

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of General Sessions

R. Kirk Griffin, Circuit Court Judge

Appellate Case No. 2023-001586

VOLUME II OF II

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SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Diontrae Travon Epps,

Appellant.

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THE SUMTER
COUNTY CLERK OF COURT’S OFFICE:
STATE’S EXHIBIT NO. 1 (FACEBOOK LIVE CD)**

1 Q To the best of your knowledge, have these camera views
2 been altered or added to or anything deleted from them or
3 anything of that nature?

4 A No, sir.

5 Q Now, we've had the opportunity to view these camera
6 views. Would you talk to us a little bit about the type of
7 system and what I think I call frame rate?

8 A So this particular system at the time was a DVR system,
9 digital video recording, and it used analogue cameras. So
10 the quality at this point in time, this system was nearly 20
11 years old, so you had a lot of frame rate issues because the
12 analogue cameras, you just can't get a lot of frames per
13 second with the camera. So based on the age of the system,
14 that's why you'll get some frame rate issues. The way the
15 cameras are set up, they're set up on motion, so if there's
16 not a lot of motion, it will stop and pick up on motion
17 again once it's detected.

18 Q With regard to the camera system that y'all had back in
19 2019, were you able to review these videos and see some of
20 the events taking place?

21 A I was able to review them when law enforcement came to
22 request the video.

23 Q Okay. And did you, also, have an opportunity to review
24 them in preparation for your testimony?

25 A I did.

1 Q Are you -- from the video that you had provided, are
2 you able to see individual as they come into the hospital
3 that night?

4 A You can, yes.

5 Q Are you then able to see them transition to the
6 emergency room desk?

7 A You can.

8 Q Are you then able to see them transition from the
9 emergency room desk to that hallway that you have described
10 to us?

11 A Yes, sir.

12 Q Now, in doing that, do you notice some issues with the
13 time stamps?

14 A Yes, the time is off.

15 Q For example, when we're looking here at this screen
16 shot, what time is showing on the emergency room camera?

17 A It currently shows 12:32.

18 Q And we're going to come to a different camera view here
19 just a moment. And then which camera view are we looking at
20 now?

21 A That is the back hallway of the emergency room.

22 Q And what timeframe is it showing?

23 A That one shows 2:12 a.m.

24 Q So it's obvious to you that we have a time issue?

25 A Correct.

1 Q Because you were able to track individuals moving
2 across all three?

3 A Correct.

4 Q Now, without the substance of it, have you, also, had
5 occasion to hear any of the 911 calls from that evening?

6 A I have.

7 Q Was there a particular 911 call that you recognized the
8 voice of?

9 A Yes, the 911 call --

10 MR. KENT: Objection, Your Honor.

11 THE COURT: Y'all approach.

12 (WHEREUPON, a bench conference was held in the presence
13 of the jury, but outside the hearing of the jury.)

14 THE COURT: Objection overruled.

15 BY MR. CORBETT:

16 Q And Mr. Matula, in connection with your preparation,
17 you had occasion to hear a 911 call from that evening?

18 A Yes.

19 Q Did you recognize the voice?

20 A Yes, I did.

21 Q Whose voice did you recognize?

22 A That was David Hicks.

23 Q And I think I may have already asked, but there's
24 nothing done at Tuomey Hospital or on your part to alter
25 these videos in any way?

1 A No, sir.

2 MR. CORBETT: Your Honor, at this time, we would move
3 State's Exhibit No. 16 into evidence.

4 MR. KENT: Subject to that earlier objection that I
5 made, Your Honor.

6 THE COURT: All right. Subject to the objection, the
7 contents of State's Exhibit 16 are admitted.

8 (WHEREUPON, State's Exhibit No. 16 was admitted into
9 evidence.)

10 BY MR. CORBETT:

11 Q Now, Mr. Matula, with regard to the contents of the
12 videotape, did you, actually, know any of the individuals on
13 the tape?

14 A No, sir.

15 Q So you weren't asked or you weren't there to pick out
16 any particular individual?

17 A No, sir.

18 Q Other than folks that you would know as Tuomey
19 employees, you wouldn't have specific knowledge generally of
20 who was in those videos?

21 A That would be correct.

22 MR. CORBETT: Mr. Matula, that is all the questions I
23 have. Thank you.

24 THE WITNESS: Thank you.

25 THE COURT: Mr. Kent.

CROSS-EXAMINATION

BY MR. KENT:

Q He asked you a bunch of stuff about time?

A (Witness nodded).

Q Is that a yes? She's taking down every word you're saying. He asked you a bunch of stuff about times?

A Yes.

Q You would agree with me the times and clocks are very important?

A Yes.

Q One minute here or there can make a world of difference?

A Sure.

MR. KENT: Thank you. That's all the questions I have.

THE COURT: Any redirect, Mr. Corbett?

MR. CORBETT: Nothing on redirect.

THE COURT: Sir, you can step down. Thank you.

MR. CORBETT: Judge, may we approach?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held in the presence of the jury, but outside the hearing of the jury.)

MR. CORBETT: Judge, based on the schedule of witnesses, the State believes this would be a good time for the lunch recess.

THE COURT: Okay.

1 All right, ladies and gentlemen, I'm going to send you
2 to lunch at this time with the same instruction, please do
3 not begin your deliberations, don't discuss this case
4 amongst yourselves or with anybody else. Don't do any
5 research about any issue which may have been raised in this
6 case. I will ask that you be back here at two o'clock.
7 That's a little bit longer than we normally take, but the
8 schedule dictates that's when we should start back. So we
9 will see you at two o'clock. Thank you.

10 (WHEREUPON, the jury exits the courtroom at 12:21 p.m.)

11 THE COURT: All right.

12 MR. KENT: Judge, if I may?

13 THE COURT: Yes, sir, Mr. Kent.

14 MR. KENT: Just for record purposes, I told the
15 solicitor I would put this on the record. I think I
16 discussed this with you as well. We have now done three
17 witnesses. Before all cross-examination, I know there was
18 some questions I've explained to my client the strategy. He
19 has been onboard with all the questioning, all the
20 cross-examination of all the witnesses, so he understands
21 that. We are paying careful attention and we're talking to
22 all the witnesses and cross-examining them pursuant to the
23 strategy that the two of us have discussed for some time.
24 Just in case that issue comes up later.

25 THE COURT: All right.

1 MR. KENT: Number two, Your Honor, the State has
2 indicated -- and this does make sense. There was an
3 unrelated trial, but not a true codefendant of Mr. Epps,
4 Joquell Meyers' case was tried September of last year.
5 During that case, there was some evidence that was
6 introduced. There was a conviction, so that evidence would
7 be kept in the clerk's file for purposes of appellate
8 issues. Two of them in pertinent part are a projectile that
9 was taken from Mike Rodgers at autopsy, as well as a firearm
10 that has been indicated that it may be, also, that of Mike
11 Rodgers.

12 The questions I think all parties would have is the
13 best way to handle that. Generally, Your Honor, I don't
14 have a problem with pictures being introduced.
15 Specifically, about the projectile, I don't think that's as
16 much of an issue. I need to think about the firearm over
17 the lunch break.

18 My gut reaction since it's just in the clerk's file
19 would be to, at least, have the gun, show the gun and then
20 put a picture of the gun into evidence and then give it back
21 to that file. I don't think that should be an issue. We
22 should be able to get the firearm almost in way for
23 demonstrative purposes so the jury knows that it's an actual
24 firearm and then a picture from my vantage point would
25 suffice.

1 THE COURT: Okay.

2 MR. KENT: If that's possible. I just wanted to cover
3 that one issue.

4 THE COURT: I think over the lunch break, we need to
5 check with the clerk's office and figure out if the proposed
6 plan that Mr. Kent has presented is -- if we can make it
7 happen. If it's feasible.

8 MR. CORBETT: Your Honor, the State has no objection to
9 working it that way. To point out that the firearm in
10 question, there is a photo of it that has already been
11 placed into evidence, but if additional photos are needed,
12 we have no objection.

13 THE COURT: It's already been placed into evidence in
14 this case?

15 MR. CORBETT: Yes, sir. Detective Snapp, when she was
16 going through the photographs, one of them is of the handgun
17 in question.

18 THE COURT: Okay.

19 MR. KENT: Your Honor, I'm not saying the firearm --
20 and that picture could suffice. I would, at least, have the
21 actual firearm, if possible. I don't need the projectile.
22 I think that's fungible. I don't think that's necessary and
23 they'd have to open it up.

24 THE COURT: Mr. Corbett, if you could give the clerk's
25 office the indictment number of the Meyers' case and we'll

1 see if we can gather that evidence. Assuming -- I have no
2 reason not to assume the gun is there. If we can use it for
3 demonstrative purposes, as Mr. Kent said, I think we could
4 likely do that. If that's not possible, I think the
5 photograph should suffice.

6 So y'all work on that over lunch and we'll deal with
7 that issue when it comes up.

8 MR. KENT: Fair enough.

9 MR. CORBETT: Thank you, Your Honor.

10 THE COURT: We'll be in recess until two o'clock.

11 (WHEREUPON, a lunch recess was taken.)

12 (WHEREUPON, State's Exhibit Nos. 17 through 21 were
13 marked for identification.)

14 THE BAILIFF: All jurors are present, Your Honor.

15 THE COURT: All right.

16 MR. CORBETT: Your Honor, may we address a couple of
17 matters before the jury comes in?

18 THE COURT: Yes.

19 MR. CORBETT: Your Honor, may it please the Court?
20 Back on the record with regard to the State of South
21 Carolina vs. Diontrae Epps.

22 Your Honor, at the beginning of the lunch break, Mr.
23 Kent and I approached Your Honor about an issue regarding
24 some admission of evidence. What made it a little bit out
25 of the ordinary was it was a couple of items that had been

1 introduced in the case of the State vs. Joquell Myers. We
2 were in a situation where we didn't see an easy way to
3 remove it from that case because that's an ongoing case from
4 an appellate perspective.

5 So, Judge, what we have done is -- and one of the
6 pictures was already introduced, but we have marked for
7 identification State's Exhibit No. 20. And it is a
8 photograph that shows the bullet taken from the body of
9 Michael Rodgers at autopsy. Dr. Batalis, actually,
10 testified to this picture yesterday.

11 Judge, what's been marked for identification as State's
12 No. 21 is a photograph of that same bullet in a different
13 envelope returned from SLED. Judge, that item 21 picture,
14 that bullet is, actually, currently in the custody of the
15 Sumter County Clerk of Court. So Detective Kearney,
16 actually, went to the Clerk of Court's office, verified it
17 was the same item and took a photograph of it.

18 Judge, the other item that was referenced in the case
19 that Mr. Kent had asked about in terms of admission into
20 evidence was -- I'm holding what's been marked for
21 identification as State's No. 17. That is a photograph of a
22 Taurus 709 pistol. Judge, what the State will say as far as
23 this picture is in the video when Mr. Rodgers is running
24 across the parking lot, he falls and an item comes out of
25 his hand. That item, the State contends, and I don't

1 believe the Defense disagrees with this assessment, was this
2 Taurus 709 pistol referenced in State's No. 17.

3 Detective Kearney then -- and that pistol, also, went
4 to SLED for analysis. That pistol is, also, reference in
5 what has been marked for identification in State's No. 19
6 and State's No. 18. Those pictures were taken by Detective
7 Kearney today in the Sumter County Clerk of Court's office.

8 Mr. Kent has expressed the desire to have the pistol
9 available. My office is currently checking on that, about
10 the process for us to, for lack of a better term, sign it
11 out for enough time that it could be used for whatever
12 purposes Mr. Kent may need during his trial. But instead of
13 trying to remove it from one case to another, we propose to
14 admit it, so to speak, by way of the photographs.

15 THE COURT: Mr. Kent.

16 MR. KENT: Thank you, Judge. I discussed all of this
17 with Mr. Epps. As far as -- if another court is reading
18 this later, as far as the duplicate pictures, technically,
19 we normally would put the bullet in, so there would be two
20 pictures. So the picture would be the bullet. I don't
21 think there's any need to explain to the jury that we have
22 taken a picture from the Clerk of Court's office, especially
23 since I'm not going to be objecting and will not be
24 utilizing that as an argument later. And as I mentioned to
25 the Court, I think it's weird we put bullets and guns in

1 anyway, so I have no problem with the picture and them
2 saying -- being able to say this is the bullet that we took
3 from autopsy and we have it in our custody, but out of an
4 abundance of caution, we're giving you a picture of it.

5 THE COURT: Right.

6 MR. KENT: Specifically, speaking to Mr. Epps about the
7 gun and what would we be utilizing for, it's not that we
8 will be utilizing it for anything. I think there's a right
9 to, actually, have the actual firearm shown to the jury,
10 that this is the firearm. There's nothing wrong with saying
11 rather than putting the firearm into evidence, we're going
12 to put a picture of the firearm, which is substantially
13 similar to this exact picture and that's it. We will be
14 fine with it going back to the other courtroom. But I think
15 there is a right as opposed to a bullet, the actual firearm
16 being shown to the jury.

17 Judge, based upon what I said, that I have no
18 objection, State's No. 17, 18, 19, 20 and 21 being moved
19 into evidence subject to what I just stated.

20 THE COURT: Right.

21 MR. KENT: Actually, it doesn't even matter. Either
22 way, I have no problem with those coming in. I just request
23 the firearm.

24 MR. CORBETT: And, Judge, while we have been talking,
25 our office was able to sign out the pistol that is

1 referenced in 17, 18 and 19 and Detective Kearney has it in
2 his possession at this point in time.

3 MR. KENT: My only request, of course, is he just
4 showed me the box and it's got the other -- let's just be
5 careful. It's got the other case mentioned on the front of
6 it.

7 THE COURT: Right. And I think, folks, we all agree --
8 I don't want to put a number on the box containing the gun
9 for this trial, so just -- ordinarily, we would mark it for
10 identification, but in this circumstance, I don't think --
11 everybody agrees that this is the gun that was taken from
12 the scene. I don't think there needs to be a number
13 attributed to it, especially since there's a number on the
14 photograph that's going to go back with the jury.

15 MR. KENT: I'm perfectly fine and I think Mr. Corbett
16 will make a proffer showing it to the jury. If not, I'll
17 cover myself.

18 THE COURT: Anything else?

19 MR. KENT: That's all I have, Your Honor.

20 THE COURT: An issue was brought to my attention after
21 the last witness testified, Juror Number 121 approached Mr.
22 Tomlin here, the bailiff, and stated that Mr. Matula was her
23 boss. So I'm not really sure that -- she was the alternate
24 that was promoted yesterday, so I think we'd have to come in
25 and question her -- have her come in and question her about

1 that issue.

2 MR. CORBETT: Judge, I certainly understand -- and,
3 Judge, I did want to say for the record that Mr. Matula was
4 on the witness list and his name was called out.

5 THE COURT: Right. I made sure of that over the lunch
6 break. He was the second to last name I read out off of the
7 State's witness list.

8 MR. FINNEY: So for the record, Your Honor, just for
9 clarification, she is now sitting as a juror, but she was an
10 alternate?

11 THE COURT: Correct.

12 MR. FINNEY: And she has expressed that she is an
13 employee of the hospital and works for Mr. Matula?

14 THE COURT: That's what she told Mr. Tomlin.

15 MR. FINNEY: And, obviously, the Court is aware as are
16 the lawyers is that Mr. Matula was only identifying evidence
17 that was turned over from the hospital to the police
18 department and didn't offer any substantive opinions other
19 than the time was wrong and that these items was taken the
20 night of September the 8th.

21 THE COURT: I think we probably need to figure out is
22 he her direct supervisor or what the level of employment
23 connection is. You know, it's one thing if she works in the
24 department that he's over, but does not directly report to
25 him. We'll just have to see what she says.

1 Just to go back to the photographs that have been in
2 discussion, 17 through 21 are admitted in this case with --
3 the photographs are admitted, the actual firearm will not be
4 admitted. It's just to be used for demonstrative purposes.

5 The issue with Juror Number 121, all parties have
6 agreed to move on with the case, at least, for the rest of
7 the day and then, perhaps, deal with that issue at a later
8 time.

9 (WHEREUPON, State's Exhibit Nos. 17 through 21 were
10 admitted into evidence.)

11 THE COURT: Are we ready for the jury?

12 MR. CORBETT: The State is ready, Your Honor.

13 MR. KENT: Ready on behalf of Mr. Epps.

14 THE COURT: Bring us the jury, please.

15 (WHEREUPON, the jury enters the courtroom at 2:35 p.m.)

16 THE BAILIFF: All jurors are seated.

17 THE COURT: Ladies and gentlemen, we will resume the
18 State's case.

19 Mr. Corbett.

20 MR. CORBETT: Thank you, Your Honor. The State would
21 call Detective James Kearney.

22 THE COURT: Detective, please, come forward.

23 THE CLERK: Place your left hand on the Bible, raise
24 your right hand and state your name, please.

25 THE WITNESS: James Kearney, IV.

1 JAMES KEARNEY,

2 after being duly sworn, testified as follows:

3 THE CLERK: Thank you. Have a seat. State your name
4 for the record and spell your last name, please.

5 THE WITNESS: Detective James Kearney, IV,
6 K-E-A-R-N-E-Y.

7 DIRECT EXAMINATION

8 BY MR. CORBETT:

9 Q Detective Kearney, good afternoon.

10 A Afternoon, sir.

11 Q Tell us, by whom are you employed?

12 A The City of Sumter Police Department.

13 Q And how long have you been with the City of Sumter
14 Police Department?

15 A Just under 14 years.

16 Q 14 years?

17 A Yes, sir.

18 Q Is it fair to say that back in September of 2019, you
19 were with the police department?

20 A Yes, I was.

21 Q Let's talk about that September 2019 timeframe. What
22 did your duties include at that point in time?

23 A I was a forensics detective. I would respond to crime
24 scenes and process the scenes.

25 Q Now, you are familiar with Detective Amanda Snapp?

1 A I am, sir.

2 Q Do y'all share similar job duties and responsibilities?

3 A Yes, she's my direct supervisor.

4 Q So it's common for you to go to crime scenes?

5 A Yes.

6 Q Now, the early morning hours of September the 8th of
7 2019, did you have occasion to respond to what I call the
8 Hop-In or Sunoco gas station on Broad Street?

9 A Yes, sir, I did.

10 Q And were you there working with Detective Snapp in
11 terms of gathering evidence?

12 A Yes, I was.

13 Q If I may, I'm going to show you what has previously
14 been admitted as State's No. 17 and ask if you can identify
15 that?

16 A Yes, sir, it's a Taurus pistol, model 709 with serial
17 number TJ220201.

18 Q And that particular gun, is that a crime scene
19 photograph?

20 A Yes, sir.

21 Q So it was recovered from, by all appearances on that
22 picture, the concrete there in the parking lot of the
23 Sunoco?

24 A Yes, sir.

25 Q Now, I'm going to show you what's been admitted into

1 evidence as State's No. 18 and 19 and ask if you'd identify
2 those two pictures?

3 A Yes, sir, it's the same pistol after it's been
4 collected.

5 Q Same picture after it's been collected?

6 A Yes, sir.

7 Q Placed in an evidence box?

8 A Yes, sir.

9 Q Would that gun have been sent to SLED for analysis?

10 A Yes, sir.

11 Q And I think you may have mentioned this, but just to be
12 certain, the serial numbers match, is that correct, between
13 the crime picture and the evidence box picture?

14 A Yes, sir.

15 Q Now, do you, actually, have the physical gun present?

16 A I do, sir.

17 Q If you would, take just a moment and make sure it
18 matches serial number wise?

19 A Yes, sir. I need to correct, I believe. Earlier, I
20 said it was 22 or TJ22, it's, actually, TJZ2.

21 Q But that's the actual physical gun that is represented
22 in these pictures?

23 A Correct.

24 Q All right. Thank you. Now, I'm going to show you
25 what's been introduced into evidence as State's No. 20 and

1 ask if you'd identify that?

2 A That was a bullet removed from the victim, Michael
3 Rodgers, at autopsy by the doctor.

4 Q Now, when that -- you indicated that bullet was removed
5 from Mr. Rodgers at the autopsy?

6 A Correct, this is one of their autopsy photos.

7 Q And how did the bullet go from the autopsy to law
8 enforcement?

9 A They signed the bullet over to me after the completion
10 of the autopsy. They sealed it into an envelope and then I
11 return it to the Sumter Police Department from the hospital.

12 Q So you were the actual person who retrieved it?

13 A Yes.

14 Q Now, I'm going to show you what's been introduced into
15 evidence as State's Exhibit No. 21. Can you identify that?

16 A It's the same bullet and envelope from the autopsy.

17 Q And that bullet, as we can tell by that picture, went
18 to SLED as well?

19 A Yes.

20 Q And, I'm sorry, when I say SLED, State Law Enforcement
21 Division?

22 A Yes, sir.

23 Q And that's common practice for certain items that you
24 guys at the police department will send them to, and I will
25 say SLED for State Law Enforcement Division for further

1 testing?

2 A Correct.

3 Q That's normal process?

4 A Yes, sir.

5 MR. CORBETT: Mr. Kearney, please, answer any questions
6 Mr. Kent may have for you.

7 CROSS-EXAMINATION

8 BY MR. KENT:

9 Q Mr. Kearney, how are you doing, sir?

10 A Doing well, sir. Yourself?

11 Q Good. Good. Good. What is your title, so I can give
12 you proper respect?

13 A Detective Kearney.

14 Q Detective Kearney, I don't have a lot of questions. I
15 just want to clear some stuff up and make it clear, okay?

16 A Yes, sir.

17 Q We have the actual firearm from the night in question,
18 that belonged to Mike Rodgers?

19 A Yes, sir.

20 Q And that is what firearm is in this box -- is it safe
21 now?

22 A It is. The slide is locked with a lock to keep it from
23 being able to function at this time.

24 Q But this is the actual firearm I have in my hand,
25 correct?

1 A Yes, sir.

2 Q And out of an abundance of caution we do things like
3 put things into evidence to give the jury so they can look
4 at it in the back room?

5 A Yes, sir.

6 Q But we're not going to give them a gun?

7 A Correct, sir.

8 Q So what we have is some pictures that show this it the
9 actual firearm that was taken on the night in question?

10 A Yes, sir.

11 Q Is that a fair statement? I'm just trying to make
12 sure.

13 A Yes, sir.

14 Q I'm going to put that back in the box. There's, also,
15 a magazine, is that what that's called? Could you explain
16 that to me.

17 A It's a magazine. It's a detachable piece from the
18 firearm that holds the ammunition for it to fire.

19 Q Do you know if on the night in question the firearm was
20 loaded or if there was any projectiles or bullets in the
21 magazine? Do you know personally?

22 A At the time, my knowledge is that there was no live
23 ammunition when it was collected.

24 Q So it was empty? It had been emptied?

25 A Correct.

1 Q We don't know who had emptied it or you don't have
2 personal knowledge who emptied the magazine or emptied the
3 clip?

4 A Correct.

5 Q And so what we're, basically, saying -- and, again, a
6 lot of this is scrivener's stuff -- 17, 18 and 19, the
7 pictures of those firearms will be given to the jury instead
8 of the actual firearm? Nobody is trying to trick anybody or
9 hide anything?

10 A Yes, sir.

11 Q It's for safety reasons?

12 A Yes, sir.

13 Q And make sure it's clear, you collected that firearm on
14 the scene that night?

15 A Detective Snapp collected it.

16 Q Detective Snapp collected it and then gave it to you
17 and then we put in what we call a chain of custody?

18 A Yes, sir.

19 Q Can you explain to the jury a little bit, sometimes I
20 talk too fast, what chain of custody means and why this is
21 important?

22 A Well, the chain of custody is just so each person can
23 represent that particular piece of evidence. At this time,
24 Sergeant Snapp collected this piece of evidence from the
25 scene. It went to the police department. Then it was sent

1 to SLED for analysis. And through other chains to date, it
2 has ended up here today with us.

3 Q And there is no question, no argument that the firearm
4 that we had -- that Mike Rodgers had a firearm on the night
5 in question? Mike Rodgers had a firearm and that's the
6 firearm?

7 A That is my belief, yes, sir.

8 MR. KENT: Thank you, sir.

9 MR. CORBETT: Nothing on redirect.

10 THE COURT: Thank you, Detective. You can step down.

11 MR. CORBETT: May it please the Court, Your Honor?

12 THE COURT: Yes, sir.

13 MR. CORBETT: The State would call Agent Paul Greer.

14 THE COURT: All right.

15 MR. KENT: Your Honor, as to the last witness, we have
16 no objection to the firearm being released to be placed in
17 safe custody at this point in time.

18 THE COURT: All right.

19 THE CLERK: Sir, place your left hand on the Bible,
20 raise your right hand and state your name, sir.

21 THE WITNESS: My name is Paul Greer, G-R-E-E-R.

22 PAUL GREER,

23 after being duly sworn, testified as follows:

24 THE CLERK: Have a seat, please. State your full name
25 for the record, spelling your last.

1 THE WITNESS: Yes, sir. My name is Paul Greer,
2 G-R-E-E-R.

3 DIRECT EXAMINATION

4 BY MR. CORBETT:

5 Q Agent Greer, good afternoon.

6 A Good afternoon.

7 Q Tell us, by whom are you employed?

8 A I'm employed at the South Carolina Law Enforcement
9 Division, which is commonly known as SLED.

10 Q And Agent Greer, what are your job duties at SLED?

11 A Sure. In the SLED forensics laboratory where I'm
12 employed, I am a forensic scientist or a firearms examiner
13 within the laboratory. My duties there include the
14 examination of firearms and firearms related components,
15 tool marks or tool mark related components, conducting
16 general rifling characteristic exams on fire projectiles,
17 conducting serial number restorations on firearms with
18 obliterated serial number and performing destruction of
19 weapons for agencies all across the State of South Carolina.

20 Q Now, Mr. Greer, in order to occupy that position at
21 SLED, do you have some general education requirements and
22 specific training for that job?

23 A Yes, sir. There are requirements through our quality
24 control of the laboratory. I did receive a Bachelor of
25 Science in biological sciences from the University of South

1 Carolina. Upon my appointment at SLED, I began our SLED
2 in-house training program for firearm and tool marks. This
3 is an apprenticeship-style training program that's conducted
4 right there at SLED among other qualified examiners. This
5 program took approximately three years to complete, so
6 there's a lot of material.

7 During that time, I completed multiple written and
8 practical examinations. I assisted other examiners in the
9 laboratory prep their cases and, also, conducted many
10 microscopic comparisons. At the conclusion of that training
11 program, I was given a multi-part comprehensive final exam
12 that included some mock case work. I successfully passed
13 that and was then able to begin case work on my own.

14 Q Very well. Now, Mr. Greer, have you been qualified as
15 an expert witness in court in South Carolina before?

16 A Yes, sir, I have.

17 Q Is it fair to say multiple times?

18 A Yes, sir, approximately 44 times.

19 Q And your field of expertise?

20 A Firearms identification.

21 Q And Mr. Greer, how long have you been with SLED?

22 A I've been employed at SLED in the firearms department
23 since March of 2014.

24 MR. CORBETT: Your Honor, at this time, we would offer
25 Mr. Greer as an expert in firearms identification.

1 MR. KENT: No objection whatsoever, Your Honor.

2 THE COURT: Ladies and gentlemen of the jury, again,
3 normally, a person cannot give opinion testimony. Normally,
4 when a person testifies, they must testify as to what they
5 have seen, heard, sensed by smell or something of that
6 nature, however, there is an exception. When someone is
7 qualified because of education or experience, they are
8 permitted to give their opinion in certain areas. If the
9 Court qualifies them in that way, this witness will be
10 qualified in the area of firearms identification to give
11 opinion testimony in that area. That does not mean you must
12 accept the opinion, but it is evidence for you to use in any
13 way you see fit and give the weight and credibility you
14 believe is appropriate.

15 Mr. Corbett.

16 MR. CORBETT: Thank you, Your Honor.

17 BY MR. CORBETT:

18 Q Mr. Greer, bear with me just one moment. Mr. Greer,
19 before we start with the specifics of this case, I want to
20 talk just a few moments and ask you some questions about
21 nomenclature and definitions and some of the things that
22 tend to confuse people about firearms, if I may?

23 A Yes, sir.

24 Q Some general questions. For example, I once handled a
25 case where one of the rounds involved was 22 long rifle and

1 the weapon introduced was a handgun. And I had a witness
2 who couldn't get past the fact that 22 long rifle came out
3 of a handgun.

4 A Yes, sir.

5 Q Does that make some sense of the confusion that we can
6 have with nomenclature?

7 A Yes, sir.

8 Q When we are talking about what a lot of people commonly
9 say, bullets?

10 A Uh-huh.

11 Q And they generally mean a complete cartridge, is that a
12 fair assessment of what's common parlance?

13 A Yes, sir.

14 Q Take a moment, if you would, please, and talk to us
15 about components so that we can understand from a technical
16 perspective what you guys are referring to.

17 A Sure. Terminology within the firearms field or
18 firearms community, the evidence we're actually examining is
19 very crucial and critical, so we're very direct with what we
20 call each of these pieces of evidence.

21 For example, as he was stating, a lot of times you may
22 refer to or hear people say I need more bullets, I'm out of
23 bullets to shoot in a firearm. We, actually, take that a
24 step further and we break that down. And we can go through
25 what I like to call the anatomy of a cartridge.

1 Technically, when you're saying bullet, if you mean a
2 single piece of ammunition that you're ready to fire, that
3 you're going to go buy on the shelf at a store, that's an
4 unfired cartridge or a cartridge. Now, to break that
5 cartridge down, if you'll think about it in your mind,
6 you'll have the cylindrical component, that's commonly brass
7 or nickel color, and that holds all the components of that
8 cartridge together. That cylindrical component that's
9 holding it together is the cartridge case.

10 On one end of that cartridge case is a small round disk
11 commonly that could be a brass or nickel color or other
12 metals, that's called a primer. And that's what the firing
13 pin in the firearm strikes in order to detonate that
14 cartridge.

15 On the other end of that cartridge and cartridge case
16 is a projectile or the actual bullet. That bullet is
17 commonly copper you may see. There's all different styles
18 or metal that they can be made of, but the bullet itself
19 when we're looking at it within the laboratory is just that
20 projectile on the end of that cartridge that travels down
21 the barrel of the firearm through that rifling and towards
22 its target.

23 Q Now, within your department, y'all use various
24 scientific techniques to compare cartridges, I'll use the
25 overall term here, initially; is that correct?

1 A Yes, sir. When we are looking at evidence, there's a
2 whole set of methods that we use to arrive at should we
3 compare this evidence or these cartridge cases to each other
4 or these bullets to each other.

5 Q Very well. So, for example, the projectile or the
6 bullet, you may look at it for the perspective of marks left
7 on it in a barrel?

8 A That's correct.

9 Q For purposes of the cartridge case, which I have -- and
10 even though I know they come in different metals, I
11 sometimes hear folks who are sports shooters refer to it as
12 brass?

13 A Yes, sir, you may hear that common term, like, some
14 spent brass. That would refer to, possibly, a fired
15 cartridge case, just that cylindrical component that
16 technically holds the cartridge together.

17 Q And contained within that is the propellant or what
18 some people might say gunpowder?

19 A Yes, sir.

20 Q Now, you, also, look at that particular piece of the
21 overall cartridge for identifying marks; is that correct?

22 A That is, also, correct. Within that cartridge case,
23 there are multiple areas that we can look at in order to
24 determine if those cartridge cases were fired by a
25 particular firearm. We're going to look at areas on the

1 breach face, which is along that primer area that we
2 discussed earlier, within those firing pin impressions where
3 the firing pin of the gun pushed against that primer to
4 detonate it. We're going to look at things called the
5 extractor and ejector marks, possibly. And that is what
6 pulls it out of the gun.

7 So if you have a cartridge that's loaded into a gun,
8 you'll think your extractor is gripping onto the side of
9 that cartridge case, pulling it out of the chamber of that
10 firearm. And then your ejector mark comes from the ejector
11 of the gun which is kicking it out of the gun.

12 Lastly, are chamber marks. We're going to look at all
13 of these tiny microscopic striations and impressions under
14 some high magnification using a comparison microscope. And
15 we do that the same with the bullets.

16 A comparison microscope is kind of work horse in the
17 field. We're going to look at it. If you think back to a
18 science lab you may have had where you were able to look at
19 two -- or an object through two ocular pieces, we can look
20 at two items at one time, adjust the lighting and angles and
21 look through the microscope at a high magnification to
22 identify these small markings.

23 Q Now, if I may, I'm going to throw out some terminology
24 that's used in common parlance and maybe ask you just to
25 help us with explanations a little bit because I don't want

1 to assume that everyone is familiar with firearms.

2 A Sure.

3 Q Through work and otherwise, I've heard terms such as
4 pistol, auto, semi-auto, revolver, handgun, et cetera. Can
5 you just kind of walk us through a little bit of that?

6 A Sure. Commonly, you'll hear people say handguns or
7 something like that. That's just a gun that you can hold in
8 your hand and fire. To break that down a little bit
9 further, commonly, you'll hear pistol or revolver.
10 Typically, those that you'll see are semi-automatic pistols
11 and that brings into the action of that gun.

12 So when we're talking about is semi-automatic pistol,
13 that simply means that it's a firearm. It's a pistol you
14 can hold in your hand and with one pull of the trigger, if
15 you have one cartridge loaded in there, you will fire one
16 cartridge. The pressures from shooting that cartridge will
17 cause that firearm to cycle on its own. If there's a
18 magazine loaded into that pistol with more ammunition, it
19 will pick one out of the magazine and load that next
20 cartridge into the chamber of the firearm to be fired again.

21 The caveat there is, you have to release the trigger
22 and pull the trigger again. A semi-automatic pistol in
23 basic term is for one pull of the trigger, you get one shot
24 fired.

25 Q That whole cycle action, though, happens very, very

1 quickly; is that correct?

2 A Yes, sir, it's very, very quickly, rapidly and under a
3 great deal of pressure. That does happen quickly. You can
4 really watch it sometimes, but, again, one pull of the
5 trigger, one shot fired and then you have to pull the
6 trigger again to shoot another cartridge.

7 Another type of firearm that you may be familiar with,
8 a lot of people like to say from the cowboy action days, is
9 the revolver. Again, that's typically a handgun. You hold
10 the revolver in your hand. But if you think about what it
11 looks like overall, generally, it's a firearm that has what
12 we call a cylinder in the middle. So you'll see a big
13 cylinder with multiple holes in it and those are the
14 chambers that hold different rounds and that cylinder just
15 rotates around as you pull the trigger of that revolver or
16 you cock the hammer.

17 So they operate differently and that's the difference
18 between your revolver and your semi-automatic pistols. And
19 that's kind of what you see commonly.

20 Q Now, for purposes of the revolver, it does not
21 automatically eject the empty cartridge case?

22 A That's correct. Typically, that cylinder is locked
23 into that revolver. Most commonly, you'd have to unlock
24 that cylinder. And you'll see, there's different ways to
25 unload them. Some may swing out, some may have a loading

1 gate that you have to kind of rotate yourself to unload it
2 manually. But unlike the semi-automatic pistol, those
3 revolvers typically are not just ejecting cartridge cases as
4 you fire them, you have to do that manually.

5 Q And you kind of started on my next question, explain to
6 us about what happens to empty cartridge casing with the
7 semi-automatic pistol.

8 A Typically, in a semi-automatic pistol that's
9 functioning properly, as we discussed that extraction
10 ejector, a crucial role in the semi-automatic firearm is to
11 pull that cartridge that's fired or cartridge in case you
12 did not fire it out of the chamber of that firearm and the
13 ejector will kick it out of the gun. So that way, it gets
14 out of the way of the next cartridge that would be loaded if
15 there's one available in the magazine.

16 Q Now, with regard to your analysis work at SLED, did you
17 have occasion to have submission of evidence from the Sumter
18 Police Department regarding their case number 19124404?

19 A Yes, sir, I did.

20 Q And then you assigned it your own SLED number; is that
21 correct?

22 A Yes, sir, I did.

23 Q Now, in this particular case, you have a fairly large
24 quantity of empty cartridge casings; is that correct?

25 A Yes, sir, there were a great number of fired cartridge

1 cases that were submitted.

2 Q Now, with regard to that, I'm going to show you what's
3 been marked for identification as State's No. 13 and ask if
4 you have seen this item before?

5 A Yes, sir.

6 Q Can you tell us what this item is?

7 A Based on my understanding of this item, it is a sketch
8 or diagram of the fired cartridge cases that were recovered
9 at the scene versus my SLED item number that it was given
10 upon its submission to the SLED laboratory and versus a
11 number that is associated with the property or markers from
12 the Sumter Police Department.

13 Q So this chart has both the Sumter Police Department
14 marker number as well as a SLED number that you assigned?

15 A Yes, sir, that's my understanding.

16 Q And across the bottom, we see some color-coded columns;
17 is that correct?

18 A Yes, sir, there are.

19 Q I'm going to come back to that in a few moments, if I
20 may.

21 A Uh-huh.

22 Q Now, from the items that were submitted to you at SLED,
23 were you able to examine them and make some findings
24 concerning those items whether they -- I know this is too
25 generic of a term, but whether they match each other or

1 consistent with each other, whether they could be
2 differentiated between firearms that may have fired them?
3 Can you tell us a little bit about that?

4 A Yes, sir, I was. I was able to look at this evidence
5 as it was submitted to the laboratory. When I received it
6 in my department and began documenting some of this
7 information, I was looking at as I was photographing and
8 taking notes on our departmental worksheets of those fired
9 cartridge cases and projectiles, in firearms of their class
10 characteristics and looking closely at those characteristics
11 in order to determine what I should compare to each other.
12 And I was able to determine if there were any matches or
13 anything what I could say was fired by a specific firearm or
14 a firearm that we may or may not have.

15 Q Now, let me ask off that statement there about firearms
16 that you may or may not have?

17 A Yes, sir.

18 Q So is it fair to say that in your cases, you don't
19 always get a firearm?

20 A That's common. We receive evidence in all states of
21 wear and evidence that's just in the beginning stages of an
22 investigation, so sometimes we get cases that have multiple
23 cartridge cases, bullets and plenty of firearms. Sometimes
24 we just have cases with bullets. Sometimes it's just a
25 firearm or a cartridge case. So we get cases with all

1 different types of evidence.

2 Q So it wouldn't be uncommon for you to have empty
3 cartridge casings recovered at a scene, but not necessarily
4 have a gun to compare it to?

5 A No, sir, that would not be uncommon.

6 Q Did you complete a report concerning your analysis?

7 A Yes, sir, I did.

8 Q Okay. Now, if you would, please, and if you need to
9 step down to get a view of this chart, we've attempted to
10 correlate some of your information, but I want you to be
11 able to verify it. For example, there's a item, I believe
12 it's item five, SLED item number five?

13 A Yes, sir.

14 Q Can you tell me what that is?

15 A Sure. SLED item five, as it was logged into the
16 laboratory was determined to be one Taurus Model 709 slim,
17 semi-automatic pistol and nine millimeter Luger caliber with
18 a serial number of TJZ20201, and that was, also, submitted
19 with a magazine?

20 Q Bear with me one moment, please. I'm going to show you
21 what's been entered into evidence as State's Exhibit 18 and
22 ask how that compares to your notes there?

23 A Yes, sir. State's Exhibit 18, I was just looking to
24 verify the serial number here on the slide of the pistol is
25 the same that I have documented in my notes. This appears

1 to be a picture of my SLED item five, which is represented
2 here in State's Exhibit 18.

3 Q Thank you very much. Now, using the techniques that
4 you have previously described to us, were you able to draw
5 any conclusions or form any opinions about items that
6 matched your item number five?

7 A Yes, sir, I was.

8 Q And what were you able to determine?

9 A I was able to determine that based on those
10 examinations and comparisons that SLED item 74, 75 and 84
11 through 88 were all fired by the item five pistol.

12 Q And Agent Greer, if I may, I'm going to -- my chart
13 numbers may not flow exactly with yours because of the way
14 that I color coded, but if there's any discrepancy, please,
15 let me know. Within groups of empty cartridge cases, are
16 you able to ascertain if they were fired by the same gun?

17 A As far as the cartridge cases -- additional cartridge
18 cases here?

19 Q Yes, sir.

20 A Yes, sir.

21 Q Okay.

22 A Yes, sir, I was able to do that.

23 Q Tell us a little bit about that process, if you would.
24 If the chart is any assistance, fine, if not --

25 A Okay. Would you like me to come to the chart?

1 Q If that would help, yes.

2 A Sure.

3 THE COURT: Please remember to keep your voice up.

4 THE WITNESS: Yes, sir.

5 You want me to just start going through?

6 BY MR. CORBETT:

7 Q Yes, sir. If you would just tell us about your
8 comparison of the empty cartridge cases?

9 A Sure. So in this case, there were several cartridge
10 cases, I think approximately 60 or so fired cartridge cases
11 that I received to examine. Based on these color codings
12 down here at the bottom of this chart, I could go through
13 and discuss those fired cartridge cases. Some of these
14 cartridge cases, we may or may not have had a firearm to
15 necessarily compare based on those characteristics that we
16 discussed earlier. Those class characteristics were just
17 incorrect or they're different calibers and we didn't have a
18 firearm of that caliber to compare to. It may have been
19 something just as simple as that.

20 But we just discussed, I believe it's right here, which
21 is my SLED item five, which is that Taurus pistol. I
22 believe that is in a red color. But those items, 74, 75 and
23 84 through 88, which I determined to have been fired by item
24 five pistol.

25 Additionally, we looked at other nine millimeter Luger

1 caliber cartridge cases and those were SLED item 72, 93
2 through 95, 97 and 99 through 105, which is exhibited here
3 in this blue. And that identifies as being fired by a
4 second firearm, which is described as being firearm A.

5 Q Now, why did you designate it as firearm A?

6 A This was designated as firearm A just for the ease of
7 recording. And based on my examinations and comparisons, I
8 did not have a firearm submitted to the laboratory that I
9 was able to identify it as having been fired, so I did not
10 have a firearm to compare it to. So for ease of reporting
11 and without submission of that firearm, it was then
12 designated as firearm A.

13 Moving on, I continued to look at other nine millimeter
14 Luger caliber cartridge cases and those are represented
15 here, I believe, in orange. And that was SLED items 89
16 through 92, 96, 98, 107 and 138. And identified those as
17 being fired by a third firearm and that is identified as
18 firearm D.

19 I then looked at some 40 caliber, 40 Smith & Wesson
20 caliber cartridge cases. Those were SLED items 109, 112
21 through 115. And those were identified as being fired by a
22 fourth firearm, which I identified as firearm C. And you
23 see that here in the green.

24 Next, 40 Smith & Wesson caliber cartridge cases, SLED
25 items 110, 111 and 116 that I identified as being fired by a

1 fifth firearm, and I called that firearm D and that's here
2 in the purple color, I believe.

3 The next group of cartridge cases were nine millimeter
4 Luger caliber and I identified SLED items 76 through 83 as
5 having been fired by a sixth firearm and I called that
6 firearm E. That's here in the light blue color.

7 Next, was SLED item 125, and that was a 7.62 x 39
8 millimeter caliber cartridge case. That was identified as
9 having been fired by a seventh firearm and that was
10 identified as firearm F. And it's right in this green
11 color.

12 The next cartridge case that I examined was a 10
13 millimeter auto caliber cartridge case that was SLED item
14 139, and that's here in the black in color. And that was
15 identified as being from an eighth firearm and I called that
16 firearm G.

17 And I believe, lastly, here on this chart are some
18 additional nine millimeter Luger caliber cartridge cases,
19 SLED items 128 through 132. And I identified those as being
20 fired by the same firearm. I did not have a -- that's
21 firearm H.

22 Additionally, I compared those cartridge cases with
23 some of our Taurus pistols that were submitted and those
24 results were inconclusive. I was able to say that these
25 five cartridge cases exhibited here in items 128 to 132 were

1 fired by the same firearm. They were inconclusive with one
2 of the firearms that was submitted to the laboratory. And
3 that's firearm H.

4 Q So when you reference firearm A, et cetera, that's
5 because -- for example, the blue ones were specific to a
6 gun, but you didn't have that gun?

7 A That's correct. I can say that each of these colors
8 and columns where, these cartridge cases were all fired by
9 one gun. I do not have that firearm. These were fired by
10 one gun, did not and so on across the chart.

11 (Witness returns to the witness stand.)

12 BY MR. CORBETT:

13 Q Mr. Greer, I'm going to circle back around for just a
14 moment.

15 A Yes, sir.

16 Q And I apologize for the tediousness of this, but I know
17 not everyone is familiar with firearms. You used the term
18 there caliber?

19 A Yes, sir.

20 Q So, for example, you told us about nine millimeters,
21 but you, also, told us about 40 caliber?

22 A Yes, sir.

23 Q So can you kind of help us understand hey, why is this
24 called nine millimeter, but this is called 40 caliber, but
25 then here's something else that's called ten millimeter?

1 Can you just help us out a little bit with that?

2 A Sure. So caliber is just a name or designation given
3 to that cartridge. Each of those calibers may have
4 different measurements. And when we're looking at those
5 measurements, that could be a different diameter of the
6 bullet. Again, that's what's travels down the barrel. They
7 may have different weights of those projectiles and those
8 bullets. So caliber is just a name given to those different
9 designations. Sometimes calibers are very close in
10 measurements and sometimes they're very drastic.

11 For instance, nine millimeter Luger is something that's
12 very common that you may be familiar with, such as 40 Smith
13 & Wesson. Those are cartridges that you see commonly fired
14 in pistols. However, the size of those cartridges, the
15 overall size and measurement and weight are drastically
16 different.

17 Q And that would, also, true of, say, a ten millimeter
18 may be similar in diameter to a 40 caliber, but still have
19 different characteristics?

20 A Yes, sir. In breaking it down on that level, when
21 you're talking about a 50 Smith & Wesson or a ten millimeter
22 auto, those do share very similar weights and diameters of
23 those bullets, however, the overall cartridge dimensions of
24 each of those caliber designations vary. So bullets are
25 very similar, but when you look at the entire cartridge as a

1 whole, they're different.

2 Q Now, also, is it fair to say that if we pick up an
3 empty cartridge case off the ground that very often there's
4 identifying marks on its, what I will call head stamp?

5 A Yes, sir. So there's information in that head stamp
6 area. So if you're picking up a cartridge or a cartridge
7 case and you see some stamped letters around the very
8 perimeter edge and circumference of that cartridge, that's
9 just information that gives you an insight as to the
10 caliber.

11 So as we discussed, you may see that nine millimeter
12 Luger or 40 Smith & Wesson stamped into the top and you may
13 even see some indication of the manufacturer, so you may see
14 words from whoever made that, so Federal, Remington, those
15 are big names that you may have heard before.

16 So that information in the head stamp just gives you
17 information as the caliber of that cartridge case and who
18 made it.

19 Q Now, Agent Greer, I'm, also, going to ask you if you
20 would, please, refer to what's been entered into evidence as
21 State's Exhibit No. 20 and 21. And the notations indicate a
22 bullet from the autopsy of Michael Rodgers. Do you have any
23 information concerning that item?

24 A Yes, sir, I do. These pictures, and you can see in
25 this photo here, which is State's Exhibit 21, you can see my

1 SLED lab number and initials. And this is representing my
2 SLED item number 127. And based on its submission to the
3 SLED laboratory, on our paperwork, it was from autopsy of
4 Michael Rodgers.

5 Based on my examination of that item, I was able to
6 determine that it was most consistent with bullets loaded
7 into some nine millimeter Luger caliber cartridges.

8 Q So the best evidence you have available to you is that
9 bullet that struck Mr. Rodgers was a nine millimeter?

10 A Yes, sir, based on its observable physical
11 characteristics and those measurements that I was able to
12 glean from it, its diameter and its weight, it's most
13 consistent with being a nine millimeter Luger.

14 Q Now, from that perspective, there's not really a way to
15 match a bullet to a cartridge case, is there?

16 A No, sir. We do not have any policy that matches the
17 bullet back to its specific cartridge case.

18 Q Now, was SLED able to retrieve a gun that it could
19 conclusively match to that bullet from Mr. Rodgers?

20 A I did compare this SLED item 127 bullet from the
21 autopsy to other nine millimeter Luger caliber bullets and
22 other bullets in this case, as well as test fired bullets
23 from pistols that were submitted and I was unable to
24 determine if it was fired by any of the pistols that were
25 submitted to the laboratory or if it could be identified as

1 having been fired from the same firearm as other
2 projectiles.

3 Q One moment, please.

4 A Yes, sir.

5 (Pause.)

6 MR. CORBETT: Your Honor, at this time, we offer
7 State's Exhibit No. 13 into evidence.

8 MR. KENT: No objection based on the Agent's testimony.

9 THE COURT: All right. State's 13 is admitted without
10 objection.

11 (WHEREUPON, State's Exhibit No. 13 was admitted into
12 evidence.)

13 BY MR. CORBETT:

14 Q Now, Agent Greer, I apologize if this is incredibly
15 obvious, but you do not work for the Sumter Police
16 Department itself?

17 A No, sir, I do not.

18 Q Do you do crime scene work?

19 A No, sir, I do not.

20 Q Did you visit this crime scene?

21 A No, sir, I've never been to that crime scene.

22 Q And that's normal, correct?

23 A Yes, sir. Typically -- SLED is an assisting agency and
24 within the laboratory, our evidence is submitted to the
25 laboratory by agencies across the state, so your local

1 police departments, sheriff's office and federal agencies.
2 We, also, have an in-house crime scene. Typically, it's
3 uncommon for an examiner to visit a crime scene and collect
4 anything.

5 MR. CORBETT: Agent Greer, please, answer any questions
6 Mr. Kent has.

7 THE WITNESS: Yes, sir, thank you.

8 THE COURT: Mr. Kent.

9 CROSS-EXAMINATION

10 BY MR. KENT:

11 Q Agent Greer, how are you?

12 A Good, how are you?

13 Q I don't believe we've ever met?

14 A No, sir, I don't believe so.

15 Q I've seen you on TV at the Murdaugh trial.

16 A I'm involved in some trials across the state, yes, sir.

17 Q And the black suit may throw you off, but I don't know
18 a lot about guns, so you're going to have to give me a
19 lesson as we talk, okay?

20 A Yes, sir.

21 Q The solicitor did a pretty good job of making sure we
22 understood and explained everything, but I'm going to -- so
23 if I repeat myself, I apologize.

24 A Yes, sir.

25 Q Y'all were given a lot of guns to compare; is that fair

1 -- and I don't want to say a lot, but --

2 A I believe I only received three firearms in this case
3 to compare.

4 Q And of the three firearms that we were given to
5 compare, the only one that we were able to match, I don't
6 want to say the wrong thing, match to bullets, projectiles,
7 whatever we found was item number five; is that correct?

8 A Yes, sir. As far as the fired cartridge cases go,
9 those first list there on the chart --

10 Q This one right here?

11 A Yes, sir. Those were the ones we were able to
12 determine had been fired by one of the pistols that was
13 submitted, and that was SLED item five, the Taurus 709.

14 Q Is that this picture they were talking about?

15 A Yes, sir, that appears to be the same pistol that I
16 examined, yes, sir. It has the same serial number on the
17 slide.

18 Q So that's one, two, three, four, five, six, seven, item
19 number five, we were able to show fired seven projectiles
20 that night?

21 A Yes, sir.

22 Q And how many bullets does item number five, or
23 projectiles, how many does it hold?

24 A I'll refer to my notes here. During my testing of item
25 five that was submitted with a magazine, I was able to put

1 seven rounds or cartridges into that magazine. So if you
2 had an additional cartridge in the chamber, it would hold a
3 total of eight.

4 Q Total of eight, so there's one missing?

5 A Yes, sir, it's possible.

6 Q So item five -- out of three guns, item five is the
7 only one we were able to show that actually fired
8 projectiles September of 2019?

9 A Yes, sir. Based on my comparisons, some of the other
10 firearms were inconclusive, meaning, I don't know. There
11 was not enough evidence there. Based on damage to the
12 specimens, I was unable to determine if they were fired by
13 those guns. But item five, I was able to say fired those
14 cartridge cases.

15 Q And then we have one, two, three, four, five, six,
16 seven, eight, at a minimum, we know that eight other
17 firearms were firing that night -- or fired projectiles that
18 were sent to SLED to look into. And I think you called them
19 A, B, C, D or something like that?

20 A Yes, sir. I was able to distinguish for certain on
21 those firearms that we discussed there, those eight
22 different firearms. Additionally, there were some other
23 cartridge cases that were examined that were inconclusive,
24 so the possibility that more firearms were present exist,
25 but, again, those results are inconclusive.

1 Q And all y'all can testify to about is what you can --
2 what you can testify to to a reasonable degree of scientific
3 certainty, you can say at a minimum, we know eight other
4 firearms, but there could have been more?

5 A Based on my examinations and comparisons, I was able to
6 determine that there were, again, several cartridge cases
7 that matched -- or were fired by item five. And then,
8 additionally, those designated as A through H were
9 additional firearms that I could definitely say based on my
10 training, experience and examinations and comparisons fired
11 those cartridge case.

12 Q And when we say -- and they grouped them pretty nicely,
13 what we are able to say, again, if I say this ignorantly,
14 correct me, please. A were fired by the same firearm, we
15 just don't have the firearm?

16 A Yes, sir. Based on the information on how it was
17 divided out and presented by second firearm and third
18 firearm, that implies that I do not have a firearm that met
19 those characteristics that I was able to compare or even
20 would compare. So those were fired by a firearm that was
21 not submitted to the laboratory.

22 Q B, same question, fired by a firearm, we don't have the
23 firearm?

24 A Yes, sir, that is correct.

25 Q C, fired by a firearm, we don't have the firearm?

1 A That's correct.

2 Q D, fired by a firearm, we don't have the firearm?

3 A That's correct.

4 Q E, fired by a firearm, we don't have the firearm?

5 A That's correct.

6 Q F, fired by a firearm, we don't have the firearm?

7 A That's correct.

8 Q G, fired by a firearm, we don't have the firearm?

9 A Correct.

10 Q And H, fired by a firearm, we don't have the firearm?

11 A H was the only exception.

12 Q Go ahead.

13 A H was the exception. I was able to say that items 128
14 through 132 were all fired by the same firearm, but based on
15 my comparisons with -- those items with test bullets fired
16 from the item 69, the pistol that was submitted to the
17 laboratory, the results of those comparisons were
18 inconclusive. So I was unable to determine if that group
19 identified as H were fired by that pistol or if they had
20 been fired by another gun with similar characteristics.

21 Q And now, I want to talk about the projectile that they
22 asked you about, the last one, this projectile?

23 A Yes, sir.

24 Q What was the item number, item 127, is that the number?

25 A Yes, sir, it was identified upon the submission process

1 as SLED item 127.

2 Q Does that fit one of these categories?

3 A Based on my microscopic comparisons, if I can flip to
4 the right page here, SLED item 127, which was the autopsy
5 bullet from my submission documents from Mr. Rodgers, the
6 results of those comparisons were inconclusive with other
7 projectiles that shared the similar characteristics and,
8 also, with test bullets fired from the item five pistol,
9 that's the pistol that we discussed, and, also, from test
10 bullets fired by the item 69 pistol that was submitted.

11 So I was unable to determine if item 127 was fired by
12 item five, by item 69 or if it was fired by another firearm
13 that we may not have had.

14 Q So it wouldn't fit in any of these categories?

15 A No, sir, I was unable to determine. The results are
16 simply inconclusive due to the damage that it sustained or
17 limited marks of value that it exhibited.

18 Q They asked questions about revolvers and said old
19 Western, I know that much, where those things roll around
20 and the shell casings stay inside the firearms when we fire
21 those, correct?

22 A Yes, sir, revolver has the cylinder with the chamber.
23 Typically, it holds onto those cartridge cases or cartridges
24 and they have to be manually removed.

25 Q And is there a possibility that there could be

1 revolvers fired out there and we wouldn't have the shell
2 casings for SLED to examine?

3 A Yeah, that's possible. There's all kind of different
4 hypotheticals that could exist from a crime scene. There
5 are some bullets that were recovered that may align with
6 more of a typical revolver caliber, so it's possible. I'm
7 unable to determine, you know, based on the information that
8 I received if there was for certain a revolver. There's so
9 many different scenarios or variables in that.

10 Q And Agent, I believe you said in the last couple of
11 questions the solicitor asked you that SLED is an assisting
12 agency?

13 A Yes, sir, that's correct.

14 Q And SLED just, basically -- and this isn't meant to be
15 insulting, garbage in, garbage out, you just get the
16 information they give you and you process it and give it
17 back?

18 A Typically, the way it works in the laboratory, the
19 evidence is submitted. Commonly, within my department, I do
20 not know any information about the case or what's going on
21 with it, where it even happened, where the evidence is
22 collected other than just the little snippet that we
23 sometimes receive on the packaging or the submission
24 paperwork. We are not actively, normally actively involved
25 in the actual investigation. We do get evidence out, we

1 examine it and then it is sent back to the submitting
2 agency.

3 Q So we cannot make a statement or an opinion or anything
4 that happened on the day in question? All we can do is
5 process the information that the State agency gives us and
6 then prepare a report that you just read?

7 A Yes, sir. We only issue a report based on the evidence
8 that we receive and examine.

9 Q And the evidence, one more time, that we have is a
10 Taurus gun, item number five, and we know item number five
11 fired seven times and we have those shell casings sent to us
12 by the Sumter Police Department?

13 A Yes, sir.

14 Q And we have projectiles on A, B, C, D, E, F, we just
15 can't identify those?

16 A That's correct. We have cartridge cases that were
17 fired by those letters that I deemed to each group. I do
18 not know anything other than that chart there that I've seen
19 with respect to what happened where.

20 Q And, finally, item 127, which is projectile from
21 autopsy, we can't put that in any of our categories because
22 it's inconclusive?

23 A Yes, sir. It was most consistent based on its
24 measurements with being a nine millimeter Luger, but based
25 on those microscopic comparisons with other projectiles and

1 test bullets fired by item five and 69, it cannot be
2 determined whether it was fired by item five, 69 or by
3 another firearm that we may not have with similar
4 characteristics.

5 MR. KENT: Agent, thank you so much. Thank you for
6 your time.

7 THE WITNESS: Yes, sir. Thank you.

8 REDIRECT EXAMINATION

9 BY MR. CORBETT:

10 Q Very briefly, if I may.

11 A Yes, sir.

12 Q The fact that, based on your testimony, it's a nine
13 millimeter, we could, at least, eliminate it from some of
14 these, could we not?

15 A Yes, sir, I suppose you could do that based on
16 differences in caliber. Again, we don't have a way to say a
17 specific bullet came from a specific cartridge case without
18 actually having the firearm. But based on its
19 characteristics, I did determine it was most consistent with
20 nine millimeter Luger, so I would not expect it to have come
21 from the firearm that shot or fired those ten millimeter
22 auto caliber or something along those lines.

23 Q Now, when a projectile or bullet strikes an object or a
24 person, it can affect that bullet; is that correct?

25 A Yes, sir, it can.

1 Q Now, hypothetically speaking, with regard to the bullet
2 referenced in State's No. 20 and 21, if other weapons had
3 been recovered, could they have been tested against that
4 bullet?

5 A Yes, sir. If we would have received a firearm arm and
6 it was submitted to the laboratory, if it exhibited those
7 same class characteristics this projectile did, and that
8 would have included its caliber and down to its rifling. We
9 talked a little bit about rifling in the lands and grooves.
10 So if the firearm would have had the same characteristics,
11 caliber, the type of rifling and the direction of twist and
12 the number of lands and grooves, we would have
13 microscopically compared that further to see if it would
14 have been possibly identified as being fired by that gun.

15 Q If you had the gun?

16 A Yes, sir, if we had the gun.

17 Q And, again, I'm sorry to belabor it, but just so
18 everybody is on the same page, when a bullet leaves the
19 guns, it actually picks up some marks from the barrel; is
20 that correct?

21 A Yes, sir, that's correct. The firing down the inside
22 of that barrel is what's called rifling. And that's just a
23 series of lands and grooves within that barrel, if you've
24 ever looked down the barrel of a firearm. And that's what
25 gives it that spin and that rotary motion so it has some

1 velocity to travel toward its target. And in the process of
2 that bullet traveling down that barrel, as a result of the
3 manufacturing process of that barrel, it has the potential
4 to leave microscopic identifiable markings.

5 Q So, hypothetically speaking, had another firearm been
6 recovered, found, turned in, whatever the case may be, it
7 could have possibly been matched to that bullet?

8 A Yes, sir, as long as it had those same or similar
9 characteristics, we would have compared that and it could
10 have possibly been identified.

11 Q And along the same lines, that bullet there in State's
12 Exhibit 20 and 21, does it possess information that could be
13 used for purposes of matching?

14 A As far as the rifling or --

15 Q As its condition?

16 A Yes, sir. We did compare that. If it was what we
17 refer to as unsuitable, that is one of the conclusions we
18 can render. But there were markings on that bullet that we
19 were able to use in order to compare to other fired bullets
20 in those test bullets. So the possibility that there's
21 identifiable markings that we could use to look at or
22 compare to another firearm exist.

23 MR. CORBETT: Mr. Greer, thank you.

24 THE WITNESS: Yes, sir.

25 MR. KENT: No further questions, Your Honor.

1 THE COURT: All right, Agent, you can step down. Thank
2 you very much.

3 THE WITNESS: Thank you.

4 MR. CORBETT: Your Honor, we'd ask that the Agent be
5 excused?

6 MR. KENT: No objection.

7 THE COURT: All right. The Agent is excused.

8 Ladies and gentlemen of the jury, it's probably a good
9 time for us to take our afternoon recess, so I'm going to
10 send you to your jury room at this time. We will be back at
11 3:50.

12 You're going to be able to repeat this before the trial
13 is over, don't begin your deliberations, don't discuss the
14 case amongst yourselves or with anybody else, don't do any
15 research about any issue that's been raised in this case.
16 We will get you back out as close to 3:50 as we can. Thank
17 you.

18 (WHEREUPON, the jury exits the courtroom at 3:36 p.m.)

19 THE COURT: We'll be in recess for about 15 minutes.

20 (WHEREUPON, a short break was taken.)

21 THE COURT: Are we ready for the jury?

22 MR. CORBETT: The State's ready for the jury, Your
23 Honor.

24 MR. KENT: Ready on behalf of Mr. Epps, Your Honor.

25 THE COURT: All right.

1 (WHEREUPON, the jury enters the courtroom at 3:55 p.m.)

2 THE COURT: Mr. Corbett.

3 MR. CORBETT: Thank you, Your Honor. May it please the
4 Court. The State would call Irene Culick.

5 THE CLERK: Place your left hand on the Bible, raise
6 your right hand, state your name, please.

7 THE WITNESS: Irene Culick.

8 IRENE CULICK,

9 after being duly sworn, testified as follows:

10 THE CLERK: Thank you. You may sit down. State your
11 name for the record and spell your last name, please.

12 THE WITNESS: It's Irene Culick, C-U-L-I-C-K.

13 DIRECT EXAMINATION

14 BY MR. CORBETT:

15 Q Ms. Culick, good afternoon.

16 A Good afternoon.

17 Q Ms. Culick, I will say that from force of habit, I
18 typically refer to you as Detective Culick and this is
19 normally the part where I would ask you where do you work,
20 but tell us about your past employment.

21 A I worked for the Sumter Police Department for over 25
22 years. I retired this summer on July 25th from the State
23 with 32 years total.

24 Q And when you were with the Sumter Police Department --
25 let me ask you specifically, were you with the Sumter Police

1 Department in September of 2019?

2 A Yes, I was. I was assigned to the investigative
3 division, where I've been since June of 2002.

4 Q So you've been in investigative services since 2002 up
5 through 2019 and beyond?

6 A Yes, up until this summer.

7 Q Now, Detective -- if I keep referring to you as
8 Detective Culick, I apologize in advance.

9 A That's fine.

10 Q I'm not sure how seriously you take your retirement, I
11 don't want to put that job back on you.

12 A No, that's fine.

13 Q But if I may use Detective Culick because of the
14 context of this particular case. Detective Culick, back in
15 September of 2019, were you familiar with what I have been
16 referring to as the shooting at the Hop-In or Sunoco?

17 A Yes, I am.

18 Q And you worked the investigative services division at
19 the time?

20 A Yes, I was a staff sergeant at that time.

21 Q And did you have occasion to participate in some parts
22 of that investigation?

23 A Yes. I was called the night that the shooting incident
24 happened. I came out that night and assisted Detective
25 McFadden throughout the course of the investigation with

1 different interviews and things like that.

2 Q But you were not the detective assigned to the case?

3 A No, I was not, that's Detective McFadden.

4 Q Now, in connection with being in investigative services
5 division and assisting Detective McFadden, did you have
6 occasion to make contact with Diontrae Epps, the Defendant
7 in this case, regarding this?

8 A Yes, I did.

9 Q Can you tell us who was with you?

10 A My first contact with Mr. Epps was on Sunday, September
11 the 15th, 2019. Myself and Detective McFadden met with Mr.
12 Epps at his mother's residence.

13 Q So bear with me here just a moment. You indicated his
14 mother's residence?

15 A Yes.

16 Q And do you have available to you that location?

17 A I do.

18 Q Actually, if you will, and I know you have some copies,
19 but I'm going to show you what's been marked for
20 identification as State's Nos. 2, 3 and 4. And if you
21 would, please, I believe State's No. 4 references the Sunday
22 --

23 A Yes, sir, it does.

24 Q -- of this meeting?

25 A Yes.

1 Q So if I may, at this moment, I will refer to State's
2 No. 4 if I could?

3 A Okay.

4 Q The date that you and Deputy McFadden met with Diontrae
5 Epps?

6 A Yes. It was September the 15th, 2019, at [REDACTED]
7 [REDACTED] here in Sumter, South Carolina.

8 Q And I believe you've already alluded to this, but that
9 [REDACTED] address is whose address?

10 A Mr. Epps' mother's address and I believe he stayed
11 there, also, sometimes.

12 Q And could you tell us a little bit about your arrival
13 at that location, who was present?

14 A Yes. Mr. Epps was shot during the incident that
15 occurred at the Sunoco Hop-In on September the 8th and was
16 in the hospital in Columbia and had recently gotten out of
17 the hospital. So myself and Detective McFadden wanted to
18 meet and talk with him, so we arranged to meet over at his
19 mother's house at the [REDACTED]. And when
20 Detective McFadden and myself arrived at the house, we
21 waited there for Mr. Epps to get there. When he arrived, he
22 was with his girlfriend. His mother was there. And we all
23 entered the house together.

24 Q Okay. And was there some kind of visiting before any
25 type of interview process? Just a little bit about how that

1 happened.

2 A Yes, we spoke. We introduced ourselves. They
3 introduced themselves to us. We talked a little bit about
4 his condition, how he was feeling, things like that. His
5 mother offered us, I believe it was her bedroom for us to
6 sit and talk with him.

7 Q So tell me who went to the bedroom to talk?

8 A That was myself, Detective McFadden and Diontrae Epps.

9 Q Now, when y'all met with Mr. Epps that day, was there
10 anything about his appearance, his speech, his coordination,
11 anything that suggested to you that he was under the
12 influence of anything?

13 A No, there wasn't. Of course, Mr. Epps has just gotten
14 out of the hospital. He was in the hospital approximately a
15 week, so he was walking slower than usual due to that.
16 Other than that, no. He was responsive. He responded to
17 our questions. He wasn't lethargic. He didn't slur. He
18 understood. He gave appropriate responses immediately to
19 questions asked.

20 Q Was there anything about his condition that would lead
21 you to believe that he had any type of physical impairment
22 or mental disability that would keep him from understanding
23 your interview?

24 A No, there wasn't.

25 Q Now, oftentimes, these types of interviews are done at

1 a police department, correct?

2 A That's correct.

3 Q But this particular interview was done, as you said, at
4 his mother's home?

5 A Yes.

6 Q Could you tell me the approximate length of time of the
7 interview?

8 A Probably around half an hour.

9 Q About 30 minutes?

10 A Yes.

11 Q Was there any occasions during the interview where you
12 or Detective McFadden told him he couldn't take a break,
13 couldn't go to the bathroom, couldn't have water, anything
14 of that nature?

15 A No, sir.

16 Q Now, when you and Detective McFadden approached Mr.
17 Epps, was there any type of assurance, guarantee or promise
18 made to him about any legal matters before asking him to
19 make a statement?

20 A No, there was not.

21 Q Prior to speaking with Diontrae Epps, was there any
22 type of threats or coercion or anything of that nature used
23 in order to get him to talk to you?

24 A No, there was not.

25 Q Now, Detective Culick, if I may, I'm going to refer you

1 to what's previously been marked as State's Exhibit No. 3.

2 A Okay.

3 Q And, ma'am, if you would, please, tell us what that is.

4 A This is a Sumter Police Department interview form. So
5 it's, basically, your rights, your Miranda rights and it's
6 what we use when we want to interview somebody and talk to
7 them about an incident that's occurred.

8 Q Is it fair to say that that is, for lack of a better
9 term, a standard form that the Sumter Police Department
10 uses?

11 A Yes, it is. It's one we use for adults.

12 Q If they're being interviewed by the police?

13 A That's correct.

14 Q If you would, please, take a moment and read to us that
15 form.

16 A Okay. It states, Sumter Police Department interview
17 form. Before we ask you any questions, you must understand
18 your rights. You have the right to remain silent. Anything
19 you say can be used against you in court. You have the
20 right to talk to a lawyer for advice before we ask you any
21 questions and to have him or her with you during the
22 questioning. If you cannot afford a lawyer, one will be
23 appointed for you before any questioning if you wish. If
24 you decide to answer any questions now without a lawyer
25 present, you will still have the right to stop answering at

1 any time until you talk with a lawyer.

2 And then it states, Waiver of Rights. Before any
3 questioning, I was furnished the above statements of my
4 rights at 3:56 p.m. on September 15th, 2019 at [REDACTED]
5 [REDACTED] by Officer Staff Sergeant Culick of the Sumter
6 Police Department.

7 Then it goes further to say, I have read or read to me
8 this statement of my rights. I understand what my rights
9 are. I am willing to answer questions at this time without
10 a lawyer present. No promises or threats have been made to
11 me and no pressure has been used against me. Then it has a
12 place for you to sign, and Diontrae Epps did sign the form
13 on the line agreeing to this. And the date was 9/15/19 that
14 he wrote and the time was 3:57 p.m. And this was witnessed
15 by Detective Willie McFadden and myself, Irene Culick.

16 Q Now, Diontrae Epps, did he read or have read to him
17 that form?

18 A Yes, I read the form just like I read it in here today
19 for him.

20 MR. CORBETT: Your Honor, we would offer State's No. 3
21 into evidence.

22 MR. KENT: No objection.

23 THE COURT: State's 3 is admitted without objection.

24 (WHEREUPON, State's Exhibit No. 3 was admitted into
25 evidence.)

1 BY MR. CORBETT:

2 Q With regard to that form, did Diontrae Epps appear to
3 have any difficulty understanding that form?

4 A He did not.

5 Q And did he indicate to you and Detective McFadden at
6 that time that he was willing to talk with you about the
7 Hop-In matter?

8 A Yes, he did.

9 Q Was he aware that that is why you were there, the
10 Hop-In shooting?

11 A Yes.

12 Q Now, on the 15th when you were there -- and you
13 indicated this interview lasted about 30 minutes?

14 A Yes.

15 Q Did at any point in time Diontrae Epps ask to stop the
16 interview or request an attorney at that time?

17 A He did not.

18 Q Now, with regard to the interview that was done with
19 Diontrae Epps, tell me how that was memorialized, please.

20 A Well, when we were there talking with Mr. Epps in the
21 room, we just asked him questions and I just wrote some
22 notes down as we were talking, questions, responses, things
23 like that. And then when we got back to the station after
24 the interview, I typed up the interview notes from that day
25 and forwarded them to Detective McFadden for his case file.

1 Q And is that what we see reflected in what has been
2 marked for identification State's Exhibit No. 4?

3 A Yes, these are the notes that I typed up from the
4 interview that day.

5 Q If you would, please, tell us what your notes reflect
6 from that interview.

7 MR. KENT: Your Honor, objection. She can refresh her
8 memory, but she can't read from notes. It's not a
9 statement, those are notes. If it's necessary to refresh
10 her memory, that's one thing, but just to have her just
11 read, no, sir.

12 THE COURT: Y'all approach.

13 (WHEREUPON, a bench conference was held in the presence
14 of the jury, but outside the hearing of the jury.)

15 THE COURT: Ladies and gentlemen of the jury, a matter
16 has arisen that requires me to send you to your jury room
17 for a few moments while we take up a matter of law outside
18 your presence. So I'm going to send you there now. Please
19 do not begin deliberations, do not discuss the case amongst
20 yourselves or with anybody else. Don't do any research
21 about any issue which has been raised. Thank you.

22 (WHEREUPON, the jury exits the courtroom at 4:11 p.m.)

23 THE COURT: Mr. Kent, put the substance of your
24 objection on the record.

25 MR. KENT: Thank you, Your Honor. May it please the

1 Court.

2 And this is just the uniqueness on how this was
3 created. These are actually notes. And what I mean by that
4 is I directly asked the detective a question yesterday, this
5 is not an actual statement under the true traditional sense
6 of the word meaning that he did not write it down and it was
7 signed. The officer did not make a copy of it and have him
8 sign it. This is an officer's reflection of the notes of
9 the interview with Mr. Epps.

10 So procedurally, my request was that it be done in
11 accordance with the rules, meaning -- and this is what I
12 thought we were going to do. Meaning, Mr. Corbett or
13 Attorney Corbett would ask her do you remember the interview
14 with Mr. Epps? Yes. Can you tell me generically what he
15 said? Yes. I remember this, this, this and this. And then
16 she says, I don't remember that specifically. Then I would
17 assume he would offer her notes. Do the notes help refresh
18 your memory as to what was specifically said, if she needs
19 them.

20 But just simply to say please read your notes into the
21 record I think would be improper. It would be one thing if
22 it said statement, but at the top -- I think you wanted to
23 see it.

24 THE COURT: I need to look at the exhibit.

25 MR. KENT: Is it this one?

1 THE WITNESS: This is mine. No. 4.

2 MR. KENT: I'm going to give him both of these, okay?

3 THE WITNESS: Okay.

4 MR. KENT: Judge, I'm giving you what she had in front
5 of her.

6 (Pause.)

7 THE COURT: All right, Mr. Corbett, what's your
8 response to Mr. Kent's objection to 2 and 4?

9 MR. CORBETT: Yes, sir. Your Honor, I'm operating
10 somewhat under the assumption that it's a hearsay-type
11 objection and in that it is a statement of a party and it's,
12 also, a statement against interest. We believe number one,
13 it's not hearsay. And if under some analysis, it was
14 hearsay, it would be an exception.

15 MR. KENT: Your Honor, I'm not disagreeing with the
16 admissibility -- and I want to make sure it's clear. I'm
17 not disagreeing with the admissibility. I'm disagreeing
18 with the procedure that a witness simply can't read their
19 notes into the record. It will come in, it's a procedure,
20 meaning that if the witness says I remember and he just
21 asked what did he say, I can't stop her from testifying to
22 that because we've already had our pretrial hearing. But I
23 can't have a witness simply say I want to read my notes into
24 the record.

25 Now, I think he has a right to refresh her memory. I

1 feel like I'm telling him how to do it. But to simply -- if
2 the witness says I don't remember when he said blank, can I
3 look at my notes? Like every officer does when they get on
4 the stand. I think she's reading her notes now.

5 THE COURT: So your objection -- obviously, you've said
6 your objection is a procedural one. And, I guess, further
7 down that procedural line, just for example, if these
8 statements, quote, unquote, were in Mr. Epps' handwriting,
9 your procedural --

10 MR. KENT: It'd be a statement.

11 THE COURT: So you wouldn't have this procedural
12 objection?

13 MR. KENT: These are notes of the interviewer. And how
14 would you get those in? Did you take notes? Yes, I did.
15 Do you remember what happened in that interview? Yes, I do.
16 Tell me what happened in that interview. What did he say?
17 He said this, this and this. Do you remember he said
18 something about blank? No, I don't. If I give you your
19 notes, will it help refresh your memory? Yes. Look at
20 them, now testify.

21 When you simply read your notes in, it's if signed,
22 it's a specific statement. There's a difference in the
23 procedure. So I'm not saying it can't come in, I'm saying
24 the procedure which it comes in is (indiscernible).

25 THE COURT: What's your response to that, Mr. Corbett?

1 MR. CORBETT: Judge, our response is -- and, perhaps,
2 notes was not the correct word to use. It appears that
3 Detective Culick was taking down the contemporaneous
4 statement of the Defendant. She was writing what the
5 Defendant said, therefore, we believe it to be a statement.

6 MR. KENT: Judge, we did this yesterday and there is a
7 specific rule when an officer takes a statement from a
8 Defendant, then they're required to give him a copy of his
9 signed statement because they signed the statement. It's a
10 specific rule in place as to that situation and there's an
11 avenue if they do not give him a copy of his signed
12 statement, specific rule. The point is it's not a
13 statement. And I know I'm being a procedural nut on this,
14 but there's a proper procedure. It can come in, but it
15 needs to be done properly. I just would have a problem with
16 a witness simply reading their statement -- or reading their
17 notes into the record.

18 THE COURT: So, Mr. Kent, you're saying that the State
19 should be required to follow Rule 612?

20 MR. KENT: If necessary. It may not be necessary. Do
21 you remember talking to him? Yeah. Tell me what he told
22 you. And then if she misses something that he's missing,
23 which I've got a strange feeling after watching this witness
24 up there, she's going to remember it pretty clearly and
25 accurately. But she can just read her notes into the

1 record.

2 THE COURT: What's your response to that, Mr. Corbett?

3 MR. CORBETT: Judge, our response is the same, we
4 believe it constitutes a statement.

5 THE COURT: Well, I mean, there's some things included
6 in the notes that aren't necessarily his words. You know, I
7 think that's one issue. Obviously, the things that are in
8 quotation marks, I mean, logic tells you those are his words
9 because they're in quotations. I just don't want to --

10 You know, there's case law out there -- and I'm
11 thinking out loud. There's case law out there dealing with
12 interview situations where -- and this usually comes up in
13 the context of recorded interviews, like at a police station
14 where the statements by the officer in questioning has been
15 deemed to be inadmissible hearsay and, therefore, causes
16 problems down the road. If I'm understanding Mr. Kent's
17 objection correctly, he doesn't have any objection to what
18 his client said coming in other than this procedural issue.

19 MR. KENT: And, Judge, I may have cross-examination
20 questions on how it was done, but we went through this
21 during the hearing. I hate to keep beating a dead horse, I
22 just can't understand a witness just reading their notes
23 directly into the record as almost as if it's a specific
24 statement, an unsigned statement.

25 THE COURT: Well, Mr. Corbett, I think you can go

1 through these statements and ask her questions based on the
2 statements that are attributed to Mr. Epps. I just worry
3 about the extraneous information. I'm not finding fault
4 with what anybody has done, don't get me wrong, I just don't
5 want anything to cloud up the record given that every word
6 on these pages are not directly attributable to Mr. Epps.

7 MR. CORBETT: Very well, Your Honor. I understand the
8 Court's ruling.

9 MR. KENT: Your Honor, I'd ask the witness would have
10 to close their notes and only refer to them if necessary and
11 cautioned by the State. Meaning, if they're used to refresh
12 their memory, they're not looking at them while they're
13 testifying, if that makes sense. They can't look at them to
14 refresh until the State asks if it's necessary.

15 THE COURT: Well, I understand your -- I mean, let's go
16 back and let's look at the rule.

17 You can hand this back to the witness.

18 The witness uses a writing to refresh memory for the
19 purpose of testifying either while testifying, before
20 testifying if in the Court's discretion determines it
21 necessary in the interest of justice, an adverse party is
22 entitled to have the writing produced at the hearing to
23 inspect, to cross-examine the witness thereon and introduce
24 into evidence those portions which relate to the testimony
25 the witness is claiming the writing contains. Matters not

1 related to the subject matter, the Court shall examine the
2 writing in camera, excise any portions not related and order
3 the delivery of the remainder -- that all deals with whether
4 it's produced to the other side. We don't have problem.

5 MR. KENT: I think what the Rule says is if the Court
6 determines that they need a note to refresh their memory
7 before they testify, the Court is allowed to make --

8 THE COURT: I think expecting a detective to remember
9 everything a witness said from four years ago and,
10 certainly, assuming that Detective Culick interviewed lots
11 of people between this interview and her retirement --

12 MR. KENT: She's pretty sharp.

13 THE COURT: Trust me, I know. She's told me -- she's
14 taught me some things in the past.

15 So I believe that she ought to be able to refer to her
16 notes when questioned by Mr. Corbett. I think that's in the
17 interest of justice and I think it comports with the mandate
18 of Rule 612 of South Carolina Rules of Evidence.

19 MR. KENT: Thank you, Your Honor.

20 MR. CORBETT: Thank you, Judge.

21 THE COURT: We'll be in recess for a few moments.

22 (WHEREUPON, a short break was taken.)

23 THE COURT: Bring in the jury.

24 (WHEREUPON, the jury enters the courtroom at 4:42 p.m.)

25 THE BAILIFF: The jury is seated, Your Honor.

1 THE COURT: Thank you, sir.

2 Mr. Corbett.

3 MR. CORBETT: Thank you, Your Honor.

4 BY MR. CORBETT:

5 Q Detective Culick, referring once again to the interview
6 that you had with Diontrae Epps at, I believe you indicated,
7 [REDACTED]; is that correct?

8 A That's correct.

9 Q Did you and Detective McFadden ask Diontrae Epps about
10 that evening?

11 A Yes, we did.

12 Q And what did he tell you about that evening?

13 A He started off by saying that he didn't remember a lot
14 from that evening. From there, he went into he had gone out
15 that night and they had rode through the S&B Lounge, which
16 is like a club across the street, before going to the store,
17 which is Sunoco.

18 He stated that when he got to the Sunoco, they parked.
19 There was a lot of people there in the parking lot. He
20 stated that he was having an argument with his girlfriend at
21 the time, so he was laying in the back seat going back and
22 forth with her over the phone through text messages, things
23 like that.

24 Q Let me pause you there. Did he indicate how they
25 arrived at the store?

1 A Initially, when he started telling what happened, he
2 did not talk about what type of vehicle, who it belonged to,
3 who was driving, no specific details like that. So when he
4 was asked okay, what car did you ride in, who was in the
5 vehicle with you, he stated that he couldn't remember. He
6 couldn't remember the color of the car. He couldn't
7 remember who was with him and he could not remember where he
8 parked the car that night.

9 Q Now, with regard to State's Exhibit No. 4, those are
10 contemporaneous notes that you made; is that correct?

11 A Yes, these are the notes from the interview with Mr.
12 Epps.

13 Q And would those notes aid in your recollection of the
14 interview that night?

15 A Yes.

16 Q Okay. Now, let me back up for just a moment if I could
17 because I believe you indicated they had gone through the
18 S&B Club parking lot?

19 A Yes.

20 Q And how did he explain where he was or what he was
21 doing in the car?

22 A He just stated that they rode through the parking lot.
23 There was cars there. There was other people at Sunoco just
24 mixing around, except for him. He stated that he had gotten
25 into an argument with his girlfriend, so he was just lying

1 in the backseat of the car.

2 Q So his initial indication was lying in the back seat of
3 the car?

4 A That's correct.

5 Q And did he indicate whose car it was?

6 A Initially, he did not. Then he told us that he was --
7 when we asked again about well, could you, at least, tell us
8 who was driving the car? He stated, I was driving my
9 cousin's car.

10 Q What else did he say about what happened there at the
11 Sunoco?

12 A He stated that he was in the backseat arguing with his
13 girlfriend. He talked about rolling a blunt. He mentioned
14 he heard a commotion and saw a group of people that were at
15 the front corner of the store and that's when he heard
16 shots.

17 Q What did he state that he did when he heard the shots?

18 A He stated that he took off running.

19 Q What was the next thing he said about that evening?

20 A The next thing he said was, I was hit, didn't see who
21 did what. Then he went on to say that his leg was jumping
22 and that he went behind a car and he stayed there when the
23 shots were being fired and that it was a red car. If you
24 don't mind, I'm going to look at these notes, a red Sentry.

25 Q And in there, did he describe any type of weapons? Did

1 he use any particular phrases for that?

2 A He stated that there were all kinds of guns going off.
3 He stated that there were choppers and lots of guns out
4 there at that time.

5 Q What did he say next about those events?

6 A He stated that he had been drinking that night and that
7 was pretty much all he could remember. So that's when we
8 started asking him some more questions just trying to
9 refresh his memory and trying to see if there were other
10 details that he could provide in reference to what happened
11 that night.

12 So he was asked if anyone was shooting at him
13 specifically and he stated that he didn't know who shot him
14 that night. We asked him if he had a problem with Mike
15 Rodgers, who's known as Killa Mike, did he know him, did he
16 have a problem with him? And the only thing he said about
17 that was that he made a comment on Facebook after Killa Mike
18 was jumped in a club. And he went on to say, That didn't
19 have nothing to do with it.

20 So we just continued to ask him more questions. He
21 stated that they were already shooting when he got out the
22 car. He said that he was still texting his girlfriend and
23 then he hauled ass. He stated he jumped out and that was
24 it. Again, he told us he didn't remember anything else.

25 So we talked to him some more about did you have a gun,

1 did you fire a gun? He stated he did not fire a gun that
2 night. He talked to us about just texting. He didn't have
3 any money. We talked to him about who had guns out there,
4 who he might have saw with a gun out there that night that
5 was shooting. And he didn't -- he just stated -- I'm going
6 to quote from my notes here. Hold on just a second. There
7 was about a hundred guns out there.

8 So we asked him, okay, since you drove the car over
9 there, where did you park? He said he couldn't remember.
10 We asked if he parked on the Wendy's side or was he on the
11 pharmacy, the one that's closed on the other side, which
12 side he parked on. He was just quiet. He didn't indicate
13 which side he was on, where he parked. He said -- let me
14 quote. He said, Drove, but can't remember what color car,
15 can't remember where I parked.

16 We asked him if he could just say one person's name
17 that he saw out there that night, someone else that was
18 there with him and he said he didn't want to call any names
19 that night.

20 So we asked him, okay, you were shot a week ago.
21 You've talked to people since then. You've talked to other.
22 What are they saying about what happened? What are they
23 saying? Do they know what happened or who shot you? Things
24 like that. And if you don't mind, I'm going to refer to the
25 notes. His answer to that was, I'm going to feel like

1 people telling me Killa Mike shot me. I say, How Killa Mike
2 shot me, I didn't even see him? When we asked him why would
3 people say Killa Mike shot him, he stated he didn't remember
4 anything else.

5 So we, also, asked him about the other victim that was
6 --

7 MR. KENT: Objection, Your Honor.

8 BY MR. CORBETT:

9 Q Let's move down a little if we may.

10 A Okay.

11 Q Did he make any reference about his family status or
12 any other personal issues?

13 A Yeah, we just talked a little bit. He stated that he
14 had a child on the way. He talked about getting a puppy.
15 We just talked about several different things, things that
16 were related to the case, his injuries. We asked him about
17 videos. I don't know if we want to get into all that.

18 Q Did you ask him about a specific person being out there
19 that night?

20 A I did. I asked him about a person named Polo, if
21 somebody named Polo was out there that night. And he said
22 -- if you don't mind, I'm going to look at the notes. When
23 asked if Polo was there, Epps did say Polo was out there and
24 went on to say I was in wrong place, wrong time.

25 So we talked to him about who was out there, what they

1 were doing prior to this happening. He just said people
2 were out there loitering around, basically, hanging out in
3 the parking lot. When asked if he was out there hanging out
4 or in the parking lot with them, he, again, stated no, he
5 was in the backseat of his car just laying in the car. And
6 he didn't -- if I can quote this. He stated, Don't
7 remember, ain't going to tell y'all nothing else about
8 nobody that don't have nothing to do with this.

9 So we pretty much ended the interview and got his mom's
10 number so we could get in touch with him if need be. We
11 talked to his mother some and left the residence.

12 Q Now, did you have another occasion to come into contact
13 with Diontrae Epps?

14 A Yes.

15 MR. KENT: Your Honor, at this time, I would renew my
16 pretrial objection.

17 THE COURT: All right. So noted.

18 THE WITNESS: Yes, I did. The first contact with him
19 was on Sunday, September the 15th, 2019. The next contact
20 with him was on Tuesday at the Sumter Police Department and
21 that was September 17th, 2019.

22 BY MR. CORBETT:

23 Q And tell us a little bit about this second contact.

24 A On this contact, Diontrae Epps came down to the police
25 department. He met with our victim's advocate, Ms. Ruth

1 Fowler. At that time, they filled out paperwork for
2 victim's assistance funds in reference to the hospital
3 bills.

4 Then Detective McFadden and I met with him and talked
5 about getting a DNA sample from him to compare to any blood
6 evidence that was found on the scene if it needed to
7 analyzed. He agreed to that and completed and signed a
8 consent form to give us a swab from his mouth for DNA. And
9 then after that, we told him we wanted to talk to him some
10 more about the incident that happened.

11 Q And was there a formal interview conducted?

12 A Not at that time due to Epps stating that he didn't
13 want to talk and that he was ready to go.

14 Q And at this point in time, what was the next action
15 that took place at the police department?

16 A That's when Detective McFadden told Diontrae Epps that
17 he had a warrant for him for the murder of Mike Rodgers and
18 that --

19 Q Let me pause there for just a moment. So at that point
20 in time, was a formal interview conducted?

21 A No.

22 Q How did any additional statements come about?

23 A When he was told that he couldn't leave because there
24 was a warrant for his arrest, Detective McFadden got the
25 warrant, started reading the warrant to him, explaining the

1 charges and what he was being charged with, and that's when
2 Epps started saying I never had a gun. I never shot no gun.
3 I never shot anybody. And he kept repeating it over and
4 over. He stated he never punched Rodgers and y'all don't
5 have me on video. He just kept saying that. Epps was told
6 that the video that he's referring to, we're not talking
7 about a female's video, we were talking about store footage
8 video.

9 And it was at that time that Epps said, I did swing on
10 him. He stated that Killa Mike pulled out a gun and he took
11 off running. He stated that he saw other people shooting.
12 He wasn't going to talk about them. And he didn't know who
13 shot him and he didn't know who shot Killa Mike.

14 So at that point, he asked if he could talk to his mom
15 and we told him yes. He called and talked to his mother.
16 Then he asked if he could talk with his girlfriend. She was
17 still in the lobby at the police department. We let her
18 come back and talk with him.

19 Then as we were leaving to go to Detective McFadden's
20 car to place Mr. Epps in the car to take him to the
21 detention center, that's when he stated, I did swing on
22 Killa Mike, and he demonstrated how that happened. And he
23 was saying that Killa Mike came up to him aggressively and
24 did, like, a chest bump and that's when he swung on him. So
25 when he was getting into Detective McFadden's car, he being

1 Mr. Epps, he asked if he could talk to Detective McFadden by
2 himself. And we let him.

3 Q Did you hear anything further at that point?

4 A I didn't hear anything further.

5 Q Now, Detective Culick, you've been referring to your
6 notes; is that correct?

7 A Yes, sir.

8 Q And those were notes that you made contemporaneously
9 from the 15th?

10 A Yes.

11 Q And who was taking notes on the 17th?

12 A That was Detective McFadden.

13 Q You were present for the entirety of the interview on
14 the 15th?

15 A That's correct.

16 Q And you were there for a portion or, at least, for a
17 bit to overhear the statements that were uttered by Diontrae
18 Epps on the 17th?

19 A Yes, before he was taken to the detention center, yes,
20 sir.

21 Q And you've had an opportunity to have this document to
22 refresh your recollection?

23 A Yes, sir.

24 Q And to your knowledge, these notes are accurate as to
25 the statements made by Diontrae Epps?

1 A Yes, they are.

2 Q You have not changed, altered, redacted, taken anything
3 out of what he said?

4 A No, that's what he said that night.

5 MR. CORBETT: Detective Culick, bear with me one
6 moment.

7 (Pause.)

8 BY MR. CORBETT:

9 Q Detective Culick, I apologize. Let me drop back for
10 just a moment. There was some interchange there about the
11 whole issue of video; is that correct?

12 A I'm sorry, say that again.

13 Q There were some statements made concerning video?

14 A Yes.

15 Q Video surveillance; is that correct?

16 A Yes.

17 Q Now, did you and Detective McFadden reveal the
18 existence of the Sunoco surveillance video during the
19 interview?

20 A When he was making statements as Detective McFadden was
21 reading his warrants to him and he was just over and over I
22 didn't have a gun, I never shot a gun and y'all don't have
23 me on any video and things like that, it was clarified video
24 referring to the store. The store has video at the Sunoco.

25 Q That was on the 17th?

1 A Yes, that was on the 17th.

2 Q Okay. So on the 15th, that information was not shared?

3 A No.

4 Q So he did not know or, at least, did not know from you
5 and Detective McFadden that there was video from the Sunoco
6 store?

7 A Right. We didn't talk about any video from the store
8 when we were at his mother's house.

9 Q Do you recall his reaction when on the 17th he was
10 advised there was video?

11 A Yes. When he was advised about the video from the
12 store, he sat back in the chair and just pouring sweat. And
13 that's when he said, I did swing on Killa Mike.

14 Q And you had indicated that throughout his statement,
15 there were times where he just would not answer a question?

16 A Yeah, there were times where he just said I don't
17 remember or I'm not going to tell on anyone else or talk
18 about anybody else.

19 Q And my second question is going to be, and then there
20 were other statements where he just refused to answer the
21 question?

22 A Correct. He just made it clear he wasn't going to talk
23 about anyone else or tell anyone else's part and things like
24 that.

25 MR. CORBETT: Detective Culick, thank you. Please

1 answer any questions Mr. Kent may have.

2 THE COURT: Mr. Kent.

3 MR. KENT: Thank you, Judge.

4 CROSS-EXAMINATION

5 BY MR. KENT:

6 Q What level did you retire?

7 A Lieutenant.

8 Q So I'm going to refer to you as Lieutenant. Lieutenant
9 Culick, we know each other very well, would you agree?

10 A Yes.

11 Q Over the preceding 20 plus years, I think I've
12 questioned you, you've questioned me and we've talked to
13 each other for a number of times; is that a fair statement?

14 A Yes, sir.

15 Q I've just got some questions. And you know me, I
16 always say the same thing, so I'm going to do it again.
17 Madam Court Reporter is taking down every word that you're
18 saying. She cannot take down head nods and shakes and
19 things of that nature. Is that fair?

20 A Yes.

21 Q You speak very softly, so make sure you speak loudly
22 and clearly so she can get every word that we're saying.

23 A Yes.

24 Q I will give you the opportunity to answer my question
25 if you'll give me the opportunity to ask my question; is

1 that fair?

2 A Yes.

3 Q And, finally, she cannot take it down if we talk over
4 one another, which I don't think we've ever done in two
5 decades, but if for some reason we start arguing today, she
6 can't get us talking over one another; is that fair?

7 A Yes.

8 Q I want to go through a little bit of your background.
9 When did you start in law enforcement?

10 A February 1998.

11 Q So back in 1998 when we had training as law
12 enforcement, you were trained at the Criminal Justice
13 Academy?

14 A Yes.

15 Q Is that where everybody starts?

16 A I started in evidence first, so I worked in the
17 evidence division for two years and then went to the
18 Academy.

19 Q That is the Criminal Justice Academy I was just talking
20 to you about?

21 A Yes. And then started patrol and then went to
22 investigative services division as a detective in June of
23 2002.

24 Q When we talk about the Criminal Justice Academy, that
25 is the training ground rules for new police officers?

1 A That's correct.

2 Q It's not the final training ground, but it is the
3 beginning training ground?

4 A Right.

5 Q Would you agree with me, as an officer, we don't stop
6 at the Criminal Justice Academy, for two decades, you've
7 been training to be a police officer?

8 A That's correct.

9 Q And while we're at the Criminal Justice Academy, they
10 teach us about report writing?

11 A Yes.

12 Q They teach us about interviewing witnesses?

13 A Yes.

14 Q They teach us about recording interview witnesses?

15 A They didn't teach me about that, that's per agency and
16 policy, yes, sir.

17 Q But they teach you about saving evidence?

18 A Yes.

19 Q Evidence retention?

20 A Yes.

21 Q And then that's, also, stuff that we learn when we
22 train and go through continuing education?

23 A Correct.

24 Q As I mentioned with one of the other agencies or one of
25 the other witnesses, we train all over the country, the

1 Sumter Police Department, going in different places on
2 training to become a better officer?

3 A They never sent me anywhere else. I didn't get to go
4 out of the country or state.

5 Q And when you were trained, all of this is to help us
6 become better police officers?

7 A This is true.

8 Q And the goal is to present to everybody, the community,
9 the jury, officers, everybody how we are a better police
10 department and police force?

11 A Yes, we try.

12 Q In that vein, what we try to do is -- Sumter can be a
13 very busy place and half the time, you have a lot of cases;
14 is that a fair statement?

15 A Supervise detectives, but had a lot of cases, yes, sir.

16 Q And when we're looking at a lot of cases, one of the
17 things we want to make sure of is we want to treat every
18 case with the respect that it is due?

19 A That's correct.

20 Q And when we look at these cases, we cannot trust our
21 memories to remember everything about every case possible?

22 A That's fair.

23 Q And that's all over the country, we don't want to rely
24 on officers to remember everything that possibly happened?
25 We count on our notes, we count on our interviews, we count

1 on our videos, we count on the case file so that, as we
2 talked about today, you can look at the notes to remember
3 what happened four years ago?

4 A Yes.

5 Q Because what we are looking at is a snapshot from four
6 years ago and we don't want to trust our memory because
7 memories are what, fallible. Is that a fair statement?

8 A It's fair, yes.

9 Q And so when we're looking at the stuff that we've been
10 trained on and we've talked about, in looking at things,
11 there's certain things that we like to do. We're going to
12 start with interviewing witnesses. Interviewing witnesses,
13 would you agree is one of the most important things you can
14 do in trying to discover or solve a case?

15 A Yes, sir.

16 Q And when we're trying to interview witnesses, what we
17 want to do is get the witness's point of view as to what
18 happened that day?

19 A That's true.

20 Q And we want to get the witness's point of view as to
21 what happened that day as close to the proximity of the
22 incident as possible; is that a fair statement?

23 A Yes.

24 Q Because it's hard to interview or talk to somebody four
25 years later?

1 A That's true.

2 Q Because memories are fallible? Is that a fair
3 statement, memories are fallible?

4 A They can be.

5 Q And so what we want to do is get a snapshot as good
6 officers and we want to write stuff down so it's as close to
7 the incident as possible for what happened?

8 A That's right.

9 Q And when I talk about things that are happening all
10 over the country through everything, we talk about some
11 things called body cameras. Do you know what a body camera
12 is?

13 A Yes, sir.

14 Q And a body camera is -- what are body cameras?

15 A Body cameras are, basically, a portable camera that
16 officers, patrol officers wear and use on a daily basis when
17 they're interacting with the public, when they're responding
18 to calls for services, things like that.

19 Q And we keep those -- body cameras are created to help
20 the officers and help the community so we know exactly what
21 happened on a day in question?

22 A That's true.

23 Q Those are the things that when we're helping somebody,
24 we record it so they can't say you stole this, you hit me,
25 you did these things, you're making this stuff up? We have

1 body cameras to protect the officer and protect the witness,
2 suspect, defendant, whatever?

3 A It's to help show an accurate depiction when the
4 officers arrive on scene what they're seeing, what's
5 happening at that time.

6 Q And then we, also, have in our squad cars, like, when
7 the blue lights cut on, I think, automatically now videos
8 come on so we can record everything that happens?

9 A Yeah, patrol vehicles do have cameras in them.

10 Q And the reason is we want that snapshot, that accuracy
11 as to what actually is happening on the day in question so
12 we don't guess and try to figure it out?

13 A That's true.

14 Q And you know where I'm going --

15 A Yes, sir.

16 Q You know exactly where I'm going?

17 A Yes, sir.

18 Q In 2015 --

19 A '19.

20 Q -- when you went to the house on [REDACTED]; is that
21 a fair statement?

22 A '19.

23 Q September 15th, I'm sorry.

24 A That's okay.

25 Q You went to interview Mr. Epps with Mr. McFadden?

1 A That's right.

2 Q You and Mr. McFadden went to interview Mr. Epps about
3 his potential involvement in a crime scene back in
4 September?

5 A Yes, and him, also, being shot that day.

6 Q Also, him being shot, as a victim and, potentially, as
7 involvement?

8 A That's correct.

9 Q And when you go interview people, sometimes you have to
10 interview suspects and people a lot of times?

11 A Sometimes, yes, sir.

12 Q I've had cases with you where you've had to go
13 re-interview somebody five or six times?

14 A Yes, sir.

15 Q And when you interview somebody, they give you
16 different stories a lot of different times; is that a fair
17 statement?

18 A Sometimes they give you a small amount, then they'll
19 add a little more, add a little more, sometimes. Sometimes
20 they'll tell you everything, just depends.

21 Q Sometimes they give you bits and pieces. And as a good
22 officer with your training, with all you have, we know as
23 good officers, sometimes you've got to get bits and pieces
24 to get the entirety?

25 A That's true.

1 Q And an officer can get frustrated if they don't get
2 everything they want the first time, but you as a good
3 officer know you don't get everything the first time?

4 A That's right.

5 Q Sometimes you have to go investigate based upon what
6 someone told you and see if they've told you the truth and
7 told you something that's inaccurate so you can investigate
8 further to get a full detail of what happened?

9 A Correct.

10 Q And in this situation -- before we get there, there's
11 something called Miranda. You give somebody their Miranda
12 rights, which is, basically, a warning to keep you damn
13 mouth shut and you don't have to talk to us. Is that a
14 simple -- you can clarify, but what's Miranda?

15 A Miranda is, basically, just notifying somebody that
16 they have rights. Just like the form says, they have the
17 right to remain silent. They don't have to talk to us.
18 It's, basically, telling them what you tell us, it can be
19 used against you in court if you do talk to us. We, also,
20 tell them they have a right to talk to a lawyer for advice
21 before we ask them questions. They can have him or her with
22 them. Like, if he wanted you there while we were talking to
23 him, he could have asked you to come to his mother's that
24 day, things like that.

25 So we just want to make sure those are understood,

1 these rights. If he can't afford one, one will be
2 appointed. And that if he decides to talk to us now that he
3 could stop at any time, that he has all of these rights that
4 we read earlier.

5 Q So he got that Miranda form on one specific day in
6 September, September 15th?

7 A Yes, sir.

8 Q And he signed it?

9 A Yes, he did.

10 Q And he talked to you?

11 A He did.

12 Q He had been shot?

13 A Yes.

14 Q The bullet was still inside of him?

15 A Yes.

16 Q At the time the bullet migrating -- at the time, you
17 wouldn't have known it, but the bullet was migrating towards
18 his spine; is that a fair statement?

19 A I just --

20 MR. CORBETT: Objection, Your Honor.

21 THE WITNESS: I don't know that.

22 BY MR. KENT:

23 Q But there's no doubt he would have been in some pain?
24 I think you even described that he was in pain and walking
25 gingerly at the time?

1 A He did walk, you know, slowly. It wasn't a normal walk
2 due to his injury.

3 Q At the time, you did not know what his injury entailed?

4 A At the time, just what he told me what he knew, what
5 his mother knew, things like that. I talked to him and his
6 mom about his injury. I think his girlfriend was there for
7 that, also.

8 Q And you were not aware of what medications he would
9 have been under?

10 A I don't believe that he was on any medications at that
11 time because he talked -- his mother talked about victim
12 services and paying for things. We talked about them
13 helping with prescriptions and things like that, but I can't
14 say for sure if he took medicine, Advil, Tylenol or
15 prescription stuff. He didn't appear to be impaired in any
16 way while he was talking other than the walking when we went
17 from the car to the house into the bedroom.

18 Q And now, let's get into when he was talking, you gave
19 him his Miranda rights?

20 A Yes, sir.

21 Q You told him about his rights?

22 A Yes.

23 Q Throughout this case -- and this is a very large case,
24 lots of individuals have been interviewed?

25 A Yes, sir.

1 Q In your career, you have interviewed a lot of
2 individuals. When we interview people, there's three ways
3 we can do things. One, we can have them write down their
4 statement?

5 A That's true.

6 Q When they write down their statement, then they can
7 sign it?

8 A That's true.

9 Q And confirm everything they said in their statement is
10 correct?

11 A Yes.

12 Q You can write down their statement. And officers do
13 that a lot of times, somebody has a bad handwriting, but you
14 can write down their statement?

15 A That's correct.

16 Q And then we give them a copy of it and then they can,
17 also, sign it?

18 A Yes, sir.

19 Q Or we can record it and we could have recorded
20 statement here and I'm asking you questions. That way,
21 there's a recorded statement for the jury to watch or
22 somebody to watch?

23 A There is. And then there's --

24 Q I was getting ready to get into that. There's a fourth
25 option?

1 A Right.

2 Q The fourth option is what we did in this situation?

3 A That's correct.

4 Q Where we wrote down notes, correct?

5 A Yes.

6 Q Where we did not record?

7 A I did not record him.

8 Q Where we don't have him write down anything?

9 A No, I didn't make him --

10 Q Where he is not allowed to review what you wrote down
11 and say that's not what I said or that is what I said, we
12 don't have that anywhere?

13 A That's correct.

14 Q And he's not allowed to sign it and say I confirm
15 that's what I told you this day?

16 A I just did notes from talking to him that day. I did
17 not bring a computer to his house or a printer or any of
18 that. We just talked.

19 Q Or a cell phone?

20 A Yes, sir.

21 Q You can record on cell phones, too?

22 A Yeah, I did not --

23 Q In 2019, we had that technology, right?

24 A You trying to make me old. No, I did not record him
25 that day on my cell phone.

1 Q And one of the things about not being able to record is
2 we have to trust your memory on how his impressions were
3 that day; is that a fair statement? We have to trust you on
4 what your notes say?

5 A That's right. It's not memory. It's the notes that I
6 wrote while I was there talking to him at the house. He can
7 confirm, I had my notebook. We would ask a question, write,
8 confirm, you don't know this, you did know this, this was
9 this, you were doing this, okay. And then I went back and
10 transcribed those and gave them to the case detective.

11 Q But we didn't give them to Mr. Epps to look at and sign
12 and confirm, like, that's right, or oh, no, y'all
13 misunderstood that, that's correct, we don't have that?

14 A That's correct, sir.

15 Q And we didn't have a certified court reporter to take
16 down every word that was said to make sure that is correct?

17 A No, sir, we didn't.

18 Q And you would agree with me, I brought it up earlier,
19 there's something in the law that if we do take a written
20 statement, a signed statement from somebody, we must give
21 them a copy?

22 A I do. I ask if they would like a copy. Some do not
23 want them.

24 Q Some don't?

25 A That's true.

1 Q But Mr. Epps wouldn't have had the option because he
2 didn't sign a statement?

3 A That's true.

4 Q But if he would have signed a statement and written a
5 statement, the law would have required he be given a copy of
6 it?

7 A Yes. If I'm with somebody, I will ask them. A lot of
8 people don't want to write. They're intimidated by it or
9 it's just too much or spelling, let's all be honest, we get
10 used to spell check and corrections. So I give them
11 options, do you want to write it, do you want me to write
12 it, do you want me to type it, if we're in that setting, do
13 you want that? And then do you want a copy of this when we
14 get through? So those are things that we do.

15 Q And then at a later point in time, I think we were
16 calling his family, I think you testified earlier that you
17 were calling his family, as a victim, he could make it down
18 to the police department?

19 A Yes. I believe I called -- it was either myself or the
20 victim advocate notified them -- because I talked to his
21 mother that day about scheduling with them, so I talked to
22 the victim advocates when we got in on Monday. They were
23 available Tuesday and that's when we called and said that he
24 can come in.

25 Q And when we told him he could call and come in and come

1 meet with us, we already had warrants for his arrest for
2 murder?

3 A I'm not sure when Detective McFadden got it. He can
4 look at the date on that warrant and tell you, but, yes, he
5 can confirm that.

6 Q We had warrants for his arrest?

7 A Yes, sir, on Tuesday, we did have that.

8 Q And before he came in, you asked him -- before we told
9 him we have warrants for your arrest for murder, we asked
10 him for a DNA sample?

11 A I did ask him for one to compare with blood found at
12 the scene.

13 Q Did we give him Miranda rights when he came in to see
14 y'all that time to alert him that hey, you don't have to
15 talk to us, you don't have to give a DNA sample, you don't
16 have to do anything --

17 A Well, now, part of the --

18 Q I didn't finish the question.

19 A I'm sorry, go ahead.

20 Q Was he given Miranda rights, and then I'll let you
21 explain? When he came in on September 19th [sic], 2019?

22 A Yes. You asked about Miranda and, also, about the DNA
23 and providing that. So part of the DNA consent form that he
24 signed does state that he does not have to give it to us,
25 that it's freely and voluntarily given.

1 Q Are Miranda rights covered in the DNA form?

2 A No, we did not do Miranda rights on the 17th with him.
3 We did the consent to give samples. Would you like me to
4 read that to you?

5 Q No, that's fine.

6 A Okay.

7 Q But I agree with you, I'm fine with --

8 A Without any promise or threats or anything like that
9 and he voluntarily gave the sample.

10 Q But he was not told he was under arrest when he came in
11 on the 17th?

12 A At that moment, no, he was not.

13 Q And he was not going to be allowed to leave?

14 A No, sir.

15 Q And we had warrants for his arrest?

16 A Yes, sir.

17 Q And we did not give him Miranda rights?

18 A No, sir, we didn't.

19 Q Was that -- so the jury can see it, so we can have a
20 snapshot, was that time recorded?

21 A No.

22 Q And I understand from the solicitor's questions that he
23 told you, I don't want to talk to y'all?

24 A That's correct.

25 Q And do we know the specific words he said? Because

1 there's a difference if he said, I don't want to talk to
2 y'all, I want a lawyer and there's a difference between
3 leave me alone, do you agree?

4 A If you don't mind, can I refer to the notes? So we
5 told him we needed to talk more. Epps stated that he did
6 not want to talk and that he was ready to go.

7 Q And if he would have said I don't want to talk, I want
8 a lawyer, we can't talk to him at all?

9 A That's correct.

10 Q And if we would have had a recording, we could see if
11 that specifically was said, but we don't know, we have to
12 trust your notes; is that a fair statement?

13 A That's correct.

14 Q And we don't have a recording to see what happened and
15 we have to trust your notes; is that a fair statement?

16 A That's right.

17 Q And then according -- y'all never showed him a video?
18 Did not show him a video, just said that video exist?

19 A Correct. He was in the interview room. At that time
20 at the new police department, we did not have cameras set up
21 to record that. As I'm sure you know with the cases now,
22 you do get those from that interview room, but on this date,
23 we did not have cameras set up. So that's not on recording.

24 Q So in the entire Sumter Police Department in 2019,
25 there weren't cameras to record when you took him into an

1 interview room so you could then record it so we could look
2 at what he would have said that day?

3 A There was not a camera set up in the interview rooms.

4 Q I'm sorry, let me say that part again, there wasn't a
5 camera in the entire Sumter Police Department in 2019?

6 A Okay. There's like cameras that face the parking lots,
7 cameras that are on the outside security, but there was no
8 camera set up with recording devices room on this date.

9 Q Let me say it, there was no camera in the entire
10 building to use to record giving an interview in 2019?

11 A So are you asking could I have gotten a camera?

12 Q There you go.

13 A Yes, I could have gotten a camcorder or someone's body
14 cam, yes.

15 Q And you understand my concern, you've been doing this a
16 long time?

17 A I do, yes, sir.

18 Q We want the jury to see a snapshot, not trust an
19 officer to take a look for themselves what happened that
20 day, you understand?

21 A That's correct.

22 Q And you understand in hindsight, we wish we would have
23 recorded it, is that a fair statement? Or do we not want to
24 record it, but we just want to tell them what we want them
25 to hear?

1 A I would always love to have things recorded so
2 everybody can hear that.

3 Q Now, let's make this clear, from the 15th until the
4 17th, are y'all saying this is one continuous interview or
5 two separate interviews?

6 A We didn't interview him on the 17th. We interviewed
7 him on the 15th when we went to his house and we gave him
8 his Miranda rights. On the 17th, we would have liked to
9 have talked to him, we would have liked to interview him,
10 but when we asked him about talking some more, that's when
11 he stated he didn't want to talk and he was ready to go
12 home.

13 Q But y'all kept talking to him and he kept talking back
14 in the interview room? Is that what we call it, interview
15 room?

16 A Yes, sir, we were in the interview room. We did not
17 talk back as far as interviewing and asking him questions.
18 We told him you're not going to be allowed to go home.
19 There's a warrant for your arrest. You're being charged
20 with the murder.

21 Detective McFadden went and got the warrant, read the
22 warrant. He continued to say over and over I never had a
23 gun, I never shot no gun, I never shot anybody. Just
24 repeating it over and over, y'all don't have me on video, he
25 stated that day. And then when he was told we're not

1 talking about the girl's video, this is in reference to
2 Sunoco's, he just sat back, started pouring sweat and that's
3 when he made the comment I did swing on him.

4 Q And this was the interview room, I wasn't there, right?

5 A That's correct.

6 Q And this was him talking to law enforcement?

7 A That was him making a statement.

8 Q Making a statement that he didn't sign?

9 A That's correct. He was just --

10 Q And then during that point in time --

11 A Uttering things over and over.

12 Q And when we talk to people over a period of time, it is
13 normal for a statement to progress?

14 A He didn't want to talk to us, so we didn't progress.
15 We didn't ask him more questions in reference to that. We
16 didn't get into that any further.

17 Q Let me rephrase, when I say progress, the statement
18 itself progresses? Not necessarily the questioning, but the
19 person's statement to progress over time, meaning they start
20 out one way and over a period of time, they end up telling
21 you more and more and more of what happened? At the
22 beginning, I had nothing to do with it morphs into I did
23 swing on him, I was out there, let me tell you more? This
24 is without a lawyer, without anybody coaching him?

25 A If I had to guess, yes, he's just in there thinking oh,

1 there might be store video footage, so okay, I did swing on
2 him.

3 Q And you would agree with me that whatever he said,
4 whatever y'all said, whatever witnesses said that the video
5 is the great harbinger of what actually happened? To get
6 back to the whole theory of this, the video, without
7 trusting our words, we can rely on the video?

8 A Meaning the store?

9 Q Any video?

10 A Yes.

11 Q Any video, we could rely on any video much more than we
12 could rely on your words, my words, his words, any video?

13 A Yes, sir.

14 Q And as long as it's not edited, not changed, anything
15 of that nature, we can rely on the video and that's why
16 videos are so important. And in this case, we actually have
17 a store video?

18 A Yes, sir.

19 Q So it doesn't matter what he says, whether he was
20 accurate, whether he was dishonest, whatever, we have a
21 video? And y'all said that, I don't care what you say,
22 we've got a video and the video tells us what happened, fair
23 statement?

24 A Yes, the video does tell us a lot of what happened. I
25 wish there was, like, 360 cameras all around that, but, yes,

1 sir.

2 Q But you'd agree the video is the harbinger as to what
3 actually happened on that day.

4 A Yes, sir.

5 MR. KENT: Thank you.

6 THE COURT: Redirect, Mr. Corbett?

7 MR. CORBETT: Thank you, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. CORBETT:

10 Q Detective Culick, let me talk for a moment if I may
11 about September 17th at the police department.

12 A Yes, sir.

13 Q And with regard to that day, you had indicated that you
14 and Detective McFadden had asked to talk to Mr. Epps again?

15 A Yes.

16 Q You requested an interview?

17 A Yes.

18 Q And had he consented to being interviewed, you would
19 have had an opportunity to do another interview form?

20 A That's correct. If we had somebody that we had
21 interviewed before and then we want to interview them again
22 and it's a different day, sometimes even if it's been
23 separated that they've gone home or come back or wanted to
24 talk or the jail had called and wanted to and there's a
25 separation, then, yes, we will give them their rights again

1 and have them sign another one, another form stating that
2 they understand their rights again today, they want to talk
3 to us again today.

4 Q So the statement of the 17th was not an interview?

5 A No, it was not.

6 Q It was Diontrae Epps making statements?

7 A Yes, comments over and over and just stating I never
8 shot nobody, never had a gun.

9 Q You were asked about sort of how interviews progress.
10 It was described as sometimes you get pieces and have to
11 interview again and sometimes people tell you everything.
12 Do you remember that line of questioning?

13 A Yes, sir.

14 Q Now, in actuality, sometimes people just lie to you?

15 A That's true.

16 MR. CORBETT: Thank you. That's all that I have.

17 MR. KENT: Nothing further from this witness, Your
18 Honor. I'll allow her to go and enjoy the rest of her
19 retirement.

20 THE COURT: Thank you, Lieutenant. You may step down.

21 THE WITNESS: Thank you.

22 MR. CORBETT: If Your Honor please, we have a request
23 to go ahead and stop for the day. We have two additional
24 witnesses in the morning and will be ready to go at that
25 time.

1 THE COURT: Ladies and gentlemen of the jury, we are
2 going to take a break for the evening. So I'm going to send
3 you home with the same instruction, don't discuss this case
4 amongst yourselves or with anybody else, don't begin your
5 deliberations, don't do any research about any issue which
6 may have arisen during the course of this trial. We will
7 see you back tomorrow at 9:30. Thank you.

8 (WHEREUPON, the jury exits the courtroom at 5:31 p.m.)

9 THE COURT: Anything before we adjourn for the day,
10 folks?

11 MR. KENT: Yes, sir.

12 THE COURT: We're going to give the jury a few moments
13 to leave the jury room and get on the elevator, then we're
14 going to do like we did yesterday, we're going to have the
15 folks here in support of the prosecution side leave the
16 courtroom first and then the folks to my right in support of
17 Mr. Epps are going to leave the courtroom second. So
18 everybody just sit tight for a few moments and once the jury
19 members have reached the elevator, we'll follow that course
20 of action.

21 (Pause.)

22 THE COURT: All right. We need to put the contents of
23 the in-camera hearing that was done earlier this afternoon.
24 One juror brought some concerns to the Court's attention
25 about that juror's ability to continue to serve as a juror.

1 I took that juror to a conference room in the clerk of
2 court's office accompanied by Solicitor Finney, Assistant
3 Solicitor Corbett and Mr. Kent. She relayed her concerns to
4 the Court and to the attorneys. Based upon her responses to
5 my questions, I believe we all agreed that this juror needs
6 to be excused. So I believe that leaves us with one
7 alternate left that will have to be promoted, for lack of a
8 better word, to the primary jury. We can do that in the
9 morning.

10 Mr. Kent, anything else you need to put on the record
11 on that particular matter?

12 MR. KENT: Judge, respectfully, I think I need to put a
13 little more detail about what she stated just in case --

14 THE COURT: Well, given the nature of her concerns, I
15 wanted to be vague, but at the same time, we want there to
16 be a record of this, so just keep in mind the nature of her
17 concerns.

18 MR. KENT: Judge, then I would ask that we simply not
19 mention the juror number. I can just put a little more
20 detail in case the Court is wondering why I acquiesced or
21 something of that nature, if that makes sense.

22 THE COURT: Okay.

23 MR. KENT: Your Honor, if another court is reading this
24 down the road and there had not been an objection as to why
25 I didn't say anything --

1 THE COURT: Well, I think the familiarity of the
2 residence that came up this afternoon is certainly in my
3 mind grounds enough to have her removed from service on the
4 jury. Go ahead and --

5 MR. KENT: If necessary, I will provide a written
6 request to add to the court record that the juror said that
7 might, also, cover myself as well.

8 THE COURT: Okay.

9 MR. KENT: Additionally, Your Honor, I think we need to
10 cover the other juror that, also, made an issue that we're
11 not removing.

12 THE COURT: Right. And this particular juror is Juror
13 Number 121, Shirley Rembert. She notified one of our
14 bailiffs earlier that the witness, Mr. Matula, who is in
15 charge of security at Toumey Hospital is in some form or
16 fashion her boss. Apparently, she works for Allied
17 Security, which I'm assuming is a subcontractor that
18 provides security to Prisma Health.

19 Given the nature of the witness, Mr. Matula's
20 testimony, essentially, that he was just somewhat akin to a
21 custodian of records to authenticate the video footage that
22 was secured from Prisma Health Toumey and not necessarily a
23 fact witness, I think we all agreed that -- this was, also,
24 covered in our in-camera discussion -- that this witness,
25 even though she's brought this to our attention, she would

1 be allowed to remain on the jury given the nature of her
2 contact to this witness and given that he was, essentially,
3 brought in to authenticate some video.

4 MR. KENT: Thank you, Judge. And after speaking to Mr.
5 Epps and understanding we have 12 jurors and no alternates,
6 we just need to be clear that -- assume we're going to make
7 it through with the 12 jurors, but we would not be
8 consenting to go with a jury less than 12.

9 THE COURT: I have seen that happen maybe in a civil
10 case once or twice, but I would have assumed that if
11 something happens that causes us to lose another juror, we
12 would --

13 MR. KENT: I think the law allows us to consent, if
14 both parties consent --

15 THE COURT: I believe the law allows for written
16 consent to go with less than 12 --

17 MR. KENT: I would suggest not asking me for written
18 consent.

19 THE COURT: All right. Anything else we need to put on
20 the record before we adjourn?

21 MR. KENT: No, sir.

22 THE COURT: And the juror that I'm excusing, I am just
23 going to -- I just want this clear for the record. She is
24 still in the building. I'm going to excuse her from her
25 service and advise her to call the call-in number after six

1 o'clock tonight. I fully assume we won't be doing anything
2 but this case this week, but I'm going to let her go as soon
3 as I walk off the bench here this afternoon.

4 MR. KENT: Thank you, Judge.

5 THE COURT: 9:30 tomorrow morning.

6 (WHEREUPON, Court was adjourned for the day.)

7 THURSDAY, SEPTEMBER 28, 2023

8 THE COURT: Folks, I will bring the jury in. I will
9 advise Juror Number 29 that he is being promoted to primary
10 juror and is no longer an alternate and then we'll get
11 started.

12 MR. KENT: Thank you, Your Honor. My understanding is
13 first, the State is going to play the 911 calls. As you are
14 aware, for the record, yesterday, there was some technical
15 difficulties with the playing of the 911 calls. I had
16 mentioned to the Court, I don't know if I was on the record,
17 we have no objection with the 911 calls. One, they're
18 spontaneous utterances and they have the proper witness here
19 to be called. They just weren't played through that
20 witness. So we would have no problem if they just played
21 them or however they seek to do it at this point in time. I
22 think they could have come in yesterday.

23 THE COURT: All right. Bring us the jury, please.

24 (WHEREUPON, the jury enters the courtroom at 10:08
25 a.m.)

1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: Ladies and gentlemen, two things before we
3 get started. The reason for the delay this morning, we've
4 had some technical difficulties with the audio/visual system
5 within the courtroom. Those have been fixed, and I put that
6 in quotation marks.

7 The second issue, Mr. Cooper, you were chosen as an
8 alternate in this case. A situation arose late yesterday
9 where I had to excuse one of the primary jurors, so now you
10 are on the jury. You are not an alternate anymore. The 12
11 of you will be the jury who decides this case.

12 Mr. Corbett.

13 MR. CORBETT: Thank you, Your Honor, may it please the
14 court?

15 THE COURT: Yes, sir.

16 MR. CORBETT: Your Honor, yesterday, Shirlene Skipper,
17 the director of the Sumter County 911 dispatch had appeared
18 in court and had entered into evidence State's No. 12, which
19 was admitted. Ms. Skipper testified to a series of 911
20 calls that came in on the night of September the 8th of 2019
21 -- I'm sorry, the early morning hours of September 8th,
22 2019. Judge, due to some technical difficulties, we were
23 unable to publish those at the time. At this time, it's our
24 understanding that 12 is already admitted, but we would like
25 to publish it to the jury at this time.

1 THE COURT: All right. You may publish.

2 MR. CORBETT: Based on the information that Ms. Skipper
3 provided, the first call comes from 1:00 a.m. and 18
4 seconds.

5 (WHEREUPON, 911 call was published for the jury.)

6 MR. CORBETT: Judge, the next one is from 1:03 a.m. and
7 27 seconds.

8 (WHEREUPON, 911 call was published for the jury.)

9 MR. CORBETT: Your Honor, the next one is from 1:03 and
10 34 seconds.

11 (WHEREUPON, 911 call was published for the jury.)

12 MR. CORBETT: And the next one is from 1:04 a.m. and
13 four seconds.

14 (WHEREUPON, 911 call was published for the jury.)

15 MR. CORBETT: And 1:04 a.m. and 42 seconds.

16 (WHEREUPON, 911 call was published for the jury.)

17 MR. CORBETT: 1:04 a.m. and 43 seconds.

18 (WHEREUPON, 911 call was published for the jury.)

19 MR. CORBETT: 1:05 a.m. and 14 seconds.

20 (WHEREUPON, 911 call was published for the jury.)

21 MR. CORBETT: 1:05 a.m. and 48 seconds.

22 (WHEREUPON, 911 call was published for the jury.)

23 MR. CORBETT: 1:07 a.m. and 14 seconds.

24 (WHEREUPON, 911 call was published for the jury.)

25 MR. CORBETT: 1:10 a.m. and 35 seconds.

1 (WHEREUPON, 911 call was published for the jury.)

2 MR. CORBETT: And 1:17 a.m. and 39 seconds.

3 (WHEREUPON, 911 call was published for the jury.)

4 MR. CORBETT: Your Honor, thank you very much. That's
5 the conclusion of the 911 calls.

6 THE COURT: Thank you, Mr. Corbett.

7 MR. CORBETT: Judge, if you'll give us just a moment as
8 we make the switch here on the computer for the next
9 witness.

10 THE COURT: All right.

11 MR. CORBETT: And, Judge, while we're doing that, if I
12 may, I will go ahead and call Nicole McCray.

13 THE CLERK: Place your left hand on the Bible, raise
14 your right hand and state your name.

15 THE WITNESS: Nicole McCray.

16 NICOLE MCCRAY,

17 after being duly sworn, testified as follows:

18 THE CLERK: Thank you. Have a seat, please. State
19 your name for the record and spell your last name, please.

20 THE WITNESS: Nicole McCray, M-C-C-R-A-Y.

21 DIRECT EXAMINATION

22 BY MR. CORBETT:

23 Q Ms. McCray, good morning.

24 A Good morning.

25 Q Ms. McCray, do you have a nickname?

1 A It's Buddha.

2 Q And do you know Michael Rodgers?

3 A Yes.

4 Q How do you know Michael Rodgers?

5 A He's my cousin.

6 Q A few moments ago, we were listening to some 911 calls.

7 Did you place one of those 911 calls?

8 A Yes, sir.

9 Q And in that 911 call, do you refer to yourself as
10 Buddha?

11 A Yes, sir.

12 Q Bear with me just a moment, please.

13 MR. CORBETT: Judge, if we could have just the
14 witness's monitor for a moment, please.

15 BY MR. CORBETT:

16 Q And Ms. McCray, I'm going to ask you to slide a little
17 to the right for me.

18 A Okay.

19 Q Ms. McCray, are you able to see that video feed on your
20 monitor?

21 A Yes, sir.

22 Q And in the foreground of the closest part of this
23 video, do you see a vehicle?

24 A Yes, sir.

25 Q What color is that vehicle?

1 A The white one?

2 Q That's the one closest to the camera?

3 A Yeah.

4 Q And, ma'am, I'm going to ask you to look just a little
5 bit to the right and tell me if you can identify the person
6 or yourself in the camera view?

7 A No, I don't see it -- oh, I see it. I see my shoes.

8 Q Do you recognize that person?

9 A Yes.

10 Q Who is that?

11 A That's my niece.

12 Q Who is on the phone?

13 A That's me.

14 Q So that's you in the video.

15 A Yes, sir.

16 Q Now, Ms. McCray, you can see there on the video that
17 you're on the telephone?

18 A Yes, sir.

19 Q Who are you talking to?

20 A 911.

21 Q Is that the same 911 call that we heard just a few
22 moments ago?

23 A Yes, sir.

24 Q Now, Ms. McCray, so if 911 has your call coming in at
25 1:05 a.m. and 48 seconds, does that sound appropriate?

1 A Yes, sir.

2 Q Now, were you present at the store when Michael Rodgers
3 was shot?

4 A No, sir, I was riding by.

5 Q Did you hear anything?

6 A No, I seen him fall.

7 Q Then you came into the parking lot?

8 A Yes, sir.

9 Q So you weren't present in the sense of testifying who
10 did what?

11 A Right, no, I can't tell you that.

12 Q So what you can tell us is that you pulled into the
13 parking lot and you called 911?

14 A Yes, sir.

15 MR. CORBETT: Ms. McCray, Mr. Kent might have a couple
16 questions for you. Please answer those.

17 I'm sorry, Judge.

18 BY MR. CORBETT:

19 Q Ms. McCray, I'm sorry, please, continue to watch the
20 video for me for another moment.

21 A Okay.

22 Q And Ms. McCray, I'll stop it right there. I believe
23 you actually indicated on the 911 call the police had
24 arrived?

25 A Yes, sir.

1 MR. CORBETT: Your Honor, at this time, we would offer
2 into evidence, it is camera one up to the mark on the screen
3 of 11:46:07.

4 THE COURT: Okay. What exhibit is that included
5 within?

6 MR. CORBETT: Judge, I'm so sorry, bear with me one
7 moment. That would be State's No. 5.

8 MR. KENT: No objection. I thought it was already in.
9 No objection, Your Honor.

10 THE COURT: All right. State's 5 is admitted.

11 (WHEREUPON, State's Exhibit No. 5 previously admitted
12 into evidence.)

13 MR. CORBETT: Ms. McCray, Mr. Kent may have some
14 questions.

15 MR. KENT: No questions of this witness, Your Honor.

16 THE COURT: Ma'am, you can step down. Thank you.

17 MR. FINNEY: Your Honor, the State calls Arkell Eaglin.

18 THE CLERK: Place your left hand on the Bible, raise
19 your right hand and state your name.

20 THE WITNESS: Arkell Eaglin.

21 ARKELL EAGLIN,

22 after being duly sworn, testified as follows:

23 THE CLERK: Have a seat, please. State your name for
24 the record and spell your last name, please.

25 THE WITNESS: Arkell Eaglin, E-A-G-L-I-N.

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Q Good morning, Ms. Eaglin.

A Good morning.

Q Ms. Eaglin, tell the ladies and gentlemen of the jury,
are you a native of Sumter?

A Yes, I am.

Q Have you lived here all your life?

A Yes.

Q And tell us what you do for a living?

A I'm a caregiver.

Q Have you been doing that kind of work long?

A Yes, sir.

Q Do you have family here?

A I do.

Q In the community?

A Yes.

Q Tell us how you knew Mike Rodgers?

A He was my boyfriend.

Q And how long did you and Mr. Rodgers have a relationship?

A Five years.

Q And did that relationship start before 2019?

A Yes.

Q And how long before about?

1 A Actually, about six years, but we were together about
2 five years.

3 Q And did you all during your relationship live together?

4 A Yes.

5 Q And was that in Sumter?

6 A Yes, sir.

7 Q Now, I want you to tell us a little bit about the last
8 days of Mike Rodgers. You were with him?

9 A Yes.

10 Q Living with him then?

11 A Yes, sir.

12 Q And can you tell us, when was his birthday?

13 A [REDACTED].

14 Q Okay. And --

15 A [REDACTED], I'm sorry.

16 Q [REDACTED] of 2019, how old did he turn?

17 A Thirty.

18 Q And do you remember doing something special for his
19 birthday?

20 A Yes, we went to the beach.

21 Q Which beach?

22 A Myrtle Beach.

23 Q And was it just the two of you?

24 A Yes.

25 Q And when you went to the beach for his birthday, you

1 were celebrating his birthday?

2 A Yes.

3 Q And did you have occasion to learn or find out
4 something about a video that Mike Rodgers was talking about?

5 A Yes.

6 Q Tell us a little bit about the background of how you
7 came to see the video and what you did once you saw it.

8 A It was a live video.

9 Q Tell us what do you mean live.

10 A It was -- Facebook has a live broadcast you can go in
11 and be live. And on the video, it was with a bunch of boys
12 on it, basically, bragging and joking, picking about
13 something that happened with Mike. Some boys jumped him in
14 the club. It was just a lot of tension for nothing.

15 Q Let me make sure I understand, you saw the video that
16 had been posted on Facebook?

17 A I did.

18 Q Did you see it on your phone?

19 A I did.

20 Q Do you know how you got it sent to you?

21 A Somewhere shared the live with me.

22 Q Okay.

23 A I'm not exactly sure who shared it, but they're
24 shareable. Like, if it's on, somebody can share it to you
25 or send it to you.

1 Q At that time in 2019, were you a Facebook member?

2 A I was.

3 Q If you had not been a Facebook member, would you have
4 been able to receive it from whoever sent it to you?

5 A They couldn't have shared it to me, no.

6 Q So tell us when did you see the video in terms of going
7 to the beach with Mike?

8 A It was prior to going to the beach, actually. It was
9 one of them during that week that we saw it. He was just
10 like -- he was tired. He was tired, he was. Like, it was
11 just every time you turned around, it was something. He was
12 in the house a lot. He really didn't want to go out. He
13 did want to go outside, but at the same time, he didn't
14 because it was just so much. Every time he went out, it was
15 something.

16 Q Can you give us an estimate of how many days before you
17 went to the beach for his birthday did you see the video? I
18 guess what I'm asking, was it a week before, two weeks
19 before or was it a couple days before?

20 A It could have been within a week or two. Being honest,
21 it could have been like a week or two.

22 Q Did you show the video to Mike?

23 A I did.

24 Q Was that the first time he saw the video --

25 A Yes.

1 Q -- from your phone when you showed it to him?

2 A Yes.

3 Q And you all talked about it?

4 A Yes.

5 Q And what did you tell him once you saw the video and he
6 saw the video?

7 A I showed it to him and he was like --

8 MR. KENT: Objection, hearsay, Your Honor. I don't
9 think the solicitor was trying to solicit it, but --

10 BY MR. FINNEY:

11 Q Don't say what he said, tell us what you said to him.

12 A I told him that he needed to stay inside and continue
13 to stay inside because I didn't like how it was going. I
14 didn't like the thing that was happening and I was,
15 actually, scared for him.

16 Q All right. Now, you went to the beach, the two of you.
17 Did you stay one night, two nights?

18 A We stayed two nights.

19 Q After that, you came back. Did you return to work?

20 A I did.

21 Q Was Mike working during that time?

22 A Yes.

23 Q So he went back to work?

24 A No.

25 Q He didn't go back to work?

1 A No, not the day that we came back, no.

2 Q No, no, I'm saying after you came back from the beach?

3 A Yes.

4 Q Y'all went back to your regular schedule?

5 A Yes.

6 Q That was [REDACTED]?

7 A That was the [REDACTED], his birthday was that Monday, yeah.

8 Q Do you remember seeing him on the day that he was
9 killed?

10 A Yes.

11 Q September the 9th?

12 A Yes.

13 Q About a month had gone by?

14 A Yes.

15 Q And what happened that day in terms of anything that
16 you remember? In other words, did you all get up, have
17 coffee and both went to work?

18 A Actually, no. It was a good day. We was at home all
19 day. We sat around. Actually, he cooked breakfast. I
20 ended up cooking us some lunch. We lounged all day. I had
21 dogs at the time and he went outside, he messed with the
22 dogs. He just was chilling at home. He was at home. He
23 sat up under the carport listening to his music, smoked his
24 blunts. He, actually, sent for a bottle of liquor that day.
25 He was just chilling all day.

1 Q How did you learn that he had been shot?

2 A I got woke up out my sleep.

3 Q Someone called you?

4 A (Witness nodded.)

5 Q What did you do when you got the call?

6 A I got up.

7 Q Did you leave the house?

8 A I did.

9 Q Did you go to the hospital?

10 A I did.

11 Q And was it -- do you remember about the time or day or
12 night you got the call?

13 A It was around 1:00 something. It could have been,
14 like, 1:30, 1:45, something like that.

15 Q Did you go to the hospital by yourself or did someone
16 take you?

17 A Someone took me.

18 Q Ms. Eaglin, I want you to --

19 MR. KENT: Your Honor, subject to my pretrial
20 objection.

21 THE COURT: All right. That objection is noted.

22 MR. KENT: Thank you, Your Honor.

23 MR. FINNEY: Your Honor, State's Exhibit 1, I would
24 like to publish it for the witness and the jury.

25 THE COURT: Subject to the prior objection, Mr. Kent.

1 MR. KENT: Thank you, Judge.

2 THE COURT: All right. It's admitted over the
3 Defense's objection.

4 (WHEREUPON, State's Exhibit No. 1 was admitted into
5 evidence.)

6 (WHEREUPON, State's Exhibit No. 1 was published for the
7 jury.)

8 BY MR. FINNEY:

9 Q Ms. Eaglin, when you saw that video, did you know the
10 man who was singing the song?

11 A No.

12 Q Did you know any of the other guys in the video?

13 A No, I didn't.

14 Q The man who's singing, his picture is on the screen
15 now, have you come to know who made the video? Did you
16 learn who made the video, who that was?

17 A Yes.

18 Q What name did you associate with that?

19 A Trae.

20 Q Trae?

21 A Trae.

22 Q Did you have a last name?

23 A Epps.

24 Q And do you see Mr. Trae Epps in the courtroom today?

25 A I do.

1 Q Where is he sitting?

2 A Right beside Mr. Kent.

3 Q Does he have on a long-sleeved shirt?

4 A Yes, he does.

5 Q That's the same man who made that video?

6 A Yes, it is.

7 MR. FINNEY: Thank you. I don't have anymore
8 questions. Answer any questions Mr. Kent may have.

9 THE COURT: Mr. Kent.

10 CROSS-EXAMINATION

11 BY MR. KENT:

12 Q Ms. Eaglin, how are you?

13 A Fine.

14 Q And we've known each other for quite some time; is that
15 a fair statement?

16 A It is.

17 Q And, unfortunately, I've always called you Eaglin, so I
18 apologize.

19 A That's fine.

20 Q We're to the point I've known you almost a decade?

21 A Yeah, you were my lawyer.

22 Q I don't have a lot of questions. I think we've gone
23 through some of this and I think you know where I'm going;
24 is that a fair statement?

25 A I do.

1 Q And let's make sure, I'll give you an opportunity to
2 answer all the questions I have if you'll give me an
3 opportunity to ask my questions; is that fair?

4 A Uh-huh, yes.

5 Q You know where I was going to go. She can't take head
6 nods or shakes, so make sure we speak loud and clear. Fair
7 enough?

8 A Yes.

9 Q And you understand before we go further, and I've made
10 this clear to you, I don't understand social media as much
11 as most, so I'm going to ask you questions about it, fair?

12 A Yes.

13 Q You mentioned this was on a Facebook Live?

14 A Yes.

15 Q And I think I asked you once before, there's a
16 difference between a Facebook Live and a Live Facebook; is
17 that a fair statement?

18 A There's no difference.

19 Q Okay. Meaning you can watch something live watching it
20 or a Facebook Live if it was recorded live; is that fair?

21 A Yes.

22 Q Is there a better way of saying it?

23 A Yes.

24 Q And so when we say we watched a Facebook Live, it can
25 be recorded six months ago and you can watch it today, but

1 you're still watching a Facebook Live?

2 A Yes.

3 Q Is that a fair way to say it?

4 A Yes.

5 Q And the video that we just saw, you don't know when it
6 was actually made, you just know when you saw it?

7 A No, I know around the time it was made because the time
8 that it was made was during the time that I saw it. I saw
9 it within that day. I didn't see it, like, weeks or days
10 after, I saw it that day of the live. It was going on all
11 day. It was an all-day live.

12 Q So what we just saw was just a clip?

13 A Yeah, you saw a portion.

14 Q So there's a larger portion somewhere that exist, you
15 agree with me there?

16 A Yes, somewhere.

17 Q All we've been shown and all this jury has been shown
18 is just that little clip. There is a larger clip that we
19 have not seen; is that a fair statement?

20 A Yes, it's a larger clip and it's multiple lives.

21 Q And then you'd agree with me when we were watching that
22 Facebook Live, at the beginning of it, it starts out with 54
23 people who are watching?

24 A Yes.

25 Q When we watch a Facebook Live, it starts out with zero

1 and people start joining the Facebook Live?

2 A Yes, but 54 people could have come in within four
3 seconds.

4 Q But we don't know because we don't have the full video?

5 A You wouldn't know if you had the full video.

6 Q But we don't have the full video?

7 A No, you don't.

8 Q And you did not know the individuals in the video?

9 A No.

10 Q You don't know who shot the video, who made the video,
11 who created the video?

12 A No, I don't.

13 Q Did you have the video on your phone?

14 A It was on both of our phones. It was on my phone and
15 he was able to click on on his phone.

16 Q So do you have the longer clip on your phone? Did you
17 have the longer one or did you just have that small clip we
18 just saw?

19 A No, I saw it all. I saw the whole video.

20 Q Did law enforcement ask you for the full video?

21 A No. I didn't have the full video, so I couldn't give
22 them the full video anyways.

23 Q I guess, my question is you had the full video on your
24 phone?

25 A Uh-huh.

1 Q Couldn't you have shared that whole video with law
2 enforcement so we could have the full video?

3 A If I kept it, yes.

4 Q You deleted it?

5 A Yeah, I had no purpose for it.

6 Q Whatever happened, I am sorry for your loss. I've
7 known you a long time and I'm sorry for what you're going
8 through.

9 A Thank you.

10 Q I still consider you a friend and I'm still sorry for
11 everything you're going through.

12 A Thank you.

13 MR. KENT: Thank you, Your Honor.

14 MR. FINNEY: Nothing further, Your Honor.

15 THE COURT: Ma'am, you can step down. Thank you.

16 MR. FINNEY: I call Detective Willie McFadden. I'm
17 sorry, Your Honor, I thought Detective McFadden was right
18 outside. They had to go get him.

19 THE COURT: Okay.

20 MR. KENT: Your Honor, before the witness testifies, I
21 would just renew the pretrial objections in regard to the
22 statement from September 17th.

23 THE COURT: All right. The objection is renewed and
24 noted for the record.

25 MR. KENT: Thank you, Your Honor.

1 THE CLERK: Place your left hand on the Bible, raise
2 your right hand and state your name.

3 THE WITNESS: Willie McFadden.

4 WILLIE MCFADDEN,

5 after being duly sworn, testified as follows:

6 THE CLERK: Thank you. Please be seated. State your
7 name for the record and spell your last name.

8 THE WITNESS: Willie McFadden, M-C-F-A-D-D-E-N.

9 DIRECT EXAMINATION

10 BY MR. FINNEY:

11 Q Good morning, Detective McFadden.

12 A Good morning.

13 Q Tell the ladies and gentlemen where you work, sir.

14 A Sumter Police Department.

15 Q And how long have you been there?

16 A Since 2014.

17 Q And what are your duties there, please, sir?

18 A I work in the investigative services division. I work
19 in the violent crimes division.

20 Q Were you doing that same work in September of 2019?

21 A That is correct.

22 Q And were you assigned this Hop-In shooting case as one
23 of the cases you were going to be supervising?

24 A Yes.

25 Q Did you have an opportunity to go to the Hop-In on that

1 night?

2 A No, sir.

3 Q When the call came in?

4 A No, sir.

5 Q So when you came back to work, I guess, Monday morning,
6 did you get briefed on what had happened?

7 A That is correct.

8 Q Tell the ladies and gentlemen what your normal
9 procedure is in this kind of situation -- first of all, let
10 me ask you because I didn't, you are a detective now. How
11 long have you been in law enforcement?

12 A A total of 18 years.

13 Q And have you been working violent crimes for the last
14 ten years?

15 A In 2016, I started in investigations. I worked
16 property crimes to start off with and then I got transferred
17 over to violent crimes, so the last maybe five years.

18 Q Tell us what you did when you got the file put on your
19 desk, how you started working the file and getting it put
20 together.

21 A I wanted to get as much information as I can to come
22 in, interview witnesses, looking at evidence that was
23 processed on the scene that night, forensics evidence, just
24 anything that could help me prosecute for this case.

25 Q All right. Now, if my thinking is correct, when the

1 shots were fired at 1:00 a.m., it had already turned into
2 Sunday, the 8th?

3 A That is correct, it was after midnight. It was
4 Saturday night after midnight turned into Sunday.

5 Q Sunday was the day of the shooting, Sunday morning?

6 A Correct.

7 Q Monday would have been the 9th of September and the
8 10th of September would have been Tuesday?

9 A That's correct.

10 Q Did you have an occasion to interview a young man by
11 the name of Timothy Scarbough on Tuesday, the 10th of
12 September?

13 A Yes, I did.

14 Q And do you remember where that interview took place?

15 A It took place at Sumter Police Department.

16 Q Basically, your office?

17 A Yes.

18 Q How did you get him to come in and talk to you? How
19 did you know you wanted to talk to him?

20 A That was four years ago, I don't quite remember how he
21 came to Sumter Police Department. But he did come and I
22 interviewed him.

23 Q He told you he had been at the Hop-In?

24 A That's correct.

25 Q Did you, also, learn his relationship to Mike Rodgers?

1 A That's correct.

2 Q Tell the jury what you learned about him and Mike
3 Rodgers as far as that night?

4 A What happened that night?

5 Q Well, before they got to the Hop-In, were they
6 together?

7 A Yes, they was together.

8 Q Do you know who else was with them that night?

9 A That is correct.

10 Q Tell us.

11 A So it was him, which is going to be Rollo, Rollo and
12 Michael Lucas, Little Archie, which is going to be Tyreek
13 Archie, and, also, Michael Rodgers, which is the victim in
14 this case, whose nickname is Killa Mike.

15 Q So the four gentlemen that you just mentioned were
16 together that evening earlier?

17 A Yes, sir.

18 Q And what were they doing earlier as far as what you
19 learned from talking to Mr. Scarbough?

20 A They was just all hanging out earlier. If I can refer
21 back to some notes?

22 Q In the process of your talking to Scarbough at your
23 office, did you take down notes?

24 A Yes, I did.

25 Q And did he later -- at the conclusion of the interview,

1 did he sign those notes?

2 A He signed a statement.

3 Q A statement?

4 A A typed statement, yes, sir.

5 Q And that was -- the document that I just gave you, is
6 that a copy of the statement he signed?

7 A That is correct.

8 Q Do you need to use that document to refresh your
9 memory?

10 A Yes.

11 Q What's the date on the document?

12 A The date on the document is September 10th, 2019.

13 Q And is it witnessed by you?

14 A It's witnessed by me and, also, at the time, I think
15 she was Staff Sergeant Culick.

16 Q And Staff Sergeant Culick was the lady who testified
17 yesterday?

18 A That is correct.

19 Q So after hanging out with his buddies, Mr. Rodgers, Mr.
20 Scarborough, Mr. Archie and Mr. Lucas, did they get in a car
21 and drive somewhere?

22 A Yes, they got into a red Dodge Charger.

23 Q Whose car was that?

24 A That was Michael Lucas's vehicle.

25 Q And he was driving?

1 A He was driving.

2 Q And at the time, did you learn from your investigation
3 where they were going?

4 A They was going over to the S&B Lounge, which is like a
5 club-type spot, just because -- Michael Lucas had a female
6 that was hosting a party out there, so they was all going to
7 go out there.

8 Q And do you know what time of evening this would have
9 been when they got in the car and went out to the S&B?

10 A It was towards approximately one o'clock, what Timothy
11 Scarborough stated to me.

12 Q All right. Do you know if they ever got to the S&B?
13 In other words, from what Mr. Scarborough relates to you, did
14 they make it to the S&B?

15 A I don't think they ever made it to the S&B Lounge.

16 Q Where did they go before they got to the S&B?

17 A They went to the Sunoco that's right across the street
18 from S&B Lounge.

19 Q Sunoco gas station?

20 A Yes, sir.

21 Q And did your investigation lead you to believe that
22 they got to the Sunoco, the four of them together?

23 A That is correct.

24 Q And did your investigation reveal that they got out the
25 car and walked around?

1 A Not all of them got out the car. Michael Lucas, who
2 was driving the Dodge Charger, he stayed inside the vehicle.
3 Michael Rodgers got out the vehicle, Tyreek Archie got out
4 the vehicle and, also, Timothy Scarbough.

5 Q What did Timothy Scarbough tell you that he did when he
6 got out the vehicle?

7 MR. KENT: Your Honor, I'm going to object. This is
8 getting close to just listening hearsay from the statement
9 from Mr. Scarbough. I can understand when we're talking
10 about through the course of investigation, but now we're
11 getting into what did he tell you.

12 THE COURT: Y'all approach real quick.

13 (WHEREUPON, a bench conference was held in the presence
14 of the jury, but outside the hearing of the jury.)

15 BY MR. FINNEY:

16 Q So Mr. McFadden, when you were interviewing Scarbough
17 and you talked to him about the events of that night, did he
18 tell you that he was with Mike Rodgers at the Sunoco?

19 A That's correct.

20 Q And did he tell you about the events that led up to
21 Mike Rodgers being shot?

22 A That's correct.

23 Q Now, after you got those details from Mr. Scarbough,
24 did you do other things in your investigation to
25 corroborate?

1 A Yes, I did.

2 Q Tell us a little bit about that.

3 A I went back and I reviewed the video from the Sunoco.

4 And the video revealed that what Timothy Scarbough --

5 MR. KENT: Objection, Your Honor. Move to strike.

6 BY MR. FINNEY:

7 Q Don't tell us what Timothy Scarbough said, but tell us

8 when did you -- did you see the video from the store after

9 talking to Scarbough or did you already have the video?

10 A I believe we already had the video by then. I reviewed

11 it before and after -- I, actually, reviewed it a lot.

12 There's so much stuff that went on out there. I had to take

13 a look at it over and over and over again, but before and

14 after, yes, sir.

15 Q All right. So at this point, you have the video and

16 you talked to a man who was with Rodgers?

17 A That's correct.

18 Q Were you able to identify the man who shot Mike

19 Rodgers?

20 A That's correct.

21 Q How were you able to do that?

22 A Through witnesses and, also, through the video camera.

23 Q I'm going to ask you to look at what's been introduced

24 as State's Exhibit 5. Camera 12 is the angle we're going to

25 look at. It's a black and white video. Tell the ladies and

1 gentlemen --

2 A Hold on, it's not on over -- okay. I got it.

3 THE COURT: This camera angle is included in State's
4 No. 5?

5 MR. FINNEY: That's correct.

6 THE COURT: Okay.

7 BY MR. FINNEY:

8 Q Do you recognize this camera angle 12 as something that
9 you saw during your investigation?

10 A That's correct.

11 Q We're going to start it at 11:41:35.

12 (WHEREUPON, video was played.)

13 Q According to the information you learned, do you see
14 the car that Mike Rodgers and Scarbough and the other guys
15 arrived in?

16 A That's correct. It's to the left of the screen. It's
17 the Dodge Charger taillights in the back that's backing up
18 into the parking space right here in the front on the left
19 side of the camera.

20 Q Is it the first car you see on the screen on the left
21 side?

22 A That is correct.

23 Q That's the car that came in?

24 A Yes, sir.

25 Q How long -- based on your investigation and looking at

1 the video and talking to people, how long had that car been
2 there?

3 A Not long. Maybe before the incident took place, if I
4 had to estimate --

5 MR. KENT: Objection, calls for speculation, beyond the
6 scope of 701 and 702.

7 THE COURT: He can answer if he knows.

8 BY MR. FINNEY:

9 Q Did you look at the video?

10 A Yes, I did.

11 Q And did you see the car pull in on the videotape?

12 A That's correct.

13 Q And can you estimate how long --

14 MR. KENT: Your Honor, videos are self-authenticating.
15 The video speaks for itself. Asking this witness would be
16 treating him almost if he's an expert to make an opinion.
17 The video speaks for itself.

18 THE COURT: He can say the amount -- if he knows from
19 watching the video the amount of time the car was in the
20 video, I think he can testify to that, but if he's making an
21 estimation or a guess, then I would sustain the objection as
22 to any estimates or guesses, but if he knows from reviewing
23 the evidence, he can testify to that.

24 BY MR. FINNEY:

25 Q Do you have an estimation -- let me do this. Let me

1 play the video -- let me start it at the earlier part. Now,
2 did you determine in your investigation that the time on the
3 cameras that's showing was the correct time or were they
4 off?

5 A They were off.

6 Q All right.

7 (WHEREUPON, video is played for the jury.)

8 Q We are now showing you camera 12 at 11:37:58. Do you
9 see the car pulling in?

10 A That's correct, it's backing up into the parking space
11 in front of the store.

12 Q All right. And do you see anybody in the video now
13 that you recognize? Tell us if you see Mike Rodgers or Mr.
14 Scarborough.

15 A That's Mike Rodgers with the shorts on.

16 Q He just walked to the left?

17 A He's right in this area right here.

18 Q All right. So is he now on the sidewalk?

19 A I see Jerry Wilson, which his nicknames is Beans, but
20 he's on the sidewalk right here. Michael Rodgers was on the
21 sidewalk, he just walked off.

22 Q All right. And based on your investigation, did you
23 talk to some of these people in the camera now?

24 A I have.

25 Q Was there anything going wrong --

1 MR. KENT: Objection, Your Honor, this is what we
2 talked about.

3 THE COURT: Sustained.

4 BY MR. FINNEY:

5 Q Tell us what you learned from your investigation. At
6 this point in the video, did anybody complain to you of
7 anything --

8 MR. KENT: Objection, Your Honor. Can we approach?

9 THE COURT: Yes.

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury, but outside the hearing of the jury.)

12 BY MR. FINNEY:

13 Q As you continued your investigation and you looked at
14 the video from the store, what did you learn about Mike
15 Rodgers and Trae Epps and any interaction they had?

16 A So from the video and from statements, I learned that
17 Diontrae Epps, he swung on Mike Epps [sic] at the Sunoco gas
18 station and then pulled out a firearm and fired numerous
19 times at Michael Rodgers.

20 Q Can I take you to 11:41 and ask if you can point out
21 Mr. Epps and Mr. Rodgers on this video?

22 (WHEREUPON, video was played.)

23 A So that's Michael Rodgers -- so Michael Rodgers just
24 walked up over in this area right here. Diontrae Epps is
25 right here. He's about to move Timothy Scar -- like,

1 pushing him to the side --

2 MR. KENT: Objection, Your Honor. Identify people in
3 the video not what he thinks is happening.

4 THE COURT: He's identified the parties. Let's
5 proceed.

6 BY MR. FINNEY:

7 Q This is at 11:41:41?

8 A Yes, sir, 11:41 is the timestamp on the camera, which
9 is off.

10 Q It's one o'clock in the morning?

11 A Correct. The timestamp is off on the camera.

12 Q Right.

13 (WHEREUPON, the video is continued.)

14 A That's him --

15 MR. KENT: Your Honor, let's identify the parties, not
16 what he thinks is happening on the video.

17 THE COURT: Just let the video play.

18 BY MR. FINNEY:

19 Q The man that you're talking about has on a white shirt?

20 A White t-shirt, yes.

21 Q Do you know that man?

22 A Diontrae Epps.

23 Q So Epps is in the white shirt?

24 A Yes, Diontrae Epps is in the white shirt and Michael
25 Rodgers is right there right next to him.

1 Q Which side is Michael Rodgers in the video?

2 A He's on the left-hand side.

3 Q On the left side?

4 A And Diontrae Epps is right here on the right-hand side.

5 Q All right. And what did you see there?

6 A Could you rewind it back a little bit?

7 Q Yes, sir. You see the white t-shirt?

8 A White t-shirt, then Diontrae Epps firing multiple shots
9 at Michael Rodgers.

10 MR. KENT: Objection, Your Honor.

11 THE COURT: Again, the identity of the parties I think
12 is fair game for the video, but the narration of the video
13 since Detective McFadden wasn't there and was not a witness
14 to this.

15 MR. FINNEY: All right. I understand, Your Honor.

16 THE COURT: Sustained.

17 BY MR. FINNEY:

18 Q Detective McFadden, did you have other video cameras to
19 look at from the Sunoco station?

20 A That is correct.

21 Q I want to turn your attention to camera 16 and start
22 about the same time, 11:11:46. Can you see anybody in this
23 picture now that you talked to as a witness?

24 A Yes, I see on the screen now Timothy Scarbough wearing
25 the red pants, black shirt and the big gold chain -- well,

1 gold chain with the big charm on it.

2 Q All right. And do you see the car that they came into
3 the gas station that night? Can you see that in that camera
4 angle?

5 A I can't really tell right now.

6 Q All right. And this is at 11:41:18?

7 A Correct.

8 Q If you see Mike Rodgers in the video, let me know.

9 A Pause right there. That's Michael Rodgers in the black
10 t-shirt. It look like it may be shorts maybe bleached with
11 the black shoes on.

12 Q That's in front of the black car?

13 A That's correct, to the left of the screen in front of
14 the black car.

15 Q Go ahead.

16 A He's walking towards the Wendy's side. Pause. That's
17 Diontrae Epps that walked up to him. You see him with --

18 Q Just tell us what color sneakers Mr. Epps has on?

19 A He has on the white sneakers.

20 Q And Mr. Rodgers has on what color sneakers?

21 A Black sneakers.

22 Q All right. And based on your information and talking
23 to the people and investigating, is that when the shooting
24 was between those two men right there?

25 A That's correct. That's the first shot that was fired

1 that night.

2 Q All right. When you continued with your investigation,
3 did you want to talk to Mr. Diontrae Epps?

4 A Yes, sir.

5 Q And were you able to do that?

6 A I did.

7 Q On the 10th or the 11th or the 12th, when did you talk
8 to him?

9 A I talked to Epps on September 15th, that was a Sunday.
10 That was after he was released from the hospital.

11 Q All right. And where did you talk with him at?

12 A At his mother's residence located at [REDACTED]

13 [REDACTED].

14 Q And who went with you, if anyone, to that interview?

15 A It was me and Staff Sergeant Culick.

16 Q And what was your purpose for going to talk with him?

17 A To find out details of what he knew about the Sunoco
18 incident and who shot him, if he would have gave us any
19 information to that, we would have looked into that. Also,
20 did he fire a gun at anybody, which we didn't -- of course,
21 we didn't advise him at the time what we had, we just wanted
22 to see what information he could provide to us.

23 Q So the first meeting with him on September 15th is at
24 his mother's house?

25 A That is correct.

1 Q What did he tell you during that meeting -- first of
2 all, did you go in and talk to him and ask for a statement?

3 A Well, we had to wait for him to come there. If I'm not
4 mistaken, his girlfriend brought him to the residence. And
5 then his mother provided the bedroom for us to use to talk
6 to him.

7 Q So who was in the bedroom with you and Mr. Epps?

8 A It was Detective Staff Sergeant Culick.

9 Q All right. And did you ask for him to give a
10 statement?

11 A At first, we read him Miranda rights.

12 Q And the Miranda rights that you read to him --

13 A Staff Sergeant Culick read him the Miranda rights.

14 Q Are they on a form?

15 A That is correct.

16 Q I want to show you what has been marked as State's
17 Exhibit 3 and ask you to identify it?

18 A That's the Sumter Police Department interview form.
19 Before we question anybody about a particular crime, we read
20 them their Miranda rights.

21 Q And that form is already in evidence?

22 A That's correct.

23 Q Did you read him both rights about remaining silent and
24 having the right to --

25 A Detective Staff Sergeant Culick read the Miranda

1 rights, I witnessed it.

2 Q And what time was that you were at his mother's house?

3 A That was at 3:56 p.m. in the afternoon.

4 Q All right. And when you read him his rights, did you
5 have an opinion as to whether he understood his rights?

6 A I believe he did, yes, sir.

7 Q Was he in any way not able to talk to you or understand
8 you that afternoon?

9 A He appeared to be normal. I knew Diontrae Epps before
10 this incident right here, so he appeared to be the same. He
11 appeared to be normal.

12 Q Did he tell you that he was under any medication or
13 influence of any drugs or anything that he couldn't
14 understand what he was doing that day?

15 A No, sir.

16 Q After you began and got him to sign -- did he sign it?

17 A He did.

18 Q And you witnessed it and --

19 A Yeah, I witnessed it and, also, Detective Staff
20 Sergeant Cullick, she witnessed it as well.

21 Q All right. Very good. So tell us about the interview
22 that took place after she gave him his rights. Did you talk
23 to him about being at the Hop-In?

24 A That is correct.

25 Q And what did he say to you during that interview about

1 his actions at the Hop-In?

2 A He acted like he didn't remember much about the
3 incident. He stated that mainly he was laying in the back
4 of the vehicle that he arrived in. I guess he was having an
5 argument through text messages with his girlfriend. When
6 asked, like, what kind of car he came in and what color was
7 it, you know, make, model, he wouldn't provide any of that
8 information. He would only say it was like a cousin's car.
9 He wasn't very forthcoming with any information in reference
10 to the Sunoco.

11 Q In your experience as an investigator, do you know
12 sometimes you have to dig and dig and dig before you get
13 information?

14 A That is correct.

15 Q So you felt like he was not being responsive to the
16 questions?

17 A No, he was being responsive to the questions, he just
18 didn't want to provide any information in reference to this
19 particular incident.

20 Q Did he tell you that he was in the car at the Sunoco?

21 A Yes, he told me he was in the car when the shots
22 started firing off, which was -- I was like, Why would you
23 get out the car, why would you not just drive off?

24 Q He said he was in the car when the shots started firing
25 and he got out of the car?

1 A That's correct.

2 Q And then what happened to him after he got out of the
3 car?

4 A He said that -- I guess -- hold on, let me take a look
5 just a second. So he stated he got out of the car,
6 quotations, I was hit, didn't see who did what. He went on
7 to say my leg was jumping. That's when he got behind
8 another red vehicle and laid there until the shots stopped.

9 Q And did he say that he knew who shot him?

10 A No, he said he didn't see who shot him.

11 Q Did you ask him whether he had a gun?

12 A That is correct, we asked him did he have a gun, did
13 he, you know, fire a gun that particular day. He said he
14 never had a gun. He never shot a gun.

15 Q And all of the time when you're talking to him at his
16 momma's house, you didn't tell him that you had seen the
17 store video?

18 A I did not.

19 Q And the other investigator didn't tell him?

20 A No, sir.

21 Q So you were giving him a chance to lay his story out?

22 A That is correct.

23 Q Did you ask him if anybody had been shooting at him?

24 A Yes, I did.

25 Q And what was his response?

1 A His response was, he said there was about a hundred
2 guns out there. And when we asked him who had a gun or who
3 did you see with a gun, he wouldn't provide us with any of
4 that information. But he did say there was, like, a hundred
5 guns out there.

6 Q And he never did identify the details about the car he
7 came to the Sunoco in?

8 A He never did.

9 Q Did you ask him any questions about leaving the Sunoco
10 that night?

11 A Yes, but he didn't give an answer for that as well.

12 Q Did you bring up the name Mike Rodgers to him during
13 that interview on the 15th?

14 A I did.

15 Q And did you ask him if he had been talked to about Mike
16 Rodgers shooting at him that night?

17 A Right. So when I asked him about Mike Rodgers, also
18 known as Killa Mike, he was like -- he stated that someone
19 told him that Michael Rodgers is the one that shot him, but
20 then he was like how did Michael Rodgers shoot me when I
21 didn't even see him that night.

22 Q That's what he told you?

23 A That is correct.

24 Q And did you go on and talk to him about other things
25 that -- for example, did you talk to him about having a

1 difficulty, some kind of beef with Mike Rodgers in the past?

2 A That's correct. So he said -- about a Facebook post,
3 but he said that didn't have anything to do with what
4 happened out there that night.

5 Q So when he mentioned the Facebook post, had you and
6 Detective Culick seen that video that we saw in court a few
7 minutes ago?

8 A Not at that time, no, sir.

9 Q You didn't know about the Facebook post?

10 A Not at all.

11 Q When did you learn about the Facebook post?

12 A When it was provided to us.

13 Q How did you get it?

14 A We got it anonymously from some family that was coming
15 in and gave the videos to us.

16 Q All right. But the first time you heard about the
17 Facebook post was from who?

18 A From Diontrae Epps.

19 Q All right. Now, after talking with him for a few
20 minutes -- how long did you say this interview last at his
21 mom's house?

22 A Twenty minutes, 30 minutes.

23 Q All right. And you all -- did you get all the answers
24 you were looking for during the interview?

25 A Not at all.

1 Q So you and Culick left?

2 A That is correct.

3 Q What is the next opportunity you have to talk with Mr.
4 Epps?

5 A He came to the police department on Tuesday, September
6 17th, 2019.

7 Q And why did he come to the police department?

8 A He came to meet with the victim advocate originally, I
9 guess to fill out some victim advocate paperwork.

10 Q Let me go back just one minute. When you met Mr. Epps
11 on the 15th, how did he get to his momma's house?

12 A His girlfriend brought him there.

13 Q How did he get in the house?

14 A He walked in the house.

15 Q All right. And on the next occasion when you saw him
16 at the police station on the 17th --

17 A He walked in the police department.

18 Q And did he have to go see the victim advocate?

19 A He did see the victim advocate, yes, sir.

20 Q And then you and Detective Culick --

21 A Made contact with him after he met with the victim
22 advocate.

23 Q At the police station?

24 A That is correct.

25 Q And what did you ask him at that point?

1 A We wanted to talk to him some more, but he said -- he
2 stated that he didn't want to talk anymore and he was ready
3 to go.

4 Q At that point, once you asked for the interview and he
5 declined the interview, he said I don't want to talk
6 anymore, what did you do then?

7 A Then we advised him that he had an arrest warrant for
8 murder.

9 Q And what's the procedure once you advise a person that
10 he's being charged?

11 A We show them the warrant and get them ready to be
12 transported to Sumter County jail.

13 Q And did you read the details of the warrant to him?

14 A Yes, I did.

15 Q And was this in the police station?

16 A That is correct, it was in the police station.

17 Q What did you advise him at that time the details of the
18 warrant were?

19 A I advised him that he was charged with the murder of
20 Michael Rodgers, the incident that happened on September
21 8th, 2019, at the Hop-In gas station. The warrant stated
22 Epps threw a punch at Rodgers, the victim. Epps then pulled
23 out a handgun and fired several shots striking the victim
24 where the victim was later pronounced dead as a result of
25 the gunshot wounds. Epps was, also, being charged with

1 unlawful carrying of a pistol, possession of a weapon during
2 a violent crime.

3 Q Once you served the warrants on him, was he officially
4 under arrest?

5 A That is correct.

6 Q Did he make any statements to you at that point?

7 A Yes, he did.

8 Q What did he say?

9 A He kept saying, I never had a gun, I never shot a gun.
10 He kept saying that over and over. He said, I never shot
11 anybody.

12 Q And was he talking to you and Culick at this time?

13 A At this time, it was me and Detective Sergeant Culick.

14 Q All right. Did he say anything about swinging,
15 throwing a punch at Mr. Rodgers?

16 A He stated that -- so he was referring to another video
17 that was made by some females that was out there. He was
18 like, Y'all didn't have me on video. Y'all didn't see me
19 doing this or doing that. And then I explained to him we're
20 not talking about the video that was made by the females
21 that was on scene that night, we're talking about the video
22 that was made from the Sunoco store.

23 Q Is that the first time to your knowledge Mr. Epps knew
24 that there was store video from the Hop-In?

25 A That is correct.

1 Q Now you've got him not wanting to make a statement,
2 you've got him being charged officially with murder and
3 possession of a weapon, and you have now informed him that
4 you have video from the store?

5 A That is correct.

6 Q What did he do then?

7 A He then started, like, sweating real bad. He just kept
8 saying over and over, like I said, I didn't have no gun. I
9 didn't shoot nobody.

10 Q All right. What was the process then of taking Mr.
11 Epps into custody?

12 A So after we showed the warrant to him, he asked to make
13 a phone call to his mother. We let him talk to his mother.
14 He, also, asked for his girlfriend -- she was still in the
15 front lobby at the time -- to come talk to him and we
16 allowed that. We allowed his girlfriend to come talk to
17 him. And then we was getting him prepared to be transported
18 to Sumter County jail.

19 Q And did you transport him yourself?

20 A I did.

21 Q Did you have any conversation with him before you left
22 the law enforcement center?

23 A I did.

24 (WHEREUPON, a bench conference was held in the presence
25 of the jury, but outside the hearing of the jury.)

1 THE COURT: Thank you, gentlemen.

2 BY MR. FINNEY:

3 Q Would you like some water?

4 A Please.

5 Q Detective, after you arrested him and charged him, did
6 you have additional conversations with Mr. Epps?

7 A I did.

8 Q And did you question him at this point?

9 A No, I didn't question him.

10 Q What was he doing?

11 A He asked to speak with me, like, alone for a second
12 before he was transported to the Sumter County jail because,
13 like I said, I've had prior encounters with him in the past,
14 I know Diontrae Epps.

15 MR. KENT: Objection, Your Honor.

16 THE COURT: Sustained.

17 BY MR. FINNEY:

18 Q And as a result of that request from Mr. Epps, did you
19 ask Detective Culick to leave?

20 A No, huh-uh. She was still -- we was walking out to my
21 vehicle.

22 Q I see.

23 A Yes, sir. So she was already --

24 Q You and Epps were going to your vehicle?

25 A Correct.

1 Q All right. You were going to take him to the jail?

2 A That is correct.

3 Q Did you sit down in the vehicle and talk to him?

4 A I did.

5 Q Did you ask him any questions?

6 A No, I did not ask him any questions.

7 Q If you had asked him questions, in other words, to get
8 a statement, what would you have done?

9 A I would have read the interview form, the Sumter Police
10 Department interview form, which has the Miranda rights.
11 Every time we talk to people and get statements from them,
12 we want to read that.

13 Q So you let him talk?

14 A I let him talk, yes, sir.

15 Q And what did he say to you?

16 A Let me refer back to my notes. He stated, he was like,
17 All right, I did swing on Killa Mike. That was a quotation,
18 I did swing on Killa Mike. Then he demonstrated how Mike
19 came up to him aggressively and did like a chest bump, you
20 know, kind of just jumped up towards him, that's why he
21 swung on him.

22 Q Did he ever tell you that he pulled a gun and shot
23 Killa Mike?

24 A No, he said that Killa Mike pulled a gun out on him,
25 but he said when he saw that, he said, I did have my thing,

1 my thing, my gun. And he said -- he motioned as he was
2 firing behind him trying to get away and take cover. That's
3 what he stated to me, like, he was just motioning like this
4 right here, I was just firing behind me, like, this right
5 here. And he asked me then, Can I still get charged for
6 murder for that? I told him, Yes. So he was trying to get
7 information from me asking me questions and I wasn't asking
8 him anything, but I was advising him that yes, you still
9 could be charged.

10 Q After that -- after those statements by Mr. Epps, did
11 you continue on to the jail?

12 A That is correct. We left -- after the statements, we
13 continued on to the jail. And on the way to the jail, he
14 asked can he make a phone call to his mother again, which I
15 then put it on speaker phone and let him call his momma
16 again. Of course, his mother said we'll contact an
17 attorney. And he asked his mother to contact Attorney Shaun
18 Kent.

19 Q Did you ask him any questions or anything about his
20 statement after that?

21 A No, sir, not at all.

22 Q Did you have occasion to talk to Mr. Epps after that?

23 A No, sir.

24 Q Based on what Mr. Epps told you and based on what you
25 had seen on the video, did Mike Rodgers aggressively walk up

1 to Trae Epps --

2 MR. KENT: Objection, Your Honor.

3 THE COURT: Grounds?

4 MR. KENT: This is a video question, talking about
5 specifically what he saw and an interpretation. The video
6 speaks for itself.

7 THE COURT: I'll sustain that objection.

8 Rephrase your question, Mr. Finney.

9 BY MR. FINNEY:

10 Q Did you get information from Mr. Epps on the 17th of
11 September and did you compare that information to the
12 information that you had from the store video?

13 A I did. It was not correct information --

14 MR. KENT: Objection, Your Honor, calls for
15 speculation. Objection, Your Honor. This is beyond the
16 scope. This is not an expert. This is a lay witness.

17 THE COURT: Sustained.

18 BY MR. FINNEY:

19 Q Did you find other areas of a difference between what
20 Mr. Epps told you and what you had learned in your
21 investigation?

22 A I did.

23 Q And that was the last time you talked to Mr. Epps?

24 A That is correct.

25 Q All right.

1 MR. FINNEY: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. FINNEY: Just a few more questions.

4 BY MR. FINNEY:

5 Q Investigator, did you have occasion to learn that Mr.
6 Epps had been taken to the hospital the night of the Hop-In
7 shooting?

8 A Yes, I did.

9 Q Did you do anything to retrieve evidence from the
10 hospital regarding that?

11 A There was no evidence. The bullet was still inside Mr.
12 Epps. Sometimes it's better for it to stay in there than
13 remove it because it could cause some serious problem with
14 his health, so the doctors didn't remove the bullet from
15 him.

16 Q How about video evidence?

17 A Yes, video evidence from Prisma Toumey Hospital, that
18 is correct.

19 Q Did you learn through your investigation that Mr. Epps
20 left the Sunoco in a car and went to the hospital in that
21 car?

22 A That is correct.

23 Q Did you have video of the vehicle leaving the Sunoco
24 with Epps in it?

25 A Yes, sir.

1 Q And did you learn through your investigation the people
2 who were in the vehicle with Mr. Epps?

3 A Yes, there was a total of five people in that vehicle.

4 Q A total of five people?

5 A Yeah, including Epps.

6 Q Including Epps. If you could look at your screen and
7 see if you can identify this video footage?

8 A That's the front entrance to the hospital -- well, the
9 ER.

10 Q Is this the emergency department?

11 A The emergency department, yes, sir.

12 Q And did you request and receive the video from that
13 night?

14 A Yes.

15 Q And, again, the timestamp on this video, is it correct
16 or off?

17 A No, that timestamp is off as well.

18 Q When you reviewed this video, did you see a car come to
19 the emergency room that night that contained Mr. Epps?

20 A Yes, I did.

21 Q We're going to get it cued up for and you see if --

22 A That's the vehicle pulling up right there. It's like a
23 grayish-silver car in front -- top of the camera in the
24 middle.

25 Q Did you have a description of that car from your

1 investigation? You knew what you were looking for?

2 A Yes, sir, that's one of the vehicles that was at the
3 scene at the Sunoco gas station. That's Ellquin Williams,
4 also known as Ello, and Sheldon Benjamin, also known as
5 Polo.

6 Q Those two gentlemen were in the car that came to the
7 hospital?

8 A That is correct.

9 Q And you said there was a total of five, so those two
10 gentlemen and Mr. Epps came?

11 A Yeah. It appears that Mr. Epps is getting out of the
12 front seat. If you let it play, somebody is trying to help
13 him get out the front. That is Joquell Myers walking up.
14 He's the bigger-type fellow. So that's Joquell Myers at the
15 front passenger right now.

16 Pause right there. That's Christopher Fordham, also,
17 known as Pies (ph).

18 Q He wasn't in the car?

19 A He wasn't in the car.

20 Q He came from the Hop-In?

21 A He came from the Hop-In, yes, sir.

22 Q Very good.

23 (WHEREUPON, video was continued.)

24 THE WITNESS: That's Ellquin Williams walking back in.
25 They getting a red shirt for Diontrae Epps. That's Ellquin

1 Williams walking back out. That's Diontrae Epps in a
2 wheelchair. They done sat him down in a wheelchair. That
3 seem like he got his pants off.

4 Q He had his pants off?

5 A That's Jay McBride. He was off on the side of the
6 vehicle right there.

7 Q So he was brought into the emergency room that night,
8 Mr. Epps?

9 A That is correct.

10 Q All right.

11 MR. FINNEY: Your Honor, we would ask at this time that
12 this video be entered in.

13 MR. CORBETT: Judge, I believe it is already admitted.

14 THE COURT: Which State's Exhibit?

15 MR. FINNEY: I believe it's on 5.

16 MR. CORBETT: Your Honor, it should be State's No. 16.

17 THE COURT: State's 16 is already admitted.

18 MR. FINNEY: We'd like to publish it to the jury.

19 THE COURT: All right.

20 (WHEREUPON, State's Exhibit No. 16, a video, was
21 published for the jury.)

22 BY MR. FINNEY:

23 Q Can you see it, Detective?

24 A Yes.

25 Q Tell the ladies and gentlemen what they're looking at

1 now on the screen.

2 A It's the same video from the ER.

3 Q And has the silver car pulled up?

4 A Yes, sir, silver car, grayish car. That's Ellquin
5 Williams walking in the front door. That's Sheldon
6 Benjamin, Polo, walking in as well.

7 Q And both of those gentlemen were in the car?

8 A Both of those gentlemen was in that vehicle that night,
9 yes, sir.

10 Q All right, sir.

11 A And that's Joquell Myers up at the top walking from the
12 vehicle. He was at the front passenger side of the vehicle.
13 All of them were walking back out towards the vehicle.
14 That's Christopher Fordham that was at the Sunoco gas
15 station that night as well. He wasn't in that vehicle.
16 Ellquin walking back to the vehicle. The nurse is taking
17 the wheelchair out there to Diontrae Epps. Joquell Myers is
18 at the front seat with Diontrae Epps at this time. That's
19 Ellquin walking back out. So that's Diontrae in the
20 wheelchair, Joquell helped him out. Diontrae Epps is
21 sitting in the wheelchair right now.

22 Q And right there?

23 A That's when Diontrae Epps goes inside the hospital.

24 Q And the nurse is pushing him inside?

25 A Sir?

1 Q The nurse is pushing him inside?

2 A That's right. The nurse is pushing him inside.

3 Q Now, did you have video confirmation that that car was
4 seen earlier leaving the Sunoco?

5 A That is correct.

6 Q And how far is it from the Sunoco to the hospital?

7 A Approximately three miles.

8 Q All right. And did the video that you looked at line
9 up with the Sunoco -- the car leaving the Sunoco and
10 arriving at the hospital?

11 A That is correct.

12 Q How long did it take?

13 A A few minutes.

14 Q Huh?

15 A A few minutes.

16 Q A few minutes, all right. Now, did you ever get the
17 gun that you saw Mr. Epps firing at the Sunoco station?

18 A No, sir.

19 Q Who was the last person that you know had that gun?

20 A Diontrae Epps.

21 Q Did you ever get the gun from him or from anybody,
22 like, his family or anything?

23 A No, sir.

24 Q Why would that gun be important?

25 A It would help us very much in determining if that was

1 the weapon used to shoot Michael Rodgers.

2 Q And what would you have used the gun to compare the gun
3 to to help you determine that was the gun that killed Mike
4 Rodgers?

5 A The projectile that was found inside Michael Rodgers
6 during autopsy, we would have compared that to that
7 particular gun.

8 Q And I want to show you what's been marked as State's
9 Exhibit 20. Is that the projectile that was in Mike
10 Rodgers?

11 A That is correct.

12 Q When Mr. Epps arrived at the hospital with the four
13 other guys in the car, did either of those four guys have
14 any connection to the Facebook video that Epps told you
15 about?

16 A Yes, sir.

17 Q Could you give me the names of those guys?

18 A So I saw Joquell Myers in there, in that Facebook
19 video, and, also, Jay McBride, who was, also, at the Sunoco
20 gas station, who was, also, at the Toumey Hospital.

21 MR. FINNEY: Beg the Court's indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 BY MR. FINNEY:

25 Q Detective McFadden, do you know if that silver car that

1 brought him to the hospital was ever recovered?

2 A I would have to check my notes. I don't remember off
3 the top of my head.

4 Q You didn't find any gun in that car if you found the
5 car?

6 A Correct.

7 MR. FINNEY: Thank you, Detective. Answer any
8 questions --

9 May we take a break, Your Honor, before the cross?

10 THE COURT: Yeah, I think that's probably a good idea.

11 Ladies and gentlemen of the jury, it's 11:51 by my
12 watch. We're going to be in recess until, at least, 12:05.
13 So same instructions, don't begin any deliberations, don't
14 discuss the case amongst yourselves or with anybody else,
15 don't do any research about any issue which has been raised
16 in this case. We'll get you back out in about 15 minutes.
17 Thank you very much.

18 (WHEREUPON, the jury exits the courtroom at 11:51 a.m.)

19 THE COURT: Anything before we are in recess?

20 MR. FINNEY: If you'd just warn the witness he can't
21 talk to anyone.

22 THE COURT: I will.

23 You can step down. Don't talk about your testimony
24 with anybody.

25 (WHEREUPON, a short break was taken.)

1 THE COURT: Bring us the jury.

2 (WHEREUPON, the jury enters the courtroom at 12:09
3 p.m.)

4 THE BAILIFF: The jury is seated, Your Honor.

5 THE COURT: Thank you.

6 Mr. Kent, cross-examination?

7 MR. FINNEY: Mr. Kent.

8 (Counsel had off-the-record discussion.)

9 MR. FINNEY: Your Honor, one item did not get moved in.

10 BY MR. FINNEY:

11 Q Detective, did you ask Mr. Epps for a consent form to
12 do a DNA swab on him that day, on the 17th?

13 A Yes, that's correct.

14 Q And is that the form you used?

15 A Yes, it is. It's Sumter Police Department consent to
16 give sample for analysis.

17 Q And did he sign it?

18 A He printed his name and signed it as well.

19 Q And did you take a sample of DNA from him?

20 A Yes, we did.

21 Q And does that sticker say State's Exhibit 22?

22 A Yes, State's Exhibit 22, that's correct.

23 MR. FINNEY: We move State's Exhibit 22 into evidence,
24 Your Honor.

25 THE COURT: Mr. Kent.

1 MR. KENT: No objection.

2 THE COURT: All right. State's 22 is admitted without
3 objection.

4 (WHEREUPON, State's Exhibit No. 22 was admitted into
5 evidence.)

6 MR. FINNEY: Thank you, Your Honor.

7 Thank you, Mr. Kent.

8 MR. KENT: Not a problem.

9 THE COURT: Mr. Kent, go ahead.

10 CROSS-EXAMINATION

11 BY MR. KENT:

12 Q Detective McFadden, how are you doing this afternoon?

13 A Good.

14 Q Again, we've all been doing this a long time. We know
15 each other and we know each other well?

16 A That's correct.

17 Q Is that a fair statement?

18 A Yes, sir.

19 Q In excess of ten years, if not longer?

20 A That's correct.

21 Q And we've had cases together?

22 A Yes, sir.

23 Q We have discussed, we've talked personally and
24 professionally?

25 A That's correct.

1 Q And I've always asked the same thing when I've had you
2 on the stand and everybody is probably getting bored of it
3 right now, but Madam Court Reporter is taking down every
4 word you're saying?

5 A Yes, sir.

6 Q She can't take down head nods and shakes?

7 A Yes, sir, I understand.

8 Q So when you answer a question, answer yes, no. Two, I
9 don't think we're going to argue, but if for some reason we
10 start arguing, she cannot take it down if we talk over one
11 another?

12 A That's correct.

13 Q And if you'll give me the opportunity to ask my
14 question, I promise you I'll give you the opportunity to
15 answer the same question?

16 A Yes, sir.

17 Q And, finally, if you allow me to ask the question and
18 you want to explain or something of that nature, all I would
19 ask is you answer my question first and then I'll give you
20 the opportunity to explain; is that a fair statement?

21 A Yes, sir.

22 Q That's the same colloquy I've think we've had many
23 times?

24 A That's correct.

25 Q First, I'm going to get into your background. You are

1 actually from Sumter, if I'm not mistaken, or around the
2 area?

3 A Yes, sir.

4 Q How long have you lived here?

5 A I moved here in 2001.

6 Q Do you know the Rodgers family?

7 A Not personally, no, sir.

8 Q And this is a tragic situation, no matter what we look
9 at, no matter what we say, a young man lost his life?

10 A Yes, sir.

11 Q And another man is in a wheelchair?

12 A Yes, sir.

13 Q So whatever we say, gun violence or whatever, this is a
14 tragic situation on that day. We both agree on that part?

15 A It is, yes, sir.

16 Q And it's nothing that we want, it's nothing that we
17 enjoy, it's nothing that we like?

18 A That's correct.

19 Q You've been doing this for how many years?

20 A Investigations?

21 Q Yes.

22 A Since 2016.

23 Q And how long have you been in law enforcement?

24 A Since 2005.

25 Q And you've heard me ask this question before, in law

1 enforcement, you get training to become a better law
2 enforcement officer?

3 A Yes, sir.

4 Q And in that training when you first start, one of the
5 things they do is they send you to the South Carolina
6 Criminal Justice Academy?

7 A That's correct.

8 Q And at the South Carolina Criminal Justice Academy, we
9 are taught, basically, bare bones. It's not a long program,
10 it's about eight weeks or it might have been six weeks back
11 then?

12 A I think when I went to it, it was nine weeks.

13 Q A nine-week program to try to teach us everything we
14 need to do to become a police officer. It's not enough
15 time?

16 A No, it's basic law enforcement.

17 Q Just basic law enforcement?

18 A Yes, sir.

19 Q And in basic law enforcement, they teach us about
20 report writing?

21 A Yes, sir.

22 Q And teach us about witnesses?

23 A Yes, sir.

24 Q They teach us about evidence collection?

25 A Yes, sir.

1 Q They teach us about discovery and evidence, solicitor's
2 office, defense attorneys, everything?

3 A That's correct.

4 Q And after this nine-week program, there's still more
5 education that comes along with becoming a police officer?

6 A Yes, sir.

7 Q Significantly more?

8 A A lot more, yes, sir.

9 Q There's training outside the office?

10 A Yes, sir.

11 Q There's training inside the office?

12 A Yes, sir.

13 Q You have conducted some training and some people give
14 you training?

15 A Yes, sir.

16 Q And, finally, the most important that we can do is
17 on-the-job training?

18 A Yes, sir.

19 Q And that's from via police officer making an arrest,
20 talking to someone, we learn things that are work and
21 necessary?

22 A Yes, sir.

23 Q We, also, learn tricks, things that make our job easier
24 and harder?

25 A Tricks?

1 Q When I say tricks, there's some things under the law
2 that you're allowed to do that some people consider tricks,
3 but we learn them as good police officers? Things to get
4 people to confess, things to get people to talk, things to
5 get people to help?

6 A I wouldn't say tricks.

7 Q We'll get to that. When we are dealing with cases, you
8 would agree with me, the hardest thing is there are multiple
9 cases that a police officer and a detective agent has that
10 they deal with on an average day? We don't just have one
11 case a year?

12 A No, sir, not at all.

13 Q Sometimes we could have 70 to 100 cases a year?

14 A Yes, sir, easily.

15 Q And when we have these cases, we do not count on new
16 officers to memorize everything that's inside of a case?

17 A That's correct.

18 Q And we can't memorize everything that's inside of a
19 case?

20 A Not unless you have photographic memory.

21 Q And even still, it would be heard to remember 70 to 100
22 cases a year?

23 A I'm assuming, yes, sir.

24 Q And we try to get what's called a snapshot as close to
25 time as possible so that we don't have to rely on our memory

1 as to what happened four and five years down the road?

2 A You said snapshot, as a photograph.

3 Q Like a photograph, a snapshot in time?

4 A Okay.

5 Q What do we do to make sure we don't have to rely on our
6 memory?

7 A We try to write down all the information that we can
8 when it happens.

9 Q We try to write down information?

10 A Right.

11 Q Talk to witnesses?

12 A Witnesses, photographs, videos, everything, yes, sir.

13 Q You want everything as close to that time as possible.
14 Why is that, why closest to time as possible?

15 A Like you say, because everybody don't remember
16 everything.

17 Q Everybody can't remember?

18 A That's correct.

19 Q We take all of the information together?

20 A Yes, sir.

21 Q And then we give it to somebody. Who do we give it to?
22 After you're done investigating, get all the information,
23 after you do everything and you put it all together, what do
24 you do with it?

25 A We prepare it for the solicitor's office.

1 Q We take that whole pile of stuff and we give it to the
2 solicitor's office and we ask them to make a decision or do
3 something with the evidence?

4 A I don't know about making a decision to do something
5 with evidence. If they've already made a charge on it,
6 we'll get with them and discuss the case.

7 Q And we give them all the information?

8 A Yes, sir.

9 Q And then they give us all the information?

10 A That's correct.

11 Q By us, I mean defense attorneys?

12 A Yes, sir.

13 Q So that we're all on the same page?

14 A Yes, sir.

15 Q Because we don't want a situation where the defense
16 lawyers or the prosecutors or law enforcement don't all have
17 the same stuff?

18 A That's correct.

19 Q Because that's makes it unfair and we don't want an
20 unfair system?

21 A Not at all.

22 Q And the goal of the jury system is simply to find the
23 truth?

24 A That's the main thing, the truth.

25 Q And we like to give the jury all the information

1 because if they don't have all the information, it's almost
2 impossible for them to find the truth; is that a fair
3 statement?

4 A Yes, we try to give them all the information as well.

5 Q Now, in talking about discovery in this case, you would
6 agree there was some discovery issues?

7 A Yes, sir.

8 Q Okay. And there's been issues getting all of the
9 evidence to the defense in a timely fashion. Through the
10 course of your investigation, you know that?

11 A Yes, sir.

12 Q And it's a problem. We can't sit here and pretend it's
13 not a problem?

14 A It is.

15 Q On a four-year-old case, we shouldn't be getting
16 evidence the August before trial, we can agree with that --

17 MR. FINNEY: I'm going to have to object to the line of
18 questioning, Your Honor.

19 MR. KENT: We'll move on.

20 THE COURT: All right. Let's move on. Sustained.
21 Sustained.

22 BY MR. KENT:

23 Q During the course of this investigation, you are aware
24 that the Federal Bureau of Investigation looked into this
25 case?

1 A The FBI, yes, sir. What was the question?

2 Q Through the course of your investigation, you are aware
3 the FBI looked into this case?

4 A Yes, sir.

5 Q The FBI dug into this case?

6 A Yes, sir.

7 Q The FBI interviewed witnesses in this case?

8 A Yes, sir.

9 Q The FBI provided information to Sumter Police
10 Department about this case?

11 A Yes, sir.

12 Q The FBI provided information to Sumter Police
13 Department about potential --

14 MR. FINNEY: Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MR. KENT:

17 Q The FBI provided information to the Sumter Police
18 Department about potential self-defense claims?

19 MR. FINNEY: Objection, Your Honor.

20 THE COURT: Y'all approach.

21 (WHEREUPON, a bench conference was held in the presence
22 of the jury, but outside the hearing of the jury.)

23 BY MR. KENT:

24 Q While we talk about information and investigation
25 inside of this case, we, also, have things that are called

1 tips?

2 A Yes, sir.

3 Q We have anonymous tips?

4 A Yes, sir.

5 Q And I want to talk about that. There's a difference
6 between an anonymous tip and known tip; would you agree with
7 me there?

8 A There is a difference, yes, sir.

9 Q And I want to fast forward a little bit because you
10 were talking about the Facebook video that we had played?

11 A Yes, sir.

12 Q And when you talked to the jury, you said we got this
13 as an anonymous tip from family members?

14 A Yes, sir.

15 Q So we know who got the tip, but we don't know who it
16 is, you understand?

17 A I don't recall which family member.

18 Q That would have been something that we should have
19 written down?

20 A If they request to be anonymous, then we wouldn't write
21 it down.

22 Q If they requested anonymous, that's not something we
23 would write down?

24 A If the family member requested it be anonymous, then we
25 wouldn't take that information -- or I wouldn't take the

1 information down. I don't know if somebody else took it.

2 Q You would agree with me that tips, anonymous tips and
3 information are important to figure out and investigate a
4 case?

5 A Yes, sir, most definitely.

6 Q Would you tell me that there's a lot of tips that came
7 through this case?

8 A Yes, sir.

9 Q And did you go through all the leads and everything on
10 the case, anonymous tips, did you look at all of them?

11 A The ones that were credible, we tried to look into
12 those, yes, sir.

13 Q You say the ones that were credible, how do you make
14 that determination?

15 A Based on the video that we were provided.

16 Q Based on the video that you chose, and you chose what
17 tips were valid and not valid, you personally?

18 A No, sir.

19 Q Do you remember when you turned over those anonymous
20 tips to the defense to look into to see if he thought they
21 were valid?

22 MR. FINNEY: Objection, Your Honor.

23 THE COURT: Sustained.

24 BY MR. KENT:

25 Q Do you remember?

1 MR. FINNEY: Your Honor.

2 MR. KENT: That's fine.

3 BY MR. KENT:

4 Q I've already asked you some specific information about
5 the day in question. Did you receive a tip about someone
6 possibly saying that they shot somebody, somebody by the
7 name of Chemo?

8 A I'd have to review the case notes from that. The name
9 Chemo sounds familiar. I remember viewing this recently.

10 Q Like, very recently you remember viewing it, correct?

11 A Sir?

12 Q Very recently?

13 A Yes, sir.

14 Q It is dated recently?

15 A It is dated September 13th, 2019.

16 Q And you're a case agent?

17 A Yes, sir.

18 Q You're in charge of the full file?

19 A Yes, sir.

20 Q You're the one that looks through and finds witnesses
21 and makes sure we get stuff as close to the incident as
22 possible?

23 A That is correct.

24 Q Is it strange that you looked at it just recently?

25 A I had a lot of help with this case. It was a lot of

1 people that was out there, so if something was typed up and
2 put into the case file, I would have to go back and try to
3 find out exactly the details for this particular note or
4 report that was made.

5 Q Did you receive through the course of a tip that was
6 inside of the case file that somebody else could have said
7 that they had shot somebody?

8 MR. FINNEY: Your Honor, objection, because I'm trying
9 to distinguish if we're asking this witness to testify what
10 a different person said.

11 MR. KENT: Your Honor, I'm asking the witness through
12 the course of his investigation did he learn somebody shot
13 somebody.

14 THE COURT: Y'all approach.

15 (WHEREUPON, a bench conference was held in the presence
16 of the jury, but outside the hearing of the jury.)

17 BY MR. KENT:

18 Q While we were up there, did you have an opportunity to
19 review that document?

20 A Yes, sir.

21 Q And that's a document that says someone says somebody
22 out there in the nebulas world, there's evidence that he
23 said I might have shot somebody out there that night?

24 A Yes, there's something in the report that states that,
25 yes, sir.

1 Q What did you do as a result of that report to look into
2 that?

3 A I don't remember. I don't recall.

4 Q Let's take our time. We're not going to rush. Tell me
5 what you did as a result of that report where somebody else
6 said that somebody shot somebody, someone admitted to
7 shooting somebody at the Hop-In, what did we do? If you
8 need your file, if you need your case, you can take as long
9 as you need to tell me what you did as a result of that
10 report.

11 A I don't know if anything was done with this particular
12 report.

13 Q So we have a report, we have information, we have a
14 name of someone admitting that they shot somebody that day
15 and that person has never been talked to?

16 A It was a nickname that I guess the guy that filed this
17 report gave. I don't think he had the real name of the
18 person.

19 Q Did you talk to him?

20 A I didn't talk to him, no, sir.

21 Q So I don't want to guess, what did you do? The answer
22 is nothing, correct?

23 A I don't know if somebody else did something --

24 Q We'll take our time. You grab the file and you look in
25 there and I want you to give an answer. Not a guess, not an

1 assumption, not a surmise, what did we do as a law
2 enforcement agency with that information?

3 A Like I said, I don't know. I can't take a look through
4 the file if you need me to.

5 Q Or you can just say we didn't do anything?

6 A I don't know. I can't speak for other people.

7 MR. KENT: Can we approach?

8 THE COURT: Yes, sir.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 BY MR. KENT:

12 Q Before we keep going, do you have any personal
13 knowledge of your own volition that any additional
14 investigation was done?

15 A No, sir.

16 Q No. We can stop. (Indiscernible)?

17 A Yes, sir.

18 Q You would agree with me back (indiscernible)?

19 A Sir?

20 Q Back when they were sick?

21 A Yes, sir.

22 Q When we were looking at the video, we saw all the crime
23 scene videos, we saw cars and people driving around the
24 crime scene, you saw that?

25 A Yes, sir, that's correct.

1 Q That's not what we really want, is it?

2 A No, sir.

3 Q One of the reasons we don't want it is because they can
4 run over projectiles?

5 A That's correct.

6 Q They can knock them all over the area?

7 A Yes, sir.

8 Q They can move evidence?

9 A That's correct.

10 Q That's just not something that we actually want.
11 That's something we just can't control it?

12 A No, sir, we can't control that.

13 Q One of the things that we try to do is put that yellow
14 tape around everything to protect people from walking in and
15 out of crime scenes?

16 A That's correct, that's to establish a crime scene.

17 Q And it's hard?

18 A Sometimes it is, yes, sir.

19 Q And especially in a situation like this where so many
20 people are running?

21 A Yes, sir.

22 Q People could be taking things in and out of crime
23 scenes, that makes them hard?

24 A Yes, sir.

25 Q And the Hop-In gas station, when we talk about it, on

1 the video, it looks like the biggest gas station, but it's
2 not a big area, is it?

3 A No, sir.

4 Q It's pretty small, the entire area of the parking lot,
5 can you agree with me?

6 A It's an average-sized gas station, yes, sir.

7 Q Do you think from where you walk to Wendy's goes as far
8 back as that wall to the other side of the gas station as
9 been described?

10 A You said from this wall to that wall to Broad Street?

11 Q Yeah -- I'm sorry, if this is the open --

12 A Front?

13 Q -- the Hop-In, the front entrance?

14 A Correct.

15 Q And you're on the Wendy's side, how far do you think
16 we'd go to get to the end of the parking lot?

17 A Maybe just out the doors.

18 Q So it's not a large area at all?

19 A Yes, sir.

20 Q It's one of those areas it's small enough and where the
21 gas pumps are even a closer area, correct?

22 A What do you mean close?

23 Q It's not as far back as the wall where the last gas
24 pump stops?

25 A It's not far.

1 Q Not far at all?

2 A No, sir.

3 Q So all of these cars parked are parked in a very close
4 area; is that fair?

5 A Yes, sir.

6 Q And would you agree with me, whoever is standing in the
7 parking lot, they're easily able to see each other?

8 A Yes, sir.

9 Q And we were asking and talking about the videos, the
10 videos (indiscernible)?

11 A Yes, sir.

12 Q And you're not an expert?

13 A No, sir.

14 Q And there's a difference between an expert and a lay
15 person?

16 A Yes, sir.

17 Q An expert can look at videos and make a determination
18 as to what he is seeing, correct?

19 A Yes, sir.

20 Q And when we look through the file, would you agree with
21 me that there are a bunch of statements?

22 A Yes, sir.

23 Q There are a bunch of people that you interviewed?

24 A That's correct.

25 Q I think in my estimation, it might almost be 30

1 something?

2 A Yes, a lot.

3 Q There's a lot?

4 A Yes, sir.

5 Q And the interviews were all over the map?

6 A Some of them are.

7 Q Yeah, some of them. And when I say all over the map,
8 some people say Mike Rodgers had a gun, some people say Mike
9 Rodgers didn't have a gun?

10 A That's correct.

11 Q So those are things when looking back, you would agree
12 with me that's an important fact?

13 A Yes, sir, that's an important fact.

14 Q If Mike Rodgers actually had a firearm that day, that's
15 something that would be important to know?

16 A Yes, sir.

17 Q So when we're interviewing and talking to witnesses and
18 trying to figure out if this is accurate or not accurate,
19 that's hard when people are all saying different things?

20 A That's why we try to compare it to the video.

21 Q And that's a hard thing to do. And sometimes what we
22 can do with the video when we have all of these statements
23 saying different things and we do have an individual who was
24 shot, sometimes can we take that video and send it to an
25 agency to enhance it?

1 A Yes, sir.

2 Q And we have an agency and they're called SLED, right?

3 A I'm not sure. I know we sent the video to get
4 enhanced, but I don't remember if it was SLED or not.

5 Q And SLED is the State Law Enforcement Division?

6 A That is correct.

7 Q And if it was somebody who enhanced it from SLED, they
8 would have testified?

9 A I would imagine so, yes, sir.

10 Q So we can enhance the video, zoom in and look at things
11 and make a determination as to what happened that day
12 because sometimes we can't trust (indiscernible), as the
13 bullets go fast?

14 A Yes, sir.

15 Q Is that a fair statement, bullets go fast?

16 A Yes, sir.

17 Q So what we have to do sometimes is maybe trust -- we
18 can trust our eyes, yes?

19 A Yes, sir.

20 Q We can trust enhancements?

21 A Yes, sir.

22 Q Like a zoomed-in video, if you will?

23 A Yes, sir.

24 Q And we can trust experts, people who are experts in
25 this arena who do this all the time?

1 A Yes, sir.

2 Q And those who are we would trust the most, an expert in
3 this field?

4 A Yes, sir.

5 Q An expert is just somebody who has more knowledge and
6 experience than somebody else. This is what they do for a
7 living and then they testify as an expert?

8 A Yes, sir.

9 Q And you're not saying you're an expert in this field?

10 A No, sir.

11 Q We have not solved as of today's date who shot Trae?

12 A No, sir.

13 Q We call those cases -- do we call those cold cases or
14 what do you call them?

15 A What you talking about?

16 Q When we haven't solved the case yet?

17 A It's still an active case.

18 Q Still an active case. He was shot?

19 A Yes, sir.

20 Q No doubt, we're not hiding that, he was shot?

21 A That's correct.

22 Q And as a result of being shot, he's in a wheelchair?

23 A I'm assuming as a result of it. I don't know.

24 Q We're not trying to hide that from anybody?

25 A That's correct.

1 Q I want to talk to you because you've been in the
2 courtroom the bulk of the trial, correct?

3 A Yes, sir, in and our, yes, sir.

4 Q And the State was asking you about Timothy Scarborough?

5 A Yes, sir.

6 Q You were in here when Timothy Scarborough testified?

7 A Yes, sir.

8 Q And you were in here when I was asking him about the
9 transcript of his testimony?

10 A I might have stepped out for that part.

11 Q But you understand what a transcript is?

12 A Yes, sir.

13 Q A transcript is a word-for-word --

14 A Word-for-word, yes, sir.

15 Q You've been doing this 18 years, I think you said?

16 A Yes, sir.

17 Q You ever see a court reporter try to add or lie about
18 something someone says when they take a transcript?

19 A No, sir.

20 Q So you would agree with me a transcript is an accurate
21 recollection of what was said?

22 A That is correct.

23 Q The State was asking questions about the clocks. The
24 clocks are all over the map. Like, one clock says twelve
25 o'clock, one clock says one o'clock. But they did a very

1 good job of showing you that at a specific area, the clocks
2 are set? You understand what I'm saying? Like, at the
3 hospital, the clocks are set. Even though they may not have
4 one, two, three, four, five o'clock, they're all synced at
5 the same time?

6 A Not the hospital.

7 Q Not the hospital?

8 A Huh-uh.

9 Q Okay, but everywhere else, like, at the Sunoco, they're
10 all synced?

11 A All those are synced, yes, sir.

12 Q Synced at exactly the same time of when things
13 happened?

14 A From my recollection, I believe it is.

15 Q And I'm not going to sit here and disagree on something
16 that the clocks at the Sunoco said it happened at 11:41 and
17 42 seconds and then the clocks at the hospital say one
18 o'clock. We all know this happened at a specific time?

19 A Yes, sir.

20 Q And if we're looking at the images and each of the
21 clocks at Sunoco, even though it's not 11:00, 12:00, 1:00,
22 they're all synced -- you've had the opportunity to look,
23 they're all synced at the same time?

24 A I believe they are.

25 Q Now, I want to talk to you about Mr. Epps

1 (indiscernible), that statement. The solicitor was asking
2 you questions about giving statements?

3 A Yes, sir.

4 Q When we talk about statements, of course, they're
5 snapshots as to what happened in a specific time period?

6 A Yes, sir.

7 Q When we talk about we take statements from an
8 individual, we want to get it as accurate as possible?

9 A That's correct.

10 Q We want to get what their words are as accurately as
11 possible so we can later say what they said?

12 A Yes, sir.

13 Q And what we have in this situation is we took notes of
14 a statement of what somebody said?

15 A Yes, sir.

16 Q I was asking Detective Culick or Sergeant Culick
17 yesterday that there are four ways we can take statements
18 from individuals. One, we can take a written statement,
19 meaning, we can allow the person to write his own statement?

20 A That's correct.

21 Q Two, you can write the statement for somebody?

22 A That's correct.

23 Q Three, we can record the statement on a cell phone, a
24 camera, a VHS, we can record a statement?

25 A Not a cell phone, but yes.

1 Q Oh, we can't on a cell phone?

2 A Well, if you get a phone call during a recording, it
3 will automatically stop, so you don't want the interruption
4 with a statement given like that, so I wouldn't do it with a
5 cell phone.

6 Q When you get off the stand, I'm going to teach you how
7 to (indiscernible)?

8 A Sir?

9 Q I'm going to teach you (indiscernible). You can't stop
10 people from calling you?

11 A But we still communicate with each other, we got
12 information coming in. We've got to verify the stuff that's
13 said during the statement, so we do make phone calls
14 throughout interviews and whatnot, so we would not cut our
15 phone off.

16 Q But recording is another way?

17 A Yes, sir.

18 Q And then there's a fourth way where we just take notes?

19 A Yes, sir.

20 Q And if we talk about the first way where we have an
21 individual write their statement down word-for-word what
22 happened?

23 A Yes, sir.

24 Q Then they sign it?

25 A Yes, sir.

1 Q A witness signs it?

2 A Yes, sir.

3 Q And then pursuant to the law, we're required to give
4 them a copy of it?

5 A Yes, sir.

6 Q And they can say that that is an accurate depiction of
7 what I said that day?

8 A That's correct.

9 Q And that way, there's not a question?

10 A Yes, sir.

11 Q You would agree with me the law has evolved since then
12 and sometimes we're allowed to write the statements of
13 somebody or type them up?

14 A That's correct.

15 Q And then after we write and type them up, we give them
16 to the individual and say is that what you meant?

17 A Yes, sir.

18 Q And I've seen situations where -- with you, actually,
19 we've had this conversation where you've written a
20 statement, given it to somebody and they say that's not
21 right and they slash through it?

22 A Yes, sir.

23 Q Correct it?

24 A That's correct.

25 Q And then what do you have them do?

1 A They initial beside it.

2 Q They initial beside it because they say no, that's not
3 what I meant or that's not what I said and they initial it
4 and then they sign it?

5 A Yes, sir.

6 Q And we give them a copy pursuant to the law?

7 A We ask them if they want a copy.

8 Q Ask them if they want a copy because we're required to
9 under the law?

10 A Yes, sir.

11 Q And then number three, we record, we just take a video
12 of somebody?

13 A Yes, sir.

14 Q And that's just a recorded video, that will speak for
15 itself?

16 A That's correct.

17 Q No need to say if it's accurate or not?

18 A Yes, sir.

19 Q And then we have what we have here, the note situation?

20 A Yes, sir.

21 Q Would you agree with me that notes are the worst way to
22 do it of the four?

23 A If that's all you have at the time, sometimes notes are
24 very convenient to be used.

25 Q But you would agree with me that we have body cams?

1 A Yes, sir.

2 Q All departments have body cams now?

3 A Yes, sir.

4 Q And all departments have body cams to protect law
5 enforcement and to protect defendants as to what is
6 happening?

7 A Yes, sir. Obviously, body cams can't be used to record
8 during interviews, that's why we installed video cameras now
9 into our interview rooms.

10 Q And the reason I just mentioned recording is because
11 what we're having to do is trust your recollection of how
12 somebody behaved. Like you said, you asked him a question
13 and he started sweating a lot?

14 A Yes, sir.

15 Q It's easier of the jury can see him sweating a lot --

16 A Oh, yes.

17 Q -- rather than the officer saying he's sweating a lot?

18 A I wish we had a video of it.

19 Q Because video is the most important thing?

20 A Yes, sir.

21 Q And the other reason we talk about this is you guys
22 Mirandized him?

23 A At his home.

24 Q At his home?

25 A Yes, sir.

1 Q And you mentioned when the solicitor was talking, any
2 time we're talking to somebody in an interview, we try and
3 Mirandize them?

4 A We do Mirandize them whenever we interview them.

5 Q Because we want them to know they don't have to talk to
6 us?

7 A That's correct.

8 Q They have a right to keep their mouth shut. They don't
9 have to say anything at all?

10 A That's correct.

11 Q Because as the solicitor talked about when he was
12 asking you questions, when we're interviewing people, it's
13 hard to get the truth in the first statement?

14 A Yes, sir.

15 Q And sometimes we have to go back and forth over and
16 over again to get the truth?

17 A Yes, sir.

18 Q And it happens a lot. It's happened in this file from
19 a bunch of people?

20 A Yes, sir.

21 Q Is that fair?

22 A Yes, sir, that's fair.

23 Q And when you were asking -- when you were talking to
24 the solicitor, he was asking you about the notes that you
25 took?

1 A Yes, sir.

2 Q And I want to talk about the second part of the notes
3 you took on September 17th?

4 A Yes, sir.

5 Q And on September 17th, the solicitor asked you, Mr.
6 Epps said, I'm done talking?

7 A That's correct.

8 Q Y'all read him a warrant?

9 A That's correct.

10 Q After reading him the warrant, I think he said -- he
11 kept saying, I don't have no gun, I don't have any gun,
12 y'all don't got me on no video?

13 A That's correct.

14 Q And then you advise him that it wasn't on the girl's
15 video, but on the Sunoco video?

16 A That's correct.

17 Q And then he started sweating?

18 A Yes, sir.

19 Q And then he kept saying, I ain't got no gun, I ain't
20 got no gun, something of that nature?

21 A And I didn't shoot nobody, yes, sir.

22 Q I didn't shoot nobody?

23 A Yes, sir.

24 Q That's what you told the jury a little bit ago?

25 A Yes, sir.

1 Q Now, you would agree with me on your statement after
2 Epps starting pouring down sweat, Epps then stated, I did
3 swing on him?

4 A Sometime after the fact, yes, sir.

5 Q That's different because that's exactly what it says
6 here, Epps then stated, I did swing on him?

7 A Yes, sir.

8 Q And I know we're arguing nuances here, but you
9 understand that's not what you told the jury a moment ago
10 because you were going by your memory, not what was in your
11 notes? When the solicitor asked, you said, After the sweat
12 poured down on him, after we told him he had a video, he
13 kept saying, I didn't shoot anybody, I didn't do it. But in
14 your notes, it specifically says, After -- and I'll read it.
15 Epps started pouring down sweat. Epps then stated, I did
16 swing on him.

17 A If I didn't read from my notes, the order may be off or
18 whatever, but whatever I stated, it's true as far as --

19 Q That's why it's so important we have things on video
20 because we don't --

21 A Right.

22 Q Because it can be taken the wrong way, your
23 interpretation of what happened?

24 A I can understand, yes, sir.

25 Q And so after you said there's a video out there, he

1 started sweating and said, I did swing on him?

2 A That is correct.

3 Q And then eventually the story kept evolving?

4 A That is right.

5 Q And toward the end, the final statement kept evolving
6 to the point that Epps stated to you he walked up to me?

7 A That's correct.

8 Q Meaning Mike Rodgers. He walked up to me aggressively?

9 A That is correct.

10 Q He walked up to me aggressively and chest bumped me?

11 A That's correct.

12 Q And when he walked up to me aggressively and check
13 bumped me, that's when I swung on him?

14 A That's correct.

15 Q I felt I was in danger?

16 A Yes, sir.

17 Q Not that I'm saying it's true or accurate or anything,
18 but that's what he told you?

19 A That is correct.

20 Q He only swung on him after he walked up to him
21 aggressively and chest bumped him?

22 A Yes, sir.

23 Q And then he said after that, then he told y'all that's
24 when Mike Rodgers pulled a gun on me?

25 A That's correct.

1 Q And that's when Mike Rodgers -- did he say he fired or
2 not fired or do you remember?

3 A He stated that Mike Rodgers pulled a gun on him and he
4 took off running.

5 Q And he took off running?

6 A Yes, sir.

7 Q (Indiscernible)?

8 A Epps stated that he saw other people shooting while he
9 was running, but he isn't going to tell their names.

10 Q Well, further down than that?

11 A How far down? Keep reading?

12 Q Let's go to Epps then stated to Detective McFadden.

13 A Okay.

14 Q That Killa Mike walked up to him fast and aggressively.
15 Do you see where I am? It's toward the end.

16 A Are you on Page 2 or 3?

17 Q I am on Page 3. Let me come up to you, I apologize.

18 A Towards the bottom, okay.

19 Q Epps then stated to Detective McFadden that Killa Mike
20 walked up to him all fast and aggressively?

21 A Yes, sir.

22 Q So he did swing on Killa Mike?

23 A That's correct.

24 Q Epps then stated that Killa Mike then pulled out a gun?

25 A Correct.

1 Q Epps then stated that he turned around to run and as he
2 was running, he turned and I did pull out my thing, my
3 thing, my gun?

4 A Correct.

5 Q Here's my question, why is that in quotes?

6 A Because that's how he said it.

7 Q Why isn't the rest of it in quotes?

8 A I was summarizing in the notes on how he said it.

9 Q The whole thing in quotes there is my thing, my thing,
10 my gun?

11 A Yes.

12 Q Which to the reader, the rest is a synopsis and that's
13 the only quote?

14 MR. FINNEY: Judge, that's not a question. I'm sorry,
15 but he's testifying way too much. I don't mind if he ask
16 questions, but he's testifying. And we would ask for him to
17 allow the witness to read the whole statement that he wrote
18 and then question him about inconsistencies.

19 THE COURT: He can explain his answers based upon what
20 he was told the day the statement was given.

21 MR. KENT: Judge, this is cross-examination.

22 THE COURT: I understand that. So Mr. Kent, give him
23 an opportunity to explain his answers.

24 BY MR. KENT:

25 Q I'm trying to figure out some things are in quotes and

1 some things aren't?

2 A Yes, sir. I don't have photographic memory --

3 Q I understand?

4 A -- so I can't say word-for-word what he said, but there
5 are certain things that stick out that he told me that are
6 in quotation marks because I know for a fact that was his
7 actual words. I may say them different on here throughout.
8 If I could and had photographic memory, I would put
9 everything in quotation marks. I'll record it or whatever
10 the other options are, now that we have those available.
11 Trust me, not everything gets recorded.

12 Q So Mr. Epps stated that Mike Rodgers came up to him
13 aggressively?

14 A That's correct.

15 Q And after coming up to him all aggressively and chest
16 bumping him or something of that nature, that's when he
17 swung on him?

18 A That's correct.

19 Q After he swung on him, that's when Mike Rodgers pulled
20 out his firearm?

21 A That's what Epps stated, yeah.

22 Q That's what Epps stated?

23 A Yes, sir.

24 Q And then after he pulled his firearm, he did pull out
25 his gun and while going backwards, he said something like --

1 A No, he motioned back like he was running away, so --
2 can I stand up for a second?

3 Q Yes.

4 A So he motioned that -- after Mike Rodgers pulled out
5 the gun, he motioned back like he just was running away and
6 shooting like this behind him.

7 Q And he asked could he get a murder charge for that?

8 A Sir?

9 Q He asked could he get a murder charge for that?

10 A Yes, sir.

11 Q And then, finally, the last couple of questions, you
12 got the warrants in this case?

13 A Yes, I did.

14 Q And those are the warrants you got in that case?

15 A Yes, sir.

16 Q The warrant is based on what?

17 A A warrant is probable cause for arrest. We present
18 evidence to a judge and a judge, if we have enough evidence
19 to make an arrest on a particular case, he'll sign off on
20 the warrant and then we'll get the warrant served to the
21 individual.

22 Q And probable cause is not assumption?

23 A That's correct.

24 Q It's not a hunch?

25 A That's correct.

1 Q It's a reasonable -- we can't just guess in a warrant?

2 A No, we can't say we think this happened and get a
3 warrant. We would have to have evidence to present in front
4 of a judge to say all right, they have probable cause to
5 sign an arrest warrant.

6 Q Would you agree that your warrant specifically said
7 that you were able to see Diontrae Epps shoot Mike Rodgers?

8 A It says that on September 8th, 2019, while at the
9 Hop-In gas station located at 1083 Broad Street in the City
10 of Sumter, State of South Carolina, Diontrae Epps did with
11 malice aforethought shoot victim, Michael Rodgers. The
12 Defendant was observed by witnesses and seen on video
13 surveillance footage throwing a punch at the victim. The
14 victim was, also, seen retreating from the assault, but
15 Defendant pulled a handgun and fired several shots striking
16 the victim. Victim collapsed to the ground and was later
17 transported to Prisma Health Toumey Hospital where he was
18 later pronounced dead as a result of a gunshot wound. Law
19 enforcement and the witnesses will attest to the same.

20 Q Now, I think you know I'm about to ask the question.
21 You'd have to have some pretty good eyes to see a bullet
22 leave a firearm and strike somebody?

23 A We can't see the bullet, we just saw the muzzle flash
24 from the gun.

25 Q The warrant where we went to (indiscernible) as to what

1 happened, Defendant pulled a handgun and fired several shots
2 striking the victim. You were very specific. You're able
3 to say on the video, we see. Were you able to see that?

4 A That's what it appeared to be.

5 Q Not appeared, is that what we're able to see? There's
6 a difference. I'm guessing, I'm assuming, I think, you
7 believe isn't enough.

8 A It's impossible to see a bullet.

9 Q But it's not impossible to put it on a warrant and tell
10 a judge that you did?

11 MR. KENT: That's all the questions I have.

12 THE COURT: Redirect, Mr. Finney?

13 MR. FINNEY: Just a few questions, Your Honor.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. FINNEY:

17 Q Do you have your notes from the September 17th
18 interview or conversation with Mr. Epps?

19 A Yes, sir.

20 Q Could you read for the jury's information all the
21 places on Page 3 where you have quotation marks? Those
22 words are Epps' words. What did Epps tell you in Line 2?

23 A The first quotation marks, Y'all don't have me on no
24 video.

25 Q And then the fourth line, what did Epps say?

1 A I did swing on him.

2 Q And in the -- further down about the eighth line, do
3 you see some quotation marks?

4 A Yeah, it says, I did swing on Killa Mike.

5 Q All this is happening after you've dropped the warrant
6 on him?

7 A Yes. Also, in quotation marks is the chest bump.

8 Q That's his words?

9 A His words.

10 Q Who did the chest bump?

11 A Diontrae Epps -- I'm sorry. He stated that Michael
12 Rodgers came up to him and did the chest bump.

13 Q He said that Michael Rodgers -- how did Michael Rodgers
14 -- what was the words he used?

15 A He said came up to him all aggressively.

16 Q And came up to Trae Epps?

17 A Came up to Trae Epps.

18 Q And chest bumped?

19 A That's correct.

20 Q Did you put that in quotation marks?

21 A Yes, I put the chest bump, correct.

22 Q Go down another four lines where the word all right, in
23 the middle.

24 A Okay, I see it.

25 Q Is it in quotation marks?

1 A Yes, sir.

2 Q And who's talking?

3 A This is Diontrae Epps talking.

4 Q And what does he say?

5 A He said, All right, this is what really happened.

6 Q All right. And then after that, the next quotation
7 mark you have is about four lines from that?

8 A That's when he stated, My thing, my thing, my gun.

9 Q And then there's some more quotation marks two lines
10 down, starting with the word I?

11 A He said, I was like this, that's what he was motioning.

12 Q And you demonstrated for the jury how he was doing?

13 A That is correct.

14 Q And then the next thing you wrote down in quotation
15 marks was Epps talking to you asking what?

16 A He was asking me, Can I still get a murder charge for
17 that?

18 Q And what did you tell him in quotation marks?

19 A I put my own words in quotation marks, yes.

20 Q When you took this information in the warrant to the
21 judge, what day was it?

22 A It was --

23 Q I'm sorry, I have the warrant.

24 A It was on September 16th, 2019.

25 Q And you supplied the information to the judge asking

1 for the warrant?

2 A That's correct.

3 Q The judge gave you the warrant?

4 A Yes, sir.

5 Q And the next day, you had a meeting at the law
6 enforcement center?

7 A With Diontrae Epps.

8 Q And you served the warrant on him?

9 A That's correct.

10 Q And after you served the warrant on him, all of these
11 things in quotation marks came out of his mouth?

12 A That's correct.

13 Q Not before?

14 A That's correct.

15 Q And not on the 15th when you met at his momma's house?

16 A No, not on the 15th.

17 MR. FINNEY: Nothing further.

18 MR. KENT: No further questions, Your Honor.

19 THE COURT: Thank you, Detective McFadden, you can step
20 down.

21 MR. FINNEY: Judge, I'm sorry, one moment.

22 MR. KENT: He passed the witness, Your Honor.

23 MR. FINNEY: Sorry.

24 THE COURT: Yes, sir.

25 All right. You can step down, Detective.

1 MR. FINNEY: Your Honor, may we take a lunch break at
2 this point?

3 THE COURT: Yes, sir.

4 MR. KENT: May we approach?

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held in the presence
7 of the jury, but outside the hearing of the jury.)

8 THE COURT: Ladies and gentlemen of the jury, we're
9 going to take our lunch break. I'm going to ask that you be
10 back in your jury room at 2:15 and we will resume the trial
11 at that point.

12 One thing I want to do before I excuse you, I'm going
13 to appoint Juror Number 3, and I'm probably going to
14 mispronounce your first, Ms. Anderson, as the Foreperson of
15 the jury. That will mean a lot more to you as we get closer
16 to the end of the trial. All you need to know now is you
17 are the jury spokesperson. If anything needs to be brought
18 to the Court's attention, it needs to be done in writing and
19 given to the bailiff. You'll be in charge for filling out
20 the verdict form once a decision is made. So you're going
21 to be the Foreperson of this jury.

22 Folks, I hope you have a good lunch. Don't discuss the
23 case amongst yourselves or with anybody else, don't do any
24 research about any issue which has been raised. We'll see
25 you back at 2:15.

1 (WHEREUPON, the jury exits the courtroom at 1:01 p.m.)

2 MR. KENT: For the record, it appears we had a bench
3 conference. I believe the solicitor's office is just doing
4 housekeeping to make sure all evidence is properly in. And
5 I think they would want to rest in front of the jury when we
6 come back.

7 At this point in time, I would ask you to have colloquy
8 with Mr. Epps at this point in time. I think the solicitor
9 is looking to see what he has on his record they can use.

10 THE COURT: I can go ahead and start questioning him
11 while they're looking for his NCIC, if he has one.

12 Mr. Epps, raise your right hand for me, sir.

13 DIONTRAE TREVON EPPS,

14 after being duly sworn, testified as follows:

15 THE COURT: You can put your hand down. Thank you,
16 sir.

17 Mr. Epps, as you sit in this courtroom now, you
18 understand that you are presumed innocent of this charge and
19 that you have the right to remain silent.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You understand that no one can force you to
22 testify in your own defense or testify for any reason
23 whatsoever?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you understand that if you choose not

1 to testify in your own defense, I will tell the jury that
2 they cannot hold that against you and the fact that you have
3 chosen not to testify cannot be used against -- cannot even
4 be considered by the jury when they deliberate. Do you
5 understand that?

6 THE DEFENDANT: Could you repeat that one more time?

7 THE COURT: If you were to choose after consultation
8 with Mr. Kent that you did not want to take the stand and
9 testify in your own defense, the jury could not hold that
10 against you and, in fact, I would tell them that that
11 decision is not even to be considered by them during their
12 deliberations. So, basically, they can't draw any inference
13 negatively about the fact that you have chosen not to
14 testify because you have the right to remain silent?

15 THE DEFENDANT: Yes, sir, I understand.

16 THE COURT: And you understand that, obviously, it's a
17 good practice to make a decision about whether you are going
18 to testify in your own defense after consultation with your
19 attorney, but you need to understand it's not Mr. Kent's
20 decision, it is your decision and your decision alone after
21 consulting with him. You understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And Mr. Epps, the attorneys are apparently
24 looking at an NCIC report, I'm assuming now. You understand
25 that if you do choose to testify, if you have any prior

1 convictions that involve crimes of dishonesty or for
2 felonies that carry more than one year, those crimes could
3 be used to impeach your testimony. Do you understand that?

4 THE DEFENDANT: Yes, sir, I do.

5 THE COURT: All right.

6 MR. KENT: Judge, looking at the record with the
7 solicitor, I think we both agree there's a 2012 involuntary
8 manslaughter for which whatever incarceration or conviction
9 date or release from probation would put it in the ten-year
10 window. So there would be no disagreement to involuntary
11 manslaughter from 2012. And then there looks to be an
12 assault and battery first and assault and battery third. I
13 think one could be --

14 THE COURT: The first would be -- you know, if he
15 chooses to take the stand, we would have to do the analysis
16 under the factors enumerated in State V. Colf, that's
17 C-O-L-F. I don't think we need to do that quite yet. I
18 just want to make --

19 So Mr. Epps, looking at your record, the crimes that
20 would potentially qualify for use to impeach your testimony
21 would be this involuntary manslaughter and an assault and
22 battery first degree charge. So if you -- if I decided
23 after going through the analysis that's required by South
24 Carolina law that those convictions could be used to impeach
25 your testimony, you could be asked about them if you chose

1 to testify. You understand that?

2 THE DEFENDANT: Yes, sir, I do.

3 THE COURT: All right. So to summarize, you have the
4 right to remain silent, nobody can force you to testify in
5 your own defense. If you choose not to testify, I will
6 inform the jury that they cannot consider that and it can't
7 even be brought up in the jury room as they deliberate on
8 your case. And this decision is yours and yours alone to
9 make after consultation with Mr. Kent. You understand all
10 of those things?

11 THE DEFENDANT: Yes, sir, I do understand.

12 THE COURT: All right. I'm going to give you over the
13 lunch break to think about this issue and consult with Mr.
14 Kent, seek his counsel and advice. Before we bring the jury
15 in this afternoon, I'm going to ask you what your final
16 decision is. Do you understand that?

17 THE DEFENDANT: Yes, sir, I do.

18 THE COURT: Anything else, Mr. Kent?

19 MR. KENT: No, sir.

20 THE COURT: Anything, Mr. Finney?

21 MR. FINNEY: No, sir.

22 THE COURT: All right. Folks, we'll be in recess until
23 2:15.

24 And, gentlemen, I have sent a proposed jury charge to
25 each of your e-mail addresses. It's pretty standard. Y'all

1 approach real quick.

2 (WHEREUPON, a bench conference was held.)

3 (WHEREUPON, a lunch break was taken.)

4 MR. FINNEY: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. FINNEY: During our discussions at lunch, we
7 determined that we did not ask Mr. Willie McFadden whether
8 the crime occurred in Sumter County. We had him read the
9 warrant that said City of Sumter, State of South Carolina,
10 but we'd like to recall him for that purpose to put the
11 jurisdiction on the record.

12 We would, also, like to request from the Court
13 permission to ask him two questions: Did other people get
14 injured that night as a result of the shooting at Hop-In?
15 And did Diontrae Epps have anything to do with those other
16 injuries? The first answer is yes. The second answer is
17 no. To go the issue of that lead from that other tipster
18 didn't get followed up by this detective. And those two
19 issues can be handled by the same witness.

20 THE COURT: All right. Let's take the first issue
21 first. Is the Defense going to raise the jurisdiction
22 issue?

23 MR. KENT: No.

24 THE COURT: I think there's plenty of evidence in this
25 record that this occurred on Broad Street in Sumter.

1 MR. KENT: My checklist shows that they hit
2 jurisdiction several times. I have a little checklist that
3 I keep on whether or not it's been made in case I need to
4 make a fancy directed verdict motion.

5 THE COURT: Let's go to the second request to recall
6 the officer.

7 MR. KENT: Of course, I object to it, Your Honor. One,
8 I think it goes beyond the scope. One, I don't know the
9 relevance. Two, I was allowed to do a very limited purpose
10 through that witness about failure to followup. And this
11 doesn't change that, they didn't followup. And this goes
12 against your pretrial ruling about bringing up other
13 shootings and so forth and other evidence of shooting.

14 THE COURT: Well --

15 MR. FINNEY: But the door was opened, Your Honor.

16 THE COURT: I think for the purpose of those two
17 limited questions -- and I'm certain the law on recalling a
18 witness who has been tendered is certainly within the
19 discretion of the Court. I had a colleague forget to
20 introduce drug evidence in a drug case one time and the
21 judge allowed him to reopen his case. And I promise it
22 wasn't me, it was a colleague. Anyway, it's within the
23 judge's discretion. I will allow Detective McFadden to be
24 recalled for those limited purposes.

25 If you want to establish jurisdiction, Solicitor,

1 that's fine. Obviously, there's evidence in the record this
2 occurred on Broad Street in Sumter.

3 MR. KENT: Judge, is it your ruling then that I opened
4 the door?

5 THE COURT: Well --

6 MR. KENT: Because my question will be, you gave a very
7 specific instruction on what I was to do and I followed it
8 and --

9 THE COURT: I understand that. I think my ruling is
10 just to redirect the witness based upon issues that were
11 raised in cross-examination. You know, the point has been
12 made that they didn't followup on this issue. Obviously,
13 what he is going to say is that Diontrae Epps wasn't
14 responsible for any other injuries that were caused this
15 night other than the ones they allege he caused to Mr.
16 Rodgers.

17 So it's going to be narrow in that focus. We're not
18 talking about the type of injury, we're not talking about
19 gunshot wounds, we're not talking about anything other than
20 to rebut some of the points that were made on cross.

21 MR. KENT: So just those two questions? We're not
22 going to followup and make them extraneous about anonymous
23 tip --

24 THE COURT: No, it's going to be limited to the two
25 questions that Mr. Finney raised and that will be it.

1 MR. FINNEY: Yes, sir. And I will be protected during
2 closing argument if the issue comes up?

3 THE COURT: Right.

4 MR. KENT: What do you mean protected?

5 MR. FINNEY: I'm allowed to talk about it.

6 THE COURT: It just --

7 MR. KENT: That's fine.

8 THE COURT: I think that's fine.

9 Before we bring the jury in, let's deal with Mr. Epps'
10 decision on whether he's going to testify.

11 MR. KENT: Your Honor, we talked on the lunchtime break
12 briefly before we left the courtroom, but we've had
13 conversations, as you can imagine, for the last year or so.
14 We've talked about this in full detail. He has had counsel
15 of his family as well as Jack Furse from my office. He has
16 gone through it. He's sat through the case. He's been
17 attentive. He's heard the record the solicitor they intend
18 on indicating. Based upon everything he has told me, he
19 does not choose to testify in his defense.

20 THE COURT: All right. Mr. Epps, you're still under
21 oath as far as this issue goes. Your lawyer says that after
22 consultation with him, consultation with your family and
23 spending sufficient time on this matter that you've chosen
24 to exercise your right to remain silent and not testify in
25 your defense. Is that correct?

1 THE DEFENDANT: Yeah, that's correct.

2 THE COURT: And making that decision -- you have made
3 that decision yourself and no one is making that decision
4 for you?

5 THE DEFENDANT: That's correct.

6 THE COURT: Nobody has forced you to make that
7 decision? Nobody has promised you anything in order for you
8 to -- either way, to waive or to preserve your right to
9 remain silent?

10 THE DEFENDANT: On my own free will.

11 THE COURT: All right. Well, I find that he's been
12 advised of his right to remain silent and his right to
13 choose not to testify. He's testified and affirmed that he
14 made the decision after consultation with his counsel and
15 his family members and that he's made the decision after
16 those consultations freely, voluntarily and he's made the
17 decision himself, so --

18 Now, Mr. Epps, if at any point before this case --
19 before the evidence is closed in this case, if you change
20 your mind and decide you want to testify, that decision has
21 got to be made before the defense rests. Do you understand
22 that?

23 THE DEFENDANT: I understand that.

24 THE COURT: So I'm relying on the decision you've made
25 now, but if something were to change, we may have to have

1 this discussion again if you change your mind. You
2 understand that?

3 THE DEFENDANT: I got it.

4 THE COURT: Thank you, sir.

5 And I know we talked a little bit about proposed
6 charges, Mr. Kent, but I think it's probably proper since
7 you haven't presented evidence yet, based on my research
8 over the lunch hour, I think, at least, as to the issue that
9 was raised that it may be premature at this point.

10 MR. KENT: Yes, sir, Judge.

11 MR. FINNEY: Your Honor, we have cleaned up the disc
12 with the Sunoco videos to shorten them so there's no
13 extraneous. We would like to switch the No. 5 from a Court
14 Exhibit to this disc so that it would be a cleaned up
15 version of the Sunoco videos.

16 THE COURT: Okay.

17 MR. FINNEY: We're ready, Your Honor.

18 THE COURT: Bring us the jury, Mr. Tomlin.

19 (WHEREUPON, the jury enters the courtroom at 2:33 p.m.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right. Mr. Finney.

22 MR. FINNEY: If it please the Court, Your Honor?

23 THE COURT: Yes, sir.

24 MR. FINNEY: Good afternoon, ladies and gentlemen.

25 We would like to recall Detective McFadden, please, for

1 limited issues.

2 THE COURT: Detective McFadden.

3 MR. FINNEY: And he's already under oath, Your Honor, I
4 believe.

5 THE COURT: Yes, sir.

6 WILLIE MCFADDEN,

7 having previously been sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. FINNEY:

10 Q Detective McFadden, earlier when you were testifying, I
11 don't know that I asked you this question, so I wanted to
12 clarify it. Where did the shooting of Mike Rodgers occur?

13 A On Broad Street in the City of Sumter.

14 Q And what county is that?

15 A Sumter County.

16 Q In the State of South Carolina?

17 A State of South Carolina, that's correct.

18 Q The night of the shooting at the Hop-In, were other
19 people injured as a result of events out there?

20 A That's correct, other people were injured, yes, sir.

21 Q And those other injuries, did they have anything to do
22 with Trae Epps?

23 A No, sir.

24 MR. FINNEY: Thank you, sir. Answer any questions Mr.
25 Kent may have.

1 MR. KENT: No further questions based on the
2 solicitor's questions.

3 THE COURT: Thank you.

4 MR. FINNEY: Your Honor, at this time, the State of
5 South Carolina would rests.

6 THE COURT: All right.

7 (WHEREUPON, a bench conference was held in the presence
8 of the jury, but outside the hearing of the jury.)

9 THE COURT: Ladies and gentlemen of the jury, the State
10 has presented its case in chief in this matter. Now, we
11 will turn it over to the Defense.

12 The Defense is recognized to call a witness if it so
13 chooses.

14 MR. KENT: Thank you, Your Honor, we will. At this
15 point in time on behalf of Mr. Epps, we'd like to call Dr.
16 Kenneth Kinsey to the stand, please.

17 THE COURT: All right. Dr. Kinsey, please, come
18 forward, sir.

19 THE CLERK: Place your left hand on the Bible, raise
20 your right hand and state your name, sir.

21 THE WITNESS: Kenneth Lee Kinsey.

22 KENNETH LEE KINSEY,

23 after being duly sworn, testified as follows:

24 THE CLERK: Thank you, sir. Have a seat. State your
25 full name for the record and spell your last name, please.

1 THE WITNESS: Kenneth Lee Kinsey, K-I-N-S-E-Y.

2 DIRECT EXAMINATION

3 BY MR. KENT:

4 Q I called you Dr. Kinsey. I probably should give you
5 the opportunity to tell us who you are before we begin.
6 First, some background, who are you?

7 A Yes, sir. Well, I'm a certified police officer. Until
8 5:00 p.m. tomorrow, I am the chief deputy of the Orangeburg
9 County Sheriff's Office, but tomorrow is my retirement. I
10 have a Bachelor's Degree from Clemson University, a Master's
11 Degree from Troy University here in Sumter and a Ph.D from
12 Walden University. I have worked approximately 800 death
13 scenes, between 800 and 850 in South Carolina in all 46
14 counties. I've been a police officer for over 30 years and
15 I have qualified as an expert 80 something times, 82 times I
16 believe in crime scene investigations, crime scene
17 reconstruction and the crime scene related disciplines,
18 which are crime scene processing, reconstruction, blood
19 stain pattern analysis, fingerprint, footwear and tire
20 track, fabric impressions. I'm an adjunct professor at
21 Claflin University in Orangeburg where I teach crime scene
22 several times a year. And I work for the defense in many
23 cases and I, also, work for prosecutors.
24 Q And I want to go through some of the stuff that you
25 mentioned real quick. And you used to work at SLED?

1 A Yes, sir.

2 Q And what is SLED?

3 A The South Carolina Law Enforcement Division, commonly
4 known as SLED.

5 Q Tell us what you did for SLED.

6 A Yes, sir, I was a special agent in the crime scene and
7 latent prints unit. We worked calls for service through the
8 entire State of South Carolina.

9 Q And during your time at SLED, you testified as an
10 expert?

11 A Yes, sir, I did.

12 Q And I know you said over 80 times. Let's back that up,
13 do you know how many times when you worked for SLED that you
14 testified as an expert?

15 A Probably half of those times because I, actually,
16 qualified as an expert prior to my time at SLED. I've been
17 working crime scenes and crime scene related disciplines for
18 approximately 23 years.

19 Q And then you went to the Orangeburg County Sheriff's
20 Office?

21 A Yes, sir, I did.

22 Q What is your title with the Orangeburg Sheriff's
23 Office?

24 A I'm the chief deputy, the assistant sheriff.

25 Q You're currently the chief deputy at the Orangeburg

1 County Sheriff's Office?

2 A Yes, sir, until 5:00 p.m. tomorrow.

3 Q And you've testified for prosecutors and the State of
4 South Carolina?

5 A Yes, sir, as early -- I presented to a solicitor three
6 weeks ago in Greenville, South Carolina.

7 Q You're being a little humble. You, also, have a title
8 of something you won this year?

9 A Yes, sir. I was awarded deputy of the year in South
10 Carolina.

11 Q You are currently the South Carolina deputy of the year
12 for the entire state?

13 A Yes, sir.

14 Q You currently -- you went down to Florida and testified
15 or gave a presentation to about 3,000 people. What did you
16 present down in Florida?

17 A Yes, sir, I was one of the headliners at Crime Con,
18 which is a live large gathering of true crime enthusiast
19 where they honor the victims and praise the survivors. I
20 call it a good guy convention because it's people from all
21 walks of life.

22 Q Have you ever authored any written expertise or books
23 or anything of that nature?

24 A I've, also, qualified in use of force as an expert and
25 I have published my research when I got my Ph.D.

1 Q Have you offered written expert opinion as well as
2 testifying before in court?

3 A Yes, sir, I have.

4 Q How many times have you offered written expert opinion?

5 A I can't really break it up, but probably over a dozen
6 times.

7 Q Have you ever helped write policy manuals, procedures
8 or anything like that to help law enforcement have a better
9 office or ever helped an agent in any writing of procedures
10 or policy manuals?

11 A Yes, sir, I have. Three individual times specifically
12 as far as creating policy and I've helped many agencies
13 tweak their policies, especially when things change, like
14 the choke holds in the last couple of years and it was
15 elevated to deadly force. So a lot of cohorts contacted me
16 and I assisted them with changing those policies.

17 Q Have you ever testified in federal or district court in
18 the State of South Carolina?

19 A I have, sir.

20 Q Were you qualified as an expert in the federal and/or
21 district court in the State of South Carolina?

22 A I was, sir.

23 Q Have you ever done anything outside of the State of
24 South Carolina (indiscernible) your testimony and expertise
25 within the State?

1 A No, sir, I have, also, testified in Georgia and I've
2 testified in hearings. I don't think it's considered big
3 court, but I've testified in hearings in New York and
4 Washington State.

5 Q One more time, can you tell me -- I know you mentioned
6 crime scene reconstruction, what else have you been
7 qualified as an expert?

8 A Crime scene reconstruction, crime scene processing,
9 footwear and tire track evidence, blood stain pattern
10 analysis, fabric impressions, use of force.

11 Q And not to embarrass you, but I saw you on television a
12 couple of months ago; is that true?

13 A Yes, sir.

14 Q You were called by the State of South Carolina to
15 testifying in the Alex Murdaugh trial?

16 A Yes, sir, I was.

17 Q Can you tell me what you were hired to do in that
18 situation?

19 A Well, it started off, I was just to review the expert's
20 opinions. They wanted someone from here in South Carolina.
21 That's what I started to do, I was just supposed to review
22 the expert's report and one specific piece of evidence.

23 Q Were you retained?

24 A I was retained. I tried to volunteer, but it was
25 explained that I needed to be retained.

1 Q And you, also, teach, if I'm not mistaken?

2 A Yes, sir, I teach civilians in use of force and, also,
3 as I mentioned, I'm an adjunct professor at Claflin
4 University.

5 Q And you mentioned you've testified as an expert for
6 prosecutors. Have you, also, testified and consulted with
7 defense attorneys?

8 A Yes, sir, I have.

9 Q And how many times?

10 A Three times in the last month and a half.

11 Q And have been qualified as an expert in crime scene
12 analysis and reconstruction?

13 A Yes, sir.

14 MR. KENT: Your Honor, at this point in time, we would
15 offer --

16 BY MR. KENT:

17 Q And I'm being rude, why do I call you doctor? Is there
18 a reason?

19 A I obtained a Ph.D. I call it a post hole digger, but
20 they tell me it's Doctorate Degree.

21 Q You have a Ph.D. as well as your Master's?

22 A Yes, sir.

23 Q And are those both from Clemson?

24 A No, sir. My Master's is Troy University here in
25 Sumter. It was at Shaw Air Force Base, now, it's a separate

1 building.

2 MR. KENT: Your Honor, at this time, I would offer Dr.
3 Kinsey as an expert in crime scene reconstruction.

4 MR. FINNEY: May we approach?

5 THE COURT: Yes, sir.

6 (WHEREUPON, a bench conference was held in the presence
7 of the jury, but outside the hearing of the jury.)

8 MR. KENT: I had offered Dr. Kinsey as an expert in the
9 field of crime scene reconstruction.

10 MR. FINNEY: Your Honor, subject to the objections that
11 were placed to the Court in conference.

12 THE COURT: Yes, sir.

13 Again, ladies and gentlemen, this witness is being
14 offered as an expert in the field of crime scene
15 reconstruction. Normally, a person cannot give opinion
16 testimony, but this witness because of his education,
17 training and experience is permitted to give his opinion in
18 the area of crime scene reconstruction.

19 Now, the fact that he's an expert does not mean that
20 you must accept his opinion, but it is evidence for you to
21 use in any way you see fit and give it the weight and
22 credibility you believe is appropriate.

23 BY MR. KENT:

24 Q And Dr. Kinsey, I should be clear on this, when we talk
25 about crime scene reconstruction, there's subsets to that;

1 is that a fair statement?

2 A Yes, sir, there are. A reconstruction is not a
3 recreation. When you see something on TV where they reenact
4 it, that is a recreation. With a reconstruction, you're
5 trying to use photos, videos, reports, notes, that kind of
6 thing to answer just a couple pertinent questions.

7 Q Do we, also, under crime scene reconstruction, also,
8 talk about bullet path, trajectory, things of that nature?

9 A We do, angles. There's a lot of geometry.

10 Q A lot of geometry?

11 A This one not so much, but, yes, sir.

12 Q That all goes into the subsets of crime scene
13 reconstruction and your area of expertise?

14 A Yes, sir, it does.

15 Q I asked you to look at a case; is that a fair
16 statement?

17 A That is.

18 Q Can you tell the jury just from your point of view what
19 did I do or what happened? Generically, what happened?

20 A You had one of your assistants call me and I came over
21 because I have a hard time getting information by e-mail,
22 especially if they're videos. So I came over and I -- you
23 weren't even there. You were teaching. I met with, I think
24 your investigator and your legal assistant.

25 Q Were you told or suggested or asked hey, we want to

1 know what (indiscernible) or something of that nature?

2 A No, sir, not at all. We played the video and I would
3 not give an opinion. I felt uncomfortable and I asked if I
4 could get it on a flash drive and take it home and spend
5 some time working with it.

6 Q As a matter of fact, I didn't suggest anything to you.
7 I think we just said can you tell me what happened?

8 A Never, no, sir.

9 Q Is it weird to have a defense lawyer to say just tell
10 me what happened?

11 A Generally speaking, a lot of defense attorneys are --
12 either they tell me that or they tell me look, I just want
13 to know the truth. I do have some attorneys that say I need
14 it to work out this way or that way and I won't take the
15 case if they try to tell me how to testify.

16 Q And that didn't happen in this situation?

17 A Absolutely not, no, sir, I'm here.

18 Q You wouldn't be here otherwise; is that a fair
19 statement?

20 A I promise.

21 Q Dr. Kinsey, what all information did you utilize to
22 help you make a decision that you'll be testifying about
23 later?

24 A I used the video, three videos and then one, I think,
25 is in slow motion. And I used HLC, I believe it is, to

1 review that. I might have just totally bungled that. HL --
2 no, VLC to play that video. I used autopsy report, the
3 incident reports. I did a site visit myself and looked at
4 the location myself and a chart that I just got a schematic
5 from autopsy showing the bullet entries and exit wounds.

6 Q When you say I just got it, you got it like this
7 weekend when I got it?

8 A Yes, sir, but I was at Crime Con, so I couldn't work on
9 it till late into Sunday night and early Monday morning.

10 Q Tell me about all of those things. I want to start
11 with site visit. You mentioned a site visit. Why is it
12 important for you to go see it again?

13 A Well, sometimes depth of field in a photograph, it may
14 look like it's a lot bigger or a lot farther away because of
15 the ability to zoom in and out. And you, also, want to be
16 able to relate to the video, you want to know what is -- not
17 necessarily what you can see, but the areas where you can't
18 see.

19 Q You know what discovery is?

20 A Yes, sir.

21 Q What is discovery?

22 A Discovery is where you must turn over evidence to the
23 other side.

24 Q Would you agree that, basically, I gave you, I said
25 here's what I got, look at it?

1 A Yes, sir, you did.

2 Q Why is that necessary?

3 A Because I can't go back in time and collect the
4 evidence myself, so I have to depend on what's given to me
5 by the court.

6 Q First, I'm going to have you tell the jury what you
7 found and what you did, then we'll get into specifics on how
8 you did it and we'll look at any reports or anything that
9 you need.

10 A Yes, sir.

11 Q Tell the jury what you did.

12 A I was given two specific questions, did the Defendant
13 shoot the victim, Mr. Rodgers, in the anatomical right side
14 of his chest on this night at the Hop-In convenience store?
15 And the second question was, did the Defendant shoot the
16 victim, Mr. Rodgers, in the anatomical left shoulder blade
17 at the Hop-In convenience store on this night.

18 Q What was your decision? What did you find?

19 A Absolutely, it is my opinion that the Defendant had
20 neither chance to shoot the victim, Mr. Rodgers, any time
21 included in that video. There's no chance that that
22 projectile came from him. The Defendant did fire a gun, but
23 it's photographic evidence in the video that Mr. Rodgers had
24 already retreated and turned, therefore, he was running away
25 from the Defendant, therefore, he could not take a shot

1 between the nipple and the armpit on the right side. And
2 because it's elevated and he wasn't elevated, the victim,
3 certainly, couldn't get a shot from Mr. Epps coming from the
4 top of the shoulder down.

5 The second shot, which was the fatal shot to Mr.
6 Rodgers, in my opinion, was taken as Mr. Rodgers was falling
7 forward on the cement. That is the only time his body was
8 ever parallel to the ground. And it's almost at the same
9 angle. So after he sustained the fatal shot and was
10 falling, a projectile from the opposite direction of the
11 Defendant struck him in the shoulder as he was falling down.

12 Q You just gave us a lot of information so we're going to
13 have to go through all of that?

14 A Certainly.

15 MR. KENT: What I want to do, Your Honor, if we can
16 turn the screen.

17 BY MR. KENT:

18 Q The first thing I want to talk to you about is some of
19 the stuff you talked about. You mentioned the body diagram?

20 A Yes, sir.

21 Q What I'd like for you to do, what's been placed into
22 evidence as State's Exhibit No. 11, and I want you to
23 explain to the jury what you meant -- because you made a
24 comment about where the firearm entered --

25 A Mr. Kent, I forgot one thing, too.

1 Q Go ahead.

2 A I, also, spoke with the pathologist on the phone that
3 performed the autopsy.

4 Q So on the screen -- is it on your screen right there?

5 A Yes.

6 MR. KENT: And is it on the jury's screen, Your Honor?

7 THE COURT: This has already been admitted?

8 MR. KENT: Yes, sir.

9 BY MR. KENT:

10 Q Now, Dr. Kinsey, what are we looking at?

11 A That is a diagram documenting the gunshot wounds to the
12 victim.

13 Q So explain to me first, start with the diagram, that's
14 something that you looked at?

15 A Yes, it is. The angle is important. The entrance and
16 exit, if there is an exit, and that will help you determine
17 the approximate angle or probably more correct terminology
18 is the direction because you don't know -- you can't get
19 angle because the body is not flat like a countertop, so
20 probably more direction than angle.

21 Q And what did you determine from looking at that? What
22 did you determine about angle, shot entry, anything of that
23 nature?

24 A If you look at the diagram that was prepared by the
25 pathologist.

1 Q And Dr. Kinsey, everybody has that in front of them
2 now.

3 A Yes, sir. It is noted in the scale -- I mean, in the
4 legend that the entrance wounds are a big zero and the exit
5 wounds are an X.

6 When I say anatomical, if you're looking at him and you
7 say right, that's really his left. When I say anatomical,
8 I'm talking about his actual right arm. If you look at his
9 anatomical right arm, right between his nipple and his
10 underarm, you can see that circle. That was noted by the
11 pathologist as the entrance of bullet wound number one. If
12 you look at the other diagram where he's got his back --
13 they're showing the back of the victim, you can see the X
14 about halfway down his back. That's the exit.

15 So what that's telling you -- may I stand up?

16 Q Yes, please, stand up if that's easier.

17 A So what that's telling you is --

18 Q Make sure you keep your voice up loud and clear.

19 A Yes, sir. What that's telling you is that projectile
20 entered here and then exited somewhere around here.

21 Q So Dr. Kinsey, if I'm making it clear, let's say --
22 you've seen the scene?

23 A Yes, sir.

24 Q And if where the jury box is is the front of the gas
25 station?

1 A Yes, sir.

2 Q Meaning, if I'm standing here, I'm walking out of the
3 gas station?

4 A Yes, sir.

5 Q And when I'm facing toward the clock in the courtroom
6 is Broad Street?

7 A Yes, sir.

8 Q And I'm coming at you, can you show the jury where the
9 bullet would have entered?

10 A Where I'm positioned now?

11 Q Yeah. I am Mike Rodgers.

12 A Walk towards me.

13 Q Yes, sir.

14 A That bullet struck Mr. Rodgers here from this
15 direction.

16 Q Okay.

17 A And exited here.

18 Q Now --

19 A And as Mr. Rodgers was falling -- just bend over.

20 Q Yes, sir.

21 A The second wound, which was not fatal, entered here.
22 It couldn't enter anywhere else because in the video, Mr.
23 Rodgers was never down on the ground until he received the
24 fatal wound. So unless someone is up on the canopy, the
25 only time there was an opportunity for that nonfatal wound

1 was as he was going --

2 Q So let me ask you a question, why is it not possible --
3 understanding that what I'm showing you is the front of the
4 gas station. Why is it not possible that the shot could
5 have come from this direction? I'm standing to the right
6 side of the jury box.

7 A Because the video clearly shows the victim, Mr.
8 Rodgers, back out. If this is the Defendant -- stand right
9 here for me.

10 Q Yes, sir.

11 A If that is the Defendant and they walk up and they have
12 the fistfight, the Defendant tries to strike Mr. Rodgers and
13 Mr. Rodgers backs up. It clearly shows him back up down the
14 side of that vehicle, turn and go this direction. So if I'm
15 backing up and I turn, it couldn't have come from the
16 Defendant. It had to come from the other side of the
17 parking lot.

18 Q Is this an opinion or is that based upon a reasonable
19 degree of certainty or is that based upon science?

20 A That is a reasonable degree of scientific certainty and
21 I can show you in the video.

22 Q So let's get to that. If you would come up here. I've
23 got it blanked out.

24 THE COURT: Now, Mr. Kent, do you have it -- is it
25 attached through your table?

1 MR. KENT: It's through my iPad.

2 BY MR. KENT:

3 Q Dr. Kinsey, I'm going to show you -- we're going to
4 look at some videos, videos that you've seen. First, I'm
5 going to show you -- remember that real dark video we talked
6 about?

7 A Yes, sir.

8 Q Okay.

9 MR. FINNEY: Judge, if I may, could we get an ID
10 number? Maybe a camera number?

11 MR. KENT: Yeah, the camera number. It's camera number
12 12.

13 THE COURT: So these are all coming off of 5, Mr. Kent?

14 MR. KENT: Yes, sir.

15 BY MR. KENT:

16 Q Now, we're looking at -- first of all, do you recognize
17 this camera angle, Dr. Kinsey?

18 A Yes, sir, I do.

19 Q Can you tell the jury if this is one of the videos that
20 you were sent?

21 A Yes, sir, it is. You can see the rental propane tanks.
22 That's what this little square is right past the door.
23 That's where you go exchange your propane tank for your
24 grill. And it was still there when I did my site visit.
25 It's in the same spot.

1 Q And you see the time on the camera is 11:41 and 41
2 seconds, Dr. Kinsey?

3 A Yes, sir, it shows 11:41:41.

4 Q Do you want us to go forward? Do you want us to go
5 back?

6 A Will you play it full speed first and I will show you
7 what you miss in full speed?

8 (WHEREUPON, video is played.)

9 THE WITNESS: Okay, that's far enough. Now, you can
10 see at 11:45, you see the Defendant fire a weapon over the
11 tailgate of that truck.

12 BY MR. KENT:

13 Q I'll play it again if you don't mind.

14 A Yes, sir.

15 MR. KENT: Can we start at 11:41 and 35 seconds,
16 please?

17 Q We can stop whenever you tell us.

18 A Pause it. Now, can you use the key and take it one
19 frame at a time. He swung and hit him with his left hand or
20 tried to hit him with his left hand. That's the Defendant
21 in the white shirt.

22 Q I'm going to let you talk about that and --

23 A It went away on my screen.

24 Q I'm going to put it back.

25 A Okay.

1 Q And that's going frame-by-frame.

2 A Yes, sir. You can see the victim backed up. He was
3 faster. He, actually, did not get struck by the -- in my
4 opinion, he did not get struck by the punch.

5 Q Is this based upon your expert opinion as a crime scene
6 reconstructionist that there was not actual contact?

7 A Yes, sir, it is, but not from this actual video. The
8 other video, it's a lot clearer.

9 MR. KENT: Go to the next one.

10 Q Is this the next video you want to see?

11 A It is, yes, sir.

12 Q Can you tell the jury what this video is and what this
13 shows and how did this help you make your decision?

14 A Yes, sir. The camera on this is right above that
15 propane exchange that I mentioned a minute ago. You see the
16 victim, Mr. Rodgers, walking up there with the two-tone blue
17 shorts. And in his right pocket, you can see a handgun.

18 MR. FINNEY: Objection, Your Honor.

19 MR. KENT: Based on?

20 THE COURT: Yes, sir, Mr. Finney.

21 MR. FINNEY: There's no evidence of that. You can't
22 see it in the picture.

23 MR. KENT: He's an expert giving his expert opinion.
24 He can cross-examine him later and he can explain what he
25 can see.

1 THE COURT: Objection overruled.

2 BY MR. KENT:

3 Q Dr. Kinsey, there was a question about a handgun and
4 the solicitor is saying you can't see it. Are we going to
5 go through this and you're going to explain what you see in
6 this video?

7 A I'm going to show it to you, yes, sir.

8 Q Dr. Kinsey, first of all, is this where you want us to
9 stop? We're at 11:41 and 42 seconds.

10 A Yes, sir, and if you'll take it screen-by-screen for
11 me, frame-by-frame.

12 (WHEREUPON, video is played.)

13 Q This is going frame-by-frame, correct?

14 A Yes, sir. There's the butt of the handgun in his right
15 pocket. You'll see him draw it. Right there, you can see
16 it. Hang on one second. The Defendant is going to swing at
17 him.

18 Q Is that the swing you're talking about?

19 A Yes, sir, he backs up. There it is. There it is.
20 There's the gun. There it is again. He's backing up and at
21 that time, he discharged the weapon into the Defendant's
22 midsection.

23 MR. KENT: Your Honor, will the Court inform Mr.
24 Rodgers' family we can't have outburst?

25 THE COURT: All right, folks, we're not going to have

1 any response from the gallery for anyone that's in here,
2 regardless of whether they're here for the defense or the
3 prosecution. If people can't be quiet and maintain decorum
4 in the courtroom, they will be removed.

5 BY MR. KENT:

6 Q Dr. Kinsey, tell me about the scene and this firearm
7 and what you see. I mean, you're pretty specific, you see a
8 firearm discharge into Mr. Epps?

9 A Yes, sir, you see the firearm five times. I can put
10 circles around it. And then you see the powder pooling
11 around it. And these are 24 frames per second. Modern --
12 better video is 29 to 30. So you're not seeing the flash,
13 you're just seeing the powder. And at the same instant, you
14 see the Defendant bend over, grab his midsection and change
15 directions. That's when he retreated to the back of the
16 tailgate.

17 Q Again, this is based upon your expert opinion?

18 A It is, it is my opinion. And like I said, I can draw
19 circles around it if I need to.

20 Q Well, we'll do that in just a minute.

21 A Yes, sir.

22 (Video is continued.)

23 A Now, you see the Defendant change his footing and fire
24 over, but if you look up, the victim has already changed
25 direction. So now, his left side is to the Defendant. When

1 the Defendant fires his first round, which is, actually,
2 another second, at 45, he fires over the tailgate, Mr.
3 Rodgers had already changed direction and was going toward
4 the opposite side of the convenience store.

5 Q So that would mean -- what we're talking about, as
6 testified earlier, has already backed out, turned and
7 changed directions?

8 A Well, he didn't turn that far or he could have been hit
9 in the back. He only turned a quarter turn. You can see it
10 -- if you pay attention to it, you can see he's already
11 turned. See, he's going forward. He's high stepping.
12 There's no way the Defendant could have struck him on the
13 right side of the chest. He's already turned.

14 Q And that's based upon your calculations, looking at
15 these videos and your almost 30 years of experience?

16 A Yes, sir. Well, you can't see the handgun. In all
17 honesty, in slow motion, you can't see it, but if you know
18 anything about this program that you're playing it on, the
19 actual medium, you can slow down the slow down and do it one
20 frame at a time.

21 Q And that's what you did?

22 A Yes, sir, that's what I did.

23 Q So when asked about SLED having the ability --

24 A I didn't alter it, it's your video and the court's
25 equipment.

1 Q Dr. Kinsey, I want to talk -- hold on one second. We,
2 also, have some videos from a different angle. So now, we
3 have seen a video in between the cars?

4 A Yes, sir.

5 Q We've seen a dark video from this view?

6 A From the side, yes, sir.

7 Q Coming from the right side of the courtroom towards you
8 from where you're witnessing?

9 A Yes, sir.

10 Q And then there's an additional video from beside the
11 pumps?

12 A Yes, sir.

13 Q And that would be the video which we see Mr. Rodgers
14 running towards the Rite-Aid side of the courtroom?

15 A Away from Wendy's. I'm not sure what's over on that
16 side, but it's away from the Wendy's.

17 (Video is played.)

18 Q Now, I'm showing you this. Is this that video we're
19 talking about right there?

20 A It is, yes, sir.

21 Q We're going to back that up some. Dr. Kinsey, is there
22 anything about this video right now that is important to
23 you?

24 A Yes, sir, it is. These two gentlemen in the bottom of
25 the screen, both of them have firearms. The one at the very

1 bottom by the nine has one behind his back and the one in
2 the red pants is tucking one in his waistband.

3 Q Why is that important?

4 A Well, because the shots came from the other side of the
5 parking lot, so it's somebody shooting back that direction.

6 Q Back the opposite direction?

7 A Yes, sir, back toward the Defendant.

8 (Video is continued.)

9 Q We paused it at 11:41 and 43 seconds. Did you compare
10 the times?

11 A I did.

12 Q Why is that important?

13 A Well, there's definitely a sync problem here because I
14 was told it was 1:00 a.m., but as long as they are synced
15 up, it doesn't really matter what time it is as long as the
16 original investigators knew what time it was.

17 Q And they are synced up?

18 A They are, yes, sir. It was approximately 30 foot from
19 the corner of the Sunoco to the awning. There's three
20 different islands. You can get your gas at pumps on one,
21 then there's a middle one, then there's the far one. Mr.
22 Rodgers collapsed at the second one, the middle one, and
23 fell and, actually, came to rest between the first two,
24 farthest away from the Defendant.

25 Q I'm going to go forward at this point in time from

1 11:41 and 43 seconds.

2 A See, there, the guy in the white with the white hat, he
3 shot back towards the Defendant and the victim, Mr. Rodgers.

4 Q At the top of the screen, you see Mr. Rodgers running
5 back there?

6 A Yes, sir. When he crosses that middle pump, you look
7 at the yellow poles, look in his hand when he crosses that
8 -- you've got to slow it down. You can't see it that fast.
9 As Mr. Rodgers is running into view and as he passes that
10 second island, still in full stride, he turns around and
11 fires and then he is struck by that fatal round. And the
12 Defendant is in the opposite direction where Your Honor is
13 sitting. So once again, he could not have received that
14 fatal wound from the Defendant.

15 Q Before we get to the slow motion video, this entire
16 thing took what, five seconds, four seconds?

17 A Yes, sir, it was very fast.

18 Q And there is no doubt about it, I know we have to
19 increase or slow down the videos, but he drops a gun in one
20 of these videos?

21 A Absolutely, and it slides about ten feet on the
22 pavement.

23 Q So the gun is clearly in his hand?

24 A Yes, sir.

25 Q And so (indiscernible)?

1 A Yes, sir.

2 Q I'm going to play the slow motion video you asked
3 about.

4 A Here he comes in the screen. Watch when he crosses
5 that yellow pole. Stop right there. You got to stop it.
6 If you stop it, you can see the whole shape of the handgun.
7 Right there. He's pointing back towards the Defendant.
8 Right there.

9 Q And what time is that?

10 A That is -- well, what the meter says at 11:41:48.

11 Q 11:41 and 48 seconds, is it your opinion he had been
12 shot yet?

13 A No, sir, he's not shot yet.

14 Q He's not shot yet?

15 A No, sir.

16 Q The fatal shot has not happened at this point in time?

17 A The fatal shot exited his spine and that drops you
18 where you're at, and you can tell, he lost all mobility in
19 his legs at the time he received the fatal shot. You can
20 hit the space bar and it will go back. Right there. And he
21 drops the gun and the gun slides across the pavement.

22 Q What time is that?

23 A That is 11:41:49 according to the meter.

24 Q Now, Doctor, this video is another angle. These times
25 are very important as well, aren't they?

1 A Yes, sir.

2 Q Why are these times important?

3 A Once again, you've got to be able to sync them up, one
4 video with the other video and that way you know it didn't
5 take ten minutes to run across the parking lot.

6 Q And are you able to tell at the point in time in which
7 Diontrae Epps fired the last shot?

8 A Yes, sir.

9 Q So we'll forward that a little bit more so we'll go to
10 45?

11 A 45 is his first shot. And you can see under the E, the
12 victim. Look under the E on camera -- well, actually, it's
13 under the A right now. The victim has already turned, so he
14 can't receive that shot in the right side. That's the
15 Defendant's first shot and he has already turned. So if he
16 hit the victim, it would have been in the anatomical left
17 shoulder, not the anatomical right chest.

18 Q (Indiscernible)?

19 A Yes, sir, that's the only direction he could -- bullets
20 don't go around corners and that's the only -- they go in a
21 straight path. That's the only way he could have hit him.

22 Q All right.

23 A That's his first shot. Look under the E, you can
24 actually see the victim running. If you look down, you see
25 his legs, his short pants. He is right under the E on

1 camera.

2 Q And, Doctor, if I'm not crazy, Mr. Epps' hand is up
3 here?

4 A Yes, sir, that is shooting up into the awning. The
5 first shot, actually, was not that elevated. The second
6 shot is up into the awning.

7 Q And what time are we looking at now?

8 A 41:45.

9 Q So if we go a little further?

10 A Yes, sir.

11 Q We see another shot. At 46, we see another shot?

12 A Yes, sir. There's another one. Another one, yes, sir.

13 Q And that's at what time?

14 A 47.

15 Q And that's the last shot we see?

16 A That's -- well, you can actually play it further and
17 some other individuals that are not Mr. Epps is seen firing
18 a gun, but the victim is already on the ground and Mr. Epps
19 is out of the picture at that time.

20 Q So would you agree with me that if we sync up the
21 times, the last shot fired by the videos that we're looking
22 at of Mr. Epps is 11:41 and 47 seconds?

23 A Yes, sir.

24 Q And Mr. Rodgers is shot with the final shot at 11:41
25 and 48 seconds?

1 A 48, yes, sir.

2 Q We said the whole thing happened in seconds, four
3 seconds. Bullets go fast, don't they?

4 A Yes, sir. Nine millimeter is approximately 1300 feet
5 per second.

6 Q So we've got two things we're looking at. One, the
7 time shown, it's not mathematically possible for this to
8 have happened?

9 A That is correct, but the angles are way more important
10 than the times.

11 Q So we have times that show this didn't happen?

12 A Yes, sir.

13 Q We have angles that show this did not happen?

14 A Yes, sir -- well, it happened. Someone killed Mr.
15 Rodgers, someone in that parking lot, but it was not the
16 Defendant.

17 Q And, Doctor, now I want to get into your report?

18 A Yes, sir.

19 Q The report that you prepared?

20 A Yes, sir.

21 Q Tell me about the report that you prepared. Do you
22 have a copy of that in front of you?

23 A I do, yes, sir.

24 Q Tell me about the report you prepared.

25 A Specifically, I mention my expert testimony and my

1 career, most of it. I have placed a satellite view of the
2 convenience store from Google. It contains my rate of
3 compensation --

4 Q Well, let's talk about that. You're not here for free?

5 A No, sir, I'm not.

6 Q Nobody does anything for free?

7 A Well, I try, but, no, sir.

8 Q You charge?

9 A Yes, sir, I charge a \$5,000 retainer. That includes 15
10 hours of work.

11 Q 15 hours of work and it's \$300 on top of that
12 (indiscernible)?

13 A Yes, sir, it is.

14 Q Is that similar to what you charge the State of South
15 Carolina when they employ you and ask you to do things?

16 A It is now. I tried to do it for free and I didn't
17 really know what to charge, so when they told me I had to
18 charge something, I just said \$100. So I got \$100 an hour.

19 Q (Indiscernible).

20 A Well, I didn't know, I'm sorry. I, also, include the
21 evidence that I looked at in the report, the video --

22 Q And let's slow down a little bit. You've got the pages
23 sitting up there in front of you?

24 A Yes, sir.

25 Q And that's where you talked about the fact you talked

1 about who you are and what you are and what you do?

2 A Yes, sir.

3 (WHEREUPON, a bench conference was held in the presence
4 of the jury, but outside the hearing of the jury.)

5 BY MR. KENT:

6 Q Dr. Kinsey, we're not going to go through all your
7 qualifications on the charts that you created. Let's go to
8 Page 4. That's in your report on Page 4, what is that?

9 A That is a satellite view of the Hop-In.

10 Q What is the point of that?

11 A I just wanted to show everyone proximity and what it
12 looks like. You can see the Wendy's parking lot to the
13 right if you're looking at the photo. And like I said, I'm
14 not sure what that building is to the left, but you can,
15 also, see the propane exchange that I mentioned earlier
16 right here. There's only one vehicle in the lot, but you
17 can see the propane exchange.

18 Q And we've already talked about number five. What is
19 Page 5?

20 A That is the schematic or the diagram that was created
21 by the pathologist showing entrance and exit bullet wounds.

22 Q On Page 7, you created a diagram. What's that?

23 A That is just showing the direction, how this happened,
24 to try and explain what I mean. You know, I'm kind of
25 country, so some people may not understand when I'm saying

1 he turned clockwise or --

2 Q It's up on the screen. Go ahead.

3 A Yes, sir. And if you look at the corner -- if you look
4 at that blue, that's a pickup, I mean, that's my best guess
5 at a pickup, and the black area is the actual bed of the
6 pickup. And the Defendant is in yellow and Mr. Rodgers is
7 in black and it shows how they were face-to-face during the
8 physical confrontation.

9 Q Yes, sir.

10 A And it shows down and to the right where the Defendant
11 retreated to, and you watched that in the video. And it
12 shows Mr. Rodgers, the direction -- he backed down the side
13 of that vehicle. He turned clockwise a quarter turn and
14 then he went -- you follow the blue arrows and if you see
15 him standing there at that middle island, that's
16 approximately where they slowed it down and you could see
17 him turn around with the handgun. And then shortly after
18 that is when he was struck by the fatal bullet and he fell
19 forward. And I'm depicting him on the ground there. So
20 it's not that many little men, it's really just two men, but
21 that's how I noted their movement.

22 Q And to further explain, where I am standing, somewhere
23 in this vicinity is where you had the fatal shot come in,
24 somebody facing this way?

25 A Oh, yes, sir -- well, not necessarily straight up,

1 perpendicular, but to the corner a little bit. Like you
2 said a minute ago, it's real fast. When Mr. Rodgers turns
3 to shoot, it was straight in front of him.

4 Q Okay.

5 A If it happened when he was at a full run, it came from
6 this angle and the Defendant's at that angle.

7 Q Whether he's at full spring, whether he's turning,
8 whatsoever, can a shot come in any way whatsoever from this
9 angle right --

10 A It scientifically cannot.

11 Q Is there anything else in this chart significant?

12 A No, sir, I don't think significant. I wanted to show
13 movement.

14 Q Okay. And then we go to your report. You can explain
15 to them.

16 A Yes, sir. That is my sorry attempt at a blue arrow,
17 but -- I'm sorry, I didn't have one of those little things
18 to write on the screen with, so I had to do it with my
19 finger. But that's an arrow pointing to the handgun in the
20 victim's hand. This is the Defendant in the white shirt.
21 When he swung his left arm, I zoomed in and took a snapshot
22 and that other gentleman is the victim.

23 Q And that's based upon reasonable degree of scientific
24 certainty?

25 A Absolutely, it's the video you just watched. He's

1 identified to me. I didn't know Mr. Rodgers and I've never
2 seen Mr. Epps, but that's who was identified to me as the
3 Defendant and the victim.

4 Q What does attachment 2 of your report show?

5 A That, also, shows -- the gentleman in the white shirt
6 is Mr. Epps. The other gentleman is Mr. Rodgers. And you
7 can see the gun again in Mr. Rodgers hand.

8 Q Is that what that silver thing is?

9 A That is, yes, sir.

10 Q That silver thing right there?

11 A That is it, yes, sir.

12 Q Right there that I zoomed in on?

13 A That is it, yes, sir.

14 Q This is all happening very fast?

15 A Yes, sir, that's why it doesn't -- you can't see it in
16 the full -- in the full speed video. You have to slow it
17 down frame-by-frame.

18 Q And let's just use some common sense. We had talked
19 about when I was standing in front of the jury box, Mr.
20 Rodgers falls and the guns comes out of his hand?

21 A Yes, sir.

22 Q So the gun had to get into his hand somewhere between
23 this spot and this spot?

24 A In two and a half seconds, yes, sir.

25 Q So it would make logical sense it was already in his

1 hand before he started?

2 A Yes, sir.

3 Q Dr. Kinsey, what is that?

4 A This is interesting -- and the way you can explain
5 those frames to make you understand, it's like the glass
6 protection around Your Honor. If you catch -- if you happen
7 to catch it in the middle of that box, you see the flash,
8 but if it's to either side of that box as those frames are
9 changing, you miss the flash. That's why it's a lot more
10 gunshots in that video than what we can actually see by many
11 different people.

12 But you can see the powder plume here. You see the gun
13 was -- you can see, that is the gun and that's the actual
14 powder. When you pull the trigger on the gun, the powder is
15 expelled from the gun through the chamber and, also, through
16 the muzzle end. That's where you get GSR, gunshot residue.

17 So even though we didn't see the flash, you saw how
18 clear the slide of the gun was -- and it's a silver slide,
19 you saw how clear the slide for the gun was in the other two
20 photos. Here, it's not. That's because it's surrounded by
21 tiny particles of powder. And you look at where it's
22 pointed, it's pointed into the Defendant's stomach.

23 Q Dr. Kinsey, you just said something interesting. How
24 do you know it's a silver slide? Have you seen the gun?

25 A No, sir, it was described as a gun, I believe in one of

1 the reports, as a silver slide.

2 Q If I show you --

3 A And it was the only weapon that was recovered.

4 Q So if I show you State's Exhibit 18, does that confirm?

5 A That would be very consistent with what we're seeing
6 here.

7 Q Very consistent with what you have just described?

8 A Absolutely, yes, sir.

9 Q And this is the first time you've seen State's Exhibit
10 18?

11 A I'm pretty sure it is, Mr. Kent.

12 Q And now we go to attachment four. What was the purpose
13 of this?

14 A I wanted to show, these gentlemen are from the
15 direction where the victim was shot from. I wanted to show
16 that he's standing there with a handgun with an extended
17 magazine in his left hand.

18 Q If we go to attachment five?

19 A The gentleman in the red sweat pants is, also, tucking
20 a handgun in the front of his waistband.

21 Q If we go to attachment number six?

22 A That gentleman is, actually, firing back at the victim,
23 Mr. Rodgers, and in the direction of the Defendant.

24 Q Is that important?

25 A It is important.

1 Q Why?

2 A Well, I can't say the bullet came from his weapon, but
3 it's showing that there was someone firing in that
4 direction.

5 Q In the direction of which?

6 A Mr. Rodgers was running and in the direction where Mr.
7 Epps was located.

8 Q Attachment seven?

9 A That is the victim, Mr. Rodgers, as he -- you can see
10 -- his bottom half is still going forward running, but he
11 twist around and shoots back in the direction of the
12 Wendy's. Maybe Mr. Epps, I can't tell you that, but it's
13 back in that other direction.

14 Q Attachment eight?

15 A That is when he -- in my opinion, that is when he
16 sustained the fatal shot and his legs just buckled.

17 Q And that would be at the time we talked about, 11:41
18 and 48 and then some seconds?

19 A Yes, sir.

20 Q Attachment nine?

21 A That is when he hit the ground and the weapon come out
22 of his hand.

23 Q Attachment ten?

24 A And you can see the weapon laying over here in the
25 middle of the cement and you can tell that Mr. Rodgers'

1 mobility has been taken from him. He is, actually, crawling
2 on his hands and he is dragging his lower half.

3 Q And all this stuff you got was given to you by me?

4 A Yes, sir, I know no one involved in this.

5 Q You weren't involved?

6 A No, sir.

7 Q Now, have we looked at everything you utilized? Is
8 there anything that we've missed?

9 A I believe that's it, Mr. Kent.

10 Q Have we looked at the cameras?

11 A Yes, sir.

12 Q Have we looked at (indiscernible) period of time on the
13 video?

14 A Yes, sir.

15 Q And we have looked at all the videos?

16 A Yes, sir.

17 Q And let's make this clear, at some point in time, I
18 asked you when we were talking about this case other
19 questions?

20 A Yes, sir.

21 Q I saw some flashes, I think you remember, coming from
22 the Wendy's angle?

23 A Yes, sir.

24 Q What did you tell me?

25 A That was headlights.

1 Q Okay. At one point in time when I met with you, I said
2 isn't it possible that the fatal shot came from
3 (indiscernible) because it looked like he was shot in the
4 back. What did you tell me?

5 A Yes, sir. I said that I could tell you a little bit
6 better if we knew the angle, if I had a schematic or a
7 drawing from the pathologist. It was described as going
8 down, but I needed to know at what angle down. And when I
9 spoke with the pathologist, it just reenforced my opinion
10 that it was down and at an angle and, actually, went in
11 front of one of Mr. Rodgers' ribs.

12 Q You're not going to be here later, so I want to make
13 sure I have this for edification purposes. Would you agree
14 that this (indiscernible) is an anatomical position other
15 than the hands?

16 A Yes, sir.

17 Q Can you come down and now, utilizing me, and if you
18 need another person, Summer or somebody, show me, based upon
19 everything you've just testified to a degree of medical
20 certainty what you believe happened?

21 A Yes, sir.

22 Q You just tell the jury --

23 A I, actually, could do it better if I were Mr. Rodgers.
24 If you will stand right here where Mr. Epps was at.

25 Q Yes, sir.

1 A And he hasn't sustained the gunshot wound yet. I'm
2 just putting it here for reference. Swing at me. Swing at
3 me again. I slide down the car, I turn and I run. And at
4 that time, I sustain the fatal wound. As I'm falling, as
5 I'm falling, I sustain the nonfatal wound.

6 Q Talk to me about --

7 A There's no way with him swinging at me at all I can
8 ever -- just shoot at me. I mean, it's no way I can obtain
9 this wound from the Defendant unless I'm down like this.
10 And in that video, he never goes down like this. The only
11 point in that video he goes down is when he absolutely
12 collapses. And at that time, the Defendant is behind Mr.
13 Rodgers, so it can't come from him.

14 Q Now, next, you might need the chart or whatever, show
15 me the various shots of where Mr. Epps would have been
16 shooting, his hand and where the bullets possibly would have
17 gone. Do you understand what I'm saying?

18 A Yes, sir, behind the tailgate.

19 Q Yes.

20 A Now, you be Mr. Rodgers. After Mr. Epps swings at Mr.
21 Rodgers and Mr. Rodgers has pulled the handgun and Mr. Epps
22 is going to get more, then he clutches like this and he's
23 way more nimble than I am, but he moves to a position of
24 cover, which is normal. He got behind the tailgate. It's
25 in the video.

1 At the same time he is reaching in his right pocket and
2 he pulls his handgun and he gets behind the tailgate and
3 changes direction and shoots the first round. Then the
4 second round, then the third round and then, possibly, a
5 fourth round.

6 Q So I'm using this arm here, show the jury with this arm
7 --

8 A Yes, sir.

9 Q With the right hand, show the jury with this arm, can
10 you show where they would have gone?

11 A Yes, sir. The first one is here, here, here and then
12 he falls out and there's a fourth one, I believe.

13 Q And then if you will do me -- (indiscernible) and then
14 you shoot past, you understand what I'm saying?

15 A Yes, sir.

16 Q Dr. Kinsey, what does that tab show?

17 A That is entrance one between the nipple and the armpit
18 at an angle going in.

19 Q Can you give me another one or another two? I'll give
20 you another tab.

21 A You want entrance number two or exit number one?

22 Q Either one, just so the jury can understand.

23 A (Witness complies.) Of course, there's no exit wound
24 on entrance two.

25 Q Thank you. Dr. Kinsey, we're almost done. If you'll

1 go back and finish on the stand, please.

2 A (Witness complies.)

3 Q Dr. Kinsey, I've got a question for you about the
4 investigation in this case. I want you to look at the
5 reports you've got and do you have an opinion on how this
6 case was handled and/or investigated from a reconstruction
7 point of view?

8 A Yes, sir.

9 Q Can you explain that to the jury?

10 A I'm going to start by saying that there's never a
11 perfect crime scene and I have made many mistakes, that's
12 how you learn. But someone should have slowed down that
13 video because, obviously, the original investigators never
14 saw that gun in Mr. Rodgers' hand.

15 Q And would that make a firm individual, (indiscernible),
16 based upon your expert opinion (indiscernible)?

17 A Well, it may not be the investigator's choice, but I
18 wouldn't have recommended it.

19 Q That is based upon what?

20 A Hundreds of cases that I have worked, both as an
21 investigator and as a crime scene examiner.

22 Q And based upon what you have from this case?

23 A Yes, sir.

24 Q So to finish up, is your opinion that Mike Rodgers had
25 a firearm that day?

1 A Yes, sir, I just showed it to you. Yes, sir.

2 Q Is it your opinion that Mike Rodgers fired a firearm
3 that day?

4 A Yes, sir, that is my opinion.

5 Q Is your opinion that Mike Rodgers fired a firearm into
6 Diontrae Epps that day?

7 A I believe so, yes, sir, that's my opinion.

8 Q It is your opinion based upon -- first, I want to talk
9 about times. Tell me the times. Do you understand 11:41
10 and 46 seconds versus 11:41 --

11 A Yes, sir.

12 Q Do you understand?

13 A Yes, sir.

14 Q Did you look at the video?

15 A Yes, sir, many times.

16 Q Did you compare the times together on the timestamps?

17 A Yes, sir, many times.

18 Q And is it your opinion based on looking at the video
19 that the final shot fired by Mr. Epps was around 11:41 and
20 what time?

21 A And 40 -- between 46 and 47.

22 Q And the shot that killed Mr. Rodgers came at what time?

23 A 48. I can't divide it up any more than one second,
24 but, yes, sir.

25 Q 48 and some time?

1 A Yes, sir, right.

2 Q And if your opinion were just based upon those times,
3 it would be impossible that Mr. Epps could have shot Mr.
4 Rodgers?

5 A That alone, but then with the angle, it's an absolute
6 impossibility.

7 Q Now, for my next question, based upon angles and
8 information and science and geometry, is it possible that
9 Mr. Epps shot Mr. Rodgers?

10 A Not in what I viewed in the video, no, sir.

11 Q Do you believe with further investigation, the officers
12 and agencies could have made a determination of what
13 happened that day?

14 A I do believe so. I've had many -- like I said, this
15 wasn't an enhancement. This was just slowing down the
16 provided video, but it could have been enhanced. I've done
17 that many times and it's way above my comprehension, but it
18 would have been enhanced. But in this case, you didn't need
19 that, you just ended to do a little research and learn how
20 to slow it down.

21 Q Now, what side of the parking lot was Mr. Rodgers
22 fatally shot on?

23 A He was shot from the opposite side as the Wendy's, the
24 opposite side where Mr. Epps was located.

25 MR. KENT: That's all the questions.

1 THE COURT: Cross-examination -- or it's probably a
2 good idea if we take a short recess.

3 Ladies and gentlemen of the jury, I'm going to give
4 y'all a break, probably y'all could use one. We'll resume
5 this case at four o'clock. Please don't start your
6 deliberations, don't discuss this case amongst yourselves
7 with anybody else, don't do any research about any issue
8 which has been raised.

9 (WHEREUPON, the jury exits the courtroom at 3:47 p.m.)

10 (WHEREUPON, a short break was taken.)

11 THE COURT: Bring us the jury if you will.

12 (WHEREUPON, the jury enters the courtroom at 4:06 p.m.)

13 THE COURT: Mr. Finney.

14 MR. FINNEY: May it please the Court, Your Honor?

15 THE COURT: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. FINNEY:

18 Q Dr. Kinsey, my name is Chip Finney. I'm the solicitor
19 here in the 3rd Circuit. Welcome to Sumter?

20 A Thank you.

21 Q First of all, congratulations on your commendations as
22 deputy of the year.

23 A Thank you.

24 Q We think a lot of law enforcement in my office and we
25 appreciate the work that you do.

1 A Thank you, sir.

2 Q Dr. Kinsey, I've got some problems with your opinions
3 and your findings, so I'm just going to get right to it.
4 I'm not going to get up here and try to say you don't what
5 you doing because I know you do a fine job at what you're
6 doing.

7 You've got your report in front of you? Page 5, the
8 anatomical diagram.

9 A Yes, sir, I do. Well, that's not my diagram, it's --

10 Q The diagram you used?

11 A Yes, sir.

12 Q You say you got this -- it was given to you by the
13 pathologist or given to you by Mr. Kent who got it from the
14 pathologist?

15 A Yes, sir, that's what I was told.

16 Q Now, you talked to the pathologist?

17 A On the phone yesterday, yes, sir.

18 Q Did he tell you what the angle was on shot number one
19 from the entrance to the exit?

20 A He did.

21 Q What did he tell you?

22 A He told me that it went in between the nipple and the
23 armpit and went at an angle and went through the spine and
24 come out the middle.

25 Q He made measurements at the autopsy, what was the angle

1 he told me?

2 A I mean, he didn't tell me an angle.

3 Q You didn't ask him, did you?

4 A I did ask him, yes, sir.

5 Q Did you have the autopsy report?

6 A I have the autopsy report, yes, sir.

7 Q On the autopsy report, doesn't it say what the angle
8 is?

9 A Well, if you'd give me the report, Mr. Finney, I can't
10 remember those numbers.

11 Q Sir?

12 A I said I can't remember those numbers.

13 Q You talked to him yesterday?

14 A Yes, sir.

15 Q When you talked to him, didn't you have his autopsy
16 report in front of you?

17 A I did. It's more important to show that it's 180
18 degrees out of the possibility than it is the actual angle.
19 If you show me the report, I'll be glad to publish it.

20 Q Well, you have been walking around in the courtroom
21 today with a stick demonstrating the angle of the shot that
22 went in the right side and went out the back?

23 A Yes, sir.

24 Q And the report that the autopsy man did in Charleston
25 has that angle in it?

1 A Okay.

2 Q And you don't know it?

3 A I don't know it, no, sir.

4 Q Very good, that's what I need to know.

5 A But I know it came from this direction and not that
6 direction.

7 Q Now, as far as the second gunshot wound that went into
8 the shoulder?

9 A Yes, sir.

10 Q Stayed in the body?

11 A Yes, sir.

12 Q And that bullet was removed?

13 A Yes, sir.

14 Q Do you understand that that bullet could be compared to
15 the gun that fired it?

16 A Absolutely.

17 Q And if Trae Epps had that gun last, have you gotten the
18 gun and compared that gun to the bullet that was taken out
19 of Mr. Rodgers --

20 MR. KENT: Objection, Your Honor. That fact is not in
21 evidence, we don't have that. We just don't have it.

22 THE COURT: He can answer whether he has it or not.

23 THE WITNESS: I'm not the investigator, Mr. Finney.

24 BY MR. FINNEY:

25 Q Did you get the gun from Trae Epps that he fired that

1 night?

2 A Did I get the gun?

3 Q You made the determination that the gun that Trae Epps
4 fired that night did not kill Mike Rodgers?

5 A Right, I did.

6 Q Did you see the gun?

7 A No, I haven't.

8 Q Page 6, please, sir. Third bullet on your basis of
9 opinion.

10 A Yes, sir.

11 Q Michael Rodgers, actually, shot an unarmed Trevon Epps
12 in the midsection.

13 A Yes, sir.

14 Q Your opinion is Mr. Epps didn't have a gun that night?

15 A He didn't have it in his hand. I just showed it to
16 you. I can show it again if you pull it up.

17 Q So your opinion is that Mr. Rodgers approached Mr.
18 Epps, who was unarmed, and pulled out his gun and Mr. Epps
19 took a swing at Mr. Rodgers with a gun in his hand?

20 A Mr. Epps took a swing at Mr. Rodgers with a gun in his
21 hand?

22 Q Did Mr. Epps take a swing --

23 A He took two swings at him, yes, sir.

24 Q And your testimony is Mr. Rodgers had the gun out the
25 whole time?

1 A I can show you. If you'll play the video, I'll --

2 Q And that's your --

3 A That is my testimony, yes, sir.

4 Q So you said --

5 THE COURT: Hold on one second, gentlemen. We're
6 making it a little tough on Madam Court Reporter.

7 MR. FINNEY: I'm sorry, Your Honor.

8 THE COURT: I'm not mad at anybody, I just want to make
9 sure only one person is speaking at the time.

10 So Mr. Finney is going to ask his question, Dr. Kinsey.
11 Dr. Kinsey, you can explain your answer, but you've got to
12 let him finish before you start answering and vice versa.

13 MR. FINNEY: Yes, sir.

14 BY MR. FINNEY:

15 Q Camera 12, Dr. Kinsey, 11:41:40 -- and I want to let
16 you know that these frames have been slowed down.

17 A Can I tell you how to do it, though, so you can slow
18 them down frame-by-frame? You'll see a lot more.

19 Q I'd appreciate it if you'd just watch this.

20 A Yes, sir.

21 (Video is played.)

22 MR. FINNEY: Let's back that up.

23 THE WITNESS: Right there.

24 MR. FINNEY: Back it up for a minute.

25 Q Did you get information that led you to believe that

1 Mr. Rodgers went over to Mr. Epps and aggressively chest
2 bumped him or walked up on him in an aggressive manner?

3 A I got no information. I was handed the videos.

4 Q Did you see that on the video? Did you see Mr. Rodgers
5 aggressively approach Trae Epps and chest bump him?

6 A The only thing I can say about the approach --

7 Q I'm sorry, sir, I need a yes or no and then I'll let
8 you explain.

9 A I can't explain that with a yes or no.

10 Q You couldn't see it on the video?

11 A Did I see it, no, but I saw the cigarette bouncing as
12 he was coming up to him. So I don't know what happened out
13 of the screen.

14 Q All right. Let me ask you this, when you get to this
15 part of the video, 11:41:38, who walks in the white t-shirt
16 up to Mr. Rodgers? Who's moving?

17 A The Defendant, Mr. Epps.

18 Q And he's moving from several feet away towards Mr.
19 Rodgers?

20 A He comes around another gentleman in a white t-shirt.

21 Q And at that point, he swings?

22 A Yes, sir.

23 Q And then he backs up and --

24 A After he clutches --

25 Q At that point, is Mr. Epps firing a weapon?

1 A No, sir -- oh, at that point here, yeah, that is his
2 first shot over the tailgate, yes, sir, it is.

3 Q And is the gun aimed at Mr. Rodgers?

4 A It is aimed -- no, sir, not in my opinion.

5 Q It's not aimed at Mr. Rodgers?

6 A No, sir.

7 Q Okay. Very good. You can tell that from this camera
8 --

9 A I can tell. If you watch it, if you watch Mr. Rodgers
10 go down the side of the car, then you can see him right
11 there under the A.

12 Q Let me ask you this, you told us that all you had to do
13 in watching this video was slow it down --

14 A I said --

15 Q -- that you could tell everything that's basing your
16 opinion based on the slowed-down video?

17 A I said frame-by-frame, but you won't show it that way.

18 Q Yes, sir, because I'm stopping it and I'm showing you
19 one frame and in that one frame, Mr. Epps has his gun out
20 and he's pointing right at Mr. Rodgers and he's firing?

21 A He didn't fire yet. It flashes at 45. If you would
22 play it.

23 Q Is it true that you saw in this video when you did
24 frame-by-frame, you saw Mr. Epps' gun flash, multiple
25 flashes, four or five times?

1 A Four times, I believe, but definitely three.

2 Q And it could have been more because by your theory, it
3 doesn't flash every time. Isn't that true?

4 A It could have been more or -- yeah, I don't know that.

5 Q You wouldn't disagree that Epps could have shot his gun
6 five or six times?

7 A I cannot disagree, no, sir.

8 Q And do you know how many times Mr. Rodgers fired his
9 gun?

10 A I do not, no, sir.

11 Q Did you see any muzzle flashes of the gun you say Mr.
12 Rodgers had?

13 A No, sir, but I definitely saw --

14 Q Can you show me any other flashes?

15 A I saw a powder plume in one shot, yes, sir.

16 Q I can't show it, but the powder plume that you describe
17 is in attachment three?

18 A I can show you on the video, Mr. Finney.

19 Q Is it in attachment three, sir?

20 A Yes, sir, attachment three.

21 Q That's the powder plume?

22 A Yes, sir.

23 Q But no muzzle flash on the video from Mike Rodgers'
24 gun?

25 A Well, I mean, interchangeable, but you don't see it

1 light up, no, sir.

2 Q And you don't know how many times Mr. Rodgers' gun
3 fired?

4 A I have no idea, sir.

5 Q Now, your theory is that Mike Rodgers pulled his gun
6 before Trae Epps swung on him?

7 A No, sir, I didn't say that. I said you can see it in
8 his pocket when he walks up and you objected. And then I
9 said later on, I can show you four or five times, I can't
10 tell when he pulled it, but when I do it frame-by-frame as
11 the Defendant is swinging, you can see it four, five, maybe
12 six times in the screen. I don't know when he pulled it
13 because the Defendant's arm is in the way before you see it
14 the first time.

15 Q When you talked to Dr. Batalis, the pathologist, did he
16 tell you that the spine was severed?

17 A Yes, sir, he did. He said there's no guarantee that
18 it's immediate, some kind of medical term, but he said it
19 could be immediate or it could take a few seconds before
20 swelling and one more -- swelling and something else.

21 Q Do you know if he testified to that opinion when he was
22 in front of this jury?

23 A No, sir, I wasn't here.

24 Q You believe that Mike Rodgers pulled out his gun at the
25 time Mr. Epps swung at him and shot Mr. Epps in the abdomen?

1 A That's absolute. I can show you. Yes, sir, I believe
2 that.

3 Q All right. And then Mike -- you can show me that on
4 the video?

5 A Yes, sir, I can.

6 Q And did Mr. --

7 A I can show you it fire. I don't know where it hit, but
8 unless Mr. Epps is hit more than one time, it would have to
9 be the one in the stomach.

10 Q Okay. And so did Mr. -- you never talked to Mr. Epps
11 in this case?

12 A I've never seen Mr. Epps except on the video and today.

13 Q When you testified that this all happened in four or
14 five seconds, from the time Mr. Epps started shooting until
15 the time Mr. Rodgers fell, you say about 30 feet was
16 covered. When you went out to the Sunoco to do your
17 examinations, did you put cars in the places where cars were
18 in the video?

19 A No, sir.

20 Q So you just took your measurements and angles from an
21 empty parking lot?

22 A I wanted to identify the location where Mr. Epps was, I
23 wanted to identify the location from where Mr. Rodgers fell
24 and I wanted to know -- because you can't really tell from
25 the video that there's three separate islands and you can't

1 tell how close it really is in there and I wanted to find
2 out what was this direction, and I found out it was a
3 Wendy's. And I wanted to see approximately where the
4 cameras were at.

5 Q But as far as where Mr. Rodgers was when he was swung
6 on by Mr. Epps and where Mr. Epps was shooting from when Mr.
7 Rodgers backed up, you didn't have the parking lot set up
8 like it was that night?

9 A The distance didn't matter to me, the angles are what
10 mattered. You can have three feet or 33 feet, if the angle
11 is the opposite direction, it can't happen.

12 Q And so your theory of the angle is that in order for
13 Mr. Rodgers to take a bullet on the right side that exited
14 out of his back, he must have had the gun on his right side?
15 The gun had to be able to shoot straight -- bullets go
16 straight -- into his right side?

17 A You're saying Mr. Rodgers shot himself in the right
18 side?

19 Q When Mr. Rodgers received the gunshot?

20 A Yes, sir.

21 Q The shooter had to be on his right side? The shooter
22 couldn't be on his left side?

23 A No, sir, absolutely couldn't.

24 Q Very good.

25 A I said that, sir.

1 Q All right. This is 11:41:40, can you see Mr. Rodgers?

2 A I do, yes, sir.

3 Q All right, sir. This is slow motion. Is that the
4 swing?

5 A That's it.

6 Q Is Mr. Rodgers in the picture?

7 A Yes, sir.

8 Q And is this where you say Mr. Rodgers is firing a
9 weapon at Epps?

10 A Yes.

11 Q Okay. And you never see any muzzle flash from Mr.
12 Rodgers' gun in this --

13 A You can't see it at regular speed, Mr. Finney.

14 Q -- at 42.

15 A Right, you cannot see it.

16 (Video is continued.)

17 Q All right. And then you see Mr. -- as Mr. Rodgers
18 backs up, Mr. Epps is pulling out his gun now?

19 A He is putting his right hand on his gun, yes, sir.
20 He's acquired his gun.

21 Q And did you say in your report --

22 A And I'd, also, like to note I can see --

23 Q Let me just finish this question.

24 A Oh, I thought I got to answer. Yes, sir.

25 Q Page 8, your first bullet point, Diontrae Trevon Epps

1 was never at an elevated position?

2 A Yes, sir, that's what I said.

3 Q Did you say that in your report?

4 A I said it, it's right there. Yes, sir.

5 Q And when Mr. Epps pulls out his gun and fires, didn't
6 he step up on the curb and he was then at an elevated
7 position?

8 A When I testified, Mr. Finney, I said it had to come off
9 the canopy. When I say elevated, I mean up coming down, not
10 I'm an inch taller, I mean up. I said that, coming from the
11 top of the canopy.

12 Q It just says elevated position. If he was up on the
13 curb, as the video shows, he would have been in an elevated
14 position to Mr. Rodgers?

15 A Well, if he's taller, he would be elevated. When I
16 testified, I said from the canopy down.

17 Q Do you know how tall Mr. Epps is?

18 A I have no idea, but it --

19 Q Do you know how tall Mr. Rodgers was?

20 A Unless he was twice his size, there's no way to sustain
21 that shot.

22 Q But now, you're not talking about the chest shot,
23 you're talking about the back shot?

24 A Sir, you just asked me. I'm just answering.

25 Q So what I'm saying is, Diontrae Epps was at an elevated

1 position when he fired the first shot?

2 A No, sir, not in my opinion.

3 Q All right.

4 MR. FINNEY: Can you back up just a second here to go
5 back to 41:44? Let it run.

6 Q This is at 39, Mr. Rodgers is in the screen, here comes
7 Mr. Epps.

8 MR. FINNEY: Stop.

9 Q At that point, isn't it clear that Mr. Epps approached
10 Mr. Rodgers, came to where Mr. Rodgers was and Mr. Rodgers,
11 according to you -- I mean, I don't know, I need to clarify
12 it for the jury, when Mr. Epps came up on Mr. Rodgers, did
13 Mr. Rodgers have his gun out?

14 A If you would show me. I mean, you've got to slow it
15 down. I can't see it at this speed.

16 Q It's stopped. It can't go any slower than stopped.

17 A You can't see it. It doesn't stop on the gun. If you
18 will let me tell you how to play it, I can show you the gun.

19 MR. FINNEY: Show me 39, 40 and 41.

20 THE WITNESS: That's one second, Mr. Finney. There's
21 24 frames in each second.

22 BY MR. FINNEY:

23 Q You would agree with me this is color, the clarity is
24 pretty good?

25 A It doesn't change the speed.

1 Q Okay, I'm just asking, is it pretty good clarity
2 compared to the black and white?

3 A Yes, sir.

4 Q And is it pretty close, good camera angle?

5 A It's not the angle I need.

6 MR. FINNEY: Show me 39 and show me 40 and 41.

7 Q There's 41.

8 A There it is. Yes, sir, I saw it in your video.

9 Q Hold on, which hand is it in?

10 A It's in the right hand.

11 Q The gun is in Mr. Rodgers' right hand?

12 A It appears, yes, sir.

13 Q You saw it?

14 A I absolutely saw it.

15 Q It didn't flash?

16 A I don't know if it flashed or not because you won't
17 play it frame-by-frame.

18 Q I'm just asking, did you see it flash?

19 A I don't know.

20 Q This is at 42 and Mr. Rodgers is backing up away from
21 Mr. Epps.

22 MR. FINNEY: Now, go to 44.

23 Q Mr. Epps gets back on the curb and pulls out his weapon
24 and at 44, he begins shooting?

25 A At 45 is when I see the first shot.

1 Q All right, sir.

2 MR. FINNEY: Let's go -- let's see if Dr. Kinsey is
3 right. Go to the other camera 12 and go to 44 and stop.

4 BY MR. FINNEY:

5 Q The gun is up and it's been fired twice by 45?

6 A I see one at 45.

7 MR. FINNEY: Now, go to the camera angle where Mr.
8 Rodgers was falling. Go to 44.

9 Q We don't even see Mr. Rodgers in camera one at 44. He
10 hasn't gotten into that frame yet?

11 A You can't split seconds, Mr. Finney.

12 Q All right, sir, I'm just asking. You wanted me to slow
13 it down, so I'm slowing it down?

14 A I want frame-by-frame. Slowing it down does me no good
15 to explain it.

16 MR. FINNEY: Go to the next frame.

17 Q 45 --

18 A Right there, yes, sir.

19 Q He's not in the frame yet.

20 MR. FINNEY: Go to 46.

21 Q Not in the frame yet.

22 MR. FINNEY: Now, stop it right there. Let's go back
23 to 45.

24 Q This gentleman that you took a picture of in the white
25 pants, the white shirt, the white hat, he's got a gun, he's

1 at the front of the white car. Did you ever see his gun
2 flash?

3 A No, sir.

4 Q You don't -- you testified that Mr. Rodgers took a shot
5 from that side of the parking lot?

6 A I did, yes, sir.

7 Q But that gun never flashed?

8 A I don't know if it flashed or not. You will not play
9 it slow enough for me.

10 Q At 45, Mr. Rodgers hasn't gotten into view yet.

11 MR. FINNEY: Go to 46. Go to 47. Go to 48.

12 Q Now we see Mr. Rodgers at 47 and he's up. And you said
13 Mr. Rodgers is shooting. Which hand is he shooting with?

14 A Take it a little bit further past that yellow --
15 shooting with his right hand, he's twisting around.

16 Q Twisting around?

17 A Yes, sir.

18 Q Running in one direction and twisting around and
19 shooting with his right hand?

20 A Yes, sir.

21 Q And then by 49, he goes down to the ground?

22 A He starts falling at 48.

23 Q Did you see anybody in this camera angle between 44 and
24 49 shooting a weapon?

25 A You can't.

1 Q That's a good answer. Thank you, sir.

2 MR. FINNEY: Beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 (Pause.)

5 BY MR. FINNEY:

6 Q Just a couple more questions, Dr. Kinsey. When you
7 talked to the pathologist, he told you that the gentleman,
8 Mr. Rodgers, could have run for a few seconds?

9 A He did, yes, sir.

10 Q And then you told me today that the difference between
11 45 and 46 and 47, 48 is not even a second?

12 A I told you it's not a second? You just said four
13 seconds, 45, 46, 47, 48, that's four seconds.

14 Q I'm referring to the timestamp, those are not -- those
15 are not full seconds, are they? Maybe they are. Are those
16 full seconds that you were looking at?

17 A Well, unless it's something really bad wrong with the
18 recorder, it should be.

19 Q So it appears that if he was shot first at 44 and he
20 went down to the ground at 48, for four seconds, he was up
21 running?

22 A The pathologist said he could have. The pathologist
23 don't work crime scenes.

24 Q And you don't have any medical testimony or expertise,
25 do you?

1 A And I didn't provide it.

2 Q Do you?

3 A No, sir.

4 Q You are a crime scene expert?

5 A I am, yes, sir.

6 Q And you told this jury that the Sumter County Police
7 moved too quickly in their investigation to charge Mr. Epps?

8 A I didn't say moved too quickly.

9 Q Didn't you say that they should have done more work and
10 they overlooked the fact that Mr. Rodgers had a gun and shot
11 first?

12 A I never said they overlooked. I said they could have
13 sent the video off to have it enhanced, but they didn't need
14 to here if they just --

15 Q And you didn't do that either?

16 A If they just knew how to slow it down.

17 Q That's why you didn't send it off because --

18 A I didn't need to.

19 Q -- you came up with an opinion in this case that
20 enhanced the video just by slowing it down?

21 A With your video, yes, sir.

22 Q Now, you say Sumter County should have sent it off to
23 enhance so they could see better before they decided to
24 charge?

25 A I don't think I ever said anything about deciding to

1 charge.

2 Q Okay, well, I think that's what Mr. Kent asked you the
3 last couple of questions about Sumter County policy, in this
4 case, did they get the right guy. And you said you would
5 have done it differently?

6 A He said did they get the right guy?

7 Q Yeah, they charged Diontrae Epps.

8 A I said I believe someone else shot --

9 Q Okay.

10 A -- Mr. Rodgers.

11 Q Does it matter to you as a crime scene investigator if
12 the Defendant told the cops a lie on the 15th and on the
13 17th about his activity in the case that night? Would that
14 matter to you as an investigator?

15 A Mr. Finney, a lie doesn't mean you shot someone. A lot
16 of people lie.

17 Q If you tell an investigator that you didn't have a gun
18 that night, would that --

19 A That would definitely be a lie, yes, sir.

20 Q Would that matter if you have a video of the man with a
21 gun in his hand shooting?

22 A It may matter for carrying a gun unlawfully, but that
23 doesn't mean you shot someone.

24 Q But it does matter to the investigators that the man
25 didn't tell the truth?

1 A Certainly, it would.

2 Q Thank you, sir. And does it matter to the
3 investigators that the last time man who had his hand on the
4 gun never brought the gun to the officers to clear his name?

5 A That would be up to the investigator, Mr. Finney,
6 that's not my part.

7 MR. FINNEY: Nothing further, Your Honor.

8 Thank you, Dr. Kinsey.

9 THE COURT: Redirect, Mr. Kent?

10 MR. KENT: Thank you, Judge.

11 REDIRECT EXAMINATION

12 BY MR. KENT:

13 Q Dr. Kinsey, I want to clarify some stuff. I'm grabbing
14 my iPhone because when I take a picture with my iPhone of
15 the video, I scroll down on it -- I'm getting ready to take
16 a video and I scroll down from the top. And it's saying you
17 can shoot at 4K and then it says 60fps or 24fps?

18 A Yes, sir.

19 Q What does that mean? Because there's a lot questions
20 that it's a second, it's a second.

21 A Well, 24 is frames per second. So the way I had you
22 breaking it down earlier, if you pause it in VLC, every time
23 you hit a certain key stroke that a lot of people don't
24 know, I volunteered to tell the Court, every time you play a
25 key stroke, it shows you one frame. It slows it down. So

1 that splits a second by 24. And, of course, 60 frames per
2 second would be even faster and that's really up to date.
3 That would be 60 times you have to push the button to make
4 it go to the next second, so you see things that you missed.

5 Q That's exactly why you were saying you had to slow it
6 down frame-by-frame because between one and two, there are
7 24 frames?

8 A Yes, sir.

9 Q And you were --

10 A At least, 24. I didn't look at this system, but I
11 counted how many times I had to push it to make the seconds
12 change.

13 Q The solicitor asked you questions about aha, you don't
14 have the gun. We didn't ask you to go back and pull the
15 gun, we ask you to the science; is that a fair statement?

16 A That is correct, yes, sir.

17 Q Whether the gun was there, whether the gun was not
18 there, I'm not saying it was unimportant, but was it
19 unimportant for your analysis?

20 A I didn't -- it didn't affect me whether Mr. Epps had a
21 gun or didn't have a gun. I was looking at the fatality of
22 Mr. Rodgers.

23 Q And there is no murder weapon, whatever you want to
24 call it, any weapon, any gun? It's not in evidence, you
25 weren't given any?

1 A No, I would never be given a gun.

2 Q The solicitor was going over Page 6 of your report, one
3 of the aha, gotcha moments. Mike Rodgers, actually, shot an
4 unarmed Diontrae Epps in the midsection and retreated. Then
5 you said something immediately after that, what did you say?
6 The next line. Wasn't it Epps pulled a pistol?

7 A Yes, sir.

8 Q So when you said unarmed, you meant --

9 A I meant not in his arms, unarmed.

10 Q It's not you tried to hide it --

11 A Well, in South Carolina, you can carry a gun, that part
12 is legal. You just can't pull a gun on someone unless your
13 life is in jeopardy.

14 Q And if I'm making this correct, you, basically, said
15 you see two punches and you see a back right and then the
16 gun grabbed?

17 A Actually, he crunches down and then he changes
18 direction and gets out of the way.

19 Q And they were arguing with you and I'm going to give
20 you an opportunity to explain. And I think I understood
21 what you meant by elevated versus unelevated position. Are
22 you talking about military elevated position?

23 A Yes, sir. I mean, you're elevated compared to me
24 because I'm 5'10", but that isn't what I mean. When I
25 testified for you earlier, I said as if on the canopy

1 shooting down. You can't -- just because you're an inch or
2 two higher, you can't get the angle I'm talking about -- I
3 even held the stick up right here and showed you. You can't
4 get that angle just because you're taller than me. You have
5 to way over me to shoot down at me.

6 Q And through all the cross-examination, I think we
7 missed a couple of vital points and I want to go back over
8 them.

9 A Yes, sir.

10 Q One, the time is off. And by off, I mean, the time in
11 which Mr. Epps fired the last shot?

12 A Yes, sir.

13 Q And Mr. Rodgers went down. Can you talk about that
14 real quick?

15 A Yes, sir. As I tried to point out, Mr. Rodgers had
16 already turned at the time when Mr. Epps started firing the
17 gun on the camera. Therefore, it could be one second, it
18 could be a hundred seconds, it doesn't matter at that point.
19 I showed you the feet, he had turned, so now, he's going the
20 opposite direction. Anything coming from this direction is
21 opposite of the Defendant, so it had to come from someone
22 else.

23 Q And from a different angle?

24 A From a totally different angle.

25 Q And when we shore it down to the frames per second,

1 which I guess they're having trouble understanding, the
2 frames per second, it's easy to see?

3 A Yes, sir.

4 Q And as we talked about, what's very clear is that this
5 is the Hop-In gas station?

6 A Yes, sir.

7 Q At some point, Mike Rodgers is running this way towards
8 the jury?

9 A Yes, sir.

10 Q He may be turning?

11 A Yes, sir.

12 Q But he's running this way and the ultimate shot comes
13 from somewhere in this angle?

14 A Well, if it had hit him as he is facing away from Mr.
15 Epps, it came from this corner, but if he's more limber than
16 I am and turned that direction, it could have actually come
17 from straight in front of him.

18 Q His legs were going in a full --

19 A Full gallop, yes, sir.

20 Q The most limber you can be?

21 A Yes, sir.

22 Q Even if he's turning this way --

23 A It's still got to come from in front of him.

24 Q And that is based upon what?

25 A Science.

1 Q Based upon a reasonable degree --

2 A Of scientific certainty, yes, sir.

3 Q That is your opinion?

4 A That is my opinion.

5 Q That is your expert opinion?

6 A That is and it will not change.

7 Q And that is your opinion based upon how many years of
8 experience?

9 A 23 crime scene, 30 some odd in law enforcement.

10 Q And how many times have you testified?

11 A 80 something times and I --

12 Q Qualified as an expert?

13 A Yes, sir. I've testified more than that.

14 Q And then we talked about the temporal aspect. And I
15 think the solicitor actually did as well. I was wondering
16 when he was slowing the time down and going back and forth
17 about 41 and 45 seconds. The final shot came from Mr. Epps
18 at 46 seconds; is that a fair statement?

19 A Yes, sir.

20 Q And is it a fair statement that Mr. Rodgers went down
21 at 48 seconds from a shot from this side?

22 A Yes, sir, but he never changed direction. No matter
23 whether it was 46, 48 or 49, he never changed directions.

24 Q So we have a timing issue?

25 A Yes, sir.

1 Q We have an angle issue?

2 A Yes, sir.

3 Q We have a science issue?

4 A Yes, sir.

5 Q And whether we go back and forth and they try to say
6 how many frames per second, there is no doubt in your mind
7 based upon a degree of scientific certainty that Mike
8 Rodgers had a gun?

9 A Absolutely.

10 Q Mike Rodgers fired a firearm that night?

11 A Yes, sir, in my opinion, he did.

12 Q Mike Rodgers fired a firearm into Mr. Epps that night?

13 A Well, we don't have another -- we don't have any other
14 damage or anyone else injured to account for that
15 projectile. I'm saying that I believe that's where he was
16 shot, but I don't know where it went. It was fired in the
17 proximity of his stomach. I believe it to be his
18 midsection.

19 Q And the final question, did Diontrae Epps shoot Mike
20 Rodgers in September of 2019?

21 A No, sir, he did not in my opinion to a reasonable
22 degree of scientific certainty.

23 Q And that's based upon the videos?

24 A Yes, sir.

25 Q That's based upon the autopsy?

1 A Yes, sir, the report and the diagram.

2 Q So all the evidence that has been provided from the
3 State of South Carolina, that's what that's based on?

4 A Well, it was all the evidence that you provided me,
5 yes, sir.

6 MR. KENT: Thank you, Dr. Kinsey.

7 THE WITNESS: Thank you.

8 MR. FINNEY: One moment, Your Honor.

9 THE COURT: Yes, sir.

10 (Pause.)

11 MR. FINNEY: Nothing further, Your Honor.

12 THE COURT: Thank you, sir. You can step down.

13 THE WITNESS: Thank you, Your Honor.

14 MR. KENT: Your Honor, I would request that Dr. Kinsey
15 be excused from his subpoena?

16 MR. FINNEY: No objection, Your Honor.

17 THE COURT: Dr. Kinsey, you are excused. Thank you.

18 MR. KENT: Your Honor, at this point in time after
19 speaking with Mr. Epps, the Defense would rest its case.

20 THE COURT: Thank you, Mr. Kent.

21 Let me see the attorneys up front.

22 (WHEREUPON, a bench conference was held in the presence
23 of the jury, but outside the hearing of the jury.)

24 THE COURT: Ladies and gentlemen of the jury, you've
25 heard the evidence that's going to be presented to you in

1 this case, but we are not finished yet. There are still two
2 important components to this case that have yet to occur,
3 the closing arguments of counsel and the charge on the law.

4 And as we all see, it's getting close to five o'clock.
5 If we started with the closings and the jury charge, my
6 estimation would be it would be probably after six o'clock
7 before I could give you this case to deliberate. And I
8 don't want to start your deliberations that late in the day.

9 So we are going to come back tomorrow. We will start
10 with closing arguments and then I will charge you on the law
11 which is applicable and then send you to your jury room to
12 begin your deliberations.

13 So even though you've all the evidence, this case is
14 not complete. Do not begin your deliberations. Do not
15 discuss this case amongst yourselves or with anybody else.
16 Don't do any research about any issue which has been raised
17 and we will see you tomorrow morning at 9:30.

18 (WHEREUPON, the jury exits the courtroom at 4:42 p.m.)

19 MR. KENT: May I, Your Honor?

20 THE COURT: Yes, sir.

21 MR. KENT: Your Honor, for the record, in the abundance
22 of, I don't want to say speed, but given the fact that we
23 had the jury going in and out of the courtroom, when the
24 State rested their case, I had the opportunity, of course,
25 to make my directed verdict motion. We came to the bar and

1 I told the Court just so we weren't sending them back out
2 because I think they were in the room for about five minutes
3 at the most and we would have had to send them back out
4 immediately.

5 Your Honor, at that point in time, the Court said I
6 could make my directed verdict motion at a later time. So
7 at this point in time -- and, of course, Judge, just because
8 we are making it at the conclusion of when we presented a
9 case, we are not, of course, assuming that the Court had
10 already made up their mind.

11 But taking the evidence in the light most favorable to
12 the nonmoving party, which, of course, in this case would be
13 the State of South Carolina, the Defense would move first
14 for a directed verdict as to the charge of murder based upon
15 the evidence put in by the State of South Carolina. They
16 have not offered any actual evidence that Mr. Epps actually
17 shot Mr. Rodgers. They've offered evidence, at best, that
18 he was shooting out there that day. There's not a witness
19 who can specifically state that he was shot at -- or shot.
20 For that reason, Your Honor, we would move at this point in
21 time for a directed verdict.

22 Additionally, Your Honor, at this point in time, we
23 would renew all motions made during the course of trial from
24 all of our pretrial motions, our discovery motions. We
25 would renew our prosecutorial misconduct motion. Your

1 Honor, dependent on your ruling, we would, also, renew those
2 motions at the conclusion. Since we have put in a case, we
3 would renew our motions again at this point in time. So the
4 first one was a temporal motion as if the State had just
5 rested and we are renewing that motion now.

6 THE COURT: Understood, Mr. Kent.

7 Just for the record, we did have a bench conference at
8 the close of the State's case. My recollection was similar
9 to Mr. Kent's that the jury had just been brought back into
10 the room. They had been in certainly less than five minutes
11 and the parties agreed to reserve the right to make the
12 directed verdict motion after the Defense rested. So we're
13 taking this motion as if it had been made at the close of
14 the State's case.

15 So Mr. Finney, response to Mr. Kent's motion for a
16 directed verdict.

17 MR. FINNEY: Thank you, Your Honor. If it please the
18 Court, the State respectfully request the Court to consider
19 the evidence that has been put in, not only the video
20 evidence, the evidence of Mr. Scarbough, who witnessed the
21 assault on his friend and cousin, I think, Mr. Rodgers, and
22 to, also, take into consideration the evidence of Mr. Epps'
23 noncooperation and, actually, being not only uncooperative,
24 but, also, being deceptive toward the officers during the
25 investigation as evidence that the jury should consider in

1 this murder case and the weapon case. We would ask the
2 Court to allow the case to go to the jury.

3 THE COURT: Thank you, Mr. Finney.

4 Directed verdict motions are governed by Rule 19 of the
5 South Carolina Rules of Criminal Procedure. And when
6 considering a motion for directed verdict, the trial court
7 is concerned with the existence of evidence, not its weight.
8 The evidence is taken in the light favorable to the
9 nonmoving party. Granting a motion for directed verdict is
10 proper only if there's a failure of competent evidence
11 tending to prove the charge. The trial court must submit
12 the case to the jury if any direct or substantial
13 circumstantial evidence has been presented that reasonably
14 tends to prove the Defendant's guilt or from which his guilt
15 may be fairly and logically deduced. A trial court should
16 grant the directed verdict motion if the evidence presented
17 merely raises a suspicion of guilt.

18 Folks, in this case, the video tells the story. We see
19 the Defendant swing on the victim, at least, once and then
20 we see these shots fired. There is, obviously, direct
21 evidence of their, for lack of a better phrase, hand-to-hand
22 confrontation. There is substantial circumstantial evidence
23 which has been presented, at least, in the Court's mind that
24 a jury could reasonably deduce from that substantial
25 circumstantial evidence that the shots fired by the

1 Defendant were the shots that -- or the shot that fatally
2 wounded the victim, Michael Rodgers.

3 So there is existence of evidence and I believe if I
4 were to grant this motion, I would be weighing the evidence
5 and that is the job of the jury.

6 So Mr. Kent, your motion for directed verdict is
7 respectfully denied. The other motions that were made, I
8 stand by my prior rulings and respectfully deny those as
9 well. Mr. Kent, obviously, you've renewed assuming -- well,
10 not assuming, but you've made the motion at the close of the
11 State's case and at the close of your case. I will deny the
12 motion based upon the logic I just stated on the record.
13 There is substantial circumstantial evidence in this case
14 and this will be for the jury to determine.

15 MR. KENT: Your Honor, my only other request would be
16 you asked us about a charge. Given the fact that we were
17 doing it in the hallway, if I could have some time to
18 actually do some research. I did a very quick cursory
19 research. If I could have some time, if you'll give me a
20 couple hours, I'll e-mail the Court.

21 THE COURT: That's fine with me. Just for the record,
22 I have proposed a jury charge and sent it to the parties via
23 e-mail. I know they have received the proposed charge. Any
24 requests to further supplement the charge, electronically is
25 fine. I think really there's probably only that one issue

1 that we need to iron out, so we can do that in the morning.

2 MR. KENT: Thank you, Judge.

3 MR. FINNEY: Thank you, Your Honor.

4 THE COURT: All right, folks, we're going to follow the
5 same procedure that we followed yesterday with regard to
6 clearing the courtroom. We're going to have the folks that
7 are here in support of the State empty the room first and
8 then we will have the folks that are here in support of the
9 Defendant go second.

10 (WHEREUPON, court was adjourned for the day.)

11 FRIDAY, SEPTEMBER 29, 2023

12 THE COURT: What do we need to put on the record before
13 we bring the jury in?

14 MR. KENT: Your Honor, a couple of things. One, just
15 for the record and abundance of caution, not that it's
16 important, but I called Your Honor and talked to Mr. Finney.
17 As I explained to the Court, I appreciate y'all giving me
18 some time. The tardiness is completely my fault.

19 As I explained to the Court, last night, my car was
20 broken into, the majority, if not all of my information for
21 trial was stolen. This morning, luckily my staff and I got
22 together and I think we were able to recreate pretty much
23 anything that we would need, so I wouldn't need any delay.

24 But the Court was gracious enough to give me additional
25 time. Actually, let me make it clear, the Court as well as

1 the solicitor's office agreed to give me as much time as I
2 possibly needed to make sure I was prepared. I think we've
3 been able to recreate everything.

4 I just wanted to put that on the record and thank the
5 Court as well as the solicitor's office for their platitudes
6 in helping me with that matter.

7 THE COURT: All right.

8 MR. KENT: Your Honor, secondly, during the
9 cross-examination from the solicitor yesterday, which was
10 not objected to, at some point while questioning Dr. Kinsey,
11 the questions from the solicitor went to the point of things
12 that were suggested and could have done. I didn't object at
13 that point in time, Your Honor, but I think it's pretty
14 clear it's really close to burden shifting. I'm not saying
15 we're going to go any further, but if that comes up during
16 closing argument, I'm not the type who likes objecting to
17 anyone's closing argument, but I do believe that is burden
18 shifting saying anything the Defendant should have done or
19 could have done differently. It is not his burden.

20 So I just wanted to make that clear for the record.
21 One, I did not object when it was happening yesterday. One,
22 because it's an expert witness. For strategy reasons, I
23 always like to have witnesses allowed to have latitude. So
24 if a court of a higher jurisdiction is reading this later
25 and wonders why an objection contemporaneously wasn't made

1 at that point in time, it was for strategy reasons because I
2 had an expert on the stand.

3 However, if that argument is made in front of the jury,
4 if the solicitor wants to question it, they're allowed to.
5 I believe that is burden shifting, very close to burden
6 shifting. Any comment on what the Defendant should have
7 done is burden shifting. So we would just like to put that
8 on the record if that came out, there would be a necessary
9 objection.

10 THE COURT: All right.

11 MR. KENT: And then, finally, Your Honor, last night
12 before all of my information was taken, I had e-mailed the
13 Court as well as the solicitor's office a request. I did
14 not get a copy of the case that Your Honor said we would be
15 getting.

16 THE COURT: And I've got it right here. It's State vs.
17 White, which is 425 S.C. 304, 821 S.E.2d 523. And then,
18 also, I looked at State vs. Williams, which is 427 S.C. 246
19 and 830 S.E.2d 904.

20 I understand that there's -- this case is -- you know,
21 there are, I think, some elements -- four elements of
22 self-defense potentially present. The issue I have, Mr.
23 Kent, State V. White stands for the position, the four
24 elements of self-defense are as follows: First, the
25 defendant must be without fault in bringing on the

1 difficulty. Second, the defendant must have actually
2 believed he was in imminent danger of losing his life or
3 sustaining serious bodily injury or he was actually in such
4 imminent danger. Third, if the defense is based upon belief
5 of imminent danger, a reasonably prudent man of ordinary
6 firmness and courage would have entertained the same belief.
7 And fourth, the defendant had no other probable means of
8 avoiding the danger of losing his own life or sustaining
9 serious bodily injury than act the way he did in this
10 particular instance.

11 MR. KENT: Your Honor, now, you understand where I'm
12 coming from based upon Dr. Kinsey's testimony that he was
13 shot first. So the second prong was in danger, he was
14 actually shot.

15 THE COURT: But wouldn't -- to get to that -- I mean,
16 Dr. Kinsey spent an inordinate amount of time talking about
17 there's no way the bullet fired from Mr. Epps' gun could
18 have been the one that was the fatal shot, so -- I mean, I
19 think it's --

20 MR. KENT: Your Honor -- I'm sorry.

21 THE COURT: I just think it's -- to claim self-defense,
22 the Defendant's action would have to be shown to be the one
23 to cause the death. If he's claiming self-defense for
24 murder, I think that's -- just as a common sense threshold
25 matter, either he shot him in self-defense or he didn't.

1 And Dr. Kinsey -- I mean, the bulk of what he said yesterday
2 was his scientific reasons for why Mr. Epps couldn't have
3 killed Mr. Rodgers.

4 MR. KENT: Your Honor, I understand all of that, but I
5 think what you're doing now is a credibility weighing
6 balancing test, which is what Hills says we don't do. We
7 just see if there is evidence of it. And there is evidence
8 in the record that could suggest it. And that's my concern.

9 That's why I've given the Court the memo. It's not
10 that we do a balancing and just say well, I don't know if
11 this is credible or not credible. If you couple the read
12 statement into the record by law enforcement along with Dr.
13 Kinsey's testimony that Mike Rodgers shot Mr. Epps while
14 unarmed, that means he was shot. That means there is
15 evidence in the record at all. And it's not a balancing
16 credibility if it's good evidence. The question is if there
17 is any. And all the cases say that.

18 So there is -- and it's not harmless error if it's not
19 charged. It's a big standard. And so if we look -- and
20 that's what's covered inside of the memo that I've given to
21 the Court. Respectfully, I think the Court is doing a
22 weighing test to the credibility and if it's logical or if
23 it's not. The question isn't a weighing and balancing test,
24 the question is if there's anything whatsoever.

25 THE COURT: I understand all that.

1 MR. KENT: Yes, sir.

2 THE COURT: I'm struggling with -- and I'm just
3 speaking out loud and I haven't made a final decision yet.
4 But if I were to charge self-defense, wouldn't that give the
5 prosecution the ammunition of saying well, everything that
6 Dr. Kinsey said was -- I'm trying to think a word to
7 accurately describe what --

8 MR. KENT: Given the cross-examination yesterday, I've
9 got a feeling they're going to say that no matter what you
10 charge, Your Honor.

11 THE COURT: I think arguing self-defense would,
12 certainly, reenforce the cross-examination. I mean --

13 MR. KENT: Again, Your Honor --

14 THE COURT: I understand -- I know what you're saying.

15 MR. KENT: -- I think you're getting into balancing
16 right now.

17 THE COURT: I know.

18 MR. KENT: I think the question is, it's a gatekeeper
19 function. Is there some there or is it not?

20 THE COURT: Let me hear from the State on this issue.

21 MR. FINNEY: Yes, sir. Good morning, Your Honor.

22 THE COURT: Good morning.

23 MR. FINNEY: I have not been able to read the cases
24 that you just referred to, but you have, so you have the
25 benefit of that. I want to say that the motion by the

1 Defense, he does say that Dr. Kinsey is part of the reason
2 he's making the motion because Dr. Kinsey came up with this
3 scientific answer, which, as the Court has said, doesn't
4 make the case of Mr. Rodgers coming up and shooting him
5 support -- there is no if Mr. Rodgers wasn't killed by Trae
6 Epps and he was killed by somebody else. And Mr. Trae Epps
7 could never have been in apprehension or fear from Mr.
8 Rodgers.

9 Now, what I do want to say is there is a statement in
10 this on the second page that there's ample evidence
11 supporting an inference of self-defense, a summary of the
12 defendant's statement was entered into evidence by the
13 State. That's not a true fact. There is no statement in
14 evidence by the State of the Defendant's statement. There
15 was testimony. There was cross-examination.

16 Mr. Trae Epps was talked to by the -- that information
17 was given to the jury by us. It is the testimony of the
18 officers, but there is not a written statement that supports
19 Mr. Epps saying that he was in apprehension. At no time
20 does he tell the officers that, at no time in either of the
21 two statements. And at no time did he say he was shot by
22 Killa Mike. At no time.

23 So I do feel that the Court as the gatekeeper has to
24 find those factors to be present and they are not present in
25 this case.

1 MR. KENT: May I respond, Your Honor?

2 THE COURT: Yes, sir.

3 MR. KENT: Candidly and respectfully, the solicitor's
4 argument is a logical fallacy. They put somebody on the
5 stand, we had a hearing and to argue to the Court now it's
6 not a statement when the entire time we've had a witness on
7 the stand talking about a statement is a logical fallacy.

8 And, Your Honor, the second prong where the solicitor
9 fails is one, again, I think none of this matters because
10 the question is, is there evidence, not the strength of the
11 evidence. But there's a two-prong factor on apprehension.
12 It's whether or not he actually feels he was or he actually
13 was. It's not just he hasn't testified that he was in
14 reasonable apprehension of fear, he was shot. That's the
15 second prong of that second element, felt he was or actually
16 was. To say that someone is shot and is not actually in
17 apprehension, it's not a question of we believe if it's true
18 or not, the question is if there is evidence in the record
19 at all. Not evidence to support, evidence at all.

20 If we read from State vs. Hill, as read in my motion,
21 and the Court quoted, they said it is the fundamental
22 doctrine if there is evidence of self-defense, the issue
23 should be submitted to the jury upon request. The Court
24 stated that determining whether to charge self-defense, the
25 relevant question for the Court to answer whether there is

1 any evidence in the record which would support a
2 self-defense charge.

3 So, Your Honor, candidly, to the solicitor's two
4 points, I think are logical fallacies. One, it's not
5 whether there's a statement or not a statement or whatever
6 you want to call it, we've gone back and forth. There's
7 been evidence from the State of South Carolina on what was
8 said from Trae Epps to law enforcement.

9 And two, the second part of our argument is not
10 necessarily if he got on the stand and said I was afraid,
11 you can include the second prong to that, 2A, if you will,
12 he was shot. So actually in apprehension. And there's
13 testimony in the record about that from an expert.

14 Thank you, sir.

15 MR. FINNEY: Your Honor, please, give me one moment.

16 THE COURT: Yes, sir.

17 MR. FINNEY: Because I failed to mention the number one
18 standard, which is that he is without fault in bringing on
19 the difficulty. And there is abundant testimony that there
20 was no aggressive chest bump as Mr. Trae Epps tried to tell
21 the officers in the first interview and the video does not
22 support anybody walking up to Mr. Rodgers and swinging and
23 shooting except Trae Epps.

24 It, also, says in this -- according to State vs. Day in
25 this memo that it has to be -- the evidence in the record

1 has to be reasonably inferred that the Defendant acted in
2 self-defense. When you've got no video support and his
3 statement to the officers doesn't support the self-defense,
4 then you don't have a reasonable position to argue to the
5 court that now at the end, because some expert mentioned it
6 in passing or came to the conclusion that he now gets to add
7 a self-defense charge.

8 Thank you, Your Honor.

9 THE COURT: This is obviously a close call. Given the
10 nature of this particular case and the evidence that's been
11 presented, looking at the factors for self-defense, number
12 one, that the Defendant must be without fault in bringing on
13 the difficulty, the Defendant in his statement said that Mr.
14 Rodgers chest bumped him. The video doesn't show that, but
15 his statement is, unfortunately, opposite of what the video
16 shows, so I think that is a jury issue. I think there's
17 some evidence and it would be up to the jury to believe
18 whether they saw this chest bump or whether the first
19 interaction between these two individuals was the punch.

20 So I think the State -- the Defense has shown some
21 evidence that the Defendant was without fault. If I
22 substituted my view of the video in place of the jury making
23 the factual determination, I would assuming their role. So
24 that prong has been met by the Defendant.

25 The second element is the Defendant must have actually

1 believed he was imminent danger of losing his life or
2 sustaining serious bodily injury or he was actually in such
3 imminent danger. There hasn't been any testimony as to what
4 Mr. Epps believed, but there is evidence that he was shot.
5 There's evidence presented from law enforcement that he was
6 shot in this altercation and the jury could conclude that
7 they believed Dr. Kinsey and his testimony that the victim
8 shot his weapon at Mr. Epps. So I think there is evidence
9 of the second prong.

10 We can skip over the third prong because that is the
11 prong that deals with if his defense is based upon his
12 belief of imminent danger. There's no proof of that.

13 And fourth, the Defendant had no other probable means
14 of avoiding the danger of losing his own life or sustaining
15 serious bodily injury than to act as he did in this
16 particular instance. Again, there's evidence that these
17 individuals were shooting at each other.

18 Y'all can tell I'm struggling with this, but I feel if
19 I don't charge it, the current status of the case law would,
20 perhaps, send this case back given the situation. So I'm
21 going to charge the elements of self-defense just because I
22 think there is some evidence in the record. I'm not making
23 any judgment of the strength or weakness of the evidence,
24 but I think the law shows that based on what I've seen --
25 and this is a unique situation because it's kind of like

1 alternative pleading in civil court. So I'll do that.

2 Mr. Finney, I think the State, obviously, through their
3 argument has objected. I think this potentially could be
4 the type of matter the State could preserve an objection on
5 if -- depending on the outcome of the case. So the record
6 will reflect that the State objected to the charge of
7 self-defense.

8 MR. FINNEY: Thank you, Your Honor. And as far as I'm
9 concerned, the arguments that we've made, I do want to be
10 protected because we do feel that self-defense should not be
11 charged.

12 THE COURT: And I understand that. Like I said, this
13 is a close call and a unique situation. Ordinarily, in
14 self-defense cases, that's what you hear from the outset of
15 the case. Obviously, with the way the evidence has unfolded
16 -- you know, like I said, I feel like if I choose not to
17 charge self-defense, I would be weighing the evidence and I
18 think that's what the case law prohibits. So I'll charge
19 the elements of self-defense.

20 MR. FINNEY: Your Honor, please, may we have a few
21 minutes to kind of get ourselves together in light of your
22 ruling?

23 THE COURT: Yes, sir, that will be fine.

24 MR. FINNEY: Ten, 12, 15 minutes, we'll be ready.

25 THE COURT: We'll start with the closing arguments at

1 10:45.

2 MR. KENT: And we all know it, but my understanding is
3 the State of South Carolina will be required to open in full
4 and the Defense will be required to open in full and then
5 the State would only be allowed to rebut specifically?

6 THE COURT: Yes, State closes, Defense closes, State
7 rebuttal.

8 MR. FINNEY: Thank you, Your Honor.

9 THE COURT: That's pursuant to the holding in State V.
10 Beatty.

11 MR. FINNEY: Thank you, Your Honor.

12 THE COURT: We'll be in recess until 10:45.

13 MR. KENT: Thank you, Judge.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: Ladies and gentlemen, we are about to
16 proceed with the closing arguments in this case. Before I
17 bring the jury in, it's been brought to my attention that
18 someone in the gallery has been using his or her cell phone
19 to take photographs from within this courtroom. That's not
20 allowed. If you are in the gallery and you are not an
21 attorney, your cell phone needs to be off. Not silent, not
22 airplane mode, not anything, off. Because if I see a person
23 who is not an attorney using their cell phone for the
24 remainder of these proceedings, number one, it's going to be
25 confiscated and number two, you're going to be in contempt

1 of this court.

2 Contempt of court can get you a six-month sentence
3 without a trial. So that means if I feel like you're
4 violating my order, you could get six months. And that's
5 not six months local time, that's six months prison time.
6 So if you want to run the risk of contempt of court, use
7 your phone. If you're not a lawyer and you're in the
8 gallery, turn your phones off. A bailiff sees it, if law
9 enforcement sees it, there's not going to be anybody that
10 makes the decision other than me. If they see it and they
11 bring it to my attention, I'm confiscating the phone and
12 you're going to do some time in jail between a day and six
13 months.

14 So that's just the warning, do with it what you will.
15 We are going to follow the rules and you cannot use your
16 phone to take photographs or make recordings or do anything
17 while this court is in session.

18 Bring us the jury.

19 (WHEREUPON, the jury enters the courtroom at 10:48
20 a.m.)

21 THE BAILIFF: The jury is seated, Your Honor.

22 THE COURT: Thank you, sir.

23 Ladies and gentlemen of the jury, thank you for your
24 patience with us this morning. I understand that you've
25 been in that room for quite a while. As you can see, we

1 have all been in this courtroom working this morning, so if
2 you want to be mad at anybody for wasting your time, be mad
3 at me because, ultimately, I'm in charge of these
4 proceedings.

5 We are in the position to being with closing arguments.
6 The way this will work is the State will make the first
7 closing argument, following by the closing argument for the
8 Defendant and then the State will have the last opportunity
9 to make a final argument in reply to the argument of the
10 Defendant. So, please, give the attorneys your undivided
11 attention. I will recognize the State for closing
12 arguments.

13 Solicitor Finney.

14 MR. FINNEY: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. FINNEY: Good morning, Mr. Kent.

17 MR. KENT: Good morning.

18 CLOSING ARGUMENT BY MR. FINNEY

19 MR. FINNEY: Good morning, ladies and gentlemen.

20 THE JURY: Good morning.

21 MR. FINNEY: It's Friday. We made it.

22 I told you on Monday, or Tuesday, probably because
23 Monday was a long day of organizing and getting things
24 selected. But I wanted to thank you for your service. And
25 I'd really like to thank you today because you've been with

1 us everyday. And I know because I have a family and I have
2 telephone calls and e-mails I haven't read, it is hard to
3 come up here and focus on what we ask you to focus on and
4 keep yourself going for five days, basically. So thank you
5 on behalf of Sumter County and on behalf of the court
6 system. We do this all the time and it doesn't get any
7 easier because it is hard to try a case and put everything
8 together so you feel like you have been given everything you
9 need to make a good decision.

10 I, also, want to thank the family of Mike Rodgers.
11 They have been waiting for a long time for this day. They
12 have had all kinds of things to go through. I want to thank
13 the police officers, McFadden, Snapp, Ms. Culick, all the
14 investigators that went out there that night and picked up
15 shell casings and took pictures, all those things help me do
16 my job.

17 Jason Corbett has been with me all week. He's probably
18 the longest serving assistant solicitor we have downstairs.
19 I'm one way and Jason is the other way and we come together
20 and we get things done. I want to thank him for helping me
21 all week.

22 I thank Mr. Kent. If you want to be a good lawyer,
23 you've got to fight good lawyers. The Bible says iron
24 sharpens iron. One man sharpens another. And that's what
25 Mr. Kent and I do everyday. We try to do our jobs and be

1 professional and let you do your job.

2 The word verdict means to speak the truth. That's what
3 you're going to do. After we talk, the Judge is going to
4 charge you the law. You're going to go back in that room.
5 You've been together all week. You're going to talk, you're
6 going to weigh, you're going to consider and you're going to
7 come up with a verdict that must speak the truth.

8 Let's start with this, when we started talking on
9 Tuesday morning, Mr. Kent got up. And he and I agree on one
10 thing, this is not a self-defense case. How do we know it's
11 not a self-defense case? Because in self-defense in South
12 Carolina, the Judge is going to charge you there are four
13 steps that you must consider to find that he can claim
14 self-defense and that at the end of the day he can go home.

15 Just like you need a key to crank up your car in the
16 morning, the first step in self-defense is you cannot be
17 found to have brought on the difficulty. You can't start
18 the trouble, then pull out a gun and shoot somebody. When
19 you start the fight, when you are the aggressor, when you --
20 as the law says, you cannot be -- you cannot have any fault
21 in bringing on a difficulty. If you don't find that key
22 fits that test, you don't have to go any further.

23 The other three steps, the Judge will tell you, Mr.
24 Kent will tell you, he believed he was in imminent danger.
25 How do you believe you're in imminent danger when you're the

1 one who leaves your friends, you walk over to a man and you
2 swing on him and then you pull a gun out? The only person
3 that night who was in imminent danger was Mike Rodgers.
4 He's the only one that could under the law in my opinion
5 claim self-defense. Mike Rodgers isn't here. He's not here
6 today because of that man.

7 There is no self-defense in this case, but the Judge
8 has a duty to charge you the law. He's going to give you
9 the law. You start right there. When you go into your jury
10 room, start right there. Talk about it. Weigh the
11 evidence. Look at what we're going to talk about for the
12 next 30 minutes or so.

13 The only other thing in this case that you've heard
14 that would allow that young man to walk out of this
15 courtroom at the end of the day is Dr. Kinsey. I'm going to
16 save that for a minute because I've got a few things to say
17 about him.

18 Dr. Kinsey says that man, who walked over, swung,
19 pulled a gun and shot five times and missed all five times
20 because he says, Dr. Kinsey says that man did not kill Mike
21 Rodgers. Somebody else killed Mike Rodgers. That's what
22 you call an expert and that's why you get paid \$300 an hour
23 to come in here and tell a story that wasn't backed up by
24 anything that had to do with facts.

25 He even went so far as to tell you that Mike Rodgers

1 shot Trae Epps when they were in that fighting position
2 where Epps swung, Rodgers is backing up and that's when he
3 says that Rodgers fired at Epps. No muzzle flash. He
4 couldn't find one. We didn't find one on the video. I
5 apologize -- he says he got some kind of pictures of muzzle
6 flash or plume or something like that.

7 I'm going to give you two reasons why you can't believe
8 Dr. Kinsey on that.

9 Let's go to the video. Let's go to camera 12 -- no,
10 let's just do the color one. Let's go to 11 minutes 41
11 seconds -- excuse me, 11 o'clock, it says.

12 We know the time is actually off, it's one o'clock in
13 the morning. This says 11 o'clock, 41 minutes and -- let's
14 go to 40 seconds.

15 Mike Rodgers has arrived with his friends in the red
16 car. They parked, they got out. This is Mike Rodgers at 36
17 seconds on the video. Your screens on, everybody looking?
18 36 seconds, Mike Rodgers is walking around in the parking
19 lot. I'm going to show you -- because one of the things
20 we're going to talk about is what happened before Mike
21 Rodgers got there? What happened when Mike Rodgers just got
22 there? He hadn't been there all night.

23 Yes, you heard from other witnesses, Mr. Scarbough,
24 that when they got there and they got out the car, there
25 were people there. Everybody was walking around. They were

1 doing what they were doing. Yes, some people had guns. A
2 lot of people probably had guns. There were pictures of
3 that. But we don't have anybody shooting. We don't have
4 any fighting. We don't have any arguments until Trae Epps
5 decides I'm going to get that man over there. And it's
6 clear on the video what he does.

7 Right here at 37.

8 Let the video run for a minute. I'll tell you when to
9 stop.

10 (Video is played.)

11 MR. FINNEY: Mike Rodgers on the right side standing
12 there. I think he's got his hands in his pocket. And here
13 comes Mr. Epps and he swings. And then Rodgers is backing
14 up. And at 44 seconds, you can't see it on this camera, at
15 44 and 45, you see the gunfire from Mr. Trae Epps' gun.

16 What I want you to do is look closely. We're going to
17 run it again.

18 Go back four or five seconds.

19 Two things you need to know about this video, when Mr.
20 Trae Epps swings, that's when Mr. Kinsey, Dr. Kinsey says he
21 gets shot by Mike Rodgers, right there between the cars.
22 Right there.

23 Stop.

24 The swinging has started, Rodgers is backing up. Trae
25 Epps is going to take a couple of steps. You watch the

1 video. Do you see Mike Rodgers shoot at all in that video?
2 Look at it. Use your eyes. Use your judgment. Here comes
3 the gun out of Mr. Epps' pocket. Mike Rodgers is more than
4 ten feet away and he's still backing up and there is when
5 the gun comes out and the first shot is fired. Nobody was
6 firing before Trae Epps fired.

7 And you want to know how I know that? This is the
8 first point.

9 Back it up five seconds.

10 If Mr. Mike Rodgers fired his gun first, you would see
11 a reaction from the people who were standing next to that
12 silver car. You would see a reaction right there. They are
13 standing there. They just now found out these guys are
14 fighting.

15 Back it up again five seconds for me, please, sir.

16 Let's watch that lady in the gold outfit.

17 (Video is played.)

18 MR. FINNEY: Starting at 38, there's Mike Rodgers.
19 They're just sitting there talking. Two people, the lady
20 and I think a man. Here comes the swing. Does she move to
21 say there's any danger or I heard a gunshot, until, look,
22 45. 45 seconds, that's when she hears the gunshot. There's
23 only one person shooting then. Mike Rodgers didn't shoot.
24 He didn't shoot first. He didn't bring on the difficulty.
25 He didn't come over there to where Trae was. He got

1 aggressively walked up on and swung on. Then Trae pulls his
2 gun, Mr. Epps pulls his gun and starts the firing. That's
3 when you see the reaction from the other people.

4 Let me show you another camera angle.

5 Go to camera 12.

6 (Video is played.)

7 MR. FINNEY: Look at that time now, 11:41:45.

8 I'm sorry, not 12, one, camera one.

9 These are the fellows who are at another camera angle
10 walking around. This is at 22, this is 22 seconds before
11 the shooting. Look at the parking lot. Everybody is
12 walking around. Everybody is talking, pretty calm. Yes,
13 the store owner -- we heard the 911 call, the store owner
14 says there's some guys with guns out there, I want you to
15 send a police officer. They say okay, we'll send some
16 police officers. Yeah, there was some guys with some guns,
17 we know that, because there's a bunch of shell casings, but
18 look at that, everything pretty calm.

19 Coming up on 40 seconds now. Watch their reaction.
20 When it gets to 44, now they've heard a gunshot. 45, they
21 heard a gunshot. And look what's happening. 45 now,
22 they've heard the gunshot. 47, there's Mike Rodgers. 48,
23 he's going to the ground. Guess why he's going to the
24 ground? Because between 44, when Trae Epps pulls out his
25 gun, he shoots five times and we can see it on the video.

1 I'm going to show you that. Those five shots occur between
2 44, 45, 46, 47 as this man is running away and shooting
3 back.

4 I have never wanted you to believe that Mike Rodgers
5 didn't have a gun. That's why we introduced Amanda Snapp to
6 tell you that when she went out there that night, she
7 located a gun on State's Exhibit No. 13. State's Exhibit
8 No. 13, these are the shell casings that are out there that
9 night. She told you the Taurus handgun that was recovered
10 right here at this spot where it says 14-5, that is the
11 handgun that was found on the ground that belonged to Mike
12 Rodgers that you see fall out of his hand.

13 No question he had a gun. And these are the seven
14 bullets that came from that gun. And guess where they are?
15 You want to talk about scientific. You want to talk about
16 common sense. If the gun was being fired and the shell
17 casings from that gun are all in this area here, then how in
18 the world can Dr. Kinsey say that the shooting occurred --
19 that Mr. Epps got shot over here in the corner? There's no
20 shell casings from that gun over there in that corner.

21 Now, Mr. Kent is a good lawyer. He's going to tell you
22 oh, they got kicked. They got run over. The wind blew
23 them. Use your common sense. One, two, three, four, five,
24 six, seven, there's the gun. Michael Rodgers is laying dead
25 here. Yes, he was firing. Yes, he was running away. And

1 no, there ain't no shell casings over by that car where he
2 says his client got shot. No reaction from the girls who
3 were standing next to the car until Trae Epps started
4 shooting. No shell casing that would have come out of Mike
5 Rodgers' gun over by that car. Don't believe the story that
6 they made up. Believe your eyes because it's on the video.

7 Now, let's talk about Trae Epps. One month, one month
8 before his death, Mike Rodgers and his girlfriend are going
9 to the beach and they see a Facebook video. Arkell Eaglin
10 showed him the video and said you got to cool out. This is
11 the video.

12 (Video was played.)

13 MR. FINNEY: Are you going to believe that story they
14 brought you or are you going to believe your eyes? That's
15 not even the video that Trae Epps was worried about because
16 he didn't know if the cops had seen that video or not. Trae
17 Epps had maybe gotten word there was a Facebook video of a
18 girl in the parking lot that night at the shooting and that
19 that video had all the shooting and people screaming.
20 That's what he heard of because that's what was out in the
21 world. Trae Epps wasn't scared of the world knowing what
22 kind of fellow he was, he put that on Facebook for the world
23 to see.

24 But there was another video that he didn't know about
25 from the store. Camera 12. I want you to count the number

1 of steps that Trae Epps took to leave where he was to come
2 over and swing on Mike Rodgers. It starts around 40
3 seconds. You're going to see the white t-shirt leave where
4 he's at and walk towards Mike Rodgers. Count the steps.

5 (Video is played.)

6 MR. FINNEY: You cannot be guilty of starting the fight
7 and then come in here and say, ladies and gentlemen, it was
8 self-defense. Give me a break. He told the officers when
9 he first made up his first story -- well, second story
10 maybe, that aggressively Mike Rodgers walked up to him and
11 chest bumped him. Who are you going to believe? Believe
12 your eyes. It's on the video.

13 And that's not the worst part. He told the world, oh,
14 I don't play with no guns. I like to fight with my hands.
15 Okay, then why did you --

16 Roll the tape. Go back to 43.

17 After he swings on Mike Rodgers, this is back at 40
18 now. He's coming over. He swings. He chases and then pow,
19 the first shot. Let's count the shots.

20 Go back to 41, please, sir.

21 This is me saying it, but you've got your own eyes and
22 you can look at this tape as much as you want to. After he
23 swings, you see a muzzle flash at 44, right there. There's
24 another one. There's another one. Then he spins and turns.
25 There's another one and another one. That's five. Mike

1 Rodgers ain't hanging around. Mike Rodgers is running for
2 his life. Yes, Mike Rodgers has now pulled out his gun and
3 he's shooting back. And yes, if Trae Epps got hit by Mike
4 Rodgers' gun in self-defense, I would say, that's when it
5 happened, after Mike Rodgers was on the run and he was
6 firing back to get away from the gun that Trae Epps pulled
7 and started shooting.

8 In order to show you a complete picture of the case, we
9 put in a picture of the gun that the officers found that
10 night that we believe Mike Rodgers had. We, also, put in a
11 picture of the bullet that came out of the autopsy of Mike
12 Rodgers. There were two gunshots, but only one bullet was
13 recovered. It was a nine millimeter.

14 The doctor gave you a diagram. It's in evidence. It's
15 State's Exhibit No. 11 showing where the -- the entrance
16 wounds and exit wounds. There was only one exit wound
17 because one bullet stayed in. State's Exhibit No. 8 and 9
18 are the actual photographs of where the bullet went in Mike
19 Rodgers' right side and came out of his back. Here on No.
20 9, you see the exit wound on his back. And then there's a
21 second shot.

22 Now, Dr. Kinsey says without examining the gun, without
23 examining the bullet, just looking at the video at a slow
24 speed, he didn't send it off to be enhanced, which he said
25 we should have done, but he didn't do it and he came up with

1 an opinion. And the opinion is this fatal shot to the chest
2 occurred by somebody else. There was only one person
3 shooting at the time Mike Rodgers fired back at him.

4 And at that time when he started backing up, you look
5 at the video, I'll show it to you right now, maybe Mr. Kent
6 will show it to you, too, there is a position where as he's
7 backing up trying to get away from the car that's kind of
8 got him blocked in, you will see before he turns to his
9 right, he's backing up still trying to get away from Trae
10 Epps and Trae Epps' gun is now coming out, but he could have
11 been shot in the right side and suffered the fatal wound,
12 which killed him, which is why the charge is murder.

13 And that's not Ernest Finney telling you, that's Dr.
14 Batalis, who I asked, Dr. Batalis, did you examine the body?
15 Yes. Dr. Batalis, did you look at the videos of the
16 shootout? Yes. Would you say with medical certainty that
17 he could have suffered the fatal shot while he was in the
18 position facing Mr. Trae Epps? Yes. I'm going to believe
19 the doctor, Dr. Batalis, the medical doctor. Because Dr.
20 Kinsey, he isn't a medical doctor and he couldn't answer
21 questions. He couldn't even tell us the angle on the kill
22 shot from the autopsy the day after talking to Dr. Batalis.
23 Because he didn't ask. He didn't write it down. He didn't
24 think it was important. Dr. Batalis told you that angle.
25 It was almost -- it was he said different from where it went

1 in to where it came out the back. How are you going to be
2 an expert and give an opinion when you don't even know that
3 and you talked to the man?

4 And the other thing he said, you heard it because I
5 asked it, I asked Dr. Batalis, did the spinal cord get
6 severed with the gunshot? The reason I want to know that is
7 because I've got Mike Rodgers going seven, eight steps after
8 he got shot before he fell. On the video, he's running.
9 Can a man who got shot through the spine run? Dr. Batalis
10 said the spine didn't get severed. It got nicked. I think
11 that was the word he used. Yes, he could have run some
12 steps.

13 That's not what Kinsey said. Kinsey didn't say that.
14 He didn't agree with that. He thought that the doctor said
15 it was maybe a couple of steps, but Dr. Kinsey had his spine
16 being severed. That's not what Batalis said. And I stopped
17 because I wanted you to know that was an important minute.
18 He's telling you medical stuff and he's not a medical
19 doctor. And the medical doctor who came in here and told
20 you yes, he could have run because the cord was not severed.

21 We want to know the truth. You have to have the truth.
22 The video shows Trae Epps shooting the gun. Where is the
23 gun? Never recovered. After telling the investigators that
24 he was chilling in the car, having an argument with his
25 girlfriend, texting his girlfriend, he heard shots. He gets

1 out of the car when he hears shots. Everybody else in the
2 parking lot is running for safety. He gets out of the car.
3 That was the first story he told police officers.

4 They asked him what kind of car was it, don't know.
5 Whose car was it? My cousin's, I think. Where is the car?
6 They were already shooting when I got out is what he told
7 the officers. And then he tells the officers, I didn't have
8 no gun. I didn't shoot no gun. I didn't see Killa Mike.
9 Why couldn't he tell the truth? He had been shot. The
10 officers knew he had been shot. They waited till he got out
11 the hospital. And he walked into the interview room at his
12 momma's house and he didn't cooperate. He didn't tell the
13 truth. And now he wants you to give him self-defense so he
14 can go home.

15 He tells the officers parts of this, parts of that. I
16 didn't have a gun. I didn't see nobody. Don't know who
17 shot me. Oh, okay, well, we'll go home and let you rest and
18 we'll come back. We'll see you later. Two days later, he
19 goes to the law enforcement center to file some papers. And
20 while he's there, the officer said hey, can we talk to you?
21 We've got some more questions to ask you. No, I don't want
22 to talk. I've got to go home. The man who wants you to
23 give him self-defense.

24 Okay, well, you don't want to talk to us, we hereby
25 inform you that you are being charged with the murder of

1 Michael Rodgers and possession of a handgun during the
2 commission of a violent crime. You are now under arrest.
3 Oh, my God, y'all ain't got me on video. Yes, Mr. Trae
4 Epps, we got you on video. We got you swinging. We got you
5 pulling that gun and shooting. Oh, and then the story comes
6 out. Oh, he came up to me and bumped me in the chest and I
7 had to shoot him. I had to get my, what did he call it, my
8 thing, I had to get my thing.

9 And he wants you to give him self-defense. Give him
10 what he deserves. Give him what your eyes see on that
11 video. You take what he did at the hotel video, setting up
12 the threats of this Mike Rodgers. You take the walking over
13 that night and swinging. You take the fact that he was
14 armed with a loaded handgun and he shot five times on video.
15 And you take the fact that you've got some doctor from
16 Orangeburg who comes over here and tells you he shot five
17 times and not one of those bullets hit Mike Rodgers. Come
18 on, now. And he tells you give me self-defense, but I don't
19 know where the gun is.

20 MR. KENT: What we discussed in pretrial, Your Honor.
21 I'd ask for an instruction.

22 THE COURT: Ladies and gentlemen of the jury, the
23 Defendant in this case is presumed innocent. He's not under
24 any duty to do anything. The burden of proof is on the
25 State to prove the Defendant guilty of the crimes alleged in

1 the indictment. The statement about him not providing a gun
2 should be disregarded.

3 MR. KENT: I'd ask for that to be stricken from the
4 record as well, Your Honor.

5 THE COURT: Any reference of that in the closing will
6 be stricken from the record.

7 MR. FINNEY: Ladies and gentlemen, under the law, I get
8 to come back and speak to you a few minutes after you hear
9 from Mr. Kent. First thing about going to church is if you
10 hear a good sermon, it shouldn't take too long, so I'm going
11 to sit down. I will come back and speak to you.

12 Thank you for giving me your attention. Thank you for
13 giving me your consideration. And I would ask when you go
14 back to deliberate this afternoon that you find Diontrae
15 Epps guilty of the charges that have been lodged against
16 him, not because I want it, not because they want it, but
17 because you believe your eyes.

18 THE COURT: Thank you, Mr. Finney.

19 Mr. Kent.

20 MR. KENT: Thank you, Your Honor. May it please the
21 Court.

22 Solicitor.

23 MR. FINNEY: Yes, sir.

24 CLOSING ARGUMENT BY MR. KENT

25 MR. KENT: Usually, the night before trial

1 (indiscernible). If you know anything about me or paid any
2 attention, there's some things that I love, I love movies
3 and I love clothes. That goes without saying a lot of
4 times. On of my absolute favorite movie is an old movie,
5 Cat on a Hot Tin Roof. Some of you may know it, some you
6 don't. It's very old. And in this movie, Cat on a Hot Tin
7 Roof, there's a scene very particular with this character,
8 an old Southern character, his name is Big Daddy. There's a
9 scene in the movie and they're all talking about what's
10 going to happen when Big Daddy dies. Big Daddy is sick. So
11 they're all talking about what they're going to do when Big
12 Daddy dies. Talking about it as if Big Daddy is
13 (indiscernible). Everybody is loud and they're talking
14 about Big Daddy. What are we going to do when Big Daddy
15 dies?

16 All of sudden, guess who walks in the room? Old Big
17 Daddy. So Big Daddy walks into the room (indiscernible).
18 He's got this cool deep voice, which I don't have. And so,
19 of course, Big Daddy walks in the room and they're all
20 talking about him. They're all talking about him and he
21 says this great line and I've never forgotten it.

22 So they're talking about what's going to happen and he
23 said in this great bellowing voice, he said, the air is
24 filled with the stench of mendacity. I said, that's cool.
25 I wonder what that word means? The air is filled with the

1 stench mendacity. So I looked it up. This is quite some
2 time ago when I looked it up. Mendacity is hiding
3 something. Mendacity is not giving the full, unadulterated
4 details of what's happening and hoping you can fool
5 somebody. Somebody walks in the room and is hearing bits
6 and pieces of a story, what happens when we have mendacity.

7 And as I told you when I came up here at the very
8 beginning, I said the things that we need are very simple.
9 We need details. We need a full presentation of the facts.
10 Because if we don't have both, we don't know what happened.
11 If we don't have both and we don't have the full details as
12 to what's happened, we can't tell exactly what's happened in
13 detail at all.

14 What we have is the great State of South Carolina with
15 all the power, all the money, all their resources, all
16 coming in front of you right now and telling you their
17 version of a story. What happens a lot of times when
18 someone tells you a story at the beginning, you miss
19 details.

20 I talked to you a little bit about how much I love
21 clothes. Yesterday, I don't know if y'all paid attention,
22 you remember that suit I was wearing yesterday, that
23 pinstriped suit with the red inside, y'all remember. It
24 looked just like a regular old pinstripe suit. I brought it
25 back today. You can look at it. If you look at it and get

1 a little closer, it's not pinstripe, it's actually my name.
2 And then if you start looking, you can see it says Shaun
3 Kent into the stripes. Kind of cool, huh?

4 So now that's all you see. Because now it's not just a
5 pinstriped suit, the entire time you've been watching a suit
6 with a guy's name on it. Now, all of a sudden, when we're
7 looking at it, there's some details in there that we weren't
8 necessarily paying attention to and now we're going to hear
9 the rest of the story. Now, we're going to hear those
10 details that should have been told the entire time.

11 The solicitor's office has presented to you a case of
12 an idiot, a case, excuse my mouth, of a dumb ass. A case of
13 a bunch of idiots out on the scene doing absolutely stupid
14 stuff. And I'm not going to excuse it whatsoever. I think
15 the phrase that we use is place (indiscernible). I am
16 shocked, I'm appalled and we are all embarrassed of
17 everything that happened out there. It's awful. I'm not
18 going to excuse it and we shouldn't excuse it. We shouldn't
19 be happy about it. We shouldn't encourage it because you
20 play stupid games and get stupid prizes.

21 But when I talked to you at the very beginning,
22 remember, we all took an oath. We took an oath at what we
23 were going to do no matter what, no matter how much we hate
24 it, we're going to listen to the facts and we're going to go
25 with it. We're not going to trust all the power, all the

1 money, all the resources of the State of South Carolina as
2 they sit there and try to wow us and say we don't have
3 everything we need.

4 So what we're going to do is we're going to go through
5 the evidence as presented. And I want y'all to think about
6 the evidence of what the great State of South Carolina
7 presented to you. Think about it.

8 First, they presented to you and they said Timothy
9 Scarbough -- you remember Timothy Scarbough who got on the
10 stand? What did he tell you? I saw him punch. I heard the
11 shot. I don't think I saw it. Remember, he went back and
12 forth. And then they vouched for Timothy Scarbough. You
13 remember they were vouching for him. And I had to bring a
14 transcript, a certified transcript and read to him what he
15 testified before that he didn't see anything. You remember
16 what his response was? Timothy Scarbough, the State's star
17 witness. I didn't say that. That lady wrote that down
18 wrong. That's just not accurate. Rather than just saying
19 okay, that's not accurate. What did the State do? They
20 tried to bolster. You put your hand on the Bible, you're
21 telling the truth. I showed you the transcript he was not
22 telling the truth.

23 Mendacity. Details. Why is it so important for the
24 State of South Carolina to need Timothy Scarbough to tell
25 the truth when we all saw (indiscernible). Mendacity,

1 details.

2 And then who do they call? They called officers out
3 from the scene who talked about just collecting things from
4 the scene and this great trick that Shaun Kent is using
5 about bullets get kicked all over the place. It's not a
6 trick, it's called facts. I just ask questions.

7 I didn't yell at anybody when I asked a question.
8 Y'all saw that. I was respectful to every single witness
9 who took that stand. I find when people yell when they're
10 asking question, it's because they don't like the answers.
11 That's why I don't like to talk over anybody, that's why I
12 don't like to yell, that's why I don't like to argue with
13 them. I just want to ask them questions. Think about it.

14 So they got done with Timothy Scarbough. They called
15 Sergeant Snapp. I can't remember her title, I'll call her
16 Detective Snapp and I don't mean any disrespect. All she
17 said was we collected and took pictures. We weren't out
18 there. We don't know what happened. We were not out there.
19 We collect evidence, we put it together and we give it to
20 another agent to look into it. All the power, all the
21 money, all the resources of the State of South Carolina.

22 I talked to every single officer, remember, I asked
23 them the same question. Where were you trained? Why were
24 you trained? What do you do in your training? What is
25 necessary? Let's talk about witness statements. Let's talk

1 about evidence. Let's talk about everything that is
2 important. Why do we do that? Because we can't remember
3 everything perfectly. Why? Because I want all the details.
4 Because if I have a man's life, I want to know the details.
5 I want to know absolutely everything.

6 So we asked about taking the statement of Diontrae.
7 I'm not trying to say what he said or what he didn't say
8 because I wasn't there. You weren't there. We talked about
9 how we take statements from individuals. Why is it
10 important that we take statements? We talked about the four
11 ways. Remember, I asked about four ways you can take a
12 statement.

13 Think about the way you would want your statement taken
14 and somebody read it back in four years. Would you want it
15 written in your own handwriting? You damn right I do. And
16 I want to sign it, I want to look at it, I want to hear
17 everything so I can say if things are right or wrong. I
18 have bad handwriting, but you write it, but I still want to
19 look at it, I want to sign it, I want it signed. I want to
20 check off if something is incorrect. Because a lot of times
21 in those situations, remember what I asked, under those
22 situations, what do we have to do? Give you a copy so you
23 can say that this is accurate.

24 Number three, record it. Yeah, we have body cameras,
25 but we have a policy that we don't use them. I didn't even

1 understand that. Yeah, we had them at the police station,
2 but, you know, those cameras in the interview rooms weren't
3 working. Y'all think about that for a minute. We were at a
4 police station in those interview rooms and they weren't
5 working. So you mean to tell me there was no place in an
6 entire room when you're interviewing somebody who you
7 suspect of murder and you can't find a way to record.

8 I would submit to you every single person in this
9 courtroom and I'm saying everyone has a cell phone. And if
10 every single person in this courtroom has a cell phone that
11 records a video. Videos are important and that's why we
12 kept asking. Record his interview. Not so we can say okay,
13 he said that specifically or didn't say that specifically.
14 It does matter how somebody said something or why they said
15 something. And this whole he started sweating profusely.
16 Well, show me. Because been down the road in four damn
17 years, you're going to be asked to make a decision and we
18 don't want to trust your memory.

19 Let's think about an officer's memory we had to trust.
20 You remember that anonymous tip I asked him about? The
21 officer we have to trust. Officer, did you follow up on the
22 tip? Uh, uh, uh. Officer, did you follow up on the tip? I
23 think I did. Officer, did you follow up on the tip?
24 Somebody in my file did. Well, we'll wait and you show me
25 where it happened. Remember that? These are the memories

1 we have to trust.

2 Mendacity. Details. Details are all we got. And if
3 we don't have all the details, are we looking at a
4 pinstriped suit or are we looking at the stupid names? We
5 want every single detail so we can make a decision.

6 Somebody told law enforcement that I was out there and
7 I shot somebody and we don't follow up on it? That's called
8 an omission when we don't follow up on it at all. Don't you
9 think that would be information that would be helpful?
10 Where were you in the parking lot when you shot? What type
11 of firearm did you have? Was it a revolver? Was it a nine
12 millimeter?

13 And I asked questions about the spaciousness of the
14 parking lot for very specific reasons. It's small. You
15 understand what I'm saying? It's a small parking lot. Why
16 is that so important? Follow me on this one. Front of the
17 store, fight starts, guys turns away, starts running, turns
18 this way. He is shot from this direction. On a small
19 parking lot, guess who would know if they shot somebody?
20 They'd know I shot somebody in that parking lot. You
21 understand why that's so important in a small parking lot?
22 Details. Things that I would like to know, things that you
23 would like to know.

24 I ask you if you get a chance to go back, if you want
25 to, you may trust your memory, go back and listen to Dr.

1 Batalis's testimony. He's the pathologist. That's his
2 expertise. He was asked the question is it possible that he
3 could have been shot there? Yeah, it's possible. All that
4 other stuff is superfluous and that's additional. I don't
5 think all the stuff the solicitor told you he said has to
6 happen, but you trust your memory. But that's Dr. Batalis,
7 he's an expert.

8 And that was their case. That was it. No enhanced
9 video. No slowed-down video. And for some reason, the
10 solicitor is very angry at the fact that we suggested that
11 we'd like to slow down the video. Angry to the point that I
12 don't think they understood what frames per second are. As
13 we all understand, remember as a kid, they tell you to count
14 and you'd go a thousand one, a thousand two, a thousand
15 three, a thousand four. A thousand one, a thousand two,
16 something happens between a thousand one and a thousand two.
17 We all know that, that's common sense. I don't know why the
18 State of South Carolina with all the power, all the money,
19 all the resources doesn't understand what frames per second
20 means.

21 Dr. Kenneth Kinsey, one of the foremost experts in the
22 country got up here and testified. When he worked for the
23 State of South Carolina, he was a damn genius. He's deputy
24 of the year, remember? Testified, I think he said over 80
25 times. Testified for the State of South Carolina, worked

1 for the State Law Enforcement Division, written books, done
2 everything he came. Did that Murdaugh trial. Remember, the
3 State of South Carolina paid him to do that and he's still a
4 current officer. And during his closing argument, the
5 solicitor responded that guy from Orangeburg. He's a little
6 more than that guy from Orangeburg.

7 He testified to you what happened when I sent him the
8 case. I didn't say tell me this. I said, tell me what
9 happened. And he looked at it and he made a decision as an
10 expert, an uncontradicted expert, let's make that clear.
11 Because there's not another expert who came in and said he's
12 wrong. It's the solicitor who said he's wrong because he
13 didn't like his opinion. Details.

14 And what was Dr. Kinsey's opinion based upon? Science.
15 Think about that. An uncontradicted expert, not one that we
16 don't -- we don't like that because that could be accurate.
17 The solicitor argued with him, fought with him, frames per
18 second, frames per second, frames per second. And Dr.
19 Kinsey said, Just slow it down so I can show you. Dr.
20 Kinsey says, There's a gun there. They said there is no
21 gun. But there is a gun, just slow it down and I'll show
22 you. They kept yelling because they can't have a gun there.
23 Remember that? And then he showed you.

24 (Video is played.)

25 MR. KENT: He showed you the image on their camera. He

1 showed you -- remember, because he's never seen a picture.
2 He was like yeah, it was a silver firearm. You can see
3 right on the top. He said it to you. The expert in his
4 uncontradicted expert opinion.

5 He made it very clear to you. Here's what ended up
6 happening. Remember, he said it? They were sitting over
7 here. They were in the corner. They were in the corner of
8 the gas station. He says Mike Rodgers swung twice. You can
9 see it in the video. He pulls out and he shoots. And
10 here's what they're missing. They say he did not pull out
11 and shoot. They say he did not pull out a firearm. He
12 turned and ran and fell after he was shot and dropped the
13 firearm. It conveniently happens when the firearm was
14 pulled out.

15 What makes more sense? He shoots, he runs, he's firing
16 backwards, he's shot, and watch the video, he goes down. I
17 didn't make that up. I didn't create that. Details.

18 Remember that image that Dr. Kinsey showed us? He says
19 it's right there. That's my awful attempt at an arrow, but
20 that's the victim with the firearm. And the solicitor
21 started yelling at him, Where can you see that? When you
22 slow it down frames per second and if you do that -- and he
23 even said, I'll show y'all how to do it. I don't want to
24 know how to do it. I want to argue a thousand one, a
25 thousand two, a thousand three, a thousand four.

1 Is it important that he had a firearm? I don't know.
2 But it would be important for me to know all the details. I
3 wouldn't argue with the expert because I don't like their
4 opinion. I'd want to know the details. So he gave you that
5 detail. And he says, based upon science, based upon the
6 angles, based upon the angles of the shot, where this man
7 was shot, it's not possible based upon the science. But
8 they don't like that answer.

9 He said -- and I want you to think about this because I
10 thought the most important thing that came out on why we are
11 here was the cross-examination of Dr. Kinsey when the
12 solicitor said -- you remember why he was so mad? Well,
13 he's a liar. Remember that? He was mad because he lied in
14 his statement. But wouldn't that be important to know that
15 he lied? It's not important when you're talking about
16 science. It's not. Isn't it important that he fired
17 firearms? It's not when we're trying to figure out -- when
18 you get the fact of did he shoot him? That's what's
19 important. And that's what they were ignoring.

20 So we break this down into three simple elements. We
21 break this down into three provisions of the case.
22 Provision one, Mike Rodgers had a firearm. The video shows
23 it. I've seen it. He pulls a firearm. He just does, okay?
24 He shoots it. There's no doubt about that. No doubt about
25 it. There's no doubt about that Trae swings, swings, he is

1 shot, pulls out his firearm and he starts shooting. And
2 he's right, he shot five times. Last shot happened at,
3 like, 46 and 47 seconds. I think we can all agree on that.
4 That's when the last shot happened.

5 So this is our second thought, when did the shots
6 happen? 11:41 and 46, 47 seconds is the last shot. What
7 time did Mike Rodgers go down? 11:41 and 48. Understand
8 the time won't match at that point he was shot, bullets go
9 fast. It wouldn't take two or three seconds for a bullet to
10 go in. So we can look at the temporal aspect and look at
11 the video, the solicitor said trust your eyes. So when you
12 go back, just look at it. With respect to the time, that's
13 just not possible. One, he shot first or if he shot second,
14 whatever, he shot. No one even cares. The times are just
15 off.

16 And then, finally, we go to the last thing Dr. Kinsey
17 talked about, the most important -- and he said regardless
18 of the time, it doesn't matter. The time doesn't matter at
19 all? Yes, sir, Mr. Kent. But you can't argue with the
20 science and the angles. You remember? He didn't hide that.
21 And I'm sorry if you don't like an expert's opinion. I'm
22 sorry if you don't like a person who has been doing this for
23 30 years. I'm sorry if you don't have a person who has no
24 dog in the fight who just simply says this is what happened
25 and I'm sorry, Mr. Finney, if you don't like it. That is

1 the facts. That is the truth. And that's what we're stuck
2 with. And if we would have slowed it down frame-by-frame,
3 you would have seen exactly what happened if somebody had
4 the slowed down video.

5 (Video is played.)

6 MR. KENT: The solicitor is right, watch the video.
7 Watch it over and over again. Watch it a million times.
8 Watch it in super slow motion. 38, 39 -- and you see, we're
9 still going before it goes to 40, you see there's movement
10 in there. You know what that's called? Frame-by-frame.
11 40, you see the feet. You see the swing. And you see him
12 pull his firearm right there and there's the
13 (indiscernible). You see both retreating. And he's still
14 not show as of yet, Mike Rodgers. And he is in a full
15 sprint going in the opposite direction, well, somewhat.
16 That's what frame-by-frame is so we can see what happens.

17 Again, play stupid games, play stupid games, win stupid
18 prizes. I wish they had not been shooting. And he's guilty
19 of that. He shouldn't have had a damn firearm. He's not
20 charged with that and that's not for you to decide. Should
21 he have had a firearm out there? Absolutely not. Is he
22 guilty of that? Absolutely. Is he charged with that? No.

23 We read the warrant to you. Remember the warrant?
24 Details. What did that officer say? You could see the
25 bullet go inside of him. No, you can't. And he said you

1 could. And that's why when Mr. Finney was talking about the
2 tricks that we use, that's a trick. You didn't see the
3 bullet go inside, but you swore to a warrant, swore to a
4 magistrate that you did. That's what becomes important when
5 you try to make a decision on a murder. We're trying to
6 decide what happened (indiscernible).

7 I asked -- and not because I'm insane or anything of
8 this nature, but I asked about certain bullets and I asked
9 about value. I pointed at 15/109 and I asked about one
10 specific bullet. Ask yourself about that. Because that was
11 one of the (indiscernible).

12 They show these groupings. And you remember all
13 (indiscernible). We know for a fact that all of these came
14 from Mike Rodgers' gun. Remember? We do know that. We
15 know that for a fact, all of these shots came from his gun.
16 The one thing we don't know is what gun did all these. And
17 we all agree with that, we don't know. But we know from the
18 testimony these groupings all came from the same firearm,
19 right? We're all on the same page, I think that's what was
20 testified to. We all know that this came from one firearm,
21 this came from one firearm, this came from one firearm, this
22 came from one firearm.

23 We know we have one bullet, right, that was taken out
24 of Mike Rodgers. We have a witness, the expert, who says
25 that this could have and was tested. You remember? So I

1 want you to think about this. If we had the bullet and it
2 could have been tested and we know on this chart there were
3 groups that were shot by specific guns. And we know the
4 solicitor has specifically said, and we can see it on the
5 video, that Mr. Epps was shooting. We all agree with that.
6 So those casings would have been out there. I think you
7 know where I'm going to with this. It's a little common
8 sense. And they could have tested it and the expert said we
9 tested it and it didn't match, wouldn't item 127 have
10 matched one of these groupings? So Mr. Epps was shooting
11 and he's one of these groupings. Say, he's this grouping
12 down here and that came from one firearm and they tested
13 them, wouldn't he have testified that this bullet came from
14 grouping A or B or C or D?

15 Details. The things we don't know, that's why it's so
16 important. Details. Because without them, we don't have
17 anything. Take the videos back, slow them down, look at
18 them and if you can slow them down frame-by-frame, try it.
19 Go over them in as much detail as you possibly can. Ask
20 yourself the hard questions. Ask yourself do we know what
21 actually happened that day. Ask yourself can we make a
22 decision.

23 The solicitor asked and in my opening statement, I
24 think y'all remember, I talked to you about self-defense. I
25 don't think it's self-defense not because of the elements.

1 When we talk about the elements, I don't think it's
2 self-defense because of the elements. Was he at fault in
3 bringing on the difficulty? Was he shot? Yeah, he was
4 shot. Was he afraid? He was shot. If you get shot, you
5 can shoot back. If someone shoots you, you all have my
6 permission to shoot back.

7 I know they're saying it's not self-defense because it
8 doesn't meet the elements. I don't think it's self-defense
9 because he didn't do it. That's what I've been telling you.
10 And the evidence shows he didn't do it. And that's what I
11 was telling you. So this whole he wants you to give him
12 self-defense. I never said that. But you do need to know
13 the elements of self-defense, you do. And there's a
14 requirement that the Judge is going to tell you the elements
15 of self-defense. He's going to tell them all to you. And
16 as he tells them all to you, that's when you make your
17 decision.

18 This week, I lost a friend, one of my dearest friends
19 in the world. He was helping me, we talked about this case.
20 And senseless death sucks. I'm tired of it. But if we
21 talked about it (indiscernible) and I know what really
22 happened. We talked as recently as Monday night about
23 reasonable doubt and how to explain to the jury reasonable
24 doubt. We talked about a story that I gave for reasonable
25 doubt in the past.

1 I talk about a story about reasonable doubt as a child
2 because I never really understood it. I didn't understand
3 the definition of reasonable doubt when I was in law school.
4 And the way that I learned to understand reasonable doubt
5 was coming home from law school. And I remember coming home
6 from law school and we went down to Summerville, South
7 Carolina. Mom and dad were home and my little brother. It
8 was a spring day. You know how spring is in South Carolina,
9 pollen and everything is covered in yellow, absolutely
10 everything, it was just covered. And all of our windows in
11 the house were completely open, the breeze was going, my mom
12 was cooking. She was in the kitchen, she was cooking
13 collard greens and cooking fried chicken. Those smells will
14 take you back.

15 And my little brother can be just a jerk. He has this
16 absolutely awful habit, absolutely awful, when my dad would
17 tell him something, he would storm upstairs and he would
18 slam the door behind him. He was a defiant kid. My mom was
19 cooking fried chicken and collard greens. And I remember on
20 the radio was Percy Sledge. I'll never forget this day.

21 And all of a sudden, I was sitting there, I was
22 studying and I don't remember what it was, but my mom said
23 something to my little brother and he said something just
24 absolutely awful back and he sucked his teeth, which she
25 used to hate when people do it. So all of a sudden, Percy

1 Sledge, collard greens, fried chicken, everything smelling,
2 pollen, wind flowing, my dad got really upset and he said
3 you go upstairs to your room and don't you dare slam that
4 damn door. He said, don't you slam the door.

5 Percy Sledge, collard greens, fried chicken, wind
6 blowing. And so my little brother just goes upstairs. We
7 had a FROG, like the room over the garage. And you know
8 what happened, my brother, like the jerk that he was, he
9 slammed the damn door. Bam. And the look of rage and anger
10 on my dad's face becomes actually overwhelming. It was
11 insane.

12 Because all of a sudden, Percy Sledge, fried chicken,
13 collard greens, my dad starts storming up the stairs ready
14 to whip the hell out of my little brother. He's running up
15 the stairs and my mom is coming up the stairs right behind
16 him. And all of a sudden, my mom is yelling, Herman,
17 Herman, don't kill him, don't kill him. And I'm behind my
18 dad yelling, Herman, Herman, kill him, kill him. Because I
19 want to see my little brother get his little butt beat
20 because I'm the older brother and that's what we want to
21 see.

22 So while we're running up there, Percy Sledge, fried
23 chicken, collard greens are absolutely everywhere, we're
24 smelling it, the wind. And we go upstairs to that FROG, the
25 family room over the garage, and we all believe, we all

1 think he has slammed the door. So when he walked up there,
2 all of a sudden, we see my little brother just in the middle
3 of the floor just sitting. And my dad walks inside the room
4 and he's ready, he's got his hand up and he's ready to beat
5 the hell out of him. And he stops, Percy Sledge, fried
6 chicken, collard greens, and before he does it, there's just
7 a little breeze coming in. And my brother looks at him and
8 he's like, I didn't slam the door, the wind did it. I'm
9 like, liar. Hit him. And my dad hesitated.

10 That hesitation, the fact that he wasn't firmly
11 convinced, the fact that he had doubts as to what my brother
12 said and what he did, ladies and gentlemen, that is the
13 point that I understood reasonable doubt. That hesitation.
14 That pit you have in your stomachs right now that you're
15 like I'm just not sure. I'm not sure I've been given
16 everything. I'm not sure I've been given all the details.
17 That hesitation, ladies and gentlemen, is what reasonable
18 doubt is.

19 At some point in time, the Judge told you that you
20 cannot talk about this case. He made it clear, don't talk
21 about it, don't talk about anything about the case, but what
22 he has said is in a few hours -- well, not hours, but a few
23 minutes, you'll be able to go back there and talk about it.
24 And later, you're going to go home and talk to your family
25 because they're all going to ask what you did on jury duty.

1 You're going to talk about the crazy guy in the blueberry
2 suit that kept his hand up entirely too damn long. And
3 they're going to ask you questions. Did you do the right
4 thing? It might be in five weeks, it might be in five
5 years, it might be in 30 years. But they ask, you were on
6 jury duty, did you do the right thing?

7 Ladies and gentlemen, if you have doubts, you have them
8 today. If you have doubts, you have them now. Because down
9 the road is too late for Diontrae Epps. The Supreme Court
10 has said and the Judge will tell you as well that innocence
11 is like a robe of righteousness strewn upon the shoulders of
12 an individual. And it is your job to leave him naked,
13 stripped down, naked and guilty. Because if he had a sock
14 on and he had that bowtie on and he had my jacket strewn
15 around his shoulders, he has one article of clothing left
16 when you go back in that jury room, that's not sure. That's
17 not guilty.

18 If you think he was out there firing a firearm like he
19 shouldn't have been doing with a bunch of stupid friends,
20 but, God, I don't think that they've proven that he actually
21 shot. That's not guilty. What a stupid song, what a stupid
22 rap video, what a dumb bunch of idiots, a bunch of assholes
23 sitting on video singing this stuff, but I'm not sure.
24 Ladies and gentlemen, that's not guilty.

25 The State of South Carolina wants us to believe that

1 old Diontrae Epps is the grand wizard and he's the man from
2 behind the curtain controlling everybody. That he was able
3 to convince Investigator McFadden not to (indiscernible).
4 He was able to, I guess, mess with the video timestamps. He
5 was able to get to Kenny Kinsey, who he's never talked to a
6 day in his life, convince a world renowned expert to give us
7 a lying ass opinion. That's what they want you to do with
8 all their money, all the power, all the resources. Why?
9 Because they don't like somebody who lies. Because when the
10 great and powerful Oz, the great and powerful wizard is just
11 sitting there, he's just some idiot in a wheelchair who's
12 asking for your decision (indiscernible).

13 Thank you for your time.

14 THE COURT: Thank you, Mr. Kent.

15 Mr. Finney.

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

17 THE COURT: Yes, sir.

18 REBUTTAL CLOSING ARGUMENT BY MR. FINNEY

19 MR. FINNEY: I was thinking about this in the shower
20 this morning because every time I hear that story from Mr.
21 Kent, it gets better and better. And what I was thinking
22 about is how in the courtroom when you don't want to talk
23 about the bad stuff in your case, you talk about other
24 stuff. And you talk about oh, the clock wasn't right or
25 something else. We'll talk about anything you want to talk

1 about, but let's not talk about this case. He likes to talk
2 about cooking, lasagna on Tuesday, fried chicken on Friday.
3 He don't want to talk about the facts. Then he says he
4 don't want to get loud and raise his voice and he does that.
5 That's not the facts.

6 He wants to talk about a bullet that his expert didn't
7 say anything about. We brought SLED firearms expert, Paul
8 Greer, and we asked him, did you find anything that you
9 could match to this bullet that was taken? He said no,
10 because you can't match bullets and casings. Once they come
11 out of the casing, there's nothing. But you can match the
12 casing to a firearm.

13 So we got the casings, what they call the fired
14 cartridge casing, and we grouped them because they matched.
15 Casings when they come out of the firearm, they have
16 scratches on them, he could match. That's why all of those
17 casings belong to Mike Rodgers' gun. We had Mike Rodgers'
18 gun. But we had all these other casings.

19 So what he just told you about a casing not matching
20 what was there, you can't match a bullet to a casing. You
21 match a casing to a firearm. But you can match a bullet --
22 not a casing now, you can match a casing to a gun. You can
23 match a bullet to a gun because when it goes down the barrel
24 -- remember that SLED agent told you about the spinning,
25 rifling, scratches on the bullet, oh, yeah, if we had the

1 gun, if we had the gun, we could give them to you.

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

3 THE COURT: Yes, sir.

4 (WHEREUPON, a bench conference was held in the presence
5 of the jury, but outside the hearing of the jury.)

6 THE COURT: Ladies and gentlemen of the jury, please,
7 go to your jury room. At this time, don't begin your
8 deliberations, don't discuss the case amongst yourselves
9 with anybody else. Don't do any research about any issue
10 which has been raised. We'll get you out as soon as we can.

11 (WHEREUPON, the jury exits the courtroom at 12:02 p.m.)

12 MR. KENT: Your Honor, at this point in time on behalf
13 of Diontrae Epps, I'd make a motion for a mistrial. I made
14 it very clear before we started closing arguments that if
15 the solicitor was to make any argument whatsoever about if
16 we had the gun, if we got the gun or something of that
17 nature, we would give it to you or he didn't give you the
18 gun or something of that nature. He did it once in the
19 first part of his opening to his closing argument. I made
20 an objection. At that point in time, the Court gave a
21 curative instruction that said the burden is not on Mr.
22 Epps. I thought that was very clear at that point in time.

23 Just now before I made my objection, he says we have
24 the bullet, but if we had the gun, we could have matched it.
25 That, again, goes with what they're asking, Your Honor. At

1 this point in time, I would make a -- renew the objection,
2 this is now the third time. I would renew the objection and
3 ask for a mistrial because now it's clear the solicitor is
4 ignoring the Court's instructions and this is burden
5 shifting to say that we have a burden or a duty to do
6 anything whatsoever.

7 Thank you, Judge.

8 THE COURT: Mr. Finney.

9 MR. FINNEY: Your Honor, in reply to the argument of
10 defense counsel regarding a casing that was found at the
11 scene, I was reminding the jury that an expert from SLED did
12 testify that his testimony was if we had a gun, we could
13 match the gun to the bullet that's in evidence. And that
14 there were no casings that matched that bullet because you
15 don't match bullets to casings. That was technical
16 information about how forensic labs work and what that
17 information was that they brought to the jury. I made no
18 mention of having the gun brought by anyone or that Mr. Epps
19 should have brought it in.

20 THE COURT: Thank you, sir.

21 Folks, the granting of a mistrial is an extreme measure
22 which should be taken only where an incident is so grievance
23 that the prejudicial effect can be removed no other way.
24 That's State V. Beckham, 334 S.C. 302, 513 S.E.2d 606.
25 Also, cited in State V. Moore, 377 S.C. 299, 659 S.E.2d 256.

1 And ordering a mistrial is in the trial judge's discretion.

2 Obviously, Mr. Kent, the first instance was remedied by
3 curative instruction. And I was paying very close attention
4 to what Mr. Finney said.

5 In the second instance, he made no reference to
6 anything that the Defendant did or did not do. He was
7 talking about the expert's testimony. And I'm assuming he
8 would have stayed away from any language which would have
9 even implied that the Defendant should have brought us the
10 gun. I think really he's admitting we don't have this --
11 the weapon to compare this. So I don't think in the second
12 instance there's been any -- really, any prejudicial effect
13 because he didn't shift the burden.

14 I guess, taking in the light most favorable to Mr.
15 Epps, you could imply there was some burden shifting, but he
16 hasn't given any or made any statement about we don't have
17 the gun and that's Mr. Epps' fault or we don't have the gun
18 because he wouldn't cooperate with us. Obviously, if that
19 were said, I think you'd have a better ground for this.

20 MR. KENT: The concern is it was said earlier.

21 THE COURT: Oh, I understand that.

22 MR. KENT: And so now we can make the implication,
23 which is still impermissible. That's my concern. I
24 understand what the Court is saying, but that's sort of like
25 well, we don't have the gun.

1 THE COURT: I don't think based upon my recollection of
2 what Mr. Finney said that that was the implication of it. I
3 think he was explaining why the expert couldn't render an
4 opinion about that bullet is because we didn't have the gun
5 to compare it to and I don't think the most recent statement
6 which drew the objection rises to the level of -- I don't
7 think there's any absolute prejudicial effect on that
8 statement taken the way it was said.

9 Obviously, folks, I'm going to tell the jurors in my
10 charge that what the attorneys say is not evidence.

11 So I respectfully, Mr. Kent, deny your motion for a
12 mistrial.

13 MR. KENT: Thank you, sir.

14 THE COURT: Mr. Finney, I'll give you a second or two
15 to get your thoughts back on track.

16 MR. FINNEY: I'm ready, Your Honor.

17 THE COURT: Mr. Tomlin, bring us the jury.

18 (WHEREUPON, the jury enters the courtroom at 12:11
19 p.m.)

20 THE COURT: Thank you, ladies and gentlemen.

21 Mr. Finney, you can resume your argument.

22 MR. FINNEY: Thank you, Your Honor.

23 We have a situation where in this case, the officers
24 have been challenged by the Defense saying they didn't do a
25 good job bringing you the case. The statements were not

1 recorded, an anonymous tip was not followed up. We do a lot
2 of work in my office with police officers and I think their
3 job is very difficult.

4 Four years ago was a long time ago and I can't change
5 the fact that it took the case this long to get here, but
6 Mr. Kent gets to say oh, that's too long. The police
7 officers had to work to get the case ready to bring to you.
8 And if you don't feel like my office has given you each and
9 every detail that you need, you do what the oath of office
10 told you on Monday or Tuesday when you took the oath, that
11 is to well and truly try the case. If I didn't bring you
12 what you need, you know what to do.

13 But those officers worked around the clock to get the
14 information for that family so their loved one could receive
15 the justice that he deserved, just like we today are giving
16 Diontrae Epps the justice that he deserves. And he does not
17 deserve to say in my opinion, oh, you shot a gun and you
18 were acting like an idiot, go home and don't do it again.

19 The officers took contemporaneous notes at his momma's
20 house. Didn't tell him the whole story. They knew about
21 certain things they didn't tell him. That's what the
22 officers do. They know how to investigate. And these guys
23 in the community, when they're out doing things they don't
24 want to be seen or don't want to do, they don't tell the
25 whole story. And yet, it's his -- it's the officer's fault?

1 No. They officers did their job. They made the
2 contemporaneous notes.

3 And all this comes down to is now for him to throw the
4 water and the baby out at the same time. You have to decide
5 whether you trust the officers. Did they do anything wrong?
6 No. Did they do it the way Mr. Epps wants to have it done
7 now? No. They did contemporaneous notes. They went back
8 to the office and typed up the notes. They gave him a
9 chance -- it's in the evidence. They gave him a chance to
10 have a lawyer. They gave him a chance to stop at any time
11 at his momma's house. He signed it. He wasn't going to
12 tell anything that day. He wanted to know what they wanted
13 that day.

14 The next day, he didn't want to talk, on the 17th. I'm
15 not talking, I'm going home. Oh, by the way, you have a
16 warrant for murder now. You're arrested and charged, you're
17 going to jail. Everything changed. The video, oh, yeah, I
18 did swing on Killa Mike. Oh, yeah, I did pull my thing, my
19 thing, my gun.

20 We have in this case a clear case from the hotel video
21 to the parking lot that was on the store. Mike Rodgers,
22 ladies and gentlemen, wasn't even going to the store that
23 night. He did not go there looking for trouble. He was
24 going to a party across the street at the S&B with his
25 driver in the red car, who never got out of the red car

1 because those guys weren't hanging around looking for
2 trouble. He was going to his girlfriend's party across the
3 street. Mike Rodgers got out, spoke to some people, Trae
4 Epps came over and changed his life.

5 Not only was it stupid, not only was it idiotic, but it
6 was a murder. The unlawful taking of a human life with
7 malice, that's the definition of murder. And the Judge is
8 getting ready to read it. When you take another man's life
9 with malice, with a firearm, with a punch, that's murder.
10 That's what he's guilty of. And I think that the State of
11 South Carolina has shown you enough, more than enough to be
12 firmly convinced that your decision will be of a true
13 verdict, guilty of murder, guilty of possession of a weapon
14 during a violent crime. We ask that you do that.

15 Thank you.

16 THE COURT: Ladies and gentlemen, I can see y'all
17 watching the bailiffs as they move about. The custom in
18 South Carolina is that when the Judge is about to charge the
19 jury on the law that's applicable, the doors get locked. I
20 can't point to any specific law that requires that, that's
21 why I call it a custom, but that's what they're doing in
22 case y'all are wondering.

23 It looks like they're finished.

24 CHARGE ON THE LAW

25 THE COURT: Ladies and gentlemen of the jury, give me

1 your attention. It is now my duty as the trial judge to
2 instruct on the law which is applicable in this case. In
3 that regard, it is your duty as jurors to accept and apply
4 the law as I now state it to you. Furthermore, it is your
5 exclusive duty to decide all the issues of fact in this case
6 and determine the effect, value and weight of the evidence.
7 The State and the Defense have the right to expect that you
8 will carefully consider and evaluate the evidence and apply
9 the law of this case to it so that in the end, both the
10 State and the Defense have received a fair and impartial
11 trial.

12 I remind you that during this trial, you and I have had
13 certain duties to perform. As the trial judge, it is my
14 responsibility to preside over the trial of this case and I,
15 also, have the duty to rule on the admissibility of the
16 evidence offered during trial. You are to consider only the
17 competent evidence before you.

18 If there was any testimony ordered stricken from the
19 record in this case during the trial, you must disregard
20 that testimony. You are to consider only the testimony
21 which has been presented from this witness stand, any
22 exhibits which have been made a part of the record in this
23 case and any stipulations of counsel.

24 I have the additional duty to charge you the law which
25 is applicable to this case. As the presiding judge, I am

1 the sole judge of the law of this case. It is your duty as
2 jurors to accept and apply the law as I now state it to you.
3 If you already have an idea as to what the law is or what
4 you think the law ought to be and it does not agree with
5 what I tell you the law is, you must abandon this idea
6 because you are sworn to accept the law and apply the law
7 exactly as I state it to you.

8 In every case tried in this court before a jury, the
9 jury becomes the sole and exclusive judge of the facts in
10 the case. A trial judge cannot intimate, state, comment on
11 or make any statement to a trial jury about the facts in a
12 case. Since you, the jury, are the sole judge of the facts
13 in this case, you are not to infer from what I have said
14 during the course of this trial in ruling upon the
15 admissibility of evidence or otherwise or anything that I
16 say now during the course of this instruction to you that I
17 have any opinion about the facts in this case. The law does
18 not allow me to have an opinion about the facts in the case.
19 This is a matter solely for you, the jury, to determine. As
20 jurors, it is your duty to determine the effect, value,
21 weight and truth of the evidence presented during this
22 trial.

23 The indictment charges the Defendant with murder and
24 possession of a weapon during the commission of a violent
25 crime. I remind you the fact that the Defendant was

1 arrested, charged and indicted in this case is not evidence
2 in this case and cannot be considered by you as evidence of
3 guilt in this case, nor does it create any presumption or
4 inference of guilt. This document is simply the formal
5 written instrument which contains the charges made against
6 the Defendant. It is the formal document by which this case
7 is brought into court.

8 MR. KENT: Your Honor, I need to interrupt you for one
9 quick second.

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury, but outside the hearing of the jury.)

12 THE COURT: Thank you, Mr. Kent.

13 MR. KENT: Thank you.

14 THE COURT: Now, ladies and gentlemen, the Defendant
15 has pled not guilty to this indictment and that plea puts
16 the burden on the State to prove the Defendant guilty. A
17 person charged with committing a criminal offense in South
18 Carolina is never required to prove himself innocent.

19 I charge you that it is an important rule of the law
20 that the Defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be presumed to
22 be innocent of the crime for which the indictment was issued
23 unless guilt has been proven by evidence satisfying you of
24 that guilt beyond a reasonable doubt. This presumption of
25 innocence does not end when you begin your deliberation, but

1 it accompanies the Defendant throughout the trial until you
2 reach a verdict of guilt based upon evidence satisfying you
3 of that guilt beyond a reasonable doubt.

4 The presumption of innocence is like a robe of
5 righteousness placed about the shoulders of the Defendant
6 which remains with the Defendant until it has been stripped
7 from the Defendant by evidence satisfying you of the
8 Defendant's guilt beyond a reasonable doubt.

9 The presumption of innocence is not mere legal theory.
10 It is not just a legal phrase. It is a substantial right to
11 which every defendant is entitled unless you, the jury, are
12 satisfied from the evidence of the Defendant's guilt beyond
13 a reasonable doubt.

14 What is a reasonable doubt in the law? A reasonable
15 doubt is the kind of doubt that would cause a reasonable
16 person to hesitate to act. The State has the burden of
17 proving the Defendant guilty beyond a reasonable doubt.

18 Now, some of you may have served as jurors in civil
19 cases where you were told that it is only necessary to prove
20 that a fact is more likely true than not true, such as by
21 the greater weight or preponderance of the evidence. In
22 criminal cases, the State's proof must be more powerful than
23 that. It must be beyond a reasonable doubt.

24 Proof beyond a reasonable doubt is proof that leaves
25 you firmly convinced of the Defendant's guilt. Now, there

1 are very few things in this world that we know with absolute
2 certainty and in criminal cases, the law does not require
3 proof that overcomes every possible doubt. If, based upon
4 your consideration of the evidence, you are firmly convinced
5 that the Defendant is guilty of the crimes charged, you must
6 find the Defendant guilty. If, on the other hand, you think
7 there is a real possibility that the Defendant is not
8 guilty, you must give the Defendant the benefit of the doubt
9 and find him not guilty.

10 Ladies and gentlemen, there are two types of evidence
11 which are generally presented during a trial, direct
12 evidence and circumstantial evidence.

13 Direct evidence is the testimony of a person who claims
14 to have actual knowledge of a fact, such as an eyewitness.
15 Circumstantial evidence is proof of a chain of facts and
16 circumstances indicating the existence of a fact.

17 The law makes absolutely no distinction between the
18 weight or value to be given to either direct or
19 circumstantial evidence nor is a greater degree of certainty
20 required of circumstantial evidence than of direct evidence.
21 You should weigh all of the evidence in this case. After
22 weighing all of the evidence, if you are not convinced of
23 the guilt of the Defendant beyond a reasonable doubt, you
24 must find the Defendant not guilty.

25 Direct evidence directly proves the existence of a fact

1 and does not require deduction. Circumstantial evidence is
2 proof of a chain of facts and circumstances indicating the
3 existence of a fact.

4 Crimes may be proven by circumstantial evidence. To
5 the extent that the State relies on circumstantial evidence,
6 all of the circumstances must be consistent with each other
7 and when taken together point conclusively to the guilt of
8 the accused beyond a reasonable doubt. If these
9 circumstances merely portray the Defendant's behavior as
10 suspicious, the proof has failed.

11 The State has the burden of proving the Defendant
12 guilty beyond a reasonable doubt and this burden rest with
13 the State regardless of whether the State relies on direct
14 evidence, circumstantial evidence or some combination of the
15 two.

16 Necessarily, ladies and gentlemen, you must determine
17 the credibility of the witnesses who have testified in this
18 case. Credibility simply means believability. It becomes
19 your duty as jurors to analyze and evaluate the evidence and
20 determine which evidence convinces you of its truth.

21 In determining the believability of witnesses who have
22 testified in this case, you may believe one witness over
23 several witnesses or several witnesses over one witness.
24 You may believe a part of the testimony of a witness and
25 reject the remaining part of the testimony of that same

1 witness. You may believe the testimony of a witness in its
2 entirety or reject the testimony of a witness in its
3 entirety. You may consider whether any witness has
4 exhibited to you any interest, bias, prejudice or other
5 motive in the case. You may also consider the appearance
6 and manner of a witness while on the witness stand.

7 Ladies and gentlemen, in this case, we've heard from
8 expert witnesses. The rules of evidence ordinarily do not
9 permit witnesses to testify to opinions or conclusions. An
10 exception to this rule exist for witnesses we call expert
11 witnesses. A witness, who by education and experience has
12 become an expert in some art, science, profession or calling
13 may state an opinion as to relevant and material matter in
14 which the witness claims to be an expert and may also state
15 the reasons for the opinion.

16 You should consider any expert opinion received into
17 evidence in this case and like any other evidence, give it
18 the weight you think it deserves. If you decide that the
19 opinion of an expert witness is not based on sufficient
20 education and experience, or if you conclude that the
21 reasons given in support of the opinion are not sound or
22 that the opinion is outweighed by other evidence, you may
23 disregard the opinion entirely.

24 An expert witness's testimony is to be given no greater
25 weight than that of other witnesses simply because the

1 witness is an expert. Further, you are not required to
2 accept an expert's opinion even though it is not
3 contradicted.

4 In order to establish criminal liability, criminal
5 intent is required. For example, the mental state required
6 to be proven by the State for a particular crime might be
7 purpose, intent, knowledge, recklessness or criminal
8 negligence. Criminal intent must be proven by the State
9 beyond a reasonable doubt. Criminal intent is always a
10 matter that must be determined by the jury from
11 circumstances surrounding the situation.

12 There's no way to prove intent to a mathematical
13 certainty. There's no way medical science can dissect a
14 person's brain and determine what that person had in mind,
15 so the law says that criminal intent may be inferred from
16 the circumstances shown to have existed. This is how you
17 make a determination of whether or not the element requiring
18 intent was present. It is not necessary to establish intent
19 by direct and positive evidence, but intent may be
20 established by inference in the same way as any other fact
21 by taking into consideration the acts of the parties and all
22 the facts and circumstances of the case.

23 Criminal intent is a mental state, a conscious
24 wrongdoing. It is up to you to determine what the Defendant
25 intended to do based upon the circumstances shown to have

1 existed.

2 Criminal intent can arise from action or a failure to
3 act. It may arise from negligence, recklessness or an
4 indifference to duty or to consequences that is considered
5 by the law to be the equivalent of criminal intent.

6 Now, ladies and gentlemen, I instruct you and emphasize
7 that the fact that the Defendant did not testify is not a
8 factor to be considered by you in any way during your
9 deliberations and in your consideration on the question of
10 the guilt or the innocence of the Defendant. It must not be
11 considered by you in any manner whatsoever. A defendant has
12 the Constitutional right to remain silent and the assertion
13 of this right must not be considered by you in your
14 deliberations.

15 I repeat, under you oath, you are to draw no conclusion
16 whatsoever from the fact that the Defendant in this case did
17 not testify. The fact that the Defendant did not testify
18 should not even be discussed in the jury room. The burden
19 of proof as I have stated to you is on the State. The
20 Defendant is not required to prove his innocence. The
21 burden of proof remains on the State to prove guilt beyond a
22 reasonable doubt.

23 In this case, the Defendant is charged with murder.
24 The State must prove beyond a reasonable doubt that the
25 Defendant killed another person with malice aforethought.

1 Malice is hatred, ill-will or hostility towards another
2 person. It is the intentional doing of a wrongful act
3 without just cause or excuse and with an intent to inflict
4 an injury or under circumstances under the law that will
5 infer an evil intent.

6 Malice aforethought does not require that malice exist
7 for any particular time before the act is committed, but
8 malice must exist in the mind of the Defendant just before
9 and at the time the act is committed. Therefore, there must
10 be a combination of the previous evil intent and the act.

11 Malice aforethought may be express or inferred. These
12 terms, "express" and "inferred" do not mean different kinds
13 of malice, but merely the manner in which the malice may be
14 shown to exist. That is either by direct evidence or by
15 inference from the facts and circumstances which are proved.
16 Express malice is shown when a person speaks words which
17 express hatred or ill-will for another or when the person
18 prepared beforehand to do the act which was later
19 accomplished. For example, lying in wait for a person or
20 any other acts of preparation going to show that the deed
21 was within the Defendant's mind would be express malice.

22 Malice may be inferred from conduct showing a total
23 disregard for human life. If facts are proved beyond a
24 reasonable doubt sufficient to raise an inference of malice
25 to your satisfaction, this inference would be simply an

1 evidentiary fact to be considered by you, the jury, along
2 with other evidence in the case and you may give it the
3 weight you decide it should receive.

4 Ladies and gentlemen, a deadly weapon is any article,
5 instrument, or substance which is likely to cause death or
6 great bodily harm. Whether an instrument has been used as a
7 deadly weapon depends on the facts and circumstances of each
8 case.

9 The following are examples of instruments which may be
10 deadly weapons: A pistol, a shotgun, a rifle, a dirk, a
11 dagger, a knife, a slingshot, metal knuckles, a razor,
12 gasoline, a fire bomb or Molotov cocktail, and lighter
13 fluid. A gun may be a deadly weapon even if it is not
14 operating.

15 Ladies and gentlemen, the Defendant is also charged
16 with possession of a weapon during the commission of or
17 attempt to commit a violent crime. The State must prove
18 beyond a reasonable doubt that the Defendant was in
19 possession of a firearm or visibly displayed what appeared
20 to be a firearm during the commission of a violent crime.

21 A firearm means any machine gun, automatic rifle,
22 revolver, pistol, or any weapon which will or is designed to
23 or may be readily converted to expel a projectile.

24 In order to find the Defendant guilty of possession of
25 a weapon during the commission of a violent crime, you must

1 first find the Defendant guilty of either committing a
2 violent crime or attempting to commit a violent crime. And,
3 ladies and gentlemen, I would charge you that murder is in
4 South Carolina considered to be a violent crime. The State
5 must prove beyond a reasonable doubt that the weapon
6 furthered, advanced or helped in the commission of the
7 violent crime.

8 Ladies and gentlemen, in this case, the Defendant has
9 raised the defense of self-defense. Self-defense is a
10 complete defense and if it is established, you must find the
11 Defendant not guilty. The State has the burden of
12 disproving self-defense by proof beyond a reasonable doubt.
13 If you have a reasonable doubt of the Defendant's guilt
14 after considering all the evidence, including the evidence
15 of self-defense, then you must find the Defendant not
16 guilty. On the other hand, if you have no reasonable doubt
17 of the Defendant's guilt after considering all of the
18 evidence, including the evidence of self-defense, then you
19 must find the Defendant guilty.

20 The following elements are required to establish
21 self-defense:

22 The Defendant must be without fault in bringing on the
23 difficulty. If the Defendant's conduct was the type which
24 was reasonably calculated to and did provoke a deadly
25 assault, then the Defendant would be at fault in bringing on

1 the difficulty and would not be entitled to an acquittal
2 based on self-defense.

3 The next element of self-defense is that the Defendant
4 was actually in imminent danger of death or serious bodily
5 injury or that the Defendant actually believed he was in
6 imminent danger of death or serious bodily injury.

7 If the Defendant was actually in imminent danger, it
8 must be shown that the circumstances would have warranted a
9 person of ordinary firmness and courage to strike the fatal
10 blow to prevent death or serious bodily injury. If the
11 Defendant believed he was in imminent danger of death or
12 serious bodily injury, it must be shown that a reasonably
13 prudent person of ordinary firmness and courage would have
14 had the same belief.

15 In deciding whether the Defendant actually was or
16 believed he was in imminent danger of death or serious
17 bodily injury, you should consider all the facts and
18 circumstances surrounding the crime, including the physical
19 condition and characteristics of the Defendant and the
20 victim.

21 The Defendant does not have to show that he was
22 actually in danger. It is enough if the Defendant believed
23 he was in imminent danger and a reasonably prudent person of
24 ordinary firmness and courage would have had the same
25 belief. The Defendant has the right to act on appearances

1 even though the Defendant's belief may have been mistaken.
2 It is for you to decide whether the Defendant's fear of
3 imminent danger of death or serious injury was reasonable
4 and would have been felt by an ordinary person in the same
5 situation.

6 Ladies and gentlemen, the last element of self-defense
7 is that the Defendant had no other probable way to avoid the
8 danger of death or serious bodily injury than to act as the
9 Defendant did in this particular instance.

10 A person cannot be required to make an exact
11 calculation as to the degree or amount of force which may be
12 needed to avoid death or serious bodily harm, therefore, in
13 self-defense, the Defendant has the right to use the force
14 needed to avoid death or serious bodily harm. The force
15 used in self-defense does not have to be limited to the
16 degree or amount of force used by the victim. The Defendant
17 has the right to use so much force as appeared to be
18 necessary for complete self-protection which a person of
19 ordinary reason and firmness would have believed to be
20 needed to prevent death or serious bodily harm.

21 If the Defendant is justified in defending himself or
22 others in the firing of the first shot, then the Defendant
23 is also justified in continuing to shoot until it is
24 apparent that the danger of death or serious bodily injury
25 has completely ended.

1 Now, ladies and gentlemen, I'm almost finished with the
2 charge on the law and that brings me to the point of the
3 verdict form in this case. I'm going to hand it to the
4 bailiff and ask that he hand it to the Foreperson, Ms.
5 Anderson.

6 Ms. Anderson, as the Foreperson, it will be your job to
7 lead the deliberations in this case and once a verdict has
8 been rendered, fill out the verdict form.

9 Now, if you look at the verdict form, I want to remind
10 you, if you're looking at the charges, there are two counts
11 on the verdict form. And the first one, as to the charge of
12 murder, we, the jury, unanimously find the Defendant not
13 guilty or guilty.

14 Now, if you remember in the jury charge, just a few
15 moments ago, I charged you that in order to find the
16 Defendant guilty of possession of a weapon during the
17 commission of a violent crime, you must first find the
18 Defendant guilty of either committing a violent crime or
19 attempting to commit a violent crime. So your answer as to
20 charge one will bear on your ability to consider count two.
21 Essentially, the charge says you've got to find in the
22 affirmative as to count one before you can make a finding on
23 the weapons charge. Do you understand that?

24 So just for example, if after deliberations you were to
25 conclude that the Defendant was not guilty of murder, then,

1 necessarily, he would be not guilty of possession of a
2 weapon during the commission of a violent crime because
3 committing a violent crime is a condition that has to exist
4 before the weapons charge would be proper.

5 So, ladies and gentlemen, your verdict has to be
6 unanimous. That means all 12 of you must agree.

7 I have included the order of your choices, either not
8 guilty or guilty. There's no purpose behind which order
9 they were included, just one has to be listed first.

10 Now, ladies and gentlemen, again, when you have reached
11 your verdict, if you would inform the bailiff that you have
12 reached a verdict after you've filled out and signed and
13 dated the verdict form, we will receive you back into the
14 courtroom.

15 Now, if you were to have any questions as you
16 deliberate in this case, if a question arises that you feel
17 needs to be brought to the Court's attention, I would ask
18 that you write that question on a sheet of paper. We'll
19 provided pens and paper for you back there. Notify the
20 bailiff and we'll bring you back in to consider the question
21 that you have.

22 A few more instructions. If one of you 12 needs to
23 leave the jury room to -- for any reason, to use the
24 restroom or anything like that, all 12 of you have to be in
25 the jury room for deliberations to be ongoing. So if one

1 person steps out for any reason, you stop and wait for that
2 person to come back and all 12 of you are there together.

3 Now, I've been telling you since Tuesday afternoon, do
4 not begin your deliberations and don't discuss the case
5 amongst yourselves and you're probably thinking that he's
6 finally going to say we can start. I've got to tell you one
7 more time, don't begin your deliberations quite yet. I have
8 to make sure with the assistance of the attorneys that the
9 items of evidence that have been admitted in this case are
10 in order. So when you receive the items of evidence, that
11 will be your signal to begin your deliberations.

12 So if you would go to your jury room at this time.
13 Don't start quite yet, it will only be a few minutes. When
14 the bailiff brings you the evidence, you can start then.

15 Thank you very much.

16 Oh, and, also, ladies and gentlemen, I understand that
17 it is right in the middle of lunchtime. Your clerk of
18 court, Mr. Campbell, has provided lunch for you as jurors,
19 so we won't have to take a lunch break and you can start
20 your deliberations immediately. Well, immediately when you
21 receive the evidence, don't start quite yet.

22 Thank you.

23 (WHEREUPON, the jury exits the courtroom at 12:42 p.m.)

24 THE COURT: Folks, if y'all will get the items of
25 evidence together.

1 MR. KENT: Judge, you want me to just put this -- no
2 objections with the --

3 THE COURT: Right. Other than the multiple charges. I
4 appreciate you bringing that to my attention. As I
5 explained to the jury, the finding of guilty or not guilty
6 bears upon the second charge. I appreciate you bringing
7 that to my attention.

8 MR. KENT: Just for the record, as we said, I
9 interrupted the Court's colloquy, I apologize for that. It
10 appears as though that I didn't catch it last night, there's
11 a multiple charge in the Court's charge, which was not given
12 to the jury that, basically, said they could find someone
13 guilty independently. The Solicitor looked at it and there
14 was no objection.

15 THE COURT: And that's the usual charge when you have a
16 person facing multiple charges either in multiple
17 indictments or multiple charges in one indictment, but given
18 the nature of the weapons charge, I do think it was
19 appropriate to not include that charge and that's why I
20 didn't read it to the jury. I appreciate the attorneys
21 bringing to my attention.

22 MR. KENT: Thank you, Judge.

23 THE COURT: Folks, if y'all will get together and make
24 sure the items of evidence are in order. As soon as the
25 evidence goes back to the jury, we will be in recess until

1 we hear further from them.

2 MR. KENT: The Defense has looked at the evidence,
3 everything included.

4 THE COURT: The State feels the same way?

5 MR. FINNEY: Yes, sir.

6 THE COURT: All right. Take the evidence to the jury
7 and we will be in recess until we hear from the jury.

8 (WHEREUPON, court was in recess awaiting a verdict at
9 12:46 p.m.)

10 THE COURT: All right, folks, we have a couple of
11 questions. One of them, I absolutely anticipated. The
12 other ones are not necessarily odd, just a little bit
13 surprising.

14 The first one is, Can we watch videos in the jury room?
15 If yes, how?

16 Question number two is, Can we get a copy of the law
17 read by the Judge at the end?

18 Question number three, Can we get a copy of the
19 transcript from the court reporter?

20 So the answer to that one is, obviously, no. With
21 regard to the charge, I think I can tell them that if they
22 want to be recharged on any particular area. I don't want
23 to read the whole charge again. I have never given my
24 charge to the jury.

25 MR. KENT: I've had judges do it, Judge.

1 THE COURT: I think I would consider doing it if the
2 parties consent to it.

3 MR. KENT: I've had other judges do it.

4 THE COURT: I've seen it. I think it's one of those
5 things that's kind of in the discretion of the judge.

6 So, I guess, really, if y'all agree to the charge going
7 back, I can print them a copy of the substantive part of it
8 and send it back if y'all are okay with it.

9 MR. FINNEY: Judge, I don't have an objection to the
10 charge going back. I guess, the paragraph that Mr. Kent --

11 THE COURT: I can take that out. I'll have to reprint
12 it and edit it, but I can do that.

13 I guess the question that's the biggest issue is how
14 we're going to have them watch the videos.

15 MR. FINNEY: If they want to hear specific portions,
16 they can --

17 THE COURT: Right, she can play back specific portions,
18 but an actual transcript of the entire proceeding --

19 MR. FINNEY: I think you just tell them if they want to
20 see a video, they have to come in here. If they want to
21 hear a particular portion of the testimony, they have to
22 come in here.

23 MR. KENT: Do we not have the ability to send back a
24 play video in the back with them?

25 MR. FINNEY: Well, I mean, they'd have to do it on a

1 laptop. You've got 12 people watching one laptop. There's
2 no big screen in that room.

3 MR. KENT: But they have the ability. I mean, that's
4 what my preference would be if they want to watch them. I
5 always leave the jury in the jury room. If they're asking
6 to watch it, if we can, I have no problem with sending them
7 something so they can watch the videos. Our preference
8 would be give the jury what they've asked for.

9 THE COURT: I understand.

10 I mean, if that's not possible, we'll have to bring
11 them -- I mean, the videos aren't lengthy.

12 What I'm going to do is I'm going to bring them back in
13 and I will advise them that given our circumstances, if they
14 want to watch anything, it needs to be done in here. I will
15 provide them with a copy of the charge. If they want to
16 hear any testimony of a specific witness that we can do that
17 as well, but it's got to be -- that absolutely has to be
18 done from within here.

19 MR. FINNEY: Thank you, Your Honor.

20 MR. KENT: Your Honor, are we saying we can't send
21 something back so they can watch the video? Because if so
22 --

23 THE COURT: All I can say is I don't have any mechanism
24 to do that.

25 MR. KENT: That should be the response. I don't like

1 to give superfluous stuff. Can we watch it in the room? If
2 the answer is yes, yes. If the answer is no, no. Not y'all
3 can watch it out here. It sounds like we can just send them
4 a laptop. Like, I don't understand the difficulty. I just
5 like giving juries what they ask for.

6 THE COURT: I understand. The only thing that I -- the
7 only thing that worries me about having them come out here
8 is they won't be able to deliberate as they watch --

9 MR. KENT: So that would be my request, if it's not
10 possible, that's step one. If it's possible, then that
11 would be our preference, because like you said, I've had too
12 many situations -- I don't know what they want to see, but
13 I'd rather them be deliberating as they're looking rather
14 than not deliberating out here. And then, of course, the
15 third question, I think the answer to that is no, we can't
16 provide you the whole transcript. We can give it to you in
17 seven months for \$8,000.

18 THE COURT: Mr. Finney, is it possible to send laptop
19 back there so they can review -- and I know --

20 MR. FINNEY: Can we start over? Could you read the
21 question, please, sir?

22 THE COURT: Yes. The question is, Can we watch videos
23 in the jury room? If yes, how?

24 MR. KENT: So the answer to the first question is yes.

25 THE COURT: And then the second question is, Can we get

1 a copy of the law the Judge read at the end? Which I'm
2 assuming means the entire charge.

3 MR. FINNEY: Right.

4 THE COURT: And then, Can we get a copy of transcript
5 from court reporter?

6 MR. KENT: My preference to the response just on behalf
7 of Mr. Epps would be, yes, we can, we have the ability. We
8 are working on the process of getting you something to
9 watch. Two, here's your dang charges. And three, we do not
10 have the ability to get you the transcript at this time.

11 MR. FINNEY: May I confer?

12 THE COURT: Yes, sir.

13 (Pause.)

14 MR. FINNEY: Judge, I would be of a little bit
15 different mindset feeling that now that the jury has asked
16 for information that we should tell them what we can provide
17 and how we can provide. So I agree that the charge ought to
18 go back. I agree that the transcript cannot be produced,
19 but that they can listen to testimony if they tell us what
20 they want to hear.

21 And as to the video, I'm just concerned that we have to
22 -- for example, the reason I'm concerned is that we must
23 have six videos in evidence, maybe more, maybe less, but
24 it's not like everything is on one disc and you just click
25 on the file to say Sunoco videos are on that file or hotel

1 video on that file. They're on different files. I mean,
2 they're on different discs. So it would seem to me the
3 Court would need to know what they want to see so we can
4 have it pulled up, even though it's back there with them.
5 They don't have anything but discs with names on it or
6 stickers on it. They don't know what's on each disc.

7 Judge, if we can narrow it down, I think we can limit
8 the exposure. Apparently, Mr. Kent is worried about
9 exposing them to stuff. I don't think just giving them the
10 machine and letting them play everything is necessarily the
11 way to do it. It certainly would be more controlled if they
12 come in here and they tell us what they want to see and we
13 play it.

14 THE COURT: Well, I mean, is there anything on these
15 disc that wasn't --

16 MR. KENT: Shouldn't be.

17 THE COURT: -- played for the jury is my question?

18 MR. FINNEY: I don't believe so, but I'm just -- I
19 mention --

20 THE COURT: I understand the ease of navigation part, I
21 just want to make sure that there's -- that they don't see
22 anything that wasn't admitted.

23 MR. FINNEY: I agree. And I was just mentioning
24 there's not just one disc in there. It's a package of
25 discs, six, I think. And, at least, the Sunoco disc has

1 five videos on it, five camera angles, something like that.
2 Camera one, camera 16, camera 12, it has different videos on
3 it.

4 THE COURT: So the way the video clips are labeled on
5 the discs --

6 MR. FINNEY: I can't answer that question, Your Honor.
7 I think they are -- I don't know that they have labels. I
8 just know that the clips themselves are on a disc. The disc
9 has been marked, like Sunoco video, cell phone video,
10 hospital video, the ER room. And if I didn't mention the
11 cell phone video, that was at the Sunoco. That's not on the
12 Sunoco camera, it's on the lady's camera.

13 MR. KENT: I thought we said we edited that and y'all
14 gave me a separate disc to --

15 MR. FINNEY: I believe that's correct. That's one of
16 the five discs or six discs.

17 MR. KENT: No, I'm saying there shouldn't be any extra.
18 We fixed that one.

19 Judge, on behalf of Mr. Epps, one of my primary
20 concerns of bringing the jury out is based upon the
21 Defense's argument as well -- I mean, the arguments from
22 everybody about slowing down videos. So the question is,
23 are they going to have a chance to control the video
24 themselves? Which is why I would like to answer their
25 direct question we can or we cannot. Not y'all come out

1 here and we'll play something for you.

2 THE COURT: Well, I think that's probably dependent
3 upon how savvy -- if they were given a laptop, how savvy the
4 person in control of it was, but --

5 MR. KENT: Just the first question, can we give them
6 something to watch it? If the answer is no, we say no and
7 then let them decide whether they want to go for it. If the
8 answer is yes, then say we can put it on a laptop and send
9 it back there with you.

10 Because let's be candid, Your Honor, it's in evidence
11 at this point in time. So if it's in evidence, we shouldn't
12 control how they get it. We sent it back to them.
13 Candidly, Madam Court Reporter even said, and I wish I would
14 have paid attention, y'all going to send those discs back?
15 I mean, literally said that from the bench.

16 THE COURT: I feel like -- I don't -- I mean, I don't
17 how they can -- I need some instruction because --

18 MR. KENT: Where is Mr. Campbell?

19 THE COURT: I think he had to leave.

20 Mr. Tomlin, could you go see if Ms. Geddings is down
21 there and ask her about is there a laptop that the jury
22 could use?

23 MR. KENT: Your Honor, in an abundance of caution since
24 they're back there deliberating right now waiting on our
25 answers, I'm assuming, can we answer the first two questions

1 and say something to the effect of we're working on question
2 two? They made a request and I don't want them deliberating
3 and we haven't answered their question. We're working on
4 the answer to question two, but we have an answer to the
5 other two. I just don't like the fact of where are they
6 when we have questions and then they come back with a
7 verdict.

8 THE COURT: Before we go down the rabbit hole of trying
9 to get that laptop, I'm going to bring the jury in and
10 answer two of these three questions. Well, I'm going to
11 somewhat answer all three of them.

12 MR. KENT: You don't want to send a note or you want to
13 answer them in person?

14 THE COURT: I usually bring the jury in and answer the
15 questions on the record just in case. I have had attorneys
16 object to the way I answered a question before, so I think
17 it's a better practice to do it on the record.

18 MR. KENT: Yes, sir.

19 THE COURT: All right.

20 (WHEREUPON, the jury enters the courtroom at 1:53 p.m.)

21 THE COURT: Ladies and gentlemen, we received your list
22 of questions. Just for the record, the first question is,
23 Can we watch videos in jury room? If yes, how? Ladies and
24 gentlemen, we are working on that question and doing our
25 best to make it happen so you can watch the videos. So we

1 are working on that one.

2 Number two, Can we get a copy of the law the Judge read
3 at the end? I can give you that and we'll send that back as
4 soon as it is compiled.

5 And number three, Can we get a copy of the transcript
6 from the court reporter? Although she's taking these words
7 down in real time, it's not produced real time. So the
8 short answer to that question is no, we can't give you a
9 copy of the transcript.

10 We're working on the video issue, so I'm going to have
11 you go back to your jury room now. You can continue your
12 deliberations. The bailiff will bring a copy of the charge
13 on the law to you. When we resolve the issue about the
14 videos, we'll let you know that as well. So you may return
15 to your jury room.

16 (WHEREUPON, the jury exits the courtroom at 1:54 p.m.)

17 THE COURT: Mr. Tomlin, if you'll go check on that
18 laptop issue.

19 Madam Court Reporter, if you'll take this note and make
20 it Court's next.

21 MR. FINNEY: Judge, could we state for the record that
22 the State would except to your response to the jury's
23 questions without giving them the option of listening to the
24 courtroom testimony since they cannot get the trial
25 transcript?

1 For the record, the State would have concerns about the
2 jury having a machine to play the discs on without -- I am
3 not making problems here, but I don't know they know how to
4 turn the machine on and play the discs and find the files
5 they need to find.

6 THE COURT: Well, I think we've got to proceed from the
7 standpoint of if they can't do that, they've got to tell us
8 they can't do that. You see what I'm saying, Mr. Finney? I
9 mean, if they get back there and say we can't figure out how
10 to make these things play, then that's another issue. But I
11 certainly don't want to do anything at this point in the
12 proceedings to throw anything off track.

13 I guess my reasoning is I don't want -- I don't think I
14 should be in the position of supposing or inferring what the
15 jury means by their question. I mean, obviously, they're
16 concerned about some of the testimony they heard, but I
17 don't know -- I think I might be overstepping my bounds if I
18 say well, we can play you anything you want to hear absent
19 them saying we really want to -- we want to hear the
20 testimony of whatever witness. I think it's a fine line
21 that I've got to walk in answering only the questions that
22 they've asked.

23 MR. FINNEY: Just note our objection for the record.

24 THE COURT: I will. The objection is noted.

25 MR. FINNEY: Thank you, sir.

1 THE COURT: And, gentlemen, I am working on -- I have,
2 basically, just included the introductory remarks and the
3 substantive law in the charge. I'm going to go downstairs
4 and print what I think is appropriate to send back to the
5 jury in terms of the charge on the law. I will make copies
6 for everybody so y'all can review it.

7 MR. KENT: We feel comfortable, Judge. I feel very
8 comfortable with whatever the Court is sending back.

9 THE COURT: I'll be back in a few moments.

10 MR. KENT: You want us to wait, Your Honor?

11 THE COURT: Yeah, I think Mr. Epps needs to be in here
12 to hear what the bailiff determines about the computer or
13 anything of that nature.

14 MR. KENT: Yes, sir.

15 MR. FINNEY: I just wanted you to know that we do have
16 a spare laptop in the solicitor's office. It has a plug in
17 disc player. It's not a built-in disc player. It's
18 available.

19 MR. KENT: And I'm fine with that, Your Honor.

20 THE COURT: Mr. Caufield, if you'll go retrieve that
21 just in case the clerk's office can't provide anything.
22 We'll see where we go from there.

23 MR. KENT: Just make sure there's not pictures of Mr.
24 Corbett's beach vacation on the laptop. I know how he gets
25 down.

1 THE COURT: No comment.

2 I'll be right back.

3 MR. KENT: Thank you, Judge.

4 (WHEREUPON, a short break was taken.)

5 THE COURT: All right, gentlemen, with regard to the
6 charge, I've put my charge, just the substantive part. I
7 didn't include the explanation about the verdict form or any
8 of that. It ended with the last thing I read on
9 self-defense. So I've got copies for y'all if you want
10 them. This copy can go to the jury.

11 THE BAILIFF: Your Honor, if they ask me about the
12 video, what do you want me to tell them, you're working on
13 it?

14 THE COURT: That's what I told them, so they can just
15 continue their deliberations. If they have any further
16 questions, they just need to write them down.

17 THE BAILIFF: Yes, sir.

18 THE COURT: Do we need to put anything else on the
19 record?

20 MR. KENT: Just for the record, you offered us an
21 opportunity to look at the transcript and based upon our
22 experience and Mr. Finney's experience, we trust everything
23 you sent into the jury.

24 THE COURT: So as far as the video issue, I've been
25 given information that y'all are working on it?

1 MR. FINNEY: We have a laptop here. It is not fully
2 charged, but as long as you plug it into the wall, don't
3 think it will go off. We have to provide either the
4 password and it has a separate port for the disc, so
5 somebody may have to show them how to work it. We're ready
6 to go with that.

7 MR. KENT: I'm comfortable with that. Of course, I
8 think the solicitor had the right question, if they come
9 back with a question, we'll address that when it comes up.
10 I'm like the Court, I just don't like answering questions
11 until they're asked.

12 THE COURT: All right. So we can send -- I guess we
13 can send Mr. Caufield back there. And I don't mind --

14 MR. KENT: I would prefer the attorneys not go back. I
15 think Mr. Caufield as an officer of the court will
16 understand the rules and regulations, just hand it to them.
17 If they ask any questions, just don't answer.

18 THE COURT: All right.

19 MR. CAUFIELD: The bailiff will be with me?

20 THE COURT: Yes, sir, a bailiff will be with you.
21 Let's just wait until he comes back.

22 We'll be at ease until we hear further from the jury.

23 (WHEREUPON, court is in recess awaiting a verdict.)

24 THE COURT: Ladies and gentlemen, I've been informed
25 that the jury has reached a verdict.

1 Is the State ready to receive the verdict?

2 MR. FINNEY: Yes, Your Honor, we are.

3 THE COURT: Is the Defense ready?

4 MR. KENT: Yes, on behalf of Mr. Epps.

5 THE COURT: Folks, I'm going to make this announcement
6 and I want everybody to listen closely. I certainly don't
7 think anything is going to happen when the verdict is read,
8 but at the same time, I understand that this situation is
9 full of emotion on both sides.

10 First and foremost, we're going to maintain order and
11 decorum in this courtroom, so if you have any concerns as to
12 whether you may not be able to control your emotions or do
13 anything that would fall outside courtroom decorum, now may
14 be a good time to step out. Once the jury comes in and the
15 verdict is read, I'm not going to have anything to disrupt
16 the order and decorum of this court.

17 Bring us the jury.

18 (WHEREUPON, the jury enters the courtroom at 5:04 p.m.)

19 THE BAILIFF: The jury is all seated, Your Honor.

20 THE COURT: Thank you, sir.

21 Madam Forelady, has the jury reached a verdict?

22 THE FORELADY: Yes, sir.

23 THE COURT: Is it unanimous?

24 THE FORELADY: Yes, sir.

25 THE COURT: If you would hand it to the bailiff,

1 please.

2 The State of South Carolina, the County of Sumter in
3 the Court of General Sessions, The State vs. Diontrae Trevon
4 Epps, case number 2020-GS-43-622, as to the charge of
5 murder, we, the jury, unanimously find the Defendant guilty.
6 As to the charge of possession of a weapon during the
7 commission of a violent crime, we, the jury, unanimously
8 find the Defendant guilt. Signed Foreperson, September 29,
9 2023.

10 Mr. Kent, does the Defense request polling the jury?

11 MR. KENT: Requesting polling on behalf of Mr. Epps,
12 Your Honor.

13 THE CLERK: May it please the Court, Your Honor?

14 THE COURT: Yes, sir.

15 THE CLERK: Ladies and gentlemen of the jury, I will be
16 calling your juror number and your last name. All it
17 requires is a yes or no answer.

18 Juror Number 47, Geddings, is this your verdict?

19 THE COURT: Is this your verdict, ma'am?

20 JUROR NUMBER 47: Yes.

21 THE COURT: Is it still your verdict?

22 JUROR NUMBER 47: Yes.

23 THE CLERK: Juror Number 177, Wilson, is this your
24 verdict and still your verdict?

25 JUROR NUMBER 177: Yes.

1 THE CLERK: Juror Number 8, Bell, is this your verdict
2 and still your verdict?

3 JUROR NUMBER 8: Yes.

4 THE CLERK: Juror Number 176, Wilson, is this your
5 verdict and still your verdict?

6 JUROR NUMBER 176: Yes.

7 THE CLERK: Juror Number 3, Anderson, is this your
8 verdict and still your verdict?

9 JUROR NUMBER 3: Yes.

10 THE CLERK: Juror Number 97, Morris, is this your
11 verdict and still your verdict?

12 JUROR NUMBER 97: Yes.

13 THE CLERK: Juror Number 82, Krueger, is this your
14 verdict and still your verdict?

15 JUROR NUMBER 82: Yes.

16 THE CLERK: Juror Number 130, Schaller, is this your
17 verdict and still your verdict?

18 JUROR NUMBER 130: Yes.

19 THE CLERK: Juror Number 49, Gibbons, is this your
20 verdict and still your verdict?

21 JUROR NUMBER 49: Yes.

22 THE CLERK: Juror Number 87, McClearn, is this your
23 verdict and still your verdict?

24 JUROR NUMBER 87: Yes.

25 THE CLERK: Juror Number 29, Cooper, is this your

1 verdict and still your verdict?

2 JUROR NUMBER 29: Yes.

3 THE CLERK: Juror Number 121, Rembert, is this your
4 verdict and still your verdict?

5 JUROR NUMBER 121: Yes.

6 THE CLERK: Your Honor, the jury has been polled.

7 THE COURT: Thank you very much.

8 Anything from the State before I excuse the jury, Mr.
9 Finney?

10 MR. FINNEY: Nothing, except we extend our thanks for
11 their hard work this week.

12 MR. KENT: Nothing on behalf of Mr. Epps, Your Honor.

13 THE COURT: Ladies and gentlemen of the jury, your
14 service this week has concluded. I want to thank you for
15 your work this week. It's been a long trial. I know from
16 watching you that you have been paying attention to
17 everything that's been presented to you.

18 Ladies and gentlemen, you have performed your duty as
19 jurors this week. I've been telling you the entire week
20 that you can't talk with anybody about this case. That,
21 obviously, has been lifted now, but if you don't want to
22 talk about this case with anyone and if anyone contacts you
23 and ask you questions and you don't want to answer, you
24 don't have to, but you are lifted from that obligation.
25 Now, if someone persist in asking you questions and you

1 don't want to answer, let the Clerk of Court's office know
2 and they'll know how to handle that situation.

3 Ladies and gentlemen, you have fulfilled your service
4 for the remainder of this year and the next two years. You
5 have the thanks of the people of Sumter County, your elected
6 Clerk of Court, Eddie Campbell, and the South Carolina
7 Judicial Branch. You are now free to go. If you need work
8 excuses, the bailiffs can provide them for you. You are now
9 free to go. Thank you very much.

10 (WHEREUPON, the jury was excused at 5:08 p.m.)

11 THE COURT: Mr. Kent, just for the record, post-trial
12 motions, would you like to exercise your ten days?

13 MR. KENT: I would, Your Honor.

14 THE COURT: The rules allow for that, so the Defense
15 has requested the ten days. Certainly, you will have that
16 time to make any post-trial motions as you see fit.

17 Mr. Finney, is the State ready to proceed with
18 sentencing or do you need a few minutes?

19 MR. FINNEY: Yes, I do need about two minutes to get
20 the sentencing sheet processed. I would like to hand up the
21 prior record of the Defendant and let you review it.

22 THE COURT: All right.

23 Folks, I'm going to take the prior record and step off
24 the bench for a few moments.

25 Mr. Finney, when the paperwork is in the courtroom,

1 have the bailiff step back and let me know.

2 We'll be in recess for a few minutes.

3 (WHEREUPON, a short break was taken.)

4 THE COURT: All right. Mr. Finney, anything else the
5 State wants to present for sentencing?

6 MR. FINNEY: Judge, as you have heard from statements
7 this week, this has been very hard on the Rodgers family.
8 This is Jaquis Brown, who's the brother. He is representing
9 several of his family members who are here today, his
10 mother, Ms. Gray is here, several sisters and other family
11 members. This has been very emotional for them because of
12 the time period that's gone by, it's been a long time. They
13 have desperately wanted to have the conclusion that was
14 reached today.

15 VICTIM'S BROTHER: I just thank the Court for allowing
16 us to be here and the jury for doing their task. We're very
17 thankful for the verdict that was reached today.

18 MR. FINNEY: Thank you very much. I appreciate you
19 being here, sir.

20 The mother does not want to speak today, but she just
21 wants you to know that she's very concerned about her family
22 and the impact this has had on her family.

23 THE COURT: Thank you, Mr. Finney.

24 Mr. Kent.

25 MR. KENT: Thank you, Your Honor. May it please the

1 Court?

2 THE COURT: Yes, sir.

3 MR. KENT: Judge, per my instructions, I'm going to
4 address on behalf of Diontrae. I've asked him based on his
5 appellate's rights, of course, not to address the Court.
6 Please don't take anything disrespectful to that.

7 Judge, first of all, I will tell you on behalf of
8 myself and Mr. Epps, we have watched the Rodgers family.
9 They have been nothing but wonderful to me. They're good
10 God-fearing people.

11 No matter what, we apologize for what y'all have gone
12 through.

13 To Mr. Epps' family, I know how emotional they are, but
14 they have been by his side throughout this entire thing.

15 Judge, there's no secret whatsoever, this has been a
16 very emotional week for me. I feel like it's my fault. And
17 I apologize. He's been a model client, as good as I could
18 have possibly asked for. To the Court, I apologize for
19 anything I have done throughout the course of the week that
20 aided in the verdict.

21 25 years of doing this, Your Honor, of course, I have
22 never challenged or questioned a jury verdict and never will
23 now. I do 100 percent have my concerns, as you can imagine.
24 This was not a verdict, this was not a trial, this was not a
25 situation which we put this together trying to just vote for

1 something, this is what we want. This is not out of
2 disrespect to Mr. Rodgers' family or to Solicitor Finney,
3 but looking at the evidence, everything that I presented was
4 stuff that we 100 percent, wholeheartedly believe in. So
5 again, I can't apologize enough if my presentation aided in
6 the conviction for Mr. Epps.

7 Let me make this clear, Your Honor, and I understand
8 when we talked about his statement, even from talking to him
9 to him the entire four years. And I've lived with this for
10 four years. Talking to him through the entirety in the
11 jail, the conversation was never I did it or I didn't do it.
12 The conversation was I don't know. And that's why I think
13 this is hard on me because maybe it was my fault and I'm the
14 one who has (indiscernible) and that's something I have to
15 live with.

16 Again, this has been hard. I'm very blessed to meet
17 the Rodgers family because I cannot say anything but
18 wonderful things about this. I've made some friends. This
19 one hurts. And I know this comes across as unprofessional.

20 What I said to the jury, I do 100 percent
21 wholeheartedly believe in and I did tell him this, the
22 situation on video was thankless and awful and an awful
23 situation and I told him that it would be difficult for the
24 Sumter folks to look past what they saw in the video. And I
25 wholeheartedly think what aided in his conviction is simply

1 he's on the video shooting.

2 Your Honor, when it comes to sentencing, I understand
3 tremendously that this is by far the most difficult thing
4 that the Court has to do with coming up with a sentence to
5 show what is deserved. Your Honor, I would request a
6 30-year sentence in this situation for a few reasons. One,
7 25 years of doing this, life sentences don't do any good.
8 They send people to the Department of Corrections, they have
9 nothing to look forward to, nothing to make them model
10 inmates and this person is going to be in a wheelchair in
11 the Department of Corrections. I do believe if what the
12 jury believed to be true, which is what I must believe, they
13 believe that a person was shooting out there aimlessly and
14 so what can we do. 30 years is a long time.

15 I know the family is too emotional to address the Court
16 right now, but I speak on their behalf. Again, I apologize
17 to the community. I apologize to the Rodgers family. I
18 apologize to Solicitor Finney, who tried an amazing case.
19 All we can ask now is get a sentence that is appropriate
20 that shows what we went through.

21 Thank you for your time, Your Honor.

22 THE COURT: Thank you, Mr. Kent.

23 Just for the record, I understand that Mr. Kent has
24 instructed Mr. Epps not to address the Court and I
25 understand the reason behind that. I certainly take no

1 offense to that decision. I understand the reason behind
2 it.

3 There are lots of words that could be used to describe
4 what happened on Broad Street on September 8th, 2019 at the
5 Sunoco gas station. Tragic is obviously the first one that
6 comes to mind, chaotic, senseless. There were a lot of
7 lives put at risk that early morning. Law enforcement
8 collected a lot of shell casings, so a lot of projectiles
9 flying obviously that night. It put the people that were
10 there at risk. It put the people passing by on Broad Street
11 at risk. It put purely innocent people at risk.

12 Things like this are happening all over this country
13 and it just needs to stop. I think everyone in this room
14 would agree that things like this can't continue to happen
15 in our society.

16 I reviewed Mr. Epps' prior criminal record. Obviously,
17 I listened to every bit of testimony and every piece of
18 evidence that has been presented in this case, taking the
19 words of the Defendant, Mr. Rodgers, his family and taking
20 into consideration the remarks of Mr. Kent. And Mr. Kent
21 was right, it's been a hard week. It's been a hard week for
22 everybody. It's been a hard week for folks in the gallery.
23 It's been a hard week for these lawyers. It's been a hard
24 week for the Court. This has been a difficult case just
25 because of the gravity of what we're all dealing with and

1 what happened on that night and because of the senselessness
2 and tragic nature and chaos that put innocent people at
3 risk.

4 On the count of murder, the sentence of the Court,
5 Diontrae Trevon Epps is sentenced to the South Carolina
6 Department of Corrections for a term of life. He's given
7 credit for the time he's served awaiting trial.

8 As to the law, with regard to the weapons charge, a
9 life sentence is entered, there will be no sentence on the
10 weapons charge. That is the sentence of the Court.

11 We're going to follow the procedure that we've followed
12 this week. We're going to allow the supporters of Mr.
13 Rodgers and Mr. Rodger's family to leave the courtroom -- I
14 take that back. We will allow Mr. Epps' supporters and
15 family members to leave the courtroom first.

16 (WHEREUPON, Court's Exhibit Nos. 5 and 6 were marked
17 for identification.)

18 (WHEREUPON, the proceedings were concluded.)
19
20
21
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24
25

CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

April 21, 2024

Penny M. Johnson
Penny M. Johnson
Transcriber



**CITY OF SUMTER
POLICE DEPARTMENT**

Detective: Willie McFadden #1874

Murder Case # 19124404
Date of Incident: 09-08-2019
Location: 1083 Broad Street,
Sumter, SC, 29150
(Hop-In Gas Station)

NOTES

Diontrae Travon Epps (DOB: [REDACTED]) Address: [REDACTED], Sumter, South Carolina, 29150

On Sunday (9/15/2019) Epps was released from Prisma Richland Health Hospital and Detective W. McFadden and Detective S.Sgt. I. Culick made contact and followed up with Epps at his residence. Epps girlfriend brought him to his mother's house at [REDACTED] for Law Enforcement to interview. Epps was advised of his Miranda Rights (Written & Verbal), and Epps stated that he understood. Epps then completed a written waiver of his rights. Epps then went on to say that he doesn't remember much about that night. Epps stated "We went to the store" but he wouldn't say who was with him. Epps stated they rode through the S&B club parking lot before driving across the Street to Sonoco. He said there was a lot of cars at Sonoco and everybody was just mixing around except for him. Epps said that he had gotten into an argument with his girlfriend so he was just lying in the backseat of the car. He would not tell what type of car, color, or who the car belonged to. When asked who was driving he said "I was driving my cousins car". Epps said he was arguing over text with his girlfriend and rolled a blunt. Epps then heard a commotion and saw a group of people near the front corner arguing. Epps heard a shot and took off running. Epps said "I was hit, didn't see who did what". Epps went on to say "My leg was jumping" so he pulled his body behind a red Sentra. Epps said that he remembers laying there so long because of all the gunshots. He said there was choppers and all kinds of guns going off. He threw his head against the back tire. He heard them (unknown who them is) say "Trae shot". Epps told them to call his mother. Epps said that he had been drinking. This was all Epps could remember.

When asked if someone was shooting at him, Epps responded "I don't know who shot me". When asked if he had a problem with Killa Mike. Epps stated that he made a comment on Facebook after Killa Mike was jumped in the club but went on to say "that didn't have nothing to do with it". Epps then stated "They were already shooting when I got out". He was in the car texting with his girl when he heard shots, he got out and "hailed ass". Epps was asked if he heard anything that was said and he stated "Heard Northside, Money. "I jumped out, that's it don't know nothing else".





**CITY OF SUMTER
POLICE DEPARTMENT**

Detective: Willie McFadden #1874

Epps was asked if he had a gun or fired a gun. He stated he did not fire a gun. Epps said "in car texting ain't had no money". When asked who he saw with guns out there his response was "there was about a hundred guns out there". When asked about the car he drove to the Sonoco in and where he parked Epps stated "Drove but can't remember what color car, can't remember where I parked". Asked Epps if he remembered being near the Wendy's side of the Sonoco – no response. When asked who was at the store that night and who is even one person he remembered seeing Epps stated "I ain't want to call no names".

When Epps was asked what was he told about being shot or has anyone told him who shot him since he doesn't know Epps stated "I'm going to feel like people telling me Killa Mike shot me, I say how Killa Mike shot me, I didn't even see him". When asked why people would say Killa Mike shot him Epps stated "I don't remember anything else".

When asked about Dontae Middleton, Epps stated "Sad as hell, I know him, that shit sad. Epps said "I got a child on the way". He also talked about getting a puppy. When asked if Polo was there Epps did say Polo was out there and went on to say "I was in wrong place wrong time". Epps was asked if he saw the video Tae Blocka put out and Epps said "Don't know about video". Asked if he knew about Facebook posts regarding Tae Blocka's video or any problems people had with Tae Blocka - Epps said "I've heard things, can't tell you, they can tell you what beef they got".

When asked what people were doing at the store before the shooting incident Epps said everybody was just loitering around. He was asked if he was with them and he stated "I was just laying in the car". When asked what car he was laying in he said "Don't remember, ain't going to tell yall nothing else about nobody that don't have nothing to do with this".
Interview Ended.

Epps would not give his cellphone number – gave his mother's number [REDACTED]

Epps came to the City of Sumter Police Department on Tuesday (9/17/2019). Law Enforcement requested a DNA sample from Epps and advised him it was to compare with blood evidence found at the crime scene. Epps gave consent to give DNA sample for Analysis and he completed & signed the Consent Form. Buccal Swabs were collected from Epps. After collecting DNA from Epps Detective McFadden and S.Sgt. Culick told Epps we needed to talk to him more. Epps stated that he didn't want to talk and that he was ready to go. Detective W. McFadden and S.Sgt. I. Culick advised Epps that he was being charged with the Murder of Michael Rogers, the incident that happened on September 8th, 2019 at the Hop-In Gas Station. Epps threw a punch at Rogers (victim), Epps then pulled out a handgun and fired several shots striking the victim, where the victim was later pronounced dead as a result of gunshot wounds. Epps is also being charged for Unlawful Carrying of a Pistol and Possession of a Weapon during a Violent Crime. When Detective McFadden read & served that Murder Warrant, Epps stated; I never had a gun, I never



**CITY OF SUMTER
POLICE DEPARTMENT**

Detective: Willie McFadden #1874

shot no gun, I never shot anybody, and continued to repeat it. Epps also stated that he never punch Rogers. Epps was also stating "yall don't have me on no video". Epps was advised that he wasn't on the girls' video, but was on the video from the Sunoco Store. Epps started pouring down sweating. Epps then stated "I did swing on him". Epps stated that Killa Mike then pulled out a gun and he took off running. Epps stated he saw other people shooting while he was running, but he isn't going to tell their names. Epps stated he doesn't know who shot him or who shot Killa Mike. Epps asked could he call his mom and talk with her. Epps talk with his mother and after speaking to her, Epps asked if his girlfriend can come talk to him. Epps girlfriend that was in the lobby of the Police Department was allowed to speak with him. Epps was given a copy of his Murder Warrant. Before walking outside, Epps stated "I did swing on Killa Mike". Epps demonstrated how Killa Mike was coming up to him aggressively and did like a "chest bump". Then Epps stated that's why he swung on Killa Mike. When Epps was about to be put in Detective McFadden's vehicle to be transported to Sumter County Detention Center, Epps requested to speak to Detective McFadden alone before being transported. Epps sat down in Detective McFadden vehicle and stated to Detective McFadden that he would take a polygraph to prove that he didn't have a gun, he didn't shoot a gun, and that he never shot nobody. Detective McFadden advised Epps that we are not going to give a polygraph to him when we know for fact that is not true and that Law Enforcement knows that he had a gun and fired a gun. Epps then stated to Detective McFadden "alright this is what really happened" and requested for what he was about to say to stay between him and Detective McFadden. Epps then stated to Detective McFadden that Killa Mike walked up to him all fast and aggressively so he did swing on Killa Mike. Epps then stated Killa Mike then pulled out a gun. Epps then stated he then turn around to run and as he was turning around to run, he did pull out "my thing, my thing, my gun", and did shoot it. Epps stated as he was turning around and running away he shot his gun behind him. Epps stated "I was like this", Epps motioned as if he had a gun and showed how he fired it that night with it behind his back. Epps then ask "can I still get a Murder charge for that?" Detective McFadden advised Epps "yes". Epps then stated he was ready to go to jail and asked to call his mom again. Detective McFadden called his mother and put the phone on speaker phone while Epps was being transported to Sumter County Detention Center. Epps mother told him not talk to anyone without an attorney. Epps asked his mother to call Attorney Shawn Kent. Epps then stated to his mother "mom I didn't shoot nobody, I didn't kill nobody".

Witness Statement

Name: Tyrell Billups

Address: [REDACTED]

DOB: [REDACTED]

Phone # [REDACTED] (Cell)

On Saturday night 9-7-19 I went to the Sonoco on Broad Street with my cousin Bubba. I was driving my 2017 white Malibu. I parked on the last park on the row in front of the store on the Rite Aid side.

I went to the store earlier that night around 11:30 PM and parked by the gas pumps and Bubba took my picture. It was me, Bubba and Kount-up. That is when I talked to D-Black. He came to my car window and asked me what I was doing out and I told him I had a show at S&B Lounge. He told me he was going to go home get dressed, go to Brewers, and come see me at the show. I have known him since I was like 17 or 18 years old. Me and Bubba was sitting in the car and Kount-up was in the parking lot doing whatever he was doing. We hung out for a while and then we left. We went across the street to the S&B parking lot. We were just bullshitting out there. I parked in the pool hall parking lot. We just chilled with some females. Nobody in the club yet. So the guy that works for S&B told us we couldn't hang out in the parking lot. So we had to go inside or leave so we went back across the street to the store.

I parked and it was me and Bubba. Kount-up walked from across the street (from S&B to Sonoco). Sat in the car for a minute chilling. We got out the car and I went inside the store and got some cigarettes and probably some chewing gun. We were there about 20 minutes before it happened. While we were there everybody/cars started pulling up. That is where everyone hangs out at. Before the club that's where the females hang out at and everybody just hangs out.

I saw Trey Epps, Big Wop, Jay, D-Black, Killa Mike, Dale, Little Archie, Little Mike, Rock, know Polo was there because Polo had a show because we both have a show at S&B Lounge (That's the only reason Trey and Wop or anybody with them have a show they come out to support him). Girls from Manning that shot that video – Mani. Saw Elo out there the first time I pulled up and I walked over there and shook his hand. He was in a car. I didn't look in the car I just know he was on the passenger side. I can't remember what type or color of car. *TR*



I walked over towards the Wendy's side where the freezer was at in front of the store. I talked to Jay for a minute. We were standing around. Big Wop was standing near us. I think Big Wop is Trey's brother. Jay, Polo, Big Wop, and Trey I think are all from Mayesville. Trey was just standing by me and Jay chilling. Everyone was just chilling. Nobody had no type of nothing going on until the red Charger pulled up. The car came through the parking lot hitting the gas and stopping real quick making the errrrrr noise. The music was loud in the car. I think they circled around the parking lot one time before they backup in front of the store. They parked by the white car that D-Black was found in. While they were in the car they were flagging with their guns. When they got out the car, three of them, they put the guns in their waist band/pants. Little Mike was drive the red Charger. I didn't see him get out. Little Archie, Dale, and Killa Mike all handguns. They got the car and started walking around. Killa Mike was being loud walking around rapping. Killa always acts like that when he is drinking. Everybody knows that's just him and how he acts. I have known him since I was like 17 or 18 years old and I just ignored him. D-Black came back and told everybody to chill and calm down. Trey started walking towards where the action was towards the door. I was talking to Jay and I heard all the commotion, but I'm still not paying it any attention. I hear a girl name Mani say they about to fight. That is when I hear gunshots and I hauled ass. A lot of shots were fired. I didn't see anybody shooting guns. I ran and was chilling until the gunshots stopped. I ran towards Wendy's and chilled on the side of the store. Nobody was with me. I didn't see nobody in the Wendy's parking lot. When the shoots stopped I was running back across the parking lot to my car. I did not pay attention to who was out there I was just worried about getting to my car. I saw Killa Mike laying on the ground in front of the store and a dude coming out of the store. As he is coming out store I see a silver car coming and I heard one gunshot. I got in my car and Rock came running from the Rite Aid side of the store and knocked on my window and asked for a ride. I gave him a ride to Windsor City. I guess he stays out there too. I see him when I go to my mom's house in Windsor City. My cousin Kenny Perry called me several times on my cellular phone. Perry wanted to make sure that I was alright, because he knew I was at the store. He also wanted me to come back to the to S&B lounge. When I got back to S&B, Perry told me that the party was over, because of what happened at the store. There was a lot of people

TB

standing in the parking lot look towards the store. That's when I found out it was D-Black. I went home. I didn't have a gun that night.

I don't know what is going on between Trey and Killa Mike. Don't think a rap song started all that.

Trey is a crip.

Tae is Blood. I know him through music. I saw his video Boost the Murder Rate. Yotti got upset about Tae throwing down the pitchfork. There was a picture on Facebook of Tae throwing down the pitchfork that someone screen shot from the video.

Don't think Killa Mike is in a gang. I know for a fact D-Black is not in a gang.

Were at S&B the night Killa Mike got knocked out. That had something to do with the dude Yotti. I was in the smoke room when Yotti and Boat gas was fighting. After that Killa Mike was saying some shit and it escalated from there and some guys jumped on him. I was there with Bubba and Kount-up that night chillin.

Jay and Big Wop come to the TNT studio with Polo. I see them in there sometimes. I was in a video with them and we have recording before. We never released it thought.

I know Trey from school but he was always a little younger than me.

I don't know what kind of car Jay drives.

My car got hit by 3 or 4 bullets. My mom Marsha Billups took the car to the insurance and they said take it to Scott Will. One of the bullets hit the radiator and that caused it to run hot.

Bubba told me he didn't know how he got grazed or what happened.

Kount-up was at S&B when I got back there. He didn't tell me anything.

Signature: [Signature] Date: 7/25/19

Witness: [Signature] Witness: [Signature] 11/6/19



**SUMTER POLICE DEPARTMENT
INTERVIEW FORM**



BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS.

- YOU HAVE THE RIGHT TO REMAIN SILENT.
- ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.
- YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU ANY QUESTIONS, AND TO HAVE HIM/HER WITH YOU DURING THE QUESTIONING.
- IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE APPOINTED FOR YOU BEFORE ANY QUESTIONING IF YOU WISH.
- IF YOU DECIDE TO ANSWER ANY QUESTIONS NOW WITHOUT A LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP ANSWERING AT ANY TIME UNTIL YOU TALK WITH A LAWYER.

WAIVER OF RIGHTS

BEFORE ANY QUESTIONING, I WAS FURNISHED THE ABOVE STATEMENT OF MY RIGHTS AT 9:50 A.M. / P.M. ON 9-25 2019 AT Sumter P.D. BY OFFICER SSgt. C. Lick OF THE SUMTER POLICE DEPARTMENT.

I HAVE READ OR HAD READ TO ME THIS STATEMENT OF MY RIGHTS. I UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO ANSWER QUESTIONS AT THIS TIME WITHOUT A LAWYER PRESENT. NO PROMISES OR THREATS HAVE BEEN MADE TO ME, AND NO PRESSURE HAS BEEN USED AGAINST ME.

Tyrell Billups
 SIGNED: Ty B
 DATE: 9/25 TIME: 9:51

WITNESSES:

L. L. C. Lick

Epps Interview Notes**Det. McFadden and SSgt. Culick****██████████, Sumter****September 15, 2019**

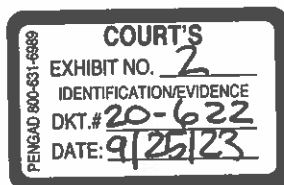
Epps was released from Prisma Richland Health. Epps girlfriend brought him to his mother's house at ██████████ for us to interview. Epps was read his rights and he signed a waiver of rights form. Epps then went on to say that he doesn't remember much about that night. He stated "We went to the store" but he wouldn't say who was with him. He stated they rode through the S&B club parking lot before driving across the Street to Sonoco. He said there was a lot of cars at Sonoco and everybody was just mixing around except for him. He said that he had gotten into an argument with his girlfriend so he was just lying in the backseat of the car. He would not tell what type of car, color, or who the car belonged to. When asked who was driving he said "I was driving my cousins car". Epps said he was arguing over text with his girlfriend and rolled a blunt. Epps then heard a commotion and saw a group of people near the front corner arguing. Epps heard a shot and took off running. He said "I was hit, didn't see who did what". Epps went on to say "My leg was jumping" so he pulled his body behind a red Sentra. Epps said that he remembers laying there so long because of all the gunshots. He said there was choppers and all kinds of guns going off. He threw his head against the back tire. He heard them (unknown who them is) say "Trae shot". Epps told them to call his mother. Epps said that he had been drinking. This was all Epps could remember.

When asked if someone was shooting at him, Epps responded "I don't know who shot me". When asked if he had a problem with Killa Mike. Epps stated that he made a comment on Facebook after Killa Mike was jumped in the club but went on to say "that didn't have nothing to do with it". Epps then stated "They were already shooting when I got out". He was in the car texting with girl when he heard shots, got out and "hauled ass". Epps was asked if he heard anything that was said and he stated "Heard Northside, Money. "I jumped out, that's it don't know nothing else".

Epps was asked if he had a gun or fired a gun. He stated he did not fire a gun. Epps said "in car texting ain't had no money". When asked who he saw with guns out there his response was "there was about a hundred guns out there". When asked about the car he drove to the Sonoco in and where he parked Epps stated "Drove but can't remember what color car, can't remember where I parked". Asked Epps if he remembered being near the Wendy's side of the Sonoco – no response. When asked who was at the store that night and who is even one person he remembered seeing Epps stated "I ain't want to call no names".

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Epps said "I got a child on the way". He also talked about getting a puppy. When asked if Polo was there Epps did say Polo was out there and went on to say "I was in wrong place wrong time".

Epps was asked if he saw the video Tae Blocka put out and Epps said "Don't know about video". Asked if he knew about Facebook posts regarding Tae Blocka's video or any problems people had with Tae Blocka - Epps said "I've heard things, can't tell you, they can tell you what beef they got".

When asked what people were doing at the store before the shooting incident Epps said everybody was just loitering around. He was asked if he was with them and he stated "I was just laying in the car". When asked what car he was laying in he said "Don't remember, ain't going to tell yall nothing else about nobody that don't have nothing to do with this".

Interview Ended.

Epps would not give his cellphone number – gave his mother's number [REDACTED]

FEDERAL BUREAU OF INVESTIGATION

Date of entry 04/25/2022

Tyrell Markel Billups, date of birth [REDACTED], was interviewed on April 21, 2022, pursuant to a proffer agreement. The interview took place at the Sumter County Sheriff's Office, located in Sumter, South Carolina. Also present for the interview was Sumter County Sheriff's Office Investigator Earl Bradley, DEA SA Brandon Bamberg, and Billups' attorney, Cameron Blazer. Already familiar with the identity of the interviewing Agent and purpose of the interview, Billups provided the following information:

Billups stated that he had a fentanyl supplier who resided in the state of [REDACTED]. Billups said that sometime in 2020, his partner, [REDACTED], aka [REDACTED], got booked to perform as a rapper at a club in [REDACTED]. He was booked by a [REDACTED] and [REDACTED]. Billups stated that the [REDACTED] is the brains of the two, and she [REDACTED]. Billups stated that he and [REDACTED] flew up to [REDACTED] for the gig.

While they were in [REDACTED], Billups and the [REDACTED] and [REDACTED] talked about heroin and fentanyl, and how they could help each other sell it.

A couple weeks after going to [REDACTED], which was sometime late 2020 or early 2021, the [REDACTED] came down south and supplied Billups with 2-3 ounces of fentanyl. Billups said he bought it for \$1,500 - \$1,600 per ounce. Billups then took the 3 ounces and cut it to increase the amount he could sell to 6 ounces. He recalled that it took him about a month or a month and a half to sell it all. Billups said if he had access to his phone, he could show Agents what phone number the [REDACTED] used to text him. He added that it's the only [REDACTED] area code in his phone. All the text messages with a [REDACTED] area code are from the [REDACTED] he is referring to.

The second time the [REDACTED] came down south, he delivered another 2-3 ounces of fentanyl to Billups. Billups said the [REDACTED] and [REDACTED] have family in [REDACTED], and the [REDACTED] said he also supplies people in that area. The [REDACTED] told Billups that his [REDACTED] and [REDACTED] live in [REDACTED].

Billups stated that the [REDACTED] made four trips in which he supplied him

PENGAD 800-631-
EXHIBIT NO. 2
IDENTIFICATION/EVIDENCE
DKT # 20-622
DATE: 9/25/23

Investigation on 04/21/2022 at Sumter, South Carolina, United States (In Person)

File # 245D-CO-2960835

Date drafted 04/25/2022

by CONROY KEVIN E

245D-CO-2960835

(U) Proffer interview with Tyrell Billups,
Continuation of FD-302 of dated 4/21/22 . On 04/21/2022 . Page 3 of 4

Billups was asked who his [REDACTED], [REDACTED], is getting dope from now, and he replied that he doesn't know.

He heard that two high school kids, [REDACTED] and [REDACTED], are moving a lot of weight of fentanyl right now. They both go to [REDACTED]. Billups heard that both of them are [REDACTED], and they both definitely affiliate with other [REDACTED]. Someone else who goes by [REDACTED] is also selling.

At this point in the interview, Agents had obtained Billups' cell phone and charged it up. Once access was gained to the phone, Billups confirmed that telephone number [REDACTED] belongs to "[REDACTED]". A further look into saved text messages revealed that [REDACTED] provided his true name of [REDACTED] to Billups. He provided his real name because he wanted Billups to send him some money Wal-mart to Wal-mart. [REDACTED] would send clothes from his [REDACTED] [REDACTED] and Billups would send money to them. Billups would also help them promote the [REDACTED]. Billups positively identified a photograph of [REDACTED] from an online search that showed [REDACTED] as [REDACTED] from [REDACTED]. In that same string of text messages, [REDACTED] sent an address of [REDACTED], [REDACTED] South Carolina, [REDACTED]. Billups believes that is the family's house.

At this point in the interview, SA Conroy told Billups that there was information that he was at the Sunoco gas station in Sumter on the night of a double homicide a few years ago, and that during the shootout, Billups lost a magazine to his pistol. Billups confirmed that he did lose a magazine that night.

SA Conroy then asked him to describe what he saw and heard that night. Billups said he was across the street at S&B and the bouncer told him and others that they couldn't hang out outside the club, so they had to leave. Billups said he, Count Up (Lancaster), and Bubba B, his cousin, drove across the street to the Sunoco where everyone hung out. He said while he was there, he saw Killer Mike, Little Mike, Dell, and Little Archie pull up in a red car. They did some burn outs in the parking lot and then backed into a space. When they got out of the car, they were all acting loud. After a while, Billups saw Trey come from around the building and challenge Killer Mike to a fight. Killer Mike said he didn't want to fight, and he then pulled out a gun, pointed it at Trey, and pulled the trigger. Billups said the gun "clicked" and didn't fire. Trey then realized that Killer Mike's gun didn't fire. Trey then pulled a gun and shot Killer Mike. Billups said he witnessed the shooting first hand because he was standing right there.

Billups was asked if he fired any shots, and he stated that he did. He

245D-CO-2960835

(U) Proffer interview with Tyrell Billups,
Continuation of FD-302 of dated 4/21/22 , On 04/21/2022 , Page 4 of 4

said when the shooting started, he fired about five shots in the air while he was running for cover. He said he got in his car and left. He realized that night that his car had bullet holes in it. At some point while he was running away, he lost his magazine. He said there was shooting coming from everywhere around him.

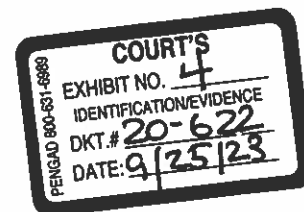
When asked if he had spoken to any of the investigating officers about the homicides, Billups said he had. He said nobody ever specifically asked him if he saw who shot Killer Mike so he never talked about it. He said he didn't lie to the police when they asked him questions about that night, but nobody had ever asked him those questions before.

Billups stated that the whole shooting had something to do with Tae Blocker and someone else who robbed Romero Davis. Tae Blocker did a rap song about the robbery and bragged about it.

SA Conroy advised Billups and his attorney that he would reach out to the Sumter Police Detectives who were investigating the Sunoco homicides and set up a meeting with them. SA Conroy advised Billups to try and recall all the details he could about that night in advance of the interview. Billups stated he doesn't have to think about it because he remembers that night very clearly.

Discovery Received Wednesday, May 27, 2020

- Leon Christopher Brown — dated September 9, 2019 (2 pages)
- Sarah Barwick — dated September 10, 2019 (1 page)
- Tyrek Quashau'n Archie — dated September 18, 2019 (1 page)
- Tyrell Billups — dated July 25, 2019 (3 pages)
- Brad Benenhaley — dated September 8, 2019 (1 page)
- Nadifah Akuabia Brown — dated October 9, 2019 (1 page)
- Alhagi Cham — dated September 16, 2019 (1 page)
- Josh Christmas — dated September 8, 2019 (1 page)
- Kendall Dow — dated September 16, 2019 (2 pages)
- Rodney Lewis, Jr. — dated September 18, 2019 (1 page)
- Rodriques Lewis — dated September 19, 2019 (2 pages)
- Michael Raheim Lucas — dated September 9, 2019 (1 page)
- Jay McBride — dated September 15, 2019 (1 page)
- Demetrius McDonald — dated October 9, 2019 (2 pages)
- Javonna Myers — dated October 7, 2019 (1 page)
- Javonna Myers — dated October 7, 2019 (1 page)
- Ra'Kiera Kieasia Myers — dated October 7, 2019 (2 pages)
- Lerontae K. Porter — undated (1 page)
- Risheen Gervais Rich — dated September 11, 2019 (2 pages)
- Monita Zamoria Robinson — dated September 11, 2019 (2 pages)
- Chelsea Rogers — dated September 11, 2019 (2 pages)
- Timothy Wardell Scarbough — dated September 10, 2019 (2 pages)
- Timothy Scarbough dated September 10, 2019 (1 page)
- Jerrod Rashawn Scriven — dated October 2, 2019 (1 page)
- Tyre'k Shannon — dated October 1, 2019 (2 pages)
- Perry P.J. VanBuren — dated September 16, 2019 (2 pages)
- Ellquin Carban Williams — dated September 10, 2019 (1 page)
- Prior Criminal Record — see attached.
- Reports of Examinations and Tests:
 - Trace Number T2019034317 Firearms Trace Summary — October 24, 2019
 - Trace Number T20190354729 — Firearms Trace Summary — October 7, 2019
 - SCSO Lab No. LI 9-116 — Laboratory Analysis — October 3, 2019
 - City Incident, Supplemental and Investigative Report, Case No. 19124404, 19126711, 19124439, 19124322, 17119871, 19126922 and other relative Materials
 - County Incident, Supplemental and Investigative Report, Case No. 19129641, 19130151, 19140862 and other relative materials.
- Photocopy of the front page of Gregory Donta' Middleton Homegoing Celebration Program.
- Photocopy of the front page of Michael Carlton Rogers Homegoing Celebration Program.
- Identifying Picture (Leon Brown — Witness) dated September 9, 2019
- Search Warrant dated September 9, 2019.
- SCDMV Current Plate (2011 Dodge Charger WT.



- Search Warrant dated September 11, 2019.
- Search Warrant dated September 13, 2019.
- Search Warrant dated September 23, 2019.
- Search Warrant dated September 10, 2019.
- Search Warrant dated September 30, 2019.
- Search Warrant dated September 23, 2019.
- SLED Lab No. L19-19202 (DNA Department)
- Memo to James Allsbrook dated January 2, 2020. (2 pages)
- CAD Operations Report. (12 pages)
- CAD Operations Report. (2 pages)
- Call Detail Information. (7 pages)
- Gregory Dante Middleton SCSO Booking Report.
- Evidence Inventory and Chain of Custody. (5 pages)
- Memorandum of Interview dated September 12, 2019.
- Lieutenant's Report (Ofc. Austin) dated September 8, 2019.
- Gunshot Residue Analysis Information Form.
- SPD Consent to Search.
- Kory Joseph Kemp North Carolina Driver's License.
- Sumter Chrysler, Dodge, Jeep, Ram Credit Application (Kory Kemp).
- Kory Joseph Kemp SCSO Booking Report.
- Kory Joseph Kemp Sumter Chrysler Dodge, Jeep, Ram Retail Purchase Agreement.
- SCDMV Title Application.
- Agreement to Provide Accidental Physical Damage Insurance.
- Sumter Chrysler Dodge Jeep Ram Vehicle Invoice
- Kory Joseph Kemp Name Detail (5 pages)
- Certificate of Title (2017 Niss).
- Handwritten Note (Kory Joseph Kemp Information
- Search Warrant dated September 10, 2019.
- Scott Will Collision Assignment Sheet
- Memo to SPD Evidence Custodian dated October 7, 2019.
- Memo to SPD Evidence Custodian dated October 2, 2019
- Akeem Jermile Hickman 10 Year Driver Record.
- Akeem Jermile Hickman SLRDC Name Detail.
- Memo to Evidence Custodian dated October 2, 2109 (3)
- Memo to Evidence Custodian dated November 4, 2019
- Isyah Rose SLRDC Name Detail.
- SCDMV Current Plate Report (2017 Niss Sentra).
- SLRDC Incident Detail, SCSO case No. 19126407
- SLRDC Incident Detail, SCSO case No. 19140862.
- Randy Maple SLRDC Name Detail
- CAD Operations Report. (2 pages)

- CAD Operations Report. (3 pages)
- Eyan Ernest Nathaniel SLRDC Name Detail
- Note regarding Monday, September 9, 2019
- CAD Operations Report. (3 pages)
- Photocopy of Inspire Communities Business Card (Jemetris Lindsay, Community Manager).
- SLRDC Incident Detail, SCSO case #19126407
- SLRDC Incident Detail, SCSO case #19129641
- SLRDC Incident Detail, SCSO case #19140862
- Consent to Search (India Brunson).
- CAD Operations Report. (2 pages)
- SPD Interview Form.
- Tyrek Quashawn Archie SLRDC Name Detail.
- Tirek Quashawn Archie 10 Year Driver Record.
- Sheldon Levern Benjamin, Jr. 10 Year Driver Record
- Sheldon Levern Benjamin SLRDC Name Detail.
- Handwritten Notes (list of phone numbers).
- Law Enforcement Bond Recommendation Sheet (Sheldon Benjamin).
- Notes regarding Sheldon Levern Benjamin, Jr. (2 pages)
- SPD Interview Form.
- Tyrell Markel Billups 10 Year Driver Record
- Tyrell Markel Billups SLRDC Name Detail
- Tyrell Markel Billups 10 Year Driver Record.
- Sherod Carlton Smith 3 Year Driver Record.
- Sherod Carlton Smith SLRDC Name Detail
- Bernardo Taverus Hardy 3 Year Driver Record.
- Bernardo Taverus Hardy SLRDC Name Detail.
- Tyriq Irakia Billups 3 Year Driver Record.
- Tyriq Irakia Billups SLRDC Name Detail.
- James Garrett Lee Bracy 3 Year Driver Record.
- Kendall Kyleek Dow SCSO Booking Report
- SPD Interview Form.
- Nadifah Akuabia Brown 10 Year Driver Record
- Consent to Search (Cheyenne Brown).
- Mitchell Lee Calhoun, II 10 Year Driver Record
- Mitchell Lee Calhoun SLRDC Name Detail.
- Mitchell Lee Calhoun II 3 Year Driver Record.
- Romero Dasean Davis 10 Year Driver Record.
- Romero Dasean Davis SLRDC Name Detail
- Romero Dasean Davis 3 Year Driver Record.
- Romero Dasean Davis SLRDC Name Detail
- Shaikenya Raquel Davis 10 Year Driver Record

- Shaikenya Raquel Davis Customer Vehicles Report.
- Jordan De'Andre Dennis 10 year driver record
- Jordan Deandre Dennis SLRDC Name Detail.
- SPD Interview Form.
- SPD Consent to Give Sample for Analysis.
- Identifying Photo (Wiggly).
 - Kendall Kyleek Dow 10 Year Driver Record.
 - Kendall Kyleek Dow SLRDC Name Detail.
 - Notes on Diontrae Epps.
- SPD Interview Form.
- Jolanda Sherrie Weston 10 Year Driver Record.
- SCDMV Current Plate Report (2013 Chev Malibu).
- Diontrae Travon Epps 10 Year Driver Record.
- Diontrae Travon Epps SLRDC Name Detail.
 - .Sumter County Third Judicial Circuit Public Index. (2 pages)
 - SCSO Detention Center Warrant Worksheet.
 - SPD Consent to Give Sample for Analysis (Diontrae Epps)
 - Evidence Inventory and Chain of Custody.
 - Search Warrant dated September 17, 2019.
 - Detective Willie McFadden Notes. (3 pages)
 - Memorandum of Interview.
 - Search Warrant dated September 27, 2019.
 - Christopher Antwan Rashaad Fordham 10 Year Driver Record
 - Christopher Antwan Rashad Fordham SLRDC Name Detail.
 - Christopher Sinclair Hodge 10 Year Driver Record
 - Christopher Sinclair Hodge SLRDC Name Detail.
 - Dasia Lenise Jackson 3 Year Driver Record.
 - Dervin Davon Lancaster 10 Year Driver Record.
 - Dervin Davon Lancaster SLRDC Name Detail.
 - Dervin Devon Lancaster 3 Year Driver Record.
 - Rodney Lewis, Jr. 10 Year Driver Record.
 - Rodney Lewis SLRDC Name Detail.
- SPD Consent to Give Sample for Analysis (Rodney Lewis, Jr.).
- Evidence Inventory and Chain of Custody. (2
- SPD Interview Form
- Photo.
- Search Warrant dated September 18, 2019.
- SPD Interview Form.
- Rodriques Lamon Lewis 3 Year Driver Record
- Wilbur Lewis 10 Year Driver Record.
- Wilbur Lewis SLRDC Name Detail.

- SCDMV Customer Vehicles Report. (2 pages)
- SCDMV Customer at Same Residence Report
- Anthony Rashod Major 10 Year Driver Record.
- Anthony Rashod Major SLRDC Name Detail.
- Michael Raheim Lucas 10 Year Driver Record.
- Michael Raheim Lucas SLRDC Name Detail.
- Witness' Line-Up Identification Form.
- Photo Line-Up.
- Notes on Jay Kirkland McBride. (2 pages)
- Law Enforcement Bond Recommendation Sheet (Jay Kirkland McBride)
- Jay Kirkland McBride 10 Year Driver Record.
- Jay Kirkland McBride SLRDC Name Detail.
- Sumter County Third Judicial Circuit Public Index. (2 pages)
- SPD Interview Form. (3
- Demetrius Delon McDonald 10 Year Driver Record.
- Demetrius Delon McDonald SLRDC Name Detail.
- Demetrius Delon McDonald 3 Year Driver Record
- Demetrius Delon McDonald Mug Shot Photo
- Evidence Inventory and Chain of Custody.
- SPD Consent to Give Sample for Analysis (Demetrius McDonald)
- Memorandum of Interview.
- Linda Ann McDonald 10 Year Driver Record.
- SCDMV Customer Vehicles Report. (5 pages)
- Linda Ann McDonald SLRDC Name Detail
- SCDMV Customers at Same Residence Report.
- Desmond Kennedy 10 Year Driver Record
- Search Warrant dated September 13, 2019.
- Keyonte Markees McGee 10 Year Driver Record
- Keyonte Markees McGree
- SLRDC Name Detail
- SPD Interview Form.
- Datron Jamar Mickens 10 Year Driver Record.
- Gregory Donta Middleton 10 Year Driver Record
- Gregory Donta Middleton SLRDC Name Detail
- Lavendia Wilson 10 Year Driver Record.
- SPD Interview Form.
- Javonna Mona Myers 10 Year Driver Record
- SCDMV Customer Vehicles Report.
- Javonna Mona Myers 3 Year Driver Record.
- Notes on Joquell Myers. (2 pages)
- Joquell Wanye Myers SLRDC Name Detail

- Joquell Wanye Myers 10 Year Driver Record
- Joquell Wanye Myers SLRDC Name Detail.
- SPD Interview Form
- SPD Consent to Give Sample for Analysis (Joquell Myers
- Evidence Inventory and Chain of Custody. (2)
- Clarendon County Detention Center Arrestee Charge Notification.
- SCSO Detention Center Warrant Worksheet
- Ra'Kiera Kieasia Myers 10 Year Driver Record.
- Photos (1 page)
- Ra'Kiera Kieasia Myers/Gabrielle Bihh (Facebook Name) (4 pages).
- SCDMV Customers at Same Residence Report.
- SCDMV Customer Vehicles Report.
- Ra'Kiera Kieasia Myers 3 Year Driver Record
- Interview Notes (1 page).
- SPD Interview Form.
- SPD Consent to Give Sample for Analysis (Rakiera Myers).
- Lerontae K. Porter 3 Year Driver Record.
- Lerontae Kedraous Porter SLRDC Name Detail.
- Search Warrant dated September 11, 2019.
- Risheen Gervais Rich 3 Year Driver Record
- SPD Interview Form.
- SPD Consent to Give Sample for Analysis (Risheen Rich)
- Evidence Inventory and Chain of Custody.
- Antione Renard Pugh 10 Year Driver Record.
- Antione Renard Pugh SLRDC Name Detail.
- Monita Zamoria Robinson 3 Year Driver Record
- SPD Interview Form
- Identifying Photo ("Mike")
- Identifying Photo ("Piez")
- Identifying Photo ("Black")
- Identifying Photo ("Trey")
- Identifying Photo ("Roc")
- Identifying Photo ("Kendall")
- Handwritten Notes (1 page)
- Chelsea Nichole Rogers 3 Year Driver Record).
- Identifying Photo ("Mike")
- Identifying Photo ("El-Lo")
- Identifying Photo ("Trey")
- Identifying Photo ("Jay")
- Handwritten Notes. (3 pages)
- Michael Carlton Rogers 10 Year Driver Record
- Michael Carlton Rogers SLRDC Name Detail

- SPD Interview Form.
- Timothy Wardell Scarbough, Jr. 3 Year Driver Record
- Search Warrant dated September 20
- SPD Interview Form.
- Torey Ikeem Shropshire SLRDC Name Detail.
- Torey Ikeem Shropshire 10 Year Driver Record
- Torey Ikeem Shropshire SLRDC Name Detail.
- Tyre'k Andre'A Shannon 10 Year Driver Record.
- Tyrek Shannon SLRDC Name Detail.
- SPD Interview Form (2).
- Perry PJ VanBuren 3 Year Driver Record.
- Perry Vanburen SLRDC Name Detail.
- SCSO Detention Center Warrant Worksheet.
- SPD Consent to Give Sample for Analysis (Perry Vanburen).
- SPD Interview Form.
- Ellquin Carban Williams 3 Year Driver Record.
- Ellquin Carban Williams SLRDC Name Detail.
- Ellquin Carban Williams Mug Shot Photo.
- Hand Drawn Diagram.
- Ellquin Carban Williams 10 Year Driver Record.
- SCDMV Customer Vehicles Report.
- Vincent Wheeler 10 Year Driver Record.
- Vincent Wheeler SLRDC Name Detail.
- Devante'Antonio Wilson 3 Year Driver Record
- Devante' Antonio Wilson 10 Year Driver Record.
- Devante Antonio Wilson SLRDC Name Detail.
- NCIC Record Validation.
- Handwritten Notes (4 pages)
- Jerry Wilson, Jr. 3 Year Driver Record.
- Jerry Wilson SLRDC Name Detail.
- Evidence Inventory and Chain of Custody
- SPD Interview Form.
- SCSO Detention Center Register.
- Brett Lamar Carter 10 Year Driver Record.
- Evidence Inventory and Chain of Custody
- SPD Consent to Give Sample for Analysis (Jerry Wilson).
- Photocopy of Courtney Monique Jenkins SC Driver's License.
- SCSO Detention Center Warrant Worksheet.

Discovery Received Tuesday, June 9, 2020

- CD of Cellphone Video
- DVD of Video (Sunoco)
- DVD of Video (Sonic)

Discovery Received Friday, August 11, 2023

- 9 – 911 calls
- Cad Report
- CFS – Unit Response Times
- Consent Forms: Barbara Jenkins, C. Rogers, R. Myers
- Crime Scene Log
- SPD Evidence Chains
- SCSO Evidence Processing Reports
- SPD Evidence Processing Reports
- Recorded Statements: Gabrielle Meyers, Jaquell Myers, Tyrell Billups, Rodney Lewis, Perry Vanburen, Kendall Dow, Rasheen Rich, & Michael Lucas
- 201 Acura SW Photos
- 229 Altima SW Photos
- 155 Buick at Sumter Wrecker Photos
- 257 Corolla at John Harris Photos
- 107 Impala SW Photos
- 202 Impound SW Dodge Photos
- 166 Snapp Lab Photos
- 47 Snapp Lexus at Lec Photos
- 687 Snapp Scene Photos
- 236 Will Malibu Photos
- 195 Snapp Scott Will Truck Photos
- 173 Snapp Impound Nissan Photos
- 83 Impala at Lec Photos
- 84 J. Hansen Photos
- 299 Kearny IV Photos
- 12 AR Pistol Lab Photos
- 297 Scott Will Photos
- 13 W McFadden Photos
- 4 screenshot photos
- 7 Sled Reports
- Victim Rogers Autopsy Photos, receipts, and tox
- 13 BWC videos
- 1 dash cam video
- Enhanced hospital videos by SLED
- Facebook Live Video

- Multiview video
- Video Tuomey
- Scene Diagrams
- SPD Automated Fingerprint Identification System (5 Pages)
- SPD Forensic Laboratory Processing Forms (5 Pages)
- SPD Crime Scene Investigation and Evidence Processing Forms (9 Pages)
- SPD Chain of Custody Forms (49 Pages)
- SPD Property Evidence Log (8 Pages)
- Willie McFadden 10/12/19 – Supplemental Report
- Jeffrey Hansen 9/23/19 – Supplemental Report
- Jeffrey Hansen 10/11/19 – Supplemental Report
- Austin Michael 9/12/19 – Supplemental Report
- West Thomas 9/08/19 – Supplemental Report
- West Thomas 9/08/19 – Incident Report
- SPD Investigative Notes (2 Pages)
- SLED Laboratory Forensic Service Request 10/31/19
- SPD Lieutenant's Report 9/09/19
- SPD Lieutenant's Report 9/13/19
- SLED DNA Department
- SLED Laboratory Forensic Service Request 10/11/19
- SLED Laboratory Forensic Service Request 10/11/19 (Submission 2)
- SLED Laboratory Forensic Service Request 10/22/19
- SLED Evidence Log 12/30/21
- SLED Evidence Log 03/01/22

Discovery Received Thursday, August 10, 2023

- Amanda Snapp Sketch

Discovery Received Monday, August 21, 2023

- Billups 302 Interview

Discovery Received Tuesday, August 22, 2023

- Disc with Tyrell Billups Interview

Discovery Received Friday, September 1, 2023

- Anonymous Tip Information

Discovery Received Monday, September 18, 2023

- Body Diagram of Michael Rogers

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Sumter

STATE

VS.

INDICTMENT/CASE#: 2020-GS-43-0622Diontrae Travon EppsAW#: 2019A4320100789

AKA:

Date of Offense: 9/8/2019Race: Black Sex: M Age: 30S.C. Code §: 16-23-0490

DOB: SS#: _____

CDR Code #: 0549

Address _____

City, State, Zip: _____

DL#* _____ SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of a weapon during the commission of a violent crimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

SCB68565

Solicitor _____ SC Bar # _____ Defendant _____ Attorney for Defendant _____ SC Bar # _____

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction ☐ County Detention Center,for a determinate term of _____ days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$_____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$_____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc. _____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

* No sentence because of life sentence
on associate murder case *

STATE VS. Diontrae Travon Epps INDICTMENT/CASE#: 2020-GS-43-0622**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 \$ _____
§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 \$ _____
§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 \$ _____
☐ 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 \$ _____Clerk of Court/Deputy Clerk: _____
Court Reporter: _____James C. Campbell
Shemi JonesPresiding Judge: _____
Judge Code: _____
Sentence Date: _____B. Keefe
2168
9-29-2023

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Diontrae Travon Epps

AKA:

Race: Black Sex: M Age: 30DOB: SS#:

Address:

City, State, Zip:

DL#*

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020-GS-43-0622AW#: 2019A4320100719Date of Offense: 9/8/2019S.C. Code §: 16-03-0010CDR Code #: 0116

SENTENCE SHEET

RECEIVED
OCT 09 2023
SC Court of Appeals*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: 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:

SCB68565

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar # WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc. days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Diontrae Travon Epps INDICTMENT/CASE#: 2020-GS-43-0622**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	\$
§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	\$
§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	\$
☐ 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	\$

TOTALClerk of Court/Deputy Clerk:
Court Reporter:James C. Campbell
Sherryl JonesPresiding Judge:
Judge Code:
Sentence Date:2765
4-29-2023

WITNESSES

Willie J. McFadden Sumter
Police Dept.

Jeffery B. Hansen Sumter
Police Dept.

ARREST WARRANT NUMBER

2019A4320100718 2019A4320100789

ACTION OF GRAND JURY

TRUE BILL

Eric Hatcher
Foreperson of Grand Jury
Date: 7-30-20

VERDICT

DOCKET NO. 2020-GS-43-0622

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

July TERM 2020

THE STATE

vs.

DIONTRAE TRAVON EPPS

Indictment for

**Murder / Possession of a Firearm during
the Commission of a Violent Crime**

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

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OCT 09 2023
SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF SUMTER)

Murder / Possession of a Weapon during the
Commission of a Violent Crime

At a Court of General Sessions, convened on July 30, 2020 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - MURDER

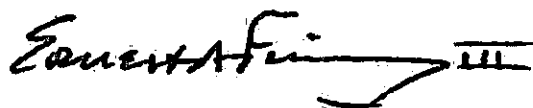
That Diontrae Travon Epps did in Sumter County, on or about September 8, 2019, willfully, feloniously, and intentionally kill the victim, Michael Rogers, with malice aforethought, either express or implied, by means of shooting the victim with a handgun, and the victim did die as a proximate result thereof, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO-POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That Diontrae Travon Epps did in Sumter County, on or about September 8, 2019, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, 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.

Solicitor



**NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT
OF GENERAL SESSIONS**

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of General Sessions

R. Kirk Griffin, Circuit Court Judge

Case No. 2020-GS-43-0622

RECORDED
2023 OCT -4 AM 9:05
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell
CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

The State of South Carolina,

Respondent,

Diontrae Travon Epps,

Appellant.

NOTICE OF APPEAL

RECEIVED

OCT 09 2023

SC Court of Appeals

Diontrae Travon Epps appeals his conviction and sentence in this case. The sentence was imposed by the Honorable R. Kirk Griffin on September 29, 2023.

Shaun C. Kent
Shaun C. Kent
KENT LAW FIRM, LLC
19 South Mill Street
Post Office Box 117
Manning, SC 29102
(803) 433-5368
Attorney for Defendant

October 4, 2023

STATE OF SOUTH CAROLINA)

IN THE GENERAL SESSIONS COURT FOR
THE THIRD JUDICIAL CIRCUIT

COUNTY OF SUMTER)

Indictment No.: 2020-GS-43-0622

State of South Carolina,)

Plaintiff,)

CERTIFICATE OF SERVICE

RECEIVED

v.)

OCT 09 2023

Diontrae Travon Epps,)

SC Court of Appeals

Defendants.)

1 HEREBY CERTIFY that the Defendant's Notice of Intent to Appeal was served upon the following via hand delivery to Jason Corbett, Asst. Solicitor and by placing a copy in the United States Postal mailbox to The Honorable Jenny Abbott Kitchings with first class postage attached thereto:

The Honorable Jenny Abbot Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbic SC 29201-3726

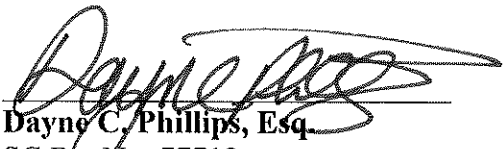
KENT LAW FIRM, LLC
19 South Mill Street
Post Office Box 117
Manning, SC 29102
(803) 433-5368

By: Summer Roberts
Summer Roberts

Manning, South Carolina
October 4, 2023

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

RECEIVED**Apr 15 2025****SC Court of Appeals**
Dayne C. Phillips, Esq.
SC Bar No. 77712
Price Benowitz LLP
1614 Taylor Street, Suite D
Columbia, SC 29201
(803) 807-0234

ATTORNEY FOR APPELLANT

April 15, 2025