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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMIRA U. DAVIS,

APPELLANT

APPELLATE CASE NO. 2023-001215

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1 that they're all consistently with -- consistent with
2 shots generally from the same position in rapid
3 succession?

4 **A** Since they're all going generally in the same
5 direction, all are going back to front, left or right,
6 and upwards, generally, that does mean they're just
7 being shot one after the other. Because, you know,
8 otherwise, people have too much time to move around or
9 get into a different position. Or he was already on
10 the ground unconscious. So I don't know which one came
11 first. So I don't know.

12 **Q** You don't know. But they're -- they're
13 consistent with being in quick succession from
14 generally the same position?

15 **A** Yes. It's consistent, yes.

16 **Q** And -- and that is -- you have seen some
17 cases where the shots are so, I guess, independent in
18 time that you see vastly different angles and
19 trajectories on someone's body?

20 **A** Yes. Sometimes I get them from many
21 different angles. Left, right, back, front, down, all
22 over, yes.

23 **Q** And -- but that's not this case?

24 **A** No. These are all going in the same general
25 direction.

1 **Q** Except you can't make that determination on
2 the -- on the leg?

3 **A** Right. The three that I can tell. But the
4 leg, I have no idea.

5 **Q** And, I mean, you ruled out pretty much this
6 being a fracture from heat. Because you've -- you've
7 seen fractures like that, and you've seen gunshot
8 fractures, correct?

9 **A** Right. It looked a lot more to me like
10 traumatic fracture from a gunshot wound from the ones
11 I've seen in the past. You can get heat fractures.
12 But it did not look like a heat fracture to me.

13 **Q** Now, in terms of instant incapacitation, this
14 shot, or that shot to the head, will be instantly
15 incapacitating, right?

16 **A** Completely incapacitating. like drop to the
17 floor, yes.

18 **Q** And this one because it severs the spine?

19 **A** Right. The spine.

20 **Q** Right.

21 **A** It doesn't hit the spine until way up here,
22 which is much worse. Because now you're not getting
23 any breaks to even any parts of the body.

24 **Q** Okay.

25 And this one because it goes to the brain?

1 **A** Correct.

2 **Q** Okay.

3 So there's not really any motor function
4 after those two?

5 **A** Correct.

6 **Q** But there could be potential for motor
7 function with this shot. And that's the wound you
8 testify was just that he would need to get help
9 quickly. He would be very well wounded in a bad way.
10 But he wouldn't just be collapsing to the floor?

11 **A** Correct.

12 **Q** And the shots to the leg, I mean, we don't
13 have any information about arteries being severed or
14 things like that. But unless that's the case, that's
15 not hitting an organ necessarily?

16 **A** Right. But the femur is completely broken.
17 So if he tried to run on that, he wouldn't be able
18 to --

19 **Q** Right.

20 **A** You need your skeletal system to hold you up
21 while you run. And if that major bone there is
22 fractured in that way, you would just fall.

23 **Q** He's not gonna -- he's not going to be very
24 bipedal. Right? But he could move off the right leg
25 if he had to?

1 **A** I guess he could hop if he tried.

2 **Q** Have you ever seen anybody hop?

3 **A** Not with a gunshot wound to the leg, no. But
4 I haven't really been there for any of these shootings.

5 **Q** Right. But I guess you could move off your
6 right leg if you had to.

7 **A** True.

8 **Q** Okay.

9 The point I'm getting to is there's some
10 basis for a moment. He's not gonna collapse?

11 **A** Right. Right.

12 **Q** Right?

13 **A** I just don't think he'd be able to run fast,

14 **Q** Right. No. Absolutely not. I don't --
15 that's not what I'm trying to get with you.

16 We have spent some time talking about what
17 could be consistent in your -- in your expert or
18 medical opinion. If let's say -- let me do this.

19 Will you pass me the gun?

20 Do you mind holding this? Are you
21 uncomfortable?

22 **A** I'm fine.

23 **Q** It's plastic.

24 **A** It's clearly a plastic gun, yes.

25 **Q** Do you mind squatting low?

1 **A** Sure. What do you want me to do?

2 **Q** Just squat low. If you were in a low
3 position or a shooter was in low position --

4 **THE COURT:** Hold on, Mr. Shealey. I just
5 want to make sure everyone -- can everyone see?

6 **MR. L. SHEALEY:** Let's do this --

7 **THE COURT:** I just wanted to make sure. And
8 that -- that's a toy gun, correct?

9 **MR. L. SHEALEY:** It's a plastic green gun.

10 **THE COURT:** (Inaudible)?

11 **MR. L. SHEALEY:** No, nothing like that.

12 **THE COURT:** All right.

13 Very well. Just sure you can move it so that
14 everyone can see your position.

15 **BY MR. L. SHEALEY:**

16 **Q** If you'll stand right there?

17 **A** Yes.

18 **Q** (Inaudible).

19 **A** Okay.

20 **Q** If you'll get into the low position however
21 you want.

22 If you were to shoot me in my left femur
23 right here --

24 **A** Yes.

25 **Q** Can you point the gun in that direction? Are

1 those wounds consistent with a turn like this with
2 rapid quick succession shots to my chest, back, and
3 head going that way?

4 **A** Yes.

5 **Q** Could that be possible?

6 **A** Yes.

7 **Q** Okay.

8 Thank you, Doctor. Please take a seat.

9 Thanks for indulging me.

10 **A** (Witness complies.)

11 **Q** There's been some questions about the
12 toxicology which you've reviewed?

13 **A** Yes.

14 **Q** The blood alcohol being .23?

15 **A** .23 in one of them and .24 something in the
16 other. So about .24 average.

17 **Q** And you've testified that's approximately
18 three times the legal limit, I think you said?

19 **A** Legal limit for driving, yes.

20 **Q** Right.

21 **A** Significantly intoxicated.

22 **Q** And as a medical doctor, you know that
23 alcohol in one system can be something that changes
24 behavior?

25 **A** Yes.

1 **Q** Would it be fair to say that it lessens
2 your -- takes away your inhibitions?

3 **A** Correct. Yes.

4 **Q** If you're a kind and sappy person, you might
5 be more kind and sappy, right?

6 **A** True yes.

7 **Q** If you have a quick temper, you might have
8 even more of a quick temper, correct?

9 **A** Yes.

10 **Q** Now, you also testified to cocaine
11 metabolites.

12 **A** Yeah. One of the cocaine metabolites
13 benzoylecgonine was in his system in a small amount.
14 Yes.

15 **Q** And is that just evidence -- I mean,
16 metabolites, to me, means that something has been
17 metabolizing?

18 **A** Right. So it's not actual cocaine. It's
19 been broken down. So I don't know if he had just taken
20 it or if -- because it depends how much was in there as
21 to how long the metabolite stays. And so it can be up
22 to three days, I believe, in the system after you take
23 it. So I don't know when he last took it.

24 **Q** So it could be six hours. It could be three
25 days?

1 **A** Correct.

2 **Q** Okay.

3 And you don't know if that's crack cocaine or
4 powder cocaine. You can't make that determination, can
5 you?

6 **A** No.

7 **Q** Cocaine in terms of changing someone's
8 behavior, how does that tend to change someone's
9 behavior?

10 **A** Well, it's a stimulant. Just tends to make
11 people more -- can make you more agitated. It
12 increases your heart rate.

13 **Q** More agitated, you said?

14 **A** Yes.

15 **Q** That can be a symptom of cocaine?

16 **A** Yes.

17 **Q** More active?

18 **A** Yes.

19 **Q** If you take alcohol and cocaine together, do
20 those work off of each other?

21 **A** Yeah. So it actually forms metabolite, which
22 was not found in him, called "cocaethylene," which
23 actually lengthens the time that cocaine lasts in your
24 system.

25 **Q** And then marijuana, that -- that evidence of

1 that being in his body, you can't put a timestamp on
2 that, whether it's two weeks or one day. Can you do
3 that from that?

4 **A** He did have one of the active metabolites,
5 that tetra -- hydroxytetrahydrocannabinol. So he
6 was -- he did have one of the active ones that makes
7 you feel the effects of marijuana in his system, yes.

8 **Q** Okay.

9 So -- versus -- that a strong, potent
10 marijuana versus less potent?

11 **A** It's not the potent. It's just the more
12 active metabolite versus it gets broken down further
13 into an inactive metabolite that would not cause you to
14 feel any sense of euphoria or whatever's --

15 **Q** Okay.

16 **A** -- people experience, yes.

17 **Q** I think I understand.

18 **MR. L. SHEALEY:** Beg the Court's indulgence.

19 All right, Doctor. That's all I have for
20 right now.

21 **REDIRECT EXAMINATION**

22 **BY MR. SCOTT:**

23 **Q** Dr. Durso, so I believe I just heard you
24 testify that Mr. Burden could have been lying down when
25 these shots occurred.

1 **A** It's possible. Like I said, as long as the
2 gun in that angle -- I can't tell. As long as you can
3 make it go in a straight line. The gun could be up.
4 It could be down. You can turn them all sorts of ways.
5 But it is consistent with that as well. Yes.

6 **Q** Laying down with his arm up like this?

7 **A** It's possible, yes.

8 **Q** Because the defense asked you are these
9 consistent with rapid shots based on the trajectory.
10 And then I -- he even kind of ducked down and did a
11 shot in the leg. And then multiple shots going off the
12 back. And he had you demonstrate that, remember?

13 **A** Yes.

14 **Q** But of course, if that was the case, he would
15 drop right there. Because two of those shots in the
16 femur wound would immediately have dropped him.

17 **A** Right. So that could explain if he was going
18 down to the ground as those happened. That would
19 explain the more upward trajectory as he goes down.

20 **Q** So he should have dropped right there and not
21 elsewhere in the home?

22 **A** After the --

23 **Q** I'm just talking about in the scenario that
24 Mr. Shealey gave.

25 **A** Right. If it was rapid, yeah, he would have

1 dropped right there. Yes. Correct.

2 Q Okay.

3 Because this wound, now I know he said he
4 could have been hopping down the hall, you know. Is
5 that likely?

6 A I don't know that I'm an expert in -- it
7 doesn't seem likely to me.

8 Q And it doesn't fit with the theory of rapid
9 gunfire either, does it?

10 A No, it does not.

11 Q Okay.

12 So let's take that out of the equation. He's
13 not hopping down the hall. If in his scenario, he was
14 shot from down below the leg. Okay. And then turned
15 and she peppered him right up the back, he would have
16 dropped right there. That's what -- that's what we
17 testified to. Because that shot immediately mobilizes
18 him. And Shot 2 immediately mobilizes him, correct?

19 A Correct. Yes. He would have dropped right
20 in that location. Yes.

21 Q And the wound to the femur is a probable
22 gunshot. But you can't even say it was a gunshot,
23 right?

24 A Right. I'm not 100 percent certain. And I
25 think it's more likely than not a gunshot wound. But

1 just because I -- the soft tissue's gone and the
2 typical characteristics we look for in the skin and the
3 soft tissue of a gunshot wound are completely burned
4 and charred away in that area. It was exposed bone,
5 basically.

6 Q And again, you weren't there. But what you
7 can say with 100 percent scientific certainty and
8 expertise as a forensic pathologist that have done
9 thousands of gunshot wounds and thousands and thousands
10 of autopsies is this man was shot in the back twice and
11 shot in the back in the head once, correct?

12 A Correct. Yes.

13 Q And if we are to believe that the gunshots
14 were in rapid succession, he would have fallen pretty
15 much right where the shooting began, right where he
16 stood when the shooting began?

17 A Correct. Either the one that hit the spinal
18 cord or the head, he would have dropped right where he
19 was, yes.

20 Q And it's possible he was laying down when he
21 was shot in the back?

22 A Yes.

23 Q It's possible somebody was stooping down,
24 shooting up at him.

25 A That's also possible, yes.

1 **Q** It's possible that he had been wounded in the
2 leg and was shot while he was lying down to finish him
3 off?

4 **A** Also possible. I do not know. I can't tell.

5 **Q** But you weren't there?

6 **A** No.

7 **Q** And so we talked about possibilities. But
8 that's all those are is speculations. What we do know
9 with scientific certainty is a man was shot three times
10 from behind.

11 **A** Correct.

12 **Q** Thank you.

13 **RECROSS-EXAMINATION**

14 **BY MR. L. SHEALEY:**

15 **Q** Let's just play with the idea that Mr. Burden
16 was lying on the ground. So as Mr. Scott just flung
17 himself to the ground. And I think that scenario was
18 shot in the leg, correct?

19 **A** Yes.

20 **Q** Well, you know that --

21 **A** Can I stand up to see what you're doing?

22 **Q** Yes, please. You know that shot --
23 particularly the shots -- Shot No. 2 comes in at such
24 an upward angle. So that's a -- I mean, this would
25 have to be like this.

1 **A** Yeah. Right. They didn't come straight down
2 through the back.

3 **Q** All right.

4 Right. So --

5 **A** As we've discussed, it goes upwards at an
6 angle and left to right.

7 **Q** You almost have to be parallel with that
8 person to get that trajectory, right, if someone was
9 shot in the leg and fell first?

10 **A** Correct. If they were already on the ground,
11 you'd have to almost be behind them and off to their
12 left.

13 **Q** And we know -- whoops.

14 We know -- God. Every time.

15 We know --

16 Fold this up for me, buddy.

17 All right.

18 Obviously, No. 2 and No. 3 are the instantly
19 incapacitating shots?

20 **A** Yes.

21 **Q** But I've already done my scenario with you a
22 shot to the left femur where you could turn and have
23 some momentum that way?

24 **A** Correct.

25 **Q** Not gonna be skipping rope?

1 **A** Right. But you could have --

2 **Q** But you could push off your right leg. And
3 it'd be natural for someone to move away from an
4 initial gunshot wound, right?

5 **A** Yes. That's the initial reaction most people
6 would have would be the turn and run.

7 **Q** And you've already told me that this twisting
8 motion is consistent with that, those wounds?

9 **A** Correct. Yes.

10 **Q** So if the second shot was the wound here,
11 that would not be immediately fatal, that individual
12 would still have some momentum to go this way without
13 collapsing necessarily, right?

14 **A** Correct.

15 **Q** Okay.

16 We don't know how much. But --

17 **A** Not a lot. Because if we're going with the
18 leg --

19 **Q** Right.

20 **A** Yeah. Not a lot, but would still have
21 momentum, yes.

22 **Q** And then, you've already testified that two
23 and three consistent in quick succession would have
24 felled the man?

25 **A** Correct.

1 **Q** Okay. All right.

2 Thank you.

3 **THE COURT:** All right.

4 Thank you, Doctor. You may step down.

5 **THE WITNESS:** Thank you.

6 **MR. SCOTT:** Your Honor, at this time, the
7 state rests.

8 **THE COURT:** All right.

9 Ladies and gentlemen, we're going to let you
10 step out back to the deliberation room for a
11 minute. Do not discuss the case. And we'll be
12 with you shortly. Do not discuss the case.
13 (The jury exits the courtroom at 1:35 p.m.)

14 **THE COURT:** Any motions from the defense?

15 **MR. L. SHEALEY:** Yes, Your Honor.

16 At this time, I would move for a directed
17 product. I pass the Court some copies. May I
18 approach?

19 **THE COURT:** You may.

20 **MR. L. SHEALEY:** As Your Honor is well aware,
21 directed verdict is viewed in the light most
22 favorable to the state, and should be denied if
23 the state has produced any direct evidence or any
24 substantial circumstantial evidence of the crime
25 that they're prosecuting.

Motions

1 At the point in time that self-defense is
2 introduced into the case, which it has been in
3 this case through investigator testimony, through
4 the video statement of my client, there's lots of
5 discussions with investigators, that's something
6 that the state would -- would have to prevail over
7 to get past directed verdict.

8 Now, we've had a little bit of evolution over
9 the years on this. *State v. Dickey* is a case I'm
10 sure you're familiar with that came out in 2011
11 that kind of sent some shockwaves through the
12 legal community. And that, in that case -- I
13 can -- I don't mean to tell you the facts if
14 you're familiar with the facts.

15 But there was a Cornell Arms security guard
16 who ejected some guys that were drunk and unruly
17 and shot them even -- shot one of them even though
18 he was unarmed because he believed he was reaching
19 for something as he turned upon him. And it
20 turned out it was just a liquor bottle. And so he
21 got prosecuted for murder.

22 And the Supreme Court reversed his conviction
23 saying, "Well, look, once self-defense is in the
24 case, the state must disprove self-defense beyond
25 a reasonable doubt to get to the jury." And so

1 that was the standard for a while and caused some
2 confusion, caused a lot of motions like the one
3 I'm making.

4 But then, *State v. Butler* came out that you
5 have as well. And it basically -- *Dickey* is still
6 good law; it just got distinguished. In the
7 *Butler* case, there's a woman who was convicted of
8 voluntary manslaughter. And she got into a big
9 fight with her boyfriend, her live-in boyfriend
10 and claimed that he had been abusive, and that he
11 had been drinking. And she -- basically, he was
12 beating her with electronic equipment all
13 throughout the living room. And eventually, he
14 was stabbed.

15 So in that case, the defense -- if there's
16 evidence of self-defense, it should be disproven
17 beyond a reasonable doubt to get to a jury and the
18 Supreme Court basically distinguished *Dickey*, and
19 said, "Well, look. *Dickey*, the evidence there was
20 as a matter of law. It wasn't anything different
21 in -- in the case at the time of directed
22 verdict."

23 Here, they relied upon her inconsistent
24 statements of the event, not talking about
25 inconsistent -- the inconsistencies we have in

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1 this case are she didn't want to admit being
2 there, that she denied that at first and said she
3 was there and said she smoked, but he was alive
4 when she left.

5 And then, eventually, upon three hours of
6 questioning, they said -- you know, you've heard.
7 They say, "We know he did something. Just tell
8 us."

9 And then once she says that he approached her
10 on the couch, put his hands between her legs,
11 which caused her to flee, which caused her to try
12 to get out the door. And when she [sic] wouldn't
13 let her, that there was this back and forth in
14 which she fell on the ottoman. And then began
15 shooting once she had access to his gun. There's
16 nothing inconsistent in our case that's been
17 presented so far once she starts telling how the
18 shooting event unfolded.

19 Law enforcement, and you heard it from
20 Investigator Godfrey, you heard it from
21 Investigator Jordan. They don't challenge her on
22 that at all. They just want to know how it
23 happened.

24 So *Butler* -- the *Butler* case distinguishes
25 *Dickey* and says this -- *Butler* is not like *Dickey*,

1 because her statements about the shooting event
2 were inconsistent to each other and also
3 inconsistent with the evidence. Because she said,
4 you know, "He choked me. He hit me with a VCR."
5 But all she had was like kind of some minor
6 scratches. But she says she stabbed him one time,
7 but he basically had five stab wounds.

8 So here, from the point in time that she
9 admits to being the shooter and tells why, her --
10 her statement is not confronted. It's not
11 questioned. It does not change. So self-defense
12 is in this case. But like *Dickey*, it's
13 uncontroverted. The only thing that's
14 controverted is by inference, "Well, you lied
15 about placing yourself on scene, therefore, you
16 must be a murderer."

17 That's not what this law is about. That's
18 not what it supports. I don't -- the fear of
19 prosecution by the state is one that baffles me a
20 little bit because they say that. I mean, I don't
21 like to use the word "false confession" lightly.
22 But they essentially say that we through our
23 enhanced interrogation techniques and the things
24 we provided, you know, the solicitor is very keen
25 on saying that they provided that idea that a bad

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1 guy while drunk and high will make a move on -- on
2 a young woman. And that it's their idea. And so,
3 therefore, you can't believe it. But that's not
4 the same as her contradicting herself. They just
5 want to explain how she came to the conclusion.

6 So I do not believe that there has been any
7 direct evidence or any substantial circumstantial
8 evidence that would disprove self-defense since it
9 hasn't been entered. I will submit there's
10 evidence of her not being truthful prior to the
11 shooting event. But not about the shooting event.
12 There's nothing to contradict that either direct,
13 substantial circumstantial. There's no text
14 messages. There's no anything to shed light on
15 her mental state at that time.

16 We've heard from the investigators that
17 Mr. Boleg abused her mom, had been seen with guns
18 before, had pulled guns. She had seen him pull a
19 gun. And that they're aware of it, was high on
20 crack that night. So when they proposed, "Did he
21 touch you? Did he do something?" and eventually
22 she said yes, that -- that's not inconsistent with
23 self-defense. And it certainly doesn't prove
24 malice murder. So that would be my motion on
25 directed verdict.

1 I would also take the opportunity to review
2 all of our objections to mistrial motions, the
3 drug dealing evidence that kind of surprised
4 Ms. Young that she's taking ownership of. It
5 doesn't have anything to do with this case. The
6 state's theory is that -- that Mr. Boleg is kind
7 of like her stepdad and would give her marijuana.
8 And she'd go there and smoke from time to time.
9 So it's nothing but bad character evidence. And
10 thank you.

11 **THE COURT:** All right.

12 Thank you.

13 **MR. SCOTT:** Thank you, Your Honor.

14 Light taken in the favor of the state, again,
15 existence of evidence, not the weight of. We have
16 a woman who, despite video evidence, denied any
17 involvement for almost three hours in an evolving
18 lie. Finally gets to the point where she
19 describes -- again, not once did you say -- hear
20 her say at all that she was in any fear of the
21 defendant. To the contrary, she says he's never
22 been in fear of him, has always enjoyed a very
23 good relationship with him. Trust him so much
24 that she goes to his home alone at 2:49 a.m. And
25 does it regularly. What's in it for her?

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1 Well, marijuana for one. She indicated
2 multiple times that he's never touched it and
3 she's never been scared of him, never had reason
4 to be scared him. He's never been violent.
5 Certainly, never said he was violent that
6 particular night.

7 Her evolving story eventually plateaus,
8 again, after about three and a half hours, or
9 rather, three hours, two hours and 40 minutes,
10 into one where he touches her between the legs.
11 She doesn't -- doesn't like it. And this is her
12 version. She stands up to leave. He says in no
13 threatening terms, "Let me talk to you. Let me
14 talk to you." She turns around and begins
15 shooting very clearly, right by the front door.

16 Now the testimony is, and we've got multiple
17 pictures, the man's body is found in the rear of
18 the home. We just had a pathologist who -- who
19 has done thousands of autopsies say, "You would
20 have dropped right there. You would have would
21 dropped right where you were shot." So if their
22 theory is that he ran to the back after that one
23 shot and rounded the corner of the door, she would
24 have had to have followed him back there to finish
25 him off. Otherwise, he's gonna drop right there

1 by the front door.

2 Her story is preposterous. She shot the man
3 three times in the back. That's uncontradicted.
4 And I saw some tortured explanations for how you
5 could be shot in the back but facing the person,
6 but they don't make sense.

7 In the light most favorable to the state, the
8 state has proven she has killed another with
9 malice aforethought, that being in reckless
10 disregard for the well-being of others and the
11 value of human life, shooting the man three times
12 in the back. Again, we are to believe her story
13 100 percent according to the defense after she
14 says it was self-defense, but she lied still after
15 that.

16 Because she said she left the gun there. She
17 told officers that in the interview. And then we
18 look at her texts the next day, and she's selling
19 the gun. So why are we to believe this one little
20 portion out of a mountain of lies from her. And
21 the state has, I think, done a very good job of
22 showing all these inconsistencies and just
23 outright lies.

24 And the standard is "light taken most
25 favorable to the state." Certainly, there has

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1 been abundant evidence of her untruthfulness. And
2 really just the cockamamie nature of a -- of a
3 self-defense claim in this situation. Must be
4 without fault. Must prove that you are in
5 imminent danger of bodily -- great bodily injury
6 or death. She never once said that.

7 She said he was holding her from behind.
8 Never said, "I was in fear of my life." Never
9 said, "I thought to the contrary. The guy's like
10 a father figure to me. Never seemed violent.
11 He's not violent or aggressive when he drinks."

12 They asked her that twice during an
13 interview. She denied it both times.

14 Never once said she was in fear of her life.
15 She said simply he held her from behind and said,
16 "Let me talk to you." And she turned around and
17 began shooting him.

18 Okay. So just -- and no other means of
19 escape. She's right by the front door. The man's
20 five-foot-three -- or five-foot-five, rather. And
21 it just -- I just ask you, Your Honor, just in the
22 light taken most favorable to the state, this --
23 this would be a jury question at this point.
24 If -- if I had proven to them beyond reasonable
25 doubt that self-defense is not an option, then it

1 shouldn't be for them to weigh. At this point, as
2 far as directed verdict, I -- I do submit the
3 state has overcome that burden.

4 **THE COURT:** All right.

5 Thank you.

6 **MR. L. SHEALEY:** I just have to correct the
7 record. I know you've been listening very well.
8 So when Mr. Scott says that she walks to the door,
9 could have left, because just didn't, that's the
10 problem with the record. Because it's very clear
11 when she acts out through Taima Jordan that she is
12 pulled away.

13 The literal testimony that came out through
14 the transcript is, "I tried to leave. But I
15 couldn't. He pushed me away from the door."

16 Taima Jordan admitted that if her -- if her
17 statement is true, which he doesn't know whether
18 it is or not, that's kidnapping. Taima Jordan
19 said that if her statement is true, when he puts
20 his hands on her privates, that's criminal sexual
21 conduct.

22 So when Mr. Scott says that she never said
23 she was scared, Judge, that's kind of just kind of
24 a ridiculous statement to say. Because when
25 someone sexually assaults you, you're allowed to

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1 resist against that further lead investigator.
2 When you can't -- when you try to get out of the
3 house, but you can't because your stepdad pulls
4 you away from the door, that's kidnapping.
5 Investigator Jordan says you're allowed to resist
6 and defend against that.

7 The record does not reflect that she just
8 started shooting. We went over this about five
9 different times. Because the critical point, they
10 asked her if she fell to the floor of the ottoman.
11 She says yes. That's where the testimony is that
12 the gun. It's not that she just casually started
13 shooting, even though she could have got out the
14 door. Of course, she's scared. Of course, she
15 feels she's been kidnapped, and might die. And
16 there's an imminent danger of threat of death or
17 bodily harm.

18 The first thing she tried to do was retreat
19 but wasn't allowed. So showing that she didn't
20 want to admit that she was there is not evidence
21 of malice murder. Had she been inconsistent about
22 the event in a way that was inconsistent with
23 uncontroversial facts or physical evidence, that's
24 a different story. That's *Butler*. And I just
25 find it extremely unsettling.

1 Also, the prosecution theory that our
2 investigators caused her to give a false
3 statement, and that was the goal. And therefore,
4 we're proving murder with that. I've never seen
5 that in my life. But that -- that is the absence
6 of evidence. That's not any direct evidence of
7 malice murder. And it's not substantial
8 circumstantial evidence. Thank you.

9 **THE COURT:** All right.

10 Thank you, both.

11 For your other motions that are -- are
12 renewed, they are -- those motions are denied.
13 But they are renewed for the record.

14 As to the motion for directed verdict in the
15 light most favorable to the nonmoving party,
16 looking for the existence of evidence, not the
17 credibility or the weight of it. As to
18 self-defense, I understand the argument about
19 the -- there's inconsistencies leading up to it,
20 and then maybe afterwards. But as to the story
21 about evidence from the state to rebut that, I
22 believe they have shown a lot of evidence about
23 inconsistencies, as well as the testimony from
24 Dr. Durso about, according to the theory of the
25 rapid fire succession, that it would have dropped

Court Remarks

1 the decedent right there. And the state is
2 alleging that from a Photograph 8 or 7, it shows
3 the body in a different position.

4 Now, it could have been moved from the fire,
5 from fire hoses. That's for the jury to decide.
6 So I believe there -- I believe, the state has
7 offered evidence to rebut that. And so I believe
8 it should go to the jury at this point. So I'm
9 going to deny the motion for a directed verdict.

10 At this point, as I said earlier for the -- I
11 gotta go to the Supreme Court training. So I will
12 be back at three o'clock. And then we will let
13 anything else -- I'm going to bring the jury in
14 and tell them to be back at three o'clock.

15 Anything else from the state before that?

16 **MR. SCOTT:** No, Your Honor.

17 **THE COURT:** Anything from the defense?

18 **MS. DEMER:** No, Your Honor.

19 **THE COURT:** Defense will be ready to go?

20 **MS. DEMER:** Yes, Your Honor.

21 **THE COURT:** All right.

22 So we'll bring it bring the jury back in and
23 we'll let them know three o'clock.

24 And if someone -- could y'all maybe move that
25 mannequin? Cause if someone opens that door, that

1 might be a fire hazard.

2 (The jury enters the courtroom at 1:52 p.m.)

3 **THE COURT:** All right, ladies and gentlemen.

4 We're going to take a mid-afternoon break. It
5 will be a little bit longer than what we'd
6 normally been doing. We have to take up some
7 legal issues. I have to stop by the Supreme
8 Court, too, for a brief minute. I'm not in
9 trouble, at least I hope not.

10 So we're going to have y'all come back at
11 three o'clock. It is 1:53. If you will be back
12 in the jury deliberation room at three o'clock.
13 During the break, do not discuss the case amongst
14 yourselves, amongst anyone. Do not do any
15 independent research. Do not discuss the case.

16 If you -- again as I stated earlier, if you
17 happen to see any of the attorneys or witnesses or
18 parties or anyone, they are instructed not to --
19 to acknowledge you in any way essentially. So
20 don't try to acknowledge them. And just go on
21 like two ships passing in the night if you happen
22 to see any of them, myself included. But I will
23 see you all at three o'clock this afternoon.

24 Thank you.

25 (The jury exits the courtroom at 1:52 p.m.)

1 **THE COURT:** Three o'clock.

2 And if the state and the defense can make
3 sure we have all the evidence that has been
4 entered so far just to make sure it's organized.
5 Three o'clock.

6 (A recess is taken.)

7 **THE COURT:** All right.

8 Anything from the state before we bring the
9 jury back in?

10 **MR. SCOTT:** No, Your Honor.

11 **THE COURT:** Anything from the defense?

12 **MS. DEMER:** No, Your Honor.

13 **THE COURT:** Defense ready to go?

14 **MS. DEMER:** Yes, Your Honor.

15 **THE COURT:** All right.

16 Let's bring the jury.

17 (The jury enters the courtroom at 3:05 p.m.)

18 **THE COURT:** All right.

19 Thank you-all, ladies and gentlemen. I made
20 it back from the Supreme Court. I'm not in
21 trouble at this point. So thank you-all for being
22 here. We're going to get started.

23 The state had rested before y'all's break.

24 **MS. YOUNG:** Your Honor, the defense calls
25 Christopher Watkins to the stand.

1 **THE COURTROOM DEPUTY:** Do you swear or affirm
2 that the testimony that you're about to give in
3 this case to be the truth, the whole truth and
4 nothing but the truth so help you God?

5 **THE WITNESS:** Yes, I do.

6 **THE COURTROOM DEPUTY:** Would you please state
7 your full name for the record?

8 **THE WITNESS:** Christopher James Watkins.

9 **THE COURTROOM DEPUTY:** Thank you. You may
10 have a seat.

11 **CHRISTOPHER WATKINS**

12 having first been duly sworn, testifies as follows:

13 **DIRECT EXAMINATION**

14 **BY MS. DEMER:**

15 **Q** Good afternoon. Chris, can you tell the jury
16 where you're employed?

17 **A** Certainly. I'm employed at Certified
18 Computer Forensics. I'm an owner of that company.

19 **Q** And what is your current title and position
20 there?

21 **A** So other than being an owner there, I'm also
22 a digital forensic analyst. I am licensed by SLED as a
23 private investigator. I've been doing this for 13
24 years since February 2010. And I get involved with
25 cases that involve digital forensic, anything to do

1 with cell phones, computers, cell tower data, if it's
2 digital, or if it's something that stores data, that's
3 in my purview.

4 **Q** And do you have any certifications or
5 qualifications in the field of digital forensic
6 sciences?

7 **A** Yes. I'm recognized by the International
8 Association of Computer Investigative Specialists,
9 otherwise known as IACIS, recognized as a certified
10 forensic computer examiner, and I'm recognized as a
11 certified mobile device examiner.

12 **Q** Can you tell us a little bit about what
13 digital forensic science is?

14 **A** Well, I may also want to add that I do have
15 30 qualifications as a digital forensic expert. I've
16 been qualified in South Carolina Family Court, Court of
17 Common Pleas, General Sessions Court, and United States
18 District Court District of South Carolina.

19 To answer your next question, so digital
20 forensic science, what is that? That is the field of
21 forensic science that encompasses for the retrieval,
22 recovery, preservation acquisition, investigation of
23 electronically-stored data that would be found on an
24 electronic device, such as a computer, a cell phone, a
25 server. And that's typically done in the -- in the

1 interest of finding evidence, digital evidence that can
2 be used in litigation.

3 **Q** And you said you've been qualified how many
4 times as an expert?

5 **A** Thirty times. Thirty.

6 **Q** And that's in the State of South Carolina?

7 **A** In South Carolina, yes.

8 **MS. YOUNG:** At this time, Your Honor, I'd
9 like to tender Mr. Watkins as an expert in digital
10 forensic analysis.

11 **MR. SCOTT:** No objection, Your Honor.

12 **THE COURT:** All right.

13 We will qualify him.

14 Ladies and gentlemen, as I've stated earlier,
15 witnesses typically do not give their opinions but
16 rather things they observed through their five
17 senses. However, some witnesses are allowed to
18 give their opinions if they're deemed an expert in
19 a specific field.

20 Mr. Watkins here is going to be deemed an
21 expert in the field of Digital Forensics Analysis.
22 He may give an opinion in that specific area. You
23 can view with his witness testimony as you see
24 fit.

25 **MS. YOUNG:** Thank you, Your Honor.

1 **BY MS. YOUNG:**

2 **Q** How did you become to be involved in Jamira's
3 case?

4 **A** I received a telephone call on or about
5 May 24, 2023, this year, from Attorney Hope Demer with
6 the Richland County Public Defender's Office. I was
7 asked to assist as a consulting expert in this case
8 involving the digital forensic evidence and cellular
9 records that were involved in this case.

10 **Q** Okay.

11 So what sort of information was provided to
12 you to be able to start working the case?

13 **A** I received copies of the cell phone
14 extraction data that was recovered in this case by law
15 enforcement. And I also received copies of the cell
16 phone carrier records in this case.

17 **Q** So you have -- whose cell phone carrier
18 reference did you receive?

19 **A** Specifically, I received the carrier records
20 associated with Mr. Brandon Burden, which is telephone
21 Number [REDACTED]-8627 and AT&T records associated with
22 Ms. Jamira Davis. And that telephone number was
23 [REDACTED]-4886.

24 **Q** Okay.

25 And you asked to look at anything

1 specifically?

2 **A** Yes. My focus was drawn to determine whether
3 the telephone number [REDACTED]-8853 appears in
4 Mr. Burden's telephone records. And if so, how many
5 times it does -- does appear. That telephone number
6 that I just read out to you [REDACTED]-8853 is a T-Mobile
7 number that's associated with a Wynetta Evette
8 Thompson, who I've come to learn is the mother of
9 Ms. Davis.

10 I was also asked to determine how many times
11 Mr. Burden and Ms. Davis communicated on the date of
12 incident, specifically on January 22, 2021. And I was
13 also asked to map cell flight -- cell site location
14 data to determine Ms. Davis's movements on the date of
15 incident, especially between the hours of 2 a.m. and 8
16 a.m. on that date.

17 **Q** Okay. Great.

18 So let's start with the phone number that you
19 provided, the [REDACTED]-8853. That's Thompson's phone
20 number?

21 **A** Yes.

22 **Q** Do you find when you look at Mr. Burden, or
23 Boleg's, records regarding that number.

24 **A** So the Verizon records that I had that's
25 associated with Mr. Burden, I filtered that set of

1 records to search for this specific number

2 [REDACTED]-8853. And in doing so, I found that there
3 were 76 voice records -- voice call records and six
4 text message records.

5 Now, of these 76 voice call records, 67 of
6 these indicated outgoing calls from Mr. Burden to this
7 telephone number, to Ms. Thompson's number. Five of
8 the records were listed as incoming calls from that
9 number to Mr. Burden. And four records indicated
10 incoming calls that were transferred ultimately to
11 voicemail. So this means that four of the five
12 incoming calls were ultimately transferred to
13 voicemail. And only one of those incoming calls was
14 actually answered.

15 The six text messages associated with this
16 number were all outgoing messages from Mr. Burden to
17 Ms. Thompson.

18 Q And is there like a set date range on those
19 records that you were provided?

20 A Yes. The date range for the Verizon records
21 was between December 22, 2020, and January 22, 2021.

22 Q So it's fair to say in that 30 days that
23 you've looked at, there were 76 voice calls from
24 Mr. Burden's number to Ms. Thompson's number. And I
25 think you told us that 67 of those were outgoing to

1 her?

2 **A** Yes.

3 **Q** And all of the text messages were outgoing to
4 her?

5 **A** Yes.

6 **Q** Did you have a chance to look? Or would you
7 say -- did anything stand out about any particular days
8 in those phone calls?

9 **A** Any particular days between Ms. Thompson and
10 Mr. Burden?

11 **Q** Yeah.

12 **A** Well, I did note that there was a substantial
13 amount of outgoing calls on December 27, 2020.

14 **Q** Can you tell how many times the calls were on
15 December 27?

16 **A** I'd have to count them. If you don't mind, I
17 can do that.

18 **Q** Sure.

19 **A** Okay. (Reviews document.)

20 There's a total of 30 calls that are all
21 outgoing on the 27th of December.

22 **Q** Are there any incoming calls on that day?

23 **A** No.

24 **Q** What about December 28?

25 **A** Four outgoing calls; no incoming calls.

1 **Q** And how about the 31st?

2 **A** Eight outgoing calls.

3 **Q** Any incoming calls?

4 **A** No incoming calls.

5 **Q** Okay.

6 Is it -- and what's the date of the last
7 communication between them?

8 **A** The date of the last record?

9 **Q** Yes, the date of last record. Yes.

10 **A** Okay.

11 The date of the last record is
12 January 18, 2021. And the time for that call was
13 1:24 a.m.

14 **Q** Moving on to the -- moving on to the
15 record -- or the calls between Boleg and Jamira, what
16 did you find in that regard?

17 **A** Okay.

18 So according to Mr. Burden's records, there
19 were a total of five voice calls between him and
20 Ms. Davis. Of these, four were outgoing to Ms. Davis
21 and one was incoming from Ms. Davis. And so that's
22 looking at Mr. Burden's records.

23 When I look at Ms. Davis's records, or AT&T
24 records, they indicate the same; however, they -- they
25 give us a little more information to help us understand

1 what's going on on the network end. Two of the calls
2 from Mr. Burden to Ms. Davis were forwarded to
3 voicemail, one at 1:40 a.m. and one at 2:14 a.m. So
4 there were only three voice calls between Mr. Burden
5 and Ms. Davis that actually connected. Two were going
6 from Mr. Burden to Ms. Davis. And one was incoming
7 from Ms. Davis to Mr. Burden.

8 **Q** Okay.

9 So just to summarize: The first one is an
10 incoming call from Boleg to Jamira at 1:40 a.m.?

11 **A** For the voicemail?

12 **Q** Yes.

13 **A** Yes. You're correct.

14 **Q** And that goes to voicemail?

15 **A** Yes.

16 **Q** And then the next call is outgoing from
17 Jamira to Boleg. And that's at 1:41?

18 **A** Yes.

19 **Q** And then, 1:57 a.m., there's a call back to
20 Jamira from Ms. -- for Boleg. And that call connects?

21 **A** For 19 seconds, yes.

22 **Q** And then he calls her again at 2:14. And
23 that goes to voicemail again?

24 **A** It does, yes.

25 **Q** And then, he calls her again at 2:16?

1 **A** Yes. That's correct.

2 **Q** And what about the text messages between the
3 two of them? What were you able to determine about
4 those?

5 **A** So there were five text message records
6 between Mr. Burden and Ms. Davis on the date of
7 incident. Three were outgoing from Mr. Burden to
8 Ms. Davis. And two were incoming from Ms. Davis to
9 Mr. Burden.

10 **Q** I know we're going to probably talk about
11 this in a minute too. Can you tell where Ms. Davis --
12 so Ms. Davis -- or Jamira actually sends Boleg a text
13 message at 12:13 a.m.?

14 **A** Yes.

15 **Q** And can you tell where she was? Did you come
16 across anything in what you were looking at? Could you
17 tell where she was when she sent that text message?

18 **A** So when I mapped these records, I observed
19 that that message was utilizing a cell tower in
20 Hartsville.

21 **Q** Okay.

22 So she utilizing -- or that phone was being
23 utilized in Hartville at 12:15?

24 **A** That's correct. The phone was utilizing a
25 cell tower in Hartsville.

1 **Q** Okay.

2 And then it looks like Boleg texted her back
3 at 1:40 a.m.?

4 **A** Yes.

5 **Q** And then again at 2:43 a.m.?

6 **A** Yes.

7 **Q** And then she, Jamira's phone texts Boleg's
8 phone at 2:43, a few seconds later?

9 **A** Yes. A few seconds later, yes.

10 **Q** I just want to make sure the court reporter
11 can hear us.

12 And then the last text between the two of
13 them was, again, Boleg texting her at 2:47?

14 **A** Yes. That's correct.

15 **Q** So -- and you were in here with Captain
16 Johnson testified earlier, right?

17 **A** I was.

18 **Q** And you heard him say that her phone is at
19 her apartment at 2:16 a.m., right?

20 **A** Beg the Court's indulgence.

21 Yes. That's correct.

22 **Q** And then, when do you start to see -- well,
23 let me back up actually for a second. Sorry. I get
24 ahead of myself. And we've all determined I'm not very
25 digital savvy. So that's why I am drawing on paper.

1 But can you just explain to the jury -- do
2 you know what I'm drawing right there?

3 **A** I do.

4 **Q** Okay.

5 Can you explain to the jury what that is and
6 why it matters to you?

7 **A** Okay.

8 What she's attempted to draw here is an
9 overhead view of a cell tower. When we think about
10 cell towers, we understand that our cell phones are
11 connecting to these devices to facilitate our phone
12 calls. The way it works is each cell tower is divided
13 into three different sectors. And those sectors make
14 up 120 degrees on each sector. So add it together,
15 that's 360 degrees, making a full circle, if you will.

16 So the goal of the carrier is to design a
17 network where your -- their customer base can be
18 connected at any given time, and they don't fall off
19 and disconnect. So they're divided into sectors to
20 help facilitate connections in certain areas. Now, as
21 we map these records, these records are -- they're
22 beneficial to us when we have the cell tower, the
23 location of that cell tower that -- those are included
24 in the records.

25 So it's gonna give us the geo coordinates of

1 that cell tower that can then be mapped. It also gives
2 us the sector and the azimuth of that sector. An
3 azimuth is just a fancy word that means the direction.
4 You know it's -- it's the direction that that cell is
5 facing, that cell site, or sector, is facing. So when
6 you look at this, you can see the direction mapped on a
7 map. And that is the sector that the handset, or cell
8 phone, is communicating with at the time of the call.
9 And so that's beneficial to investigators to help get
10 an idea of a general area where a handset is located.

11 **Q** So just -- so you're saying an overhead view
12 of a cell tower, and then it's placed somewhere on a
13 geographic map?

14 **A** Yes.

15 **Q** And what -- are these sectors numbered
16 somehow?

17 **A** They're generally numbered one through three.

18 **Q** Are they -- is every sector -- like is every
19 tower the same? Like, this one's one, this one's two,
20 this one's three?

21 **A** I mean, it varies from tower to tower, of
22 course. But it's the general idea.

23 **Q** Okay.

24 And it -- was I right? Was that one, two and
25 three? Kind of --

1 **A** It's -- it can be.

2 **Q** Okay. All right.

3 Well, for purposes, we're just going to do
4 it -- so sometimes it's like that, right?

5 **A** Yes.

6 **Q** Okay.

7 And so what, if anything, does hitting or
8 having phone activity on sector one tell you versus
9 having phone activity on sector three? So in this
10 diagram here, if you will, if you can imagine this
11 being placed on a map, let's say that, you know, we're
12 in a courthouse right now. Let's say that this cell
13 tower is right down the street, and that direction is
14 facing the courthouse. Well, if you have your cell
15 phones on you, that would make sense. Because
16 you're -- you're in a building where that sector is
17 facing.

18 So this is kind of an example of what we
19 would expect to see on a map. When an individual is
20 using their handset to make calls, they're going to
21 connect to a tower, and it's going to show the
22 direction. And what that means is -- for this example,
23 you can rule out that that handset is in sector two or
24 three, that they must be in the area that's -- that
25 that sector one is facing.

1 **Q** Okay.

2 So kind of given that information, what if
3 anything, did you find regarding Jamira's cell tower
4 activity between the times of, you know, 2:16 and 2:49?

5 **A** Well, again at 2:16 a.m., Ms. Davis's cell
6 phone is pinging off of a tower that's just west of
7 her, just slightly northwest of her apartments, which
8 is consistent with -- if she's at her apartments, if --
9 if that's where she would normally be, it would be
10 consistent with connecting to that particular tower,
11 and that particular sector of that tower.

12 At 2:43 a.m., there's a cell tower located in
13 Hopkins that is facing, generally facing, Old Hopkins
14 Road.

15 **Q** Okay.

16 And is it -- did we provide you with an
17 address that we were interested in that is also in that
18 sector?

19 **A** Yes. You provided me with the address of
20 Ishmael Scott. That address is [REDACTED] Pin Cushion Road,
21 Columbia, South Carolina. And --

22 **Q** So -- sorry. Go ahead.

23 **A** To -- to -- to add to that last point, the
24 cell -- the sector of this cell tower at 2:43 is facing
25 the general direction that that residence would be

1 covered in or be consistent with -- with that.

2 Q And if we were using my little demonstrative
3 up here, is it fair to say that's kind of gonna be
4 here?

5 A If we were to picture this as a map, and the
6 residence was this black dot, it is to the -- to the --
7 to the west of the sector. So that would be
8 consistent. Yes.

9 Q Okay.

10 So that happens at 2:43. And then again,
11 when? When's the next time?

12 A So that's at 2:43 and 03 seconds a.m.
13 There's another call at 2:43 and 22 seconds a.m., a
14 text message where we've got the same act -- similar
15 activity, same tower, same sector. Then, at 2:47 a.m.,
16 same tower, same sector.

17 Q And then what happens at 2:49?

18 A So at 249, and we haven't quite covered how
19 we -- how we got here. But there's a GPS record that
20 was found on Ms. Davis's cell phone that places that
21 handset in the general area or in the general immediate
22 vicinity of [REDACTED] American Avenue, Hopkins, South
23 Carolina.

24 Q And that's generally on my little diagram
25 over here, right?

1 **A** Yes.

2 **Q** And now, the -- unlike the cell tower data,
3 is the geolocation data that you just referenced, is
4 that more accurate; is that fair to say?

5 **A** It's going to be more accurate because it's
6 using GPS.

7 **Q** Okay.

8 And then what's the next geolocation data
9 that you have for Jamira?

10 **A** Well, the next -- next record would be
11 another record. And in her phone records at 3:43 a.m.,
12 we're connecting to the same tower, but the sector that
13 is facing this [REDACTED] American Avenue, Hopkins, South
14 Carolina.

15 **Q** And that's a phone call?

16 **A** That is a voice call. Yes.

17 **Q** Can you tell if it's incoming or outgoing?

18 **A** That is an incoming call from telephone
19 number [REDACTED]-3240.

20 **Q** That's incoming to Jamira's phone at
21 3:43 a.m.?

22 **A** Yes.

23 **Q** And then what did you -- what did you see
24 next in the activity on the phone?

25 **A** As far as location goes?

1 **Q** Well, yes.

2 **A** Okay.

3 At 4 a.m., same cell tower is being accessed;
4 however, we're back on the first sector that we
5 discussed just a moment ago that's covering the area of
6 Pin Cushion Road. And then there's another record --
7 there's two records at this time, they're both text
8 messages incoming at 4 a.m. And they're both using the
9 same tower in the sector that's facing this Pin Cushion
10 Road.

11 **Q** Okay.

12 And it's fair to say the phone has now left
13 Boleg's house and is moving back towards the Pin
14 Cushion Road address?

15 **A** Right.

16 So in understanding how the records work,
17 when we see this kind of activity, we can rule out that
18 the handset is at -- connecting to the other sector or
19 within the area -- coverage area of the sector that we
20 just discussed that was covering the [REDACTED] American
21 Avenue address.

22 **Q** And then, you said it was two incoming text
23 messages from [REDACTED]-8811. Were you able to
24 determine anything about that phone number?

25 **A** I did research that number. Yes. What I

1 found is that that is a -- it's non-fixed VoIP number.
2 A VoIP number would be Voice over IP. So it's a
3 Internet-based telephone number. It's not -- not like
4 your -- your cellular numbers would be leased out.

5 The number provider -- the provider for this
6 number is a company called Twilio. And it's also
7 called Twilio International. There's two different
8 names that I found for it. What I found out about this
9 company is that is a cloud-based communications
10 provider. They provide the service of leasing out
11 these numbers, these VoIP numbers, for individuals to
12 use. That's the best way to summarize it of -- of how
13 that number is interacting.

14 Q Okay.

15 And had Jamira done anything with that number
16 in her phone?

17 A Yeah. I did find in her cell phone
18 extraction data, the data was pulled from her cell
19 phone, that that particular number had been blocked.

20 Q And then lastly, what is -- what's the last
21 kind of location data point that you have? I think
22 Jonathan testified to this too, but --

23 A Right. At 4:29 a.m., there is another GPS
24 point that was found on Ms. Davis's cell phone that
25 places the device at her apartment complex.

1 **Q** So at 4:29, her device is back up?

2 **A** Yes.

3 **MS. YOUNG:** Beg the Court's indulgence.

4 Nothing further right now, Your Honor. Thank
5 you.

6 **CROSS-EXAMINATION**

7 **BY MR. SCOTT:**

8 **Q** Okay.

9 Mr. Watkins, I'm go to start kind back to the
10 testimony you most recently had. As I'm trying to keep
11 track of -- I've got -- so 2:16 a.m., a short ping on
12 the cell towers. But that's -- what was the term you
13 used if it bounced off of a particular cell tower?

14 **A** When we're connecting to a cell tower, I've
15 heard it used -- that term used as ping. I think that
16 would be appropriate.

17 **Q** Okay.

18 2:16 a.m., it's pinging near her apartment at
19 Garner's Ferry Road. Is that what you had? I wrote
20 that down.

21 **A** 2:16. I'm just gonna go back and just --
22 just verify that that is correct. Yes, sir.

23 **Q** Okay.

24 And I wrote down there were two events at
25 2:43 a.m. And you said now her phone is pinging in

1 Hopkins?

2 **A** That's correct, yes.

3 **Q** And you said it was a tower near Pin Cushion
4 Road.

5 **A** It's about two miles away from Pin Cushion
6 Road.

7 **Q** Okay.

8 **A** But the sector is facing that -- that -- that
9 location. Yes.

10 **Q** And American Avenue is very close to Pin
11 Cushion Road. Did you map that one?

12 **A** Yes. If I recall correctly, it was about a
13 half mile. But I don't remember 100 percent. It was
14 definitely closer, yes.

15 **Q** And so Hopkins would -- would be more rural
16 area than downtown Columbia --

17 **A** Yes.

18 **Q** -- correct?

19 **A** Yes.

20 **Q** Can you tell the jury some of the issues.
21 Like if we're downtown Columbia, there's towers all
22 over the tops of these buildings, aren't they? So a
23 lot of people lease out building rooftops or towers.
24 And we have a lot more densely -- dense populations of
25 cell phone towers. Is that safe to say?

1 **A** Yeah. The mesh is a lot denser here. Yes.

2 **Q** Okay.

3 But in more rural areas, they might be more
4 sparsely separated from one another?

5 **A** Yes.

6 **Q** And therefore, any particular phone tower in
7 a rural area would be responsible, typically, for
8 greater distances or can cover greater distances than
9 ones in urban areas?

10 **A** That's a fair way to say that, yes.

11 **Q** Okay.

12 Are you -- can you rule out that the -- the
13 towers pinging near Pin Cushion could have been coming
14 from the center of American Avenue?

15 **A** So --

16 **Q** Would that tower have covered the same --

17 **A** The --

18 **Q** -- location?

19 **A** The sector that's facing Pin Cushion Avenue
20 would not. Because that -- that -- that sector is
21 facing in a southwesterly direction, whereas the sector
22 that faces the [REDACTED] American Avenue faces in a
23 southeasterly direction. So it would not -- if you're
24 connecting to the one that's facing southwesterly on
25 that tower, certainly you would not be -- it would not

1 be consistent with you being at that residence.

2 Q Okay.

3 And using these sectors like Ms. Young was
4 drawing, they're not exact. You can't use those to
5 place me at any one particular spot. Can you?

6 A They're not GPS. So you can get an idea of a
7 general area where a handset could be located. But you
8 can't pinpoint it.

9 Q Could those locations in Pin Cushion have
10 been the result of traveling from Garners Ferry to
11 American Avenue and those events happening on route?

12 A It could. Though when we see the activity --
13 I'm just gonna go back to my notes real quick.

14 At -- at one -- okay. At 1:49 a.m., we've
15 got a GPS point where it's showing her handset is in
16 the vicinity of her apartments. And then at 2:14 --
17 excuse me -- 2:16 a.m., we show that the tower that
18 faces her apartment is being utilized.

19 We then see a record at 2:43 in Hopkins. So
20 that's a -- that's a difference of about almost 30
21 minutes. Now, that -- that drive from her apartment to
22 the [REDACTED] American Avenue address is only about a
23 12-minute drive, or I think it's about 10 minutes
24 average. So 30 minutes, I imagine if that were the
25 case, the individual would have to be driving

1 remarkably slow.

2 **Q** My point is there's two events 2:43, right?

3 **A** There are. Yes.

4 **Q** Okay.

5 **A** And then one a 2:47.

6 **Q** Okay.

7 Could you have been pinging off that same
8 tower while you're driving along? Have those two
9 events at 2:43?

10 **A** Yes. However, the -- it would be helpful if
11 we had the map up for everybody to see. Because were
12 that sector line is drawn, it -- it cuts off part of
13 Old Hopkins Road. So you have to take that road to get
14 there. That's one of the routes.

15 Okay. If that route was being taken, which
16 it's indicative by these records that that must have
17 been the route that was taken, because had she come
18 from Lower Richland Boulevard, she would have hit the
19 north facing sector, which did not happen in these
20 records.

21 So by the way that this sector line is drawn,
22 for her phone to ping off that tower at 2:43 a.m. and
23 then again at 2:47 a.m., I -- I don't see how it's
24 possible unless -- there is -- there's one other record
25 that that we did not discuss that I feel is important.

1 There was a Bluetooth record found on the
2 phone, Bluetooth connection, that indicates in the
3 record database that it was connected to -- Bluetooth
4 for the phone is connected to a Kia -- Kia Motors. It
5 also lists a MAC address. Now, that is consistent with
6 a -- with what you would see with a motor vehicle
7 that's Kia make. And that record is at 2:26 a.m. And
8 that record ends at 2:49 a.m. And so we've got a
9 period of about a little -- a little more than 20
10 minutes. So we've got a -- we got a better idea of
11 when this phone might have moved. Because if it's a
12 2:26, the record previous to that was at 2:16. So
13 that's 10-minute's difference.

14 So we've got that incoming voice call at 2:16
15 a.m. Ten minutes later, at 2:26 a.m., we've got
16 Bluetooth connectivity in a Kia motor vehicle is what
17 the record would appear.

18 And then at 2:43 a.m., which is the next
19 record in the sequence, it's pinging off a tower in
20 Hopkins that facing that Pin Cushion Road address.

21 **Q** Okay. Right.

22 So we can say between 2:26 and 2:49, she's
23 got her Bluetooth device connected to her car?

24 **A** Yes.

25 **Q** So we can pretty much say she was in the car

1 from 2:26 to 2:49.

2 **A** Well, or at least the -- the phone is near
3 the car, right?

4 **Q** Right.

5 **A** Because the car would have to be on.
6 Bluetooth would have to be on. Could an individual
7 step out? Sure. But to what you're saying, that --
8 that makes the most sense. Yes.

9 **Q** Yeah. Okay.

10 We can speculate about a lot of different
11 things. But what I'm saying makes sense, right? I'm
12 not trying to --

13 **A** You --

14 **Q** -- trick you.

15 **A** No, no. You're -- you're on point.

16 **Q** Okay.

17 So we can say between 2:46 and 2:49, she's in
18 a car?

19 **A** Yes.

20 **Q** Okay.

21 And -- oh, no. Let me do the math. That's
22 about 23 minutes.

23 **A** Yeah. You're right.

24 **Q** Twenty-three minutes?

25 **A** Yeah.

1 **Q** Okay.

2 You think you -- have you driven from Garners
3 Ferry to [REDACTED] American?

4 **A** I have not personally done that. No.

5 **Q** You said it was how many miles? You said it
6 was 12 miles maybe a minute ago?

7 **A** It was about a 10-minute journey per Google
8 map. So when I -- when I looked at this, I was using
9 Google Maps as reference.

10 **Q** Okay.

11 So she was in her car. And we know at 2:49,
12 she arrives. I don't know if you knew that.

13 **A** Yes. We do --

14 **Q** She arrives at the house.

15 **A** We do have a GPS point at that time. And we
16 also have -- that -- that's also when the Bluetooth
17 disconnects.

18 **Q** Okay.

19 **A** Yeah. So that -- that makes sense.

20 **Q** Makes sense. So those calls 2:43, two of
21 them pinging in Hopkins and 2:47 pinging in Hopkins, it
22 sounds like that was during her route, her 23-minute
23 route from Garners Ferry there. She's somehow past Pin
24 Cushion at some point.

25 **A** I don't think we can rule it out.

1 **Q** Okay.

2 **A** Because we still have several minutes. This
3 is a 10 -- 10-minute drive.

4 **Q** What are you trying to testify to? What --
5 what are your -- what does your result say? Can you
6 say that she went to a specific address and stopped her
7 car and got out on Pin Cushion?

8 **A** No. Certainly -- certainly not.

9 **Q** Okay.

10 **A** But -- but what I'm saying is, we can't rule
11 that out.

12 **Q** Okay.

13 But she would have left her blue Bluetooth
14 plugged in and gotten out of the car. Because it stays
15 connected that whole journey, correct?

16 **A** That. Or if a stop was made, that doesn't
17 necessarily imply the individual has to get out of the
18 car. Of course, it could. The phone could be left in
19 the car. Again, you said -- we could speculate many
20 things. There's not enough information there to say
21 what exactly happened there. But we do know that the
22 Bluetooth was connected for that period of time.

23 **Q** So we can say she plugs in, or connects her
24 Bluetooth to her car at 2:26 a.m.

25 **A** Yes.

1 **Q** And it disconnects at 2:49, which coincides
2 with her arrival at [REDACTED] --

3 **A** Which means that the vehicle is on and
4 running during this time period.

5 **Q** Okay.

6 And I guess she could have gotten out and run
7 in and done God knows what anywhere and then got back
8 in the car?

9 **A** Or made a stop anywhere. Sure.

10 **Q** Yeah. Okay.

11 And then 2:49, your GPS records dovetail with
12 a video. She's arriving at [REDACTED] American. The GPS
13 places her there at 2:49?

14 **A** Yes.

15 **Q** Okay.

16 And at 3:43, she has an incoming call from
17 Twilio. Did I say that right?

18 **A** At 3:43 is an incoming call from an
19 [REDACTED]-3240.

20 **Q** And I wrote down that you associated that
21 with --

22 **A** That --

23 **Q** -- Twilio?

24 **A** No. That was for the 4 a.m. text messages
25 that came in. There were two text messages at 4 a.m.

1 That -- that was the number that was associated with
2 Twilio.

3 Q What was the content of those text messages?

4 A We don't have -- we don't have records of
5 the --

6 Q Why not?

7 A -- content.

8 Q Why?

9 A Well, in the -- in the phone, they're not
10 there.

11 Q Why not?

12 A As Investigator Johnson testified to, the
13 records were not -- no longer in the -- in the database
14 file that we can contain these records. So it's
15 indicative that they've been deleted.

16 Q Okay.

17 In your experience, why do people delete text
18 messages? Or do you have that experience?

19 A You know, I deal with a lot of cases. So I
20 know that can vary from person to person. Some people
21 are very private about their text messages. Some
22 people -- I mean, hate to speculate. But they're -- in
23 my experience, there's been different reasons for
24 people to delete messages.

25 Q Okay.

1 So I've got -- my notes show -- and do you
2 have your next -- as far as text message log that
3 particular night?

4 **A** You can refresh my memory.

5 **Q** Okay.

6 Would it refresh your memory that her last
7 text message that we can still recover, January 22,
8 10:18 p.m.? Do you agree with that?

9 **A** Yes.

10 **Q** Okay.

11 And then the next text message we see --

12 **A** Wait. Did you say 10:18? 10:18 or 10? It's
13 on the 22nd. That is a.m.

14 **Q** Okay. 10:18 a.m.

15 **A** That's a.m., yes.

16 **Q** Okay.

17 So 10:18 a.m. on January 22 is the last text
18 message that's intact. We can see it.

19 **A** Yes.

20 **Q** Okay.

21 And then the next one will be on January --

22 **A** We're doing this backwards, aren't we?

23 **Q** I'm reading it backwards. I'm sorry.

24 **A** Yeah. We're doing this -- that would be the
25 first one for that day.

1 **Q** Okay. I got you.

2 So the first one -- let me back up now. I'm
3 sorry, guys. I'm reading it backwards. That's why I
4 was confusing it.

5 The last text message we have that wasn't
6 deleted I've got -- let's do it the right way this
7 time. 21 at -- all right.

8 Help me out. 20 --

9 **A** 10:49.

10 **Q** 10:49?

11 **A** 34 seconds p.m. Yes.

12 **Q** Okay.

13 And then the next one we have that's intact
14 is?

15 **A** 10:18 and 40 seconds a.m. on the 22.

16 **Q** 10:18 and 22?

17 **A** Yes.

18 **Q** Okay.

19 And so this block of time right here, there's
20 some missing text; is that right?

21 **A** Yes.

22 **Q** My notes -- well, gosh. What do your notes
23 say? How many were deleted?

24 **A** If I recall, there were 11 records.

25 **Q** During this time period, are you on texts

1 right now or phone calls? Text, right?

2 **A** I believe it was text. And I think for
3 calls, it was seven records.

4 **Q** Okay.

5 In this particular period of time between
6 10:49 p.m. on January 21 and 10:18 the next morning,
7 this -- do you know why this time period is very
8 relevant to this case?

9 **A** Certainly.

10 **Q** That's when everything kind of happens,
11 right?

12 **A** Yes.

13 **Q** And you can't recover those deleted texts?

14 **A** Unfortunately, no.

15 **Q** And you have no idea what they said?

16 **A** No.

17 **Q** You don't know who she was texting or who may
18 have been texting her?

19 **A** Correct.

20 **Q** And you don't --

21 **A** Well, except for the AT&T records, of course.
22 But we don't know the context.

23 **Q** We don't know the content of those texts.
24 All right.

25 The phone calls -- I'm gonna do it right this

1 time. I think I am. January 21, 2021. The last phone
2 call you see that was not deleted was at what time?

3 **A** 9:40 and 48 seconds p.m.

4 **Q** 9:40 p.m. And then the next phone call you
5 got that wasn't deleted is at what time?

6 **A** 9:50 a.m. on January 22, 2021.

7 **Q** 9:50 in the a.m., January 22, 2021. This
8 block of time between 9:40 p.m. on the night of
9 January 21 and 9:50 a.m. the next morning is irrelevant
10 for what reason?

11 **A** This would cover the timeline of the
12 incident.

13 **Q** That's when Brandon Burden was shot three
14 times in the back, right?

15 **A** Well --

16 **Q** Do you know that?

17 **A** I don't know all the details. But --

18 **Q** Okay.

19 **A** -- I understand.

20 **Q** And during this time period, how many phone
21 calls did she delete from her records?

22 **A** From my recollection, it was seven.

23 **Q** Do you have your notes?

24 **A** I don't. Just going off memory.

25 **Q** You're right. So it starts at 91 and it

1 picks back up at 99? I want to say eight. But it's
2 91, 92, 93, 94, 95, 96, 97, 98, 99. Is it eight calls?

3 **A** You have to count both of those. Okay.
4 Yeah, eight.

5 **Q** Eight phone calls she's deleted. Okay.
6 Why do people delete phone call logs?

7 **MS. YOUNG:** Objection. Speculation.

8 **MR. SCOTT:** I'll let -- as an opinion -- they
9 asked a question earlier and he was asked if it
10 was speculation.

11 **BY MR. SCOTT:**

12 **Q** So you don't know the answer, you don't know
13 the answer. But if you do, I'll let you testify to it.

14 Have you seen people who delete blocks of
15 phone calls during particular events before? I mean,
16 you -- how many times have --

17 **A** I mean --

18 **Q** -- you analyzed phones?

19 **A** Quite a lot. I do recall in this case, there
20 were other areas of the -- of the phone history where
21 there were missing calls and text messages too. So I
22 don't know if there's a pattern involved with that.
23 It's just an observation.

24 **Q** Well, look at the records. I only have 12
25 other ones on this page. But all 12, the next phone

1 calls were left intact.

2 **A** Right. But if we had the full text message
3 history, you would see other gaps too.

4 **Q** Okay.

5 But in this particular case when all the
6 events go down, there's eight phone calls. Do you know
7 if she made the eight phone calls or if she received
8 them? Can you tell me about those deleted phone calls?

9 **A** Can you -- what time period are we looking
10 at --

11 **Q** January 21 --

12 **A** -- between this time period?

13 **Q** -- 2021, 9:40 p.m. --

14 **A** Okay.

15 **Q** -- to January 22, 2021, at 9:50 a.m.

16 **A** So the timeline I have before me starts
17 between 12 a.m. and at about 4:30. So I can -- I can
18 cover that period. I am aware that it was extended to
19 8 a.m. But there's no calls after -- after 4 a.m. And
20 I said 4:30 because I do have a Bluetooth record and a
21 GPS record on this timeline. But I did set the
22 parameters 12 a.m. to 8 a.m. So this is covering --
23 I'll just go through the -- the records you're
24 referring to.

25 **Q** I'm asking, Do you know who she was calling

1 or who was calling her in these eight deleted phone
2 calls?

3 **A** Let's see. We know that five text messages
4 were between her and Mr. Burden.

5 **Q** Okay.

6 Wait a minute. We might be -- Mr. Burden is
7 dead during this time. And I'm talking about phone
8 calls. See these eight phone calls we just went over?

9 **A** Right. But the timeline you have there
10 starts at 9:40 p.m.?

11 **Q** Okay.

12 But I'm talking about the eight deleted
13 calls.

14 **A** Okay.

15 **Q** Who was --

16 **A** The number she deletes --
17 (Indiscernible cross-talk.)

18 **BY MR. SCOTT:**

19 **Q** Got you.

20 **A** That's fine. I'm sorry. I'm covering that.

21 **Q** All right.

22 Phone calls, who was she calling deleted
23 message number one, phone call number one?

24 **A** Phone call or --

25 **Q** Phone call?

1 **A** I can just go through the timeline and just
2 do the texts and phone calls.

3 **Q** Let me -- let me ask my question again.

4 **A** Okay.

5 **Q** That first phone call she deleted, who was
6 she calling?

7 **A** Again, this timeline is between 12 a.m. and 8
8 a.m., the first call that I have in this log, a voice
9 call, is at 1:40 and 49 seconds a.m. that is an
10 incoming call from Mr. Burden's telephone number to
11 Ms. Davis's telephone number.

12 **Q** Okay.

13 Is that the first one she deleted?

14 **A** I don't know that answer.

15 **Q** Why not?

16 **A** Well, again, that -- it's between 9:40 and
17 9:50. And I understand it's only eight, but this is a
18 time line between 12 a.m. and eight. So you're asking
19 me --

20 **Q** I'm asking --

21 **A** If it's the first one that's deleted, I don't
22 know.

23 **Q** That was one of them she deleted though,
24 right?

25 **A** Yes.

1 **Q** Okay.

2 Burden's call to her?

3 **A** Yes.

4 **Q** What's the next one?

5 **A** Let's see. 1:40 a.m. and 50 seconds. So
6 these two calls, the 1:40 and 49 seconds and 1:40 and
7 50 seconds, these are -- these are the calls that
8 transpire that ultimately go to voicemail. So this is,
9 in reality, one call.

10 **Q** And that is --

11 **A** The one we just covered. So I'm gonna go to
12 1:41 a.m. So 1:41 a.m. is the next call in sequence.
13 That's an outgoing call from Ms. Davis to Mr. Burden.

14 **Q** Okay.

15 So she deleted the call from Burden to her.
16 Then she deletes the phone call she made to Burden.

17 **A** That -- That's my understanding.

18 **Q** Okay.

19 What's the -- what's the third one she
20 deleted?

21 **A** At 1:57 a.m. And again, I'm going in
22 sequence of the timeline I've got in front of me. We
23 do know that there's a total of five call records. And
24 we're talking about a -- so I may not have the other
25 three on here. But I digress.

1 At 1:57 a.m., there's an incoming call from
2 Mr. Burden to Ms. Davis.

3 **Q** Okay.

4 **A** Okay.

5 You want me to continue?

6 **Q** Please. Because we've got eight to cover.

7 **A** 2:14 a.m., there's a phone call incoming from
8 Mr. Burden to Ms. Davis.

9 **Q** That's four?

10 **A** Again, that's one that goes to voicemail.
11 But that would be call.

12 At 2:16 a.m., there's an incoming call from
13 Mr. Burden to Ms. Davis.

14 **Q** Okay.

15 **A** Okay.

16 And then at 3:43 a.m., we've got an incoming
17 call from [REDACTED]-3240 to Ms. Davis.

18 **Q** Okay.

19 Two more.

20 **A** That -- that is -- that's the extent of the
21 timeline that I've got before me for the voice calls.

22 **Q** Why don't you have the other two?

23 **A** Well, remember that starts between 9:40 p.m.
24 and goes to 9:50 p.m. And I've told you, my timeline
25 is -- what I've got in front of me is between 12 a.m.

1 and 8 a.m. So we're missing some hours.

2 Q So you didn't analyze the rest of the deleted
3 phone calls?

4 A No.

5 Q Okay.

6 Now, the text messages -- now, did you obtain
7 the sources of those? Is that from a review of
8 Mr. Burden's phone call -- or phone records? Or is
9 that Ms. Jamira Davis's extraction that you were able
10 to identify there's deleted phone calls.

11 A Now, say -- say that one more time, so I'm
12 sure I understand you.

13 Q You talked about the phone call between
14 Brandon Burden and Jamira Davis. We talked about those
15 being deleted. Did you get that information from
16 inspection of Mr. Burden's phone or from Jamira Davis's
17 phone?

18 A Both. What I've gotten mapped though in this
19 timeline, I've mapped Ms. Davis's records. Because
20 we're interested in the location of the cell -- cell
21 phone at the time.

22 Q Okay.

23 Those text messages, do you know who those
24 were going to or who they were coming from, talking
25 about the deleted ones?

1 **A** Well, I recall for this -- for this period,
2 we've got five text messages between --

3 **Q** Your timeline stops at what time?

4 **A** What I'm -- what I'm saying is there's five
5 text messages between Mr. Burden's number and
6 Ms. Davis's number.

7 **Q** You talking about the deleted ones?

8 **A** The numbers that appear within this -- this
9 time range that we've got here?

10 **Q** Right.

11 **A** That's what I'm referring to. There's five
12 there. There's also two associated with that odd
13 number, the Twilio number.

14 **Q** Okay.

15 ██████-3240.

16 **A** Yes. That was for one of the --

17 **Q** One of the two -- the old ones you talking
18 about?

19 **A** No.

20 **Q** Okay.

21 What is it?

22 **A** No. That telephone number associated with
23 the two text messages at 4 a.m. is ████████-8811.

24 **Q** That's the Trulia or Twilio account?

25 **A** T-w-i-l-i-o.

1 **Q** Okay. All right.

2 That's seven. Do we know the balance of
3 those text messages that she deleted? Can you identify
4 those?

5 **A** What are you asking?

6 **Q** All right.

7 I don't know -- I'm unable to articulate this
8 question. But 11 deleted texts right through here. I
9 want to know who she was texting, or who was texting
10 her. You've helped me with five of those. Because you
11 said there's --

12 **A** Seven.

13 **Q** Wait a minute. Five of those were
14 Mr. Burden. Okay? Two of those were from this
15 [REDACTED]-8811?

16 **A** Yes.

17 **Q** Okay.

18 What's 11 minus seven?

19 **A** I get where you're going. But we still --
20 we're dealing with the same issue as before. We've got
21 the timeline that's a little bit larger than the
22 timeline that we're going over right now.

23 **Q** We don't know who the rest of those were that
24 she felt the need to delete?

25 **A** Right.

1 **Q** Did you see the Instagram message that she
2 was sent the next day?

3 **A** I saw Instagram messages, yes.

4 **Q** Did you see the one about selling a
5 nine-millimeter?

6 **A** I do recall that.

7 **Q** Jaquan is the person's name. And it looks
8 like she sends a picture.

9 **A** Yeah.

10 **Q** Yeah. Let me see that. That's State's 29.

11 **A** Okay.

12 I follow you.

13 **Q** Were you able to uncover that picture, that
14 link?

15 **A** No. And again, the information that I
16 received was recovered from Ms. Davis's cell phone. It
17 was forensically extracted by law enforcement. The
18 resulting data was then exported into a report format.
19 I was provided the report format. But I think the
20 question that you're getting at is why wasn't it
21 recovered?

22 Well, this is an Instagram message. By the
23 nature of how Instagram works, when you send a picture,
24 you send any multimedia over that application, it's
25 going to be uploaded to a server, to Instagram server.

1 The individual, the recipient that gets that picture,
2 it doesn't get downloaded to their phone. It's not
3 pushed to the phone. It's still stored on the server.
4 So when you access it, you're actually viewing a
5 picture from a link. And that's why you don't have a
6 recovered picture. You wouldn't have recovered a
7 picture in this analysis.

8 Q I was just hoping you had more luck than we
9 did. Did you find anything else that was noteworthy?
10 See any other pictures of guns or anything?

11 A Yes.

12 Q Okay.

13 Lots of pictures of guns or a few?

14 A There were a lot of cache files that related
15 web browsing that contained that. Yes.

16 Q What else did you see that might be pertinent
17 to this case?

18 A What do you -- what do you mean?

19 Q Okay.

20 We got a guy who sold marijuana, had a
21 relationship with the defendant, there was some
22 marijuana involved in this case, there's guns, and
23 there's a dead man, and there's a bunch of deleted
24 phone calls and texts afterwards. Did you see a bunch
25 of pictures of marijuana?

1 **A** I don't recall seeing that, no.

2 **Q** Any drugs at all? Pictures of it,
3 conversations about it?

4 **A** I don't recall that. No.

5 **Q** You just remember a lot of guns?

6 **A** I recall seeing pictures of that. Yes.

7 **Q** Anything else that you remember that just
8 kind of sticks out?

9 **A** (No audible response.)

10 **Q** This stuck out to you, didn't it? Because
11 the day after. She's selling a nine-millimeter?

12 **A** I recall that.

13 **Q** She's got some weed to sell suddenly?

14 **A** Some -- some what now?

15 **Q** Well, you know what a "zip" is? There's some
16 testimony it's an ounce of weed.

17 **A** Okay.

18 **Q** Did you -- did you pick that up when you were
19 reading that?

20 **A** I -- I recall the testimony. But I'm -- I'm
21 not familiar with drug terms. Some of them, but not --
22 not as well versed as some in law enforcement may be.

23 **Q** But you would agree with me those messages,
24 those Instagram messages happened just before our
25 incident and just after she's got some -- a gun to sell

1 and might have some potent marijuana to sell?

2 **MS. YOUNG:** Objection. That's a
3 mischaracterization of the evidence.

4 **THE COURT:** All right?

5 Sustained as to any details of text messages.
6 Let's just stick to his specialty.

7 **BY MR. SCOTT:**

8 **Q** Okay.

9 But you agree the timeline would be
10 January 21 into January 22? Maybe even further.

11 **A** If I may.

12 In respect to the timeline, yeah, it
13 covers the period of -- for this particular document,
14 1/19/2021 to 1/23/2021.

15 **Q** All right.

16 Can we ever know the substance of those text
17 messages? Can those be recovered? Did you -- were you
18 able to recover them?

19 **A** No.

20 **Q** All right.

21 Thank you. That's all I have for you.

22 **REDIRECT EXAMINATION**

23 **BY MS. YOUNG:**

24 **Q** You testified you can't recover the substance
25 of the messages, right? And I know Mr. Scott was

1 trying very hard to get you to go through all those
2 deleted things. The fact that you can't talk about
3 what happened before midnight means that whatever --
4 there's additional calls, I think you testified about
5 five, so that leaves three that you weren't able to
6 testify about, right?

7 **A** Right.

8 **Q** Would that mean that it happened either prior
9 to 12 a.m. or after 8 a.m.?

10 **A** Perhaps.

11 **Q** If they --

12 **A** The records that we have in this timeline
13 that I've produced is everything between 12 a.m. and
14 8 a.m. So by just the very logic of your question, it
15 has to be outside of that scope, or that -- that period
16 of time.

17 **Q** Right. But you had all of the call detail
18 records in front of you from the -- Jamira's records
19 and Boleg's records? Would you be able to tell who
20 those deleted messages were coming from and going to?

21 **A** Yes. They'll be able to see the subscriber
22 identity.

23 **Q** And you also -- same thing for both text
24 messages and phone calls, right?

25 **A** Yes.

1 **Q** Okay.

2 So -- and those call detail records do exist,
3 right? The state gave them to us, right?

4 **A** That's correct.

5 **Q** So they have them? I assume, right? You
6 know that they have them.

7 **A** Right. Because that -- yeah, it was provided
8 during discovery.

9 **Q** Right. And those records tell you exactly
10 what phone calls were deleted between the time period
11 of 9:40 p.m. on the 21st to the 22nd at 9:50 a.m.?

12 **A** To the way you phrased that question, the
13 records do not tell us that. But comparing the records
14 with the cell phone data tells us that.

15 **Q** Sorry. Yes. So essentially, you have -- you
16 have extraction that's missing information. And you
17 compare it to the records that has --

18 **A** You got -- that --

19 **Q** -- additional?

20 **A** That's exactly right.

21 **Q** And that's how you determine them?

22 **A** Yes.

23 **Q** So when Mr. Scott was trying to say you can
24 never know, that's not accurate, right?

25 **A** Yes. But I think he was more referring to

1 the context of the messages. And that's something,
2 yeah, we wouldn't know.

3 Q Sure.

4 And records and phone extractions never tell
5 us the substance of phone calls, right?

6 A In very rare circumstances. In this
7 particular case, no.

8 Q At the beginning, Mr. Scott was trying to
9 talk to you about the leaving Jamira's apartment around
10 2:26 when the Bluetooth connection connects, right?
11 And then, she eventually ends up at Boleg's house at
12 2:49?

13 A Yes.

14 Q You looked at the Google map with Ishmael's
15 address pinned on that, right?

16 A I did.

17 Q Is it fair to say that Ishmael's house is on
18 the way to Boleg's house from her apartment?

19 A It is. In fact, it's six minutes away from
20 her apartment and if you put in a route from her
21 apartments to his residence, and then from his
22 residence to Mr. Burden's residence, that is a journey
23 of about 12 minutes. So it is -- it is on the way.
24 Not -- not a direct route, of course.

25 Q Now, I don't actually know. But if you block

1 a number in your iPhone, and it sends a text message to
2 you, will that go through?

3 **A** On the carrier side, it will still be
4 identified in the records. But it would not go to the
5 phone.

6 **Q** So if I blocked a number, and they -- that
7 number tried to send me a text message, it would never
8 appear on my phone, or my iPhone?

9 **A** From the user's perspective, no.

10 **Q** Okay.

11 So there wouldn't be any substance to delete
12 from a message that comes from a blocked number?

13 **A** Correct.

14 **Q** Mr. Scott brought up these Instagram
15 messages. And he said there's the one that says -- you
16 heard -- you heard Captain Johnson testify earlier,
17 right, about "Can I get some pressure -- who can I get
18 some pressure from?" Right?

19 **A** I do recall that. Yes.

20 **Q** Can you tell me the date of that message
21 there?

22 **A** Certainly. It's January 21, 2021. And the
23 time is 6:26 p.m.

24 **Q** 6:26 p.m.

25 And then, the next part about "What's the zip

1 going for?" I believe, Captain Johnson testified that
2 was an ounce, right?

3 **A** He did.

4 **Q** And then Jaquan writes back and says, "It's
5 some gas? Who got it?" That's the date of that one?

6 **A** That is dated January 21, 2021, at 6:30 p.m.

7 **Q** Okay.

8 So all of the references about selling
9 marijuana are prior to 3:55 a.m. on January 22, right?

10 **A** Yes.

11 **Q** And was there any indication that those
12 Instagram messages had -- she -- that Jamira had
13 attempted to delete those out of your phone?

14 **A** No. Not -- not to my recollection. No.

15 **Q** Thank you. I don't have any more questions.

16 **RECROSS-EXAMINATION**

17 **BY MR. SCOTT:**

18 **Q** I just have one more. Did you -- did I
19 misunderstand? Did you say you can recover those
20 deleted texts?

21 **A** No, I didn't. I didn't testify to that.

22 **Q** Okay.

23 I misunderstood. So those 11 texts, they're
24 gone. We don't know what the content was?

25 **A** I mean, unless they were -- you know, the

1 other device, if that was accessible, that'd be another
2 method of getting them.

3 **Q** Okay. (Inaudible).

4 **A** I do understand. Yes. So no.

5 **Q** Okay.

6 So we don't know what those 11 -- I just want
7 to make sure that I don't mischaracterize. But you're
8 saying we can't recover the content of those 11 text
9 messages.

10 **A** The only other thing I could think of would
11 be if there was an iCloud account backup for this
12 phone. Could it potentially be there? Maybe. But I
13 think that's a long shot.

14 **Q** Did you find any evidence of that?

15 **A** I didn't.

16 **Q** All right.

17 Thank you.

18 **THE COURT:** All right.

19 Thank you, Mr. Watkins. You may step down.

20 **MR. B. SHEALEY:** The defense calls Dave
21 Anatra.

22 **THE COURTROOM DEPUTY:** Do you swear or affirm
23 that the testimony you're about to give in this
24 case to be the truth the whole truth and nothing
25 but the truth so help you God?

1 **THE WITNESS:** I do.

2 **THE COURTROOM DEPUTY:** Would you please state
3 your name for the record, spelling your last name?

4 **THE WITNESS:** My name is David Anatra,
5 A-n-a-t-r-a.

6 **THE COURTROOM DEPUTY:** Thank you. you may be
7 seated.

8 (Defense Exhibit Nos. 9 through 12 are marked for
9 identification.)

10 **DAVID ANATRA**

11 having first been duly sworn, testifies as follows:

12 **DIRECT EXAMINATION**

13 **BY MR. B. SHEALEY:**

14 **Q** Good afternoon, Dave. How are you doing?

15 **A** Fine.

16 **Q** Tell this jury about where you are currently
17 employed.

18 **A** I'm currently employed as an investigator
19 with the public defender's office in the Fifth Judicial
20 Circuit here in South Carolina.

21 **Q** All right.

22 And can you tell them a little bit about your
23 experience? What did you do for work before you came
24 to be employed by the public defender's office?

25 **A** A combination of law enforcement, which was

1 approximately 15 years, up until the point where I left
2 as a reserve lieutenant for a law enforcement agency in
3 Ohio. And then approximately 25 to 30 years doing
4 investigations in the private and/or public sector.

5 **Q** Okay.

6 What year did you become employed in this
7 courthouse?

8 **A** Would have been 2021. Or correction, 2022.

9 **Q** All right.

10 Is it safe to say that you have experience
11 handling firearms?

12 **A** Yes. With law enforcement, I have extensive
13 experience in handling firearms, as well as outside of
14 the law enforcement realm?

15 **Q** Okay.

16 Now, you don't work for me?

17 **A** No, I do not.

18 **Q** But if Ms. Hope Demer or Ms. Laura Young
19 asked you to do something, would you be available to do
20 that?

21 **A** Yes.

22 **Q** Okay.

23 And are you familiar with the Jamira Davis
24 case that we're here about today?

25 **A** I'm familiar with the name and the duties

1 that I was asked to perform, but nothing else about the
2 case.

3 Q Okay.

4 I'm going to show you a couple documents
5 here. I just want you to look through them and see if
6 you recognize any of this.

7 A (Reviews documents.)

8 Q And did you have occasion on Friday to get
9 called to do some work on this case? I'm gonna show
10 you Defendant's 12. Do you recognize that?

11 A Yes. That's Robert Benfield who was the
12 diver and then a photograph of the back of me watching
13 the diver in the water.

14 Q Okay.

15 And was that taken -- did you -- were you out
16 there on that location -- and tell the -- tell the jury
17 about what location that is.

18 A It's Mirror Lake off of Leesburg Road.

19 Q All right.

20 And what day did this activity occur last
21 week?

22 A It was last Friday. I don't remember the
23 exact date.

24 Q All right.

25 I'm going to show you what's marked as

1 Defendant's 11. Do you recognize that?

2 **A** Yes. That's me handling a firearm as we took
3 it out of the pouch.

4 **Q** All right.

5 I'll now show you Defendant's 10. Do you
6 recognize that? Is that your hand?

7 **A** Yes, it is.

8 **Q** All right.

9 And more of the same, Defendant's 6. Is that
10 still your hand and the same firearm?

11 **A** Yes, it is.

12 **Q** And Defendant's 7 for ID? Is that a picture
13 of the serial number on that particular firearm?

14 **A** Yes, it is.

15 **Q** All right.

16 And I'm gonna show you what is -- well, you
17 tell -- tell me what this document is, Defendant's 9.

18 **A** This is an evidence chain of custody tracking
19 form that was filled out on the day of the recovery of
20 the weapon.

21 **Q** All right.

22 And what -- what's the date of the recovery
23 of this weapon?

24 **A** June 23, 2023.

25 **Q** And at what time?

1 **A** 2:54 p.m.

2 **Q** All right.

3 And do you see your signature down here as
4 receiving custody of this firearm? And from whom did
5 you receive it?

6 **A** I received the firearm from the diver, which
7 was Robert Benfield.

8 **Q** Okay.

9 Now this diver doesn't work for the public
10 defender's office, does he?

11 **A** No, he does not.

12 **Q** Okay.

13 But you came in contact with him last Friday,
14 right?

15 **A** Yes, at the scene.

16 **Q** All right.

17 And do all of these images fairly and
18 accurately represent images of you and this firearm
19 from Friday of last -- last week?

20 **A** Yes, they do.

21 **MR. SCOTT:** Without objection, Your Honor.

22 **THE COURT:** So entered.

23 **MR. B. SHEALEY:** I'm just going to -- well,
24 we tend to do this. Your Honor, I'm moving
25 introduce these into evidence. This is gonna be

1 Defendant's, not in sequential order, but 9, 7, 6,
2 11, and 12 without objection.

3 **THE COURT:** Was 8 entered?

4 **MR. B. SHEALEY:** No. Eight, I believe is
5 still on the table.

6 **THE COURT:** All right.

7 **MR. B. SHEALEY:** Right. Eight is still for
8 ID.

9 (Defense Exhibit Nos. 6, 7, 9, 11, and 12 are
10 admitted into the record.)

11 **BY MR. B. SHEALEY:**

12 **Q** Dave, just so the jury can kind of see what
13 we're talking about -- and I'm going to try to orient
14 this so they can see. So again, you were called for
15 the first time on this case on Friday last week?

16 **A** Correct.

17 **Q** And again, so the jury understands, who was
18 that gentleman that's got a scuba tank and it looks to
19 be in the water?

20 **A** That's Robert Benfield, the diver.

21 **Q** Okay.

22 And what is your understanding about this
23 location and how you -- how you needed to look here?

24 **A** When I arrived at the scene, I was told that
25 they were searching for a firearm that possibly could

1 be in that lake.

2 Q Okay.

3 And is essentially your understanding of your
4 involvement that you know how to handle a firearm if
5 one was found

6 A That is correct.

7 Q Okay.

8 So that's you watching Mr. Benfield do his
9 thing, right?

10 A Correct.

11 Q Okay.

12 Is this roughly after Mr. Benfield has
13 provided -- found the firearm in the lake, right, to
14 watch him retrieve the firearm?

15 A That is correct.

16 Q And is this -- his bag is that bag where he
17 collected that firearm and -- and did he allow you to
18 open that bag and retrieve this firearm?

19 A Yes, he did.

20 Q All right.

21 And is this just one shot of you kind of
22 examining the firearm for the first time?

23 A Correct.

24 Q Okay.

25 I'm going to show you what is Defendant's 10.

1 Is this just more of the same and a little bit closer
2 view of the firearm?

3 **A** Yes, it is.

4 **Q** Does it have mud on it and some algae and
5 some other --

6 **A** Correct.

7 **Q** -- pond material?

8 I'm showing you Defendant's 6. This is
9 further kind of lifting it up to show this firearm.
10 And does it have a silver kind of upper portion of this
11 firearm?

12 **A** Yes. It was silver slide.

13 **Q** Okay.

14 And your understanding a semi-automatic, a
15 nine-millimeter?

16 **A** That is correct.

17 **Q** Okay.

18 And is this Defendant 7 just a closer picture
19 of you showing the camera, the serial number of this
20 particular firearm?

21 **A** Yes, it is.

22 **Q** Okay.

23 Now, I'm going to show you what's admitted as
24 Defendant's 9. And the jury -- you probably look at
25 this all the time, but the jury may not see this so --

1 so often.

2 Can everybody see this? I'm probably
3 standing in the way.

4 But describe this particular form and how
5 it's used in evidence collection.

6 **A** It's a chain of custody. Basically what that
7 does is, once we come in contact of a piece of
8 evidence, in this case, a firearm, it is to show that
9 we recovered it, and who we recovered it from, and that
10 there maintained a constant possession of us until we
11 turned it over to the next party that had a need to
12 have that piece of evidence, in this case, the firearm.

13 **Q** And the description of the evidence is in
14 this section here. And you'd agree that it's been
15 written down what kind of gun was discovered is an S&W.
16 Is that your understanding of a Smith & Wesson?

17 **A** Correct.

18 **Q** Nine-millimeter?

19 **A** Yes.

20 **Q** And then this portion here would be the
21 serial number, correct?

22 **A** Yes.

23 **Q** And then this is going to be -- we've got the
24 make and the model. This is going to be an SD9VE,
25 correct?

1 **A** That is correct.

2 **Q** And this just says some other describing
3 material, covered in silt, you know, over here. And
4 then this, we got Mirror Lake off Leesburg Road, right?

5 **A** Correct.

6 **Q** And 254. All right.

7 I'm gonna show you a little bit further down
8 regarding the chain of custody. And there's a couple
9 of signatures here. Do you see the first person that
10 would have to sign off would be the person presumably
11 retrieving it out of the water, right?

12 **A** That is correct.

13 **Q** Is that Mr. Benfield, the diver?

14 **A** Yes, it is.

15 **Q** And then here, is that your signature, David
16 S. Anatra?

17 **A** Yes, it is.

18 **Q** All right.

19 And is that -- are you signing there because
20 then you took it into your possession?

21 **A** That's correct.

22 **Q** Now describe to this jury when you took this
23 weapon that was muddy and wet, what did you do with it
24 at that point?

25 **A** The main reason I was there was to secure the

1 firearm if needed, make it safe. In this instance, we
2 recovered it. It was very dirty, very filthy. And as
3 I stated, it was just mainly to make sure that it was
4 safe and that no one could be accidentally injured by
5 the weapon itself.

6 Q Okay.

7 And the weapon was without the magazine,
8 correct?

9 A Correct.

10 Q And had no rounds in the chamber?

11 A No rounds in the chamber.

12 Q So you secured it and made sure it was safe?

13 A Yes, I did.

14 Q And then how did you package it at that
15 point?

16 A It was packaged in a brown paper bag. And
17 then the information with my name, the date, and the
18 exact serial number model was written on the bag. The
19 bag was then sealed shut and transported to
20 1507 Richland Street.

21 Q What location is that?

22 A That's the Shealey Law Firm.

23 Q My law office?

24 A Yes, sir.

25 Q Okay.

1 And so after that, did you put it into
2 possession of a gentleman named Steven Harper?

3 **A** Yes, I did.

4 **Q** And then is that your involvement with that
5 particular firearm?

6 **A** After it was turned over to Steven Harper,
7 then he took possession of the firearm. So therefore,
8 I had no more involvement with it.

9 **Q** Okay.

10 And again, that's -- the scope of your
11 involvement in this case was someone that knew about
12 firearms that could be available in case a firearm was
13 retrieved from that pond, right?

14 **A** Correct.

15 **MR. B. SHEALEY:** Okay.

16 Beg the Court's indulgence.

17 Dave, thank you. I don't have any further
18 questions.

19 **CROSS-EXAMINATION**

20 **BY MR. SCOTT:**

21 **Q** Good afternoon, Mr. Anatra.

22 **A** Good afternoon.

23 **Q** About how far out on the lake was it?

24 **A** I couldn't tell you the exact distance. It
25 was -- I'd say from where we were standing, it was

1 maybe halfway to the other side.

2 Q Okay.

3 How far across is that pond? It's kind of
4 hard to tell from this angle. To the yellow barriers
5 there. You know about how far that is?

6 A A little bit further than the yellow
7 barriers.

8 Q About how far?

9 A Again, I -- I really couldn't say.

10 Q Well, you were in law enforcement how many
11 years?

12 A I'm sorry.

13 Q You were in law enforcement how many years?

14 A Approximately 15 years.

15 Q Okay.

16 I just want an approximate kind of -- 20
17 yards? 30 yards?

18 A Yeah. I'd -- I'd -- I'd say maybe 30 yards.

19 Q And about in the middle of this particular
20 area. How long was the diver out there before he found
21 it?

22 A He was out there for quite a while. I would
23 probably say 40 minutes.

24 Q Forty minutes?

25 A Approximately?

1 **Q** Now, how did you know to look in that pond
2 for this gun?

3 **A** I'm sorry, sir?

4 **Q** How did you know to look in this particular
5 pond for that gun?

6 **A** I do not know that. I was just asked to
7 arrive in case they recovered a firearm.

8 **Q** Who asked you to do that?

9 **A** The public defender's office.

10 **Q** And what was their directions that -- how did
11 they know there might be a gun in this pond?

12 **A** I do not know.

13 **Q** Did you ask?

14 **A** No.

15 **Q** Did they tell you how the gun could have
16 gotten there?

17 **A** No.

18 **MR. B. SHEALEY:** Objection. That's -- he
19 just answered that question.

20 **BY MR. SCOTT:**

21 **Q** They didn't?

22 **A** No.

23 **Q** Okay.

24 They tell you where in particular in this
25 lake the gun might be? Because I mean, did y'all go

1 all the way over here and back? And how big is this
2 pond by the way?

3 **A** The instructions were given to the diver
4 where to search? So I don't know where exactly they
5 began looking.

6 **Q** You weren't privy to that?

7 **A** No.

8 **Q** Is Mr. Diver gonna be here today? Do you
9 know?

10 **A** I do not know what his schedule is.

11 **Q** So we -- we don't know how we decide to go to
12 Mirror Lake off Leesburg Road on Friday before trial to
13 look for a gun?

14 **A** My duties were just to secure a weapon in
15 case they found it.

16 **Q** So tell me, how long was that gun in that
17 pond?

18 **A** I do not know.

19 **Q** You already said you don't know who put it
20 there?

21 **A** I'm sorry?

22 **Q** You already said you don't know who put it
23 there, right?

24 **A** That's correct.

25 **Q** What happens to a -- my dad was always

1 getting onto me about cleaning my guns after every time
2 I used them. You know why, right? Especially a
3 shotgun. You leave it out and it gets a little bit of
4 humanity on it. What happens then to a gun?

5 **A** They get corroded.

6 **Q** Rust spots all over it. And it just makes
7 them look ugly, right?

8 **A** Correct.

9 **Q** And law enforcement. You had to clean your
10 guns regularly, I imagine.

11 **A** Correct.

12 **Q** I'm just looking at Defense 6. Where's the
13 rust in this picture? You said it had some algae on it
14 maybe and some silt. Where's the rust in that picture?

15 **A** Mud and silt. Based on what little bit of
16 knowledge I have on this kind of a weapon, the exterior
17 of it, the lower portion is polymer. The upper
18 portion, I don't know what that material is made of.
19 But I know that they resist rust and corrosion.

20 **Q** Did you see any metal parts on this gun?

21 **A** The slide was metal.

22 **Q** Okay.

23 Where's the rust on the slide? Or am I
24 missing it? You might have a better picture that shows
25 it. Where's the rust?

1 **A** I didn't see any.

2 **Q** Would you expect to see rust on metallic
3 parts of anything, whether it be a --

4 **A** It depends on what the material is made of,
5 whether or not it will rust or not.

6 **Q** Let me finish real quick.

7 **A** I'm sorry?

8 **Q** Let me finish before you answer.

9 Now, let's say I threw a metallic object in a
10 pond and it sat there for two and a half years.

11 **A** Uh-huh.

12 **Q** You telling me you wouldn't expect to see any
13 rust or any corrosion on it?

14 **A** Again, it depends on the material.

15 **Q** You wouldn't expect to see any corrosion or
16 rust on a metallic object?

17 **A** Depending on what it's made of.

18 **Q** If I threw a gun in a pond for two and a half
19 years, you wouldn't expect to see any rust or corrosion
20 on a metallic gun?

21 **A** It depends on what it's comprised of.

22 **Q** Why do we clean guns? Why do -- I mean why
23 do they make materials that keep rust off guns if
24 you're telling me that's not a factor in your
25 experience?

1 **A** Rust isn't the only reason you keep a firearm
2 clean.

3 **Q** Okay.

4 Do you see any rust on this gun?

5 **A** No, I do not.

6 **Q** Do you see any corrosion on that gun?

7 **A** Not that I was aware of. There could always
8 be corrosion on the inside. I didn't disassemble it.
9 I thought your sole purpose was to be there to make
10 sure the gun was secure and safe.

11 **A** That's correct.

12 **Q** But you didn't observe it?

13 **A** I said I did not disassemble it.

14 **Q** But you didn't observe the insides is what
15 you just said. You said there could have been --

16 **A** I pulled the slide back to make sure there
17 were no rounds in the chamber. And then I secured the
18 weapon.

19 **Q** When you pulled the slide back, was there any
20 corrosion or rust on the interior portion of the gun?

21 **A** I did not examine it. I just totally
22 examined it to make sure it was safe and secure.

23 **Q** Where it was the magazine?

24 **A** I don't know.

25 **Q** Where were the bullets?

1 **A** I don't -- not know.

2 **Q** Why did you take it to Shealey Law Firm
3 instead of your own office?

4 **A** I'm sorry?

5 **Q** Why did you take it to the Shealey Firm
6 instead of your own office? You said --

7 **A** We don't have a place to keep evidence
8 secured.

9 **Q** What did they have?

10 **A** They had a fireproof safe. That was locked.

11 **Q** You don't have a safe?

12 **A** No, sir.

13 **Q** Who should I ask where to find where that gun
14 came from? The diver?

15 **A** The diver could tell you where he recovered
16 it.

17 **Q** Does he know who threw it in that pond?

18 **A** I'm sorry?

19 **Q** Does he know who threw it in the pond?

20 **A** I do not know that.

21 **Q** Does he know when the gun was thrown in the
22 pond?

23 **A** I do not know that.

24 **Q** All right.

25 Anything else?

1 **A** (No audible response.)

2 **Q** Anything else you can think of?

3 **A** No, sir.

4 **Q** Thank you.

5 **MR. B. SHEALEY:** Thank you -- thank you,

6 Dave. You can step down. That's all.

7 We'd call, Steven Harper.

8 **THE COURTROOM DEPUTY:** Sorry. It's a light.

9 Do you swear or affirm that the testimony
10 that you're about to give in this case to be the
11 truth, the whole truth and nothing but the truth
12 so help you God?

13 **THE WITNESS:** I do.

14 **THE COURTROOM DEPUTY:** Would you please state
15 your full name, spelling your first and last name?

16 **THE WITNESS:** Steven Harper. S-t-e-v-e-n
17 H-a-r-p-e-r.

18 **STEVEN HARPER**

19 having first been duly sworn, testifies as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. B. SHEALEY:**

22 **Q** Steven, tell this jury where you work and
23 what your title is.

24 **A** I'm a litigation investigator for the Shealey
25 Law Firm.

1 **Q** You decided to dress up today, did you?

2 **A** Lil bit.

3 **Q** All right.

4 Next time, wear a jacket.

5 So -- but do you recognize your signature on
6 this particular document, and you were not here
7 earlier, but this is Defense 9. And it says State
8 versus Jamira Davis. And this is an evidence chain of
9 custody tracking form. And let me just actually walk
10 it up to you so you can look it a little more closely.

11 Defense 9. Do you see your signature on this
12 chain of custody?

13 **A** Yes.

14 **Q** All right.

15 And again, you don't work for the public
16 defender's office, right?

17 **A** Correct.

18 **Q** You work for me.

19 And then on last Friday, do you recall Dave
20 Anatra from the public defender's office come in with a
21 package to our office?

22 **A** I do.

23 **Q** And did we ask you to take possession of that
24 package?

25 **A** Yes.

1 **Q** And assist us in securing it in our fireproof
2 safe?

3 **A** Yes.

4 **Q** Okay.

5 Have you done any other work in this case
6 beside helping us serve some subpoenas?

7 **A** That's it.

8 **Q** Okay.

9 You never altered the package. You never
10 looked at it. Anything else?

11 **A** No. I did not.

12 **Q** And then again, here, do you recognize your
13 name as the last name of three on this particular chain
14 of custody, right?

15 **A** Correct. That is me.

16 **MR. B. SHEALEY:** All right.

17 Beg the Court's indulgence.

18 All right.

19 Thank you, Steven.

20 **CROSS-EXAMINATION**

21 **BY MR. SCOTT:**

22 **Q** Mr. Harper, do you know how that gun came to
23 be in that pond?

24 **A** I don't.

25 **Q** Do you know where in that pond it was

1 located?

2 **A** I did not go to the pond.

3 **Q** Do you know how long it was in the pond?

4 **A** Nope.

5 **Q** Has anybody explained to you how the gun got
6 in the pond to this day?

7 **A** I don't know anything about the case.

8 **MR. SCOTT:** That's all questions I have.
9 Thank you.

10 **MR. B. SHEALEY:** Thank you, Steven. That's
11 all.

12 The defense would call Officer Dykstra.

13 **THE COURTROOM DEPUTY:** Do you swear or affirm
14 that the testimony you're about to give in this
15 case to be the truth, the whole truth and nothing
16 but the truth so help you God?

17 **THE WITNESS:** Yes, I do.

18 **THE COURTROOM DEPUTY:** Would you please state
19 your full name for the record, spelling your last
20 name?

21 **THE WITNESS:** James Edward Dykstra,
22 D-y-k-s-t-r-a.

23 **THE COURTROOM DEPUTY:** Thank you. You may be
24 seated.

25 **JAMES DYKSTRA**

1 having first been duly sworn, testifies as follows:

2 **DIRECT EXAMINATION**

3 **BY MR. B. SHEALEY:**

4 **Q** Good afternoon, Officer Dykstra. I want to
5 get your title rank. What is your current position
6 with the Richland County Sheriff's Department?

7 **A** Investigator.

8 **Q** Investigator. Okay.

9 And were you directed to or received a call
10 to go to 1507 Richland Street last Friday?

11 **A** Yes, I was.

12 **Q** Okay.

13 And who were you directed to go there by?

14 Was that Mr. -- Investigator Jordan or --

15 **A** No, it was my on-call sergeant at -- Sergeant
16 Glenn Oxendine.

17 **Q** Oxendine. Okay.

18 And was it your understanding that you were
19 gonna go to 1507 Richland Street to retrieve a firearm?

20 **A** Yes, I was.

21 **Q** Okay.

22 And that was -- you don't have any direct
23 involvement in the State versus Jamira Davis case,
24 right?

25 **A** No, I do not.

1 **Q** Okay.

2 Now, in the afternoon, did you go and
3 retrieve a firearm -- well, did you receive -- retrieve
4 a package from a fire safe at 1507 Richland Street?

5 **A** Yes.

6 **Q** Okay.

7 Did you photograph the package? Or what did
8 you do with it next?

9 **A** I transported it to Richland County Sheriff's
10 Department Headquarters on Two Notch.

11 **Q** Okay.

12 Did you submit it to the evidence chain lab?

13 **A** Yes.

14 **Q** Okay.

15 So that was your involvement with the case.
16 You didn't alter the package, change, or do anything
17 like that?

18 **A** I -- I took it out of the package to put it
19 into evidence as is policy.

20 **Q** Okay.

21 Do you have any identifying information on
22 the gun when you took it out? Did you write anything
23 down?

24 **A** I -- I submitted it into evidence with the
25 correct labeling. You have to also put a printout from

1 NCIC along with it. And I did that as well.

2 Q Okay.

3 So you did your job in this case, right?

4 A Yes, sir.

5 Q Do you know approximately what time you
6 retrieved it from the fire safe at 1507 Richland Street
7 last Friday?

8 A I believe it was about 5:40 p.m.

9 Q Okay.

10 And again, you didn't open the package until
11 you got to Richland County, right?

12 A Correct.

13 Q Okay. All right.

14 Thank you.

15 **CROSS-EXAMINATION**

16 **BY MR. SCOTT:**

17 Q Hello, Officer Dykstra.

18 A Hello.

19 Q Who did you retrieve the gun from, or who
20 gave you the gun?

21 A I believe it was a Hope Demer or Shealey, I
22 was told.

23 Q Hope Demer Shealey?

24 A Right.

25 Q Okay.

1 And Ms. Hope told you what about the gun?

2 Did she tell you where it came from?

3 **A** No.

4 **Q** Did she offer any information on where that
5 gun been?

6 **A** No.

7 **Q** It was just, "Here you go. Take it"?

8 **A** Correct.

9 **Q** And then, what research was performed on the
10 gun? Were you able to determine anything relevant
11 about the gun?

12 **A** Well, like I said, you have to pull a NCIC
13 confirmation page to be able to put it into evidence.
14 When I did that, the gun came back stolen out of
15 Richland County?

16 **Q** In what year?

17 **A** 2018.

18 **Q** So whoever bought that gun, the gun was
19 eventually stolen from them? Or at least some rightful
20 owner, the gun was stolen from at some point?

21 **A** All I could tell from that -- I did not do
22 any research as far as the original case report -- it
23 was reported stolen November 2018 out of Richland
24 County.

25 **Q** So before this case happened -- we got to

1 January 22, 2021, incident date -- that gun had already
2 been stolen from somebody else?

3 **A** Yes. It was reported back in 2018 as stolen?

4 **Q** Okay.

5 Hey. What happens if you leave your gun out
6 in the rain or you leave it in some water for a long
7 time?

8 **A** I -- I'd imagine it get pretty weathered
9 and -- and maybe be able to not function. I'm not --
10 I'm not exactly sure.

11 **Q** Did it have corrosion or rust on it
12 sometimes? You didn't have to clean that off your guns
13 or am I the only one?

14 **A** I tried to take pretty good care of my
15 firearms. The gun itself did appear to be rather
16 weathered. But again --

17 **Q** I'm just -- did you see? Because I'm looking
18 to -- I hadn't seen the gun. Apparently, it just
19 showed up Friday; is that right?

20 **A** That's what I was told, to go -- go retrieve
21 it.

22 **Q** And I don't see any rust or corrosion on that
23 metallic slide. Apparently -- I -- I don't know how
24 long the gun has been in the lake. But let's say it
25 was 885 days on Friday that that gun would have been in

1 body water?

2 A Okay.

3 Q Unless it was thrown in some time later.

4 Could it have been thrown in Friday morning?

5 A I couldn't speculate to that. I -- I
6 wouldn't know.

7 Q So maybe somebody who does know will tell us
8 right?

9 A It -- like I said, it appeared that it had
10 not been taken care of. That's about all I could.

11 Q Is it showing -- do you see any rust or
12 corrosion on there?

13 A I mean, I see a few spots on the slide. I
14 don't know what it -- what it could be, though.

15 Q All right.

16 Thank you, Officer Dykstra.

17 A No problem.

18 **REDIRECT EXAMINATION**

19 **BY MR. B. SHEALEY:**

20 Q Just briefly, Officer Dykstra. So you just
21 testified that gun did -- did appear to be pretty
22 weather, right?

23 A Yes, sir.

24 Q And again, are you in any way controlling it?
25 I mean, you have that whole ballistics lab where you

1 can test firearms. I mean, Richland County has a lot
2 of resources, their own lab, right?

3 **A** Correct.

4 **Q** So that could be tested at the direction of a
5 case agent on this case or the solicitor if they wanted
6 to against other evidence in a case, right?

7 **A** I would assume so.

8 **Q** Okay. Thank you.

9 **A** Sure.

10 **MR. B. SHEALEY:** I have no further questions.

11 **MR. SCOTT:** None from the state, Your Honor.

12 **THE COURT:** Thank you, Officer Dykstra.

13 **MR. B. SHEALEY:** Your Honor, may we approach?

14 **THE COURT:** Yes.

15 (A sidebar conference is held off the record.)

16 **THE COURT:** All right, ladies and gentlemen.
17 We're going to break a little early today. I'm
18 going to tell you again and again and again: Do
19 not discuss the case. Do not do any independent
20 research. Do not discuss the case with yourselves
21 as jurors or with your family or friends, anybody
22 of that nature.

23 We'll see you back here tomorrow morning at 9
24 a.m. 9 a.m. in the jury deliberation room. Thank
25 you.

1 (The jury exits the courtroom at 4:47 p.m.)

2 **THE COURT:** Anything else from the state?

3 **MR. SCOTT:** No, Your Honor.

4 **THE COURT:** Anything else from the defense?

5 **MS. DEMER:** No, Your Honor.

6 **THE COURT:** All right.

7 9 a.m. tomorrow.

8 (The Court recesses for the day.)

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1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, do hereby certify that I transcribed
4 the electronic recording of the remote hearing in this
5 matter; and that the foregoing is a true transcript of
6 said electronic recording.

7 I do further certify that I am not a relative,
8 employee, attorney, or counsel of any of the parties
9 connected with the action, nor am I financially
10 interested in the action.

11
12 Dated: January 28, 2024

13
14 /s/Teresa B. Johnson

15 Teresa B. Johnson

16 Official Court Reporter
17
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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	Case No.: 2021GS4005862
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Jamira U. Davis,	)	
	)	
Defendant.	)	June 30, 2023
_____	)	

TRANSCRIPT OF TRIAL - DAY 4 OF 5

BEFORE THE HONORABLE DANIEL COBLE
Circuit Court Judge, presiding

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P R O C E E D I N G S

(Defense Exhibit Nos. 13 through 16 are marked for identification.)

MR. B. SHEALEY: I think we're set up at this point.

THE COURT: All right.

Anything from the state before we bring the jury in?

MR. SCOTT: I'm sorry.

THE COURT: Anything from the state before we bring the jury?

MR. SCOTT: Nothing from the state.

THE COURT: Anything from the defense, Mr. Demer?

MS. DEMER: No, Your Honor.

THE COURT: All right.

Let's bring the jury.

(The jury enters the courtroom at 9:18 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Good morning, ladies and gentlemen. Thank you for being here today. We had some legal issues to take up prior. But we're gonna get started right now. So thank you again for your patience and your promptness. And we'll let the defense get right at it.

1 **MR. B. SHEALEY:** Defense calls Robert
2 Benfield.

3 **THE COURTROOM DEPUTY:** Raise your right hand.
4 Place your left hand on the Bible.

5 Do you swear or affirm the testimony that you
6 give in this case will be the truth, the whole
7 truth and nothing but the truth so help you God?

8 **THE WITNESS:** I do.

9 **THE COURTROOM DEPUTY:** Thank you. Please
10 have a seat in the witness stand. State your full
11 name for the record and please spell your last
12 name.

13 **THE WITNESS:** Good morning. My name is
14 Robert Benfield, B-e-n-f-i-e-l-d.

15 **ROBERT BENFIELD**

16 having first been duly sworn, testifies as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. B. SHEALEY:**

19 **Q** Good morning, Mr. Benfield. How are you
20 doing today?

21 **A** I'm doing well. Thank you.

22 **Q** Tell this jury a little bit about, you know,
23 your -- your current job and a little bit about your
24 professional career, and then how -- how you got
25 involved in this case.

1 **A** Okay.

2 So currently, my full time job is I'm the
3 Director of Insurance for the South Carolina
4 Association of Counties. I've been blessed the last 30
5 years to work with 41 of our counties on the risk
6 management safety programs, everything from accident
7 investigation to prevention to things that keep our
8 guys safe.

9 In addition to that, I've also got certified
10 to dive when I -- in 2009. I continued taking classes.
11 And in 2018 I became a certified assistant as dive
12 instructor through the Wateree Dive Center. During
13 that time, I've logged over 500 dives, and enjoyed
14 helping students.

15 **Q** Okay.

16 So is it safe to say that you frequently get
17 asked to go on diving expeditions to help recover items
18 that have been lost?

19 **A** Yes. In addition to doing construction with
20 students, I'm also called by people who lost objects,
21 whether it's cell phones; wedding bands; wallets; boat
22 motors. And I've recovered firearms before also.

23 **Q** Have you ever worked in law enforcement?

24 **A** In 1992 and 1993 while I was attending the
25 South Carolina Association account -- South University

1 of South Carolina -- excuse me -- I was a reserve
2 police officer while I was getting my master's in
3 criminal justice.

4 **Q** All right.

5 So what was your first involvement in the
6 Jamira Davis' case. And I'll just ask you, were you
7 contacted to help retrieve a firearm from a pond?

8 **A** Yes. On June 21, Wednesday, I received a
9 phone call. And they asked if I was willing to dive a
10 lake to retrieve a firearm.

11 **Q** Okay.

12 And were you willing and able to do that?

13 **A** I was. I asked several questions; confirmed
14 the location of the lake, how long the weapon could
15 possibly been in the lake. And I agreed on Friday,
16 June 23, to attempt a dive to retrieve a weapon from
17 Mirror Lake.

18 **Q** Okay.

19 And I'm gonna show you a couple of pictures
20 that you can identify. I'm going to show you what's
21 marked for ID as Defendant's 15? And were you aware
22 that you were being video recorded and filmed as you
23 were attempting to locate the firearm?

24 **A** Yes, I was. In fact, before I entered the
25 water, I had a discussion with both investigators. If

1 I were to find an object, when I stood up and surfaced,
2 I would let them know I found it and I would show it to
3 them.

4 **Q** So I'm gonna show you Defense 14 and 15 and
5 16. What do you recognize these to be?

6 **A** These are photographs of me underwater trying
7 to locate the weapon.

8 **Q** Okay.

9 But you -- you do recognize yourself in this
10 picture in the pond and the conditions that day?

11 **A** I do. It was a very challenging day, to tell
12 you the truth.

13 **Q** Okay.

14 **A** So when I --

15 **Q** Yeah. And I'll ask you some more questions
16 about that. And are you looking at Defendant's for ID
17 No. 13, which says "Pawn Video"?

18 **A** Correct.

19 **Q** Okay.

20 **MR. SCOTT:** All right.

21 No objection to Defense 14, 15, 16 -- 13, 14,
22 15, and 16.

23 **THE COURT:** All right.

24 You're moving those in, Mr. Shealey?

25 **MR. B. SHEALEY:** Yes, Your Honor. At this

1 time, I seek to admit Defendant's 13, 14, 15, and
2 16 without objection into evidence.

3 **THE COURT:** So entered.

4 **MR. B. SHEALEY:** Thank you.

5 (Defense Exhibit Nos. 13 through 16 are admitted
6 into the record.)

7 **BY MR. B. SHEALEY:**

8 **Q** So just so the jury can look at some of this
9 stuff, you've already identified 14 as this pond. And
10 I know we can't see anything right now. But is it your
11 understanding that that's you actually doing the dive
12 in this point?

13 **A** Yes, that would be where I was in the water.

14 **Q** Okay.

15 And Defendant's 15, do you recognize yourself
16 there doing the task that you were hired to do?

17 **A** Yes, sir. I do.

18 **Q** Okay.

19 And tell us a little about -- about this
20 lake. Was this an easy thing for you to find this
21 firearm, or was it not so easy?

22 **A** So it was very challenging actually. When I
23 arrived on the scene, I met with Investigator Conley
24 and Investigator Anatra. And Investigator Conley
25 showed me where they believe the weapon had been thrown

1 from. So based on that information --

2 Q Was it your understanding that our client put
3 Ms. Conley on exactly where this weapon would have been
4 thrown?

5 A Yes, it is.

6 Q Okay. Continue.

7 A So based on the location, the environment, I
8 decided to use a technique that we call "a pendulum,"
9 or making an arc. It's basically a half circle. So I
10 decided to attach a rope to a spot on the bank. There
11 was a small tree there. I had done my gear with the
12 investigators watching me. I entered the water. I
13 went about out 30 foot with rope in my hand.

14 At that point in time, I submerged into the
15 lake. I laid flat across the bottom in about six foot
16 of water. At that point in time when I hit the bottom,
17 there was a fine layer of silt. And the weed is fully
18 covered -- the lake is fully covered on the bottom with
19 a fine moss like weed almost.

20 Q Mr. Benfield, yeah. I think, describe to the
21 jury the clarity of the water and just the general area
22 where you found the firearm. I know you're getting
23 into it. But how high would it be. What was the silt
24 like?

25 A So the weeds were a good two-foot tall at

1 least. The silt, once I hit the bottom, basically had
2 zero visibility. So what I was forced to do was a
3 technique that we call "arc." Left hand was on the
4 rope. I was laid flat on the bottom of lake. I took
5 my right hand. I swept all on the bottom of the lake
6 around me through all the weeds. Then I moved two foot
7 to my right, and I did it all the way across until I
8 hit the other side of the bank. Then I came up two
9 foot of the rope and came back and forth. So it allows
10 us to tighten -- cover an entire area in the bottom
11 very thoroughly.

12 Roughly 45 minutes into this dive through an
13 hour, my right hand swept. I hit something that felt
14 like metal object. I placed my hand on top of it. It
15 felt like a firearm, a gun. I released the rope from
16 my left hand, identified it was a weapon. I then
17 carefully worked it out of the weeds, pulled it to my
18 stomach. I stood up in four foot of water. I removed
19 the weeds carefully from the weapon. I, then, held the
20 weapon to let the investigators know I found the gun.

21 **Q** Mr. Benfield, was this gun in the middle of a
22 bunch of weeds? Did it seem like it was on top or were
23 weeds growing around it? What's your opinion?

24 **A** No. When my hand hit the weapon, it was at
25 the base, to meet all the weeds. And it was silt that

1 came up across it. So my opinion, it had been there
2 for a while.

3 Q So I'm gonna show you what's marked as
4 Defense 16 that's admitted into evidence. Do you
5 recognize yourself in this image?

6 A Yes, I do.

7 Q Is this you coming out of the water with your
8 recovery bag?

9 A Yes. So when I stood up with the weapon in
10 my hand and I showed the investigators in the bank that
11 I had recovered a gun, I placed it in a recovery bag on
12 my chest. I closed it. I came to shore. I exited the
13 lake. The investigators accompanied me to the back of
14 my tailgate of my truck. I detached my bag and laid it
15 on the tailgate of my truck. I carefully opened the
16 bag. I removed the weapon. I placed it on the bag.
17 And I stepped backwards. And at that point in time,
18 Investigator Anatra processed the weapon.

19 A Mr. Benfield, I'm going to show you a -- a
20 video, a short video now of Defendant's 13. And we'll
21 talk about this momentarily.

22 (Exhibit is played.)

23 **BY MR. B. SHEALEY:**

24 Q So Mr. Benfield, do you recognize your name
25 on this recovery bag?

1 **A** Yes, I do.

2 **Q** Okay.

3 And you can see -- is this an example of the
4 two-foot weeds that would have been surrounding this
5 firearm?

6 **A** Yes, sir.

7 **Q** Okay.

8 (Exhibit is played.)

9 **BY MR. B. SHEALEY:**

10 **Q** That's the end of it.

11 Did you see the silt and the mud that was
12 coming out of the firearm?

13 **A** I did, sir. Yes. That was indicative of
14 what's on the bottom? It was inside my bag also.

15 **Q** And doing a lot of dives as you do for people
16 that have lost things and I -- is it my understanding
17 as well, that you dive as a hobby?

18 **A** I also dive as a hobby. I spend a lot of
19 time in the Cooper River with zero visibility
20 recovering shark's teeth and artifacts. I also do
21 dives for individuals who lose things.

22 **Q** Okay.

23 And is it your opinion -- or I'll just ask
24 you this. Do you believe that that firearm has been
25 there a significant period of time?

1 **A** Based on the amount of silt that came up when
2 my hand came across it, the weeds I had to clear off it
3 when I surfaced, and the mud and silt coming off of it
4 at that point in time, it is -- I do believe it had
5 been down there for a long period of time.

6 **Q** And I'll show you what's marked as Defense 9
7 that's already evidence. This is a -- do you recognize
8 this as a chain of custody tracking form?

9 **A** I do.

10 **Q** Okay.

11 And do you see the description of evidence as
12 a Smith & Wesson nine-millimeter with a serial number
13 and model?

14 **A** Yes.

15 **Q** And most importantly, do you recognize your
16 signature in the chain -- the first person in the chain
17 of custody there, right?

18 **A** I do.

19 **Q** And that gentleman that was in the red shirt
20 was who released this firearm into his possession,
21 correct?

22 **A** That is correct.

23 **Q** And who -- what is your understanding of who
24 that person would be?

25 **A** That would have been investigator with the

1 Richland County Court System.

2 Q Okay.

3 So you don't perform your services free of
4 charge, do you?

5 A No, sir.

6 Q How much were you paid to do this dive
7 service?

8 A I had agreed to attempt to recover this
9 weapon for 500 -- \$500?

10 Q Okay.

11 Is that whether or not you found it instantly
12 or had to spend a long time?

13 A It doesn't matter. I brought three tanks
14 with me that day. I was going to spend over six hours
15 in the water looking for that gun if I needed to.

16 Q Okay.

17 Thank you, Robert. Please answer any
18 questions that the solicitor has for you.

19 **CROSS-EXAMINATION**

20 **BY MR. SCOTT:**

21 Q Good morning, Mr. Benfield.

22 A Good morning.

23 Q So you got some preliminary -- you had some
24 preliminary questions once you're told about this
25 weapon?

1 **A** Yes, sir.

2 **Q** I heard you say you were interested in
3 generally where it would be.

4 **A** So before I decided to accept the job, I
5 wanted to know the location, the -- how long the item
6 had been in the pond, did they have any idea where it
7 had been thrown from? All of this go into play in
8 deciding if I'm gonna take a job or not?

9 **Q** Okay.

10 And what were you told how long it had been
11 the water?

12 **A** I'd been told that the weapon had been in the
13 water for about two years or more.

14 **Q** Okay.

15 And that particular pond that you -- is it a
16 pond or a lake or?

17 **A** It's called Mirror Lake. It looks like a
18 small pond.

19 **Q** Yeah. Okay.

20 Is it fed by creeks?

21 **A** There is a creek that flows into it and it
22 flows out of it. Yes, sir.

23 **Q** Okay.

24 And you can dive a lake for some time. Tell
25 us about changes in weather and heavy rainfall and

1 whatnot, how that would affect the bottom of any body
2 of water really that's fed from other sources.

3 **A** If you have a strong current flowing over an
4 area, it's gonna move silt and dust and things around
5 lighter objects will be moved. Heavy object like that,
6 I don't think it moved from the time it was put there.

7 **Q** Tell us about your experience with silt
8 deposits and heavy rainfall and what that -- what
9 occurs on a body of water such as this.

10 **A** So when I do a lot of diving in Lake Murray
11 for people that have lost objects, because of the
12 current flow and the wave action, Lake Murray moving
13 silt and dirt around, if the objects in there more than
14 four or five days, it gets covered in silt.

15 **Q** Now, we had a lot of rain lately, haven't we?

16 **A** We have.

17 **Q** And the plants you're talking about, was it
18 hydrilla?

19 **A** No. It wasn't hydrilla. It was almost like
20 a thin, hairy moss weed that covered everything. You
21 can see it on me when I exited the lake.

22 **Q** Does it grow vertically?

23 **A** Yes. It grows vertically. Yes, sir.

24 **Q** So really anything you could drop in that
25 that's heavier, I guess, and denser than those

1 particular weeds would naturally drop down to the
2 bottom of the base of those weeds. Is that safe to
3 say?

4 **A** It would.

5 **Q** Okay.

6 So how is it, again, that you're able to tell
7 it was in there a long time when we just talked about
8 rain and heavy rain and moving of silt?

9 **A** So one of -- yes, sir. So one of the
10 fortunate things about where this weapon was located,
11 it was roughly 15 to 20 foot off the bank. The main
12 current flow for this creek was much further to the
13 right. So there wasn't a whole lot of current in the
14 area that I was in. But when I hit the bottom, a fine
15 layer of silt did come up. But it was almost zero
16 visibility. So I was hand over hand until I found the
17 weapon.

18 And when I went to remove the weapon, I had
19 to carefully bring it out through weeds. So I believe
20 there were weeds growing up through the weapon.

21 **Q** Okay.

22 Do you know the rate -- I know hydrilla.
23 That stuff grows fast. But this particular weed that
24 you were talking about, do you know the growth rate of
25 that particular weed?

1 **A** I don't.

2 **Q** You can explain to the jury a lot of the
3 aquatic weeds and whatnot, they tend to grow faster
4 during the warmer months --

5 **A** Absolutely.

6 **Q** -- is that safe to say? Okay.
7 That's even difficult to really judge time by
8 aquatic plants?

9 **A** Sure. You -- the -- the season -- the season
10 that could change.

11 **Q** Right. Okay.

12 Did you know that gun was stolen back in
13 2018?

14 **A** I did not.

15 **Q** Okay.

16 What else did they tell you about the gun and
17 how it got to be out there?

18 **A** They told me the gun had been in the pond for
19 roughly two plus years, that it was thrown in there by
20 somebody. And one of my main questions was: Do you
21 have any idea where was thrown from? Because even
22 though it's a smaller pond, it would take days to cover
23 the entire pond. So being able to narrow down the
24 search area, it still doesn't mean over an hour. And
25 that was -- by the grace of God, I was able to find the

1 gun in those conditions.

2 Q Did they tell you where the rest of the gun
3 was? The other parts of it?

4 A No, sir. That is the only thing I brought to
5 the surface.

6 Q Okay.

7 Anything else they told you about how that
8 gun came to be and why you just found out about it the
9 week before trial? Did they tell you anything about
10 that?

11 A No. I received the call on a Wednesday.

12 Q Okay.

13 And Conley called you?

14 A Yes, Investigator Conley.

15 Q Did he say how long he had information of the
16 whereabouts of that gun?

17 A She did not.

18 Q Conley's a woman?

19 A Conley is a female.

20 Q I apologize. So -- okay.

21 If she did, did she say whether or not she
22 knew how long she knew about that gun being in the
23 pond?

24 A She did not.

25 Q But when I asked the question of what was the

1 timeline for the recovery because it was a Wednesday,
2 they said the trial started on Monday. So I agreed to
3 dive as soon as I could, which was Friday.

4 **Q** Okay. All right.

5 That's all the questions I have for you.

6 Thank you, Mr. Benfield.

7 **A** Thank you.

8 **MR. B. SHEALEY:** Thanks, Robert. That's it.

9 Appreciate it.

10 **THE WITNESS:** You're welcome.

11 **THE COURT:** All right.

12 Sir, you may step down.

13 **MS. DEMER:** The defense calls Wynette

14 Thompson.

15 **THE BAILIFF:** Stand right here. Place your
16 left hand on the Bible and raise your right hand.

17 Left hand on the Bible. Raise your right
18 hand.

19 **THE COURTROOM DEPUTY:** Do you swear or affirm
20 the testimony you give in this case will be the
21 truth, the whole truth and nothing but the truth
22 so help you God?

23 **THE WITNESS:** Yes, ma'am.

24 **THE COURTROOM DEPUTY:** Okay.

25 Please have a seated in the witness stand and

1 state your full name for the record.

2 **THE BAILIFF:** Speak loudly into that
3 microphone, ma'am. You can take that mask off.

4 **THE WITNESS:** My name is Wynetta Thompson.

5 **THE COURT:** All right.

6 Ms. Thompson, if you'll just make sure you
7 speak up so the court reporter can hear you.

8 Okay?

9 **MS. DEMER:** May it please the Court?

10 **WYNETTA THOMPSON**

11 having first been duly sworn, testifies as follows:

12 **DIRECT EXAMINATION**

13 **BY MS. DEMER:**

14 **Q** Hi, Ms. Thompson. The jury has heard a
15 little bit about you already. Can you tell them how
16 you know Jamira Davis?

17 **A** Jamira Davis is my middle girl. I have three
18 girls. One is Destiny. One is Jamira. My baby girl
19 is Jaasia?

20 **Q** Ms. Thompson, do you have a nickname?

21 **A** Boo.

22 **Q** So if people have heard about "Boo" in this
23 case, that would be you?

24 **A** Yes, ma'am.

25 **Q** And how did you know Brandon Burden?

1 **A** I dated him.

2 **Q** What name did you know him by?

3 **A** Boleg.

4 **Q** And how long did you date him?

5 **A** It was nine plus.

6 **Q** Nine plus years?

7 **A** Yes, ma'am.

8 **Q** So around when did you start dating him?

9 **A** I don't remember. (Inaudible).

10 **Q** How else would you describe your relationship
11 with Boleg?

12 **A** It was good at the beginning.

13 **Q** Then what happened?

14 **A** Finally got a job. He started going good.
15 He started -- he was still drinking beer. He started
16 drinking liquor. Then he started changing. A lot of
17 things he didn't do in front of me.

18 **Q** Ms. Thompson, was he abusive?

19 **A** Yes, ma'am.

20 **Q** And in what ways was he abusive?

21 **A** A lot of ways.

22 **Q** Verbally?

23 **A** Yes, ma'am.

24 **Q** Was he physically abusive as well?

25 **A** Yes, ma'am.

1 **Q** When did he start abusing you, about how long
2 into the relationship?

3 **A** Maybe a couple days down the line. Maybe if
4 I come in too late from work. I didn't have to do
5 anything wrong. Somebody made him made before he got
6 there, it all would be on me.

7 **Q** Did you ever call the police on Boleg?

8 **A** Yes, ma'am. A lot.

9 **Q** Did you ever -- did you if he had any guns?

10 **A** Yes, ma'am.

11 **Q** Was it just one or did he have multiple?

12 **A** Multiple.

13 **Q** Did you ever threaten you with guns?

14 **A** Yes, ma'am.

15 **Q** Ms. Thompson, do you recognize Defense
16 Exhibit 8?

17 **A** Yes, ma'am.

18 **Q** How do you recognize that gun?

19 **A** Because that gun was to my head one night.

20 **Q** Do you remember speaking to the police the
21 day that Boleg died?

22 **A** Yes, ma'am.

23 **Q** Do you remember telling them that you left
24 him in about October 2020?

25 **A** Yes, ma'am.

1 **Q** What happened when you left him? Tell the
2 jury why you left.

3 **A** I worked that day. I stopped by mother's
4 house to check on my girls, make sure they had
5 everything.

6 **MR. SCOTT:** Your Honor, the objection, I
7 think it's character evidence. I think a general
8 trait testified to. We're getting into a lot of
9 specific instances that happened years before.
10 And I think the law says it has to be close in
11 time, occasion or specific event. (inaudible)
12 character evidence generally for these specific
13 events. I think there has to be an objection
14 here.

15 **MS. DEMER:** Your Honor, I believe it's *State*
16 *v. Dade*, happened October 2020, and I believe that
17 it's relevant to show the decedent's state of mind
18 proximate to the incident for which Ms. Davis was
19 charged.

20 **THE COURT:** All right.

21 I think at this point two things. At this
22 point, I think the door's been opened on both
23 sides as to this. When it comes to the character
24 evidence under 404(a), I believe that's the
25 pertinent (inaudible) for the victim for this

1 incident. So I think I will allow it. I believe
2 it is pertinent and relevant to what we're here
3 for today. But we'll keep it pertinent. This
4 door will be open. All right.

5 So the objections are overruled at this point
6 as long as it stays pertinent.

7 **MS. DEMER:** Thank you, Your Honor.

8 **BY MS. DEMER:**

9 **Q** So Ms. Thompson, will you please tell the
10 jury what happened when you got home from work, when
11 you went to Boleg's after work?

12 **A** After I got the kids ready, I went down his
13 house. It always be around seven or eight o'clock. I
14 got there. Soon as I got in the house, shut the door
15 behind me. Took my phone my keys. "Take off your
16 clothes."

17 **Q** Who said that?

18 **A** He said, "Take off your clothes."

19 I didn't take them off. That same gun you
20 showed me, I took them off, he started beating me.

21 After that, he told me to turn around on the
22 couch, to get on my knees. And he raped -- raped me
23 from behind. I got up and went to the bathroom. He
24 let me put a T-shirt on. I just laid in the bed. I
25 laid in the bed all night until about three or four

1 o'clock. I see he was asleep. He had his arms around
2 me so I wouldn't move. So when I moved one time, he
3 jumped up and say, "Where you going?"

4 I said, "I'm going to the bathroom."

5 I came back. He -- we laid back down. Maybe
6 it was about before six o'clock, he was all the way
7 sleep. So I crawled out the bed. I grabbed my foot.
8 I had to drag his pants to the door where my keys was.
9 I got the keys. I couldn't shut the door. I got the
10 keys and I left. As soon as I crank up the car, he
11 come running out the door.

12 **A** I didn't see him no more.

13 **Q** Ms. Thompson, did you call the police after
14 that happened?

15 **A** No. I didn't turn around no more. I changed
16 my two girls' phone numbers because I was paying they
17 phone bill.

18 **Q** Which two girls?

19 **A** Destiny and Jaasia.

20 **Q** Why didn't you change Jamira's number?

21 **A** I don't pay her bills. I couldn't -- the
22 only thing I could tell her is stop talking to him. I
23 didn't tell her what I went through. I didn't want let
24 her know. This they first time hearing it.

25 **Q** Ms. Thompson, did Boleg leave you alone after

1 that?

2 **A** No. The next day I was getting a kid
3 situated at my mama house, he passed my mama house 45
4 times, the same car on the camera. So what I did was,
5 I called my best friend. And I told her to come get
6 me. She came and got me. Down the street, we switched
7 cars again. We made it uptown off Assembly Street. We
8 switched cars again.

9 We rode around for a little while to make
10 sure no cars went following us. I called my boss, told
11 my boss what was going on. She told me to use my
12 discount. I stayed in the -- I ran for four months. I
13 stayed in three hotels.

14 When it got to be January when this happened,
15 the same day the investigators called me to come down
16 there, I was going to sign my lease for my apartment.

17 **Q** So Ms. Thompson, can you explain to the jury
18 why you changed your phone number and the girls' phone
19 numbers?

20 **A** I changed the girls' phone numbers. I
21 couldn't change my phone numbers. We got a lot of
22 doctors.

23 **Q** And so why did you do that?

24 **A** Why I changed the girls' phone numbers, I
25 didn't want nobody to contact them or talk to them.

1 **Q** What was your concern?

2 **A** My freedom.

3 **Q** Were you afraid of Boleg?

4 **A** Yes.

5 **Q** Thank you, Ms. Thompson.

6 Just a few more quick questions. I realize
7 this has not been admitted into evidence. Sorry. Can
8 you -- can you identify this?

9 **A** Yes.

10 **Q** What is it?

11 **A** That's his gun.

12 **MS. DEMER:** Move to admit this as Defense
13 Exhibit 8.

14 **MR. SCOTT:** (Inaudible).

15 **THE COURT:** (Inaudible).

16 **MR. SCOTT:** Objection, Your Honor. This is
17 apparently a picture that Ms. Demer got off the
18 Internet and had the witness testimony that that
19 was in fact the gun, which Ms. Demer tells me it's
20 not; it's a photograph on the Internet.

21 **BY MS. DEMER:**

22 **Q** Ms. Thompson, does this -- does this look
23 like the gun?

24 **A** It was two. It was another one with a round
25 barrel on it, like you go around.

1 **Q** And one of them looks like the gun that I
2 just showed you?

3 **A** That was one of them. But it was another
4 one. The other one had a round. Like you could spin
5 it.

6 **THE COURT:** (Inaudible).

7 **BY MS. DEMER:**

8 **Q** Oh, yes. I apologize. This is the same gun?

9 **A** But the other one didn't look like that.

10 **Q** Right. But -- but this is one of them,
11 correct?

12 **A** Yes

13 **MS. DEMER:** Move to admit it into evidence as
14 Defense Exhibit 8.

15 **MR. SCOTT:** Without objection with the
16 clarification that that is a representative,
17 Your Honor.

18 **THE COURT:** All right.

19 So entered.

20 (Defense Exhibit No. 8 is admitted into the
21 record.)

22 **BY MS. DEMER:**

23 **Q** All right.

24 And, Ms. Thompson, how many times did Boleg
25 call you when you were running from him?

1 **A** It was over 200 times.

2 **MS. DEMER:** Beg the Court's indulgence.

3 **BY MS. DEMER:**

4 **Q** Ms. Thompson, did he send you any texts as
5 well?

6 **A** I never opened them up. The last text, I put
7 my screen down. He said, "I'm going to get the last
8 laugh, bitch."

9 **Q** What did you take that to mean?

10 **A** That he was gonna kill me. He was gonna find
11 me.

12 **Q** Did you think he wanted revenge?

13 **A** Yes.

14 **Q** Thank you, Ms. Thompson.

15 No further questions. Please answer any
16 questions that Mr. Scott has for you.

17 **CROSS-EXAMINATION**

18 **BY MR. SCOTT:**

19 **Q** Good morning, Ms. Thompson.

20 **A** Good morning.

21 **Q** You and Mr. Burden, you guys began dating in
22 high school?

23 **A** No, sir.

24 **Q** Where'd you meet?

25 **A** Around where we used to go out. I went to

1 Dreher High School. He went to Lower Richland.

2 Q Okay.

3 So what was the connection between those two
4 schools?

5 A Nothing. I ain't never -- I ain't never been
6 down here until I moved down that way.

7 Q Okay.

8 So you moved to Hopkins area. And that's
9 when you guys met?

10 A No, I been knew him.

11 Q All right.

12 Help me out.

13 A I been knew him back in the days. He used to
14 ride around.

15 Q High school times?

16 A Maybe middle school times.

17 Q Okay.

18 So you --

19 A But I never did talk to him around that time.
20 I would just always see him.

21 Q Okay.

22 So you've kind of known him since middle
23 school?

24 A Yes, sir.

25 Q So the majority of your life, you've known

1 Mr. Burden?

2 **A** Yes, sir.

3 **Q** And you said it was an on-again/off-again
4 relationship?

5 **A** Yes, sir.

6 **Q** You guys would break it off and then get back
7 together --

8 **A** Yes, sir.

9 **Q** -- over time?

10 And -- but he was always good to your girls,
11 is that --

12 **A** Yes, sir. He made sure they had.

13 **Q** And he took care of them. You guys had your
14 issues clearly. But he was always good to the girls?

15 **A** Yes, sir.

16 **Q** Can I see that text messages you have of his
17 where he said, "I'll get the" --

18 **A** I don't have that phone. When we first
19 started, when my baby first got lock up, we had Todd.
20 Todd office had move. When they move in front of the
21 courthouse, he said he couldn't find the phone.

22 **Q** You lost the phone or --

23 **A** He lost the phone when I was working at
24 Embassy Suites. I left work on the clock. I went to
25 go drop off the phone to his assistants so that they

1 could fish pulling up the records on the phone because
2 the screen was broke.

3 Q Okay.

4 Mr. Watkins who was here yesterday who
5 examined this return records, did you ask him to see if
6 he could find that text message for you?

7 A Todd already had the phone, sir.

8 Q Okay.

9 So we don't have that text anymore?

10 A Yes. Todd had the phone.

11 Q Okay.

12 And when was that text sent to you?

13 A It was in December.

14 Q Okay.

15 Did you tell the police about that text
16 message?

17 A And I went down here, it was hurt. The
18 things that I told y'all today, I couldn't tell my
19 girls; I couldn't tell nobody.

20 Q So this is the first time --

21 A I told Ms. Hope.

22 Q Okay.

23 So besides Ms. Hope Demer, this is the first
24 time anybody's heard about this? Or have you told
25 other people?

1 **A** Heard about what?

2 **Q** You just said you hadn't told police --

3 **A** I'm talking about heard about the last time
4 when I saw Boleg the last time I was down there in
5 Hopkins.

6 **Q** When was that?

7 **A** That was in October. That was the first or
8 the second week, around his birthday.

9 **Q** But you were still in communication with
10 Mr. Burden?

11 **A** No, sir. I never did talk to him no more. I
12 never didn't see him.

13 **Q** Okay.

14 Well, when law enforcement was trying to
15 figure out what happened to him, you were upset about
16 him dying?

17 **A** Yes. I was upset. I was in love with him.

18 **Q** You still love him?

19 **A** (No audible response.)

20 **Q** And you were trying to help them figure out
21 who may have done this?

22 **A** Yes.

23 **Q** Okay.

24 So you were trying to give them information
25 about things that were going on with Mr. Burden at that

1 time?

2 **A** Yes, sir. I didn't have nothing to hide from
3 him.

4 **Q** But my point is: If you weren't talking to
5 him, and you weren't keeping up with him, how did you
6 have any information about what he was up to during
7 that time period?

8 **A** I knew him all my life, like half my life. I
9 know who he be around.

10 **Q** So you were still in contact with him in that
11 time period?

12 **A** I never talked to him, sir --

13 **Q** Okay --

14 **A** -- after I left from down there. After
15 October, I never had no conversation with him. I never
16 saw him.

17 **Q** Okay.

18 But you were trying to tell law enforcement
19 about people he may have owed money to and things of
20 that nature. How would you have known that?

21 **A** Because when I went down here the day that it
22 happened when I left work, Embassy Suites, when I went
23 to go pick up -- well, really sign my lease at Mallard
24 Pointe that say day when I went down there, he asked me
25 before I left, he said, "Is anything you need to have

1 from me?"

2 I said, "You need to check all his friends."

3 He said, "Why?"

4 I said, "Because I don't trust nobody."

5 **Q** But you --

6 **A** And I told him that I would do the best that
7 I can to help him find his killer. And that's what I
8 did.

9 **Q** And you were talking to Investigator Jordan?
10 Is that who you --

11 **A** I don't know. I talked to like four people,
12 sir.

13 **Q** Okay.

14 But you gave him some names of people that
15 you thought Mr. Burden --

16 **A** I gave him names of people that been 'round
17 him that I know who conversate with him.

18 **Q** Do you remember specifically saying he owed
19 money to Eric? Do you remember telling that?

20 **A** No. It wasn't no Eric.

21 **Q** Do you remember telling them he owed money to
22 Christina?

23 **A** Yes. When I went down there that day,
24 because I didn't believe it. I didn't -- I talked
25 to -- it was Geek. Geek is there. I talked to his

1 wife. His wife called me.

2 She said, "You heard?"

3 I said, "Yes."

4 She said, "You believe it?"

5 I said, "No."

6 She said, "Well, you need to come down here."

7 I had to go to the house and see it for
8 myself. I went down here. When I went back, it was us
9 three in the house.

10 He said, "Wynette."

11 I said, "Yes."

12 He said, "You know about \$10,000?"

13 I said, "Huh? \$10,000?" I said, "No." I
14 said, "You need to check the neighbors next door."

15 He said, "Okay."

16 **Q** What is your -- at that time, what was your
17 relationship with Jamira?

18 **A** I'm Jamira's mother.

19 **Q** I know. But some mothers are closer to their
20 daughters than others. Were -- did y'all have a
21 close --

22 **A** All my girls is close.

23 **Q** And you didn't hide anything from one
24 another?

25 **A** I didn't tell her about the incident of when

1 I first -- when the last time that I left him. I
2 didn't tell her that.

3 Q Did she tell you she was regularly going over
4 to Mr. Burden's home?

5 A I know she was still talking to him.

6 Q Did she tell you she was regularly going over
7 to his house?

8 A Yes. I know she was still talking to him.
9 That was the only child that he was talking to. He was
10 calling.

11 Q Did she tell you she was regularly going over
12 to his house alone in the middle of the night?

13 A I know she always talked to him.

14 Q Did she tell you she was regularly going over
15 to his home alone in the middle of the night to smoke
16 marijuana with him?

17 A No. 'Cause I didn't know my girls smoke.

18 Q You didn't know that?

19 A I didn't know my child smoked.

20 Q Okay.

21 But you did know she was in the practice of
22 going over there --

23 A Yes. She was that close to -- all three of
24 my girls was real close to him.

25 Q And you trusted him with them?

1 **A** Which she was grown.

2 **Q** Right.

3 **A** That's why I couldn't change her phone number
4 for him contacting him -- her. The only thing I could
5 do is make sure my two small ones. Because I paid they
6 phone bill. I didn't pay Jamira's phone bill. I didn't
7 pay her rent. Jamira was on her own. Jamira had two
8 jobs. She was doing good.

9 **Q** Okay.

10 Jamira -- how can I put this? She's not a
11 petite woman, is she?

12 **A** What do you mean by the "tite"?

13 **Q** How much do you think she weighs? Do you
14 have any idea?

15 **A** I don't know.

16 **Q** Do you know how tall she is?

17 **A** No, sir.

18 **Q** Okay.

19 Taller than you?

20 **A** No. She not taller than me. She a little
21 bit shorter than me --

22 **Q** Heavier than you?

23 **A** -- a little bit shorter than me.

24 Yeah. She always been heavier than me.

25 **Q** Did she play sports in high school?

1 **A** No, sir.

2 **Q** Okay.

3 Did you know her -- her partner, Alesha?

4 **A** Yes, ma'am -- yes, sir.

5 **Q** Have you seen Alesha around the courthouse
6 this week?

7 **A** No, sir.

8 **Q** Okay.

9 Are they're still together?

10 **A** No, sir.

11 **Q** Brandon Burden, do you remember him being a
12 shorter fellow?

13 **A** Yes. He always been short.

14 **Q** And Jamira was significantly taller than him?

15 **A** Yes.

16 **Q** And heavier?

17 **A** Yes.

18 **Q** I just -- I just want to circle back, though.
19 These things -- I guess what your testimony is, is that
20 Brandon Burden is a violent, would you say he's mean?

21 **A** I couldn't tell you he was violent. But when
22 he get on alcohol, he's another type of person.

23 **Q** Well, he -- he was an alcoholic, wasn't he?

24 **A** Yes.

25 **Q** And that was -- you knew his habits, right?

1 **A** A lot of things, just like I said, he didn't
2 do in front of me. He drank in front of me. But
3 anything else, he wouldn't do in front of me.

4 **Q** Okay.

5 I guess my point is, you close with Jamira.
6 You're her mother?

7 **A** Yes, sir.

8 **Q** And if you know she's going over to his home
9 regularly, not just once or twice here or there but
10 regularly, and you know about that --

11 **A** Jamira would just --

12 **Q** Wait. Wait a minute. Let me --

13 **A** Go ahead.

14 **Q** You know about that.

15 **A** Uh-huh.

16 **Q** I know. I know she is a grown-up. But
17 you're still her mother. You're always --

18 **A** I really don't --

19 **Q** -- going to be her mother --

20 **A** -- she was going to --

21 **THE COURT:** Hold on. Ms. Thompson, let him
22 finish his question.

23 **THE WITNESS:** Okay.

24 **BY MR. SCOTT:**

25 **Q** You always gonna be her mother, correct?

1 **A** Uh-huh.

2 **Q** All right.

3 So I don't care if she's 75 and you're 85 --
4 90, you're still her mother, right? And you're still
5 gonna give her advice about what you should do, what
6 you shouldn't do, what's right and what's wrong --

7 **A** Yes, sir.

8 **Q** -- correct?

9 **A** Yes, sir.

10 **Q** So if Mr. Burden does these things that
11 you're telling everybody here for the first time, why
12 not say, "Jamira, I'm begging you: Don't go to that
13 house out there on American Avenue. Don't go to that
14 house where he lives alone. Don't go to that house
15 where that man drinks and we know he drinks because
16 he's an alcohol. Don't go to that house. Because I'm
17 telling you, he gets violent when he drinks. Please.
18 You're my daughter. I'm your mother. I offer you this
19 advice. Please take my advice"? Why didn't we do
20 that?

21 **A** The only thing I could tell my child is to
22 stop talking to him. That's what I told her. When I
23 called her one day -- a couple times from work just
24 check on her, she say, "Mama, he said he still love
25 you. He want to talk to you."

1 I said, "Baby, stay away from him. Stop
2 talking to him. I'm all right."

3 She said, Mama, he want to talk."

4 I said, "Mama all right. I'm fine."

5 Then she said, "You ate today."

6 I said, "No."

7 She say, "Well, I'm finna to send something
8 up there so you can eat."

9 I said, "Okay. I love you."

10 We'll hang up.

11 **Q** But you allowed her to go to the house. You
12 couldn't stop her from going to the house?

13 **A** The only thing I could tell her is to stop
14 talking to him.

15 **Q** Do you ever say if you're going to go there,
16 take somebody else with you?

17 **A** Usually, her girlfriend will go with her,
18 Alesha.

19 **Q** But you knew she would go there by herself?

20 **A** No. Her and Alesha would go down here.

21 **Q** She never told you she would go there all the
22 time by herself to smoke -- I know she didn't say smoke
23 marijuana but --

24 **A** Well, she'll say --

25 **Q** -- she would go down there?

1 **A** Yeah. She would say, "Mama, I'm 'a go down
2 there. He say he needs some beer and cigarettes. I'm
3 gonna go down there and drop it off."

4 Something like that I know maybe a couple of
5 times. And I'd say just, "Stay away. Stop talking to
6 him."

7 **Q** Do you remember when the -- you broke up with
8 him in October? Is that when -- when did he -- when
9 did you see that gun last?

10 **A** October.

11 **Q** And was that the first time you saw it too?

12 **A** No.

13 **Q** When was the first time you saw it?

14 **A** When we stayed at [REDACTED] Cabin Creek Boulevard.

15 **Q** When did you move away from there?

16 **A** I think it was 2017 or '18.

17 **Q** And that was the first time you'd seen it.

18 **A** That was the first time I saw it, sir.

19 **Q** 2017?

20 **A** A couple of months before he got his eviction
21 notice.

22 **Q** And that was 2017?

23 **A** Yes, sir.

24 **Q** Okay.

25 One second, Ms. Thompson. (Pause.)

1 Thank you, Ms. Thompson.

2 **REDIRECT EXAMINATION**

3 **BY MS. DEMER:**

4 **Q** Ms. Thompson --

5 **A** Yes, ma'am.

6 **Q** -- you said you went back to at Candle Creek
7 in 2017 or 2018?

8 **A** Uh-huh.

9 **Q** Thank you.

10 You testified that you gave your phone to --
11 to Todd?

12 **A** Yes, ma'am.

13 **Q** Is that Todd Rutherford?

14 **A** Yes, ma'am.

15 **Q** Do you -- are you aware of any efforts to get
16 that phone back from Todd Rutherford?

17 **A** We tried. I signed a paper. He said it
18 maybe was in the storage or something. Because they
19 moved their office.

20 **Q** So you tried to get it back?

21 **A** Yes, I tried. I went there.

22 **Q** You mentioned as well that you talked to the
23 Jamira about, you know, not going to Boleg's?

24 **A** Yes.

25 **Q** But you did not tell her about the rape?

1 **A** No. I couldn't.

2 **Q** You didn't usually tell her about problems in
3 your relationship with Boleg, did you?

4 **A** No.

5 **Q** Was she aware of some other problems?

6 **A** Yes. When we stayed in a home together. But
7 other than that, no.

8 **Q** Did she ever have to call the police?

9 **A** Yes. My kids called the police.

10 **Q** Can you tell me about that?

11 **A** Every time we call the police, he would run
12 in the woods, stay there till they left. In a couple
13 of hours, he'll come back.

14 **Q** And so it was Jamira who sometimes would call
15 police?

16 **A** No. One time, it been Jaasia.

17 **MS. DEMER:** Begging the Court's indulgence.

18 **BY MS. DEMER:**

19 **Q** Ms. Thompson, Mr. Scott asked you some
20 questions about Jamira's size, right?

21 **A** Uh-huh.

22 **Q** You mentioned you're a little taller than
23 Jamira --

24 **A** Uh-huh.

25 **Q** -- correct?

1 Boleg assaulted you repeatedly, correct?

2 **A** Yes, ma'am.

3 **Q** Would Boleg had been able to assault Jamira?

4 **MR. SCOTT:** Objection; speculation.

5 **THE COURT:** Sustained.

6 **BY MS. DEMER:**

7 **Q** Was Boleg stronger than he looked?

8 **A** Yes.

9 **MS. DEMER:** No further questions.

10 **RECROSS-EXAMINATION**

11 **BY MR. SCOTT:**

12 **Q** Just a few. Brandon Burden, he was never
13 violent towards Jamira; is that correct?

14 **A** He was never violence to my kids.

15 **Q** Okay.

16 And always good to them?

17 **A** Yes, sir.

18 **Q** He was like --

19 **A** He made sure they had.

20 **Q** He was like a father to them.

21 **A** Yes, sir. He made sure they had.

22 **Q** Okay.

23 You and him had issues. Again, things would
24 happen. Y'all would break up with one another, but
25 y'all would gravitate back to one another. One thing

1 was constant, he was always good to the kids?

2 **A** Yes, sir.

3 **Q** Did you know Jamira said he never -- she
4 never saw him do anything to you? She said the gun,
5 she remembers that. But never saw him do anything to
6 you.

7 **A** Her house was real big. On one side of the
8 house is the kids' side, the kitchen, the den, the
9 washing machine, and the dryer on one side. On one
10 side of the house is our side of the house. We had the
11 living room, the dining room, and my room.

12 **Q** Okay.

13 But --

14 **A** That's why they didn't see a lot of things.

15 **Q** Okay.

16 **A** Because we on one side of the house.

17 **Q** But again, we know Jamira was comfortable
18 enough with him and she felt safe enough to go to his
19 house alone in the middle of the night. And -- and
20 you -- you didn't have a problem with that either, or
21 else you would have made sure she stopped going there,
22 correct?

23 **A** I had a problem. Because I told her don't
24 go.

25 **Q** But there was nothing you could do -- that's

1 how much she enjoyed going to his house that there was
2 nothing you could do or say to keep her from doing
3 that.

4 **A** That's much she was close to him, sir.

5 **Q** And how comfortable she felt going to his
6 house?

7 **A** Yes. She was comfortable around him. She
8 had done lived with him all these years.

9 **Q** And there was -- you felt okay enough about
10 it not to stop her, other than saying, "Don't go
11 there."

12 **A** I told her don't talk to him, sir.

13 **Q** What about, "Don't go there. Don't go there,
14 period. I really don't care if you talk to him. I
15 don't want you going there, especially in the middle of
16 the night and especially by yourself."

17 You said she told you she'd been going there
18 by herself, right?

19 **A** Yes. She always talked to him, sir. Always.

20 **Q** I think you say talk to somebody -- I'm
21 interested in physical --

22 **A** Conversate.

23 **Q** Like if he call her, he'd be like, "Jamira,
24 I need some cigarettes or some beer."

25 "Okay. I'm finna to drop it off.

1 **Q** Did you say, "Stop taking that alcoholic
2 beer. Let him go to the bootlegger down the street"?
3 Did you tell her that?

4 **A** No, sir. I couldn't get in no details with
5 Jamira. The only thing I can tell her is, "Stop
6 conversating with him."

7 **Q** My point is, "Talk to him if you need to.
8 Stop physically showing up to his house, which is in a
9 very rural area, and he's been drinking. I'm going to
10 show up at your house, Jamira, to keep you from going
11 there." I mean, this is somebody -- are you -- were
12 you afraid of Brandon Burden?

13 **A** Yes. That's why I didn't go back.

14 **Q** Okay.

15 But -- but you were allowing your daughter to
16 go to this house alone?

17 **A** I told her to stop. That's the only thing I
18 could tell her. She was grown.

19 **Q** How long had she been going -- now this
20 was --

21 **A** She always talked to him all her life.

22 **Q** So for years, she --

23 **A** So I couldn't tell her to stop certain
24 things, the way she feel about a person.

25 **Q** But for you --

1 **A** I know she was still talking to him. That
2 was the only child that was talking to him.

3 **Q** Do you know how many years it was that she
4 was in the habit of going to his house and hanging out
5 with him alone?

6 **A** He wasn't there no years in that house.

7 **Q** How long was he there?

8 **A** He maybe was there maybe about two -- maybe
9 about two years.

10 **Q** Two years?

11 **A** Yeah.

12 **Q** Okay.

13 So she had been -- did she live there at some
14 point?

15 **A** No, sir.

16 **Q** She had been going there alone for at least
17 two years?

18 **A** Her and her girlfriend be back and forth,
19 going down there. They'll go down there.

20 **Q** Okay.

21 **A** But Jamira always had her apartment, her and
22 her girlfriend.

23 **Q** Okay.

24 Did you ever live at that American apartment?

25 **A** American Avenue was a house, sir.

1 **Q** Oh, I'm sorry. [REDACTED] American Avenue, did
2 you ever live there?

3 **A** No, sir.

4 **MR. SCOTT:** All right.

5 Thank you.

6 **THE COURT:** All right.

7 Thank you, Ms. Thompson. You may step down.

8 **MR. L. SHEALEY:** Your Honor, may we approach
9 real quick?

10 (A sidebar conference is held.)

11 **THE COURT:** All right.

12 Ladies and gentlemen, we're gonna take a
13 little mid-morning break for about 15 minutes or
14 so. You can stretch your legs, use the restroom.
15 Do not discuss the case with each other or with
16 anybody else. Do not do any independent research.
17 Do not discuss the case. We will grab you
18 shortly. Thank you.

19 Remain seated while the jury is leaving.

20 (The jury exits the courtroom at 10:17 a.m.)

21 **THE COURT:** Ms. Davis, will you please stand
22 with your attorneys?

23 I just want to go over some of your
24 constitutional rights with you, okay? Can you
25 hear me okay?

Court Remarks to Defendant

1 You understand at this time, you do have the
2 right to testify or not to testify. So I'm going
3 to explain that to you, give you a little bit of
4 time to think about it, even I know you've had
5 plenty of time with very competent counsel.

6 We have now reached the stage of the trial
7 where you may present your defense and potentially
8 testify. You have all the rights to claim under
9 the Fifth Amendment, all those protections given
10 to you under the Constitution of the United
11 States. This amendment states in part: "No person
12 shall be compelled in any criminal case to be a
13 witness against him or herself." This means that
14 you cannot be required to testify in this case.
15 You have the right to testify on your behalf --
16 own behalf; however, no one can make you testify.
17 This is a personal right. And no one can waive
18 this right except for you.

19 If you decide to testify, you will be subject
20 to the same rules that govern all other witnesses
21 including cross-examination and impeachment. And
22 you may be examined, cross-examined on any
23 relevant issue in this case.

24 In addition, if you have any convictions
25 involving dishonesty or false statement, or for

1 crimes punishable by imprisonment for more than
2 one year, and this Court determines that the
3 probative value of admitting this evidence
4 outweighs its prejudicial effect, the solicitor
5 may be able to bring that up in front of the jury
6 and ask you about it.

7 If you decide to testify, this decision on
8 your part must be freely, voluntarily, and
9 intelligently made with knowledge of the
10 protections given to you by the Fifth Amendment
11 and the consequences of the -- your decision to
12 testify.

13 If you decide not to testify, I will instruct
14 the jurors that they cannot give the fact that you
15 did not testify any consideration whatsoever and
16 that there is to be absolutely no prejudice to you
17 because you did not testify. It is left entirely
18 up to you whether or not to testify. You may talk
19 with your attorneys; your family; friends; anyone
20 else. But the final decision is with you and you
21 alone. Have you understood everything I just
22 stated?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** Do you have any questions about
25 that for me?

1 **THE DEFENDANT:** No, sir.

2 **THE COURT:** At this point, we're gonna take a
3 break. I'm gonna let you speak with your
4 attorneys and let you make the decision whether or
5 not you want to testify. Do you have any other
6 questions for me?

7 **THE DEFENDANT:** No, sir.

8 **THE COURT:** All right.

9 Take a 15-minute break. 10:35.

10 (A recess is taken.)

11 **THE COURT:** All right.

12 Anything from the state before we bring the
13 jury back in?

14 **MR. SCOTT:** No, Your Honor.

15 **THE COURT:** Anything from the defense,
16 Ms. Demer?

17 **MS. DEMER:** No, Your Honor.

18 **THE COURT:** All right.

19 Let's bring the jury.

20 (The jury enters the courtroom at 10:39 a.m.)

21 **THE BAILIFF:** The jury is seated, Your Honor.

22 **THE COURT:** All right.

23 Thank you, ma'am.

24 All right.

25 Ladies and gentlemen, thank you.

1 Yes, ma'am.

2 **MS. DEMER:** The defense calls Jamira Davis.

3 **THE COURT:** All right.

4 Ms. Davis.

5 **THE COURTROOM DEPUTY:** Do you swear or affirm
6 the testimony you shall give in this case will be
7 the truth, the whole truth and nothing but the
8 truth so help you God?

9 **THE WITNESS:** I do.

10 **THE COURTROOM DEPUTY:** Thank you. Have a
11 seat in the witness stand and state your full name
12 for the record.

13 **THE WITNESS:** Jamira Davis.

14 **JAMIRA DAVIS**

15 having first been duly sworn, testifies as follows:

16 **DIRECT EXAMINATION**

17 **BY MS. DEMER:**

18 **Q** Thank you, Jamira.

19 I think you and I both are going to need to
20 speak up a little bit. Did you kill Boleg?

21 **A** Yes, ma'am.

22 **Q** Why?

23 **A** I feared for my life. I was scared.

24 **Q** What were you scared of?

25 **A** Raping me.

1 **Q** How old were you when that happened?

2 **A** 20.

3 **Q** And how old are you now?

4 **A** 22.

5 **Q** Where did you grow up, Jamira?

6 **A** Columbia.

7 **THE COURT:** Ms. Davis, I need to speak up
8 loud enough so everyone can hear you, okay?

9 **THE WITNESS:** Okay.

10 **BY MS. DEMER:**

11 **Q** And who did you live with growing up?

12 **A** My mom and my sisters.

13 **Q** Are any of those people in the courtroom with
14 us today?

15 **A** Yes, ma'am.

16 **Q** Where'd you get high school?

17 **A** Lower Richland.

18 **Q** Did you graduate?

19 **A** Yes, ma'am.

20 **Q** What year did you graduate?

21 **A** 2018.

22 **Q** And what do you do after you graduated?

23 **A** Work. Just working.

24 **Q** Did you ever work at Schneider Electric?

25 **A** Yes, ma'am.

1 **Q** When you were there, what hours did you work?

2 **A** Second shift?

3 **Q** What time would that be?

4 **A** 3:15 p.m. to 1:45 a.m.

5 **Q** Were those roughly the hours that you were
6 working around the time of the shooting?

7 **A** Yes, ma'am.

8 **Q** So Jamira, tell us a little bit about your
9 love life. Have you dated much?

10 **A** Yes, ma'am.

11 **Q** How old were you when you first started
12 dating?

13 **A** Seriously, like 18.

14 **Q** 18. Who was your first significant other?

15 **A** Alesha.

16 **Q** Is that Alesha Thomas we've heard about?

17 **A** Yes, ma'am.

18 **Q** So how would you describe your sexuality?

19 **A** I like girls.

20 **Q** How old were you when you realized that you
21 liked girls?

22 **A** Like middle school.

23 **Q** Are you at all interested in men --

24 **A** No.

25 **Q** -- sexually or romantically?

1 **A** No, ma'am.

2 **Q** Does your family know?

3 **A** Yes, ma'am.

4 **Q** How long have they known?

5 **A** I feel like they always knew.

6 **Q** Did you ever have to come out to them?

7 **A** No, ma'am.

8 **Q** Did Boleg know?

9 **A** Yes, sir.

10 **Q** So Jamira, when you were growing up, were
11 your mom and dad together?

12 **A** No, ma'am.

13 **Q** So which parent did you live with?

14 **A** My mom.

15 **Q** And what was your relationship like with her
16 when you were younger?

17 **A** It was all right.

18 **THE COURT:** If -- if you just keep speaking
19 up, this court reporter can't hear you.

20 **THE WITNESS:** I'm sorry.

21 **THE COURT:** Speak into the microphone; it
22 does help.

23 **BY MS. DEMER:**

24 **Q** Can you repeat your answer please?

25 **A** It was all right. It was rocky.

1 **Q** Rocky?

2 **A** Yeah.

3 **Q** What do you mean by that?

4 **A** Just felt like she didn't understand me like
5 normal, I guess. I don't know.

6 **Q** Did you always feel like you could go to her
7 when you had problems?

8 **A** No, ma'am.

9 **Q** Why not?

10 **A** She wouldn't understand. She was strict.
11 She was hard on us.

12 **Q** She was strict?

13 **A** Yes, ma'am.

14 **Q** Did she ever have any boyfriends who lived in
15 the house with you?

16 **A** Yes, ma'am.

17 **Q** Was Boleg one of them?

18 **A** Yes, ma'am.

19 **Q** Was he the one who lived with you the
20 longest?

21 **A** Yes, ma'am.

22 **Q** How old were you roughly when you met Boleg?

23 **A** I don't know how old I was. I know I was in
24 middle school.

25 **Q** So when did you meet him?

1 **A** He just had got out of jail and he moved in
2 with us.

3 **Q** Moved in with y'all?

4 **A** Yes, ma'am.

5 **Q** Was that [REDACTED] Cabin Creek?

6 **A** Yes, ma'am.

7 **Q** How long did he live with you before you
8 started noticing that something might be wrong in his
9 relationship with your mom?

10 **A** A couple of months in.

11 **Q** And what did you notice?

12 **A** I noticed -- I -- I hear it, like hear her
13 like getting beat on and stuff, like through the vents.

14 **Q** So you don't ever hear that?

15 **A** Uh-huh.

16 **Q** You would hear it?

17 **A** Yes, ma'am.

18 **Q** Did you ever see him get physically violent
19 with her?

20 **A** No, ma'am. Other than him pulling a gun out
21 on her, that's it.

22 **Q** You did see him pull a gun on her --

23 **A** Yes, ma'am.

24 **Q** -- once?

25 Can you tell us about that incident?

1 **A** I remember her standing by the sink and he
2 was standing by the stove. And he pulled a gun out.
3 And he pointed --

4 **THE COURT:** Ms. Davis, I hate to interrupt.
5 But the court reporter has to hear everything.
6 Otherwise, there's no record. And I know you
7 might not be used it. But just -- just make a
8 concerted effort to speak up as loud as you can,
9 okay?

10 **THE WITNESS:** Okay.

11 **THE COURT:** Get right into that microphone as
12 loud as you got.

13 **THE WITNESS:** Okay.

14 **THE COURT:** You can start back over your
15 question.

16 **MS. DEMER:** Thank you.

17 **BY MS. DEMER:**

18 **Q** Can you tell me about the time he pulled a
19 gun on her?

20 **A** I remember I was standing in the kitchen.
21 I'm standing by my door. He pulled -- he pulled a gun
22 up. Well, he pointed it at her. And he was like,
23 "Bitch, I'll kill you."

24 **Q** How old were you when this happened?

25 **A** I know I was in middle school. I don't know

1 how -- how old I was.

2 **Q** So what did you do?

3 **A** I went and packed my clothes and I ran out of
4 the house.

5 **Q** Why do you do that?

6 **A** Because I was scared. I know he would do it.

7 **Q** What did you do next, Jamira?

8 **A** I called the police. And they -- I see a
9 police driving down the dirt road. And I stopped him.
10 And I was like, "You coming for [REDACTED] Cabin Creek?"

11 He was like, "Somebody's already been there.
12 Nothing going on."

13 I was like, "What you mean, 'Nothing going
14 on'?"

15 So they was like, "We'll see what's going
16 on."

17 They turned around and I walked down the dirt
18 road and was just standing out there. And they asked
19 me what happened. And I told them that Boleg pointed a
20 gun at my mom. They was like everything seemed fine.
21 And she was calling me. She was telling me to go next
22 door, which is where his aunt lived at.

23 I was like, "I'm not going over there.
24 Because I don't know them people. That's his people.
25 I ain't know them people. So I was like my dad stay

1 around the corner."

2 He was like, "Well, call your dad."

3 So called my dad. And he came and got me.

4 And that was it. They ain't -- they didn't write
5 nothing down. They didn't care.

6 Q They didn't get a statement from you?

7 A No, ma'am.

8 Q Did they check on your sisters?

9 A No, ma'am.

10 Q No one was arrested that night?

11 A No, ma'am.

12 Q Did you ever call the police on -- on Boleg
13 aside from that night?

14 A Yes, ma'am.

15 Q Can you tell me about that?

16 A He was beating on my mom. I called my
17 grandma. She told me to call the police. So I called
18 the police. They came. She had like a big scar on her
19 chest. And they seen it. And they was asking her
20 about it. But she was like she fell. She was telling
21 them she fell, and was trying to talk to me. She told
22 me to just come in, just go in house.

23 Q So you weren't able to give them a statement
24 that night?

25 A No, ma'am.

1 **Q** Was it unusual for Boleg to carry guns?

2 **A** No, ma'am.

3 **Q** What did he only have one gun when you
4 knew him?

5 **A** No, ma'am. He always had, like, two.

6 **Q** Two at a time?

7 **A** Yes, ma'am.

8 **Q** Do you know if he kept them loaded?

9 **A** Yes, ma'am.

10 **Q** How do you know that?

11 **A** I remember being around him when he got -- he
12 was in a conversation with this dude. And the dude was
13 like when he go in house, he always like take one out
14 the head. And he was like, "You stupid. You never
15 take one out the head. You always keep one in the
16 head, even if you in the house."

17 **Q** So by one in the head, did you understand
18 that to mean one in the chamber?

19 **A** Yes, ma'am.

20 **Q** Now, Jamira, before January 22, 2021, had
21 Boleg ever been violent toward you before?

22 **A** No, ma'am.

23 **Q** What was your relationship with him like?

24 **A** Father and daughter.

25 **Q** When did you start to see him as a father

1 figure?

2 **A** As I got comfortable around him when he moved
3 in.

4 **Q** So was it fairly early on when y'all were
5 living in Cabin Creek?

6 **A** A couple of months in.

7 **Q** Did you ever go to him as a parent when you
8 maybe (inaudible) to your mother?

9 **A** Yes, ma'am.

10 **Q** Can you tell me about a time like that?

11 **A** It was a time when I was selling candy in
12 school. And I called him instead of my mom because I
13 know she would've been like -- she would have left it
14 at school. And he came and got it. He got into it
15 with the principal, but he still got it for me.

16 **Q** So why did you call him because you were
17 selling candy at school?

18 **A** My mom, she would have left it. Like he
19 wasn't -- he wasn't hard on us.

20 **Q** So you were -- you were in trouble with --
21 with the principal for selling candy?

22 **A** Yes, ma'am.

23 **Q** And he got it back for you?

24 **A** Yes, ma'am.

25 **Q** What else did he do for you as a parent?

1 **A** He used to buy us stuff, shoes, whatever,
2 whatever you want.

3 **Q** Did he ever give you anything else?

4 **A** Yes, ma'am.

5 **Q** What else would you give you?

6 **A** Like weed.

7 **Q** When did that start?

8 **A** Middle school.

9 **Q** Did you keep smoking weed from about middle
10 school until the incident?

11 **A** I didn't really start smoking weed like
12 constantly until like 10th grade.

13 **Q** But you said he started giving it to you in
14 middle school?

15 **A** Yes, ma'am.

16 **Q** Can you tell me how that came to be?

17 **A** My mom, she -- she was -- because I used to
18 hang around people that smoked weed. So she was like,
19 "You smoke weed with them?"

20 And he would pull me to the side. He would
21 be like, "You don't got to smoke weed in front of
22 people. Just smoke it in the house."

23 And he would give me weed.

24 **Q** Did you ever start to get weed from anyone
25 but Boleg?

1 **A** Yes, ma'am.

2 **Q** Why?

3 **A** It was better.

4 **Q** Jamira, would you ever buy more weed than you
5 were planning on using?

6 **A** Yes, ma'am. Sometimes.

7 **Q** Would you ever sell some -- some of that to
8 your friends?

9 **A** Yes, ma'am.

10 **Q** And if you didn't have enough to go around,
11 would you tell your friends where they could get it?

12 **A** Yes, ma'am.

13 **Q** Was that fairly normal?

14 **A** Yes, ma'am.

15 **Q** So even if you -- even after you had
16 connections for better weed, would you still get weed
17 from Boleg sometimes?

18 **A** Yes, ma'am.

19 **Q** Why?

20 **A** I didn't have it all the time. When I had
21 money, I got weed. I got better weed. When I didn't,
22 I just go to him 'cause I knew I wouldn't have to pay
23 for it. He would just give it to me.

24 **Q** He would still give it to you?

25 **A** Yes, ma'am.

1 **Q** What was a normal weed pick up from Boleg
2 like?

3 **A** Go over there. Smoke. Just catch up on
4 everything. And then I would leave.

5 **Q** So how would you arrange to -- how would you
6 let him know that you wanted some weed from him?

7 **A** I would call him.

8 **Q** And what kind of response would you get from
9 him?

10 **A** He would tell me to just come. But if he
11 wasn't there, he'd be like wait. I'll call you back.

12 **Q** Would he ever rush you to come over?

13 **A** No, ma'am.

14 **Q** Was there a typical time of day when you
15 would go over to his house to get weed?

16 **A** No, ma'am. Anytime.

17 **Q** Was it weird for you to be over there after
18 midnight after one or two?

19 **A** No, ma'am.

20 **Q** And why was that?

21 **A** That was normal. I was up. I know he was
22 up. It was regular. I could pull up any time of the
23 day.

24 **Q** So you were working second shift for a
25 portion of this time?

1 **A** Yes, ma'am.

2 **Q** So you go off you said -- testified at 1:45?

3 **A** 1:45, yes, ma'am.

4 **Q** Was it fairly normal for you to go to his
5 place after work?

6 **A** Yes, ma'am.

7 **Q** When you were living with Boleg, was that
8 always at [REDACTED] Cabin Creek?

9 **A** No, ma'am.

10 **Q** Okay.

11 Did he ever move out of your house?

12 **A** Yes, ma'am.

13 **Q** Where did he move?

14 **A** American Avenue.

15 **Q** And about when did he move there?

16 **A** 2017.

17 **Q** Does 2018 sound right?

18 **A** Yes, ma'am. About around that time.

19 **Q** And when did you move into your own place?

20 **A** I think 2019, like November 2019.

21 **Q** So after you moved out of your mom's house,
22 did you keep tabs on your relationship with Boleg?

23 **A** No, ma'am. That wasn't none of my business.

24 **Q** Would you still go to his house --

25 **A** Yes, ma'am.

1 **Q** -- once you moved into your own place?

2 **A** Yes, ma'am. That was still like a father
3 figure. He would check up on me.

4 **Q** So did you have a regular schedule for when
5 you'd go over to his house?

6 **A** No, ma'am.

7 **Q** I'd say in an average month about how many
8 times would you go visit him?

9 **A** Two, three.

10 **Q** Just on average?

11 **A** Yes, ma'am.

12 **Q** Could be more; could be less?

13 **A** (No audible response.)

14 **Q** So did you spend a good amount of time at
15 American Avenue?

16 **A** Yes, ma'am.

17 **Q** I'd like to show you some videos.

18 **MR. SCOTT:** Your Honor, I don't think the
19 foundation has been laid for the publishing of any
20 videos at this point.

21 **MS. DEMER:** I'm not publishing them at this
22 point, Your Honor.

23 **MR. SCOTT:** Oh, okay. I'm sorry.

24 **BY MS. DEMER:**

25 **Q** While that loads...

1 Jamira, what is this video?

2 A A video I took on the porch.

3 Q On the porch where?

4 A At Boleg's house.

5 Q Boleg's house at [REDACTED] American Avenue?

6 A Yes, ma'am.

7 Q So what are we seeing in this video?

8 A Me recording him and Ishmael. He was rapping
9 to Ishmael.

10 Q When did you take this video?

11 A I'm not sure. I'm not sure of the date.

12 Q Is it a fair and accurate depiction of the
13 house at American Avenue or at least the view from the
14 front porch --

15 A Yes, ma'am.

16 Q -- on the night of the incident?

17 And is this the same video that we put on
18 this disc --

19 A Yes, ma'am.

20 Q -- marked Defendant's Exhibit 7?

21 A Yes, ma'am.

22 Q And those are your initials?

23 A Yes, ma'am.

24 Q Thank you. I'm sorry. 17.

25 And Jamira, what's this video?

1 **A** Video I recorded.

2 **Q** And where did you record it from?

3 **A** In the living room, Boleg living room.

4 **Q** At [REDACTED] American?

5 **A** Yes, ma'am.

6 **Q** Is that roughly what Boleg's living room
7 looks like at the time of the incident?

8 **A** Yes, ma'am.

9 **Q** Fair and accurate depiction?

10 **A** Yes, ma'am.

11 **Q** And is that the same video that we put on
12 this disc noted as Defendant's Exhibit 18?

13 **A** Yes, ma'am.

14 **Q** These your initials on the corner?

15 **A** Yes, ma'am.

16 **Q** What's this a video of?

17 **A** Of my little brother walking into the
18 kitchen.

19 **Q** Speak up, please.

20 **A** My little brother walking into the kitchen.

21 **Q** The kitchen in which house?

22 **A** Boleg house?

23 **Q** At [REDACTED] American Avenue?

24 **A** Yes, ma'am.

25 **Q** Is that the same video that we've put on

1 this -- what's marked as Video 3, Defendant's Exhibit
2 19?

3 **A** Yes, ma'am.

4 **Q** Is that a fair and accurate representation of
5 Boleg's living room, kitchen area on the night of the
6 incident?

7 **A** Yes, ma'am.

8 **Q** Thank you?

9 **MS. DEMER:** Defense moves to enter Exhibit
10 17, 18, and 19 into evidence.

11 **MR. SCOTT:** I'd like to review them first,
12 Your Honor.

13 (Pause in proceeding.)

14 **MR. SCOTT:** Your Honor, may we approach?

15 **THE COURT:** You may.

16 (A sidebar conference is held off the record.)

17 **MS. DEMER:** All right.

18 The defense moves to enter Exhibit 17, 18,
19 and 19 into evidence.

20 **THE COURT:** They are entered subject to the
21 objections of the state; 17, 18, and 19.

22 **MS. DEMER:** Thank you, Your Honor.

23 **THE COURT:** You may publish.

24 (Defense Exhibit Nos. 17, 18, and 19 are admitted
25 into the record.)

1 **BY MS. DEMER:**

2 **Q** Jamira, I want to ask you to kind of explain
3 what the jury is seeing here. Where -- where was this
4 video taken?

5 **A** I was standing on the porch. Boleg house.

6 **Q** Boleg's house?

7 **A** Yes, ma'am.

8 **Q** And who is this?

9 **A** Boleg.

10 **Q** And who is this right here?

11 **A** Yes, ma'am.

12 **Q** All right.

13 And what is this right here?

14 **A** (Inaudible).

15 **Q** And I know it's difficult to see on this
16 projector screen. But what is that they're kind of
17 behind in between Boleg and Ishmael?

18 **A** Room door.

19 **Q** The bedroom?

20 **A** Yes, ma'am.

21 **Q** Jamira, what's in this video?

22 **A** Sapp standing in the living room.

23 **Q** This is Darryl Sapp?

24 **A** Yes, ma'am.

25 **Q** And what is this right here?

1 **A** Room door.

2 **Q** Is that the same room door we saw in the
3 prior video?

4 **A** Yes, ma'am.

5 **Q** And here?

6 **A** TV

7 **Q** And what is this right down here?

8 **A** (inaudible)

9 **MS. DEMER:** Would you mind replaying that?

10 **BY MS. DEMER:**

11 **Q** We've got this over here. What -- what is
12 this?

13 **A** Kitchen.

14 **Q** Is that the doorway to the kitchen?

15 **A** Yes, ma'am. Open.

16 **Q** Right there?

17 **A** Yes, ma'am.

18 **Q** And Video 3.

19 What is this a video of, Jamira?

20 **A** My little brother following Sapp in the
21 kitchen.

22 **Q** So which room is he starting in?

23 **A** The living room.

24 **Q** And this is the same doorway we just saw?

25 **A** Yes, ma'am.

1 **Q** And the same TV over to the right?

2 **A** Yes, ma'am.

3 **Q** And you said he's walking into the kitchen?

4 **A** Yes, ma'am.

5 **Q** About where does he stop? About in the
6 middle of the kitchen?

7 **A** Yes, ma'am.

8 **Q** And Jamira, have you seen this image before?

9 **A** Yes, ma'am.

10 **Q** And what is this?

11 **A** Living room.

12 **Q** Is it a photograph, an aerial photograph of
13 the living room?

14 **A** It's like a blueprint this way.

15 **Q** You say -- it's fair to say it's just kind of
16 a general layout?

17 **A** Yes, ma'am.

18 **Q** And what is this right here?

19 **A** The sectional.

20 **Q** And this here?

21 **A** The ottoman.

22 **Q** And this?

23 **A** TV.

24 **Q** All right.

25 Is that a fair and accurate depiction of the

1 layout of Boleg's living room --

2 **A** Yes, ma'am.

3 **Q** -- at the time of this incident?

4 Thank you.

5 **MR. SCOTT:** Without objection, Your Honor.

6 **MS. DEMER:** Present that evidence as Defense

7 Exhibit 20.

8 **THE COURT:** So admitted.

9 (Defense Exhibit No. 20 is admitted into the
10 record.)

11 **BY MS. DEMER:**

12 **Q** All right.

13 So Jamira, you said just a moment ago that
14 this is roughly what the living room looked like
15 that -- that night?

16 **A** Yes, ma'am.

17 **Q** Did you go into any rooms other than the
18 living room in Boleg's house that night?

19 **A** No, ma'am.

20 **Q** Were there any other exterior doors to the
21 house aside from his front door?

22 **A** The back door, but it was blocked off.

23 **Q** How was it blocked off?

24 **A** He had a bunch of stuff against the door.
25 Had like something blocking it, like a piece of wood or

1 something.

2 Q Could you get out that door if you tried?

3 A No, ma'am.

4 Q All right.

5 Jamira, what, if anything, out of the
6 ordinary happened on January 21, 2021?

7 A Alesha granddad passed.

8 Q He passed that day?

9 A Yes, ma'am.

10 Q So what did you do?

11 A I waited till she came home and went to
12 Hartsville. I drove her to Hartsville.

13 Q About what time did y'all go to Hartsville?

14 A I'm not sure.

15 Q You said she came home?

16 A Yes, ma'am.

17 Q Where did she come home from?

18 A From work.

19 Q From work. Was it daytime or nighttime?

20 A It was nighttime.

21 Q Thank you.

22 You said you drove her to Hartsville?

23 A Yes, ma'am.

24 Q How long did you stay there?

25 A For like two hours or something.

1 **Q** A couple of hours?

2 **A** Uh-huh.

3 **Q** And did you have any plans for when you got
4 back to Columbia?

5 **A** Yes, ma'am.

6 **Q** What were the plans?

7 **A** I was going to get us some weed.

8 **Q** From whom?

9 **A** From Boleg.

10 **Q** And how did you make those plans?

11 **A** I texted him.

12 **Q** Would that be that 12:13 a.m. text we heard
13 about?

14 **A** Yes, ma'am.

15 **Q** So what did you do after you texted Boleg?

16 **A** Came back --

17 **Q** Back to Columbia?

18 **A** -- back to Columbia.

19 Yes, ma'am.

20 **Q** And what did you do once you got back to
21 Columbia?

22 **A** Went to my apartment. And then he called me.

23 **Q** Boleg called you?

24 **A** Yes, ma'am.

25 **Q** And what did you do next?

1 **A** I had missed the call. So I called him back.
2 He was like, "Where you at?"

3 I was like, "We coming. I'm on the way."

4 He was rushing me but I was trying to make
5 sure she all right.

6 **Q** And so when you left your apartment, where
7 did you go?

8 **A** I went to Ishmael house.

9 **Q** If Boleg was watching you, why did you stop
10 at Ishmael's?

11 **A** 'Cause it was on the way to Boleg house. So
12 it wasn't a problem.

13 **Q** Once you got to Ishmael's, what did you do?

14 **A** Smoke. And I was telling him what was going
15 on, Alesha grandad passed.

16 **Q** And I'm sorry. Who is Ishmael to you?

17 **A** My friend.

18 **Q** Where did you smoke with Ishmael?

19 **A** In the car.

20 **Q** And you said that Boleg was calling you?

21 **A** Yes, ma'am.

22 **Q** Was it normal for him to call you repeatedly?

23 **A** No, ma'am. Not once I tell him I'm on the
24 way.

25 **Q** So what did you do once you left Ishmael's?

1 **A** I went to Boleg house.

2 **Q** Where was Boleg when you went inside? Or
3 when you got to his house. I'm sorry.

4 **A** When I pulled up, he was standing on the
5 porch.

6 **Q** Was it normal for him to be standing on the
7 porch?

8 **A** No, ma'am.

9 **Q** Where would he usually be?

10 **A** He'll be sitting down in the house.

11 **Q** So what did you do next?

12 **A** I walked in the house and sat down.

13 **Q** Where did you sit?

14 **A** Right there.

15 **Q** Can you describe it?

16 **THE COURT:** Ms. Davis, if you can speak up a
17 little bit louder.

18 **THE WITNESS:** The first seat right there by
19 the -- by the front door.

20 **BY MS. DEMER:**

21 **Q** This one?

22 **A** Yes, ma'am.

23 **Q** And what did Boleg do?

24 **A** He went and sat at the third seat over there.
25 Well, he had to walk around because there was really no

1 space.

2 Q He walked around the third seat?

3 A Yes, ma'am.

4 Q Was it dark inside?

5 A Yes, ma'am. The living room was dark. Only
6 light was on was the kitchen light. And the TV was on.

7 Q What was on the ottoman?

8 A Ashtray with a blunt in it, weed, and a gun.

9 Q So where was the ashtray?

10 A The ashtray was right in front of there.

11 Q Right there?

12 A Yes, ma'am.

13 Q And where was the rest of weed?

14 A On the side of the ashtray.

15 Q Inside the ashtray?

16 A Yes, ma'am.

17 Q And where was the gun?

18 A Right kind of -- right there by the TV but on
19 the ottoman, like closer to the TV.

20 Q Right there?

21 A Yes.

22 Q Was Boleg drinking?

23 A Yes, ma'am. He had a bottle of liquor.

24 Q And did he give you the weed you went over
25 there for?

1 **A** Yes, ma'am.

2 **Q** So what happened next?

3 **A** He lit up the blunt that was in the ashtray.

4 And he was talking. I hit it a couple times. And he
5 put it out after I passed it back to him. And he gave
6 me some weed to roll up.

7 **Q** Was that -- was that blunt dead?

8 **A** No, ma'am.

9 **Q** Why did he put it out?

10 **A** It was some good weed.

11 **Q** So that was -- that was the good weed?

12 **A** Yes, ma'am.

13 **Q** And so he gave you some more weed?

14 **A** Yes, ma'am.

15 **Q** Okay.

16 What did you do with that?

17 **A** Rolled it up.

18 **Q** And what -- what were y'all doing while you
19 smoked?

20 **A** Just talking about what happened that day.
21 Just catching up. Telling him Alesha passed. He was
22 telling me he went to my cousin earlier that day. Just
23 talking about -- catching up?

24 **Q** Was that fairly typical?

25 **A** Yes, ma'am.

1 **Q** So when did you notice that he had his hand
2 in his pants?

3 **A** Towards like the last blunt.

4 **Q** Was that weird for you?

5 **A** No, ma'am. Because I hang around dudes.
6 They -- they have their hands in their pants. I didn't
7 think nothing of it.

8 **Q** Was that something that he would usually do?

9 **A** No, ma'am.

10 **Q** And you lived with him before, right?

11 **A** Yes, ma'am.

12 **Q** Do you remember hearing testimony about a
13 call around 3:40 or so in the morning?

14 **A** Yes, ma'am.

15 **Q** Can you tell me about that call?

16 **A** Alesha called me. She was asking where I
17 was. I just told her I was on the way because I have
18 already gotten weed.

19 **Q** Where you on the way?

20 **A** Yes, ma'am. Well, I was -- I was still at
21 the house. So I wasn't on the way yet. But I told I
22 was on the way 'cause I was finna to go.

23 **Q** You were about to go?

24 **A** Yes, ma'am.

25 **Q** So after that phone call, what did -- what

1 did Boleg do?

2 **A** He moved right next to me.

3 **Q** How close was he to you?

4 **A** His leg touching my leg.

5 **Q** Was that normal for him?

6 **A** No, ma'am.

7 **Q** How did you feel about that?

8 **A** Uncomfortable.

9 **Q** So what happened next?

10 **A** Moved his hand, like touching my private in
11 between my legs, and I jumped up.

12 **Q** Did that happen pretty much immediately once
13 he scooted over?

14 **A** Yes, ma'am.

15 **Q** How did you feel when he did that?

16 **A** Violated. Like scared. I jumped up. I'm
17 finna go.

18 **Q** So you told him you were ready to go?

19 **A** Yes, ma'am.

20 **Q** And where was Boleg when you told him you
21 were going to go when you got up from the couch?

22 **A** He stand up -- he got up too.

23 **Q** So what did -- what did you do next?

24 **A** I was trying to leave and he grabbed me.

25 **Q** Jamira, can you step down off the stand for

1 me please.

2 **A** (Witness complies.)

3 **THE COURT:** Ms. Demer, make sure that she
4 speaks up. Talk into that microphone as loud as
5 she can and face the court reporter.

6 **MS. DEMER:** Yes, Your Honor.

7 **BY MS. DEMER:**

8 **Q** You said he -- he grabbed you?

9 **A** Yes, ma'am.

10 **THE COURT:** Ms. Davis, you've got to speak.
11 It's all right. You've got to speak up so she can
12 hear you and make sure that everyone else can hear
13 you. So you've got to speak loud. Okay?

14 **THE WITNESS:** Okay.

15 **BY MS. DEMER:**

16 **Q** All right.

17 So Jamira, I'm going to be Jamira right now.
18 I'm going to the door. Show me how Boleg grabbed you.

19 **A** Right here.

20 **Q** Okay.

21 **A** With more force. More force.

22 **Q** Thank you.

23 So what -- what happened to your body when --
24 when he pulled you away from the door like that?

25 **A** I fell next to the ottoman.

1 **Q** Okay.

2 How -- how did you fall? Face first? Hands
3 and knees?

4 **A** Hands and knees.

5 **Q** You were on your hands and knees?

6 **A** Yes, ma'am.

7 **Q** All right.

8 So how are you holding yourself?

9 **A** With my left arm.

10 **Q** Your left arm?

11 **A** Yes, ma'am.

12 **Q** Okay. All right.

13 So Jamira, let's say this is the ottoman.
14 You've got the gun. Is that roughly facing the
15 ottoman?

16 **THE COURT:** Let's stop.

17 She -- she's having trouble hearing. And I
18 know the jurors are having trouble seeing. Why
19 don't we talk as much time as we need to get it
20 arranged so everyone can see?

21 And instruct Ms. Davis, you've got to speak
22 louder. Okay?

23 **THE WITNESS:** Okay.

24 **THE COURT:** Especially when your back's to
25 the courtroom.

1 **MS. DEMER:** So if we have it here, can
2 everyone see?

3 **THE COURT:** Jurors in the back: Can you see?
4 Jurors in the front?

5 If you need to stand, that's fine. Just
6 don't block any other jurors. But it looks like
7 the jurors can see. So that's fine.

8 And Ms. Davis, make sure you're gonna be
9 talking this way and talking that way. You're
10 gonna have to speak up loudly. If I'm flagging
11 you down, I'm going to interrupt your testimony.
12 But it's because we've got to get it on the
13 record. Okay?

14 So Ms. Demer, make sure. Okay?

15 **MS. DEMER:** Yes, Your Honor.

16 **BY MS. DEMER:**

17 **Q** Okay.

18 So you said you fell on your hands and knees,
19 correct?

20 **A** Yes, ma'am.

21 **Q** All right.

22 And how are -- what are -- what are you doing
23 physically?

24 **A** I was trying to -- I was supporting myself
25 with my left hand.

1 **Q** Uh-huh.

2 **A** I'm trying to keep myself down as he pulling
3 me up.

4 **Q** Okay.

5 So I will get down on my hands and knees like
6 you described. Show me how Boleg's pulling. Okay?

7 So we're here. And how is Boleg pulling you?

8 **A** Pulling me like this.

9 **Q** Okay.

10 **A** Like, "Let me talk to you. Let me talk to
11 you."

12 **Q** Okay.

13 So what did you do next?

14 **A** I grabbed the gun.

15 **Q** Grabbed the gun?

16 **A** Yes, ma'am.

17 **Q** And what did you do?

18 **A** Put it under my hand -- under my arm.

19 **Q** Under your arm?

20 **A** Yes, ma'am.

21 **Q** Okay.

22 Jamira, will you please take a seat?

23 **A** (Witness complies.)

24 **Q** So when he first grabbed you, where were you?
25 Where did you start?

1 **A** Right there by the front door.

2 **Q** Okay.

3 And when he pulled you away from the door,
4 where did you end up?

5 **A** Right there by the ottoman.

6 **Q** By the ottoman?

7 **A** Yeah.

8 **Q** And where was he?

9 **A** Behind me. On my back.

10 **Q** Okay.

11 So where was he in relation to the kind of
12 other points of reference in that room?

13 **A** Right behind me, between -- like right there.

14 **THE COURT:** Just use that microphone,
15 Ms. Davis.

16 **THE WITNESS:** Right there. Right behind me.

17 **BY MS. DEMER:**

18 **Q** Right behind you?

19 **A** Yes, ma'am.

20 **Q** Is that roughly where Sapp was --

21 **A** Yes.

22 **Q** -- in the video we saw earlier?

23 **A** Yes, ma'am.

24 **Q** And real quick. You had been over to Boleg's
25 house with Sapp before, correct?

1 **A** Yes, ma'am.

2 **Q** Was it normal for you to see him at Boleg's?

3 **A** Yes, ma'am.

4 **Q** Were you surprised when you learned that
5 Boleg sent him away that night?

6 **A** Yes, ma'am.

7 **Q** Okay.

8 So you are, you said, roughly here beside the
9 ottoman?

10 **A** Yes, ma'am.

11 **Q** Now, Jamira, if I am roughly where -- where
12 Sapp was in that video roughly where you said Boleg was
13 and I take one step back, which room am I in?

14 **A** You in the kitchen.

15 **Q** I'm in the kitchen?

16 **A** Yes, ma'am.

17 **Q** So what was he doing when you grabbed the
18 gun?

19 **A** Pulling on me.

20 **Q** What was going through your head?

21 **A** Scared. Like he -- he was basically pulling
22 on me, like pushing me towards the bedroom door, which
23 is right there.

24 **Q** Which is on the other side of the TV here?

25 **A** Yes, ma'am.

1 **Q** And what did you think he was going to do?

2 **A** Rape me.

3 **Q** Why did you think that?

4 **A** At that point, what we -- what do we have to
5 talk about? You wouldn't let me leave. You trying to
6 rape me.

7 **Q** Going in the bedroom?

8 **A** Yes, ma'am.

9 **Q** And so why didn't you try and fight him off?

10 **A** I couldn't. He's shorter than me but he
11 stronger than me.

12 **Q** So what made you decide to grab that gun?

13 **A** It was the only thing right there that could
14 help me.

15 **Q** Was it within his reach as well?

16 **A** Yes, ma'am.

17 **Q** Do you remember telling the police that he
18 kind of lifted off of you once you started shooting?

19 **A** Yes, ma'am.

20 **Q** Can you kind of describe what that felt like
21 in the moment?

22 **A** Like he was pulling on me. I can like smell
23 him. His breath, the liquor on his breath. And
24 (inaudible) -- I didn't -- I knew he was in the area.
25 I didn't know he was still around.

1 **Q** You knew he was still around?

2 **A** Yes, ma'am.

3 **Q** So how many shots did you fire?

4 **A** I don't know.

5 **Q** And once you didn't feel him on top of you
6 anymore, what did you do?

7 **A** Got up and went out the door.

8 **Q** What did you do once you got out the door?

9 **A** In the car, looking around. In shock,
10 basically.

11 **Q** You were in shock?

12 **A** Yes.

13 **Q** Do you know how long you were in the car
14 looking around?

15 **A** No, ma'am.

16 **Q** What were you looking around for?

17 **A** Just seeing if anybody heard.

18 **Q** And where was the gun at that moment?

19 **A** In my jacket.

20 **Q** Where did you go from there?

21 **A** I went to the house.

22 **Q** What did you do once you got there?

23 **A** Straight to the other room. Cause we had two
24 bedrooms. So I went to the other room.

25 **Q** Kind of spare bedroom?

1 **A** Yes, ma'am.

2 **Q** What did you do?

3 **A** I was just staring in the mirror and just in
4 shock. I couldn't believe that happened. Scared.
5 Looking. I was just looking in the mirror.

6 **Q** Did you go straight to bed?

7 **A** No, ma'am.

8 **Q** What do you do next?

9 **A** Took a shower.

10 **Q** Why?

11 **A** 'Cause I felt nasty. He violated me. I
12 stayed in the house with that man for years. Never got
13 a sign. I never like -- so.

14 **Q** So what did you decide to do with the gun?

15 **A** At first, I was -- I was gone sell it. And
16 then I -- I changed my mind.

17 **Q** Were you going to sell it to your friend
18 Jaquan from those messages?

19 **A** Yes, ma'am.

20 **Q** Why him?

21 **A** Because I know he was gone buy it.

22 **Q** Did you sell it to him?

23 **A** No, ma'am.

24 **Q** Did you sell it at all?

25 **A** No, ma'am.

1 **Q** Why not?

2 **A** I didn't want him to do nothing stupid with
3 it. And I didn't want anyone to get hurt. So I just
4 decided to throw it, so no one would have it.

5 **Q** To throw it?

6 **A** Yes, ma'am.

7 **Q** And where did you throw it?

8 **A** A lake off Leesburg.

9 **Q** When you were messaging Jaquan, did you send
10 him a picture?

11 **A** Yes, ma'am.

12 **Q** Do you recognize this question?

13 **A** Yes, ma'am.

14 **Q** And what -- what is this picture from?

15 **A** Google. A picture that I showed you off
16 Google.

17 **Q** Did you show anyone else this picture?

18 **A** Yes, ma'am. I sent him a picture like that
19 -- similar to it.

20 **Q** I sent him a picture like this?

21 **A** Yes, ma'am.

22 **Q** Him, being Jaquan?

23 **A** Yes, ma'am.

24 **Q** When was the -- the next time that you looked
25 at this picture?

1 **A** Last Wednesday.

2 **Q** Jamira, did you tell us about the gun before
3 that day?

4 **A** No, ma'am.

5 **Q** Sorry?

6 **A** No, ma'am.

7 **Q** Why not?

8 **A** It never got brought up. Y'all never asked
9 me.

10 **Q** Had anyone else asked you where the gun was
11 since your interrogation?

12 **A** No, ma'am.

13 **Q** So what happened once we learned about this
14 gun?

15 **A** I took y'all to the location.

16 **Q** To Mirror Lake?

17 **A** Yes, ma'am.

18 **Q** And what did you do once you got there?

19 **A** Showed y'all where I threw it at.

20 **Q** Did you also show us where you were standing
21 when you threw it?

22 **A** Yes, ma'am.

23 **Q** And did we find it that day?

24 **A** No, ma'am.

25 **Q** So what happened next?

1 **A** Hired a scuba diving. He got it.

2 **Q** Were you there when Mr. Benfield pulled it
3 out of the pond?

4 **A** No, ma'am.

5 **Q** Did you think you were ever gonna see that
6 gun again?

7 **A** No, ma'am.

8 **Q** There's already been evidence that you
9 deleted some texts from that night. Do you remember
10 that?

11 **A** Yes, ma'am.

12 **Q** Why did you delete those messages?

13 **A** I was trying to remove myself from the
14 situation. I was scared. So I deleted everything.

15 **Q** You deleted everything?

16 **A** Yes, ma'am.

17 **Q** But not those messages from Jaquan, right?

18 **A** No, ma'am.

19 **Q** Why not?

20 **A** I didn't think about it.

21 **Q** Do you remember talking to the police?

22 **A** Yes, ma'am.

23 **Q** Were you honest with them right away?

24 **A** No, ma'am.

25 **Q** Did you decide not to say anything at all?

1 **A** No, ma'am.

2 **Q** Did you lie?

3 **A** Yes, ma'am.

4 **Q** Jamira, did you deny going to Boleg's house
5 that night?

6 **A** Yes, ma'am.

7 **Q** Did you deny that you went to his house
8 alone?

9 **A** Can you repeat?

10 **Q** Sure. Did you -- at first, did you tell them
11 that someone else was with you when you went?

12 **A** Yes, ma'am.

13 **Q** Did you deny going inside his house that
14 night?

15 **A** Yes, ma'am.

16 **Q** Did you deny seeing a gun inside his house
17 that night?

18 **A** Yes, ma'am.

19 **Q** Did you deny that he attacked you?

20 **A** Yes, ma'am.

21 **Q** Because you deny that you shot him?

22 **A** Yes, ma'am.

23 **Q** Why did you lie?

24 **A** To try to remove myself from the whole
25 situation.

1 **Q** And why did you decide to tell the truth?

2 **A** 'Cause I felt comfortable with the detective
3 that came in there. I felt like he understood -- I
4 felt like he understood me.

5 **Q** This was one of the first detectives that was
6 in the room?

7 **A** No, ma'am.

8 **Q** Was it one of the detectives we've heard
9 testify this week?

10 **A** No, ma'am.

11 **Q** Does Investigator Dauway sounds like the
12 right person?

13 **A** I think so.

14 **Q** And so why did -- why did he -- why did you
15 decide to tell him?

16 **A** I felt comfortable around him. I felt like
17 he would understand. Everybody else just wanted to --
18 just hear that I killed him. They didn't care.

19 **Q** How did you feel when you heard testimony
20 from investigators that they did just want you to say
21 that you killed him and they didn't care why?

22 **MR. SCOTT:** Objection to any relevancy about
23 how she felt about the prior testimony.

24 **MS. DEMER:** I believe that it goes to why she
25 would have denied.

1 **THE COURT:** Overruled.

2 Repeat that question.

3 **BY MS. DEMER:**

4 **Q** How did you feel when you heard the
5 investigators testify that they did just want you to
6 admit to shooting Boleg and didn't care why?

7 **A** I just felt like they didn't care.

8 **Q** So Jamira, why didn't you tell them about the
9 gun?

10 **A** Because it was already gone.

11 **THE COURT:** Can you speak --

12 **THE WITNESS:** It was already gone.

13 **MR. SCOTT:** What was it? I can't -- still
14 can't hear.

15 **THE WITNESS:** It was already gone.

16 **BY MS. DEMER:**

17 **Q** What do you mean by "gone"?

18 **A** I already threw it.

19 **Q** And Jamira, do you recognize -- do you
20 recognize this?

21 **A** Yes, ma'am.

22 **Q** What is this?

23 **A** That's the gun.

24 **Q** Which gun?

25 **A** Boleg gun.

1 **Q** So Jamira, what happened once you were done
2 talking to police?

3 **A** Went to jail.

4 **Q** And what happened once your family found out
5 that you had been charged with killing Boleg?

6 **A** Gram, she was telling me to pray -- like pray
7 for him. Just pray. Pray. Just pray. Pray for him.
8 Pray for his family. I still pray like for him and his
9 family. That's nothing I wanted to do. That's
10 something I had to do.

11 **Q** So Jamira, how much did you pay the Shealey
12 Law Firm?

13 **A** Nothing.

14 **Q** By him lunch or anything?

15 **A** No, ma'am.

16 **Q** You know why they're working for you?

17 **MR. SCOTT:** Your Honor, what -- what is the
18 relevancy of this particular question?

19 **MS. DEMER:** I believe the state has opened
20 the door.

21 **MR. SCOTT:** How much they paid?

22 **THE COURT:** As to the?

23 **MS. DEMER:** Whether they were retained.

24 **THE COURT:** (Inaudible). That's sustained.

25 **MS. DEMER:** Beg the Court's indulgence.

1 (Pause in proceeding.)

2 **BY MS. DEMER:**

3 **Q** Jamira, did you hear your mom testify?

4 **A** Yes, ma'am.

5 **Q** You ever heard her tell that story before?

6 **A** No, ma'am.

7 **MS. DEMER:** Court's indulgence.

8 Jamira, please answer any questions Mr. Scott
9 has for you.

10 **THE COURT:** I'm gonna say this just again for
11 the witness. Speak right into that microphone as
12 loud as you can so we can all hear you. Okay?

13 **THE WITNESS:** Okay.

14 **THE COURT:** All right.

15 Cross-examination.

16 **MR. SCOTT:** Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 **BY MR. SCOTT:**

19 **Q** Okay.

20 Jamira, on that particular day, January 21,
21 2021, you and Alesha had gone Hartsville after Alesha
22 got off work, correct?

23 **A** No, she -- she left early.

24 **Q** You and Alesha went to Hartsville after she
25 got off work, correct?

1 **A** Yes.

2 **Q** Okay.

3 And then when you got back, you were planning
4 on getting some weed from Brandon Burden, correct?

5 **A** Yes, sir.

6 **Q** Okay.

7 You actually called him, or texted --

8 **A** I texted him.

9 **Q** -- him, to ask for weed?

10 **A** I just texted. I think he ended up calling
11 me.

12 **Q** Okay.

13 What did you text him?

14 **A** I texted him, "Yo."

15 **Q** Okay.

16 But you said you had planned to get some weed
17 from him that day, right?

18 **A** Yes, sir.

19 **Q** Is "yo" a code word for "I'm coming to get
20 weed"?

21 **A** No.

22 **Q** How would he have known that you were coming
23 to get weed?

24 **A** I think after the fact. He called me.

25 **Q** Okay.

1 And then you said, "Can I come and get some
2 weed from you"?

3 **A** No. I just said I'm coming over to get some
4 weed.

5 **Q** Okay.

6 And that was something you did fairly
7 regularly?

8 **A** Yes, sir.

9 **Q** Okay.

10 Where else did you get weed from during that
11 time?

12 **A** People I knew.

13 **Q** Like who?

14 **A** People that were selling weed.

15 **Q** Like who?

16 **A** Friends and --

17 **Q** Speak up.

18 **A** Whoever was selling weed.

19 **Q** Like who?

20 **A** Like friends.

21 **Q** What are their names?

22 **A** (No audible response.)

23 **Q** Are you not going to tell?

24 **A** No. I just said. Who -- whoever was selling
25 weed.

1 **Q** Jaquan?

2 **A** No direct names.

3 **Q** Would you get it from Jaquan?

4 **A** Yes, sir.

5 **Q** Would you get it from Ishmael?

6 **A** No, sir.

7 **Q** Who else would you get it from besides
8 Jaquan?

9 **A** People I knew.

10 **Q** Okay.

11 How many people were you in the habit of
12 buying marijuana from?

13 **A** I really didn't buy weed from everybody.
14 So --

15 **Q** People just gave it to you?

16 **A** No. I bought it.

17 **Q** Okay.

18 How many people at that time were you
19 currently buying weed from on a regular basis?

20 **A** I'm not sure.

21 **Q** Two? Three people? Four people? Five
22 people?

23 **A** I'm not sure.

24 **Q** How many options did you have at that time?

25 **MS. DEMER:** Objection; asked and answered.

1 **THE WITNESS:** I don't think she answered.

2 But let's just --

3 **BY MR. SCOTT:**

4 **Q** I'm getting somewhere. If you could just
5 give me an estimate of how many options you had of
6 where you could find weed during that time.

7 **A** Whoever was selling weed.

8 **Q** Okay.

9 **A** I'm not -- I'm not sure how many.

10 **Q** So you had several options, I guess, is what
11 you're saying?

12 **A** Yeah.

13 **Q** Okay.

14 But you like to go to Brandon Burden, because
15 he just give it to you?

16 **A** If I didn't have it. If I had the money, I
17 would go buy it. If I didn't have the money, I would
18 get it.

19 **Q** January 21, you had other options to get
20 weed, didn't you?

21 **A** (No audible response.)

22 **Q** I mean, January 19, you're selling some to
23 Jaquan. And it was quality stuff too.

24 **A** You said I'm selling it? What did I say?

25 **Q** "You on wheels? I got a serve for you."

1 Remember saying that?

2 **A** Yea. That's not saying I'm selling weed.

3 **Q** What does that mean?

4 **A** They're saying that I know somebody who want
5 weed.

6 **Q** Serving means you're going to get weed?

7 **A** No. That mean I know somebody who wants some
8 weed.

9 **Q** Who did you know who wanted weed?

10 **A** I'm not sure. I can't remember.

11 **Q** He says, "Who can I get some pressure from?"

12 You said, "What do you need?"

13 He said, "What's the zip going for?"

14 And you said, "160."

15 Remember that?

16 **A** Yes, sir.

17 **Q** And then he asked, "Is it some gas?"

18 And that's quality marijuana?

19 **A** Yes, sir.

20 **Q** Okay.

21 You said, "Yeah."

22 Who are you talking about that you had
23 quality marijuana at that point?

24 **A** Somebody I knew.

25 **Q** Okay.

1 Well, then why were you going to Brandon
2 Burden if you had this quality marijuana?

3 A I didn't have it. I said who had it. He
4 asked me do I know somebody who have it.

5 Q Okay.

6 Why didn't you get it from him? You said you
7 only went to Brandon Burden when you didn't have other
8 options.

9 A I said when I didn't have the money.

10 Q You didn't have the money during this time?

11 A No. I didn't have money to-- to buy that
12 kind of weed.

13 Q Because you were out of work?

14 A Yes, sir.

15 Q And you didn't have very much money at that
16 time?

17 A No. I didn't have money. I had enough money
18 to pay my bills. I didn't have money.

19 Q So money was an issue at this time. Because
20 you had left Schneider. You had another job prospect,
21 but that wasn't going well because you had actually
22 missed your flight. Remember that?

23 A Yes, sir. I remember.

24 Q And so you weren't really taking that job
25 opportunity very seriously either, were you?

1 **A** No. No, sir. I had another job lined up,
2 too, around the time.

3 **Q** But you overslept and missed the plane
4 flight?

5 **A** Yes.

6 **Q** So you didn't have a car?

7 **A** No, sir.

8 **Q** You were staying with Alesha?

9 **A** We were staying together.

10 **Q** And money was tight.

11 **A** Money wasn't really tight. I had enough
12 money to pay my bills. Money wasn't tight.

13 **Q** But you -- you didn't have the money for all
14 that weed you were looking for?

15 **A** No, I didn't have money for the weed.

16 **Q** So Burden calls back. You missed it. Then
17 you call back. And you tell him you're on the way?

18 **A** Yes, sir.

19 **Q** But you -- you really weren't. Because now
20 we're here today for the first time that you stopped at
21 Ishmael's house?

22 **A** Yeah. But that was on the way to his house.

23 **Q** So it was that typical? "I'm going over here
24 to get weed, but I gotta stop at this other place to
25 smoke weed before I go to this other place to smoke

1 more weed."

2 **A** That wasn't the problem.

3 **Q** Say what?

4 **A** That wasn't the problem. That was on the way
5 to this house.

6 **Q** No, I'm saying, Is that typical? "I'm going
7 to Brandon Burden's house to get some weed and smoke
8 some weed with him. But I want to make a pit stop
9 beforehand and smoke more weed." Is that what you were
10 doing?

11 **A** Yes, sir. But it wasn't out the way. It was
12 on the way to -- on the way there.

13 **Q** Does that strike you as unusual that you're
14 stopping to smoke weed with somebody else before you go
15 to another place to smoke more weed?

16 **A** That's just how much I smoked weed at the
17 time.

18 **Q** Do you still smoke a lot of weed?

19 **A** No, sir. I don't smoke weed at all.

20 **Q** You don't?

21 **A** No, sir.

22 **Q** So you just completely gave it up?

23 **A** Yes, sir.

24 **Q** Okay.

25 But at the time you're smoking so much that

1 you had to actually make pit stops to keep up with your
2 intake of marijuana?

3 **A** No. That's just something we randomly did.

4 **Q** Did you tell Ishmael you were coming to his
5 house to smoke marijuana with him?

6 **A** No. He -- no. We just -- I just pulled up
7 over there. We smoked weed on a regular.

8 **Q** Showed up unexpectedly?

9 **A** No. I think he knew I was on the way.

10 **Q** How did he know?

11 **A** I think I called him. I'm not sure. I'm not
12 sure. I don't know.

13 **Q** All right.

14 But after you smoked marijuana with Ishmael,
15 I think you're in your car 26 minutes from what your
16 expert says. So you must not smoke very long with him.

17 **A** I don't remember how long I was over there.

18 **Q** Twenty-six minutes. Your Bluetooth engages
19 for 26 minutes. And then it terminates by the time you
20 get the Brandon Burden's house. So you were in your
21 car about 26 minutes. So you must have run in pretty
22 quick to smoke with Ishmael.

23 **A** We was in -- we was in the car smoking.

24 **Q** He stayed in with you. Okay.

25 So maybe just one joint or blunt or whatever?

1 **A** Yeah. We didn't really smoke that much.

2 **Q** Okay.

3 But when you went to Brandon Burden, you
4 smoke a great deal, did you not?

5 **A** Yes, sir.

6 **Q** Five blunts, I think you said.

7 **A** Yeah. But that wasn't really like potent
8 weed. So we weren't really even high like that.

9 **Q** Well, I just heard you tell your attorney
10 Hope Demer that it was quality marijuana?

11 **A** I said what was in the ashtray was. Not what
12 we were smoking.

13 **Q** You testified you were smoking what was in
14 the ashtray, did you not?

15 **A** At first. I say he put it out.

16 **Q** Okay.

17 So you were over there smoking some quality
18 weed. And five blunts during about an hour and four
19 minutes, is what you --

20 **A** I really don't know how much. Like four or
21 five.

22 **Q** Would it surprise you if I told you you told
23 law enforcement about five blunts?

24 **A** I said four or five. I never gave them a
25 number.

1 **Q** Four or five blunts, that's right.

2 And you sit down in a dark room?

3 **A** TV was on.

4 **Q** Wasn't dark?

5 **A** TV was on; the kitchen light was on.

6 **Q** So it was not dark?

7 **A** The living room was dark.

8 **Q** Okay.

9 So the light in the kitchen doesn't
10 illuminate the living room?

11 **A** No, sir.

12 **Q** Because they're far enough apart where the
13 living room is dark, and lights from the kitchen is not
14 going to light up the living room?

15 **A** No, sir. Probably light up like right there
16 by the -- by the TV.

17 **Q** Did you say, "Let's turn some lights on"?

18 **A** Can you repeat it?

19 **Q** Did you ask him to turn some lights on?

20 **A** No, sir.

21 **Q** Because you were comfortable with Brandon
22 Burden --

23 **A** Yes, sir.

24 **Q** -- correct?

25 And was he acting on that particular day any

1 different than how he always acts?

2 **A** Other than calling me repeatedly.

3 **Q** Well, you told him you were on the way.

4 **A** Yeah, but he -- he never rush me.

5 **Q** You told him that you were on the way. And
6 it's in the middle of the night. And you don't
7 continue to his house. You make a pit stop. And he's
8 like a father figure. Would he have reason to be
9 concerned if you said you're on the way and you make a
10 pit stop and don't tell him?

11 **A** I mean, he had a reason but it wasn't -- it
12 was normal.

13 **Q** So you go in the house. And you sit down --
14 this is not to scale, correct? This is not to scale.
15 Do you know what that means?

16 **A** No.

17 **Q** Do you know what that means?

18 **A** No.

19 **Q** You didn't go measure the couches and measure
20 the room, did you?

21 **A** No. But that's about what it -- that's what
22 it was.

23 **Q** Did that ottoman take up the entire living
24 room floor?

25 **A** Majority of space.

1 **Q** Okay.

2 I saw some videos. You didn't have any
3 videos of the couch and the ottoman or anything, did
4 you?

5 **A** Partly. You see a little bit of it.

6 **Q** And you don't have any pictures from the
7 kitchen or anything?

8 **A** No, sir.

9 **Q** But -- but it's a sectional-type couch?

10 **A** Yes, sir.

11 **Q** And the ottoman, your testimony is it takes
12 up about the majority of the living room floor?

13 **A** Yeah. The space in the middle.

14 **Q** Space in the middle of what?

15 **A** In the middle. The majority of this space.

16 **Q** Okay.

17 Well, it's almost like a loveseat. An
18 ottoman typically is what you put your feet up on,
19 isn't it?

20 **A** Yeah.

21 **Q** But that's -- that's almost like a whole
22 couch in and of itself.

23 **A** It was just a large ottoman.

24 **Q** Your testimony is you sit here close to the
25 door?

1 **A** In the middle. That's one seat right there.

2 **Q** Uh-huh.

3 You're in the middle?

4 **A** Yeah.

5 **Q** And I think you said Brandon was on the third
6 seat, correct?

7 **A** Yeah.

8 **Q** And one of the first things you look at is a
9 pistol laying on that ottoman with some marijuana,
10 right?

11 **A** It's right in front of me. The ottoman right
12 now.

13 **Q** And you see that pistol laying there?

14 **A** It's right there. I mean, that was normal
15 for the gun to be laying around.

16 **Q** That didn't concern you?

17 **A** No. That's normal for him.

18 **Q** Okay.

19 So it didn't concern you?

20 **A** No.

21 **Q** Okay.

22 And at some point, you look over and he's got
23 his hands in his hands, correct?

24 **A** Yes, sir.

25 **Q** But that didn't concern you at all?

1 **A** That was normal for me to hang around guys
2 and they got their hands in their pants. I ain't think
3 nothing of it.

4 **Q** So it was nothing -- nothing to make you
5 uncomfortable enough for you to, "I'm -- I'm about to
6 leave"?

7 **A** No, sir.

8 **Q** Okay.

9 And then he moved closer, correct?

10 **A** Yes, sir.

11 **Q** And so just before that, Alesha called you.
12 And you told her you were on the way?

13 **A** Yes, sir.

14 **Q** But that was a lie?

15 **A** I had done already gotten the weed. I was
16 finna leave.

17 **Q** Why didn't you leave?

18 **A** Because that's when he moved closer to me.

19 **Q** Well, the testimony was, I think, earlier, he
20 had given you the weed you were there for -- pretty
21 much immediately once you got there, right?

22 **A** Yeah. He had give it to me.

23 **Q** Why not leave then?

24 **A** Because we were smoking, catching up.

25 **Q** What was it that made you go there that time

1 of night?

2 **A** That's when I came back to Columbia.

3 **Q** You came back to 2:49 a.m. for Hartsville?

4 **A** No, I came back I think like one something.
5 I'm not sure.

6 **Q** One something?

7 **A** Yes, sir.

8 **Q** But why did you wait until 2:49 to go to to
9 his house?

10 **A** Because I told him I was on the way. That
11 was normal.

12 **Q** Okay.

13 Well, you weren't working at the time. So it
14 wasn't like you just got off a shift?

15 **A** No. But I got back from Columbia at 1:40
16 something. I was still up.

17 **Q** And you just couldn't wait until the next day
18 to get that weed?

19 **A** I wanted it when I got back. I didn't feel
20 like waiting.

21 **Q** And the weed you smoked at Ishmael's wasn't
22 enough to hold you over till the next day?

23 **A** That was just some weed to smoke.

24 **Q** What kind of weed were you getting from
25 Brandon?

1 **A** Like some regular weed?

2 **Q** So Ishmael has weed you smoke and Brandon has
3 regular weed. What's the difference?

4 **A** The weed I smoke with Ishmael is like more
5 potent.

6 **Q** But you said Brandon had potent weed too?

7 **A** No. I said the weed that was in the ashtray
8 was potent. I didn't say he had potent weed.

9 **Q** All right.

10 We're getting in a rabbit hole.

11 But what I'm saying is, when you go to
12 Ishmael's house, he smokes you up. Why not just go
13 home and go to sleep at that point?

14 **A** I was still up. That was normal. That's how
15 much weed I was smoking at the time. That wasn't
16 unusual.

17 **Q** Okay.

18 So you tell Alesha you're on the way. But
19 you're really not. And you hang out more because
20 you're going to smoke some more weed. Brandon moves
21 close to you and puts his hand between your legs --

22 **A** Touching my --

23 **Q** -- right?

24 **A** Touching my private.

25 **Q** Touched your private?

1 **A** Yes, sir.

2 **Q** On the outside of your pants?

3 **A** Yes.

4 **Q** Okay.

5 And then you got up and walk out the door,
6 didn't you?

7 **A** I didn't walk out the door. I didn't even --

8 **Q** Why --

9 **A** I couldn't. He grabbed me.

10 **Q** Okay.

11 So how was he able to leap over this ottoman
12 and grab you?

13 **A** He was close to me. So he didn't leap.

14 **Q** All right.

15 He grabbed you kind of around the waste from
16 behind?

17 **A** No. Like -- like right here.

18 **Q** Okay.

19 Am I holding my hand somewhere different?

20 **A** You got it upper.

21 **Q** Up higher?

22 **A** Yeah. Right there.

23 **Q** Right here is where he hold you?

24 **A** Yes, sir.

25 **Q** And then, of course, you've demonstrated that

1 a couple of times with Tai Jordan, right?

2 **A** Yeah. Just not force. I didn't use force.

3 **Q** Why not?

4 **A** 'Cause he a police officer. I didn't use
5 force with Hope.

6 **Q** He asked you to demonstrate. Okay.

7 You're trying to explain to him a fight for
8 your life, correct?

9 **A** Yes, sir.

10 **Q** Why wouldn't you demonstrate to him how it
11 happened?

12 **A** I didn't want to hurt him.

13 **Q** He asked you to demonstrate.

14 **A** But I didn't want to hurt him.

15 **Q** So you're capable -- you have that much force
16 where you can hurt a police officer?

17 **A** But still I just didn't want to use like
18 force, like that much force with him.

19 **Q** Because you're capable of using a good bit of
20 force, are you not?

21 **A** No. I'm pretty sure he stronger than me.

22 **Q** You said you were worried about hurting him.

23 **A** But still just using force with him. He a
24 police officer still.

25 **Q** Even though he's asking you to do it, you

1 think you were gonna use so much force you were gonna
2 hurt him?

3 **A** No.

4 **Q** You can hold your own, right?

5 **A** It depends on the situation.

6 **Q** Yes. Boleg, five-foot-five, drunk as a
7 skunk, holding you by the waist. He was overpowering
8 you that way by holding you around the waist like right
9 up here?

10 **A** He slung me on the floor.

11 **Q** And you told Tai Jordan that, right?

12 **A** I said he -- I said I fell next to the
13 ottoman. He pulled me away from the door. And I fell
14 next to the ottoman.

15 **Q** Okay.

16 And did you show him that little trick shot
17 you did with Hope Demer?

18 **A** He didn't ask -- he didn't ask to go all the
19 way into detail.

20 **Q** He didn't? Because if I play the video,
21 we're not going to hear him say, "Show me how it
22 happened"?

23 **A** I'm pretty sure he said, "Show me how it
24 happened." But he didn't say go into detail.

25 **Q** I guess that's kind of like the going in the

1 pond, right? You said you didn't tell your lawyers
2 because they didn't ask you.

3 **A** But that was the first time it got brought
4 up.

5 **Q** That's not true.

6 **A** When did it get brought up?

7 **Q** Tai Jordan said, "Where's the gun?"

8 You said, "I left it in the house."

9 **A** You said what I told my lawyer. You didn't
10 say what I told the police.

11 **Q** You didn't think that was something important
12 to tell your lawyers?

13 **A** When it got brought up, I told them.

14 **Q** You know, Jamira, is a gun not the
15 centerpiece of this particular case? What killed
16 Brandon Burden? A gun, right?

17 **A** Yes, sir.

18 **Q** You didn't find that important? You didn't
19 find that something you needed to tell your lawyers?

20 **A** I told them when it got brought up.

21 **Q** They never brought it up to you till last
22 week?

23 **A** Yes, sir.

24 **Q** You're telling this jury you never talked to
25 your lawyers about a shooting of a man in his own home

1 with a pistol until last week?

2 **A** I never talked about the gun.

3 **Q** They never mentioned a gun?

4 **A** No, sir.

5 **Q** What killed Brandon Burden?

6 **A** A gun.

7 **Q** That y'all first talked about last week, huh?

8 **A** Yes, sir.

9 **Q** Okay. All right. All right.

10 Would you be willing to do a demonstration
11 for me?

12 **A** Yes, sir.

13 **MR. SCOTT:** Your Honor, I have another prop
14 gun, Your Honor. This is incapable of being
15 fired. This is a training weapon. As you can
16 see, the barrel is solid. It's just a prop gun.

17 **THE COURT:** All right.

18 **BY MR. SCOTT:**

19 **Q** Would you mind stepping down with the Court's
20 permission and speaking up loudly?

21 **A** Yes, sir.

22 **Q** And let's show us that trick shot again.

23 **THE COURT:** Ms. Davis, again, if you will
24 just make sure that the court reporter can hear
25 you as you speak. Okay?

1 **THE WITNESS:** Yes, sir.

2 **BY MR. SCOTT:**

3 **Q** This is the ottoman. Okay? That's the door.

4 Okay? Fair enough?

5 **A** (No audible response.)

6 **Q** You gotta say "yes" or "no."

7 **A** You said that's the door.

8 **Q** That's the door?

9 **A** And that's the ottoman?

10 **Q** Yep.

11 There's your couch. Okay? Push it closer or
12 push it farther, however it needs to be. I've never
13 been in that house.

14 **A** The ottoman is big.

15 **Q** Okay.

16 Show me where the edge of it would be in
17 relation to the edge of the couch.

18 **A** Right here.

19 **Q** Move the chair, please. I want you to be
20 clear on that.

21 **A** The edge would be right here.

22 **Q** So and there's that much room between the
23 ottoman and the couch?

24 **A** Yes, sir.

25 **Q** Okay.

1 And you're sitting right here because the
2 door's right here, correct?

3 **A** Sitting right here, yeah.

4 **Q** The gun's right -- just put -- where is it on
5 the ottoman?

6 **A** The gun over here.

7 **Q** Move this however you want it to be where the
8 ottoman is. I have not been in that house.

9 **A** You want to know where the gun was?

10 **Q** I want to know where the ottoman and the
11 gun --

12 **A** I mean, the ottoman (inaudible). The gun was
13 right here.

14 **Q** Okay.

15 **A** 'Cause the ottoman that big.

16 **Q** Okay.

17 Let's say the ottoman goes from here to here
18 maybe?

19 **A** Yes, sir.

20 **Q** And the gun is way over here?

21 **A** Yes, sir. About right close to the TV.

22 **Q** All right.

23 And in our example, the kitchen door is
24 somewhere over here?

25 **A** No. The kitchen door right -- right here.

1 **Q** State's No. 1. Our example, that's the front
2 door. That counts just to the left of the opening
3 door, right?

4 **A** Yes, sir.

5 **Q** That's the kitchen door, correct?

6 **A** Yes, sir.

7 **Q** Way across that living room?

8 **THE COURT:** Ms. Davis, if you can answer
9 those questions so that she can --

10 **THE WITNESS:** Yes, sir.

11 **BY MR. SCOTT:**

12 **Q** Our State's 1 in relation we're talking about
13 right now, just to the left of that open door?

14 **A** So you want to know where the ottoman is?

15 **Q** No. Yeah. Well, yeah. If you see it.

16 **A** The ottoman would be right here.

17 **Q** Okay.

18 And then -- step over here so the jury can
19 see it. And then going back down through the living
20 room into that door is the kitchen, correct?

21 **A** The kitchen.

22 **Q** And to the left is the refrigerator and oven,
23 correct?

24 **A** Yes, sir.

25 **Q** Okay.

1 Let's get that this way.

2 So if we're looking here, here's the ottoman.

3 Our kitchen door is over here, right?

4 **A** Kitchen door is right here.

5 **Q** They can see it in the picture right there,
6 okay?

7 **A** Yeah. I'm saying the edge of the ottoman.

8 **Q** I know you want it to be right here.

9 **A** The edge of the ottoman right there.

10 **Q** Okay.

11 **A** Right by the kitchen.

12 **Q** Okay, good. Okay.

13 You're sitting down. Okay.

14 Just go over there generally. Okay? All
15 right. I'm sitting beside you, right? I touch you.
16 You jump up. Okay.

17 Make your way to the door. I grab you like
18 this, right?

19 **A** You need to grab me.

20 **Q** How did he do it?

21 **A** I got like right here, right by the door. I
22 still had to move over.

23 **Q** Okay.

24 Well, show me how he did it. Don't -- you
25 know, you can -- don't worry about hurting me. Show me

1 how you did it.

2 **A** (Inaudible).

3 **Q** That's how he did it?

4 **A** Yeah.

5 **Q** And did you show law enforcement that kind of
6 move?

7 **A** I just -- I just grabbed him.

8 **Q** Okay. Like that.

9 And what was he saying? What's he saying?

10 **A** He's saying let me talk to you.

11 **Q** Did he say, "I'm going to kill you"?

12 **A** No.

13 **Q** "Let me talk to you."

14 **A** But once you grab me, what do we have to talk
15 about? You not letting me out the door. What do we
16 have to talk about.

17 **Q** Okay.

18 So after he tosses you, now -- okay.

19 Show me how he does. All right? He's gonna
20 toss you over here. And then what do you do?

21 **A** I fall.

22 **Q** Do it?

23 **A** (Witness complies.)

24 **Q** You fell like that. Okay.

25 And you showed Tai Jordan how that happened,

1 right?

2 **A** I didn't. I told him I fell next to the
3 ottoman. He didn't explain how I fell.

4 **Q** He can't explain it. Because you were there.
5 He wasn't there.

6 **A** He didn't ask me to explain how I fell next
7 to the ottoman.

8 **Q** You didn't think that was important?

9 **A** He didn't ask me.

10 **Q** Okay.

11 So he's tossed you over here. Now, where is
12 he? If the ottoman is here, where is he?

13 **A** He's behind me. Pulling me up.

14 **Q** He threw you over there, but then he rungs
15 behind you, right? Is that how it happened? How did
16 he get around the ottoman?

17 **A** Ran over.

18 **Q** Okay.

19 So he's pulling you up. I'm pulling you up.
20 All right.

21 **A** (Inaudible).

22 **Q** All right.

23 Where are you shooting me right now?

24 **A** I don't know.

25 **Q** Look at me. Where are you hitting me?

1 **A** (Inaudible) still on my back.

2 **Q** I'm on your back. Where are you going to hit
3 me, Jamira?

4 **A** (Inaudible).

5 **Q** Come here. I want to show you something.
6 Let me show you something. Now, pull the trigger.
7 Pull the trigger and shoot me.

8 **A** He wasn't that --

9 **Q** Look here.

10 **A** -- far from me.

11 **Q** I'm holding it. I'm holding it.

12 **A** He was on me.

13 **Q** I'm on you. I'm going to get down on my
14 knees. We got to figure this out.

15 **MS. DEMER:** Objection, Your Honor.

16 **THE COURT:** All right.

17 We got to speak up.

18 **MR. SCOTT:** I'm on my knees.

19 **THE COURT:** Hold on, Mr. Scott. There's an
20 objection. Asked and answered. The purpose of
21 the demonstration -- your objection is asked and
22 answered, correct, Ms. Demer?

23 **MS. DEMER:** Yes, Your Honor.

24 **THE COURT:** All right.

25 Overruled at this point.

1 Let's -- let's make sure we ask the question
2 and give Ms. Davis a chance to answer as you are
3 demonstrating.

4 **BY MR. SCOTT:**

5 **Q** I'm on my knees. I'm you at this point.
6 Show me how he's got you.

7 **A** Let me talk to you. Let me talk to you.

8 **Q** All right.

9 Have I grabbed the gun yet?

10 **A** Yeah.

11 **Q** All right.

12 Now, I'm trying to shoot you. Right in the
13 chest, bam, bam, right?

14 **A** No. I just started shooting. I don't --

15 **MS. DEMER:** Objection, Your Honor. He's
16 testifying.

17 **THE COURT:** Hold on.

18 I think the question was: Where did you
19 shoot him? Overruled. It was a question. He's
20 asking where you shot him. All right. Overruled.

21 **BY MR. SCOTT:**

22 **Q** All right.

23 Is that how it happened?

24 **A** I just start shooting. I don't know where I
25 shot him.

1 **Q** Okay.

2 That's how -- that's how it went down. He's
3 holding you. And you're turning around and doing this?

4 **A** I wasn't turning around to see what I was
5 shooting at. I just started shooting.

6 **Q** All right.

7 But if you told Tai Jordan that you turned
8 around and started shooting, are you lying now or lying
9 then?

10 **A** Can you repeat that?

11 **Q** If you told Tai Jordan during your interview
12 you turned around and started shooting, are you lying
13 now or lying then?

14 **A** He didn't ask me that.

15 **Q** If I played the video, would that be more
16 accurate?

17 **A** Yes.

18 **Q** All right.

19 (Exhibit is played.)

20 **BY MR. SCOTT:**

21 **Q** Okay.

22 That was the first time you demonstrated with
23 Tai Jordan. Did you say anything about falling down?

24 **A** Later on, I said I fell next to the ottoman.

25 **Q** You said it just now? Did I miss it?

1 **A** It's not on that clip right there. But I
2 fell next to the ottoman.

3 **Q** Okay.

4 But that -- you didn't tell him anything
5 about falling down there, right?

6 **A** No, sir. He didn't ask me then. But I fell
7 next to the ottoman.

8 **Q** You didn't tell him that right there, right?

9 **A** Not then.

10 **Q** And did you show him that trick shot?

11 **A** No, sir. He didn't ask me. He asked me --

12 **Q** Why --

13 **A** -- how he --

14 **Q** Why would --

15 **A** -- pulled me in a video.

16 **Q** Why would he say, "Jamira, did you perform a
17 trick shot"? It's up to you --

18 **A** I just shot --

19 **Q** -- explain it.

20 **A** -- sir. I -- that's not trick shot.

21 **Q** Okay.

22 **A** I was defending in my life.

23 **Q** You showed him this move that day, did you
24 not?

25 **A** You said that day?

1 **Q** Yeah.

2 **A** No, sir. I don't -- I don't remember. I'm
3 not -- he didn't -- I didn't go into detail.

4 **Q** You told him a lot of things that weren't
5 true that day, correct?

6 **A** I lied. Yes, sir.

7 **Q** You did. And you kept lying even after this,
8 correct?

9 **A** No, sir. Not -- I don't remember.

10 **Q** One of the last things you told him was, "I
11 left the gun there."

12 **A** Oh, yes, sir. I did lie to him. Yes, sir.

13 **Q** What is the -- what's the best way for us to
14 determine when you're lying and when you're telling the
15 truth?

16 **A** I was telling the truth. The only thing I
17 lied about was the gun at the end, sir. I'm telling --
18 telling the truth.

19 **Q** How do we know when you're telling the truth
20 if there's lie, lie, lie, lie, lie, lie, one other
21 story, then a different story, then more lies? You're
22 asking us to talk about and believe this trick shot
23 today. But you didn't tell them that that day.

24 **A** Sir, he didn't ask me to describe a detail
25 and how I shot.

1 **Q** All right.

2 But you demonstrated again. He give you
3 another opportunity to demonstrate exactly how it
4 happened. And how Brandon Burden came to be shot on
5 that particular day. Do you remember that?

6 **A** Can you play the video? I don't remember.

7 **Q** Okay.

8 Do you remember giving him two examples of
9 how --

10 **A** I remember pulling him like two times.

11 **Q** Okay.

12 (Exhibit is played.)

13 **BY MR. SCOTT:**

14 **Q** "I turned around and started shooting." Did
15 I --

16 (Exhibit is played.)

17 **BY MR. SCOTT:**

18 **Q** Am I the only one who is hearing that, "I
19 turned around and started shooting"?

20 **A** Yeah. Later on, I said I fell next to the
21 ottoman if you keep playing the video.

22 **Q** Well, you just say -- he said, "Did you
23 fall?"

24 And you said --

25 **A** Right then. And then I went into detail. I

1 said I fell next to the ottoman.

2 **Q** And this -- so you're telling this jury if
3 they watch this video, you went into detail like you
4 just --

5 **A** I said I fell -- I said I fell next to the
6 ottoman.

7 **Q** That just happened here?

8 **A** I said -- if you keep playing the video, I
9 said I fell next to the ottoman.

10 **Q** I think you missed it. Tai Jordan said, "Did
11 you fall?"

12 And you said, "A little bit."

13 Is that what you're talking about?

14 **A** No. Like after that. I said I fell next to
15 the ottoman. That's what I told him.

16 **Q** Do you know where that is in the video?

17 **A** This should be after --

18 **Q** Let me play this again.

19 (Exhibit is played.)

20 **BY MR. SCOTT:**

21 **Q** You don't deny that you told him you turned
22 around and started shooting right there?

23 **A** And when I was on the ground, I did. On the
24 floor.

25 **Q** Turned around and started shooting?

1 **A** But I didn't go into detail right there.

2 When I was on the floor, I turned and I was shooting.

3 **Q** Did you turn around and start shooting? Or
4 did you do this?

5 **A** I went like this.

6 **Q** Okay.

7 So why did you --

8 **A** Because I was supporting myself with my left
9 hand on the ground.

10 **Q** Why did you tell them you turned around and
11 started shooting?

12 **A** I didn't really go into detail right there.

13 **Q** Isn't that contradictory by saying, "I turned
14 around and started shooting," but now you're telling
15 this?

16 **A** Well, I'm turning my body. I'm like this.

17 **Q** All right.

18 You want to demonstrate again or did we cover
19 it?

20 **A** I'm pretty sure we demonstrated. They seen.

21 **Q** We demonstrated that. And was -- and you're
22 saying now that he was holding on to you while you were
23 firing those shots or have you let go?

24 **A** I said he let go as I was shooting.

25 **Q** After you started shooting?

1 **A** Yes, sir.

2 **Q** And of course, he dropped right there in the
3 living room just like the pathologist says, right?

4 **A** Sorry. I didn't -- I didn't see.

5 **Q** Where was he -- where was the last place you
6 saw him when you ran out of the house?

7 **A** I didn't look back, sir. I just --

8 **Q** You never saw him?

9 **A** I know he was behind me. But I never looked
10 back.

11 **Q** You never turned around to see what you'd
12 done?

13 **A** No, sir. I was out the door. Scared.

14 **Q** Well, you weren't so scared that you didn't
15 take the gun and put it in your jacket pocket, you
16 know, right?

17 **A** I still had it in my hand when I ran out the
18 door.

19 **Q** So it was clearly a lie when you told law
20 enforcement you left it there?

21 **A** Yeah. I lied when I said I left it there.

22 **Q** My point is: You're saying at this juncture
23 in the video, you feel comfortable now, comfortable to
24 tell the truth, correct?

25 **A** Yes, sir. I felt comfortable around the

1 detective that came in there.

2 Q Why are you still lying to him?

3 A Only thing I lied about was leaving the gun
4 there.

5 Q Listen. Don't you agree everything is
6 important to tell the truth of in this kind of
7 situation? Everything.

8 A Yes, sir.

9 Q But why are you lying then?

10 A I wasn't -- I wasn't thinking. And the gun
11 was already -- I already had threw it.

12 Q Why did you say you left it there?

13 A 'Cause that's what I --

14 Q How does that lie help you out? I mean, are
15 you just lying for the sake of it? Or what's the
16 purpose of that lie?

17 A Can you -- can you --

18 Q What is the purpose of that lie? How does it
19 help you in any way?

20 A The gun was already gone.

21 Q Why didn't you tell them where it was? You
22 see --

23 A I was scared.

24 Q -- what I'm saying?

25 Do what?

1 **A** I said I was -- it was already gone. I
2 already had threw it.

3 **Q** Well, clearly, if -- you know, if you send
4 dive teams out to get it, you know, the day or the week
5 before trial. Why were you lying to them? It wasn't
6 already gone according to you today. It was in a pond
7 very close by.

8 **A** Yeah. But it was gone. It couldn't hurt
9 nobody. Nobody could get hurt by it.

10 **Q** Why not tell them, "I threw it in a pond"?

11 **A** I wasn't thinking.

12 **Q** Are my questions making sense to you?

13 **A** Oh, yeah. You making sense.

14 **Q** Can you give me an explanation of why not
15 tell them why you threw it in a pond?

16 **A** I just said it was already gone. I wasn't
17 thinking.

18 **Q** Were you thinking when you showed them that
19 demonstration?

20 **A** I didn't really go into detail.

21 **Q** Why not?

22 **A** 'Cause they didn't ask.

23 **Q** Okay.

24 Is there anything I should be asking you
25 today specifically that maybe my questions didn't

1 cover?

2 **A** You have all the questions.

3 **Q** I'm trying to. But, you know, if somebody
4 doesn't ask you exactly how it happened, you just don't
5 tell them. We covered that. So what you -- that was
6 the end right there.

7 **A** I showed them.

8 **Q** What we just did was completely different
9 from that, don't you agree?

10 **A** I fell next to the ottoman. I told him I
11 fell next to the ottoman.

12 **Q** You didn't show them trick shot, did you?

13 **A** It's not a -- it was a shot, not a trick
14 shot. That's just how I shot.

15 **Q** You see people shooting like this very often?

16 **A** I was shooting behind my back. If I'm
17 supporting myself with my left hand --

18 **Q** Uh-huh.

19 **A** -- I'm shooting like --

20 **Q** Without looking, right?

21 **A** Well, I just -- I didn't look. I was just
22 shooting.

23 **Q** Okay.

24 So even though in the video, you said I
25 turned around and started shooting --

1 **A** But if I'm --

2 **Q** -- never mind that. This is what, your ninth
3 version of the story now?

4 **A** My ninth?

5 **Q** Have you kept count?

6 **A** No, sir.

7 **Q** Okay.

8 Would you agree with me you changed your
9 story nine to 12 times, something like that?

10 **A** That's the same story I told him at the end,
11 sir.

12 **Q** So this jury, they're gonna have that video.
13 And they're gonna see where you demonstrate just like
14 that?

15 **A** I didn't -- I didn't demonstrate because I
16 didn't go into detail. I said I fell next to the
17 ottoman and I grabbed the gun and that's when I started
18 shooting.

19 **Q** And they're going to hear you say that?

20 **A** I fell -- I fell next to the ottoman. The
21 gun was on the ottoman.

22 **Q** What should we all think about you saying, "I
23 turned around and shot," in that video? Should we
24 ignore that?

25 **A** I turned my body. I mean, I didn't fully

1 turn around. I just turned my body.

2 Q So when you say, "I turned around and started
3 shooting," that's not correct?

4 A I mean, it's the same. I turned my body,
5 turned around, turned -- I didn't turn all the way
6 around. I just turned my body.

7 Q I don't want to get on the floor again. But
8 what we did earlier, that's how it happened?

9 A Yes, sir.

10 Q Okay.

11 So he's pulling you up. You're shooting
12 from --

13 A Yeah. But he was on my back though. He
14 wasn't all the way on me. You was pulling me. But you
15 wasn't all the way on you.

16 Q What does that mean?

17 A I'm saying. Somebody -- he was pulling me.
18 But he -- I still felt his body on my back.

19 Q Okay.

20 Remember when I had you playing the part of
21 Brandon Burden and you were on me? Were you doing it
22 the way he was doing it?

23 A Yes, sir.

24 Q Okay.

25 A But not as --

1 **Q** All right. All right.

2 You went back and you got in bed with Alesha
3 and cuddled up with her. And she didn't know anything
4 was wrong, did she?

5 **A** No, sir. her granddad just had passed.
6 I didn't let her know anything.

7 **Q** You aren't crying and you weren't acting any
8 different than you normally do. She -- she didn't say,
9 "Hey, Jamira, what's going on? Something happened.
10 Something's wrong"?

11 **A** I didn't let -- I didn't reveal that to her.
12 She was already going through stuff. And I'm so used
13 to dealing with stuff on my own. So it was like I
14 didn't -- I didn't want her. She was already going
15 through enough stuff at the time.

16 **Q** Didn't tell your mom, right?

17 **A** No, sir. I didn't tell my mom.

18 **Q** Didn't tell law enforcement, obviously.

19 **A** I told them at the end.

20 **Q** Okay.

21 This happened January 22, correct?

22 **A** Yes, sir.

23 **Q** Who'd you tell on the 23rd?

24 **A** Nobody.

25 **Q** Who'd you tell on the 24th?

1 **A** Nobody.

2 **Q** Who'd you tell on the 25th?

3 **A** Nobody.

4 **Q** Who'd you tell on the 26th?

5 **A** Nobody.

6 **Q** Who'd you tell on the 27th?

7 **A** Nobody.

8 **Q** And that family was trying to figure out what
9 happened to Brandon Burden the whole time, correct?

10 **A** Yes, sir.

11 **Q** You never thought to tell anyone?

12 **A** I'm so used to dealing with stuff on my own.

13 **Q** And that's how you dealt with it on your own
14 was to lie about it?

15 **A** No, sir.

16 **Q** You've already admitted you've been lying
17 about it?

18 **A** I said I lied about it. But how I dealt with
19 it, I didn't tell nobody.

20 **Q** What did you do those two or three minutes
21 after the shooting at his house?

22 **A** I walked to --

23 **Q** Speak up.

24 **A** I walked to the car. I was in the car.

25 **Q** And you sat there for two or three minutes?

1 **A** I'm not sure how long I sat there. I was
2 just -- I just sat there looking around, just in shock.
3 Just couldn't believe what just happened.

4 **Q** Well, you made a lot of efforts to distance
5 yourself from the shooting. Why not flee the scene
6 right then?

7 **A** I wasn't thinking, sir. It just had
8 happened. I was in shock. I wasn't --

9 **Q** Well, you leave. Are you thinking when you
10 get rid of the gun?

11 **A** I mean I got rid of it, I think, the next
12 day.

13 **Q** And then were you thinking when you deleted
14 all those 11 texts? What were you thinking about then?
15 Covering your tracks?

16 **A** No. Just trying to remove myself from the
17 situation.

18 **Q** Why didn't you immediately -- why didn't you
19 remove yourself from the situation when you're in his
20 house after you kill him?

21 **A** What you mean?

22 **Q** What were you doing in that house after he
23 was dead?

24 **A** I left.

25 **Q** I got a video that shows you were there over

1 two minutes after he was killed?

2 **A** I said I was -- I was in the car. I walked
3 to the car. I was in shock. I was looking around.

4 **Q** You were looking around his house?

5 **A** I was in the car.

6 **Q** What happened to all that marijuana that was
7 on the ottoman?

8 **A** I don't know. It was there.

9 **Q** Okay.

10 What happened to that cash money he had?

11 **A** I didn't see no cash.

12 **Q** Okay.

13 How many guns did he have?

14 **A** I seen one. I knew one was -- another one
15 was around.

16 **Q** What happened to that -- what happened to
17 that other gun?

18 **A** I don't -- I said I know it was around. I
19 didn't see the other gun.

20 **Q** What happened to it?

21 **A** I didn't see the other gun, sir. But the gun
22 that was on the ottoman, I had it with me.

23 **Q** So if there was a gun there, law enforcement
24 would have found it if they had searched?

25 **A** I'm not sure.

1 **Q** Are you sure you didn't take the other gun
2 too?

3 **A** I didn't know where the other gun was, sir.

4 **Q** Did you find it during those two or three
5 minutes after you killed him?

6 **A** I wasn't looking around, sir. I was out the
7 door.

8 **Q** There's eight phone calls you deleted. Were
9 you thinking about things then?

10 **A** Sir, I was just trying to remove myself from
11 the situation.

12 **Q** And when you were texting Jaquan about you
13 got a nine for the low price of \$200, were you
14 thinking?

15 **A** Sir, I was just trying to get rid of the gun.

16 **Q** Trying to get rid of it?

17 **A** Yes, sir.

18 **Q** And you had some bullets too, right?

19 **A** Yes, sir. The bullets that were still in the
20 gun, sir.

21 **Q** So the bullets and the -- and the gun were
22 for \$200? And you were gonna include both of them?

23 **A** I mean, I just really didn't think about it.
24 I was just trying to get rid of the gun.

25 **Q** Any reason you turned your headlights off

1 before you got to his house?

2 **A** Can you repeat that?

3 **Q** Is there any reason you turned your
4 headlights off as you approached his house that night?

5 **A** I didn't turn my headlights off until I
6 parked, sir.

7 **Q** Is that your testimony here today?

8 **A** Yeah. I didn't turn my headlights off until
9 I parked.

10 **Q** Can you see the monitor from there?

11 **A** Yes, sir.

12 **Q** And you've seen this video, I assume?

13 **A** It's a couple of videos.

14 **Q** Have you seen this particular one?

15 **A** You played it.

16 **Q** You'll know that your car comes from the
17 Horrell Hill, this way?

18 **A** Yeah.

19 **Q** So your car comes from this way. And as it
20 approaches about where that light is about where his
21 front porch, Mr. Burden's front port is; is that -- is
22 that fair to say?

23 **A** I really can't see -- like --

24 **Q** Tell me --

25 **A** I really can't tell behind the trees.

1 Q Okay.

2 (Exhibit is played.)

3 **BY MR. SCOTT:**

4 Q Okay.

5 See your headlights coming here. Then they
6 black out. Do you remember doing that?

7 A No. It's still -- it look like it still on.

8 Q This is bright light. Let me just play it
9 against. If you don't remember, you don't remember.
10 I'm just curious. They're off and you're still
11 rolling.

12 A But they was still on after that. It was --

13 Q Step down.

14 A (Witness complies.)

15 Q Come over here just so you can see. Speak to
16 the court reporter. But I want you to see this. And
17 for you to possibly do it without blocking the jury.

18 A They still was on right here.

19 Q Look like your headlights. That's your car
20 pulling into the driveway.

21 A That's them.

22 Q One more time. Listen. If you don't
23 remember it, I don't think it's a big deal. I don't
24 know why you would have done that.

25 Watch. Right when you get there, you turn

1 the lights off. You see it?

2 **A** Right there, the lights still on.

3 **Q** It might have been a minor issue. It's just
4 something I was wondering why you would have done.

5 **THE COURT:** All right.

6 You can be seated, Ms. Davis.

7 (State Exhibit No. 37 is marked for
8 identification.)

9 **BY MR. SCOTT:**

10 **Q** Again, this isn't to scale either. Would
11 that be the general layout of the house? You've got
12 the living room here. And then the kitchen is through
13 these doors. Bedroom's to the right. What was that
14 room to the upper right in State's 37?

15 **A** Another room.

16 **Q** Another room?

17 **A** Yeah.

18 **Q** And would you agree that that would generally
19 be the position of the refrigerator and the oven?

20 **A** It was much smaller.

21 **Q** Okay.

22 But if you go through the kitchen door, just
23 to the left would be the refrigerator?

24 **A** Yes, sir. The refrigerator right there.

25 **Q** Okay.

1 **A** You could be standing right there.

2 **Q** And this area would be kind of the sink area?

3 **A** Yes, sir.

4 **MR. SCOTT:** Okay. All right.

5 Your Honor, this is State's 37. It's just a
6 layout not to scale of the home, the kitchen, that
7 she's identified.

8 **MS. DEMER:** Your Honor, I would object. She
9 said that it was not an accurate depiction.

10 **MR. SCOTT:** She said it was an accurate
11 depiction not to scale.

12 **THE COURT:** Would you ask her the question
13 again?

14 **BY MR. SCOTT:**

15 **Q** Okay.

16 Living room, it was right when you come in
17 the front door. The bedroom is to the right.

18 **A** Uh-huh.

19 **Q** This upper to the right --

20 **A** It's another -- it's another room. But
21 it's -- everything is smaller. You've got everything
22 like it's so spacious.

23 **Q** Right. But generally -- but generally in the
24 kitchen, the position -- once you go through the
25 kitchen door to the left is a refrigerator?

1 **A** Refrigerator right there.

2 **Q** Okay.

3 **A** Like you could be standing in the opening and
4 the refrigerator right there.

5 **Q** Right.

6 And then the oven is up against this wall?

7 **A** Yeah. But it's a little closer to the
8 refrigerator.

9 **Q** Well, this isn't to scale? I mean, I didn't
10 go measure it because everything's burnt to the ground.

11 **A** I'm saying, but it's smaller.

12 **Q** Is this generally where everything in the
13 kitchen is?

14 **A** Generally, it is, but it's smaller.

15 **Q** Okay.

16 It's smaller. We can even write it up here.
17 It's smaller. But this is generally where everything
18 was positioned in the kitchen?

19 **A** Yes.

20 **Q** Okay.

21 And we've got pictures of the kitchen after
22 it's been burnt. So we can see that, right?

23 **A** Yes, sir.

24 **Q** Okay.

25 But this is -- you would agree with me this

1 is generally where everything is in the kitchen?

2 **A** Yes, sir.

3 **Q** And this would be the sink, I guess, up here?

4 **A** Yes, sir.

5 **Q** Okay. All right.

6 And again, everything that you're talking
7 about happens over here near the front door?

8 **A** No, sir. Where you pulled me at. But I was
9 away -- I was no where near the front door when it
10 happened.

11 **Q** What we did down here was accurate?

12 **A** Yeah. But we wasn't near the front door.

13 **Q** So if you say everything happened near the
14 front door in the video, that's a lie.

15 **A** I didn't -- I say I was nowhere near the
16 front door in a video.

17 **Q** Nowhere near the front door in the video?

18 **A** Yeah. You could play the video. I said I was
19 nowhere near the front door.

20 **Q** You're going to have to tell me where that is
21 in the video for me to play that. Because I didn't
22 catch it. Do you know where that is in the video where
23 we might find it?

24 **A** Towards the end, when I told them what
25 happened. I said I was nowhere near the front door.

1 **Q** Okay.

2 That will be on the video, just to be clear.

3 **A** Yes, sir.

4 **Q** Okay.

5 So we were sitting right here. And you
6 pulled me to the side right here. That's nowhere near
7 the front door.

8 **A** The way you demonstrated, it was right there
9 by the front door. We was nowhere near the front door.
10 And that's in the video.

11 **Q** But you agree with me. You lied for over two
12 and a half hours to law enforcement before you gave
13 them that version we saw in the video?

14 **A** And that was the truth.

15 **Q** Okay.

16 So when we watch the video and you say I
17 turned around and started shooting, that's the truth?

18 **A** Sir, I didn't go into detail. I said I fell
19 next to the ottoman. If you keep on playing that
20 video, I said I fell next to the ottoman.

21 **Q** Okay.

22 And then you showed law enforcement this move
23 here?

24 **A** I didn't show. I didn't -- I didn't go into
25 detail. I just said I turned just started shooting.

1 **Q** So what we need -- I just want to be clear.
2 What you're telling the jury, that demonstration in the
3 video was not accurate?

4 **A** I wasn't on the floor. It's not accurate.

5 **Q** So that's not accurate?

6 **A** But I told them I fell -- I didn't get on the
7 floor.

8 **Q** So our final version is here today what we
9 did, correct?

10 **A** Yes, sir.

11 **Q** Tell the jury. What they saw there was the
12 final --

13 **A** Yes, I actually got on the floor. I didn't
14 get on the floor in the interrogation room. In the
15 small interrogation room, I didn't get on the floor.

16 **Q** So we're not gonna hear any more versions
17 after this --

18 **A** No, sir.

19 **Q** -- is that correct?

20 And you ever saw what happened to Brandon
21 Burden?

22 **A** No, sir.

23 **Q** You sat in your car for two -- over two
24 minutes?

25 **A** I'm not sure how long I sat in the car.

1 **Q** But you were in the car that who time?

2 **A** Yes, sir.

3 **Q** You weren't looking around the house?

4 **A** No, sir.

5 **Q** Didn't call 911. Didn't call EMS to see
6 maybe somebody could save Brandon Burden. You knew he
7 was alone, correct?

8 **A** You said did I know he was alone?

9 **Q** You knew he was alone in the house?

10 **A** Yeah. But I wasn't thinking about calling
11 the police or nothing. I was just trying to get out
12 there. I was just trying to go home.

13 **Q** Because you didn't know he was dead, did you?

14 **A** Sir, I didn't look behind me. I just kept on
15 going.

16 **Q** So he could have been injured but still able
17 to be saved at that point according to your mind,
18 right?

19 **A** I'm not sure. I was -- I left out the house.
20 I didn't look back.

21 **Q** And you sat in your car for two and a half
22 minutes?

23 **A** I was looking around. I'm not sure how long
24 I sat in the car.

25 **Q** You didn't say we need an ambulance here.

1 **A** I wasn't thinking, sir.

2 **Q** All you're thinking about is deleting those
3 phone calls and deleting those text messages and
4 getting rid of that gun?

5 **A** I didn't do that until after, sir.

6 **MR. SCOTT:** All right.

7 Answer any questions your lawyer has for you.

8 **THE COURT:** All right.

9 Before that, we're gonna take a 5-, 10-minute
10 restroom break and then keep going. Okay? So 5-
11 to 10-minute restroom break.

12 **THE BAILIFF:** Remain seated --

13 **THE COURT:** Remain seated.

14 **THE BAILIFF:** -- until the jurors leave.

15 (The jury exits the courtroom at 12:24 p.m.)

16 **THE COURT:** Ms. Davis, you're free to use the
17 restroom if you need to or get water; however, you
18 cannot discuss your testimony with your attorney
19 during the break. Okay?

20 **THE WITNESS:** Okay.

21 **THE COURT:** Five or 10 minutes.

22 (A recess is taken.)

23 **THE COURT:** Bring the jury.

24 (The jury enters the courtroom at 12:41 p.m.)

25 **THE BAILIFF:** Jury is seated, Your Honor.

1 **THE COURT:** Thank you, ma'am.

2 Ms. Demer.

3 **MS. DEMER:** Briefly, Your Honor.

4 **REDIRECT EXAMINATION**

5 **BY MS. DEMER:**

6 **Q** Jamira, do you remember Mr. Scott asking you
7 if all this happened near the door?

8 **A** Yes, ma'am.

9 **Q** What was your answer?

10 **A** I said I wasn't near the -- I wasn't near the
11 door.

12 (Exhibit is played.)

13 **BY MS. DEMER:**

14 **Q** Jamira, did you fall onto the ottoman?

15 **A** Next to it.

16 **Q** Next to it.

17 Did you save your life that day?

18 **A** Yes, ma'am.

19 **Q** Did Boleg give you any other choice but to
20 shot him?

21 **A** No, ma'am.

22 **MS. DEMER:** Thank you. No further questions.

23 **RECROSS-EXAMINATION**

24 **BY MR. SCOTT:**

25 **Q** So you were in fear for your life that night?

1 **A** Yes, sir.

2 **Q** And if we watched that video, you told law
3 enforcement that you were in fear for your life?

4 **A** I don't think I used those words, but I was
5 scared.

6 **Q** Say it again?

7 **A** I don't think I used those words, but I was
8 scared.

9 **Q** So the first time was today that you said "I
10 was in fear for my life"?

11 **A** I was scared. I feared for my life.

12 **Q** Anybody who kind of grabs you deserves to be
13 shot and killed? That's the only way to handle a
14 situation like that?

15 **A** (Inaudible) away from the door. You're not
16 letting me out.

17 **Q** Okay.

18 And he -- he said, "I'm going to kill you.
19 I'm going to rape you"?

20 **A** He didn't say, "I'm going to kill you." He
21 said, "Let me talk to you."

22 What do we have to talk about if somebody
23 push you away from the door and I'm trying to leave?
24 What do we have to talk about, sir? Somebody pulling
25 on you. What do you have to talk about, sir? There's

1 nothing to talk about.

2 Q Okay.

3 And you kill them. That's the only choice
4 you have?

5 A Somebody pulling on me, sir? I can't leave
6 out the door? I'm trying to leave. I got up. I tried
7 to leave. I couldn't leave. It's not like, oh, I --
8 oh, I can't leave; I grabbed the gun.

9 Q Five-foot-five Brandon Burden who's drunk as
10 a skunk. You outweigh him. You're strong enough that
11 you're worried about hurting a police officer during a
12 demonstrating.

13 A He stronger than me.

14 Q You jerked me around like I was a kid.

15 A I barely even -- I barely even pulled you,
16 right?

17 Q Brandon Burden who's drunk, right? You said
18 he's drunk, didn't you?

19 A I said he was drunk, yes, sir.

20 Q He's five-foot-five. How tall are you?

21 A Five seven.

22 Q How much do you weigh?

23 A 180.

24 MS. DEMER: Objection. Exceeds the scope.

25 BY MR. SCOTT:

1 **Q** 180?

2 **THE COURT:** There's an objection.

3 Overruled, but move on.

4 **BY MR. SCOTT:**

5 **Q** And again, "Let me talk to you. Let me talk
6 to you." Only choice you had was to kill him?

7 **A** He slung me away from the door, sir.

8 **Q** The only choice you had was to kill him?

9 **A** What do we have to talk about?

10 **Q** Yes or no. The only choice you had was to
11 kill him that night.

12 **A** It was no other way out.

13 **Q** You turn around and shoot him?

14 **A** I didn't turn; turned my body. It was no
15 other way out, sir.

16 **Q** And again, the jury is going to see the
17 video. So you were lying at the time that you said you
18 turned around and shot him?

19 **A** I didn't say I turned around. I said I
20 turned around as in I turned by body.

21 **Q** Well, we're going to rely on our own ears
22 when we hear that.

23 **A** Okay.

24 **Q** So is that the truth or is that the truth?

25 **A** I said I turned around, as in I turned my

1 body when I was next to the ottoman.

2 Q How am I turning my --

3 MS. DEMER: Objection. Exceeds the scope.

4 THE COURT: All right.

5 Sustained. Move on.

6 BY MR. SCOTT:

7 Q Okay.

8 But you never told law enforcement you're in
9 fear for your life?

10 A (Inaudible).

11 Q You never said you felt like you were in
12 imminent danger?

13 A (Inaudible).

14 Q Your testimony is he was facing you from
15 behind when you shot him?

16 MS. DEMER: Objection. Exceeds the scope.

17 MR. SCOTT: I think that was directly what
18 she said about fearing for your life.

19 THE COURT: Sustained. Let's move on.

20 BY MR. SCOTT:

21 Q Okay.

22 So finally, this last question. Is some of
23 that true in the video or is all of that a lie?

24 A What?

25 Q When you were interviewed. Was some of that

1 true?

2 **A** I told the truth. When I felt comfortable
3 with the detective, I told the truth, sir. The only
4 thing I didn't tell the truth at the end was about the
5 gun, sir.

6 **Q** But you didn't turn around to shoot him?

7 **MS. DEMER:** Objection. Asked and answered.

8 **BY MR. SCOTT:**

9 **Q** Our final story that's going to be clear is
10 what you did down there.

11 **MS. DEMER:** Objection as to --

12 **THE COURT:** Hold on. Let him finish the
13 question.

14 **BY MR. SCOTT:**

15 **Q** Everything we did down there was what
16 happened.

17 **A** (Inaudible).

18 **MR. SCOTT:** Okay. Thank you.

19 **THE COURT:** All right.

20 Anything further -- any further questions
21 from the state?

22 **MR. SCOTT:** No, Your Honor.

23 Thank you, Ms. Davis.

24 **THE COURT:** You may step down.

25 **MS. DEMER:** Your Honor, the defense rests.

1 **THE COURT:** All right.

2 Ladies and gentlemen, we're going to go ahead
3 and take lunch. At this point, we'll be back at 2
4 o'clock in the jury deliberation room. Do not
5 discuss. Do not discuss amongst yourselves,
6 anyone, anybody at all. Do not do any independent
7 research. We'll see you back in the jury
8 deliberation room at 2 o'clock. Thank you.

9 (The jury exits the courtroom at 12:49 p.m.)

10 **THE COURT:** Yes, ma'am, Ms. Demer. Any
11 motions? Or Mr. Shealey?

12 **MR. L. SHEALEY:** Yes, Your Honor. At this
13 time, we would renew our motion for directed
14 verdict. You've now have the chance to hear the
15 defense's case. And my opinion is that the
16 evidence of self-defense is even more in -- more
17 in -- less in dispute than it ever was.

18 We have brought evidence specifically
19 regarding the gun, which is the gun that Jamira's
20 mother testified specifically belonging to Boleg
21 that he used to rape her. We provided the Court
22 with a clear idea of what was going on in his mind
23 during the time being broken up by Ms. Thompson
24 after the rape. Detailed numerous calls and text
25 messages specifically seeking revenge, explains

1 exactly what's going on in that house.

2 Although we've had extensive testimony from
3 Ms. Davis and extensive cross, nothing is in
4 dispute from her in terms of everything was normal
5 until he put his hands in his pants, sat next to
6 her, put his hands between her legs on her
7 privates. She tried to leave, physically was
8 restrained from doing so. Not allowed to leave.
9 A struggling ensued in which she was able to
10 defend herself with his gun. That is the same as
11 what we had, except now it's more concrete.

12 I don't think that there's any real jury
13 question per all case law already presented to
14 Your Honor. So I would renew that motion. I
15 would also renew any and all other motions that
16 we've made in limine and the two different motions
17 for mistrial.

18 **THE COURT:** All right.

19 Thank you.

20 Anything from the state?

21 **MR. SCOTT:** No, Your Honor.

22 Well, briefly. She's contradicted herself a
23 number of times. We are now up to maybe the 14th
24 or 15th version of events that she demonstrated
25 for the first time, completely at odds with the

1 physical evidence, completely at odds with the
2 wounds on the body, completely at odds with where
3 the defendant was discovered in the home. It
4 would be a question for the jury now as far as
5 credibility issues and the facts of the case,
6 Your Honor.

7 **THE COURT:** All right.

8 In the light most favorable to non-moving
9 party, I believe that there -- evidence does
10 exist. There are credibility issues as to it. As
11 to the stories changing or not changing, I believe
12 that there is evidence that should go to the jury
13 for this case.

14 Your motions are noted for the record. And
15 they are all denied. All right.

16 We'll be back at two o'clock. Get ready --
17 What's the state going to do?

18 **MR. SCOTT:** I think we'll just proceed with
19 closing argument.

20 **THE COURT:** Closing arguments.

21 I want to make sure during the lunch break
22 that we have all the evidence. I believe it's all
23 here and organized. One question will be when --
24 when it comes to videos, is there a clean laptop
25 that we can send back to the jury for them to view

1 it? If so, review the laptop to do that
2 procedure.

3 And specifically, for one of those items in
4 evidence, if they want to play it, we might have
5 to instruct them (inaudible)

6 **MR. L. SHEALEY:** We probably could create a
7 version that -- well, I don't know if we can take
8 audio. I don't know if they have that technical
9 ability. But I'm sure they'll follow your
10 instruction about muting it.

11 **THE COURT:** As to -- go ahead.

12 **MR. L. SHEALEY:** I was just going to ask you
13 when you wanted to have a charging conference.

14 **THE COURT:** I was going to email you what I
15 have over lunch break. And when we come back,
16 y'all can come meet. We can go with that or would
17 you rather do it before lunch?

18 **MR. L. SHEALEY:** We've got numerous jury
19 charges that we would like to have submitted to
20 the Court that we would ask to charge the jury.
21 Some of them may be very similar to what Your
22 Honor might have in mind; some of them might be
23 different. So I think -- I don't know if you want
24 to review them, and then let's argue?

25 **THE COURT:** Why don't we -- anything

1 besides -- I'll look at them. But anything
2 significant besides self-defense?

3 **MR. L. SHEALEY:** Oh, yes.

4 **THE COURT:** All right.

5 **MR. L. SHEALEY:** Do you want to hear now?

6 **THE COURT:** Be brief.

7 **MR. L. SHEALEY:** Well, a lot of them are --
8 are very much part of -- I don't know where Your
9 Honor gets charges from. I know you judges have
10 pattern charges. But you know, one is the
11 credibility of -- of witnesses, very standard;
12 reasonable doubt, very standard; credibility of
13 investigation, very important but typically
14 standard; there's self-defense, a general charge;
15 specific acting on appearances regarding not
16 having to make a refined assessment. That comes
17 from the case law. It's probably part of your
18 standard charge.

19 Imminent danger from *State v. Jackson* and
20 *State v. Rivers*. You don't have to wait till your
21 assailant gets the drop on you, that kind of
22 language, which is in most standard charges. No
23 duty to retreat where doing so would increase your
24 danger. That's just common law.

25 Use of Force. We're talking about *State v.*

1 *Rye, State v. Douglas*. You're justified in
2 continuing to shoot until it's apparent that the
3 danger of his life and body has ceased. That's
4 *State v. Hendricks*. I'm sure Your Honor has that.

5 General malice instruction, having tried one
6 case with Mr. Scott before. Typically, he'll
7 submit an instruction based on *State v. Mouzon*. I
8 typically strongly object to that, because it's a
9 1957 case, talking about negroes, and they're
10 trying to try two black young men who killed a
11 white woman while drunk driving. And they were
12 trying to figure out a way to prosecute them for
13 murder. So they developed a really strange
14 interpretation of the case law that still is
15 technically good law today, but really not
16 appropriate in modern society.

17 So I like to suggest basically a more
18 standard definition that comes from Wiggins and
19 mostly lately, *State v. Burdette*. I mean, it's
20 just standard. But it's not the just general,
21 reckless disregard language that comes right from
22 *Mouzon*. I don't think that's appropriate. And if
23 Your Honor, we -- I'd like to be heard extensively
24 if Your Honor would adopt Mr. Scott's suggestion
25 on that. Maybe he won't.

Requests for Charge

1 There's -- there's a charge that's probably
2 unusual. It says statements of counsel aren't
3 evidence. That's pretty standard. You might see
4 that in theirs. I don't know.

5 Failure to produce a witness. We've had
6 several witnesses and investigators on videos that
7 haven't been called by the state. We've also had
8 a firearms examiner who was specifically
9 instructed not to test evidence by the state. So
10 we have request a charge on inference against the
11 state for that which is supported by law. That's
12 important to this case.

13 Victim's propensity for violence. There's
14 been a good bit of information and evidence about
15 his specific propensity for violence. She's
16 testified that she's seen him pull a gun on her
17 mom. She's seen -- she's called the police on
18 him. Although he has never been previously
19 violent towards her, she knows he's capable of it.
20 That allows someone to judge a person's
21 appearances and actions more harshly when they've
22 witnessed someone being violent. That comes
23 directly from the case law of *State v. Dade* and
24 *State v. Atkinson*. I'm sure Your Honor has that.

25 I don't know what your case laws say about

1 inferences. But we all know the latest state of
2 the law is you can't infer malice from the use of
3 deadly weapon, period. It can be inferred from
4 other evidence. But it can't be from a deadly
5 weapon. So I just would want to make sure the
6 charges are clean of any language like that. But
7 I can email those to you or give you a hard copy.

8 **THE COURT:** I'll take a hard copy from you.

9 **MR. L. SHEALEY:** Yes, sir.

10 **THE COURT:** And if you will send a copy to
11 the state. The state will go through them and
12 state what you either object to or you're in
13 agreement with at 2 o'clock. I'll send you what
14 I've got, if I'll use any of this, or whatnot so
15 that we can put it on the record and will be ready
16 to go right into closings.

17 **MR. SCOTT:** I was say if I've got a -- if
18 they can't do or IT has got problems with a copy
19 of those videos, we could probably produce three
20 of them don't have any audio.

21 **THE COURT:** I'll let y'all work together on
22 that. Think about the clean laptop.

23 **MR. SCOTT:** All right.

24 **THE COURT:** Two o'clock.

25 (A recess is taken.)

1 **THE COURT:** I know I just sent y'all the jury
2 charges. But -- there's some typos I need to take
3 out of there. But I believe they've
4 incorporated -- I was going to do everything y'all
5 handed me. I believe the ones I sent you are the
6 same.

7 **MR. L. SHEALEY:** Almost, Your Honor.

8 **THE COURT:** Well, tell me which one you want.

9 **MR. L. SHEALEY:** Well, thank you, Your Honor.
10 May it please the Court. Under your imminent
11 danger section on your page 12, the language that
12 I proposed in my imminent danger charge number
13 six, specifically from *State v. Rash* and *State v.*
14 *Jackson*, regarding the assailant does not have to
15 wait -- the defendant does not have to wait until
16 her assailant gets the drop on her. And it talks
17 about she has the right to act under the law of
18 self-preservation and prevent her assailant from
19 getting the drop on her, when it is apparent or
20 reasonably apparent her assailant has taken steps
21 to get the drop on her. So that -- that language
22 specifically that is pretty appropriate for this
23 case. That was the only thing I saw out of that.

24 Everything else, I agree, you did include
25 almost everything, except the failure to produce a

1 witness charge.

2 **THE COURT:** Oh, yeah. I was going to keep
3 the -- the other ones that were ran -- (inaudible)
4 I never had it before. Failure to produce a
5 witness. I don't believe mine had the "no duty to
6 retreat where doing so increased the danger." I
7 didn't see that in mine.

8 **MR. L. SHEALEY:** Right. Yes, sir.

9 **THE COURT:** An individual has no duty to
10 retreat if by doing so she will increase her
11 danger of being killed or suffering serious bodily
12 injury.

13 **MR. L. SHEALEY:** That's correct.

14 **THE COURT:** I'll include that.

15 And I'll include the credibility of the
16 investigation.

17 **MR. L. SHEALEY:** Yes, sir.

18 **THE COURT:** I believe those were the
19 miscellaneous ones I did not have.

20 **MR. L. SHEALEY:** And I will -- I will be
21 satisfied with all of that.

22 **THE COURT:** And I believe my malice one
23 was the same.

24 **MR. L. SHEALEY:** Right. It was not -- you
25 did not have the *Mouzon* malice. I saw an e-mail

1 from Mr. Scott asking for *Mouzon* malice. And I
2 would just renew my prior objection.

3 **THE COURT:** I'll sustain your objection.

4 I received from the state your request for
5 malice. So I'll --

6 **MR. SCOTT:** That has been endorsed by this
7 habeas case that -- actually (inaudible) habeas
8 case dated -- I know it's recent -- 2012,
9 Your Honor. So that has been endorsed. I don't
10 have the benefit of the Shealey's charges. I
11 heard them kind of briefly go over them. But I
12 haven't had a chance to look at them.

13 I -- I don't think I have seen that failure
14 to produce a witness charge before. Certainly,
15 we're entitled to try the case as we see fit.
16 Certainly, they had witnesses on their witness
17 list. I understand they're not required to
18 produce witnesses, but they chose to do so.

19 It's almost the spoliation type charge. It's
20 similar in nature. I would -- I would argue
21 against that. I tried to be as efficient as
22 possible and be respectful of the Court's time. I
23 see no need to call witnesses that would testify
24 to things that have already been testified to and
25 are redundant in nature and don't further my case.

1 I feel like I'm being punished for that at
2 this point if I don't call every witness that they
3 would like me to call. Certainly, they can argue
4 that. But I think that would be an inappropriate
5 charge and charge on the facts, Your Honor. So I
6 would argue against that and just stand by the
7 sound -- sound instruction of a reckless disregard
8 for human life.

9 **THE COURT:** As to the malice charge, I
10 believe both are an option for the Court. And in
11 my discretion, I'll use the one that I -- that I'm
12 using.

13 As to the failure to produce a witness, I'm
14 using that since the motion for mistrial has been
15 renewed as to -- for Godfrey -- the issue with the
16 report that wasn't turned over from Lieutenant
17 Colonel Godfrey. I overruled their motion for a
18 mistrial -- denied their motion for a mistrial
19 based on I think the time cured that. I think
20 this is one step further in curing the prejudice
21 or reducing the prejudice to reduce the necessity
22 of a mistrial. So I'm going to include the
23 failure to produce a witness in conjunction with
24 that. But your everything is -- your objection is
25 noted for the record.

1 **MR. SCOTT:** I've got three discs that the
2 defense, I believe, 17, 18, and 19, they would be
3 the same videos they presented in their case. But
4 once it goes to the jury, I'll just switch these
5 discs out for what they had. These are the videos
6 minus the audio which -- which was published to
7 the jury.

8 **THE COURT:** Will you hold onto those?

9 **MR. SCOTT:** Sure.

10 **THE COURT:** Those aren't going into evidence,
11 right?

12 **MR. SCOTT:** They're not. The ones with audio
13 are in evidence. But I have previewed these with
14 the defense. And these are just -- the jury won't
15 have the option of playing the audio.

16 **THE COURT:** Do you remember what number?

17 **MR. SCOTT:** Yes, Your Honor. They are
18 Defense 17, 18, and 19.

19 **THE COURT:** I'm just going to tell them at
20 some point when they get that, if they want to --
21 are we sending a laptop back with them?

22 **MR. SCOTT:** We are.

23 **THE COURT:** What I'll do, if they want to do
24 it, I'll instruct --

25 **MS. DEMER:** Your Honor, I'd like the chance

1 to inspect the laptop.

2 **THE COURT:** Well, yeah. We'll let you look
3 at it. But we'll -- we'll have -- if they wish to
4 view any evidence, to send a note to the Court.
5 And myself, one attorney for the state, one
6 attorney for the defense will go back there, put
7 it in, and leave so they can view it. Okay? I
8 think that's the best -- I don't want to leave the
9 computer back there with them. I think that's the
10 best way.

11 **MR. SCOTT:** Okay.

12 But hold onto the --

13 **THE COURT:** Hold onto those. He has those in
14 case that comes up for 17, 18, and 19.

15 All right.

16 Remind me again, Mr. Shealey, which one did
17 you say in my instructions?

18 **MR. L. SHEALEY:** It was my imminent danger
19 instruction that -- that your instruction under
20 that same section failed to include the language
21 about someone not having to wait until an
22 assailant gets the drop on them. It was that
23 language that was missing.

24 **THE COURT:** All right.

25 I will substitute number six -- charge number

1 six in place of my imminent danger.

2 **MR. L. SHEALEY:** Thank you, Your Honor.

3 **THE COURT:** As to the jury charges, any there
4 any objections -- I have the state's objections
5 noted for the record. Any objections from the
6 defense?

7 **MR. L. SHEALEY:** No, sir. I just wanted
8 those included that we discussed. Nothing
9 further.

10 **THE COURT:** I have included or incorporated
11 all of the defense's that I've produced to me. I
12 believe it's all.

13 Ms. Demer.

14 **MS. DEMER:** Yes, Your Honor. If you're going
15 to require that one attorney from the state and
16 one attorney from the defense be present in the
17 jury room with a laptop, I just wanted to suggest
18 as an alternative that the jury come into the
19 courtroom and watch it on the projector with the
20 JumboTron.

21 **THE COURT:** All right.

22 We'll think about that. The issue -- I would
23 like to do that. Because I know some judges when
24 they do that, they turn this into a jury room,
25 which it would be the same thing. (inaudible)

1 everyone leaves. And that way they can view it.

2 **MR. L. SHEALEY:** It's like we've encountered
3 this a lot. Usually, someone like Sharon would
4 produce a very clean laptop. And we just would
5 make sure there's nothing -- nothing weird on it.
6 We just would cut off the wireless and send it
7 back. I mean, that's usually what we do. It's
8 fairly.

9 **THE COURT:** I'm fine with whatever y'all
10 agree upon --

11 **MR. L. SHEALEY:** I don't want the attorneys
12 to sit back there.

13 **THE COURT:** Oh, no. They wouldn't. They
14 would live it.

15 **MR. L. SHEALEY:** Okay. Okay.

16 **THE COURT:** But I'm fine with that.

17 **MR. L. SHEALEY:** Yeah. That's what we
18 usually do.

19 **THE COURT:** We'll bring them back out in a
20 second. I'm going to instruct them on that -- do
21 we need to -- does the state need to rest? Or
22 anything in rebuttal or not?

23 **MR. SCOTT:** No. I -- we're ready to proceed
24 with closing.

25 **THE COURT:** All right.

1 Defense, y'all rested in front of the jury.
2 We're just going to go straight to closing
3 arguments. State, defense, state rebuttal?

4 **MR. L. SHEALEY:** Yes, sir.

5 **THE COURT:** Y'all need any -- any more time
6 to set anything up?

7 Doors are locked?

8 Let's bring the jury.

9 (The jury enters the courtroom at 10:39 a.m.)

10 **THE BAILIFF:** The jury is seated, Your Honor.

11 **THE COURT:** All right.

12 Ladies and gentlemen, I hope you had a great
13 lunch. We are winding down now to closing
14 arguments.

15 Ladies and gentlemen, the parties have
16 presented their evidence in this case. It is now
17 time for the attorneys to make their closing
18 arguments. The arguments of the attorneys are not
19 evidence in this case. Their statement and
20 argument are meant to help you understand the
21 evidence and apply the law to the evidence that
22 you've seen this week. You should disregard any
23 remarks, statement, or argument, which is not
24 supported by the evidence and presented during the
25 trial, or the law that I will explain to you after

1 the arguments.

2 Yes, sir.

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

5 What's done in the dark will eventually come
6 into the light. Remember that? It certainly was
7 dark out there on American Avenue,
8 January 22, 2021. Dark night in rural Hopkins,
9 South Carolina. The time read 3:53 a.m. when
10 Brandon Burden breathe his last breath on this
11 earth. We know that at the time over there about
12 when Brandon Burden breathe his last breath
13 because of the video.

14 Brother, a son, a father was taken. The last
15 thing -- the last person he saw was someone he
16 trusted. Somebody he trusted completely. And it
17 was dark out there on American Avenue,
18 January 22, 2021 just before 4 a.m. And they say
19 it's always darkest before the dawn. And what's
20 done in the dark will come to light.

21 Looking back to the morning hours of
22 January 22, 2021, the prospect of finding Brandon
23 Burden's killer seemed pretty grim. His home
24 where he lived was a total loss, burnt completely
25 to the ground; evidence destroyed. Brandon

1 Burden's body was burnt to the extent, too, that
2 his true manner of death was not readily apparent.
3 Firefighters and law enforcement personnel
4 gathered -- gathered at the home. Jamira Davis,
5 cuddled in bed with her partner. No one aware of
6 what she had done.

7 Investigators will soon get the news from the
8 autopsy that would completely turn this
9 investigation and move it towards a -- a different
10 sort of investigation. You see, when they arrived
11 on the morning of January 22, 2021, the first
12 assumption was that Mr. Burden, as a victim of an
13 accidental fire, has come to expire. It was that
14 autopsy that -- that verified that he had been
15 shot.

16 Investigators scoured the area, tracking down
17 leads. There weren't many. And none ended up
18 being viable at the time.

19 Jamira Davis went about her life. No one
20 around her had any clue about what she had done.
21 The break or -- or breaks, should I say, come, of
22 course, with Tonja Simons's video cameras. As
23 luck would have it, that's Brandon Burden's
24 sister. She lived one road over and she had
25 cameras on her back porch, one of which happened

1 to be trained on Mr. Burden's house, in that
2 direction.

3 And an emergency review of Brandon Burden's
4 phone records. And to me, it's a testament to
5 investigators like Tai Jordan that a few phone
6 calls and a grainy black-and-white video could be
7 what would lead to catching a killer. She
8 certainly wasn't coming clean to what she had
9 known. She had already taken great steps and a
10 lot of effort to cover up what she had done. And
11 none of that is what somebody justifying their
12 actions would do.

13 I talked a lot about the house there at
14 ■■■ American Avenue where Brandon Burden lived to
15 when Brandon Burden died. You guys have seen a
16 lot of pictures. You know, typically, I'm able to
17 show juries pictures of a home as it was at the
18 time of the incident, even take them out to the
19 scene in certain situations. That's not a
20 possibility. Mr. Burden's house is just an empty
21 field at this point. It's been burnt to the
22 ground. But we've talked a great deal about the
23 layout.

24 You walk in the front door. You walk all the
25 way across this living room before you got to this

1 door that would lead to the kitchen. And what we
2 find the kitchen, if you go through the front door
3 and you go through the living room and you go into
4 the kitchen, is a refrigerator just on the left.
5 And there's an oven, a stove top. And there would
6 be a kitchen. And, of course, the whole kitchen
7 is the back left rear of the home.

8 We talked about the bedroom. As you go into
9 the right, how the bedroom would have been
10 immediately there to the right. This is what it
11 looked like January 22, 2021. This is where
12 Brandon Burden typically laid his head at night.

13 The living room, again, as you look in the
14 front door, it would appear this way, at least
15 after it's been burnt. But you get the general
16 idea of the layout. Again, I think there was some
17 video that the defense produced of the TV in this
18 corner.

19 Again, this would be the doorway into the
20 bedroom. Through this door and around that
21 refrigerator is oven in the kitchen. This is what
22 the kitchen looked like after being burnt to the
23 ground. Again, now we're looking through the
24 front door from the kitchen.

25 You see walking across the living room to the

1 front door, apparently where the couch and the
2 ottoman used to be. This shell right here is the
3 burnt-out remains of the refrigerators. This is
4 where Mr. Burden kept his food. This to the right
5 is an oven. Notice the oven door is open? This
6 is where Brandon Burden would cook his food.

7 You'll notice the space between the
8 refrigerator and the oven. That's where Brandon
9 Burden's body was found. Okay. I want you to
10 remember this picture. Because right here under
11 all of this insulation and everything else as a
12 result of this house fire is where Brandon Burden
13 laid dead, shot three times in the back. The
14 kitchen in the back room of the home. You see it
15 in relation to the front door.

16 This would be, again, generally a layout of
17 the house. You have the living room, the
18 sectional sofa and ottoman. You have a
19 representation of the refrigerator and the oven,
20 Mr. Burden's body. That would be the rear scene.

21 Again, this is what -- what we have to deal
22 with when you don't have any pictures of the home.
23 It was burnt to the ground; don't have any
24 pictures of how it appeared before. But that is
25 where they found his body.

1 The phone calls. Again, this is really --
2 it's difficult for me to figure out which came
3 first and which one was the most significant the
4 first. But these phone calls on Brandon's phone
5 when I did the emergency search warrants.
6 Remember at 1:40, 1:41 a.m., 1:57 a.m., 2:14 a.m.,
7 and 2:16 a.m., they have these phone numbers -- or
8 phone calls. And the phone number he's calling
9 and is calling back to him is relevant to them.
10 It's -- it's interesting. They want to find out
11 who this is because that's the last person he
12 talked to, the last person who called him, and the
13 last person he called.

14 Of course, Tonja Simons's camera was
15 important, too, because it helps establish a
16 timeline. They watched those videos and they see
17 a car arrive at 2:49 in the morning. So now, they
18 have those phone calls. Now, they have this
19 video. It shows the muzzle flash. And now,
20 they're confident that whoever was in that car was
21 killer. And they're probably also the person who
22 owns that phone number he was talking to and was
23 talking to him.

24 February 1, 2021, after they had identified
25 her as being the owner of the phone, they bring

1 Ms. Jamira Davis in. Her mother's already said
2 that is her phone number. Mother's already said
3 that, yeah, Jamira was like a daughter to Brandon
4 Burden. Here's how you can contact her. Law
5 enforcement gets in contact with her and brings
6 her in. And then, the evolution of lie begins.

7 No. 1, after we get a little bit of
8 background information, "Tell us the last time you
9 saw Brandon Burden."

10 "Well, I haven't been to Brandon Burden's
11 house since the week before this happened."

12 She says it was the 13th or 15th of January.
13 We know this happened January 22. Of course, we
14 know that's a lie. Right off the bat, she's
15 lying.

16 After they talk to her a little bit more,
17 they tell her we know some things maybe you don't
18 know we know. She says, "Okay. I went to
19 Hartsville, January 22. I went straight home. I
20 went straight home. Never spoke to Brandon Burden
21 the day of the incident."

22 Okay. They're -- they're starting to give
23 her a little bit more of what they know. "Maybe,
24 Jamira, we happen to know you did talk with him.
25 We've got some phone records that are of interest

1 to us."

2 So then No. 3, "Oh, okay. I actually did
3 speak with Brandon Burden on the phone around one
4 or two am. But I never saw him in person."

5 Okay. They go on a little bit more. And I
6 think y'all saw some of that on the stand today.
7 This evolution and shifting of story and
8 undulates. It's almost like a wave and it
9 backtracks. Then it takes different tangents.
10 Maybe that's just the way she talks. But I get
11 the impression if she's moving her mouth, she's
12 lying. And the video certainly illustrates that.
13 Her testimony today certainly illustrates that.

14 The evidence speaks for itself, ladies and
15 gentlemen. Credibility is going to be something
16 of utmost importance in this case. Okay. None of
17 us were there that night. We've got evidence to
18 look at. We can judge somebody's credibility.
19 We've all seen people who lie. We've all see
20 people who minimize the truth. We've all seen
21 people who completely blow past the truth and make
22 something up, contradict themselves at times. So
23 then you're left to ask, Are you lying now or were
24 you lying then or are you always lying?

25 Fourth, "We didn't go straight home from

1 Hartsville. We actually went to Ishmael Scott's
2 home before going home."

3 "We." Okay. "We." She's saying she and
4 Alesha. Poor Alesha is home in bed.

5 Five, "We actually did go to Brandon Burden's
6 home after Hartsville. But we were only there a
7 couple of minutes. We never went inside. We went
8 to Ishmael's house afterwards."

9 This is interesting because later, she says,
10 "That's a lie. I never went to Ishmael's house.
11 And then today, she's saying I did go to Ishmael's
12 house but before I went to Brandon Burden's
13 house." Okay.

14 There are things today that she is still
15 evolving the lie. You saw the biggest on today
16 too. I'm going to get to that in a minute.

17 Six, "Okay. I actually did go to Brandon
18 Burden's home alone. Alesha wasn't involved. I
19 was there to get weed. But I stayed outside my
20 car for 30 to 40 minutes."

21 Okay. If you count it, it's like the sixth
22 version of events, give or take. It keeps
23 shifting, and it keeps evolving. The anatomy of a
24 lie.

25 Seven, "I went to Brandon Burden's home

1 alone. Okay. You got me. I did go inside, to
2 get some free weed. I sat in the living room
3 area. But he was still alive when I left. I went
4 to Ishmael's home afterwards and then home."

5 Finally, "I shot him because he touched me
6 between my legs and asked to talk to me."

7 Now, in that video, she was very clear that
8 she was in an upright standing position. "I
9 turned around and started shooting." Don't take
10 my word for it. Okay? Watch the video. I will
11 even give you the time stamp where it was.

12 Then, of course, today, we hear the trick
13 shot defense. We're going to get to that. The
14 (inaudible) and the evolution of a lie, the
15 confession occurs after about two hours and 52
16 minutes of denial. Bald-faced lies to law
17 enforcement. Right off the bat, it could have
18 been, "I did it. But I'm justified in doing it.
19 Let me walk you through very clearly why."

20 But it's lie after lie after lie after lie
21 after lie, and then lying some more even after the
22 confession. She talks about Brandon Burden to
23 being a good, kind person at least four times
24 during the interview. He never got violent or
25 agitated when he drank. That's not the term she

1 would use. He never did anything to her that
2 night or any other time, at least eight times
3 during the interview.

4 Law enforcement floats the idea of a
5 potential sexual assault or potential force
6 against her at least 14 times. Then she finally
7 bites. Because they know she shot the man, and
8 that is the only thing she is not admitting to.

9 They asked her, "Tell us you shot him. We
10 know you did it. We just need you to say it.
11 Maybe you did it in self-defense. Maybe he tried
12 to molest you."

13 "No. He never did. Never did." Fourteen
14 times. You can count them yourself.

15 Three hours and 12 minutes 40 seconds into
16 the video. I know you guys don't have notes. But
17 if one of you could at least remember that, save
18 yourself some time and go straight to it. Okay?
19 Of course, watch all of the lies before then, but
20 this is where she demonstrates how it happened.

21 Tai Jordan, "This is your chance. Show us
22 how it happened."

23 I defy you -- I defy you to find in the video
24 where she mentions the trick shot. If y'all find
25 that, I want you to run out of the room, come and

1 get me. Okay. I'll never prosecute again.
2 Because she didn't do it. She didn't do it. Tai
3 Jordan, mean old Tai Jordan. Okay. Y'all heard
4 him on the stand. I want you to find, too, where
5 he was threatening her and intimidating her on the
6 video. Okay?

7 Every chance, I want you to show me how this
8 happened, please. And then today, we see the
9 Annie Oakley trick shot. Never did that. "I
10 turned around and started shooting because he was
11 holding me back."

12 She described being held from behind. She
13 described being by the front door. We talked
14 about the arrangement of the couch and the
15 ottoman. Describes picking up the gun. She even
16 talks about it. "I picked it up with my right
17 hand."

18 Describes turning around and shooting
19 immediately. And then here's the thing. She's
20 telling us, "I came clean at that point. I told
21 the truth. Okay? Because I finally trusted
22 somebody. I finally gave the full truth." Why
23 was she still lying about the gun? And why
24 couldn't she answer my question when I asked her,
25 "Why are you still lying about the gun?"

1 "Well, they never asked me." Well, they did
2 ask her. She said, "I threw it from behind."

3 Watch the video. Don't take my word for it.
4 She said she left it behind. So at this point,
5 she's still lying. And I asked her, "What is the
6 code? How can we tell when you are telling the
7 truth and when you are lying? Because you said
8 you're telling the truth here, but you are still
9 lying and you are admitting to it."

10 I don't know the Jamira Davis code. But I
11 know what makes sense and what doesn't make sense.
12 I know what the evidence shows. The evidence
13 shows Brandon Burden was shot three times, and two
14 of which of these wounds would have dropped him
15 dead immediately. One would have filled his lungs
16 with blood and severed a major artery. And the
17 leg injury in and of itself would have caused him
18 to be immobile. And this all happened in the
19 living room. Okay? All of these shots, the
20 defense said were in rapid succession, weren't
21 they?

22 So if she -- he's shot in the back, and his
23 body was in the kitchen, something is rotten in
24 the cotton. We're not getting the full story.
25 And we all know it. Because we know a lie when we

1 see one. And we know deception when we see it.
2 We know what our eyes see. We know what makes
3 sense. We know what doesn't make sense.

4 Remember I talked to y'all about common sense
5 when we started this case. I'm not asking you to
6 imagine a man hopping down the hallway after he
7 been shot. You didn't hear me say that. But
8 y'all remember that during the trial. Could this
9 have happened? Could he have been hopping down
10 the hall and been shot in the back? The confused
11 pathologist says, "I guess I could assume with
12 that wound that he could have hopped on his right
13 leg. You know, that doesn't seem real likely."

14 Anatomy of the lie. Erase the evidence.
15 Okay? The last viewable text message that they
16 found on her phone at 10:49 p.m., January 21. The
17 next viewable, 10:18 a.m., the next day. She
18 deleted 11 text messages in between. Does that
19 sound like somebody with clean hands? Does that
20 sound like somebody who was only trying to save
21 their own life in a struggle or a gun where they
22 were wrestling on the ground? By the way, you
23 never heard that term on the video either.

24 You heard her talking about wrestling on the
25 ground, falling on the ground, a great struggle

1 for the gun on the ground. You're not going to
2 hear that on the video.

3 Erase the evidence. Phone calls. The last
4 viewable phone call, 9:40 p.m., January 21. The
5 next one that they could locate on the phone, 9:50
6 a.m. on January 22. Eight deleted phone calls in
7 total. Okay? We know what happened in that
8 middle. We know why that's relevant. Because
9 that's when Brandon Burden saw his last sight,
10 that being somebody he trusted, breathe his last
11 breath. During that time, she found a need to
12 erase his phone calls. Erase the evidence.

13 You know, I think about it. One thinks about
14 this fight to the death. She said for the first
15 time, "I could have died. It was me or him."

16 Here she is the next morning, "Nine for
17 sale." She is on her phone on Instagram after she
18 has killed a man, after she's trying to tell you
19 she thought she was going to die that night, "Nine
20 for sale for the low too." That's the gun she
21 told law enforcement she left at the scene. But
22 today she says she concealed in her jacket pocket
23 and left with it, tried to sell it the next
24 morning.

25 We hear about this gun again, Friday. Word

1 comes from the defense, "We got a gun that might
2 be the weapon she used to kill the man with."

3 I said, "Where did you get it? Tell me more
4 about it. How do we know where it has been since
5 then and why you think it is relevant? Where is
6 it going to be?"

7 "We can't tell you that."

8 **MR. L. SHEALEY:** Objection, Your Honor.
9 Attack on counsel.

10 **MR. SCOTT:** That was the testimony,
11 Your Honor.

12 **THE COURT:** That was the testimony.
13 Overruled.

14 **MR. SCOTT:** We're not attacking counsel. I'm
15 saying that is how this evidence comes to us.
16 "We're not going to tell you anything about it.
17 But here you go. Do with it what you will." She
18 already admitted to shooting the guy. Okay.

19 That gun turns out it was stolen in 2018. So
20 if Dale Scott bought and it got stolen later, how
21 do we know where it's been since then? But that's
22 what happened.

23 I asked her, I say, "When did you tell your
24 lawyers about this?"

25 She said, "Past week."

1 And I said, "Why -- why wait until the week
2 before trial?"

3 She said, "They never asked me."

4 It's kind of like this whole trick shot
5 thing. I said, "Why didn't you show Tai Jordan
6 that?"

7 "Well, he never asked me. He never asked me
8 if I performed a trick shot."

9 She's not telling the lawyers about this gun
10 until the week before because they just didn't ask
11 her that specific question. It was only Wednesday
12 or Friday before trial that she goes, "Well, I
13 guess I'll -- maybe I will tell another story
14 about what happened to the gun." Evolution of a
15 lie.

16 Now, she has raised the defense of
17 self-defense. And this is after, I don't know, 14
18 different versions of events or however many. I
19 lose count. But eventually, it becomes
20 self-defense. The first time was today that she
21 said she feared for her life. Okay? This is from
22 somebody who's never harmed her before, who was
23 pulling her by her waist saying, "Let me talk to
24 you. Let me talk to you."

25 So for self-defense to be applicable, Jamira

1 Davis must be without fault in bringing on the
2 difficulty. She -- she can't be shown to have
3 started any type of fight or anything like that.
4 Jamira Davis must've been in actual imminent
5 danger of losing her bike or sustaining bodily
6 injury or she must've actually believed that she
7 was in such danger. Okay? Today was the first
8 time she said, "It was me or him. I was in fear
9 for my life. Fear for my life."

10 If she did believe she was in actual danger,
11 she must show a reasonably prudent person of
12 ordinary courage would have had the same belief.
13 Okay? So if her story is to be believed, okay,
14 minus the trick shot and all that, if her story is
15 to be believed, an ordinary person with somebody
16 who's never done anything to her before, holds
17 their waist and says, "Let me talk to you. Let me
18 talk to you," an ordinary person would use deadly
19 force on that person. That's not the case. An
20 ordinary person would not shoot and kill somebody
21 for saying, "Let me talk to you. Let me talk to
22 you."

23 Jamira Davis must be shown to have no other
24 probable means of avoiding the danger. In other
25 words, killing this man was the only way to solve

1 this issue. A man who is saying, "Let me talk to
2 you. Let me talk to you."

3 Here's the thing: It didn't happen the way
4 she said it happened. And again, we don't have to
5 rely on her word. We are reasonable people. We
6 use common sense in this courtroom. We're going
7 to look at the evidence. We're going to weigh it
8 against what she said happened.

9 Murder. The state must prove beyond a
10 reasonable doubt that the defendant killed another
11 with malice aforethought. What is malice
12 aforethought? Hatred, ill will, hostility towards
13 another person. It's the intentional doing of a
14 wrongful act without just cause or excuse and with
15 the intent to inflict an injury or other
16 circumstances of the law that infer evil intent.
17 How can it be shown?

18 It can be shown with "I'm going to kill you,"
19 would be expressed malice. You tell somebody what
20 you are going to do. Or inferred. There are two
21 types of malice. There's different kinds of --
22 not different kinds of malice but merely the
23 manner in which malice has been shown to exist.
24 That is either by direct evidence or by inference
25 from the facts and circumstance which prove.

1 Express malice, again, is shown when a person
2 speaks words or express hatred or ill will of
3 another, or when the person prepared beforehand to
4 do the act which is later accomplished, may be
5 inferred from conduct showing a total disregard
6 for human life.

7 Shooting a man in the back three times is a
8 complete disregard for the value of human life.
9 That is malice. That is precisely what she did.
10 And if it is not 1000 percent apparent to you, if
11 you would indulge me, I want to go over her trick
12 shot defense again one more time. Okay? What
13 we've heard here for the first time. You heard it
14 first. Your ears heard it and mine ears heard it.
15 Your eyes saw it and my eyes saw it.

16 I hope you-all could see. When -- when I had
17 her here, this was that couch and this was the
18 door. She jumped up and she's trying to get out
19 of this door, right?

20 Got the ottoman right here. Now as she is
21 being pulled, she reaches with her right hand and
22 gets the gun.

23 Jack, come here a second. I'm not going to
24 put him in the same position.

25 But remember she was had -- she was down

1 there. Take the gun in your right hand. Get down
2 on your knees like she was.

3 Remember, I asked her, I said, "Now, how does
4 he grab you?" We were very clear on that.

5 "He had me by the waist. He's trying to pull
6 me up. Pull me up. He's facing me. He's on my
7 back." And I even got her to switch roles. I'll
8 get on the ground if you want me to. And she
9 showed me the trick shot. And I gave for three,
10 four, five different opportunities to do it.

11 Jack, do you remember how it happened?

12 All right.

13 Squeeze the trigger. Squeeze the trigger.

14 Look at wounds on the mannequin. He would
15 have had to been holding her like this. Did she
16 describe that? How can we get those shots up and
17 down his back?

18 For her story to work, he's getting shot in
19 the front, right? He's pulling her up. And she's
20 doing the Annie Oakley trick shot. I don't want
21 to belabor the point because we're common sense
22 people. And we know what makes sense. And we
23 know not to check our common sense at the door
24 when we go into deliberation. That's why I was
25 very clear and said, "Please is there anything

1 else we're missing? Is that it? Or are you going
2 to change it again? Is there going to be a 17th,
3 a 18th, a 19th, a 20th version?"

4 She said, "No. That's it. I settled on
5 that. That -- that's how we'll going to roll and
6 I finally settled on it."

7 So now, we've got a man who was shot three
8 times in the back, a man who should of drop dead
9 right there by the ottoman in the living room. A
10 man who was found in the rear of the home between
11 the oven and refrigerator. A man whose death and
12 the evidence surrounding it in no way matches her
13 version of events.

14 I've got to prove this case beyond a
15 reasonable doubt. Everybody who's been convicted
16 from here to Portland, Oregon, was found guilty
17 beyond a reasonable doubt. That's not a South
18 Carolina thing. It goes all through this country.
19 It doesn't mean beyond all doubt. It means if you
20 have a doubt that is reasonable based on logic --
21 and again, logic.

22 We are logical people. We are thinking
23 people. We don't get sold a bill of goods if it
24 makes no sense. We're going to inspect it first
25 and we're going to see if it's on the up and up,

1 right?

2 If you have a doubt that is reasonable and
3 based on logic, you should find the defendant not
4 guilty. If the trick shot works for you and the
5 fact that his body is in the back and the fact
6 that she has lied and lied and lied and lied some
7 more and still lies today, if you're okay with
8 that, that doesn't seem unreasonable, you find her
9 not guilty. That's how the system works.

10 I put up a case. I don't pick my defendants.
11 I don't pick the evidence. I produce it to you
12 guys. You guys are the ultimate finders of fact.
13 You have to be 100 percent certain.

14 Now there are very few things -- and the
15 Judge is going to tell you this -- in this world
16 that we know with absolute certainty. In criminal
17 cases, the law does not require proof that
18 overcomes every possible doubt. If based on your
19 consideration of the evidence, you are firmly
20 convinced the defendant is guilty of the crime,
21 you must find him guilty.

22 So the Judge is going to read you about
23 beyond a reasonable doubt. He's going to use that
24 term "firmly convinced." Are you firmly convinced
25 she killed this man the way she said? Or do you

1 think maybe it happened a different way?

2 You think he was shot in the front? The
3 expert said and the body shows he was shot in the
4 back. You think this happened in the living room
5 where the pathologist said he dropped like a sack
6 of potatoes? Or do you think maybe it happened
7 elsewhere in the house?

8 You think it was because of a touch of a
9 clothed area of her body parts? Or do you think
10 maybe something else was involved? There was a
11 lot of marijuana laying around that house
12 according to her. And what do drug dealers deal
13 with? They deal in cash money, right?

14 I don't know a lot that accept credit cards
15 or checks. Typically, when you see people with
16 large amounts of marijuana, so is cash money. And
17 in the kitchen with the oven, I don't know. What
18 does the evidence show? What does it dictate?

19 Because when your ears hear one thing, but
20 your eyes see another, use a third thing. Use
21 your brain. You don't have to take what she says
22 at wholesale value. And, again, they said they
23 second my wishes. They said, "We want you to use
24 common sense, too, and reason." Okay.

25 I'm not asking you to tort your body and do

1 all kinds of matrix moves to show how those wounds
2 could have occurred.

3 **MR. L. SHEALEY:** Objection again. Attack on
4 counsel. Specifically me, Your Honor, for the
5 record.

6 **THE COURT:** All right. Overruled.

7 **MR. SCOTT:** I'm not showing you how to twist
8 and turn and hop on one leg and do all of these
9 kinds of moves. I'm just asking you to look at
10 the evidence is. Okay? If you-all, as
11 reasonable, common-sense individuals, each with
12 your own individual mind believe that maybe it did
13 happen. He was hopping down the hall, he's
14 twisting his body, he's pulling her and at the
15 same time getting shot in the back, and maybe
16 we're not going to worry about the fact that she's
17 a proven liar. We're just to take her word for it
18 anyway. If you find her guilty -- now, you would
19 be disobeying your oath if you just decided to
20 find her not guilty based on sympathy alone. The
21 Judge will tell you that.

22 If you weigh the evidence and you don't think
23 it meets the burden, find her not guilty. I
24 implore you: Use common sense. Use a little
25 reason and communication with one another.

1 The Judge is going to tell you, you have no
2 friends in this case to reward. Don't do it for
3 me. Don't do it for her. You've got no enemies
4 to punish. I'm not asking you to punish her. If
5 the evidence doesn't pass the test, find her not
6 guilty. I submit to you the evidence is
7 overwhelming. Okay.

8 This man has never done anything to her
9 before. If he's such a violent, dangerous man,
10 she sure spends a lot of time with there in the
11 middle of the night alone with him.

12 I expect they're going to hammer on him,
13 because that's just what case like this is about.
14 Beat up on the victim. That's all you got. Okay.
15 They say if the law is on your side, you hammer on
16 the law. If the facts are on your side, beat your
17 fist on the facts. But in a case like this, if
18 you don't have the law or the facts, you just have
19 to crack at the victim.

20 And the Burdens are fine with that. They
21 know the game. They've been here all week.
22 Boleg, Boleg, Boleg. You know, they couldn't even
23 say his name. Did y'all notice that? I caught
24 them a couple of times they would say Mr. Burden,
25 and then correct themselves and say Boleg.

1 This is, I submit to you, another way of
2 minimizing the man. Okay? Reducing him to a
3 nickname. Because they don't want you to think
4 about the human person, Brandon Burden. Say his
5 name. Brandon Burden. He's just old Boleg, drunk
6 Boleg. And if that's what y'all want to fall for,
7 I submit to you that's not what this case is
8 about. It's about facts and evidence. But I'll
9 let them have their say and we'll see what they
10 say. They may not say that. They may talk more
11 about the facts and the evidence too. But I
12 implore you, facts and evidence is what this case
13 is about, what makes sense, what doesn't, why
14 Brandon Burden is dead and gone. (Inaudible).

15 Ladies and gentlemen, this is what I asked
16 you to do at the beginning of this trial. I told
17 you I was going to ask you to find her guilty of
18 murder. And I told you the facts were going to
19 show that. I told you the evidence was going to
20 show that.

21 I beg you one more time to use your common
22 sense, reason. You don't have to take anybody's
23 word for anything. Every one of you have got your
24 own independent minds, a whole lot of combined
25 common sense. Use that and at the end of this

1 case when you deliberate, do what the evidence
2 shows. Find her guilty of the murder of Brandon
3 Burden. Thank you.

4 Can we have somebody leave real quick out of
5 the side door? Can we have somebody leave real
6 quick out of the side door?

7 **THE COURT:** Yeah.

8 **MR. L. SHEALEY:** May it please the Court,
9 Your Honor.

10 **THE COURT:** Yes, sir.

11 **MR. L. SHEALEY:** What's done in the dark
12 eventually comes to light. That's what the
13 solicitor has told you repeatedly in his opening
14 and in his closing just now. And I do not
15 disagree with that.

16 In the dark, Boleg raped Wynette Thompson at
17 [REDACTED] American Avenue at gunpoint just a month or
18 two prior to this incident. In the dark. And
19 that did come to light. You heard from her.

20 In the dark, on January 22, 2021, he tried to
21 rape Wynette's oldest daughter, Jamira, in the
22 dark. And that came to light. That's been in the
23 light. But because any action against that type
24 of behavior would be justifiable under our society
25 of laws and rules, police and the prosecutor's

1 office don't want to hear that. That's
2 problematic for your case. Yeah. What's been
3 done and what's been doing in the dark has now
4 come to light. We know a lot about these folks
5 that this trial is about. And I know you've been
6 listening. And I appreciate it. Jamira
7 appreciates it.

8 You have an incredible job to do. And one of
9 the ways that I get to describe that job is by
10 talking about one of my favorite movies called "12
11 Angry Men." That was a 1950s movie starring
12 Henry Fonda. But then, you only have jurors
13 that's comprised of white men. We don't have that
14 today. We've got folks from all walks of life on
15 this jury. And I appreciate it, and I'm glad for
16 it.

17 But in that case, it was all about jury
18 deliberations. They heard a murder case trial, a
19 stabbing. They went right back to the jury room
20 and they raised their hand and said, "What's the
21 vote? Guilty, right?"

22 And Henry Fonda was the star of the show. He
23 said, "No, we need to think about this. The state
24 has the burden of proof. Let's weigh the evidence
25 and talk about this case. We've got to do our

1 jobs." And they did. And they deliberated. And
2 they rendered a just verdict. And that is what
3 your job is here today.

4 Our Supreme Court says that Jamira is cloaked
5 in a robe of righteousness. And only if the state
6 of South Carolina can prove the case beyond a
7 reasonable doubt does that robe of righteousness
8 get removed from her shoulders.

9 The Judge is going to give you jury
10 instructions at the end of this case. He will
11 tell you very similar language. We have evidence
12 of self-defense in this case. And I'm going to
13 tell you what that is and the Judge is going to
14 tell you what that is.

15 But once there's that evidence in the case,
16 the state, then, has to disprove the evidence
17 beyond a reasonable doubt of self-defense. Let me
18 make that clear again. The state always has to
19 prove their case beyond a reasonable doubt so that
20 you're firmly convinced that you have no doubt.
21 But when there is this evidence of self-defense,
22 which you have in this case, they'd then have the
23 additional burden of stripping that away and
24 disproving those elements. That is your
25 obligation to uphold and understand as you weigh

1 this evidence. It is an awesome feat for the
2 state to do that. It is designed to do that.

3 Beyond a reasonable doubt is such a hard word
4 and a concept to understand sometimes. But I like
5 to think about it as a football field. Some of
6 you may have been on juries before, you may have
7 been on some civil cases or heard about civil
8 cases. Maybe you have friends who are lawyers on
9 civil cases. The state or a plaintiff in a civil
10 case just has to get you across the 50-yard line.
11 The state in this case would have to bring
12 evidence, evidence, evidence, evidence, all the
13 way, basically to the end zone to prove their
14 case, to get beyond a reasonable doubt.

15 After you weigh all the facts and evidence in
16 this case, the state is stuck in the 20. They
17 haven't gone anywhere approaching the 50-yard
18 line. But that's a good way to think about it.

19 The state has talked a lot about Jamira's
20 lies in this case. She has talked to you about
21 her lies. And that's something you need to think
22 about. Lies, bringing up her being scared to tell
23 the truth is not the same as evidence that they
24 have brought to you of murder. Those are two very
25 different things. Why do people lie?

1 You've all lied at some point. You've had
2 children that have lied at some point. I got --
3 mine lie to me every day. Why does he do it? And
4 I'll tell you the story that makes me think a lot
5 about human nature.

6 This is my Jeep. This is a 1942 Willys MB
7 World War II Jeep. My granddad fought in World
8 War II. He bought this Jeep home. He gave it to
9 my dad. And I grew up and I had access to some
10 land. And let me tell you what, this Jeep, my dad
11 would drive us around the land. And it was fun.
12 As I got older and old enough to drive, I would
13 say, "Can me drive the Jeep -- Jeep, dad."

14 And he would say, "No, son, you're not ready.
15 This Jeep, you got to warm it up. It is an old
16 four-cylinder. It doesn't have power steering.
17 You have to be careful when you turn and mind
18 breaks. Because the brakes are basically
19 nonexistent. You're not ready."

20 So I waited and I waited. And finally, I was
21 about 20 years old coming home from my junior
22 summer of college. And Bryan and I, over there,
23 said, "Dad, can we drive the Jeep?"

24 And he was going fishing. And he looked at
25 us. And he goes, "Do you know the rules?"

1 I said, "Yes, Dad, I know the rules. Let it
2 warm up. I'm going to watch out for the steering.
3 I'm going to be careful about the brakes."

4 So Brian and I jumped in the Jeep. We went
5 riding around on the land. It was really fun
6 about 15 minutes, until I put it in a ditch. But
7 I did everything that I was supposed to do. I
8 warmed it up. I was careful about the steering.
9 And I was careful about the brakes. But even
10 though I followed the rules my dad had set for me,
11 I still wrecked the Jeep. Something bad happened.

12 So what did I do? I was faced with a
13 decision. Do I call my dad and tell him, "Dad, I
14 wrecked the Jeep. I promise you I followed all of
15 the rules."

16 Is he going to believe me? I had a decision
17 to make. I didn't call him at age 20 and tell him
18 that I wrecked our family heirloom.

19 Brian and I grabbed another truck. And we
20 hooked up some tow chains. And we quietly towed
21 that Jeep back into the garage. The muffler was
22 hanging off by a thread. It wouldn't start. We
23 just pushed back right in the garage.

24 Dad didn't find out for a week later until he
25 tried to drive it again. He said, "Son, what

1 happened? Why is the muffler on the ground? Why
2 won't it crank? Why is it stalled out?"

3 I said, "Dad, I don't know. I don't know."

4 I didn't tell him right away. It was like a
5 week later. And he looked at me. I said, "Dad, I
6 promise you, I followed all of the rules, but
7 something bad still happened."

8 It's human nature. I wasn't a troublemaker
9 kid. I had a easy, relatively middle-class life.
10 I followed the rules. And something bad happened.
11 And even me, not talking to police, not trying to
12 talk about the killing of my stepfather, my
13 instinct was to not be truthful. I tried to
14 remove myself from the situation, because
15 that's -- that's human nature. It doesn't mean
16 that I didn't follow the rules. But I was too
17 scared to tell him. That lesson applies here.

18 Police know from interviewing witnesses in
19 this case, from talking to Jamira's mom, that he's
20 a bad guy towards women. They know that. They
21 are not just guessing at this. And she tells them
22 this. So when she tells them later, that's why
23 they believe.

24 (Exhibit is played.)

25 **MR. L. SHEALEY:** That's Investigator

1 Eisenhoward. You haven't heard from him. And the
2 Judge will give you instruction about what to
3 think when you don't hear from witnesses from the
4 state. But they know that he could flip. It's in
5 his nature. Jamira knows that from living with
6 the man. He seen the way he treated her mom.
7 (Exhibit is played.)

8 **MR. L. SHEALEY:** Eisenhoward says, "Have you
9 ever seen him hit your mother?"

10 "No."

11 And the mom testified because that was on the
12 other side of the trailer, usually behind closed
13 doors. But she said, "But I saw him put a gun to
14 her. Threatened to kill her."

15 Jamira's tone and demeanor is not like mine.
16 It's not like Mr. Scott's. She is a young woman
17 from limited economic means who grew up in totally
18 different ways than he and I did. She doesn't
19 have the same access necessarily to everything we
20 did.

21 The fact that she doesn't articulate
22 specifically her emotions and fears to these
23 strange men in an interrogation room does not mean
24 she's not telling the truth. She doesn't have to
25 do it like I do. But she's told them what she

1 saw, what she grew up with.

2 And I hate to say, it wasn't that unusual for
3 her. People are more than just good or bad.
4 Everybody in this room has done bad things.
5 Guaranteed. I have. Everybody in this room has
6 done good things.

7 Boleg provided for Jamira and her sisters.
8 Wynette, she is not a perfect mom. She introduced
9 him into their lives, but he got food on the
10 table. He bought them shoes, candy, gave them
11 little money here and there, and eventually in
12 middle school, started giving Jamira weed. It
13 wasn't all bad. But she knew what he had in him
14 from what she has seen. But behind closed doors
15 was a different story with Jamira's mom.

16 We talk about trust. I've heard a lot about
17 trust in this case. Boleg trusted her. About her
18 trust for him. When he came into her world at age
19 13, a middle school kid, getting in trouble for
20 selling candy at school, who was the figure of
21 authority? Who was the grown ass man who was
22 filling that role in her life? He was the one
23 that deserved to treat her with trust and respect.
24 That didn't happen.

25 (Exhibit is played.)

1 **MR. L. SHEALEY:** Investigator Jordan, the
2 lead investigator on this case, he made this case.
3 He testified. I know you were paying close
4 attention to this. Because the state -- state's
5 account -- the state's theory is that don't
6 believe what Jamira eventually said once she came
7 clean. Because our investigators are just so
8 good. They are so persuasive that they just
9 themed with her and got her to bite on a lie. All
10 right. Think about that. You can't have it both
11 ways.

12 The state wants you to say, essentially, "We
13 create false statements in suspects. We create
14 false confessions. We're that good. And once you
15 admit to that lie, ha, we got you. But yeah,
16 consider that as evidence."

17 If that's the state's theory, if that's the
18 evidence they're putting to you 12 jurors in the
19 United States of America, reject it. It's not
20 good enough. You should be insulted. But that's
21 what they want you to believe.

22 Well, the truth is, as they told you, they
23 run into guys like Boleg all the time. Drug
24 dealers, men that get drunk and abuse women,
25 rapists. And every time they asked her, Is that

1 what happened? She nodded her head. They're out
2 for getting more. They're not presenting to you
3 any motive.

4 You didn't check your common sense at the
5 door. Why would this happen? Why? They haven't
6 presented to you any past problems that Jamira had
7 with Boleg. She said he was like a father. He
8 never touched her before.

9 That even when her mom left him after the
10 final rape, she didn't know about that. She went
11 over there because he would give her weed, and
12 they would catch up. He was someone in her life.
13 Why would she kill him?

14 We presented to you, even though we don't
15 have any burden to do it -- we have no burden --
16 the motive in this case came right from Jamira's
17 mom's mouth. She recognized that gun in evidence
18 that he used to rape her at gunpoint. And she
19 ended it. She couldn't take any more abuse.
20 She's not perfect. And she loved him still. But
21 that was the last straw. And when Hope showed
22 this picture to her face, you all saw her look
23 away. She couldn't -- couldn't take it.

24 We provided to you motive. We have provided
25 to you understanding. We didn't have to do it,

1 but it's the only thing that made sense.

2 Investigator Jordan agreed that if that is the
3 truth -- and I said you're not here to get false
4 statements. No. He knows that.

5 They stopped even questioning her when she
6 told them what they believed was the truth. It's
7 plausible, because they knew he flipped. They
8 know he's abusive. That makes total sense. They
9 know he had cocaine in his system, alcohol three
10 times the level. You cannot convict her because
11 of what he did.

12 Investigator Jordan says, "If a father figure
13 puts his hand on your privates, as a young woman,
14 you have the right to defend against that, to
15 resist that." That would be -- that -- that act
16 that is kind of being minimized around here, kind
17 of downplayed, just a little over your pants. It
18 wasn't under your pants? It was just over. It
19 was just on your privates. That doesn't rise to
20 the level of anything, does it, guys? Yes, it
21 does.

22 This prosecution can't tell women how to feel
23 about touching your privates. This prosecution
24 can't tell women how to feel about how they talk
25 about rape, about how they talk about their

1 stepfather assaulting them in the dark. They
2 ain't happy with it because it didn't -- it wasn't
3 the first thing that was said when you go to see
4 Mr. Policeman. That's reasonable doubt. They
5 don't get to tell women how to feel about their
6 bodies.

7 But Investigator Jordan told you that if
8 that's the truth, that's a crime that she has a
9 right to defend herself against. Their lead
10 investigator told you that. They never challenged
11 that, because they knew that made sense.

12 It didn't make sense that she wasn't there.
13 They can prove that she was there. It didn't make
14 sense that she brought her girlfriend there. No.
15 She was trying to remove herself from the
16 situation just like I tried not to tell my dad I
17 wrecked his Jeep. Doesn't mean that she was not
18 following the rules and laws of society. It
19 doesn't mean that she's not allowed to defend her
20 own life, her own dignity.

21 He agreed that if Jamira, if what she said is
22 true, that is kidnapping, by preventing her from
23 leaving, by grabbing her at the door and swinging
24 her to the side. You go please play the video.
25 We played it for you a lot. She says, "I couldn't

1 leave. He wouldn't let me leave."

2 She -- the first thing she's trying to do is
3 to get out that the door when her stepdad touches
4 her. He jumps up and follows, "Let me talk at
5 you."

6 I really enjoy the state's rendition of that.
7 "He didn't threaten to kill you."

8 "No, he didn't."

9 "He touched you in your vagina and said let
10 me talk at you."

11 That's not like I'd like to have a
12 conversation. That's like, "You're not going
13 anywhere. You're going to stay here and talk to
14 me."

15 Lewd act, Investigator Jordan also agreed
16 that's what that is. A battery. All of these
17 things, citizens of South Carolina are allowed to
18 defend against. It doesn't matter that she didn't
19 say during a three-hour interview, "I feared for
20 my life, sirs."

21 It's understood -- when your stepdad tries to
22 rape you the moment you leave the house, it's
23 understood that your life was in danger and you
24 have a right of self-preservation to resist
25 against that.

1 You heard from Wynette. Not everybody is all
2 good; not everybody is all bad. Some could say
3 she's not even a good mother for keeping Boleg in
4 her daughters' lives. But she's doing the best
5 she could. He brought food to the table. He
6 never hurt her children. But she took it. She
7 took that abuse. And she came in here, looking at
8 his family, people that she used to know, and she
9 identified the gun that we brought you.

10 You've heard from the phone experts about
11 harassing calls from Boleg that support that he
12 was upset and couldn't let her go. She said he
13 came around her house so many times that she had
14 to switch cars with friends. She worked at a
15 hotel and was running scared, living in hotels,
16 using her employee discount just to get away. And
17 then she got a text from him saying that right
18 there, "I'm going to get the last laugh."

19 Now, there's a lot of questions about -- to
20 her, "Why did you let your daughter go over there?
21 Why?" Was it Wynette's fault that Boleg tried to
22 rape her daughter? Is that what we're saying?
23 She's not perfect. She had no idea that could
24 happen. Because he hadn't been that way with her
25 own daughters, two of which are disabled.

1 Jamira was grown, 20 years old, living in her
2 own apartment. She has absolute control over what
3 she does. We brought you the gun, the motive, the
4 only explanation of why Boleg would act the way he
5 did that night, that night that he lost a bunch of
6 money playing cards. Investigators told you that.
7 He was in a bad mood.

8 Pathologist told you cocaine and alcohol
9 together will make you less than (inaudible). If
10 you been thinking about something, that cocktail
11 of drugs and alcohol will give you the liquid
12 courage to act out on it. And he sought out his
13 revenge that night on someone who had given him
14 her trust.

15 Again, we brought you this gun. The gun that
16 is in an evidence locker at the Richland County
17 Sheriff's Department right now. The gun that
18 expert Amanda Metz, firearms expert, told you she
19 was going to test until she was instructed by this
20 table right here on Monday of this week not to.
21 Why would you not want to test the firearm that
22 matches what you already know is the likely
23 caliber and make and model and see if it's the
24 weapon? She would have the skills, the training,
25 the opportunity to compare that gun to the bullets

1 collected. And we could know whether that was the
2 gun in the shooting. Why wouldn't the state not
3 want you to see that?

4 I think the exact words from the solicitor
5 were for this is the centerpiece of the case. He
6 said that when talking to Jamira. The gun is the
7 centerpiece of the case. He's right. It is. He
8 didn't want it tested because he would rather say
9 that Jamira sold it on Instagram, because that
10 maybe looked worse. And he didn't want y'all to
11 know that rather than selling it, she wanted to
12 make sure it never hurt anybody and she threw it
13 into a pond.

14 Questions have been asked, "Well, Jamira, why
15 are you only now bringing this up?" That's a good
16 question. And that's because we never asked her.
17 Because as we're going through the evidence and we
18 see the Instagram, "Jamira, did you sell the gun
19 on Instagram?"

20 "No."

21 "Well, where is it?"

22 "I threw it in the pond."

23 "What pond?"

24 They don't want to test the gun in the case.
25 There's been lots of insinuations about, "Well,

1 maybe that gun was chucked there forever. Maybe
2 it's Hope Demer's grandfather's gun. Is there
3 rust on the gun? Because I don't think it had
4 been in the lake that long. How were the weeds
5 growing when you found it, Scuba Diver Benfield?"
6 Just test it.

7 That scientific woman of knowledge who spends
8 her days looking through a microscope could tell
9 you how long that gun had been in there, whether
10 there was rust, whether there was corrosion, and
11 whether those bullets were fired from the gun.
12 What are they hiding from?

13 That is the posture of the State of South
14 Carolina in this particular case. That is the
15 type of ignoring of evidence that is existing, yet
16 they still want you to convict. Does that provide
17 you doubt about this case? Yes.

18 This is the definition of murder. The Judge
19 will read you the definition of murder. This, if
20 the state can disprove self-defense, each and
21 every element, because what they would have to
22 prove beyond a reasonable doubt in order for you
23 to be eligible to convict Jamira, the killing has
24 to be unlawful. So if it's self-defense, that's
25 not unlawful. That's justified, of another human

1 being, yes, with malice aforethought.

2 Malice is hatred. It's ill will. It's
3 hostility towards another person. It's evil.
4 Malice is what Boleg had when he moved across the
5 sectional to Jamira and put his hands between his
6 stepdaughter's legs. That's a good way to define
7 it.

8 Malice is not fear. Malice is not panic when
9 you're trying to run for the door, when you are
10 flung down by a grown ass man, who's grown up on
11 the streets, who's stronger than you, even if he
12 happens to be shorter than you.

13 The Judge will instruct you on self-defense.
14 She could not be at fault for bringing on this
15 difficulty. She's visiting her stepdad like
16 normal. She just came back from the girlfriend's
17 grandfather dying. She needs weed. She smokes
18 weed. He gives her free weed. It's been a long
19 day. There has to be an actual imminent danger or
20 belief that she was in imminent danger of death or
21 great bodily injury.

22 When your stepdad touches your privates and
23 won't let you leave his home, you're in actual
24 imminent danger. That is a very real existing
25 threat. It doesn't matter whether she told any of

1 these officers, "I feared for my life."

2 You listen to her words. It's understood,
3 even if she doesn't have the same capacity to
4 express that, did they ever ask her? No. Because
5 it's understood.

6 You have the right to act on appearances.
7 Even if somebody weren't necessarily pulling a gun
8 on you, if you acted the same way as a reasonably
9 prudent person of ordinary firmness and courage,
10 then you would have the right to act on that, even
11 if you are mistaken. The law of self-defense
12 doesn't hold you to a refined assessment.

13 You don't have to sit there and play the
14 numbers game with your attacker. You don't have
15 to wait for them to get inside you. You don't
16 have to wait for them to put their hands on your
17 throat. You don't have to wait for them to get so
18 their own gun, as they're breathed in their
19 vodka-soaked breath on your neck. You do not have
20 to wait.

21 The Judge will tell you that you have the
22 right of self-preservation in this country and in
23 this state. You don't have to allow them to get
24 the drop on you. Those will be the literal words
25 that this Judge tells you. And it's your duty to

1 follow that law.

2 She has a right to consider her knowledge of
3 his propensity for violence, his likelihood of
4 violence. If I ran into some stranger on the
5 street and they reached in their pocket, I don't
6 have a right to assume they're reaching for a gun.
7 But if I go home to my dad and he's been beating
8 me all of my life with the brass knuckles he keeps
9 in his pocket and I see him reach in his pocket,
10 then yes, I do have a right to act on that
11 appearance.

12 He had never been physically violent with
13 her. But she knew what he was capable of, from
14 watching what he did to her mom, where she had
15 been forced to call the police when he pulled that
16 gun on her. She told you about them. Think about
17 that too, as you're thinking about what the
18 prosecutor says how she was reluctant for a period
19 of time to talk to police and reveal that she was
20 actually there and that she actually had to kill
21 Boleg.

22 Her past experiences with the police, they
23 didn't help. She called them when the gun was
24 pulled on her mom. Nothing to see here. Her mom
25 is a battered woman. Her mom testified and Jamira

1 said, "Just because you call the police on a guy
2 like Boleg, when the police arrive, what's going
3 to happen if he actually say what he did?" It's
4 going to be worse. That's the cycle of abuse that
5 occurred. The police weren't there to help
6 Jamira. Jamira told you from the witness stand
7 that she's used to handling things herself.

8 No other way to avoid the danger. She tried
9 to run out the glass storm door. He wouldn't let
10 her. We'll play it for you. We'll play it again.
11 She couldn't get there as he was physically
12 preventing her. She is trying to run. She didn't
13 reach for his gun when he sat next to her with
14 their legs touching. She didn't reach for his gun
15 even when he put his hand between her legs. She
16 ran first. Only when he prevented her from
17 leaving and swung her to the ground and got on top
18 of her, holding her, saying, "Let me talk at you,"
19 did she reach for his gun. Only then.

20 You heard from Lieutenant Colonel Godfrey,
21 the closer. The most experienced police officer
22 from that group, he literally made that quote.
23 "My goal was to get her to say that she shot him."

24 Shouldn't your goal be the truth? I kind of
25 felt like I was in a bizarro world this week as

1 the state's theory is again, "We're just such
2 skilled interrogators that we get them to say
3 something that's not true, that they are now
4 saying is not true." You can't have it both ways.
5 These things are only ever whispered in the halls
6 of law enforcement that there's any kind of false
7 statement produced in these interrogations. No.

8 It was the truth. That's why they stopped
9 questioning them. At some point, they are just
10 going to get the solicitor and see what happens.
11 And here we are. We're at the end of a murder
12 trial.

13 They know that cocaine-fueled bad guys attack
14 women. That's why they are theming with her
15 because that's what happens. They see it every
16 day.

17 (Exhibit is played.)

18 **MR. L. SHEALEY:** That's it. That's
19 Lieutenant Eisenhoward, who you didn't hear from,
20 who knows that drunk guys try bad things with
21 women. And he even told her the law of South
22 Carolina and expressed exactly what he would do if
23 somebody tries something like that with him. He's
24 fully capable of hurting somebody. I guarantee
25 you he is. And I guarantee you you had the right

1 to hurt somebody, we all do, who violate you. So
2 why is that good enough then, but it's not good
3 enough now? Why?

4 It is good enough now. It was good enough
5 then. That is the law of South Carolina. They
6 know how folks act. She didn't make that up.

7 Godfrey tells her, "I know this is true based
8 on your body language."

9 (Exhibit is played.)

10 **MR. L. SHEALEY:** You can't handle it. I know
11 something happened based on your body language.
12 Watch the video. Every time they bring up Boleg
13 trying something. That's how they knew they were
14 getting warmer. They didn't get a false statement
15 out of her. She just finally felt comfortable
16 with this man right here, Investigator Dauway, who
17 is sitting back there, that she could tell them
18 finally about one of the most violative things
19 that's ever happened to her.

20 You heard some lines of direct examination
21 through the investigators how she was -- she never
22 showed any emotion. She said there stoically and
23 just continued to hunker down and say she wasn't
24 there. Yet we've shown tons of emotion from
25 Jamira. And you heard her cry as her mom

1 testified about the rape. She doesn't have to
2 show emotion to them. But she does, because it's
3 real.

4 They know, because they've talked to
5 thousands of suspects for this very thing, that
6 she is not built to murder anyone.

7 (Exhibit is played.)

8 **MR. L. SHEALEY:** He wouldn't let her leave.
9 We've had this whole demonstration. Yes, that's
10 important. We are trying to demonstrate some
11 things you so you can understand how this could
12 have unfolded. The state has the right to do that
13 as well. But I don't want it to be disingenuous.
14 I don't want you to misremember the evidence.

15 They spent a lot of time just trying to tell
16 you that she just casually shot him because he
17 said, "Let me talk to you." That's not the
18 evidence. That is after hands between her legs,
19 after kidnapping her, because he wouldn't let her
20 leave.

21 (Exhibit is played.)

22 **MR. L. SHEALEY:** She said, "I couldn't -- I
23 couldn't leave. He would not let me out the
24 door." She uses the words, "There's a whole lot
25 of back-and-forth."

1 But those words are not articulate enough for
2 the state. Because they point out that, well,
3 she's talking about wrestling, "Oh, that's the
4 first time we heard this today."

5 She's talking about back-and-forth, how he
6 won't let her leave this house. Why -- why she
7 required to use middle-age white man's words in
8 the way that they want as she's talking about a
9 sexual assault? She's not.

10 We heard from Dr. Durso, the scientist, the
11 forensic pathologist. She has no dog in this
12 fight. She's got a very difficult job. This
13 house fire has nothing to do with this case. It
14 makes it difficult. It makes it hard to assess
15 the evidence. But thankfully, it was well after
16 his death.

17 She agrees that he was shot from a low
18 position, and the wounds were consistent with a
19 back to front, left to right, and done in quick
20 succession. She tells you that in shootings,
21 people are moving. They're very dynamic. They're
22 not standing still.

23 And you know there was some acting out by the
24 solicitor about hopping down hallways. There was
25 no hallway in this house. There hasn't been any

1 testimony about hallways in this house.

2 You have a front door that comes into a
3 living room, that goes right into the kitchen.
4 This house is 600 square feet. There's been
5 testimony about that. It's all on top of each
6 other. But when I asked her specifically and I
7 brought her down, and I know she didn't care for
8 it, and I had her hold this gun and get low,
9 there's four shots in this case, four. The
10 solicitor says three. But that's only because the
11 shot to the leg, you can't tell which direction it
12 came from. They don't want you to think about
13 that.

14 Think about what Dr. Durso said. Four. We
15 have a shot to the leg. Several to the side back
16 and coming in this direction. I asked her, If
17 someone was low and they were being pulled on and
18 someone shot, could they shoot into the leg? Yes.

19 Even though it would break, with someone have
20 the ability to move after that and if shots
21 continued to come up, how much mobility would you
22 have? The shots to the head and shots to neck
23 would not have much mobility. But if you were
24 shot first in the leg and if you were shot in that
25 other back shot, you would. You wouldn't be

1 running any marathons. But your instinct, even as
2 a bad guy who's violating his stepdaughter, would
3 be to flinch from that shooting. She said that
4 was consistent. A hundred percent consistent.
5 She told you about what that blood alcohol and
6 that cocaine would do.

7 And the comments about trick shots and Annie
8 Oakley, I think they're designed to be funny. But
9 none of this is funny. Watch the video. When two
10 investigators ask you to act out, she does. She
11 shows us how she pulled away from the door. She
12 didn't body slam or fling these guys to the
13 ground. These are your interrogators. This is
14 law enforcement. You're not going to do that.

15 They're not asking her to get on the ground
16 or show any specific mechanical thing. They're
17 just saying talk. "Oh, yeah. What else?"
18 They're not challenging her, because it makes
19 sense. So to now say that that's a lie and that
20 you can't believe what she says, that's not fair.

21 She's not a lawyer. She didn't know this
22 would be played in trial two years later. Or she
23 would be expected to tell about her attempted rape
24 in a better way for middle-age white men.

25 This house is no longer here. This house as

1 you heard from Captain Sean Cason was fully
2 involved. It was fully engulfed in flames. And
3 this is body cam photo that's in evidence of the
4 firetrucks that were around that day. One, two,
5 three, four. The fire was put out. This house
6 has really very little evidentiary value that
7 anybody could credibly try to come in here and
8 tell you about a resting place of a body or where
9 some other piece of evidence might be or a
10 showcase and/or money or drugs. It all burned up.

11 But you heard from an expert firefighter that
12 these trucks pump 400 gallons per minute to put
13 out this raging fire. All of those trucks did, in
14 a 600 square-foot house. The place would
15 literally be floating.

16 I asked him, "Did you ever observe furniture
17 and tables and things like that being dislodged
18 and knocked around?"

19 He said, "Yeah. All the time."

20 So only after the fire went out and all of
21 that water had dissipated would firefighters and
22 other emergency responders be able to go inside
23 and even look around. And they found Boleg's body
24 where it was, right between the oven in the small
25 kitchen that even if that had not occurred, that

1 would not bother me one bit about the position of
2 his body.

3 You watched Jamira -- watch the video of
4 Jamira's toddler little brother walk from where
5 the ottoman is right around the corner. It's like
6 three or four feet. It's totally consistent with
7 what Dr. Durso said about his level of mobility
8 and flinch after a shot. But the problem is, this
9 place is swimming with 400 gallons per minute. I
10 don't know how many -- how many minutes they spent
11 fighting the fire. But I know it was more than a
12 minute. There's just no evidentiary value to that
13 house, unfortunately. I wish there was.

14 And this slide is very important to me and
15 should be very important to you. This is what a
16 good representation of guilt proven beyond a
17 reasonable doubt is. This case is important to
18 both sides. There is been evidence here, evidence
19 of Jamira not being honest at first. She didn't
20 want to put herself there. She tried to remove
21 herself from the situation.

22 She lied about the gun. How does that --
23 man, it looks bad. It looks bad. Just like I
24 lied to my dad about wrecking the Jeep. How was
25 it going to look? But have they proven guilt

1 beyond a reasonable doubt of malice murder?

2 We bought you the gun. We bought you the
3 evidence. They refuse to test it. We bring the
4 theory. We bring you how this could have
5 unfolded. And they just want to tell you that her
6 reluctance to talk about killing her stepdad after
7 he tried to rape her is not to their satisfaction.
8 This case ain't about how you feel. What's the
9 evidence gauge? Possibly not -- not guilty.

10 Perhaps Jamira was guilty still, but not
11 guilty in our system. I suspect she might be
12 guilty; that's still not guilty. She's possibly
13 guilty; that's still not guilty under our laws.
14 Probably guilty; that ain't good enough. Guilt is
15 likely; still not good enough in this system that
16 we enjoy and get to live in. Highly likely is
17 still not good enough only if you had guilt beyond
18 a reasonable doubt.

19 And you have to be unanimous to render any
20 verdict. Let me say that again. All 12 of you
21 would have to be unanimous, that you have no
22 hesitation that Jamira committed evil hate-filled
23 malice murder. And none of you could disagree on
24 that to find her guilty. You're going to have two
25 choices: Guilty and not guilty, in this case.

1 Our system that we get the privilege of
2 living in is designed to prefer the release of
3 folks over the convictions of the innocent. So if
4 you suspect or if you don't like that she lied for
5 a while, you wonder why she threw that gun, that
6 still is not enough. That does not create
7 evidence of murder. It's human nature as well.
8 And I told you my story.

9 As you deliberate and try to get you to your
10 truth, each and every one of you has your own
11 unique moral judgment of the evidence in this
12 case.

13 Just because you, Mr. Foreman, feel one way,
14 doesn't mean that you have to give up what you
15 believe is the evidence because some of other
16 jurors says. You have a duty to deliberate. That
17 means to talk it out. Doesn't mean give up your
18 personal beliefs and feelings on this case. You
19 don't have to bend your will to someone else. You
20 have to agree to reach a verdict, but you don't
21 have to agree. If you can't agree, there are
22 legal ways to handle that.

23 Boleg and his actions got himself killed on
24 the night of January 22, 2021. He violated
25 someone who trusted him. He has a history of

1 doing the same to her mom, until she left, at
2 gunpoint. And he told her that he would get the
3 last laugh. She defended herself against that man
4 in that house.

5 Don't let Jamira be a victim of the criminal
6 justice system. Do your job. Listen to this
7 judge. I don't get to speak to you again. The
8 solicitor does. But after you listen to him and
9 you go back there in that room, you're going to
10 deliberate, you will do your duty, and you will
11 send Jamira home.

12 **MR. SCOTT:** I'm the middle-age white man, I
13 suppose. I don't know why that came out or why
14 that was relevant. But I think he was talking
15 about me. And I think that was to somehow inflame
16 your passion; maybe make fun of me; maybe minimize
17 me. I don't know. I don't know why that have
18 anything to do with anything.

19 But that's kind of the tactics. She doesn't
20 have to say anything that appeases a middle-aged
21 white man. I didn't question her February 1.
22 That was my friend Tai Jordan and that was my
23 friend Stephen Dauway. It ain't about what kind
24 of words she said and whether it would appease me
25 or not. I'm not the one she took to lying to on

1 February 1. It was these two men.

2 I'm a middle-aged white guy. Take that for
3 whatever it's worth or whatever he feels it's
4 worth.

5 He gave you a little football analogy. And I
6 agree with him. It's not a joking matter, this
7 case. And that was a cute diagram. His analogy
8 about the Jeep was cute too. But a Jeep can be
9 fixed. Okay? Human life, if you value it, you
10 understand there's no pulling those bullets back
11 into the gun. We're not talking about an old,
12 rusty Jeep. Okay? In his analogy, he clean right
13 off the bat when his dad confronting him with it.

14 Wynette, this is a problematic witness.
15 We're hearing about this supposed rape for the
16 first time in trial. She said she didn't tell
17 Jamira. Jamira had no way of knowing. We don't
18 have a police report about it. And I get it. Her
19 daughter is up here.

20 But at the same time, if Brandon Burden is
21 the devil like they say he is, why is she allowing
22 her daughter to go there two, three times a month
23 in the middle of the night? I understand it is
24 uncomfortable talking about a potential rape.

25 But if your daughter is going to this man's

1 house, you say, "Jamira, I think I need to tell
2 you something and I think it should have an effect
3 on your practice of going over there regularly."
4 Did it happen? I don't know. But wouldn't that
5 have been something if it had happened, to tell
6 your daughter?

7 Wouldn't it have been something to tell law
8 enforcement when they were investigating her
9 daughter for murder? "You guys need to know
10 something about Brandon Burden. He tried to rape
11 me two months before this."

12 I don't know why she did -- I don't know why
13 the witnesses haven't told law enforcement or
14 anybody else about this until they're up on the
15 stand. She said, "Yeah. That's the gun. That
16 picture y'all showed me, that's the gun he used."

17 I said, "When is the first time you saw it?"

18 She said, "2017." Said, "Well, it's 2018."

19 But the gun was stolen from its rightful
20 owner in November 2018. So unless she saw it at
21 the very end of 2018, that ain't the same gun. It
22 was stolen almost 2019. But it's convenient for
23 this new version that she suddenly recognizes on
24 the stand.

25 And the motive in this case they tell you is

1 revenge. That's a hell of a way to get revenge.
2 I'm mad at Person A, so I'm going to attempt to
3 rape their daughter. Why not get revenge on
4 Wynette through getting revenge on Wynette? What
5 did Jamira do? He treated her like a daughter.

6 The text message, that was almost out of a
7 movie. "I'm going to get the last laugh, bitch."
8 I say we had a bunch of experts testifying about
9 phone extractions and pulling messages. This is a
10 game changer. If we can see that text message,
11 let's see it.

12 "It's misplaced."

13 "Well, there might be other ways to get it if
14 you just kind of give us some more information.
15 Maybe we can pull records."

16 **MR. L. SHEALEY:** Your Honor, objection.
17 That's not correct characterization of evidence.
18 It's not misplaced. That -- that's not in the
19 record.

20 **THE COURT:** Any response?

21 **MR. SCOTT:** Well, I heard there was a move
22 and it got lost in the shuffle somewhere during
23 the move.

24 **MR. L. SHEALEY:** The prior lawyer's office.
25 That's -- that's the record.

1 **THE COURT:** All right.

2 Sustained.

3 **MR. SCOTT:** The cell phone is no longer able
4 to be examined. We're just going to have to take
5 her word for it. Have to take her word this text
6 right out of a movie exists. No evidence
7 whatsoever, other than we're hearing it for the
8 first time here. Your ears heard it the first
9 time I heard it, the first time law enforcement
10 heard it, despite being spoken to at great length
11 when they were trying to figure out this case.

12 That's -- that's -- and just -- I don't -- I
13 can't wrap my brain around it. Loving mother and
14 you're just going to let your daughter go to this
15 rapist's house night after night? You don't allow
16 your daughter to do this. If this man is what
17 she's now saying he is, who does that?

18 I suppose when you are 80 and your daughter
19 is 45, you're still going to be looking out for
20 her. You're not just going to say, "Well, I
21 can't -- I can't control Jamira. She's an adult
22 now. She can go hang out with a rapist at
23 2:49 a.m. if she wants to. That's just how it's
24 going to be."

25 It doesn't make sense. Because this is an

1 interpretation now you're hearing for the first
2 time, and a twist on reality to fit the facts to
3 make Brandon Burden look like a person who
4 deserved to get shot in the back.

5 Why didn't we just talk about getting shot in
6 the back in closing? This is an inconvenient --
7 rather inconvenient issue for the defense. See.
8 They want to stay away from that like a bad cold.
9 Because how can you show you're in imminent danger
10 or any danger whatsoever when somebody's got their
11 back to you? You can't. You can't do that.

12 He says Durso agrees he was shot from down
13 below. Well, now, that's a little bit of a
14 mischaracterization. She said, "Well, he could've
15 been shot from somebody stooping down. Or he
16 could've already been laying down and someone's
17 shooting down. I don't know. Maybe somehow he
18 was taken out by the leg shot. Once he falls,
19 he's getting popped in the back."

20 She also said he could've been leaned over.
21 But there is no way unless -- unless you're going
22 to adopt the defense's trick shot boomerang
23 bullet, there's no way you can sustain those
24 injuries being -- jerking somebody up from behind
25 like she says. There's no way.

1 And I fear I'm belaboring the point because,
2 you know, this case is important. I don't want
3 anybody getting killed. I don't. Needlessly.
4 And I certainly hate the heinousness of a crime
5 like this. Man getting his brain blown out from
6 behind and never saw it coming.

7 People doing bad things. And then when they
8 finally get caught, they say it was self-defense.
9 Self-defense is a shield, and not a sword. Okay?
10 The only time she comes up with this is when she
11 knows she's been had. "I didn't do anything. I
12 didn't do anything." Two hours and 40-something
13 minutes into it, until they finally say, "Jamira,
14 we have video." Watch her body language when she
15 figures out they had video. Shoulders slump. But
16 she still doesn't know what that means.

17 So she says, "Okay. I was there."

18 There was a muzzle flash. Now, the gears
19 start turning. "Crap. How am I going to get
20 around this?" You can literally see the wheels
21 turning in her brain while they're talking.

22 You've all confronting a child maybe about
23 something you know to be true and they're not
24 fessing up. And finally, they gave you a version
25 like the Shealey boy did to his dad. And he's got

1 to figure out an explanation for his wrongdoing.

2 The problem is: You've got to be absolutely
3 brilliant to tell a flawless lie. Because
4 on-the-fly, she couldn't make up a lie to fit the
5 facts. She didn't know the man had been shot in
6 the back. The autopsy hadn't been completed. So
7 she gives a version that ultimately doesn't fit
8 the facts.

9 And I want y'all to watch. You're going to
10 see -- you're going to see in Jamira people you've
11 seen before who's struggling to come up with an
12 explanation of something that's inexcusable.

13 I want you to watch her body language. And
14 while we're at it, when you watch the video,
15 Camera 2 has better audio. There are two videos:
16 Camera 1 and Camera 2. Just different angles.
17 But 2 -- see for yourself. Two seems to have
18 better audio in case you're curious about the
19 things that were being said and trying to
20 interpret them.

21 They say, you know, it didn't -- it doesn't
22 matter if she never said, "I feared for my life."
23 You know, that middle-aged white man, that's what
24 he wanted to hear. The only reason that's
25 interesting to me is because that's what the law

1 says and that's what the Judge is going to say.

2 You have to be in imminent fear of your life.

3 The first thing she said when they put her on
4 the stand was, "Jamira Davis, did you fear for
5 your life on that particular occasion?"

6 "Yes, I feared for my life."

7 We're trying now to take our client and make
8 her story fit the version --

9 **MR. L. SHEALEY:** Objection, Your Honor. It's
10 inappropriate. It's, again, attack on counsel.
11 And it's (inaudible), that we are trying. It's an
12 appropriate.

13 **THE COURT:** All right.

14 Overruled.

15 **MR. SCOTT:** The defense is trying to produce
16 a narrative to you for the first time from this
17 stand that fits the facts. But it still fails to
18 do that. And it is one more twist of her story.

19 We might question her next week and there
20 might be a whole another story. Because what I'm
21 telling you is, it seems to be when she's
22 speaking, she's lying.

23 The gun, ladies and gentlemen, is a red
24 herring. The gun, ladies and gentlemen, it could
25 be the weapon she used; it may not be the weapon

1 she used. I tell you this: I have never in my
2 life seen a weapon that was (inaudible) up until
3 the Friday before trial suddenly produced.

4 I want to know how long everybody knew about
5 this gun? And why -- I guess they said they found
6 out Wednesday. Why didn't the prosecution know
7 Wednesday? Why did the prosecution know about at
8 4:55 p.m. Friday afternoon?

9 I'll tell you this. I will make a deal with
10 you guys. If you guys want to have that gun
11 tested and that is something that is important to
12 you, we can postpone deliberations. We'll get it
13 tested. And we will figure out the results. If
14 they want to do that and that's what they agreed
15 to and you want to see it, I will see to it. What
16 does it tell you though? What would it tell you?

17 She says she shot the man. We know it was a
18 40-caliber pistol. A few projectiles found in it.
19 We know it was stolen in 2018. So we know it's
20 not going to have Brandon Burden's name on it.
21 But if you find that there is reason that will
22 help you in your deliberations, we can ask for
23 some sort of postponement. I'll get it tested.
24 We'll see how quickly they can do it. They said
25 they probably could get it tested in a day. But

1 then it will take a few more days to peer review.

2 Maybe they can rush it.

3 I don't see it as being all that relevant.

4 But again, he says it's not what -- what the state
5 decides what's relevant or not. If it will help
6 you guys, send word, and we'll see if we can do
7 it. I just fail to see how it furthers her case,
8 how it helps her, or how it helps me.

9 But I do know one thing. I've never seen
10 that before in my life. Somebody telling me
11 Friday we have a gun, but we're not going to
12 continue our case. We're not going to tell you
13 why we think it's relevant. We're not going to
14 tell you where it's been. We're not going to tell
15 how long it's been there. You just have to wait
16 and see next week, Mr. Prosecutor, on the stand.
17 This ain't a game. It's not a game.

18 He says Godfrey says, My goal is to get her
19 to say she shot. Well, at that point, she already
20 admitted to being there at that time. Okay? The
21 phone records put her there at the time. We have
22 the muzzle flash. They know she shot. They're
23 just looking for an explanation. Give us
24 something that makes sense and fits the facts.
25 Give us something. And what she came up with was

1 just a total dud. Watch her body language, again.
2 Just make it make sense, okay?

3 The guy, on the one hand, they say is drunk
4 as can be. The way they put it, a stiff breeze
5 would blow him over. But somehow this guy is
6 overpowering her. And she is a sturdy lady.
7 Okay? We saw her. I don't mean to disparage her
8 or anything. But she is not a petite.
9 (Inaudible). Brandon Burden is a drunk five-foot
10 five man. Just make it make sense.

11 I'm not asking you to speculate. I'm not
12 asking you to twist or tort. But I do beg you to
13 go back there and try to demonstrate some of those
14 things amongst yourself. How you get these wounds
15 when somebody is trying to pull you up? And
16 again, try to find on the video where she said she
17 was falling around on the ground and demonstrate
18 that. You're not going to find it. I'll go ahead
19 and spoil that for you.

20 The defense in this case is there is a trick
21 shot boomerang bullet that spins around, hit them
22 in the back. And then you heard it here, you
23 heard here, only in America, firefighters sprayed
24 his body from the front of the home. It careens
25 through the door, banks are off the wall and makes

1 a complete 90-degree angle turn and lodges between
2 the refrigerator and an oven.

3 I ask you to use common sense. I have asked
4 you from the get-go to use reason. Does that
5 sound like anything that common sense would do?
6 It is a tortured attempt to make her version fit
7 the facts. Lie on top of lie on top of lie on top
8 of lie. Still lying from the stand today. We're
9 going to rely on the evidence, not lies, not
10 speculation, not wild leaps of faith.

11 Ladies and gentlemen, the only verdict that
12 make sense in this case, okay, you've got somebody
13 who's trying to sell weed. You've got somebody
14 who life's all about weed. You've got somebody
15 who finds themselves in the home of somebody who
16 has a lot of weed, and they're broke. They're in
17 between jobs. They're looking for weed and they
18 can't afford the good stuff right now. It is what
19 it is.

20 The only verdict that makes any sense is this
21 man was shot three times in the back, probable
22 gunshot wound to the leg, although she couldn't
23 say for sure. One hundred percent shot in the
24 back three times. The only verdict in this case
25 is murder. Again, that's what I ask you to do

1 after this deliberation. Find her guilty. What
2 is she guilty of? That's killing Brandon Burden
3 for no just reason. Thank you.

4 **THE COURT:** We're going to open that door
5 briefly for anyone to leave before jury
6 instructions. Very briefly.

7 If you're going to leave, you need to leave
8 now. Otherwise, I'm locking the door back.
9 (Pause in proceeding.)

10 **THE COURT:** All right.

11 Ladies and gentlemen, that is closing
12 arguments. At this point, I'm gonna charge you on
13 the law. Before -- just as I don't let you have
14 notepads for certain reasons, good or bad, I don't
15 send back the jury charges with you as well for
16 reasons. There are pros and cons. So I want you
17 to pay close attention as I instruct you on the
18 law.

19 Ladies and gentlemen, it's your duty as
20 jurors to accept and apply the law as I now state
21 it to you. Furthermore, it is your exclusive duty
22 to decide all the issues of fact in this case and
23 determine the effect, value, weight, and truth of
24 the evidence. All the parties have the right to
25 expect that you will carefully consider and

Jury Charge

1 evaluate the evidence and apply the law of this
2 case to it so that all parties will receive a fair
3 and impartial trial.

4 During this trial, you and I had separate
5 duties to perform. As the trial judge, it is my
6 responsibility to preside over this trial and rule
7 on the admissibility of the evidence offered
8 during the trial. In that regard, you are to
9 consider only the evidence before you. Thus you
10 are to consider only the testimony which has been
11 presented from the witness stand together with any
12 exhibits admitted into the record of this case.
13 If you have any preconceived ideas as to what the
14 law is or what you think the law ought to be and
15 it does not agree with what I tell you the law is,
16 you are obligated under your oath to abandon any
17 reconceptions. Because you're sworn to accept the
18 law as I now state it to you.

19 In this trial, you are the sole and exclusive
20 judge of the facts. Do not infer that I have any
21 opinion about the facts in this case from anything
22 I've said or done during the course of this trial.
23 In this regard, the law simply does not permit me
24 to have an opinion about the facts. As jurors, it
25 is your duty alone to determine the effect, value,

1 weight, and truth of the evidence presented during
2 the course of this trial.

3 The evidence from which you are to decide
4 what the facts consists of in this case are: One,
5 the sworn testimony of witnesses both on direct
6 and cross-examination; two, the exhibits which
7 have been admitted into evidence; and three, any
8 facts in which all the attorneys agreed and
9 stipulated.

10 The following things are not evidence and you
11 must not consider them as evidence in deciding the
12 facts of this case. This includes statements and
13 arguments of the attorneys, questions and
14 objections of the attorneys, and testimony that I
15 instruct you to disregard. While argument of
16 counsel is a beneficial part of every trial, you
17 should remember that the statements made by
18 counsel are not evidence.

19 In presenting arguments, counsel often refer
20 to evidence; however, you should base your verdict
21 on the evidence as you remember it. Therefore, if
22 there are any conflicts between the recollection
23 of counsel about the evidence and your own
24 recollection, you should rely upon your own
25 understanding of the evidence.

Jury Charge

1 Furthermore, evidence may be direct or
2 circumstantial. Direct evidence is testimony by a
3 witness about what the witness personally saw or
4 heard or did. Circumstantial evidence is indirect
5 evidence. In other words, it is proof of one or
6 more facts in which one can find another fact.
7 You may consider both direct and circumstantial
8 evidence equally.

9 Crimes may be proven by circumstantial
10 evidence. The law makes no distinction between
11 the weight or value to be given to either direct
12 or circumstantial evidence. However, to the
13 extent the state relies on circumstantial
14 evidence, all of these circumstances must be
15 consistent with each other, and when taken
16 together, point conclusively to the guilt of the
17 accused beyond a reasonable doubt. If these
18 circumstances merely portray the defendant's
19 behavior as suspicious, the proof has failed.

20 The state has the burden of proving the
21 defendant guilty beyond a reasonable doubt. This
22 burden rests with the state regardless of whether
23 the state relies on direct evidence,
24 circumstantial evidence, or a combination of the
25 two.

1 It is your job as jurors to determine the
2 credibility or believability of the witnesses who
3 have testified in this case. You must evaluate
4 the evidence and determine which evidence
5 convinces you of its truth. In determining the
6 believability of witnesses who have testified in
7 this case, you may believe one witness over many
8 or many over one.

9 You may believe part of the testimony of a
10 witness and reject the remaining part. You may
11 believe the testimony of a witness in its entirety
12 or reject it in its whole. You may consider
13 whether the witness has an interest in the result
14 of the trial, whether the witness is prejudiced
15 towards either part, the opportunity for the
16 witness to have seen the matters and things about
17 which the witness may testify and the way the
18 witness acts on the witness stand.

19 The Rules of Evidence ordinarily do not
20 permit witnesses to testify to opinions or
21 conclusions. An exception to this rule exists for
22 witnesses we call "expert witnesses." A witness
23 who by education and experience has become an
24 expert in some art, science, or profession may
25 give an opinion as to the subject the witness

Jury Charge

1 claims to be an expert in and may also give the
2 reasons for the opinion.

3 You should consider any expert opinion given
4 by a witness, and like any other evidence, give it
5 the weight you think it deserve -- deserves. If
6 you decide that an expert witness's opinion is not
7 based on sufficient education and experience or if
8 you decide that the reasons given in support of
9 the opinion are not sound or that the opinion is
10 outweighed by other evidence, you may disregard
11 the opinion entirely. An expert witness's
12 testimony is to be given no greater weight than
13 that of other witnesses simply because the witness
14 is an expert. And you do not have to accept an
15 expert opinion, even though it is uncontradicted.

16 The fact that a defendant was arrested,
17 charged, and indicted in this case is not evidence
18 and cannot be considered by you as evidence of
19 guilt in this case. Nor does it create any
20 presumption or inference of guilt. This document
21 is simply the formal written instrument which
22 contains the charge made against the defendant.

23 The defendant has pled not guilty to this
24 indictment. And that plea puts the burden on the
25 state to prove the defendant guilty. A person

1 charged with committing a criminal offense in
2 South Carolina is never required to prove his or
3 her innocence.

4 I charge you that it is an important rule of
5 law that the defendant in a criminal trial --
6 trial, no matter what the seriousness of the
7 charge may be, will always be presumed to be
8 innocent of the crime for which the indictment was
9 issued, unless guilt has been proven by evidence
10 satisfying you of that guilt beyond a reasonable
11 doubt. This presumption of incidence does not end
12 when you begin your deliberations but it
13 accompanies the defendant throughout the trial
14 unless you reach a verdict of guilt based on
15 evidence satisfying you of that guilt beyond a
16 reasonable doubt.

17 The presumption of innocence is like a robe
18 of righteousness placed about the shoulders of the
19 defendant, which remains with the defendant unless
20 it has been stripped from the defendant by
21 evidence satisfying you of the defendant's guilt
22 beyond a reasonable doubt.

23 The presumption of innocence is not mere
24 legal theory. It is not just a legal phrase. It
25 is a substantial right to which every defendant is

Jury Charge

1 entitled, unless you the jury are satisfied with
2 the evidence of the defendant's guilt beyond a
3 reasonable doubt.

4 The state has the burden of proving the
5 defendant guilty beyond a reasonable doubt. Some
6 of you may have served as jurors in civil cases
7 where you were told that it is only necessary to
8 prove that a fact is more likely true than not
9 true, such as by the greater weight or
10 preponderance of the evidence. In criminal cases,
11 the state's proof must be more powerful than that.
12 It must be beyond a reasonable doubt as to each
13 element of offense charged. What is reasonable?

14 A reasonable doubt is the kind of doubt that
15 would cause a reasonable person to hesitate to
16 act. Proof beyond a reasonable doubt is proof
17 that leaves you firmly convinced of the
18 defendant's guilt.

19 There are very few things in this world that
20 we know with absolute certainty. And in criminal
21 cases, the law does not require proof that
22 overcomes every possible doubt. If based on your
23 consideration the evidence, you are firmly
24 convinced that the defendant is guilty of the
25 crime charged, you must find the defendant guilty.

1 If on the other hand, you think there's a real
2 possibility that the defendant is not guilty, you
3 must give the defendant the benefit of the doubt
4 and find her not guilty.

5 Mere suspicion, however strong, is not enough
6 to sustain a conviction. Suspicion implies a
7 belief or opinion as to guilt based upon facts and
8 circumstances which do not amount to proof.

9 The statement alleged to have been made by
10 the defendant has been admitted into evidence in
11 this case. While the Court has determined that
12 the statement is admissible, I instruct you that
13 you make the ultimate the decision of whether or
14 not the defendant made the statement.

15 If the defendant did make the statement, you
16 must determine whether the statement was made by
17 the defendant voluntarily and of her own free
18 well. This means that the statement was not
19 caused by pressure, force, fear, threats, coercion
20 or intimidation or by hope for a promise of
21 leniency or a reward of any kind.

22 In determining whether the statement was
23 voluntary, you should consider both the
24 characteristics of the defendant and the details
25 of the questioning. Some of the factors that you

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1 must consider are: The age of the defendant, the
2 defendant's education or lack of education, the
3 defendant's mental ability or capacity, the
4 defendant's IQ or intelligence, the defendant's
5 background and environment, the place and length
6 of detention, the nature of questioning, and the
7 advice or lack thereof to the defendant of her
8 constitutional rights including but not limited
9 to: The right to remain silent, that any
10 statement could be used against her in a court of
11 law, the right to have a lawyer present, that if
12 she could not afford a lawyer, a lawyer would be
13 appointed to represent her without any costs, and
14 that she could stop making a statement at any
15 time.

16 You must carefully consider all of the
17 surrounding circumstances you give any weight to
18 any alleged statement. The state had the burden
19 of proving beyond a reasonable doubt that the
20 alleged statement was voluntary. If you determine
21 it was, you may give the statement any further
22 consideration that you deem proper. You must
23 decide what weight if any should be given to the
24 alleged statement. If you determine the alleged
25 statement was not free and voluntary statement of

1 the defendant, you should not consider the
2 statement at all.

3 In order to establish -- in order to
4 establish criminal liability, criminal intent is
5 required. The dictionary defines intent as the
6 state of the person's mind that directs his
7 actions towards a specific object. Criminal
8 intent must be proven by the state beyond a
9 reasonable doubt. Criminal intent is a mental
10 state, a conscious wrongdoing. It is up to you to
11 determine what the defendant intended to do, based
12 on the circumstances shown to have existed. A
13 specific intent crime requires that the defendant
14 have the intent to cause a particular result or
15 that the defendant have a specific intent in
16 committing the act. A person with a specific
17 intent or conscious objective as to call the
18 specific result prescribed by the statute defined
19 the events.

20 The state is required to prove the element of
21 malice beyond a reasonable doubt for the charge of
22 murder. If you are not satisfied that the state
23 have proven the element of malice beyond a
24 reasonable doubt, you must find the defendant not
25 guilty.

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1 The defendant has been charged with murder.
2 The state must prove beyond a reasonable doubt
3 that the defendant committed an unlawful killing
4 of Brandon Burden with malice aforethought.
5 Malice is hatred, ill will, or hostility towards
6 another person. It is the intentional doing of a
7 wrongful act without just cause or excuse and with
8 an intent to inflict an injury.

9 Malice aforethought does not require that the
10 malice exists for any particular time before the
11 act is committed. But malice must exist in the
12 mind of the defendant just before and at the time
13 that the act is committed. Therefore, there must
14 be a combination of the previous evil intent and
15 the act. Malice is shown when a person speaks
16 words which express hatred or ill will for
17 another, or when the person prepared beforehand to
18 do the act, which was later accomplished.

19 The defendant has asserted self-defense in
20 this case. Self-defense is a complete defense.
21 The state has the burden of disproving
22 self-defense by proof beyond a reasonable doubt.
23 The following elements are required to establish
24 self-defense: No. 1, without fault. First, the
25 defendant must be without fault in bringing on the

1 difficulty. If the defendant's conduct was the
2 type which was reasonably calculated to and did
3 provoke (inaudible), the defendant would be at
4 fault in bringing on the difficulty and would not
5 be entitled to an acquittal based on self-defense.

6 No. 2, imminent danger. A defendant must
7 have believed she was in imminent danger, not that
8 she was actually in such danger. The defendant
9 has the right to act on appearances and under the
10 circumstances as they appeared to her. If she
11 believes she was in such danger, a reasonably
12 prudent man or woman of ordinary firmness and
13 courage would have entertained the same belief.

14 She doesn't have to wait until her assailant
15 gets the drop on her. She has a right to act
16 under the law of self-preservation and prevent her
17 assailant getting the drop on her if it is
18 apparent or reasonably apparent her assailant is
19 taking steps to get the drop on her. One who acts
20 in self-defense must take steps first to prevent
21 such assailant from getting the drop on her.

22 No. 3, right to act on appearances. The
23 defendant does not have to show that she was
24 actually in danger. It's enough if the defendant
25 believed she was an imminent danger and a

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1 reasonably prudent person of ordinary firmness and
2 courage would have had the same belief. One who
3 acts in self-defense may act on appearances. She
4 may be mistaken. The law does not hold her to a
5 refined assessment of the danger provided she
6 acted as a person of ordinary coolness and courage
7 would have acted or should have acted in meeting
8 the appearance of danger.

9 It is for you to decide whether the
10 defendant's fear or immediate danger of death or
11 serious bodily injury was reasonable and would
12 have been felt by an ordinary person in the same
13 situation. The relative sizes, ages, and weights
14 of the defendant and the victim may be considered
15 in deciding the apparent or actual need for force
16 and self-defense, and the amount of force needed.

17 Evidence of prior difficulties between the
18 defendant and the victim may be considered in
19 deciding whether a threat existed, whether the
20 defendant had a reason to believe a threat existed
21 and how serious the threat was. Evidence of prior
22 difficulties may also be considered by you in
23 showing the animus or attitude of the parties to
24 each other to assist you in determining who was
25 the aggressor.

1 In a case where self-defense has been raised,
2 you may consider the victim's reputation for
3 turbulence and violence in the community as it
4 bears on self-defense. In considering the actions
5 of the defendant, you are warranted in considering
6 the bad character and reputation and turbulence
7 and acts of violence on the victim. If the
8 defendant knew the victim was of such character
9 and reputation, then she would be warranted in
10 construing her actions more harshly and acting on
11 hostile appearance more readily than she would
12 have been entitled to do to a man of good
13 character and reputation.

14 Threats made by the victim may be considered
15 in deciding whether the defendant actually
16 believed she was in imminent danger of death or
17 serious bodily injury or was actually in imminent
18 danger. The intoxication of the victim may be
19 considered in deciding whether the defendant's
20 fear of death or bodily harm was reasonable.

21 And No. 4, the final element of self-defense
22 is that the defendant had no other probable means
23 of avoiding the danger of losing her own life or
24 sustaining serious bodily injury than to act as
25 she did in this particular instance. An

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1 individual has no duty to retreat if by doing so
2 she would increase her danger of being killed or
3 suffering serious bodily injury.

4 You are instructed that if it is peculiar --
5 peculiarly within the power of the state to
6 produce a witness who could give material testify
7 about an issue in this case, that the failure to
8 produce such a witness creates the presumption
9 that this witness's testimony would be unfavorable
10 to the state.

11 You as jurors are the sole judges of the
12 credibility of the investigation by law
13 enforcement and the weight -- the weight that the
14 investigation deserves. You should carefully
15 scrutinize all the testimony regarding the
16 investigation by law enforcement and every matter
17 of evidence that goes to the credibility of the
18 investigation, consider each step taken by law
19 enforcement in their investigation and each step
20 that was not taken. Consider the tactics that law
21 enforcement chose to employ in this case and
22 tactic -- tactics that they chose not to implore.

23 Consider any bias, prejudice, or motive that
24 may have influenced the investigation in this
25 case. Consider all of the actions and inaction

1 that occurred in the investigation of this case.
2 After making your own judgment, you should give
3 the investigation in this case the credibility if
4 any as you may think it deserves.

5 A verdict in this case cannot be based upon
6 sympathy, passion, prejudice, or emotion or some
7 other consideration not found in the evidence. I
8 charge you that as jurors must decide the issues
9 involved in this proceeding based solely upon the
10 evidence which you hear during the course of the
11 trial. Your verdict must be without bias and
12 without prejudice to any party. You cannot allow
13 yourselves to be governed by sympathy, by
14 prejudice, by passion, by public opinion, or by
15 some other consideration not found in the
16 evidence.

17 Let me say something about your
18 deliberations. Deliberation is defined as careful
19 consideration weighing up with a view to a
20 decision. The genius of our jury system is that
21 it allows 12 good men and women from 12 different
22 backgrounds, life experiences and perspectives to
23 consider the evidence, talk about it, and
24 ultimately reach a verdict. We call them
25 deliberations for a reason.

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1 You are to consider the evidence in this case
2 carefully and deliberately and discuss it in a
3 calm, thorough, and courteous manner. Listen to
4 the views of all of your fellow jurors. Consider
5 other people's points and points of views and talk
6 through and discuss the evidence. And remember,
7 if you are doing something deliberately, you are
8 not in a big hurry, and you should not be in a
9 hurry. This case is very important to all the
10 parties and this trial is their only day in court.

11 When you retire to the jury room, you should
12 discuss the case with your fellow jurors to reach
13 agreement if you can do so. Your verdict must be
14 unanimous. Each of you must decide the case for
15 yourself. But you should do so only -- only after
16 you have impartially considered all the evidence
17 and discussed it fully with the other jurors and
18 listened to the views of your fellow jurors.

19 Do not be afraid to change your opinions if
20 the discussion persuades you that you should. But
21 do not come to a decision simply because the other
22 jurors think it is right. It is important that
23 you attempt to reach a unanimous verdict, but of
24 course, only if each of you can do so after having
25 made your own decision. Do not change an honest

1 belief about the weight and effect of the evidence
2 simply to reach a verdict. In other words, do not
3 change your opinion solely for the sake of
4 reaching a unanimous verdict.

5 There are two possible verdicts which you may
6 find in this case: Guilty or not guilty. There
7 is no significance whatsoever in the order in
8 which I state these possible verdicts. It is
9 simply that one must be stated first.

10 Ladies and gentlemen, your verdict must be a
11 unanimous one.

12 Mr. Foreman, when the jury agrees on the
13 verdict, you will write the verdict on the verdict
14 form which you will be provided, then knock on the
15 jury room door and inform the bailiff that you
16 have reached a murder. At that time, we will
17 receive you back into the courtroom.

18 I'm now going to have you go back to the jury
19 deliberation room. Do not begin deliberations
20 yet. You will know when you begin to deliberate
21 when all the evidence is brought back to you with
22 the bailiff.

23 With the evidence, you also have a laptop,
24 which will allow you, if you would like to, to
25 view any evidence using that laptop. If you need

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1 assistance, you can let us know that. Along with
2 all of the other evidence will be a verdict form.

3 Mr. Foreman, you will be responsible for
4 that. You will see on the verdict form that at
5 the bottom, you will print your name, sign it, and
6 date it. And you will have a choice to make as I
7 just stated earlier: Not guilty or guilty. You
8 will put an X or circle to the choice that the
9 unanimous jury reaches. That will be up to you,
10 Mr. Foreperson.

11 So at this point, you will all go back to the
12 jury deliberation room. You will not begin
13 deliberations at any point or any discussion in
14 the case until you receive all of the evidence and
15 the verdict form. Once you receive all of the
16 evidence and the verdict form, the two alternates
17 are free to leave and come back out here. I'm
18 going to let you retire to your deliberation room.

19 **MR. B. SHEALEY:** Your Honor, may I approach
20 before you do that?

21 **THE COURT:** You may.

22 **MR. B. SHEALEY:** Real quick.

23 (A sidebar conference is held off the record.)

24 **THE COURT:** As you can imagine, there are a
25 lot of jury instructions. And the attorneys

1 always keep me up to date about the instructions
2 that I have to give to you. And I did skip over
3 one. And I apologize. I'm gonna read this to
4 you. It was gonna come after something in the
5 middle of this. So if you will pay close
6 attention to this jury instruction.

7 A person cannot be required to make an exact
8 calculation as to the -- to the degree or amount
9 of force which may be needed to avoid death or
10 serious bodily harm. Therefore, in self-defense,
11 the defendant has the right to use force needed to
12 avoid death or serious bodily harm. The defendant
13 has the right to use so much force as appear to be
14 necessary for complete self-protection in which a
15 person of ordinary reason and firmness would have
16 believed to be needed to prevent death or serious
17 bodily harm.

18 If the defendant is justified in defending
19 herself in firing the first shot, then the
20 defendant is also justified in continuing to shoot
21 until it is apparent that the danger to her life
22 and body has ceased. If you have a reasonable
23 doubt of the defendant's guilt after considering
24 all the evidence, including the evidence of
25 self-defense, then you must find her not guilty.

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1 On the other hand, if you have no reasonable doubt
2 of the defendant's guilt after considering all the
3 evidence, including the evidence of self-defense,
4 then you must find her guilty.

5 All right.

6 Ladies and gentlemen, I'm going to send you
7 back to the deliberation room. Do not begin
8 deliberating yet.

9 (The jury exits the courtroom at 4:28 p.m.)

10 **THE COURT:** Any objections from the state?

11 **MR. SCOTT:** No, Your Honor.

12 **THE COURT:** Any objection from the defense?

13 **MR. B. SHEALEY:** No, sir.

14 **THE COURT:** All right.

15 Both of y'all review this and the verdict
16 form.

17 (A recess is taken.)

18 **THE COURT:** All right.

19 We're going back on the record. We're
20 sending the evidence back.

21 Any objections from the state?

22 **MR. SCOTT:** No, Your Honor.

23 **THE COURT:** Any objections from the defense?

24 **MS. DEMER:** No, Your Honor.

25 **THE COURT:** And we're sending the laptop back

1 as well, correct?

2 **MS. DEMER:** Yes.

3 **THE COURT:** All right.

4 Send it back. Send the two alternates in.

5 I'll dismiss them.

6 (Jury Deliberation begins at 4:37 p.m.)

7 **THE COURT:** All right.

8 Ladies and gentlemen, I want to thank y'all
9 for -- for being here this week. Your service was
10 needed in case on the others -- but everyone
11 looked healthy and happy and ready to deliberate.
12 So I'm going to thank you for your service. I
13 know it was a lot. I truly mean it when I say
14 that our legal system would not work without
15 judges and without attorneys but we need people
16 from our society to help our system work. So I
17 thank you for doing your constitutional duty this
18 week. Thank you and everyone else for y'all do
19 for our system.

20 So I won't keep you any longer. You're free
21 to leave. At some point, attorneys might reach
22 out to you to ask questions about the case. You
23 don't have to talk to them if you don't want to.
24 If anybody reaches out to you, you're more than
25 happy talk to them or not talk to them. They know

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1 that.

2 But I hope you have a great Fourth of July
3 weekend. And I won't see you for many years in
4 this capacity at least. Thank you.

5 All right.

6 Court is in recess.

7 (A recess is taken.)

8 (Court's Exhibit No. 5 is marked for
9 identification.)

10 **THE COURT:** All right.

11 We got a jury note which is Court's
12 Exhibit 5. It's two questions on one note. The
13 first question is, "What position was the body
14 found again? Head position, question mark?"

15 The second question, "Is can we get
16 clarification on the concept of malice
17 aforethought and how far ahead of the homicide it
18 must be formed?"

19 As to Question 1, I would instruct them that
20 it's factual question that I think you rely on
21 individual and collective memory as to the
22 testimony and facts from the -- from the case.

23 As to the second, I plan on just reading the
24 definition again. Any objection from the state?

25 **MR. SCOTT:** No.

1 **THE COURT:** Any objection from the defense?

2 **MS. DEMER:** No, Your Honor.

3 **THE COURT:** And the definition, I'll probably
4 read it to them twice. If you have it in front of
5 you, it's under malice where it talks about it.
6 And then under murder is where that definition.
7 So I'm going to read those definitions.

8 All right.

9 Let's bring the jury in.

10 (The jury enters the courtroom at 5:48 p.m.)

11 **THE BAILIFF:** Jury's seated, Your Honor.

12 **THE COURT:** All right.

13 Thank you, sir.

14 All right.

15 Mr. Foreperson, thank you for bringing the
16 note to the Court's attention. I see there are
17 two separate questions. As to the first question
18 about what was the position of the body and the
19 head. I'm going to instruct you and your fellow
20 jurors to rely on your individual and collective
21 memory from the testimony and the evidence that
22 you've heard throughout this week.

23 As to your second question, you asked for the
24 definition of the concept of malice. What I'm
25 going to do is I'm going to read to you that

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1 definition. I'm going to read it to you twice.

2 Okay? So if you'll all pay close attention.

3 The state is required to prove the element of
4 malice beyond a reasonable doubt in the charge of
5 murder. If you're not satisfied that the state
6 has proven the element of malice beyond a
7 reasonable doubt, you must find the defendant not
8 guilty.

9 The defendant has been charged with murder.
10 The state must prove beyond a reasonable doubt
11 that the defendant committed an unlawful killing
12 of Brandon Burden with malice aforethought.

13 "Malice" is hatred, ill will, or hostility
14 towards another person. It is the intentional
15 doing of a wrongful act without just cause or
16 excuse, and within an attempt to inflict an
17 injury.

18 Malice aforethought does not require that
19 malice exists for any particular time before the
20 fact is committed. But malice must exist in the
21 mind of the defendant just before and at the time
22 that the act is committed. Therefore, there must
23 be a combination of the previous evil intent and
24 the act. Malice is shown when a person speaks
25 words which express hatred or ill will for

1 another, or when the person prepared beforehand to
2 do the act which was later accomplished.

3 I'll read it one more time. The state is
4 required to prove the element of malice beyond a
5 reasonable doubt in the charge of murder. If you
6 are not satisfied that the state has proven the
7 element of malice beyond a reasonable doubt, you
8 must find the defendant not guilty.

9 The defendant has been charged with murder.
10 The state must prove beyond a reasonable doubt
11 that the defendant committed an unlawful killing
12 of Brandon Burden with malice aforethought.

13 "Malice" is hatred, ill will, or hostility
14 towards another person. It is the intentional
15 doing of a wrongful act without just cause or
16 excuse, and within an attempt to inflict an
17 injury.

18 Malice aforethought does not require that the
19 malice exists for any particular time before the
20 fact is committed. But malice must exist in the
21 mind of the defendant just before and at the time
22 of the act as it is committed. Therefore, there
23 must be a combination of the previous evil intent
24 and the act. Malice is shown when a person speaks
25 words which express hatred or ill will for

1 another, or when the person prepared beforehand to
2 do the act which was later accomplished.

3 All right.

4 Ladies and gentlemen, I'm going to let you go
5 back and keep deliberating. Thank you.

6 (The jury exits the courtroom at 5:52 p.m.)

7 **THE COURT:** Anything from the state?

8 **MR. SCOTT:** Did your instruction, I don't
9 have it in front of me, but there was express
10 malice that was described there. But is there
11 inferred malice?

12 **THE COURT:** I read exactly what I read
13 before. I'll get you a copy of that.

14 **MR. SCOTT:** I've got it. But it was --
15 basically, it said malice is shown by planning
16 beforehand or words that express malice.

17 **THE COURT:** Malice is shown when a person
18 speaks words which express hatred or ill will for
19 another, or when the person prepared beforehand to
20 do the act which was later accomplished.

21 **MR. SCOTT:** And it ends there?

22 **THE COURT:** It does.

23 Anything from the defense?

24 **MS. DEMER:** No, Your Honor.

25 **THE COURT:** All right.

1 At recess.

2 (A recess is taken.)

3 **THE COURT:** All right.

4 Got a note from the jury. Sounds like they
5 want to know what they can do. If they cannot
6 come to a unanimous decision, what happens?

7 So I believe at this point, we're getting
8 close to an Allen charge.

9 Anything from the state?

10 **MR. SCOTT:** Typically encourage them to
11 continue deliberations with the explanation that
12 not to cave in if you don't want to, but to
13 continue to deliberate. This is the first time
14 they've indicated -- it looks like about three
15 hours and 30 minutes, three and a half hours or
16 so, maybe. So I would recommend encouraging them
17 to continue to deliberate. And if that become an
18 issue, then perhaps an Allen charge at that point.

19 **MR. L. SHEALEY:** I mean, it's really up to
20 Your Honor. All we mostly care about is the
21 language of the Allen charge.

22 I would inquire, Have they had anything to
23 eat?

24 **THE COURT:** I'm sorry?

25 **MR. L. SHEALEY:** Have they had any dinner?

1 **THE COURT:** I believe they had snacks all
2 afternoon.

3 **MR. L. SHEALEY:** Oh.

4 **THE COURT:** All right.

5 I'm going to bring them out. At this point,
6 it's been about three hours or so. Encourage them
7 to -- encourage them to continue their
8 deliberations and read a portion about -- from the
9 jury instructions about deliberations.

10 **MR. L. SHEALEY:** Thank you.

11 When I come out, I know our presentations are
12 over. Do you mind ordering that the mannequin
13 maybe be tucked away somewhere so?

14 **THE COURT:** Yes. Let's put that mannequin
15 up.

16 All right.

17 Let's bring the jury.

18 (The jury enters the courtroom at 8:12 p.m.)

19 **THE BAILIFF:** The jury is seated, Your Honor.

20 **THE COURT:** Thank you, ma'am.

21 All right.

22 Thank you, Mr. Foreperson. I received your
23 note. What I want to do is I want to encourage
24 you to continue your deliberations. I appreciate
25 your patience and service this week. I will

1 reiterate one of my instructions that I gave to
2 you earlier this afternoon when it comes to
3 deliberation.

4 Each of you must decide the case for
5 yourselves. But you should do so only after you
6 have impartially considered all of the elements,
7 discussed it fully with other jurors, and
8 listen -- listen to the views of your fellow
9 jurors.

10 Do not be afraid to change your opinion if
11 the discussion persuades you that you should, but
12 do not come a decision simply because other jurors
13 think it's right. It is important that you
14 attempt to reach a unanimous verdict. But of
15 course, only if each of you can do so after having
16 made your own decision. Do not change an honest
17 belief on the weight and effect of the evidence
18 simply to reach a verdict. In other words, do not
19 change your opinion solely for the sake of
20 reaching a unanimous verdict.

21 All right.

22 Mr. Foreperson, I'm going to ask that y'all
23 continue your deliberations. And I thank you for
24 your service. You may retire to your jury
25 deliberation room.

1 (The jury exits the courtroom at 8:14 p.m.)

2 **THE COURT:** All right.

3 Back in recess.

4 (Court's Exhibit Nos. 6 and 7 are marked for
5 identification.)

6 (A recess is taken.)

7 **THE COURT:** All right.

8 We have one note. And on the way up, they
9 got another note.

10 First note is that they're requesting food
11 and snacks.

12 Second note states, "All jurors are stuck in
13 their opinions without a final answer for vote.
14 No changes happened in three hours. There's no
15 productive things going on. Is there a certain
16 time we're able to leave? Or is there way -- is
17 there a way we could come back at the next
18 business day to further our deliberation? Again,
19 that hasn't been any change within three hours."

20 All right.

21 **MS. YOUNG:** Sure, Your Honor. I'll be happy
22 to start.

23 You know, we've been here for over six hours.
24 They said they haven't moved their opinions in
25 three. Your Honor did, I would argue, give them

1 an Allen charge. You had the language here from
2 your jury instruction that you read them. And
3 it's substantially what an Allen charge would be.
4 They sent a note. They couldn't agree. That was
5 after three and -- three hours of deliberation.
6 It's been another three. They haven't moved at
7 all.

8 It's 10:30 at night on a Friday, before a
9 holiday week. And it was basically two and a half
10 days of testimony; not a great deal of exhibits.
11 I think they have deliberated thoroughly. I think
12 Your Honor told them after they said they couldn't
13 reach a verdict to go back and keep deliberating.
14 And you instructed them not to give up their own
15 choices. You told them to listen each other. You
16 told them to deliberate. And you told them to try
17 to reach unanimous -- unanimous verdict. And now
18 they've written a note telling you that they
19 cannot do that. I think this is a hung jury. And
20 I think we should call it.

21 **THE COURT:** Thank you.

22 **MR. SCOTT:** I would defer to the court as far
23 as resuming another day. But I think an Allen
24 charge would be appropriate. They don't know what
25 the meaning of a mistrial is. And I like the

1 language of, you know, "This would just result in
2 a redo. It's a reset. 'Cause another jury is
3 going to hear the same evidence, the same
4 witnesses. There's no better position than
5 you-all are here to hear this case and judge it."
6 So I think if they understand that, then they can
7 go ahead and say, "Not guilty," or they can go
8 ahead and say, "Guilty."

9 But I think for them to understand what a
10 mistrial truly means: It's just a reset. They
11 haven't been told that yet. And typically in
12 these situations, that's what I see done, is just
13 an Allen charge being given to them.

14 **MS. YOUNG:** And Your Honor, just very briefly
15 under statute, you know, South Carolina Code
16 14-7-1330, they already said they couldn't reach a
17 verdict. You told them to go back there and keep
18 deliberating. You can't do it a second time.

19 **THE COURT:** They haven't said they haven't
20 been able to reach a verdict, have they?

21 **MS. YOUNG:** I believe their note was, "We
22 can't -- we're not in agreement. We can't come to
23 a unanimous verdict."

24 And you told them -- and I don't have the
25 note in front of me.

1 **THE COURT:** Yeah.

2 **MS. YOUNG:** So -- and you do, obviously,
3 or -- so -- but that's my understanding. And then
4 they said another three hours have gone by that
5 they can't make up their minds that no -- that
6 everyone's stuck in their own opinions.

7 We've been here for six hours without feeding
8 them dinner. They've been here since nine o'clock
9 this morning. And sending them back there when
10 they're asking, how do we get out of here,
11 essentially. They're (inaudible) stuck in this
12 room forever. It's just overly coercive. And I
13 would say that they're -- we should go ahead and
14 say that they're hung.

15 **THE COURT:** All right.

16 **MS. YOUNG:** Oh, and very briefly, Your Honor.
17 I'm so sorry. Just to put it on the record. When
18 we came in here the first time, both doors were
19 open. And when we're sitting in here and we could
20 hear the jury already yelling at each other and
21 that was three hours ago. So just to make the
22 record clear they're -- I mean, they've gone
23 another three hours and they still haven't been
24 able to change each other's minds.

25 **THE COURT:** All right.

1 I don't believe my earlier instruction to
2 them was an Allen charge. It was just
3 reconfirming their instructions to deliberate. So
4 at this point, whether I give an Allen charge or
5 not, I'm going to go with their instructions.
6 They request to come back the next business day.
7 I'm gonna go ahead and send them home and have
8 them come back Monday morning at 9 a.m., continue
9 their deliberations.

10 At that point, we will take up further
11 argument about doing the Allen charge. I think I
12 have the ability to do it now or do it then under
13 case law. So we're going to bring them back
14 Monday morning at 9 a.m. to continue their
15 deliberations.

16 Anything from the state before we bring the
17 jury?

18 **MR. SCOTT:** No, Your Honor. Just, of course,
19 a reiteration of to avoid any kind of research
20 into the case, obviously. But nothing further
21 from the state.

22 **THE COURT:** Anything from the defense?

23 **MS. YOUNG:** No, Your Honor.

24 **THE COURT:** All right.

25 Bring the jury in.

1 (The jury enters the courtroom at 10:33 p.m.)

2 **THE COURT:** All right.

3 Thank you, ladies and gentlemen. I
4 appreciate your service so far. I've received
5 your note. I understand you've deliberating, and
6 I appreciate that. I also see that you've
7 discussed wanting to come back another day. So I
8 believe it's getting late into the night. I'm
9 going to have you come back Monday morning at 9
10 a.m. to continue your deliberations.

11 Over the weekend, you are not to discuss the
12 case with anyone at all. You're not to deliberate
13 at all. You're not to do any independent
14 research. Do not discuss the case.

15 We'll see you back here Monday at 9 a.m. I
16 thank you for your service. Thank you.

17 (The jury exits the courtroom at 10:34 p.m.)

18 **THE COURT:** Anything from the state?

19 **MR. SCOTT:** No, Your Honor.

20 **THE COURT:** Anything from the defense?

21 **MS. YOUNG:** No, Your Honor.

22 **THE COURT:** All right.

23 Monday at 9 a.m.

24 (Court's Exhibit Nos. 8 and 9 are marked for
25 identification.)

Jury Note

1 (The Court recesses for the day.)

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1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, do hereby certify that I transcribed
4 the electronic recording of the remote hearing in this
5 matter; and that the foregoing is a true transcript of
6 said electronic recording.

7 I do further certify that I am not a relative,
8 employee, attorney, or counsel of any of the parties
9 connected with the action, nor am I financially
10 interested in the action.

11
12 Dated: January 28, 2024

13
14 /s/Teresa B. Johnson

15 Teresa B. Johnson

16 Official Court Reporter
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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF RICHLAND	)	Case No.: 2021GS4005862
	)	
State of South Carolina,	)	
	)	
vs.	)	
	)	
Jamira U. Davis,	)	
	)	
Defendant.	)	July 3, 2023
	)	

TRANSCRIPT OF TRIAL - DAY 5 OF 5

BEFORE THE HONORABLE DANIEL COBLE
Circuit Court Judge, presiding

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P R O C E E D I N G S

THE COURT: All right.

Anything from the state before we bring the jury out and read them the Allen charge?

MR. SCOTT: No, Your Honor.

THE COURT: Anything from the defense?

MS. YOUNG: Yes, Your Honor. May it please the Court. Just briefly for the record, I wanted to supplement our mistrial motion from Friday night, you know, when we asked to mistry it due to the jury being deadlocked at that time.

Just to back up and say that the jury deliberated -- started deliberating around -- around 4:30. They went until about 8:30, when they sent out the first note. I -- again, my recollection is that it said something like what happens if we can't be unanimous or we can't reach a unanimous verdict, something along those lines.

You brought them in at that time. And I just wanted to note for the record that Juror No. 196 was visibly crying at that point. Her face was red and you could see tears.

About three hours later, at 10:30, they were brought in again, which is when Your Honor let them go home for the weekend. And she was, again,

Motion for New Trial

1 visibly sobbing, upset, and crying. And when you
2 said, We're going to let you go home and come back
3 on Monday, she kind of lifted her head up. And
4 mouthed, "Thank God."

5 Juror No. 212, who is on the front row in the
6 middle, slumped over, head in hands, looking very
7 agitated and frustrated. I just wanted to note
8 those observations for the record.

9 Additionally, it came to our attention
10 yesterday that an attorney who is friends with
11 Ms. Demer happened to be at a public pool.
12 (inaudible). I don't know if that's behind the VA
13 or what. She overheard a gentleman discussing
14 this case. And he was discussing the fact that, I
15 don't know if it was his wife or his daughter, but
16 it's Juror No. 285, who had told him about the
17 deliberations, told him that the jury was split
18 and that they were just waiting to be sent home.

19 They indicated that one of the people who was
20 set in their decision was in fact Juror No. 196
21 who had been crying, who he indicated was a
22 correctional officer, which isn't exactly true.
23 But she does work for the South Carolina
24 Department of Corrections. He did know details
25 about the case. He knew that the defendant was 20

1 and had been accused of shooting a man.

2 There were other discussions that --
3 Ms. Ashley Berry is the name of the attorney that
4 overhead this in the pool, who will be present
5 today. She's on her way here. She has a
6 nine-year-old, so she was having some trouble
7 making it here by nine, but should be here
8 momentarily should Your Honor want to discuss
9 anything with her.

10 And you know, it's clear that Juror 285 has
11 violated her oath. She did discuss the case and
12 the deliberations. She used the term
13 "deadlocked," or at least that's what the man
14 said. I obviously don't know what she said to
15 him. But she clearly was discussing
16 deliberations, in violation of her oath and in
17 violation of Your Honor's order on Friday night
18 not to discuss the case with anyone. So for that
19 reason, we're going to ask that she be excused for
20 violating her oath, which would, of course, result
21 in a mistrial because we do not have any
22 alternates still available.

23 Furthermore, given the observations of two
24 jurors from Friday evening, 280 -- I mean, 196 and
25 212, we're going to renew our mission for a

1 mistrial based on the fact that the jurors are
2 deadlocked from Friday night, which was also then
3 communicated to this man via Juror 285 at some
4 point over the weekend.

5 **THE COURT:** Thank you.

6 Anything from the state?

7 **MR. SCOTT:** No, Your Honor.

8 **THE COURT:** At this point, it's "someone
9 heard someone say something." As your renewed
10 motions, those are denied as previously stated.

11 As the Juror 285, I don't think that rises to
12 the level to violate her oath at this point. If
13 we get more information, we'll talk to Ms. Berry
14 about all these people that were allegedly at this
15 pool saying all these things. Until this point, I
16 believe that motion it does not rise to a
17 violation of the oath. Your motion is denied.

18 **MS. YOUNG:** Thank you, Your Honor. We would
19 request (inaudible) the juror and ask her what she
20 discussed with --

21 **THE COURT:** Again, as of this point, I don't
22 believe it rises to that level. So we're gonna
23 bring him in. We're gonna read them the Allen
24 charge.

25 **MS. YOUNG:** Okay, Your Honor. One more thing

1 on the Allen charge. I apologize.

2 **THE COURT:** That's all right.

3 **MS. YOUNG:** I just wanted to point out again
4 that we believe this is a second Allen charge. I
5 did receive that this morning from Your Honor.
6 Thank you. I did compare the language in your
7 proposed Allen charge to the -- you know, the
8 language from your instruction on the duty to
9 deliberate. They are substantially the same.

10 And we don't believe that there's any
11 additional information that's going to be provided
12 at this point that you didn't already give to them
13 three hours in. At which point, they deliberated
14 another three hours and came back and said nothing
15 had changed. So at this point, we believe this is
16 just a second Allen charge. And we would say that
17 that's improper under law. And we would request
18 that you not do it at this time.

19 **THE COURT:** All right.

20 But under that logic, that means that every
21 jury charge is an Allen charge from the beginning.

22 **MS. YOUNG:** Well, no, Your Honor. They've
23 already sent out a note indicating that they
24 couldn't reach agreement at that point.

25 **THE COURT:** But if I had used that language,

1 that's an Allen charge, is what you're saying?

2 **MS. YOUNG:** Yes, Your Honor.

3 **THE COURT:** So then if they come out and say
4 they can't read a -- reach a verdict, then they've
5 already gotten one Allen charge every time, no
6 matter what.

7 **MS. YOUNG:** I think if they're in the middle
8 of deliberations and they have indicated they
9 cannot reach an agreement and then you encourage
10 them to keep deliberating, to not give up their
11 individual moral judgment of how, you know, and to
12 listen to the other jurors and keep trying, which
13 is essentially what is in this Allen charge, yes,
14 Your Honor. I believe that is a first Allen
15 charge.

16 **THE COURT:** All right. Very well.

17 Noted for the record. I'm going to deny
18 that -- that motion. I believe I did not give an
19 Allen charge at the beginning, that they were not
20 hopeless -- hopelessly deadlocked. So it wasn't
21 an Allen charge. This will be the first Allen
22 charge.

23 Anything before we -- anything else we bring
24 the jury out?

25 **MS. YOUNG:** No, Your Honor.

1 **THE COURT:** All right.

2 Let's bring the jury out.

3 Just one minute.

4 (The jury enters the courtroom at 9:16 a.m.)

5 **THE BAILIFF:** The jury is seated, Your Honor.

6 **THE COURT:** All right.

7 Good morning, ladies and gentlemen. Thank
8 you for being here today promptly on time. I do
9 appreciate that.

10 After we left Friday, I received the jury
11 note about -- that y'all are stuck. So I'm going
12 to read you what's called an Allen charge at this
13 point.

14 Ladies and gentlemen of the jury, when any
15 matter is in dispute, it is not always easy for
16 even two people to agree. Therefore, I understand
17 when 12 people must agree, it becomes much more
18 difficult. It is important that you attempt to
19 end this case without a single one of you doing
20 violence to your conscience. It is your duty as
21 jurors to consult with one another and to
22 deliberate with a view towards reaching an
23 agreement if you can do so without violence to
24 your individual judgment.

25 Each of you must decide the case for

Allen charge

1 yourself, but do so only after an impartial
2 consideration of the evidence in the case with
3 your fellow jurors. In the course of your
4 deliberation, do not hesitate to reexamine your
5 own views and change your opinion if convinced
6 that your opinion is erroneous.

7 No juror is expected to give up his or her
8 opinion based on reasoning satisfactory to
9 yourself merely for the purpose of being in
10 agreement. And I want you to understand that.
11 And do not surrender your honest convictions as to
12 the weight or the effect of the evidence solely
13 because the opinion of your fellow jurors is
14 contrary to your opinion for the mere purpose of
15 returning a verdict.

16 It has never been intended that the verdict
17 of the jury should be the verdict of any one
18 person. On the other hand, the verdict of the
19 jury is the collective reasoning of all persons
20 put together. The reason we have a jury is so
21 that we might have the benefit of the collective
22 thought and collective reasoning of the jury. It
23 may help to tell the other jurors how you feel
24 about the case and why you think as you do. And
25 I'm sure that you have been doing that already.

1 On the other hand, it may help if the other
2 jurors exchange views with you. And I ask that
3 you listen to each other, and give the -- to the
4 others' thoughts such meaning as you think they
5 should have.

6 I'm now going to ask you to again retire to
7 the jury room for further deliberations, and see
8 if you can reach a verdict in this case. And let
9 me close by reminding you again that while it is
10 important that you attempt to come to a decision,
11 you should do so without any juror doing violence
12 to his or her own conscience. No juror is
13 expected to give up an opinion based on reasoning
14 satisfactory to himself or herself merely for the
15 purpose of being in agreement.

16 And ladies and gentlemen, I want to
17 reiterate, too, as I told you in the jury
18 instructions, during your jury deliberation, you
19 will deliberate respectfully of every single other
20 juror. As I just stated, you will listen
21 courteously and respectfully. That is an order of
22 this Court. You have an oath to deliberate with
23 respect for every single juror.

24 Ladies and gentlemen, also if it gets towards
25 lunchtime, it takes us about an hour to order

1 lunch. So if you're getting towards that time,
2 let us know, and it take about an hour ahead of
3 time. I'm gonna let you, again, retire to your
4 jury deliberation room and continue your
5 deliberations. Thank you.

6 (The jury exits the courtroom at 9:20 a.m.)

7 **THE COURT:** Anything from the state?

8 **MR. SCOTT:** No, Your Honor.

9 **THE COURT:** Anything from the defense?

10 **MS. YOUNG:** Your Honor, only that Ms. Berry
11 is now present in the courtroom should you want to
12 make any inquiries.

13 **THE COURT:** Where is Ms. Berry?

14 **MS. BERRY:** I'm right here, Your Honor.

15 **THE COURT:** All right. Give me a minute.
16 I'll got some Common Pleas issues I gotta deal
17 with. But we'll address that soon. All right.
18 Court's in recess.

19 (A recess is taken.)

20 **THE COURT:** Ms. Berry?

21 **MS. BERRY:** Yes, Your Honor.

22 **THE COURT:** You can come stand right down
23 here. That's fine right there.

24 **MS. BERRY:** Morning.

25 **THE COURT:** Raise your right hand.

1 You swear to tell the truth, nothing but the
2 truth so help you God?

3 **MS. BERRY:** Yes, sir.

4 **THE COURT:** Typically, we don't make
5 attorneys go under oath. But since you're a fact
6 witness, it's just for the record.

7 **MS. BERRY:** Yes, sir.

8 **THE COURT:** Now you were at this pool, what
9 pool?

10 **MS. BERRY:** It's the Woodlands Golf and
11 Country Club, Your Honor.

12 **THE COURT:** Were you there this Saturday or
13 Sunday?

14 **MS. BERRY:** It was yesterday, Your Honor.

15 **THE COURT:** Were you present there?

16 **MS. BERRY:** Yes, sir.

17 **THE COURT:** And what did you see or hear?

18 **MS. BERRY:** So there were two men in the
19 pool. And they were talking fairly loudly. I
20 could not hear everything that they were saying,
21 because there was a group of children between
22 myself and them in the pool. And I was trying to
23 get my son out of the pool and get us ready to
24 leave.

25 **THE COURT:** (Inaudible).

1 **MS. BERRY:** Yes.

2 But my ears perked up, because I heard the
3 words "jury" and "trial." And then I've overheard
4 gentleman say, "Well, she said that she can't talk
5 about the case. But I know -- but the defendant
6 is 20." And then did not hear the rest of that.
7 And then a little bit later, I heard him say,
8 "Well, she can't -- she told me that she can't
9 discuss the facts of the case." And then, I
10 didn't hear something. And then he said, "The
11 victim was shot." And then, I didn't hear the
12 rest of it.

13 Then he said, "She's really upset about it.
14 Because it's a fairly straightforward case. But
15 there are two people that just will not be
16 reasonable. And they've told the rest of the jury
17 that no matter what the discussions are, they're
18 not going to change their opinion." Then there
19 was some -- some more. And the two of them were
20 talking about how it was 10 to 2. And I kept
21 hearing them say 10 to 2 over and over again.

22 And then the gentleman said that one of the
23 holdouts was a cop. And then he corrected himself
24 and said, "Well, no, she's not actually a cop, but
25 a correctional officer or something or," and then,

1 I didn't hear the rest of what he said about that.

2 He also said that the -- she -- that he
3 had -- that she that he kept referring to,
4 sometimes he called her "Molly." And I believe
5 that he said that Molly was his wife. But that
6 was during their part of the conversation where
7 the gentleman was going back and forth with --
8 with the other about a woman that he was related
9 to. So I may have misheard that part. But he
10 said the word "Molly" over and over again. So I
11 know that that was her name.

12 **THE COURT:** Where is this pool located?

13 **MS. BERRY:** So are you familiar with where
14 Sparkleberry Ferry intersects with Clemson Road?
15 It's the neighborhood that's right there. The
16 golf course runs through that neighborhood.

17 **THE COURT:** Thank you, ma'am. Thank you very
18 much.

19 **MS. BERRY:** Thank you, Judge.

20 **THE COURT:** All right.

21 I'm going to review all that, what I heard
22 today, this morning, (inaudible), and the jury
23 instructions.

24 Before that, we did receive a note stating,
25 Can we have access to the mannequin? My answer

1 will be no cause it's not in evidence.

2 Anything from the state as to the mannequin?

3 **MR. SCOTT:** No. That's proper instruction.

4 **THE COURT:** Anything from the defense?

5 **MS. YOUNG:** No, Your Honor.

6 **THE COURT:** All right.

7 We'll make this Court's Exhibit -- well,
8 let's -- we'll bring them out, tell them that, and
9 then we'll send them back in.

10 Bring the jury.

11 (Court's Exhibit No. 10 is marked for
12 identification.)

13 (The jury enters the courtroom at 10:39 a.m.)

14 **THE BAILIFF:** Jury's seated, Your Honor.

15 **THE COURT:** All right.

16 Ladies and gentlemen, I received your note
17 about asking you if you can see the mannequin with
18 deliberation. The short answer is no. The only
19 evidence that -- we're very specific about the
20 evidence that goes back in the jury deliberation
21 room as to what is evidence. And there's an
22 official process for that. The mannequin is not
23 in evidence. So the short answer is no. I'm
24 going to let you go with that. Continue
25 deliberations. Thank you.

1 (The jury exits the courtroom at 10:39 a.m.)

2 **THE COURT:** Court's in recess.

3 (Court is recessed while jury deliberations
4 continue.)

5 **THE COURT:** All right.

6 Before we bring the jury back, as to your
7 motion for a mistrial, I'm going to deny it at
8 this point. I've heard the testimony from
9 Ms. Berry in conjunction with the oath and the
10 instructions. And I believe it does not rise to
11 that level. So your motion is noted for the
12 record but denied.

13 Anything before we bring the jury back from
14 the state?

15 **MR. SCOTT:** No, Your Honor.

16 **THE COURT:** Anything from the defense?

17 **MS. YOUNG:** No, Your Honor.

18 **THE COURT:** All right.

19 Let's bring the jury.

20 (The jury enters the courtroom at 11:22 a.m.)

21 **THE BAILIFF:** The jury's present, Your Honor.

22 **THE COURT:** Thank you, sir.

23 Mr. Foreperson, it's my understanding that
24 the jury has reached a verdict; is that correct?

25 **THE JURY FOREPERSON:** Yes, Your Honor.

1 **THE COURT:** If you -- if you will hand that
2 to the bailiff.

3 (The verdict form is passed to the Court.)

4 **THE COURT:** All right.

5 The verdict is in its proper form.

6 Madam Clerk, you may publish the verdict.

7 **THE COURTROOM DEPUTY:** Indictment number
8 2021GS405862, County of Richland, State of South
9 Carolina versus Jamira Davis, we the jury by
10 unanimous consent find the defendant, Jamira
11 Davis, as to the charge of murder guilty. This is
12 signed Foreperson Juror No. 203.

13 Mr. Foreman, is this your verdict and the
14 verdict of the entire jury?

15 **THE JURY FOREPERSON:** Yes.

16 **THE COURT:** Any other polling from the state?

17 **MR. SCOTT:** No, Your Honor.

18 **THE COURT:** Any other polling from the
19 defense?

20 **MR. L. SHEALEY:** Yes, Your Honor.

21 **THE COURT:** Poll the jury.

22 **THE COURTROOM DEPUTY:** Yes, Your Honor.

23 Ladies and gentlemen of the jury, I'm gonna
24 ask you two questions regarding your verdict. If
25 you'll answer yes or no to each question.

1 Juror No. 203, was this your verdict?

2 **THE JUROR:** Yes.

3 **THE COURTROOM DEPUTY:** Is this still your
4 verdict?

5 **THE JUROR:** Yes.

6 **THE COURTROOM DEPUTY:** Juror No. 127, was
7 this your verdict?

8 **THE JUROR:** Yes.

9 **THE COURTROOM DEPUTY:** Is this still your
10 verdict?

11 **THE JUROR:** Yes.

12 **THE COURTROOM DEPUTY:** Juror No. 4, was this
13 your verdict?

14 **THE JUROR:** Yes.

15 **THE COURTROOM DEPUTY:** Is this still your
16 verdict?

17 **THE JUROR:** Yes.

18 **THE COURTROOM DEPUTY:** Juror No. 33, was this
19 your verdict?

20 **THE JUROR:** Yes, ma'am.

21 **THE COURTROOM DEPUTY:** Is this still your
22 verdict?

23 **THE JUROR:** Yes, ma'am.

24 **THE COURTROOM DEPUTY:** Juror No. 183, was
25 this your verdict?

Polling of the Jury

1 **THE JUROR:** Yes.

2 **THE COURTROOM DEPUTY:** Is this still your
3 verdict?

4 **THE JUROR:** Yes.

5 **THE COURTROOM DEPUTY:** Juror No. 121, was
6 this your verdict?

7 **THE JUROR:** Yes.

8 **THE COURTROOM DEPUTY:** Is this still your
9 verdict?

10 **THE JUROR:** Yes.

11 **THE COURTROOM DEPUTY:** Juror No. 2, was this
12 your verdict?

13 **THE JUROR:** Yes.

14 **THE COURTROOM DEPUTY:** Is this still your
15 verdict?

16 **THE JUROR:** Yes.

17 **THE COURTROOM DEPUTY:** Juror No. 329, was
18 this your verdict?

19 **THE JUROR:** Yes.

20 **THE COURTROOM DEPUTY:** Is this still your
21 verdict?

22 **THE JUROR:** Yes.

23 **THE COURTROOM DEPUTY:** Juror No. 212, was
24 this your verdict?

25 **THE JUROR:** Yes.

1 **THE COURTROOM DEPUTY:** Is this still your
2 verdict?

3 **THE JUROR:** Yes.

4 **THE COURTROOM DEPUTY:** Juror No. 285, was
5 this your verdict?

6 **THE JUROR:** Yes.

7 **THE COURTROOM DEPUTY:** Is this still your
8 verdict?

9 **THE JUROR:** Yes.

10 **THE COURTROOM DEPUTY:** Juror No. 196, was
11 this your verdict?

12 **THE JUROR:** Yes.

13 **THE COURTROOM DEPUTY:** Is this still your
14 verdict?

15 **THE JUROR:** Yes.

16 **THE COURTROOM DEPUTY:** Juror No. 267, was
17 this your verdict?

18 **THE JUROR:** Yes.

19 **THE COURTROOM DEPUTY:** Is this still your
20 verdict?

21 **THE JUROR:** Yes.

22 **THE COURTROOM DEPUTY:** The jurors have been
23 polled, Your Honor.

24 **THE COURT:** All right.

25 Ladies and gentlemen, I want to thank you for

1 your service this week. I know jury service is
2 not easy. And it takes up a lot of your personal
3 time. So I want to thank you for your patience
4 and your promptness and for being here today.
5 Your jury service is concluded for this week as
6 well as for this year, the next two years in this
7 court.

8 You are free to leave. If you are contacted
9 by any attorneys or anyone else to discuss this
10 case, you're free to do so, but you're also free
11 not to do so. If that becomes an issue, you can
12 always reach out to the clerk for more
13 information. At this point, I thank you again.
14 And you're free to leave.

15 (The jury exits the courtroom at 11:26 a.m.)

16 **THE COURT:** Yes, sir, Mr. Shealey.

17 **MR. L. SHEALEY:** Your Honor, may it please
18 the Court. I think at this time, it's truly upon
19 us to renew all prior motions and objections and
20 ask for a new trial. We had two prior mistrial
21 motion. One -- the third one really as it relates
22 to the charges and what we consider is a second
23 Allen charge, which, obviously, we feel that
24 quickly caused the jury to come to a decision on
25 an improper basis.

1 We would object specifically as well to Juror
2 No. 285 not being questioned by the Court after
3 the information we did bring to the Court's
4 attention. Just renew all of our motions and
5 objections for the record.

6 **THE COURT:** Thank you, Mr. Shealey.

7 Yes, sir.

8 **MR. L. SHEALEY:** I know it's pretty standard
9 to do sentencing right away. Do you think we
10 could have about 15 minutes to prepare?

11 **THE COURT:** Absolutely.

12 **MR. L. SHEALEY:** You thank.

13 **THE COURT:** All of your motions are renewed
14 and denied, but they're noted for the record.

15 We'll come back at noon, 30 minutes from now,
16 for sentencing. All right.

17 **MR. L. SHEALEY:** Thank you. Thank you.

18 **THE COURT:** Thank you. Court's in recess.

19 (A recess is taken.)

20 **THE COURT:** All right.

21 Let's hear from the state.

22 **MR. SCOTT:** Thank you, Your Honor.

23 The -- well, we've spent a week going over
24 the facts and there's little to tell you. I will
25 say Ms. Davis has no prior criminal history. But

1 pretty much to a person everybody talked about
2 Mr. Burton's being very caring for her, looking
3 out for her.

4 Here's a picture.

5 **THE COURT:** I haven't seen a picture of
6 Mr. Burton yet. So if you will --

7 **MR. SCOTT:** Yeah. This is he and the
8 defendant. It looks like her high school
9 graduation. One of Mr. Burden's family member
10 said, you know, it really was he caring and love
11 for her that she used against him to get in the
12 situation where she could victimize him.

13 Judge, the evidence rather speaks for itself.
14 I harped on common sense and reason and logic.
15 Her story never made sense, not one of the
16 iterations. And there were many made really any
17 sense and was contradictory to the evidence. the
18 man was shot three times in the back. The man is
19 in the back of the house. So we had his faults,
20 you know, we certainly had quite a bit of victim
21 character assassination, which we expect, and I've
22 prepared the family for that. I know kind of the
23 rub when we have a self-defense case.

24 But at the end of the day, you know, to a
25 person, everybody talks about how good he was to

1 her, how much he cared for her. And we -- we --
2 we didn't deny that he was a drug dealer. I don't
3 know how to mince words about that. But what do
4 drug dealers have? They have things that drug
5 addicts want, you know.

6 She clearly has some kind of -- some kind of
7 obsession with marijuana to the extent that she
8 goes out all hours of the night. She makes pit
9 stops to smoke before she goes to the second place
10 to smoke. And he certainly had an abundance of
11 marijuana at the house. And I assume had cash
12 money there too. That's the kind of -- we know
13 how these things work. With drug dealers and drug
14 purchasers, that's kind of how it works. What
15 else do we know about her at the time?

16 She was out of a job? Again, she has
17 marijuana on the mind pretty much from the time
18 she gets up to the time she goes to bed. Her
19 expert said she was -- had a lot of pictures of
20 guns on her phone. So you know, that's what we
21 know about what Jamira Davis was doing during this
22 time period.

23 Again, the facts speak for themselves.
24 Elesha Burden Wilson, Your Honor -- I'm sorry --
25 James. We call her Elesha Burden. But this is --

1 this is Brandon's sister. There was a time during
2 the trial she said, "Dale, can you make them stop
3 calling him 'Boleg'?"

4 I said, "They don't want to say his name.
5 But I can't make them do that." You know, that --
6 that was a nickname. And I told the jury it's
7 certainly meant to dehumanize him. You know, we
8 don't want to think about him being Brandon Burden
9 the person. We want to think about Boleg, this
10 and that. We're going to beat him down as much as
11 possible.

12 But I explained that her. And -- and she
13 seemed to understand that. You know, that's her
14 brother that she'd had to listen to referred to in
15 various ways all throughout the week. She does
16 want to dress the court at the appropriate time,
17 Your Honor.

18 I've got the sentencing sheet here.

19 **THE COURT:** I'm happy to hear from you. If
20 you want to stand and state your name for the
21 record so that this court reporter can hear what
22 you say.

23 **MS. JAMES:** Yes, Your Honor. My name is
24 Elesha Burton James. And I'm representing today
25 my mother who unfortunately passed away on

1 January 31 of this year. She was looking forward
2 to this day. As a matter of fact, she cooked and
3 did everything because she missed my brother so
4 very much. And she died from broken heart because
5 she missed her son that much, that because of
6 Jamira's action, she lost a part of her. Not only
7 did she lose a part of herself, we lost as well.

8 He was a good brother. We had a bond like no
9 other. We grew up together. I made promises on
10 his behalf when I was younger, the first one being
11 August -- August 10, 1984, when my grandmother
12 passed away. She had a conversation with me that
13 night -- actually, she had a conversation with us
14 before she passed. And one of the things that my
15 grandmother wanted me to do was to make sure that
16 I took care of my brother. So I made that promise
17 at 10 years old. Today, I'm 49.

18 And the second promise that I made was to my
19 mother, that I would make sure that I followed
20 through with this case. Because she knew deep
21 down inside that her son was taken from her, not
22 because of self-defense.

23 The third promise that I made to my brother
24 was that I would always, always be there for him,
25 no matter what. And I would have to say that I

1 have failed all the promises to him.

2 He was a very nice person. He would give you
3 the shirt off his back, if you asked. That is
4 very apparent, because like she said, he was like
5 a father figure to her.

6 Jamira took away the father of two kids, two
7 boys, young boys. Unfortunately, they will never
8 have a picture that you -- that you have of
9 graduation with their father. He will not be
10 there to teach them how to tie a tie, drive from a
11 car, speak with them about how to treat a woman or
12 having manners towards his teachers or principals,
13 and even maybe you.

14 So I just want the Court to know that he was
15 not the way that he was portrayed in this trial.
16 Yes, they did call him Boleg. But what they
17 didn't understand is that Boleg was not a street
18 name. Bolen was a family name that was given to
19 him when he was a child, because he was so
20 bow-legged that he had to have surgery. It wasn't
21 a street name. As a matter of fact, we did not
22 grow up on the street. He was not as bad as these
23 people were saying.

24 If you've asked him for something, he would
25 give it to you. He was just that type of person.

1 He was not a bad person. As a matter of fact, we
2 grew up in a church. Our house was the poster --
3 would be the poster child for, "As for me and my
4 family, we will serve the Lord." And that's
5 exactly what we did.

6 Like Shealey Law Firm, the gentleman, the
7 lawyer said, sometimes people do good, and
8 sometimes they do bad. That's true. My brother
9 wasn't perfect. None of us are. We never walked
10 on water. So we're not perfect. I'm not perfect.
11 She's not perfect. You're not perfect. None of
12 us are. So please when you decide on the
13 sentencing for Jamira, please take into
14 consideration what she did not only to Brandon,
15 but to my mother, his father, his family members,
16 his children, people in the community, everyone.

17 My brother didn't deserve what happened to
18 him on January 22, 2021. It's unfortunate that
19 our family and also their family are sitting in
20 this courtroom today. It was all because of
21 Jamira's actions that night. Maybe she shouldn't
22 have went to my brother's house that night. Maybe
23 he shouldn't have answered the phone. We can't go
24 back and change it.

25 Finding Jamira guilty will not bring back my

1 brother. However, what it does, it helps us with
2 the justice and dealing with his murder. So I
3 just want to say, thank you for listening to me as
4 a representative for the other family members, my
5 mother who's deceased, his father who's absent, we
6 just want to say thank you for taking the time to
7 listen. Thank you.

8 **THE COURT:** Thank you, ma'am. Thank you-all
9 for being here.

10 Anything else from the state?

11 **MR. SCOTT:** No, Your Honor.

12 **THE COURT:** Happy to hear from the defense.

13 **MS. DEMER:** Thank you, Your Honor. May it
14 please the Court. As you're well aware, Jamira is
15 22 years old. She was 20 when this happens. She
16 graduated from Lower Richland when she was 17
17 years old. She graduated a semester early, but
18 waited to walk with her -- the rest of her class
19 in May. She was on the honor roll at times. She
20 was described by teachers as a friendly student,
21 conscientious and as an excellent student. She
22 was described by her peers as quiet, keeping to
23 herself, never causing trouble with anyone.

24 Once she graduated high school, she did
25 immediately look for employment. Under the facts,

1 the first job that she applied for, they told her
2 that she was too young to work there, and that she
3 would have to wait until her 18th birthday before
4 she could work her first shift.

5 She maintained consistent employment up until
6 a few weeks before this incident. She did have
7 other employment lined up, of course, as Mr. Scott
8 pointed out in trial. She missed a flight. It
9 was an out-of-state job opportunity. But she has
10 been very consistent with her employment, very
11 consistent with paying her bills since the time
12 she was 18 years old.

13 Since she's been out on bond, she has held
14 steady employment as well. She's been at Wing
15 Zone on Assembly Street in a managerial capacity
16 since September of last year. I'm not sure if her
17 boss is able to make it here today. But I do
18 believe that -- that her -- her boss has spoken
19 very highly of her and was at least going to try
20 and make it here. Because, you know, she said
21 that people just don't work as hard as Jamira
22 worked. She can't find employees, especially
23 employees her age, with the work ethic that she
24 has.

25 Jamira did have an unsteady home life growing

Sentencing

1 up. As you heard, her mother was a single mother.
2 Sometimes there were boyfriends who lived in the
3 house. There was domestic abuse. She would stay
4 with her grandparents most weekends when she was
5 growing up. Her grandparents have been a source
6 of stability in her life throughout her life. Her
7 grandmother Trina Thompson has been here this
8 week, although I don't think that she wishes to
9 address the court today.

10 She also has a great relationship with her
11 father now. Of course, it's been -- they weren't
12 in great contact when she was growing up. She was
13 able to bond with him when she was about 14 years
14 old and was placed in emergency protective custody
15 through DSS due to an incident of violence by her
16 mother against her. And she had an even deeper
17 relationship with her father when she was arrested
18 on this charge. They started speaking much more
19 regularly. They're -- they're very close today.
20 I do believe that her father, Jermaine Davis,
21 wishes to address the Court at the appropriate
22 time.

23 I also believe that it's worth mentioning
24 that Jamira, in addition to witnessing prolonged
25 abuse in the household, was also the victim of

1 sexual abuse as a child, first by a neighbor who
2 essentially lured her over to his house under the
3 pretense of having a playdate with his daughter
4 who's roughly the same age. But when she got
5 there, his daughter was not present. And then,
6 the next person who abused her was a former
7 boyfriend of her mother's.

8 When she disclosed the first incident,
9 nothing happened. No police report was made.
10 When the second incident occurred in her sister's
11 father had words with the boyfriend, but there was
12 also no police report and no arrest, no charges
13 were brought. And of course, she has testified
14 about the prior times when she did call the police
15 for help when she witnessed abuse.

16 Those are the -- the only times that
17 Ms. Davis, aside from this incident, has had any
18 interaction with law enforcement. She has never
19 been arrested. Never gotten a traffic ticket. No
20 juvenile involvement.

21 Your Honor, she's -- it has been a -- a
22 blessing to get to know her. She has such a good
23 heart. And this incident is not indicative of her
24 character. So I would like to -- to give her
25 family members who wish to speak the opportunity

1 to address the Court, but I would also like to
2 mention before doing so that we are asking for the
3 minimum.

4 **THE COURT:** I'm happy to hear from anyone
5 else.

6 If you'll -- you'll come down here a little
7 closer and state your name for the record so that
8 the court reporter can hear you. Right there.
9 Perfectly fine.

10 **MR. DAVIS:** Yes, my name is Jermaine Davis.
11 I'm Jamira's father. First of all, I'd like to
12 say I apologize to the courts. Second of all, I'd
13 like to apologize to the victim's family. I mean
14 this from the bottom of my heart, I'm sorry for
15 y'all loss. If I could do anything to bring it
16 back, I would.

17 So I pray and ask y'all if y'all can find it
18 in y'all heart to please forgive Jamira. I wish
19 y'all would do that, please, and pray for her,
20 please. And we will continue to pray for y'all.
21 Because to me, there are no winners and there are
22 no losers in this.

23 So Judge, if you find it in your heart,
24 please consider giving Jamira the minimum sentence
25 for this. Jamira is not the monster that they

1 make her out to be. She's really not that type of
2 person. Jamira is a good kid.

3 Jamira, I wish the best for you in life. And
4 I'll be here for you, baby.

5 I apologize to everyone. And I mean that
6 from the bottom of my heart.

7 **THE COURT:** Thank you, sir. Thank you for
8 being here today.

9 **MS. THOMPSON:** Good morning, everybody.

10 **THE COURT:** Now if you'll just speak up so
11 the court reporter can hear you.

12 **MS. THOMPSON:** Good morning. My name is
13 Trina Thompson. I'm Jamira's grandmother,
14 grandma. Jamira always, in the summertime, she
15 stayed with us. And my husband would pick her up
16 on weekends, all three of them. And they would
17 come from Friday to Sunday. Jamira always was a
18 quiet person, quiet, quiet. They have never told
19 me anything. A couple of times they called me and
20 I went.

21 But I am so sorry. I have prayed and prayed.
22 I have went through this before, abuse, whatever,
23 with my sister. And I know how I feel. I know
24 how when somebody hurt somebody how you feel. I'm
25 so sorry for my family. I -- I -- I truly,

1 truly -- I am so sorry. I apologize to Jamira.
2 And I know how she feel in her heart too. But I'm
3 praying. I'm praying. That's all I can tell you
4 what I am doing. I am praying that we can get
5 through this, both our family because I know you
6 are hurt and we are hurt too. Thank you so much.

7 **THE COURT:** Thank you, ma'am. Thank you for
8 being here today.

9 **MR. L. SHEALEY:** Two sentences, Judge?

10 **THE COURT:** Yes, sir.

11 **MR. L. SHEALEY:** Speak very briefly.

12 **THE COURT:** Of course, Mr. Shealey.

13 **MR. L. SHEALEY:** I'm always a firm believer
14 that a true measure of a person is how they act in
15 extreme adversity. Because it's real easy to
16 do -- to act well when things are going well. And
17 so I -- I hate to say it, but I've have the
18 experience of sitting next to someone charged with
19 crimes, been found guilty, unfortunately, more --
20 more times than I can count. And from kind of
21 a -- almost a scientific perspective, it's --
22 I've -- I've encountered varying reactions from my
23 clients in those moments from just sheer stonewall
24 isolation to mostly panic, blame, projection of
25 all -- of everything in a way that's normal for

1 human nature, but it kind of reveals a little bit
2 about who that person is.

3 So the only reason I bring this up to you as
4 a sentencing judge in a case like this, you're
5 thinking about punishment, you're thinking about
6 rehabilitation, all the things that you have to
7 weigh. And you've sat through trial and you've
8 got a sense of her.

9 But I will tell you that ever since this
10 verdict came down, she has only tried to make sure
11 that those around her are okay, which I find is
12 pretty rare. Even us lawyers. You know, she
13 wants to make sure that I feel appreciated,
14 that -- that she knows -- that I know that she
15 appreciates our efforts and that she will be okay.

16 So that just -- I just wanted to provide that
17 insight because I -- I think it does say about who
18 she is, as you think about how you need to
19 sentence. Because that doesn't always happen. It
20 really doesn't. So that's -- that's consistent
21 with everything I've known about Jamira since I've
22 met her and since we have gotten involved in
23 representing her case.

24 So I would echo the sentiments. I do not
25 think she needs more than the minimum sentence,

1 which is substantial, in this case. And I don't
2 think anything more would be necessary to achieve
3 sentencing objectives. Thank you, Your Honor.

4 **THE COURT:** Thank you, Mr. Shealey.

5 Anything else from the defense?

6 **MS. DEMER:** Nothing further, Your Honor.

7 **THE COURT:** She get credit for any jail time?

8 **MS. DEMER:** I apologize. She was in Alvin S.
9 Glenn for 14 months. And she has been -- excuse
10 me, on house arrest since her release in April
11 2022. I apologize. I can do that math really
12 quickly.

13 **THE COURT:** Was it electronic monitoring
14 house arrest?

15 **MS. DEMER:** Yes, Your Honor.

16 **THE COURT:** Is the state objecting to that
17 that -- counting those credit to the time served.

18 **MR. SCOTT:** Your Honor, I'll leave that in
19 your indiscretion.

20 **THE COURT:** All right.

21 I'll note -- notate that on the sentencing
22 sheet. But at some point, (inaudible).

23 **MS. DEMER:** Thank you, Your Honor.

24 **THE COURT:** Obviously, this is a sad case, a
25 sad day for everyone who loss. I'm sorry for

1 everyone who has to be here. I'm also thankful
2 for the families for being here today. I have a
3 photograph here of Mr. Burden and Ms. Davis. One
4 side is justice; one side is mercy. That's all I
5 can do here, do what I feel is right in this
6 sentence. So I thank everyone for being here.
7 And I'm sorry for your loss.

8 As to Indictment 2021GS4005862 on the charge
9 of murder, you are hereby sentenced to the State
10 Department of Corrections for 35 years, credit for
11 any time you have served. Good luck to you,
12 ma'am.

13 Anything else from the state?

14 **MR. SCOTT:** No, Your Honor.

15 **THE COURT:** Anything else from the defense?

16 **MR. L. SHEALEY:** Your Honor, we would --
17 concerning posttrial motions, would you be willing
18 to give 15 days?

19 **THE COURT:** Fifteen days.

20 **MR. L. SHEALEY:** Thank you.

21 **THE COURT:** Court's adjourned.

22 (Court is adjourned in this case.)
23
24
25

CERTIFICATE

1
2 I, the undersigned, Teresa B. Johnson, Official
3 Court Reporter, do hereby certify that I transcribed
4 the electronic recording of the remote hearing in this
5 matter; and that the foregoing is a true transcript of
6 said electronic recording.

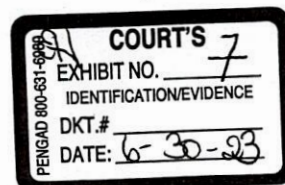
7 I do further certify that I am not a relative,
8 employee, attorney, or counsel of any of the parties
9 connected with the action, nor am I financially
10 interested in the action.

11
12 Dated: January 28, 2024

13
14 /s/Teresa B. Johnson

15 Teresa B. Johnson

16 Official Court Reporter
17
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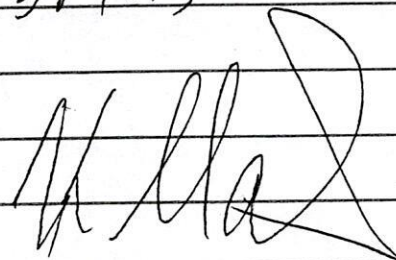
If we cannot come to a unanimous decision
What happens? 9-3 Guilty

K. M. J.

PENGAD 800-631-6989	COURT'S
	EXHIBIT NO. <u>9</u>
	IDENTIFICATION/EVIDENCE
	DKT.#
DATE: <u>6-30-23</u>	

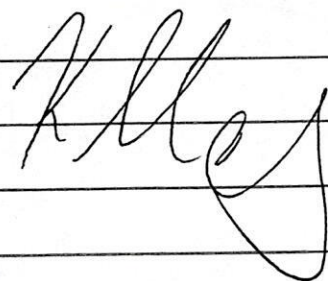
All jurors are stuck in their opinions, without a final answer or vote. NO change has happened in 3 hours. ~~There~~ There is no productive things going on. Is there a certain time we are able to leave or is there a way we could come back at the next business day to further our deliberation? Again, there hasn't been any change within the 3 hours. ~~within 3 hours~~

6/30/23



Update family w/ phone call

6/30/23

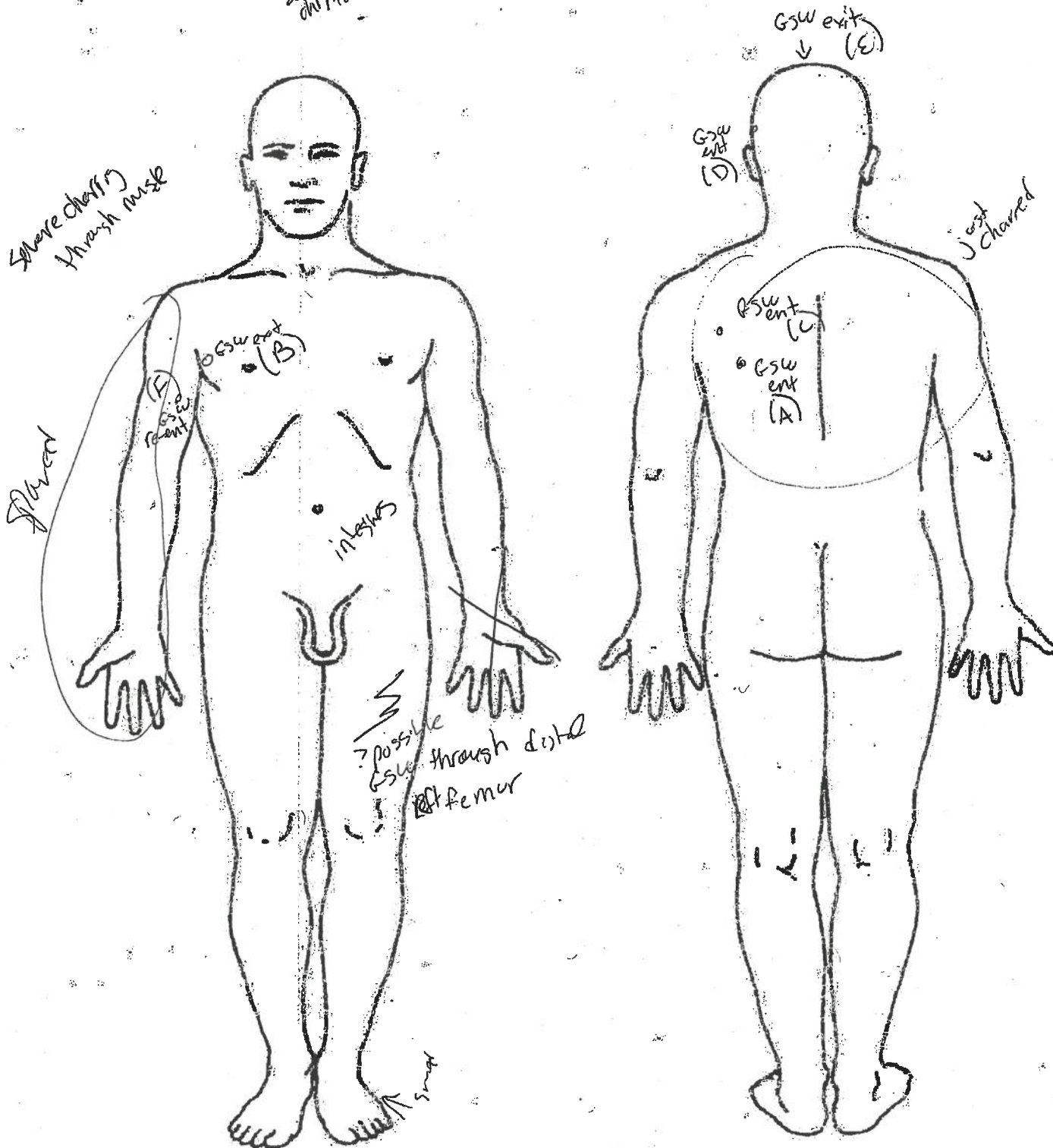


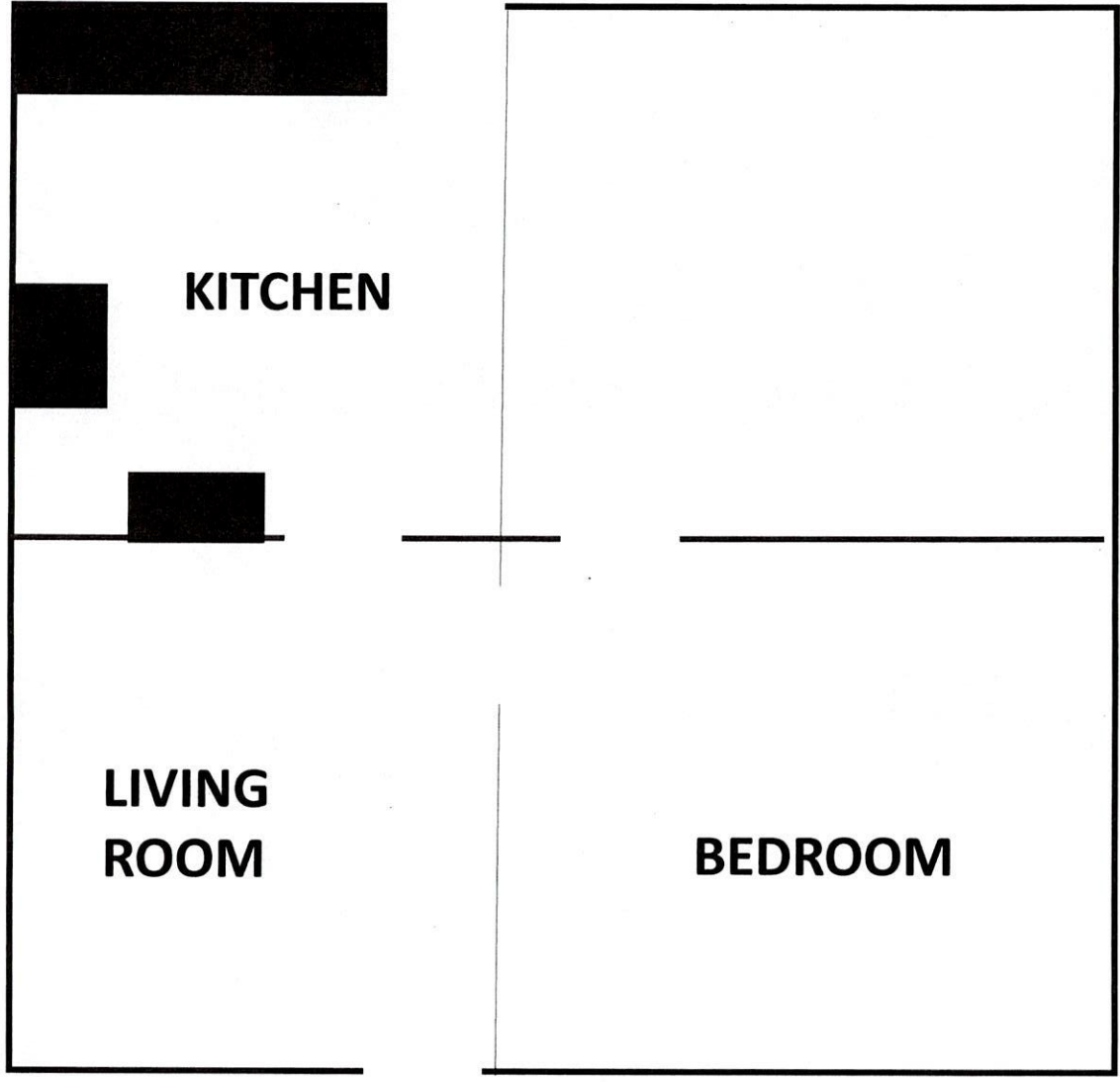
956

Weight: 133
Length: 65"
Temp: 98.6
Rigor: N/A
Livor: N/A
Scalp hair: N/A
Facial hair: N/A

Eyes: charred & vit
Ears: N
Nose: N
Teeth: 20
Neck: N
Abdomen: N
Genitalia: N
Nails: charred

Brandon Burgess FA21-049
Autopsy Richland Co.
1/22/2021 11:30 AM
Durso
RCCO# 2021-000367





WITNESSES

(S) Taima D Jordan
- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2021A4010200449

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

DEC 16 2021

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021GS4005862

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2021

67

THE STATE
vs.

Jamira U Davis

Indictment for
MURDER / MURDER

SC Code: 16-03-0010
CDR Code: 0116

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

958

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 14, 2021,
the Grand Jurors of Richland County present upon their oath:

MURDER

That Jamira U Davis did in Richland County, on or about January 22, 2021, kill the victim, Brandon Burden, with malice aforethought, either express or implied, by means of shooting, and the victim did die as a proximate result thereof. All in violation of Section 16-03-0010, S. C. 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.


BYRON E. GIPSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Jamira U Davis

AKA:

Race: BLACK Sex: F Age: 22DOB: -2000 SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29209-4513DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021 - GS - 40 - 05862A/W#: 2021A4010200449Date of Offense: 1/22/2021S.C. Code § 16-03-0010CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murderin violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ 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:

[Signature] 73081
 Scott, Dale SC Bar # Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,

for a determinate term of 35 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with **probation** for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by
 SCDOC. 883 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.

SCANNED

STATE VS. Jamira U Davis INDICTMENT/CASE#: 2021 - GS - 40 - 05862**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5 %)		\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$	100.00
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114(BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk: Jeannette McBride
Court Reporter: HarrisPresiding Judge: [Signature]
Judge Code: 7774
Sentence Date: 7/1/2023
one

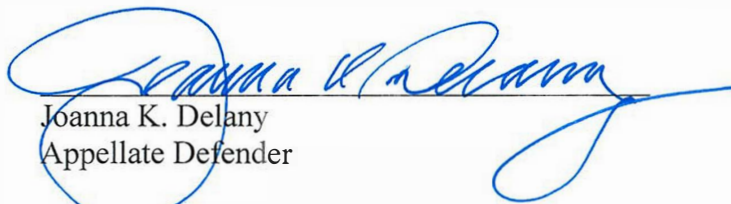
SCANNED

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED**Feb 07 2025****SC Court of Appeals**

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of February, 2025.

RECEIVED

Feb 07 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Daniel McLeod Coble, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

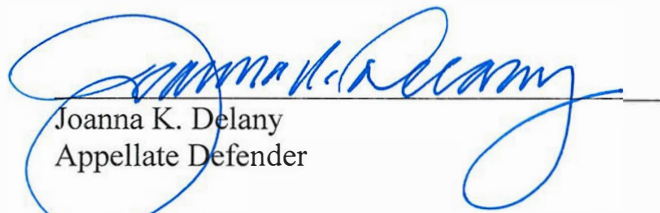
JAMIRA U. DAVIS,

APPELLANT

APPELLATE CASE NO. 2023-001215

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon R. Brandon Larrabee, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 7th day of February, 2025.



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT