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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LAVON BERNARD JULIUS,

APPELLANT

APPELLATE CASE NO. 2023-001994

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[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT 55 (BODY CAM VIDEO), STATE’S EXHIBIT 56 (BODY CAM FOOTAGE), STATE’S EXHIBIT 57 (VIDEO FOOTAGE FROM INSIDE HOME).]

1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 2 COUNTY OF LEXINGTON * TRANSCRIPT OF RECORD
 3 -----X
 4 STATE OF SOUTH CAROLINA, *
 5 State, *
 6 vs. * Case No. 2022-GS-32-01963
 7 LAVON BERNARD JULIUS, *
 8 Defendant.*
 -----X

9 December 11-13, 2023

10 TRIAL BY JURY
 11 VOLUME I - December 11, 2023

12 B E F O R E:

13 The Honorable Walton J. McLeod, IV, Presiding Judge

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24 Court Reporter: Karen Ambroziak (ret.)

25 Transcribed by: Bobbi Fisher, RPR
 SC Official Court Reporter III

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COURT REPORTER LEGEND

Dash (--) Indicates an interruption in speech

Ellipses (...) Indicates trailing off in speech

(ph) Indicates phonetic word

[Verbatim] Indicates the word is said as written

(Indiscernible)[Transcription] Indicates word(s) is
not known due to audio recording
quality

1 in conversation with anyone while you're coming and going
2 through the courthouse this week while serving on jury duty.

3 It is important that you keep an open mind and not decide
4 any issue in this case until all the evidence has been
5 presented, the parties have made their closing arguments, and
6 I have instructed you on the law of this case. It's your
7 solemn responsibility to determine the guilt or innocence of
8 the defendant, and your verdict must be based solely on the
9 evidence as it is presented to you during this trial and on
10 the law as I instruct you at the close of the trial.

11 I don't see anyone with any notepads out there, but if
12 you happen to have one, please don't take any notes. I want
13 your attention fully focused on the witness stand and the
14 questions that are going back and forth between the attorneys
15 and the witness.

16 But without further ado, I'd like you to give your
17 complete and undivided attention to the attorneys as they make
18 opening statements.

19 MS. FULLER: May it please the Court?

20 THE COURT: Yes, ma'am.

21 OPENING STATEMENT ON BEHALF OF THE STATE

22 MS. FULLER: Good morning. A child should feel safe. A
23 child should feel safe when they're with their mother. A
24 child should feel safe when they're with their grandmother. A
25 child should feel safe when they're standing outside of their

1 grandmother's apartment on the phone right here in the town of
2 Lexington, on [REDACTED] Street, just a few minutes from where we
3 are right now. A child should feel safe.

4 You killed a 15-year-old child.

5 A 15-year-old child is dead. Why? How did we get here?
6 Why? How did we get here?

7 [REDACTED] Minor was 15 years old, but he lost his life at
8 the hands of that man, Lavon Julius. And what were [REDACTED] Minor's
9 last words? "Can I get a cigarette?" "You got a cigarette?"

10 And what's the last thing [REDACTED] Minor, in a conscious, alert
11 state heard, was, "Is you good?"

12 And then the witness testimony will show you that then
13 they heard gunshots.

14 Why? Why?

15 Okay. He may have asked you for cigarettes more than one
16 time. Are we there yet? Are we there yet? Are we there yet?
17 He is a child. A child.

18 [REDACTED] Minor's grandmother lived on [REDACTED] Street in Apartment
19 4-A. It's a one-story apartment. [REDACTED] Minor and his brother and
20 his mother were staying there, waiting for [indiscernible].
21 They only had been there a couple of weeks.

22 Lavon Julius, he lives in the same set of apartments in
23 [indiscernible]. And you'll get to see [indiscernible].

24 [REDACTED] Minor, 15-year-old, he liked to talk on the phone. He
25 would often go outside and talk on the phone with his friends.

1 And you're going to see testimony -- hear testimony that
2 **Minor** was on the phone at the time he lost his life.

3 You're going to hear from one of his friends that he was
4 bubbly. He was still a child himself. But he's going to come
5 here and testify to hearing his friend's last question and
6 then hearing a man say, "Is you good?" and then hearing
7 gunshots and then hearing **Minor's** breathing and then running
8 to his mom and grandma saying, "Something's wrong with
9 **Minor**." You're going to hear him say the next thing heard
10 was **Minor's** mother calling his name.

11 You're going to see photographs and I submit to you, by
12 the end of this case, although there's no video of the
13 shooting, you're going to be able to visualize **Minor's** last
14 moments. You're going to see where the shell casing was
15 located. You're going to hear testimony about where **Minor**
16 was standing mere seconds prior to the shooting, and you're
17 going to see where the body ended up.

18 So that man over there, a grown man who is 42 years
19 old -- this happened last year, last January. It was freezing
20 cold out in January. And you're going to see and you're going
21 to be able to visualize that, even as **Minor** was trying to
22 move away from him and go around the corner, that man kept
23 advancing and shooting shots after shots after shots. Four
24 shots ring out. Four. For what?

25 You're going to also hear from **Minor's** mother. She's

1 going to testify and she's going to tell you about her final
2 moments with **Minor**. She's going to tell you that she heard
3 four gunshots. She's going to tell you she tried to get her
4 son, call out for her son. She's going to tell you she waited
5 a few minutes to go outside, but she didn't know what was
6 going on, and she didn't know if the shooter was still
7 outside. And then she's going to tell you, when she finally
8 opened that door, who she saw: Lavon Julius.

9 And what did he say when she said, "Were those gunshots?"
10 Said, "Buddy over there on the floor." Buddy. He was a kid.

11 Are we there yet? Are we there yet? Are we there yet?

12 She's going to say that, when she got around the corner
13 of the apartment from A -- [indiscernible] apartment is the
14 first floor and you'll get to see the pictures. These were
15 [indiscernible]. And she's saying, "**Minor**, **Minor**." He
16 comes with her. He comes with her.

17 **Minor** is face-down in the grass. He helps her roll his
18 body over because **Minor** is gasping for air. So not only was
19 his last conscious alert visual and sound was that man and the
20 barrel of a semiautomatic handgun, now his body is being
21 touched by that man. And **Minor** couldn't speak. **Minor**
22 couldn't answer his mother's calls. **Minor** couldn't say, "Get
23 that man's hands off me. He just shot me."

24 **Minor** passed with his eyes open laying on that cold
25 ground. And then what does he do when law enforcement walks

1 up? He walks away. He walks away.

2 You're going to hear testimony about the gun, and he goes
3 and hides it in the back while the police are on-scene.

4 Now, let's -- let's track Lavon Julius's day. What was
5 he doing that day? Lavon Julius was married or is married to
6 Constance Julius, but he lived in 4-E. That day, Constance
7 stayed home. He went with his daughter -- his five-year-old
8 daughter, who lived in the same strip where he just opened
9 fire on a 15-year-old. They go to family ties for a
10 gathering, a party, a kid's celebration. He's there. He's
11 drinking. He leaves somewhere maybe before 10:00, somewhere
12 around that time, and he travels back home.

13 He gets home. He backs into the center of the parking
14 spot, parking lot, what you would call the island part of the
15 apartment complex. He backs in that first spot, which is
16 lined up with 4-A and 4-B there, where **Minor** would have been
17 standing on the phone. He gets out the car with his daughter
18 when he gets home, and he walked to his apartment, which is
19 4-E. He left his daughter in the house.

20 You're going to hear testimony that, while he's at this
21 gathering, he had that gun with him. So the gun was on him.
22 He left her -- left his five-year-old in the house and then
23 walks back up towards where **Minor** is.

24 And you're going to hear testimony that he was on the
25 phone the whole time too. He was on the phone driving home.

1 He was on the phone when he got there. He was on the phone
2 during the shooting. He was on the phone after the shooting
3 with the same person.

4 And you're going to hear testimony that he didn't say
5 anything about the shooting. He was normal. He was calm.

6 And you're going to hear testimony from the neighbor who,
7 after the shooting, looked out from the upstairs bedroom, and
8 who do they see? Him, walking from around the corner.

9 "How would you describe him?"

10 "Nonchalant."

11 Nonchalant. Murder. Murder is the intentional killing
12 of another person with malice aforethought. That is the law.
13 It's not like other states with different degrees. It's
14 murder. The intentional killing of another with malice
15 aforethought.

16 What is malice? What is malice aforethought? It's evil.
17 It is evil. It is evil. It is hatred. It is ill will
18 towards another. It is extreme indifference. It is reckless
19 disregard. It is a depraved heart. It is Lavon Julius.

20 And aforethought is the second -- it can be a second. It
21 doesn't require premeditation that you may see on TV. It
22 could be formed in the minute he decided to do the act.

23 And you heard the judge already say "proof beyond a
24 reasonable doubt." Let me touch on that briefly. Proof
25 beyond a reasonable doubt is not proof beyond all doubt. It's

1 proof that leaves you firmly convinced of the defendant's
2 guilt. Because why? There's very few things in life that we
3 know with absolute certainty. But it's proof that leaves you
4 firmly convinced. It is our burden, it is the State's burden,
5 it is the burden that we welcome on each and every case, and
6 we welcome it in this case.

7 Malice. Malice. Talk about "Is you good?" "Is you
8 good?" may sound like a pleasant hello. But I submit to you,
9 by the end of this trial, it will take on a new meaning.
10 You'll understand that it meant something different.
11 Depending on your body language, "Is you good?" Depending on
12 how you stand, depending on if you're pointing a loaded gun at
13 a kid. Oh, and shoot. And pull the trigger four times. "Is
14 you good?" is not simply hello. Malice.

15 You'll get to hear about **Minor's** injuries. You'll get
16 to hear that they were unsurvivable. You'll get to hear his
17 mom that, no matter what she could do, she couldn't
18 [indiscernible] her 15-year-old that day. There was nothing
19 that she could have done.

20 **Minor** was in a place that he should have felt the
21 safest, where he fell down that he could get back up because
22 Mom and Grandma were there; if he was hurt, that he could be
23 fine because his Mom and Grandma were there.

24 When she [indiscernible] she'll tell you where she was
25 sitting inside the apartment: On the couch. And you'll see

1 just right outside where **Minor** was [indiscernible].

2 Now, you may be listening and you may be like, "Really?
3 Is it really just over cigarettes?"

4 Now, in South Carolina, we don't have to prove any
5 motive. Right? In every case, you want to know, like, why
6 did this happen? When you're watching a movie, you're like,
7 "Why did this happen?"

8 But when you size up this case and listen to the evidence
9 and see what's presented, when you ask why, all I heard was,
10 "He asked for a cigarette." The guy said, "Is you good?" And
11 then I heard gunshots.

12 He asked for a cigarette. The guy said, "Is you good?"
13 And then I heard gunshots.

14 If you wanted a why, we don't have to prove why. Only
15 one person knows why. And maybe not.

16 The facts in this case will be determined by you-all.
17 The judge is the judge of the law but you guys are the judge
18 of the facts. You-all get to say what happened and determine
19 what happened.

20 The one important thing that you have in what I call your
21 toolkit is to judge people's credibility. You get to judge
22 the credibility of each and every witness that takes that
23 witness stand. You get to analyze the motive. You get to
24 analyze what they have to gain from being here. And you-all
25 get to determine the truth. You-all get to decide the truth

1 in this case.

2 And what I ask you at the end of this -- after you pay
3 close attention -- that you speak the verdict that brings
4 justice for this family. His family is here [indiscernible].
5 Law enforcement is here.

6 And something I always like to say: There's no greater
7 evidence of a man's intent to do something than when he does
8 it. There's no greater evidence of what an evil heart looks
9 like than when **Minor** looked into the eyes of Lavon Julius
10 before he passed.

11 So I ask you to find that [indiscernible].

12 MR. MAULDIN: May it please the Court?

13 THE COURT: Yes, sir.

14 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

15 MR. MAULDIN: This case is about self-defense. This case
16 is really similar to a lot of high-profile cases that y'all
17 might have heard in the news where a young man is shot and
18 killed. The first story you hear from the prosecution or the
19 media is that some young boy is senselessly gunned down and
20 people start talking about policy, things like gun violence or
21 one other issue, but --

22 MS. FULLER: Objection, Your Honor.

23 THE COURT: Come up.

24 BENCH CONFERENCE

25 (A bench conference was held off the record and outside

1 of the hearing of the jury.)

2 MR. MAULDIN: The story that you first hear isn't always
3 that simple. The truth is messier and muddier than that.
4 Certain facts come to light in a trial. For instance, the
5 little boy in this case was six-foot-two, 233 pounds. That's
6 the size of an NFL linebacker. That kind of person is
7 physical imposing to any man, even a large man like
8 Mr. Julius.

9 Now, that doesn't mean it's not tragic. Obviously, it's
10 always a tragedy when a young person dies, especially in a
11 shooting. It's just to say that the truth is more complicated
12 than that.

13 Now, what is the State's story? The State's story is
14 essentially that this man, Mr. Julius, after coming home from
15 a children's birthday party, came home to his wife, went and
16 took out the trash, and went and shot this young boy for no
17 reason. For no reason at all. It doesn't really make any
18 sense.

19 The State even admits they can't even come up with a real
20 motive. Not only -- maybe it's true that they don't have to
21 come up with a motive, but they do have to prove malice.
22 There's no way they can prove malice if they can't even come
23 up with a good reason as to why he did it.

24 What's another story? What's our story? Our story is
25 that Mr. Julius, that night, took out his trash. It was 10:30

1 at night. It was dark. And that this young man -- this large
2 young man adequately provoked Mr. Julius, and he was forced to
3 use self-defense.

4 Now, on its face, that story just makes more sense. At
5 least there's a reason to it. The State admits their story is
6 senseless. Just some senseless act of violence. It just
7 doesn't add up.

8 Now, the State's going to show you some statements that
9 Mr. Julius made that they're going to claim are admissions of
10 guilt. Confessions, basically. They're not confessions.
11 They're statements of a man who is second-guessing himself and
12 feels regretful and remorseful for what just happened, for the
13 situation that went down. That doesn't mean he wasn't
14 justified in what he did.

15 You know, I have never had to use a gun in self-defense
16 before, God forbid, but I imagine if I did, I wouldn't feel
17 great about it. To tell the truth, I have been in fist-fights
18 before when I was younger and I was justified, self-defense,
19 defense of others. It doesn't feel good afterwards.

20 Those are the kinds of statements that Mr. Julius was
21 making. He was just thinking "How could I have gotten out
22 that situation?" He didn't want that young man dead.

23 Now, it's important to remember that Lavon Julius is
24 innocent. He is presumed innocent. That is his right. We
25 all have that right as Americans. And it's the State's burden

1 to prove beyond a reasonable doubt that he's guilty of every
2 element of this offense.

3 What does that mean "beyond a reasonable doubt"? It
4 means that the State's story is to be so much more convincing
5 than our story that, if you even doubted their story to
6 believe in ours, that would be ridiculous. It would be
7 unreasonable to do that. They're not going to be able to meet
8 that burden of proof.

9 Also, let's look at the elements of murder. Not only do
10 they have to prove that Mr. Julius actually killed the young
11 man and that he intended to kill the young man, but that he
12 did it with malice aforethought. Again, malice aforethought
13 is basically just evil and hatred towards this young man at
14 the time. There's no way that they're going to be able to
15 prove beyond a reasonable doubt that that's what was in his
16 heart at the time.

17 Not only that, statements that he made show that he
18 regretted and was remorseful in the situation going down that
19 way. He didn't want the young man dead. That shows that he
20 didn't have malice.

21 Also, as the State mentioned in their opening, that,
22 after the shooting, he went, found the young boy's mother,
23 brought her to her son, and he tried to administer aid. That
24 shows that he didn't want the young man dead. He had no
25 malice. Now, that just doesn't sound like a malicious, evil

1 man.

2 Now, the State mentioned that Mr. Julius did hide the
3 gun, that he ditched the gun. That's true. But that doesn't
4 mean he didn't act in self-defense. If he stayed and told the
5 first responders, which he did wait with the boy, trying to
6 administer aid until the first responders came and then he
7 went and ditched the gun -- even if he had stayed and just
8 admitted, "Yeah, I shot him, but it was in self-defense," it
9 wouldn't have changed anything. We'd still be here today.
10 He'd still be charged with murder and it would still be up to
11 y'all -- this jury -- to determine whether he used
12 self-defense or not. It doesn't make him any more guilty of
13 him trying to hide the gun. And it certainly doesn't mean
14 that he wasn't acting in self-defense.

15 Again, at the end of this trial, you are going determine
16 which story makes more sense, and I think, just on the face of
17 it, the self-defense story makes more sense than this man just
18 shooting this young man, taking out the trash, after a
19 children's birthday party, for no good reason at all.

20 And not only that, we don't have to convince of that
21 story. We don't have to convince you of that. It's their
22 burden to prove beyond a reasonable doubt that our story is
23 unreasonable, that it makes no sense. And I think y'all will
24 do the right thing at the end of this trial and find
25 Mr. Julius not guilty. Thank you.

1 THE COURT: The State may call its first witness.

2 MR. McNAIR: Thank you, Your Honor. The State calls
3 Terran Moye.

4 TERRAN MOYE,

5 after having been duly sworn, was examined and
6 testified to as follows:

7 THE CLERK: You can have a seat on the witness stand. If
8 you'll state your name and spell your last name for the
9 record.

10 THE WITNESS: My name is Terran Moye. Last name M-o-y-e.

11 DIRECT EXAMINATION

12 BY MR. McNAIR:

13 Q Good morning, Mr. Moye.

14 A Good morning.

15 Q Will you tell the jury where you were living back on
16 January 29th of last year.

17 A [REDACTED] Street in the [REDACTED],
18 Apartment 5-B.

19 Q All right. Is that in Lexington County?

20 A Yes, sir.

21 Q Now, were you home that night on January 29th, 2022?

22 A Yes, I was.

23 Q And who all was home with you?

24 A Me, my girlfriend, my niece, my nephew, and my
25 girlfriend's daughter.

1 Q And what were you doing that evening?

2 A We were upstairs watching TV.

3 Q All right. Now, at some point, did something catch your
4 attention?

5 A Gunshots.

6 Q After you heard those gunshots, what did you do?

7 A Went straight -- I went to the window because our blinds
8 were up. I went to the window to see where the gunshots was
9 coming -- because it sounded like it was right outside our
10 door.

11 Q Okay. Tell the jury what you saw after you looked out
12 the window.

13 A When I looked out the window, I saw the defendant come
14 from around the corner of the building and walk down the
15 sidewalk. After that, I don't know where he went, because I
16 went downstairs to check on the kids because our kids was
17 outside at the time.

18 Q Okay. And when you say "defendant," did you know Lavon
19 Julius?

20 A I have seen him before. I met him. I have seen him
21 outside with his daughter a couple of few times while I was
22 walking my dog.

23 Q All right. You're familiar with him?

24 A Yes.

25 Q You had talked to him before?

1 A I spoke to him, yes.

2 Q Did you know where he lived?

3 A He stayed in the apartments on this side -- the
4 apartments -- our apartment faced the road. Then you have the
5 set of apartments on the side. So he stayed in one of those
6 apartments on the side of us.

7 Q All right. And do you see the guy that you saw that
8 night in the courtroom today?

9 A Yes.

10 Q Is that him sitting at defense counsel ---

11 A Yes.

12 Q --- at defense table?

13 A Yes.

14 Q Now, how long after you heard the gunshots did it take
15 you to get to the window?

16 A A second. Because I was sitting on the edge of the bed
17 watching TV.

18 Q And when you looked out, you saw Mr. Julius walking from
19 around the corner of the building?

20 A Yes, sir, I did.

21 Q And is that -- did you ultimately go outside to see where
22 the victim was?

23 A Yes. After that, I went downstairs to check on the kids
24 and then I walked out and I walked around the side of the
25 building. That's when I seen the young man laying on the

1 ground.

2 Q And that's where you saw Mr. Julius coming from?

3 A Yes, sir.

4 Q Now, when you saw him, did you see anything in his hand?

5 A No, not at the time I didn't.

6 Q Can you describe for us how he appeared when you saw him?
7 How would you describe his demeanor or the way he looked?

8 A He looked calm to me. He wasn't -- he was walking as if
9 nothing happened.

10 Q And, at one point, did you use the term "nonchalant" to
11 describe the way he looked?

12 A Yes, I did.

13 Q He didn't appear to be scared to you?

14 A No.

15 Q Was he running or walking?

16 A Walking.

17 Q Calm?

18 A Yes.

19 Q Nonchalant?

20 A Yes.

21 (State's Exhibit No. 2, Aerial Map of Apartments, was
22 marked for identification.)

23 BY MR. McNAIR:

24 Q Let me show you State's Exhibit 2. This is an aerial map
25 of the apartment complex. Do you recognize that?

1 A Yes. That's the park. That's the apartment complex
2 where we stayed. And that's the side that he stayed on.

3 Q Okay. And is that the way it looked back on January 29th
4 of 2022?

5 A Yes, sir.

6 MR. McNAIR: Your Honor, we offer State's 2 into evidence
7 at this time.

8 MR. MAULDIN: No objection.

9 THE COURT: All right. State's Exhibit 2 is admitted
10 into evidence.

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

12 BY MR. McNAIR:

13 Q I'll give you a laser pointer. If you'd just push that
14 button right there.

15 All right. Can you point out for the jury what apartment
16 you lived in?

17 A Right there (indicating).

18 Q And are there upstairs and downstairs unit or is it --

19 A Upstairs and downstairs.

20 Q Okay. Is it one unit upstairs and downstairs?

21 A Yeah.

22 Q Okay. And you were up in the upstairs bedroom?

23 A Yes.

24 Q And can you show us where you saw Mr. Julius walking
25 around the building?

1 A Right here, coming down this sidewalk, coming around this
2 way.

3 Q And after the shooting, you actually went outside and saw
4 where the victim was?

5 A Yeah. The victim was right here.

6 Q Okay. Now, you may not know specifically but what --
7 where did Mr. Julius or where did you think Mr. Julius lived?

8 A I think right there, if I'm not mistaken.

9 Q 4-E?

10 A Yeah.

11 Q Prior to you hearing any gunshots, did you hear any type
12 of loud voices or arguing or fighting or anything like that?

13 A No, I didn't.

14 Q That's all the questions I have. Please answer any
15 questions the defense attorney has.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION

18 BY MR. MAULDIN:

19 Q Which apartment were you in again?

20 A 5-B.

21 Q 5-B. Is that closer to the parking lot or closer to the
22 woods?

23 A Closer to the parking lot.

24 Q Okay. And you was upstairs; is that right?

25 A Yes, sir.

1 Q Because I think all these apartments are, like, two-story
2 apartments?

3 A Yes, they are.

4 Q And so this is not an apartment downstairs. It's just
5 one --

6 A One apartment.

7 Q One. And you heard the six gunshots and you looked out
8 the window; is that right?

9 A That's right.

10 Q Okay. And you was looking down?

11 A Yes.

12 Q And it's only two stories but you're looking down at
13 night on top of somebody; is that right?

14 A Yes.

15 Q Okay. And you didn't hear any voices before the gunshots
16 at all?

17 A No.

18 Q No voices at all?

19 A No.

20 Q And of course you didn't see what happened either, did
21 you?

22 A No, I didn't.

23 MR. MAULDIN: No further questions.

24 THE COURT: Any redirect?

25 MR. McNAIR: No, sir, Your Honor.

1 THE COURT: All right. The witness is excused.

2 MS. FULLER: The State calls Leticia Gates.

3 THE CLERK: If you'll place your left hand on the Bible
4 and raise your right.

5 LETICIA GATES,
6 after having been duly sworn, was examined and
7 testified to as follows:

8 THE CLERK: You may have a seat in the witness stand. If
9 you'll state your name and spell your last name for the
10 record.

11 THE WITNESS: My name is Leticia Gates. Last name,
12 G-a-t-e-s.

13 DIRECT EXAMINATION

14 BY MS. FULLER:

15 Q And good morning, Ms. Gates. Let me talk to you about an
16 incident last year. Do you recall living at [REDACTED]
17 [REDACTED] at [REDACTED] Street?

18 A Yes.

19 Q And that's in Apartment 4-F?

20 A Mm-hmm, yes.

21 Q And that's in Lexington County; correct?

22 A Yes.

23 Q And who did you live there with?

24 A My son and his girlfriend at the time.

25 MS. FULLER: May I approach the witness, Your Honor?

1 THE COURT: Yes, ma'am.

2 MS. FULLER: I'm going to go ahead and move the mic just
3 a little bit closer, make sure everyone can hear you.

4 BY MS. FULLER:

5 Q And who did you live there with?

6 A My son and his girlfriend at the time.

7 Q And is your unit a one-story unit or a two-story unit?

8 A Two-story.

9 Q I'm going to show you what's already been in evidence as
10 State's 2. There should be a laser pointer up there.

11 Do you recognize this?

12 A Yes, I do.

13 Q And do you see your unit on this aerial?

14 A Yes.

15 Q Can you go ahead and point it out for the jury?

16 A It's 4-F. (Indicating).

17 Q Okay. And as it relates to this case, do you recall
18 being home when the shooting took place?

19 A Yes, I do.

20 Q And what were you doing when the shooting happened?

21 A I was laying on my bed.

22 Q In bed upstairs or downstairs?

23 A Upstairs.

24 Q And is your room -- which way does your room face? Does
25 it face the parking lot or behind?

1 A It faces the parking lot. It faces towards the sidewalk.

2 Q And does your room have a window?

3 A Yes.

4 Q And can you, just for the record, point out your unit.

5 A (Indicating.)

6 Q Okay. And so you indicated you were in your bedroom; is
7 that correct?

8 A Yes, that's correct.

9 Q And what were you doing?

10 A I was about to lay down and take a nap. I was already
11 laying down so I was about to take a nap, go to sleep.

12 Q And was this a fairly normal night for you?

13 A Yes.

14 Q And prior to the shooting, did you hear anything?

15 A No, I didn't.

16 Q And go ahead and describe to the jury what you heard when
17 the shooting actually took place.

18 A I just heard four shots and I didn't get up immediately.

19 I kind of waited just to see what was going on. You know? I

20 just wanted to wait. When I got up, I saw the defendant

21 coming from the island out there -- right here, walking

22 towards the apartments. And I was just assuming that he was

23 getting off work. And once I saw him walking from the car

24 area, I just kind of laid back down again, you know, because I

25 didn't know what else to do. So I just laid down again.

1 Q Okay. And you said you didn't get up immediately;
2 correct?

3 A That's correct.

4 Q You waited a few moments. Do you know approximately how
5 long you waited? It's okay if you don't.

6 A Five, ten minutes or so.

7 Q Okay. And when you -- by the time you looked out the
8 window, did you see anybody else out there at that time?

9 A I didn't see nobody else. Just was him coming from the
10 car.

11 Q Okay. And you referred to the defendant. Do you -- is
12 that the individual you see sitting at the table?

13 A Yes.

14 Q And were you familiar with him prior to that night?

15 A Yes. We both was truck drivers, so we always used to
16 conversate about driving. And that was pretty much it.

17 Q Okay. And do you recall what unit he lived in last year?

18 A E, right next door to me.

19 Q Okay. So you're in F and then he would be in E; correct?

20 A Yes, uh-huh.

21 Q All right. And so when you saw him -- when you indicated
22 you were taking a nap is because your hours are a little
23 different; correct?

24 A Yes.

25 Q With trucking driving; correct?

1 A Yes.

2 Q And so you waited a couple of minutes and you looked
3 outside and you saw him. Did you happen to see him again
4 later that night?

5 A Yes. I saw him walk out of his apartment and go to the
6 left towards the fence area.

7 Q And if you don't mind using this, can you point out what
8 you mean by "the left"?

9 A Going down here and to the fence area right here.

10 Q And when you saw him come out, do you know if law
11 enforcement -- the police, blue lights and sirens -- were
12 on-scene at that time?

13 A I can't remember that.

14 Q Okay.

15 A But I just assumed he was going to smoke a cigarette, so
16 I didn't think nothing else about it.

17 Q Okay. Did you see anyone else go out there?

18 A I just saw his girlfriend come out after him and tried to
19 find out where he was at. And then he came back, and that was
20 pretty much it.

21 Q And when you described what you saw as trying to see
22 where he was at, what made you -- what gave you that
23 impression?

24 A Because she was looking like this (indicating), trying to
25 see which way did he go.

1 Q Okay.

2 A And, like, she was concerned about where he had gone.

3 Q Okay. And you eventually see him come back?

4 A Yes.

5 Q And do you recall what he was wearing? It was last year.
6 Do you remember?

7 A Gray -- I think it was sweatpants or something.

8 Q And when you saw him, do you recall what his demeanor was
9 like?

10 A I didn't see nothing strange. Just normal like he always
11 is. Nothing distraught or anything. Nothing like that. But
12 I just saw him as normal.

13 Q You saw nothing out of the ordinary, just normal when you
14 saw him on both occasions when you saw him?

15 A Mm-hmm.

16 Q Both when you saw him coming from the parking lot --

17 A Mm-hmm.

18 Q You got to say yes or no.

19 A Oh, yes. Yes. I'm sorry.

20 Q And when you saw him go back to the -- you said the
21 fence. Is that what you said?

22 A Yes, uh-huh.

23 Q He appeared like normal; correct?

24 A Yes.

25 Q And, again, prior to hearing the gunshots, did you hear

1 any fighting or arguing or anything going on outside?

2 A I didn't hear none of that.

3 Q And on this aerial, it may look a little bit bigger, but
4 is that area around y'all apartments kind of small ---

5 A Yes.

6 Q --- or would you consider it large?

7 A It's -- it's small to us. It's not a big walking area.
8 Kind of tight-fitting up in there.

9 Q Okay. So it's a tight-fitting portion of the apartment
10 complex; correct?

11 A Yes, mm-hmm.

12 MS. FULLER: Okay. Beg the Court's indulgence.

13 No further questions at this time.

14 THE COURT: Cross-examination?

15 MR. MAULDIN: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MAULDIN:

18 Q So on this diagram, State's Exhibit 2 here, you live here
19 in Apartment 4-F; is that right?

20 A That's correct.

21 Q And Mr. Julius lived in 4-E, right next to you?

22 A That's correct.

23 Q And you were upstairs ---

24 A Yes, that's correct.

25 Q --- when you heard these shots?

1 And you looked out the window, and you said you saw
2 Mr. Julius coming from the island. Is that this island?

3 A Yes.

4 Q And you looked right after the shots. When you heard the
5 shots, you looked out and saw Mr. Julius?

6 A Not right after the shots. I kind of waited about two
7 minutes.

8 Q All right. And he was over here by this island?

9 A Closer towards the -- over here. Yeah, right in there.
10 I just saw him walking from there.

11 Q Okay. And when you saw him walk toward I suppose the
12 left, as you call it -- towards the back of the building --
13 towards the woods, you saw his wife coming outside, and it
14 appeared that she had no idea where he had went?

15 A Yes, that's correct.

16 Q No clue at all?

17 A Yes.

18 MR. MAULDIN: Okay. No further questions.

19 THE COURT: Redirect?

20 MS. FULLER: None, Your Honor.

21 THE COURT: Very well. The witness is excused.

22 MS. FULLER: Your Honor, may we approach?

23 THE COURT: Yes, ma'am.

24 BENCH CONFERENCE

25 (A bench conference was held off the record and outside

1 MR. McNAIR: Thank you, Your Honor. The State calls
2 Constance Julius.

3 THE COURT: Very well.

4 THE CLERK: If you'll place your left hand on the Bible
5 and raise your right.

6 CONSTANCE JULIUS,
7 after having been duly sworn, was examined and
8 testified to as follows:

9 THE CLERK: If you'll have a seat in the witness stand.
10 If you'll state your name and spell your last name for the
11 record.

12 THE WITNESS: My name is Constance Julius. J-u-l-i-u-s.

13 DIRECT EXAMINATION

14 BY MR. McNAIR:

15 Q Good morning, Ms. Julius.

16 A Good morning.

17 Q Is it fair to say that this is not a position that you
18 want to be in today?

19 A No, sir.

20 Q And you did not want to testify, did you?

21 A No.

22 Q And you were subpoenaed to be here today?

23 A Yes, sir.

24 Q Tell the jury your relationship or what is your
25 relationship with Lavon Julius, the defendant?

1 A He's my husband.

2 THE COURT: Can everyone on the jury hear?

3 JURORS: No.

4 THE COURT: All right, ma'am. I'll just need you to
5 speak up a little bit. Thank you.

6 A He's my husband.

7 BY MR. McNAIR:

8 Q And how long have y'all been married?

9 A 17 years now.

10 Q How long have y'all been together?

11 A Almost 20 years.

12 Q Do you have any children?

13 A We do. One girl.

14 Q And how is she?

15 A She'll be eight in February.

16 Q And do you have any other children?

17 A I have a daughter from a previous marriage.

18 Q Okay. Now, let's talk about January of 2022. Where were
19 you and Lavon living at that time?

20 A At [REDACTED] in Lexington.

21 Q What unit did y'all live in?

22 A I think it was -- I can't remember.

23 Q Does 4-E sound right?

24 A Yes, sir.

25 Q Okay. Now, who lived there with you and Lavon?

1 A Me and Lavon and our daughter.

2 Q And how long had y'all lived there prior to this incident
3 that we're here for today?

4 A About seven months.

5 Q Now, were you familiar with the victim in this case,

6 **Minor** ?

7 A No, sir.

8 Q Okay. Had you seen him around before?

9 A Yes, sir.

10 Q Did you know where he lived?

11 A At the end of the apartments, at the end of the building.

12 Q Okay. And had you ever spoken to **Minor** ?

13 A Not really. Just, I mean, in passing.

14 Q Did Lavon ever tell you about any problems he had with

15 **Minor** ?

16 A About asking for cigarettes numerous amount of times.

17 Q Okay. How did Lavon feel about that, about **Minor** asking
18 him for cigarettes?

19 A I don't think he liked it.

20 Q Did he ever tell you about any other problems he had with

21 **Minor** ?

22 A No.

23 Q Just asking for cigarettes?

24 A Yes, sir.

25 Q Let's talk about the day of January 29th. Were you home

1 that day?

2 A I worked and then I came home.

3 Q Okay. What did Lavon do that day?

4 A Went to his aunt's house for a kid's birthday party.

5 Q With your daughter?

6 A Yes, sir.

7 Q Do you know what time that party started?

8 A I'm not sure. I think they left the house earlier that
9 morning.

10 Q And when you say "kid's birthday party," what type of
11 party was this? Had he been to parties there before?

12 A Yes, sir.

13 Q Whose house was it?

14 A His aunt.

15 Q What's her name?

16 A Carlotta Sims.

17 Q Okay. Do you know where she lived?

18 A I think it's Prescott Road. It's somewhere on Prescott.
19 I'm not sure of the name.

20 Q Somewhere -- is that downtown?

21 A It's off of North Main.

22 Q Off of North Main?

23 Had he been to her house before for parties?

24 A Yes, sir.

25 Q And what types of parties were these normally?

1 A Kid's parties that turn into adult parties.

2 Q Okay. Was he supposed to be drinking that night with
3 your daughter?

4 A No, sir.

5 Q When he got home, had he been drinking?

6 A Yes.

7 Q What time do you think he got home that night on January
8 29th?

9 A I want to say it was around 10:30. My camera went off
10 and sent a notification to my cell phone.

11 Q Okay. You have a camera. Is it facing, like, the
12 parking lot area of the complex?

13 A Yes, sir. It's facing our vehicles at the time.

14 Q Where you would normally park your vehicle?

15 A Yes, sir.

16 Q Okay. Was he in your vehicle that night?

17 A Yes, sir.

18 Q So when he came home into the parking lot, you got some
19 type of notification?

20 A Yes, sir.

21 Q Okay. What did you do at that point?

22 A I got up and I went downstairs, and my daughter was
23 coming in.

24 Q Where was your daughter?

25 A She was coming in the living room door. She had some

1 bags of food they had picked up.

2 Q How long between the time you were notified when they got
3 into the parking lot until the time your daughter was at the
4 door?

5 A Roughly five minutes maybe.

6 Q Okay. And you went downstairs where your daughter was
7 standing in the doorway?

8 A Yes, sir.

9 Q And she had some bags of food?

10 A Yes, sir.

11 Q Where was Lavon at that point?

12 A Well, I asked her where was her dad, and she said he was
13 outside talking to a man. So I just kind of peeked outside to
14 see what he was doing and just saw him having a conversation
15 with **Minor**.

16 Q Okay. Before I get into that, let me ask you: How did
17 she -- how did your daughter actually get into the house?

18 A Apparently, he let her in.

19 Q Okay. Does she have a key?

20 A No, sir.

21 Q Okay. So -- and was the door locked that night?

22 A Yes, sir.

23 Q So he would have had to let her in the house?

24 A Yes, sir.

25 Q But when you get downstairs to the door and look out, you

1 see him where?

2 A At the end of the building.

3 Q On the sidewalk?

4 A Yes, sir.

5 Q Talking to who?

6 A The young man that lives in the apartment.

7 Q The young man that you now know to be **Minor**?

8 A Yes, sir.

9 Q Okay. And how were they talking?

10 A They just seemed like they were having a regular

11 conversation.

12 Q Were they close together? Were they far apart?

13 A They weren't far but they weren't close. You know, like

14 a regular distance in between two people.

15 Q All right. And you didn't hear them arguing or anything

16 like that?

17 A No.

18 Q You didn't see any fighting?

19 A No.

20 Q Did you see anything in your husband's hand?

21 A A cell phone.

22 Q Was he talking to somebody?

23 A Yes, sir.

24 Q You could hear voices on the phone?

25 A Yes, sir.

1 Q Did you see anything in **Minor's** hand?

2 A Not that I can recall.

3 Q Did **Minor** appear to be acting aggressive to you?

4 A No. Neither one of them.

5 Q You didn't think anything of it?

6 A No.

7 Q After you saw them there on the sidewalk, what did you
8 do?

9 A I just went back in the house because everything appeared
10 to be okay and I locked the door.

11 Q You closed the door and locked it?

12 A Yes, sir.

13 Q And what did you hear next?

14 A I heard gunshots.

15 Q Where were you when you heard the gunshots?

16 A Getting ready to go upstairs.

17 Q How long after you had seen him on the sidewalk and
18 closed the door did you hear gunshots?

19 A Within seconds.

20 Q Within seconds.

21 Where was your daughter at that point?

22 A At the top of our stairs.

23 Q And prior to the gunshots, you didn't hear any loud
24 voices or screaming or anything?

25 A No, sir.

1 Q When is the next time you saw Lavon?

2 A When he came back in the house.

3 Q What did he do when he came back in the house?

4 A We were just talking, and I was trying to figure out what
5 was going on outside.

6 Q Did you see him with anything at that point when he came
7 back in the house?

8 A No, sir.

9 Q Did you ever see him with a gun inside the house?

10 A In his pocket.

11 Q Did he pull the gun out inside your house at one point?

12 A Yes, sir.

13 Q What did he do with it?

14 A He laid it under a cushion under one of our chairs.

15 Q What are you thinking at that point when you see him with
16 a gun?

17 A That something had occurred outside.

18 Q Did you ask him about it?

19 A I did.

20 Q What did you ask him?

21 A I asked him was he involved.

22 Q What did he initially tell you?

23 A He initially said that the young man pulled a gun out on
24 him and grabbed his shirt.

25 Q Is that the first thing he said?

1 A Yes.

2 Q What was his attitude or demeanor like when he first came
3 back in the house?

4 A He was calm.

5 Q Did it appear like anything had happened based on the way
6 he was acting?

7 A Not really.

8 Q Now, do you start asking him more questions about what
9 happened as he's in the house?

10 A Yes, sir.

11 Q And during the course of those conversations, did he make
12 other statements about what had happened?

13 A He just said the guy pulled a gun out on him. I was just
14 trying to figure out what happened, and I told him, if
15 something had happened, let's go outside to the police because
16 they were outside at this point.

17 Q Do you recall him telling you at one point that he didn't
18 know what happened?

19 A Yes, sir.

20 Q Did he at one point indicate that he wasn't involved?

21 A Yes, sir.

22 Q And then he also told you at one point the kid pulled a
23 gun on him?

24 A Yes, sir.

25 Q After he came in the house that first time and you saw

1 that gun, did he stay in the apartment or did he go outside
2 again?

3 A He went back outside.

4 Q Did he have anything with him when he went back outside?

5 A A hand towel.

6 Q And where did he go?

7 A To assist the young man.

8 Q Okay. Did you follow after him?

9 A Yes, sir.

10 Q And did you go to where the victim actually was?

11 A Yes, sir.

12 Q Who all was out there at that time?

13 A I believe it was his mother.

14 Q Did you witness your husband try and help the victim?

15 A Yes, sir.

16 Q What was he doing?

17 A Trying to give, like, chest compressions.

18 Q But the first place he came after the shooting was into
19 your apartment where he put the gun under a cushion; correct?

20 A Yes, sir.

21 Q Okay. Then he gets a towel and goes to where the victim
22 is and the victim's mother is?

23 A Yes, sir.

24 Q And were you out there when law enforcement showed up?

25 A Yes, sir.

1 Q And when law enforcement showed up, did your husband stay
2 there or did he go somewhere else?

3 A He went back in the house. It was a couple of times that
4 he went back and forth.

5 Q Did you go back in the house with him?

6 A Yes, sir.

7 Q And did you have more conversation with him during these
8 times about what had happened?

9 A Yes. I was just trying to figure out what happened and
10 if something had happened, that he needed to go outside and
11 let the police know what was going on.

12 Q Did he want to do that?

13 A Not really.

14 Q What did he want to do?

15 A He wanted to take a nap at the time.

16 Q Now, did you also have him more questions about what, if
17 anything, this kid had done that may have provoked this?

18 A The only thing he said was that he asked for a cigarette.
19 That was it.

20 Q His explanation was the kid asked for a cigarette?

21 A Yes, sir.

22 Q Did he say the kid had done anything to him?

23 A No.

24 Q Did he tell you that the kid had grabbed him?

25 A He said he grabbed his shirt.

1 Q What did you notice after he said that about him?

2 A It didn't look like anything had been touched on him.
3 Not to me.

4 Q How long do you think y'all were in the house just kind
5 of having a conversation about what happened and about you
6 telling him to turn himself in?

7 A Approximately ten minutes maybe.

8 Q Now, you mentioned he would come in and leave a couple of
9 times. Where else did you see him go after he left your
10 apartment that night?

11 A I believe it was the last time he walked out, he went
12 behind another building.

13 Q Did you follow after him at that point?

14 A I did.

15 Q Could you see what he was doing back there?

16 A Yes, sir.

17 Q What was that?

18 A He was tossing his gun behind the building.

19 Q Okay. After he did that -- and was law enforcement on
20 the scene at that time?

21 A Yes, sir.

22 Q After that, did he go back into the apartment again?

23 A I believe so.

24 Q Okay. Now, at one point, did you think he was actually
25 going to turn himself in?

1 A Yes, sir, when we went outside.

2 Q And both of y'all went outside together?

3 A Yes, sir.

4 Q And what was your understanding of what was going to
5 happen at that time?

6 A I assumed that he was going to tell them that he had did
7 this and...

8 Q And did he do what you thought he was going to do?

9 A Not at first.

10 Q What did he do?

11 A He was just having a conversation with the police
12 officer.

13 Q And could you hear the conversation he was having with
14 the police officer?

15 A Not really.

16 Q Okay. Could you tell whether or not he was turning
17 himself in like you thought he was?

18 A No.

19 Q And what did you do at that point?

20 A I just let them know that it was him.

21 Q I'm going to back up a minute before I forget. Do you
22 recall your husband coming in the house and grabbing y'all's
23 trash to take to the trash prior to being out there with

24 **Minor** ?

25 A No, sir.

1 Q And when you looked out the door and saw your husband
2 talking to **Minor**, did he have a bag of trash in his hand?

3 A No, sir.

4 Q Okay. Now, the gun that he threw behind the building,
5 were you familiar with what type of gun he had or would you
6 recognize the gun if you saw it?

7 A I would recognize it, but I'm not sure of the name.

8 Q Okay. Now, where would he normally keep that gun?

9 A In the middle console of the car.

10 Q Of your car?

11 A Yes, sir.

12 Q Okay. So he didn't typically bring that gun in the house
13 to store it?

14 A No, sir.

15 Q He would keep it in the car?

16 A Yes, sir.

17 Q So if he had the gun on his person to walk your daughter
18 to the door, that would have been unusual for him?

19 A Yes, sir.

20 Q Now, are you familiar with your husband's use of the
21 phrase "Is you good?"

22 A Yes, sir.

23 Q Is that a greeting that he would use?

24 A No. It would normally mean there's an issue.

25 Q That would mean there's an issue?

1 Now, you mentioned you had a camera in your house that
2 faced out towards the parking lot where your car was parked;
3 right?

4 A Yes.

5 Q Did you also have a camera inside your house?

6 A Yes, sir.

7 Q And was it working the night of this incident?

8 A Yes, sir.

9 Q And did it capture some of the times where your husband
10 was coming in the house and your daughter was in the house?

11 A Yes, sir.

12 Q And have you previously watched that?

13 A Yes, sir.

14 Q And did you initial this disc just to identify it for
15 court today?

16 A Yes, sir.

17 Q And State's 57, is this the disc that you have watched
18 that shows the footage from inside your house on the night of
19 this incident?

20 A Yes, sir.

21 MR. McNAIR: Your Honor, we offer State's 57 into
22 evidence.

23 MR. MAULDIN: No objection, Your Honor.

24 THE COURT: All right. State's Exhibit 57 is admitted
25 into evidence.

1 (State's Exhibit No. 57, Video Footage from Inside Home,
2 was premarked for identification and received into evidence.)

3 (Video plays.)

4 BY MR. MCNAIR:

5 Q And that's four gunshots we hear on the video?

6 A Yes, sir.

7 Q And that was after your daughter had just come in the
8 door and started going upstairs?

9 A Yes, sir.

10 Q And that's after you had just closed the door?

11 A Yes, sir.

12 Q And you were downstairs in, I guess, the living room area
13 of the house that we can't see on that video when that
14 happened?

15 A Yes, sir.

16 (Video continues to play.)

17 Q Do you recall what was going on at that time?

18 A He was just coming up the stairs and coming outside
19 the --

20 Q This is a motion-activated camera?

21 A Yes, sir.

22 Q And what I want to ask you -- I forgot -- is how -- is
23 the time on the -- is the time on these videos accurate?

24 A Yes, sir. It's synced to my cell phone.

25 Q It's synced to your cell phone?

1 (Video continues to play.)

2 So I guess at one point he told you he had done it?

3 A Yes.

4 Q And then what we heard just now is he said he didn't do
5 it?

6 A Yes.

7 Q Let me show you State's 3 through 9. Just take a minute
8 to look through those. Now, are those all pictures or still
9 shots from body cam that you recognize as being from that
10 night?

11 A Yes, sir.

12 MR. MCNAIR: Your Honor, we'd offer State's 3 through 9
13 into evidence at this time.

14 THE COURT: Without objection?

15 MR. MAULDIN: No objection.

16 THE COURT: All right. State's Exhibits 3 through 9
17 admitted into evidence.

18 (State's Exhibit Nos. 3 through 9, Photographs from
19 Inside Home, was premarked for identification and received
20 into evidence.)

21 BY MR. MCNAIR:

22 Q All right. I'm going to show you State's 18 through 27.
23 If you could flip through those. And do all these photos
24 fairly and accurately represent the way that the apartment
25 complex that you lived in looked back on January 29th of last

1 year?

2 A Yes, sir.

3 MR. McNAIR: Your Honor, we'd offer State's 18 through 27
4 into evidence.

5 MR. MAULDIN: No objection.

6 THE COURT: All right. State's Exhibits 18 through 27
7 are admitted into evidence.

8 (State's Exhibit Nos. 18 through 27, Photographs of
9 Apartment Complex, was premarked for identification and
10 received into evidence.)

11 BY MR. McNAIR:

12 Q Last photo is State's 32. Do you recognize this document
13 the item in that photo?

14 A Yes.

15 Q Is that a picture of the gun that your husband had?

16 A Yes.

17 MR. McNAIR: Your Honor, we'd offer State's 32 into
18 evidence.

19 MR. MAULDIN: No objection.

20 THE COURT: All right. State's Exhibit 32 is admitted
21 into evidence.

22 (State's Exhibit No. 32, Photograph of Handgun, was
23 premarked for identification and received into evidence.)

24 BY MR. McNAIR:

25 Q Mrs. Julius, looking at State's 2, can you point out for

1 us where your apartment was?

2 A It was in the middle building.

3 Q 4-E?

4 A Yes, sir.

5 Q Looking at State's 3, can you see yourself in that photo?

6 A Yes, sir.

7 Q Can you use that laser pointer and just point yourself
8 out if you don't mind?

9 A (Witness complies.)

10 Q Okay. And do you see your husband that night in the
11 photo?

12 A Yes, sir.

13 Q Where is he?

14 A (Indicating).

15 Q And is this after he had come in the apartment initially
16 and then walked back out with a towel to go to where the
17 victim was?

18 A Yes, sir.

19 Q State's 4, do you see your husband in that photo?

20 A Yes, sir.

21 Q Is he out in the gray sweatsuit?

22 A Yes, sir.

23 Q State's 5. That's him on his knees?

24 A Yes.

25 Q This is after law enforcement showed up, obviously.

1 And on State's 6, remember we talked about, I guess, at
2 one point y'all both walked out of the apartment together and
3 it was your understanding he was going to turn himself in;
4 correct?

5 A Yes.

6 Q And you walked out with him. I'm going to show you
7 State's 6. Can you see yourself in that photo?

8 A By the door.

9 Q Do you see your husband?

10 A Yeah, right there.

11 Q Okay. Let me zoom in a little better.

12 Does this appear to be you right here?

13 A Yes, sir.

14 Q And is this the time when y'all both walked out and you
15 thought he was going to turn himself in to law enforcement?

16 A Yes, sir.

17 Q And what are you doing right now? Why are you not with
18 him?

19 A I'm not sure.

20 Q And where were you walking to at that time? Do you
21 remember?

22 A I think to the car.

23 Q Okay. Do you remember why you were walking to the car?

24 A I'm not sure. I can't remember.

25 Q Were you keeping your eyes on him to see what he was

1 doing?

2 A Yes, sir.

3 Q State's 7, is that a picture of your husband?

4 A Yes.

5 Q And what are you doing at that point?

6 A Trying to see what he was going to do.

7 Q Is that when you tried to see if he's going to actually
8 turn himself in?

9 A Yes.

10 Q Okay. And did he, while you were standing there watching
11 him?

12 A Mm-hmm.

13 Q State's 8. Again, that's you just standing there
14 listening?

15 And then State's 9, what are you doing at this point?

16 A [Indiscernible].

17 Q State's 18. Which one is you on this photo?

18 A I believe I was in the middle down to the -- not the last
19 one but the one in the middle.

20 Q Okay. And when you testified to following your husband
21 out the house behind the building to where he threw the gun,
22 where is that on this photo?

23 A (Indicating).

24 Q Right about there?

25 A Yes.

1 Q State's 19. Now, do you see on here or can you show us
2 where you saw the victim standing, talking to your husband?

3 A Like right in this area (indicating).

4 Q And is that actually where the victim was staying?
5 That's his grandmother's house?

6 A Yes.

7 Q And which way was he facing?

8 A He was facing this way (indicating).

9 Q Towards where you were?

10 A Yes. Like his back was turned like this (indicating).

11 Q And so your husband's back was to you?

12 A Yes.

13 Q So your unit's on the right side of this photo.

14 A Yes.

15 Q And your husband is kind of backwards to you and the
16 victim was facing ---

17 A Yes.

18 Q --- your direction?

19 And, again, you didn't see any trash in your husband's
20 hand while he's standing there?

21 A No, sir.

22 Q Okay. 20. Can you point out where you were standing
23 when you saw your husband and the victim standing in front of
24 that other unit?

25 A Right up in this area. I just peeked out.

1 Q Now, from where your husband parked, would he have any
2 reason to even go by the victim's apartment or in that
3 direction?

4 A No, sir.

5 Q So the most direct route would be not going by the
6 victim's apartment. It would just be straight to your
7 apartment; correct?

8 A Yes.

9 Q Do you recall how he parked that night?

10 A Yes. He backed in to park.

11 Q He backed in?

12 So that means the driver's side window would have been
13 facing the building ---

14 A Yes, sir.

15 Q --- where the victim was?

16 All right. State's 21. Again, just another view of the
17 same thing.

18 State's 22. Is this showing straight back to the area
19 where you saw him go to drop the gun?

20 A Yes, sir.

21 Q State's 23, just a close-up of that same area where the
22 fence is; correct?

23 A (No audible response.)

24 Q State's 24, where is your unit on this photo?

25 A (Indicating).

1 Q E; right there?

2 And where was -- where did you see the victim's body?

3 A Around the corner on the side of the building.

4 Q So from where we're taking this photo from, you couldn't
5 have seen the victim from here? He was on around the building
6 a little bit?

7 A Yes, sir.

8 Q This is just State's 25. Is that just a close-up of that
9 same area we're talking about?

10 A Yeah. It was like around here on the side.

11 Q Okay. And show us again where the victim was standing
12 when you saw him talking to your husband.

13 A They were right in this area.

14 Q Okay. And State's 26, is that showing just a grassy area
15 on around the building?

16 A Yes, sir.

17 Q And State's 27, does that show the area where the victim
18 was actually -- where you saw him, right in that area?

19 A Yes.

20 Q And State's 32, is that your husband's gun?

21 A Yes, sir.

22 Q Ms. Julius, I'm sincerely sorry you have to be in this
23 position. That's all the questions I have. Please answer any
24 questions the defense attorney has.

25 THE COURT: Cross-examination?

1 CROSS-EXAMINATION

2 BY MR. MAULDIN:

3 Q Good morning.

4 A Good morning.

5 Q Now, they came back home around 10:30 at night; is that
6 right?

7 A Yes, sir.

8 Q And you were upstairs in your bed?

9 A Yes.

10 Q And at the time that your daughter walked upstairs that's
11 about 10:40 ---

12 (Video plays.)

13 --- is that right?

14 A I guess. I can't see the time.

15 Q Because he asked you if the times were right.

16 (Video plays.)

17 And those shots kind of came all at one time, didn't
18 they?

19 A Yes, sir.

20 Q It was just like a second, not even; right?

21 A (No audible response.)

22 Q Now, listen to this voice at the end. It's your voice;
23 isn't it?24 A Yeah. There's nobody there but me, him, and
25 [indiscernible].

1 Q Okay. So you were upstairs when he came back in; is that
2 right?

3 A I guess.

4 Q You were upstairs in the bedroom when he came up those
5 stairs.

6 A Yes.

7 Q And, in fact, you didn't come downstairs until after you
8 heard the shots; isn't that correct?

9 A Yeah, I had to put my pants on and come out.

10 Q All right. So if you're in the room and he's there --
11 and you went downstairs while he was upstairs?

12 A No. We both went out. We were both on the -- both
13 outside.

14 Q Well, where is the video of both y'all going downstairs?

15 A There isn't but three videos that they were able to
16 download.

17 Q Now, I know you talked with the police a lot that night.

18 A I did.

19 Q You talked to them once. You might have talked to them
20 twice. And then another one and another one; isn't that
21 right?

22 A Yes, sir.

23 Q And then they took you down to the police station and you
24 talked to another one?

25 A Mm-hmm.

1 Q And they gave you a statement. They gave you time to sit
2 down and write out everything; is that right?

3 A Mm-hmm.

4 THE COURT: I need a --

5 BY MR. MAULDIN:

6 Q Do you remember writing that statement?

7 THE COURT: Hold on a second.

8 When you're giving responses, I see you're nodding your
9 head but the record won't reflect that you're answering a
10 question.

11 BY MR. MAULDIN:

12 Q And you have had a chance to review some of those videos
13 and your written statements before this trial?

14 A Yes.

15 Q Okay. And doesn't your written say, "I was laying in bed
16 when I heard two to three gunshots fired. I got out of bed
17 and came down to see what was going on?"

18 A Yes.

19 Q Okay. So you didn't go outside until after the shots; is
20 that right?

21 A Correct. I was in the house.

22 Q You were in bed?

23 A Yes. And I put on my pants and went outside.

24 Q So you didn't see Mr. Julius and that fellow outside
25 before the shots?

1 A When the daughter -- when my daughter came in, I saw him.
2 I saw my daughter come in. And then I went back upstairs.

3 Q And got back in bed?

4 A Yes.

5 Q But I thought the shots happened, like, immediately after
6 you shut the door.

7 A When I --

8 Q Within seconds.

9 A When I locked the door from my daughter coming in, that's
10 when the shots happened.

11 Q Well, you wrote that in your statement, that you were
12 laying in bed when you heard the shots and got out of bed; is
13 that right?

14 A And put my pants on.

15 Q And you told the officer at the police station, when you
16 were watching the video, "Oh, I heard the shots. That's when
17 I got up and went downstairs." Is that right?

18 A Right.

19 Q Because that's the first time you went outside.

20 A Correct.

21 Q So you never went outside and saw him and that fellow
22 talking?

23 A When they -- when my husband opened up the door from my
24 daughter when she came in with the food and I peep outside,
25 that's when I saw them talking.

1 Q You were up in bed the whole time, weren't you? Weren't
2 you?

3 A When my daughter -- was the door was open for my
4 daughter, I went down and I saw her come in with the bags of
5 food.

6 Q Right. But you --

7 A And then we went back upstairs.

8 Q So you're saying that you saw him talking with the guy,
9 and within seconds, you went all the way back upstairs and got
10 in the bed again and then heard the shots and then came back
11 outside? Is that what you're saying now?

12 A No, that is not what I said.

13 Q But you said, when you heard the shots -- when you wrote
14 this down, you said you heard the shots and you got out of
15 bed. And when you --

16 A And I put my pants on and I went outside.

17 THE COURT: Try not to talk over each other.

18 MR. MAULDIN: Okay.

19 THE COURT: It garbles the record.

20 BY MR. MAULDIN:

21 Q And you told the man at the station, Detective Heath,
22 when you heard the shots, that's when you got out of bed;
23 isn't that right?

24 A And put on my pants and I went outside.

25 Q Do you think you might be confused about the sequence of

1 events?

2 A No, I'm not.

3 Q I mean, it was a stressful time, wasn't it?

4 A Yes, it was.

5 (Video plays.)

6 Q Is that funny? You just laughed. Is that stress?

7 A No, it's not funny.

8 Q Okay.

9 (Video continues to play.)

10 And you don't seem upset. You just seem worried about
11 the police kicking your door in; is that right?

12 A Correct.

13 Q Okay. Now, Lavon kept the gun in the car or in that
14 closet in the house?

15 A In the car, as I stated before.

16 Q Did you ever tell the police he kept it in the closet in
17 the house?

18 A No, I did not.

19 Q You didn't tell Officer Januchowski that the gun is
20 normally at the top of the closet but he must have had it with
21 him?

22 A No, I did not.

23 Q Would looking at a video of your interview be able to
24 refresh your memory?

25 A Yeah, I have seen it. You can play it.

1 Q And you're saying you didn't say it?

2 A Didn't say what?

3 Q That he normally keeps the gun at the top of the closet.

4 A No, I did not, but they found a completely separate gun
5 in the closet.

6 Q And one time when he went outside, you didn't know where
7 he was; is that right?

8 A Which time was that?

9 Q When he supposedly -- when he went to the end of the
10 building, you didn't know he had gone there?

11 A Yeah, I did know he went there because I walked out
12 behind him.

13 Q You didn't walk out and look around like you didn't know
14 what was going on or where he went?

15 A No. I was trying to see what he was doing.

16 Q You didn't look left and right to try to see where he
17 might have gone to?

18 A No, I did not.

19 Q All right. And then you said -- you were talking to the
20 solicitor about the phrase "is you good"; is that right?

21 A Mm-hmm.

22 Q And that sounds like something somebody would say when
23 they're unsure of the situation they're in, doesn't it? "Are
24 you good?"

25 A Yeah, that's what most people would say.

1 Q Like you're trying to determine if another person is
2 angry or upset at you. "Are you good?"

3 A Everybody uses phrases differently. He uses it
4 differently than I maybe do.

5 Q And he's a truck driver; is that right?

6 A Correct.

7 Q And he had his own truck that he used to haul things; is
8 that right?

9 A Correct.

10 Q And while he was in jail, you sold his truck; didn't you?

11 A I did. And he authorized me to do so. I'm his power of
12 attorney.

13 Q And you didn't hire an attorney, did you? You left him
14 with the public defender?

15 A He didn't have the money for an attorney.

16 Q Mm-hmm. Even after selling the truck?

17 A No, he didn't, because his truck had oil leaks.

18 Q Mm-hmm.

19 MR. MAULDIN: No further questions.

20 MR. McNAIR: Beg the Court's indulgence.

21 THE COURT: Redirect?

22 REDIRECT EXAMINATION

23 BY MR. McNAIR:

24 Q Ms. Julius, did you have a discussion with your husband
25 about using that money to hire a private attorney?

1 A No, I did not.

2 Q You don't recall talking to him about that?

3 A No, sir.

4 Q You don't recall him telling you, "Was it worth hiring a
5 private attorney?"

6 A Exactly.

7 Q And why was that?

8 A Because he didn't think anything good would come out of
9 this.

10 Q Okay. "Is you good," is that a phrase your husband uses
11 when he's unsure about a situation?

12 A No, sir.

13 Q When does he use that phrase?

14 A When there's an issue with someone.

15 Q And when he's sure about a situation?

16 A No. When there's a problem, that's what he normally
17 says.

18 Q When he has a problem?

19 A Yeah, or when he thinks there is a problem.

20 Q Now, was there a reason you were talking to him in a
21 certain way that night?

22 A As far as?

23 Q Well, Mr. Mauldin brought up that you were laughing. Was
24 there a reason -- did you approach him a certain way that
25 night in how you were dealing with him?

1 A I did.

2 Q And why was that?

3 A Because I didn't know what was going on and I was looking
4 out for my own safety.

5 Q And you didn't want to upset him?

6 A Definitely not.

7 MR. MAULDIN: Objection to leading, Your Honor. Move to
8 strike.

9 THE COURT: All right. Let's have y'all approach real
10 quick.

11 MR. McNAIR: I'll move on.

12 THE COURT: Well, I still want to talk to you.

13 BENCH CONFERENCE

14 (A bench conference was held off the record and outside
15 of the hearing of the jury.)

16 THE COURT: All right. Objection's sustained. Move on.

17 BY MR. McNAIR:

18 Q Now, did these cameras inside your house capture
19 everything that night?

20 A They did but the police officer was trying to get them to
21 download. They couldn't get all of the videos to download.

22 Q So these aren't necessarily the order of how things
23 happened?

24 A No.

25 Q This is what you were able to provide?

1 A That's just what they were able to get, yeah.

2 (Video plays.)

3 Q Okay. And where were you at that point?

4 A Downstairs.

5 Q Downstairs?

6 A Yes. Because I just met her -- she was just coming in
7 and I was just locking my door.

8 Q And what was your husband wearing that night when you
9 first saw him?

10 A The last time was in a gray Nike jogging suit.

11 Q And at one point, was he wearing a sweatshirt?

12 MR. McNAIR: What in the world?

13 [Courtroom laughter.]

14 BY MR. McNAIR:

15 Q All right. State's 3. Is that your husband in this
16 photo right here?

17 A Yes. That's the Nike jogging suit and the thermals.

18 Q That made me dizzy.

19 So he had something over a thermal shirt at one point;
20 right?

21 A Yeah, the Nike jogging suit.

22 Q Okay. So when we see that video clip of him walking up
23 the stairs in the black thermal, is that the first time he
24 walked back in the house after the shooting?

25 A Yes, I believe so.

1 Q You think it is?

2 A Yes.

3 Q But is that the time that you were downstairs and you saw
4 him walk in with the gun?

5 A No.

6 Q You're not sure?

7 A I'm not sure.

8 Q Okay. You're not sure what sequence of events that
9 particular clip is?

10 A I'm not sure because there were -- it's -- they were all
11 mixed up. That's not the order that they were in. It was
12 several videos.

13 Q Okay. But when the gunshots happened, you were
14 downstairs?

15 A Yes, sir.

16 Q And when he walked back in after the gunshots, you were
17 downstairs? That's what you recall?

18 A Yes, sir.

19 Q And that's when you saw him with the gun; correct?

20 A Yes.

21 Q And asked him what happened?

22 A Yes.

23 Q That's all I have. Thank you.

24 THE COURT: Recross?

25

1 RECROSS-EXAMINATION

2 BY MR. MAULDIN:

3 Q A little while ago, I thought you said that you were in
4 bed when the gunshots were heard and you came downstairs.5 A No. I told you that I opened -- when he opened the door
6 and let my daughter in and when I locked the door, that's when
7 the gunshots went off. I hadn't even made it back upstairs
8 yet.9 Q All right. I asked you specifically did you write, "I
10 was laying in bed when I heard two or three shots fired. I
11 got out of the bed and went downstairs to see what's going
12 on."13 A I said I put my pants on and I went and saw what was
14 going on, because I was not dressed. I had on bed clothes.15 Q Did you write that in the statement to officers on
16 January 29th, 2022?

17 A I don't recall.

18 Q Would looking at the statement refresh your memory?

19 A I'm sure it would.

20 Q Didn't you write that night that you were laying in bed
21 when you heard the gunshots?

22 A Yes, if that's what's on the paper.

23 Q Okay. Well, was it on the paper?

24 A You just gave me the paper and that's what I wrote.

25 Q Okay. So you wrote that on a paper?

1 A I did.

2 Q Okay. And just recently, the solicitor asked you about
3 phone calls with your husband and you said that you didn't
4 talk about an attorney, and then you turned around and said
5 you did talk to him about it.

6 A No, I never told you we talked about an attorney. He
7 said that he didn't need an attorney.

8 Q Isn't it true that you said he didn't need an attorney
9 because they had an open-and-shut case in this one?

10 A I did say that.

11 Q So you were the one that kept the money and left him in
12 jail with a public defense?

13 A I am his power of attorney and I did what he said with
14 the money. If y'all listen to the calls, then you know that's
15 exactly what he told me.

16 Q Did he sign the power of attorney or did you sign the
17 power of attorney?

18 A Oh, I didn't sign no power of attorney.

19 Q You signed it when he was in jail, didn't you?

20 A No, I did not.

21 MR. MAULDIN: No further questions.

22 THE COURT: All right. The witness is excused.

23 Ladies and gentlemen, everybody okay on the jury right
24 now? Nobody needs a break?

25 Okay. Proceed.

1 MS. FULLER: Thank you, Your Honor. The State calls Marc
2 Miramontes.

3 MARC MIRAMONTES,
4 after having been duly sworn, was examined and
5 testified to as follows:

6 THE CLERK: Thank you. Have a seat on the witness stand
7 and please state your name and spell your last name for the
8 record.

9 THE WITNESS: Marc Miramontes. Last name spelled
10 M-i-r-a-m-o-n-t-e-s.

11 DIRECT EXAMINATION

12 BY MS. FULLER:

13 Q Go ahead and introduce yourself to the jury. Where are
14 you currently employed?

15 A I'm employed with the Town of Lexington Police
16 Department.

17 Q And in what capacity?

18 A I'm a crime scene investigator and also in charge of the
19 evidence room.

20 Q And how long have you worked as a crime scene
21 investigator?

22 A I have been an investigator -- crime scene investigator
23 since 2018.

24 Q And in charge of the evidence room?

25 A 2018.

1 Q And in total, how many years of law enforcement
2 experience do you have?

3 A 22 years, going on 23, I believe.

4 Q And have you spent your entire career at the Town?

5 A Yes, ma'am.

6 Q Now, I want to talk to you about the case why we're here
7 that took place on January 29th of 2022. Do you recall
8 responding to the scene?

9 A Yes, ma'am.

10 Q Do you recall that being on [REDACTED] Street?

11 A Yes, ma'am.

12 Q And is that in Lexington County?

13 A Yes, ma'am.

14 Q And do you recall the temperature when you arrived?

15 A It was a very cold night. It was -- I believe it was 29
16 that I wrote down. 29 degrees.

17 Q And do you recall what time the call came in reporting
18 the shooting in this case?

19 A I believe the call came in around -- look at the CAD on
20 here. Looks like 2243.

21 Q And what does 22 stand for?

22 A 22 is 11:00.

23 Q So 11:43 is when the call came in; correct?

24 A Yes.

25 Q No. 10; correct?

1 A Yes. I'm sorry.

2 Q So the call came in at 10:43; correct?

3 A Yes.

4 Q And do you recall what time you were notified?

5 A I was called out around 11:00.

6 Q Okay. And do you recall what time you signed in on the
7 crime scene?

8 A I believe it is -- I don't have the time on here.

9 Q In your report? Do you have a copy of your report up
10 there?

11 A On my report, I just have 2300 hours is when I got called
12 out by Investigator Payton.

13 Q And does it sound accurate on the crime scene log that
14 you signed in at 11:53 p.m.?

15 MR. MAULDIN: Objection. Leading?

16 A Yes, because I had to drive --

17 THE COURT: Overruled.

18 A I had to drive all the way from the other side of the dam
19 and get around and it takes me a little while.

20 BY MS. FULLER:

21 Q Okay. Now, once you arrived on the scene, can you
22 describe the scene to the jury.

23 A When I arrived, there was already a crime scene set up.
24 It was -- all the officers that you see there, everything was
25 secured. The coroners were already there. They had put up a

1 barrier for the -- to protect the scene and the body can't be
2 seen by the public.

3 Q Okay. And when you say the crime scene was set up, what
4 does that technically mean?

5 A Basically, what they do is they'll put the crime scene
6 tape up to keep the public or anybody else walking onto the
7 area or wherever near the crime scene or whatever, anything
8 that happened, they would block it off.

9 Q Okay. And when you arrived on the scene, you indicated
10 you talked about the deceased in this case. Did you see where
11 he was located?

12 A Yes, ma'am. He was laying on the grass right next to the
13 first building at the apartment complex.

14 Q Okay. And do you recall what position his body was in?

15 A He was laying on his back.

16 Q And do you recall whether his eyes were open or closed?

17 A His eyes were open.

18 Q And was he pronounced deceased at the scene?

19 A Yes.

20 Q And what could you tell regarding his injuries?

21 A He appeared to have several injuries. There was one to
22 the chin. There was another one to his left hand. And there
23 was another one on his -- close to his belly button.

24 Q And what kind of injuries?

25 A It looked like there was several bullet holes -- bullet

1 wounds. One to the left hand, and it looked like it was an
2 entry on the top part of the hand.

3 Q What, if anything, did you notice about his face?

4 A His face? To me, it appeared that he had been laying on
5 his face and that he was turned over when CPR was -- when they
6 attempted CPR on the individual.

7 Q And what about his face indicated that he would have been
8 turned over?

9 A Grass clippings still stuck to his lips and face.

10 Q Now, how long or approximately how long do you think you
11 were on-scene?

12 A Well, I was there until the next day. I was there all
13 night until -- until the gun was located.

14 Q Okay. And let's talk about processing the scene. What
15 exactly are you looking for when you're processing a scene?

16 A Usually what I try to do, I usually -- the first thing I
17 do, I'll get the information from the -- one of the officers.
18 This time it was -- I believe it was Lieutenant Stowe had
19 started giving me the information what they believed had
20 happened.

21 And, after that, I usually start photographing the area
22 and then I get close to where the body was at.

23 Q I'm going to show you a number of photographs that have
24 been premarked for identification as State's 11 through 17 as
25 well as 28, 29, 30, 31, and 33 and ask if you recognize them.

1 A I do.

2 Q And how do you recognize those?

3 A These are photographs that I took.

4 Q And do they appear to be altered in any way?

5 A No, ma'am.

6 Q And are these photographs from both that night and going
7 into the next morning when the gun was recovered?

8 A Yes, ma'am.

9 Q And do they fairly and accurately represent the scene
10 that day?

11 A Yes.

12 MS. FULLER: At this time, Your Honor, the State seeks to
13 introduce into evidence State's 11 through 17 and then 28
14 through 31 and 33.

15 MR. MAULDIN: No objection except for 13 and 14, Your
16 Honor, under 403, Your Honor.

17 THE COURT: All right. State's Exhibits 11, 12, 15
18 through 17, 28 through 31 and 33 are admitted without
19 objection. State's Exhibits 13 and 14 are admitted subject to
20 objection.

21 Counsel, Solicitor, can I ask you a quick question?

22 BENCH CONFERENCE

23 (A bench conference was held off the record and outside
24 of the hearing of the jury.)

25 THE COURT: I find 13 and 14 don't run afoul of Rule 403

1 under these circumstances. [Indiscernible] make a record
2 [indiscernible].

3 (State's Exhibit Nos. 11 through 17, 28 through 31, and
4 33, Crime Scene Photographs, were premarked for identification
5 and received into evidence.)

6 MS. FULLER: Thank you, Your Honor. Permission to
7 publish.

8 THE COURT: Very well.

9 BY MS. FULLER:

10 Q I'm going to show you what's already in evidence as
11 State's 32 and ask if you recognize it as well.

12 A I do, ma'am.

13 Q Okay. Now, going through these photographs -- I'm going
14 to show you what's been marked as Exhibit 1 and ask if you
15 recognize this as well.

16 A I do.

17 Q And how do you recognize it?

18 A This is an overview from the whole property of the
19 apartment complex at [REDACTED] Street.

20 MS. FULLER: At this time, Your Honor, the State seeks to
21 introduce into evidence State's 1.

22 MR. MAULDIN: No objection.

23 THE COURT: All right. State's Exhibit 1 is admitted
24 into evidence.

25 (State's Exhibit No. 1, Photograph of Overview of

1 Apartment Complex, was marked for identification and received
2 into evidence.)

3 BY MS. FULLER:

4 Q So now, looking at State's 1, can you go ahead and orient
5 the jury with where they are in relation to here, the
6 courthouse, and how you get to this apartment complex?

7 A The courthouse -- this is the front of the apartment
8 complex. The sheriff's department is going to be over here,
9 the jail, and the town hall is up here on Maiden Lane behind
10 Groucho's.

11 Q And so it will take a few minutes to get there from here;
12 correct?

13 A Yes, ma'am.

14 Q Now, when you're looking at State's 2 -- I'm having a
15 hard time looking.

16 THE COURT: Which one are you looking for?

17 MS. FULLER: State's 2, the original.

18 THE COURT: Is it possible this one's it?

19 MS. FULLER: It should have been in evidence already.

20 THE COURT: Well, I'm just saying some of these say
21 copies and some of them not.

22 MS. FULLER: Beg the Court's indulgence.

23 (Pause in the proceedings.)

24 BY MS. FULLER:

25 Q Now, the jury is seeing State's 2. This is now just

1 zooming in and focusing on the apartments that are identified;
2 correct?

3 A That's correct.

4 Q And I will be referencing that as we go through some of
5 these photographs.

6 Looking at State's 11, can you orient the jury where this
7 is once you enter?

8 A That sign is right in front of the property -- in the
9 center of the property right next to the road.

10 Q Now looking at State's 12, can you describe for the jury
11 what they're looking at here?

12 A Yes. This is the -- this is Apartment Building 4 and
13 this is the first apartment, which is where the victim's
14 grandmother lives. And he was laying on the grass right next
15 to it.

16 Q And now their barrier is up around **Minor's** body. Who
17 placed those there?

18 A Those were placed there by the coroners.

19 Q Okay. Now, looking at State's 15, we see some tape in
20 this photograph?

21 A Yes.

22 Q Who did that?

23 A That would be the police officers that arrived.

24 Q Looking at State's 16, what is the significance of this
25 photograph?

1 A There's the casing -- bullet casing located right here in
2 front of this car, and it's directly in front of the second
3 apartment.

4 Q Okay. And so that would be to --

5 A That is facing towards [REDACTED] Street. [REDACTED] Street is
6 up here. The body would have been over here behind the wall.

7 Q And so now we have seen some daytime photographs of the
8 area. So I'm going to put on State's 18. Would that be just
9 to the right of the steps coming down from Apartment A?

10 A Yes, that is correct, right in front of the cars.

11 Q And going back to the nighttime photographs, State's 17,
12 that's where that casing landed or that casing was located;
13 correct?

14 A Correct.

15 Q Now, talking about the gun and in searching for casings,
16 did you find any other casings on the scene that night?

17 A No, ma'am.

18 Q And you were there since roughly sometime after 11:00,
19 closer to 12:00, until, you said, the next morning; correct?

20 A That is correct.

21 Q And were you the only one searching for items of evidence
22 that night?

23 A No, ma'am. There was several officers and supervisors.
24 Everybody was trying to locate any casings.

25 Q And I'm going to place State's 18 here while we're

1 talking about that. Where was searched for casings and the
2 gun and all that that night?

3 A It was all around this area right here close to the body.
4 We looked all over the place right here. They also went
5 towards the trash cans that were behind the building, all the
6 way up here in the back. The officers went everywhere while I
7 was trying to process the scene.

8 Q And from looking at **Minor**, he sustained multiple gunshot
9 wounds; correct?

10 A That's correct.

11 Q And you were anticipating locating at least four casings
12 based on what was reported; correct?

13 A That is correct.

14 Q And you only one found?

15 A Yes.

16 Q And that's to the -- that was located to the right of
17 those steps outside of A; correct?

18 A It was --

19 Q Or in front of B?

20 A It was in front of B right there where the cars are.

21 Q So going back to State's 16 and then I'm going to put
22 on -- put up State's 19 just from a different angle. And I'm
23 going back to 16 for the daytime photograph, looking at just
24 the parking lot. Can you locate on here where that casing was
25 located?

1 A The casing would have been right there.

2 Q Okay. Now State's 13 and 14, not publishing on the
3 overhead but showing you these photographs....

4 A Yes, ma'am.

5 Q Okay. And this is how **Minor** was by the time you arrived
6 and took photographs; is that correct?

7 A That is correct.

8 Q And, here, what is this above **Minor's** head?

9 A That is headphones he had. I wasn't sure if he was
10 wearing them at the time or they were just hanging around his
11 neck or whatever at the time.

12 Q Can you tell whether or not there's blood on the
13 headphones?

14 A I can't tell. There's the part right below the
15 headphones, the earpiece has blood on the wire there.

16 MS. FULLER: Okay. Publishing in front of the jury
17 State's 13 and 14.

18 THE COURT: Very well.

19 BY MS. FULLER:

20 Q And you took a lot of photographs that day; correct?

21 A Yes, ma'am.

22 Q And for Court, we're just going over a few of the entries
23 and a few of them; correct?

24 A Yes, ma'am.

25 Q Now, keeping in mind that we keep the jury oriented here,

1 based on the photographs that you just -- can you point out on
2 here where -- where **Minor** was?

3 A Right here (indicating).

4 Q And that would be around the corner from the building;
5 correct?

6 A That is correct.

7 Q Now looking at State's 28, where are we now?

8 A This building right here is the Building 5. This -- if
9 you're looking from the front of the building out, it would be
10 facing directly on **Street**.

11 Q In looking at State's 29?

12 A This is directly behind. This is Building 5 and this is
13 all behind the building.

14 Q And now it's daylight at this point; correct?

15 A That is correct.

16 Q And this is when you testified the gun was located?

17 A Yes, ma'am.

18 Q And you were there throughout ---

19 A Yes, ma'am.

20 Q --- from when you arrived through daylight?

21 And now State's 30. Are we just getting closer?

22 A Yes, ma'am.

23 Q And then State's 31?

24 A Yes.

25 Q And then the jury is seeing State's 32 and now we're

1 at -- looking at State's 33. Why was this photographed?

2 A This was photographed because I released the magazine and
3 I was showing that the gun was still loaded with four rounds.
4 He's got three in the magazine and one in the chamber.

5 Q Okay. And then looking at this magazine here, when you
6 say it's showing that -- that magazine -- that projectile was
7 missing or bullets were missing, how can you tell just from
8 looking at the magazine?

9 A Right here, these -- this whole -- if it was still whole,
10 it would show that a bullet, like the top two, it would show
11 that there's still a bullet under each section there.

12 Q Okay. And this indicated to you that four rounds were
13 missing from the magazine?

14 A That's correct.

15 Q Looking at daytime photograph, State's 23, and then
16 looking back at State's 30 where the gun was located, do you
17 see that area also in this daytime photograph?

18 A Yes, ma'am. That's going to be on this [indiscernible]
19 right here.

20 Q In preparing for court last week, was State's Exhibit 10
21 generated?

22 A (No audible response.)

23 Q Yes?

24 A Yes, ma'am. I'm sorry.

25 Q And would this be -- what exactly would this be?

1 A This is basically a -- it's a floor plan of what the
2 whole property looks like, all the buildings.

3 Q Okay. And what is identified on it?

4 A Looks like we have identified up here where the body was
5 laying. Building 4, Building 5, where the gun was located
6 behind Building 5. Each one of the apartments on Building 4
7 and the area where the casings was located. And it looks like
8 you also have -- looks like you also have the trash cans --
9 the containers in the property.

10 Q Okay. At this time -- and would this assist the jury in
11 seeing basically the -- **Minor's** position, the gun, as well as
12 the shell casing ---

13 A Yes, ma'am.

14 Q --- of what we just -- what we just talked about?

15 A Yes, ma'am.

16 MS. FULLER: At this time, Your Honor, the State seeks to
17 introduce into evidence State's Exhibit 10.

18 MR. MAULDIN: No objection, Your Honor.

19 THE COURT: State's Exhibit 10 is admitted into evidence.
20 You may publish it.

21 MS. FULLER: Thank you, Your Honor.

22 (State's Exhibit No. 10, Photograph of Property Overview,
23 was premarked for identification and received into evidence.)

24 BY MS. FULLER:

25 Q And now, Investigator Miramontes, if you'd just review

1 with the jury and point out what we were able to just discuss
2 by looking at what's in your hand.

3 A This is the -- next to the building, Building 4. This
4 would be [REDACTED] Street back here and the front of the
5 property. Here are the containers for the trash containers.
6 One here and one here. This is Building 5. This is where the
7 gun was located. And here is the Apartment E -- D and E.

8 MS. FULLER: Beg the Court's indulgence.

9 BY MS. FULLER:

10 Q And looking at where the cartridge case is located and
11 where [REDACTED] Minor's body is, when you were out there, were you able
12 to gauge approximately how many steps it would have taken to
13 not actually open the shell casing but in front of those steps
14 we were talking about outside of A to get to where [REDACTED] Minor's
15 body was?

16 A It depends if you, like, in a hurry or if you're just
17 talking a walk out, it was only between 10 or 15 steps to get
18 around the corner. It wasn't too far.

19 Q I need to go back to State's 13 because I forgot to ask
20 you something. Let me get it back in front of the jury.

21 MS. FULLER: Beg the Court's indulgence.

22 BY MS. FULLER:

23 Q Looking back at State's 13, I'm going to approach and ask
24 you a question. What is in the grass next to [REDACTED] Minor's body?
25 Right here.

1 A Oh, that's pooling blood.

2 Q Okay. And what, if anything, did that indicate to you?

3 A It appeared to me that that's where the body had been
4 laying, on his face, and that was -- that's bleeding from the
5 body.

6 MS. FULLER: Okay. And with the Court's permission, I'm
7 pointing out for the jury where he pointed to me versus
8 publishing on the overhead.

9 THE COURT: Okay.

10 MS. FULLER: No objection?

11 MR. MAULDIN: I objected to the photo anyway.

12 THE COURT: Okay. Proceed.

13 BY MS. FULLER:

14 Q So pointing out the pooling of blood. And, again, based
15 on you being out there [indiscernible] the scene, that
16 appeared to be where he would have been laying face-down prior
17 to being rolled over; correct?

18 A That is correct.

19 Q Now, did you actually collect the gun and the shell
20 casing that day?

21 A I did.

22 Q Okay. I'm going to show you now what's been premarked as
23 State's Exhibit 47 and 48 and ask if you recognize it.

24 A I do.

25 Q And what do you recognize State's 47 to be?

1 A 47 is the weapon that was collected and the rounds and
2 magazine collected with the weapon.

3 Q Okay. And what do you recognize State's 48 to be?

4 A This is the casing that I collected from the parking lot.

5 MS. FULLER: At this time, Your Honor, the State seeks to
6 introduce State's 47 for the record. It's been checked in
7 with security and rendered safe. As well as introducing into
8 evidence State's 48.

9 MR. MAULDIN: No objection, Your Honor.

10 THE COURT: State's Exhibit 47 and 48 are admitted into
11 evidence.

12 (State's Exhibit No. 47, Weapon, was premarked for
13 identification and received into evidence.)

14 (State's Exhibit No. 48, Shell Casing, was premarked for
15 identification and received into evidence.)

16 BY MS. FULLER:

17 Q Looking at State's 48 on the overhead, is that the spent
18 cartridge case that we have been talking about?

19 A Yes, ma'am.

20 Q In looking at State's 47, is this the handgun that was
21 recovered in the back of the apartments?

22 A Yes, ma'am.

23 MS. FULLER: Beg the Court's indulgence.

24 We have nothing further at this time.

25 THE COURT: Cross-examination?

1 CROSS-EXAMINATION

2 BY MR. MAULDIN:

3 Q Is it detective?

4 A Yes, sir.

5 Q Okay. Thank you.

6 Detective Miramontes, although from the blood spotting,
7 you assume that the body had been on its face and then turned
8 over on its back, you were unable to document the actual
9 original position of the body as it fell; is that correct?

10 A That's correct. Usually the officers, they arrive and
11 they try to assist, try to get CPR and EMS. By the time I get
12 there, everybody has already been there.

13 Q All right. So a lot of people have been there before.
14 Did somebody else find that shell casing or did you find the
15 shell casing?

16 A I believe I was -- I believe I found -- no, it was the
17 coroner. He was walking by and he saw it laying on the
18 ground.

19 Q And that would have been sometime after 11:00 ---

20 A Yes, sir.

21 Q --- because [indiscernible] at 11:00. Okay.

22 And speaking of the blood -- I'll use one of the many
23 overhead diagrams of the apartment complex and put it into
24 evidence here.

25 So the shell casing was found right about here in that

1 parking spot between 4-A and 4-B here on Exhibit 2; is that
2 right?

3 A That's correct.

4 Q Okay. And it was found sometime after 11:00, not sure,
5 by one of the coroners; is that right?

6 A That is correct.

7 Q Okay. And shell casings, when they're ejected from a
8 gun -- an automatic -- they're kind of unpredictable, aren't
9 they, when they're ejected?

10 A They're usually going to the side of the ejection port.

11 Q Right. They go out the side of the ejection port, but
12 they could bounce ---

13 A Correct.

14 Q --- if they hit hard ground. They could roll because,
15 obviously, it's a cylinder. They can roll; right?

16 A Correct.

17 Q And if there a lot of people milling around in there, not
18 paying attention, they could kick it around; is that right?

19 A Correct.

20 Q And you said that you found it here. Did you document
21 any kind of bloodstains on the ground around that area near
22 where the shell casing was?

23 A No, sir.

24 Q How about near the corner of the building here on this
25 part of the sidewalk?

1 A No, sir.

2 Q So it was just where he was laying; is that; correct?

3 A That's correct.

4 Q Now, you say you expected to find at least four casings;
5 is that right?

6 A That's correct.

7 Q Did you search for casings or did you rely on what other
8 people told you?

9 A I searched also.

10 Q Did you use a metal detector on any of this pine straw?

11 A I don't recall using one.

12 Q Did you pull up any of the pine straw to see if any at
13 gotten under there?

14 A We did.

15 Q Okay. And also near where the gun was located; is that
16 correct?

17 A Yes.

18 Q And you also did a search warrant on the defendant's
19 apartment; is that right?

20 A They did. That is correct.

21 Q And you didn't find any spent shell casings related to
22 this case?

23 A No, sir.

24 Q And you also searched the car -- vehicles belonging to
25 the defendant's wife; is that right?

1 A I believe they did.

2 Q Okay. And no shell casings or [indiscernible] was found
3 in those?

4 A That's correct.

5 MR. MAULDIN: No further questions.

6 THE COURT: Any redirect?

7 REDIRECT EXAMINATION

8 BY MS. FULLER:

9 Q Would you expect a shell casing to bounce from the grass
10 over to where you recovered it?

11 A No, ma'am.

12 Q Okay. And what were you wearing that day?

13 A What was I wearing?

14 Q Yes.

15 A Usually our call-out is a khaki cargo pants and I was
16 wearing -- I know I was wearing thermals. I was wearing a
17 long-sleeve. I was wearing a jacket. I was wearing a hat,
18 ear muffs. I was wearing gloves. It was pretty cold.

19 Q It was cold?

20 A Yes.

21 Q So you were layered up?

22 A Yes.

23 Q Okay. And when you saw **Minor's** body, what state was his
24 garment in, his clothing?

25 A It was moved around. So he's wearing a color that was

1 [indiscernible].

2 Q He was wearing a what?

3 A He was wearing kind of a light coat but it was open when
4 I got there.

5 Q So he had on layers too?

6 A Yes.

7 Q Do you recall that?

8 It was 29 degrees outside; correct?

9 A Yes.

10 Q No further questions.

11 THE COURT: Any recross?

12 MR. MAULDIN: No, Your Honor.

13 THE COURT: All right. The witness may step down.

14 Counsel approach, please.

15 BENCH CONFERENCE

16 (A bench conference was held off the record and outside
17 of the hearing of the jury.)

18 THE COURT: Ladies and gentlemen, we'll go ahead and take
19 lunch at this time and then continue with the testimony this
20 afternoon. I'd like you back in your jury room at 2 p.m. and
21 we'll proceed forward from there. Have a nice lunch. Please
22 don't discuss the case with anyone or do any independent
23 research in the case. We'll see you after lunch. Thank you.

24 (The jury exited the courtroom.)

25 (A lunch recess was taken.)

1 (State's Exhibit No. 60, Envelope with Projectiles, was
2 marked for identification.)

3 THE COURT: Is the State ready to proceed?

4 MS. FULLER: The State's ready, Your Honor.

5 THE COURT: Defense represented, Mr. Mauldin?

6 MR. MAULDIN: [Indiscernible] just stepped across the
7 hall.

8 THE COURT: Oh.

9 MR. MAULDIN: Should be back shortly.

10 (Pause in the proceedings.)

11 THE COURT: All right. Defense ready to proceed?

12 MR. MAULDIN: Yes, Your Honor.

13 THE COURT: All right. Let's bring them in, please.

14 (The jury entered the courtroom.)

15 THE COURT: Madam Forelady, ladies and gentlemen, welcome
16 back. We'll pick up where we left off with the next witness
17 in the State's case-in-chief.

18 MS. FULLER: Thank you, Your Honor. The State calls
19 Dr. Ellen Riemer.

20 THE CLERK: Place your left hand on the Bible and raise
21 your right.

22 DR. ELLEN REIMER

23 after having been duly sworn, was examined and
24 testified to as follows:

25 THE CLERK: And have a seat on the stand. If you'll

1 state your name and spell your last name for the record.

2 THE WITNESS: Hello. My name is Dr. Ellen Riemer.

3 R-i-e-m-e-r.

4 DIRECT EXAMINATION

5 BY MS. FULLER:

6 Q And good afternoon. Where are you -- where did you come
7 from this morning -- well, this afternoon?

8 A I came from my work, which is Medical University of South
9 Carolina where I'm a forensic pathologist.

10 Q And that's located in Charleston?

11 A In Charleston, yes.

12 Q Okay. And can you go ahead and explain to the jury what
13 is forensic pathology?

14 A So forensic pathology is a subspecialty of medicine, so I
15 have an M.D. degree. I went to medical school and then did
16 residency training in pathology at Columbia University Medical
17 School in New York and followed by a fellowship in forensic
18 pathology at the Office of the Chief Medical Examiner for the
19 State of Maryland and an additional year of fellowship
20 training in cardiovascular and pulmonary pathology at Johns
21 Hopkins University Hospital.

22 And I'm board certified in pathology and forensic
23 pathology and licensed to practice medicine in the State of
24 South Carolina and a couple other states where I practiced
25 previously.

1 Q And how long have you been working in this field?

2 A Well, now around 22 years.

3 Q Okay. And over the course of your career, how many
4 autopsies have you performed?

5 A Well, I'm not keeping exact track of them, but
6 approximately 5700.

7 Q I didn't know the answer.

8 And how often have you testified in court?

9 A Yes. I have testified in court on -- in trials related
10 to the individuals I autopsied probably between 200 and 300
11 times.

12 Q And have you been qualified as an expert in the field of
13 forensic pathology each time?

14 A Yes.

15 MS. FULLER: Your Honor, at this time, the State seeks to
16 offer or introduce or offer Dr. Ellen Riemer as an expert in
17 the field of forensic pathology.

18 THE COURT: Any voir dire from the defense?

19 MR. MAULDIN: No, Your Honor. No objection.

20 THE COURT: All right. Ladies and gentlemen, a person
21 who testifies cannot give opinion testimony. They testify as
22 to what they personally saw, heard, sensed by smell, or
23 something of that nature. However, there is an exception when
24 someone is qualified because of knowledge, education, or
25 experience, they're permitted to give their opinion in certain

1 areas if the Court qualifies them that way.

2 This witness will be qualified in the area of forensic
3 pathology and give opinion testimony in that area. That does
4 not mean you must accept the opinion but it's evidence for you
5 to use in any way you see fit.

6 MS. FULLER: Thank you, Your Honor.

7 BY MS. FULLER:

8 Q As it relates to this case, did you perform an autopsy on
9 **Minor** Ellison?

10 A Yes. I performed the autopsy on February 3rd, 2022.

11 Q And where did that autopsy take place?

12 A In Charleston at the Medical University of South
13 Carolina.

14 Q And it might be common knowledge or understanding but in
15 terms of an autopsy, what exactly takes place at an autopsy?

16 A Yeah. So an autopsy is basically like a specialized
17 surgical procedure on a deceased individual by the forensic
18 pathologist -- myself. And it begins with an external
19 examination where I'm looking for any abnormalities, anything
20 unusual on the body. I want to make sure I find any evidence
21 of injury or potentially natural disease.

22 And after doing an external examination, I do an internal
23 examination to look at every single organ individually, assess
24 any injuries that may have been sustained. In this case, it's
25 an injury-related death, but if somebody died of natural

1 disease, like, I'm looking for natural disease.

2 So -- and any time there's a natural disease, I'll
3 document it anyway.

4 Q And as it relates to **Minor**, were you able to determine a
5 cause of death as well as a manner of death?

6 A Yes. So the purpose of the autopsy is a directive in
7 order to determine the cause and manner of death. And, in
8 this case, it was my determination that he died of multiple
9 gunshot wounds, and the manner of death is best deemed
10 homicide. So that means death at the hands of another.

11 Q And at autopsy, how many gunshot wounds were you able to
12 identify?

13 A He had a total of four gunshot wounds plus a graze
14 gunshot wound that kind of just grazed the skin. So if you
15 want to count that as an additional gunshot wound, you know,
16 there's four plus a graze, so you can call it five or four.

17 Q And at the time of autopsy, were you able to identify any
18 other injuries to his body?

19 A No, he did not have any other injuries.

20 Q Now, when you perform an autopsy and when you document it
21 and place it in your report, are you able to actually
22 determine the order someone was shot?

23 A No.

24 Q What is it that you're able to account for when you're
25 accounting for gunshot wounds?

1 A What am I able to what?

2 Q What -- I guess, how you document the number of gunshot
3 wounds.

4 A Oh, well, you know, at first, it's not always apparent,
5 just my initial inspection of the body. You know, I have,
6 obviously, multiple different holes on the body. I don't know
7 if they're connected -- necessarily if they're connected to
8 each other or if they terminated in the body. I actually am
9 able to do X-rays. I call the X-ray technician and have
10 X-rays done to help me see if there's any bullets from any of
11 the body that can -- I want to make sure I don't leave
12 anything there.

13 But, you know, at the end of the autopsy, you know,
14 that's part of the -- the way I'm doing the autopsy, I'm
15 figuring it out. You know, it's kind of like a puzzle, and
16 I'm figuring out, you know, exactly, you know, what holes went
17 where and, you know, what -- if there was an exit. If there's
18 not an exit -- if there's not an exit, where did it end up?
19 What organs did it injure when it went in? Did it maybe
20 injure no organs of vital -- you know, of any importance.
21 And, you know, did it result in bleeding -- internal bleeding?

22 And as a result of all of this, he had multiple gunshot
23 wounds and he died from them because they caused significant
24 internal injury.

25 Q And in the report, just because one gunshot wound is

1 listed first does not -- that does not mean that that was the
2 first gunshot; correct?

3 A No. I have to -- you know, I have to sort of label them
4 with something. So I have to put them in an order, but not
5 necessarily -- they have no relationship to the order in which
6 they may have been inflicted.

7 Q And when you talk about determining if a gunshot went
8 through an organ or did not hit an organ, is that -- so, to
9 summarize that, you're able to determine at autopsy the
10 pathway or the bullet path, the way bullet or projectile
11 traveled?

12 A Absolutely. That's not something I just look and say,
13 "Oh, there, that's the answer." You know, that -- it takes
14 multiple hours, you know, to do everything and feel like I
15 have made the right determination so I know exactly what
16 happened.

17 Q Okay. And we talked about -- you mentioned what you were
18 explaining, entrance and exit wounds. Can you explain to the
19 jury how are you able to determine where a bullet entered the
20 body?

21 A So entrance wounds and exit wounds have different
22 characteristics that are -- a person who is trained and
23 experienced in forensic pathology is able to tell the
24 difference. Certainly if we have an entrance wound and no
25 exit wound and a bullet stops in the body, then we know 100

1 percent sure that's an entrance wound because there's no
2 corresponding exit.

3 But when I have, you know, two holes that are connected,
4 you know, I use my education and experience in order to make
5 that determination of which is an entrance and which is an
6 exit.

7 Q Okay. And at autopsy, are you -- in addition to
8 identifying the entrance and the exit and the pathway, are you
9 able to determine what some people refer to as the range? So
10 how far the gun would have to be from the person's body?

11 A Yeah. Honestly, in -- unless -- unless I see evidence of
12 gunpowder deposited on the skin, unless I see that, I really
13 don't know the range. So those are called indeterminant range
14 because they could be anywhere from 2-1/2 to 10 feet. You
15 know, there's nothing on the body that tells me how far away
16 it is unless I see evidence of close-range fire.

17 If I don't have any close-range fire, which would occur
18 within 2-1/2 feet or so, then I don't know whether it's -- how
19 far away more than 2-1/2 feet it is.

20 Q And then would clothing also be a factor, depending on
21 where the person was struck when they were shot?

22 A You mean as far as distance?

23 Q That is correct.

24 A Yeah. If somebody is wearing clothing, sometimes the --
25 you know, the gunpowder that's released from the barrel of the

1 gun at the same time as the projectile can get absorbed by the
2 clothing. And I'm really examining the skin, the person's
3 body. And so, you know...

4 But in this case, I don't have any -- anything that
5 indicates anything close, you know, within 2-1/2 feet. So
6 beyond that, I can't tell.

7 Q You answered my next question.

8 So in terms of range for all the gunshot wounds, there
9 isn't any indication so you can't tell -- you can say it
10 wasn't close contact?

11 A Yeah, there was no evidence of any -- any gunpowder
12 deposition on the skin.

13 Q And so that would indicate that it would be over 2-1/2
14 feet I think is what you said?

15 A Well, no. I say indeterminant range.

16 Q Indeterminant range.

17 A It could be, but remember, we just talked about the
18 clothing, and if somebody is wearing a lot of clothing, that
19 could potentially absorb.

20 So all I can say about that, if I see the close range --
21 I'm not [indiscernible] close range, but if I don't have it, I
22 can only say indeterminate range.

23 Q Okay. So now let's talk about -- talk about the actual
24 injuries. I do have a diagram. Would that assist, as we go
25 through the injuries, that you locate them for the jury as we

1 go through them?

2 A Yes. That's helpful.

3 MS. FULLER: Okay. For the record, this has been marked
4 as State's 54. It's currently a blank diagram.

5 Permission for the witness to step down?

6 THE COURT: Very well.

7 Doctor, if you just would ensure, when you're down away
8 from the microphone, that you're speaking loud enough so the
9 court reporter can hear you.

10 THE WITNESS: Okay.

11 (State's Exhibit No. 54, Body Diagram, was marked for
12 identification.)

13 BY MS. FULLER:

14 Q And, Doctor, if you don't mind stepping down as we go
15 through this portion of your testimony. Here's a Sharpie.

16 A Thank you.

17 Q And kind of just going through your report or -- you're
18 the expert so you take me --

19 A Yeah, I have my notes in case I forget, but I should -- I
20 should remember what happened here.

21 Q The first gunshot wound that you were able to identify?

22 A Well, you know, I kind of saw all of them at the same
23 time ---

24 Q Okay.

25 A --- when I did the autopsy, but I'll go through in the

1 order that I put them in the report.

2 Q Okay. Thank you.

3 A So the first one I called gunshot wound to torso. And
4 then that entrance wound was kind of like right up there. So
5 that -- it entered the body there, and that projectile did a
6 lot of internal damage. It actually -- it was going downward
7 like through the body and went through -- managed to go
8 through the heart, which is kind of like in there. You know,
9 imagine the heart in there. So it actually went through the
10 heart, which is never good.

11 And then after kind of going down more, it went through
12 the stomach, the mesentery of the stomach, which is the
13 outside, and then it's going toward the back. It went through
14 the pancreas, the abdominal aorta, which is like a major blood
15 vessel down there, you know, that carries blood away from the
16 heart. And then after going through there, it kind of ended
17 up in the -- down here. Like, I recovered a projectile in,
18 like, the lumbar region of the vertebral column. So that's
19 where it stopped and -- because it kind of hit resistance;
20 that's like bone.

21 Sometimes a projectile can travel through bone, but, you
22 know, this one, you know, got stuck in the lumbar vertebral
23 column. And as a result of that -- so, remember, it went
24 through the heart and the abdominal aorta. He actually had
25 blood in the -- in the heart, surrounding the heart, as well

1 as blood in the abdominal cavity. Because it went through the
2 heart -- so it went from the heart -- and that's always
3 dangerous regardless of the amount of blood surrounding the
4 heart, because the heart's in an envelope, and if the blood
5 is -- if there's blood surrounding the heart, the heart is not
6 actually able to pump. It's kind of compressed by the blood.

7 And then it also has -- so he has a bunch of blood around
8 the heart in the pericardial pattern, which is an envelope
9 surrounding the heart, as well as like you see floating in the
10 abdomen, so he's bleeding from that wound.

11 Q And just for the record, I'm asking this question -- I
12 know the jury can see it but just so it's typed correctly
13 too -- on State's 54, you are marking on the front of his
14 body; correct?

15 A Yes.

16 Q And are you marking on the on the left or the right side
17 of his body?

18 A Yeah, it's on the left side. So sometimes even when I do
19 an autopsy, you know, it's easy to get turned around. So, you
20 know, I'll do this, like, right and left. And then especially
21 flipping somebody over, you know, you can make a mistake, so L
22 and R.

23 So this is where the bullet -- it's obviously not on the
24 surface of the body. It went inside. And then, you know, the
25 bullet was kind of recovered from there. Or that's where I

1 recovered the bullet from that entered here.

2 Q Okay. And then also, for the record and so the jury
3 hears the words as well, how did you write the pathway or
4 describe the pathway?

5 A You mean the trajectory?

6 Q Yes.

7 A So the trajectory -- that's kind of like the
8 directionality -- is front to back and downward. So you can
9 see, it's going downward, and there's also a front-to-back
10 direction.

11 And when we're talking about that, we're not talking
12 about in space. We're talking about this is my patient so the
13 direction is through his body.

14 Q Okay. And then, just so it's clear for the record, there
15 was no exit wound?

16 A There was no exit wound. So I recovered the projectile
17 in that lower back area, you know, through the bone.

18 Q Was this gunshot wound a survivable injury?

19 A Yeah, honestly, it was not -- not necessarily survivable
20 because it went through the heart, caused bleeding around the
21 heart. Somebody is going to, you know, die fairly quickly
22 from that wound. I can't say how long, but, you know, he has
23 a combination of bleeding in the abdomen plus the heart is
24 going to be shut down from these wounds.

25 Q After sustaining this injury, was **Minor** then able to

1 move a little bit?

2 A Yes. So the only time somebody can't move or walk after
3 they have got a gunshot wound is when it's through the brain.
4 So usually gunshot wound to the brain, the person is going to
5 fall down, especially through the brain stem or vital
6 structures of the brain.

7 But the heart -- if somebody gets shot through the heart,
8 yeah, of course it's terrible, but they still have -- there's
9 still some blood, you know, circulating in the brain and the
10 muscles and they can move. They may not be feeling very well,
11 but, you know, it's certainly not -- it's very common to know
12 that, after somebody got shot like this, that they, you know,
13 were able to run or walk for awhile, a few feet before
14 collapsing.

15 Q So it's not impossible that he took 10 or 15 steps after
16 sustaining all of his injuries?

17 A No, that's not an impossibility.

18 Q Okay. Now, you labeled another gunshot wound as to the
19 abdomen.

20 A Okay.

21 Q Can you walk through that with the jury?

22 A Okay.

23 Q And then I'll ask the same left, right, front, back, just
24 so the record is clear to show the markings.

25 A Okay. Now, this -- so, remember, this actually ended

1 here. I'm not able to indicate -- it's not an exit. It's
2 whether the bullet [indiscernible]. But now we have another
3 entrance wound, on the left side [indiscernible]. So just for
4 clarity, I'll probably just go A here and then I'll just say B
5 because that corresponds to my report.

6 Q Okay.

7 A Okay. So this is another entrance wound, was on the left
8 side of the abdomen. Okay? And that one was going through
9 his body straight front to back. Okay? It didn't -- it
10 didn't go upward, downward, left, right. It was going
11 straight front to back and terminated in the pelvis. That
12 bullet actually broke in two, so I recovered, you know, some
13 type -- a lot of times, these projectiles are jacketed so we
14 have got a core and a jacket, and it's not uncommon sometimes
15 they can separate into two pieces, you know, once they enter
16 the body. And I recovered the core and jacket in the pelvis,
17 also on the left side.

18 So that -- that projectile -- that bullet from A was
19 pretty close to the pair from me, the pair, you know,
20 fragments.

21 Q And that's to the left side, front to back.

22 And was this on its own a survivable injury?

23 A Well, you know, when we're talking about the bullet to
24 the abdomen, so where did that one go through? It went
25 through -- in addition to the front of the abdomen muscle and

1 everything, it went through multiple bowels. Okay? So it's
2 not likely that somebody is going to die immediately from
3 that. Okay? But what happens from -- whenever there's injury
4 to the bowel -- you know, over the many years that I have done
5 autopsies, there are people who get shot in the abdomen and
6 have bowel injury.

7 Now, the bowel is full of, like, fecal material. It's
8 very, like, contaminating. It belongs in the bowel. It
9 doesn't belong outside of the bowel. And when there's holes
10 in the bowel, some of that bacteria can get into the perit- --
11 into your abdomen and then start getting through your blood
12 and you'll get infected and stuff. I can't say that this one
13 he died exclusively of that, but he -- if that is the only
14 wound, he potentially could have died from it. He was a
15 young, healthy -- young and healthy -- very young man
16 actually -- a kid. He may have survived. Children have
17 enormous recuperative powers.

18 Q The next one -- I'll have some follow-up questions at the
19 end.

20 The next one was to the left hand that you identified.

21 A Okay. So maybe in another [indiscernible], I'm going to
22 call it C. So we have -- this was the projectile for A and
23 then right nearby we have got a couple of other fragments.
24 But, yeah, this is -- you know, that wound is not -- it's not
25 a minor wound, but certainly the wound to the heart is going

1 to cause more rapid, fatal -- cause fatality more rapidly.

2 Okay. So now we have a gunshot wound to the left hand --
3 more of the left hand like that. So I'll call that C. And
4 that went in and out. This is left -- so this is left hand.
5 This is the palm of the left hand, and it kind of exited
6 there.

7 So we have an exit wound -- X, I'll call it -- and no
8 projectile was recovered from that.

9 Q I notice in your report, for the hand, you noticed -- you
10 noted that the entrance and the exit were the same measure in
11 terms of length. Can you explain how you measure the hands,
12 since, obviously, it's a moving hand. But how did you measure
13 the length of the exit wound?

14 A You mean the location?

15 Q The location, yes.

16 A So I have to sort of indicate on the body where the wound
17 is, so usually when something is on one of the extremities, I
18 measure it from the top of the shoulder. So if I'm going to
19 say, in other words, a gunshot wound to the -- this is the
20 dorsum of the back of the left hand. In my report, I just
21 don't say that; I say where it's located. I usually say the
22 side, where it's located. And I measure from the top of
23 the -- in this case, I would measure from the top of the left
24 shoulder. This one, I measured from the top of the head. But
25 the extremities, you know, I usually do it from the shoulder.

1 And then this one was at the same distance, so it's
2 really a straight [indiscernible].

3 Q So it was the same -- it measured the same. There was no
4 upward, downward, within the hand?

5 A Yeah. So -- yeah, so within the hand --

6 Q There was no vertical change in that?

7 A Yeah, that's right. It's just -- it's just back to
8 front. So this is back. This is front. You know, you think
9 of a person standing like this, so it's -- that's our
10 standard.

11 Q Okay. And to be clear about the hand, there's
12 photographs of him and there were no gloves on him. And we
13 talked about range earlier.

14 A Mm-hmm.

15 Q Same testimony applies to the hand; correct?

16 A Yeah, anywhere on the skin, so...

17 Q That there was no indication of close contact that you
18 can identify?

19 A Yeah, I believe so.

20 Q The next one you identify was a gunshot wound to the
21 right thigh. Can you walk us through that?

22 A Yeah, so the right thigh wound -- so this is his right
23 side and so the right thigh somewhere around there. And
24 [indiscernible]. And then that also was a straight in and
25 out. It went front to back. It didn't break a bone. Just

1 went through muscle. And the exit wound -- okay, this is the
2 right side -- this is his right side, so the exit wound is
3 back there.

4 Q And when you say "straight front to back," there was a
5 question where I was asking about the hand, your measurement
6 was the same distance?

7 A Yes. There was no directionality upward, downward -- you
8 know, upward, downward, leftward, rightward. You know, it's
9 on the [indiscernible]. You know, it could have been -- I'm
10 not worried about if it's a millimeter one way or not. It's a
11 very kind of gross measurement, you know. It's the same --
12 it's the same height, you know, of the -- from the top of the
13 head or from the base of the head.

14 Q And so for the three injuries outside of the hand, all of
15 them he sustained in the front of his body; correct?

16 A Yes. The three were to the front of his body.

17 Q Now, you identified the graze wound. Can you walk me
18 through exactly where it was located?

19 A Yes. Okay. So he's got a wound -- it kind of just,
20 like, grazed -- like it didn't -- it wasn't like a specific
21 [indiscernible]. It didn't go through the chin but it kind of
22 had a scrape along the skin and the subcutaneous tissue, the
23 tissue just under the skin, and it kind of had a -- it was
24 kind of angular downward. So it's possible -- you know, I
25 never can say 100 percent, but, you know, it would make sense

1 that this one kind of hit the chin before going into that
2 hole. You know, if somebody has their head down or is bending
3 over. But that's another -- that's another wound that I
4 described. I described it as a separate wound but I -- we
5 don't know if it's actually connected with any degree of
6 certainty.

7 Q And that's on the left side of his chin; correct?

8 A Yeah, the left side of the chin, kind of just near where
9 the entrance wound is to the left side of the upper chest.

10 Q Now, based on all the injuries that you described and
11 where the projectile traveled through his body, is it possible
12 that **Minor** could have been shot, you know, taken 10 to 15
13 steps and not leave a blood trail?

14 A Yes. Well, first of all, you know, this projectile is
15 going down inward. A lot of times, there's internal bleeding.
16 And sometimes people can have lots of bleeding inside their
17 body. It doesn't necessarily result in a, you know, falling
18 out or being everywhere or all over the place. You know, it
19 can happen, but it's not at all, you know, guaranteed or
20 anything.

21 Q Okay. And what, if any, impact would clothing have?

22 A Yeah, so if somebody is wearing clothing -- certainly if
23 they're running around naked, you know, there's nothing to
24 absorb the blood, but, you know, if somebody is wearing
25 clothing, any bleeding that's coming out of the skin is

1 frequently -- you know, is absorbed into the clothing. So the
2 clothing kind of acts like a sponge or towel to absorb
3 bleeding that's leaving the body.

4 Q And you touched on it already but just so I clearly ask
5 it: So, based on autopsy, you can't say but this graze wound,
6 is it possible and your findings have all been consistent
7 with, if his chin was down, sustained this same injury that
8 goes down his body?

9 A Yes. It certainly would be a logical possibility that
10 the graze wound to the chin was connected to the
11 [indiscernible] to the chest.

12 MS. FULLER: And, for the record, on the exhibit, I was
13 pointing to graze wound on left side to what has been
14 identified as injury labeled as A.

15 BY MS. FULLER:

16 Q Now, is it possible that **Minor** sustained a gunshot wound
17 to the left side of his abdomen first, causing him to crouch
18 down and then sustained that graze wound that goes straight
19 down his body?

20 A Yes. So, that, to me, that's something that I -- you
21 know, how does this all make sense, you know, when you have a
22 series of gunshot wounds? You know, that wound to the
23 abdomen, you know, it's -- it's -- it hurts. And a lot of
24 times people -- you know, if they get punched in the abdomen,
25 they get shot in the abdomen, it's going to cause them, like,

1 to bend over.

2 And this wound A to the left side of the upper chest, the
3 fact that it's going, like, in a downward direction, it kind
4 of suggests like he might have been leaning over when he
5 sustained that gunshot wound, somebody is sort of standing at
6 ground level. Because, otherwise, why is it going down? You
7 know?

8 But, you know, I can't say that's 100 percent the
9 sequence, but, you know, that may be logical. Maybe that's
10 one of the possibility that you consider.

11 Q And talking about --

12 UNIDENTIFIED MALE: [Indiscernible].

13 THE COURT: All right. Ladies and gentlemen, let's take
14 a short break. I'm going to ask you to go back in the jury
15 room and I'll get you right back out in a minute. Thank you
16 very much. Thanks very much.

17 (The jury exited the courtroom.)

18 UNIDENTIFIED MALE: What's up, you pussy? I'll take your
19 ass out of here, bitch. [Indiscernible].

20 THE COURT: All right. I'll be right back. Y'all take a
21 short break.

22 Doctor, just sit in the witness stand for a moment.

23 (A brief recess was taken.)

24 THE COURT: Mr. Mauldin, anything for the record at this
25 time?

1 MR. MAULDIN: Yes, sir. Things have calmed down. The
2 Court adjourned right after the outburst and I didn't have
3 time. And I'm making a motion for a mistrial based on the
4 outburst made by the fellow -- I think he's over on the
5 victim's side of the courtroom by the solicitor. He has
6 threatened the defendant very loudly and he had used profane
7 language and called the defendant derogatory names.

8 Although it's not the solicitors that did it -- I mean,
9 if a hurricane came, a mistrial would be declared. It's an
10 outer influence. Obviously, those words could be prejudicial
11 to the jury and perhaps give a derogatory perception towards
12 the defendant. Therefore, we make a motion for a mistrial.

13 THE COURT: Very well.

14 Solicitor, any response from the State?

15 MS. FULLER: Yes, Your Honor. Obviously, the State would
16 oppose a mistrial at this point. We believe, in looking at
17 the law in this case, I don't believe the conduct rises. This
18 is surely something like, he had stated -- defense counsel
19 stated, we didn't ask for it. We don't condone it. We have
20 talked about it. We have talked about it again during this
21 break. I don't anticipate any more outbursts in this case.

22 Defense counsel has argued that it makes his client look
23 bad. Well, it makes our side look bad, so I think it cuts
24 both ways in that situation.

25 I think the appropriate remedy right now is a curative

1 measure. The case law indicates, under Covington, the factors
2 in Elgin and Council. And of course we're looking at the
3 jury's impartiality, can they render a verdict without outside
4 influence.

5 Here, we're talking about direct jury misconduct there,
6 but if we take the same factors and analysis here, the
7 Court -- it's an abuse of discretion standard and whether or
8 not a curative can just -- would remedy the situation is the
9 third factor there.

10 I believe that a simple curative, striking that from the
11 record and telling them they're not to consider the outburst
12 in their deliberations will fix this problem. This isn't
13 testimony from the witness stand; this is a response from the
14 gallery. It's an open courtroom. It's a public courtroom.
15 Anyone can come and go as they please. Your Honor gave the
16 instructions in the beginning, if someone can't handle it. I
17 believe giving those instructions in our open, but I talked to
18 everyone here present and anyone who is going to come for the
19 rest of the trial, that message will be shared. I will assure
20 you, to the best of our ability, we will not have that type of
21 outburst from our side again.

22 So we would strongly oppose the mistrial motion at this
23 time.

24 THE COURT: Anything else, Mr. Mauldin?

25 MR. MAULDIN: No, Your Honor.

1 THE COURT: All right.

2 Karen?

3 COURT REPORTER: Yes?

4 (An off-the-record discussion with the judge and the
5 court reporter occurred.)

6 THE COURT: All right. Well, I'm going to just -- out of
7 an abundance of caution I'm going to deny the motion, but I'm
8 also going to bring them one by one to the court reporter and
9 I'm just going to do a brief inquiry, make sure that they're
10 still in a good position [indiscernible]. So I'm going to
11 bring them out one by one.

12 (Pause in the proceedings.)

13 THE COURT: Come on up. Hi. What's your juror number?

14 JUROR NO. 78: 78.

15 THE COURT: 78. Now, Ms. Gregory, you just heard a bit
16 of an outburst in the courtroom. I just want to make sure
17 that you can still be a fair and impartial juror moving
18 forward?

19 JUROR NO. 78: Yes.

20 THE COURT: Okay. That's all I want to know. Head on
21 out this way and back to the jury room.

22 JUROR NO. 78: All righty.

23 THE COURT: Thank you.

24 Next?

25 (Pause in the proceedings.)

1 THE COURT: Yes, ma'am. What's your number?

2 JUROR NO. 79: 79.

3 THE COURT: You're 79.

4 JUROR NO. 79: Mm-hmm.

5 THE COURT: Obviously, you just heard a bit of an
6 outburst before we left. I just want to make sure --

7 JUROR NO. 79: Bits and pieces.

8 THE COURT: Right. Can you still be fair and impartial?

9 JUROR NO. 79: Yes.

10 THE COURT: All right. Thank you. That's all. You can
11 head out this way.

12 JUROR NO. 79: Okay.

13 (Pause in the proceedings.)

14 THE COURT: Yes, sir? What's your juror number?

15 JUROR NO. 29: 29.

16 THE COURT: 29. Thank you. Juror No. 29, we just had a
17 bit of an outburst. You may have heard some of it or may not
18 have. I just want to make sure you can still be a fair and
19 impartial juror moving forward in light of that outburst.

20 JUROR NO. 29: Yes.

21 THE COURT: Okay. That's all I wanted to know. You can
22 head back to your jury room that way.

23 (Pause in the proceedings.)

24 THE COURT: What's your juror number?

25 JUROR NO. 122: 122.

1 THE COURT: 122. Struggling with the numbers here.
2 Okay. There was an outburst in the courtroom. I just want to
3 make sure, can you still be fair and impartial?

4 JUROR NO. 122: Yes.

5 THE COURT: All right. Thank you. Please head on out
6 that way.

7 (Pause in the proceedings.)

8 THE COURT: 160?

9 JUROR NO. 160: Yes.

10 THE COURT: Mr. Rodriguez, obviously, there was some
11 outburst in the courtroom. You may have heard some of it, may
12 not have. I just want to make sure, in light of that
13 outburst, can you still be a fair and impartial juror moving
14 forward?

15 JUROR NO. 160: Yes, sir.

16 THE COURT: All right. Thank you. If you can just head
17 back to the jury room. Thank you.

18 (Pause in the proceedings.)

19 THE COURT: Yes, sir. Juror No. 80?

20 JUROR NO. 204: 204.

21 THE COURT: 204. Excuse me. There was an outburst in
22 the courtroom. You may have heard it, may not have. I just
23 want to make sure that you can be still be fair and impartial
24 moving forward in light of the outburst we had in the
25 courtroom.

1 JUROR NO. 204: Yes.

2 THE COURT: Okay. Thank you. That answers my question.
3 You can head out that way.

4 (Pause in the proceedings.)

5 THE COURT: Yes, sir. You're juror number ---

6 JUROR NO. 73: 73.

7 THE COURT: --- 73. There was an outburst in the
8 courtroom before we took a recess. I just want to make sure,
9 in light of that outburst, can you still be a fair and
10 impartial juror moving forward?

11 JUROR NO. 73: Yes.

12 THE COURT: Yes? Okay. Juror No. 73? All right. Thank
13 you. You can head back to the jury room.

14 (Pause in the proceedings.)

15 THE COURT: What's your juror number?

16 JUROR NO. 190: 190.

17 THE COURT: 190. Mr. Stoudt, there was an outburst in
18 the courtroom. You may have heard some of it, may not have.
19 I just want to make sure, in light of that outburst, can you
20 still be a fair and impartial juror moving forward?

21 JUROR NO. 190: Yes, sir.

22 THE COURT: Thank you, sir. You can head back to the
23 courtroom -- or the jury room that way.

24 (Pause in the proceedings.)

25 THE COURT: Yes, sir. Juror number?

1 JUROR NO. 216: 216.

2 THE COURT: Two, six, zero.

3 JUROR NO. 216: 216.

4 THE COURT: 216.

5 JUROR NO. 216: Yes, sir.

6 THE COURT: Mr. Williams, there was an outburst in the
7 courtroom. I just want to make sure you can still be fair and
8 impartial moving forward in light of the outburst.

9 JUROR NO. 216: Yeah.

10 THE COURT: Okay.

11 JUROR NO. 216: Don't open the door and let me run into
12 it, though. You was going to hit me --

13 THE COURT: Oh, I hit you? Sorry about that.

14 JUROR NO. 216: You was excited. I wasn't. Thank you.

15 (Pause in the proceedings.)

16 THE COURT: Yes, ma'am. Your juror number?

17 JUROR NO. 68: 68.

18 THE COURT: 68. Ma'am, there was a bit of an outburst in
19 the courtroom and I just wanted to make sure you could still
20 be fair and impartial moving forward in light of the outburst.

21 JUROR NO. 68: Yes.

22 THE COURT: Thank you very much. You can head back to
23 the jury room this way.

24 (Pause in the proceedings.)

25 THE COURT: Yes. Madam Forelady, you are one ---

1 JUROR NO. 158: --- fifty-eight.

2 THE COURT: Move a little closer. You heard a bit of an
3 outburst in the courtroom. I just want to make sure --

4 JUROR NO. 158: I left really quick. I heard ---

5 THE COURT: Nothing?

6 JUROR NO. 158: --- nothing.

7 THE COURT: Okay. You can still be fair and impartial?

8 JUROR NO. 158: Oh, absolutely.

9 THE COURT: Okay. Thank you. Thank you very much. This
10 way, ma'am.

11 Is that everybody?

12 UNIDENTIFIED FEMALE: No, there's two more.

13 THE COURT: Hi. You are 142?

14 JUROR NO. 142: Yes.

15 THE COURT: There was a bit of an outburst in the
16 courtroom. I just want to make sure that you could still be
17 fair and impartial moving forward after that outburst.

18 JUROR NO. 142: Absolutely.

19 THE COURT: Okay. Thank you very much. You can head out
20 this way.

21 JUROR NO. 142: Okay.

22 (Pause in the proceedings.)

23 THE DEPUTY: Last one, Judge.

24 THE COURT: All right. Yes, sir? Your number?

25 JUROR NO. 103: 103, Your Honor.

1 THE COURT: One, zero, three.

2 There was an outburst in the courtroom from the gallery.
3 I just want to make sure, moving forward, can you still be a
4 fair and impartial juror in light of that outburst?

5 JUROR NO. 103: Yes, sir. Absolutely.

6 THE COURT: Okay. Thank you very much. Appreciate you.
7 You can head back to the jury room.

8 JUROR NO. 103: Thank you.

9 THE COURT: All right. I'm satisfied.

10 (Open court resumes as follows:)

11 THE COURT: Okay. I have spoken with each juror
12 individually. They have all indicated each one can be fair
13 and impartial moving forward. The motion for mistrial is
14 denied.

15 Are we ready to proceed where you left off?

16 MS. FULLER: The State's ready?

17 MR. McNAIR: Yes, Your Honor.

18 MR. MAULDIN: Yes, Your Honor.

19 THE COURT: Were we in direct or cross?

20 MR. McNAIR: We're still on direct.

21 THE COURT: All right. Let's bring the jury back in now.

22 MS. FULLER: Oh, Your Honor, just for the record --

23 THE COURT: That's fine.

24 MS. FULLER: I don't remember if I indicated or requested
25 on the record what -- they said in terms of what occurred, the

1 outburst, I'm hearing that the defendant turning around --
2 turning around and what he perceived as smiling or grinning
3 has taken place. And so I'm just putting on the record that
4 he be instructed to look forward and not look at the victim's
5 side, if possible.

6 THE COURT: Okay. Well, as I said at the beginning of
7 the trial, you know, there's going to be things in this type
8 of trial that you hear or that you don't agree with or you may
9 not want to hear it and may cause you to want to have an
10 outburst, but we simply don't have a right to do that in this
11 courtroom.

12 Along those same lines, everyone at counsel table should
13 be looking forward and not back at the gallery. Just try to
14 avoid any appearance of looking back at the gallery.

15 But I'm not aware of anything -- I haven't personally
16 observed anything -- sorry. I was answering --

17 MR. HANGLER: Yes, sir. I was watching the whole time.
18 He didn't turn around and make any ---

19 THE COURT: Okay.

20 MR. HANGLER: -- any gestures.

21 THE COURT: Okay. What I was going to say is I didn't
22 personally observe anything going on.

23 MR. HANGLER: He did not.

24 THE COURT: But when we first --

25 MR. HANGLER: That gentleman come in and I communicated

1 to him that we needed to watch him.

2 THE COURT: Okay. Fair enough. I remember you standing
3 up.

4 MR. HANGLER: Yes, sir.

5 THE COURT: Please identify yourself for the record.

6 MR. HANGLER: Thomas Hangler (ph).

7 THE COURT: Okay. I remember you standing up. Now I
8 know what you were doing.

9 Anyways, we all know -- we all experienced it. I don't
10 want to experience it again. If you have an issue with
11 maintaining your composure, excuse yourself now. The next
12 person -- if anyone does that again, there will be court
13 action. I can assure you that. Okay? All right.

14 Go ahead, please.

15 She's still -- oh, you told her to come back down.

16 MS. FULLER: I apologize.

17 THE COURT: That's fine. I told her to come up here.

18 (The jury entered the courtroom.)

19 THE COURT: All right, ladies and gentlemen. Welcome
20 back. We'll pick up right where we left off.

21 Madame Solicitor.

22 MS. FULLER: Thank you, Your Honor.

23 DIRECT EXAMINATION (Continuing)

24 BY MS. FULLER:

25 Q Prior to the interruption, I just want to go back through

1 this and pick up where we left off. I don't know what my last
2 question was, but just to cover this again, we were talking
3 about the gunshot wound. I believe I already asked about the
4 graze wound. And then what was identified as the gunshot
5 wound to the torso; correct?

6 A Yes.

7 Q And I was asking -- my next question was about -- was
8 going to be, at autopsy, were you able to measure **Minor's**
9 height?

10 A Yes.

11 Q And how tall was he at the time of autopsy?

12 A He was tall. 74 inches so that's six-foot-two.

13 Q Okay. And when we're talking about you identified and
14 labeled as A on the left side of the upper chest, you were
15 going through -- I was asking you is it consistent with the
16 sustaining the abdomen wound, crouching over, and the graze
17 wound going down his body; correct? Remember me asking about
18 that, if that was possible?

19 A Yeah, that's certainly a possibility.

20 Q So my next question is, if **Minor** was standing straight
21 up at six-two, to sustain what's labeled as A, where would the
22 gun have to be?

23 A If he's standing straight up?

24 Q Yes.

25 A And going in that direction?

1 Q Yes.

2 A I don't think -- the only way that could have been is
3 shooting from, like, the sky.

4 Q Okay.

5 A Because how would somebody who is six-two get a gunshot
6 wound up here that's going down through his body unless he's
7 bending over.

8 Q Okay.

9 A So if he's standing straight up and we have got something
10 entering here and going straight down, it would have had to
11 come from above.

12 Q Okay. And there's -- coming from above. I know you said
13 the sky. But if someone is the same height as **Minor**, could
14 that -- could (A) occur if **Minor** is standing straight up in
15 front of him?

16 A No, because if somebody is standing straight up in front
17 of him, even a gun pointed -- it -- in order for it to go all
18 the way down, you know, there would have to be not a
19 straight-on shot.

20 Q Okay. And so based on his height, based on the organs,
21 based on the path, I think you said direction --

22 A Yeah, the path -- the path through the body, you know,
23 it's going down in a downward direction, you know, front to
24 back directionality. The only way -- reasonable way, that
25 would be if somebody is bending over. Now, he could have been

1 bending over because of the abdomen shot occurring just
2 previous, or he could have just been bending over, you know,
3 for no reason.

4 But, you know, I think that makes the most sense;
5 otherwise, how could a gunshot wound enter here and end up in
6 the lower back from somebody of equal standing height.

7 Q And so what we describe as the scenario, sustaining (B)
8 and then getting the graze wound in the chin is what I would
9 have -- what I want to say or what I'm thinking is logical;
10 correct?

11 A Yeah. I think it's a perfectly logical sequence of
12 events, and that's graze wound -- it would be perfectly
13 consistent with grazing the chin before going into the left
14 side of the chest and continuing.

15 Q Okay. Can you tell anything about what you labeled as D
16 as to whether or not **Minor** would have been standing or going
17 down or a motion or anything like that?

18 A You know, it's a straight front-to-back shot. He could
19 have had his leg up. He could have been standing straight up.
20 It's -- but he's not lying down.

21 Q Okay. That's -- it's really not that -- it's possible.
22 So it is possible. If somebody is lying down and let's say
23 he's on his back and somebody shot straight over, shooting
24 down while he's on his back, lying like face-up, yeah, and
25 then we're going to get a front-to-back shot. So that's why I

1 don't know 100 percent but just relative to his body, it's
2 going from front-to-back and that's why the whole scene is
3 part of, you know, determining the sequence. I can't do so.
4 But it's a front-to-back shot. He could have been standing
5 up. As far as I know, he could have been lying on his back
6 and the gun shot near his [indiscernible]. So -- but that's
7 the direction. I can't really say [indiscernible].

8 Q Okay. And a couple -- you talked about the crime scene.
9 Based on the crime scene, it appears that **Minor** was face-down
10 after he sustained his injuries and then rolled over. So
11 dealing with that for a second, one of the first things you
12 did about the thigh is you raised a leg. So this goes to my
13 next question and possibilities here.

14 Knowing -- the jury already knows -- heard some testimony
15 there's indication that he was face-down when he was found.
16 Coupled with evidence that, prior to the shooting -- just mere
17 seconds, he was standing straight up -- tell me if it's
18 possible that, after sustaining the abdomen wound, then
19 going -- the graze wound down, is it possible -- because now
20 we have to factor in the hand shot -- that he then got the
21 thigh shot as he's trying to turn away and then sustained the
22 left-hand shot behind him?

23 A Yeah.

24 Q Is there anything to suggest that that's not possible at
25 autopsy?

1 A It is a possibility.

2 Q Okay.

3 A Yeah, I can't say whether -- really very much about the
4 shot to the left hand or the right thigh. That's certainly
5 one possibility but there may be others. So I don't know.
6 You know, I'm not involved with any of the crime scene
7 investigation, but this is my patient. I'm examining his body
8 and determining the gunshot wound in direction to his body.
9 You know, I'm not really asked for my opinion about those
10 things.

11 Q Correct. But it is possible, the order that I just gave
12 you?

13 A Yeah, that is possible.

14 Q Okay. And I think I asked you before but I just want to
15 make sure it's not lost, despite the injuries or despite that
16 you said (A) definitely was not a survivable one, it is
17 possible that **Minor** took several steps before ultimately
18 collapsing in the grass?

19 A Yes. So for the reasons I said earlier is, you know,
20 it's not an instantaneous death when a bullet pierces your
21 heart. And, also, his diaphragm and his aorta -- it did some
22 damage. But, certainly, you know, he's got enough oxygen left
23 in the muscles of his legs and he's -- you know, he's
24 conscious, so he's going to be able to move until he
25 collapses. And it makes sense to me that he's face-down

1 because, if he's shot and then he's going to probably fall
2 down on his own.

3 Q Now, during your testimony, you testified that you
4 collected projectiles with foreign lead fragments from his
5 body. Can you -- is this the area that you were talking
6 about?

7 A Yeah. They were all kind of clustered together. The --
8 this was an intact bullet that stayed in his body, so it
9 didn't break up. So the one that entered here kind of got
10 stuck right in the lower back area, in the bony area. It
11 didn't go through the spinal cord. If it went through the
12 spinal cord, he wouldn't have been able to move. But it
13 didn't. It was just all in, like, kind of on the surface of
14 the bone.

15 And then this one, (B) to the abdomen, that broke off and
16 I recovered, you know, more than one piece.

17 MS. FULLER: Beg the Court's indulgence.

18 BY MS. FULLER:

19 Q Okay. I'm going to show you what's -- the bag that's
20 been premarked as State's Exhibit 60. And it has contents in
21 it that, for the record, I'm going to cut now.

22 And, Doctor, I'm going to ask if you recognize the
23 contents but then you can go ahead and take --

24 A Yes, okay. So these are envelopes that I use at autopsy
25 when I collect projectiles or fragments. This is my autopsy

1 labels and I write on them what they are. So this is the
2 jacketed projectile from the pelvis, projectile -- and then
3 there's a bunch of fragments. This is actually a jacket only.
4 So we have got pieces of the [indiscernible] and jacket in
5 another [indiscernible].

6 Q And, Doctor, just a couple of questions: How are you
7 able to recognize this -- these as the items from this
8 autopsy?

9 A Well, first of all, they have the -- they're specific to
10 my autopsy. The only people that have these stickers are --
11 with his name and his autopsy number -- is me. So
12 [indiscernible] autopsy [indiscernible] and I also took a
13 photo of them, so...

14 MS. FULLER: So, for the record, at this time, Dr. Riemer
15 identified State's Exhibit 60 as the exterior bag containing
16 four items. The first one, publishing with permission for the
17 record, will be State's 49, which is identified as SLED Item
18 4, is what she identified as projectile from the pelvis.
19 State's Exhibit 50 would be SLED Item 5, which she identified
20 as the jacketed projectile from the pelvis. State's Exhibit
21 51 will be SLED Item, looks like 13, which she identified as
22 the projectile fragments from the pelvis. And then SLED Item
23 14 would be State's Exhibit 52 identified as projectile jacket
24 from...

25 Doctor, what is this again?

1 THE WITNESS: It's from left.

2 MS. FULLER: From left.

3 THE WITNESS: It's the same area.

4 MS. FULLER: From the pelvis.

5 At this time, Your Honor, the State seeks to introduce
6 into evidence collectively bag, 60, with contents, State's 49
7 through 52.

8 THE COURT: So that will be Exhibit 60 which contain
9 those exhibits?

10 MS. FULLER: Correct.

11 THE COURT: Any objection?

12 MR. MAULDIN: No objection.

13 THE COURT: All right. State's Exhibit 60 which contains
14 State's Exhibits 49, 50, 51, and 52 are admitted into
15 evidence.

16 (State's Exhibit Nos. 49 through 52, Projectiles in
17 Envelopes from State's 60, was marked for identification and
18 received into evidence.)

19 (State's Exhibit No. 60 was received into evidence.)

20 BY MS. FULLER:

21 Q And then publishing on the overhead, Doctor, I want to
22 zoom in and just show the jury for an example State's 49.
23 What I actually [indiscernible] is what you collected at
24 autopsy; correct?

25 A Yes. These are the portions of projectiles that I

1 recovered.

2 THE COURT: Could you stand behind that? I don't
3 think -- I think the jurors are having trouble seeing the
4 doctor.

5 A Yeah, those are the portions of the projectiles that I
6 recovered at the autopsy from his body.

7 BY MS. FULLER:

8 Q And now State's 50. That's what you collected as well?

9 A Yes.

10 MS. FULLER: I'm not done with that.

11 UNIDENTIFIED FEMALE: But she couldn't see.

12 THE COURT: Okay. We can position...

13 BY MS. FULLER:

14 Q State's 51. Flipping it over. Those are the fragments
15 you talked about?

16 A Yes. So all of these were kind of in the same area. The
17 one that was to the left side of the upper chest ended up down
18 there. And then the one to the abdomen ended up down there.
19 And the one to the abdomen broke up into various pieces. So I
20 recovered multiple fragments in the pelvis.

21 Q And then State's 52. And that's the last item you
22 collected; correct?

23 A Yes.

24 Q Now, looking at State's 54, Doctor, this is what -- what
25 you just went through with the jury that identifies all the

1 injuries to **Minor** that you identified at autopsy; correct?

2 A Yes.

3 Q And what you identified on here, does this fairly and
4 accurately represent what you identified and what you just
5 testified to?

6 A Yes.

7 MS. FULLER: Your Honor, at this time, the State seeks to
8 introduce into evidence State's 54.

9 MR. MAULDIN: No objection, Your Honor.

10 THE COURT: State's Exhibit 54 is admitted into evidence.
11 (State's Exhibit No. 54 was received into evidence.)

12 MS. FULLER: And beg the Court's indulgence.

13 Doctor, you're welcome to take your seat again.

14 I believe that's all the questions I have at this time.
15 Thank you so much.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION

18 BY MR. MAULDIN:

19 Q Hello, Dr. Riemer. Good afternoon.

20 A Hi.

21 Q Hope you had a good drive from Charleston.

22 In discussing the injuries sustained in this case, the
23 injuries to the torso, abdomen, and leg, they had front entry
24 wounds; is that correct?

25 A Yes.

1 Q And there was one exit wound in the back and the others,
2 the projectiles remained inside; is that correct?

3 A Yes.

4 Q So -- and the hand -- left hand?

5 A Left.

6 Q The bullet went through the back of the hand and through
7 the palm of the hand ---

8 A Yes.

9 Q --- is that correct?

10 Now, you -- I mean, and from the injury of the hand, you
11 can't tell what position the hand was in when a shot was
12 fired?

13 A That's correct, because hands can move and turn.

14 Q Or how far away they may have been or anything? I think
15 you said it was indeterminant; is that right?

16 A It was indeterminant.

17 Q And the solicitor had to go over several scenarios that
18 you said could have happened, but there are a lot of real
19 possibilities as far as what could have happened to cause
20 these injuries and what order they were in?

21 A Yes. From my point of view, there's only one that
22 actually happened, but from my point of view, I can't, you
23 know, say it had to have been one way or another.

24 Q And from your examination, you can't tell how much time
25 elapsed between the injuries; is that correct?

1 A Not --

2 Q In this case.

3 A Not exactly. Not exactly how much time, but I think they
4 were in -- if somebody comes back and shoots somebody a couple
5 of hours later, then that looks different. But this is --
6 these are all part of the same incident.

7 Q And so you can't tell if, like, somebody incapacitated
8 somebody and then waited and did a kill shot, from your
9 autopsy in this case?

10 A Excuse me? What was that question?

11 Q I mean, you can't say that shots were fired, say, in a
12 sequence, bam-bam or bam...bam. I mean, you can't --

13 A I mean, I don't know how rapidly they were fired.

14 Q Okay.

15 A But, you know, we're not talking about, you know, over
16 the course of a couple of hours.

17 Q Right. But, I mean, even seconds or minutes, you have no
18 way of telling.

19 A Yeah, I can't tell. He was -- the reason is, he was
20 alive at the time he sustained each one of these shots. So as
21 long as he's alive, I have a gunshot wound from a living
22 person, it's associated with [indiscernible] reaction and
23 hemorrhage. A person who has already stopped breathing or is
24 dead is not going to have any bleeding or tissue reaction. So
25 I don't know he was alive at the time. So, you know, that's

1 all I know. It made sense that they were in -- in some kind
2 of succession with each other.

3 Q All right. And to know the exact timing of succession,
4 it would be nice to have something -- let's say an audio of
5 the actual shooting where you could hear the shots.

6 A Yeah, I don't -- I really can't speak to how long it took
7 from the first shot to the last.

8 Q Okay. And, you know, obviously, the unusual nature of
9 Wound A traversing downward through the torso, but that's
10 somewhat unusual but you're not really able to tell where the
11 shooter was standing or where **Minor** was standing.

12 A Well, yeah. No, I don't know, but I do believe that he
13 was bending over at the time.

14 Q Right.

15 A And if that was the case, then somebody would have -- the
16 shot would have been coming from in front of him, not behind
17 him.

18 Q You don't know whether the shooter's hand was down here
19 or up here or over here or over here?

20 A No, I don't know that, right. But as far as the
21 direction of the gun was toward him -- towards **Minor**.

22 Q And you said it's possible that **Minor** could have
23 taken some steps after sustaining injury to A, but it's also
24 possible he could have fallen where he stood and not moved at
25 all; isn't that true?

1 A Yeah, I mean, that's -- that's possible but he
2 [indiscernible]. It's not uncommon that people can, you know,
3 move several feet after getting shot through the heart.

4 Q And it's not uncommon that people just fall where they
5 stand?

6 A Yeah, that can also happen as well.

7 Q All right. And you said he was six-foot, two-inches; is
8 that correct?

9 A Yes.

10 Q And he weighed 233 pounds; is that correct?

11 A Yes.

12 Q And he had a mustache; is that correct?

13 A He had a mustache.

14 MR. MAULDIN: No further questions.

15 THE COURT: Any redirect?

16 MS. FULLER: None, Your Honor.

17 THE COURT: All right. The witness is excused.

18 Are you ready for our next witness?

19 MR. McNAIR: Your Honor, the State calls Paul Greer.

20 THE COURT: Ladies and gentlemen of the jury, let's just
21 stand up real quick and stretch our legs and our bodies.

22 Thank you.

23 (Pause in the proceedings.)

24 PAUL GREER,

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE CLERK: Have a seat up there on the witness stand.
3 If you'll state your name and spell your last name for the
4 record.

5 THE WITNESS: Yes, ma'am. My name is Paul Greer.
6 G-r-e-e-r.

7 DIRECT EXAMINATION

8 BY MR. MCNAIR:

9 Q Agent Greer, how are you doing today?

10 A I'm doing well. Thank you.

11 Q Will you tell the jury where you work.

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

14 Q And how long have you been with SLED?

15 A I have been at SLED almost ten years. It will be ten
16 years this March.

17 Q And what department at SLED do you work in?

18 A At SLED, I am in the Firearms Department, which is housed
19 within our forensic services laboratory.

20 Q And have you been there for ten years as well in that
21 department?

22 A Yes, sir, I have.

23 Q All right. Now, tell the jury just, as part of your job,
24 do you do what's known as firearm identifications?

25 A Yes, sir.

1 Q And what type of education or training do you have in
2 that regard?

3 A Sure. I received a bachelor of science and biological
4 sciences from the University of South Carolina. And upon my
5 appointment at SLED, I began with SLED firearm and toolmark
6 course of instruction. This is an extensive apprenticeship
7 style training program that's conducted under the supervisor
8 of other court-qualified examiners.

9 During that time, which took approximately three years of
10 training, I completed multiple written and practical
11 examinations. I assisted our other examiners within the
12 laboratory prep their cases, and I also conducted many
13 microscopic comparisons.

14 At the end of that training period, I was given a
15 multi-part comprehensive exam, if you will, that included some
16 mock case work. I successfully passed that and was able to
17 begin casework on my own at that time.

18 Q All right. And have you been qualified as an expert in
19 firearm identification in General Sessions court -- like we're
20 in today -- before?

21 A Yes, sir, I have.

22 Q How many times?

23 A Approximately 47 times.

24 MS. FULLER: Your Honor, at this time, we'd often Agent
25 Greer as an expert in the field of firearm identification.

1 MR. MAULDIN: No objection, Your Honor.

2 THE COURT: All right. This witness will be qualified in
3 the area of firearm identification and give opinion testimony
4 in that area. It doesn't mean you have to accept the opinion,
5 but it's evidence for you to use in any way you see fit.

6 MR. McNAIR: Thank you.

7 BY MR. McNAIR:

8 Q Agent Greer, will you explain to the jury just in general
9 what makes firearm identification possible and what that
10 entails?

11 A Sure. Firearms identification is simply a discipline
12 within forensic science where our main objective is to examine
13 fired ammunition components, such as a fired cartridge case or
14 a fired projectile, in order to determine if they were fired
15 by a specific firearm.

16 All that is made possible -- as the firearm is
17 manufactured, different components are used to create that gun
18 to remove metal, cut metal away. And all of that work during
19 the manufacturing process has potential to leave small
20 individual identifying markings on those fired components as
21 they're fired within a firearm.

22 We analyze those small microscopic marks under high
23 magnification using a comparison microscope. And that's just
24 two microscopes that are just joined together through an
25 optical bridge so you can look at two things at one time under

1 different lighting and angles, using those different
2 techniques.

3 Q And I guess what we commonly call a bullet, what parts of
4 a bullet are you looking at when you make a comparison?

5 A Sure. So what we refer to as a bullet, that is simply
6 the projectile that travels down the barrel of a firearm
7 towards a target. Commonly you'll see that as a copper color
8 and have sort of a copper color jacket material around it. It
9 could be different colors, different materials, or different
10 metals, but commonly you'll see that and that's simply just --
11 the bullet simply is just the part that goes down that barrel
12 towards the target.

13 Q And the other part of that is the shell casing?

14 A Yes, sir. Or the cartridge case.

15 Q Or the cartridge case?

16 A Yes, sir.

17 Q Okay. And in a semiautomatic weapon, is that what's
18 ejected out of the firearm?

19 A Yes, sir. A cartridge case can be ejected out of a
20 semi-automatic firearm.

21 Q Okay. And can you compare projectiles to projectiles?

22 A Yes, sir.

23 Q Can you compare projectiles to a particular gun?

24 A Yes, sir, you can.

25 Q And you can compare shell casings to a gun or shell

1 casings to each other; correct?

2 A Yes, sir. You can compare those cartridge cases to each
3 other or to a gun.

4 Q All right. Now, in this case, did you receive some items
5 of evidence related to a shooting that occurred on January
6 29th of 2022 in Lexington County?

7 A I did.

8 Q I'm going to show you what's in evidence as State's 47,
9 48, and 49 through 52, which is contained in Bag 60. Will you
10 take a look at these items and tell us whether or not these
11 are the items that were submitted to you for analysis?

12 A Yes, sir. State's Exhibits 49, 50, 51, and 52, which was
13 in State's Exhibit bag No. 60, that was my SLED Items 4, 5,
14 13, and 14. And I recognize them as they're still in my
15 sealed containers with my initial and seal date.

16 Q Okay. Now, State's Exhibit 47, do you recognize that
17 item?

18 A This firearm is unloaded. I'm going to look for a few
19 identifying features.

20 When we receive evidence in the SLED laboratory, it's all
21 given a unique SLED lab number and item number. I'm looking
22 for that information that I inscribed on this firearm. And
23 this, State's Exhibit 47, was my SLED Item 1, and this was a
24 Ruger model LC9 pistol, and that was submitted with a magazine
25 and four unfired 9mm Luger caliber cartridges.

1 Q All right. We'll talk about them in just a second.
2 And State's 48, was that also submitted to you for
3 analysis?

4 A Yes, sir. State's Exhibit 48 was my SLED Item 2, and
5 that was a fired 9mm Luger caliber cartridge case.

6 Q Okay. Let's start with SLED Item 1, which is Exhibit 47.
7 And you just testified that was a -- what type of weapon is
8 that?

9 A This State's Exhibit 47, SLED Item 1, this is a Ruger
10 model LC9 semiautomatic pistol chambered in 9mm Luger caliber
11 with a serial number of [REDACTED].

12 Q All right. And with that item was submitted a magazine;
13 is that correct?

14 A Yes, sir.

15 Q And was that magazine compatible with that weapon?

16 A Yes, sir, it was.

17 Q And four unfired cartridge cases; correct?

18 A Four unfired cartridges, yes, sir.

19 Q And are those the cartridges -- I apologize. Are those
20 the correct caliber for that weapon?

21 A Yes, sir, they were.

22 Q All right. What type of testing or analysis did you do
23 on that firearm?

24 A When I received this firearm, I photographed it and
25 documented it as I received it in its packaging. I also took

1 note of any foreign or trace material that may have been on
2 the firearm. I did note that there were some reddish-brown
3 debris on the slide area and on the sights, and I took the
4 time to preserve that by swabbing it and packaging that.

5 And then I continued filling out our departmental
6 worksheets to note the characteristics of this gun, also
7 notating the make, model, the caliber, and serial number, the
8 bore condition, the number of lands and grooves inside this
9 barrel to notate the rifling as well as the safety and just
10 determining if the gun was working and if it was safe to fire.

11 Q All right. And was that gun in working order?

12 A Yes, sir, it was.

13 Q Now, how many bullets can that gun hold if it's fully
14 loaded?

15 A With the magazine that was submitted to me with the
16 firearm, I was able to place seven cartridges into the
17 magazine with one more cartridge into the chamber of the
18 firearm, it would hold a total of eight.

19 Q Eight. Okay. So if it was fully loaded before it was
20 fired -- if it was fired four times, there would be four
21 bullets remaining in that magazine?

22 A Yes, sir. If it was fully loaded with seven in the
23 magazine and one in the chamber for a total of eight, if you
24 shot -- or had four, you'd have four left.

25 Q All right. Let's talk about SLED Item 2, which is

1 Exhibit 48, which is described as one fired 9mm Luger
2 cartridge case, which was recovered from the crime scene.

3 A Yes, sir.

4 Q What determination did you make regarding that item?

5 A Again, I photographed it and documented it and determined
6 that it was a 9mm Luger caliber cartridge case. I notated
7 those characteristics and ultimately compared that -- this
8 cartridge case on a microscope with test specimens that I
9 fired from the Item 1 pistol, and I determined that SLED Item
10 2, which is State's Exhibit 48, was fired by SLED Item 1,
11 which is State's Exhibit 47.

12 Q Okay. So that 9mm pistol fired that shell casing?

13 A Yes, sir.

14 Q Okay. Let's talk about SLED 4, 5, 13, and 14, which were
15 bullets or pieces of a bullet recovered from autopsy; is that
16 correct? Projectiles or pieces of projectiles?

17 A Yes, sir. Based on their description on their submission
18 paperwork, it appears that they were from some type of autopsy
19 or person.

20 Q All right. And let's start with SLED 4, which is Exhibit
21 49, described as one bullet core from the left pelvis of the
22 victim. What did you conclude regarding that item?

23 A So this is State's Exhibit 49, SLED Item 4. This was
24 determined to be one bullet core. Based on its observable and
25 physical characteristics, I determined that it was most

1 consistent with being the core portion of the jacketed bullet
2 loaded into some nominal .38 caliber cartridges.

3 In looking at it further on the microscope, there were no
4 marks of value found, and I concluded that it was unsuitable
5 for any identification with other fired-related evidence.

6 Q Unsuitable meaning you couldn't compare it to any of the
7 other projectiles you had?

8 A That's correct. There were no marks of value that I
9 could use for any type of identification purposes.

10 Q And when you say it was a core of a nominal .38 caliber,
11 could that have been part of the 9mm bullet?

12 A Yes, sir, that's possible.

13 Q Okay. Moving on to SLED Item 13, which is Exhibit 51
14 described as two pieces of lead, listed as being from the
15 pelvis of the victim, were you able to make any determination
16 regarding that item?

17 A Yes, sir. These are the two small pieces of lead that
18 are State's Exhibit 51/SLED Item 13. Due to their damage and
19 size, I could not determine the caliber of these two pieces of
20 lead.

21 Further, there were no marks of value that could be used
22 for any identification purposes, and they were also unsuitable
23 for identification.

24 Q All right. And, lastly, let's talk about SLED Item 5 and
25 14. What can you say about these two items?

1 A Yes, sir. This is SLED Item 5 and this is SLED Item 13.
2 Or, excuse me, SLED Item 14.

3 Q 14 is what I meant to say.

4 A Yes, sir.

5 Q That's correct?

6 A So Item 5 and Item 14.

7 Items 5 and 14, based on their observable, physical
8 characteristics and microscopic comparisons, they were most
9 consistent with bullets loaded into some 9mm Luger caliber
10 cartridges.

11 Q Can you tell whether or not those two items were fired by
12 the 9mm semiautomatic handgun you had in evidence?

13 A Yes. Based on my microscopic comparisons of these two
14 items with each other and also the test bullets fired from the
15 SLED Item 1 pistol, it was determined that those two items, 5
16 and 14, were fired by Item 1.

17 Q Okay. Now, are those two separate bullets or are those
18 pieces of the same bullet?

19 A I would imagine these to be separate bullets. SLED Item
20 5, which is Exhibit 50, appear to be more intact, to be one
21 more complete fired bullet. And SLED Item 14 was determined
22 to be a fired bullet jacket. So based on my training and
23 experience, this would be most consistently two separate
24 bullets.

25 Q Okay. Thank you, Agent Greer. That's all the questions

1 I have.

2 THE COURT: Cross-examination?

3 MR. MAULDIN: I have no questions for this witness.

4 THE COURT: All right. The witness is excused. Thank
5 you, sir.

6 MR. MAULDIN: Thank you.

7 MS. FULLER: The State calls TW -- may I proceed?

8 THE COURT: Yes, ma'am.

9 MS. FULLER: The State calls TW.

10 THE COURT: Everybody on the jury doing okay at the
11 moment? All right. Proceed.

12 MS. FULLER: Thank you, Your Honor.

13 TW,

14 after having been duly sworn, was examined and
15 testified to as follows:

16 THE CLERK: If you'll have a seat up there. If you'll
17 say your name and spell your last name.

18 THE WITNESS: TW -- I mean, -- hold on,

19 TW [verbatim].

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q TW, how old are you?

23 A 13.

24 Q I'll move the mic closer to you, however you're most
25 comfortable.

1 Now, TW, last year, January of 2022, how old were
2 you?

3 A 12.

4 Q You were 12?

5 Did you have a birthday?

6 A (No audible response.)

7 Q When is your birthday?

8 A June 13th.

9 Q June?

10 And so, in January, you would have been -- it's okay.

11 But you're 13 now; correct?

12 A Mm-hmm.

13 Q Is that correct?

14 A Yes.

15 Q Now, were you friends with Minor?

16 A Yes.

17 Q And do you remember the night Minor passed away?

18 A Yes.

19 Q And were you on the phone with him?

20 A Yes.

21 Q And who else was present?

22 A My cousin, LJ.

23 Q And were you at home?

24 A Yes.

25 Q And you and LJ were together?

1 A Yes.

2 Q Where in the house were you? Where were you?

3 A My room.

4 Q And how was he talking to Minor? On what? What was he
5 using?

6 A His what? What? On his phone.

7 Q Let me ask some clear questions. I'm so sorry.

8 He was using his phone; correct?

9 A Yes.

10 Q And is this normal for y'all to talk to Minor on the
11 phone?

12 A Yes.

13 Q Now, when you were on the phone with Minor, do you
14 remember the last thing you heard Minor say?

15 A Yes.

16 Q And what was it?

17 A "Can I get a cigarette?"

18 Q Okay. Did he say anything else after that?

19 A No.

20 Q What did you hear next?

21 A Like him, like, trying to breathe.

22 Q Did you hear any other voice?

23 A No.

24 Q Do you remember, when you spoke to the police, you said
25 you heard another voice?

1 MR. MAULDIN: Objection to leading, Your Honor.

2 MS. FULLER: I'm refreshing his memory.

3 THE COURT: Okay. You can answer the question.

4 BY MS. FULLER:

5 Q After you heard Minor ask ---

6 THE COURT: Overruled.

7 BY MS. FULLER:

8 Q --- for a cigarette, did you hear anybody respond?

9 A Yes.

10 Q Okay. And what did you hear in response?

11 A "Is you good?"

12 Q And was it a male voice or a female voice?

13 A A male.

14 Q Okay. And after you heard -- after you heard that, what
15 did you hear next?

16 A A gunshot.

17 Q Did you hear one gunshot or more than one gunshot?

18 A I only remember one.

19 Q Okay. You only remember one?

20 A (No audible response.)

21 Q And then what did you hear next?

22 A Him trying to breathe.

23 Q Okay. Did he say anything?

24 A (No audible response.)

25 Q What do you remember hearing after hearing Minor trying

1 to breathe?

2 A They were screaming his name.

3 Q And when you say "they," who was screaming his name?

4 A His mom.

5 Q And so just tell me if I'm wrong, you and LJ are on the
6 phone with **Minor**; is that correct?

7 A Yes.

8 Q And you hear him ask somebody -- did you get to see who
9 this person was?

10 A No.

11 Q But you know it was a man; correct?

12 A Yes.

13 Q And you heard him ask for a cigarette?

14 A Yes.

15 Q And then I think you said he said, "Is you good?" That's
16 what you heard?

17 A Yes.

18 Q And then you heard gunshots -- a gunshot?

19 A Yes.

20 Q And then you said you heard **Minor** breathing?

21 A Yes.

22 Q And when you say "breathing," what was -- we breathe when
23 we talk in normal. What was different about his breathing?

24 A Like -- it was like he couldn't [indiscernible].

25 Q Okay. So it sounded just like he was trying to breathe?

1 A Yes.

2 Q And then the next thing you remember hearing was Minor's
3 mom? What do you remember her saying?

4 A She was screaming his name.

5 Q Saying "Minor"?

6 A Yes.

7 Q And did you tell anyone what happened?

8 A Yes.

9 Q And when did you tell someone?

10 A When it happened.

11 Q How did you tell them? Like, who did you tell?

12 A I told my mom and my grandmother.

13 Q And they were at home?

14 A Yes.

15 Q And then did you talk to the police too?

16 A Yes.

17 Q And then did you try to talk to Minor's mom?

18 A No.

19 Q Okay. So now you have to answer questions the defense
20 has for you. Okay?

21 A Okay.

22 THE COURT: All right. Cross-examination?

23 CROSS-EXAMINATION

24 BY MR. MAULDIN:

25 Q All right. So you and your cousin, LJ, were on the

1 phone; is that right?

2 A Yes, sir.

3 Q And is LJ's name Lionel Washington?

4 A Yes, sir.

5 Q Where is he today?

6 A I don't know.

7 Q How old is he?

8 A 14 -- no, he's 15.

9 Q 15? So he'd be closer in age to **Minor** than you?

10 A Yes.

11 Q Okay. He was the one on the phone with **Minor** and you
12 were at the foot of the bed; is that right?

13 A Yes.

14 Q And he was at the head of the bed, talking with **Minor**?

15 A Yes.

16 Q So you didn't really see a lot of the video part of the
17 FaceTime. You heard things; is that correct?

18 A Yes. The camera was off.

19 Q Oh, the camera was off. So you could -- there's no
20 telling what **Minor** was doing or what the other fellow might
21 have been doing; is that right?

22 A Yes.

23 MR. MAULDIN: No further questions.

24 THE COURT: Redirect?

25 MS. FULLER: Just briefly.

REDIRECT EXAMINATION

BY MS. FULLER:

Q You couldn't tell what anyone else was doing, but did you hear any arguing?

A No, sir. I mean, no, ma'am.

Q Did you hear any -- did you hear any fighting?

A No.

Q So the camera was off but you didn't hear any fighting or arguing or anything like that between cigarette, "Is you good?" and gunshot?

A Yes.

Q You didn't hear any argument?

A No -- yes, I didn't hear anything -- arguing.

Q Okay. I have no further questions.

THE COURT: Any recross?

RE CROSS-EXAMINATION

BY MR. MAULDIN:

Q But your cousin was the one really on the phone with **Minor** and you were in the room; is that right?

A Yes.

MR. MAULDIN: No further questions.

THE COURT: All right. The witness is excused. Thank you.

Counsel, real quick.

BENCH CONFERENCE

1 (A bench conference was held off the record and outside
2 of the hearing of the jury.)

3 THE COURT: All right. Now, before we go to our next
4 witness, is everybody doing okay over here? All right. I'm
5 getting head nods, so...

6 The State may call their next witness.

7 MS. FULLER: Thank you, Your Honor. The State calls
8 Frederick McCrea.

9 THE CLERK: If you'll place your left hand on the Bible
10 and raise your right hand.

11 FREDERICK McCREA,
12 after having been duly sworn, was examined and
13 testified to as follows:

14 THE CLERK: If you'll have a seat in the witness stand.
15 If you'll say your name and spell your last name for the
16 record.

17 THE WITNESS: My name is Frederick McCrea. Last name,
18 M-c-C-r-e-a.

19 MS. FULLER: Let me fix the microphone.

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q Mr. McCrea, how do you know the defendant?

23 A We work together at our job.

24 Q And you recognize him sitting at that table?

25 A Yes, ma'am.

1 Q Would you consider yourself friends with him?

2 A Yeah, we was -- become friends.

3 Q Okay. And when you say you worked together at the job,
4 what job was this?

5 A Fraley and Schilling.

6 Q And what is that?

7 A A trucking company.

8 Q Okay. Now, on -- you're familiar with the night of the
9 shooting; correct? Do you recall the night the shooting took
10 place?

11 A No, ma'am.

12 Q You don't recall this occurring last year?

13 A Oh, I know when it happened, but I didn't know -- I
14 didn't know that night.

15 Q Okay. But you know why we're here.

16 A Yes, ma'am.

17 Q Okay. All right. Just wanted to lay that.

18 Now, you didn't know about it then but you have come
19 since to learn about the shooting; correct?

20 A Yes.

21 Q Now, that night, were you with the defendant?

22 A Yes.

23 Q And where were you guys?

24 A We was at an apartment I think off of Farrow.

25 Q In Columbia?

1 A Columbia, yes.

2 Q Okay. And what was the purpose of you being there?

3 A I came to bring him a radio piece.

4 Q And what was that for?

5 A For I think a speaker wire.

6 Q Okay. And was this his house that you went to? What was
7 your understanding of the location?

8 A I think to Ms. Hart's house.

9 Q Okay. And was it a gathering or a party going on? Do
10 you recall that? Like other people were there?

11 A Yes.

12 Q Kids were there?

13 A I'd say one.

14 Q Okay. Do you recall his daughter being there?

15 A Yes.

16 Q And she's five years old; correct? She's a little girl?

17 A Little girl. I don't know her age.

18 Q And can you tell the jury whether or not you and the
19 defendant were drinking?

20 A Yes.

21 Q Do you remember what you were drinking?

22 A I think it was, like, Remy Martin.

23 Q And do you recall when the defendant left that house or
24 the apartment to go home?

25 A I don't remember the exact time.

1 Q But do you remember him leaving?

2 A Yes.

3 Q And was his daughter with him when he left?

4 A Basically, yes.

5 Q And do you recall when you left? Do you recall you
6 leaving?

7 A Yes.

8 Q Did you leave before him or after him?

9 A After.

10 Q After.

11 And how did you get home?

12 A His aunt took me home.

13 Q How did you get to the gathering?

14 A I drove.

15 Q And did you have intentions of hanging out that night?

16 A No.

17 Q And how did you come to -- when did you make the decision
18 that you weren't going to hang out and drink that night?

19 A It was actually -- I think it was -- he said it was his
20 birthday and he went and got [indiscernible] and got some
21 drinks.

22 Q Okay. So he said it was his birthday and for you to
23 basically hang out with him?

24 A Yes.

25 Q Okay. And why didn't you drive yourself home if you

1 drove yourself there?

2 A I was intoxicated.

3 Q Do you have a CDL as well?

4 A Yes.

5 Q And so had you met his aunt before?

6 A No.

7 Q Do you recall ending up on the phone with the defendant
8 that night when she was driving you home?

9 A Yes.

10 Q And how did that happen?

11 A We had called him, you know, kind of checking on him,
12 making sure everything was all right.

13 Q And how long approximately do you think you were on the
14 phone with him?

15 A I can't recall exactly how long.

16 Q But you recall -- where were -- were you on the phone
17 with him while you were getting a ride home?

18 A Yes.

19 Q Were you on the phone with him while he was driving home?

20 A Yes.

21 Q Okay. And once -- when you guys finally hung up the
22 phone, what was the last conversation you had?

23 A I asked him was he -- had he made it home. And he said,
24 "Yes, I'm in the parking lot. Everything good."

25 Q And so he told you he made it home and that he's in the

1 parking lot and everything was good?

2 A Mm-hmm.

3 Q And then you hung up the phone; correct?

4 A Yes.

5 Q While you were on the phone with him, did you hear any
6 fighting or argument?

7 A No.

8 Q Did he tell you that he had just shot someone while you
9 were on the phone with him?

10 A No.

11 Q Did you hear gunshots?

12 A No.

13 Q Did he tell you that someone attacked him in the parking
14 lot?

15 A No.

16 Q The phone number you had back then is the same phone
17 number you have now?

18 A Yes.

19 Q I'm going to show you what's been premarked as State's
20 Exhibit 34 for identification. And at the bottom, I'm going
21 to ask you if you recognize the phone number at the bottom.

22 A That's mine.

23 Q And, for the record, on State's 34 as well as testimony,
24 what is your phone number?

25 A Want me to read it out?

1 Q Yes.

2 A [REDACTED]-1476.

3 Q Okay. And your name is Fred?

4 A Fred. Well, people call me Fred or Frederick.

5 Q Frederick? Okay.

6 MS. FULLER: And that's for identification at this time.

7 (State's Exhibit No. 34, Call Log, was marked for
8 identification.)

9 BY MS. FULLER:

10 Q And while he was at the party or while you were at the
11 house that night, do you recall seeing a gun with -- on the
12 defendant?

13 A Yes.

14 Q And how did you come to see that gun?

15 A I think he just pulled it out and showed it to me.

16 Q Okay. Did you touch the gun?

17 A I think he had rested it in my hand when he showed it to
18 me.

19 Q I'm going to show you what's in evidence, already been
20 entered, as State's 47. Do you recognize this as the gun that
21 he showed you that night?

22 A I believe so.

23 Q Okay. And you actually touched the gun too; correct?

24 A Yes.

25 MS. FULLER: No further questions at this time.

1 THE COURT: All right. Cross-examination?

2 CROSS-EXAMINATION

3 BY MR. MAULDIN:

4 Q So Mr. Julius was celebrating his birthday; is that
5 right?

6 A Yes.

7 Q If he was celebrating, it was a happy time; is that
8 right?

9 A Yes.

10 Q He wasn't pissed off or anything like that?

11 A No, he wasn't.

12 Q Okay. And you had something to drink?

13 A Mm-hmm.

14 Q And you was too intoxicated to drive?

15 A Yes.

16 Q And you was too intoxicated to remember how long the
17 phone conversation was; is that right?

18 A Yes.

19 Q And the last thing you remember hearing is him saying
20 that he made it home all right and y'all just kind of said
21 bye; is that right?

22 A That's right.

23 Q You didn't hear any gunshots?

24 A No, sir.

25 Q And you didn't hear his wife talking at him?

1 A No.

2 Q You didn't -- that was the last thing you heard; is that
3 right?

4 A That's right.

5 Q And then you put your phone back in your pocket or
6 something like that?

7 A Yes.

8 Q Well, you was riding in his aunt's car, weren't you?

9 A Mm-hmm.

10 Q Okay. Because she gave you a ride home?

11 A Yes.

12 Q Okay. No further questions.

13 THE COURT: Redirect?

14 MS. FULLER: Briefly.

15 REDIRECT EXAMINATION

16 BY MS. FULLER:

17 Q So, would you say that where you were at was a kid's
18 party?

19 A No.

20 Q Okay. And you do remember around the time that you got
21 there? Was it later in the evening or earlier in the day?

22 A Maybe -- if I had to guess, it was after the middle of
23 the evening. I'd say the evening time.

24 Q Evening. Almost dark out? It was January.

25 A [Indiscernible].

1 Q So dark by 5:00.

2 A Maybe [indiscernible] so maybe it was around 3:00. 2:30,
3 3:00.

4 Q Okay. But you had no plans on hanging out; correct?

5 A No.

6 Q But you did end up hanging out; correct?

7 A Yes.

8 Q And you and -- both of you guys were drinking together;
9 correct?

10 A Yes.

11 Q Was there alcohol there when you got there?

12 A No. We went and got some.

13 Q Okay. So both of you guys left to go buy stuff; correct?

14 A Yes.

15 Q And so were you with him pretty much the night until he
16 left and then you left?

17 A Yes.

18 Q Okay. And so you guys were drinking about the same?

19 A Yes.

20 Q And you made the conscious decision not to drive;
21 correct?

22 A Yes.

23 Q So defense counsel is saying, you know, you were too
24 intoxicated to remember certain details and length of time but
25 you were able to make a decision in that moment; correct?

1 A Yes.

2 Q So you were still somewhat about your faculties; correct?

3 A Yes.

4 Q Okay. What would have happened if something if you
5 drove, with your CDL?

6 A Possible I could lose my CDL.

7 Q Was that on your mind that night?

8 A Yeah.

9 Q Okay. So you were drinking but you had enough in you to
10 think about that; correct?

11 A Yes.

12 Q You had enough in you to make a phone call; correct?

13 A Yes.

14 Q You had enough in you to check on somebody; correct?

15 A Yes.

16 Q Okay. I want to make sure I understand this: Even
17 though you didn't -- you don't have memory of hearing the
18 gunshots; correct?

19 A I don't.

20 Q You remember the last conversation you had before you got
21 off the phone; right?

22 A Yes.

23 Q And what was that again?

24 A You said the last conversation?

25 Q Before y'all hang up, the last thing y'all said before

1 you hung up.

2 A Oh, the last thing was I asked him did he made it home --
3 was he okay? And he was like, "Yeah, I'm good."

4 Q And in that last moment, did he tell you he was just
5 attacked?

6 A No.

7 Q Okay. And did he tell you that he was just involved in a
8 shooting?

9 A No.

10 Q When did you find out?

11 A I don't know if it was [indiscernible] -- I was at work
12 and my wife told me a detective came by.

13 Q And prior to hanging up the phone, did he sound excited?
14 Frantic? Calm? How would you describe the tone of his voice,
15 his pitch?

16 A Sounded normal to me.

17 Q So however long you were on the phone -- and it's in
18 there; we'll get to that -- no change in the tone of his
19 voice?

20 A No.

21 Q You didn't know anything [indiscernible]?

22 A I didn't notice.

23 Q I'm sorry?

24 A No, I didn't notice anything -- any changes.

25 Q So however he sounded at the beginning of the phone call

1 was the same tone he had at the end; correct?

2 A Yes.

3 MS. FULLER: Okay. No further questions.

4 THE COURT: Recross?

5 RECROSS-EXAMINATION

6 BY MR. MAULDIN:

7 Q You do remember that he had stopped -- said he stopped at
8 Nick's to get chicken gizzards; is that right?

9 A Yes.

10 Q But you didn't hear any shots?

11 A No.

12 Q But you did hear him say, "I went to Nick's and got some
13 chicken gizzards?"

14 A Yes.

15 Q Do you think, if you heard shots, you would remember
16 that?

17 A If I heard them, yeah, I would.

18 Q Yeah. Are you sure you for real hung up the phone or did
19 you just stick it in your pocket?

20 A I was thinking back. I had to have it on speakerphone, I
21 would think, or in my hand because I never hold -- the only
22 thing I had -- I didn't have any headset that night. And I
23 never like holding a phone to my ears, especially
24 [indiscernible] hold a phone to my ears. So I think I had to
25 have it -- was talking on the speakerphone.

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

2 THE COURT: All right. The witness is excused.

3 MS. FULLER: This is our last witness for today, Your
4 Honor.

5 THE COURT: Right now? Oh, okay. Counsel...

6 BENCH CONFERENCE

7 (A bench conference was held off the record and outside
8 of the hearing of the jury.)

9 THE COURT: All right, ladies and gentlemen. That's our
10 last witness for the day. Got you out a little bit before
11 5:00. We're going to -- I'll like you to be back in your jury
12 room at 9 a.m. tomorrow morning and we'll continue with the
13 trial from there.

14 As you're already constantly hearing, please don't
15 discuss the case with anyone or do any sort of independent
16 research of this case or anyone involved in it, but we'll see
17 you tomorrow morning at 9 a.m.

18 Thank you. Have a nice night.

19 (The jury exited the courtroom.)

20 THE COURT: Hit the white noise, too.

21 Hey, I just noticed you're falling a sleep a few times.
22 Are you doing okay?

23 JUROR NO. 216: Yeah, I do that all the time.

24 THE COURT: You do?

25 JUROR NO. 216: Yeah. I'm listening.

1 Juror No. 122, we're down a person today, so I'm putting
2 you on the jury now. Just FYI.

3 We're ready to proceed with our next witness, so the
4 State may proceed.

5 MS. FULLER: Thank you, Your Honor. The State calls Mike
6 Phipps.

7 THE COURT: Very well.

8 THE CLERK: Good morning. Please raise your right hand
9 and place your left on the Bible.

10 MICHAEL PHIPPS,
11 after having been duly sworn, was examined and
12 testified to as follows:

13 THE CLERK: Thank you. Would you please have a seat in
14 the witness box. State your full name and spell your last for
15 the record.

16 THE WITNESS: It's Michael Stewart Phipps. P-h-i-p-p-s.

17 DIRECT EXAMINATION

18 BY MS. FULLER:

19 Q Go ahead and introduce yourself to the jury and where are
20 you currently employed.

21 A I'm with the United States Secret Service.

22 Q And prior to that, where were you employed?

23 A With the Lexington County Sheriff's Department.

24 Q And in what capacity are you employed with the United
25 States Secret Service?

1 A The official title is the Network Intrusion Forensic
2 Analyst, but, basically, I examine digital items for anything
3 that can be recovered in the criminal investigations.

4 Q And what are digital items?

5 A It can be anything in a cell phone, computer, to a
6 vehicle, to even refrigerators these days.

7 Q Can you go ahead and describe what your training,
8 experience, and the length of time working in the field of
9 digital forensics?

10 A Started -- well, I was 26 years with the Lexington County
11 Sheriff's Department, 14 years in the Crime Scene Unit, and as
12 a collateral duty to those crime scene duties, we started back
13 in about 2007 doing cell phone things in-house.

14 So I started officially getting trained in digital
15 extractions of cell phones in 2007. Around 2010, I joined the
16 South Carolina Electronic Crimes Task Force. That's a task
17 force administered by the Secret Service. They later changed
18 their name to the -- it's Cyber Fraud Task Force now instead
19 of Electronic Crimes.

20 It was probably 2015, I left the Crime Scene Unit as far
21 as that as a collateral duty. Since 2015, I have been working
22 digital evidence full time. I retired from the sheriff's
23 department last month, so -- after 26 years, so it's only been
24 a month now that I have been with the Secret Service.

25 Q Can you also describe, when it comes to cell phones,

1 who -- how are you able to retrieve information from a cell
2 phone?

3 A We have forensic tools that are able to interface with
4 that phone and pull the data off in a forensically sound
5 manner. They're designed to collect data and not the change
6 the data or add anything to the data.

7 Q And in the field of digital forensics, have you testified
8 in court before?

9 A Yes, ma'am.

10 Q Approximately how many times?

11 A Over 30 times now.

12 Q And have you been qualified as an expert in the field of
13 digital forensics?

14 A I have.

15 MS. FULLER: Your Honor, at this time, the State seeks to
16 introduce or offer ---

17 Is it agent at the Secret Service now?

18 THE WITNESS: Just investigator.

19 THE COURT: --- Investigator Mike Phipps as an expert in
20 the field of digital forensics.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: All right. Ladies and gentlemen, this
23 witness will be qualified in the area of digital forensics and
24 he can give opinion testimony in that area. It doesn't mean
25 you must accept the opinion, but it's evidence for you to use

1 in any way that you see fit.

2 MS. FULLER: Thank you, Your Honor.

3 BY MS. FULLER:

4 Q Investigator Phipps, is it common for you to assist other
5 agencies when it comes to retrieving information from cell
6 phones?

7 A Yes, ma'am. That was the concept of the task force is
8 the Secret Service would train individuals throughout the
9 state with the understanding that they would assist local
10 jurisdictions that didn't have that specialty.

11 Q Okay. I'm going to show you -- in this case, do you
12 recall assisting the Lexington Police Department with a cell
13 phone extraction?

14 A Yes, ma'am.

15 Q I'm going to show you what's been premarked as State's 53
16 as well as State's 58 and ask if you recognize these two
17 items.

18 A I am familiar.

19 Q And how do you recognize those two items?

20 A The disc is one that I previously reviewed as having --
21 containing the report that I generated from the phone in the
22 envelope to include photos of the same phone. And this I
23 recognize as the device I examined of a Pixel 6, having a
24 label that we applied in our lab.

25 MS. FULLER: Okay. At this time, Your Honor, these two

1 items I'd just offer for identification.

2 THE COURT: Very well.

3 MS. FULLER: And that's State's 53 and 58.

4 (State's Exhibit No. 53, Cell Phone, was premarked for
5 identification.)

6 (State's Exhibit No. 58, Cell Phone Report, was premarked
7 for identification.)

8 BY MS. FULLER:

9 Q In terms of this actual device, what type of extraction
10 were you able to perform?

11 A There's different levels of extraction that we can get,
12 meaning it's kind of like when you look at your computer and
13 you -- what you see on the screen versus going to File
14 Explorer versus going and getting the actual raw binary
15 extraction of all the information on the computer.

16 In this case, we got what we consider a logical, you
17 know, file system extraction.

18 Q And when the request came in to extract this phone, whose
19 device were you informed that this belonged to? Whose device
20 was this?

21 A I believe it was a suspect, if I'm remembering correctly.

22 Q Okay. I'm going to show you what's been premarked as
23 State's 61 and ask if you recognize this.

24 A Yes, ma'am.

25 Q And what do you recognize that to be?

1 A It's a summary for the cover sheet -- excuse me -- to the
2 report which lists my name, a case number, the types of
3 extractions, the date and time of those extractions, and then
4 some information about the device itself -- the model, the
5 phone number to the device, that type of thing.

6 Q And now when it comes to an actual cell phone extraction,
7 does it include multiple pages or thousands -- or how much
8 data would you say you recovered from this device?

9 A Usually, if you try to print everything out, you're over
10 a thousand pages.

11 Q Okay. So this is just two pages but it's just the
12 summary sheet with information about the device; correct?

13 A Yes, ma'am.

14 Q And user account information?

15 A That is correct.

16 Q And this is part of the report that you generated for
17 Lexington Police Department; correct?

18 A That is correct.

19 MS. FULLER: At this time, Your Honor, the State seeks to
20 introduce into evidence State's 61.

21 THE COURT: State's 61?

22 MS. FULLER: I think -- yes.

23 THE COURT: Without objection?

24 MR. MAULDIN: That's correct, Your Honor.

25 THE COURT: State's Exhibit 61 is admitted into evidence.

1 (State's Exhibit No. 61, Cell Phone Report, was premarked
2 for identification and received into evidence.)

3 BY MS. FULLER:

4 Q Looking at State's 61, how do you recognize this as the
5 report? I know you were looking at it there, but can you walk
6 the jury through how you recognize this as part of the report
7 as it relates to that device?

8 A Well, the first block at the top under "summary," it's
9 giving the actual software version for the hardware that we
10 used to do the extraction. That's the Cellebrite Physical
11 Analyzer version. Report creation time. My name under
12 examiner's name. The case number. And then an evidence
13 number that's assigned to it.

14 Q And on the second page of this report, did it include
15 user account information?

16 A It does. In fact, those were the only two user accounts
17 identified. One was a Facebook account and the other was an
18 Instagram account.

19 Q And what's the account [indiscernible]?

20 A I'm sorry?

21 Q What's the account name?

22 A It's -- eyes are a little poor -- Big Poppa Julius and
23 then Big Poppa_803.

24 Q Okay. And so this is part of the report from that
25 device; correct?

1 A Yes, ma'am.

2 Q Now, looking at what's been identified yesterday as
3 State's 34, I'm going to ask if you also recognize this as the
4 call log listed on there.

5 A Yes, ma'am.

6 Q And was this part of the report that you generated as
7 well in this case?

8 A It is.

9 MS. FULLER: At this time, Your Honor, the State seeks to
10 introduce into evidence State's 34.

11 THE COURT: Without objection?

12 MR. MAULDIN: That's correct, Your Honor.

13 THE COURT: State's Exhibit 34 is admitted into evidence.

14 (State's Exhibit No. 34 was received into evidence.)

15 BY MS. FULLER:

16 Q For the purposes of court for this trial, you were asked
17 to confirm one call on a call log; correct?

18 A Yes, ma'am.

19 Q And we're going to go through that. Can you go ahead and
20 publish the phone number attributed to the call that you were
21 asked to look at?

22 A Yes. So at the bottom of the page there under "call
23 log," there's one phone call that's an incoming phone. So the
24 "from" was the phone number that was calling the device that I
25 examined. That phone number was [REDACTED]-1476. That

1 occurred January 29th of 2022 at 10:08 p.m. And the call
2 lasted for a duration of 36 minutes and 15 seconds.

3 Q In the parties, there's a name attributed to that phone
4 number. Who would have answered that name in the device?

5 A That would come from your contacts. So the user of a
6 phone, when a phone call comes in, they can assign whatever
7 name they want to that phone number.

8 Q And what was the name associated?

9 A In this case, it was Fred Driver.

10 Q Okay. Now, you published the timestamp of 10:08:06.
11 Where would that time -- how was that time created in the
12 device?

13 A That's the time that the phone call comes in as answered
14 by the user of the phone and starts that clock.

15 Q And so no one could have altered that phone?

16 A Could not.

17 Q Okay. And the duration was 36 minutes and 15 seconds. I
18 think I asked you if you can do a little calculation for me.
19 What time would that call have ended based on the length of
20 time the call lasted?

21 A I don't have that with me. I'd have to do some math.
22 Give me a second. (Pause.) So 10:44 and 6 seconds. I'm
23 sorry. 15 seconds. 21 seconds.

24 Q And so that call would have ended or disconnected at
25 10:44 and 21 seconds that night; correct?

1 A That is correct.

2 MS. FULLER: No further questions.

3 THE COURT: Cross-examination?

4 CROSS-EXAMINATION

5 BY MR. MAULDIN:

6 Q Hello, Investigator Phipps.

7 A Hello.

8 Q Were you asked in this case to examine a cell phone
9 belonging to a Minor ?

10 A I don't -- no one asked me to research that, no. It was
11 some time ago, so I'm not sure how many phones were examined
12 in this case.

13 Q So you don't know if you did or not?

14 A I don't know at this point.

15 Q And a call ends when the party disconnects; is that
16 correct? When they hang up?

17 A Correct.

18 Q If they leave the phone on, it keeps running?

19 A Yeah. I mean, the phone doesn't know whether it's just
20 dead air or someone actually is speaking back and forth.

21 Q Right. So somebody actually has to disconnect before the
22 call ends.

23 A Yes, that's correct.

24 MR. MAULDIN: No further questions.

25 THE COURT: Any redirect?

1 MS. FULLER: Yeah, just briefly.

2 REDIRECT EXAMINATION

3 BY MS. FULLER:

4 Q Looking at that call that was placed that was in the name
5 of Fred, if Fred, on the other line -- on the other side of
6 the call hung up the phone, what would be reflected on the
7 subject's phone?

8 A It would show a disconnect and the ending time.

9 Q Okay. And so if the other person you're speaking to ends
10 the call, your call -- your phone would not just stay open;
11 correct?

12 A That is correct.

13 MS. FULLER: No further questions.

14 THE COURT: Any recross?

15 MR. MAULDIN: Nope.

16 THE COURT: All right. The witness is excused.

17 Next witness?

18 MR. McNAIR: The State calls Juanita Ellison.

19 THE CLERK: Please raise your right hand and place your
20 left hand on the Bible.

21 JUANITA ELLISON,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: Thank you. Would you please have a seat in
25 the witness box, and state your full name and spell your last

1 for the record.

2 THE WITNESS: Juanita Ellison. E-l-l-i-s-o-n.

3 DIRECT EXAMINATION

4 BY MR. McNAIR:

5 Q Good morning, Ms. Ellison.

6 A Good morning.

7 Q Tell the jury what your relationship was to **Minor**.

8 A I'm his mother.

9 Q And how old was **Minor** when he was killed?

10 A 15.

11 Q Where did he go to school?

12 A Irmo High School.

13 Q What grade was he in?

14 A He was in the 10th, I believe.

15 Q Do you have any other children?

16 A Yes, sir.

17 Q How many?

18 A One.

19 Q Boy or girl?

20 A Boy.

21 Q What's his age?

22 A He's 13.

23 Q Was he there that night as well?

24 A Yes, sir.

25 Q Let's talk about that night, January 29, 2022. Where

1 were you living at that time?

2 A At that time, I was living with my mom. I was in between
3 houses.

4 Q Okay. And prior to this incident happening, how long had
5 you been there?

6 A Maybe for, like, two to three weeks.

7 Q Okay. And let's talk about that night, the evening of
8 January 29th. What was going on that night?

9 A That night, we was all just in the living room watching
10 TV. **Minor** stepped outside to go use the phone.

11 Q Who all was there?

12 A Me, my son, and my mother.

13 Q That's your son, **Minor**?

14 A Yes, sir.

15 Q And you said **Minor** was on the phone?

16 A Yes, sir.

17 Q And what was he doing while he was on the phone?

18 A He was just on the phone.

19 Q Was he staying inside? Was he going outside?

20 A He was outside on the phone.

21 Q He was outside?

22 A Yes, sir.

23 Q Now, while he was outside on the phone, did you hear
24 something?

25 A No, sir.

1 Q Did you hear gunshots?

2 A Yes, sir.

3 Q Where were you when you heard the gunshots?

4 A In the living room.

5 Q How many gunshots did you hear?

6 A I thought I heard five.

7 Q You thought you heard five?

8 A Yes, sir.

9 Q Was everybody but **Minor** in the house with you at that
10 time?

11 A Yes, sir.

12 Q What did you do after you heard the gunshots?

13 A I waited for a minute and then I went to the door, and I
14 seen the guy standing outside, walking towards **Minor**. And I
15 asked, "Were these gunshots?" And he said, "I don't know.
16 Buddy is around there, laying on the ground."

17 Q Okay. And when you say "the guy," who are you referring
18 to? Do you see him in the courtroom today?

19 A Yes, sir. The guy over there.

20 Q The defendant?

21 A Yes, sir.

22 Q Okay. Now, did you go to the door immediately after you
23 heard the gunshots, or did you wait awhile?

24 A I waited a little bit. Maybe for, like, a minute.

25 Q A minute or so?

1 A Yes, sir.

2 Q And you say you opened the door and you saw the
3 defendant?

4 A Yes, sir.

5 Q Where was he?

6 A He was kind of like not really in front of my mom's door
7 but the next door over, coming up the walkway.

8 Q Is that coming from where his apartment was?

9 A Yes, sir.

10 Q Did you see anything in his hand?

11 A I seen a phone in his hand.

12 Q What did you notice about the phone?

13 A It was lit up.

14 Q Could you hear anybody talking?

15 A No, sir.

16 Q How did he appear?

17 A Nonchalant. Like nothing just happened.

18 Q Did you have any indication he had been involved in a
19 shooting?

20 A No, sir.

21 Q And he told you, "Buddy's over there on the ground"?

22 A "Buddy's around there laying on the ground."

23 Q What did you do at that point?

24 A I ran around there to see who "Buddy" was that was laying
25 on the ground and it was my child.

1 Q And how did you find your child?

2 A Laying face-forward in the ground -- in the grass.

3 Q Where was the defendant when you ran over to where **Minor**
4 was?

5 A He was over there with me.

6 Q He followed you over there?

7 A Yes, sir.

8 Q What, if anything, did you see him do when you-all got
9 over there?

10 A I really wasn't paying him any attention because I was
11 too focused on **Minor**.

12 Q What was **Minor's** condition when you first got there?

13 A He was gurgling, you know, gasping for air. Like he was,
14 you know, trying to breathe. And --

15 Q While he's face-down?

16 A Yes, sir.

17 Q What are you saying?

18 A I was calling his name, you know, trying to see was he
19 still alive. Even though I heard the gurgling, I was trying
20 to make sure, like, was everything okay, because I didn't know
21 he -- I was trying to figure out where he got shot at.

22 Q Did you make any comments to the defendant who was there
23 with you?

24 A Yes, sir.

25 Q What did you say?

1 A Well, I was actually looking on the ground, looking for
2 casings, and I said, "What did he got shoot -- what did --
3 what did he get shot with? Because I don't see any casings."

4 And then that's when he said that, "They must have used a
5 revolver."

6 Q "They must have used a revolver"?

7 A Yes, sir.

8 Q Did you see him do anything to your son while you were
9 there?

10 A He rolled him over.

11 Q How did he roll him over?

12 A Like rolled him over like this (indicating).

13 Q Did you see him attempt to do CPR?

14 A I don't think he was trying to do CPR. It was more like
15 he was palpating, like, just checking his chest.

16 Q Okay. He wasn't doing, like, mouth-to-mouth and chest
17 compressions?

18 A No, sir.

19 Q Now, were you still there when the cops showed up?

20 A Yes, sir.

21 Q Was the defendant, do you remember him being there when
22 the cops showed up?

23 A Yes, sir.

24 Q At some point, did he walk off or do you even know?

25 A Like I said, it was really focused on my child. I wasn't

1 focused on anything else around me. I was just focused on
2 **Minor** .

3 Q Well, I guess after that first time, when is the next
4 time you actually saw the defendant?

5 A When he was being handcuffed.

6 Q Prior to that, did you have any idea he had been involved
7 at all in the shooting of your son?

8 A No, sir.

9 Q What did you say when you saw him getting handcuffed?

10 A When I seen him getting handcuffed, I was [indiscernible]
11 like, "Did you kill my child?" I asked him, "Did you kill my
12 child?" That's the guy that helped me.

13 Q Let me show you State's 27. Where were you sitting
14 inside the house when you heard the gunshots?

15 A Right there on that side where the brick wall is at.

16 Q Right beside the wall where **Minor** ended up?

17 A Yes, sir.

18 Q Prior to hearing the gunshots, did you hear any voices?

19 A No, sir.

20 Q Did you hear any arguing?

21 A No, sir.

22 Q Any fighting?

23 A No, sir.

24 Q Is that something you believe you would have heard,
25 sitting right there beside that wall?

1 A Yes, sir.

2 Q And do you have a laser pointer up there? Can you show
3 us where -- where you were when you saw the defendant after
4 you heard the gunshots?

5 A Where was I when I seen the defendant?

6 Q Yes.

7 A There (indicating).

8 Q And where was he?

9 A He was down this walkway right here, a little bit further
10 back.

11 Q Coming towards this grassy area?

12 A Yes, sir.

13 Q Now, when you came out, you didn't see any shell casings?

14 A No, sir.

15 MR. McNAIR: State's 4.

16 BY MR. McNAIR:

17 Q It's hard to see it. Can you see anything in that photo?

18 A It's very hard to see anything in that photo.

19 Q Okay. Let me show it to you on the stand. That's
20 State's 4.

21 A Okay.

22 Q Do you see yourself in that photo?

23 A I'm kneeling down right there.

24 Q And that's when law enforcement first showed up?

25 A Yes, sir.

1 Q Is that the defendant also in that photo?

2 A He's standing over right here.

3 Q Okay. And, at some point, after law enforcement showed
4 up, I guess you didn't see him again until he was being
5 arrested?

6 A Yes, sir.

7 Q Let me show you State's 55. And this is a clip from a
8 body cam that you've previously watched. Can you identify
9 that? Are those your initials on that disc?

10 A My initials on the disc?

11 Q State's 55 is in evidence. Okay. Have you previously
12 watched a body cam from that night ---

13 A Yes, sir.

14 Q --- that showed you on the scene when law enforcement
15 first showed up?

16 A Yes, sir.

17 Q Was it a fair and accurate depiction of the way things
18 were that night?

19 A Yes, sir.

20 MR. MCNAIR: Your Honor, we'd offer State's 55 into
21 evidence.

22 THE COURT: Without objection?

23 MR. MAULDIN: Foundation [indiscernible].

24 MR. MCNAIR: It's the video.

25 BENCH CONFERENCE

1 (A bench conference was held off the record and outside
2 of the hearing of the jury.)

3 THE COURT: All right. Admitted subject to objection,
4 State's Exhibit 55.

5 (State's Exhibit No. 55, Body Cam Video, was premarked
6 for identification and received into evidence.)

7 (Video plays.)

8 BY MR. McNAIR:

9 Q Ms. Ellison, whose voice is that?

10 A Mine.

11 Q That's your voice?

12 A (No audible response.)

13 THE COURT: Just for the record, you nodded your head,
14 but could you please answer.

15 A Yes, sir. It's mines.

16 BY MR. McNAIR:

17 Q And this is when law enforcement first showed up on the
18 scene?

19 A Yes, sir.

20 Q Okay. And the defendant is still standing there with
21 you?

22 A Yes, sir.

23 Q Now, at this point, is the defendant on the ground over
24 **Minor** ?

25 A I don't know. I can't see.

1 Q Okay. One last question: When you saw **Minor** walk out
2 of the apartment on the phone, did he have his earbuds in?

3 A Yes, sir.

4 Q Thank you.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION

7 BY MR. MAULDIN:

8 Q So you said that you heard no voices at all outside
9 before the shooting?

10 A No, sir.

11 Q And you went outside and you were checking for injuries?

12 A Yes, sir.

13 Q And you were also checking around for shells?

14 A Yes, sir.

15 Q And you said the defendant said that whoever must have
16 used a revolver?

17 A Yes, sir.

18 Q Now, that's something that you only told the State about
19 recently; right?

20 A No, sir.

21 Q And you told them recently during trial prep?

22 A Sir?

23 Q You didn't tell the police at the scene that he said
24 that?

25 A No, I did say that.

1 Q Who did you say that to?

2 A I'm not sure. I talked to so many people.

3 Q Did you write a statement in this case?

4 A Yes, sir.

5 Q And I understand things were under pressure at the time,
6 but in that statement, you didn't say anything about the
7 defendant saying that somebody must have used a revolver, did
8 you?

9 A Okay.

10 Q You did put in there that you did say, "Buddy was around
11 the corner."

12 A Yes, sir.

13 Q And you did put in there that you did say that "Somebody
14 should do CPR or mouth-to-mouth."

15 A Yes, sir.

16 Q And you did put in there, when you asked him, "Were those
17 gunshots?" And he said, "I don't know." Is that correct?

18 A Say that again.

19 Q When you asked him if those were gunshots, he said, "I
20 don't know," and you put that in there?

21 A He said, "I don't know, but Buddy's around there, laying
22 on the ground."

23 Q Right. But you didn't put anything in there about a
24 revolver, did you?

25 A I'm not sure what I put in there.

1 Q Would looking at the statement refresh your recollection?

2 A Yes, sir. (Witness reviews document.) No, sir. I
3 didn't put it in the statement.

4 Q But you did put in at least two or other three [verbatim]
5 things that he said to you?

6 A Yes, sir.

7 Q Did you pick up **Minor's** cell phone?

8 A No, sir. My son did.

9 Q And when you saw the defendant in handcuffs, you yelled
10 at him that, "You killed a 15-year-old child"?

11 A Yes, sir.

12 MR. MAULDIN: No further questions.

13 THE COURT: All right. Redirect?

14 MR. McNAIR: Nothing further, Your Honor.

15 THE COURT: All right. The witness can step down.

16 MS. FULLER: The State calls Zachariah Truel.

17 THE CLERK: Please raise your right hand and place your
18 left hand on the Bible.

19 ZACHARIAH TRUEL,

20 after having been duly sworn, was examined and
21 testified to as follows:

22 THE CLERK: Would you please have a seat in the witness
23 box. State your full name and spell your last for the record.

24 THE WITNESS: My full name is Zachariah Truel, and last
25 name is spelled T-r-u-e-l.

1 DIRECT EXAMINATION

2 BY MS. FULLER:

3 Q Go ahead and introduce yourself briefly to the jury.

4 Where are you employed?

5 A I'm employed at the Town of Lexington Police Department.

6 Q And how long have you worked there?

7 A I have been working there right at 12 years.

8 Q And what is your experience? What is your current rank
9 and your current field and what experience do you have working
10 in law enforcement?11 A So I started out in Lexington Police Department as a
12 patrol officer. I did that for about three years. And then I
13 got moved to our Traffic Enforcement Division. I worked there
14 for about two years on a DUI grant. And then, after that, I
15 got promoted to Investigations, and I worked as a detective
16 for about two years.17 And then right at four years ago, I came back to the
18 Patrol Division as a supervision. I initially was a corporal,
19 which is, like, an assistant supervisor, and now I'm a
20 sergeant, which means I run of shift of officers, and that's
21 my current position.

22 Q Back in January of 2022, what was your position?

23 A So I was a corporal then, which would be, like, an
24 assistant supervisor in the Patrol Division.

25 Q Do you recall responding to the shooting in this case?

1 A I do.

2 Q And what was the location?

3 A So the shooting happened at [REDACTED] Street, which is
4 in Lexington County.

5 Q Okay. And when you arrived on-scene, can you go ahead
6 and describe to the jury the scene when you arrived, what you
7 remember, and who else was present?

8 A So I responded to the scene in reference to a shooting.
9 I was the second officer to get on the scene. Another officer
10 had gotten there just moments before I pulled in.

11 As I was about to pull in, the other officer told me that
12 there was a white car that was trying to leave the scene. We
13 weren't sure if it was involved in the shooting. So as I
14 pulled in, I saw the white car backing out, so I got out with
15 it and stopped it, and it was a lady sitting in it and I told
16 her, "Hey, stay on the scene, don't go anywhere."

17 At that point, another officer was pulling in behind me,
18 Officer Januchowski. So I told him, "Hey, stay with this
19 lady."

20 And when I looked over, and that's when I saw that the
21 victim in this case, the kid that got shot, was laying on the
22 ground, and the other officer that got there right before me,
23 Officer Kerwin, he was just kind of making his way over to the
24 kid. So I grabbed my medical stuff, and I ran over there to
25 try to help or render aid to him.

1 When I walked up to him, I noticed that there was a male,
2 which later was identified as the defendant. He was kind of
3 kneeling over the top of him. Looked like he was maybe trying
4 to do CPR or something on him. I wasn't sure at the time. It
5 looked like he was possibly trying to help him. So I said,
6 "Hey, where is he shot at?" And he said, "I don't know."

7 So I kind of had him step back so I could start checking
8 the kid. I used my flashlight to check his eyes for stimulus;
9 I didn't see anything. I checked his neck for a pulse; I
10 didn't feel a pulse. I had saw he had been shot several
11 times. At that point, I didn't see any active bleeding
12 anymore. So based off of everything I checked, it appeared
13 obvious to me that he was already deceased, and there wasn't
14 anything else we could do for him at that point.

15 So I told everyone to kind of step back. A lot of people
16 were coming out of the apartment. I think the family was
17 coming out at that point. So I said, "Hey, everybody, let's
18 stand back." And I instructed one of the officers -- Officer
19 Kerwin -- to start a crime scene log, just kind of documenting
20 who all was coming and going, because we knew there was going
21 to be an investigation at that point.

22 I also started looking around for the defendant at that
23 time. I didn't know he was a defendant. I assumed he was
24 possibly a witness because he was the one that was there when
25 I walked up. I was going to ask him some more questions about

1 what he saw, but I noticed that he was gone. I didn't know
2 where he went.

3 So what I did was I continued to kind of direct the
4 officers on "Hey, let's start talking to some people, trying
5 to get some statements, see if anyone saw anything." And I
6 kind of kept my eye out for him because I want to talk to him
7 about what had happened. And --

8 Q Let me get a question in.

9 A Yes. Go ahead. I'm sorry.

10 Q You kind of just answered all of my questions, but I
11 appreciate it.

12 So did you eventually go looking for the defendant?

13 A Yes. So once things kind of calmed down for a moment and
14 kind of we got the scene under control, I started kind of
15 walking around kind of just to see if I could find where he
16 went to. I assumed he was still standing in the area
17 somewhere.

18 Q Okay. And when you say "look around," when the scene was
19 established, what area did you establish at the crime scene or
20 did law enforcement establish?

21 A So where the kid was at was right at the end of the
22 building. So what we did --

23 Q I'm going to publish State's 2 so the jury can see it as
24 you talk. Go ahead. Where did you establish --

25 A Okay. I'm going to use the pointer.

1 Q That's fine.

2 A Okay. So right around this area here is where we found
3 the kid at, and that's where we were doing the initial first
4 aid on him. So what happened was, once we kind of got that --
5 determined that it appeared he was deceased and there wasn't
6 anything we could do for him, we started kind of roping off
7 this general area here, and we kind of had everyone pushed
8 back to kind of over here because we didn't want them right
9 around where the victim was laying at.

10 Q Okay. And so when you started looking for him, what area
11 did you go looking for him in?

12 A So as I was walking around, kind of talking to different
13 people here, directing officers, I kept kind of glancing
14 around the parking lot, trying to see if I saw him anymore. I
15 assumed he'd be standing around somewhere. And I never saw
16 him standing anywhere. And then, a few minutes later, I saw
17 him walking kind of up the sidewalk back toward our direction.

18 Q Okay.

19 A And that's when I noticed him and recognized him as the
20 guy. When I started to walk towards him, we kind of made eye
21 contact, and then he turned and he started walking kind of
22 this direction, kind of away from me. So I called out to him
23 and I said, "Hey, sir, sir, are you can guy that was trying to
24 help the kid when I got here?" And then we initiated
25 conversation at that point.

1 Q Okay. And so when you initiated that conversation, was
2 it truly just kind of information gathering because you
3 thought he may have been a witness?

4 A Yeah. I assumed if anyone had seen anything, it would be
5 him, because when I walked up, he was the one that was sitting
6 there with the kid.

7 Q Okay. And did you eventually get his attention and speak
8 with him?

9 A I did. When I kind of called out to him, he kind of
10 stopped and looked at me and then he kind of stopped. We were
11 standing about right around this area, and I started asking
12 him about, "Hey, you were the" -- I said, "You were the guy
13 that was out here with the kid, right?"

14 And he said, "Yeah. "

15 And I said, "Did you see anything? Where were you at
16 when the shooting happened?"

17 So we started kind of having a conversation, and
18 immediately, I was noticing that he kept giving conflicting
19 statements. So I said -- initially, he said he was inside
20 when the shooting happened, and then he said he was in the
21 parking lot when it happened.

22 And then I asked him if he knew the kid, and he said he
23 didn't know the kid. And then he said, yeah, he did know the
24 kid.

25 So immediately when I started talking to him, I started

1 kind of noticing that his statements were kind of all over the
2 place with that. And he told me -- he finally ended up saying
3 he was in the parking lot when it happened but he didn't see
4 anything. And he said he ran over and tried to help the kid
5 but then he got scared and ran away.

6 Q Okay.

7 A And that was kind of the extent of that.

8 Q Okay. And then what do you recall happening next? Did
9 another officer signal anything to you during the
10 conversation?

11 A So while I'm standing there talking to him, to the
12 defendant, Officer Januchowski was kind of in the background
13 behind us, and he was talking to the defendant's wife. While
14 he's talking to her, he kind of set some stuff down and walks
15 over to us, and he tells me, "Hey, we need to detain him. He
16 was involved in the shooting. She said he was involved in the
17 shooting." So we put him in handcuffs at that point, and I
18 told him he was being detained. And that's when I advised him
19 of his Miranda rights because, at that point, I realized he's
20 possibly actually involved in the shooting.

21 Q Okay. And when Officer Januchowski came over to you, did
22 he use words or did he signal to you in some way?

23 A So he -- he kind of was making hand signals, like,
24 pointing to the guy, and he said, "67," which just means,
25 like, handcuff. It's one of the 10 codes that we have. So he

1 was trying to tell me to handcuff him without saying it out
2 loud because we didn't know what the guy was going to do.

3 Q Okay. And once you handcuffed him, did you speak with
4 him further?

5 A Yes. As soon as I put him in handcuffs -- as a matter of
6 fact, while we were still trying to get the handcuffs on
7 properly, I was advising him of his Miranda rights. So I told
8 him all of his Miranda rights verbally.

9 And then, once we got him in cuffs, I initially asked
10 him, "Hey, where's the gun at?" Right? Because that was my
11 initial concern was that he may still have a gun on him. And
12 he just said, "I don't know --

13 MR. MAULDIN: I'm going to have an objection at this
14 point, Your Honor.

15 THE COURT: Yeah. Previous objection noted. Testimony
16 subject to objection.

17 MS. FULLER: Thank you.

18 BY MS. FULLER:

19 Q Can you go ahead and start over? You asked him a
20 question about the gun, and what did he say?

21 A Yeah, so I said, "Hey, do you have -- where is the gun
22 at?" Something along those lines. "Do you have the gun" or
23 "Where's the gun at?"

24 And he said, "There is no gun" or "I don't have a gun."

25 And I said, "All right." I said, "Well, just be honest

1 with me, man. Tell me what happened."

2 And he said, "Just take me to jail."

3 And I said, "Did something happen between you and that
4 kid?"

5 And he said, "No. Just take me to jail."

6 And that was essentially the extent of mine and his
7 conversation.

8 Q And did you or other officers eventually move him away
9 from that area you were speaking in?

10 A Yeah. So as soon as we put him in handcuffs and I
11 started to have a brief conversation with him, there was a lot
12 of people in the parking lot and family, and they kind of
13 looked over and saw at that point we had handcuffed him. So
14 dialogue started, obviously, with emotions going on. I was
15 kind of concerned at that point something would escalate
16 safety-wise. So I said, "Hey, let's get him in the car and
17 get him out of this parking lot."

18 So we walked him over and put him in the back of the
19 car -- the police car.

20 Q Now, when you detained him, did you search his pockets?

21 A Yes. So when I detained him, we searched him, and he had
22 his cell phone on him. I took his cell phone and held it at
23 that point. I later put it in evidence. I also took his --
24 he was carrying a hoodie. It appeared to be the same one he
25 had on whenever I initially saw him, so I took that as well

1 and put it in evidence in case it was -- had any evidence on
2 it.

3 Q Okay. I'm going to show you what's been identified
4 already as State's 53. I'm going to ask if you recognize it.

5 A Yes, ma'am. That's the cell phone that I took from him
6 and put in evidence.

7 Q Okay. So this is the --

8 A It's the defendant's cell phone.

9 Q The defendant's cell phone. So this is Lavon Julius's
10 cell phone?

11 A Yes, ma'am.

12 Q Okay. And that's for identification, State's 53.

13 Now, when you were on-scene, as well as other officers,
14 are you guys equipped with body cam as well as dash cams on
15 your vehicles?

16 A We are, yes, ma'am.

17 Q And were you wearing a body cam that day?

18 A I was.

19 Q And you indicated Kerwin was on the scene. Was he -- did
20 he have a body cam as well?

21 A Officer Kerwin did, yes.

22 Q And Januchowski, did he have a body cam?

23 A Yes, ma'am.

24 Q And there was several other officers. Did they also have
25 body cams?

1 A Yes, ma'am. All the initial officers on the scene had
2 body cameras and dash cameras.

3 Q Okay. In preparing for today, were you asked to review a
4 number of clips relevant to this trial?

5 A I was, yes.

6 Q Okay. I'm going to show you what's already in evidence
7 as State's 55 and ask if you recognize this.

8 A I do. This was Kerwin's body camera, and I viewed and
9 signed it.

10 Q Okay. And on this body camera, there's a few seconds of
11 audio and then the rest is muted; correct?

12 A Yes, ma'am.

13 Q But there is audio on this?

14 A Yes. There is audio.

15 Q Okay. And, on here, did you see yourself on here as
16 well?

17 A I did.

18 (State's Exhibit No. 59, Body Cam Footage, was premarked
19 for identification.)

20 BY MS. FULLER:

21 Q Okay. Now I'm going to show you what's been premarked as
22 State's 59. Do you recognize this?

23 A I do. This looks like the one with several body cameras
24 from Caldwell, Januchowski, and a dash camera. I had signed
25 and initialled it after I watched it.

1 Q Okay. And this is completely raw, unredacted ---

2 A Footage, yes, ma'am.

3 Q --- footage; correct?

4 (State's Exhibit No. 56, Body Cam Footage, was premarked
5 for identification.)

6 BY MS. FULLER:

7 Q And that's just for identification purposes only, State's
8 59.

9 Now, on State's 56, do you recognize this?

10 A I do. This is my dash camera, Caldwell's dash camera,
11 and I believe some of Januchowski video. But I did watch it
12 and signed it here.

13 Q Okay. And, on here, there's one clip that there's some
14 blurred-out imaging; correct?

15 A Yes.

16 Q But, other than that, these are clips from the raw
17 footage that you were asked to review for your testimony
18 today?

19 A That is correct, yes.

20 Q And on these footages, you observed yourself on there as
21 well?

22 A I do, yes.

23 MS. FULLER: Your Honor, at this time, the State seeks to
24 introduce into evidence State's 56.

25 THE COURT: Without objection?

1 MR. MAULDIN: Only as to his -- his camera, Your Honor,
2 not to anybody else's.

3 BY MS. FULLER:

4 Q I'll ask the question again. You see yourself in here
5 and on the clips prepared for court here today; correct?

6 A Yes, ma'am. On all of our law enforcement videos I
7 reviewed, I saw myself on this.

8 Q Okay.

9 THE COURT: State's Exhibit 56 can be admitted subject to
10 objection.

11 MS. FULLER: Thank you.

12 (State's Exhibit No. 56 was received into evidence.)

13 BY MS. FULLER:

14 Q And then, for the record -- Sergeant?

15 A Yes, ma'am.

16 Q Okay. Sergeant Truel, we looked at State's 55. That's
17 all contained on 56; correct?

18 A Okay, yes.

19 Q We placed it here for ease of navigating.

20 Sergeant, we are going to go through a number of things.
21 The footage will be on the projector. The images will be on
22 the TV screens.

23 A Okay.

24 Q The first thing I want to direct you to is what's been
25 identified as Truel's dash cam. That would be you; correct?

1 A Yes, ma'am. That's the dash camera from my vehicle.

2 Q All right. I want to pause it here and go back.

3 What -- can you explain to the jury what we see here?

4 A So this is my police car. The dash cameras are right
5 above our dashboard, so it's pointing out the front of my car.
6 And it's currently parked in front of our police department,
7 so the building right there you see is our police department.

8 And the cameras -- I'm not in the vehicle right now, but
9 the camera's recording as it's always on, as long as the car
10 is on -- or the car has been on the last couple of hours. The
11 camera just stays on all the time until we activate it.

12 Q And then once it's activated, what's preserved here is
13 some prerecord time?

14 A Exactly. So the camera is always on because it's not
15 actively recording and saving video until we either hit the
16 record button or we turn our lights on. When that happens,
17 the camera comes on and starts actually recording and saving
18 video, but what it does is it goes back 60 seconds, and it
19 includes the video for the prior 60 seconds leading up to when
20 I turn it on.

21 So what you're seeing right here is that prior 60-second
22 time period where I'm not actually in the car yet with it on,
23 but it's the prerecorded part.

24 Q Okay. And just so that the jury understands, too,
25 between the dash cams and the body cams all in this case,

1 we're talking about hours of footage; correct?

2 A Yes, hours and hours of footage.

3 Q And if you watched all of them here today, how long would
4 we be here?

5 A Until tomorrow at least.

6 Q Okay. So what's prepared here in the bottom part here,
7 it says 27 minutes. You were able to review that ---

8 A Yes, ma'am, I did.

9 Q --- and that's what we're covering throughout your
10 testimony. Okay.

11 So let me go ahead and hit play. And up here at the top,
12 what time is that?

13 A So it was January 29th around 10:44 p.m. and about 58
14 seconds now.

15 Q I'm going to jump through it, but it's all in evidence.

16 Now I see flashing lights now. Is that what you were
17 talking about?

18 A Yes, ma'am. So that's probably of the other cars beside
19 me. But my lights should come on any moment. There we go.
20 Yeah, when the audio comes on, that's when I actually turn
21 my -- my camera came on.

22 Q Okay.

23 (Video plays.)

24 Kind of jumped ahead there. So now this is you turning
25 in on the scene; correct?

1 A It is, yep. So I'm turning in the first entrance of the
2 apartments coming from the direction I was coming from.

3 Q And -- okay. The map over there, the angle that we see
4 here [indiscernible] versus the island, that's where you're
5 turning in; right?

6 A Yeah. So down here in the bottom -- I don't think it
7 will show on that TV with the laser, but the very bottom right
8 corner of that picture, I'm coming in that entrance and that
9 far right parking area is where you're about to see this white
10 car backing out of.

11 Q Okay. And then I want you to orient the jury with where
12 your car is positioned.

13 A All right. So where I'm parked at right there -- so the
14 laser pointer won't go on that television; it doesn't show up.
15 But that big island of the parking area right there in the
16 middle of your photo ---

17 Q Okay.

18 A --- I'm kind of to the right of that pointed -- my camera
19 is pointing towards that island right now and then toward that
20 initial -- the main building there where you see all the
21 building numbers.

22 Q Okay. And pointing at that building, looking at the
23 aerial map, does your car capture the -- where **Minor** was
24 found as well as to the end of where the defendant's apartment
25 is; correct?

1 A Yes, ma'am. So my camera is capturing the area the
2 victim is at right now, where the kid's laying at, all the way
3 down to the defendant's apartment, which is way down there on
4 the right, so...

5 Q Okay. Now, on your dash cam, can you circle with the
6 laser pointer where the defendant's house is?

7 A Yep. So this apartment here with the light on, that's
8 Apartment 4-E, and that's going to be the defendant's
9 apartment.

10 Q Okay.

11 (Video continues to play.)

12 A That's me right there, running over to where the victim's
13 at.

14 Q Now, there are lights on over here. Who is that in that
15 top corner?

16 A Yeah. So the car facing away from us there, that's
17 Officer Kerwin. He was the first officer that arrived
18 on-scene right before I did. And then what appears to be
19 headlights facing our direction, I believe that's Sergeant
20 Carter's vehicle, which Officer Caldwell was in that vehicle.

21 Q Okay. So now you run over.

22 A Yes, ma'am.

23 (Video continues to play.)

24 Q And then, from this angle, I'd like you to point out the
25 defendant to the jury.

1 A All right. So right here, the guy that just stood up --
2 it's kind of a long ways away, but the guy that just stood up
3 and standing beside the building, that's the defendant.

4 Q And what is he wearing?

5 A He's wearing, like, a gray pants, a black shirt, and he
6 had a gray, like, jacket or hoodie on at the time. And that
7 would be him, just kind of walking back and forth in front of
8 the building there.

9 Q Does he eventually walk to 4-E?

10 A Yes, ma'am. In a few moments, he'll walk down towards
11 4-E, which is his apartment.

12 Q Can you point him out right now?

13 A So, right here, you can see him walking into his
14 apartment.

15 Q And what time is that that he walks into -- well, he
16 started to walk -- what time did I pause it at?

17 A Yeah, so 10:49 p.m. and 10 seconds, it looks like, is
18 when he's walking in his apartment.

19 Q Okay. So, at 10:49, he's walking into his apartment;
20 correct?

21 A Yes, ma'am.

22 Q And when he's walking into his apartment or walking in
23 that direction, are there police officers down that way?

24 A Not down that way yet. We're all kind of up on this end
25 of the parking lot.

1 Q Okay.

2 (Video continues to play.)

3 Okay. I'm going to play this and what I want you to do
4 here is identify your vehicle pulling in.

5 A Okay.

6 (Video continues to play.)

7 So if you look in the far right, you'll see these blue
8 lights coming in. That front vehicle is me.

9 Q Okay.

10 A And you'll see me pull in and get out with that white
11 car, which is what we saw in that other video just now.

12 Q And I paused it at a weird spot, but I'm going to let it
13 play. And now I'll let you point out the defendant, the same
14 person that you just described and what he's wearing.

15 A So, right now, the defendant -- when his arms move, the
16 defendant is the one that's kneeling over the kid right now.
17 I'll show you when he goes back to that angle again.

18 (Video continues to play.)

19 So right here on the ground there is where the victim is
20 laying, and then the defendant's kneeling beside him.

21 Q And can you also identify yourself as well?

22 A Yes, ma'am.

23 So that right there (indicating) is the defendant, and
24 you'll see me walking up in just a moment. So that's me
25 walking up right there.

1 Q And the defendant. But you eventually go down and that's
2 where you check for a pulse that you testified to; right?

3 A Yes, ma'am, right there.

4 Q I'm going to show you a clip of Caldwell's body camera.
5 And, similarly, can you identify the defendant and what he's
6 wearing.

7 (Video continues to play.)

8 A That's the defendant right there on the corner. He's
9 kind of walking away, wearing all gray.

10 Q And, again, that's him walking away from law enforcement?

11 A Yes, ma'am. That was him walking away from us.

12 Q And we're going to go to your dash cam. Clip 1.

13 A All right. So this is me walking up. You can see the
14 victim here. And the defendant -- that's when I mentioned,
15 when I initially walked up, it looked like he was trying to do
16 CPR. So that's him kind of kneeling right there. And then
17 you'll -- if you continue it, you'll hear me ask him about
18 where he's shot at.

19 (Video continues to play.)

20 Q And that's the defendant backing up?

21 A So that's the defendant.

22 Q At that moment when he stands up ---

23 A Yes, ma'am.

24 Q --- does he say anything to you or identify himself there
25 as being involved in this case?

1 A No, ma'am. I ask him where he's shot. He said, "I don't
2 know." And then he just walked off.

3 Q So you didn't think that he was involved in any way.

4 A No, I had no idea at the time.

5 Q At the time when you're around here, did you identify or
6 locate any weapons or anything of that sort?

7 A I did not, no.

8 Q Okay. And what time is this?

9 A This is 10:48 p.m. Looks like 35 seconds.

10 Q At this time and then shortly after this, how many
11 officers, blue lights, vehicles would you say is on the scene
12 in that area?

13 A So it should be, I believe, five police cars on the scene
14 and probably six officers.

15 Q And the blue lights would be running this entire time?

16 A Yes, ma'am. I believe all the blue lights stay on for
17 awhile.

18 Q All right. Going back to your dash cam, jumping into it
19 around --

20 (Video continues to play.)

21 Car's parked in the same position still; correct?

22 A Yeah. Our cars haven't been moved. You can see we start
23 putting up crime scene tape so we're just trying to get
24 everything secured.

25 Q Now, I want to focus on the defendant's apartment. Go

1 ahead and walk the jury what's happening here.

2 A All right. So the defendant is walking out of the
3 apartment, and then he's walking back towards the back of this
4 building here. He still has the gray pants on and the black
5 shirt, but he's taken off that gray hoodie he had, which is
6 what he looked like when I made contact with him in a little
7 bit.

8 But he came out of the apartment and went back toward the
9 back of the building there between the two buildings.

10 Q And then it also appeared that someone else came out of
11 the apartment?

12 A Yeah. So this is the -- that would be the defendant's
13 wife that followed him out. And she's kind of standing there
14 looking back in his direction where he's at.

15 Q And here I have a question. The direction that he's
16 walking in, does that go past 4-F?

17 A Yeah. So if you have the map up and if you have the map
18 up, I can kind of show you exactly where he walked to, but it
19 was back between those two buildings. So, again, this pointer
20 isn't working good, but the building where the apartment
21 numbers are all labeled -- you see how it goes all the way
22 back to the fence?

23 Q Mm-hmm.

24 A And then there's that building to the right. So he's
25 walking in the alleyway between the two buildings back toward

1 the fence and woods.

2 Q So now we're talking about -- so you indicated that his
3 wife is coming out.

4 A Yes, ma'am.

5 Q And do we eventually see the defendant coming back?
6 You'll have to start it over. All right. Jumping back to
7 [indiscernible].

8 And what time is this?

9 A This is at 10:52 p.m., around 30 seconds.

10 Q And so, clearly, there's a strong law enforcement
11 presence at this time?

12 A Yes, ma'am. There's at least five or six of us on-scene
13 with our cars.

14 Q And then, by this time, are there any other officers in
15 the back down that alleyway?

16 A No. There's no officers back here. We're all up here
17 around kind of behind where my camera is, that area. So all
18 up near the victim's area.

19 Q Okay. And is **Minor** still on the ground?

20 A Yes. He's still there.

21 Q Now, where he's walking -- where he walks in that back
22 alley towards the back, is that where the gun in this case was
23 later recovered?

24 A Yeah. So we initially looked through that whole -- we
25 initially looked through that area for the firearm, back

1 behind the building where the fence is, because that's where
2 his wife had told she saw him go back that way with the gun.
3 So we looked in that whole area, but it was really dark night
4 and we weren't able to locate it, but we did locate it the
5 next morning, the officers did.

6 Q And now this is the defendant walking back?

7 A Yes, ma'am. So he's walking back up from the back of the
8 building where the woods are, and he's walking past his
9 apartment right now, up the sidewalk a little bit.

10 Q Okay. And then do we still see him through the bushes?

11 A Yeah. I just saw him pass right through there.

12 Q And is he walking towards law enforcement at this time?

13 A So he's walking back towards the direction of us. Yes,
14 we're all kind of up here still on this end of the building
15 where the victim was laying.

16 Q And then --

17 A And then -- yeah, so then he comes our direction and then
18 turns back around and goes back -- back into the apartment.

19 Q And when he walked by the bushes and then just there, it
20 looks like somebody was in his hand. Did you see that?

21 A I couldn't see very well, but when I made contact with
22 him, he had a hoodie in his hand.

23 Q Okay.

24 A But I can't really tell exactly on the video what he's
25 holding here.

1 Q Let's back it up through there. Looks like something
2 flashes. Did you see that?

3 A I'm sorry; back it up again.

4 (Video continues to play.)

5 Q Right through there.

6 A Yeah. It looks like it's some type of light.

7 Flashlight, cell phone. I'm not sure.

8 (Video continues to play.)

9 Q [Indiscernible] that part [indiscernible]?

10 A Yes, ma'am. So he comes -- walks back down here to the
11 apartment, and then he goes inside.

12 Q Let me pause it there. What time is this?

13 A So this is at 10:54 p.m. and 51 seconds.

14 Q Okay. So at 10:54 and 51 seconds; correct?

15 A Yes, ma'am.

16 Q Write that down so I don't forget.

17 Okay. Now we're going to jump further down about 23
18 minutes in. Now, where I have just jumped to allows me to
19 catch up [indiscernible]. What time is it now?

20 A So it's now 11:08 p.m. and 20 seconds.

21 Q So a little bit of math for you. From 10:54 and 51
22 seconds to 11:08 and 20 seconds, how much time is that?

23 A Around 14 minutes.

24 Q Okay. And now we're still looking at the defendant's
25 door. Let me know what's happening. And tell the jury what

1 we're seeing here.

2 A Okay. So the door is opening back up on the apartment
3 and the defendant is walking out. Looks like his wife is
4 coming out behind him as well this time.

5 Q And which direction is the defendant walking?

6 A So the defendant is coming here and he's kind of walking
7 up the sidewalk generally in our direction. And this is when
8 I mentioned earlier when I made contact with him.

9 So he's coming up that sidewalk. I'm walking down the
10 sidewalk when I notice him. Wait for a second; I think it
11 will...

12 All right. So, yeah, he's coming up the sidewalk and I'm
13 walking -- he's coming up and I'm walking down, and when he
14 kind of sees me, he starts to walk away from me, and that's
15 when I call out to him. And I believe that's what's behind
16 the bush right now, which will be clarified on a different
17 video in a minute.

18 Q Okay. And then you see his wife walk around the car.

19 A Yeah.

20 Q And eventually walks back around; correct?

21 A Yeah. So she comes over here, and then she walks back up
22 to us. And then that's the point where she tells us that he
23 was -- he was the shooter.

24 Q Okay. And now he's [indiscernible].

25 (Video continues to play.)

1 Whose voice is that?

2 A So that's my voice. So that's when I'm telling dispatch
3 that we have him detained. So that's when I put him in
4 handcuffs right after his wife told us that he was the
5 shooter.

6 Q Okay. Now, Officer Januchowski had a dash cam as well;
7 correct?

8 A Yes, ma'am. Dash cam and body cam.

9 Q Now, jumping to some of the same times we have
10 highlighted, going four minutes into this stream, can you just
11 orient the jury with where he's parked?

12 A Yeah. So he's parked behind me, kind of offset to the
13 right a little bit. So my car is just to the left of his
14 right now. So you're still looking at the same building.
15 This is the defendant's apartment you were looking at a minute
16 ago. It's just a little bit different angle.

17 Q And that was him walking; correct?

18 A Yes, him walking into the apartment that we had seen
19 online.

20 Q That would have been 7:30 in. About three and a half
21 minutes later...

22 (Video continues to play.)

23 And that's him coming out?

24 A Yeah. This is him coming back out. He's got the gray
25 sweatpants and the black shirt on. And you'll see him walking

1 back towards the back of that building like I mentioned a
2 minute ago, back to the woodline.

3 Q And so now just wearing the black top; correct?

4 A Yeah. So he's just wearing a black top and the
5 sweatpants instead of the hoodie that he had on initially.
6 And this is his wife right here that steps out, and you see
7 her kind of looking back in the direction that he's in.

8 And this is the same thing, so I'm going to go in the
9 other one as well.

10 Q And jumping now to 2330. And that's --

11 A Yeah, so the defendant is coming back out of the
12 apartment again. Still wearing gray pants and a black shirt.
13 And then his wife is coming out behind him. And this is when
14 he's walking up the sidewalk toward me or in my direction.
15 And I kind of look up and we make eye contact, and then he'll
16 turn and start coming toward this vehicle right here, which
17 was his vehicle.

18 Q Okay. And then the same 27 minute [indiscernible] and
19 that's in evidence; correct?

20 A Yes, ma'am.

21 Q All right. Now let's jump to the main clip
22 [indiscernible] Januchowski. And what time is it now?

23 A So this is 11:08 and 30 seconds -- 32 seconds.

24 Q And it's just where I paused it. So around 11:08:32.
25 And it's no audio right now; correct?

1 A No, ma'am.

2 Q And we'll go ahead. We still see the defendant's
3 apartment 4-E; correct?

4 A Yes, on the left right there.

5 Q And do we see him?

6 A Yeah. So this is the defendant walking up the sidewalk
7 kind of in the direction I mentioned, with me coming down.
8 And right around here is when I'm going to kind of -- we make
9 eye contact and I recognize him. And then you're going to see
10 him turn and start coming this way in a second. Yeah, so
11 that's him right there. He's kind of walking toward his car.
12 And right now is when I start calling out to him. And that's
13 me walking up to him right now.

14 (Video continues to play.)

15 Q And if we play, that voice that we heard was yours;
16 correct?

17 A Yes. I'm sorry; I was talking over it.

18 Q No, you're fine.

19 (Video continues to play.)

20 It's kind of faint but you can --

21 A Yeah, so I -- yeah, I said, "Are you can one that was out
22 here with him when I got here?"

23 Q Okay. And that's you where I just froze it?

24 A Yeah. That's me walking up and that's the defendant.

25 Q And so, right here, you remember locking eyes with him on

1 the sidewalk and you cut across to go [indiscernible];
2 correct?

3 A Yeah. So he's walking up the sidewalk toward me. I'm
4 kind of walking down. And I'm like, okay. He had taken his
5 hoodie off, but everything else was still the same. So I was
6 like that's the guy that was here. So I kind of look at him.
7 He looks up at me. He turns, and then he starts walking
8 toward -- away from me, essentially towards that vehicle. And
9 that's when I said, "Hey, man, hey, you're the guy that was
10 out here with the kid when I pulled up; right?" or something
11 along those lines. And that's when you see him stop and look
12 at me.

13 Q And now, this is now roughly 20 minutes -- probably 20
14 minutes after you arrived on the scene; is that right?

15 A Yeah. I think we got on the scene at 10:46, so we're
16 talking about, yeah, over 20 minutes.

17 Q Okay.

18 (Video continues to play.)

19 MR. MAULDIN: Objection to hearsay.

20 THE COURT: As to the way he's speaking in the video?

21 MR. MAULDIN: Yes, sir.

22 THE COURT: All right.

23 (Video continues to play.)

24 BY MS. FULLER:

25 Q Now we're at the next video clip. Can you identify

1 yourself in this angle again?

2 A Yeah. So I'm kind of behind this. I'm standing right
3 here, talking to the defendant still. This is right -- right
4 after I started talking to him. And you'll see the
5 defendant's wife walk up in a second.

6 Q So I froze it. Is that you standing there?

7 A Yeah. So I'm here with defendant. Defendant's wife is
8 right here. And this is Officer Januchowski's video with him
9 approaching her.

10 Q And now what time is it?

11 A So it's 11:10.

12 (Video continues to play.)

13 Q And that's --

14 A Yeah, so this the defendant's wife right here that I was
15 referring to, so...

16 She's the one we have been seeing in the video that's
17 kind of following him out and stuff earlier, and now she's
18 about to make contact with Officer Januchowski.

19 (Video continues to play.)

20 Q So he said, "Corporal Truel, 67."

21 A Yeah. So he said, "Corporal Truel, 67," which means, you
22 know, put him in handcuffs, detain him, secure him because,
23 obviously, she just told him that he was involved.

24 (Video continues to play.)

25 Q And I'm going to review a few things that are already in

1 evidence. Looking at State's 3, do you see officers
2 [indiscernible] and that's the body camera we watched
3 shortly --

4 A Yes, ma'am. So that's Officer Kerwin's body camera. And
5 that's just a still shot of the defendant standing there right
6 beside where the victim is on the ground.

7 Q Okay. And the time here for the jury? It's located at
8 the top still; correct?

9 A Yes, ma'am. 10:46.

10 Q And then now looking at State's 4, it's another still
11 shot. The timing is up there as well; correct?

12 A Yes. 10:46. Looks like a few seconds later. And you'll
13 see the defendant still standing upright, right there, and the
14 victim is on the ground.

15 Q And now State's 5, the time is up there as well?

16 A Yes, ma'am. This is 10:47 and 25 seconds, so a short
17 time after the last two. And you'll see this is where the
18 defendant is kind of kneeling over the victim.

19 Q Okay. And State's 6, it's Januchowski and
20 [indiscernible]. We just watched this, but this shows a still
21 shot of the defendant and his wife. And what time is this?

22 A Yes, ma'am. This was at 11:08 and 47 seconds.

23 Q Now, this is State's 7. It's already in evidence. This
24 is from your body cam; correct?

25 A Yes, ma'am. So that's my body cam and that's when I'm

1 talking to the defendant. And that's the defendant right
2 there. He's got his hoodie in his hand and black shirt on.

3 Q And what time was this?

4 A And this is at 11:09 and 59 seconds.

5 Q And that's at the top center as well?

6 A It is. Yes, ma'am.

7 Q And State's 8 from your body cam, another angle with you
8 talking to him, the defendant, as well as his wife in the
9 background; correct?

10 A Yes, ma'am. So the defendant is here. Still, I'm
11 talking to him. Wife is right there in the background. My
12 camera. And it's at 11:10 and 17 seconds.

13 Q And then the same time, just another shot with her hands
14 up; correct?

15 A Yes, ma'am.

16 Q I want to show you now what's been premarked for
17 identification as State's 35 through 40 and ask if you
18 recognize them.

19 (State's Exhibit Nos. 35 through 40, Photographs from
20 Dash Cam, were marked for identification.)

21 A Yes, ma'am. These are still shots from my dash camera
22 and Officer Januchowski's dash camera.

23 Q And these are basically still shots from the dash cam we
24 just watched; correct?

25 A Yes, ma'am. Those are still shots from the videos that

1 we just watched.

2 MS. FULLER: Your Honor, at this time, the State seeks to
3 introduce into evidence State's 35 through 40.

4 MR. MAULDIN: Subject to prior --

5 THE COURT: Subject to previous objections, State's
6 Exhibit 35 through 40 are admitted into evidence.

7 (State's Exhibit Nos. 35 through 40 were received into
8 evidence.)

9 BY MS. FULLER:

10 Q And these are just select still shots and the purpose is
11 just to have the times printed in evidence; correct?

12 A Yes, ma'am.

13 Q All right. And so this is from your angle, what we're
14 looking at here. And what time is this?

15 A This is at 10:52 and 37 seconds. And it's the
16 defendant's apartment. I believe that's when he's exiting
17 right there out of his apartment.

18 Q Okay. And the same exact time for Januchowski's dash
19 cam; correct?

20 A Yes, ma'am, same thing.

21 Q And that's -- sorry. And that's State's 36; correct?

22 A Yes, ma'am, it is.

23 Q And then now State's 37, we're back to your dash cam,
24 your angle. And what time is this?

25 A This is 10:52 and 46 seconds.

1 Q And that was the defendant going towards the back;
2 correct?

3 A Yes, ma'am.

4 Q And then State's 38, this is at what time?

5 A So this is at 10:53 and 58 seconds. About a minute or so
6 later. And it looks like he's on the porch of his apartment.
7 I'm assuming that's when he's going back in, but without it
8 playing, it's hard to tell if he was coming out or coming in
9 at that point.

10 Q I guess what we just watched and you testified to was him
11 over here and his wife -- him over here walking?

12 A Yes, ma'am. So he went out the apartment, went to the
13 back to the woods, came back in the apartment, and then came
14 out a while later, so...

15 Q And then State's 39, 22:54. This is when he walked past
16 his apartment?

17 A Yeah, so that's -- that's him right there. And his wife.

18 Q And then -- say that again.

19 A I said that's him right there.

20 Q Okay. And then State's 40, at 22:54, this is still shot
21 at 50, I think. We saw him going in at 10:54:51. So this is
22 him going in; correct?

23 A Yes, ma'am.

24 (State's Exhibit Nos. 41 and 42, Photographs from Dash
25 Cam, were marked for identification.)

1 BY MS. FULLER:

2 Q Now, I'm going to show you what's been premarked for
3 identification as State's 41 and 42 and ask if you recognize
4 those two.

5 A Yes. So these are two still shots from Officer
6 Januchowski's dash cam video, from the video we watched
7 earlier.

8 Q And --

9 A And these are showing the defendant walking away from his
10 apartment, up the sidewalk kind of in our direction, and
11 that's when I end up making contact with him.

12 (State's Exhibit 43, Photograph from Dash Cam, was
13 premarked for identification.)

14 BY MS. FULLER:

15 Q I'm going to show you State's 43 as well. Do you
16 recognize this?

17 A I do, yeah. This is also Januchowski's body camera
18 showing the defendant walking away from me.

19 Q Okay.

20 MS. FULLER: And at this time, Your Honor, the State
21 seeks to introduce into evidence State's 41, 42, and 43.

22 MR. MAULDIN: Subject to prior.

23 THE COURT: All right. State's Exhibits 41, 42, and 43
24 are admitted subject to objection.

25 (State's Exhibit Nos. 41, 42, and 43 were received into

1 evidence.)

2 BY MS. FULLER:

3 Q So looking at 41, that time -- that 11:08 time; correct?

4 A Right.

5 Q And 42, some seconds into 11:08; correct?

6 A That is correct.

7 Q And then 43, we're at 11:09, and you'll point out the
8 defendant.

9 A Yeah, that's the defendant there walking away from the
10 sidewalk that I was coming down.

11 Q And that's him walking away from you; right?

12 A Yes, ma'am.

13 Q Now, back -- when he was walking towards the back, when
14 you testified that you guys searched back there that night --
15 but the gun wasn't found until the morning; is that correct?

16 A That's correct.

17 (State's Exhibit No. 44, Photograph from Body Camera, was
18 marked for identification.)

19 BY MS. FULLER:

20 Q Now, I'm going to show you State's 44. Is this a still
21 shot -- what is this still shot showing?

22 A Yes. So this is from my body camera, and it's showing
23 back down that alleyway where he had went towards with the gun
24 and just kind of showing how dark it was back there.

25 MS. FULLER: At this time, Your Honor, the State seeks to

1 introduce into evidence State's 44.

2 MR. MAULDIN: No objection, Your Honor.

3 THE COURT: State's Exhibit 44 is admitted into evidence.

4 (State's Exhibit No. 44 was received into evidence.)

5 BY MS. FULLER:

6 Q It's going to get really dark on there so I'll just hold
7 it. This is what you were talking about?

8 A Yes, ma'am. So, on the left side of that photo, it's
9 kind of where the defendant's apartment is, and that's that
10 alleyway between the two buildings that he walked down when he
11 came out of the apartment the first time.

12 Q Okay. [Indiscernible] why the gun couldn't be found that
13 night; right?

14 A Yeah. We couldn't find it that night. It was so dark
15 back there even with lights -- flashlights.

16 Q Now, while preparing for your testimony, I asked you to
17 review a few additional things; correct?

18 A Yes, ma'am.

19 Q We already have in evidence the video from inside the
20 defendant's home. Do you recall reviewing that?

21 A I do.

22 THE COURT: Counselor, we have a request for a break. So
23 we're just going to take a short break for the jury. We have
24 been going an hour and 25 minutes.

25 Please don't discuss the case while you're in the jury

1 room. Refresh yourselves and inform the bailiff when you're
2 ready to come back in. Thank you.

3 (The jury exited the courtroom.)

4 THE COURT: Okay. I knew we were -- I was going to take
5 a break anyways but we did cross but the bailiff flagged me
6 down and I think one of the jurors flagged him down.

7 Let's take a short recess. Ten minutes?

8 MR. McNAIR: Ten minutes.

9 THE COURT: Very well.

10 (A brief recess was taken.)

11 THE COURT: All right. Are we ready to bring the jury
12 back in?

13 MS. FULLER: Yes, Your Honor.

14 THE COURT: Mr. Mauldin?

15 MR. MAULDIN: Yes, Your Honor.

16 THE COURT: All right. Let's bring them in.

17 (The jury entered the courtroom.)

18 THE COURT: Ladies and gentlemen, welcome back. We'll
19 pick up where we left off.

20 BY MS. FULLER:

21 Q Sergeant Truel, in preparing for today, I asked you to
22 review what's already in evidence as State's 57, which is
23 the -- a few clips from inside the defendant's apartment. Do
24 you recall doing that?

25 A I do.

1 Q This first clip, how long is this clip? That would be
2 helpful. How long is this clip?

3 A I can't really see from here. Is it 25, I think? It's
4 hard to tell.

5 Q 15.

6 A 15. Okay.

7 Q Okay. So this clip is 15 seconds; correct?

8 A Yes, ma'am. 15 seconds.

9 Q And this is the one of the gunshots; correct?

10 A That is correct. It's the initial one.

11 Q Then the second clip, this bottom corner here, what's the
12 window?

13 A 22.

14 Q And what's in the defendant's hand as he's coming up the
15 stairs?

16 A Yeah, so that's his cell phone. It looks like the screen
17 is lit on -- or on.

18 Q That's in his hand and the screen is lit; correct?

19 A Yes, ma'am.

20 Q That's him coming up the stairs; correct?

21 A It is.

22 Q And now the third clip on here...

23 (Video continues to play.)

24 A So that's the defendant --

25 Q So sorry.

1 A Oh, you're good.

2 Q How long is this clip?

3 A Looks like 30 --

4 Q Is it 30 seconds?

5 A I believe so.

6 Q Okay. And that's the defendant with no shirt on;
7 correct?

8 A Yes, ma'am, that's the defendant.

9 Q I'm going to show you a still shot. It's a map,
10 essentially, of the file folder. And just look at that. If
11 you can confirm that the file folder is in order of what I
12 just clicked through in terms of the clips.

13 A Yes. They're in the correct order.

14 Q Okay.

15 MS. FULLER: At this time, Your Honor, the State seeks to
16 introduce into evidence State's 45.

17 THE COURT: 45?

18 MS. FULLER: 45.

19 THE COURT: Okay. Without objection?

20 MR. MAULDIN: I object to the words on the
21 [indiscernible] -- numbers on here.

22 THE COURT: All right.

23 MS. FULLER: It's already in evidence.

24 THE COURT: Yeah, that's what I -- all right. State's
25 Exhibit 45 is admitted subject to objection.

1 MS. FULLER: Thank you, Your Honor.

2 (State's Exhibit No. 45, Photograph, premarked for
3 identification and received into evidence.)

4 BY MS. FULLER:

5 Q Looking at the still shot, this is just a snap of the
6 file folder we were just looking at; correct?

7 A Yes, ma'am.

8 Q And they're in order, which I just clicked through
9 playing them; correct?

10 A That's correct.

11 Q Now, this first one, it has some data underneath the
12 video; correct?

13 A It does.

14 Q And what data -- what's contained in the data?

15 A All right. So it's got -- it looks like the name of the
16 camera, "upstairs camera," and it's got the date here, which
17 is January 29th, 2022. And then that appears to be the time,
18 which would be 10:40 p.m.

19 Q Okay. And that first clip is when we hear the gunshots;
20 correct?

21 A That is correct.

22 Q And that's at 10:40 p.m.; correct?

23 A Yes.

24 Q Now, the second clip on there, same data information,
25 same date. What time was that second clip?

1 A Showing 22:55. So 10:55, which would be 15 minutes
2 later.

3 Q Now, we -- when we were reviewing the dash cam, was the
4 defendant walking from the back of the woods and then going
5 inside? Do you recall that?

6 A I do.

7 Q We just reviewed that before the break?

8 A Yes, ma'am.

9 Q And placing State's 40 on here, the time up there is what
10 time?

11 A So it's 10:54 and 50 seconds.

12 Q Okay. And when we paused it when we were going through
13 the testimony, I asked you what appeared in his hand, and it
14 looked like you said either a lighter or light from a cell
15 phone; correct?

16 A That is correct, yes.

17 Q And this is at 10:54 and 50 seconds; correct?

18 A Yes, ma'am.

19 Q And then he walks inside again; correct?

20 A He does.

21 Q And then we just watched a clip again, and that time,
22 again, is what time he was walking up the stairs with a cell
23 phone with the light on?

24 A So 10:55.

25 Q Okay. And so this would be approximately 15 minutes

1 after the first clip of the -- the audio of the four gunshots;
2 correct?

3 A That is correct, yes.

4 Q So this one 15 minutes later is not immediately after the
5 gunshots; correct?

6 A No.

7 Q And what is he wearing when he came up the stairs at
8 10:55?

9 A You might have to play it again, but it looked like it
10 was the gray sweatpants and the a black shirt.

11 Q Similar to what in -- when we were playing your dash cam,
12 State's 40, he no longer had on the outer part of the joggers,
13 liking the jogging set.

14 A Mm-hmm.

15 Q He just had on the black thermal underneath; right?

16 A Yeah. So the gray sweatpants and the black thermal that
17 he was seen going back to the woods with.

18 Q Okay. Now, that last clip, what time was that?

19 A So that one is showing 10:59 p.m.

20 Q And so that's approximately four minutes later; correct?

21 A Four minutes after that second video, yes.

22 Q And we talked about the length of that one being 30
23 seconds; correct?

24 A Yes, ma'am.

25 Q Earlier before the break, I asked you approximately,

1 between when he walked back in his apartment at 10:54:50 until
2 we started playing the clip again to him walking out being
3 11:08 and a few seconds, approximately -- do you recall your
4 testimony of how much time had gone by?

5 A Yeah, if my math's correct, around 14 minutes.

6 Q So approximately 14 minutes give or take?

7 A Yes, ma'am.

8 Q And so we just have, after he goes back in, after the
9 10:55 mark, we just have 30 seconds of that 14 minutes;
10 correct?

11 A Yes.

12 Q We don't have recordings of their entire --

13 A No.

14 Q And your understanding is this is a motion sensor;
15 correct?

16 A Yeah. It's a motion sensor that, obviously, is recording
17 for a period of time.

18 Q Okay. Now, I also asked you to look at what's already in
19 evidence. Talked about State's 54. The length of time the
20 defendant was on the phone with Fred; correct?

21 A Yes, ma'am.

22 Q And this is from the phone that you seized from his
23 pocket; correct?

24 A Yes. It's the defendant's phone I took.

25 Q And we talked about your prerecord time on your camera

1 starting at the police station; correct?

2 A Yes.

3 Q And you talked about the time that you're -- that you
4 pulled in on-scene; correct?

5 A We did.

6 Q Okay. And we already had the expert do the calculations
7 here, so he's on the phone until 10:44 and 21 seconds. Does
8 that sound correct?

9 A It does.

10 Q And we just looked at the stills -- the snapshot of the
11 file folder that's in evidence. And the gunshots were at what
12 time?

13 A 10:40.

14 Q And so does the time that he's on the phone include or
15 exclude the time of the shooting?

16 A So based off those times, he would have still been on the
17 phone when the shooting happened and for a few more minutes
18 after.

19 Q And that would be approximately four minutes after the
20 shooting, he's still on the phone; correct?

21 A That is correct, yes.

22 (State's Exhibit No. 46, Timeline, was premarked for
23 identification.)

24 BY MS. FULLER:

25 Q I'm going to show you what's been premarked for

1 identification as State's 46 and ask if you have had an
2 opportunity to review this for your testimony.

3 A I did.

4 Q And --

5 A This was a timeline kind of indicating what the exact
6 timestamps were for those different events that took place.

7 Q Okay. And the first line would be what we just
8 discussed; correct?

9 A Yeah. So 10:40 p.m. --

10 Q Can't publish it yet.

11 A Oh, I'm sorry.

12 Q And the second line would be from the records when the
13 call came in; correct?

14 A That is correct.

15 Q And the third line would be based on the body cam of when
16 the officers arrive on the scene; correct?

17 A That's correct.

18 Q And the fourth line would be based on your body cam of
19 when you detained the defendant; correct?

20 A That is correct.

21 MS. FULLER: At this time, Your Honor, the State seeks to
22 introduce into evidence State's 46.

23 MR. MAULDIN: It's cumulative and a summary, Your Honor.

24 THE COURT: State's Exhibit 46?

25 MS. FULLER: That's correct, Your Honor.

1 THE COURT: Can I ask you a quick question, please?

2 BENCH CONFERENCE

3 (A bench conference was held off the record and outside
4 of the hearing of the jury.)

5 BY MS. FULLER:

6 Q And, Sergeant Truel, do you believe that this would
7 assist the jury in understanding some of the information and
8 time that we just went over throughout your testimony for the
9 past hour and some change?

10 A Yes, ma'am. I think it summarizes the key points.

11 Q Okay.

12 MS. FULLER: Your Honor, at this time, the State seeks to
13 introduce into evidence State's 46.

14 THE COURT: Subject to objection, State's Exhibit 46
15 admitted in evidence.

16 MS. FULLER: Publishing...

17 THE COURT: Very well.

18 (State's Exhibit No. 46 was received into evidence.)

19 BY MS. FULLER:

20 Q So now these are just some of the points we went over;
21 correct?

22 A That is correct.

23 Q The first line, if you can publish for the record.

24 A Yes, ma'am. So the first line says at 10:40 p.m. That's
25 when the sound of gunshots is captured on video surveillance.

1 Q And then the -- and that's what we just looked at from
2 the snapshot from the actual video and it's on the video that
3 we just watched of the shooting; correct?

4 A That is correct.

5 Q Or the audio of the gunshot.

6 A The audio, yes, ma'am.

7 Q And the second line?

8 A So the second line says that, at 10:43 p.m. and 28
9 seconds is when the initial report of the shooting came in at
10 the incident location to Lexington County Dispatch. So that
11 would be the initial call when someone called in.

12 Q Okay. And then the third line?

13 A And the third line, at 10:46 p.m. and 25 seconds, that's
14 when law enforcement initially arrive on-scene. That would
15 come from our dash camera times.

16 Q And that would be Kerwin; correct?

17 A That would be Officer Kerwin, yes, ma'am.

18 Q And the times on the body cam and the dash cams are the
19 same; correct?

20 A Yeah, they're synced up together, yep.

21 Q And the last line?

22 A So the last line is 11:10 p.m. and 40 seconds and that's
23 when I advised -- or that's when I detained the defendant in
24 handcuffs, which is also timestamped on my body camera.

25 Q Okay. So when we went through the time the defendant was

1 on the phone, which ended at 10:44:21. Did you receive any
2 information that the defendant called 911?

3 A No, I did not.

4 Q But the first call to 911 was placed at 10:43:28;
5 correct?

6 A That is correct.

7 Q And the defendant would have still been on the phone at
8 that time?

9 A Based off those times, yes, ma'am.

10 Q Okay. And when law enforcement -- not law enforcement.
11 When the defendant walked to the back of the building that we
12 watched, that would have been after 10:46 p.m.; correct?

13 A That is correct.

14 Q Because, clearly, it was captured on your dash cam when
15 you were on the scene?

16 A Yes, ma'am.

17 Q And up until 11:08, was there any indication made to any
18 officers, to include yourself, from the defendant that he was
19 involved in this case?

20 A No indications were made to me at all and no officers
21 were notified of it or notified me of it until the wife told
22 us.

23 Q Okay. Did he indicate at that point that he was attacked
24 by **Minor** in this case?

25 A No.

1 Q Did he indicate that **Minor** had anything in his hands?

2 A He did not.

3 Q Going down to the last clip -- Sergeant Truel, how tall
4 are you?

5 A Right at six foot. Maybe half an inch less.

6 Q Playing from your body cam, miniclip two. Okay. And
7 where do you -- where is -- where is your body cam on you?

8 A So I wear it around my chest pocket.

9 Q And so the vantage point at the width of the camera
10 captures whatever is in front of you at a certain angle and
11 degree; correct?

12 A That is correct, yes.

13 Q So we watched it from Officer Januchowski's perspective
14 and now this is you walking up and that's the defendant --

15 A That's the defendant kind of walking away from me towards
16 his car, and we're calling out to him.

17 Q And what time is this?

18 A So this is at 11:09 p.m. and 5 seconds.

19 Q Now, on this, you're going to be speaking to the
20 defendant and then, also, I want you -- I'm going to ask you a
21 question about his wife when you see her coming into your
22 camera angle, and I want you to describe her demeanor for me.

23 (Video continues to play.)

24 Whose voice is that?

25 A That's my voice.

1 (Video continues to play.)

2 Q So at the end there, he's asking where he lived and he
3 said he didn't live there; correct?

4 A Asked what apartment he lived in, and he said, "I don't
5 stay out here."

6 Q When you asked him about having the gun, did he deny
7 having the gun?

8 A He did.

9 Q When you were talking to him about what happened, did he
10 deny being involved?

11 A He did.

12 Q At any moment, did he indicate to you, while on the
13 scene, that he was on the involved in this case?

14 A He did not.

15 Q Did he say he was acting in self-defense?

16 A No, ma'am.

17 Q I want to go back...

18 (Video continues to play.)

19 Okay. So here, I want to look at his wife.

20 A Yes, ma'am.

21 Q And where is she walking from?

22 A So that's his wife. She's walking towards us from the
23 direction of their vehicle, which is right there.

24 Q Okay. And does she appear to be walking towards you
25 guys?

1 A Yes, ma'am. She's walking towards me and him initially.

2 Q How would you describe her demeanor?

3 A So when she's standing there watching, she appears like
4 she's impatient, like she's waiting for something to happen or
5 for him to do something.

6 Q At this point, could you tell that she's clearly looking
7 at your direction and listening to ---

8 A She is, yes.

9 Q --- and trying to listen to what the defendant is telling
10 you?

11 MR. MAULDIN: Objection to speculation.

12 THE COURT: Well, he can --

13 A So she's standing --

14 THE COURT: Hold on, hold on.

15 THE WITNESS: Oh, I'm sorry.

16 MS. FULLER: I'm asking him as to his observations.

17 THE COURT: Okay. Overruled as to what he personally
18 perceived.

19 A So, from my observation, she's standing a short distance
20 behind us, and she's just staring intently at us and appears
21 to be listening to what we're talking about. Her focus is on
22 us.

23 BY MS. FULLER:

24 Q And you described her as impatient?

25 A Yes, ma'am. Watching her demeanor as she's standing

1 there, she appears to be impatient like she's waiting for
2 something to happen. You know, like you tell your kids to do
3 something, pick up toys, and you're standing there waiting and
4 they're not moving, and you're like, you know, come on, let's
5 go. That's kind of the impression I got from her.

6 Q And at that time, did you know that she was even married
7 to him?

8 A I had no idea what her relationship was to him at that
9 time.

10 Q Okay. And she's pointing at you or him; correct?

11 A Yes, ma'am. And that's when she's telling Officer
12 Januchowski that he was involved or he was the shooter.

13 Q I'll back it up and then add the audio here.

14 (Video continues to play.)

15 Did you ask him when his birthday was?

16 A I did not. He just volunteered that.

17 (Video continues to play.)

18 Q Now, it wasn't clear what he was saying when he was
19 pointing, but you asked him, "Were you in your apartment" --
20 "so you were in your apartment." Was that based on follow-up
21 there?

22 A Yes. So he initially said he was inside. And I started
23 trying to ask him, and he just randomly started talking about
24 his birthday kind of deflecting the point of what I was trying
25 to get at. So I let him finish talking about his birthday,

1 and then I said, "So you were in your apartment," trying to
2 pick up where we left off. And that's when he motioned toward
3 the parking lot and said, "No, actually, I was -- I was
4 pulling in" or "I was in the parking lot."

5 Q So by the end of that conversation, your understanding is
6 the impression that you have before his wife said anything was
7 that he would have been outside at the time of the shooting;
8 correct?

9 A Yeah, based off his final statements to me was he was
10 outside, and that's when I started asking him what he saw, if
11 he saw someone walking away because he told me he was outside.

12 Q Okay. I asked you how tall you were. Standing in front
13 of him, were you taller than him or shorter than him?

14 A It appeared I was shorter than him.

15 Q Okay. And you're six....

16 A I'm just under six foot, yes, ma'am.

17 Q Okay.

18 (Video continues to play.)

19 So right there, he said, "I heard." That was in
20 follow-up to saying that he was outside; correct?

21 A That is correct. I asked him what he heard or saw, and
22 he said, "I heard," and he continues.

23 (Video continues to play.)

24 Q He says, "like pop, like pop," and then threw his hands
25 up.

1 A Yes, ma'am.

2 Q While you were on the scene, what was your understanding
3 of him doing that?

4 A So it -- it came up as kind of a red flag to me because
5 it almost looked like he was recollecting something that
6 happened when he's talking about the pops. Whether that was
7 someone putting their hands up, I can't tell you. But he
8 starts talking about and remembering what he heard and then,
9 while he's talking, he puts his hands up kind of
10 subconsciously like he's showing someone has their hands up.

11 (Video continues to play.)

12 Q So right here when he -- after he heard the shot, he's
13 telling you that he ran over and assisted immediately?

14 A Yeah. He said he went over and started pushing, like, I
15 guess indicating like he's trying to do CPR. And then he said
16 he got ran off because he got scared, which is I believe what
17 he's about to state now.

18 Q Right. And so but, here, your impression is your only
19 interaction with him is right here on the scene; correct?

20 A This is my only interaction with him, yeah. Besides the
21 initial when I walked up and saw him with the defendant -- or
22 the victim, yes.

23 Q Thank you for clarifying.

24 So this is your second interaction?

25 A It is my second interaction.

1 Q But your first time being able to have a full
2 conversation?

3 A Yes.

4 Q And, here, he indicated there was no break in hearing
5 pops, and he seems like he's recollecting throwing their hands
6 up. And then he says he runs over and renders aid?

7 A Yes, ma'am.

8 Q Okay.

9 (Video continues to play.)

10 So that's what you were getting to, that he said he
11 started running.

12 A Yeah, he said he started running because he got scared.

13 Q We watched several different body cam angles. When he's
14 appearing trying to pump, is that what we captured on body
15 cam?

16 A Yeah, I'm assuming that's what he was referring to, yes.
17 But, yeah, when we walked up, he was over the victim,
18 appearing to try to do CPR on him. And then he got up and
19 walked off.

20 Q At any point on that -- on the -- I think I put in as
21 many angles as I could. Did he appear to be running away?

22 A No, ma'am.

23 Q Did he appear to be scared when you were standing there?

24 MR. MAULDIN: Objection.

25 MS. FULLER: It's his observation.

1 THE COURT: What -- you can rephrase the question. You
2 need to ask the question again.

3 MS. FULLER: Okay.

4 BY MS. FULLER:

5 Q Can you tell me whether or not he appeared to be scared?

6 MR. MAULDIN: Objection.

7 THE COURT: All right. Overruled.

8 He can answer the question.

9 A Okay. So I did not get the impression that he was trying
10 to run away or scared or anything. That would have obviously
11 set off flags for us if I saw he seemed to be scared or run
12 off; we probably would have stopped him at that point. He
13 seemed -- besides, obviously, the situation going on, he
14 seemed to be fairly normal acting.

15 (Video continues to play.)

16 BY MS. FULLER:

17 Q And that's basically the extent of prior to him being
18 detained, he [indiscernible]?

19 A That is correct.

20 Q And this hasn't been altered?

21 A No, ma'am.

22 Q This is him?

23 A That's him.

24 Q [Indiscernible]?

25 A Yes.

1 MS. FULLER: Beg the Court's indulgence.

2 I believe no further questions at this time.

3 THE COURT: All right. Cross-examination?

4 CROSS-EXAMINATION

5 BY MR. MAULDIN:

6 Q Now, Officer Truel, how did you determine when the first
7 call came?

8 A So those times are taken from our call cards, which come
9 from our dispatch center.

10 Q Okay. The call first goes through Lexington County
11 Communications. Did you check their records?

12 A I'm sorry; say that again.

13 Q The calls, they go through Lexington County
14 Communications. Is that correct?

15 A That is true.

16 Q Did you check their records?

17 A Yes. So I was -- I observed a copy of the CAD sheet
18 showing the times.

19 Q Wasn't the time actually 10:44 and not 10:43?

20 A My recollection was 10:43 and some change on the seconds,
21 but I don't have that folder in front of me right now to look
22 at it.

23 Q Okay. You could be wrong on that?

24 A I don't believe so. My recollection was accurate with
25 the timeline.

1 Q And when y'all pull up at night, y'all leave your
2 headlights on to illuminate the area; is that correct?

3 A Our headlights?

4 Q Yeah, the headlights on your vehicles.

5 A Yeah. So our headlights typically are on if the cars are
6 on.

7 Q Okay. So, in all these photos, your headlights are
8 different -- headlights are different police vehicles and the
9 flashing lights are illuminated in the area?

10 A Yeah. From what I saw, everyone's headlights were on.

11 Q All right. And you said there were a lot of people
12 walking around; is that right?

13 A Officers or citizens?

14 Q Both.

15 A Okay. Yeah, there was five or six officers and a number
16 of residents out there as well.

17 Q And I think you showed on the little diagram or the map,
18 you said you had to move them around from that side of the
19 building to, I guess, about where the two parking spots were
20 on the side of the building; is that right?

21 A The defendant?

22 Q No, the people that you were removing from the area.

23 A Oh, we just -- yes, sir. We just pushed them back enough
24 to get a crime scene tape around the initial victim's body.

25 Q All right. And the gun wasn't found the next day. I

1 know it was found by SLED; right?

2 A The gun was found by some K-9 officers the next day. I
3 was not present for that part of it.

4 Q But there were K-9 officers from Lexington Police
5 Department out that night?

6 A There were.

7 Q There wasn't just people looking with their eyeballs?

8 A No. We had a K-9 officer out there as well.

9 Q Take you back to State's Exhibit 59. I apologize. 56.

10 THE COURT: While we're waiting on that to start working,
11 let's just everybody stand up and stretch your legs a little
12 bit.

13 (Pause in the proceedings.)

14 BY MR. MAULDIN:

15 Q 7 minutes and 40 seconds here. And that's when the
16 defendant is walking out of his house around 7 minutes and 45
17 seconds; is that right?

18 A Yes, sir. That appears to be him walking out now and
19 walking back towards that area between the buildings.

20 Q Okay. Now his wife appears to be walking out at 8
21 minutes and 4 seconds; correct?

22 A That's correct.

23 Q She's walking toward the back; is that right?

24 A Yes. So it looks like she's standing right here.

25 Q She's talking to these neighbors?

1 A Possibly.

2 Q Now she's walking back in the other direction, isn't she?

3 A Yeah. So she walks -- stands there for a moment, kind of
4 looks that way [indiscernible].

5 Q [Indiscernible] pointed toward the back; is that right?

6 A I can't see that. Talking about the lady -- the person
7 on the porch out there?

8 Q Yes, sir.

9 A Okay.

10 (Video continues to play.)

11 Q She's walking back toward the apartment. She walks back
12 to [indiscernible]?

13 A Yeah, it appears she's making an arm motion.

14 Q What is [indiscernible]?

15 A The person on the porch appears to be moving their left
16 arm, from what I can tell.

17 Q In a motion in front of Mrs. Julius; is that correct?

18 A It appears so, yes, sir.

19 Q So it would appear that she might have known where
20 Mr. Julius went; is that correct?

21 A I'm not sure. She walked the direction he went, but I'm
22 not sure what she was able to know for sure or not.

23 Q You were sure when you testified for the State that you
24 learned that. Did she?

25 A She followed him out the apartment and walked the same

1 direction he went and stood there and then walked back. So
2 I -- my assumption would be she knew where he went, but I -- I
3 can't tell you for sure.

4 Q So you're just assuming that.

5 A Based off her actions, I would think that would be a
6 correct assumption.

7 Q And you assume that Mr. Julius was evading you when he
8 walked through the parking lot; is that correct?

9 A Well, that -- that appeared very obvious because he's
10 walking towards me and I'm walking towards him. We make eye
11 contact. And then his entire trajectory or path that he's
12 walking turns and walks a 45-degree away from me.

13 Q Well, he was, like, 20, 25 feet away from you, wasn't he?

14 A I couldn't measure, but he was no further than we are
15 right here.

16 Q I guess when you look at the video, it's a little hard.

17 And he stopped when you said, "Hey, weren't you the guy?"
18 He stopped?

19 A Yeah. When I called out to him, he took another step or
20 two, and he kind of turned back toward me.

21 Q All right. And when you were talking with him, he was
22 kind of staring off into space, not giving complete sentence
23 answers, wasn't he?

24 A So he kept kind of looking away from me, not wanting to
25 make eye contact, it appeared, but that's a lot of times

1 normal when we're talking to people.

2 Q And this whole hands-up thing, you're just speculating?

3 A Yeah. I was asked what my perception or impression was
4 with that, and that was what I felt at the time. In looking
5 back at it now, I still feel the same way.

6 Q That was your assumption?

7 A That was my impression of his actions.

8 Q Okay. And you didn't transport him to the headquarters?
9 It was Officer Carabetta?

10 A Yeah. I did not transport him; Officer Carabetta did.

11 MR. MAULDIN: No further questions.

12 THE COURT: Redirect?

13 MS. FULLER: No, Your Honor.

14 THE COURT: All right. The witness may step down.

15 THE WITNESS: Thank you.

16 MR. MCNAIR: Your Honor, at this time, the State rests.

17 THE COURT: Very well.

18 Ladies and gentlemen, the State has rested their case. I
19 have got some matters to take up with the attorneys at this
20 time.

21 Actually, why don't y'all approach real quick.

22 BENCH CONFERENCE

23 (A bench conference was held off the record and outside
24 of the hearing of the jury.)

25 THE COURT: All right, ladies and gentlemen. We'll go

1 dishonesty or false statement or for crimes punishable by
2 imprisonment for more than one year and this Court determines
3 that the probative value of admitting this evidence outweighs
4 its prejudicial effect to you, the solicitor will be able to
5 introduce your record and attack your credibility.

6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. If you decide to testify, this
9 decision on your part must be freely, voluntarily, and
10 intelligently made with the knowledge and the protections
11 given to you by the Fifth Amendment and the consequences of
12 your decision to testify.

13 If you decide not to testify, I will instruct the jurors
14 that they cannot give the fact that you did not testify any
15 consideration whatsoever and that there is to be absolutely no
16 prejudice to you because you did not testify.

17 It is left entirely up to you whether or not you testify.
18 You may talk with your attorney, your family, your friends, or
19 anyone else, but the decision will be left entirely up to you.

20 Now, do you understand what I have explained to you, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Okay. Do you wish to discuss this with your
23 attorney at this time?

24 (The defendant and his counsel confer off the record.)

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Well, Mr. Julius, after talking with
2 your attorney before, do you intend to testify?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay. You can have a seat.

5 I know after lunch we'll reach the point where the
6 deference conducts their case. Do you intend to put up a
7 case?

8 MR. MAULDIN: No, Your Honor.

9 THE COURT: All right. Well, then, we have lunch and --
10 unless y'all tell me otherwise, I see no reason to delay
11 closing arguments [indiscernible]. So we can probably be
12 closing certainly by 1:30 and we'll give the jury the case
13 today.

14 All right. Jury charges. I know we have -- and, for the
15 record, when you come back -- let me make a record of this
16 now. Are you essentially resting?

17 MR. MAULDIN: Yes, Your Honor.

18 THE COURT: Okay. Well, then the record will reflect --
19 are you renewing all your previous --

20 MR. MAULDIN: That's correct. We're renewing our
21 directed verdict motions.

22 THE COURT: Okay. And all three trial motions?

23 MR. MAULDIN: That's correct.

24 THE COURT: Okay. So I mean, the jury comes back and
25 I'll let them know that they have the opportunity now to hear

1 from the defense. You'll stand up and rest. And then we'll
2 go right into closing arguments.

3 Jury charges. Voluntary intoxication, which seems to be
4 in more trials this [indiscernible] than in the past.
5 Obviously, murder. Any other charges that you're proposing?

6 REQUEST ON JURY CHARGE

7 MR. MAULDIN: Your Honor, we would request a charge on
8 self-defense and a charge of voluntary manslaughter.

9 THE COURT: Okay. What evidence are you basing that
10 upon?

11 MR. MAULDIN: Self-defense. The defendant is entitled to
12 act upon appearances at trial. Obviously, if the Court is
13 concerned of any evidence [indiscernible] at the trial, the
14 State elicited testimony from the defendant's wife that both
15 the defendant -- I mean, the victim had grabbed him and that
16 the victim had a gun. Those are threats to somebody's person.

17 Even if his apprehension was mistaken, he is entitled to
18 a charge on the appearance of danger. That would have been
19 State v. Starnes and State v. Jackson. I don't think there's
20 any evidence that shows that he was at fault in bringing on
21 the difficulty. The gunshots were all at one time. I don't
22 think that -- it happened in a split second. I don't think
23 the duty to retreat has been proven here, and everyone can
24 testify that it happened immediately; that [indiscernible]
25 time.

1 But, basically, it's after 10:30 at night. There's
2 evidence the defendant said he was assaulted and grabbed, and
3 there's evidence that he saw a gun. It could have been a cell
4 phone. Obviously, the [indiscernible] on a cell phone. He
5 could have been mistaken in that apprehension.

6 But, again, he's entitled to act upon appearances, and we
7 believe that there is evidence on the record that would
8 support a self-defense claim.

9 THE COURT: Okay. Any response?

10 MR. McNAIR: Your Honor, I have to do a little -- I
11 remember looking at cases on voluntary manslaughter and
12 self-defense. You know, some cases, they talk about not
13 weighing the evidence, but in some cases, they do appear to
14 kind of weigh the evidence. And, in this case, we have one of
15 many statements that he made to his wife that the victim
16 pulled a gun on him. The other statements he made was he did
17 it, he didn't do it.

18 Other than that, there's no evidence whatsoever in this
19 record that this victim did anything to him. There's no
20 evidence of self-defense. No evidence of a fight or words or
21 threats or anything of that nature. It's just this one
22 statement, taken in isolation, that he made to his wife among
23 many other statements. Whether that's enough to get a charge,
24 I don't think -- I don't think it is. I don't think it is.
25 I'd have to do a little more research on that. I know the

1 case law on this is kind of all over the place. I mean, they
2 say not to weigh the evidence, but the analysis always is
3 weighing the evidence. But I don't know that that's enough to
4 get an instruction on self-defense or voluntarily
5 manslaughter.

6 THE COURT: I don't believe he said anything at the scene
7 to Detective Truel about fear of imminent bodily harm or -- I
8 know that's legal language, but nothing to show that he feared
9 for his life based upon anyone else's actions, at least not
10 around the incident shooting.

11 MR. MCNAIR: There is literally one statement taken in
12 isolation with no other evidence at all.

13 MR. MAULDIN: Well, the State has no evidence he acted
14 with malice, other than the circumstantial evidence that's
15 been presented. There is evidence --

16 MR. MCNAIR: And malice is always circumstantial --

17 MR. MAULDIN: He said, "He pulled his gun." That is
18 evidence. It is on the record. It is any evidence.

19 THE COURT: And referring to the wife's testimony.

20 MR. MAULDIN: Yes, sir. Just because it is different for
21 the officer, there is evidence on the record.

22 THE COURT: Okay. Well, just briefly, you talked about
23 self-defense. Did you say anything about voluntary?

24 MR. MAULDIN: Yes, I did, Your Honor.

25 THE COURT: Okay.

1 MR. MAULDIN: We request that as well based on some of
2 the same evidentiary concerns that being grabbed and perhaps
3 seeing a gun is in evidence, and lack of malice, other than
4 the intoxication, which is what the State is saying. Again,
5 having the split second. The grab is an assault and battery.
6 It's not just mere words.

7 The statement "Is you good?" indicates that the other
8 fellow might have had a problem and the defendant is trying to
9 assess the situation.

10 MR. McNAIR: Judge, I totally disagree with voluntarily
11 manslaughter in this case. I mean, there's got to be a legal
12 provocation. There's case law that says it's got to be --
13 you're basing it on fear, it has to be such that would just
14 overcome your will. Right? It's like [indiscernible].

15 The case law that I have seen where it could be
16 self-defense or it could be voluntary manslaughter, it's the
17 fear just overcomes -- it's like the heat of passion but it's
18 just based on fear, and I don't -- we don't have that in this
19 case.

20 MR. MAULDIN: Your Honor, in Bradley, there's not legal
21 provocation. It's dark. It's in a parking lot, alone, after
22 10:30 at night. That's -- I believe it could put somebody in
23 apprehension and cause them to act in a split second.

24 THE COURT: All right. Well --

25 MR. MAULDIN: And, again, there's testimony about the gun

1 and cell phone. It could have been the safety for the gun.
2 We believe that that also is [indiscernible].

3 THE COURT: I'm going to deny the voluntary manslaughter
4 charge based on everything I have heard in this case, but your
5 record is clear on why you asserted it.

6 Self-defense. I, too -- I'll -- look, I mean, the
7 only -- the only evidence in the court was, as I recall -- I
8 believe she testified that the defendant told her that he shot
9 the victim and that then told her "he pointed a gun at me. I
10 tucked it in my shirt and pulled out my shirt." That may not
11 be verbatim exactly but that was the gist. And that is the
12 only evidence.

13 So what I'll do is I'll -- I don't want to make y'all
14 wait, but I'm going to take the number [indiscernible] just
15 recently, and I'll take a look at self-defense case law
16 [indiscernible]. But I think there are elements that have to
17 be met. If there's a lack of evidence of one of the elements,
18 I think that is a defect of the charge.

19 MR. McNAIR: Your Honor, also, I think it should be some
20 level of cooperation for this statement that the victim pulled
21 a gun on him. I mean, there is none. There's no gun found by
22 the body. There was no gun found anywhere. And he's the
23 first one out there with the victim.

24 MR. MAULDIN: That's what I'm talking about acting on
25 appearances and quite possibly mistaken [indiscernible].

1 THE COURT: Well, acting on appearances but evidence to
2 support acting on appearance is a necessary element as well.
3 I mean -- so I'll -- all right. My inclination is -- I know
4 this isn't a [indiscernible]. I don't -- I don't think I'm
5 going to charge self-defense, but I'm going to at least look
6 at what I did recently. Y'all be prepared one way or another.
7 Okay?

8 MR. McNAIR: Thank you.

9 THE COURT: I'll see y'all at 2:30.

10 (A lunch recess was taken.)

11 THE COURT: -- deny voluntary manslaughter charge. I
12 sent the lawyers an email during the break saying I think I am
13 going to charge self-defense.

14 Madame Solicitor, do you need to make any record on that?

15 MS. FULLER: Yes, Your Honor. I apologize.

16 Your Honor, normally, I hesitate to object to -- strongly
17 object to the charge of self-defense only because of the
18 current analysis of the Court. But, in this one, after
19 thinking about it over the break, even when I read the charge
20 that Your Honor sent, it's confusing to me because we haven't
21 heard anything for us to attack.

22 So the case law says that the defense has to assert all
23 the elements of self-defense by a preponderance of the
24 evidence and that we have to disprove it beyond a reasonable
25 doubt.

1 And so, in charging it, it is suggesting that the defense
2 has asserted in some way that they were without fault in
3 bringing on the difficulty, and respectfully, I don't have
4 any -- I can't recall any evidence in the record where it's
5 established that he is without fault in bringing on the
6 difficulty, even giving the light most favorable to the
7 defense, they did put up a case, so they're relying on what we
8 presented. And the evidence and the testimony at the stand is
9 the defendant came home sometime after 10:30, he and his
10 daughter. The daughter has food. He walks her to the door,
11 opens the door. He has a gun on him, and he walks down the
12 sidewalk to **Minor**. That's the evidence in terms of the
13 encounter.

14 There isn't anything contradictory to that, and there
15 hasn't been anything advanced in that. So even giving him the
16 benefit of the doubt in that situation, he still has to prove
17 each element. And it's an "and" element. It's not -- it's an
18 "and" case law. It's not an "or." It's not proving one of
19 the four; it's proving all of the four. So there is no
20 evidence in this case presented that even to the Court, at
21 that point, by a preponderance of the evidence, that he's
22 without fault in bringing on the difficulty.

23 Obviously, if Your Honor charges it, we will have to
24 argue it in closing, but I don't even know what we're arguing
25 against because it wasn't even established in the first place.

1 All we have is a fragmented conversation taken with no
2 context. We have no context in terms of "Well, he pulled a
3 gun on me." Well? So we're going to rely on Constance's
4 testimony here. Constance's same testimony is, "I closed the
5 door and I heard gunshots and nothing was going on."

6 THE COURT: And that gets to me my concern about -- one
7 of my concerns about the testimony is, one, it can be
8 argued -- because I'm not here to weigh credibility. I think
9 you could argue either way that maybe some of her testimony
10 was credible, some was not. And then it gets me to this
11 concern of "Well, that's not my call."

12 I mean, there was competent evidence elicited on direct
13 examination, and that's my real concern.

14 MS. FULLER: I completely understand -- understand that,
15 but they're relying on the phrase of what the question was --
16 and we can play it back ---

17 THE COURT: What did he tell her?

18 MS. FULLER: --- if necessary is what did he say. And
19 she's listed out all of the different things he said. At one
20 point he said the boy -- the little boy grabbed his shirt.
21 And then she said, "But I didn't see anything on his thermals
22 suggesting anything happened."

23 Then the next one is, "Well, he pulled a gun on me."

24 And then the next one is, "I didn't know -- I didn't do
25 anything. I don't know." You know?

1 And so focusing on the gun one, "Well, he said he pulled
2 a gun out on me." But then there's no context. "Well, then I
3 shot him." There is no buzzwords, "I was in fear for my
4 life." There was no anything.

5 And even with your charge, going to the imminent danger,
6 it says, "If the defendant was actually in imminent danger, it
7 must be shown that the circumstances would have warranted a
8 person of ordinary firmness and courage to strike a fatal
9 blow.

10 We have no context to defendants. But what we do have in
11 evidence, if believed that **Minor** had a gun -- there's no
12 evidence that he had a gun -- is the defendant had a gun too.
13 So you're dealing with two armed people with no context.
14 There's no context of "Well, I pulled my gun out first and
15 then he pulled his gun out." There's no context before.
16 There's no context one way or another for him to have met his
17 burden of proving by the preponderance of the evidence -- it's
18 a lower standard -- even by proving that to the Court that
19 he's entitled to this charge.

20 Then we're still dealing with no other probable means of
21 avoiding the danger. The testimony in the record is he got
22 home, unlocked his door, and walked back up the road -- walked
23 back up the sidewalk. Sorry.

24 THE COURT: In other words, he came in ---

25 MS. FULLER: He came in ---

1 THE COURT: --- and went back --

2 MS. FULLER: --- had the gun on him, and he went back
3 down the sidewalk. I elicited the testimony specifically,
4 "Where was his car parked?"

5 "It was parallel to where **Minor** would have been."

6 And he would have been the most -- the most direct route
7 would have been diagonally to his door. At best, let's say he
8 walks this way and then went up. So that's one scenario: He
9 walked past **Minor**, went to his door, and walked back.

10 Or he walked diagonally -- benefit of the doubt to the
11 defense. Maybe **Minor** said something to him then. Maybe he
12 asked for a cigarette then. Don't know.

13 Either way, he got to his door and then walked back.
14 Words alone are not enough at that point. When did he pull
15 the gun in his theory?

16 So, to me, it's kind of like you're charging this to the
17 jury, and the jury is going to be sitting there, "Well, what's
18 the concept of this? Did we miss something? Did we miss
19 something if the judge is charging this?"

20 And there's nothing in the record to put context to that
21 one statement. If I missed it, I know your law clerk's email
22 says, "Check their notes," but I -- they got to review your
23 notes --

24 THE COURT: When I say -- to be clear, we're talking
25 about what we heard during the trial.

1 MS. FULLER: Right. And that's what I'm saying. So
2 maybe I -- we normally do a checklist of the points that we
3 plan to bring out, and in my review of that, I don't have
4 anything that lends towards advancing their claim of
5 self-defense. But they have to prove by a preponderance of
6 the evidence he was without fault, imminent danger. If the
7 defense is based on the defendant's actual belief of imminent
8 danger, do we know that? No. There's no testimony that he
9 felt as if he was actually in imminent danger. There's none
10 of that.

11 And so I'm --

12 THE COURT: Or a reasonable, prudent person would have
13 felt imminent danger under similar or like circumstances.

14 MS. FULLER: If it's based on his actual belief. So that
15 is suggesting that there's more than one -- three or four
16 words because that's what we're relying on. We're relying on
17 "he pulled the gun out on me." Seven words with no context.
18 We're basing that on doing this whole charge.

19 But if Your Honor is charging that, I do object to a
20 couple of parts. There's "You have the right to act on
21 appearances." You have the words accompanied by hostile acts.
22 There's absolutely been no testimony that **Minor** did anything
23 or said anything and then did a hostile -- said anything prior
24 to the alleged pulling out the gun, so I don't believe that's
25 appropriate.

1 And then the threats by the victim, there's been
2 absolutely no testimony that **Minor** threatened the defendant
3 in any way. So I also think that would be confusing to the
4 jury, because then they're going to come back and say, "Well,
5 what did he say?"

6 And it's kind of like I'm reading the charge where the
7 jury is going to have more questions than answers because
8 they're going to believe they messed testimony based on how
9 this is written, frankly.

10 THE COURT: Okay. All right. I understand what you're
11 telling me on paragraph B and C.

12 Mr. Mauldin?

13 MR. MAULDIN: I'll agree that the -- the part about words
14 and threats by the victim could be excised over. I do agree
15 with Your Honor that self-defense should be charged.

16 The standard is not a preponderance of an evidence. It's
17 any evidence presented in trial, the merits are charged with
18 self-defense. I would cite State v. Light, 378 S.C. 641 and
19 State v. Hill, 315 S.C. 260. The preponderance standard is
20 under the common law, and that's since been aggregated by case
21 law.

22 As far as proving at fault -- not at fault for
23 difficulty, they're asking to prove a negative. They did
24 not -- there's no evidence showing that he was at fault for
25 the difficulty, so the default would be he's not at fault for

1 the difficulty.

2 Two, there's testimony that the defendant said, "He
3 grabbed me." And I don't believe the words were, "He pulled a
4 gun on me first"; that could cause a reasonable person to fear
5 in great bodily injury or death. If the testimony that
6 everything kind of happened in a split second, that would go
7 toward the duty to treat, even though he was on his apartment
8 property and in a place he had a right to be.

9 And the proportionality, if he thought it was a gun and
10 he used a gun, the proportionality would be there as well. I
11 mean, it's all there just with those words. I admit it's
12 three words, but there is evidence. And there's evidence
13 [indiscernible] is aware, and we think Your Honor is correct.

14 THE COURT: Okay. Bear with me for a moment.

15 (Pause in the proceedings.)

16 THE COURT: All right. I'm going to exclude paragraphs B
17 and C from the self-defense charge, and I'll admit: It's a
18 close call. I just -- I'm [indiscernible] charging it out of
19 an abundance of caution. Based upon -- yes, ma'am?

20 MS. FULLER: Oh, I thought you were done.

21 THE COURT: Well, I -- and I think the record is clear on
22 this, but I -- I base this mainly on the sworn testimony from
23 Constance Julius.

24 MS. FULLER: Correct. Thank you, Your Honor.

25 And also, the second point, in terms of arguing

1 self-defense in closing argument, in opening statement, the
2 defense advanced or discussed things that are not in evidence.

3 THE COURT: You're referring -- references to policy and
4 news?

5 MS. FULLER: That's one thing. Then they talked about
6 the defendant some more, some statements he makes to law
7 enforcement at the police station. Those are not in evidence,
8 and I'm respectfully requesting that they not be argued in
9 closing.

10 Also, in terms of --

11 THE COURT: So I address one thing at a time? Let me
12 just -- so as to that point, you know, as in any closing
13 argument context, the lawyers' closing arguments are
14 constrained to the evidence that was admitted at trial. We
15 heard various things in pretrial that are not in evidence
16 before the jury. So while certainly latitude is given to the
17 attorneys as they argue the law against the facts that were
18 presented in evidence, both the -- all the attorneys are to
19 keep their closing arguments confined specifically to the
20 evidence that was admitted in the course of the case.

21 MS. FULLER: Thank you, Your Honor. And the specific
22 things that I remembered that I wanted to place on the record
23 that I'm requesting not be argued in closing would be there
24 was an account -- it was the defendant's viewpoint of what
25 happened that night was narrated for this jury, and that is

1 not in evidence before it, and so I would respectfully request
2 that that not be argued.

3 The narrative was he's coming from a children's party
4 with his daughter. They're coming home to his wife, and he
5 went inside to take the trash out and was walking to the trash
6 and was confronted. That was not presented. That is not in
7 evidence. There's no evidence of trash. There's no any --
8 that narrative was not proven to this jury and there's no
9 facts in evidence. And so I'm just making the motion or
10 request that that specifically not be referenced because then
11 that would be completely mischaracterizing the testimony as it
12 stands.

13 THE COURT: Okay. I think my previous response covers
14 that as well.

15 Mr. Mauldin?

16 MR. MAULDIN: I think there is evidence presented that he
17 was at a party with his daughter; that he was coming home to
18 his wife, and I think that, from the overhead views of the
19 apartments, they showed the dumpster on the path. The
20 defendant would take -- was far as apartment to the dumpster
21 in the back. So I think that we can argue that reasonable
22 inference [indiscernible].

23 THE COURT: I think you can argue -- you can't argue what
24 his account was based -- I understand what you're trying to
25 say. I just want to have clarity here because you can argue

1 what a witness testified to, you can argue what statements
2 were admitted into the record or the evidence, but I think we
3 have to be somewhat careful with his account and at least his
4 perception, if it's not specifically admitted into the record.

5 MR. MAULDIN: I don't intend to go --

6 THE COURT: I don't think [indiscernible], but I think as
7 far as policy or -- I think -- I think we're fine.

8 Anything else, Madam Solicitor?

9 MS. FULLER: Nothing further, just -- it seems kind of
10 confusing what the defense has suggested that they could
11 argue. I wasn't saying there was nothing else, but it gives
12 me pause because I don't -- I heard Mr. Mauldin saying, "I'm
13 not going to say first person," but this is a criminal trial.
14 I don't see how the defendant can make a statement to his
15 attorney in closing without bearing cross-examination. If
16 that's the case, there's no point of this process. There's no
17 point of this trial that someone can just hire an attorney and
18 they just tell their story without any testimony or evidence
19 of it, and so that gives me some concern there.

20 I get reasonable inferences, but you draw reasonable
21 inferences from the testimony and the evidence that's
22 presented. Just because a diagram has a trash can on it does
23 not mean you can argue your client was walking to the trash
24 can. Like, even if you don't use first person, you cannot
25 say, "Based on the evidence presented, my client was walking

1 to the trash can when **Minor** approached him." There is no
2 evidence of that.

3 And so I'm specifically saying that I do not believe case
4 law or anything would support him saying, "My client was
5 walking to the trash can when **Minor** approached him."

6 THE COURT: The only evidence in is the [indiscernible]
7 of the videos. I'm not going to tell you how to make your
8 closing arguments, but just as a refresher for me, "When
9 making closing argument, counsel must keep strictly within the
10 record and may only argue inferences fairly deducible from the
11 evidence in the case. Certain latitude is given to counsel to
12 draw any inferences and deductions from the evidence and can
13 argue them to the jury. Latitude permits the State -- permits
14 counsel to state his or her own version of the testimony in
15 common with the weight it should be given." But that latitude
16 does have limits as far as arguing things which are not
17 deducible or were not covered in evidence. So we'll just see
18 how it goes.

19 Obviously, the defense hadn't put up any case or put any
20 exhibits so the State will open and close in full, and
21 defendants will have the last word.

22 Anything else before we bring in the jury?

23 MR. McNAIR: No, Your Honor.

24 THE COURT: All right. So when they come out, I'll just
25 let them know we have an option. We have heard the State's

1 case; we now have got the opportunity to hear from the
2 defense. And the defense can rest, and we'll put it right
3 into closing arguments. Okay?

4 I didn't tell anybody about the verdict form, but it's a
5 simple verdict form. I'm confident it's fine.

6 Also, once again, ladies and gentlemen, one last caution:
7 During closing arguments, make sure that you control your
8 emotions as you have done to this stage. So just remember
9 that.

10 Okay.

11 (The jury entered the courtroom.)

12 THE COURT: All right, ladies and gentlemen. Welcome
13 back. Hope you-all had a nice lunch.

14 When we last broke, the State had rested, and now we'll
15 have an opportunity to hear from the defense.

16 MR. MAULDIN: Yes, the defense would rest, Your Honor.

17 THE COURT: Very well.

18 Ladies and gentlemen, the defense has rested their case.
19 The parties have presented their evidence in this case, and it
20 is now time for the attorneys to make their closing arguments.
21 The arguments from the attorneys are not in evidence in this
22 case. Their statements and arguments are meant to help you
23 understand the evidence and apply the law to the evidence.
24 You should disregard any remark, statement, or argument which
25 is not supported by the evidence presented during the trial or

1 the law that I will explain to you after the arguments.

2 At this time, please give your complete and undivided
3 attention to the attorneys as they make closing arguments.

4 MR. McNAIR: Thank you, Your Honor. May it please the
5 Court?

6 THE COURT: Yes, sir.

7 CLOSING ARGUMENT ON BEHALF OF THE STATE

8 MR. McNAIR: What can I say to make something sensible,
9 explain something so senseless? There are no words that will
10 make this make sense. All I can tell you is what it is: A
11 senseless act of violence by a man with a depraved heart.

12 It's not **Minor's** fault that Lavon Julius didn't
13 have a better reason for killing a 15-year-old kid. He gave
14 **Minor's** life about as much consideration as you would
15 give before smashing a mosquito.

16 Now, it's human nature to think there's got to be more,
17 to want more to explain this, but there's not. He killed a
18 15-year-old kid for being a 15-year-old kid, for asking for a
19 cigarette one too many times.

20 This case is as simple and as senseless as it seems.

21 **Minor** did nothing more to Lavon Julius than irritate
22 him. And him trying to say -- claim self-defense and say
23 **Minor** pulled a gun on him? That's nothing more than an
24 attempt to throw more dirt on his grave and assassinate his
25 character too. There is no evidence **Minor** had a gun.

1 There is no evidence **Minor** attacked him. Nothing.
2 That's smoke.

3 He wants you to believe this 15-year-old kid attacked him
4 in front of his grandmother's house on the phone with his
5 friends? The defense attorney in opening asked you to
6 consider what story makes sense. That story defies common
7 sense.

8 He wants you to believe this man acted in self-defense
9 when he was as cool as a cucumber after killing a 15-year-old
10 kid. That's not self-defense. That's cold-blooded. That's
11 malice.

12 He wants you to believe this man acted in self-defense
13 when he hid the gun, he lied to his wife, he lied to the
14 police, he lied to the victim's mother, he put on a show for
15 the police pretending to do CPR. He knew it wasn't
16 self-defense that night, and it's not self-defense now.

17 Ms. Fuller had a saying that she brought to you in
18 opening that a man's action show what's in his heart. My dad
19 had a saying that your actions speak so loudly, I can't hear
20 what you're saying. Focus on his actions. That's where the
21 truth is.

22 The defense attorney in opening told you a story of a
23 family man who had been at a kid's birthday party, coming home
24 to his wife, going to take the trash out, and attacked by
25 **Minor**.

1 Did you see his buddy, Fred, when we asked him about the
2 kid's birthday party? He looked real confused, didn't he? He
3 saw one kid there: The defendant's daughter.

4 And where is this trash he was taking out?

5 Constance said, when she looked out there, there was no
6 trash in his hand when he's talking to **Minor**. He didn't come
7 in the house and get trash. There's no trash in his hand
8 outside. Where is the trash in the crime scene? There was no
9 trash found in the crime scene. He wasn't walking to the
10 trash. He walked out there to confront **Minor**.

11 He would have seen **Minor** standing out there when he
12 backed in that night. And I submit to you, he had malice in
13 his heart then because he didn't leave his gun in the car like
14 Constance said he normally did, did he? He got out with that
15 gun in his pocket.

16 And what did he do? He walked his daughter to the
17 door -- because she didn't have a key; he had to let her in.
18 Constance didn't let her in. Walked her to the door, and I
19 guarantee you, on the way to the door, that's when **Minor**
20 probably asked for a cigarette. And he got to the door and
21 rather than just go in with his daughter and avoid this whole
22 situation, he had malice in his heart and said, "I'm going to
23 teach this kid a lesson."

24 He walked back out to where **Minor** was, and that's when
25 **TW** heard, "Is you good?" And then gunshots.

1 Nothing in between. Nothing in between.

2 **Minor** asked for a cigarette, "Is you good?", gunshots.

3 Nothing said in between.

4 You know why **Minor** is not saying anything? Because I'm
5 sure when he said, "Is you good?" that's when this gun comes
6 out. **Minor's** in panic mode now; right?

7 He's backing up. He's backing up. Because where
8 Constance says she saw them on the sidewalk, that's where that
9 one shell casing is found, the one he didn't pick up that
10 night.

11 And if he didn't have it in his heart, when he walked up
12 there, why did he shoot four times so quickly? He wanted --
13 that's what he wanted.

14 And that story what the pathologist said that when he --
15 anybody shot in the abdomen would cause him to hunch over. I
16 submit to you -- we can't say for sure which shot was first,
17 but what I can submit to you that I believe is logical is that
18 that abdomen shot happened first and he hunched over and the
19 next shot went into his collarbone happened. At that point,
20 **Minor** wouldn't have died instantly. She told you that. He
21 would have had some life left in him. He's trying to get away
22 from the shooter. He's moving away from the shooter.

23 He got a shot in the back of his left hand. He's
24 turning. He could have made it from where that shell casing
25 was on the sidewalk to around the corner of that building.

1 He's moving away from the shooter. He's not attacking that
2 man. He's trying to get away. He's running for his life.
3 That's why he fell face-down. He had grass clippings on his
4 mouth. He fell face-down trying to get away, running away
5 from the threat.

6 And listen to that video clip on the inside of their
7 apartment. You hear those four shots. But those four shots,
8 you can tell towards the end, they're starting to taper off.
9 They don't all sound the same. There's movement there.
10 There's movement. The sound -- you can tell, the shots start
11 sounding different, start tapering off. He's pursuing **Minor**.

12 **Minor** is no threat to him. This is not a case of
13 self-defense. Just because you say something doesn't make it
14 true. It's just smoke.

15 Let's talk about the credibility of witnesses. You get
16 to decide who is believable and who is not, who has a motive
17 to lie and who doesn't.

18 Now, they tried to attack Constance up there. Did
19 Constance look like she wanted to be here to y'all? She's
20 been with that man for 20 years. She was emotional up there.
21 She didn't want to be in this position. She seemed confused
22 by some of the questions the defense attorney was asking. And
23 I said -- you know, if she said something to that, maybe she
24 didn't really want to tell all the details at that time, but
25 after processing it all, I guarantee you, she told you

1 everything yesterday. But she doesn't want to be here. And
2 is her motive for lying, according to the defense, that she
3 wanted to sell his truck and get the cash? If that was her
4 motive, why did she point him out that night? She pointed him
5 out that night. She did the right thing. What a tough
6 position for her to be in. But she has no motive to come in
7 here and make up lies about him.

8 What about TW [REDACTED]? Did you think he was lying?
9 That was the picture of an innocent kid. He did nothing but
10 tell the truth. Did you think he was lying?

11 Minor [REDACTED] asked for a cigarette, "Is you good?", gunshots.
12 As simple as that. It's hard to believe, but it's as simple
13 as that. There's not more to this story. There's not. I'm
14 sorry I can't explain evil better.

15 Voluntary intoxication is not a defense. Being drunk is
16 not a defense. The judge will tell you that. He may have
17 been drunk, but you can have malice in your heart even though
18 you're drunk. It's not a defense to murder. He wasn't too
19 drunk to drive his five-year-old daughter home. He wasn't too
20 drunk to back into his parking place. He wasn't too drunk to
21 have the wherewithal to hide the gun. He wasn't too drunk to
22 put on a show for law enforcement. He knew what he did was
23 wrong. He knew it.

24 Murder: The killing of another person with malice
25 aforethought. Murder does not require us to prove motive, the

1 why of something. But I think we have in this case. The why
2 is just senseless. It's just senseless.

3 We don't have to prove preplanning or premeditation;
4 right? We don't have to prove he planned this night that.
5 All we have to prove is malice at the very moment he pulled
6 the trigger. That's the law. And if you don't think he had
7 the malice for the first shot, he certainly had malice when
8 **Minor's** helpless and hunched over, isn't he?

9 Malice is evil, ill will, hostility towards another,
10 indifference to human life. Isn't that -- isn't this total
11 indifference to human life? He thought nothing of ending
12 **Minor's** life for something so stupid. That's the epitome of
13 indifference.

14 But, ladies and gentlemen, I submit to you he did have
15 malice even before he went over to **Minor**. He had that gun
16 with him. He saw **Minor** over there. He had that gun, and he
17 went over there because he wanted something. He wanted to
18 prove a point.

19 Reasonable doubt, that's the burden of proof in a
20 criminal case. Y'all -- I'm sure everybody's heard that term.
21 What does it mean? It does not mean that you have to be 100
22 percent certain, that you have to be absolutely certain.
23 That's an impossible standard. The law doesn't require that.
24 It requires, like Ms. Fuller told you in opening, that you be
25 firmly convinced. It's the same standards you would use in

1 making any important life decision. And you're allowed --
2 this isn't some science experiment. You're allowed to use
3 your common sense to connect dots, because there's some things
4 we just can't know, we could never know. We can't dissect his
5 brain. Focus on his actions and use your common sense to
6 connect the dots. You're allowed to do that.

7 And the judge is going to instruct you on self-defense.
8 But what evidence did you hear of that? One comment among
9 many other comments that he made to his wife, "Oh, he pulled a
10 gun on me." There is no gun, ladies and gentlemen. If there
11 was a gun, then he's the one who picked it up. No gun was
12 ever found. He didn't have a gun. That's just something he
13 said.

14 He also told her he did it and then he told her he didn't
15 do it. That's on the recording.

16 Don't give that statement "he pulled a gun on me" any
17 weight. That's just smoke, like everything else. There is no
18 gun. **Minor** had no gun. He had a phone with earbuds in his
19 ear, talking to his friends, like a 15-year-old kid would do
20 in front of his grandmother's house.

21 I don't know what **Minor's** future held, but it was
22 snuffed out before it really began. His last memory on earth
23 shouldn't have been hearing, "Is you good?", thinking why is
24 this man gunning me down for asking for a cigarette, gasping
25 for air as his mother knelt beside him and the defendant stood

1 there pretending like he cared.

2 We can't undo what's been done. We can't fix this
3 situation. We can't bring **Minor** back. But what we're here
4 for is that people have to be accountable for their actions.
5 They have to be. And justice -- because [indiscernible] but
6 this is where we come for justice. This is it. And you get
7 to speak truth into this process, not with your words but with
8 your actions. And truth in this case is guilty of murder.

9 I have got to sit down now. I probably missed a lot of
10 things. That's always the pressure of being up here. And I
11 can't speak to you again, but I hope y'all saw the truth in
12 this case. I hope that you return a verdict that speaks the
13 truth and find him guilty.

14 Thank you.

15 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

16 MR. MAULDIN: The State has no clue and hasn't shown you
17 why this has happened to incorporate malice. They say they
18 don't have to prove motive, and it's true. Motive is not in
19 the definition of murder. But malice is. Ill will and evil
20 intent. They're not showing this as a robbery. They haven't
21 really shown that there's a beef between these people
22 [indiscernible] at that point. They have to prove and evil
23 intent beyond a reasonable doubt that would leave you so
24 firmly convinced that he just killed this kid for asking for a
25 cigarette and so firmly convinced that that's the only thing

1 that happened, that there's no real possibility it could have
2 happened any other way.

3 This is a short case. There's only a few witnesses that
4 we have heard from. So they must have been the cream of the
5 crop from what they could choose from. And it leaves the
6 proof nothing.

7 The State has the burden of proving this malice. We
8 don't have the burden of disproving it. They have the burden
9 of proving beyond a reasonable doubt that this wasn't any kind
10 of self-defense or some kind of killing without malice. And
11 they don't know exactly what happened. And they can't prove
12 exactly what happened.

13 What do they want to say? He hid the gun. He was
14 evasive with law enforcement at the beginning. Some people
15 said he was acting normal, looking at him from above on the
16 second floor.

17 I have never been in a position where I have shot
18 somebody and, fortunately, I have never been in a position
19 where someone's been taken from me [indiscernible]. And I
20 don't know what a shot feels like. I think we'd all like to
21 think that, if we're put in a situation like that, we'd act in
22 a certain way. With all the emotions and things going on,
23 there was not going to have calm, cool demeanor
24 [indiscernible].

25 I can't imagine the shock and fear that's going through

1 his head during that period of time. You saw that video when
2 he was talking to Truel. Did he seem like he was just in a
3 normal state of mind or did he seem like he was off in the
4 distance somewhere thinking about what had just happened and
5 what might happen to him and what might happen to his wife and
6 what might happen to his daughter?

7 I can't image what he thinks; he and I are two different
8 types of people. He got scared. They also want to say that
9 somehow he happened to be on the phone with this McCrea guy
10 the whole time he shot the fellow and four minutes past the
11 time he shot the fellow. That doesn't make sense, that he'd
12 be talking on the phone and saying, "Yeah, I'm home. I got
13 home all right," while he's shooting somebody and continuing
14 to talk to the fellow while this whole time.

15 What makes sense is they were both drinking and probably
16 didn't hang up the phone. The other fellow might have put it
17 in his pocket and didn't hear anything else. He didn't hear
18 any shots. Said he would have remembered that. He remembered
19 the defendant said he went and bought chicken. He talked
20 about the defendant showing him a gun at a party. He wasn't
21 afraid to say things that were negative of his friend.

22 Now, when the State was questioning several witnesses,
23 particularly the pathologist, they kept asking if this is
24 possible, if this is possible, if this is a real possibility.
25 If something's a real possibility, that's a reasonable doubt.

1 It's like they're trying to be the defense and saying, "Well,
2 we can't say this, but if you think that there's this real
3 possibility, you should convict him of murder." They're not
4 asking if things are definite or certain. They're asking if
5 it's possible. Is it possible the shots came this way? She
6 couldn't tell you that. She couldn't tell you the distance.
7 It's indeterminate.

8 What she could tell you is that the shots came from the
9 front. The shot to the hand, we have no idea what position
10 that hand would have been in.

11 We heard the shots. "Bam" "bam" "bam" "bam." It went
12 like that. It was less than a second -- a split second.
13 There was no advancing or retreating while those shots were
14 going on. It happened that quickly.

15 They want to say the wife was outside and saw them
16 talking. She told so many stories, we don't know. A lot of
17 her negative testimony is just not credible. I think we know
18 that. We saw her demeanor. She was in the bed when these
19 shots were fired and she came downstairs. That seems
20 reasonable and that's what happened.

21 She pointed him out that night. Why is she going to
22 cover up for him by saying that he said that he
23 [indiscernible], that he pulled the gun first? Why would she
24 be covering up for him when she said that?

25 The crime scene, Detective Miramontes testified that

1 there's no blood in front of the building, no trail of blood,
2 no evidence of this advancing or retreating that
3 [indiscernible]. It all happened in one place at one time in
4 a split second.

5 The shells there, they didn't find the evidence. Did the
6 defendant pick them all up and [indiscernible]? I don't know.
7 Did it bounce on the concrete? Did one of those many people
8 around happen to kick it around? I don't know. But they
9 can't prove that the defendant was there when he was shot just
10 by that. There's no evidence of advancing or retreating.

11 This is proof that leaves you guessing, and if you're
12 guessing, that's not proof beyond a reasonable doubt.

13 No witness testified for the State saw how this happened
14 so they're trying to prove malice from circumstantial
15 evidence, evidence that happened around it.

16 Now, the judge will say that you can give that evidence
17 whatever weight you want, but all those circumstances have to
18 point conclusively -- conclusively to his guilt. And if they
19 only show that his actions are suspicious, that proof has
20 failed.

21 Again, it doesn't make any sense. He's coming home from
22 this party. The testimony from his friend was that he wasn't
23 angry, he wasn't down. He was happy. Not in a mood to go
24 assassinate somebody.

25 And they get home -- here's State's 10, the diagram of

1 the parking lot. You can see he parked indeed right here.
2 You can see this is the dumpster right there. And he was
3 traveling in that direction to go to that dumpster.

4 Could he have had trash in his car? Maybe. But that is
5 the direction and around the side of that building -- around
6 that blind corner is where he encountered **Minor**.

7 42-year-old truck driver, five-year-old daughter coming
8 back from a party. Nobody has testified anything's wrong.
9 And he's going to kill somebody for asking him for a
10 cigarette? A child asking for a cigarette? Seems like
11 something a grown man would do. Six-foot-two, 233 pounds with
12 a mustache. The evidence showed there was only limited
13 interactions between the two. There's no proof -- no way
14 Mr. Julius knew that he was a 15-year-old child. He could
15 have been in his 20s for all he knew. He only found out his
16 age when the mother yelled it across the parking lot.

17 Something had to happen for all this [indiscernible].
18 **Minor** must have done something. Things happen for a reason.
19 Is it a real possibility that he grabbed Mr. Julius? Sure.
20 And if he was going to grab him, what else was he going to do
21 at 10:30 at night in a dark parking lot, cold night?

22 There's no evidence to say he didn't grab him. Every
23 grab doesn't leave any kind of ripped clothes.

24 He had the call with Travis. The video was off. He
25 didn't see what was going on. He was at the foot of the bed.

1 His cousin, LJ, would be in a better position to testify, was
2 at the head of the bed on the call with **Minor**. He was just
3 overhearing it. But the cousin was not here.

4 Some guy, six-foot-two, 233 pounds, mustache, you barely
5 know grabs somebody on a cold, dark January night. What would
6 a reasonable person do?

7 It's a real possibility, in the cold, dark night, that he
8 thought that cell phone was a gun. But [indiscernible] pulled
9 a gun on him first.

10 It was darker than you see on those pictures. Those
11 pictures are lit up. Police headlights. Police lights. It's
12 a lot darker than what is done in those pictures. It's very
13 reasonable [indiscernible].

14 And "Is you good?" They're trying to make that something
15 [indiscernible]. He asked for a cigarette, "No, I don't have
16 a cigarette," whatever. "Is you good?" That implies that
17 they think the other person is upset or angry. **Minor** must
18 have done something to show that he wasn't happy.

19 They brought in the wife to try to twist it around, but
20 she admitted to the solicitor that he says it when he thinks
21 there's a problem. And there was a problem.

22 Again, you heard the shots on the video. It all happened
23 in a split second. It was a split-second decision with no
24 malice. He doesn't want the fellow to die. Why would he stay
25 and tell the mother where he was? Why would he go over to try

1 to help? He could have stayed in the house. He could have
2 tried to hide in the woods. He could have got in his car and
3 left. But he didn't do any of that.

4 You have to be so firmly convinced that he had malice in
5 his heart that night that you could see no real possibility
6 that it could have happened any other way. If you have any
7 doubts about that, you need to have them now, not tomorrow or
8 in the future.

9 "Is you good?" The State's case is not good. You should
10 find the defendant not guilty.

11 THE COURT: All right. Ladies and gentlemen, before I
12 give you the charge on the law, I just want to make sure
13 everyone is good to go? It will probably take me 15 minutes.
14 Everybody good? All right.

15 JURY CHARGE

16 THE COURT: All right. Members of the jury, it's now my
17 duty as the trial judge to instruct you on the law applicable
18 to this case, and in that regard, it is your duty as jurors to
19 accept and apply the law as I now state it to you.
20 Furthermore, it is your exclusive duty to decide all the
21 issues of fact in this case and determine the effect, value,
22 weight, and truth of the evidence.

23 All the parties have the right to expect that you will
24 carefully consider and evaluate the evidence and apply the law
25 of this case to it so that, in the end, all parties will

1 receive a fair and impartial trial.

2 Now, during this trial, you and I have separate duties to
3 perform. As the trial judge, it is my responsibility to
4 preside over this trial and rule upon the admissibility of
5 evidence offered during the trial.

6 You, as members of the jury, are to consider only the
7 evidence before you. If you have any preconceived ideas about
8 what the law is or what you think the law ought to be and it
9 does not agree with what I now tell you the law is, you are
10 obligated under your oath to abandon those preconceptions
11 because you are sworn to accept the law as I now state it to
12 you.

13 In this trial, you are the sole and exclusive judge of
14 the facts. Do not infer that I have an opinion about the
15 facts in this case from anything I have said or done during
16 the course of the trial. The law simply doesn't permit me to
17 have an opinion about the facts. As jurors, it is your duty
18 and your duty alone to determine the effect, value, weight,
19 and truth of the evidence presented during this trial.

20 The evidence from which you are to decide the facts in
21 this case are (1) sworn testimony of witnesses both on direct
22 and cross-examination, (2) the exhibits which have been
23 admitted into evidence, and, (3), any facts which all the
24 attorneys have agreed and stipulated.

25 Evidence may be direct or circumstantial. Direct

1 evidence is testimony by a witness about what the witness
2 personally saw, heard, or did. Circumstantial evidence, on
3 the other hand, is indirect evidence. Stated differently, it
4 is proof of one or more facts from which one can
5 [indiscernible] another fact.

6 You may consider both direct and circumstantial evidence
7 equally, and crimes may be proven by circumstantial evidence.
8 The law makes no distinction between the weight or value to be
9 given to either direct or circumstantial evidence. However,
10 to the extent the State relies on circumstantial evidence, all
11 of the circumstances must be consistent with each other and,
12 when taken together, point conclusively to the guilt of the
13 accused beyond a reasonable doubt. If these circumstances
14 merely portray the defendant's behavior as suspicious, the
15 proof has failed. The State has the burden of proving the
16 defendant beyond a reasonable doubt. This burden rests with
17 the State regardless of whether the State relies on direct
18 evidence, circumstantial evidence, or some combination
19 thereof.

20 I remind you that the following things are not evidence
21 and you must not consider them as evidence in deciding the
22 facts of this case: (1) statements and arguments of the
23 attorneys, (2) questions and objections of the attorneys, (3)
24 any testimony I instruct you to disregard, (4) questions and
25 answers given during the qualification selection of the jury,

1 and (5) allegations set forth in the indictments.

2 While argument of counsel is a beneficial part of every
3 trial, you should remember that the statements made by counsel
4 are not evidence. In presenting arguments, counsel will often
5 refer to the evidence; however, you should base your verdict
6 on the evidence as you remember them. Therefore, if there are
7 any conflicts between your recollection of -- excuse me -- any
8 conflicts between the recollection of counsel about the
9 evidence and your own recollection, you should rely upon your
10 own understanding of the evidence.

11 I remind you that the fact that a defendant was arrested,
12 charged, and indicted in this case is not evidence and cannot
13 be considered by you as evidence of guilt in this case nor
14 does it create any presumption or inference of guilt.

15 Now, furthermore, it is your job as jurors to determine
16 credibility or believability of the witnesses who have
17 testified in this case. You must evaluate the evidence and
18 determine which evidence convinces of its truth.

19 In determining the believability of witnesses who have
20 testified in this case, you may believe one witness over many
21 or many over one. You may believe a part of the testimony of
22 a witness and reject the remaining part. You may believe the
23 testimony of a witness in its entirety or reject it in full.
24 You may consider whether the witness has an interest in the
25 result of the trial; whether the witness is prejudiced toward

1 either party and the opportunity for the witness to have seen
2 the matters and things about which the witness may testify and
3 the way the witness acts on the witness stand.

4 Now, the Rules of Evidence ordinarily do not permit the
5 witnesses to testify to opinions or conclusions. An exception
6 to this rule exists for witnesses we call expert witnesses, a
7 witness who, by education and experience, has become an expert
8 in some art, science, profession, or calling may state an
9 opinion as to relevant -- as to a relevant, material matter in
10 which the witness claims to be an expert and may also state
11 the reasons for the opinion.

12 You should consider any expert opinion received in
13 evidence in this case like any other evidence: Give it the
14 weight you think it deserves.

15 If you decide that the opinion of the expert is not based
16 on sufficient education and experience or if you conclude that
17 the reasons given in support of the opinion are not sound or
18 that the opinion is outweighed by other evidence, you may
19 disregard the opinion entirely.

20 An expert witness's testimony is to be given no greater
21 weight than that of other witnesses simply because the witness
22 is an expert. Furthermore, you are not required to accept an
23 expert's opinion even though it is not contradicted.

24 The defendant has pled not guilty to this indictment.
25 That plea puts the burden on the State to prove the defendant

1 guilty. A person charged with committing a criminal offense
2 in South Carolina is never required to prove his or her
3 innocence. I charge you that it is an important rule of the
4 law that the defendant in a criminal trial -- doesn't matter
5 what the seriousness of the charge may be -- will always be
6 presumed to be innocent of the crime for which the indictment
7 was issued unless guilt has been proven by evidence satisfying
8 you of that guilt beyond a reasonable doubt.

9 The presumption of innocence does not end when you begin
10 your deliberations, but it accompanies the defendant
11 throughout the trial unless you reach a verdict of guilt based
12 on evidence satisfying you of that guilt beyond a reasonable
13 doubt.

14 The presumption of innocence is like a robe of
15 righteousness placed about the shoulders of the defendant
16 which remains with the defendant unless it has been stripped
17 from the defendant by evidence satisfying you of the
18 defendant's guilt beyond a reasonable doubt.

19 The presumption of innocence is not mere legal theory.
20 It's not just a legal phrase. It's a substantial right to
21 which every defendant is entitled unless you, the jury, are
22 satisfied from the evidence of the defendant's guilt beyond a
23 reasonable doubt.

24 The State has the burden of proving the defendant guilty
25 beyond a reasonable doubt. Some of you may have served as

1 jurors in civil cases where you were told that it is only
2 necessary to prove that a fact is more likely true than not
3 true, such as by the greater weight or preponderance of the
4 evidence. In criminal cases, the State's proof must be more
5 powerful than that. It must be beyond a reasonable doubt as
6 to each element of each offense charged.

7 What is a reasonable doubt in the law? A reasonable
8 doubt is the kind of doubt that would cause a reasonable
9 person to hesitate to act. Proof beyond a reasonable doubt is
10 proof that leaves you firmly convinced of the defendant's
11 guilt. There are very few things in this world that we know
12 with absolute certainty, and in criminal cases, the law does
13 not require proof that overcomes every possible doubt.

14 If, based on your consideration of the evidence, you are
15 firmly convinced that the defendant is guilty of the crime
16 charged, must find the defendant guilty. If, on the other
17 hand, you think there is a real possibility that the defendant
18 is not guilty, you must give the defendant the benefit of the
19 doubt and find him not guilty.

20 Mere suspicion, however strong, is not enough to sustain
21 a conviction. Suspicion implies a belief or opinion
22 [indiscernible] based on -- based upon facts or circumstances
23 which do not amount to proof.

24 Now, I remind you the fact -- the fact that the defendant
25 elected not to testify is not a fact which should be

1 considered by you in any way in your deliberations and in
2 consideration on the question of whether the defendant is
3 guilty or not guilty. It must not be considered in any manner
4 whatsoever against him. An accused has the constitutional
5 right to remain silent, and the assertion of that right cannot
6 be considered by you in your deliberations.

7 Under your oath, you are to reach no inference and draw
8 no conclusion whatsoever from the fact that the defendant did
9 not -- elected not to testify. His decision not to testify
10 should not even be discussed in the jury room.

11 In order to establish criminal liability, criminal intent
12 is required. The dictionary defines "intent" as the State of
13 a person's mind that directs his actions towards a specific
14 object. Criminal intent must be proven by the State beyond a
15 reasonable doubt. Criminal intent is always a matter that
16 must be determined by the jury from the circumstances
17 surrounding the situation. There is no way to prove intent to
18 a mathematical certainty. There is no medical science that
19 can dissect a person's brain and determine what the person had
20 in mind. So the law says that criminal intent may be inferred
21 from the circumstances shown to have existed. This is how you
22 will make a determination of whether or not the element
23 requiring intent was present.

24 Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the defendant

1 intended to do based on the circumstances shown to have
2 existed.

3 Now, I'll remind you that a person who voluntarily
4 becomes intoxicated is just as responsible for the acts
5 committed by intoxicated as when a person is not intoxicated.

6 Now, statements alleged to have been made by the
7 defendant have been admitted into evidence in this case. The
8 Court has determined that the statements are voluntary and
9 admissible. You must decide what weight, if any, should be
10 given to the alleged statements. You may give the statements
11 any further consideration that you need [indiscernible].

12 Now, I'll explain to you the law as it applies to the
13 charge against the defendant. The defendant is charged with
14 murder. The State must prove beyond a reasonable doubt the
15 defendant killed another person with malice aforethought.
16 Malice is hatred, ill will, or hostility toward another
17 person. It is the intentional doing of a wrongful act without
18 just cause or excuse and with an intent to inflict an injury
19 or under circumstances that the law would infer an evil
20 intent.

21 Malice aforethought is not required for malice to exist
22 for a particular time before the act is committed, but malice
23 must exist in the mind of the defendant just before and at the
24 time the act is committed. Therefore, there must be a
25 combination of the previous evil intent and the act.

1 Malice aforethought may be expressed or inferred. The
2 terms "expressed" and "inferred" do not mean different kinds
3 of malice but merely the manner in which malice may be shown
4 to exist; that is, either by direct evidence or by inference
5 from the facts and circumstances which are proved.

6 Expressed malice is shown when a person speaks words
7 which express hatred or ill will for another, or when a person
8 prepared beforehand to do the act which was later
9 accomplished.

10 Malice may be inferred from conduct showing a total
11 disregard for human life. The facts prove beyond a reasonable
12 doubt -- if facts are proved beyond a reasonable doubt
13 sufficient to raise an inference of malice to your
14 satisfaction, this inference will simply be -- would be simply
15 an evidentiary fact to be considered by you along with the
16 other evidence in the case, and you may give it the weight you
17 decide it should receive.

18 The defendant has raised the defense of self-defense.
19 Self-defense is a complete defense. If it is established, you
20 must find the defendant not guilty. The State has the burden
21 of disproving self-defense by [indiscernible] beyond a
22 reasonable doubt. If you have a reasonable doubt of the
23 defendant's guilt after considering all the evidence,
24 including the evidence of self-defense, then you must find the
25 defendant not guilty.

1 On the other hand, if you have no reasonable doubt of the
2 defendant's guilt after considering all the evidence and
3 including evidence of self-defense, you must find the
4 defendant guilty.

5 The following elements are required to establish
6 self-defense:

7 (1) Without fault. First, the defendant must be without
8 fault in bringing on the difficulty. If the defendant's
9 conduct was the type which was reasonably calculated to and
10 did provoke a deadly assault, the defendant would be at fault
11 in bringing on the difficulty and not be entitled to an
12 acquittal based on self-defense.

13 (2) Imminent danger. The second element of self-defense
14 is that the defendant was actually in imminent danger of death
15 or serious bodily injury or if the defendant actually believed
16 he was in imminent danger of death or serious bodily injury.
17 If the defendant was actually in imminent danger, it must be
18 shown that the circumstances would have warranted a person of
19 ordinary firmness and courage to strike the [indiscernible]
20 alone to prevent death or serious bodily injury. If the
21 defendant believed he was in imminent danger of death or
22 serious bodily injury, it must be shown that a reasonably
23 prudent person of ordinary firmness and courage would have had
24 the same belief.

25 In deciding whether the defendant actually was or

1 believed he was in imminent danger of death or serious bodily
2 injury, you should consider all the facts and circumstances
3 surrounding the crime, including physical condition and
4 characteristics of the defendant and the victim.

5 The defendant -- excuse me. The defendant does not have
6 to show that he was actually in danger. It is enough if the
7 defendant believed he was in imminent danger and a reasonably
8 prudent person of ordinary firmness and courage would have had
9 the same belief. The defendant has the right to act on
10 appearances, even though the defendant's belief may have been
11 mistaken.

12 It is for you to decide what the defendant's fear of
13 immediate danger or death or serious bodily injury was
14 reasonable and would have been felt by an ordinary person in
15 the same situation.

16 The final element of self-defense: No other way to avoid
17 the danger -- excuse me. The final element of self-defense is
18 that the defendant had no other probable way to avoid the
19 danger of death or serious bodily injury than to act as the
20 defendant did in this particular instance.

21 The defendant -- increased risk of harm. Defendant had
22 no duty to retreat if, by doing so, the danger of being killed
23 or suffering serious bodily injury would increase. A person
24 cannot be required to make an exact calculation as to the
25 degree or amount of force which may be needed to avoid death

1 or serious bodily harm. Therefore, in self-defense, the
2 defendant has a right to use the force needed to avoid death
3 or serious bodily harm. The force used in self-defense does
4 not have to be limited to the degree or amount of force
5 which -- the force used in self-defense does not have to be
6 limited to the degree or amount of force used by the victim.
7 The defendant has a right to use so much force as appear to be
8 necessary for complete self-protection in which a person of
9 ordinary reason and purpose would have needed to be needed to
10 prevent death or serious bodily harm.

11 If the defendant is justified in defending himself or
12 others, in firing the first shot, the defendant was also
13 justified in continuing to shoot until [indiscernible]
14 death -- [indiscernible] of death or serious bodily harm has
15 completely ended.

16 Now, a verdict in this case cannot be based on sympathy,
17 passion, prejudice, or emotion or some other consideration not
18 found in the evidence. I'm charging that, as jurors, you must
19 decide the issues involved in this proceeding based solely
20 upon the evidence which you hear during the course of the
21 trial.

22 Your verdict must be without bias or without prejudice to
23 any party. You cannot allow yourself to be governed by
24 sympathy, by prejudice, by passion, by public opinion, or some
25 other consideration not found in the evidence.

1 Let me say something about your deliberations.
2 "Deliberation" is defined as careful consideration leading up
3 with a view to a decision. The genius of our jury system is
4 because it allows 12 good men and women from 12 different
5 backgrounds, life experiences, and perspectives to consider
6 the evidence, talk about it, and ultimately reach a verdict.

7 We call it deliberations for a reason; you are to
8 consider the evidence in this case carefully and deliberately
9 and discuss it in a calm, thorough, and courteous manner.
10 Listen to the views of all our fellow jurors and consider
11 other people's points of view and talk through and discuss the
12 evidence. And, remember, if you're doing something
13 deliberately, you are not in a big hurry, and you should not
14 be in a big hurry here. This case is very important to all
15 the parties, and this trial is the only thing important.

16 When you retire to the jury room, you should discuss the
17 case with your fellow jurors to reach an agreement if you can
18 do so.

19 Your verdict must be unanimous. Each of you must decide
20 the case for yourself and you should do so only after you have
21 impartially considered all the evidence, discussed it fully
22 with the other jurors, and listened to the views of your
23 fellow jurors.

24 Do not be afraid to change your opinion if the discussion
25 persuades you that you should but do not come to a decision

1 simply because other jurors think it is right. It is
2 important that you attempt to reach an unanimous verdict but
3 of course only if each of you can do so after having made our
4 own decision and not change an honest belief about the weight
5 and effect of the evidence simply to reach a verdict. In
6 other words, do not change your opinion solely for the sake of
7 reaching a unanimous verdict.

8 Now, I will give you a copy of these instructions in
9 written form. During your deliberations, you may refer to the
10 instructions to guide your decision-making. You must consider
11 the instructions as a whole and not follow some and ignore
12 others. Please return the instructions to the Court at the
13 time your verdict is rendered.

14 There are two possible verdicts that you may find in this
15 case: Guilty or not guilty. There is no significance
16 whatsoever in the order in which I state these possible
17 verdicts; it's simply one must be stated first.

18 Ladies and gentlemen, your verdict must be a unanimous
19 one.

20 Madam Forelady, if the jury agrees on a verdict, you will
21 write the verdict down -- write the verdict on the verdict
22 form and then knock on the jury room door and inform the
23 bailiff that you have reached a verdict. At that time, we'll
24 receive you back into the courtroom.

25 I ask that you now return to jury room but do not begin

1 your deliberations until you are told to do so by the clerk or
2 bailiff. There are some matters I need to take up with the
3 attorneys before you can begin your deliberations. But, at
4 this time, please return to the jury room and do not discuss
5 the case. Thank you.

6 (The jury exited the courtroom.)

7 THE COURT: All right. Any issue other than what was
8 already said? Any issue with the reading of the charge?

9 MR. McNAIR: Nothing from the State, Your Honor.

10 MR. MAULDIN: No -- no additional...

11 THE COURT: I understand.

12 All right. I'll ask the attorneys to come forward and
13 have a look at the evidence and make sure it's organized.

14 We don't have any alternates to dismiss. When y'all are
15 ready, we'll send it back to them.

16 (Counsel reviews evidence.)

17 THE COURT: So it's ready? Y'all are good? Take it on
18 back. And it is 2:45.

19 (A recess was taken while the jury deliberates.)

20 THE COURT: All right. I'm informed that we have a
21 verdict.

22 Anything from either party before I bring the jury back
23 in?

24 MR. McNAIR: No, sir.

25 THE COURT: Anything from the defense?

1 MR. MAULDIN: No, Your Honor.

2 THE COURT: Okay. Just as I have said -- and I'll say it
3 again -- whatever the verdict is, I expect everyone in the
4 courtroom to behave accordingly. I don't want to hear any
5 outbursts from anyone. I want the jury to be allowed to have
6 this verdict published. We'll dismiss them and then whatever
7 the verdict was, we'll deal with it after that. Okay?

8 Bring them in.

9 (The jury entered the courtroom.)

10 THE COURT: All right. Madam Forelady, I understand you
11 have a verdict; is that correct?

12 JURY FORELADY: We have.

13 THE COURT: Is your verdict unanimous?

14 JURY FORELADY: It is.

15 THE COURT: Please hand it to the bailiff.

16 (Pause in the proceedings while the Court reviews the
17 verdict.)

18 THE COURT: Madam Clerk, if you'll please publish the
19 verdict.

20 VERDICT

21 THE CLERK: Your Honor, on Indictment 2022-GS-32-01963,
22 the State versus Lavon B. Julius, on the indictment of murder,
23 we, the jury, unanimously find the defendant guilty.

24 Madam Forelady and ladies and gentlemen of the jury, was
25 this your verdict and is this still your verdict?

1 feel about it, but, you know, for what it's worth, you did the
2 right thing. But, gosh, it must have been tough. I mean, no
3 husband or wife can begin to contemplate what it's like to be
4 in the position you were in. And I'm sorry you're in this
5 position, too, and I'm sorry that y'all's daughter is in a
6 position where, you know, her father is going away. I mean,
7 there's no -- regardless of the sentence, I mean, that is the
8 outcome based on the conviction.

9 You know, we heard evidence. Obviously, a minor involved
10 here. You know, there were several aggravating factors, in my
11 opinion. Without going through every one, but, you know, I
12 didn't know about his prior record until today. I certainly
13 consider that an aggravating circumstance. I recognize he did
14 get on the right track, got a good job, but that's an
15 aggravating factor for me.

16 We watched the videos. We saw the scene. We heard from
17 various people, both pretrial, during trial, and post trial.
18 It's tough to use a better word than "sentence." We've heard
19 it many times, but I believe so that encapsulates everything.

20 So, on the charge of murder, with the credit for 684
21 days, you'll be committed to the Department of Corrections for
22 life in prison. That's all.

23 (The above trial concluded.)
24
25

1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Lavon Julius (Day 3)

3 2022-GS-32-01963

4 DATE OF HEARING: December 13, 2023

5 COURT REPORTER: Karen Ambroziak (retired)

6 *****

7 I, Bobbi Fisher, do hereby certify that the foregoing
8 transcript is a true and correct record of the recorded
9 proceedings; that said proceedings were transcribed to the
10 best of my ability from the audio recording and supporting
11 information, and that I am neither counsel for, related to,
12 nor employed by any of the parties to this case, and I have no
13 interest, financial or otherwise, in its outcome.

14
15 16
17 /s/ Bobbi Fisher_____

18 Bobbi Fisher, RPR and Certified Transcriber

19 Date Submitted: 10/10/24

20 NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT
21 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
22 FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."
23 ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM
24 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO
25 THIS REPORTER AT BFISHER@SCCOURTS.ORG.

WITNESSES

Lexington Police Department

Brian T Payton

Law Enforcement Case #: 22000421

REM

ARREST WARRANT NUMBER

2022A3220500032

ACTION OF GRAND JURY

TRUE BILL

Randy Christmas RC

Foreperson of Grand Jury
Date:

6-~~22~~-13-22

VERDICT

Guilty

Shelby Reese
Foreperson of Petit Jury
Date:

12-13-2023

DOCKET NO. 2022GS3201963

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JUNE TERM 2022

THE STATE

vs.

Lavon Bernard Julius

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

S.R. Hubbard III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)

INDICTMENT FOR
 MURDER

§ 16-03-0010

At a Court of General Sessions, convened on JUNE 2022, the Grand Jurors of Lexington County present upon their oath:

That **Lavon Bernard Julius** did in Lexington County on or about January ²⁹ 30, *aj*
 2022, unlawfully kill one **Minor** with malice aforethought, to wit: did shoot the
 victim multiple times with a handgun, in violation of § 16-3-10, Code of Laws of South
 Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made
 and provided.


 ASSISTANT SOLICITOR

SCANNED 06152022

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 32 - 01963Lavon Bernard JuliusA/W#: 2022A3220500032

AKA:

Date of Offense: 1/30/2022Race: Black Sex: M Age: 43S.C. Code §: 16-03-0010DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0116

Address:

City, State, Zip: Lexington, SC 29072DL#* [REDACTED] SID# [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

72860

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 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. 604 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. Lavon Bernard Julius INDICTMENT/CASE#: 2022 - GS - 32 - 01963

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)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

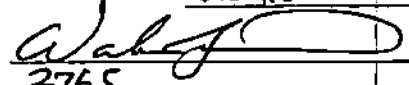
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
	\$
	\$100
	\$100
	\$12
	\$25
	\$25
	\$150
	\$41
	\$50
	\$40/ea
	TBD
	\$500
	TBD
TOTAL	\$125.00

Clerk of Court/Deputy Clerk:
Court Reporter:


Lavon Bernard Julius

Presiding Judge: 
 Judge Code: 2765
 Sentence Date: 12-13-2023

CERTIFICATE OF COUNSEL FOR APPELLANT

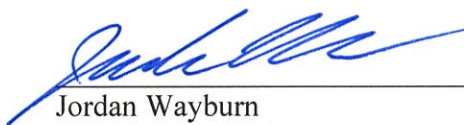
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Oct 17 2025

SC Court of Appeals



Jordan Wayburn
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 17th day of October 2025.

RECEIVED

Oct 17 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LAVON BERNARD JULIUS,

APPELLANT

APPELLATE CASE NO. 2023-001994

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Kaylee Christene Kemp, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 17th day of October 2025.



Jordan Wayburn
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT