very
15 seriously. I took it seriously because I believe
16 in justice.

17 Some of y'all probably don't know nothing
18 about Superman, but Superman was my favorite character.
19 He said truth, justice, and the American way. And then
20 -- so as a prosecutor, our role is to seek justice.
21 And I was thinking over there, what would I classify
22 this case as? And I'm not in the hip-hop generation;
23 I see it sometimes. I've had three sons and a daughter,
24 I've got six granddaughters. But sometimes I hear
25 some of the hip-hop music they're talking about.

1 But if I had to say something to you today, I would
2 tell you don't believe the hype. Don't believe the
3 hype, because that's what the State has actually
4 put together.

5 Here, you've got a situation that Ms. Gay
6 have said, a bunch of young people at the bowling alley,
7 who's probably got some wrong intention about drugs,
8 and things didn't go right. And what they did is just
9 adopt one version of what the people -- of a set of kids
10 versus another. What's quite interesting in this case
11 is if there's an 18 year old who's defending himself,
12 why does he have two guns on him and don't even have
13 a permit? In South Carolina, you've got to be 21 years
14 of age to have a handgun, and why the police didn't
15 inquire none of that.

16 As I watch this chair here, this is where
17 I want you to focus your attention, because this chair
18 is what I call the fact-finding chair. Now this
19 is where you will decide whether these two young men
20 should have life-altering events in their lives,
21 because there's no question attempted murder and armed
22 robbery are very, very serious offenses. No question.
23 And a lot of people are impacted -- will be impacted
24 by your results.

25 A young man, he's got his mother and his

1 sister, they're hard-working people, and they love
2 their son. This is what I want you to pay close
3 attention to, the evidence that comes from this chair.
4 This chair. Be mindful of ambush.

5 I will attest to you that the facts, the
6 video, will not support the hype. The medical records
7 will not support it. And when you look at the police
8 report, and when they take this witness stand on
9 cross-examination, that's evidence too, that's when
10 you cross-examine that part, other than what they care
11 to go into, it will not support the hype.

12 They're asking y'all as a group to either
13 adopt the hype, just like the cops did that night,
14 just like the solicitor has done that night, and now
15 they want y'all to be party to this. They want y'all
16 to be a party to this. But I'm going to tell you this,
17 I submit that at the conclusion of this case you will
18 not conclude that the events that's outlined by the
19 State, ambush, armed robbery, occurred in the manner
20 in which they said.

21 Now, sometimes I get a little vocal;
22 I get a little loud. This is the only way I know how
23 to be. I take very seriously what I do. Each one
24 of you have sworn an oath to take very seriously what
25 y'all have done.

1 Now, I don't care if you don't like me;
2 I don't care. That's not what's important here.
3 What's important here is y'all have made an oath
4 that y'all are going to listen to the facts, y'all are
5 going to make a decision on what's presented to y'all,
6 and y'all are going to conclude whether these two young
7 people should be found guilty of attempted murder
8 and armed robbery.

9 I submit to you that the medical records
10 will support that this young man that was shot in
11 the thigh, he had all his vital signs normal, he spoke
12 full sentences, and he's very, very confident knowing
13 the parties that he was engaged with. The fact will
14 show, which is not part of the hype, is that this was
15 just a drug arrangement that went wrong with a twist
16 of a little jealousy, a little love affair involved.

17 Remember, we're here to seek justice;
18 we're not here to reward or punish one group over
19 another. I probably wouldn't have agreed to invite
20 neither one of them to my home, these two groups of
21 young people. I wouldn't, but they both were engaged
22 that night. And the judge will instruct you that
23 my client has a right to defend himself, and the video
24 will support who struck who first.

25 And think about this now, why was all

1 the guns necessary? You know, sometimes when you have
2 an exchange of drugs, it's not a trusting atmosphere
3 sometimes, because sometimes one side will do something
4 that violate the rules. The rule says I want an ounce
5 of marijuana, and you give me \$380 or \$350,
6 and everything is okay. Sometimes, one party don't
7 want to play by the rules, and so people come armed
8 with weapons, sometimes two guns.

9 Why would an 18 year old have a gun
10 in his possession, meet another group of young people
11 at a bowling alley? Two groups of people. They both
12 knew each other too, with guns. It just don't happen
13 in the scope of things.

14 Remember this, your job is to seek justice;
15 your job is not to adopt the hype that the prosecutor
16 has put before you. I'm confident you will not.
17 Thank you very much.

18 THE COURT: All right. Call your first
19 witness.

20 MS. LYNCH: Your Honor, the State calls
21 Chimere Myers.

22 THE CLERK: Raise your right hand, place
23 your left hand on the Bible.

24 MS. CHIMERE MYERS, was called as a witness,
25 being duly sworn, was examined and testified as follows:

1 THE CLERK: Thank you. You may be seated.
2 Please state your full name and spell your last name
3 for the record.

4 THE WITNESS: Chimere Myers, M-Y-E-R-S.

5 MS. LYNCH: May it please the Court,
6 Your Honor.

7 THE COURT: Yes, ma'am.

8 DIRECT EXAMINATION

9 BY MS. LYNCH:

10 Q. Good afternoon, Ms. Myers. Could you tell the
11 jury where you work?

12 A. Goose Creek Police Department.

13 Q. And what is your job with them?

14 A. I'm a communications manager for the 911 center.

15 Q. What's your duties in that role?

16 A. Overseeing communications, whether it be 911
17 calls, staffing, pulling requests for the media
18 or lawyers.

19 Q. And do your duties include keeping records?

20 A. It does.

21 Q. For what period of time does your office keep
22 records of the 911 calls?

23 A. Our retention period is for a year and a half.
24 However, if a case or a situation occurs before that,
25 they can actually request them to be retained

1 indefinitely.

2 Q. And are the records that you keep kept in the
3 regular course of business?

4 A. Yes.

5 Q. Do you know if your office received the records
6 to -- a request to pull records from April 25th, 2021?

7 A. I'm sure we did; we get them every day.

8 Q. Okay. And do you know how copies of the recorded
9 calls are made?

10 A. Yeah, I download them from a secured server.

11 MS. LYNCH: Your Honor, may I approach?

12 THE COURT: Yes, ma'am.

13 BY MS. LYNCH:

14 Q. I'm handing what's been marked -- premarked
15 as State's Exhibit 1. Do you recognize what I've just
16 handed you?

17 A. This looks like a copy of one that I downloaded.

18 Q. And do -- do you have any markings on the disc
19 that you recognize?

20 A. I did not write this. But, yes, there's a case
21 -- there's a call number on here, the name of the
22 Defendant, and it says 911 call.

23 Q. And do you determine that it could have been
24 altered or changed in any way?

25 A. When I make any recordings, they're not able

1 to be altered; they're able to be copied, but you can't
2 make any changes to those recordings.

3 Q. So that would be an accurate -- an accurate
4 reflection of the call?

5 A. Yes.

6 MR. DAVIS: Your Honor, I'm going to object
7 to the leading part of the question. I know it's
8 preliminary, but you still can't put words in the mouth
9 of the witness.

10 THE COURT: All right. Just ask your
11 question.

12 MS. LYNCH: Thank you, Your Honor. At this
13 time, I would actually move to admit the call as part
14 of the evidence.

15 THE COURT: All right. Any objection?

16 MR. DAVIS: I object. I don't think proper
17 foundation has been laid sufficiently. She said
18 she couldn't recognize the markings on it; she said
19 she couldn't even identify it, personally.

20 THE COURT: All right. Over the objection.

21 MR. DAVIS: Thank you.

22 (State's Exhibit No. 1 was admitted into evidence.)

23 MS. LYNCH: Beg the Court's indulgence,
24 Your Honor. Your Honor, at this time, we would like
25 to publish the call to the jury.

1 THE COURT: All right.

2 (911 call played in open court for the jury.)

3 MS. LYNCH: Your Honor, nothing further
4 for this witness.

5 THE COURT: All right. Anything in cross?

6 MR. DAVIS: I just got one.

7 CROSS-EXAMINATION

8 BY MR. DAVIS:

9 Q. You listened to the same rendition of the facts
10 that I listened to, right?

11 A. Yes.

12 Q. And you would agree that one of the descriptions
13 that was said was that they were shooting at each other?

14 A. Correct.

15 MR. DAVIS: No further questions.

16 THE COURT: All right. Thank you very much.
17 Ma'am, you may be excused.

18 THE WITNESS: Thank you.

19 THE COURT: All right. Call your next
20 witness.

21 MR. MYERS: State calls Mindy Waites.

22 THE CLERK: Please raise your right hand,
23 place your left hand on the Bible.

24 OFFICER MINDY WAITES, was called as a
25 witness, being duly sworn, was examined and testified

1 as follows:

2 THE CLERK: Thank you. You may be seated.
3 Please state your full name, and spell your last name
4 for the record.

5 THE WITNESS: My name is Mindy Brenner
6 Waites. My name is W-A-I-T-E-S.

7 DIRECT EXAMINATION

8 BY MR. MYERS:

9 Q. Officer Waites, where are you currently employed?

10 A. The city of Goose Creek.

11 Q. How long have you been there?

12 A. For four years.

13 Q. Do you have any previous law enforcement
14 experience before Goose Creek?

15 A. No, sir.

16 Q. All right. While you were at Goose Creek as
17 a law enforcement officer, tell me about the training
18 you've had.

19 A. The training I've had, I went to the Criminal
20 Justice Academy of South Carolina, in Columbia.
21 I've been through traffic, SMD, mock training, which
22 includes a shooter and rifle training and patrol
23 training, accidental shooting, and many other different
24 ones.

25 Q. Okay. What is your current rank and position

1 at Goose Creek Police Department?

2 A. I'm an officer and -- it's my current rank.

3 Q. Okay. And what are your current responsibilities
4 in that position?

5 A. Right now, I'm an SRO, school resource officer,
6 so I go in the schools.

7 Q. Just curious, are you wearing a uniform right
8 now?

9 A. No, sir.

10 Q. Okay. And why is that?

11 A. I'm on maternity leave.

12 Q. Okay. And so your position -- your duties
13 probably changed because of that, correct?

14 A. Correct.

15 Q. Okay. What was your rank and position in April
16 of 2021?

17 A. I was a patrol officer.

18 Q. Okay. And were your responsibilities different
19 at that time?

20 A. Yes, sir.

21 Q. Okay. Tell me about those.

22 A. A patrol officer responds to calls, service
23 calls, given by communications, and you go out to each
24 individual calls, and you respond to people, help in
25 anything that they need.

1 Q. During that time, did you participate in the
2 investigation regarding an armed robbery at Royal Lanes
3 on April 25th of 2021?

4 A. Yes, sir.

5 Q. Okay. How did you become involved in this
6 incident?

7 A. I was the first officer on scene.

8 Q. Okay. So tell me how that started. How were
9 you notified?

10 A. We got a call over our dispatch. The dispatch
11 put out a call that there was a shooting at Royal Lanes.

12 Q. Okay.

13 A. And I engaged my lights and sirens and went.

14 Q. Okay. And once you arrived, what did you see?

15 A. When I arrived, I see a group of people in the
16 parking lot. There was one person shot, and I assisted
17 him to the ground.

18 Q. Okay. And when you assisted him, did you have
19 any communication with him?

20 A. I spoke with him. He was really -- it looked
21 like he was in shock, so he didn't really, at first,
22 talk.

23 Q. Right. Did he communicate the people that were
24 involved?

25 A. He did. When he got on the ground, he started

1 talking. He was a little -- he was communicating,
2 but he was repeating things.

3 Q. And once you -- once he was stabilized, what did
4 you do next on scene?

5 A. I waited for other units to get there, and then
6 I helped secure the scene.

7 Q. And what does that entail, securing the scene?

8 A. I put up crime scene tape, and made sure all
9 the witnesses and everything is out of the crime scene.
10 So we try to secure what we thought was the crime scene,
11 where we see the bullet casings and all that stuff.

12 Q. All right. So you secured the scene, and you
13 waited for somebody to relieve you. What happened next?

14 A. I was told to go ahead and go. I was on my way
15 home.

16 Q. So you were off call?

17 A. Yes.

18 Q. Okay. And then what happened?

19 A. And then when I was on my way home, I noticed
20 that there was glass on the ground. So I was, like,
21 okay, so there's a lot of glass. So when I pulled over,
22 and I noticed that there was a windshield or a window
23 that was knocked out. It was a tinted windshield
24 or window, and it looked -- appeared to be a part
25 of the case because there was a bullet hole.

1 Q. And what do you mean there appeared to be
2 a bullet hole?

3 A. On this window, there was a small hole,
4 and it looked like a spider. So that indicated to me,
5 from what I've seen previously, that it was a bullet
6 hole.

7 Q. Okay. And on that night, did you -- did you
8 have an operational body cam?

9 A. I did.

10 Q. Okay. I am handing you an item marked
11 as State's Exhibit 2.

12 MR. MYERS: Steve?

13 MR. DAVIS: Let me see that.

14 BY MR. MYERS:

15 Q. All right. I'm handing you an item marked
16 as State's Exhibit 2. Do you recognize it?

17 A. Yes, sir.

18 Q. And what is it?

19 A. My body-worn camera footage.

20 Q. All right. How do you know that's on the disc?

21 A. I know because I signed it and dated it.

22 Q. Did you watch it?

23 A. Yes, sir.

24 Q. Okay. Has it been -- is it a fair and accurate
25 representation of what happened that night?

1 A. Yes, sir.

2 Q. Has it been altered in any way?

3 A. No, sir.

4 Q. All right.

5 MR. MYERS: At this time, the State moves
6 to admit State's Exhibit 2 into evidence.

7 THE COURT: Any objection?

8 MR. DAVIS: No objection, Your Honor.

9 MS. GAY: No, Your Honor.

10 THE COURT: All right. Without objection.

11 (State's Exhibit No. 2 was admitted into evidence.)

12 MR. MYERS: Permission to publish?

13 (Body camera footage played in open court.)

14 BY MR. MYERS:

15 Q. All right. Officer Waites, remind us, what are
16 you doing here? What are we looking at?

17 A. There was -- lane two, which is going straight,
18 going towards Walmart, which is westbound, there is
19 a pile of glass. There's a pile of glass in the center;
20 I noticed that glass, and I was wondering why people
21 were going around it. That's what caught my attention.

22 Q. Okay.

23 A. People were just going into another lane.
24 So, I was, like, okay, what's going on? So, I looked,
25 and I've seen that there was glass. I pulled around,

1 and I've seen that there was another part of glass.
2 So, I pulled in front of everything, and that's when
3 I walked into it the first time.

4 Q. Okay.

5 (Body camera footage continued to be played.)

6 BY MR. MYERS:

7 Q. So after you were done here, what did you do?

8 A. I went home.

9 Q. Okay. So you were off call at that point?

10 A. Yes, sir.

11 Q. Did you have any further involvement with this
12 case, besides speaking with us?

13 A. No, sir.

14 Q. All right. Please answer any questions defense
15 may have.

16 MR. DAVIS: May it please the Court,
17 Your Honor.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. DAVIS:

21 Q. Ms. Waites, I know you said you've been with
22 the Goose Creek Police Department for four years.

23 A. Yes, sir.

24 Q. But you're very versed with the laws, the South
25 Carolina criminal laws, are you not?

1 A. Yes, sir.

2 Q. What is the lawful age in the state of South
3 Carolina for having possession of a weapon?

4 A. Having possession as an armed person?

5 Q. Yes. What is the lawful age to have a gun,
6 you can carry a gun?

7 A. Lawful age?

8 Q. Yes.

9 A. I'm not sure at this moment.

10 Q. Okay. It's definitely not 18 years of age,
11 is it?

12 MR. MYERS: Objection.

13 BY MR. DAVIS:

14 Q. Do you know?

15 A. I already -- I do not know at this point.

16 Q. Do not know. Okay.

17 THE COURT: Sustain the objection.

18 BY MR. DAVIS:

19 Q. Well, was anybody charged that night with being
20 in the possession of a weapon under the age ---

21 A. I'm not aware of that, because I was not involved
22 in the case further.

23 Q. Okay. You were involved to the extent that
24 you can confirm for this jury that, without a doubt,
25 someone shot that other vehicle; isn't that true?

1 A. I'm not exactly sure.

2 Q. Well, what's the purpose then of the glass
3 on Saint James Street that the video just showed?
4 Isn't -- you're trying to suggest that's from the car
5 that left the scene?

6 A. I can't tell if it was from out or within;
7 I just know that there was a bullet hole in the shield,
8 in the window.

9 Q. You testified earlier that you suggested that
10 it had something to do with this case?

11 A. Correct.

12 Q. But tell us how it had something to do with
13 this case. There wasn't but two vehicles involved?

14 A. Right.

15 Q. Because ---

16 A. I just had a shooting ---

17 Q. Ma'am?

18 A. I just had a shooting at Royal Lanes, and it was
19 around the corner from Royal Lanes.

20 Q. Well -- but the question is there were two cars
21 involved, right?

22 MR. MYERS: Objection.

23 THE WITNESS: I'm not exactly sure ---

24 THE COURT: Hold on. What's your objection?

25 MR. MYERS: It's outside the scope,

1 Your Honor. She never testified about that.

2 THE COURT: She's on direct -- I mean,
3 cross. She can answer the question.

4 MR. DAVIS: Thank you.

5 BY MR. DAVIS:

6 Q. Ma'am?

7 A. I'm not exactly sure that there were two ---

8 Q. You were the first officer on the scene ---

9 A. Yes.

10 Q. --- you testified on direct, did you not?

11 A. Yeah. I had one person; he was not in the
12 vehicle at that time.

13 Q. You're the first officer on the scene?

14 A. Correct.

15 Q. You said you put out yellow tape, did you not?

16 A. Yes.

17 Q. But did you put any yellow tape on another
18 vehicle that was involved in this matter?

19 A. There was a vehicle there, but he was not inside.

20 Q. I understand nobody was in it, because the guy
21 was standing up next to you, and you told him to get
22 down on the ground; isn't that true?

23 A. Yes, sir.

24 Q. All right. Now the fact that there was a car
25 there that was involved apparently, and another car

1 that had its window shot out, that the glass was
2 on the street ---

3 A. Correct.

4 Q. --- when you were headed home; isn't that true?

5 A. Yes, sir.

6 Q. And you're telling this jury that those two
7 cars apparently had something to do with this matter;
8 isn't that true?

9 A. There wasn't a crime scene there.

10 Q. Ma'am?

11 A. At that point in time, I did not know that was
12 involved.

13 Q. Well ---

14 A. It was just inside the crime scene. I just know
15 that that was there, and then there was another vehicle
16 leaving the scene.

17 Q. And when the window -- when the windshield
18 was shot out, they had just left the bowling alley;
19 isn't that true?

20 A. From what I understand, yes.

21 Q. Well, you learned that; isn't that true?

22 A. From what I understand, yes.

23 Q. Yeah. I'll repeat the question again. That
24 was confirmed that there was apparently some firearm
25 that was discharged at the bowling alley that caused

1 the ---

2 A. There was.

3 Q. Ma'am?

4 A. There was, yes.

5 Q. Thank you.

6 MR. DAVIS: No further questions.

7 MS. GAY: I have no further questions for
8 this witness.

9 THE COURT: Thank you very much. All right.
10 Anything in followup?

11 MR. MYERS: Yeah, a couple of questions,
12 Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. MYERS:

15 Q. Officer Waites, you were asked several questions
16 by Mr. Davis about other parts of the investigation
17 in which you were not involved ---

18 A. Correct.

19 Q. --- correct? So you really don't know any
20 of that stuff, do you?

21 A. I don't.

22 Q. Okay. So you can only make conclusions of what
23 you observed, correct?

24 A. Correct.

25 Q. All right. So is it true that all the

1 information you just learned is from Mr. Davis?

2 A. Yes.

3 MR. DAVIS: Objection.

4 THE COURT: I'll sustain the objection.

5 MR. DAVIS: Thank you, Judge, please.

6 Please.

7 MR. MYERS: Question withdrawn. No further
8 questions, Your Honor.

9 THE COURT: All right. Thank you very much.
10 You may step down.

11 MR. DAVIS: Thank you.

12 THE COURT: All right. Call your next
13 witness.

14 MS. LYNCH: Your Honor, the State calls
15 Andrew McAllister.

16 MR. MYERS: I'm going to call in the
17 hallway, Your Honor. The witness is in the bathroom.
18 Your Honor, we may have to call this witness out
19 of order. State calls Christopher Dowling. We're
20 running out of people. State calls Douglas Galluccio.

21 THE CLERK: Raise your right hand, place
22 your left hand on the Bible.

23 SERGEANT DOUGLAS GALLUCCIO, was called as
24 a witness, being duly sworn, was examined and testified
25 as follows:

1 THE CLERK: Thank you. You may be seated.
2 Please state your full name, and spell your last name
3 for the record.

4 THE WITNESS: Douglas Galluccio,
5 G-A-L-L-U-C-C-I-O.

6 DIRECT EXAMINATION

7 BY MR. MYERS:

8 Q. Sergeant Galluccio, where are you currently
9 employed?

10 A. City of Goose Creek Police Department.

11 Q. How long have you been there?

12 A. Four years.

13 Q. All right. Have you had any other previous
14 law enforcement experience?

15 A. Yes, sir.

16 Q. Okay. And where was that?

17 A. Fourteen years with the city of Charleston Police
18 Department.

19 Q. And what did you do there?

20 A. I was a patrol officer and a detective in the
21 special investigations unit, vice and narcotics unit.

22 Q. Okay. Tell us a little bit about the training
23 you had in law enforcement.

24 A. I'm trained from the South Carolina Criminal
25 Justice Academy. I've been trained in internet crimes

1 against children through the state's attorney general's
2 office and SLED. I have received training in
3 investigations, criminal sexual conduct against
4 children, other basic investigative skills,
5 cross-examination, that type of thing.

6 Q. Okay. Do you -- what were your duties --
7 what were your duties back on April 25th, 2021?

8 A. I was the on-call investigator for the evening.

9 Q. And kind of explain to the jury what that means.

10 A. We have a rotation, a 24-hour availability
11 rotation, where each week an investigator is assigned
12 to on-call or after-hours duty, and I was the on-call
13 after-hours duty investigator for that evening.

14 Q. Were you involved in the investigation regarding
15 the incident at Royal Lanes?

16 A. Yes, sir.

17 Q. Okay. And tell me how did you become involved?

18 A. I received a call from dispatch advising me that
19 there had been an armed robbery shooting at Royal Lanes,
20 and we needed to be dispatched to that location.

21 Q. Okay. All right. So when you received that
22 call, what did you do?

23 A. I drove to the location itself, directly.

24 Q. Okay. And when you got there, what did you
25 observe?

1 A. The other officers were already on scene.
2 Sergeant Moree, who's a lieutenant now, was my first
3 point of contact, who briefed me on the incident that
4 had taken place. Other officers were on scene as well,
5 gathering statements and information from others
6 that were involved as well. So my job was to assess
7 everything at one time and try to start gathering
8 information, collecting information for the
9 investigation.

10 Q. Tell me a little bit about that. What did you
11 do?

12 A. Part of it was visually looking and walking
13 through the crime scene to see, you know, observe
14 everything that I had going on, taking notes of what
15 was going on, starting to collect information from
16 other officers as to who could speak to me immediately
17 that evening. Parents started to show up for their
18 children, et cetera. Speaking to people, the employees
19 of the bowling alley as well.

20 Q. Okay. So besides speaking with people, what else
21 did you do?

22 A. Just gathered notes, collected data, started
23 putting down flags at the -- where the gun casings
24 were located throughout the parking lot.

25 Q. And when you say you set down flags, what do you

1 mean?

2 A. So part of our investigation's process is each
3 detective is issued equipment that is brought to the
4 crime scene directly, flags, which are numbered, kind
5 of triangles that are placed over each shell casing
6 just to identify the shell casings and try to keep
7 a track of where they were, the number of shell casings,
8 et cetera.

9 Q. And do you use those numbers internally?

10 A. Yes, sir.

11 Q. Okay. Besides putting down numbers at the crime
12 scene, did you -- what other physical evidence did you
13 collect there?

14 A. I had called out for our crime scene investigator
15 to come out so that our crime scene processor could
16 come out and start to process the crime scene along
17 with me, take video, photographs, et cetera.

18 Q. Were there any vehicles involved?

19 A. There was one vehicle on scene, which was the
20 Toyota ---

21 Q. Okay.

22 A. --- Tacoma pickup truck.

23 Q. All right. And did you search that vehicle?

24 A. That vehicle was searched, yes. We did get
25 permission to search from the owner of the vehicle.

1 Q. Oh, okay. And did you locate anything?

2 A. We did. We located a firearm in the glove box.

3 Q. Okay. And what type of car, do you remember?

4 A. I don't recall off the top of my head, sir.

5 Q. Okay. If I were to show you your incident
6 report, could you ---

7 A. Yes, sir.

8 MR. MYERS: Permission to approach the
9 witness, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. MYERS:

12 Q. All right. Can you tell me what that is?

13 A. A copy of the incident report and supplemental
14 incident report.

15 Q. Okay. And is it a portion that you created?

16 A. Yes.

17 Q. Okay. Take a look at it, and see if it can
18 help you remember what kind of gun you recovered from
19 that vehicle. Please don't read it from the document.
20 See if it will help you remember.

21 MR. DAVIS: You marked it for
22 identification?

23 MR. MYERS: It's just to refresh ---

24 MR. DAVIS: No, it still needs to be marked
25 for identification.

1 THE COURT: You can once he reviews
2 the document and indicates it's helped refresh his
3 recollection.

4 MR. DAVIS: Thank you.

5 THE WITNESS: Yeah, so a Ruger LCP firearm
6 was recovered from the glove box of the vehicle.

7 BY MR. MYERS:

8 Q. What caliber?

9 A. I believe it was a 9-mm.

10 Q. You believe it was a 9-mm? You might want
11 to look at that and see.

12 MR. DAVIS: Objection, Your Honor,
13 he's putting words in the witness's mouth.

14 THE COURT: He's asking if he could utilize
15 the document to refresh his recollection.

16 MR. DAVIS: Okay.

17 BY MR. MYERS:

18 Q. Did it help you remember?

19 A. Yes.

20 Q. Okay. What caliber was it.

21 A. .380.

22 Q. All right, .380. Is that significantly different
23 from a 9-mm?

24 A. Yes.

25 Q. Okay.

1 MR. MYERS: Admit this as a Court's Exhibit.

2 THE COURT: You can just identify it.

3 MR. MYERS: For ID only, it's the
4 supplemental incident report for Douglas Galluccio.

5 (Court's Exhibit 1 was marked for identification.)

6 THE COURT: All right.

7 MR. MYERS: Yes, sir. All right.

8 BY MR. MYERS:

9 Q. So now that you've refreshed -- you recovered
10 that .380, what did you do with it?

11 A. Crime scene actually recovered the .380; it was
12 taken into evidence and seized.

13 Q. Okay. All right. So after that occurred,
14 what did you do next? You say you were directing some
15 people to do some things?

16 A. Yes, some of the other officers. I was asking
17 them to -- or directing them to start collecting
18 statements from victims and witnesses, that type
19 of thing.

20 Q. Did you -- specifically, did -- who else was
21 out there that you know of?

22 A. Officer Dowling, Lieutenant Moree. I'm trying
23 to think of the other officers that were involved.
24 I think Corporal Durham [ph.], or Brandon Durham,
25 was there at that time as well. So there were other

1 officers that were assigned to the squad.

2 Q. Did you -- you learned there was an individual
3 shot on scene, correct?

4 A. Correct.

5 Q. And did you talk -- did someone talk to that
6 person on scene?

7 A. No, he was already transported. I know Mindy
8 Waites had responded. But by the time I had gotten
9 there, he had already been transported to Trident
10 Hospital.

11 Q. Okay. Did you send anyone out there to talk
12 to him?

13 A. Yes, Investigator Nation..

14 Q. Okay. So you sent Nation out to speak with
15 the victim at the hospital. Did you speak with anybody
16 on scene?

17 A. The other victims, yes.

18 Q. Okay. So after the initial investigation --
19 because you were the case officer for this case?

20 A. Correct.

21 Q. What did you do? After the scene has been
22 secured and cleared, and you finished processing
23 the scene, what did you do next?

24 MR. DAVIS: Objection. Reference
25 of processing the scene, that's putting words

1 in the witness's mouth again, Your Honor.

2 THE COURT: I'll overrule it.

3 MR. DAVIS: Thank you.

4 BY MR. MYERS:

5 Q. What did you do afterwards?

6 A. I spoke with victim Brayden Ward, Brayden Ward's
7 parent, and the other victims that were in the
8 pickup truck at that time, along with their parents,
9 who arrived on the scene.

10 Q. Did you develop suspects?

11 A. Yes, sir, we developed at least one suspect.

12 Q. One suspect. Okay. And who was that suspect?

13 A. Dimitri Dickens.

14 Q. Okay. And so did you attempt to talk to Dickens?

15 A. No, he had already fled the scene.

16 Q. Fled the scene, okay. Did you -- were you able
17 to follow up anywhere after the scene?

18 A. Not with Mr. Dickens, no.

19 Q. Okay. Who did you follow up with?

20 A. Mr. Canales.

21 Q. Okay. And was he a suspect?

22 A. He was, yes.

23 Q. Okay. And so what -- so you followed up with
24 him. Did you arrest him that night?

25 A. We did.

1 Q. Did you arrest Dickens that night?

2 A. We did not.

3 Q. Okay. And one final thing, Royal Lanes.

4 You said this occurred at Royal Lanes in Goose Creek?

5 A. Correct, sir.

6 Q. Is that in Berkeley County?

7 A. Yes, sir.

8 Q. All right. Please answer any questions defense
9 has.

10 MR. DAVIS: May it please the Court,
11 Your Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION.

14 BY MR. DAVIS:

15 Q. Officer, how are you doing this afternoon?

16 A. Very well, sir.

17 Q. I asked you -- you said you've been
18 in the Charleston Police Department for 14 years?

19 A. Correct.

20 Q. A detective. You've been with Goose Creek
21 for four years; that's 18 years. What is the lawful
22 age for a person to obtain a handgun in South Carolina?

23 A. Twenty-one.

24 Q. Not 18?

25 A. Correct.

1 Q. Not 19?

2 A. Correct.

3 Q. Not 20?

4 A. Correct.

5 Q. And, therefore, if someone at that age possess
6 a weapon, they should be charged with unlawful carrying
7 of a pistol; isn't that correct?

8 A. That's correct.

9 Q. Okay. And no question in this situation that
10 Mr. Daniel Varner was not 21 years of age; isn't that
11 true?

12 A. I don't recall his age at the time of the
13 incident.

14 Q. Okay, thank you. And any specific reason
15 why you did ask for permission to search that pickup
16 truck?

17 A. Because it was -- that's where the victims were,
18 so, yes, it would have been my normal protocol to ask
19 permission to search.

20 Q. But is it necessary to ask for permission
21 when you've got probable cause that a vehicle has
22 been involved in a crime?

23 A. We did it just to make sure that we received
24 permission from the owner of the vehicle, who was
25 the parent ---

1 Q. But who was the owner?

2 A. The parent of Mr. Dickens.

3 Q. But the owner -- the parent was not there that
4 night when that vehicle got engaged with this gunshot --
5 gunfight?

6 A. Correct.

7 Q. Okay. Now did y'all perform any paraffin test?
8 Tell the jury what is a paraffin test. Tell the jury
9 what that is.

10 A. It's what our evidence does with regards to
11 the firearm itself. That's something that the evidence
12 technician would have to be able to answer.

13 Q. It's a process. Tell us -- you've been in law
14 enforcement 18 years. If a person shoots a weapon,
15 there's a specific test you can determine whether
16 that person actually shot a weapon or not; isn't
17 that true?

18 A. True.

19 Q. All right. So that night, did y'all perform
20 any of those tests on any of those other young men
21 who y'all alleged were victims, like, Mr. Brayden Ward?

22 A. Yes.

23 Q. You did?

24 A. Um-huh.

25 Q. So we have those results?

1 A. They were done by our evidence technician, so.

2 Q. We have those results?

3 A. I'm unaware if we have them or if we don't.

4 Q. You were the lead investigator that night,
5 were you not? You were the on-call investigator?

6 A. Um-huh.

7 Q. You should have that information. Sir?

8 A. Yeah, I'm unaware if SLED gave us the information
9 back or not at that time.

10 Q. Are you aware that it was actually done, sir?

11 A. That I'm sure it was done.

12 Q. Okay. Was it also performed on Mr. Daniel
13 Varner?

14 A. I'm unaware because I did not have contact with
15 Mr. Varner at the time.

16 Q. But you said Ms. Nation is there, who was under
17 your direct control and supervision; isn't that true?

18 A. Correct.

19 Q. And she works for Goose Creek Police Department,
20 doesn't she?

21 A. She does.

22 Q. And she would have done that based on your
23 directive?

24 A. Correct.

25 Q. Did you direct her to do a paraffin test

1 on his hand and tell if he, in fact, had fired a weapon?

2 A. I do not recall at this time if I did or did not.

3 Q. Well, don't you think it's important in
4 referencing a multitude of casings that were marked
5 at the crime scene, sir?

6 A. Yes.

7 Q. And if you were to be accurately descriptive,
8 there were more than one weapon involved in this matter,
9 is it not?

10 A. Correct.

11 Q. And we can tell that by what manner? Tell the
12 jury why you can tell that there were multiple weapons
13 involved.

14 A. There were several different casings that
15 were located there, several different calibers.

16 Q. And those casings address or are assigned
17 to certain guns, isn't it?

18 A. Correct, sir.

19 Q. As a matter of fact, more than four or five
20 different guns were out there that night; isn't that
21 true?

22 A. Possibly.

23 Q. That's right. But the only people that
24 got arrested, this 17-year-old young man, Canales,
25 right?

1 A. Correct.

2 Q. And this 18 year old at that time?

3 A. Correct.

4 Q. Nobody else was arrested?

5 A. Correct.

6 Q. Okay. Even though other people had guns?

7 A. That's correct.

8 Q. Did you find any drugs?

9 A. I do not believe we found any drugs.

10 MR. DAVIS: No further questions.

11 CROSS-EXAMINATION

12 BY MS. GAY:

13 Q. I'm going to look at this marked for ID document.

14 All right. So you've had occasion to go over your
15 report in an effort to refresh your recollection.

16 And I believe that your testimony was that you were,
17 basically, the main officer that evening?

18 A. Lead, yes.

19 Q. Okay. And so other people were doing what
20 you were asking them to do, you were kind of director
21 of the show?

22 A. Only for that period of time, not after
23 we returned back to the office, so to speak.

24 Q. I understand. So on the evening of, on site
25 at the crime scene, you were the one in charge?

1 A. Correct.

2 Q. Not after that?

3 A. Correct.

4 Q. Because that's when the stuff kind of gets
5 transferred to a detective to do the followups?

6 A. Correct.

7 Q. Okay. So on that night when you were around
8 looking at things and putting out the tape, were you
9 able to determine if the car -- okay, there's two cars.
10 You know, there's a Tacoma, and there's a red Ford,
11 right?

12 A. A red vehicle.

13 Q. A red vehicle. Okay. And that Tacoma, were
14 you able to determine that there were bullet holes
15 in that Tacoma?

16 A. I do believe the Tacoma was struck.

17 Q. Was struck by bullet holes?

18 A. Correct.

19 Q. Okay. And so in a little while, we're going
20 to see the video and how all this went down in terms
21 of positioning. But isn't it true that when -- that
22 Mr. Varner indicated that he was standing sort of right
23 in front of the truck when he got hit?

24 A. He was in the area of the truck; I don't know
25 if he was directly near it. I think he was near the

1 rear of the truck.

2 Q. Okay, near the rear of the truck. And I think
3 that you said, and looking in your report, that
4 as you were figuring this out, that Mr. Varner never
5 had -- he called it a paraffin test, but it's, like,
6 a GSR?

7 A. Correct.

8 Q. Gunpowder residue test?

9 A. Correct.

10 Q. Okay. He -- no one -- you never directed
11 from anybody to do that test that night?

12 A. I did not.

13 Q. And part of that reason is because he went off
14 by EMS to the hospital?

15 A. Correct.

16 Q. But certainly, he was shot, you knew that?

17 A. Yes, ma'am.

18 Q. And so the -- Mr. Ward, who's the alleged armed
19 robbery victim, you did do the GSR on his hands?

20 A. Correct.

21 Q. Okay. And then when Mr. Davis was asking
22 you about the number, how many shell casings did
23 y'all find?

24 A. Off the top of my head, I can't really recall.
25 I think it was somewhere in the number of 15.

1 Q. Okay. I think it's closer than -- over 20,
2 would you ---

3 A. Okay, over 20.

4 Q. Okay, yeah. So -- and I think that you testified
5 for Mr. Davis that you believed that there -- well,
6 he asked you, and you agreed, that there were probably
7 four or five guns that were involved?

8 A. There were several.

9 Q. Okay. There's only two of these guys though,
10 right?

11 A. Um-huh.

12 Q. Okay. And throughout -- because you're aware,
13 and you may not have been the lead detective, but
14 you're aware of what happened here. Isn't it, in fact,
15 true that there was confirmation that Mr. Varner shot
16 Mr. Canales?

17 A. Mr. Varner, I do believe shot ---

18 Q. Mr. Canales?

19 A. --- to defend himself.

20 Q. Well, that's what your understanding is.
21 I would object to your comment on that because that's
22 an opinion.

23 A. Okay.

24 Q. But, ultimately, he did, in fact, acknowledge
25 that he shot Mr. Canales?

1 A. Yes.

2 Q. With one of these guns that was 20-something
3 casings on the ground?

4 A. Correct.

5 Q. Okay. And I believe Mr. Varner was shot three
6 times?

7 A. Correct.

8 Q. And one was in the shoulder, one was in the leg,
9 and one was in his foot?

10 A. Correct.

11 Q. Okay. None in his heart or in his head?

12 A. Correct.

13 Q. Or any vital organ?

14 A. That's correct.

15 Q. Okay. All right.

16 MS. GAY: Let me ask Mr. Davis something,
17 Your Honor. I have no further questions for the
18 witness.

19 THE COURT: All right. Anything in
20 followup?

21 MR. MYERS: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. MYERS:

24 Q. Officer Galluccio, you spoke with Steve and gave
25 opinions on SLED.

1 MR. DAVIS: Objection. Steve?

2 MR. MYERS: Mr. Davis, yourself.

3 It's the foundation for the question, Your Honor.

4 I'm just asking ---

5 THE COURT: What's the question?

6 MR. MYERS: The question is going
7 to be about what he knows about SLED. He testified
8 that SLED completed some lab analysis, and I was going
9 to talk to him about that. It's just a question
10 he asked.

11 THE COURT: All right.

12 BY MR. MYERS:

13 Q. You testified to him that -- about GSR?

14 A. Correct.

15 Q. Okay. GSR. And you send things to SLED
16 for GSR all the time, correct?

17 A. Correct.

18 Q. Do you collect evidence just in case it's
19 relevant later?

20 A. Yes.

21 Q. Okay. So is it possible that ---

22 MR. DAVIS: Objection.

23 THE COURT: Hold on. Ask the question.

24 BY MR. MYERS:

25 Q. Is it possible that when you process a crime

1 scene, that some of the evidence you process may or may
2 not be important?

3 A. Correct.

4 Q. Okay.

5 MR. DAVIS: Your Honor ---

6 THE COURT: That's overruled; he can ask
7 the question.

8 BY MR. MYERS:

9 Q. You testified about SLED doing analysis
10 on the GSR?

11 A. Correct.

12 Q. You did not receive analysis on the GSR, did you?

13 A. Not directly, no.

14 Q. Okay. Since you know about -- you testified
15 about policies of SLED. When people are shot, they are
16 victims that are shot by a firearm. Does SLED use their
17 resources to test GSR when a person is shot?

18 MR. DAVIS: Object to the question,
19 Your Honor. It's overly broad, it asks for mere
20 conjecture on the part of this officer. He would
21 not be in sufficient position to answer that question,
22 Your Honor.

23 THE COURT: I'll allow it.

24 MR. DAVIS: Okay.

25 THE WITNESS: Can you restate the question?

1 BY MR. MYERS:

2 Q. Since you know SLED policy, does SLED -- when
3 you -- when a person is shot, when GSR is collected
4 from a person who's been shot with a gun ---

5 A. Correct.

6 Q. --- does SLED use their resources to do analysis
7 for GSR when they already know they've been shot?

8 A. If we submit it to them, yes, they would.

9 Q. Maybe?

10 A. Correct.

11 Q. Thank you. Now, Mr. Davis mentioned multiple
12 guns and two of them, but there was more than just two
13 of them, wasn't there?

14 A. Correct.

15 Q. All right. How many did -- how many -- through
16 your investigation ---

17 MR. DAVIS: Objection.

18 THE COURT: Hold on.

19 MR. MYERS: How many suspects ---

20 MR. DAVIS: Objection.

21 THE COURT: Hold on.

22 MR. MYERS: I'm sorry.

23 THE COURT: Let him at least finish the
24 question before you object. What's the question?

25 BY MR. MYERS:

1 Q. How many suspects did you develop, besides
2 these two individuals? Were there any other people
3 involved?

4 A. Yes, we did identify others that were involved.

5 Q. Okay.

6 MR. DAVIS: Objection.

7 THE COURT: All right, all right.

8 It's overruled. Go ahead.

9 BY MR. MYERS:

10 Q. So there was more than just these two?

11 A. Correct.

12 Q. Okay. And so -- and those people were armed
13 also, weren't they?

14 MR. DAVIS: Objection, Your Honor.

15 THE WITNESS: That's correct.

16 MR. DAVIS: There's no way -- object,
17 because there's no way this officer could testify
18 that he knew that from his own personal knowledge
19 that they were armed.

20 THE COURT: I'll sustain the objection.

21 MR. DAVIS: Thank you.

22 BY MR. MYERS:

23 Q. Mr. Davis also mentioned that you know a lot
24 about ---

25 MR. DAVIS: Objection about Mr. Davis.

1 I think he should say that in cross-examination.
2 I don't think my name should be personalized every
3 time a question is presented. That's unfortunate
4 and not proper.

5 MR. MYERS: I'm merely just trying
6 to be different with each defense attorney.

7 THE COURT: All right.

8 BY MR. MYERS:

9 Q. So this individual that's on this side?

10 A. Yes, sir.

11 Q. All right. He mentioned that you have
12 a knowledge of criminal law when it deals with firearms,
13 correct?

14 A. Somewhat, yes.

15 Q. Okay. Is -- since you are familiar with
16 the law when it deals with firearms, what do you know
17 about the self-defense law in this state?

18 A. That an individual has the right to defend
19 themselves if their life is threatened.

20 Q. All right. Even if they're unlawfully carrying
21 a weapon?

22 MR. DAVIS: Objection to that, Your Honor.

23 THE COURT: I agree. I'm the judge of
24 the law. I'll tell the jury what the law is; he doesn't
25 need to do that.

1 MR. MYERS: Thank you, Your Honor.

2 No further questions, Your Honor.

3 THE COURT: All right. Thank you very much.

4 You may be excused.

5 MR. DAVIS: Thank you very much.

6 THE COURT: All right. Ladies and
7 gentlemen, we've been going about an hour and a half.
8 We're going to go ahead and take our midafternoon break,
9 all right? Y'all will be excused for about ten minutes,
10 stretch your legs, use the restroom. We'll bring you
11 right back out.

12 (The jury exited the courtroom at 2:44 p.m.)

13 (Recess taken.)

14 (Back on the record.)

15 THE COURT: All right. Thank you very much.
16 Please be seated.

17 (Pause.)

18 THE COURT: We are missing a juror, so hang
19 tight.

20 (Pause.)

21 THE COURT: All right. Thank you very much.
22 Bring them out.

23 (The jury entered the courtroom at 3:10 p.m.)

24 THE COURT: You may be seated. All right,
25 call your next witness.

1 MS. LYNCH: State calls Andrew McAllister.

2 THE CLERK: Please raise your right hand,
3 place your left hand on the Bible.

4 MR. ANDREW MCALLISTER, was called as a
5 witness, being duly sworn, was examined and testified
6 as follows:

7 THE CLERK: Thank you. You may be seated.
8 Please state your full name, and spell your last name
9 for the record.

10 THE WITNESS: Andrew Steven McAllister,
11 M-C-A-L-L-I-S-T-E-R.

12 MS. LYNCH: May it please the Court.

13 THE COURT: Yes, sir -- yes, ma'am.

14 DIRECT EXAMINATION

15 BY MS. LYNCH:

16 Q. Mr. McAllister, where do you work?

17 A. City of Goose Creek Fire Department.

18 Q. What's your position there?

19 A. Right now, lieutenant.

20 Q. Were you working there in 2021?

21 A. Yes, I was.

22 Q. Could you describe what your duties were?

23 A. At the time, I was a firefighter, EMT, assigned
24 to the ambulance during that time.

25 Q. And how did that compare to your duties now?

1 A. Now, I'm a supervisor.

2 Q. And could you describe some of your training
3 that you've had?

4 A. I'm currently a national registry advanced EMT,
5 so I'm a firefighter one, firefighter two, various
6 different medical classes that I've taken, and officer
7 classes on personal management, all those kind
8 of supervisory classes.

9 Q. And how did you come to be involved in this case?

10 A. I was the driver of the ambulance of the day
11 in question.

12 Q. Do you remember where you were dispatched to?

13 A. It was Royal Lanes.

14 Q. And do you know what county that's in?

15 A. Berkeley County.

16 Q. What do you remember from that night?

17 A. We got a call for service, roughly, I believe
18 it was the evening hours, around ten o'clock. We went
19 to our scene area, made sure the scene was safe.
20 The police, they said it was safe. We went there,
21 we rendered aid to the patient, put him in the back
22 of the ambulance, and brought him down to Trident
23 Hospital.

24 Q. And do you remember who that was, who you aided?

25 A. I do not remember.

1 Q. And when you were arriving on the scene, how was
2 it categorized?

3 A. It was more of a high priority, more
4 life-threatening injuries were sustained, so we made
5 that what we considered high priority and needed
6 advanced life support from the paramedic that was
7 on scene. So he was the one that was in primary patient
8 care.

9 THE COURT: Will you back up for a little
10 bit. It's popping on the microphone. There you go.
11 Thank you.

12 BY MS. LYNCH:

13 Q. What injuries did you observe?

14 A. A few gunshot wounds to the left arm and left
15 leg.

16 Q. And did you render any aid yourself,
17 specifically?

18 A. Yes, I reassessed the tourniquet and tightened
19 that, and then did more bleeding control with different
20 types of bandages. Put him into the ambulance,
21 and I started IV access on his left arm.

22 Q. And where did you take the individual?

23 A. Trident Hospital.

24 Q. Did you have any other involvement in this case?

25 A. No, ma'am.

1 MS. LYNCH: I beg the Court's indulgence.

2 MR. DAVIS: May it please the Court,
3 Your Honor.

4 THE COURT: Hold on. She said one second.

5 MR. DAVIS: Oh.

6 MS. LYNCH: Nothing further for this
7 witness, Your Honor.

8 THE COURT: All right.

9 CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Officer, you would agree that it's been about
12 two years since this occurred, right?

13 A. Yes, sir.

14 Q. And on direct examination, you seem to suggest
15 that the injuries that Mr. Varner received were life
16 threatening, sir?

17 A. Yes.

18 Q. Yes?

19 A. Yes.

20 Q. It was?

21 A. Yes.

22 Q. Okay. I'm going to hand you what's been marked
23 as Court's exhibit, maybe refresh your memory.

24 MR. MYERS: Your Honor, objection.

25 THE COURT: Show it to them first.

1 MR. DAVIS: Okay, thank you. I apologize.

2 MR. MYERS: Your Honor, this document
3 was not generated by this witness.

4 MR. DAVIS: Don't matter.

5 MR. MYERS: He has no foundation for
6 it whatsoever. This is Douglas Galluccio's supplemental
7 report. He can't refresh his memory from Galluccio's
8 report.

9 THE COURT: You want to refresh him by his
10 recollection on just about anything, but what question
11 are you asking him?

12 MR. DAVIS: He worked for the fire
13 department at that time, Your Honor. He responded.
14 There's no question -- the fire department stated
15 that the injury was nonlife threatening, which
16 is inconsistent with his testimony today, Your Honor.

17 THE COURT: Who said that they were nonlife
18 threatening?

19 MR. DAVIS: The fire department in that
20 report, from the EMS.

21 THE COURT: Ask him -- ask him what
22 he observed and why he has -- why he believes that.
23 Let's start there.

24 MR. DAVIS: Okay.

25 BY MR. DAVIS:

1 Q. How long have you been a paramedic?

2 A. I'm an advanced EMT.

3 Q. Maybe you have to educate me. I thought it was
4 paramedic. What did you call it?

5 A. An advanced EMT.

6 Q. Huh?

7 A. An advanced EMT.

8 Q. EMT.

9 A. There are multiple levels of EMT.

10 Q. So that's higher than a paramedic?

11 A. No, sir.

12 Q. It's lower than a paramedic?

13 A. Yes, sir.

14 Q. Okay. So you don't have the training
15 and expertise that a paramedic would have?

16 A. No, sir.

17 Q. And so you don't have the -- what do I want
18 to say? The same medical knowledge that a paramedic
19 would have?

20 A. They do a little more, correct.

21 Q. Okay. And so a paramedic would be in a better
22 position to diagnose or come to the conclusion about
23 life-threatening injuries more than you can?

24 A. By definition, yes.

25 Q. Sir?

1 A. Yes.

2 MR. DAVIS: Okay. No further questions.

3 THE COURT: All right. Anything in
4 followup?

5 MS. GAY: I have no questions for this
6 witness, Your Honor.

7 THE COURT: Okay.

8 MS. LYNCH: Briefly, Your Honor.

9 THE COURT: All right.

10 REDIRECT EXAMINATION

11 BY MS. LYNCH:

12 Q. When you testified about the life-threatening
13 injuries, what were you referring to?

14 MR. DAVIS: Objection, Your Honor,
15 been asked and answered.

16 THE COURT: Let's see what he was
17 referencing to.

18 THE WITNESS: So there was two bullet
19 holes in the patient's legs; one on his ankle, one
20 on his upper leg. Whenever we apply a tourniquet,
21 that's for gross bleeding that has not being able
22 to be controlled by any type of bandages or anything
23 like that. So then applying a tourniquet, hopefully,
24 stops or slows that bleeding, and that's what we were
25 trying to accomplish with placement of that tourniquet.

1 And within the thigh, there can be multiple
2 liters of blood being lost in the thigh internally,
3 which we can't see ---

4 MR. DAVIS: Objection, Your Honor. He's not
5 even qualified to make that -- respond to that question
6 about internal bleeding.

7 THE COURT: All right. I'll overrule it.
8 He's just testifying as to why he did what he did.

9 MR. DAVIS: Okay.

10 BY MS. LYNCH:

11 Q. And when you arrived on the scene, what was
12 it determined to be before you arrived?

13 MR. DAVIS: Objection, Your Honor, been
14 asked and answered.

15 THE COURT: Overruled.

16 MS. LYNCH: No further questions,
17 Your Honor.

18 THE COURT: All right. Thank you so very
19 much. You may step down. All right, call your next
20 witness.

21 MR. MYERS: State calls Christopher Dowling.

22 THE CLERK: Please raise your right hand,
23 place your left hand on the Bible.

24 OFFICER CHRISTOPHER DOWLING, was called as
25 a witness, being duly sworn, was examined and testified

1 as follows:

2 THE CLERK: Thank you. You may be seated.
3 Please state your full name, and spell your last name
4 for the record.

5 THE WITNESS: Christopher Dowling,
6 D-O-W-L-I-N-G.

7 DIRECT EXAMINATION

8 BY MR. MYERS:

9 Q. Officer Dowling, where are you currently
10 employed?

11 A. City of Goose Creek.

12 Q. All right, city of Goose Creek. And in what
13 position?

14 A. As a police officer.

15 Q. Okay. How long have you been there?

16 A. A little over three years.

17 Q. Do you have any previous law enforcement
18 experience?

19 A. I do not.

20 Q. Okay. What kind of training have you had in
21 your career?

22 A. I am certified to detect DUIs, and I'm also field
23 trained -- a field training officer.

24 Q. Okay. And what does that mean?

25 A. It means I train new recruit police officers

1 to become police officers.

2 Q. So what is your current rank and position right
3 now?

4 A. I'm a senior officer for the patrol team.

5 Q. Okay. And, again, tell me -- refresh me on what
6 those responsibilities are.

7 A. So other officers, not technically below me,
8 but that haven't been there as long as me, and I assist
9 them, guide them with questions. And I also, when
10 we have fresh recruits out of the academy, they --
11 I'll ride with them and instruct them, guide them
12 to be released in solo capacity.

13 Q. Okay. What was your rank and position in April
14 of 2021?

15 A. April, I was actually a field training officer;
16 I was in field training myself.

17 Q. What does that mean?

18 A. So, I was not released in solo capacity.
19 I had an FTO with me, but I was in the evaluation phase,
20 so I -- it was my third shift prior to being released
21 in solo capacity when I responded to this incident.

22 Q. Is it fair to say that your responsibilities
23 were different back then than they are now?

24 A. Yes.

25 Q. Okay. And so what were you doing different

1 back then?

2 A. I was being trained or monitored closer than
3 I am now.

4 Q. Okay. Do you remember what you were doing
5 the evening of April 25th, 2021?

6 A. I do.

7 Q. Okay. And what were you doing?

8 A. While I was -- we were assisting Berkeley County
9 on a barricaded subject, a call came out for a shooting
10 that occurred at 106 Central Avenue, Royal Lanes, which
11 is in the city of Goose Creek, which then we responded
12 to that night.

13 Q. Okay. So you responded out there. When you got
14 there, what did you see?

15 A. On my arrival, I observed a gentleman with
16 a bloody leg -- his pant leg was bloody, complaining
17 of a gunshot wound and a group of bystanders is what
18 I observed, initially.

19 Q. Were there a lot of other -- were there other
20 officers on scene?

21 A. There were two deputies, Berkeley County
22 deputies, and one Goose Creek officer that were
23 assisting the gunshot victim, and another officer
24 was speaking to bystanders.

25 Q. Was EMS out there?

1 A. They arrived shortly after I arrived on scene;
2 they were standing by at the time.

3 Q. All right. So when you got there and you started
4 to process, what did you do?

5 A. I -- when I first made contact with the
6 bystanders, I just started getting verbal statements
7 by everybody and then eventually into written
8 statements. And once I completed that, I wrote
9 up a crime scene log, which just is saying when
10 people arrived on scene, when they departed the scene,
11 as far as officers.

12 Q. All right. So when you said you -- after
13 you generated the crime scene, what did you do?

14 A. So once I completed that, I actually ended
15 my body cam for that initial, because that was the
16 end of my part on scene. After I completed that,
17 I went -- returned to the Goose Creek Police Department,
18 at which time one of the Defendants was currently
19 in custody at the booking area of our police department,
20 and I transported him to Berkeley County Detention
21 Center.

22 Q. Which Defendant?

23 A. Carnes -- Canales.

24 Q. Okay. Did you -- I may have misheard you.
25 Did you have your body camera equipped that night?

1 A. Yes, sir.

2 Q. Did you have it on? Was it operating?

3 A. Yes.

4 Q. All right.

5 MR. MYERS: Permission to approach the
6 witness?

7 THE COURT: Yes, sir.

8 BY MR. MYERS:

9 Q. I am currently handing you an item marked
10 as State's Exhibit 3. Can you tell me what that is?

11 A. That is my body cam footage from the night
12 of the shooting.

13 Q. Okay. How do you know that?

14 A. Because I signed -- initialed and dated it.

15 Q. Did you watch it?

16 A. I did.

17 Q. Okay.

18 A. The whole entire video.

19 Q. All right. Is it a fair and accurate
20 representation of what happened that night?

21 A. Yes.

22 Q. Okay. Has it been altered in any way?

23 A. No.

24 Q. All right.

25 MR. MYERS: At this time, the State moves

1 to admit State's Exhibit 3 into evidence.

2 THE COURT: All right. Any objection?

3 MR. DAVIS: None, Your Honor.

4 THE COURT: All right, without objection.

5 (State's Exhibit No. 3 was admitted into evidence.)

6 MS. GAY: I just would like to say
7 that when we do this one, to make sure you stop
8 it if you have different things that we discussed,
9 the jury stuff ---

10 MR. MYERS: Absolutely.

11 MS. GAY: --- before it keeps on going.

12 MR. MYERS: We're just making sure we prep
13 the video and play just the part.

14 (Body cam footage played in open on court.)

15 BY MR. MYERS:

16 Q. So what do you -- what's happening right here?

17 A. I'm trying to determine who was a witness
18 to what occurred.

19 (Video continued to be played in open court.)

20 BY MR. MYERS:

21 Q. Are you speaking with someone here?

22 A. Here, I am obtaining the emergency personnel --
23 medical personnel's names for the report.

24 Q. So what are you doing here?

25 A. Here, I am having the witnesses to the incident

1 provide written statements.

2 Q. All right. Officer Dowling, so you were --
3 you continued interviewing people and witnesses?

4 A. Yes.

5 Q. Okay. And you generated a crime scene log.
6 After that, what did you do?

7 A. After that, I returned to the Goose Creek Police
8 Department, removed Canales from one of the booking
9 cells, and transported him to the Berkeley County
10 Detention Center.

11 Q. Okay.

12 MR. MYERS: No further questions,
13 Your Honor.

14 MR. DAVIS: May it please the Court,
15 Your Honor.

16 CROSS-EXAMINATION

17 BY MR. DAVIS:

18 Q. Officer Dowling, how are you doing this
19 afternoon?

20 A. I'm doing well, sir. How are you?

21 Q. Cut the lights back on, please. Have you
22 and I ever discussed this case?

23 A. No.

24 Q. Okay. And you readily admit that you've been
25 in law enforcement for a relatively short period

1 of time?

2 A. Yes.

3 Q. But you can tell this jury, what is the lawful
4 age to possess a handgun in the state of South Carolina?

5 MR. MYERS: Objection, no foundation.

6 MR. DAVIS: He knows; he's a police officer.

7 THE COURT: He hasn't answered the question.

8 THE WITNESS: Twenty-one.

9 MR. DAVIS: Thank you.

10 THE COURT: All right.

11 BY MR. DAVIS:

12 Q. Now when you got there -- strike that.

13 Tell this jury how the determination is made as who
14 is the suspect, who is the victim? How is that made?

15 A. From the investigation.

16 Q. That is made by statements people tell you,
17 right?

18 A. Statements, evidence, leads.

19 Q. You weren't there that night on the 25th
20 when it happened, right?

21 A. Correct.

22 Q. So you present yourself to the scene and then
23 a decision is made as to who is a suspect, and who
24 is a victim; isn't that true?

25 A. Depending on the case.

1 Q. Well, tell me how it was made in this case then,
2 depending on the case. Tell us.

3 A. I was ---

4 Q. This case, you said depending on the case.

5 A. So, I wasn't the one that made the charge
6 for this case; I just took the initial report.

7 Q. Yeah. The question though was how
8 a determination is made on who's a suspect,
9 who's a victim, when, in fact, this young man, Canales,
10 also was at Trident Hospital, also had received
11 a gunshot wound, why wouldn't he be considered a victim?

12 A. Again, depends on the investigation of what
13 occurs.

14 Q. Well, the investigation that night, that decision
15 was made that night. He was a suspect that night;
16 isn't that correct?

17 A. I believe so.

18 Q. Yeah. He was made a suspect that night, based
19 on certain representations that were made to y'all,
20 right?

21 A. I would say that is correct.

22 Q. Had the video been made available to you at that
23 time?

24 A. Not to me.

25 Q. Well, was it made available to anybody before

1 my client became a suspect instead of a victim?

2 A. From my knowledge ---

3 Q. If you know of your own personal knowledge.

4 A. From my knowledge on scene, there was video
5 from Royal Lanes. I did not view it, so I cannot say
6 if somebody viewed it. I was not present when somebody
7 would have viewed the video.

8 Q. Are you aware that attempts have been made
9 to try to enhance that video?

10 A. I'm not aware.

11 Q. You're not aware. So your involvement in this
12 case ended that night?

13 A. Yes.

14 Q. Even though your name is on this report?

15 A. Correct.

16 Q. And so you're familiar with this report, right?

17 A. Yes.

18 Q. Okay. I want to refresh your memory. In this
19 report, is there any indication that the injuries that
20 --- please, sir.

21 MR. MYERS: Your Honor, may I take a look
22 at that before he ---

23 MR. DAVIS: It's the Court's documents
24 earlier -- the same one you marked.

25 MR. MYERS: This is a different report.

1 MR. DAVIS: That's the one that you --
2 I'm sorry. Thank you. I'm sure glad you did that.
3 This is the one, Judge. May I approach?

4 THE COURT: Yes, sir.

5 MR. DAVIS: I need to put the clip back
6 on there. You know, I'm a klutz; I lose things.

7 BY MR. DAVIS:

8 Q. You're familiar with this. Now, Officer,
9 no question that your name is on this report?

10 A. I haven't seen this.

11 Q. Okay. I'm sorry. This is the Court's No. 1.
12 Look at it, take your time.

13 A. No, this is part of the report; this has nothing
14 to do with my ---

15 Q. The question is, is your name on that report?

16 A. It is.

17 Q. All right. And next question, since your name
18 is on that report, that you should be familiar with
19 that report; isn't that true?

20 A. With my portion.

21 Q. Well, look at the report. Is there anything
22 in that report to suggest that the injuries were life
23 threatening?

24 A. I have not read over it.

25 Q. Well, let me help refresh your memory.

1 MR. DAVIS: May I approach? Let me help
2 you refresh your memory.

3 (Pause.)

4 BY MR. DAVIS:

5 Q. Right here. What does it say?

6 A. I see it; it says nonlife ---

7 Q. It says what?

8 A. It says nonlife-threatening injuries.

9 Q. Thank you.

10 MR. DAVIS: No further questions.

11 THE COURT: All right. Anything else?

12 MS. GAY: Yeah.

13 CROSS-EXAMINATION

14 BY MS. GAY:

15 Q. Okay. I believe that Mr. Davis showed you
16 a document, which is the document that's floating
17 around that has your name on it. That's a report --
18 that's a larger report of what you did, but you're
19 familiar with it. And I'm going to ask you some
20 questions about what happened and what you observed.

21 So your testimony on direct was that you came,
22 and that it was your job to -- you hadn't been a police
23 officer very long at that time. I think you said
24 you've only been a police officer for three years now,
25 so that was about two years ago. You were in training

1 of some sort. I think you said that this was one
2 of your last, like, a supervised ride alongs that
3 were going to happen?

4 A. Yes.

5 Q. Okay. So -- and then I understand that you --
6 that it was your job to collect evidence that night,
7 walk around and collect things?

8 A. The only thing I collected were -- if you want
9 to consider it collecting, were written statements
10 and verbal statements from witnesses.

11 Q. So the report that has your name, Officer
12 Dowling, and Corporal Durham, Mr. Durham would have
13 been the one going around collecting the physical
14 evidence?

15 A. So Corporal Durham at the time was my ---

16 Q. Ride along?

17 A. --- field training -- he was -- yeah, he was
18 doing my field training; he was observing me.

19 Q. Okay. So looking at the report, it has lots
20 of references to picking up casings and things like
21 that. Are you telling me that you did not do that?

22 A. I personally did not.

23 Q. So this report that -- this is the same thing.
24 May I see the thing that we keep showing people right
25 here? Okay. So this is the State's, for ID purpose,

1 this report right here. Can you please look at this
2 and identify this for me, and do you recognize it?

3 A. No. Like I said before -- can I explain
4 to the jury ---

5 Q. That you don't recognize that with your name
6 on it?

7 A. --- how the reports work?

8 Q. Sure.

9 A. So when we do an initial report, I will take
10 the base of what I did and give my initial report
11 on it. Now people can do -- or other officers will
12 do supplement reports on that base report, which is what
13 they are showing me. These are all supplemental reports
14 from other officers that were also investigating
15 or assisting with the scene on that case.

16 So with what they are showing me, I did not
17 personally do it, so I cannot testify to what they
18 are showing me, because I'm not familiar with what
19 all the other officers did on scene. I'm just familiar
20 with what I did.

21 Q. Okay. So when we watched your body cam, there
22 were moments where you were discussing with different
23 people, and that's what you did. Everything you did
24 had to do with witnesses, not physical evidence?

25 A. Correct, besides my observation, like I said

1 in the beginning, where I observed one of the victims
2 with a bloody pant leg complaining of a gunshot wound.

3 Q. Okay.

4 MS. GAY: I think that's all I have,
5 Your Honor. Let me ask Mr. Davis. We have nothing
6 further, Your Honor.

7 THE COURT: All right. Anything in
8 followup?

9 MR. MYERS: Just a couple of questions,
10 Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. MYERS:

13 Q. In cross-examination, you testified there
14 were nonlife-threatening injuries, correct?

15 A. From the report that they showed me?

16 Q. Yeah.

17 A. That I had nothing to do with, yes.

18 Q. Okay. So do you remember that? Do you remember
19 making that assessment?

20 MR. DAVIS: Objection, Your Honor.
21 That's -- the question specifically as to whether
22 he recalled.

23 THE COURT: Answer the question. Do you
24 recall?

25 THE WITNESS: No. I did not determine

1 anything with the injuries.

2 BY MR. MYERS:

3 Q. So you did not determine that there was
4 nonlife-threatening injuries?

5 A. Correct, I did not write that; those are not
6 my words.

7 Q. All right. So you just read it from a sheet
8 of paper?

9 A. That I was just showed, correct.

10 Q. Okay. So who said it?

11 A. I do not know.

12 Q. Okay.

13 MR. DAVIS: I have one question, Your Honor.

14 THE COURT: All right.

15 RECROSS EXAMINATION

16 BY MR. DAVIS:

17 Q. One thing for certain, Mr. Dowling, Mr. Davis
18 or Mr. Canales did not write that report; isn't that
19 true?

20 A. Yes.

21 Q. Thank you.

22 MR. DAVIS: No further questions.

23 THE COURT: All right. Thank you very much.
24 You may be excused.

25 THE WITNESS: Thank you.

1 THE COURT: Call your next witness.

2 MR. MYERS: Your Honor, may we approach?

3 THE COURT: Yep.

4 (Off-the-record conversation held at sidebar.)

5 (Back on the record.)

6 MR. MYERS: State calls Miranda Nation.

7 THE CLERK: Please raise your right hand,
8 place your left hand on the Bible.

9 OFFICER MIRANDA NATION, was called as a
10 witness, being duly sworn, was examined and testified
11 as follows:

12 THE CLERK: Thank you. You may be seated.

13 THE WITNESS: Thank you.

14 THE CLERK: Please state your full name,
15 and spell your last name for the record.

16 THE WITNESS: Miranda Nation, last name
17 N-A-T-I-O-N.

18 DIRECT EXAMINATION

19 BY MR. MYERS:

20 Q. Ms. Nation, where are you currently employed?

21 A. At the city of Goose Creek.

22 Q. All right. In which department?

23 A. In the police department.

24 Q. Okay. How long have you worked there?

25 A. I've worked there for seven years.

1 Q. Seven years. Do you have any other previous
2 law enforcement experience?

3 A. I do not.

4 Q. Okay. Throughout your career, what sort
5 of training have you had?

6 A. I've been to the criminal justice academy
7 to receive my certification to be a law enforcement
8 officer. I've also attended several trainings
9 for investigations, to include basic investigations,
10 child fatalities.

11 Q. What is your current rank and position with
12 Goose Creek?

13 A. Current rank is corporal, and my position
14 is investigations corporal.

15 Q. Tell the jury a little bit about what
16 investigations involves.

17 A. Okay. Investigations, there's two different
18 ways that I can either respond to a scene or assume
19 a case, one being, responding to an active scene where
20 my presence is being requested to assist, and the other
21 being a report that was forwarded to us. With each
22 of those cases, I kind of evaluate all the information
23 that's laid out in front of me and see what my next
24 investigative steps would be, and then proceed with
25 those.

1 Q. What was your rank and position on April 25th
2 of 2021?

3 A. I was an investigator.

4 Q. Okay. And were your responsibilities different
5 then than they are now?

6 A. Yes.

7 Q. Okay. How different?

8 A. Now with the rank of corporal, I supervise
9 the investigations unit, but my investigations still
10 stay the same.

11 Q. During that time, did you participate in the
12 investigation regarding an armed robbery at Royal Lanes
13 Bowling Alley in Goose Creek, Berkeley County?

14 A. I did.

15 Q. Okay. Did you have an operational body camera
16 at that time?

17 A. I did not.

18 Q. Okay. And why is that?

19 A. At the time, it was typical for our investigators
20 not to wear body cameras.

21 Q. So investigators don't wear body cameras in
22 Goose Creek?

23 A. That's correct.

24 Q. All right. How did you become involved in this
25 investigation?

1 A. I received a call from Investigator Galluccio
2 at the time, who requested that I respond to the scene
3 of Royal Lanes to assist.

4 Q. Okay. And did you do that?

5 A. I did.

6 Q. Okay. So you get out there, and what do you see?

7 A. I met with Investigator Galluccio initially,
8 who then requested immediately that I respond to Trident
9 Hospital. There was a report of two gunshot wound
10 victims there.

11 Q. So you were on scene -- just at the primary
12 crime scene, you were only there for a moment?

13 A. Correct.

14 MR. DAVIS: Object to leading, Your Honor.
15 Putting words in her mouth.

16 MR. MYERS: I can reword it a different way,
17 Your Honor.

18 THE COURT: That's fine. All right,
19 I'll overrule the objection.

20 BY MR. MYERS:

21 Q. So what was the instruction that Galluccio gave
22 you?

23 A. The instruction was to respond to Trident
24 Hospital, make contact with one primary victim there,
25 and evaluate what was going on there.

1 MR. DAVIS: Object to leading, Your Honor.
2 Hearsay.

3 THE COURT: Overruled. She's testifying
4 as to what she did during her investigation.

5 MR. DAVIS: Okay. Thank you.

6 BY MR. MYERS:

7 Q. So you complied with that instruction?

8 A. Yes, sir.

9 Q. Okay. So tell me what you do when you arrive
10 at Trident?

11 A. Once I arrived to Trident, I made contact
12 with Daniel Varner, who was in one of the trauma bays,
13 and evaluated him and conducted an interview.

14 Q. Okay. And what information did you learn from
15 that interview?

16 A. I learned that there was a group of individuals,
17 which included the victim, Varner, that I was
18 interviewing at the time. They had gone to Royal
19 Lanes to play some arcade games. And once Royal Lanes
20 was closing up for the evening, they all exited
21 the establishment when they were approached by multiple
22 people in the parking lot where Varner stated to me ---

23 MR. DAVIS: Objection, Your Honor, that's
24 hearsay.

25 THE COURT: You can't say what somebody

1 else said; you could only say what you did as a result
2 of what someone told you.

3 THE WITNESS: Okay. After the conclusion
4 of my interview with Varner, I then went to evaluate
5 the other victim in another trauma bay a few bays down.

6 BY MR. MYERS:

7 Q. And why would you do that?

8 A. Because I was advised that he may have been
9 a suspect in the shooting, and that he was also
10 suffering from a gunshot wound and matched the
11 description that I was provided.

12 Q. Okay. And when you say he matched the
13 description, tell me what that means.

14 A. The description that I was provided by Varner,
15 who I was interviewing, was a short Hispanic male
16 wearing all black clothing.

17 Q. Did he say he knew him?

18 A. He did.

19 Q. Okay. All right. So you arrived at this room
20 where Mr. Canales is also suffering some injury,
21 correct?

22 A. Correct.

23 Q. Okay. And what conclusion did you make when
24 you walked into the room?

25 A. Into Varner's room?

1 Q. Into Canales's room.

2 A. Canales's room. I observed Canales matched
3 the description, to include his first name, that was
4 provided by Varner initially. I observed some clothing
5 in a hospital bag that had been removed from him in
6 a clear hospital bag. And the clothing was all black,
7 which also matched the description provided by Varner.

8 Q. Did anything else that Varner told you match
9 Mr. Canales?

10 A. The physical descriptors matched; he was a short,
11 Hispanic male.

12 Q. Did he tell you his name?

13 A. He did.

14 Q. Okay. Now while you were there, did you process
15 any of the -- Varner's -- the state of Varner while
16 you were there?

17 A. I did. I took, I believe, five photographs
18 of Varner's injuries. Some of them were unable
19 to be photographed due to his state at the time.

20 MR. MYERS: Court's indulgence.

21 BY MR. MYERS:

22 Q. All right. I'm going to hand you a couple
23 of items. It's going to be a handful. I'll try
24 to do them all at the same time.

25 A. Okay.

1 Q. Put the numbers on it so we're in compliance.

2 MR. MYERS: May I approach the witness,
3 Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. MYERS:

6 Q. I'm handing you a couple of items marked exhibits
7 -- State's Exhibits 4, 5, 6, 7, and 8. Do you recognize
8 them?

9 A. I do.

10 Q. Tell me what they are.

11 A. These are the photographs that I took of Varner's
12 injuries.

13 Q. Okay. Are they a fair and accurate
14 representation of what you observed?

15 A. Yes.

16 Q. Okay. Have they been altered or edited in any
17 way?

18 A. They have not.

19 Q. Okay.

20 MR. MYERS: At this time, the State moves
21 to admit State's Exhibits 4, 5, 6, 7, and 8 into
22 evidence.

23 THE COURT: All right. Any objection?

24 MR. DAVIS: None, Your Honor.

25 THE COURT: All right. Without objection.

1 MS. GAY: No objection, Your Honor.

2 THE COURT: Okay.

3 (State's Exhibit Nos. 4 through 8 were admitted into
4 evidence.)

5 BY MR. MYERS:

6 Q. All right. Tell me what we're looking at.

7 A. These photos here are photos of a bullet wound
8 to the back of Varner's shoulder.

9 Q. And why do you think that?

10 A. Because I can see his shoulder, and I know that
11 to be Varner.

12 Q. What about the hole?

13 A. He told me that he was shot.

14 Q. What is this one?

15 A. This is a close-up of the same image.

16 Q. All right. What are we looking at here?

17 A. That is another gunshot wound to the back heel
18 of Varner's foot.

19 Q. What is this?

20 A. It is a close-up of the same photograph.

21 Q. All right, next. And what is it?

22 A. This is a closer photograph of the same image
23 with better lighting.

24 Q. Okay. From your testimony, you're saying
25 you're showing us two wounds from different

1 perspectives, correct?

2 MR. DAVIS: Objection to the reference
3 of perspectives, Your Honor.

4 THE COURT: Just asked her what she showed
5 us.

6 MR. DAVIS: Thank you.

7 BY MR. MYERS:

8 Q. So were you able to photo all of his wounds
9 that night?

10 A. I was not.

11 Q. And why? What were you missing?

12 A. I was missing the front entrance, or the front
13 wound of the shoulder for the photograph that y'all
14 have seen here, and then another one to his leg that
15 I also was unable to photograph.

16 Q. Now why were you not able to photograph it?

17 A. The front one was bandaged. They were unable
18 to remove the bandage because he was bleeding profusely.
19 And the second one, I was unable to obtain a photograph
20 because Varner advised me that he was in extreme pain
21 and unable to move.

22 MR. DAVIS: Hearsay, Your Honor. That's
23 got to be stricken.

24 THE COURT: I'll overrule it.

25 MR. DAVIS: Thank you.

1 BY MR. MYERS:

2 Q. When you went to Canales's room and you made
3 those matches, what else did you do in the room?
4 You said you collected some things?

5 A. Yes, I observed some clothing in a clear hospital
6 bag that matched the description provided by Varner.

7 Q. Okay. And what did you do with those?

8 A. I brought them to the Goose Creek Police
9 Department and provided them to our evidence
10 to be submitted into evidence.

11 Q. And tell us about this submitting evidence.
12 How do you -- how do you do that?

13 A. So once things are collected on scene,
14 we go back to the Goose Creek Police Department, and we
15 have a specific place for our evidence that is secured.
16 And I went and provided those clothing items to our
17 evidence technician.

18 MR. MYERS: May I approach the witness,
19 Your Honor?

20 MR. DAVIS: Your Honor, we'll stipulate
21 our client had on black clothing that night.
22 We'll stipulate to that.

23 MR. MYERS: Stipulated.

24 THE COURT: That's fine.

25 MR. MYERS: Yeah. All right.

1 BY MR. MYERS:

2 Q. After you finished collection and processing,
3 what did you do? So you got this, what did you do?
4 Did you just leave the hospital?

5 A. Yes.

6 Q. All right.

7 A. I left the hospital and went straight to the
8 department.

9 Q. Okay. And did you leave Canales there?

10 A. I did not leave him there; I left him with
11 another officer.

12 Q. Okay.

13 MR. MYERS: Court's indulgence. They've
14 already stipulated, we probable should ---

15 BY MR. MYERS:

16 Q. Does this appear to be the clothing in question?

17 A. Yes.

18 MR. MYERS: At this time, State would move
19 to admit State's Exhibits 9, 10, 11, 12.

20 MR. DAVIS: Objection. All those were
21 in the one bag?

22 MR. MYERS: They were in one bag.

23 MR. DAVIS: The whole bag. I stipulated
24 to the whole bag, you didn't talk about individually.

25 MR. MYERS: I can put it in the whole bag,

1 Your Honor.

2 THE COURT: Just do one bag.

3 MR. MYERS: Yeah.

4 MR. DAVIS: Thank you.

5 MR. MYERS: Exhibit 9.

6 THE COURT: All right. Without objection.

7 MR. DAVIS: Thank you, Judge.

8 (State's Exhibit No. 9 was admitted into evidence.)

9 BY MR. MYERS:

10 Q. The individuals that you spoke to that night,
11 you said you spoke with Varner?

12 A. Correct.

13 Q. And you spoke with Canales?

14 A. That's correct.

15 Q. Okay. Is Mr. Canales in this room?

16 A. He is.

17 Q. Okay. Could you please point him out
18 and describe what he's wearing?

19 A. Yes. (Indicating.) This is Isaiah Canales,
20 Hispanic male, wearing a black suit.

21 MR. MYERS: Let the record reflect that
22 Ms. Nation has identified Isaiah Canales.

23 THE COURT: All right. I'll let the record
24 reflect.

25 MR. MYERS: No further questions.

1 MR. DAVIS: May I approach, Your Honor?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. DAVIS:

5 Q. Ms. Nation, how long have you been in law
6 enforcement?

7 A. Seven years.

8 Q. Before that, what did you do? Before you were
9 in law enforcement, what did you do?

10 A. Worked in an in-home care agency for the elderly.

11 Q. Okay. So you've been in law enforcement
12 for seven years. All that in Goose Creek City Police
13 Department?

14 A. Correct.

15 Q. Okay. And let's see if you and I could agree
16 on some things. Would you agree with me that the
17 parties knew each other, Daniel Varner and Mr. Canales?

18 A. I would agree.

19 Q. Would you agree, more than likely, that they had
20 prior dealings with each other?

21 A. All I know is that they were known to each other
22 at the time.

23 Q. Okay. Would you agree that on that night,
24 you were still trying to develop what happened,
25 the facts?

1 A. Most of the facts were known at the time,
2 but I was not the case agent.

3 Q. Well, tell the jury what were the facts that
4 were known. We're in the middle of the trial right
5 now. What facts were known? You presented yourself
6 to Trident Hospital within less than 30 minutes
7 or an hour after the shooting took place, sir -- ma'am?

8 A. Yes.

9 Q. So tell us what was the facts that you had
10 at that particular time where y'all could make
11 a determination who was the suspect and who was
12 the victim?

13 A. So, I spoke with Varner and was provided
14 a description, and then I was advised that there
15 was another person in another bay just a few bays
16 down, who also had met all of the descriptors and name
17 provided by the victim.

18 Q. So the mere fact that Mr. Varner says what
19 took place is what y'all -- Mr. Varner said it,
20 because you hadn't seen no video from the bowling alley
21 surveillance at that point, had you?

22 A. At that time, there was no surveillance.

23 Q. So your decision then was made with the word
24 of one person, Mr. Varner, who said this is what took
25 place. How old was Mr. Varner in relationship to

1 Mr. Canales? Who's the older of the two individuals?

2 A. I'm unaware.

3 Q. All right. Have you since learned that my client
4 is less -- over two years, or over three years, younger
5 than Mr. Varner?

6 A. If that's the case, I'm -- yes.

7 Q. All right. Now tell the jury again, and this
8 thing about suspect and victim, is just what officer --
9 a determination is just made, I mean, isn't that
10 correct? Sometimes a victim would be a suspect,
11 a suspect would be a victim. It interchanges; isn't
12 that correct?

13 A. It can.

14 Q. Okay. Now you said you made that from the
15 directive of Mr. Galluccio, who already testified,
16 and you followed his instructions, did you not?

17 A. I did.

18 Q. Did you take a GSR -- I call it a paraffin
19 test, but, you know, I'm old school. Did you do that
20 to Mr. Danny Varner's hand, a kit to see if he fired
21 a weapon? We know he did, but did you do that anyway
22 to make sure?

23 A. I'm unaware at this time.

24 Q. Now did you do it to any other participant
25 who were out there that night?

1 A. I don't recall.

2 Q. Okay. Now, I'm going to hand you what's been
3 Court's Exhibit No. 1 and ask you if you're familiar
4 with it, because your name -- as a matter of fact,
5 there's a page on there that specifically addresses
6 you, where investigator -- Lead Investigator Galluccio
7 directs you to do certain things. He tells you
8 to go to Trident, tells you to meet the suspects
9 or the victims, and get statements; isn't that correct?

10 A. Just one moment. I don't believe my report
11 is in here.

12 Q. Your report -- you don't see yourself referenced
13 in that report, ma'am?

14 A. I see myself referenced.

15 Q. Yes, ma'am. And let's stay at the reference
16 point, because that's your directives. And on that
17 reference page, isn't it a fact, ma'am, that you were
18 directed to go to Trident Hospital? Ma'am?

19 A. Yes.

20 Q. And isn't it a fact that on the near bottom
21 of that document, it says by Mr. Varner that they
22 shot back, T-H-E-Y, they shot back, and didn't say
23 who; isn't that correct?

24 A. You're saying on this?

25 Q. Yes, ma'am.

1 A. Just one moment.

2 Q. To the bottom, same reference page. Want me
3 to point it out?

4 A. Yes, I don't see it on this page.

5 Q. Okay, I'll point it out for you, ma'am.

6 A. Thank you.

7 Q. You went to Berkeley High School, did you not?

8 A. No.

9 Q. Oh, you didn't?

10 A. No.

11 Q. I'm sorry. Right there, that's the page
12 that referenced you. Isn't it a fact that it says
13 that Mr. Varner said that they shot back, but did
14 not tell you who the shooters were?

15 A. This is not my report.

16 Q. My question is that's not what the document says.

17 A. You're referencing this ---

18 Q. Ma'am ---

19 A. --- is that correct?

20 Q. Ms. Nation, do you exactly see "they" in that --
21 you see this plain as -- it's right there in front
22 of you. Danny Varner. You testified that you talked
23 to him multiple times?

24 A. Um-huh. Are you talking about this?

25 Q. No, ma'am. No, ma'am. Right here.

1 Daniel Varner. Right there.

2 A. Okay.

3 Q. Tell the jury what you saw.

4 A. This document states that Daniel Varner stated
5 that they had to shoot back, but didn't say who.

6 Q. Thank you.

7 MR. DAVIS: No further questions. One last
8 question. I'm sorry.

9 BY MR. DAVIS:

10 Q. What is the legal age in South Carolina for you
11 to possess a weapon, handgun?

12 A. Twenty-one.

13 Q. Did Mr. Daniel Varner get charged with having
14 a firearm in his possession?

15 A. I don't recall.

16 Q. You don't recall? Was he ever arrested?

17 A. Not to my knowledge; I wasn't the case agent.

18 Q. Okay. Thank you.

19 MR. DAVIS: No further questions.

20 THE COURT: Anything else?

21 MS. GAY: Your Honor, I have no questions
22 at this time.

23 THE COURT: All right. Anything in
24 followup?

25 MR. MYERS: Just a few, Your Honor.

REDIRECT EXAMINATION

BY MR. MYERS:

Q. Whose supplemental are you reading off of?

A. That was not a supplement at all.

Q. What was it?

A. It looked like just some notes that were taken.

Q. So who took the notes?

A. I don't know.

Q. So it could have been -- so we don't even know who said that?

A. No.

Q. Okay.

MR. MYERS: Nothing further, Your Honor.

CROSS-EXAMINATION

BY MS. GAY:

Q. With regard to this thing, the document that we're talking about, we just want to be clear here. I understand that Goose Creek has a very strange way ---

MS. GAY: Do you have the document?

MR. DAVIS: Right here, right here.

MS. GAY: Okay.

BY MS. GAY:

Q. A very strange way of doing things where everything that's worked on in a case seems to be

1 started and then keep being added to. Is that the best
2 way to describe it?

3 A. Sure.

4 Q. Okay. So this document, which is listed as
5 State's Exhibit -- Court's Exhibit 1 -- I could show
6 you what this is.

7 A. Okay.

8 Q. This has been identified before in this courtroom
9 today ---

10 A. Okay.

11 Q. --- about notes having to do with this case.
12 And so the fact -- isn't that true, that's what
13 it's been identified as? So do you recognize what
14 this is?

15 A. I do not.

16 Q. Do you recognize that it appears to be a report
17 from Goose Creek Police Department about this incident?

18 A. So these appear to be reports from Goose Creek
19 Police Department, but this does not.

20 Q. Okay. So you're saying that this, State's [sic.]
21 Exhibit 1, has pages in it that you don't recognize
22 about -- for being a police report in Goose Creek?

23 A. Yes.

24 Q. Okay. However, you did identify that this
25 document attached to this State's Exhibit 1 says what

1 it is you testified to?

2 A. Yes.

3 Q. Okay. All right. But you just don't know who
4 added it in. Weren't you the one talking to Mr. Varner
5 at Trident? Was there anyone else there?

6 A. Which question are you asking?

7 Q. Was there any other police officer from
8 Goose Creek present at Trident Hospital?

9 A. Yes.

10 Q. Okay. Who is that?

11 A. Officer Martinez.

12 Q. So maybe Officer Martinez is the person
13 who actually added this to the notes, pursuant
14 to this police report?

15 A. I can't testify to that.

16 Q. Okay. So you didn't hear him say that,
17 but you know it's in this report?

18 A. Correct.

19 Q. Okay.

20 MS. GAY: I have no further questions.

21 MR. DAVIS: Just one, Your Honor. I want
22 to make sure to clear this up.

23 RECROSS EXAMINATION

24 BY MR. DAVIS:

25 Q. This court document -- you weren't in the

1 courtroom to know how this became a court document?

2 A. No, I was not in the courtroom.

3 Q. Okay.

4 THE COURT: All right. Thank you very much,
5 ma'am. You may step down.

6 MR. DAVIS: Thank you, Judge.

7 THE COURT: All right, ladies and gentlemen
8 of the jury, the next witness is going to take a pretty
9 long time. I don't want to keep y'all here past five.
10 So, I'm going to go ahead and let everybody sneak
11 out a little early to beat the traffic, and just report
12 back here tomorrow morning at 9:30.

13 Please remember, do not talk about the case
14 whatsoever. Just tell anybody who asks, just say, no,
15 the judge said we couldn't talk about it. Fair enough?
16 Enjoy the rest of your evening.

17 (The jury exited the courtroom at 4:12 p.m.)

18 THE COURT: All right. I want y'all
19 to get together and make sure that y'all could agree,
20 if any, on the photos. And then think long and hard,
21 Mr. Davis, about stipulating to not bringing nine people
22 from Columbia.

23 MR. DAVIS: Well, Judge, I'll agree to that,
24 Judge.

25 THE COURT: All right.

1 MR. DAVIS: I'm not going to abuse the
2 system, Judge.

3 THE COURT: All right. Then make sure that
4 you exclude those witnesses, okay? You can release
5 them.

6 MR. DAVIS: Yeah. Thank you, Judge.

7 THE COURT: Thank you.

8 (End of Transcript of Record)

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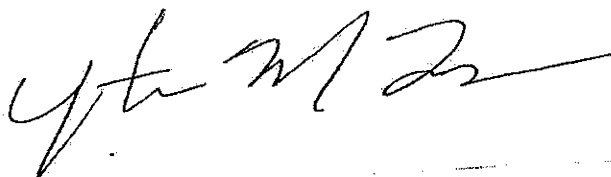
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 25th of September, 2023.

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

July 15, 2024



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY

2023-GS-08-01118-23

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) September 26, 2023 - Day 2

Isaiah Canales,)

Dimitri Dickens,)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge

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

F. Alexander Myers, Esquire
Olivia Lynch, Esquire
Attorneys for the State

Steve C. Davis, Esquire
Melisa White Gay, Esquire
Attorneys for the Defendants

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-10	Photograph	121	121
S-11	Photograph	121	121
S-12	Photograph	121	121
S-13	Photograph	121	121
S-14	Photograph	121	121
S-15	Photograph	121	121
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S-18	Favero's Sketch	121	218
S-19	Box of Evidence	121	223
D-1	Photograph	137	(ID Only)
D-2	Photograph	138	(ID Only)
D-3	Photograph	184	(ID Only)
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1 (State's Exhibit Nos. 10 through 19 were premarked for
2 identification.)

3 (State's Exhibit Nos. 10 through 15 were stipulated to.)

4 THE COURT: All right. Thank you very much.
5 Please be seated. All right, anything before we get
6 started?

7 MR. DAVIS: No, Your Honor. We agreed
8 on the photographs and premarked them.

9 THE COURT: Thank you very much.
10 I appreciate that. Bring them out.

11 (The jury entered the courtroom at 10:08 a.m.)

12 THE COURT: All right. Thank you so very
13 much for being on time. The delay is my fault.
14 I apologize. I did find the tie. But, however, I live
15 on an island, and it has a drawbridge, and it broke.
16 So, I've been sitting on my island for the past 25
17 minutes. I sent her a picture of me. I was the last
18 car that got stopped.

19 And, of course, I mean, there's nothing
20 I can do, and there's no way to get off. I live on
21 James Island, we have a connector, but I couldn't --
22 everybody was backed in with us, so I was stuck, so
23 I couldn't even turn around. So, the delay is my fault.
24 The attorneys will tell you I pride myself on being
25 punctual, but there's no way around this one today.

1 So, I apologize; that's on me. All right. Call your
2 first witness or next witness.

3 MR. MYERS: States calls Brayden Ward.

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

6 MR. BRAYDEN WARD was called as a witness,
7 being duly sworn, was examined and testified as follows:

8 THE CLERK: Thank you. You may be seated.
9 Please state your full name, spell your last name for
10 the record.

11 THE WITNESS: Brayden Ward, W-A-R-D.

12 DIRECT EXAMINATION

13 BY MR. MYERS:

14 Q. Mr. Ward, how old are you?

15 A. Nineteen.

16 Q. Where do you currently work?

17 A. Unique Marble, in Summerville.

18 Q. I'm sorry, where?

19 A. Unique Marble.

20 Q. Okay. And where do you currently live?

21 A. [REDACTED] ---

22 Q. And where is that located?

23 A. Summerville.

24 THE COURT: You've got to speak up a little
25 bit, okay?

1 THE WITNESS: Yes, sir.

2 MR. MYERS: Try not to eat the mic, but get
3 up closer, but try not to eat it.

4 BY MR. MYERS:

5 Q. Where did you reside in April of 2021?

6 A. Where I live? Same house.

7 Q. Okay. Are you familiar with the Royal Lanes
8 Bowling Alley in Goose Creek?

9 A. Yes, sir.

10 Q. Okay. Do you remember the events that took place
11 on the evening of April 25th, 2021, at Royal Lanes?

12 A. Yes, sir.

13 Q. What do you remember?

14 A. At first, a normal night at the bowling alley.
15 And then it came time to close, we were at the arcades
16 still playing games.

17 Q. When you say "we," who do you mean?

18 A. Me and Varner and my group of friends.

19 Q. Okay. Who are those group of friends?

20 A. My friend Jimbo [ph.], Keyson, Ken, and Daniel.

21 Q. Okay. So you were at the bowling alley, and it
22 was about to close?

23 A. Yes, sir.

24 Q. Continue.

25 A. We were in the arcade. They kicked us out the

1 bowling alley, so we're the last people to be walking
2 out.

3 Q. And why did they kick you out?

4 A. They were just kind of closing; we were still
5 playing.

6 Q. Okay. All right.

7 A. We walked outside. We were walking to the truck,
8 and as we're walking to the truck, people get out of the
9 truck -- get out of the car that was across from us.
10 They come up to us, and the first one goes to Daniel,
11 tells him, don't try anything. He goes to me, puts
12 the gun to my head, instantly starts going through
13 my pants. As that happens, all I hear is the gunshots
14 ring off.

15 Q. Okay. So when the gunshots ring off, you really
16 can't remember what was going on?

17 A. No, sir.

18 MR. DAVIS: Object, Your Honor, to the
19 leading. Putting words in the witness's mouth, Your
20 Honor.

21 MR. MYERS: Your Honor, I was just
22 clarifying his statement.

23 THE COURT: That's fine. Just ask the
24 question.

25 BY MR. MYERS:

1 Q. So when you said some guys, they jumped out
2 of the car, did you recognize any of these people?

3 A. Yes, sir, two of them.

4 Q. Two of them. How many got out of the car,
5 you think?

6 A. To my first knowledge, there was three people
7 that I saw.

8 Q. Okay. All right. So -- and you -- you said
9 you recognized two of them?

10 A. Yes, sir.

11 Q. Okay. And describe the people you saw. Do you
12 remember telling police officers what you saw that night
13 -- who you saw that night?

14 A. Yes, sir.

15 Q. What did you tell them?

16 A. I told them that the guy that took the money
17 out of my pocket was Meech.

18 Q. Okay. And Meech -- okay. Is Meech present
19 in the courtroom right now?

20 A. Yes, sir.

21 Q. Okay. I want you to point him out and describe
22 his clothing for me.

23 A. (Indicating.) He's got a grey collar on.

24 Q. Okay. And that is Meech?

25 A. Yes, sir.

1 MR. MYERS: Let the record reflect that
2 Mr. Ward has identified Dimitri Dickens as Meech.

3 THE COURT: All right, I'll let the record
4 reflect.

5 BY MR. MYERS:

6 Q. All right. So you recognized Meech. Did you --
7 how would you describe the other people there?

8 A. I know the first guy that crossed my path was --
9 went past me and went straight to Daniel, was a shorter,
10 skinnier, Hispanic man.

11 Q. Is that what you told officers?

12 A. I'm not sure if I described him because Meech
13 was on top of me the whole time.

14 Q. Okay. All right. So they approach you with
15 firearms, Meech and this other individual, the short
16 Mexican?

17 A. Yes, sir.

18 MR. DAVIS: Objection to the form of the
19 question. He used the word "they." I don't think
20 this young man has referenced "they." He referenced
21 one young man approaching with a weapon.

22 THE COURT: All right.

23 BY MR. MYERS:

24 Q. Let's clarify. There was more than one person
25 approaching ---

1 A. Definitely.

2 Q. --- with weapons?

3 A. Definitely.

4 Q. There was at least three, is that what you said?

5 A. That I saw, yes.

6 Q. Okay. Two of them you recognized; is that
7 correct?

8 A. Yes.

9 Q. Okay. And you've identified one of them here
10 in person as Meech?

11 A. Yes, sir.

12 Q. Okay. So when they did come out with the
13 weapons, and they approached you, what did -- did
14 you hear anybody say anything? Did they say anything
15 to you?

16 A. Yes, sir. Not to me, the shorter fellow, I heard
17 him tell Daniel not to try anything.

18 Q. Okay. Then what happened?

19 A. As soon as he told him not to try anything,
20 I'm getting pushed to the ground and shots start ringing
21 off.

22 Q. When you say you're getting pushed to the ground,
23 who pushed you to the ground?

24 A. Meech.

25 Q. Okay. And then when Meech pushed you to the

1 ground, what happened next?

2 A. He's going through my pockets with his left hand,
3 and with his right hand, he's shooting at Daniel.

4 Q. Okay. Why would you let him go through your
5 pockets?

6 A. With everything that I hear going on around me,
7 I didn't want to try anything.

8 Q. Did he threaten you with a weapon?

9 A. Yeah, when he first walked up, he put a gun
10 to my head.

11 Q. He put a gun to your head. Okay. And you say
12 he physically took your wallet?

13 A. Yes, sir.

14 Q. All right. So you said the shots went off.
15 And then what happened?

16 A. After he gets up off of me and starts running
17 back to the car, I instantly get up, kind of look
18 around and realize what's happening, realized Daniel
19 was all the way across the parking lot, and I instantly
20 run to Daniel and make sure he's okay.

21 Q. What happened to the individuals with guns?

22 A. They're all getting in the car at this point,
23 trying to leave.

24 Q. Did they get in the same car?

25 A. They all did.

1 Q. Okay. Did they all come out of the same car?

2 A. They do.

3 Q. Okay. So they leave?

4 A. Yes, sir.

5 Q. What did you do next?

6 A. I instantly ran over to Daniel to see how
7 he's doing. He's telling me he's shot, definitely.
8 I tell him to sit down, but he doesn't want to because
9 he doesn't like to -- his adrenaline is pumping right
10 now, and he kind of wanted to keep his adrenaline going,
11 so he couldn't feel the pain because he knew he was
12 shot. I just -- I instantly dialed 911.

13 Q. Okay. So you called 911 after that?

14 A. Yes, sir.

15 Q. Okay. I guess we heard you earlier.

16 MR. MYERS: Court's indulgence.

17 BY MR. MYERS:

18 Q. All right, Mr. Ward ---

19 MR. MYERS: Your Honor, may I approach
20 the witness?

21 THE COURT: Yes, sir.

22 BY MR. MYERS:

23 Q. I am handing you two items marked as State's
24 Exhibits 16 and 17. Do you recognize them?

25 A. Yes, sir.

1 Q. What are they?

2 A. This is the video footage of the -- from the
3 bowling alley.

4 Q. Does it portray events that you witnessed
5 yourself?

6 A. Yes, sir.

7 Q. Okay. Is it a fair and accurate representation
8 of what you saw and experienced that night?

9 A. Yes, sir.

10 Q. Okay.

11 MR. MYERS: At this time, State moves
12 to admit State's Exhibits ---

13 MR. DAVIS: Objection. I don't think
14 the proper foundation has been laid with the witness.

15 THE COURT: All right. Ladies and gentlemen
16 of the jury, there's a matter of law that we'll need
17 to take up. So, I'll ask you to excuse us for a couple
18 of minutes, and we'll bring you right back out.

19 (The jury exited the courtroom at 10:17 a.m.)

20 THE COURT: You may have a seat. All right.
21 State your objection.

22 MR. DAVIS: My objection is that there
23 hasn't been a proper chain in reference to this video.
24 He don't work at the place; he's never had the video
25 in his possession. All he says is that I've viewed

1 the video, and based on my viewing of the video, then
2 it can be introduced into evidence. I don't think
3 that's proper foundation.

4 MR. MYERS: Your Honor, chain is not
5 required for video. He witnessed the events as they
6 were taking place, whether it be up the street.
7 It's just like a photograph, there's no chain required.

8 MS. GAY: Your Honor, I think that the --
9 that it was done through the bowling alley, and somebody
10 from the bowling alley should at least authenticate it.

11 MR. MYERS: I could authenticate it through
12 business records, like she's saying. But a video
13 is easily authenticated through a person that was
14 in -- is being in the video. The witness is saying
15 it is, just like a photograph.

16 MR. DAVIS: He didn't witness; he was
17 a participant.

18 MR. MYERS: He -- the video is just of him
19 with other people. It's entirely him. It's not other
20 people; it's not other events. It's a video of this
21 individual, along with everybody else.

22 THE COURT: All right. Are you going to try
23 to publish the video?

24 MR. MYERS: Oh, yeah.

25 THE COURT: Pull it up.

1 (Video played for the Court.)

2 MR. MYERS: That's our individual right
3 there, Your Honor, walking.

4 THE COURT: All right. Do you recognize
5 that video?

6 THE WITNESS: Yes, sir.

7 THE COURT: Is that you in the video?

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. I'll allow it.

10 MR. DAVIS: Thank you, Judge.

11 THE COURT: Bring them back out.

12 (The jury entered the courtroom at 10:21 a.m.)

13 THE COURT: All right. You may be seated.
14 All right, you may proceed.

15 MR. MYERS: At this time, State moves to
16 admit Exhibits 16 and 17.

17 THE COURT: All right. Over the objection.

18 MR. DAVIS: Thank you, Your Honor.

19 So noted.

20 (State's Exhibit Nos. 16 and 17 were admitted into
21 evidence.)

22 MR. MYERS: Permission to publish, Your
23 Honor?

24 THE COURT: Yes, sir.

25 BY MR. MYERS:

1 Q. What are we looking at right here, Mr. Ward?

2 A. Me.

3 Q. Okay, that's you?

4 A. Yes, sir.

5 Q. What about these people down in the bottom?

6 A. Varner.

7 Q. Okay.

8 A. And a female.

9 Q. Okay.

10 (Videos played in open court for the jury.)

11 MR. DAVIS: Excuse me. Beg the Court's
12 indulgence. I've got a question. Is this the same
13 video?

14 MR. MYERS: Same video.

15 MR. DAVIS: I would argue against being
16 repetitive, Your Honor.

17 THE COURT: I'll let him see it again.

18 MR. DAVIS: Thank you, Judge.

19 (Video played again in open court for the jury.)

20 BY MR. MYERS:

21 Q. Continue playing. Pause. What is -- where are
22 you right there?

23 A. On the ground by the back tire of the Tacoma.

24 Q. And who is next to you?

25 A. Meech.

1 Q. Okay. And what is happening right there?

2 A. He's shooting over the bed of the truck

3 and rummaging through my pockets.

4 Q. Okay. So is that when he took your wallet?

5 A. Yes, sir.

6 Q. Continue playing. Go ahead and stop it.

7 Now, Mr. Ward, a lot of gunfire going on there.

8 You can see from the flash.

9 A. Yes, sir.

10 Q. Just as you testified.

11 MR. DAVIS: Excuse me. What did he say?

12 MR. MYERS: I said -- he was commenting
13 on the shooting in the video. We're talking about that,
14 that's why.

15 MR. DAVIS: Well, the video speaks for
16 itself.

17 BY MR. MYERS:

18 Q. The gunfire in the video you just watched,
19 you testified that occurred?

20 A. Yes, sir.

21 Q. Who was shooting?

22 A. In total?

23 Q. Yeah. Was any of your friends shooting?

24 A. Daniel.

25 Q. Daniel. Anyone, besides Daniel, firing a weapon?

1 A. Everybody else that got out the car.

2 Q. Okay. So it was none of your friends that were
3 firing a weapon, other than Daniel?

4 A. Yes, sir.

5 Q. Okay. Mr. Ward, did you -- when I initially
6 talked to you, did you want to be involved in this
7 trial?

8 A. Not at all.

9 Q. And why is that?

10 A. Because of the look of being a snitch.

11 Q. And what is a snitch?

12 A. Basically, someone who tells on somebody.

13 Q. Is that considered important in your ---

14 MR. DAVIS: I'm going to object to the
15 reference of putting inferences on the word "snitch."
16 That's improper.

17 THE COURT: Just ask the question.
18 I'll overrule it.

19 BY MR. MYERS:

20 Q. Is that important?

21 MR. DAVIS: I object. You cannot say the
22 word "important."

23 THE COURT: I'll overrule it. Just ask him
24 the question.

25 THE WITNESS: It has a meaning in my life.

1 BY MR. MYERS:

2 Q. Is it important?

3 MR. DAVIS: I object.

4 THE COURT: I've already overruled it.

5 MR. DAVIS: Thank you.

6 BY MR. MYERS:

7 Q. Is it important?

8 A. Yes, sir.

9 Q. Okay. Why is it so important that you not be
10 a snitch?

11 A. I don't want to be looked that way and have
12 to worry about looking over my shoulder.

13 Q. Okay. When you say looking over your shoulder,
14 what do you mean?

15 A. Worried that someone on their side is not going
16 to like that I'm here today.

17 Q. Okay. And what if they don't like it?

18 A. They may do something about it.

19 Q. And when you say do something, you mean ---

20 A. Do something along the lines of this.

21 Q. Tell the people what you mean when you say do
22 something.

23 A. I don't want to be killed in my own home for no
24 reason.

25 Q. Have you had any other involvement in this trial,

1 other than speaking with me?

2 A. No, sir.

3 Q. All right.

4 MR. MYERS: Court's indulgence. Please
5 answer any question defense may have.

6 THE WITNESS: Yes, sir.

7 MR. DAVIS: May it please the Court, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Mr. Ward, have you and I ever discussed this
12 case?

13 A. No, sir.

14 Q. Thank you.

15 MR. DAVIS: Now, I want this marked just
16 for identification purposes.

17 (Defendant's Exhibit No. 1 was marked for
18 identification.)

19 MR. DAVIS: I'm going to ask you can you
20 identify ---

21 MR. MYERS: Your Honor, may I take a look
22 at what he's handing?

23 (Pause.)

24 MR. MYERS: Your Honor, I would object
25 to improper character evidence.

1 THE COURT: Let me see what it is.

2 (Off-the-record conversation held at sidebar.)

3 (Back on the record.)

4 MR. DAVIS: Please mark this for
5 identification, 2, please.

6 (Defendant's Exhibit No. 2 was marked for
7 identification.)

8 MR. DAVIS: May I approach the witness,
9 Your Honor?

10 THE COURT: Yes, sir.

11 MR. DAVIS: Thank you.

12 BY MR. DAVIS:

13 Q. Mr. Ward, I'm going to hand you a photograph
14 that is just for identification, No. 2. I ask can
15 you identify that?

16 A. Yes, sir.

17 Q. You're pretty quick. Who's that?

18 A. That's me.

19 Q. And in that picture, that's you?

20 A. Yeah.

21 Q. And what are you trying to describe in that
22 picture?

23 A. It's a picture of me standing in front
24 of a truck.

25 Q. No, it's more than that. You're pointing

1 a weapon; isn't that correct?

2 A. That's my fingers.

3 Q. In the direction of a weapon?

4 A. You can say yes.

5 Q. Huh?

6 A. Sure.

7 Q. Okay, okay. Now this is another photograph.

8 I ask you can you identify that?

9 A. Yes, sir.

10 Q. What is it?

11 A. A very old picture of me.

12 Q. Well, it's old, but is it you?

13 A. Yeah.

14 Q. Tell the jury what's in that picture.

15 A. Like, \$100.

16 Q. We can't tell.

17 A. I can; it's 20s.

18 Q. Okay. What are you trying to accomplish with
19 that photograph?

20 A. It's a picture of me that I posted on Instagram
21 in, like, 2020.

22 Q. Well, this happened in 2021, right?

23 A. Your point?

24 Q. Sir?

25 A. Your point is?

1 Q. I don't make points.

2 A. Yes, sir.

3 Q. Thank you.

4 MR. DAVIS: Now, Judge, I ask that they
5 put that video back up for cross-examination purposes,
6 please.

7 MR. MYERS: That's fine.

8 BY MR. DAVIS:

9 Q. While they're working on that, has any one
10 of these young men ever been to your house?

11 A. No, sir.

12 Q. Meech has never been to your house?

13 A. Not that I know of.

14 Q. That you know of?

15 A. I hope not.

16 Q. You hope not. You've got a sister though, right?

17 A. Yeah.

18 Q. What's your sister's name?

19 A. Victoria.

20 Q. She don't know him?

21 A. She does, but he's never been to my house.

22 Q. You're certain of that?

23 A. Yeah.

24 Q. This young man has never been to your house?

25 A. No, sir.

1 Q. Have you ever bought drugs from this young man?

2 A. No, sir.

3 Q. Never?

4 A. No, sir.

5 Q. Has Daniel ever bought drugs from him?

6 A. No, sir.

7 Q. You're certain about that?

8 A. Yeah.

9 Q. You're vouching for Daniel too?

10 A. Yeah.

11 Q. Okay. I want you to turn around and look
12 at the video again. That's you in the front, right?

13 A. Yes, sir.

14 Q. Now you said a group of y'all had come out
15 of that arcade.

16 A. There's three ---

17 Q. Let me ask the question.

18 A. Yes, sir.

19 Q. On direct examination, you said a group of y'all
20 came out because y'all were the last group to come out;
21 isn't that what you said?

22 A. Yes, sir.

23 Q. So in this video, where is the rest of the group?
24 They're already at the truck?

25 A. Yes, sir.

1 Q. All right. So when you gave that description,
2 you didn't tell it correctly because you, Daniel,
3 and a girl, have strayed in the back; isn't that
4 correct?

5 A. Yes, sir.

6 Q. But the video -- sir?

7 A. Yes, sir.

8 Q. But a group of your friends is already at that
9 truck, right?

10 A. Yes, sir.

11 Q. And that vehicle that is going to cause this
12 crossfire that caused us to be here today is already
13 parked; isn't that true?

14 A. Yes, sir.

15 Q. And you don't know what had transpired before
16 you got there, sir, do you?

17 A. What are you saying?

18 Q. You understand good what I'm saying. Could
19 you tell what had happened or depicted between these
20 two vehicles and the occupants of those cars before
21 you got to that location? It's not complicated, son.
22 Turn and look at the video; you were doing it before.
23 That's you right there, right?

24 A. Yes, sir.

25 Q. That's a pretty good distance from that truck,

1 right?

2 A. Yes, sir.

3 Q. And you have admitted that that's the vehicle
4 that is in question today, and that's the pickup truck,
5 right?

6 A. Are you asking if those two trucks communicated
7 before I walked out?

8 Q. I ain't talking about the trucks; I want people.
9 Did the two people communicate before you got there?

10 A. I'll tell you they didn't.

11 Q. How do you know?

12 A. Because those are my friends.

13 Q. Son, how could you know if they communicated with
14 that distance you've got between you? How can you vouch
15 for that, sir?

16 A. Why?

17 Q. My question is how can you ascertain from
18 the distance you have that these two vehicles already
19 in place, that they didn't communicate, sir?

20 A. I don't know.

21 Q. That's right, you don't know. Let the tape play
22 on. Stop it right there, please. The female is with
23 Daniel?

24 A. Yes.

25 Q. Okay. Did she get shot at any point?

1 A. Shot at?

2 Q. My question, did she get any injuries from
3 this ---

4 A. No, sir.

5 Q. --- mayhem between you and these two vehicles?

6 A. No, sir.

7 Q. Thank you. Play on. Stop it. Who is that
8 individual, the female?

9 A. Destiny.

10 Q. Who is Destiny?

11 A. A female.

12 Q. Who is she -- how is she connected as a party?

13 A. She was another friend of the group.

14 Q. Okay. Does she know Mr. ---

15 A. I don't know.

16 Q. Okay. Does she know Meech?

17 A. I don't know.

18 Q. Thank you. Play on. Stop right there, please.

19 Where are your friends now in relationship to that
20 truck? Are they inside the truck or outside the truck?

21 A. They've been in the truck since the video
22 started.

23 Q. I didn't ask you that question because
24 you couldn't tell from the distance ---

25 A. Yeah, you can.

1 Q. They're in the truck?

2 A. Yes, sir.

3 Q. Where are they sitting in the truck?

4 A. There's two in the front seat, one in the
5 backseat.

6 Q. You can tell all that?

7 A. I know how the truck is.

8 Q. Okay. Thank you. Play on. Stop right there.
9 There's been some reference of an ambush. Your guy
10 is in the car, right?

11 A. Yes, sir.

12 Q. These people are in the car, right?

13 A. Yes, sir.

14 Q. And they're waiting on, apparently, you and
15 Mr. Daniel; isn't that correct?

16 A. Yes, sir.

17 Q. Okay. Play on. Stop right there, please.
18 There's an individual coming towards you, Daniel,
19 and the female; isn't that true?

20 A. Yes, sir.

21 Q. Who is that individual?

22 A. Canales.

23 Q. Okay. Apparently, Canales and Daniel are going
24 to intersect, get together, right? They're going
25 to meet each other?

1 A. He didn't know that was going to happen, but,
2 yeah, it does happen.

3 Q. They do meet, don't they?

4 A. Yeah.

5 Q. All right. And why were they meeting?

6 A. Why?

7 Q. Hadn't they sold drugs -- exchanged drugs and
8 money before?

9 A. No.

10 Q. You're certain about that?

11 A. My hand on the Bible.

12 Q. All right. Play on.

13 MR. MYERS: Objection. Asked and answered.

14 MR. DAVIS: Play on.

15 MR. MYERS: He asked that question three
16 times, Your Honor.

17 MR. DAVIS: Play on. It's
18 cross-examination. Play on.

19 THE COURT: I'll overrule it.

20 BY MR. DAVIS:

21 Q. Stop right there.

22 A. I'll tell you if this wasn't me, why would he ---

23 Q. Stop, I didn't ask you a question. You've been
24 on direct. You just stop and pay attention.

25 MR. MYERS: Your Honor, please allow ---

1 MR. DAVIS: He cannot ask me ---

2 THE COURT: Hold on, everybody stop. I'll
3 overrule your objection. Ask the question, then you get
4 to answer.

5 THE WITNESS: Yes, sir.

6 MR. DAVIS: Thank you.

7 BY MR. DAVIS:

8 Q. At this point in the tape, where are you at?
9 Where are you located now in this tape?

10 A. By the back tire.

11 Q. Who else is by that back tire?

12 A. Me and Daniel and Destiny.

13 Q. What about Mr. Canales?

14 A. He might have paused it right on it, but he's
15 probably just walking up on us.

16 Q. No, he's already over there.

17 A. Okay.

18 Q. And what about Meech?

19 A. I'm pretty sure he's about to get out the car.

20 Q. You pretty much -- I'm talking about what
21 happened? Was he out of the car at that point?

22 A. Right now at this point, no, sir ---

23 Q. All right. Thank you.

24 A. --- I don't think he's out the car.

25 Q. Play on.

1 A. Yes, he is.

2 Q. Stop right there. Who's another -- what's
3 transpiring right now? Is there a scuffle going on
4 between Daniel and Canales?

5 A. Yes, sir, Canales pistol whipped him in the head.

6 Q. I thought you had a gun to your head, so occupied
7 that you didn't know what was going on? Play on,
8 please.

9 A. Afterwards, yes, I did figure it out.

10 Q. Play on. Stop. Those flashes, those flashes,
11 what are those flashes?

12 A. Gunshots.

13 Q. From people from the truck shooting in that
14 direction?

15 A. No, from -- all the people from his car shooting
16 at Daniel.

17 Q. No, the flashes come from the end of the gun
18 from which it's coming.

19 THE COURT: Ask the question; you can
20 answer.

21 THE WITNESS: May I ask something?

22 MR. DAVIS: Let me see that photograph
23 that you marked. This has already been introduced
24 by the State, Your Honor. This is -- oh, geez, let
25 me get my glasses.

1 MR. MYERS: Your Honor, those photographs
2 have not been admitted.

3 MR. DAVIS: You're going to admit them,
4 right?

5 MR. MYERS: I don't know. We would
6 stipulate to them.

7 THE COURT: Then, you can use them.

8 MR. DAVIS: Thank you very much. State's
9 Exhibit No. 14. May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. DAVIS:

12 Q. I want you to look at that.

13 A. Yes, sir.

14 Q. That's the truck, right?

15 A. Yes, sir.

16 Q. And you see those yellow markers?

17 A. Yes, sir.

18 Q. Those are casings. I know you're familiar with
19 guns. What are casings?

20 A. The casings are the shells after it's been fired.

21 Q. Discharged, right?

22 A. Yes, sir.

23 Q. And you will admit that a majority of those
24 casings are right near that truck?

25 A. All are from Meech.

1 Q. I just asked you a question, son. Near that
2 truck, right?

3 A. Yes, sir.

4 Q. Okay. Where you and your friends were, right?

5 A. Where I was; the friends were in the car the
6 whole entire video.

7 Q. Okay. Okay.

8 A. There also wasn't another firearm ---

9 Q. Son, you've got to learn to tell when there's
10 a question, okay?

11 A. Sorry. Yes, sir.

12 Q. You want to come up -- what grade are you in?

13 A. I graduated.

14 Q. Okay. And it's your testimony that you did
15 not know why Daniel and Canales were getting together
16 that night?

17 A. There was no they were going to get together.
18 This is not something that was planned. We did not
19 know that this was going to happen. Why would we want
20 this to happen?

21 Q. Okay, okay. Did Daniel have a weapon?

22 A. Yeah.

23 Q. How many weapons did he have?

24 A. One weapon.

25 Q. Okay. You know the legal age to have a weapon

1 in South Carolina?

2 A. Yeah.

3 Q. What is it?

4 A. Conceal and carry is 21, but you can have
5 a weapon in a vehicle at 18.

6 Q. Well, no, I don't think that's ---

7 A. Yes, sir, you can.

8 Q. Well, you can have an assault rifle, but you
9 can't have no pistol.

10 A. Yes, you can, at 18 you can have a pistol
11 concealed in the glove box. Yes, sir, you can.

12 Q. You know a lot about the law and guns, don't you?

13 A. Why wouldn't I know?

14 Q. You know a lot about guns?

15 A. I'm old enough to conceal one, yes, sir.
16 I do know about them.

17 Q. You know a lot about guns. How many guns have
18 you seen Daniel with over time?

19 A. Why does that matter?

20 Q. I asked you a question.

21 A. Over what time?

22 Q. How many guns have you seen Daniel with?

23 A. Over what time?

24 Q. Over the time period that caused you to be here,
25 son.

1 A. Like, two.

2 Q. What kind of guns?

3 A. Pistol.

4 Q. What about an assault rifle?

5 A. Yeah, he bought an AR.

6 Q. All right. AR-15?

7 A. Yes, sir.

8 Q. And you're saying, young man, you're fearful
9 of people coming because you're a snitch, and they're
10 going to come and attack your home, right?

11 A. Yes, sir.

12 Q. Okay. You're fearful of Daniel using the AR?

13 A. Could you repeat that, sir?

14 Q. All right, son. Do you have an AR-15?

15 A. No.

16 Q. Okay. Daniel, does he hunt?

17 A. He used to.

18 Q. Sir?

19 A. He used to.

20 Q. Do you need an AR-15 to hunt?

21 A. Depends on what you're hunting.

22 Q. Well, you're hunting people, you need one;
23 isn't that correct?

24 A. (Witness made tsk sound.)

25 Q. Thank you. How many times would you say Daniel

1 shot -- discharged that gun that night?

2 A. Maybe three out of the six bullets fired.

3 Q. Three out of six. And did Canales, at any time,
4 approach you?

5 A. Besides when he moved to Daniel from where I was
6 at.

7 Q. Did, at any time, he approach you?

8 A. No, sir.

9 Q. Okay. Did you have any conversation with him?

10 A. No, sir.

11 Q. Do you know anything about the sale of marijuana?

12 A. No, sir.

13 Q. You don't know what the price of an ounce
14 of marijuana is?

15 A. No, sir.

16 Q. Never have bought it?

17 A. No, sir.

18 Q. You ever been in the presence of Daniel smoking
19 marijuana?

20 A. No, sir.

21 Q. Wow.

22 MR. DAVIS: No further questions.

23 CROSS-EXAMINATION

24 By MS. GAY:

25 Q. You mentioned that you think that Daniel may

1 have shot the gun three times. Would it be possible
2 that he shot that gun five times?

3 A. No, not possible.

4 Q. Not possible. Okay. And Mr. Davis showed you
5 a picture that has been marked as State's Exhibit 15.
6 I'm going to show you that again. This picture.

7 A. Yes, ma'am.

8 Q. Okay. You can hold it. So in this picture,
9 the -- these yellow things, and I believe there may
10 be a diagram that we're going to talk about, these
11 yellow things are where the casings pop out of the gun?

12 A. Yes, ma'am.

13 Q. Okay. In the video, which I'm not going to watch
14 again, but we're going to talk about it. In the video,
15 there's all these flash bangs that are coming ---

16 A. Yes, ma'am.

17 Q. --- from multiple weapons.

18 A. Yes, ma'am.

19 Q. Multiple weapons. You're aware because you know
20 about this investigation, but there were also multiple
21 types of bullets and casings out there. There were
22 .380s, there were .45s. There was some strange one
23 that I've never heard of before, but there were multiple
24 casings from multiple types of weaponry or bullets?

25 A. Yes, ma'am.

1 Q. Okay. So this gun that you know that Mr. --
2 that Daniel had was a Ruger?

3 A. Yes, ma'am.

4 Q. Okay. And I believe when the police came up,
5 and they were doing all this, that Ruger was in the
6 seat of the truck at the time that the police arrived?

7 A. They got it out of the glove box; I'm pretty sure
8 it was in the glove box.

9 Q. Okay. Let me show you this picture. This is
10 State's Exhibit No. 12. What's that? Do you recognize
11 that?

12 A. Yeah, it's the Ruger.

13 Q. That's the Ruger. Okay. So State's Exhibit
14 No. 12, is that in a glove box?

15 A. No.

16 Q. Okay. Are you aware that when police come
17 up they don't ever move anything before they actually
18 photograph it so they can remember where it was?

19 A. I guess.

20 Q. You don't know that? Well, so -- and the other
21 thing is, how can Mr. Daniel -- I mean, Daniel can't
22 be shooting his gun at least three or five times while
23 it's sitting in the glove box. That's not real.
24 You would agree with me, right, that's not even
25 possible?

1 A. I guess not.

2 Q. Right. It's not possible because his gun
3 and trajectory and bullets that were found at the
4 scene matched, and there were at least five of them. .
5 So there's no way that this Ruger could have stayed
6 in a glove box?

7 A. Okay.

8 Q. Right?

9 A. Yes, ma'am.

10 Q. Okay. So, at some point, and when we watched
11 the video -- I think the second video was a little
12 closer, it looked a little clearer to me.

13 A. Yes, ma'am, it is.

14 Q. So what I see, and what I'm asking you, is that
15 if you'll agree with me, so you three are walking up --
16 there's people in the truck, right?

17 A. Yes, ma'am.

18 Q. And you three are walking up to the truck?

19 A. Yes, ma'am.

20 Q. And there was some discussion about there being
21 an ambush, but that's not real because y'all were
22 just standing by your truck when Mr. Canales walked
23 up to y'all. There weren't, like, you know, armed
24 people running out, and, you know, grabbing you
25 at all. They just -- Mr. Canales walked up to Daniel,

1 isn't that correct, in the video?

2 A. I guess.

3 Q. You guess, okay? So he walks up, there's no
4 gun in his hand at that point. There's, obviously,
5 some kind of scuffle ---

6 A. Says who?

7 Q. Well, I didn't see it ---

8 A. I saw it with my own eyes that night.

9 Q. --- but maybe the jury will. Okay.

10 A. There was a gun in his hand when he walked up
11 on Daniel.

12 Q. Okay. So Daniel ---

13 A. He was pistol whipped in the head. Yes, ma'am,
14 he did.

15 Q. Okay. So Daniel gets shot?

16 A. Yes, ma'am ---

17 Q. So in the course ---

18 A. --- after he got pistol whipped in the head.

19 Q. Okay. But also after Mr. Canales gets shot.

20 They both get shot. We agree that they both get shot?

21 A. Yes, ma'am.

22 Q. Okay. In the video, it's difficult to see
23 because it's pretty far away who's getting shot when,
24 but they're both shot, ultimately?

25 A. Yes, ma'am.

1 Q. Daniel is shot, and Isaiah is shot, Canales,
2 right?

3 A. Yes, ma'am.

4 Q. Okay. And so in the video, my client,
5 Mr. Dickens, Mr. Canales is already -- Isaiah is walking
6 up and having some kind of conversation, some kind
7 of argument that you're describing, before Dimitri ever
8 gets out of the car to walk towards you. That's already
9 happening before Mr. Dickens gets out of the car?

10 A. Not really.

11 Q. We watched it; it's what happened.

12 A. Yes, ma'am, and Dickens is already halfway
13 out of the car, just about to get to me when Isaiah
14 and him start scuffling, and Isaiah pistol whipped
15 him in the head.

16 Q. And they both get shot. That's the thing, they
17 both get shot. So when Mr. Dickens comes out of the
18 car and puts the gun, and holds the gun, and starts
19 using his other hand to go in your pocket, there's --
20 that's already after these two have scuffled, and
21 there's already gunshots going off because you said
22 it all happened so fast, and you heard a bunch of shots?

23 A. He's in my pants already checking all of
24 my pockets, and the shots go off, and he's starting
25 to shoot at Daniel. So it's all the other -- there's

1 five of them shooting at Daniel at once.

2 Q. Okay. But you only said you saw three people?

3 A. Yeah, I said I only saw three people. In that
4 video, there's clearly five of them getting out of that
5 car.

6 Q. Well, so -- but there's also people at the back.
7 These casings that come at the truck, they're all lined
8 up where the back of the truck is, all lined up ---

9 A. So exactly where Meech was standing, shooting
10 over my head. That's what all those are.

11 Q. After the shots were fired starting it. He's not
12 the one who shot -- started the shooting, someone else
13 started the shooting.

14 A. I can point out where they shot first, one
15 of the people that got out of the car.

16 Q. Okay. I understand that. That's ultimately
17 a question for the jury to decide who shot first.

18 A. Yes, ma'am.

19 Q. But my client didn't start shooting until after
20 other shots were fired?

21 A. Yes, ma'am.

22 Q. That's right, correct?

23 A. Yes, ma'am.

24 Q. Okay.

25 MS. GAY: One moment, Your Honor.

1 (Pause.)

2 BY MS. GAY:

3 Q. Okay. So are you aware that when Mr. -- that
4 Daniel, when he went to the hospital, had no injuries
5 to his head, no signs of bruising or anything associated
6 with his head?

7 A. He had a chunk taken out of his head.

8 Q. Okay. Well, we'll ask Mr. Varner about that;
9 that's not in the medical records.

10 A. Yes, ma'am.

11 Q. Thank you.

12 THE COURT: All right. Anything in
13 followup?

14 MR. MYERS: A few questions, Your Honor,
15 just to clarify, because even I got confused listening
16 to that.

17 MR. DAVIS: Your Honor, I'm going to object
18 to ---

19 REDIRECT EXAMINATION

20 BY MR. MYERS:

21 Q. Just to clarify, Canales, was he at the truck
22 when you approached it?

23 A. When I approached it?

24 Q. Was Daniel -- was Canales meeting someone
25 at the truck before you guys walked out?

1 A. No.

2 Q. Okay. So just to clarify, Canales was not
3 already there when you got to the truck?

4 A. Yeah.

5 Q. Okay.

6 A. Everybody was in that car that we did not know
7 was full of people.

8 Q. Okay. When these individuals jumped out of this
9 red car ---

10 A. Yes, sir.

11 Q. --- coming towards you, and before Varner shoots
12 a round, did you think ---

13 MR. DAVIS: Objection, the question -- needs
14 to be put in the form of a question, Your Honor.

15 THE COURT: All right. Ask the question.

16 MR. DAVIS: Thank you.

17 BY MR. MYERS:

18 Q. Before Varner shoots a round, did you believe
19 you were being robbed?

20 A. Yes, sir.

21 Q. Okay. How did you know that?

22 A. I was instantly -- he instantly told him not
23 to try anything with a gun to his stomach. I instantly
24 knew that was -- that's -- they're robbing us.

25 Q. Did Canales exit the red vehicle with the gun

1 drawn on you?

2 A. Yes, sir.

3 Q. Did Dimitri Dickens, Meech, exit the vehicle
4 with a gun pointed at y'all?

5 A. Yes, sir.

6 Q. All right. Was there a drug meet?

7 A. No, sir.

8 Q. Was drugs found at the scene?

9 A. No, sir.

10 Q. Did you -- when Varner shot the gun, did someone
11 put it in the glove box after the gunfight?

12 A. Yes, sir, I did.

13 Q. Okay. You put the gun in the gun box?

14 A. Yes, sir.

15 Q. Okay. And that's how you knew it was in the gun
16 box?

17 A. Yes, sir.

18 Q. Okay. And how did the officers get the gun when
19 they arrived?

20 A. I told them that the gun that was used was
21 in the glove box.

22 Q. So you secured the gun?

23 MR. DAVIS: I'm going to object again
24 to the reference of characterization ---

25 THE WITNESS: Yes, sir.

1 MR. DAVIS: --- of the weapon -- of the
2 testimony, Your Honor.

3 BY MR. MYERS:

4 Q. And when officers arrived ---

5 THE COURT: Hold on. I'll overrule the
6 objection. Just ask the question.

7 MR. DAVIS: Thank you.

8 BY MR. MYERS:

9 Q. And when officers arrived, you gave them the gun?

10 A. I told them where it is so they can secure it,
11 yes, sir.

12 Q. Okay. Is it possible this photo that they showed
13 you ---

14 A. That they grabbed it and put it on the seat,
15 yes, sir, I think that's what happened.

16 MR. DAVIS: I object to that, possibly calls
17 for conjecture, Your Honor. Ask that it be stricken
18 from the record.

19 THE COURT: I'll sustain the objection.
20 It's speculation. He's not able to testify as to what
21 transpired.

22 MR. MYERS: Thank you, Your Honor.
23 No further questions, Your Honor.

24 THE COURT: All right.

25 MR. DAVIS: I got one question, Your Honor.

1 May it please the Court.

2 RECROSS EXAMINATION

3 BY MR. DAVIS:

4 Q. Why was it necessary for you to put that gun
5 in the glove compartment?

6 A. Because I just didn't -- Daniel was on the ground
7 bleeding out, I don't ---

8 Q. My question is, why was it necessary for you
9 to put that gun in the glove compartment after it had
10 been utilized in a crime?

11 A. Because it's a secure -- I didn't want a gun just
12 laying around.

13 Q. Oh, okay. Thank you.

14 MR. DAVIS: No further questions.

15 THE WITNESS: I put it securely so the cops
16 can get it when they arrived.

17 THE COURT: All right. You're free to go.

18 THE WITNESS: Yes, sir.

19 MS. GAY: Wait, I have one more.

20 THE COURT: Okay.

21 RECROSS EXAMINATION

22 BY MS. GAY:

23 Q. So, I want to reiterate this again because
24 you have already testified that you think it's legal
25 for a gun to be in a glove box.

1 A. Yeah, I know it is.

2 Q. And that you've already testified that you knew
3 that Daniel had shot and fired the gun, you knew that?

4 A. Yeah.

5 Q. So somehow you're trying to make the existence
6 of the gun be legal ---

7 A. No, ma'am, that's not what I said.

8 Q. --- by putting it in the glove box?

9 A. No, ma'am.

10 Q. Why didn't you just leave it where it was for
11 the police to arrive?

12 A. Because it was just a gun laying out.

13 Q. Right, a piece of evidence in the case laying
14 out, which should have just been left where it was.

15 A. In my mind of what just happened at that time,
16 me being, what, I was probably 16, I just -- I wanted
17 to put it away and secured for when the cops came.

18 Q. So then the cops don't know where it actually
19 was at the time, that's my point.

20 A. Oh, I told the cop. I told the cop when Daniel
21 got shot, he put it down on the truck, and I took
22 it from the truck bed and put it in the glove box.
23 I told them that.

24 Q. Okay. Well, it's not legal to have a gun that's
25 been fired ---

1 THE COURT: All right. Don't testify,
2 just ask questions.

3 MS. GAY: Thank you, Your Honor.

4 THE COURT: You may be excused.

5 THE WITNESS: Thank you.

6 THE COURT: All right. Call your next
7 witness.

8 MR. MYERS: States calls Daniel Varner.

9 THE CLERK: Please raise your right hand,
10 place your left hand on the Bible.

11 MR. DANIEL VARNER was called as a witness,
12 being duly sworn, was examined and testified as follows:

13 THE CLERK: Thank you. You may be seated.
14 Please state your full name, spell your last name for
15 the record.

16 THE WITNESS: Daniel Varner, V-A-R-N-E-R.

17 DIRECT EXAMINATION

18 BY MR. MYERS:

19 Q. Mr. Varner, how old are you?

20 A. Twenty-one.

21 Q. And where are you currently employed?

22 A. RLA.

23 Q. What do you do there?

24 A. Land surveyor.

25 THE COURT REPORTER: I can't hear you.

1 MR. DAVIS: I didn't hear.

2 MS. GAY: I didn't hear you.

3 THE WITNESS: Land surveyor.

4 MR. MYERS: If you could, just lean up just
5 a little bit to the mic. Don't -- not too close.

6 BY MR. MYERS:

7 Q. Where do you currently reside?

8 A. Goose Creek.

9 Q. All right. Are you familiar with the Royal Lanes
10 Bowling Alley in Goose Creek?

11 A. Of course.

12 Q. Okay. Do you remember the events that took place
13 on the evening of April 25th, 2021?

14 A. Yes.

15 Q. All right. What do you remember about that
16 night?

17 A. I remember we didn't know what to do that night,
18 so we went bowling, and they were about to close so
19 we played some games before they closed. We ended up
20 getting kicked out because of how long we were there
21 after they closed. And then when we left, that's when
22 all the events occurred.

23 Q. Okay, walk me through that. So you guys --
24 who's all with you at the bowling alley?

25 A. Me, Brayden, Keyson, Jimbo, Ken, and a girl named

1 Destiny.

2 Q. Okay. And so you're kicked out. You guys start
3 walking out?

4 A. Yes.

5 Q. Okay. And so when you start walking out, pick
6 up from there. Tell me what happened.

7 A. We walked out, and Destiny, we were hanging out
8 that night. She came to hang out with me. She asked
9 me to walk her to her car. But, like, I was going
10 to walk with all my friends because we were all hanging
11 out, and so I just walked back to the truck with
12 Brayden.

13 And when we got to the back of the truck, I went
14 to turn around to talk to her because I figured she
15 was going to leave because her car was back the other
16 way. And then when I turned around, I saw Isaiah
17 walking up to me with a handgun in his hand, saying
18 not to move or scream, or don't touch anything.

19 So the first thing I do is turn around
20 and go to grab my gun, which is in my jacket pocket,
21 and by the time I'm reaching, I get hit in the back
22 of the head, so I start running, and I had -- and that's
23 when I shot while running away, after hearing gunshots
24 while I was running.

25 Q. So they fired first?

1 A. From what I think. I was ---

2 Q. So it's possible you fired first after being
3 pistol whipped?

4 A. After being pistol whipped ---

5 MR. DAVIS: Objection, Your Honor,
6 characterization of the term pistol whipped.

7 THE COURT: All right. It's overruled.

8 BY MR. MYERS:

9 Q. How would you describe the attack he made?

10 A. Well, after I went to go reach for mine, I turned
11 around, and he hit me in the back of the head with his
12 gun, and then that's while loading mine, while running
13 away.

14 Q. Okay. So you returned fire?

15 A. Yes.

16 Q. Okay. And then what happened?

17 A. I just hear all kinds of gunshots while running
18 away. When I get to the back of the only car I see
19 across the parking lot, they're all, like, running
20 back to their car, and my gun jammed before I ran away,
21 like, as I was running, and then I had to un-jam
22 it and redo everything.

23 By that time, they were driving away, and then
24 Brayden comes running over to me. And then after
25 he runs over to me, Ken runs over. They were making

1 sure I was all right. And then as soon as Brayden gets
2 over to me, they shoot on the way out, and we just drop
3 to the floor in front of the car so we didn't get hit.

4 Q. Okay. Now you said Canales and Meech. Is Meech
5 present in the courtroom today?

6 A. Yes.

7 Q. Okay. Please point him out and describe his
8 clothing.

9 A. (Indicating.) He's standing right there; he just
10 stood up with a gray collar on.

11 MR. MYERS: Let the record reflect,
12 the victim has identified Dimitri Dickens as Meech.

13 THE COURT: All right. Let the record
14 reflect.

15 BY MR. MYERS:

16 Q. Now when you talk about Canales, is that
17 individual in the courtroom today?

18 A. Yes.

19 MR. DAVIS: Stand up, son.

20 BY MR. MYERS:

21 Q. Okay. Please point him out, describe his
22 clothing.

23 A. (Indicating.) He's standing right there with
24 a plaid shirt on. I think that's plaid.

25 Q. Okay.

1 MR. MYERS: Let the record reflect, the
2 victim has identified Isaiah Canales.

3 THE COURT: All right, the record will
4 reflect.

5 BY MR. MYERS:

6 Q. Now when this event occurred, did you know Meech
7 personally?

8 A. Personally, no, I've never hung out with him.
9 But the only reason why I knew who he was, was because
10 he was dating my baby's mama at the time. And, I would,
11 of course, like, know who he was when I would go pick
12 my daughter up.

13 Q. So you recognized him immediately?

14 A. Yes, of course.

15 Q. Now, how did you know Isaiah?

16 A. They were best friends; they always were
17 together, like, always hung out. So, like, whenever
18 I would see him over there, I would see him too.

19 Q. So you met these two gentlemen before this
20 happened?

21 A. Not met them, but I've seen them, yes.

22 Q. Correct. So you can identify them?

23 A. Yeah.

24 MR. MYERS: May I approach the witness,
25 Your Honor?

1 THE COURT: Sure.

2 BY MR. MYERS:

3 Q. Mr. Varner, this is a laser pointer. Now,
4 this is going to be difficult the way this is set
5 up, but you need to kind of talk in the microphone.
6 So when you start pointing at this red -- when you start
7 pointing things out and describing things, just make
8 sure you're talking into the microphone so everybody
9 in the jury can hear you.

10 So right here -- continue playing the video.
11 Stop. So what is this here? Who are those people?

12 A. This right here is me, that's Destiny, and that's
13 Brayden.

14 Q. Okay. Continue. Pause it. Are you meeting
15 Isaiah Canales here?

16 A. No, sir.

17 Q. Continue. Pause it. Who is that individual
18 that's coming towards you there?

19 A. That right there is Isaiah.

20 Q. That's Isaiah?

21 A. Yes.

22 Q. Continue. Pause it. Now where does he -- when
23 does he strike you?

24 A. So right whenever I was walking back right there,
25 you kind of see he moved a little bit, that's when

1 I got hit in the back of the head. And I kind of turned
2 around and started running this way, this car right
3 here.

4 Q. Okay. Play it. Pause it. Now, who fired first
5 here?

6 A. If I had to say, I think it was Isaiah.

7 Q. Okay. If it wasn't Isaiah, why would you shoot
8 first?

9 A. Because I got hit in the back of the head with
10 a pistol.

11 Q. Okay. Did you think you were being robbed
12 at the time?

13 MR. DAVIS: Objection, Your Honor,
14 to characterization of the question, Your Honor.

15 THE COURT: All right, overruled. You can
16 answer the question.

17 THE WITNESS: What was that?

18 BY MR. MYERS:

19 Q. Did you think you were being robbed at the time?

20 A. Of course. Whenever I looked up, after talking
21 to her, I saw him coming at me with a pistol first
22 thing he -- before he even said anything in the middle
23 of a parking lot.

24 Q. Okay. So you knew that you were being robbed
25 before you drew your weapon?

1 A. Oh, yeah.

2 Q. Okay. And you knew that because why?

3 A. Because he had a pistol on him. If I wasn't
4 being robbed, he was coming to kill us.

5 Q. Did you see the other individuals getting out
6 of the car also?

7 A. At first, no. I was too busy worried about
8 me getting hit in the back of the head.

9 Q. Okay. When did you realize there were multiple
10 people shooting at you?

11 A. I think afterwards when I saw everybody getting
12 back in their cars.

13 Q. Okay.

14 A. Or in their car.

15 Q. All right. Was anyone else firing a weapon,
16 besides you and those five individuals?

17 A. No.

18 Q. Okay. Did you engage in any sort of drug deal?

19 A. Oh, no.

20 Q. Did you -- did they find any drugs at the scene
21 when they treated you?

22 A. No, sir.

23 Q. Okay. You mentioned at the beginning of your
24 testimony the girl you were walking out with, Destiny.
25 You said that she started walking alone with you.

1 Why is that significant?

2 MR. DAVIS: I want to object to the
3 characterization of the question, Your Honor.
4 Significant.

5 THE COURT: I'll allow him to answer.

6 THE WITNESS: Say it one more time.

7 BY MR. MYERS:

8 Q. You mentioned Destiny, like, you pointed her
9 out, she started walking with you, as opposed to walking
10 to her car. Why did you think that was significant?

11 A. I just felt like she wanted to get me away
12 by myself. I didn't really know her too well.

13 Q. Right.

14 A. So, I just felt like -- because I don't know
15 if she knows him either. So, like, I just felt she
16 wanted to get me away from them to be by myself because
17 she knew I was the only one with a gun.

18 Q. What does that mean? Why would she want to get
19 you away by yourself?

20 A. I'm not sure. That's just one of the thoughts
21 I had.

22 MR. MYERS: Court's indulgence.

23 BY MR. MYERS:

24 Q. When you were injured, and they left when
25 this event was over, what happened next?

1 A. Well, my buddy was on the phone with 911.
2 I had also called 911 too, but I don't think my phone
3 was working. And after I was walking around for awhile,
4 someone ended up telling me to lay down, and that's
5 really all I remember after that.

6 Q. Okay.

7 A. Until I was getting picked up.

8 Q. Did you -- did they get you to the hospital?

9 A. Yes.

10 Q. Okay. And tell me about your injuries.

11 A. At first, I didn't really realize I was shot,
12 like, as much as I was. I thought it was, like,
13 just one bullet, but then I realized I got shot three
14 times because my whole left side was bleeding from top
15 to bottom.

16 Q. All right. Did you think you were going to die?

17 A. Yes.

18 Q. Okay.

19 MR. MYERS: No further questions, Your
20 Honor.

21 MR. DAVIS: May it please the Court, Your
22 Honor.

23 THE COURT: Absolutely.

24 CROSS-EXAMINATION

25 BY MR. DAVIS:

1 Q. Mr. Varner, I want to start with baby's mama.
2 Tell us about your description of baby's mama. Who
3 are we talking about?

4 A. My child's mother.

5 Q. And what is your child's mother's name?

6 A. Ashley.

7 Q. And what -- y'all have a girl or a boy?

8 A. A girl.

9 Q. And how old was that child?

10 A. She just turned four.

11 Q. And on April the 25th of 2021, how old would
12 that child have been?

13 A. Two or three.

14 Q. It's got to be either one.

15 A. It depends on what month it was.

16 Q. Sir?

17 A. It depends on what month.

18 Q. Well, what is the date of birth of your little
19 girl?

20 A. [REDACTED].

21 Q. [REDACTED] of what?

22 A. [REDACTED].

23 Q. What year?

24 A. 2019.

25 Q. Okay. So [REDACTED] 2019, the child ---

1 A. What did you ask about?

2 Q. Sir?

3 A. What month, were you asking?

4 Q. I asked you how old your children was when this
5 incident occurred.

6 A. Okay, she was two then.

7 Q. Okay. Thank you. Now there's no question
8 you didn't like the fact now that Meech was dating
9 your baby's mama?

10 A. Yeah.

11 Q. You didn't like that, right?

12 A. What did you say?

13 Q. You didn't like the fact that Meech was dating
14 your baby's mama?

15 A. He was.

16 Q. I said you don't like it.

17 A. Oh, I didn't care.

18 Q. You didn't care?

19 A. No, I still have the same girlfriend to this day.
20 Why would I care?

21 Q. You wouldn't care?

22 A. No. If I cared, I wouldn't have broken up with
23 her.

24 Q. Sir?

25 A. If I cared, I would have never broken up with

1 her.

2 Q. So you are telling this jury that you weren't
3 upset that Meech now was sleeping with your baby's mama?

4 A. Absolutely not. If I cared, I would be mad
5 at her new baby's daddy.

6 Q. So this is the only child you have?

7 A. Yeah, with her, yes. I don't have another child.

8 Q. Okay. You're with that baby's mama now?

9 A. No.

10 Q. You've got two baby's mamas out there?

11 A. No, I have one baby's mama.

12 Q. Well, you've got the one that Meech was dating,
13 right?

14 A. Yeah, the only one I have.

15 Q. Actually, you have the other baby's mama?

16 A. No.

17 Q. Oh, so you've just got one child?

18 A. Yep.

19 Q. Okay. Now you completed high school, son?

20 A. Nope.

21 Q. What grade did you stop, then?

22 A. Eleventh.

23 MR. DAVIS: Let me see the photograph.

24 BY MR. DAVIS:

25 Q. You never purchased -- did you know Isaiah before

1 this night? Never knew him?

2 A. Not personally.

3 Q. I'm not talking about personally. I mean,
4 had he been to your home before?

5 A. No.

6 Q. Y'all never had any conversation before?

7 A. Nope.

8 Q. Never?

9 A. No.

10 MR. DAVIS: May I approach the witness,
11 Your Honor? May I approach the witness?

12 THE COURT: Sure.

13 BY MR. DAVIS:

14 Q. I hand you what's marked as Defendant's Exhibit
15 No. 1. And ask you can you identify that?

16 A. Yep, that's me.

17 Q. Describe to the jury what's in that photograph.

18 A. Me, trying to look good.

19 Q. No, it's more than you trying to look good.

20 What do you have in your hand that enhanced your
21 appearance and to look good? What do you have in your
22 hand?

23 A. My legal firearms.

24 Q. Okay. When was that photograph taken?

25 A. At my friend's house.

1 Q. I said when. What year?

2 A. I would say about a year and a half, two years
3 ago.

4 Q. And how old were you two years ago?

5 A. Eighteen.

6 Q. You would have been legal to have those guns
7 in your hands?

8 A. Where I was at, yeah.

9 Q. Where you was at? You said that you're looking
10 good. And describe the weapons in your hand.

11 A. It would have been illegal if I was driving ---

12 Q. Wait a minute. Describe the weapons in your hand
13 in that photograph.

14 A. A handgun and an AR pistol.

15 Q. What kind of handgun?

16 A. A Glock; the same Glock I have to this day.

17 Q. What about the gun you used that night that
18 you had on your possession, right?

19 A. Um-huh.

20 Q. You came out of that bowling alley, apparently,
21 with a gun in your jacket?

22 A. Yep.

23 Q. So it would be fair to say that you took that
24 gun inside the bowling alley?

25 A. Um-huh.

1 Q. Now ---

2 THE COURT: You have to say yes or no.

3 THE WITNESS: Yes, sir.

4 BY MR. DAVIS:

5 Q. Is it legal for you to take a gun inside
6 a bowling alley?

7 A. No, sir.

8 Q. But why did you do it?

9 A. Because -- for people like that.

10 Q. People like that?

11 A. Yeah.

12 Q. What do you mean people like that?

13 A. Well, people who are ---

14 Q. You didn't even know him, right?

15 A. I saw ---

16 MR. MYERS: Objection.

17 MR. DAVIS: Sir ---

18 THE COURT: Hold on, hold on. What's
19 the objection?

20 MR. DAVIS: Thank you.

21 MR. MYERS: Objection, he needs to let
22 the witness answer the question.

23 THE COURT: All right. I'll sustain the
24 objection.

25 BY MR. DAVIS:

1 Q. You said you didn't even know him, right?

2 A. I saw the car with ---

3 Q. I ain't talking about that. You were in the
4 bowling alley already with a weapon?

5 A. Um-huh.

6 Q. Among other young kids and children, were you
7 not?

8 A. No, it was just us in there.

9 Q. Oh, so y'all had the bowling alley exclusively
10 to yourselves?

11 A. Basically.

12 Q. Basically? Well, tell the jury what is
13 basically? Y'all are the only people in the bowling
14 alley?

15 A. It was so late at night that everybody already
16 basically left, and it was just us there.

17 Q. Well, what time did you come in the bowling
18 alley, sir?

19 A. I think we got there around 11.

20 Q. So when you approached at 11, you got out of your
21 car, right?

22 A. Um-huh.

23 Q. Put your Ruger 9-mm ---

24 THE COURT: Hold on. You have to answer
25 yes or no.

1 THE WITNESS: Yes, sir.

2 BY MR. DAVIS:

3 Q. --- in your jacket pocket, sir, right?

4 A. Yes, sir.

5 Q. And went inside that bowling alley, right?

6 A. Yes, sir.

7 Q. And other people are in that bowling alley,
8 right?

9 A. My friends.

10 Q. Yeah, your friends, like, Mr. Brayden was with
11 you, right?

12 A. Yes.

13 Q. Where did he kept his weapon at, sir?

14 A. Brayden doesn't have a weapon.

15 Q. Oh, he don't have a weapon. Okay, okay.

16 Now -- but you took your weapon in?

17 A. Yeah.

18 Q. Because you're afraid of people like that?

19 A. Yep, of course.

20 Q. Okay.

21 MR. DAVIS: May I approach the witness,
22 Your Honor?

23 THE COURT: Yes, sir.

24 (Defendant's Exhibit Nos. 3 and 4 were marked for
25 identification.)

1 BY MR. DAVIS:

2 Q. I want you -- ask you if you can identify that.
3 Please, take it in your hand ---

4 MR. MYERS: Your Honor, may we approach
5 for just a moment?

6 THE COURT: Yes, sir.

7 (Off-the-record conversation held at sidebar.)

8 (Back on the record.)

9 BY MR. DAVIS:

10 Q. Sir, can you identify that?

11 A. Yeah, of course, that's me with the same exact
12 pistol.

13 Q. Did the pistol make you look good also?

14 A. Not to make me look good, but to make me feel
15 good by myself, yeah.

16 Q. Feel good. A gun makes you feel good?

17 A. No ---

18 Q. Describe to the jury what kind of gun you have
19 in your hand.

20 A. What?

21 Q. Describe what kind of gun that is.

22 A. An AR pistol.

23 Q. All right. You don't hunt, right?

24 A. Not anymore, no.

25 Q. Okay.

1 A. I don't have time.

2 Q. Well ---

3 MR. DAVIS: May I approach, Your Honor?

4 THE COURT: Yes, sir. .

5 BY MR. DAVIS:

6 Q. I hand you what is marked as Exhibit No. 12
7 into evidence, and ask if you can identify that.

8 A. Oh, yeah.

9 Q. Oh, yeah. What is it?

10 A. That's the firearm I used that night to protect
11 me and my friends.

12 Q. That's the firearm you used. Describe it.
13 You know what kind of gun it is. What kind of gun
14 is this?

15 A. A six shooter.

16 Q. You got a six shooter. Wait, they don't call
17 it a six shooter. They called it that in the Wild,
18 Wild West, a six shooter. Tell the jury what kind
19 of gun that is. Give the identity of that gun.

20 A. A very small gun that would fit in your hand
21 that only holds six bullets, with a small caliber.

22 Q. And that's what you took into the bowling alley?

23 A. Yeah, it's a concealable weapon.

24 Q. Did you have a permit for that concealable
25 weapon, son?

1 A. No, sir.

2 Q. Why do you keep using the word concealable weapon
3 when you don't have a concealable weapon permit?

4 A. It doesn't matter; I stood my ground.

5 Q. Wow. So you have no concern or regards for
6 the law which says you cannot have that weapon?

7 A. Not if I'm protecting me and my friends, no, sir,
8 I do not.

9 Q. Well, that's what police officers are for,
10 to protect people. That's why ---

11 A. Where was the police officer when I was bleeding
12 on the ground?

13 THE COURT: Hold on. Ask a question.

14 BY MR. DAVIS:

15 Q. Do you know the purpose of police officers?

16 A. Yes.

17 Q. What is it?

18 A. People who respond to incidents that already
19 happened.

20 Q. No, the police's duty is to protect and serve ---

21 MR. MYERS: Objection.

22 THE COURT: Ask a question.

23 BY MR. DAVIS:

24 Q. Did you know that a cop's responsibility
25 is to protect and serve? Did you know that?

1 A. Oh, yeah.

2 Q. But you don't need that; isn't that correct?

3 A. Not when they can't get there fast enough,
4 no, sir.

5 Q. Because you protect yourself; isn't that true?

6 A. Of course, and I always will.

7 Q. And you don't care or have any regard whether
8 or not it's legal for you to have a weapon in your
9 possession; isn't that true?

10 A. If I ain't hurting nobody with it,
11 and I'm protecting me and my friends, of course, I do
12 not.

13 Q. All right. And that night, there's no question
14 you were in the bowling alley with a weapon, sir?

15 A. No, sir, I had no intention of hurting
16 anybody ---

17 Q. There's no question that you approached this
18 young man with a weapon that night?

19 A. I didn't approach him; he approached me.

20 Q. He only brought out his weapon, sir, after you
21 went in your coat jacket and pulled out your weapon;
22 isn't that true?

23 A. False.

24 Q. Well, you just told the jury, you say you think
25 -- do you know who fired the shot first, sir?

1 A. I didn't fire it first. He had a handgun in his
2 hand when he got out of his car.

3 Q. He had drugs in his hand to deliver to you,
4 you didn't want to pay for.

5 MR. MYERS: Objection.

6 THE COURT: Ask a question, ask a question.

7 MR. DAVIS: Sir?

8 THE COURT: Ask a question; don't testify.

9 BY MR. DAVIS:

10 Q. I've got a question for you too. You went
11 to the doctor, did you not?

12 A. What?

13 Q. You heard the testimony of your great friend,
14 Mr. Brayden ---

15 A. Yeah.

16 Q. --- Ward. He said you got pistol whipped;
17 isn't that true?

18 A. Correct.

19 Q. All right, then. I'm going to hand you a copy
20 of your medical records.

21 A. I don't need to see the medical records.

22 Q. No, you're going to do what I tell you.

23 MR. DAVIS: May I approach the witness,
24 Your Honor?

25 THE COURT: Sure.

1 MR. DAVIS: Mark this for identification
2 purposes.

3 (Defendant's Exhibit No. 5 was marked for
4 identification.)

5 BY MR. DAVIS:

6 Q. I want you to hold this in your hand, take your
7 time and look through this, and tell the jury whose
8 medical record that is.

9 A. Yeah, these are mine; I've seen them myself.

10 Q. Yeah, and look at it. Is there any reference
11 to you complaining about ---

12 MR. MYERS: Objection.

13 MR. DAVIS: Excuse me?

14 MR. MYERS: Objection, Your Honor.

15 He did not generate that document, and he did not
16 make those statements in that document. He's not using
17 it to refresh his memory.

18 MS. GAY: Your Honor, they're his records.

19 THE COURT: I'll allow it.

20 MR. DAVIS: Thank you.

21 BY MR. DAVIS:

22 Q. Is there anything in that record, son, that
23 reference you making a complaint about head injury?

24 A. Oh, no, I didn't realize I got ---

25 Q. A ---

1 A. I didn't realize I had a head injury.

2 THE COURT: Hold on, hold on.

3 MR. DAVIS: A ---

4 THE COURT: Hold on, let me talk. You can't
5 talk over each other. It's too difficult for the court
6 reporter to do it. He has the opportunity to explain
7 himself, allow him to continue his answer. Sir, go
8 ahead.

9 THE WITNESS: I didn't realize I had
10 a head injury until I got home laying on my couch,
11 which was Brayden Ward's couch because I lived at
12 his house at the time. And I had no concern for it,
13 because it was no -- it was no big deal to me when
14 I had three bullets holes in me. I wasn't going to die
15 from a head injury about this big of a slit. I wasn't
16 worried about it over three bullet wounds, you're right.
17 BY MR. DAVIS:

18 Q. You went to the hospital, did you not?

19 A. I got brought to the hospital; I didn't go to
20 the hospital. I got picked up and took to the hospital
21 because I had no choice.

22 Q. Well, you had -- there's something called triage,
23 do you know what that means?

24 A. Yeah.

25 Q. They examined you fully, right?

1 A. They examined the three bullet holes that were
2 obviously ---

3 | Q. Son, did they examine you fully?

4 A. Obviously not. They didn't see a gash in my
5 head. They examined the three bullet holes, though.

6 Q. Let me ask you this. This young man was
7 at the hospital also, right?

8 | A. From what I was told, yeah.

9 Q. Yeah, you knew he was there. He got shot also;
10 isn't that true?

11 | A. Oh, yeah.

12 Q. Who shot him? Didn't you shoot him?

13 A. Yeah, I'm the one who got fired on.

14 Q. Yeah, that's right. That's what you claim.
15 Now we noticed on one of the videos, you were standing
16 up, and they had to make you sit down, right?

17 | A. Um-huh.

18 Q. On the video when 911 and EMS personnel arrived,
19 you stand up, right?

20 | A. Yeah.

21 Q. You were asking questions, and you could speak
22 in full sentences; isn't that true?

23 | A. Not fully, no.

24 Q. Okay. Thank you.

25 MR. DAVIS: Just indulgence, Your Honor,

1 there's some language I need to put my hand on, please.

2 (Pause.)

3 BY MR. DAVIS:

4 Q. And who is Destiny?

5 A. Some girl I know from social media.

6 Q. Where had you met Destiny that night?

7 A. What do you mean where I met her?

8 Q. I mean, how did y'all get together that night
9 to be walking out at the same time?

10 A. I texted her about an hour before that, told her
11 that we were going to the bowling alley if she wanted
12 to come.

13 Q. Okay.

14 A. She showed up when they were closing.

15 Q. Okay. Well, seems like y'all were trying
16 to suggest that she was trying to arrange something
17 to get you away from -- by yourself. What was that
18 all about?

19 A. I just figured she might have knew them because
20 she showed up right when they were closing.

21 Q. But you called her; isn't that correct?

22 A. Correct.

23 Q. So if somebody would set something up, why would
24 they not be the person who initiate the get-together?
25 You're the one who initiated the get-together.

1 MR. MYERS: Objection, speculation.

2 He's asking ---

3 MR. DAVIS: Ain't no speculation.

4 THE COURT: Hold on. Just ask the question,
5 and I'll rule on the objection.

6 MR. DAVIS: Thank you.

7 BY MR. DAVIS:

8 Q. You contacted Destiny; isn't that correct?

9 A. Yeah.

10 Q. Destiny did not contact you, right?

11 A. No.

12 Q. All right. There's a reference that -- do you
13 know Mr. Kendal Wiggins?

14 A. I don't know who that is, no.

15 Q. What about James Mackley?

16 A. Yes.

17 Q. Tell the jury how you know James Mackley.

18 A. He was the driver of that truck I was in.

19 Q. Okay. I'm going to hand you what's been marked
20 as Court's Exhibit No. 1, referenced you, James Mackley.
21 Tell the jury that you do see James Mackley, right?
22 Sir, do you?

23 A. Yes.

24 Q. Okay. Now James Mackley says -- continue
25 on with what James Mackley says.

1 A. James Mackley was talking about ---

2 MR. MYERS: Objection, hearsay.

3 THE COURT: Hold on, hold on. You can't
4 read it; you can only utilize it to refresh your
5 recollection.

6 MR. DAVIS: Yeah, refresh your recollection.
7 Look at it.

8 THE WITNESS: Oh, yeah, I read it.

9 MR. DAVIS: And he said that they started
10 shooting ---

11 MR. MYERS: Objection, testifying.

12 MR. DAVIS: --- isn't that correct?

13 THE COURT: That's -- I'll sustain the
14 objection. Don't answer that question; it's hearsay.

15 BY MR. DAVIS:

16 Q. But you do know James Mackley though, right?

17 A. Is that Jimbo?

18 Q. I don't know.

19 THE COURT: Do you know James Mackley
20 to be Jimbo?

21 THE WITNESS: Yes, sir.

22 MR. DAVIS: Thank you.

23 BY MR. DAVIS:

24 Q. Consider him a friend?

25 A. Yes.

1 Q. He was out there that night, right?

2 A. Yeah, he was the one that took us there.

3 Q. Okay. Did you know if the police ever had any
4 conversation with him?

5 A. Not that I know of; I wasn't there.

6 Q. Well, you know, you've been -- you've been
7 in this whole trial, right? You've witnessed this
8 whole trial for months -- since yesterday, right?

9 A. Not for months, for about week.

10 Q. I said since yesterday.

11 A. Yes, since yesterday.

12 Q. Yeah. And you've seen the officers testify,
13 right?

14 A. Yep.

15 Q. And you've seen them testify that they took
16 statements from people involved, right?

17 A. Yep.

18 Q. Do you have any knowledge or information that
19 they took a statement from Mr. James, Jimbo, Mackley?

20 A. I'm sure they did.

21 Q. Okay. But he was there, right?

22 A. Yeah.

23 Q. Okay. And you're sure they did?

24 A. Yeah, they took a statement from everybody.

25 Q. Okay. Thank you.

1 MR. DAVIS: No further questions. Go ahead.

2 MS. GAY: I just have a quick one, Your
3 Honor.

4 CROSS-EXAMINATION

5 BY MS. GAY:

6 Q. All right. So when you were -- questions
7 that you answered, one of the things that you said
8 was that Mr. Ward dialed 911. You said that, correct?

9 A. Yes.

10 Q. Okay. So you've been sitting through the trial,
11 you're in the courtroom this whole trial?

12 A. Yeah.

13 Q. Yes?

14 A. Yeah.

15 Q. Okay. So you're aware that the only 911
16 tape that has been placed to the jury that they have
17 is from the employee at the bowling alley, not Mr. Ward?

18 MR. MYERS: Objection.

19 MS. GAY: He was sitting in the courtroom.

20 THE COURT: What's the objection?

21 MR. MYERS: The objection, she's testifying
22 to incorrect information.

23 THE COURT: Ask him the question, see if
24 he has an answer.

25 MS. GAY: I said, in this trial, the only

1 911 call that we've heard is from the bowling alley
2 employee.

3 THE COURT: Is that correct?

4 THE WITNESS: Yes, that's correct.

5 THE COURT: All right. I'll overrule
6 the objection.

7 MS. GAY: Thank you.

8 BY MS. GAY:

9 Q. And one of the things that was done in this case,
10 as you heard Mr. Ward testify, was that he put the Ruger
11 in the glove box of the truck after this happened?

12 A. Yes.

13 Q. You heard that, okay? And I know that you've
14 reviewed information in this case, and this is just
15 a yes or no question. Are you aware that when the
16 police first arrived, they couldn't find the gun?

17 A. No.

18 Q. You're not aware of that? Okay. And this --
19 you admit that your Ruger shot multiple shots that
20 evening. Are you aware that there were five of them
21 that matched your gun?

22 A. Yes.

23 Q. Okay. And also, there was -- I believe your
24 discussion about where you were standing and what was
25 happening was that you were kind of by a white car;

1 isn't that correct?

2 A. Yes.

3 Q. And, at some point, the windshield of the red
4 car, what we believe to be the windshield of the red
5 car, was shot out?

6 A. Um-huh.

7 Q. As it was leaving the parking lot?

8 A. Yep.

9 Q. And that was by your gun?

10 A. Oh, yeah.

11 Q. So you admit that you shot out and shot
12 at the people in the red car as they were leaving?

13 A. Yeah, I was already shot at the time.

14 Q. I understand. But that's you who shot this
15 windshield out?

16 A. Um-huh.

17 Q. After this whole other incident mayhem occurred,
18 you're still shooting at this car as it's leaving?

19 A. Yeah.

20 Q. That's what happened, okay? And you said
21 that you didn't have -- you didn't notice that you
22 had a head injury until later. And -- hold on. I need
23 to look for something. Just wait a second. And you've
24 looked at these medical records to know that they're
25 your medical records?

1 A. Um-huh.

2 THE COURT: You have to say yes or no.

3 BY MS. GAY:

4 Q. Hold on one second. There may be something
5 missing. Okay. So when you were -- so one of the
6 things that Mr. Davis asked you, is he said that you
7 had -- you've been seen by a doctor, and you reviewed
8 these records. And there is no mention in the records,
9 is there, of any kind of head injury?

10 A. No.

11 Q. You acknowledge that you did not talk to the
12 doctors about a head injury?

13 A. Um-huh.

14 Q. So there's nothing in these records that says
15 anything about a laceration or any type of bruising
16 or blood on your head?

17 A. No.

18 Q. And you mentioned that you had -- was aware
19 that my client was dating your baby's mama, whose name
20 is Ashley?

21 A. Yes.

22 Q. But you claimed that you never met him before?

23 A. Not hung out with him, no.

24 Q. Not hung out with him, but you've met him before?

25 A. Not like talked to him, no.

1 Q. Okay. Well, so you never had a conversation
2 with him where you threatened to kill him on Ashley's
3 phone?

4 A. Uh-uh.

5 Q. You have to say yes or no.

6 A. No, ma'am.

7 Q. You say no. But you were -- there were issues
8 about the fact that you don't care about her anymore,
9 and that's obvious from what you said.

10 A. Yes, ma'am.

11 Q. I mean, I broke up with her, I wouldn't have --
12 I don't care what she does. It's obvious that you don't
13 care. But you do care about your child?

14 A. Yes.

15 Q. And you are concerned that -- I think you said
16 that because he was dating your baby's mama, that he
17 would have contact with your daughter?

18 A. It didn't affect me.

19 Q. That doesn't affect you at all?

20 A. No.

21 Q. Okay.

22 MS. GAY: One moment, Your Honor.

23 BY MS. GAY:

24 Q. So when you were being, we'll use the word
25 triage, by the police after they arrived on the scene,

1 you were talking to them, weren't you?

2 A. From what I remember.

3 Q. Yeah. And they asked you personal information,
4 what your name is, you know, where -- all those kinds
5 of things?

6 A. Uh-huh -- yes, ma'am.

7 Q. In the beginning -- one of the things -- and
8 as I've said, you've been in this trial the whole time,
9 so you've seen it. The body cam video that we've seen,
10 you're actually walking around at the time that the
11 police arrived?

12 A. Yes.

13 Q. Not, like, laying on the ground unconscious?

14 A. Uh-uh -- no, ma'am.

15 Q. Okay. So -- and you're -- they're asking
16 you things, and you're answering in sentences?

17 A. Yes.

18 Q. Full sentences?

19 A. A little bit, yes.

20 Q. Yes?

21 A. I'm repeating things.

22 Q. Okay. And the police noted that in their
23 body cam because they saw it. We've seen it; the jury
24 has looked at it, that you are not incapacitated at
25 the time. Incapacitated, meaning, unconscious, laying

1 on the ground?

2 A. Yes.

3 Q. Okay. You were hit, no doubt. I understand
4 that, but they weren't -- the solicitor asked you
5 if you were afraid that you were going to die, okay?
6 You were shot in the shoulder and in the leg and foot.
7 Those aren't injuries that you would die from; most
8 people don't die from those.

9 A. I'm not most people, and most people die from
10 one bullet, it doesn't matter where you're shot at.

11 Q. Okay. But the EMT arrived promptly and treated
12 your wounds on the way to Trident Hospital?

13 A. Yes.

14 Q. You had medical care from the minute this
15 happened?

16 A. Not from the minute, no. That's an
17 understatement, for sure.

18 Q. In your medical records, do you recall seeing
19 that your vital signs were perfectly fine, there were
20 no -- there was no loss in blood pressure, anything
21 like that? Do you recall feeling okay when you were
22 there, except for the fact that you were shot?

23 A. No, I think I was going to pass out, like,
24 every other second.

25 Q. Okay, but you didn't, because when you got

1 to the hospital, you still were able to talk to the
2 doctors?

3 A. Oh, yeah, they had me on medications.

4 Q. They had you on a drip, right? They put a drip
5 in your arm?

6 A. I'm not sure, I'm not sure.

7 Q. Okay. All right.

8 MS. GAY: Well, I think that's all I have,
9 Your Honor.

10 THE COURT: All right.

11 MR. DAVIS: Nothing further, Your Honor.

12 THE COURT: All right.

13 MR. MYERS: Just a few, Your Honor.

14 May I approach the witness, Your Honor?

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. MYERS:

18 Q. I'm handing you an item that's already been
19 admitted as State's Exhibit 11. Do you recognize what
20 the content of that photo is?

21 A. Yeah.

22 Q. Okay. Publish. Mr. Varner, what are we looking
23 at right here?

24 A. I believe that's the jacket I was wearing.

25 Q. So that's your jacket?

1 A. Yes.

2 Q. Okay. What is that stain next to it?

3 A. Blood.

4 Q. Is that your blood?

5 A. I believe so, yes. There's a lot.

6 MR. MYERS: No further questions, Your
7 Honor.

8 MR. DAVIS: Your Honor, I've just got
9 one question. I would like to have this marked please
10 for identification, please.

11 (Defendant's Exhibit No. 6 was marked for
12 identification.)

13 MR. DAVIS: Sir -- may I approach the
14 witness, Your Honor?

15 THE COURT: Yes, sir.

16 RECROSS EXAMINATION

17 BY MR. DAVIS:

18 Q. I'm going to ask you, can you identify that
19 document?

20 A. It has my name on it, but I don't know what this
21 is.

22 Q. It has a date on there, does it not?

23 A. Yeah.

24 Q. What's the date on it?

25 A. 4/25/2021.

1 Q. That's why we're here today, right, 4/25/2021,
2 right?

3 A. Yes.

4 Q. Has your name on it, sir?

5 A. Yeah.

6 Q. And who is listed on there, other than your name?

7 MR. MYERS: Objection, hearsay.

8 MR. DAVIS: It's right there on the
9 document.

10 THE COURT: Well, what is this document?

11 MR. DAVIS: EMS, Your Honor.

12 THE WITNESS: I don't know what this is.

13 THE COURT: I'll sustain the objection.
14 Just ask him a question, and if you need to refresh
15 his recollection ---

16 MR. DAVIS: Okay.

17 THE COURT: --- he knows what that document
18 is.

19 MR. DAVIS: Yes, I'm going to refresh
20 his memory right now.

21 BY MR. DAVIS:

22 Q. You stated earlier that you were not able
23 to respond to full answers and questions; isn't that
24 correct?

25 A. When?

1 Q. On April the 25th, when you were being
2 transported or being treated by medical personnels?

3 A. I don't remember.

4 Q. Oh, you don't remember now. I want to give
5 you this to refresh your memory, to the top please.
6 Does that refresh your memory?

7 A. Yeah, a little bit.

8 Q. Having your memory refreshed now, I'll ask
9 you this question again. Isn't it true, sir, that
10 you were able to give full and complete answers
11 on April the 25th, 2021, to the treating emergency
12 personnels?

13 A. It depends on when. Before I got to the hospital
14 or after?

15 Q. Sir?

16 A. Before the medication or after the medication?

17 Q. Well, what time were you able to do that at this
18 point?

19 A. Oh, this was in the -- this seems like it was
20 in the ambulance, so I would say I was not on no
21 medication yet.

22 MR. DAVIS: No further questions.

23 THE COURT: All right, sir, you may step
24 down. Ladies and gentlemen, we've been going about
25 an hour and a half. Let's go ahead and take a quick

1 break, and we'll get you right back out, okay?

2 (The jury exited the courtroom at 11:35 a.m.)

3 THE COURT: All right. Let's get going.

4 (Recess taken.)

5 (Back on the record.)

6 (The jury entered the courtroom at 11:47 a.m.)

7 THE COURT: All right. Ladies and gentlemen
8 of the jury, what we're going to do moving forward,
9 it's 11:48, we're going to allow the State to continue
10 calling witnesses until around 12:30, and then we'll
11 take our lunch break, just so you don't worry about
12 I'm not going to let you take a lunch break or anything.

13 I do have to take a conference call at 12,
14 it consists of one question that I need to ask my
15 assistant, which will take about 13 seconds for me
16 to go right there and do it, so at 12, we're just
17 going to take a quick break. I'll ask that you stay
18 in your seats, I'll ask that they stop all the
19 testimony, I'll answer the one question that she has,
20 and I'll come right back in, all right? You may call
21 your next witness.

22 MR. MYERS: State calls Sandra Favero.

23 THE CLERK: Please raise your right hand,
24 and place your left hand on the Bible.

25 MS. SANDRA FAVERO was called as a witness,

1 being duly sworn, was examined and testified as follows:

2 THE CLERK: Thank you. You may be seated.
3 Please state your full name, and spell your last name
4 for the record.

5 THE WITNESS: Sandra Favero, F-A-V-E-R-O.

6 DIRECT EXAMINATION

7 BY MR. MYERS:

8 Q. Where are you currently employed?

9 A. The city of Goose Creek Police Department.

10 Q. How long have you worked there?

11 A. For the city, 14 years.

12 Q. Fourteen years. Have you had any previous law
13 enforcement experience before that?

14 A. No, sir, I was a civilian.

15 Q. Okay. What sort of training have you had
16 throughout your 14 years?

17 A. I have had crime scene reconstruction, crime
18 scene and evidence collection, blood stain pattern,
19 shooting reconstruction, forensic pathology, mitogenic
20 evidence, and property room.

21 Q. Impressive. What is your current rank and
22 position in Goose Creek right now?

23 A. The forensic unit supervisor.

24 Q. Okay. And what are your responsibilities in that
25 position?

1 A. Right now, I'm managing my other two crime
2 scene investigators, but I am able to go on callouts,
3 if needed.

4 Q. Were your responsibilities and position any
5 different in April of 2021?

6 A. Yes, sir.

7 Q. And what was it in April of 2021?

8 A. Crime scene investigator, evidence technician.

9 Q. And what were your responsibilities then?

10 A. Responding to crime scenes and logging evidence,
11 securing it.

12 Q. Okay. When you respond to crime scenes,
13 what do you do, typically?

14 A. I process them.

15 Q. Okay. And that's a -- processing, that's
16 a law enforcement term. Can you explain to the jury
17 what that means?

18 A. Collecting evidence -- excuse me -- if there's
19 DNA, casings, blood, collecting evidence in that manner.

20 Q. During that time, in April 2021, did you
21 participate in the collection of evidence regarding
22 an armed robbery at Royal Lanes Bowling Alley in Goose
23 Creek?

24 A. I did.

25 Q. Okay. Did you have an operational body camera

1 at that time?

2 A. We do not.

3 Q. Okay. And why don't you?

4 A. We're not issued body cams.

5 Q. When you say, "we" ---

6 A. The civilians in the forensic unit.

7 Q. The forensic unit.

8 A. Yes.

9 Q. How did you become involved in this
10 investigation?

11 A. I was notified, I cannot remember if it was
12 dispatch or the investigator that directly called me,
13 and said they needed assistance processing.

14 Q. Processing what?

15 A. The scene at Royal.

16 Q. Did you know the nature of the scene before
17 you arrived?

18 A. I knew it was a shooting.

19 Q. Okay. So when you arrived at the scene, when
20 you say arrived at the scene, where exactly -- where's
21 the scene when you first arrived, like, what location?

22 A. The first location I went to -- I don't have
23 my report, but it was to pick up the window tint on 176,
24 near, I think it was South Carolina Farrow [ph.].

25 Q. Okay.

1 MR. MYERS: Court's indulgence.

2 BY MR. MYERS:

3 Q. All right. I'm handing you an item already
4 admitted as State's Exhibit 10. Do you recognize it?

5 A. Yes, sir, that's the window tint I collected.

6 Q. Did you take that photograph?

7 A. I did.

8 Q. Okay. So you were -- you photographed the window
9 tint, what did you do next?

10 A. I secured the window tint in a bag, transported
11 it to the Royal.

12 Q. Now when you -- you say you secured the bag
13 and transported it. What does that process usually
14 entail? Why is it secured? What does that mean?

15 A. It's collected, put into -- there was a brown
16 paper bag. We labeled it, where it came from, what
17 it is, so you don't forget, and then it's just secured
18 in the car because I had another scene to process.

19 Q. Do you have a set of security procedures to
20 maintain the integrity of evidence once you have
21 collected it?

22 A. Yes, sir.

23 Q. Tell me about that.

24 A. Well, from scene to scene, it was just
25 in a locked vehicle.

1 Q. Okay. So it was in a locked vehicle. Did you --
2 that ended your connection with the window shield --
3 windshield?

4 A. After handling the scene at Royal Lanes. Then,
5 I would take it back to the police department and log
6 it into evidence that way, and secure it into the
7 evidence room.

8 Q. Okay. Was it -- was integrity maintained when
9 you submitted it into evidence?

10 A. Yes, sir.

11 Q. Okay.

12 MR. DAVIS: Objection to the form
13 of the question how was it maintained, but thank you,
14 Your Honor, form of the question.

15 THE COURT: All right.

16 BY MR. MYERS:

17 Q. After you collected the windshield -- and do
18 you remember where that windshield was located?

19 A. It's in my report.

20 Q. Right.

21 A. I know it was ---

22 Q. Was it in the parking lot at Royal Lanes?

23 A. No, it was in ---

24 MR. DAVIS: Objection, leading, and putting
25 words in the witness's mouth, Your Honor.

1 THE COURT: Just ask the question.

2 THE WITNESS: Can I refer to my report?

3 But I'm pretty sure it was on the roadway at 176.

4 MR. MYERS: Okay.

5 BY MR. MYERS:

6 Q. Was it near the parking lot of Royal Lanes?

7 MR. DAVIS: Objection, form of the question.

8 THE WITNESS: Okay, so it says ---

9 BY MR. MYERS:

10 Q. Don't read from the report.

11 A. Okay. It was on 176, at Old Moncks Corner Road.

12 Q. Okay. All right. After you completed securing
13 that evidence, what did you do next?

14 A. Then, I went to the scene at Royal Lanes.

15 Q. Okay. And so you arrived at the scene, what did
16 you observe?

17 A. I observed -- is it okay to refer?

18 Q. Yeah, just don't read from the report.

19 A. It's quite a bit. Okay. There was yellow crime
20 scene tape around the ---

21 MR. DAVIS: She's reading from the report,
22 Your Honor.

23 THE COURT: It's okay; it's her report.

24 MR. DAVIS: Okay.

25 THE WITNESS: Crime scene tape around the

1 parking lot of Royal Lanes. There were two Berkeley
2 County Sheriff's Office's -- their vehicles were there.
3 There was a tan in color Toyota Tacoma. I have
4 a license plate if you want me to read that. There
5 was a white Nissan Sentra, also have the license
6 plate if you would like me to read that, and that's
7 when I met with Investigator Galluccio, who advised
8 me of the situation.

9 BY MR. MYERS:

10 Q. Okay. And then after he advised you, what did
11 you do next?

12 A. And then I would take photographs of the scene.

13 Q. Do you remember how many photographs you took
14 at the scene?

15 A. No, I don't know.

16 Q. Would the report not help you remember that?

17 A. It wouldn't tell you how many I took.

18 Q. Well, would you say it's a little bit or a lot?

19 A. A lot.

20 Q. What would be a lot to you?

21 A. Hundreds.

22 Q. Hundreds?

23 A. Um-huh.

24 Q. Okay. I am handing you items already admitted
25 as State's Exhibits 11 through 15. Tell me what those

1 are.

2 A. I would have to refer. This looks like a black
3 shirt, black piece of clothing. You have the Ruger
4 that was in the glove box of -- give me just one moment
5 -- the Toyota Tacoma. And this is damage that's
6 consistent with being struck by a projectile.

7 You have the Toyota Tacoma with multiple casings
8 laying on the ground, casings. And then the same thing
9 with the Toyota Tacoma, you have -- I just want to make
10 sure, looks like there's also casings. There's
11 multiple.

12 Q. Okay. As a crime scene investigator, do you
13 sometimes create crime scene sketches as part of your
14 duties?

15 A. Yes, mainly when involving a homicide.

16 Q. Okay. Do you recall creating a sketch at this
17 crime scene?

18 A. No, sir.

19 Q. Okay. I am going to hand you an item marked
20 as State's Exhibit 18. Do you recognize it?

21 A. Oh, I'm sorry. Yes, sir, I did do a sketch.
22 I apologize.

23 Q. So that is your sketch?

24 A. And it's got my name up here.

25 Q. Okay. Is that ---

1 A. I'm sorry.

2 Q. I'm going to hand it back. When was this
3 prepared by you?

4 A. That would have been after I've done all of my
5 scene processing. At the end of it, I would have taken
6 that back to the ---

7 Q. So it would have been the same night?

8 A. It could have been a day depending on how much
9 stuff I'm trying to log into the evidence room.

10 Q. Is this drawn to scale?

11 A. No, sir.

12 Q. Okay. Does it accurately reflect the
13 relationship of the objects shown to each other?

14 A. Perspective wise, without being to scale.

15 Q. So it's not to scale?

16 A. No, sir.

17 Q. The exhibit that I handed you is essentially
18 in the same condition as you originally prepared?

19 A. Yes, sir.

20 Q. Okay. Are there any material alterations
21 or deletions?

22 A. No, sir.

23 MR. MYERS: All right. At this time,
24 State moves to admit the crime scene sketch, State's
25 Exhibit 18, into evidence.

1 THE COURT: All right.

2 MR. DAVIS: No objection, Your Honor.

3 MS. GAY: No objection, Your Honor.

4 THE COURT: All right. Without objection.

5 (State's Exhibit No. 18 was admitted into evidence.)

6 MR. MYERS: Permission to publish, Your
7 Honor?

8 BY MR. MYERS:

9 Q. Ms. Favero, let me get you a pointer. All right.
10 Can you see it alright?

11 A. Yes, sir.

12 Q. Okay.

13 MR. DAVIS: I can't see, Your Honor.

14 MR. MYERS: I couldn't until I walked
15 up here. All right.

16 BY MR. MYERS:

17 Q. So explain what we're looking at.

18 A. Okay. So you have Royal Lanes here. This
19 is the actual building, and then you have the parking
20 lot. This is kind of a curb, I believe a grassy area,
21 and the parking spaces, and then you have Central Avenue
22 here.

23 Q. What is all these numbers and stuff?

24 A. There's a key right here, so, A, would be where
25 the Toyota was parked right there.

1 Q. Okay.

2 A. B is the Berkeley County Sheriff's Office's
3 vehicle, which is there. C would be the Nissan,
4 which is there.

5 Q. And the Nissan -- is that a car -- never mind.

6 A. It was the ---

7 THE COURT: Give me one second.

8 THE WITNESS: --- Nissan Sentra.

9 THE COURT: Give me one second.

10 MR. MYERS: Yes, Your Honor.

11 (Recess taken.)

12 (Back on the record.)

13 THE COURT: Yes, sir.

14 MR. MYERS: All right, Your Honor.

15 BY MR. MYERS:

16 Q. All right. Please start describing what we're
17 looking at by each individual entry.

18 A. From the key?

19 Q. From the key.

20 A. Okay. A is right there; that would be where
21 the Toyota pickup truck was parked.

22 Q. All right.

23 A. B is the Berkeley County Sheriff's Office's
24 vehicle, and it's parked over here.

25 Q. All right.

1 A. D is one .45 casing, which is going to be next
2 to the Berkeley County Sheriff's Office's vehicle.
3 E is a .357 casing, which is right here. F, we have
4 two .357 casings, which I believe were in the back
5 of the pickup truck. G, another .357 casing, right
6 here next to the pickup truck. H, 13 .45-caliber
7 casings, which are right here. I'm sorry.

8 Q. All right.

9 A. I, also right here. J, two .380 casings,
10 which were right in the middle of the way. K are three
11 .380 casings, which should be right here; that was the
12 Nissan. L, another .380 round, but this was an unfired
13 round, which is right next to it.

14 Q. Now you sketched the locations of these casings.
15 What did you -- did you do anything with the casings?

16 A. I placed them in separate envelopes and labeled
17 them accordingly so it would be listed. So, I picked
18 up -- sorry -- D, I would have labeled it .45-caliber
19 casing.

20 MR. MYERS: Court's indulgence. Your Honor,
21 may I approach real quick?

22 (Off-the-record conversation held at sidebar.)

23 (Back on the record.)

24 BY MR. MYERS:

25 Q. Ms. Favero, do you recall anything you collected

1 from that crime scene?

2 A. With a little bit of help in the report, yes,
3 sir.

4 Q. Refresh your memory, just please don't read.

5 A. Okay.

6 THE COURT: While she's doing that, for
7 the record, the bench conference was concerning how
8 they wanted to enter the evidence and in what capacity.

9 BY MR. MYERS:

10 Q. Do you remember?

11 A. Yes, sir.

12 Q. All right. Tell me what you collected.

13 A. I did digital photographs, the window tint,
14 all of the casings, two black ends, the Air Jordan
15 shoes, a black sock, a purple shirt, a pair of pants,
16 a Dolphin jacket, a Gucci wallet, which contained
17 a DL -- driver's licence, sorry, for Daniel Varner.

18 MR. DAVIS: Excuse me, I didn't hear that.
19 Contained what?

20 THE WITNESS: A Gucci wallet, and I have
21 a South Carolina DL for Daniel Varner, \$202 in currency,
22 U.S. currency, a Ruger LCP .380, with a serial number,
23 three projectiles, a Jag .380 round of ammunition,
24 one Hornady 10-mm round of ammunition. It ended
25 up being 24 casings, and three swabs of, I believe,

1 it was blood.

2 BY MR. MYERS:

3 Q. All right. Forgive me, but I am handing you
4 an item marked as State's Exhibit, 19 for identification.

5 A. Yes, sir.

6 Q. Have you take a look at it in a manner that
7 you won't spill it. I want you to tell me if you
8 recognize the items in this box, this one exhibit.

9 A. Yes.

10 Q. Do you recognize what's in here?

11 A. From what I have and the label that are on
12 it -- that was put on it.

13 Q. Okay. So tell me the labels, what is it,
14 since you can identify it?

15 A. All of it in here?

16 Q. Yeah.

17 A. A pair of black shoes, a black T-shirt, white
18 tank top, green boxers, which these, actually, I just
19 gave to you guys before; they should be in there.
20 The Jag .380 round, a red Apple iPhone, GSR kit
21 for Canales, the window tint, Hornady 10-mm rounds,
22 a black and gray Air Jordan shoes, black socks, purple
23 shirt, blue Champion pants, black Dolphin jacket,
24 casings, Gucci wallet, South Carolina driver's license,
25 \$202 in U.S. currency, Ruger LCP .380 projectiles,

1 swabs from scene, and then we have the Blue-Ray disc,
2 an Arlo, maybe DVR, excuse me, for interview for
3 Canales, Lexar flash drive, and a CDR for 911 calls.

4 Q. Okay. Were any of those items -- are they
5 in the same condition that they were in?

6 A. Yes.

7 Q. Okay. All right. And how do you know that?

8 A. That's how we package and store it in the
9 evidence room.

10 Q. Okay.

11 MR. MYERS: At this time, the State moves
12 to admit State's Exhibit 19 into evidence.

13 THE COURT: All right.

14 (State's Exhibit No. 19 was admitted into evidence.)

15 BY MR. MYERS:

16 Q. When you secured this and put it into evidence,
17 was any of it transported to SLED for analysis?

18 A. Yes, sir.

19 Q. What were they?

20 A. The Ruger and the casings.

21 Q. The Ruger and the casings were sent for analysis?

22 A. Yes, sir.

23 Q. And your -- did your department transport
24 it to SLED?

25 A. Yes, sir, I believe SCI Liggons.

1 Q. Okay.

2 MR. MYERS: Court's indulgence.

3 THE WITNESS: I can add the projectiles
4 were taken as well.

5 MR. MYERS: Okay.

6 BY MR. MYERS:

7 Q. Was GSR collected while on scene?

8 A. There was no victim when I arrived.

9 Q. Okay. Is it typical to collect GSR from
10 a shooting victim?

11 A. No, it's reasonable to say that they're going
12 to have GSR on them. And now SLED has come out with
13 a policy saying that they won't test it on victims,
14 suicide victims, or victims from shooting.

15 Q. So anyone that's shot, they won't test GSR
16 to submit?

17 A. No, because it's reasonable to have it on them.

18 Q. All right.

19 MR. MYERS: No further questions.

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

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DAVIS:

25 Q. And you've been with Goose Creek for 14 years?

1 A. Yes, sir.

2 Q. What have you done for 14 years? Have you been
3 a detective for 14 years?

4 A. I'm a civilian, but I ---

5 Q. Wait, wait, wait. How long are you a civilian?

6 A. From the start.

7 Q. But how long have you started, you said
8 14 years ---

9 A. But I ---

10 Q. Wait, please.

11 A. Yes, sir.

12 Q. Out of those 14 years, how many years were
13 you a civilian?

14 A. Fourteen.

15 Q. How many years -- you became a detective, I mean,
16 crime scene ---

17 A. Investigator.

18 Q. Yeah.

19 A. Eight years.

20 Q. Okay. So what did you do the first six years?

21 A. I worked in dispatch, and then I was a community
22 service specialist.

23 Q. Okay. So in the last eight years, you acquired
24 the skill to assist in crime scenes, right?

25 A. Yes, sir.

1 Q. And isn't it fair to tell the jury that one
2 of the most important things about a crime scene
3 is to make sure that it's in the same manner, consistent
4 with when the crime was committed?

5 A. I'm not sure.

6 Q. No alteration. Why do they seal off the crime
7 scene?

8 A. So nobody can get inside the scene.

9 Q. To do what?

10 A. To tamper with evidence.

11 Q. All right. So one of the most important
12 things then is to make sure the crime scene is secured
13 and stays in the manner, consistent with how the crime
14 was committed at the time; isn't that true?

15 A. Yes.

16 Q. Okay. Now, in this matter, have you learned
17 whether the crime scene has been altered in the sense
18 that the weapon that was used, that you made a diagram
19 for, has been moved?

20 A. I just observe it the way it was.

21 Q. My question is, did you learn that it had been
22 moved?

23 A. No.

24 Q. Okay. Is that important?

25 A. Yes.

1 Q. Thank you. Now you put a diagram of the missing
2 casings. Casing is what is discharged from the gun;
3 isn't that true?

4 A. Separate from the projectile.

5 Q. Now are you familiar with a Ruger?

6 A. A what?

7 Q. A Ruger.

8 A. Yes, sir.

9 Q. Would you consider that a six shooter?

10 MR. MYERS: Objection.

11 MR. DAVIS: She can answer the question
12 if she knows.

13 THE COURT: I'll overrule it, see if she
14 knows.

15 THE WITNESS: Is that -- honestly, I don't
16 know.

17 MR. DAVIS: Thank you.

18 BY MR. DAVIS:

19 Q. In referencing the diagram though, you found
20 a bullet that had not been shot?

21 A. Yes, a round of ammunition.

22 Q. Which means it hadn't been fired, right?

23 A. Correct.

24 Q. It was on the ground?

25 A. Yes.

1 Q. And what type of bullet was it?

2 A. It was -- I found two; a Jag .380 and a Hornady
3 10-mm.

4 Q. I'm more concerned with the .380 because I think
5 -- isn't it that the .380 is consistent with the Ruger?

6 A. Yes.

7 Q. All right. Now as we reference that diagram,
8 if we were to add it up, there's no question that
9 .380 was discharged over six times?

10 A. I would have to count them.

11 Q. Take your time, please.

12 MR. MYERS: Do you want me to publish
13 the sketch for you?

14 MR. DAVIS: Yeah, please. Your technology.

15 BY MR. DAVIS:

16 Q. Point out how many times you see that .380,
17 which is connected to that Ruger.

18 A. It should be five.

19 Q. Five, right?

20 A. Yes, sir.

21 Q. Five times, and you found two .380s on the
22 ground, right?

23 A. One.

24 Q. One. That's six, right?

25 A. Correct.

1 Q. And there's no question you would learn later
2 on that this young man was shot; isn't that true?

3 A. I was told that a victim was transported
4 to the hospital.

5 Q. That's number seven. Okay. Now ---

6 MR. MYERS: Objection.

7 THE COURT: What's your objection?

8 MR. MYERS: He's testifying.

9 THE COURT: All right. Just ask a question.

10 MR. DAVIS: Thank you.

11 BY MR. DAVIS:

12 Q. Now when you were at 176, there's no question
13 that you was directed by, I think Investigator
14 Galluccio, or something like that, right?

15 A. Correct.

16 Q. And you found on 176 a windshield or glass
17 that apparently had been shattered by a gunshot?

18 A. It was a window tint with glass.

19 Q. Yeah. And y'all never retrieved any projectile,
20 did you?

21 A. Not from that location.

22 Q. Okay. And you said there was some other casing
23 that was ---

24 A. I'm sorry?

25 Q. Other casings. Tell us what other casings that

1 you found.

2 A. The .45.

3 Q. How many times was the .45 displayed or located?

4 A. Looks like 15.

5 Q. Fifteen times. And would it be fair and accurate
6 to say that 15 times those .45 casings were found,
7 weren't they located near the pickup truck, the Tacoma?

8 A. It was located closer. Right there.

9 Q. Well, that's where the pickup truck was, right?

10 A. The pickup truck is right there.

11 Q. Yeah, but it's in that area.

12 A. Yes.

13 Q. Because the other car was not there for you,
14 right?

15 A. There was a Nissan.

16 Q. But that Nissan is not involved in this crime
17 scene.

18 A. Well, it had been damaged.

19 Q. In the sense of -- I agree. I'll rephrase
20 that. Your question though -- then you said you found
21 -- what did you find in the pickup truck, some casings?

22 A. Found in the bed of the pickup truck?

23 Q. Yeah.

24 A. Which casings?

25 Q. Yeah.

1 A. It would be I and H.

2 Q. What is I and H?

3 A. Sorry, I'm trying -- .45.

4 Q. .45. What else?

5 A. Actually, .45s.

6 Q. So two .45s are found inside the pickup truck,
7 right, in the back?

8 A. Well, H is beside the pickup; I is inside
9 the pickup.

10 Q. Well, how many are found inside the back
11 of the pickup then?

12 A. Only one.

13 Q. Huh?

14 A. Looks like one.

15 Q. Near the pickup, how many?

16 A. Thirteen.

17 Q. Thirteen. Were y'all ever able to secure or find
18 -- find that .45 weapon?

19 A. I just handled the crime scene.

20 Q. Okay. Now so we have identified two guns
21 thus far, possibly, right, the Ruger, that's the .380,
22 and the .45?

23 A. There's also a .357.

24 Q. All right, all right now. The .357, that's
25 gun number three. Where were the casings located

1 for the .357?

2 A. It's G, which is right here.

3 Q. Right there.

4 A. We have the truck, and it's right by the light
5 pole.

6 Q. Okay. What else you located?

7 A. Located what else?

8 Q. Another bullet casing, another casing
9 you located, any more casings, other than the .357?
10 You understand what I mean.

11 A. No, I don't.

12 Q. You're talking about casings for different guns.

13 A. Right, there's three different caliber casings.

14 Q. Do you have any more that you found?

15 A. Casings?

16 Q. Yes.

17 A. No.

18 Q. So you're trying to tell me there wasn't
19 but three casings that was located?

20 A. Three caliber casings.

21 Q. I saw a 9-mm something, what was that?

22 A. The 10-mm ---

23 Q. Yeah.

24 A. --- round of ammunition was unfired, so it's not
25 a casing.

1 Q. But you found it?

2 A. Yes, covered in dirt.

3 Q. And where was that found?

4 A. I don't believe it's on there. Give me just
5 a second.

6 Q. And that would be gun number four, right,
7 possibly, possibly?

8 A. I can't say ---

9 MR. MYERS: Objection, speculation.

10 BY MR. DAVIS:

11 Q. Well, there's bullets that can be used in a gun,
12 you would agree with that?

13 A. Yes, that was covered in dirt.

14 THE COURT: I'll overrule the objection,
15 already answered.

16 MR. DAVIS: Thank you.

17 BY MR. DAVIS:

18 Q. Now so any more, other than these three casings,
19 the .380, .45, .357, the 10-mm, anything else?

20 A. No.

21 Q. No bullets, no more casings?

22 A. Well, there's projectiles. You've got two
23 separate things; casings are casings, projectiles ---

24 Q. Projectile is the end of the -- it's what comes
25 out, right?

1 A. The casing ejects from the gun.

2 Q. And it separates.

3 A. The projectiles -- there's two ---

4 Q. Okay.

5 A. --- yes.

6 Q. You can identify a bullet by the projectile?

7 A. Negative, I cannot.

8 Q. How many projectiles did you locate?

9 A. Three.

10 Q. Three projectiles. Where were they located?

11 A. I'm going to have to look. Give me just
12 a second.

13 Q. Oh, please, take your time.

14 A. There was one projectile on a pavement, under
15 the truck, near the rear side.

16 Q. You can cut the lamp. I don't need this anymore.
17 Thank you.

18 MR. DAVIS: May I approach the witness,
19 Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. DAVIS:

22 Q. I'm going to hand you Exhibit, I think that's
23 15, ask can you identify that?

24 A. That's the parking lot where the Toyota
25 is parked.

1 Q. Well, it's the parking lot. But you see
2 that marker that's on there? That's in evidence.

3 A. Yes. Okay.

4 Q. On the photograph, these markings, what are those
5 yellow things?

6 A. Yellow tent markers.

7 Q. Yeah. What do they identify?

8 A. Evidence.

9 Q. What kind of evidence?

10 A. It depends on ---

11 Q. Well, what does it say?

12 A. I'm trying to read the report because they mark
13 different things. They could be casings or projectiles.

14 Q. Well, it is casings, ma'am.

15 MR. MYERS: Objection.

16 MR. DAVIS: Okay. Well, let her take her
17 time to find it.

18 BY MR. DAVIS:

19 Q. Check in your report to see what it is.

20 A. Do you want me to tell you each?

21 Q. Yes, ma'am. Yes, ma'am. Five, four, three.

22 A. So the two casings labeled A and B ---

23 Q. Ma'am, what did you say?

24 A. The two casings labeled A and B, which are right
25 here.

1 Q. A and B?

2 A. Yes, sir. Those are Sig .357-caliber casings.

3 Q. Okay.

4 A. Those two right there.

5 Q. Okay. Let me get this photograph. It's marked
6 Exhibit 14.

7 A. Yes, sir.

8 Q. Tell me what those numbers are.

9 A. Okay, 1 through 13 are Sig .45-caliber casings,
10 14 and 15 ---

11 Q. Ma'am, is that consistent with what's on this
12 diagram? That's what I'm concerned about, this diagram
13 that ---

14 A. I can't see all of them, but you have ---

15 Q. Five, four, three ---

16 A. Five, six, seven ---

17 Q. Wait, wait now. 13, 12, 11, and 9, okay?

18 A. Um-huh.

19 Q. What is 13?

20 A. It is the same thing.

21 Q. Same thing. Tell the jury; they need to know.
22 What is 13?

23 A. Sig .45.

24 Q. Okay. What is 12?

25 A. Sig .45.

1 Q. What is 11?

2 A. Sig .45.

3 Q. What is nine?

4 A. Sig .45.

5 Q. What's seven?

6 A. Same thing, Sig .45.

7 Q. Six?

8 A. Sig .45.

9 Q. Now, I'm going to ask you this question.

10 Isn't it fair to say that when the casing is discharged,
11 it goes backwards ---

12 A. Go ahead, finish.

13 Q. --- in reference to the projectile going forward?

14 A. You can't say -- I mean ---

15 Q. But, generally, it will be in the area from
16 which the gun was discharged; isn't that true?

17 A. I'm not an expert, but unless it hits something
18 going down ---

19 Q. Well, my point is, ma'am, it's easy, you can
20 agree with this, that the majority of these casings
21 were found near the pickup truck, right?

22 A. Yes, those casings ---

23 Q. Which means that people were shooting away
24 from the direction of the truck ---

25 MR. MYERS: Objection.

1 THE COURT: I'll allow her to answer ---

2 MR. DAVIS: Ma'am?

3 THE COURT: --- if she knows.

4 MR. DAVIS: Yeah.

5 THE WITNESS: I don't know.

6 MR. DAVIS: Okay.

7 BY MR. DAVIS:

8 Q. Where were -- they're found near the pickup
9 truck, right?

10 A. The casings, yes, were found near the pickup
11 truck.

12 Q. Okay, thank you.

13 MR. DAVIS: No further questions.

14 MS. GAY: One moment. I just need to think
15 through this. I have no further questions, Your Honor.
16 I think it's right at 12:30.

17 THE COURT: All right. Anything in
18 followup?

19 MR. MYERS: No, Your Honor.

20 THE COURT: All right. Thank you so very
21 much. You may be excused. All right, ladies
22 and gentlemen, it's 12:28. We're going to go ahead
23 and take our lunch break, so be back here, we'll say
24 1:40, because I know it takes y'all some time to get
25 in and out. All right, fair enough? Y'all enjoy your

1 lunch.

2 (The jury exited the courtroom at 12:28 p.m.)

3 (Recess taken.)

4 (Back on the record.)

5 THE COURT: All right. Thank you very much.
6 Please be seated.

7 MR. MYERS: Your Honor, I think there was
8 some confusion about what is admitted with the clerk.
9 I just want to clear that up. I want to make sure
10 I don't fail to admit something.

11 THE COURT: All right.

12 MR. MYERS: I believe the -- I want to make
13 sure Exhibit 19 has been admitted.

14 MS. GAY: What is it?

15 MR. MYERS: It was the box of firearms.

16 MS. GAY: Oh, no objection, Your Honor.

17 MR. DAVIS: No objection.

18 MR. MYERS: Okay, that's all.

19 THE COURT: All right. All right, bring
20 them out.

21 (The jury entered the courtroom at 1:43 p.m.)

22 THE COURT: All right, ladies and gentlemen,
23 thank you for being back. I hope you enjoyed your
24 lunch. You may call your next witness.

25 MS. LYNCH: State calls Taveres Liggonis.

1 THE CLERK: Please raise your right hand,
2 place your left hand on the Bible.

3 INVESTIGATOR TAVERES LIGGONS, was called as
4 a witness, being duly sworn, was examined and testified
5 as follows:

6 THE CLERK: Thank you. You may be seated.
7 Please state your full name, and spell your last name
8 for the record.

9 THE WITNESS: Taveres William Liggons,
10 L-I-G-G-O-N-S.

11 DIRECT EXAMINATION

12 BY MS. LYNCH:

13 Q. And where are you employed, Mr. Liggons?

14 A. The city of Goose Creek Police Department.

15 Q. What is your job there?

16 A. I'm currently employed as a crime scene
17 investigator and evidence custodian.

18 Q. How long have you been with Goose Creek?

19 A. I've been with Goose Creek for six years.

20 Q. And could you describe some of your duties?

21 A. Well, my somewhat nine-to-five job is the
22 evidence custodian portion, where I intake evidence
23 that officers submit, process that in, categorize it,
24 store it in the proper location, keep it accountable
25 in physical logbooks, along with maintaining evidence,

1 custody of documents that the officers submit, along
2 with maintaining electronic document of the evidence,
3 so we have triplicate redundancy for maintaining
4 evidence, along with being on call all the time, being
5 a crime scene investigator also.

6 Q. And where is the evidence kept?

7 A. The evidence is kept in our evidence room;
8 we have a room. There's primarily the main room,
9 and then we have two -- three other separate locations
10 that are also kept under lock and key, all closely
11 related inside of the police department.

12 Q. And if it's not in that room, where else could
13 it be taken?

14 A. Evidence could be taken for analysis. We take
15 evidence -- primarily, our evidence is taken for
16 analysis to SLED, the South Carolina Law Enforcement
17 Division. But we also take things to Charleston's
18 labs, and things like that, for analysis.

19 Q. And were you employed in 2021?

20 A. I was; I was employed by the city of Goose Creek.

21 Q. And what was your title then?

22 A. My title then was the same as it is now,
23 as the crime scene investigator and evidence custodian.

24 Q. And how did you come to be involved in this case?

25 A. I primarily became involved as the evidence

1 custodian. When the -- after the evidence was
2 collected, I was involved with the process of putting
3 it into the system as far as the logbooks and the
4 electronic side of the report management system, RMS.

5 MS. LYNCH: Your Honor, may I approach
6 the witness?

7 THE COURT: Yes, ma'am.

8 MS. LYNCH: I'm approaching him with
9 what's been marked as State's Exhibit 19.

10 BY MS. LYNCH:

11 Q. Do you recognize that?

12 A. I do.

13 Q. And what is it?

14 A. This is a box that has the labels on it,
15 involved evidence that was collected for this case,
16 2021-17-19.

17 Q. And which of those items did you receive in this
18 case?

19 A. For this case, I received all of them.

20 Q. And do you remember what the condition was when
21 you received them?

22 A. The condition was as it was stated on the
23 evidence forms that were turned in. When the evidence
24 forms are turned in, I take them out of a locker,
25 because evidence is put into a locker, take it out

1 of the locker. I look at the evidence form, make
2 sure that specific things that are vital are accurate
3 on the form as far as who turned it in, what date
4 and time they collected it, what date and time they
5 turned it in, it has the appropriate case number on it.
6 This one is 2021-17-19.

7 And then I make sure that all the items listed
8 on that evidence document are actually accountable
9 in the locker that they turned it in, including what
10 locker. We have multiple lockers, numbers 1 through
11 14, so.

12 Q. And after you received the evidence, what did
13 you do with it?

14 A. Once it's received and I verify that everything
15 is accurate as far as all the items are there, then
16 I log it into our logbook, assign each item an evidence
17 number, and then I take that, and I enter that
18 information also into our report management system,
19 which that number that I assigned it in the logbook
20 is then entered into the computer system.

21 And from there, I print out a label, which
22 we have here on the box, also on each item, and make
23 sure that the label is attached to the item, usually
24 stored into an appropriate-sized envelope, and the
25 envelope is labeled appropriately with the stickers,

1 and then I store it in the appropriate location.

2 On our side of our evidence locker, we have A,
3 which are envelopes, a specific side. We have another
4 section for, like, audio and visual, another section
5 where drugs go to, everything in their appropriate
6 section, and labeled sequentially in case order number.

7 Q. And once it was stored, what other involvement
8 did you have in this case?

9 A. For this case specifically, I also took evidence
10 -- aside from storing it, I also took evidence for
11 this case to SLED, the South Carolina Law Enforcement
12 Division.

13 Q. And at that time, would the evidence have
14 been tampered with in any way?

15 A. It would not have been.

16 Q. How would you know that?

17 A. Because it would still be in the same condition
18 that I received it in. Specifically, for taking items
19 to SLED, SLED requires additional packaging and sealing.
20 So, for instance, for firearms, they require evidence
21 tampering seals to be placed on the evidence -- the
22 gun boxes. Those tamper seals have to be initialed
23 and dated.

24 In most other things, SLED requires their
25 specific-sized, heat-sealed envelopes, so heat sealed

1 inside of an envelope. And all DNA has to have
2 tamper seals placed on that, initialed and dated.
3 So all those requirements have to be met, or else when
4 I take it to SLED, they won't accept it.

5 Q. Okay.

6 MS. LYNCH: Beg the Court's indulgence.
7 Nothing further, Your Honor. I'm just going to approach
8 the witness to take the evidence back.

9 THE COURT: All right.

10 MR. DAVIS: No questions, Your Honor.

11 THE COURT: All right. Thank you so very
12 much. You may be excused. Have a wonderful rest
13 of your day.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Call your next witness.

16 MR. MYERS: State calls Dr. Daniel Regino.

17 THE CLERK: Please raise your right hand,
18 place your left hand on the Bible.

19 DR. DANIEL REGINO was called as a witness,
20 being duly sworn, was examined and testified as follows:

21 THE CLERK: Thank you. You may be seated.
22 Please state your full name, and spell your last name
23 for the record.

24 THE WITNESS: Daniel Regino, R-E-G-I-N-O.

25 DIRECT EXAMINATION

1 BY MR. MYERS:

2 Q. Dr. Regino, what's your current profession?

3 A. I'm an emergency medicine physician at the
4 Trident Health System.

5 Q. Okay. And please tell the jury a little
6 bit about your education and training.

7 A. Sure. So, I completed four years of
8 undergraduate education at Castleton University
9 in Vermont in premed. Then, I completed a doctor
10 of osteopathic medicine at New York Institute
11 of Technology in Long Island, in New York. From there,
12 I graduate and went to emergency medicine residency
13 at the University of Maryland Shock Trauma in Baltimore,
14 where I spent three years. From there, I graduated
15 and moved down here, and took my first job at Trident.

16 Q. Do you belong to any sort of medical
17 or scientific groups?

18 A. I am board certified in emergency medicine
19 by the American Board of Emergency Medicine.

20 Q. In your experience, approximately how many
21 times have you treated patients with injuries?

22 A. Injuries in general, tens of thousands.

23 MR. MYERS: At this time, the State moves
24 to admit Dr. Regino as an expert in medical trauma,
25 Your Honor.

1 THE COURT: All right. You qualified him
2 as an expert in emergency medicine?

3 MR. MYERS: Yes, Your Honor.

4 THE COURT: All right, ladies and gentlemen.
5 He's qualified as an expert, that means he can give
6 his opinion, whereby a lay witness would not be entitled
7 to give their opinion on a certain issue. All right.

8 BY MR. MYERS:

9 Q. Dr. Regino, did you have an opportunity to treat
10 Daniel Varner for an injury on or about April 25th
11 of 2021?

12 A. I did.

13 Q. Could you please explain the injury you treated?

14 A. Sure. So he was a level-one trauma activation
15 at Trident Medical Center. He came in with multiple
16 gunshot wounds to the left upper extremity and left
17 lower extremity.

18 Q. Okay. In your expert opinion, is shooting
19 a person with a firearm three times likely to injure
20 them in a manner ---

21 MR. DAVIS: Objection to the form of the
22 question, Your Honor.

23 THE COURT: All right, overruled.

24 BY MR. MYERS:

25 Q. In your expert opinion, is shooting a person

1 with a firearm three times likely to injure him
2 in a manner that causes substantial risk of death?

3 A. Yes.

4 Q. Is shooting a person with a firearm three times
5 likely to injure them in a manner that causes serious,
6 permanent disfigurement?

7 A. Yes.

8 Q. Is shooting a person with a firearm three times
9 likely to injure them in a manner that causes protracted
10 loss or impairment of the function of a body organ?

11 A. Yes.

12 MR. MYERS: Court's indulgence. No further
13 questions, Your Honor.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MR. DAVIS:

17 Q. Doctor, have you and I ever discussed this case?

18 A. No, sir.

19 Q. Okay. Now you can state an opinion within
20 a reasonable degree of medical certainty, right?

21 A. Yes, sir.

22 Q. Now can I -- can we agree that the medical notes
23 that are dictated involving a patient that you had
24 the opportunity to examine is critical?

25 A. Yes, sir.

1 Q. Okay. So if I shared with you that the medical
2 records suggest -- states that the injuries received
3 by this individual was non-life threatening, you would
4 disagree with that?

5 A. The injuries that he sustained were not life
6 threatening.

7 Q. Okay, were not life threatening. Thank you.
8 As a matter of fact, the injuries -- I've been shot
9 myself, so I understand. The bullet went straight
10 through, right?

11 A. Some did.

12 Q. And it didn't involve any, what we call major
13 organs, okay? Tell the jury one of the major organs
14 of the body.

15 A. There are many.

16 Q. Well, you're the doctor, so you're sure, right?
17 But, normally, we think about the heart as being one?

18 A. Indeed.

19 Q. We think about the lungs?

20 A. Sure.

21 Q. Everything about the aorta veins; isn't that
22 correct?

23 A. The aorta is an artery, but sure.

24 Q. Well, the artery because -- if that is punctured,
25 tell the jury what happens.

1 A. You bleed out very quickly.

2 Q. Thank you. Quickly, right?

3 A. Yes, sir.

4 Q. Now in this instance, did that occur
5 to Mr. Varner?

6 A. Thankfully, it did not.

7 Q. Okay. Now did you have an occasion to examine
8 Mr. Varner thoroughly?

9 A. Yes, sir.

10 Q. Did he complain, or did you see any injuries
11 pertaining to his head?

12 A. No, sir. He had some scattered glass around
13 his face, but he had no injuries to the head.

14 Q. Okay. Are you certain, Doctor?

15 A. Yes, sir.

16 Q. Now most of the times people come to you is in
17 the middle of the night sometimes; isn't that correct?

18 A. I only work nights.

19 Q. Okay. And how long had you been at Trident?

20 A. At that time, about eight months.

21 Q. A lot of what I'll call gun injuries in this
22 area; isn't that correct?

23 A. Yes, sir.

24 Q. I mean, America is violent right now; isn't that
25 true?

1 A. Yes, sir.

2 Q. Okay. Now do you have any recollection
3 of whether you treated another individual that came
4 that same night, Mr. Isaiah Canales?

5 A. I do not, sir.

6 Q. Okay. So you were not the only emergency
7 physician on call that night?

8 A. There are two physicians in the department
9 at night.

10 Q. Okay. Could you share with the jury who
11 the other two physicians would have been that night?

12 A. I do not recall.

13 Q. You don't recall. But you were not the sole
14 person?

15 A. At that point of the night, no.

16 Q. Okay. And if an individual had received
17 a serious head injury, you think during the triage
18 that would have been noted?

19 A. Yes, sir.

20 Q. Okay.

21 MR. DAVIS: No further questions.

22 THE COURT: Anything as in followup?

23 MR. MYERS: No, Your Honor.

24 THE COURT: All right. Thank you so very
25 much. You may be excused. Have a wonderful rest

1 of your day. Call your next witness.

2 MR. MYERS: State calls Chad Smith.

3 THE CLERK: Please raise your right hand,
4 place your left hand on the Bible.

5 MR. CHAD SMITH, was called as a witness,
6 being duly sworn, was examined and testified as follows:

7 THE CLERK: Thank you. You may be seated.
8 Please state your full name, and spell your last name
9 for the record.

10 THE WITNESS: My name is Chad Smith,
11 S-M-I-T-H.

12 DIRECT EXAMINATION

13 BY MR. MYERS: ..

14 Q. Mr. Smith, what is your current profession?

15 A. I'm a forensic scientist in the firearms
16 department at SLED's forensic laboratory in Columbia.

17 Q. Can you explain to the jury what that is?

18 A. Well, I'm a firearms examiner in that department.
19 My duties include the examination of firearms,
20 ammunition, and ammunition components, such as bullets
21 and cartridge cases. I also do serial number
22 restorations on firearms that have an obliterated serial
23 numbers, and I also assist with the destruction
24 of firearms that agencies throughout the state bring
25 to us to be destroyed.

1 Q. Please tell the jury a little bit about your
2 education and training.

3 A. Went to Clemson University where I earned
4 a Bachelor of Science degree in biological sciences.
5 I worked for Clemson for several years before coming
6 on board with SLED. When I began my employment
7 with SLED, I entered the training program to become
8 a firearms examiner. That training lasts several
9 years. It involves extensive reading and studying.
10 There are multiple examinations and tests given during
11 that time. I also attended various classes and seminars
12 to firearm manufacturing facilities.

13 Later in my training, I helped other examiners
14 prepare their casework. And at the end of my training,
15 I received a comprehensive multi-part examination,
16 which I successfully completed, and I began to receive
17 my own casework.

18 Q. In your experience, approximately how many
19 times have you performed firearms analysis for SLED?

20 A. Well, the number of cases I've worked, it would
21 be in the hundreds since I've been there.

22 MR. MYERS: At this time, the State moves
23 to admit Mr. Smith as an expert in firearms analysis.

24 MR. DAVIS: I have no objection, Your Honor.

25 MS. GAY: I have no objection.

1 THE COURT: As I indicated, he can now give
2 his opinion.

3 BY MR. MYERS:

4 Q. Mr. Smith, did you have an opportunity to analyze
5 the firearms collected for this case?

6 A. I did.

7 Q. Okay. And please explain that analysis.

8 A. So, specifically, what I was given in this case
9 for examination, there was a pistol, a Ruger-model LCP
10 semi-automatic pistol, which is chambered in .380-auto
11 caliber. I also received three fired bullets that
12 were collected, and a total of 24 fired cartridge
13 cases, which encompassed several different calibers.

14 Q. Could you tell me the -- what was the conclusion
15 you gained from your analysis?

16 A. So what I do is, when I get bullets and cartridge
17 cases, I compare them with each other, and I'm looking
18 for markings that are created by the firearm during
19 firing and try to determine if potentially they were
20 fired by the same firearm. So, I compared these
21 cartridge cases with each other.

22 And how we do that is we have what's called --
23 each examiner has a comparison microscope, so that's
24 a tool of our trade. Basically, if you can imagine,
25 it's two microscopes that's connected by an optical

1 bridge system, so you look through, and you can
2 compare two samples simultaneously. So, I can look
3 at one cartridge case against another cartridge case,
4 or another bullet against another bullet, and look
5 for those markings, those microscopic markings,
6 that are created by the firearm during firing.

7 And so I compared all those together, and come
8 up with some conclusions. In this specific instance,
9 the three fired bullets, one of the fired bullets
10 was most consistent with being .380-auto caliber.
11 How we can determine calibers of bullets is, typically,
12 if a bullet is in good enough shape, which is the
13 diameter of that bullet at the base, you also can weigh
14 the bullets." And along with some other characteristics,
15 we'll try to pull off the caliber.

16 So one of those bullets was .380-auto caliber;
17 the other two fired bullets were most consistent with
18 being .45-auto caliber, which is a totally different
19 caliber. And I compared -- the only firearm that
20 was submitted was a .380 auto, so I compared that with
21 a .380-caliber bullet to see if potentially it was fired
22 by that gun. Unfortunately, those examinations -- those
23 comparisons were inconclusive. So, I couldn't determine
24 if that .380-auto caliber bullet was fired by the gun
25 submitted or another similar gun that shared the same

1 characteristics.

2 Cartridge case wise, we compared -- there were,
3 like I said, 24 total cartridge cases that were
4 submitted. Specifically, there were five .380-auto
5 caliber cartridge cases, four .357 Sig-caliber cartridge
6 cases, and then there were 15 .45-auto caliber cartridge
7 cases. So, I would compare those groups within each
8 other and try to determine how many -- potentially
9 how many guns were involved.

10 The .380-auto caliber cartridge cases, I compared
11 with test specimens that I fired from the firearm
12 that was submitted, the Ruger firearm. I was able
13 to identify all five of those cartridge cases as having
14 been fired by the Ruger pistol that was submitted.

15 The four .357 Sig-caliber cartridge cases,
16 I compared with each other, and determined that they
17 were all fired by the same firearm. Now, they were
18 not fired by the firearm that was submitted; it's
19 a totally different caliber. And also the 15 .45-auto
20 caliber cartridge cases, I compared with each other,
21 and those were inconclusive with each other.

22 So, I couldn't determine if all of those have
23 been fired by the same firearm or multiple firearms.
24 But I could determine they were not fired by the pistol
25 that was submitted, and they were not fired by the

1 pistol that fired the .357 Sig-caliber cartridge cases.
2 All those have different class characteristics, such
3 as caliber. So, I can rule out certain guns as having
4 fired those.

5 Q. With the .357 and the .45, were you able to match
6 that with any gun in your possession?

7 A. No, sir. Like I said, the only firearm that
8 was submitted was the .380 Ruger, and so there was
9 no firearm with a .357-Sig caliber, no firearm with
10 a .45-auto caliber for me to compare those cartridge
11 cases with.

12 MR. MYERS: No further questions, Your
13 Honor.

14 MR. DAVIS: May it please the Court, Your
15 Honor.

16 CROSS-EXAMINATION

17 BY MR. DAVIS:

18 Q. Mr. Smith, how are you doing this afternoon?

19 A. Fine, thank you.

20 Q. Have you and I discussed this case at any time?

21 A. Pardon?

22 Q. Have you and I discussed this case?

23 A. No, sir.

24 Q. Do you know a fellow by the name of Sammy
25 Stewart?

1 A. No, sir.

2 Q. Okay. He works for SLED.

3 A. Oh, Sam Stewart; Sam Stewart works in DNA, yes,
4 sir.

5 Q. Yeah, I thought you knew him. Now this is
6 what the jury needs education on. Wouldn't you expect
7 the Ruger gun that was submitted with the .380 casing,
8 if that is alleged that gun was used in a shooting,
9 wouldn't you expect it to conclude that it was fired
10 by that Ruger?

11 A. The cartridge cases that were collected,
12 the .380-auto caliber cartridge cases, I did identify
13 with the firearm that was submitted, the Ruger firearm.

14 Q. Oh, you did identify that it went with that gun?

15 A. Yes, sir. The bullet ---

16 Q. Okay.

17 A. The actual bullet and projectile that was
18 submitted, that I determined to be .380-auto caliber,
19 was inconclusive with the Ruger that was submitted.
20 But the cartridge cases were identified as having been
21 fired by that gun.

22 Q. You got me confused here. A gun was submitted,
23 the Ruger, right?

24 A. Correct.

25 Q. That they gave to you, saying that was used

1 in the incident that occurred on April the 25th, 2021?

2 A. Specifics of the case, I didn't know. The gun
3 was just submitted.

4 Q. Well, take for granted that I say that because
5 that's been the point all along.

6 A. Yes, sir.

7 Q. This fellow had a gun, says that's the gun
8 that he shot, and it was in his glove compartment.
9 The question I have for you, Mr. Smith, is, did that
10 gun identify with any of the casings that was submitted
11 to you?

12 A. Yes, sir, the five .380-auto caliber cartridge
13 cases that were submitted. Remember, there were three
14 different caliber cartridge cases that were submitted.
15 The .380 cartridge cases were identified as having
16 been fired by the Ruger pistol that was submitted.

17 Q. That was submitted to you?

18 A. Correct.

19 Q. Okay. Now, you know, I watch Forensic Files;
20 that's my favorite show, okay? And in this --
21 in that instance, when a gun is discharged, or a bullet
22 is discharge, it makes certain markings. Do you agree
23 with that, markings?

24 A. Correct. Are we talking about the bullet itself,
25 the projectile ---

1 Q. Well, you didn't have the projectile, right?

2 A. There was a .380-auto -- there were three bullets
3 that were submitted.

4 Q. Well, have they been spent, is what I'm saying?

5 A. Yes, yes, they were fired.

6 Q. So you had the casings though?

7 A. I had cartridge cases as well.

8 Q. You had the -- they retrieved the projectile
9 that was on the end of the bullet, you had that too?
10 You know when you shoot somebody, a piece of lead shoots
11 out, we call that a projectile, right?

12 A. Correct. I think there's some confusion ---

13 Q. Then help me, please.

14 A. --- as to what terminology is called. So to
15 start out with, when you have one round of unfired
16 ammunition, that's called a cartridge.

17 Q. Uncharged?

18 A. Unfired.

19 Q. Okay.

20 A. And a cartridge is made up of several components.
21 You've got the cartridge case, which some people just
22 call casings.

23 Q. The one that they picked up, the officers would
24 pick up that was discharged?

25 A. Right. That would be extracted and ejected

1 out of the firearm ---

2 Q. Okay.

3 A. --- during firing.

4 Q. Would you expect that to be pretty close to where
5 the gun was fired from?

6 MR. MYERS: Objection, no foundation.

7 MR. DAVIS: He's an expert.

8 MR. MYERS: He's an expert on analysis.

9 THE COURT: I agree. I'll sustain the
10 objection.

11 BY MR. DAVIS:

12 Q. Go ahead.

13 A. The distance -- when we shoot, when we test
14 fire into our tank, that's an enclosed area.

15 MR. MYERS: Objection.

16 THE COURT: He's going to his explanation.
17 Go ahead.

18 THE WITNESS: And we can't determine where
19 cartridge cases are going to end up. That's the kind
20 of analysis we can't determine based on the variables
21 involved. Cartridge cases are round so -- and they're
22 lightweight. Depending on the surface that they hit,
23 they can bounce to different areas. If the surface
24 is sloped one way or another, they certainly can roll.

25 So to determine where cartridge cases end

1 up is not something we can do. We can typically say
2 that when a semi-automatic is functioning properly,
3 and you hold it in a proper fashion, not twisting
4 your hand a certain way while holding it,, generally,
5 those cartridge cases go up and to the right.

6 Q. Behind you?

7 A. Sometimes.

8 Q. Okay.

9 A. Sometimes they go forward.

10 Q. Okay.

11 A. Sometimes they got to the left. It's not a hard
12 fast rule as to where cartridge cases can go.

13 Q. In your expert opinion, you expect them to
14 travel. You don't expect them to travel a great
15 distance, do you?

16 A. I would not expect them to travel hundreds
17 of yards, but ---

18 Q. Ten feet, five feet, three feet?

19 A. Feet, correct, feet.

20 Q. Inches?

21 A. I mean, I don't know, I've shot guns in my
22 personal -- on my personal time where cartridge cases
23 go, you know, several yards. So depending on the
24 caliber, the specific firearm, you know, where cartridge
25 cases can go is -- there's too many variables involved.

1 So, again, that's not something that we can really
2 get into as far as they just don't end up in a neat
3 pile all the time ---

4 Q. Okay.

5 A. --- you know, in a certain direction.

6 Q. Okay. Now you said for certain even the .45
7 bullets that you -- did you receive -- the .45 caliber,
8 you received, right?

9 A. Bullets?

10 Q. Yeah.

11 A. Yes, there were two fired bullets. Again,
12 projectiles, that I determined to be most consistent
13 with being .45-auto caliber. And then I also received
14 15 fired .45-auto caliber cartridge cases. Again ---

15 Q. Bullets that had not been discharged?

16 A. The bullets were fired; the bullets had gone
17 down the barrel of a gun.

18 Q. Okay, I'm sorry.

19 A. And then the cartridge cases again have been
20 fired, so those have been extracted and ejected out
21 of a firearm.

22 Q. But those 15 were not consistent with the three
23 that were fired. You said it was inconclusive, right?

24 A. You can't -- I can't compare bullets with
25 cartridge cases because those are two separate

1 things. Bullets -- there were two fired bullets that
2 I determined to be consistent with, or most consistent
3 with, being .45-auto caliber, based on their
4 characteristics. And then cartridge cases, there were
5 15 fired .45-auto caliber cartridge cases. So again,
6 I've got ---

7 Q. Well, I think what I'm trying to find out,
8 what were the inconclusive things you couldn't conclude?
9 That's what we need to know, what was inconclusive
10 to your conclusion?

11 A. Inconclusive?

12 Q. Yeah.

13 A. The bullets themselves, the projectiles,
14 the one fired bullet that was consistent with being
15 .380-auto, that was inconclusive with the Ruger pistol
16 that was submitted.

17 Q. That was one bullet there that was not even
18 consistent with the Ruger that was submitted to you?

19 A. No, there was one fired bullet that was --
20 it was consistent with, but it was inconclusive with
21 having been fired with that particular firearm that
22 was submitted.

23 Q. Okay. Let's go through this again. I ain't
24 trying to confuse you. That same Ruger gun was
25 consistent with some of the casings that were submitted?

1 A. Right, the cartridge cases that were submitted
2 I determined were fired by the .380-auto caliber
3 cartridge cases that were submitted, there were five
4 of them, I determined had been fired by the Ruger
5 pistol.

6 Q. But there was another .380 that was inconsistent
7 with being fired by that gun?

8 A. Another .380?

9 Q. Yeah.

10 A. The -- no, not cartridge case wise. Cartridge
11 case wise, I determined that they matched the firearm
12 that was submitted.

13 Q. Seems like you were saying that there was
14 one .380 that was submitted that was inconsistent.
15 I mean, what was inconsistent with .380 in relationship
16 to the Ruger?

17 A. I don't follow.

18 Q. I don't follow neither. You said there were five
19 casings you received. These were casings that had been
20 -- the projectile had left the bullet; do you agree
21 with that?

22 A. Right, right.

23 Q. And they were consistent with the Ruger gun that
24 was submitted to you?

25 A. Well, they -- I determined they had been fired

1 by that particular firearm.

2 Q. Well, consistent, meaning, that gun, the Ruger
3 that was submitted to you? You determined those
4 five casings had to have been shot by that Ruger
5 that was submitted to you; that's what you're saying?

6 A. Correct.

7 Q. But there was another .380 that was not
8 consistent with being -- what was inconsistent?

9 A. No, the bullet that was submitted was
10 inconclusive with the gun that was submitted.
11 So, I can't say for certain one way or the other if
12 it had been fired by that particular gun or potentially
13 another ---

14 Q. So you couldn't make a determination?

15 A. Bullet wise, it was inconclusive.

16 Q. Okay. Why is that?

17 A. There can be various reasons. For whatever
18 reason, that particular bullet didn't -- didn't mark
19 well. Again, we're looking at fine marks that are
20 created as the bullet travels down the barrel.

21 Q. Let me ask you a question, you're the expert.
22 Say if a bullet jams, right, the gun jams, right,
23 and so you don't have the discharge, could that
24 be an explanation, in your expert opinion, why it would
25 not be consistent with the Ruger?

1 A. No, sir. That bullet -- again, the bullet
2 that was inconclusive with the gun that was submitted
3 had been fired; it was a fired bullet.

4 Q. Oh, it had been fired?

5 A. It went down the barrel of a gun.

6 Q. And it was a .380?

7 A. Most consistent with .380.

8 Q. But it wasn't that gun though?

9 A. Well, I can't say one way or the other.

10 Q. Because it was inconclusive?

11 A. It was inconclusive.

12 Q. Which means you couldn't determine that it
13 had -- like the other five, you could not determine,
14 with a medical degree of certainty, that it had been
15 fired by that Ruger, right?

16 A. It was inconclusive.

17 Q. Okay.

18 A. Meaning, I can't determine if it had been fired
19 by that particular gun or by another firearm.

20 Q. And then you found 18 or 15 .45 calibers?

21 A. There were 15 .45-auto caliber ---

22 Q. Three of them were consistent with ---

23 A. No, all of the cartridge cases that were
24 .45 caliber, .45-auto caliber, were inconclusive
25 with each other. So, I ---

1 Q. Inconclusive.

2 A. Inconclusive. So, I could not match them with
3 each other conclusively to say if one gun had fired
4 all of those ---

5 Q. Or multiple guns?

6 A. Or multiple guns.

7 Q. The Ruger -- is a Ruger considered a six shooter?

8 A. It's a semi-automatic pistol. A six shooter
9 would be, like, a revolver. But, I guess, you could
10 also say that -- the Ruger pistol had magazines to load
11 cartridges.

12 Q. And how much could that magazine hold?

13 A. That magazine holds six rounds. But you could
14 have one additional round already in the chamber,
15 ready to be fired, plus a fully-loaded magazine.
16 So capacity wise, that firearm total would be seven
17 rounds.

18 Q. Six plus one?

19 A. Correct.

20 Q. That's not a six shooter, six plus one?

21 A. If you're considering how many cartridges
22 fully that gun can hold, it would be seven.

23 Q. You've got one in there, you put the clip in,
24 the gun still could be discharged if you've got six
25 plus one; isn't that true?

1 A. That's correct.

2 Q. Okay.

3 MR. DAVIS: No further questions.

4 MS. GAY: I don't have any questions.

5 REDIRECT EXAMINATION

6 BY MR. MYERS:

7 Q. The projectile -- the .380 projectile was
8 inconclusive?

9 A. Correct.

10 Q. All right. Is it possible that that projectile
11 was fired from the .380 that you had in your possession?

12 MS. GAY: Your Honor, I would object.
13 He's answered that it's inconclusive. He says it's
14 not, or he can't say that it is.

15 THE COURT: It's redirect, I'll allow
16 him to answer the question.

17 BY MR. MYERS:

18 Q. Is it possible?

19 A. It's possible. What inconclusive means
20 is I can't say it was or it wasn't. So it is possible
21 it was fired by that gun that was submitted.

22 MR. MYERS: No further questions.

23 MR. DAVIS: One last question.

24 RECROSS EXAMINATION

25 BY MR. DAVIS:

1 Q. Who should get the benefit of the doubt
2 in that instance since you can't determine which one?
3 You're the expert; isn't that correct?

4 A. There's no benefit of the doubt; it's
5 inconclusive is what it is.

6 Q. And so it has no value?

7 A. Depending on who's reading the report, it could
8 have value. Again, I can't say one way or the other,
9 and that happens. We can't always say if a certain
10 piece of weapon has been fired by a particular firearm.
11 We have inconclusive results for a reason because
12 sometimes we cannot determine.

13 MR. DAVIS: Thank you.

14 MS. GAY: I have a question.

15 CROSS-EXAMINATION

16 BY MS. GAY:

17 Q. So your testimony today to this jury is not
18 that it came out of the Ruger, you cannot tell this
19 jury today that it came out of the Ruger?

20 A. I cannot say conclusively that bullet we're
21 talking about, that I determined to be .380-auto
22 caliber, was fired by that particular gun. It could
23 have been, or it could have been fired by another
24 firearm with similar characteristics.

25 MS. GAY: Thank you, Your Honor.

1 MR. DAVIS: Thank you.

2 THE COURT: All right. Thank you so very
3 much. You may be excused.

4 THE WITNESS: Thank you, Your Honor.

5 MR. MYERS: Your Honor, the State rests.

6 THE COURT: Ladies and gentlemen, the State
7 has rested and, therefore, there are a couple of matters
8 of law that I will need to take up with the parties.
9 If you'll just excuse us for a couple of minutes,
10 I'll bring you right back out.

11 (The jury exited the courtroom at 2:20 p.m.)

12 THE COURT: All right. Any matters
13 of law that we need to take up?

14 MR. DAVIS: Yeah, I move for a directed
15 verdict, specifically, as it is addressed to the
16 elements of the crime of armed robbery. The testimony
17 in this case, quite clearly, was that Mr. Canales
18 was not involved in any robbery whatsoever.

19 As a matter of fact, Mr. Dickens [sic]
20 testified that my client never touched him in any
21 instance whatsoever, didn't even have a conversation
22 with him, never touched his body, because my client
23 was too much engaged with Mr. Varner. I would take
24 the position that the State has failed in that instance
25 to prove all the elements pertaining to armed robbery

1 as it's addressed to Mr. Canales.

2 THE COURT: All right. What's the State's
3 position?

4 MR. MYERS: Your Honor, the State's
5 position is that the testimony of both victims,
6 the video, satisfy all the elements of armed robbery.
7 Both witnesses testified that they thought they were
8 being robbed because guns were being pointed at them
9 by everybody, all five together in concert, the taking
10 and carrying away of the wallet, the use of deadly
11 force, or the threat of deadly force. All of these
12 elements were met for armed robbery.

13 THE COURT: All right. All right.
14 I think that's a factual question that would need
15 to go to the jury, so I would ---

16 MR. DAVIS: I have one more motion to make,
17 Your Honor. I move for a directed verdict in reference
18 to assault and battery of a high and aggravated nature.
19 I know a weapon was involved, but all indication
20 in this instance that no injuries were received
21 were not of the magnitude that supports the indictment
22 and the law in this instance.

23 THE COURT: All right. I find that both
24 of the victims have testified that they were either
25 hit with a weapon, or in the alternative, one was placed

1 and pointed it to their heads, so I will allow that
2 factual information to be ---

3 MR. DAVIS: Thank you, Your Honor.

4 MS. GAY: Your Honor, on behalf of my
5 client, Mr. Dickens, I move for a directed verdict.
6 And even in the light most favorable to the State,
7 I don't think they've established the elements of the
8 charge for assault and battery of a high and aggravated
9 nature. My client is not alleged to have hit anybody.
10 I don't think there's a way that anything that's been
11 said could indicate that he was -- he ever fired at,
12 or actually hit, Mr. Varner.

13 And also, Your Honor, with regard to the
14 armed robbery, I believe that the evidence is clear
15 that there was no attempt to commit an armed robbery
16 in this case, that there was complete mayhem involving
17 guns that Mr. Varner admits that he started.

18 THE COURT: All right. I find that
19 the testimony was that a gun was placed to his head,
20 and, obviously, the jury can determine whether that is,
21 in fact, assault and battery of a high and aggravated
22 nature, so I'll allow that factual information to go
23 to the jury. All right. Anything else?

24 MR. DAVIS: That's it, Your Honor.

25 THE COURT: All right.

1 MR. DAVIS: I would like to inquire of my
2 client of his constitutional rights.

3 THE COURT: We've got to do that now.

4 MR. DAVIS: Thank you.

5 THE COURT: All right, if you two will
6 stand. Raise your right hands.

7 (Whereupon, Mr. Isaiah Canales and Mr. Dimitri Dickens
8 were duly sworn.)

9 THE COURT: All right. All right,
10 gentlemen, at this time, I am going to explain to
11 you certain of your rights. If you do not understand
12 anything I say, please let me know. If you want me
13 to explain anything in more detail, please let me know.
14 Do you understand that?

15 DEFENDANT CANALES: Yes, sir.

16 DEFENDANT DICKENS: Yes, sir.

17 THE COURT: We have now reached the stage
18 of the trial where you may present your defense.
19 You have the right to claim the protections given
20 to you by the Fifth Amendment to the Constitutional
21 of the United States. This amendment states, in part,
22 no person shall be compelled in any criminal case
23 to be a witness against himself. This means that
24 you cannot be required to testify in this case.
25 You have the right to testify on your own behalf.

1 However, no one can make you testify. This is
2 a personal right, and no one can waive this right,
3 except for you.

4 If you decide to testify, you'll be subject
5 to the same rules that govern other witnesses, and you
6 may be examined and cross-examined on any relevant issue
7 in this case. In addition, if you have any convictions
8 involving dishonesty or false statement, or for crimes
9 punishable by imprisonment for more than one year,
10 and this Court determines that the probative value
11 of admitting this evidence outweighs its prejudicial
12 effect to you, the solicitor will be able to introduce
13 your record to attack your credibility.

14 If you decide to testify, this decision
15 on your part must be freely, voluntarily, and
16 intelligently made, with knowledge of the protections
17 given to you by the Fifth Amendment and the consequences
18 of your decision to testify.

19 If you decide not to testify, I will
20 instruct the jurors that they cannot give the fact
21 that you did not testify any consideration whatsoever,
22 and that there's to be absolutely no prejudice to you
23 because you did not testify. It is left entirely
24 up to you whether or not you testify. You may talk
25 with your attorney, your family, your friends, or anyone

1 else, but the final decision will be left entirely
2 up to you. Do you understand what I've explained
3 to you?

4 DEFENDANT CANALES: Yes, sir.

5 DEFENDANT DICKENS: Yes, sir.

6 THE COURT: Do you have any questions
7 about what I've explained to you?

8 DEFENDANT CANALES: No, sir.

9 DEFENDANT DICKENS: No, sir.

10 THE COURT: Do you have any questions
11 for me?

12 DEFENDANT CANALES: No, sir.

13 DEFENDANT DICKENS: No, sir.

14 THE COURT: All right. I'm going to
15 give you a couple of minutes to continue to discuss
16 it with your attorney. I'm going to come back out
17 in about five minutes and ask you what your decisions
18 are, okay?

19 DEFENDANT CANALES: Yes, sir.

20 DEFENDANT DICKENS: Yes, sir.

21 THE COURT: All right. We'll take
22 a five-minute break.

23 (Recess taken.)

24 (Back on the record.)

25 THE COURT: All right. Thank you very much.

1 Please be seated. All right, Mr. Canales, if you'll
2 please stand. Mr. Canales, have you had enough
3 opportunity to speak with anybody you wish to speak
4 to about putting up a defense and testifying on your
5 own behalf?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you need more time with
8 your attorney?

9 THE DEFENDANT: Yes, please.

10 THE COURT: You do?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Have a seat.

13 All right, Mr. Dickens, have you had enough opportunity
14 to discuss with whomever you would like to your right
15 to testify and testifying on your own behalf?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you need more time with
18 your attorney?

19 THE DEFENDANT: I do.

20 THE COURT: All right. While they're
21 talking to their clients, have y'all reviewed the jury
22 charges?

23 MR. DAVIS: No, we haven't, Judge.

24 THE COURT: Huh?

25 MR. DAVIS: I haven't seen the jury charges.

1 MR. MYERS: Yes, Your Honor.

2 MS. GAY: I e-mailed them.

3 (Pause.)

4 MR. DAVIS: We're ready, Your Honor, when
5 you're ready.

6 THE COURT: Okay. Let me get these things
7 printed so it's not loud.

8 MR. DAVIS: Okay.

9 (Pause.)

10 MR. DAVIS: Did it include mutual combat,
11 Your Honor?

12 THE COURT: I haven't; that's what we're
13 going to talk about, so let me get them out. All right,
14 Mr. Canales, if you'll stand. All right, Mr. Canales,
15 have you had enough time to discuss your right
16 to testify on your own behalf with your attorney?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Would you like to speak with
19 anyone else?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. What is your desire?

22 THE DEFENDANT: That I'm not going
23 to testify.

24 THE COURT: All right. Mr. Dickens,
25 if you'll please stand. Have you had all the time

1 that you need with your attorney?

2 THE DEFENDANT: Yep.

3 THE COURT: I saw you in the back speaking
4 to your family, do you need more time with anybody?

5 THE DEFENDANT: No, sir.

6 THE COURT: What are your plans?

7 THE DEFENDANT: I'm not going to testify.

8 THE COURT: All right. Y'all want to rest
9 in front of the jury?

10 MR. DAVIS: Yes, Your Honor.

11 THE COURT: All right. So how do y'all
12 advise that we proceed? Do y'all want to do your
13 closing arguments today, you want to do it tomorrow,
14 you want me to -- what do y'all want to do?

15 MR. MYERS: No, I would rather do them
16 in the morning, if you don't mind. It's always best
17 to rest; we've been up here all day.

18 THE COURT: All right.

19 MR. DAVIS: I'm ready to go; it's just 2:30.

20 MS. GAY: I'm ready to go.

21 MR. DAVIS: I've got something else to
22 do tomorrow. Let's get it done, please. At least
23 get the jury to reach the case.

24 MR. MYERS: I would like the jury
25 to be fresh when they hear ---

1 MR. DAVIS: They're fresh.

2 MS. GAY: We could give them a choice.

3 THE COURT: How long will your closing take?

4 MR. MYERS: A half hour, maybe.

5 THE COURT: How long is yours going to take?

6 MR. DAVIS: Judge, I ain't but a 15 to
7 20-minute man.

8 MS. GAY: Times two.

9 THE COURT: I've been around Steve long
10 enough where the jokes just bounce off of me.

11 MS. GAY: I would say shorter than Steve's.

12 THE COURT: All right. My only concern
13 is this, I agree with Mr. Davis, but since it's 2:30,
14 we would be done at four, but I would hate to give
15 the -- I would hate to give it to them at four.

16 MR. DAVIS: Okay.

17 THE COURT: Because then they feel rushed.

18 MR. DAVIS: Yeah, okay, Judge.

19 THE COURT: That's my only concern, because
20 I don't want them to feel like because it's the end
21 of the day that they have to come up with a decision.

22 MR. DAVIS: I stayed up all night, Judge,
23 at one o'clock in the morning, just going --

24 THE COURT: I go to bed at nine. You ain't
25 got a nine and a seven year old anymore.

1 MR. DAVIS: No, I don't, Judge; I sure
2 don't, Judge.

3 THE COURT: All right. Let's do this.
4 All right.

5 MR. MYERS: Right now, I've got a three
6 month old.

7 THE COURT: Actually, I said seven and nine,
8 mine are nine and eleven. My son's birthday was
9 Saturday; he just turned nine, so, yeah. Taking eight
10 boys to a water park is not an advisable idea.
11 All right.

12 MS. GAY: Judge, we'll do ---

13 MR. DAVIS: I'll go with whatever you
14 decide, Judge.

15 THE COURT: Well, we still have to do
16 the charge conference and all that stuff, so I'll let
17 you rest on the record. Bring them out.

18 MR. DAVIS: Thank you.

19 THE COURT: Yes, sir.

20 (The jury entered the courtroom at 2:39 p.m.)

21 THE COURT: All right. Thank you very much.
22 All right, ladies and gentlemen of the jury, I just
23 want to be abundantly clear about this. They brought
24 some of it up in the beginning of the case, but at all
25 times during this case, the burden rests on the state

1 of South Carolina to prove the Defendants guilty beyond
2 a reasonable doubt, all right?

3 There is no burden on the defense whatsoever
4 to put up a defense or to testify on their own behalf,
5 all right? But I give them the opportunity, if they
6 would like to, to put up a defense. But again, they
7 don't have to do a thing. They can sit there and play
8 Uno if that's what they want to do, okay? The burden
9 always rests on the State, all right? Mr. Davis.

10 MR. DAVIS: May it please the Court,
11 Your Honor. My client and I have concluded, even went
12 through instructions and telling him about his rights,
13 that we're not going to put up any defense, and we rest
14 at this time.

15 THE COURT: Thank you, sir. Yes, ma'am.

16 MS. GAY: Thank you, Your Honor. On behalf
17 of Mr. Dickens, he will not be testifying today,
18 Your Honor.

19 THE COURT: Thank you very much.

20 MS. GAY: We rest.

21 THE COURT: All right, ladies and gentlemen,
22 here's what we're going to do. I don't want to waste
23 your time, but we have -- again, as you can see
24 throughout this process, we have matters of law that
25 we'll need to take up, and that takes time, and I know

1 your time is precious, so I know you would rather spend
2 it at an early happy hour than oppose to just sitting
3 back there. So what I'm going to let y'all do is go
4 ahead and go for the day. I would ask that you return
5 tomorrow morning at 9:30.

6 Here's what we're going to do at that time.
7 We are going to give the closing arguments. I indicated
8 yesterday that I would allow the attorneys at the end to
9 give a closing argument to argue, which is not evidence,
10 but to argue to you what they believe the evidence has
11 now shown, okay? That won't take very long, probably
12 about 45 minute altogether. I'm going to charge you
13 on the law, which is going to take about ten minutes,
14 and I'm going to allow y'all to begin your
15 deliberations.

16 If we did all of that today, I wouldn't
17 be able to give you the case until around 4:30,
18 and I don't want you to feel rushed whatsoever, okay?
19 So if you'll just be back here tomorrow morning at 9:30,
20 we will accomplish all of that, and we will give you
21 the case tomorrow morning, all right? Have a wonderful
22 rest of your evening. As I've indicated, please don't
23 discuss the case with anybody, don't do any research,
24 and we will see you in the morning.

25 (The jury exited the courtroom at 2:41 p.m.)

1 MS. GAY: Your Honor, on behalf of
2 Mr. Dickens, and I won't talk for Mr. Canales, we renew
3 our directed verdict motion and every other motions
4 that we had along the way.

5 MR. DAVIS: Yeah, let the record reflect.

6 THE COURT: All right.

7 MR. DAVIS: Thank you, Judge.

8 THE COURT: All right. Here's what --
9 we'll just go through it real quickly on how I charge
10 it.

11 MR. DAVIS: Okay, Judge.

12 THE COURT: Duties of jury and trial judge
13 first, the fact that the client was arrested, charged
14 and indicted is not evidence in the case, obviously,
15 that there are multiple Defendants, there are multiple
16 charges, the presumption of innocence, reasonable
17 doubt, direct and circumstantial evidence, credibility
18 of witnesses, expert witnesses, intent.

19 Then, we have the charge of armed robbery,
20 then the assault and battery of a high and aggravated
21 nature, possession of a weapon during the commission
22 of a violent crime, identification. I assume it was
23 an issue, obviously, because of the video, and that's
24 more or less a mild defense, punishment.

25 MR. DAVIS: There was self-defense,

1 Your Honor.

2 THE COURT: Huh?

3 MR. DAVIS: Self-defense.

4 THE COURT: Right. Let's get to them
5 all. Statement of the Defendant, do y'all want to keep
6 that one in there?

7 MR. DAVIS: No statements.

8 THE COURT: Okay, then we'll take that
9 one out.

10 MS. GAY: Yeah, they didn't make any
11 statements at all.

12 THE COURT: Okay. Failure of Defendants
13 to testify. All right. So what -- are y'all okay with
14 all those charges?

15 MR. MYERS: Yes, Your Honor. We were going
16 to ask for hand of one. I'm sure I have it in there.

17 MR. DAVIS: Judge, I don't see mutual
18 combat. The medical record -- the police report
19 says there was a scuffle that ensued between the two
20 young men. I would consider that a mutual combat charge
21 be included.

22 THE COURT: Hold on.

23 MR. DAVIS: I didn't see self-defense.

24 THE COURT: Hold on. I didn't put
25 self-defense in there. I'm happy to do it, but I'll

1 need to make sure hand of one, hand of all is somewhere.
2 It may have gotten stuck. Oh, there it is. It got
3 stuck to punishment.

4 . MR. DAVIS: What about mutual combat,
5 Your Honor?

6 THE COURT: Let me read it. If the
7 Defendant voluntarily participate in mutual combat
8 for purposes other than protection, the killing
9 of the victim would not be -- well, can't say killing.
10 The shooting of the victim would not be self-defense.
11 This is true even if during the combat, the Defendant
12 feared death or serious bodily injury.

13 . However, if before the shooting
14 is committed, the Defendant withdraws and try in good
15 faith to avoid further conflict, and either by word
16 or act makes that fact known to the victim, he would
17 be without fault in bringing on the difficulty.
18 For mutual combat, there must be a mutual intent
19 and willingness to fight. This intent may be shown
20 by the acts and conduct of the parties and the
21 circumstances surrounding the combat. In addition,
22 it must be shown that both parties were armed with
23 a deadly weapon.

24 MR. DAVIS: Both of them were armed.

25 THE COURT: What's the State's position?

25 MR. DAVIS: It ain't the whole conclusion

1 of the evidence.

2 MR. MYERS: But I think that the scuffle
3 that he's referencing, they're talking about Varner
4 being pistol whipped.

5 MR. DAVIS: No.

6 MR. MYERS: That's what they're talking
7 about.

8 MR. DAVIS: No, no, no. It's in the
9 police ---

10 MR. MYERS: Is that he ---

11 MR. DAVIS: It's in the police ---

12 THE COURT: Hold on. Don't talk over each
13 other.

14 MR. MYERS: And that is what the police
15 report -- he's putting his own -- you know, I understand
16 it, and it's a reasonable position to take, but there
17 is nothing in the record. The scuffle that's referenced
18 to is that individual being pistol whipped, and that's
19 been admitted into evidence by the testimony.

20 MR. DAVIS: There's no pistol whip because
21 your doctor alluded to the fact that there wasn't
22 any injuries or laceration on anything dealing with
23 the head, so there's no pistol whip. That's something
24 this young man just threw out.

25 MR. MYERS: Two people did; two people.

1 MR. DAVIS: Both of them are the same people
2 involved in this incident. The bottom line is this,
3 the police report says -- conclude that there was
4 a scuffle between these two men, and that they
5 separated, and they started shooting at each other.

6 THE COURT: Well, the only piece of evidence
7 that I would consider somewhat credible to warrant
8 a self-defense claim would be the fact that the victim,
9 the first victim, had testified, I'm not sure which ---

10 MS. GAY: Varner.

11 THE COURT: Varner, could not testify
12 who shot first.

13 MR. DAVIS: That's correct.

14 THE COURT: Because you see the flashings.
15 That's the issue that you have to come up with first,
16 whether he shot first or the other one because,
17 obviously, if the victim shot first, there could
18 be a claim of self-defense.

19 MR. DAVIS: And, Judge, not only that ---

20 MS. GAY: And also ---

21 MR. DAVIS: Go ahead.

22 MS. GAY: The victim testified, Mr. Varner
23 testified, that he admitted to shooting first because
24 he said he was hit in the head, which we have -- if
25 he's shooting at Mr. Canales, and then Mr. Canales

1 is shooting back at him, that would be self-defense.
2 He said because I'm defending myself, and it's the exact
3 same thing on flip. If the jury ---

4 MR. MYERS: He was unsure, he said.

5 THE COURT: I understand. Two issues
6 that you're going to run into -- I'm going to take
7 it under advisement because I want y'all to think about
8 this. You're going to have to concede to the fact
9 that, A, they were there, and, B, that they shot him.

10 MR. DAVIS: Well, I concede those points.
11 We don't -- they were there.

12 MS. GAY: Well, shot at.

13 MR. DAVIS: Shot at. There were a lot
14 of guns out there.

15 THE COURT: That's going to be tough.
16 I want you to think about it overnight. Anything
17 else before we adjourn for the evening?

18 MR. MYERS: No, Your Honor, nothing from
19 the State.

20 THE COURT: All right. So, yeah, I'll take
21 them both under advisement. I want to read that mutual
22 combat.

23 MR. DAVIS: Yeah, please.

24 THE COURT: I will. I promise I will.

25 (End of Transcript of Record)

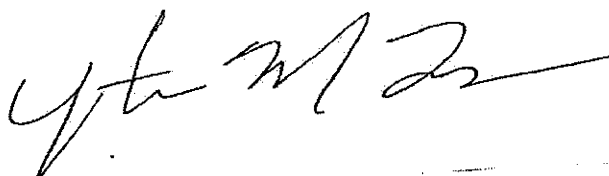
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 26th of September, 2023.

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

July 15, 2024



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY

2023-GS-08-01118-23

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-)

) September 27, 2023 - Day 3

Isaiah Canales,)

Dimitri Dickens,)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge

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

F. Alexander Myers, Esquire
 Olivia Lynch, Esquire
 Attorneys for the State

Steve C. Davis, Esquire
 Melisa White Gay, Esquire
 Attorneys for the Defendants

Reported By:

Yvestre Torres, OCR
 Circuit Court Reporter for the
 Ninth Judicial Circuit

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
C-2	Jury Question	362	362
C-3	Jury Question	362	362
C-4	Jury Question	362	363
C-5	Jury Question	363	365
C-6	Jury Question	365	365

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1 THE COURT: All right. For the record,
2 we are missing a juror. I sent the sheriff to their
3 house. We have contacted them via phone, and it goes
4 directly to voicemail each time. It is juror number
5 34, and I think her name is Kayla something. All right.
6 So option A is wait to see what the sheriff reports
7 back. Option B is dismiss her from the jury panel
8 and place the alternate in. It's the younger girl.

9 MS. GAY: The one that was sitting right
10 in the middle?

11 THE COURT: We think so. All right.

12 MS. GAY: I think we should just give
13 her the chance to see what happened to her.

14 MR. DAVIS: Yeah.

15 MR. MYERS: The State would be okay with
16 the alternate juror.

17 THE COURT: All right. We'll see what the
18 sheriff ---

19 MR. DAVIS: Wait until the sheriff reports,
20 please.

21 THE COURT: All right. We'll wait to see
22 what the sheriff reports back, whether she's there
23 or not, then we'll make a decision from there.

24 MR. DAVIS: Thank you.

25 THE COURT: All right. What is the State's

1 position as to the jury charges?

2 MR. MYERS: Jury charges of mutual combat
3 and self-defense, we think that the -- I referenced
4 case State v. Williams, 427 S.C. 246. It references
5 that the mutual combat jury charge is not appropriate
6 in situations like that -- this. The facts are almost
7 similar to this, where Defendant is claiming some sort
8 of drug deal, which there hasn't been any evidence
9 of that, but that's what he's going to claim in his
10 argument.

11 Mutual combat is an attack on the
12 self-defense charge; you can either have one or the
13 other. We believe if these are presented to the jury
14 it will cause confusion, and I -- I'm not sure if that's
15 intentional, but this is going to cause confusion with
16 mutual combat and self-defense. There's been no
17 evidence -- well, the evidence that was presented
18 showed that even if there was self-defense, that both
19 of these gentlemen brought on the difficulty, therefore,
20 are not entitled to that charge.

21 Mutual combat would be used to attack
22 self-defense. That would be as if my victims were
23 claiming self-defense. It's meant for a Defendant,
24 so I don't -- you know, they're mutually exclusive.
25 So, I think it would be confusing if they had those

1 charges.

2 MR. DAVIS: May it please the Court,
3 Your Honor.

4 THE COURT: Yes, sir.

5 MR. DAVIS: We withdraw the mutual combat,
6 but we sustain our position on the self-defense,
7 Your Honor.

8 THE COURT: All right. For the record,
9 I have reviewed self-defense, and I have gone back
10 to determine whether, in fact, there was any statement
11 by the Defendant, and/or in the alternative, any
12 evidence alleging self-defense that would be in
13 the trial, and I can locate none. So, I'm not going
14 to charge self-defense or mutual combat. All right.
15 Anything else?

16 MR. DAVIS: Yes, Judge, on the charge
17 of lesser-included offense from the assault and battery,
18 first degree, we would take the position that assault
19 and battery, second degree, should be charged to the
20 jury, that's the lesser-included offense, and that
21 should be a part of your charge, Your Honor.

22 MS. GAY: Your Honor, I sent that e-mail
23 out last night, and there's assault one, and there's
24 also assault and battery second. For sure, everything
25 that we've presented in this trial talks about how this

1 injury was not life threatening, that even the doctor
2 said that, and we would ask that there be a
3 lesser-included assault charge.

4 THE COURT: All right. What's the State's
5 position?

6 MR. MYERS: The State's position is that
7 the charge that they're indicted on does not require
8 life-threatening injuries. The doctor's testimony
9 directly relates to the elements in the charge.
10 There's no -- the lesser included is not necessary
11 here; it's just giving the jury an out.

12 These individuals -- clearly from the
13 testimony and the evidence presented, the charges should
14 be assault and battery of a high and aggravated nature
15 and armed robbery, lesser included are not appropriate
16 here. Even though simple assault is a lesser included,
17 it is certainly not appropriate, and with evidence that
18 shows five people shooting at one person and wounding
19 him three times.

20 MR. DAVIS: There's no evidence of five
21 people shooting in this case.

22 MR. MYERS: The video is clear; that's the
23 evidence, Your Honor.

24 MR. DAVIS: No evidence of five people
25 shooting.

1 MR. MYERS: All right. I respect the
2 defense's position on that, but the evidence submitted
3 on the record is five individuals firing at one
4 individual.

5 THE COURT: All right. For the record,
6 I have read -- I have the assault and battery, first
7 degree, charge here. It indicates a person commits
8 the offense of assault and battery in the first degree
9 if the person unlawfully injures another person,
10 and the act occurred during the commission of a robbery,
11 burglary, kidnapping, or theft.

12 A person may also commit the offense
13 of assault and battery in the first degree if the person
14 unlawfully offers or attempts to injure another person
15 with the present ability to do so, and the act either
16 is accomplished by means likely to produce death or
17 great bodily injury, or occurred during the commission
18 of a robbery, burglary, kidnapping, or theft.

19 I think assault and battery of a high
20 and aggravated nature mirrors that charge as well.
21 So, I don't see any reason to confuse the jury with
22 a lesser-included offense as to assault and battery,
23 first degree. So, I'll allow the assault and battery
24 of a high and aggravated nature to stand. All right.
25 Anything else?

1 MR. DAVIS: Just for the record, Your Honor,
2 you didn't read assault and battery, second degree,
3 but we'll honor your decision, Your Honor.

4 THE COURT: Thank you very much.

5 MS. GAY: Your Honor, I would like to make
6 sure on the record that I have an objection on that,
7 because you just read assault and battery first,
8 and it says specifically that it could be happening
9 during the commission of an alleged armed robbery,
10 which is what's going on here.

11 So it does have a different penalty;
12 it does have different elements. And I don't think
13 it's a redundant charge. I think it's a charge that
14 is a lesser included of an ABHAN. I think we should
15 give the jury -- since that is the offense in the state
16 of South Carolina, I think we should give the jury
17 the option of that being what they convict him on,
18 if they convict at all.

19 MR. DAVIS: It's not unlike somebody charged
20 with murder, and you get the charge of manslaughter,
21 one of those same types of situation. When clearly,
22 the State moved, with all grave intention to those
23 instances, for murder, wicked heart, planned,
24 premeditated. Yet, still, in most instances, get the
25 manslaughter charge, which is a lesser-included offense,

1 Your Honor.

2 MS. GAY: I think what Mr. Davis is saying
3 is it should not be looked at in terms of what elements
4 they're trying to prove for the charged offense,
5 but what elements are available in a statute that's
6 available as a charge and a crime in the state of South
7 Carolina.

8 MR. DAVIS: Well spoken.

9 MR. MYERS: Well, even though you already
10 ruled on it, Your Honor, I would disagree with that,
11 because if I had not met those elements, they certainly
12 wouldn't be asking for an A and B first, they would
13 be asking for a directed verdict motion to be granted.

14 MR. DAVIS: Which we did, but wasn't
15 granted.

16 THE COURT: All right. Anything else?

17 MR. MYERS: Your Honor, just one
18 housekeeping matter. I wanted to make sure that their
19 directed verdict motions -- the renewed directed verdict
20 motions were actually ruled on yesterday. I'm not sure
21 I heard that. I just wanted to make sure.

22 THE COURT: Yes, I denied it.

23 MR. DAVIS: It was ruled on because the jury
24 is getting the case in a few minutes.

25 THE COURT: I denied it.

1 MR. MYERS: Thank you, Your Honor.

2 THE COURT: And I put my statement
3 of reasons on the -- in the record.

4 MR. MYERS: Yes, Your Honor.

5 THE COURT: All right. Are they on the way
6 there?

7 THE CLERK: Yes, Your Honor.

8 THE COURT: Okay. It's ten miles away,
9 so we're just going to have to stand down.

10 (Recess taken.)

11 (Back on the record.)

12 THE COURT: All right. And, for the record,
13 we sent the sheriffs to -- the sheriff's department
14 to her house, and she was not home. They are currently
15 going to her place of work, which I don't believe that
16 she will be at, so we are going to continue with the
17 trial. We will just place the alternate on the panel.
18 Anything else before we get started?

19 MR. MYERS: Nothing from the State,
20 Your Honor.

21 MR. DAVIS: Nothing from the defense,
22 Your Honor.

23 THE COURT: All right. So it looks like
24 it is Michael -- juror number 39, Michael Clucas.
25 Bring them out.

1 (The jury entered the courtroom at 10:38 a.m.)

2 THE COURT: All right. As you could see,
3 ladies and gentlemen of the jury, one of the jurors
4 did not return back today. I have sent the sheriff
5 to her house, and she cannot be located. And we have
6 tried to contact her via her cell phone, and it goes
7 to voicemail every time. Now you see why we have
8 alternates. So, Mr. -- juror number 39, Michael Clucas,
9 you'll be placed on the panel.

10 All right, ladies and gentlemen of the jury,
11 as I indicated previously, that today how we're going
12 to proceed forward is allow the State and the defense
13 to give their closing arguments. The way we will
14 proceed is we will allow the State to go first, and then
15 the defenses will both be able to go, and then they
16 get a short rebuttal, okay, just so you know it doesn't
17 go back and forth forever, all right? We'll begin with
18 the State.

19 MR. MYERS: Thank you, Your Honor. May it
20 please the Court.

21 THE COURT: Yes, sir.

22 MR. MYERS: Ladies and gentlemen, I have not
23 spoken to you yet because I'm not allowed to until right
24 now. This is where you and I get to talk to each other.
25 It's my job to prove beyond a reasonable doubt this

1 occurred. They don't have to do anything; they don't
2 have to say anything. I'm the one that has to show
3 you this is what happened.

4 Now, the case is State v. Isaiah Canales
5 and Dimitri Dickens. I proved that they committed armed
6 robbery, assault and battery of a high and aggravated
7 nature, and possession of a weapon during a violent
8 crime. All right, the boring part. I proved that they
9 committed a robbery; you saw the evidence. They took
10 and carried away goods from the victim with intent
11 to deprive by use of force and intimidation. You saw
12 that when Meech -- you heard the testimony, Meech put
13 the gun to the -- Mr. Ward's head and took his wallet;
14 that's a robbery.

15 Not only did you hear the victims tell
16 you that, you see it on the video. You're going to get
17 to watch it. When you go to deliberate, you can watch
18 it, you can see it happen. You could actually walk
19 through the entire robbery. I've never had a case where
20 I actually got the whole robbery on video. Here you
21 have it, plain as day.

22 They were armed with a firearm. You can
23 tell because of all the flashes from the firearm firing,
24 that you could see the five -- two Defendants and three
25 unknown suspects as they get out of the car and fire

1 at Mr. Varner. You can see them using a deadly weapon.

2 Assault and battery of a high and aggravated
3 nature. It's proven that they unlawfully injured
4 another. The injury here, Mr. Varner was shot three
5 times. You saw him, he testified about the injuries,
6 and you saw the photos. He also testified he was shot
7 with a gun, and you saw the gun in the videos. You know
8 he was shot with a gun.

9 It was accompanied by means to produce death
10 or great bodily injury. That's a fancy way of saying
11 how injured he was to meet this particular charge.
12 And what I did is I put the doctor that treated him,
13 and he told you that those wounds were likely to produce
14 death and great bodily injury. He told you that;
15 that was ABHAN.

16 Possession of a weapon, we've covered.
17 ABHAN is statutorily a violent crime, and these
18 individuals possessed a gun during a violent crime,
19 therefore, they possessed a weapon during the commission
20 of a violent crime. Both armed robbery and ABHAN
21 are violent crimes. Both of these Defendants, Canales
22 and Dickens, were armed with firearms when robbing Ward
23 and shooting Varner, all right?

24 So you're going to get charged by the judge
25 before you go back there about the law, okay, because

1 he decides the law, and you guys decide the facts.
2 I'm just going to briefly touch on this, so you don't
3 get confused. And, of course, he'll cover it one time
4 in the jury charge.

5 But, basically, what happens when people
6 are engaged together in concert, like these people,
7 and one has a gun and one doesn't, and they're all
8 responsible for the acts of the other, because they
9 were all together to do the robbery, even though one
10 had a gun, they're all responsible for the shooting.
11 That's how the law works. Hand -- it's called hand
12 of one, and you'll get that jury charge.

13 But this basically prevents criminals
14 from going "and working as a group and one only shoots
15 the person during a robbery, or one only holds the
16 cashier up, and then the other four go and take stuff.
17 They're all guilty of robbery. It's not one person
18 is the robber, and then the four people who stole
19 all this stuff are just thieves.

20 That's how hand of one works, and that's
21 what's going to happen here, is that all these
22 individuals, these two Defendants and the three unknown
23 people, we still don't know who -- probably have been
24 in the courtroom this week, we still don't know who they
25 are. They all acted in concert to commit armed robbery

1 and shoot Daniel Varner. It states in the law that
2 when a person does that in the presence, and with
3 the assistance of another, the act is done by both,
4 and that's exactly what I just described to you.

5 In this case, the Defendants are guilty
6 because all five approached together, they all got out
7 of the same car, they all five threatened the victims
8 with firearms, all five. You can see it in the video.
9 They all five shoot at Daniel Varner, all five of them.
10 You can watch it in the video when the gun muzzle
11 flashes. You can see which directions they're going
12 from. And they all five flee and get back in the same
13 car, flee and go away together, acting in concert,
14 hand of one. They all worked together to do the armed
15 robbery and shoot Daniel.

16 They were not merely present, and that's
17 something that's usually a defense to that, you were
18 just there, just happen to be present, you're not acting
19 in concert, but that's not the case here. These people
20 acted together. They all got out of the car with guns,
21 they all got back in the car with guns, and they all
22 fired.

23 All right. What you saw here when
24 I presented evidence through the testimony of witnesses,
25 Miranda Nation. She as a detective that responded

1 to the hospital to talk to Varner, and she located
2 Canales with a gunshot wound in the same hospital
3 at the same time, two doors down. That's what she
4 told you; he's right next door.

5 But the crime scene investigator who
6 processed the crime scene, she identified all the
7 different types of guns that were at the -- fired
8 at the crime scene. She also created a sketch,
9 which is super important.

10 You heard from Brayden Ward, who told
11 you that he knew the Defendants. He knew Meech;
12 he knows him personally. You heard from -- he tells
13 you he had a gun to his head; he tells you that
14 his wallet was taken. That's the robbery. You've
15 got his testimony, you've got Varner's testimony,
16 and you have the video to watch it on.

17 Daniel Varner, that was Canales.
18 With Canales, he beelined to Varner because he knew
19 he had a gun. He beelined to Varner to shut that down
20 immediately, and he attempted to rob him at gunpoint.
21 When Varner did not submit, when he did not submit,
22 that's when the gunshots started. He recognized both
23 Canales and Meech. He knew them personally; he knew
24 them both. They didn't wear masks.

25 You heard from the medical officer that

1 talked about the three gunshot wounds that Varner
2 received, wounds were likely to cause death, serious,
3 permanent disfigurement, or a protracted loss
4 or impairment of the function, of the body or organ.
5 Those are the charges you're going to get. When you --
6 that's the law you're going to get when you decide
7 whether it occurred.

8 You heard from Chad Smith, the firearms
9 analysis guy. He told you about the multiple calibers.
10 He told you exactly -- he told you that the gun that
11 Varner gave him matched the .380s. He told you that
12 the .380 casings that they found matched. There were
13 two projectiles, one definitely matched his .380,
14 and the other one could have. He said he really
15 couldn't tell, but it could have. So that tells
16 you -- and he found -- he verified the .357 and .45,
17 but he did not have the guns to compare them to,
18 because the only gun that was surrendered to the cops
19 was Varner's when he gave the gun to the cops.

20 Brayden's 911 call. You hear Brayden
21 call 911 after his friend gets shot; that's important
22 that Ward called 911. You saw -- you have photographs,
23 pictures of the crime scene. She said she -- the crime
24 analyst or crime scene investigator, I only admitted,
25 like, four or five photos, but she said she actually

1 generated hundreds. They combed that whole place,
2 and they did a thorough investigation. She created
3 a crime scene sketch so you could follow where
4 everything was.

5 I've admitted Canales's black clothing,
6 which is what Ward -- what Varner described. That's
7 what he described, and Canales is wearing that black
8 clothing when he got to the hospital, he's still wearing
9 the same clothing. And, of course, you saw the videos,
10 and the videos from the body cam kind of show you who
11 was on scene. And I'll tell you why that's important.

12 The video. The video. They will -- I heard
13 during opening, defense wants you to think that the
14 video is too confusing for you to understand. You can't
15 see who that is, that can be anybody. What you see
16 in that video, your common sense will tell you that
17 is a robbery, not only just a robbery, it happens
18 exactly the way the victims tell you it happened.
19 There's no mediation. They're confused about who
20 shot first, that sort of thing, and that's normal.
21 That's absolutely normal.

22 But I think during opening, one of the
23 defense counsel mentioned being shot, okay? I served --
24 I was a Marine, and I served overseas for almost two
25 years, and I have been involved in things exactly like

1 this. And I can tell you that your mind doesn't really
2 remember the little details when you're under stress
3 like that, so it is normal.

4 Just because Varner was, like, you know,
5 who shot or what shot, it doesn't mean anything,
6 because of what happened here. That's normal.
7 It doesn't mean he's a liar, doesn't mean any of those
8 things. It means he was being shot at, and things
9 like -- little things like that happen, but he didn't
10 change his story about who did what and when they
11 did it. He'll tell you they robbed him; he'll say
12 they had their guns out, but he never changes his story
13 about that. That's exactly what he told police.
14 He tells you they all got out of the cars with guns
15 drawn.

16 They tell you that Dickens -- you
17 see Dickens, you see Meech, you can actually watch
18 on the video, go down and grab the wallet from Ward
19 on the video. You can watch it. It's not -- look
20 at it. If you don't believe me, just look at the video.
21 You can actually see it happen. He takes the wallet.
22 You can see Canales approaching, beelining out of
23 the car with a gun, just like this, towards Varner.

24 They all -- and they all five flee together
25 after the gunfire, like, all together. You can see

1 the gunfire, all five of them firing towards Varner,
2 and Varner over here circling around.

3 Now, I'm preaching on reasonable doubt.
4 You'll hear a lot about this from defense, they'll
5 tell you how high this bar is for me to prove this,
6 and it's substantial, beyond a reasonable doubt.
7 Now what that doesn't mean, and this is what they're
8 going to try to sell you, is that you have to be
9 absolutely certain of every single element, and that
10 is not the case. That is not the case; it will never
11 be the case.

12 You don't have to be absolutely certain;
13 nothing is absolutely certain in this lifetime, except
14 taxes and death. That's it. So all you need to do
15 is beyond a reasonable doubt. You'll hear the term
16 "firmly convinced," or you'll hear something based
17 on if it will make you hesitate to make your decision.

18 Now, you saw the evidence that I provided.
19 You heard the testimony and the evidence, the physical
20 evidence. Let's talk about some of the red herrings,
21 and I don't know if you know what a red herring is.
22 But I have a three month old, I have a baby, a newborn,
23 and she hates me taking her clothes off to put her
24 in the bathtub. It's the only thing she hates, sweet
25 as can be. Except when I do that, she gets angry,

1 furious, red in the face, tears. So me and my wife have
2 to tag team, right? So when my wife takes her clothes
3 off, I take my keys, and I distract her with it while
4 she takes her clothes off. That's what defense is doing
5 to you.

6 They don't want you to pay attention to
7 the evidence; they want to talk about GSR. You heard
8 gunshot residue, paraffin. But you heard the crime
9 scene investigator tell you that GSR doesn't even get
10 tested by SLED when it happens like this, because
11 everybody admits to being involved in a gunfight.
12 There's no reason to test it; she told you that.
13 Don't worry about it, it's a distraction. That's
14 all he's doing.

15 Drug deal. There's no evidence of a drug
16 deal; there's no evidence of drugs found at the scene,
17 no testimony consistent with it. It's made up;
18 it is a distraction. Look over here, drug deal.
19 Unlawful gun. You heard a bunch of non-lawyers talk
20 about the law, where he points to a piece of paper,
21 and he tells them -- he keeps talking over them, keeps
22 telling them, until they say what he wants them to say.
23 None of these people know what the law is, none are
24 lawyers. They don't know.

25 This whole thing about the gun being

1 unlawful, or it was carried, or he's too young, I don't
2 understand what the argument is. For some reason
3 if Mr. Varner is too young, he needs to die, he needs
4 to be killed, or he just deserves to be robbed because
5 he's not old enough. It's absurd. If it was illegal
6 for Varner to have that gun in this situation, if it was
7 illegal, he would be -- he would have a criminal charge,
8 but there's no evidence of that. There's no criminal
9 charge, so it's a distraction.

10 Now the title of this case, and this is
11 important too, is State v. Canales, State v. Dickens.
12 It is not Brayden Ward v. Canales or Daniel Varner
13 v. Dickens. It's because I don't represent Daniel
14 Varner and Brayden Ward; they are pieces of evidence
15 in my case. The defense counsel, their clients are
16 Isaiah Canales and Dimitri Dickens, and their duty
17 is to advocate for their clients. I'm not advocating
18 for these two back here; they're pieces of evidence.

19 My client -- that's why they call me
20 the State. My client is the people of Berkeley County.
21 That's who I represent, and I cannot allow what
22 you see in that video to happen at ten o'clock at night
23 in a parking lot in the middle of Goose Creek with all
24 these rounds being fired. That is a crime, and I would
25 be negligent if I did not do something about this,

1 and I could prove it. Everything is proved with the
2 evidence I submitted.

3 Early in the opening statement, the defense,
4 they talked about the duties of the solicitor. He was
5 a prosecutor before; he was a solicitor. He takes
6 his job very seriously. Well, so do I. That's why
7 this case is serious, and that's why it's brought before
8 you. This isn't a dispute between kids or maybe --
9 I could understand these two individuals aren't Boy
10 Scouts. That is a distraction.

11 They talk about oh, look, here's a Facebook
12 photo with these guys with guns, don't worry about
13 the armed robbery, don't worry about the ABHAN
14 or the shooting, these guys had guns on Facebook.
15 Well, guess what? So do I. I had guns on Facebook,
16 I served in the military. I've got guns, me posing
17 with a gun all over Facebook. Does it mean that
18 I deserve to be robbed or shot? No, it does not.

19 The title, the special duties of a
20 prosecutor include what's called a minister of justice.
21 Not only am I trying to prove my case, the charges --
22 the decision must be just all around, it has to be fair,
23 and this is fair, this is justice. Non-justice would
24 be allowing these two to do what they did because
25 of the red herring, these distractions. That's not

1 just. These people should not be allowed to do what
2 they did. Play the video.

3 Now you have -- pull it up and pause it.
4 You have the evidence where I proved the elements.
5 But I'm going to tell you some other things, if you're
6 still on the fence, that tells you who's in the right,
7 who's in the wrong here. This is going to seal
8 it for you. You know this happened, but is it right
9 or is it wrong? That's what they're going to tell you.
10 It's not right to punish these kids because these kids
11 are not Boy Scouts. These are terrible kids. It's not
12 fair.

13 Let me tell you how you're going to know
14 who's in the right on this. Brayden Ward called 911
15 as soon as it happened. He called 911 as soon as it
16 happened. You did not hear any 911 call from Canales
17 or Dickens, or the three unknown people that we still
18 don't know who they are. You didn't hear that. They
19 called 911 as soon as it happened, and they stayed on
20 the scene. You saw them in the body cam; you saw all
21 the people and witnesses and victims. Who you did not
22 see on the body cam was Canales, Dickens, or the three
23 unknown people. They were not there.

24 Hospital. Mr. Varner was taken to the
25 hospital in an ambulance because they called 911.

1 How did Canales get to the hospital? We still don't
2 know how Canales got to the hospital. We have no idea.
3 EMT didn't say anything about him transporting Canales
4 with gunshot wounds. How did Canales get to the
5 hospital if not by an ambulance?

6 Varner surrendered his firearm when he
7 contacted the cops. Hey, I shot this, it's in the
8 glove box, go ahead and get it. That's the gun we have.
9 We do not have the guns -- the other five guns of
10 the other individuals. And Detective Galluccio,
11 the detective who testified to you that Canales was
12 immediately -- they talked to Canales immediately,
13 because he was wounded in the hospital. It took them
14 months to find Dickens. Months. That's what he said,
15 it took a long time to even find Dickens.

16 And that is how you know who's in the right
17 or wrong in this. Those are the little things that
18 tells you who is the bad actor in this. It's all those
19 things, because these people went to the police
20 immediately, these people called 911, these people
21 asked for a hospital. The other ones, jaded, sneaky.
22 They were obfuscating everything they were doing
23 the whole time. We still do not have the three people
24 who were involved, the other three unknown suspects
25 that were shooting.

1 Defense, during their opening, mentioned
2 something about the cloak of innocence, something about
3 a white -- they are entitled to. They are innocent
4 until proven guilty. When they got here at the start
5 of trial, they're wearing their white cloaks and clean
6 as can be, and then you start seeing the evidence.
7 And every time a piece of evidence happens, that cloak
8 gets a little dingy, get's a little dirty. The cloak --
9 this cloak of innocence gets sullied by the evidence
10 that came out here this week.

11 These people are not innocent;
12 they're guilty. That's what I was here to prove.
13 They're guilty of this. The video, the gunshots.
14 Go ahead and play it. This -- there is some -- there's
15 going to be some discussion who shot, where they shot,
16 and all that stuff, but you're not going to have
17 a problem with that. Don't worry about that, because
18 you can watch this video, and you can see the gunfire,
19 where it happens, and match it exactly to the crime
20 in the sketch that the investigator took.

21 You can see exactly where Daniel Varner
22 fires. You can follow him around with the crime sketch
23 where those things happened. You can follow the five
24 -- the two Defendants and three unknown suspects,
25 you can see where they fired and how many shots they

1 fired at them. You can even see their last remaining
2 shot. When they're fleeing the scene, a .45 was shot
3 out the window. You can see it, and then you can see
4 on the crime scene sketch the case, where it fell.
5 You can watch, and there's no confusion about where
6 things happened and who shot. It's right there.
7 It's right there.

8 They will tell you there's some gun from
9 some other person with the victims, but the video shows
10 there's not. They all five -- but they all five come
11 from that car. That's where those gunshots come from.
12 They don't come from these other kids. It's not two
13 groups of kids fighting; it's just five guys jumping
14 out and robbing these other kids. That's what's
15 happening.

16 So what you need to gleam from this
17 is that it's not just one piece of evidence that shows
18 these people, they did wrong. It's not just one piece;
19 it's all of them together. It's the things I've told
20 you. It's calling the police, the 911 call. It's going
21 to the hospital in an ambulance. It's going to -- the
22 unknown suspects that were there, why didn't they come?
23 That's how you know who's in the wrong, and you would
24 be wrong to not find them guilty. It would send the
25 wrong message.

1 These individuals, they almost readily
2 admit they were there. They're just saying that,
3 well, they're not nice kids, so they kind of deserve
4 it. Don't buy into that, don't believe the hype,
5 because that's what that is. Don't believe the hype.
6 All this GSR, this drug deal, and other people shooting.
7 None of this, don't get distracted. Find both of these
8 Defendants guilty of armed robbery, assault and battery
9 of a high and aggravated nature, and possession
10 of a weapon during the commission of a violent crime.
11 Thank you.

12 MS. GAY: I'm going to go first?

13 THE COURT: Yes, ma'am.

14 MS. GAY: So it's been a long couple
15 of days. As I said at the beginning of this, the most
16 important days of my client's and Mr. Canales's life.
17 And so we're here at the conclusion of the case,
18 and as the solicitor said, we've seen what is available
19 for y'all to take back. And there are some things that
20 are important in this case.

21 Certainly, we have video. Why isn't
22 it a better video? We all see on TV that things get
23 enhanced and get pulled so that you can see exactly
24 what's going on. This thing is extremely difficult
25 to see. The solicitor said it happened one way,

1 I'm going to say it happened a different way,
2 Mr. Davis is going to say it happened a different way.
3 Ultimately, how you decide is how it happened, because
4 as I've said, y'all are the fact finders.

5 So there's a couple of things that are
6 interesting. This is said by the solicitor to be an
7 armed robbery, like some kind of planned armed robbery,
8 that these people showed up, and they were going to rob
9 everybody. But what's interesting is that this
10 situation is really a reactive situation, they reacted
11 after Daniel Varner shot his gun first, because
12 he admitted on the stand that he was the first person
13 who shot.

14 What he said was that he had been pistol
15 whipped in the head. And based on the fact that
16 he had been pistol whipped in the head, he had every
17 right to pull out his gun that he was underage to have,
18 that he had taken in the bowling alley, and it's
19 a little tiny gun, you will see it. It's a little gun,
20 and so he took it in the bowling alley. You're not
21 supposed to have a gun in the bowling alley with,
22 you know, children and people there.

23 A completely underaged individual had
24 this gun on him, and testified on the witness stand
25 that he was defending himself and standing his ground,

1 and he had every right to shoot. What happened?
2 He shoots Mr. Canales. That's the first thing that
3 happened. Everything else is reactionary; everything
4 else is people freaking out and doing all the things
5 that they do after that.

6 One of the things that happened in reaction
7 to that is that my client, who's standing near a guy,
8 puts him on the ground and starts feeling him up to
9 make sure there's no weapon, because if that guy pulls
10 a weapon, and pulls it on him, he is dead. At that
11 point, dead. So everything is all in reaction to what
12 Mr. Daniel Varner actually started.

13 So what's interesting is, what is the truth,
14 okay? So the truth is a couple of different things."
15 And when we're talking about the credibility of a
16 witness's testimony and the pieces of evidence that
17 we have, what comes out of people's mouth, may or may
18 not be the truth.

19 So what we have to do as citizens
20 in the world and as people, with our families,
21 with our children, our relatives, friends, we have
22 to look at the physical stuff. Oftentimes with my kids,
23 they'll tell me things, and I don't believe it because
24 I have to go check behind them, and it turns out they
25 didn't tell me the truth after I checked behind them.

1 What was interesting about Daniel Varner
2 is that he said he was pistol whipped in the head.
3 I don't know if y'all ever seen it on TV, but pistol
4 whipped in the head leaves marks. It has blood;
5 it has bruising; it has cuts; it has evidence that
6 somebody has been pistol whipped.

7 So it's one thing to say you're pistol
8 whipped when you're on the stand, it's another thing
9 to actually have it be proven. And what's great
10 in this case is that we have medical documentation.
11 They put up the doctor. And, yes, the doctor did
12 say that being shot could be -- potentially cause
13 you to die. But he also specifically said that these
14 injuries that Mr. Varner had were not life threatening.

15 But what he ultimately said was that there
16 was -- after his full body review of all the stuff,
17 that there was no evidence that this guy had a head
18 injury. So what have we done? We've looked at what
19 came out of his mouth on the witness stand, after
20 he swore on the Bible to tell the truth, and we've
21 looked at the physical evidence afterwards, which
22 is that he was never hit in the head with a gun.

23 So here we have -- let's go all the way
24 back to that. He's not hit in the head with a gun.
25 There might have been some argument, and you can

1 see that there's a little bit of problem going on.
2 But he admitted on the stand that he was the first
3 person to fire. And when he fired, he hit Mr. Canales.
4 He's an underaged kid, he's never arrested for being
5 in possession of a firearm without, you know, being
6 old enough. He's never arrested for ABHAN.

7 Do you know that if you take those
8 elements that Mr. Myers gave you about what an ABHAN
9 is, an assault and battery of a high and aggravated
10 nature, and if you look at all those elements of what
11 it was, Mr. Varner committed an ABHAN against
12 Mr. Canales, but he was not arrested.

13 And what's interested is that the police,
14 without looking at the video, just showing up and
15 listening to the people and going, oh, okay, we're going
16 to go talk to Mr. Canales -- Mr. Varner at the hospital.
17 They don't even know that Mr. Canales is there.
18 They find this guy, this little 17-year-old kid there,
19 and he's also shot. He has also potentially had
20 an ABHAN committed against him. They arrest him;
21 they put him in handcuffs that night, and they take
22 him to the jail, without looking at the video, without
23 talking to any other witnesses, without even talking
24 to even Mr. Canales or anybody. They put him in jail.

25 So what happens is that when you look

1 at what happens, everything and all those spider veins
2 and all this stuff, all happened after Daniel Varner
3 shoots him. And so does my client commit an armed
4 robbery? Well, what's interesting is he said that
5 there's this planned armed robbery, and that Mr. Ward
6 testified that he had his wallet stolen and some money.

7 But what's interesting is this evidence
8 that you'll see, this is Mr. Varner's wallet, okay?
9 This is Mr. Varner's Gucci wallet. This is Mr. Varner's
10 money, okay? This is not a planned robbery to rob these
11 people. Mr. Varner has his money. There was no plan
12 to have some kind of -- who knows exactly what's going
13 on. We have our ideas of what's going on, y'all will
14 discuss what you think is going on. The solicitor seems
15 to think that this is -- that this armed kid, who took
16 his gun into the bowling alley, is just there having
17 a good old time with his friends.

18 What about the girl? He has admitted
19 that he called some girl to come, and she came.
20 At some point, he tried to allude -- somebody tried
21 to allude to the fact that she might have been involved
22 in it. Where is she? Where are the other people
23 that were out there? There's supposed to be three
24 people in the truck; two in the front seat, and one
25 in the back seat. That's what Mr. Ward said.

1 Where are they? What happened? When
2 do they come in and tell us what happened on this day,
3 to give us some insight and some objectivity? Because
4 the only two people that we have that are on the scene
5 are the two victims, who make it up, who say, you know,
6 I got hit in the head, I got robbed. That's not true.

7 These people were meeting to have some kind
8 of encounter. They were having some kind of, maybe,
9 preplanned encounter, maybe we don't know all the
10 details, probably nefarious. That's my opinion,
11 I understand that, but probably nefarious. And then
12 Mr. Daniel Varner pulls out a gun and shoots the kid,
13 and everything else in response to that.

14 There are 24 casings. Twenty-four casings.
15 There's at least six .380; there's at least .357s --
16 at least three .357s; there's 15 .45s that don't even
17 match the same gun. So -- and this is all happening
18 in response to Mr. Varner's attitude of I had my gun,
19 I'm going to protect myself, I have the right to
20 self-defense, and I have a right to shoot that kid.
21 After a verbal fight, he has the right to shoot that
22 kid.

23 We cannot -- we can't reward that.
24 That can't be rewarded; that can't be how it is.
25 That up there, that we watched testify, is how 18 year

1 olds are supposed to act, because, yes, there were lots
2 of guns involved, but 18 year olds are supposed to stand
3 up and say, I had a right to shoot somebody because
4 I -- even if he did get hit in the head, which he did
5 not, I have the right to shoot somebody? That is scary.

6 And I know that the solicitor said, well,
7 you know, you need to convict these kids because
8 this is -- you know, this is my job. But why isn't
9 Mr. Varner charged with assaulting Mr. Canales?
10 Why isn't Mr. Varner charged with shooting at all
11 of the other people?

12 Do you know that Mr. Varner admitted --
13 this is one thing that you'll see here, is a piece
14 of windshield. He admitted that as that red car
15 is leaving the scene, after there's no threat to
16 him whatsoever, all the situation has already passed,
17 he admitted to shooting the windshield out, shooting
18 a bullet inside a moving car that zoomed past their
19 head as they -- you know, as the bullets get shot out.

20 And they have evidence of that windshield
21 and tint on the ground right now. They picked it up,
22 they brought it to you. That's called objective
23 evidence. That's like physical evidence that you can
24 look and say -- and on the witness stand, he admits that
25 he's trying to kill somebody as the car is driving away.

1 Why wasn't he charged with attempted murder, or assault
2 and battery of a high and aggravated nature, for trying
3 to shoot in the car? That's not in response; that not
4 self-defense. That's an act of violence. How come
5 he was never charged with anything?

6 And the reason it's important to my client
7 is because all the stuff that was going on with
8 Mr. Varner and his gun, and all that was causing
9 a huge reaction with a bunch of young kids, and they're
10 freaking out, and my client put that gun on the ground
11 and is stabilizing him, making sure that that man is not
12 going to hurt him as he's getting shot at by Mr. Varner.
13 He's actively getting shot at by Mr. Varner, and he's
14 trying to figure out how to keep this guy on the ground
15 from shooting at him.

16 So there are a lot of things that we don't
17 know. We don't have witnesses that were objective;
18 we don't have other people that were there; we don't
19 have the girl, that they know who she was. She --
20 they made statements. Mr. Davis asked the police
21 about different witnesses, about different statements,
22 who was there, and some different people.

23 We know there were three other people in
24 the car. Where are those people? Where are those other
25 people to tell us what really happened? Did they really

1 see my client steal this guy's wallet? Did they really
2 see my client decide that he, you know, was going to,
3 you know -- what was he doing, you know? What happened?
4 Did they hear Mr. Varner as he's running back towards
5 that white car, shooting at people, shooting
6 at Mr. Canales, shooting at my client, who could
7 have gotten hit, shooting into the car that they
8 were traveling in?

9 My client, you see gets into, like,
10 a backseat area of that car. And the thing is,
11 is that he is shooting and the windshield gets blown
12 out. He's shooting a bullet in a moving car with people
13 in it, not in response, not in self-defense, because
14 he's enjoying himself while he's out there blowing
15 everybody away with his gun.

16 This is not a case that you should convict
17 my client or Mr. Canales. This is a case that
18 is wrongly charged; this is a case that's been looked
19 at and interpreted the wrong way since the very
20 beginning. And once they arrested Mr. Canales
21 on the night -- the little kid is 17 years old,
22 is in the hospital with a gunshot wound, and they
23 take him into custody. There's no turning back at that
24 point. Mr. Varner becomes the victim, Mr. Ward becomes
25 the victim, and poor little Mr. Canales becomes

1 the Defendant. He was never a Defendant; he was
2 a victim.

3 MR. DAVIS: May it please the Court,
4 Your Honor.

5 THE COURT: Yes, sir.

6 MR. DAVIS: Ladies and gentlemen of the
7 jury, I've already introduced myself. I'm Steve Davis.
8 I practice law, I've been doing this for 45 years.
9 I believe in you; I believe in the criminal justice
10 system. I'm a trial lawyer. I'm proud of the fact
11 of being a trial lawyer. I'll tell you why.

12 I don't do family court law. There's
13 a reason I don't do family court law, because when
14 I do family court law, there's one judge that's up there
15 that makes the decision. He is the trier of the facts,
16 and he's the trier of the law. I don't believe in one
17 person making a decision at all, not when it involves
18 life, liberty, and the pursuit of your happiness.
19 I just don't believe in it, because one person
20 can be bias, one person can be prejudiced, one person
21 can have an agenda. That's just not right.

22 But I'll be satisfied if the 12 of y'all
23 can convict these two young men based on the
24 presentation of the solicitor in this case. My faith
25 in the system would be shaken. I told you earlier

1 that I was a prosecutor, and I enjoyed being a juvenile
2 prosecutor. As a juvenile prosecutor, I can look
3 back over the years and know that I changed the course
4 and direction of many young people, like Mr. Varner,
5 like Mr. Ward, like Canales, and like Mr. Dickens.

6 You know, youth is a -- youth is a powerful
7 energy. There was a fellow, I think the name was Ponce,
8 he went down to Florida looking for the fountain
9 of youth. I know what he's talking about now as
10 I get into my middle age, old age, with grandchildren.
11 Youth has got a lot of energy, but there's a lot
12 if indiscretion when you go to the youth. The youth,
13 they don't think correctly. They don't always see
14 the big picture.

15 And so as a juvenile prosecutor, I really
16 enjoyed my job because it was one of the most rewarding
17 jobs. I've had young people who we prosecuted,
18 that we changed their course of life. You've got
19 a 17-year-old kid, another 18-year, 19-year-old kid,
20 they are in this very, very serious courtroom with
21 their lives, their liberty is in your hands.

22 Now, the prosecutor -- yes, I used to be
23 a prosecutor. I did it for ten years, and I enjoyed
24 it. The prosecution's job is to seek justice, have
25 the blindfold on, not to pick winners, choose losers,

1 and decide what side should win. This ain't about
2 winning and losing; this is about justice. And I'll
3 tell you, justice is a funny thing. Justice speaks
4 truth.

5 When I started this case, I told you
6 that this was the fact-finding chair. Now, I want
7 you to know why cross-examination is so important.
8 The State puts up a witness, and then I get to
9 cross-examine that witness. I get to ask the very
10 serious questions on the other side. Cross-examination,
11 the judge will share with you, is evidence also.

12 What's so interesting about this case
13 in a lot of regard, and my co-counsel, she's done
14 a great job. Really, I shouldn't have to say much
15 because she really put the case in summation.
16 Who or what is missing in this courtroom? What
17 is missing?

18 Here is a young lady who walks out
19 of the bowling alley with a young man who -- I call
20 him hotshot. That's what I call him, hotshot. He's
21 got this gun in his jacket, been in a bowling alley.
22 Mind you now, the cars are parked, and three people,
23 if you take the State's version, are sitting in that
24 truck, there's no confrontation between these two groups
25 of people. None.

1 But here comes the two people that testified
2 in this case. Mr. Ward, he alluded to the fact
3 that the young man that lived with him at that time,
4 Mr. Varner, was pistol whipped, pistol whipped, right
5 from this witness stand. Then, the doctor, went to
6 the University of Vermont, said he moved here, he worked
7 at Trident, he works in emergency care. He said
8 he sees a lot of violence, and he sees it all the time,
9 and he testified from this chair, this is where you make
10 your decision, he said he didn't see no indication
11 of anybody being pistol whipped at all. You determine
12 the truth.

13 Now let's move on a little further.
14 Think about this. The confrontation, or the toxic
15 situation, occurs once these two people show up to that
16 vehicle. And in a span of five -- 15 seconds, gunfire
17 exchanged, and the fact that someone robbed someone.
18 Robbery. Now let's think about this. It just upsets
19 me, to be honest, is that everybody believed the hype
20 that these two young men started it. They go to the
21 hospital. This young man is given no consideration
22 for his wellbeing by the Goose Creek City Police
23 Department.

24 This Officer Galluccio said, he sent
25 his officers out to take statements. We don't have

1 any statements from anybody who was in that car.
2 Please, any statements from the three people who
3 are sitting in the car. Do you have a statement
4 from the young lady, the little young girl, who walked
5 out who they want to suggest now, for some reason
6 apparently, she arranged it, when Mr. Varner, hotshot,
7 he called that young lady to come there? He called
8 her.

9 This young man was arrested at Trident
10 Hospital. Goose Creek Police Department have not taken
11 -- have not even reviewed the video. He's arrested.
12 The officer stands on the witness stand, and says
13 that it's against the law for an 18 year old to have
14 a pistol. Mr. Varner testified, I gave him the picture,
15 he says he feels good when he has two guns in his hands,
16 AR-15.

17 I relayed back to my years as a prosecutor.
18 To be honest with you, everybody should have gotten
19 arrested that night. If you had a better situation,
20 we would have changed the course of what's going
21 to happen if all of them got arrested, instead of the
22 State believing the hype, Goose Creek Police Department
23 believing the hype, instead of doing a thorough
24 investigation.

25 What kind of thorough investigation do

1 you have when you don't even check and see the other
2 individual, whether they shot a gun or not? They did
3 not. Now the prosecution wants you, wants you, to buy
4 into the same situation, wants all 12 of y'all to agree
5 now that y'all should convict these two young people
6 based on these two young people. I'll tell you about
7 that; he referenced that.

8 I was walking in the yard. I get up every
9 morning about 4:30, walk in the yard, an old fellow
10 like me strolls a little bit, and it's kind of dark,
11 I've got a lot of cameras at the house. And I'll be
12 honest, I got nervous this morning. It's been a long
13 time since I've been nervous in my own yard. I got
14 nervous. I got nervous because I saw some indication
15 yesterday that bothered me.

16 When a young man believes that he can
17 walk into a bowling alley with a gun loaded, he calls
18 it a six shooter, but it actually shoots seven, that
19 if the gun hadn't jammed, if the gun hadn't jammed,
20 his total disregard for the safety of his own friends
21 or anybody out that night, it really didn't matter.
22 That's what you've got in front of you. You're going
23 to send this young man -- these two young men to prison
24 on the testimony of these individuals? Mind you,
25 that's what this case is all about.

1 The solicitor saw the video, and I thank
2 you for the years of service in the Marines. I've got
3 a son in the military, been there 13 years, my daddy
4 did ten, my brother did 20, and I thank you for your
5 years of service. Has nothing to do with this case.
6 This case is about justice, and your duty as a solicitor
7 is to seek justice.

8 Now, I told you at the beginning that
9 my favorite hero is Superman, and I'll tell you why.
10 Superman believed in truth, justice, and the American
11 way. I get up every morning, my passion in life,
12 what gets me up every morning, is the injustice.
13 I'll work for free for injustice; I'll walk to China
14 for injustice. That's it. I've been this way all
15 my life. I represent all of my clients with the same
16 passion. Injustice. That's a big deal to me.

17 When the State brings you a case that
18 you should have what you consider a thorough case,
19 a case where the police officers, Goose Creek police,
20 bring you statements, bring you something that you can
21 go with in the back, instead of just a tainted video
22 that, with the technology at the FBI, it could have
23 easily been enhanced, was not enhanced, wants you to buy
24 into the same hype. Please. This is a very important
25 day for my client, both of them.

1 I don't have a -- I'm old school sometimes.
2 I love computers, but I'm going to put this chart up,
3 I want you to think about it when you make your
4 decision. I told you at the beginning -- just bear
5 with me. It's just that important. I told you at the
6 beginning I view this case as don't believe the hype.
7 Well, you know, I'm old school, but hype, to me, in
8 this situation, really means don't believe the facts.
9 Being this generation, I say, don't believe the hype.

10 Over here is Mr. Varner. I'm going to put
11 a V on here for Varner, and I call him hotshot.
12 Now, he wants you to believe that Mr. Meech over here
13 -- Mr. Dickens, who now is living, dating, kissing
14 his baby's mama really don't matter no more. And
15 if you don't think that's a toxic situation, you tell
16 me. The minute he knew this young man, my client,
17 was with this young lady, that's a toxic situation.

18 You know, I call that jealousy. I call
19 that jealousy. If that ain't a reason to have a strong
20 emotion, you tell me. If that ain't a reason.
21 Because, mind you now, everything is quiet until these
22 two cohorts shows up. These two cohorts shows up,
23 and everything becomes toxic. And the fact that my
24 two-year-old daughter now calls him daddio, whatever,
25 it really don't matter to me, because it's just my

1 baby's mama. That's the description; just my baby's
2 mama.

3 And then Mr. Ward, I call him smart aleck.
4 What is a smart aleck? You know, when I was in school,
5 we had a kid that was really a smart aleck, they know
6 everything. He got enough sense to put the gun in the
7 glove compartment, which is invading the crime scene.
8 He got that much sense, he puts it in the glove
9 compartment. He's got enough sense also to say that
10 his friend, Mr. Varner, was pistol whipped. Smart
11 aleck again. He's got enough sense to know what the law
12 is in reference to the gun, and he's the main narrative
13 in this case, because he convinces Goose Creek Police
14 Department to buy into the hype.

15 MR. MYERS: Your Honor, could we have him
16 stay in the ---

17 MR. DAVIS: He buys -- the Goose Creek
18 Police Department to buy into the hype and say they
19 did a thorough investigation. Thorough investigation.
20 And, you know, I've represented a lot of young men,
21 sadly. When two groups of people get together, they
22 want to exchange drugs for money, the person that have
23 the drugs normally don't want to rob the person who
24 brought the money. It's normally the person who wants
25 to purchase the drug wants to rob the person that has

1 the drug. That would normally happened.

2 And normally what happens, they don't
3 do it in a public place with video cameras. They don't
4 get so stupid enough that they don't know there's
5 a video camera. They don't do it there, because when
6 one side wants to take advantage of the other side
7 in a drug transaction, they go to a secluded place.
8 Unfortunately, I know too many young men who have
9 gotten killed in a drug for cash exchange. They
10 do it in a private place, because the parties really
11 know each other. There's no doubt in my mind that
12 all of these kids know each other. They all know
13 each other.

14 You know what's so interesting is Jimbo.
15 He's referenced, but where is Jimbo. Jimbo is in the
16 car or the truck, but the solicitor didn't bring him
17 in front of you. The solicitor really has tied each
18 one of your hands, now wants the 12 of y'all to make
19 a decision on these two young men with tied hands
20 behind your back, not having all the evidence you need,
21 on a video that is clouded and dark, that could have
22 been enhanced, without statements from the people
23 that were present, and a young lady who was as close
24 as you and I when all this took place, when the young
25 man, Mr. Varner, believed that he has the right, despite

1 the law, to have a weapon on him and continuously shoots
2 and causes Mr. Canales's windshield to just evaporate
3 and is found on 176 in route to the hospital.

4 I know there are going to be some things
5 I wish I had said, but I think my co-counsel covered
6 everything. But the most important thing I want to
7 stress with you is all 12 of you, please, don't adopt
8 the hype. Thank you.

9 THE COURT: Anything else?

10 MR. MYERS: Nothing from the State.

11 THE COURT: All right. Ladies and gentlemen
12 of the jury, as they've all indicated, I am the sole,
13 exclusive judge of the law, and it is my role and
14 responsibility to now charge you on the law of which
15 the facts that you are to apply to, all right? Don't
16 get freaked out. It's going to be a lot, but I'm going
17 to allow you to have this in the back, so you'll be able
18 to apply the law to the facts as given. All right.

19 I remind you that during the trial,
20 you and I have certain duties to perform. As the trial
21 judge, it is my responsibility to preside over the trial
22 of this case. And I also have the duty to rule on the
23 admissibility of the evidence offered during this trial.
24 You are to consider only the competent evidence before
25 you. You are to consider only the testimony which has

1 been presented from this witness stand, any exhibits
2 which have been made a part of the record in this case,
3 and any stipulations of counsel.

4 I have the additional duty to charge
5 you the law applicable to this case. As the presiding
6 judge, I'm the sole judge of the law of this case,
7 and it is your duty as jurors to accept and apply
8 the law as I now state it to you. If you already have
9 any idea as to what the law is or what the law ought
10 to be, and it does not agree with what I now tell
11 you the law is, you must abandon this idea because
12 you are sworn to accept the law and apply the law
13 exactly as I state it to you.

14 In every case tried in this court before
15 a jury, the jury becomes the sole and exclusive judge
16 of the facts in a case. A trial judge cannot comment
17 on, or make any statement to a trial jury about the
18 facts in a case. Since you, the jury, are the sole
19 judge of the facts in this case, you are not to infer
20 from what I have said during the progress of this
21 trial in ruling upon the admissibility of evidence
22 or otherwise, or anything that I say now during the
23 course of this instruction, that I have any opinion
24 about the facts in this case. The law does not allow
25 me to have an opinion about the facts in this case.

1 This is a matter solely for you, the jury, to determine.
2 As jurors, it is your duty to determine the effect,
3 value, weight, and truth of the evidence presented
4 during this trial.

5 The indictments charged the Defendants
6 with armed robbery, assault and battery of a high
7 and aggravated nature, and possession of a weapon during
8 the commission of a violent crime. I remind you that
9 the fact the each Defendant were arrested, charged,
10 and indicted in this case is not evidence in this case
11 and cannot be considered by you as evidence of guilt
12 in this case, nor does it create any presumption
13 or inference of guilt. This document is simply
14 the formal written instrument which contains the charges
15 made against the Defendants. It is a formal document
16 by which this case is brought into this courtroom.

17 I charge you that there are two different
18 Defendants in this case, each of them is charged
19 with armed robbery, assault and battery of a high
20 and aggravated nature, and possession of a weapon during
21 the commission of a violent crime. The case of each
22 Defendant and the evidence and the law concerning
23 that Defendant should be considered separately
24 and individually.

25 Your verdict does not have to be the

1 same for both Defendants. The fact that you may find
2 one Defendant guilty or not guilty should not control
3 your verdict as to the other Defendant. Where more
4 than one person is charged with a crime, if the evidence
5 warrants it, you may convict one and acquit the other,
6 you may acquit both, or you may convict both. It will
7 depend upon your view of the testimony and evidence.
8 You must take each Defendant and consider the evidence
9 as to that Defendant and my instructions to you on the
10 law. You will then write a separate verdict of guilt
11 -- of guilty or not guilty for each Defendant and each
12 charge.

13 The indictments in this case allege several
14 different offenses against the Defendants; armed
15 robbery, assault and battery of a high and aggravated
16 nature, and possession of a weapon during the commission
17 of a violent crime. Each indictment charges a separate
18 and distinct offense. You must decide each indictment
19 separately on the evidence and the law applicable
20 to it, uninfluenced by your decision as to any other
21 indictments. The Defendants may be convicted
22 or acquitted on any or all of the offenses charged.
23 You'll be asked to write a separate verdict of guilty
24 or not guilty for each separate indictment.

25 The Defendants have pled not guilty

1 to these indictments, and those pleas put the burden
2 on the State to prove the Defendants's guilt. A person
3 charged with committing a criminal offense in South
4 Carolina is never required to prove himself innocent.
5 I charge you that is an important rule of law that
6 the Defendants in a criminal trial, no matter what
7 the seriousness of the charge may be, will always
8 be presumed to be innocent of the crime for which
9 the indictment was issued, unless guilt has been
10 proven by evidence satisfying you of that guilt beyond
11 a reasonable doubt.

12 This presumption of innocence does not end
13 when you begin your deliberations, but it accompanies
14 the Defendants throughout the trial until you reach
15 a verdict of guilt, based on evidence satisfying
16 you of that guilt beyond a reasonable doubt. The
17 presumption of innocence is like a robe of righteousness
18 placed about the shoulders of a Defendant, which remains
19 with the Defendant until it has been stripped
20 from the Defendant by evidence satisfying you
21 of the Defendant's guilt beyond a reasonable doubt.

22 The presumption of innocent is not -- the
23 presumption of innocence is not merely a legal theory;
24 it is not just a legal phrase. It is a substantial
25 right to which every Defendant is entitled, unless

1 you, the jury, are satisfied from the evidence
2 of the Defendant's guilt beyond a reasonable doubt.

3 What is reasonable doubt? Reasonable doubt
4 is the kind of doubt that would cause a reasonable
5 person to hesitate to act. Proof beyond a reasonable
6 doubt is proof that leaves you firmly convinced of
7 the Defendant's guilt. We know very few things in this
8 world with absolute certainty, and in criminal cases,
9 the law does not require proof that overcomes every
10 possible doubt.

11 If, based on your consideration of the
12 evidence, you are firmly convinced that the Defendant
13 is guilty of the crime charged, you must find the
14 Defendant guilty. On the other hand, if you think
15 a real possibility exists that the Defendant is not
16 guilty, you must give the Defendant the benefit of
17 the doubt and find him not guilty.

18 There are two types of evidence generally
19 presented during a trial; direct evidence and
20 circumstantial evidence. Direct evidence directly
21 proves the existence of a fact and does not require
22 deduction. Direct evidence is the testimony of a person
23 who claims to have actual knowledge of a fact, such
24 as an eyewitness. It is evidence which immediately
25 establishes the main fact to be proven.

1 Circumstantial evidence is proof of a chain
2 of facts and circumstances indicating the existence
3 of a fact. It is evidence which immediately establishes
4 collateral facts from which the main fact may be
5 inferred. Circumstantial evidence is based on
6 inference and not on personal knowledge or observation.
7 It is proof that does not actually establish the fact
8 in question, but that asserts or describes something
9 else from which you may either reasonably infer
10 the truth of the fact, or at least reasonably infer
11 an increase in the probability that the fact is true.

12 For circumstantial evidence to be sufficient
13 to warrant the finding of a fact, the circumstances
14 must lead to that fact with reasonable certainty.
15 The facts and circumstances should be considered
16 in light of ordinary experience and common sense.
17 The existence of a fact cannot be based on speculation,
18 surmise, or conjecture.

19 The law makes absolutely no distinction
20 between the weight or value to be given to either direct
21 or circumstantial evidence. All of the circumstances
22 must be consistent with each other, and when taken
23 together, point conclusively to the guilt of the accused
24 beyond a reasonable doubt. If these circumstances
25 merely portray the Defendant's behavior as suspicious,

1 the proof has failed. Nor is a greater degree
2 of certainty required of circumstantial evidence
3 than of direct evidence.

4 The State has the burden of proving
5 the Defendant guilty beyond a reasonable doubt.
6 This burden rests with the State, regardless of whether
7 the State relies on direct evidence, circumstantial
8 evidence, or some combination of the two.

9 As to every witness that has testified,
10 you must determine the credibility of the witness
11 who have testified in this trial. Credibility simply
12 means believability. It becomes your duty as jurors
13 to analyze and to evaluate the evidence and determine
14 which evidence convinces you of its truth.

15 In determining the believability of
16 witnesses who have testified in this case, you may
17 believe one witness over several witnesses, several
18 witnesses over one witness, you may believe a part
19 of the testimony of a witness, and reject the remaining
20 part of the testimony of that same witness. You may
21 believe the testimony of a witness in its entirety,
22 or reject the testimony of a witness in its entirety.
23 You may consider whether any witness has exhibited
24 to you any interest, bias, prejudice, or other motive
25 in this case. You may also consider the appearance

1 and manner of a witness while they were testifying
2 on the witness stand.

3 The rules of evidence ordinarily do not
4 permit witnesses to testify to opinions or conclusions.
5 An exception to this rule, as we have discussed earlier,
6 exists for witnesses we call expert witnesses.

7 A witness who, by education and experience, has become
8 an expert in some art, science, profession, or calling
9 may state an opinion as to relevant and material
10 matter in which the witness claims to be the expert,
11 and may also state the reasons for their opinions.

12 You should consider any expert opinion
13 received in evidence in this case and, like any other
14 evidence, give it the weight you think it deserves.
15 If you decide that the opinion of an expert witness
16 is not based on sufficient education and experience,
17 or if you conclude that the reasons given in support
18 of the opinion are not sound, or that the opinion
19 is outweighed by other evidence, you may disregard
20 the opinion entirely. An expert witness's testimony
21 is to be given no greater weight than that of other
22 witnesses simply because the witness is an expert.
23 Further, you are not required to accept an expert's
24 opinion, even though it is not contradicted.

25 In order to establish criminal liability,

1 criminal intent is required. For example, the mental
2 state required to be proven by the State for a
3 particular crime might be purpose, intent, knowledge,
4 recklessness, or criminal negligence. Criminal intent
5 must be proven by the State beyond a reasonable doubt.
6 Criminal intent is always a matter that must
7 be determined by the jury from the circumstances
8 surrounding the situation. There's no way to prove
9 intent to a mathematical certainty. There's no
10 way medical science can dissect a person's brain
11 and determine what the person had in mind, so the law
12 says that criminal intent may be inferred from
13 the circumstances shown to have existed.

14 This is how you make a determination
15 of whether or not the element requiring intent
16 was present. It is not necessary to establish
17 intent by direct and positive evidence, but intent
18 may be established by inference in the same way
19 as any other fact, by taking into consideration the
20 acts of the parties and all the facts and circumstances
21 of the case.

22 Criminal intent is a mental state,
23 a conscious wrongdoing. It is up to you to determine
24 what the Defendants intended to do based on the
25 circumstances shown to have existed. Criminal intent

1 can arise from action or a failure to act. It may
2 arise from negligence, recklessness, or an indifference
3 to duty, or to consequences that is considered by
4 the law to be the equivalent of criminal intent.

5 The Defendants are each charged with armed
6 robbery. In order to prove this offense, the State must
7 first prove beyond a reasonable doubt that the Defendant
8 took personal property from the person or presence
9 of another person. Property is in the presence
10 of a person if it is within the person's reach,
11 inspection, observation, or control so that the person
12 could, if not overcome with violence or prevented
13 by fear, keep possession of the property.

14 The State must also prove beyond a
15 reasonable doubt that the Defendant carried the property
16 away intending to permanently deprive the owner of the
17 property and to keep the property for the Defendant's
18 own use. The slightest removal of the property,
19 or the complete possession of the property, even
20 for an instant, by the Defendant is sufficient to show
21 a taking and carrying away of the property. The taking
22 and carrying away of the property must have been done
23 with violence or by putting the owner of the property
24 in fear of violence.

25 Finally, the State must prove beyond

1 a reasonable doubt that the Defendant was armed with
2 a deadly weapon during the robbery. A deadly weapon
3 is an article, instrument, or substance which is likely
4 to cause death or great bodily injury. Whether
5 an instrument has been used as a deadly weapon depends
6 on the facts and circumstances of each case.

7 The Defendants have also been charged
8 with assault and battery of a high and aggravated
9 nature. Assault and battery of a high and aggravated
10 nature is an unlawful act of violent injury to
11 the person of another accompanied by circumstances
12 of aggravation.

13 An assault occurs when a person unlawfully
14 attempts or offers to commit a violent injury upon
15 another person and had the present ability to complete
16 the attempted injury. An assault is the intentional
17 creation of a reasonable fear of immediate bodily harm.
18 It is not necessary that the attempted injury or harm
19 actually take place. For example, if I walk up to you,
20 and when we are within arm's reach, I draw back to hit
21 you, that is an assault.

22 A battery is the unlawful touching
23 of another person by a person who has committed
24 the assault. An unlawful touching can be caused by
25 a part of the accused's body or by an object the accused

1 puts in motion. A battery is the completion of the
2 assault by using or applying force to another person,
3 however slight, in a rude, angry, or resentful
4 manner without legal justification for doing so.
5 Using my earlier example, if I carry through the assault
6 by hitting you, then that is a battery.

7 The State must also prove a circumstance
8 of aggravation. Circumstances of aggravation include
9 the use of deadly weapon, the intent to commit a felony,
10 the infliction of serious bodily injury, and a great
11 disparity -- or a great disparity between the ages
12 or physical conditions of the parties. These are
13 all examples of circumstances of aggravation.

14 A lesser-included offense of assault
15 and battery of a high and aggravated nature is assault
16 and battery in the first degree. A person commits
17 the offense of assault and battery in the first
18 degree if the person unlawfully injures another person,
19 and the act occurred during the commission of a robbery,
20 burglary, kidnapping, or theft.

21 A person may also commit the offense
22 of assault and battery in the first degree if the person
23 unlawfully offers or attempts to injure another person
24 with the present ability to do so, and the act either
25 is accomplished by means likely to produce death

1 or great bodily injury, or occurred during the
2 commission of a robbery, burglary, kidnapping, or theft.
3 Great bodily injury means bodily injury which causes
4 a substantial risk of death, or which causes serious,
5 permanent disfigurement or a protracted loss
6 or impairment of the function of a bodily member
7 or organ.

8 Lastly, the Defendants are charged
9 with possession of a weapon during the commission
10 of a violent crime. For each Defendant, the State
11 must prove beyond a reasonable doubt that the Defendants
12 were in possession of a firearm or visibly displayed
13 what appeared to be a firearm during the commission
14 of a violent crime.

15 A firearm means any machine gun, automatic
16 rifle, revolver, pistol, or any weapon which will,
17 is designed to, or may be readily converted to expel
18 a projectile. In order to find the Defendant guilty
19 of possession of a weapon during the commission
20 of a violent crime, you must first find the Defendant
21 guilty of either committing a violent crime
22 or attempting to commit a violent crime.

23 Pursuant to the South Carolina code, armed
24 robbery and assault and battery of a high and aggravated
25 nature are violent crimes. The State must prove beyond

1 a reasonable doubt that the weapon furthered,
2 advanced or helped in the commission of the crime.

3 If a crime is committed by two or more
4 people who are acting together in committing a crime,
5 the act of one is the act of all. A person who joins
6 with another to commit an unlawful act is criminally
7 responsible for everything done by the other person
8 which happens as a probable or natural consequence
9 of the acts done in carrying out the common plan
10 and purpose.

11 For example, two people could be guilty
12 of killing another person when only one of the two
13 had a gun, there was only one bullet, and only one
14 of the two fired the shot that caused the death.
15 If two or more people are together, acting together,
16 assisting each other in committing the offense, the act
17 of one is the act of all, or as it is sometimes said,
18 the hand of one is the hand of all.

19 Prior knowledge that a crime is going
20 to be committed, without more, is not sufficient
21 to make a person guilty of that crime. Mere knowledge
22 that another person is going to commit a crime,
23 even if the Defendant is present when the crime
24 is committed, is not sufficient to convict the Defendant
25 as a principal. Guilt as a principal is shown by actual

1 or constructive presence at the scene as a result
2 of prior arrangement.

3 Therefore, a finding of a prior arranged
4 plan or common scheme is necessary for a finding
5 of guilt as a principal. The State must prove beyond
6 a reasonable doubt by competent evidence the theory
7 of the hand of one is the hand of all.

8 A principal in a case is one who either
9 actually commits the crime or who is present aiding
10 or abetting, or assisting in committing the crime.
11 When a person does an act in the presence of and with
12 the assistance of another, the act is done by both.
13 Where two or more, acting with a common plan or intent,
14 are present at the commission of a crime, it does not
15 matter who actually commits the crime. All are guilty.
16 The hand of one is the hand of all.

17 Present at the commission of a crime means
18 to be sufficiently near to aide and abet and assist
19 in the commission of the crime. However, mere presence
20 at the scene of a crime is not sufficient to convict
21 one as a principal on the theory of aiding and abetting.
22 Intent is also a necessary element, for there must
23 have been a common design or intent to commit the crime,
24 and the crime must have been committed pursuant thereto
25 with the person aiding and abetting by some overt act.

1 Intent means intending the result which
2 actually occurs, not accidentally or involuntarily.
3 Intent may be shown by acts and conduct of the Defendant
4 and other circumstances from which you may naturally
5 and reasonably infer intent. The State must prove
6 these elements beyond a reasonable doubt.

7 THE JUROR: Your Honor, I have to use
8 the restroom bad.

9 THE COURT: All right, run.

10 THE JUROR: Thank you.

11 (Pause.)

12 THE COURT: All right. An issue in this
13 case is the identification of the Defendants as the
14 persons who committed the crimes charged. The State
15 has the burden of proving identity beyond a reasonable
16 doubt. You must be satisfied beyond a reasonable doubt
17 of the accuracy of the identification of the Defendants
18 before you may convict the Defendants.

19 Identification testimony is an expression
20 or belief or impression by a witness. You must
21 determine the accuracy of the identification of
22 the Defendants. You must consider the believability
23 of each identification witness in the same way as any
24 other witnesses. You may consider whether the witness
25 had an adequate opportunity to observe the offender

1 at the time of the offense. This will be affected
2 by things like how long or short a time was available,
3 how far or close the witness was, the lighting
4 conditions, and whether the witness had a chance
5 to see or know the person in the past.

6 Once again, I instruct you that the
7 burden of proof on the State extends to every element
8 of the crime charged, and this specifically includes
9 the burden of proving beyond a reasonable doubt the
10 identity of the Defendants as the persons who committed
11 the crime. If after examining the testimony, you have
12 a reasonable doubt as to the accuracy of the
13 identification, you must find the Defendants not guilty.

14 Further, the fact that the Defendants
15 in this trial did not testify on their own behalf
16 is not a factor to be considered by you in any way
17 in your deliberations and in your consideration on
18 the question of the guilt or innocence. In this regard,
19 a Defendant has the constitutional right to remain
20 silent, and the exercise of this right must not be
21 considered by you in your deliberations. The fact
22 that the Defendants did not testify should not even
23 be discussed in the jury room whatsoever.

24 The burden of proof, as I have stated to
25 you, is on the State. The Defendant has no obligation

1 to prove his innocence. The Defendant -- the burden
2 of proof remains with the State to prove the Defendant's
3 guilt beyond a reasonable doubt, and the fact that
4 a Defendant does not testify is not a factor to be
5 considered by you in deciding the guilt or the innocence
6 of a Defendant.

7 When you consider the whole case, if you
8 have a reasonable doubt as to the guilt or the innocence
9 of the Defendant, then they are entitled to that
10 reasonable doubt and would be entitled to a verdict
11 of not guilty. However, if upon considering the whole
12 case you find that the State has proven by evidence
13 which satisfies you of the guilt of the Defendant
14 beyond a reasonable doubt, then in such circumstances
15 it would be equally your duty to convict the Defendants
16 and find them guilty.

17 You may have heard testimony concerning
18 the penalty a person can serve for the crime alleged
19 in the indictments. In determining the guilt
20 or innocence of the Defendant, you cannot consider
21 any possible penalty for any particular crime
22 whatsoever. The punishment for the crime is a matter
23 for me to determine and should never be considered
24 by you in any way whatsoever at arriving at an impartial
25 verdict as to the guilt or innocence of these

1 Defendants.

2 All right. Madam Forelady, I indicated
3 at the beginning of the trial I would charge you
4 with the remaining balance of your instructions,
5 and so now I'm going to do so. In just a couple
6 of moments, I'm going to ask that y'all retire to the
7 jury room, but don't begin your deliberations because
8 we've got to get the evidence together and make sure
9 it all comes back, so no one begins to discuss the case
10 until we bring the evidence back.

11 Secondly, it is your job, role, and
12 responsibility to ensure that everybody participates
13 in the deliberation because it has to be unanimous,
14 all 12 of you must agree on a verdict, all right?
15 What I mean by that is this: Some are going to
16 participate a lot, some are going to participate
17 very little, that's just by nature. But just,
18 it's your responsibility to make sure that everybody
19 gets an opportunity. So if someone has to go to
20 the restroom or an emergency comes up, stop the
21 deliberations because everybody has to participate,
22 and it has to be a unanimous verdict, all right?

23 Once you have gotten your verdict -- these
24 are the indictments, and these are the verdict forms.
25 It says state of South Carolina versus Dimitri Dickens

1 and Isaiah Canales. And for each separate offense,
2 as to the charge of possession of a weapon during the
3 commission of a violent crime, we, the jury, unanimously
4 find the Defendant guilty or not guilty. Just click
5 whichever one is y'all's verdict. And once you're done
6 with that, if you will sign the verdict forms, knock
7 on the door, give it to the bailiffs, and we'll bring
8 you out, all right?

9 Lastly, these are the indictments, and once
10 you have your verdict, you'll see the word verdict.
11 You just write what the verdict is and sign it.
12 Fair enough?

13 THE FORELADY: Yes, sir.

14 THE COURT: All right. All right. I would
15 ask that y'all retire to the jury room. Don't begin
16 your deliberations, and we'll get the evidence in there
17 in just a couple of moments.

18 (The jury exited the courtroom at 12:00 p.m.)

19 THE COURT: All right. For the record,
20 in the back, I took an opportunity to read and apply
21 some of the facts to the assault and battery in the
22 first degree, and over the State's objection, I chose
23 to go ahead and charge it, so it's noted for the record.

24 MR. DAVIS: One other thing, Your Honor.
25 In anticipation that you would give us self-defense,

1 I withdrew the mutual combat. I'm asking the Court
2 on the record now that the mutual combat should be part
3 of the charge in this matter. You've got two
4 individuals charged with -- I mean, two individuals
5 apparently armed who come together in a situation.
6 That's just what happened, was combat between the two
7 of them, and so I would ask for that charge to be
8 included to the jury's instruction, Your Honor.

9 THE COURT: All right. I made my ruling
10 on that, but I'll note it for the record.

11 MR. DAVIS: Thank you.

12 THE COURT: Will you tell them if they
13 have a question that they need to reduce it to writing,
14 give it to the bailiff, and bring it to me.

15 THE CLERK: Yes, sir.

16 THE COURT: All right. All right, y'all,
17 get it all back there. Here is the verdict form
18 and the charges.

19 THE CLERK: Do you want the alternate?

20 THE COURT: Bring me both jurors.

21 (Pause.)

22 THE COURT: All right. Are you Ms. Dale?

23 THE ALTERNATE: Diehl.

24 THE COURT: Diehl. All right. You're
25 the alternate in this case, and your job, role,

1 and responsibilities have been fulfilled, and you are
2 free to go. I hope you have a wonderful rest of your
3 day. Thank you for your service.

4 THE ALTERNATE: Thank you.

5 (The alternate exited the courtroom.)

6 (The juror enters the courtroom.)

7 THE COURT: All right. What happened
8 with you?

9 THE JUROR: I had car trouble this morning.

10 THE COURT: Why was your phone dead?

11 THE JUROR: I -- it was broken. Since I had
12 no service yesterday, I left it in my car.

13 THE COURT: We came to your house.
14 You didn't stay home last night?

15 THE JUROR: No, I didn't. I was gone.
16 I was already trying to get my spare key.

17 THE COURT: All right. You're free to go.

18 (Evidence went to the jury at 12:10 p.m.)

19 (Court's Exhibit Nos. 2 and 3 were marked for
20 identification.)

21 (Court's Exhibit Nos. 2 and 3 were admitted into
22 evidence.)

23 (Recess taken.)

24 (Back on the record.)

25 (Court's Exhibit No. 4 was marked for identification.)

1 THE COURT: They have a question, but the
2 question is, "Can we get the definition of the charges?"
3 They have it. I don't know what I'm supposed to do
4 with that. Just bring the -- can you bring the forelady
5 out, and tell her to bring the charges that I sent back
6 with her, please.

7 (The forelady enters the courtroom.)

8 THE COURT: Do you have the charges that
9 I sent back with you?

10 THE FORELADY: You did, but they do not
11 have the definitions on them.

12 THE COURT: Bring them to me.

13 THE FORELADY: Okay.

14 (The forelady exits the courtroom.)

15 THE CLERK: She stated never mind.

16 THE COURT: All right.

17 (Court's Exhibit No. 4 was admitted into evidence.)

18 (Recess taken.)

19 (Back on the record.)

20 (Court's Exhibit No. 5 was marked for identification.)

21 THE COURT: All right, they have a question.
22 First question, "Was the police report admitted into
23 evidence?"

24 MS. LYNCH: No.

25 THE COURT: All right. Second question,

1 "Why did we only get a muted body cam?"

2 MR. DAVIS: The State gave them that, Judge.

3 MS. GAY: Well, the body cam should have
4 had sound ---

5 MR. MYERS: There was hearsay on it,
6 Your Honor. They objected to it; they can hear
7 the whole thing.

8 MS. GAY: No.

9 MR. MYERS: See.

10 MR. DAVIS: It's the same way ---

11 MR. MYERS: The defense don't want to hear
12 that.

13 THE COURT: Bring them out.

14 MS. GAY: It wasn't completely muted,
15 they should have some language.

16 MR. DAVIS: Especially about the -- who
17 called 911. Which video are they talking about?

18 THE COURT: That's it.

19 (The jury entered the courtroom at 2:19 p.m.)

20 THE COURT: All right. First question,
21 "Was the police report admitted into evidence? Could
22 we see this?" The answer is you're only to consider
23 the evidence that was presented at trial. That's
24 the answer to the first question. "Why did we only
25 get a muted body cam?" We were given an un-muted body

1 cam. I assume the question is -- when you viewed the
2 one in court. All right. Is the video that you have
3 now completely muted?

4 THE FORELADY: We were not given a chance
5 to look at it quite yet, but we were told that it was
6 muted.

7 THE COURT: Okay. There should be some
8 un-muted portions of it. And the other -- and the
9 answer to the question as to the mute, is because there
10 is -- I made a ruling and that -- leave it at that.

11 THE FORELADY: Okay.

12 THE COURT: All right. You may retire
13 to the jury room and continue your deliberations.

14 (The jury exited the courtroom at 2:20 p.m.)

15 (Court's Exhibit No. 5 was admitted into evidence.)

16 (Recess taken.)

17 (Back on the record.)

18 (Court's Exhibit No. 6 was marked for identification.)

19 (Court's Exhibit No. 6 was admitted into evidence.)

20 THE COURT: All right. Thank you very much.
21 Please be seated.

22 MR. MYERS: Your Honor, the victims are
23 ten minutes out, is that all right?

24 THE COURT: Sorry?

25 MR. MYERS: The victims are ten minutes out.

1 THE COURT: All right.

2 (Pause.)

3 THE COURT: We can't keep them back there
4 any longer, we're going to have to go ahead and read
5 the verdict. Bring them out.

6 (The jury entered the courtroom at 4:11 p.m.)

7 THE COURT: All right. It's my
8 understanding that y'all have -- please be seated.
9 It's my understanding y'all have a verdict?

10 THE FORELADY: Yes.

11 THE COURT: Is it unanimous?

12 THE FORELADY: It is.

13 THE COURT: All right. As to the state
14 of South Carolina versus Dimitri Dickens, indictment
15 number 2023-GS-08-1118, 2023 at 1120, as to the charge
16 of possession of a weapon during the commission
17 of a violent crime, we, the jury, unanimously find
18 the Defendant guilty.

19 As to the charge of assault and battery
20 of a high and aggravated nature, we, the jury,
21 unanimously find the Defendant guilty. As to the
22 charge of assault and battery in the first degree,
23 we, the jury, unanimously find the Defendant not guilty.
24 As to the charge of armed robbery, we, the jury,
25 unanimously find the Defendant not guilty.

1 As to the state of South Carolina versus
2 Isaiah Canales, indictment numbers 2023-GS-08-1121,
3 1122, and 1123, as to the charge of possession
4 of a weapon during the commission of a violent crime,
5 we, the jury, unanimously find the Defendant guilty.

6 As to the charge of assault and battery
7 of a high and aggravated nature, we, the jury,
8 unanimously find the Defendant guilty. As to the
9 charge of assault and battery in the first degree,
10 we, the jury, unanimously find the Defendant not guilty.
11 As to the charge of armed robbery, we, the jury,
12 unanimously find the Defendant not guilty. All right.
13 Anything from the State as to the verdict?

14 MR. MYERS: No, Your Honor.

15 THE COURT: Anything from the defense?
16 Anything from the defense?

17 MR. DAVIS: Ask that the jury be polled,
18 Your Honor.

19 THE COURT: All right. Madam Clerk.

20 THE CLERK: Juror number 156, is this your
21 verdict?

22 THE JUROR: Yes, it is.

23 THE CLERK: Is it still your verdict?

24 THE JUROR: Yes, ma'am.

25 THE CLERK: Juror number 145, is this your

1 verdict?

2 THE JUROR: Yes, it is.

3 THE CLERK: Is it still your verdict?

4 THE JUROR: Yes, it is.

5 THE CLERK: Juror number 151, is this your

6 verdict?

7 THE JUROR: Yes, ma'am.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes, it is.

10 THE CLERK: Juror number 85, is this your

11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Juror number 129, is this your

16 verdict?

17 THE JUROR: Yes.

18 THE CLERK: Is it still your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Juror number 31, is this your

21 verdict?

22 THE JUROR: Yes.

23 THE CLERK: Is it still your verdict?

24 THE JUROR: Yep.

25 THE CLERK: Juror number 105, is this your

1 verdict?

2 THE JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Juror number 189, is this your

6 verdict?

7 THE JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Juror number 29, is this your

11 verdict?

12 THE JUROR: Yes, it is.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes, it is.

15 THE CLERK: Juror number 84, is this your

16 verdict?

17 THE JUROR: Yes, ma'am.

18 THE CLERK: Is it still your verdict?

19 THE JUROR: Yes, ma'am.

20 THE CLERK: Juror number 60, is this your

21 verdict?

22 THE JUROR: Yes, ma'am.

23 THE CLERK: Is it still your verdict?

24 THE JUROR: Yes.

25 THE CLERK: Juror number 156, is this your

1 verdict?

2 THE COURT: Are you reading the one that
3 was excused?

4 THE CLERK: Oh, I'm sorry -- no, no,
5 that was the foreperson, I'm sorry. Juror number 39,
6 is this your verdict?

7 THE JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Judge, the jury has been polled,
11 the verdict stands.

12 MR. DAVIS: Thank you very much, Your Honor.

13 THE COURT: All right. Thank you so
14 very much. All right. What's the State's position
15 as to sentencing?

16 MR. MYERS: State's position as
17 to sentencing, we're asking for a recommendation
18 of 20 years on the assault and battery of a high
19 and aggravated nature. On the possession of a weapon
20 during a violent crime, we would ask the mandatory
21 minimum of five. We would ask that be consecutive.

22 THE COURT: All right.

23 MS. GAY: Your Honor, I think that we're
24 supposed to renew all of our motions at this time
25 before we get to sentencing for purposes of the record.

1 THE COURT: Not a problem.

2 MS. GAY: Just kind of being a stickler
3 here.

4 THE COURT: That's fine. I have no problem
5 with it. All right, what would you like to tell me
6 as to Mr. Canales?

7 MR. DAVIS: Judge, it would be our position
8 that the verdict clearly indicates that the jury,
9 in some aspect, apparently didn't divulge, understood,
10 or fully comprehend the jury charge to find them
11 not guilty of armed robbery in the sense of what
12 was presented to the Court. So we would ask that
13 the Court set aside the verdict in that particular
14 matter, Your Honor.

15 We believe that the jury did not -- they
16 did not convict them of armed robbery, they did not,
17 suggest that they were confused relative to the jury
18 instructions, Your Honor, specifically in regards
19 to the aspect of the robbery occurring at the same time
20 that the assault and battery of the first degree they
21 found them guilty on.

22 MS. GAY: I think there's a little
23 confusion about the verdict. Let me get through this.
24 Your Honor, if you want to know more about our clients,
25 you heard a good bit about them during -- as we've moved

1 through this trial. You've also heard a good bit about
2 the victims. And, obviously, they found them not guilty
3 of the armed robbery, and we appreciate that.

4 They did find, however, that he -- they
5 assaulted Mr. Varner. But Mr. Varner, as we know,
6 was an armed individual who was also shooting back.
7 And, as I've said in my closing, was equally as wrong
8 in this case is a good way to put it. These young
9 men were -- he was -- Mr. Canales was 17; my client
10 was 18 at the time. It has been several years.
11 They have both been on monitors, neither one of them
12 have had any problems whatsoever.

13 They -- my client works, Your Honor.
14 He's here with his mother today. She's supporting him.
15 He has been a working individual on this monitor ever
16 since this happened. I don't think that it is
17 appropriate for this to be considered as a 20-year
18 sentence, or even as a 25-year sentence, Your Honor.
19 The statute allows a zero to 20 on the ABHAN.
20 And, obviously, at zero to five, we would ask for
21 the gun to be concurrent, because I believe that's
22 the violent charge that they based their conviction
23 for the gun on.

24 And, Your Honor, we would ask you to be
25 as lenient as possible. This is a young man that is --

1 was in a bad situation and made some very bad choices.
2 We would ask it to please be a sentence that's
3 commiserate with his age at the time, his age now,
4 his lack of record. He has no record whatsoever.
5 And, you know, people make bad decisions when they're
6 young.

7 Mr. Davis said that, you know, when he was
8 a prosecutor for juveniles, that he had an opportunity
9 to change people's lives, and this is an opportunity,
10 Your Honor, to put him in the right place as he moves
11 forward. I appreciate the fact that it's going
12 to be a jail sentence. However, I would just ask you
13 to be as lenient as possible. If you could please hear
14 from his mother.

15 THE COURT: Be happy to.

16 MR. DAVIS: Judge, I've got one motion
17 that -- I thought you were just going to address
18 motions, but then she got into the aspects of telling
19 you who the client -- her client was. I want to place
20 on the record, Your Honor, I think it was very critical
21 in this matter that the self-defense was not charged
22 to the jury because, in that instance, it was suggested
23 that he had a right to defend himself. And the jury
24 not being -- not being a part of the jury instruction,
25 I think that weighed very heavily.

1 Now to speak to the candor of this young
2 man, he's 17 years of age when this occurred. He's
3 not much older than that now. He has a fine family
4 and support group in the courtroom, ask that they please
5 stand. And, likewise, Your Honor, he has not been
6 involved in any incidents since this occurred.

7 He has done everything that has been asked
8 of him while he's been on the monitor, and we would
9 take that, Your Honor, as a sentence that's already
10 been imposed upon him. This young man to be put in
11 the criminal justice system, where he's barely a kid,
12 with hardened criminals would do nothing but create
13 havoc for him and be a dangerous situation for him.
14 I ask the Court to really consider that in referencing
15 the sentence you impose on this young man.

16 THE COURT: All right. Thank you, sir.

17 MS. GAY: And, Your Honor, if I haven't
18 officially done everything I was supposed to do to
19 enjoin in his motions about the things that we need
20 to say about my objections and things we requested,
21 I just want to make sure the record is clear.

22 THE COURT: All right.

23 MS. GAY: Okay. Would you like to hear
24 from my client's mother?

25 THE COURT: That would be fine.

1 MS. GAY: All right. You want to stand
2 here?

3 MS. DICKENS: Dimitri is one of eight;
4 I have eight children. I'm a single mom. He has given
5 me problems in the past. But for the past three years,
6 it's actually been really nice to have him around.
7 He works really hard. I wasn't able to pay the ankle
8 monitor anymore because I've had a few surgeries.

9 He goes to work every single morning,
10 two hours before he has to go because I have to take
11 my other son to work. He waits an hour for me to pick
12 him up, and he has done nothing wrong, like, as far
13 as being at home. He doesn't go anywhere; he doesn't
14 do anything. He's not causing any problems at all,
15 so I ask the Court to at least take that into
16 consideration.

17 He made a terrible mistake at 18 years
18 old, and he had just -- I think he was just 18 years
19 old, and he's really matured in the past few years.
20 And I feel like he's not a threat to society
21 or to anyone else. He's a gentle giant.

22 THE COURT: All right. Thank you.

23 MR. DAVIS: I would like you to hear from my
24 client's mother. Please state your name for the record.

25 MS. CANALES: Your Honor ---

1 THE COURT: All right. Will you speak
2 up for us, please.

3 MS. CANALES: Isaiah is a good kid.
4 Of course, kids make mistakes when they're young,
5 but they learn from them. And him being behind bars
6 is not going to do anything for anybody, especially --
7 he's a changed boy. It's been years since that
8 happened.

9 THE COURT: All right.

10 MR. DAVIS: Judge, in conclusion, I want
11 to share this with you. My father lost his father
12 when he was 12. Both of these fellows come from single
13 homes. That's not an excuse, but I think a young man
14 is very flawed when they don't have a father figure
15 in his life. It really makes a difference. Now that's
16 not an excuse, Judge, but it's a reality of life.

17 I think both of these mothers have done
18 a tremendous job with these young men. And,
19 unfortunately, we find ourselves here. This kid went
20 all the way to the 12th grade, to the 12th grade.
21 Eighty-five percent of all the young men in prison,
22 black or white, that don't complete high school find
23 themselves in the criminal justice system. Judge,
24 I'm asking you for mercy on behalf of this young man.

25 THE COURT: All right.

10 Mr. Dickens's record -- juvenile record
11 only includes some simple drug charges from 2019.

14 THE COURT: Sentencing sheet.

16 MS. GAY: Your Honor, my client wanted
17 you to know that he's convicted of being in possession
18 of a gram of marijuana; that was what he had in family
19 court, not any crime of violence at all.

22 MR. DAVIS: Six months, Your Honor, for this
23 young man.

25 MR. DAVIS: He's still on the monitor ---

1 MS. GAY: Yes.

2 MR. DAVIS: --- April the 25th up to today's
3 date, Your Honor.

4 MS. GAY: My client says that he spent
5 six months in the jail, Your Honor, before he made
6 bond, and he's been on the monitor ever since, with
7 no violations. He worked at a pizza place, Your Honor,
8 and his employer thought that he was such a good
9 employee they asked for him to be able to work more.
10 And, you know, to some extent, he couldn't do that
11 because he had to have a monitor, curfews, and things
12 like that, but they liked -- they really liked him.

13 MR. DAVIS: This young man worked at Alex
14 Landscaping, Your Honor.

15 MS. GAY: Not to be a pain, but he did
16 say that he's now working at the City of Charleston
17 Landfill; that's where his current job is.

18 THE COURT: All right. As to Mr. Dickens,
19 and as to Mr. Canales, I'm going to -- as to the assault
20 and battery of a high and aggravated nature, I'm going
21 to submit you to the state department of corrections
22 for a term of 15 years, provided upon the service
23 of ten years, give you credit for every single day
24 that you've been incarcerated and on the monitor.

25 As to the possession of a weapon during

1 the commission of a violent crime, I'm going to submit
2 you to the state department of corrections for a term
3 of five years. I'm going to allow all of your monitor
4 to go towards that and run it concurrent. Good luck
5 to you.

6 MR. DAVIS: Thank you very much, Your Honor.
7 Thank you.

8 THE COURT: Ladies and gentlemen of the
9 jury, that concludes your service. And I want to thank
10 you so very much for your time and effort and being
11 on time. You, obviously, put a lot of effort into your
12 deliberations. That's a very long time to deliberate,
13 so I know you thought long and hard about it.
14 And so I want to thank you for your service, and you are
15 free to go.

16 (The jury exited the courtroom at 4:28 p.m.)

17 THE COURT: All right. For the record,
18 there was a note that was passed to the Court.
19 It was not a question, but it does need to be part
20 of the court's record. It's Court's Exhibit No. 6.
21 It was a letter given from the jury to myself. It says,
22 "We have agreed to two of the three charges. What's
23 the process if we can't come to an agreement? We are
24 still currently deliberating the third." It wasn't
25 a question, so I didn't address it. I told the clerk

1 to just tell -- told them to continue their
2 deliberations.

3 MR. DAVIS: Thank you very much, Your Honor.

4 THE COURT: So that's in the record.

5 MR. DAVIS: Thank you, Judge.

6 THE COURT: Thanks, y'all.

7 MR. DAVIS: Thank you.

8 (End of Transcript of Record)

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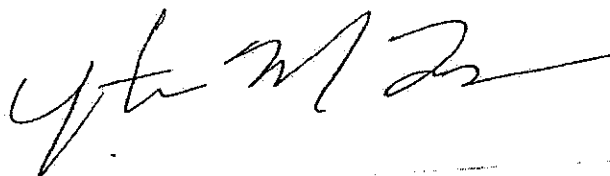
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 27th of March, 2023.

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

July 15, 2024

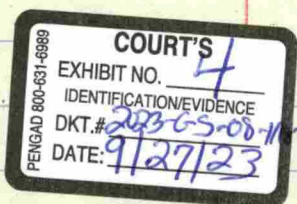


Yvestre Torres

Circuit Court Reporter

Can we get the definitions of all charges again?

AM 9/27/23



STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
 COUNTY OF BERKELEY) INDICTMENT NO.: 2023GS0801118,
) 2023GS0801120
) WARRANT NO: 2021A0820200215,
) 2021A0820200217
 STATE OF SOUTH CAROLINA,)
)
 Plaintiff)
)
 vs.)
)
 DIMITRI TARION DICKENS,)
)
 Defendant.)

MOTION TO RECONSIDER SENTENCE

ENTERED OCTOBER 2, 2023

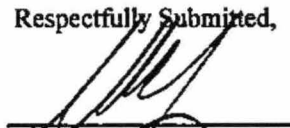
2023 OCT -2 PM 12:50
 LEAH GUERRY DUPREE
 CLERK OF COURT
 BERKELEY COUNTY, SC

FILED

COMES NOW the Defendant Dimitri Tarion Dickens by and through his undersigned attorney Melisa W. Gay, who does file this Motion to Reconsider Sentence entered on September 27, 2023 before the Honorable Bentley Price for Assault and Battery High and Aggravated Nature and Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death. This Motion is supported by the following facts and circumstances:

1. The sentence imposed on September 27, 2023 was overly harsh, and not reflective of circumstances of the Defendant.
2. Defendant is 20 years old and has no significant record.
3. Defendant was not found guilty of Armed Robbery.
4. The specific facts of the case and jury verdict revealed that the Defendant's actions did not result in the victim's injuries.

Respectfully Submitted,


 Melisa W. Gay, Esquire
 222 W Coleman Blvd., Ste. 208
 Mt. Pleasant, SC 29464
 Tel.: (843) 388-7907
 Fax: (843) 416-8379
 ATTORNEY FOR DEFENDANT
 DIMITRI TARION DICKENS

Moncks Corner, South Carolina
 Dated: October 2, 2023

WLG

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
2023-GS-08-01118

State of South Carolina)

) TRANSCRIPT OF RECORD

-vs-

)

) March 28, 2024

Dimitri Tarion Dickens,)

) Moncks Corner, South Carolina

B E F O R E:

The Honorable Bentley Price, Judge

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

F. Alexander Myers, Esquire
Attorney for the State

Melisa White Gay, Esquire
Attorney for the Defendant

Reported By:

Yvestre Torres, OCR
Circuit Court Reporter for the
Ninth Judicial Circuit

1 THE COURT: All right. Thank you very much.
2 Please be seated. All right. All right, we are here
3 on the defense's motion to reconsider the sentence.
4 Procedurally, the Defendant went to trial on assault
5 and battery of a high and aggravated nature, assault
6 and battery in the first degree, and a possession
7 of a weapon during the commission of a violent crime,
8 and armed robbery.

9 He was convicted on possession of a weapon
10 during the commission of a violent crime and assault
11 and battery of a high and aggravated nature on September
12 27th, 2023. The Court sentenced him to the state
13 department of corrections for a term of 15 years,
14 provided upon the service of ten years, and gave
15 him credit for the time that he had already served
16 on the assault and battery with a high and aggravated
17 nature.

18 As to the possession of a weapon during
19 the commission of a violent crime, the Court sentenced
20 him to the state of department of corrections for a term
21 of five years and ran it concurrent with the original
22 charge. All right. Be happy to hear from you.
23 It's your motion.

24 MS. GAY: Thank you, Your Honor. All right.
25 So, Mr. Dickens is here today, Your Honor, with a couple

1 of members of his family; his sister, his mother,
2 and a friend. If y'all could just stand up for
3 a minute, then you can sit back down. So at the time
4 of his sentence, as you've stated, Your Honor, he was
5 sent to the department of corrections. He is currently
6 housed at Lee Correctional, which is in Bishopville.

7 I don't know if you remember or not,
8 but Lee Correctional was the facility where they had
9 the big riot a couple of years back. It is a violent
10 offender facility, and it's -- it is what it is, Your
11 Honor. But it is one of the places in the department
12 of corrections that's had a good bit of problems
13 in the past with stuff that goes on there.

14 Your Honor, he is a young man. What are
15 you, 21 now?

16 THE DEFENDANT: Um-huh.

17 MS. GAY: He's 21 now. This was the
18 case where we watched the video during the trial
19 of the incident that occurred in the bowling alley
20 parking lot in Goose Creek, Your Honor. I know you're
21 familiar -- remember the facts.

22 So, in that case, what we saw is we saw
23 these people that were there, my client and his friends,
24 walked -- remember, Steve Davis was the co-defendant's
25 attorney, that walked up and went up to the people,

1 and then there was this scuffle-type thing.

2 And one of the victims left the area where the group
3 was, and he ran all the way to hid behind a car.

4 And in the video, you could see sort of the flash bang
5 of him firing a weapon back.

6 In the process, the gentleman, who was
7 Mr. Davis's client, got hit, and then you see quite
8 a bit of gunfire going back and forth between the area
9 where the car is, and the area where Mr. Davis's client
10 was. So, Mr. Davis and I tried the cases together.
11 They weren't split up; there was no discussion about
12 severing the cases. We didn't feel that was necessary,
13 Your Honor. Maybe that's something for a later court
14 to determine.

15 But what happened is his client, who did
16 get hit with the bullet, was having gunfire with this
17 man that was behind the car. In the course of it all,
18 my client, once the gunfire starts, and there was sort
19 of a question as to whether or not his gun went off
20 before these other guns went off. But what he testified
21 to the jury was, is that when he heard -- started
22 hearing the shots, he started firing. There's no
23 allegation that he hit anybody, I don't think, right?
24 You didn't hit anybody, did you?

25 THE DEFENDANT: (Shakes head.)

1 MS. GAY: Right. So he did, in fact,
2 admit on the stand to the jury that he had fired
3 the firearm. What he also said on the stand was that
4 he didn't rob anybody, and there was very clear video,
5 in my opinion, and I argued it to the jury, and the jury
6 chose to find him not guilty on the armed robbery,
7 that he didn't rob the man that was on the ground,
8 and that there was some -- I believe the jury looked
9 very closely at that, and the jury chose to find him
10 not guilty, which is what -- which is the reason why
11 Mr. Dickens had a trial.

12 Mr. Dickens had a trial because Mr. Myers
13 wanted him to plea to the shooting, and he also
14 wanted him to plea to an armed robbery, and he told me,
15 I didn't rob anybody. I really didn't, Ms. Gay.
16 I didn't rob anybody. So when we went to trial,
17 he was really going to trial about the armed robbery,
18 and they found him not guilty of that. He had openly
19 admitted on the stand that he had shot the firearm,
20 and that, you know, for all practical purposes, he --
21 whether it was assault one or assault and battery,
22 he admitted to firing the gun.

23 But, ultimately, Your Honor, what I want
24 you to take into consideration is that if he had --
25 if Mr. Myers had agreed to dismiss the armed robbery,

1 he didn't choose to do that, and we had the trial,
2 he would have pled in front of hopefully you or,
3 you know, a favorable judge as possible, he would
4 have pled to the ABHAN and done a mitigating plead for
5 mercy, please don't give me a giant sentence at a plea,
6 and he was always willing to do that. He was always
7 willing to plea to the ABHAN, Your Honor, and the gun
8 that would have gone along with it.

9 So what I'm asking you to consider,
10 and I know he was sentenced because the jury found
11 him guilty of ABHAN, but the jury did not find him
12 guilty of the charge that he actually went to trial
13 for. Openly admitted on the stand to the jury that
14 he had shot the gun, knew that there was, you know,
15 a high likelihood, if not 100 percent probability,
16 that he would get convicted of that, but he did not
17 get convicted of the armed robbery.

18 So what I'm asking you to please consider
19 is just decreasing the amount of active time that he has
20 to serve. He knows that he has the 15-year sentence,
21 you suspended it on the service of ten. I am just
22 asking you to please consider decreasing the amount
23 of time that he has to serve.

24 He's only 21 years old, he's housed
25 at one of the worst correctional facilities in the state

1 of South Carolina. He is -- his family would refer
2 to him as a gentle giant. He did have a gun that day;
3 he did shoot the gun; he did admit to shooting the
4 gun. There was nothing evasive in his trial at all.
5 He got up and told the jury exactly what he did.

6 I believe that the -- I've always believed
7 that the shooting situation, that the reason it started,
8 was because of the co-defendant and the man who was
9 hiding behind the car, or went and took shelter behind
10 the car, and those two shot at each other. And he --
11 that man, I believe, the victim, actually is the person
12 who hit Mr. Davis's case.

13 And if the client -- and if you remember,
14 he said, you know, why should my client be guilty,
15 he's the one that got hit? And, you know, that was
16 Mr. Davis's position. But my client knows that this
17 is not a motion at all or anything having to do with
18 removing the conviction. It's just a question of could
19 he please serve less to satisfy his sentence in the
20 department of corrections. And I know that his mother,
21 and maybe his friend, would like to address the Court,
22 Your Honor.

23 THE COURT: All right.

24 THE DEFENDANT'S FRIEND: My name is Jordan.
25 I worked at the hardware store on College Park Road.

1 I have known Mr. Dickens for the last five or six
2 years. Like Ms. Gay said, he's -- I would consider
3 him a very gentle giant. Whenever I met Mr. Dickens,
4 I was a freshman in high school, and Mr. Dickens,
5 whenever we would go out or go to the store or anything
6 like that, he would always make sure that I was fed,
7 have anything to provide for myself, he would always
8 make sure -- and I do believe that what occurred
9 that day is not -- he shouldn't be serving as much
10 time as he is, but -- yeah, that's all I have to say.
11 Thank you.

12 THE COURT: All right. Thank you.

13 THE DEFENDANT'S MOM: I'm Dimitri's mom.
14 Dimitri is a gentle giant. He is one of eight;
15 he's my third youngest child. He worked the whole time
16 he was on house arrest, and he would try to get a better
17 job so that he can pay his own fines and help pay
18 his lawyer. He realized that he made a huge mistake,
19 but I don't believe that he had any malicious intent,
20 or I don't believe that he -- that he would have ever
21 done this in different circumstances. He respects
22 me, and we have a pretty good relationship, probably
23 now more than ever.

24 THE COURT: Thank you, ma'am. All right,
25 anyone else?

1 THE DEFENDANT'S SISTER: (Sobbing.)

2 Hi, I'm Dimitri's younger sister. He is one of the
3 closest siblings to me, so growing up, he's always
4 one of my best friends, and I count on my brother.
5 It's just very hard to see him like this. Calls me --
6 being on the phone, like -- I could barely talk to him,
7 and I just don't feel like this sentence was right
8 for him, because I know my brother didn't mean no harm
9 by what he did.

10 Like I said, he's always been my best
11 friend, my go-to. If I need something, I know he
12 had me; if he needs something, he knows he has me,
13 just like my other siblings. And, yeah, I just feel
14 like it's not fair for him.

15 THE COURT: All right. Thank you, ma'am.
16 All right, Mr. Myers, I've read your opposition.
17 Real quickly, I don't even recall, what was his prior
18 record?

19 MR. MYERS: I think this gentleman --
20 if I remember correctly, I don't believe he had a prior
21 record.

22 MS. GAY: Didn't have one.

23 THE COURT: All right. All right. Yes,
24 sir, what's the State's position?

25 MR. MYERS: We are -- typically, when

1 we disclose general deterrence in sentencing, we talk
2 about it in a vacuum. I think this is the first case
3 I've had where it's actually applied, specifically.
4 So, in this particular case, we still have missing
5 co-defendants, and these individuals, to this day,
6 I spoke with my victim this morning, to this day,
7 are still harassing and threatening. They post pictures
8 of them, they took pictures of them coming in and out
9 of the courtroom, and they shared it on social media,
10 and they still tagging them today.

11 As for Mr. Dickens being a gentle giant,
12 the armed robbery, the video clearly showed that
13 this gentle giant pointed a weapon at the victim
14 and then emptied a magazine in downtown Goose Creek.
15 I just think that's -- that's an unfair characterization
16 of Mr. Dickens.

17 THE COURT: Mr. Dickens, what was the weapon
18 that you got caught with six days after you were
19 incarcerated?

20 MS. GAY: Oh, yeah.

21 THE DEFENDANT: So six days after I was
22 at Kirkland Evaluation Center, they did a shakedown,
23 and they found a knife in the wall. I filed an appeal
24 for it; the Warden Wallace [ph] denied my appeal.
25 I filed a step-two appeal; she denied that too,

1 and I couldn't go any further with that.

2 THE COURT: All right. Have a seat.

3 MS. GAY: Your Honor, I do note that
4 all of the people that were in his cell, I think
5 there were six of y'all.

6 THE DEFENDANT: There was three.

7 MS. GAY: They were all charged with that.
8 It was always his position, and his family told me this,
9 that it must have been there before he got there,
10 because he had just gotten there, but he was punished
11 for it, Your Honor. I would like to just wrap up.

12 THE COURT: Yes, ma'am.

13 MS. GAY: Okay. So, I understand that --
14 that he did the acts, and he admitted to the jury
15 that he did the acts. Again, the solicitor is saying,
16 you know, he put -- as far as the armed robbery goes,
17 he put a gun to this person, he did rob him. And,
18 of course, for armed robbery it would be a 10-to-30-year
19 penalty range. They found that he committed an ABHAN.
20 His family is saying things like, you know, that
21 he doesn't deserve this sentence. I mean, he knows
22 he got sentenced, and he got convicted by the jury.

23 Mr. Dickens, my client, is not asking you
24 to think that he was somehow slighted by your sentence.
25 He understood; on the day of, he understood what was

1 happening.

2 We are just asking you, because of his age,
3 circumstances, lack of record, that if he had been able
4 to plea, and this is what I would like for you to think
5 through. If he had been able to plea to what it is
6 that he said he did, and he was before you as a plea,
7 mitigating, begging for mercy, asking for some type
8 of the most lenient sentence possible that you could
9 have given that day, then it's my belief, Your Honor,
10 that you would not have incarcerated him, or somebody
11 may not have incarcerated him, for the whole ten years,
12 because he would be pleading, and he would be asking
13 for mercy.

14 The thing was, he always wanted to plea
15 to the ABHAN. In every conversation I had with
16 Mr. Myers, he wasn't saying he wasn't guilty, he wanted
17 to plea to that. He just didn't want to plea and didn't
18 believe that he had committed the armed robbery.
19 And the jury, ultimately, believed that and found
20 him not guilty of that. So, I would ask you to please
21 just consider reducing the amount of active time in your
22 mercy, please.

23 THE COURT: Was there ever an offer made?

24 MR. MYERS: Yes, Your Honor. The offer
25 was -- it was the armed robbery and the ABHAN,

1 or A and B first and the armed robbery for 12 years.

2 MS. GAY: It was the armed robbery.

3 That's what he said he didn't do; that's why we went
4 to trial. Because I looked at the video, and I reviewed
5 the facts with him, and I -- you know, as an attorney
6 representing people, I'm constantly telling people,
7 you know, yo, I think that you're going to get
8 convicted, and I think that this is -- there's evidence
9 to support this. But I really firmly believed
10 and agreed with him that there wasn't evidence
11 of the armed robbery.

12 And so, you know, reluctantly, if you want
13 to call it, taking a young man to trial where --
14 particularly where an armed robbery is on the table,
15 he just looked at me and said, I did not do an armed
16 robbery. You know, I want to tell the jury
17 that I didn't do it, and they found him not guilty
18 of it.

19 THE COURT: All right.

20 MR. MYERS: Your Honor, I think he also --
21 he had the option of pleading to those charges before
22 trial. We could have just tried the armed robbery,
23 but he didn't do that. He pretended he ---

24 MS. GAY: That was never an option.

25 That was never an option.

1 MR. MYERS: Nothing stopped the client
2 from pleading to those charges.

3 MS. GAY: I don't think that that was
4 an option. Or if it was, you know, we were sitting here
5 ready to go, ready to pick a jury. Maybe it's my fault
6 for not telling him that he could have done that,
7 but I certainly didn't think to tell him that he could
8 do that, Your Honor. I don't know if that's even
9 something you would have entertained.

10 Again, you know, there's other courts that
11 are going to review this situation. But he testified
12 on the stand that he shot the gun; he testified
13 on the stand that he shot the gun at people.
14 And so if he had -- you know, if we could have stopped,
15 I guess, at the end of the State's case, and said,
16 okay, we'll plead to that, I've never done that
17 in the middle of a trial, but, you know, I don't know.

18 I also recently had some lawyer tell me
19 I'm supposed to make up a fake subpoena with a fake date
20 on it to try to get the State to help me find a witness.
21 I've never heard of that one either. But there are
22 things, Your Honor, that another court will determine
23 about the conviction and what happened. I'm just
24 telling you that Mr. Myers always knew that he would
25 have pled to the gun charges and the assault.

1 MR. MYERS: I did not know that, Your Honor.

2 THE COURT: All right. I'll take it under
3 advisement.

4 MS. GAY: Thank you.

5 (End of Transcript of Record.)
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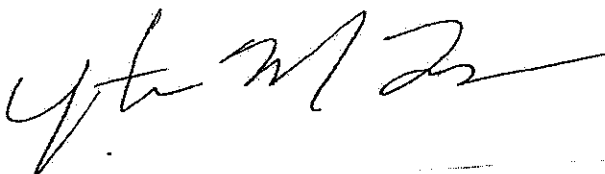
CERTIFICATE OF REPORTER

State of South Carolina)
County of Berkeley)

I, the undersigned, Yvestre Torres, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 28th of March, 2024.

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

October 14, 2024



Yvestre Torres

Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE

SEP 27 2023

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2023-GS-08-01120

VS.

DIMITRI TARIION DICKENSCASE NO.
LEAH GUERRY DUFFREE
CLERK OF COURT
BERKELEY COUNTY, SCA/W#: 2021A0820200217AKA: Dimitri DickensDate of Offense: 04/25/2021Race: BlackSex: MAge: 21S.C. Code §: 16-23-0490

DOB: [REDACTED]

SS#: [REDACTED]

CDR Code #: 0549

Address: [REDACTED]

City, State,

Zip: Ladson, SC 29456

DL#* [REDACTED]

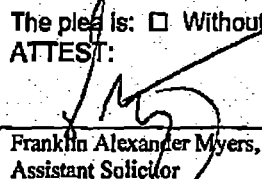
SID# SC02433050

SENTENCE SHEET

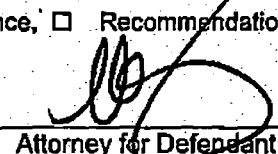
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:


Franklin Alexander Myers,
Assistant Solicitor
103002
SC Bar #

Defendant


Attorney for Defendant
63773
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ years

and/or to pay a fine of \$____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run:

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2023-GS-08-01118☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

days/months

☒ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

STATE DIMITRI TARION INDICTMENT/CASE#: 2023-GS-08-01120
 VS. DICKENS

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (If paid in installments)	TBD \$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500 \$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ _____

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: J. Gibson
 Court Reporter: Yvestre Torres

Presiding Judge: _____
 Judge Code: _____
 Sentence Date: 9/27/23

FAM/0381326
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2021-1719

ARREST WARRANT NUMBER

2021A0820200217

DATE OF ARREST

07/28/2021

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-08-01120

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2023

THE STATE

VS.

DIMITRI TARION DICKENS A.K.A.
B/M DOB: [REDACTED]

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: § 16-23-0490
CDR Code: 0549

FILED
23 APR 26 PM 2:54
LEAH QUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

JH

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened April 2023, the Grand Jurors of Berkeley County present upon their oath:

Possession Of A Weapon During The Commission Of A Violent Crime

That in Berkeley County, South Carolina, on or about April 25, 2021, the Defendant, Dimitri Taron Dickens, did possess a firearm or did visibly display what appeared to be a firearm or did visibly display a knife during the commission of or attempted commission of a violent crime, to wit: ABHAN and/or Armed Robbery & Attempted Armed Robbery; in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



F. ALEXANDER MYERS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE

SEP 27 2023

IN THE COURT OF GENERAL SESSIONS

VS.

DIMITRI TARION DICKENSCASE NO.
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SCAKA: Dimitri Dickens

Race: Black

Sex: MAge: 21

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State,

Zip: Ladson, SC 29456

DL# [REDACTED]

SID# SC02433050INDICTMENT/CASE#: 2023-GS-08-01118A/W#: 2021A0820200215Date of Offense: 04/25/2021S.C. Code §: 16-03-0029CDR Code #: 3410

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault & Battery Of A High And Aggravated NatureIn violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives
Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Franklin Alexander Myers,
Assistant Solicitor103002
SC Bar #

Defendant

Attorney for Defendant

63773
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 15 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ yearsand/or to pay a fine of \$____; provided that upon the service of 10 days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.☒ days/months☒ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

STATE DIMITRI TARION
VS. DICKENSINDICTMENT/CASE#: 2023-GS-08-01118☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$25
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	TBD \$3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500 \$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ _____
TOTAL	\$128.75

Clerk of Court/Deputy Clerk:
Court Reporter:J. Gibson
Yvestre TorresPresiding Judge:
Judge Code:
Sentence Date:2966
9/27/23

FAM/0381326
WITNESSES

Goose Creek Police Department
Colleen L.

AGENCY CASE NUMBER
2021-1719

ARREST WARRANT NUMBER
2021A0820200215

DATE OF ARREST

07/28/2021

ACTION OF GRAND JURY

True Bill

[Signature] 4/26/2023
Foreperson of Grand Jury Date:

VERDICT

Guilty

[Signature] 9/27/23
Foreperson of Petit Jury Date:

DOCKET NO. 2023-GS-08-01118

The State of South Carolina
County of Berkeley

COURT OF GENERAL SESSIONS
APRIL TERM 2023

THE STATE

VS.

DIMITRI TARION DICKENS A.K.A.
B/M DOB: [REDACTED]

Indictment for

**ASSAULT & BATTERY OF A HIGH AND
AGGRAVATED NATURE**

SC Code: § 16-03-0600(B)(1)
CDR Code: 3411

23 APR 26 PM 2:54
LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

JTH

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened April 2023, the Grand Jurors of Berkeley County present upon their oath:

ASSAULT & BATTERY OF A HIGH AND AGGRAVATED NATURE

That in Berkeley County, South Carolina on or about April 25, 2021, the Defendant, Dimitri Taron Dickens, did commit an unlawful act of injury upon the victim, Daniel Varner, and as a result, the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury, in violation of Section 16-3-600(B)(1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



F. ALEXANDER MYERS
ASSISTANT SOLICITOR

FAM/0381326
WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2021-1719

ARREST WARRANT NUMBER

2021A0820200216

DATE OF ARREST

07/28/2021

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Not Guilty

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-08-01119

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2023

THE STATE

VS.

DIMITRI TARION DICKENS A.K.A.

B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)

CDR Code: 0139

23 APR 26 PM 2:54
LEAH GUERRY DUJREE
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

gah

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

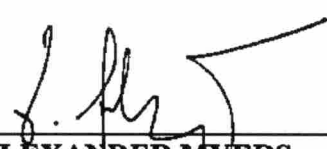
INDICTMENT

At a Court of General Sessions, convened April 2023, the Grand Jurors of Berkeley County present upon their oath:

ARMED ROBBERY

That on or about April 25, 2021, in Berkeley County, South Carolina, the Defendant, Dimitri Taron Dickens, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Brayden Mikal Ward and Daniel Varner with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



F. ALEXANDER MYERS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

36
FILED

MAY - 9 2024

STATE OF SOUTH CAROLINA

DIMITRI DICKENS,

Defendant.

LEAH GUERRY DUPRE
CLERK OF COURT
BERKELEY COUNTY SC

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

INDICTMENTS: 2023-GS-08-01118
2023-GS-08-01120

ORDER

RECEIVED

May 29 2024

SC Court of Appeals

On March 28, 2024 the Presiding Judge, Bentley Price, heard the Defendant's Motion to Reconsider Sentence.

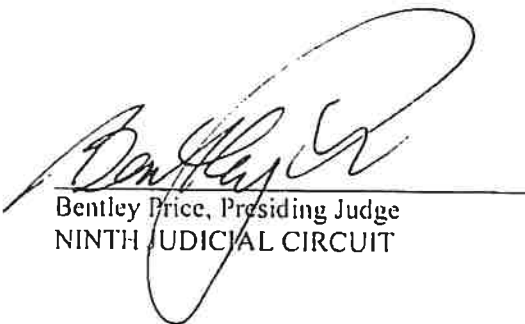
The Defendant was present. The following attorney appeared on behalf of the Defendant, Melisa Gay. The State was represented by F. Alexander Myers.

The Defendant was convicted of Assault and Battery of a High and Aggravated Nature and Possession of a Weapon During a Violent Crime and received a sentence of fifteen (15) years suspended upon service of ten (10) years.

IT IS HEARBY ORDERED THAT:

Defendant's motion is denied.

AND IT IS SO ORDERED!


Bentley Price, Presiding Judge
NINTH JUDICIAL CIRCUIT

Moncks Corner, South Carolina
5/9, 2024

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Amended Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Aug 04 2025

SC Court of Appeals



Gary H Johnson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of August, 2025.

RECEIVED

Aug 04 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

Honorable Bentley Price, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

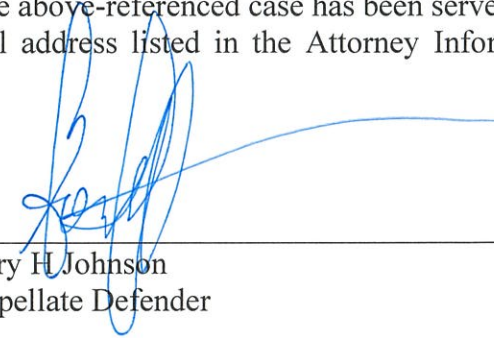
DIMITRI TARION DICKENS,

APPELLANT.

APPELLATE CASE NO. 2024-000878

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Amended Record on Appeal in the above-referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 4th day of August, 2025.



Gary H. Johnson
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT