

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

CERTIORARI-PCR-COMMON PLEAS
Appeal from Richland County
Hon. William A. McKinnon, Circuit Court Judge

Appellate Case No. 2025-001597
Lower Case No. 2021-CP-40-01788

Ricardo L. Middleton, ... Petitioner,

vs

State of South Carolina, ... Respondent

APPENDIX
VOLUME I

D. Russell Barlow, II
SC Attorney General Office
PO Box 11549
Columbia, SC 29211
803-734-3737
russbarlow@scag.gov
SC Bar No. 105228

Attorney for Respondent

C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
rauchwise@gmail.com
S.C. Bar No. 6188

Attorney for Petitioner

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STATE OF SOUTH CAROLINA - COUNTY OF RICHLAND
FIFTH JUDICIAL CIRCUIT

RICARDO MIDDLETON)
Applicant,) Docket No.
V.) 2021-CP-40-01788
STATE OF SOUTH CAROLINA)
Respondent.) PCR HEARING

September 26, 2024
Richland, South Carolina

B-E-F-O-R-E:
THE HONORABLE WILLIAM A. MCKINNON

A-P-P-E-A-R-A-N-C-E-S:
C. Rauch Wise, Esq.
Attorney for the Applicant
Russel Barlow, Esq.
State Attorney General

Maria DiScioscia, RPR
Official Court Reporter

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I N D E X

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1 THE COURT: In Middleton v the State.

2 Mr. Barlow?

3 MR. BARLOW: Thank you, your Honor. May it
4 please the Court.

5 THE COURT: Yes, sir.

6 Russ Barlow on behalf of the State of South
7 Carolina. This is the Postconviction Relief matter of
8 Ricardo L. Middleton versus the State, case number
9 2021-CP-40-01788 out of Richland County.

10 During the October 2017 term, the Richland
11 County Grand Jury indicted Applicant for two counts of
12 murder 2017-GS-40-5854 and 5855 and attempted murder
13 2017-GS-40-5852. Applicant was represented by Tivis
14 Sutherland, Esquire and Assistant Solicitors Lamar J.
15 Fyall and Jeremiah J. Shellenberg and John W. Steadman
16 prosecuted the case.

17 Applicant's case proceeded to a jury trial
18 August 19th through the 22nd of 2019, before the
19 Honorable L. Casey Manning.

20 The jury convicted Applicant as indicted on
21 the murder Indictment 2017-GS-40-5854, involving the
22 victim Sydni Collins. The jury found the Applicant not
23 guilty of attempted murder, that was 2017-GS-40-5852 and
24 a mistrial was declared on the second murder charge,
25 2017-GS-40-5855.

1 On September 26, 2019 Judge Manning sentenced
2 Applicant to serve life imprisonment without parole.
3 Post-trial motions were denied on February 21, 2020.
4 Applicant did file a timely notice of appeal. And on
5 December 16, 2020 Applicant withdrew his direct appeal
6 with the help of counsel, Mr. Rauch Wise and decided to
7 proceed with a Postconviction Relief petition. He
8 signed an affidavit understanding that he would not be
9 able to raise in a Postconviction Relief any issue that
10 could have been raised in the direct appeal. The
11 Remittitur was issued January 27, 2021.

12 Applicant timely commenced this PCR on April
13 16, 2021 and alleged that he is being held unlawfully
14 for numerous reasons. There were nine, I believe,
15 allegations with some sub issues within those
16 allegations throughout.

17 Your Honor, if you want me to go through them
18 I can or I believe you have the record.

19 THE COURT: I don't need too. I assume
20 Mr. Wise will educate me as well.

21 MR. BARLOW: Sure. And your Honor, before
22 this Court are the Richland County Clerk of Court's
23 records, Applicant's records from South Carolina
24 Department of Corrections, Applicant's brief appellant
25 records, and the entire trial transcript, the sentencing

1 transcript, and the transcript -- and the records of
2 this PCR action. Also, before this Court is the
3 transcript of record of a Stand Your Ground Hearing of a
4 co-defendant, Marquez Johnson, dated November 25, 2019.

5 And your Honor, before I turn it over to
6 Mr. Wise, I do not know if Mr. Marquez Johnson has
7 sought or had anyone give him any legal advice on his
8 testimony here today. We would just ask the Court to
9 advise him of his -- what the potential could be in his
10 testimony.

11 THE COURT: Is Mr. Johnson on?

12 MR. WISE: Mr. Johnson is here with me. I
13 could have him sit down and answer any questions before
14 the Court.

15 THE COURT: Sure.

16 Good morning, Mr. Johnson.

17 MR. JOHNSON: How y'all doing.

18 THE COURT: Good. I'm Judge McKinnon.

19 I understand that you're gonna testify on this
20 Postconviction Relief matter today. I just want to make
21 sure you understand that when you testify, it's gonna be
22 under oath. Which means, that if it were to come out
23 that you testified falsely you could be subject to
24 contempt proceedings or a prosecution for perjury, which
25 is a felony in South Carolina. And further, depending

1 on what you say, if you admit to committing any crimes
2 or being apart of any crimes, you could be criminally
3 prosecuted for what you say. And because it's in court
4 on the record, it could be used against you at a later
5 trial.

6 Do you understand that?

7 MR. JOHNSON: Yes, sir.

8 THE COURT: Have you consulted with a lawyer
9 about what you plan to say today?

10 MR. JOHNSON: Negative.

11 THE COURT: But you understand you have that
12 right?

13 MR. JOHNSON: Yes.

14 THE COURT: Thank you, sir.

15 Mr. Wise, all yours.

16 MR. WISE: I'd like to clarify one thing. I
17 sent a package of exhibits to everybody including
18 Mr. Middleton, but as of Monday, I believe Mr. Middleton
19 had not received his. I'm trying to check to see if
20 he's got them now.

21 THE COURT: Okay.

22 MR. WISE: Ricardo, do you have them?

23 We're not communicating here.

24 THE COURT: Mr. Middleton? He's not muted.

25 Mr. Middleton, can you hear me? Can you waive

1 at me like this if you can hear me?

2 He's not muted and I can see him. So I think
3 it's an issue maybe with the speakers or the sound at
4 Kirkland.

5 MR. WISE: Mr. Middleton was at Broad River
6 and that's why I'm a little concerned. I can't see him
7 that well, because it's so small.

8 THE COURT: Right.

9 MR. WISE: But it's listed as Kirkland when
10 he's actually in Broad River.

11 THE COURT: Okay.

12 MR. WISE: Can we speak to the person in
13 Kirkland Correctional Institution.

14 Can you waive your hand?

15 MR. DRAYTON: Me?

16 MR. WISE: Yeah, what is your name?

17 MR. DRAYTON: Marcus Drayton.

18 MR. WISE: That's what I thought. I didn't
19 think that was Ricardo.

20 MR. BARLOW: Marcus Drayton was continued. I
21 have Broad River showing, but they do not have their
22 camera on. Let me call out to Broad River.

23 MR. WISE: I see him now. It just came on.

24 MR. DRAYTON: So my case is continued?

25 THE COURT: Yes, sir.

1 MR. DRAYTON: So I don't have to be here;
2 right?

3 THE COURT: Yes, sir.

4 BROAD RIVER CORRECTIONAL: Can you hear him?

5 THE COURT: Yes, ma'am. We can hear you.

6 MR. WISE: Can you speak for us, so we can see
7 how well we can hear you.

8 MR. MIDDLETON: Say that again?

9 MR. WISE: It's not good.

10 MR. MIDDLETON: I just turned the volume up.

11 MR. BARLOW: Your Honor, while waiting on
12 that, can we get your law clerk to admit Mr. Lamar Fyall
13 in please.

14 THE COURT: Yes.

15 MR. WISE: Ricardo, I was checking to see if
16 you got the packet of exhibits I mailed out last week?

17 MR. MIDDLETON: No, I didn't receive it.

18 MR. WISE: You what?

19 MR. MIDDLETON: No.

20 MR. WISE: You did not get them?

21 MR. MIDDLETON: No.

22 MR. WISE: Do you have your file with you?

23 MR. MIDDLETON: Do I, what?

24 MR. WISE: Do you have your file with you for
25 all your cases?

1 MR. MIDDLETON: Yes.

2 MR. WISE: We've gone over those exhibits
3 together and I think we'll be able to find what he needs
4 for his portion of it without any real difficulty. He's
5 very knowledgeable with his file.

6 THE COURT: Okay.

7 MR. WISE: And your Honor, just for the
8 record, we are not pursuing the issues involving the
9 cellphone tower information, which is under 11(a) and is
10 somewhat related to 10(a), which is the original
11 accusation.

12 THE COURT: Okay.

13 MR. WISE: We would like to call as our first
14 witness Marquez Johnson. And we would request at the end
15 of his testimony, he'd be excused; he does have a job to
16 get to.

17 THE COURT: Okay. Mr. Johnson, can you raise
18 your right hand please.

19 *Do you swear to tell the truth, the whole*
20 *truth, and nothing but the truth, so help*
21 *you god.*

22 MR. JOHNSON: Yes, sir.

23 THE COURT: And Mr. Wise, if you're comfortably
24 off camera, that's fine with me. As long as we can hear
25 you, so we can see the witness.

1 MR. WISE: I thought it was more important to
2 see him than to see me.

3 THE COURT: That's fine.

4
5 DIRECT EXAMINATION

6 BY MR. WISE:

7 Q. Mr. Johnson, please give us your full name?

8 A. Marquez Lamar Johnson.

9 Q. And where do you live?

10 A. I live in Columbia, South Carolina.

11 Q. Are you married?

12 A. Negative, divorced.

13 Q. But you have a child?

14 A. Yes, sir.

15 Q. And who does the child reside with?

16 A. Myself.

17 Q. Are you employed?

18 A. Yes, sir.

19 Q. Where are you employed?

20 A. South Carolina Youth Challenge Academy.

21 Q. And what exactly is that?

22 A. It's a mentorship program for at risk youth
23 from ages 15 to 18.

24 Q. And it is in association with what other
25 agency?

1 A. Under National Guard Bureau.

2 Q. Tell us a little bit about your background.

3 Where are you from originally?

4 A. Originally from Compton, California, joined --

5 Q. -- excuse me. Where?

6 A. Compton, California.

7 Q. How did you end up in the Columbia area?

8 A. I got stationed in Fort Jackson.

9 Q. How long were you in the Army?

10 A. 16 and-a-half years.

11 Q. And did you do any tours of duty overseas?

12 A. I have three tour duties overseas.

13 Q. You have what?

14 A. Three tours overseas.

15 Q. And where did you go?

16 A. I went to Iraq twice and Korea once.

17 Q. And eventually, you were arrested in this
18 shooting that occurred on Parklane Road and Claudia
19 Street, weren't you?

20 A. Yes, sir.

21 Q. How did that impact your Army career?

22 A. I got kicked out.

23 Q. That ended your career?

24 A. Yes, sir.

25 Q. Now, you went to trial on a Stand Your Ground

1 case, did you not?

2 A. Yes, sir.

3 Q. The questions I want to ask you relate to
4 Ricardo Middleton. Did you know Mr. Middleton?

5 A. Yes, sir.

6 Q. How long did you know him?

7 A. About a year and-a-half.

8 Q. And prior to this, prior to that incident?

9 A. Yes, sir.

10 Q. Now, where did you first see Mr. Middleton
11 that evening?

12 A. Parking lot of Kiki's Chicken and Waffles.

13 Q. Parking lot of?

14 A. Kiki's Chicken and Waffles.

15 Q. Where is that in relation to the other
16 facility called "My House"?

17 THE COURT: Mr. Wise, let me just clarify, just
18 to make sure I understand everything. What was the
19 result of the Stand Your Ground proceeding for this
20 witness, Mr. Johnson?

21 MR. WISE: What was the question again?

22 THE COURT: What was the result -- you said he
23 had a Stand Your Ground proceeding, what was the result?

24 MR. WISE: What was "what"?

25 THE COURT: The Stand Your Ground, what was

1 the outcome?

2 MR. WISE: Oh, the judge ruled in his favor.
3 We'll get to that in a minute.

4 THE COURT: Okay.

5 Q. (By Mr. Wise) The first time you saw Ray was
6 at the Kiki Waffles place next door to My House?

7 A. Yes, sir.

8 Q. Prior to Mr. Middleton arriving there, had you
9 had, kind of, a run-in with some people?

10 A. Yes, sir.

11 Q. What was the nature of it?

12 A. I'm in a motorcycle club, they're in a
13 motorcycle club. At the time I guess their motorcycle
14 club didn't like our motorcycle club and maybe vise
15 versa and I was surrounded at a restaurant.

16 Q. And did Mr. Middleton participate at all in
17 breaking that up?

18 A. Negative. Not while I was -- no, negative.

19 Q. He arrived after that confrontation?

20 A. Yes, sir.

21 Q. Did you talk with him there in the parking
22 lot?

23 A. Yes, sir.

24 Q. How long about?

25 A. Probably about 30 seconds, if that.

1 Q. And about 30 seconds?

2 A. Yes, sir.

3 Q. Did you and he ever have any plans together to
4 go after the people that surrounded you in the parking
5 lot?

6 A. No, sir.

7 Q. Did you and he have any discussions about
8 getting back at those people even?

9 A. No, sir.

10 Q. When you left, what route did you take?

11 A. I took the mall road to, I think it was
12 Claudia Drive, and then onto Parklane.

13 Q. As you were going down Parklane was anybody
14 beside you?

15 A. Yes. One of my other motorcycle club members.

16 Q. Was anybody to the left of you?

17 A. Yes, sir.

18 Q. Who was that?

19 A. That was AC and Sydni and -- but those are the
20 two right next to me.

21 Q. To your left was AC Collins and Sydni Collins.

22 A. Yes, sir.

23 Q. And the person to your right was?

24 A. My club members are Red Con and Marcus
25 Stevens.

1 Q. Was there any plan between you and Mr.
2 Middleton or anybody else even, to cause any problems
3 with the Collins?

4 A. No, sir.

5 Q. What happened between you and the Collins as
6 you were riding down the road?

7 A. As I was riding down the road, we pull up
8 beside each other. I started to engage in a
9 conversation --

10 Q. -- you stated what?

11 A. Engage in a conversation. And it was based on
12 what took place back at the club. I was like: Hey --

13 Q. -- did anything back at the club have anything
14 to do with Ricardo Middleton?

15 A. No.

16 Q. Go ahead.

17 A. So I start to engage in a conversation.

18 I'm like: Hey, y'all just straight?

19 I'm like: Can we talk about this?

20 And it progressed from there. But I was the
21 one who like -- in that atmosphere, everybody's trying
22 to be macho. It was the wrong time to try to confess a
23 better solution to the problem. And I was trying to
24 take it upon myself at that point to try to get him to
25 pull over so me and him could talk about it with a

1 one-on-one conversation --

2 Q. -- when you talk about "me and him", you're
3 talking about Mr. Collins?

4 A. Yes, sir.

5 Q. AC Collins?

6 A. Yes, sir.

7 Q. And so what happened as you came up to the red
8 light where the actual shooting occurred?

9 A. When I pulled up to the red light where the
10 shooting occurred, it was the same conversation:

11 Hey man, let's just pull over and talk real
12 quick.

13 Like I said before, he seemed like he started
14 getting aggravated at that request. And he put his bike
15 in neutral, put his hand in his vest. And that's when
16 his wife got off the bike, kind of, behind me and raised
17 her hand. I ducked. I heard a shot. I heard about a
18 few more shots after that. I finally look up to see
19 what's going on, 'cause I figured, "I'm not hit". She's
20 on the ground. And when I look back, I see her on the
21 ground, I look back towards her husband. We made eye
22 contact. We look back at her and I'm thinking like, "we
23 about to go to her aid", but that's not the case. He --

24 Q. Prior to the shooting, had there been any
25 physical contact between you and Mr. Collins?

1 A. No, sir.

2 Q. Had he reached over towards you or anything?

3 A. Well, prior to --

4 Q. -- prior to the shooting?

5 A. The whole situation? The beginning of the
6 shooting?

7 Q. Right. When you pulled up to the red light.

8 A. Yeah. No, negative.

9 Q. What happens when all these shots start
10 ringing out.

11 A. Like I said, he stopped -- I mean, he put his
12 bike in neutral, put his hand in his vest and kind of
13 turned towards me. That's when I seen her swing off the
14 back of the bike. And I seen in my peripheral, her hand
15 come up, so I ducked down on my bike. I hear a shot,
16 pop. Then I hear pop, pop, pop, pop, pop. And it
17 stopped for a minute. I look up, and she's on the
18 ground. I look back at the husband, he's looking at
19 her. We're both kind of -- we locked onto each other,
20 and that's when he hops off of his back and tries to
21 grab me and swing on me.

22 Q. Was any of this, in anyway, planned between
23 you and Ricardo Middleton?

24 A. No, sir.

25 Q. And you went to a hearing before Judge G.

1 Thomas Cooper?

2 A. Yes, sir.

3 Q. And as a result of that opinion he exonerated
4 you?

5 A. Yes, sir.

6 Q. In the lower right-hand corner of Exhibit 7,
7 which I previously sent to people. Do you recognize
8 what Exhibit 7 is?

9 A. Yes, sir.

10 Q. What is it?

11 A. It's my judgment order.

12 MR. WISE: I would move to introduce Exhibit 7
13 as an exhibit in this case.

14 THE COURT: Mr. Wise, I couldn't hear the
15 witness say what it was. What is the document?

16 MR. JOHNSON: It's my judgment order.

17 THE COURT: In the Stand Your Ground Hearing?

18 MR. JOHNSON: Yes, sir.

19 THE COURT: Any objection from the State?

20 MR. BARLOW: None, your Honor.

21 THE COURT: It's in evidence.

22 (Applicant's Exhibit 7, Marquez Johnson's
23 judgement order, was entered into
24 evidence.)

25 Q. (By Mr. Wise) At anytime did you and Ricardo

1 Middleton or anybody else, ever have any plan or scheme
2 to shoot the Collins?

3 A. No, sir.

4 Q. What prompted you -- let me back up. Did you
5 see Mr. Middleton there at the scene of the shooting?

6 A. Negative, sir.

7 Q. But you didn't intentionally pull up to
8 Collins to start a fight?

9 A. No, negative.

10 MR. WISE: Thank you. Answer any questions the
11 State may have.

12 THE COURT: Mr. Barlow?

13 MR. BARLOW: Thank you, your Honor. May it
14 please the Court.

15

16 CROSS-EXAMINATION

17 BY MR. BARLOW:

18 Q. Mr. Johnson, you said that you were involved
19 in a motorcycle club?

20 A. Yes, sir.

21 Q. And you were in the military at that time?

22 A. Yes, sir.

23 Q. Were you permitted to be in a motorcycle club
24 and in the military?

25 A. You are permitted to be in a motorcycle club

1 and the military at the same time.

2 Q. Which motorcycle club were you apart of?

3 A. Thunderguard Motorcycle Club.

4 Q. And what is that considered?

5 A. A One Percent club.

6 Q. So the Army permits you to be in that?

7 A. No. You asked about motorcycle clubs, but not
8 that particular club. No, they don't.

9 Q. Let me clarify Mr. Johnson. Mr. Johnson,
10 which club were you apart of at the time of this?

11 A. Thunderguard Motorcycle Club.

12 Q. Did the Army permit you to be apart of that
13 club?

14 A. No, negative.

15 Q. You testified at your Stand Your Ground
16 Hearing; correct?

17 A. Yes, sir.

18 Q. Do you have a copy of your transcript?

19 MR. WISE: I think I do.

20 Q. (By Mr. Barlow) I want to make sure you have
21 it just in case I need you to reference it. You said
22 that Ms. Collins got off of her motorcycle and you saw
23 her our of your periphery; correct?

24 A. Yes, sir.

25 Q. What did you see out of your periphery?

1 A. All I could see is like a shadow come up.

2 Like an arm raise, you know.

3 Q. Okay. What was in her arm?

4 A. At the time I didn't see anything.

5 Q. Okay. You did not see anything?

6 A. Yes.

7 Q. And you testified --

8 A. -- I didn't see anything in her hand at the
9 time. I seen her arm come up, and that's what kind of
10 prompted me to duck down.

11 Q. And do you recall testifying at the hearing
12 that -- if you need to reference it, it's page 65 Lines
13 18 through 19.

14 "I ain't gonna lie, I didn't see a gun in her
15 hand."

16 A. Yes, I just said that.

17 Q. Okay. The question was: Do you recall
18 testifying to that?

19 A. Yes.

20 Q. At any time at that scene did you see Mr.
21 Middleton?

22 A. No, sir.

23 MR. BARLOW: Beg the Court's indulgence.

24 Nothing further, your Honor.

25 THE COURT: Any redirect Mr. Wise?

1 MR. WISE: Nothing on redirect.

2 THE COURT: Thank you, Mr. Johnson. You are
3 excused. Thank you for testifying.

4 MR. WISE: Just one more question on redirect.
5 I do apologize.

6

7 REDIRECT EXAMINATION

8 BY MR. WISE:

9 Q. Were you available to testify in Mr.
10 Middleton's trial?

11 A. His first trial?

12 Q. Right.

13 A. Negative. I mean, they never told me about
14 it.

15 Q. Well, did you have charges pending against you
16 when his first trial was held?

17 A. Yes, sir.

18 Q. Your charges were dismissed after his trial?

19 A. Yes, sir.

20 MR. WISE: Thank you, that's all.

21 THE COURT: Any recross on that issue
22 Mr. Barlow?

23 MR. BARLOW: None, your Honor.

24 THE COURT: Thank you, sir. You are excused.

25 MR. WISE: Now we'd call Mr. Middleton.

1 THE COURT: Mr. Middleton, can you raise your
2 right hand please.

3 *Do you swear to tell the truth, the whole*
4 *truth and nothing but the truth, so help*
5 *you god.*

6 MR. MIDDLETON: Yes.

7 THE COURT: Thank you, sir.

8
9 DIRECT EXAMINATION

10 BY MR. WISE:

11 Q. Mr. Middleton, please give us your full name?

12 A. Ricardo Laroy Middlton.

13 Q. How old are you?

14 A. 50.

15 Q. And where were you employed before you were
16 arrested on these charges?

17 A. I had two jobs. I was at Google in Goose
18 Creek as an electrician. But I also was doing some
19 other work to, traveling electrical work. I'm a
20 journeyman.

21 Q. A journeyman doing electrician?

22 A. Yes.

23 Q. At the time of the shooting you were at the --
24 let me back up a little bit.

25 What brought you to the area of this shooting

1 that night?

2 A. Well, that was Bike Night. So everybody goes
3 to Bike Night. So I was going anyway. I was actually
4 downtown at the clubhouse and they had said, somebody
5 was in trouble or whatever. So there was a text. So we
6 all went. But by the time I got there, everybody was
7 leaving.

8 Q. So let me back up a little bit. You were not
9 there when --- let me back up.

10 When you arrived, what was the situation at My
11 House?

12 A. When I arrived there was a few people
13 straggling around, but more or less everybody was
14 disbursing. I walked inside, I came back out and I
15 looked around and I didn't know nobody, so I left. When
16 I left, I ended up seeing Johnson and I stopped.

17 And I said: What happened?

18 And he told me, briefly, he got surround or
19 whatever, but it was nothing.

20 I said: Okay.

21 Q. Did he even know who he had a run-in with?

22 A. No, not initially. He knew the club, but he
23 didn't know the individuals.

24 Q. How did you leave the parking lot --

25 A. -- Like I said, everybody was leaving. There

1 was so many people --

2 Q. -- the waffle place next to My House --

3 A. -- there was so many people. I took a left
4 going inside the mall and they went this way, going
5 towards the highway. I got stuck in the mall traffic.
6 When I got stuck in the mall traffic, I turned around.
7 When I turned around, I went back the other way but that
8 had a lot of traffic. So what happened is, I didn't
9 want to sit in traffic, so I went around in the turning
10 lane and that's when I actually end up seeing what was
11 going on.

12 Q. Were you riding with -- what were you driving
13 that night?

14 A. I was driving my Toyota Yaris, my work
15 vehicle.

16 Q. You were not on a motorcycle?

17 A. No, I wasn't on a motorcycle.

18 Q. And did you and Mr. Johnson ever discuss
19 anything about going after the people he had had a
20 run-in with?

21 A. No, not at all. Not at all.

22 Q. Did you even know they were going in the same
23 direction you were?

24 A. No. Actually, I pulled up late, because when
25 I pulled up and I seen what was going on. They had

1 already had something going on. Only reason I was in
2 the turn lane, was because I got stuck in the back and I
3 went around. That's how I seen it, I was in the turn
4 lane trying to turn back around.

5 Q. Back up a second. You may have got a little
6 bit ahead of me.

7 When you pulled up, describe where you pulled
8 up in relation to where the Collins were and where
9 Mr. Johnson was?

10 A. Initially, I pulled up in the back. They was
11 up here. (Indicating.) So I said, I don't know what
12 the traffics like, came around into the turning lane.
13 When I came into the turning lane, I was turning down a
14 street that I didn't even know and I seen them to the
15 right of the me all the way over and it looked like they
16 was wrestling or something.

17 Q. Did they appear to be agitated?

18 A. Oh, yeah, definitely. Definitely.

19 Q. What did you do then?

20 A. I sat there for a minute, but when I seen the
21 big guy getting up, I went to him. And he initially
22 said it. I went to him --

23 Q. -- back up. When you say, "you went up to a
24 big guy".

25 A. I went up to Ricky Montgomery.

1 Q. Who was the "big guy"?

2 A. Ricky Montgomery.

3 Q. So you go up to Ricky Montgomery. And what
4 was your purpose to go up to Ricky Montgomery?

5 A. To ask him to walk over here and let's defuse
6 the situation.

7 Q. Was Ricky -- you were in a motorcycle club
8 too?

9 A. Yeah.

10 Q. And you were in which one?

11 A. Thunderguards.

12 Q. And so was Mr. Johnson?

13 A. Yes.

14 Q. Now, what club is Ricky Montgomery in?

15 A. Outcast.

16 Q. Do you know what club AC Collins was in?

17 A. Outcast.

18 Q. So your purpose of going to Ricky Montgomery
19 was what?

20 A. To ask him to go over here so we can stop this
21 from happening, because they were about to fight and I
22 didn't want them to fight.

23 Q. What happened when you went up to Ricky
24 Montgomery?

25 THE COURT: -- let me ask. Mr. Middleton,

1 this is at a traffic light?

2 MR. MIDDLETON: Let me -- I have to turn you
3 down 'cause you're loud, and he's low. Okay, go ahead.

4 THE COURT: This all happened at a traffic
5 light?

6 MR. MIDDLETON: Yes, sir.

7 THE COURT: You got out of your car at a
8 traffic light?

9 MR. MIDDLETON: Yes.

10 THE COURT: Why did you think they were about
11 to fight, that's what you just said.

12 MR. MIDDLETON: When we got to the traffic
13 light, Johnson and the deceased, they was going at it.
14 They was going like, going back -- like wrestling, like
15 this. (Indicating.) So when I seen him getting up, I
16 said: Listen, let's go over there and stop this.

17 THE COURT: There was physical contact between
18 them that you saw from your car?

19 MR. MIDDLETON: Yeah. Like they was arguing,
20 like going back and forth. And that's what he kind of
21 testified too, like, he was going back and forth.

22 So when I went to the big guy, I said: Hey,
23 let's go and do this.

24 The big guy told me: Get the fuck away from
25 him.

1 THE COURT: Okay. Mr. Wise, go ahead. I just
2 didn't understand how -- but go ahead.

3 Q. (By Mr. Wise) So what happened when you went
4 up to Mr. Montgomery?

5 A. When I went up to Mr. Montgomery I said: Hey,
6 my man. And he looked at me and he let me speak. As
7 soon as I finished it. I said: Let's go --

8 Q. -- you can start that answer over, for some
9 reason it broke up on me.

10 A. I said, when I went to him, he let me speak.
11 He listened to me. I said: Let's go over here and let's
12 squash it. Boom, boom, boom.

13 He says: Get the fuck away from me, and he
14 pulls out a gun. I was surprised, so I hit him. I
15 punched him in the fast.

16 Q. You did what?

17 A. I his him with my left hand. I hit him and he
18 fell.

19 Q. Do you know if you knocked him down?

20 A. Yeah, I knocked the bike down.

21 Q. Then what happened?

22 A. By this time I see some female shooting.
23 She's off the bike and shooting.

24 Q. Did you know her?

25 A. I didn't never seen none of these people, none

1 of them.

2 Q. What did you do then?

3 A. Shot back.

4 Q. How many shots were fired at that scene, do
5 you know?

6 A. I don't, it happened so quick.

7 Q. Do you know about how many shell casings were
8 found at the scene?

9 A. No, but I seen on the video it was many.
10 People were stepping on them.

11 Q. Fair to say, it was as a fair number of shots?

12 A. From the video it looked like it had to be
13 about 10 to 20, that's my assumption.

14 Q. Are you basing that -- what are you basing
15 that on?

16 A. The video that I seen where the police said --

17 Q. What in the video led you to conclude that
18 there were that many shots fired?

19 A. The female officer kept telling everybody:
20 Stop stepping on the shells.

21 Those are more shells over there. And she
22 pointed at stuff: There's shells over there too.

23 Q. It was based on shell casings?

24 A. Everywhere.

25 Q. So after the shooting, what did you do?

1 A. After the shooting I got in the car and left.

2 Q. Now, let's fast forward a little bit. You
3 were later arrested?

4 A. Yes.

5 Q. And you hired a lawyer to represent you?

6 A. Yes.

7 Q. And who did you retain?

8 A. Mr. Tivis Sutherland.

9 Q. Did you ever get out on bond?

10 A. No, I was told I was going to get bond. They
11 said that next time I go in, that they was going to
12 recommend bond. But when I went back, the judge said he
13 never said that.

14 Q. But anyway, you never got out on bond?

15 A. No.

16 Q. Now when you met with Mr. Sutherland did you
17 discuss any trial strategy?

18 A. No. He said that the burden was on them to
19 prove that I was there and I didn't do nothing, so I
20 didn't have to worry.

21 Q. Now, there was a witness in this case named
22 Ronnie Scott?

23 A. Yes.

24 Q. Did you know Mr. Scott?

25 A. Yes.

1 Q. And how long had you known him?

2 A. I want to say anywhere from 6 to a year, 6
3 months to a year.

4 Q. Anywhere from how long?

5 A. 6 months to a year.

6 Q. Was he a member of the Thunderguards?

7 A. Yes.

8 Q. I believe he was an officer in the club?

9 A. He was the vice president.

10 Q. So you knew him by sight and he knew you by
11 sight?

12 A. Yes, sir.

13 Q. In your discussions with Mr. Sutherland, did
14 you tell him that you knew Ronnie Scott and Ronnie Scott
15 knew you?

16 A. Yes.

17 Q. Did you ever discuss with Mr. Sutherland
18 self-defense?

19 A. Yes. He said why would we put ourself there.
20 Let them prove it. Let them prove that we was there.

21 I said: I want to do self-defense.

22 He said: No, he didn't see that that was a
23 good idea.

24 Q. Did you discuss with Mr. Sutherland what
25 happened that night?

1 A. Yes.

2 Q. And pretty much what you said today is what
3 you told him?

4 A. Yes. Same -- y'all are my lawyers, I'm not
5 gonna lie to my lawyer. Y'all are here to help me.

6 Q. Now at trial there were numerous references to
7 "gang evidence"?

8 A. Yes.

9 Q. Was there not?

10 A. Yes.

11 Q. Was Thunderbirds (sic) a motor vehicle gang?

12 A. It was a club. It's a club.

13 Q. Were the Outcast a motor gang?

14 A. It's a club.

15 Q. As a club, did both clubs do events for people
16 in the community?

17 A. We do charity events. We do free giveaways
18 with the children. We do free haircuts. We do a lot of
19 stuff. These are things that you can look up with the
20 mayor.

21 Q. Do you think the numerous references to you
22 being in a "motorcycle gang" hurt your defense?

23 A. Absolutely.

24 Q. Why is that?

25 A. Because it painted me as a bad person.

1 Q. Now, you would have liked to have used Marquez
2 Johnson at your trial?

3 A. Excuse me.

4 Q. Would you have liked to have used Marquez
5 Johnson as a witness in your trial?

6 A. Absolutely.

7 Q. Was he available?

8 A. I can't say, "yes" or "no". I wasn't allowed
9 to speak to him.

10 Q. Let me back up then. Did he have charges
11 pending against him at the time of your trial?

12 A. We had the same exact charges.

13 Q. Now the State argued in your case that this
14 was a Hand of One, Hand of All case?

15 A. Yes, it was. They even showed his firearm at
16 my trial.

17 Q. Right. They introduced his firearm and all
18 that; correct?

19 A. Yes. As well as, all his paraphernalia.

20 Q. Do you recall any evidence in the trial that
21 really made this out as a Hand of One, Hand of All?

22 A. No. I was just told it was a Hand of One,
23 Hand of All.

24 Q. I believe the State used that in their opening
25 statement?

1 A. Yes.

2 Q. And during the jury deliberations -- let me
3 back up a second.

4 Did the jury came back with a question about
5 Hand of One, Hand of All, and I'm referring to page 528
6 of the transcript.

7 A. 528?

8 Q. 528, Lines 3 and 4.

9 A. He seems to be explaining Hand of One, Hand of
10 All. Yes, they did.

11 Q. They did?

12 A. Yes.

13 Q. The judge again, defined for them Hand of One,
14 Hand of All.

15 A. Yes.

16 Q. Did you want to testify in your case?

17 A. I did. Me and Mr. Sutherland argued, not
18 argued, but we went back and forth literally about it.
19 And I was very upset with him. Until today, I'm not
20 because I know now that I wasn't prepared. We didn't
21 have the time to sit and prepare me to take the stand.

22 Q. In your meetings with him, was there ever a
23 serious discussion about your testifying in this trial?

24 A. No.

25 Q. And did you want to testify?

1 A. I did. I actually repeatedly to the point
2 where the judge asked us, "did we need a moment",
3 multiple times.

4 Q. I believe on page 465 of your transcript,
5 there's an exchange between you and the judge about
6 conferring with Mr. Sutherland about your right to
7 testify?

8 A. Yes, sir.

9 Q. And you told the judge it was your decision
10 not to testify, didn't you?

11 A. Yes, because my attorney told me --

12 Q. -- had you at all -- had there been any
13 preparation for you testifying such as, answering
14 cross-examination questions, and so forth?

15 A. We didn't do any preparations for anything. I
16 actually, the whole time I even wrote the court clerk.
17 I never actually seen my whole motion.

18 I kept writing, saying: I didn't receive it.
19 I didn't receive it.

20 Even in my sentencing I said: I never
21 received my whole motion of discovery.

22 So we didn't really talk about anything. He
23 just focused on the burden that they had to prove.

24 Q. Now you were sued civilly out of this case,
25 weren't you?

1 A. I was.

2 Q. And in your civil suit did you get an
3 affidavit from Natasha Coad?

4 A. Yes, I did. And Ricky Montgomery. They came
5 joint. I got one from Ricky Montgomery and one from Ms.
6 Natasha Coad.

7 Q. An affidavit of Natasha Coad was attached to
8 the pleadings in your civil suit?

9 A. Yes.

10 Q. Can you get your affidavit out.

11 A. Yes, sir.

12 MR. WISE: And for the Court's benefit and Mr.
13 Barlow's benefit, this is Exhibit 1 of the exhibits I
14 sent earlier.

15 (Applicant's Exhibit 1, Natasha Coed's
16 affidavit, was marked for
17 Identification.)

18 Q. (By Mr. Wise) You got it?

19 A. Yes, sir.

20 Q. Is the testimony in that affidavit different
21 from her testimony at trial?

22 A. Completely different. This states that I was
23 on the passenger side of my vehicle and I got out and I
24 hit Ricky Montgomery with my car, car door. And they
25 sued me and got paid from my car insurance.

1 Q. Would that affidavit have been helpful to
2 cross-examine Natasha Coad at trial?

3 A. Absolutely, 'cause my trial was in September
4 or August, I forgot the exact date. But this, right
5 here, was in May. They said this before they went to my
6 trial. So this is a complete contradictory, complete
7 perjury.

8 Q. Also, there was testimony in your case about a
9 run-in that you had with Jayrell Johnson?

10 A. Actually, all with --

11 Q. Just answer the question very specifically
12 first. Was there testimony in your case about a run-in
13 that you had with Jayrell Johnson?

14 A. Yes, sir.

15 Q. Was that testimony basically about and
16 generally, you don't have to be specific?

17 A. That me and him had an altercation. I don't
18 know, I just said to him or something. And the
19 following week is when he came back looking for me.

20 Q. When was your discussion with Jayrell, when
21 did that occur in relation to when this shooting
22 occurred?

23 A. The week prior to the incident.

24 Q. How did the State use that conversation with
25 Jayrell Johnson against you in the trial?

1 A. They said that I was more of a menace and I
2 went there looking for trouble. And I went there to
3 threaten him and check him.

4 Q. In your discovery was there an affidavit from
5 Jayrell Johnson?

6 A. No, I actually asked Mr. Sutherland --

7 Q. -- back up then. Have you got an affidavit
8 from Jayrell Johnson?

9 A. I have it.

10 MR. WISE: And for the record, that's Exhibit
11 4 of the packet that I sent.

12 (Applicant's Exhibit 4, Jayrell Johnson's
13 affidavit, was marked for
14 Identification.)

15 Q. (By Mr. Wise) Turn to page 3 of that
16 affidavit.

17 A. Okay.

18 Q. What did Mr. Johnson say as to how your
19 disagreement with him ended?

20 A. The question was:

21 "What did you say when you told him that?"

22 I said: "Respect, is respect." We shook hands
23 and I walked off."

24 Q. In your trial was that conversation portrayed
25 as shaking hands and walking off?

1 A. No. It made it seem like me and this guy had
2 a problem --

3 MR. BARLOW: Objection. The record speaks for
4 itself. I don't think him speculating as to -- I mean,
5 the record speaks for itself.

6 MR. WISE: No problem with that. No problem.

7 THE COURT: Sustained.

8 Q. (By Mr. Wise) Let me ask this. Would this
9 affidavit have been helpful in cross-examining people
10 about the run-in with Jayrell Johnson?

11 A. Absolutely, had they seen this, they would
12 have known there was no problem with me and the
13 gentleman.

14 Q. So there was no real dispute between you and
15 Jayrell Johnson?

16 A. I was wondering why Mr. Johnson wasn't at the
17 trial.

18 Q. I believe also Taima Jordan testified in the
19 case, also about gang culture and all that?

20 A. Yes.

21 Q. Was any objection made to that?

22 A. No.

23 Q. Was this shooting in anyway a gang related
24 shooting?

25 A. Not at all. We didn't even -- they didn't

1 know me and I didn't know them. I didn't find out until
2 later what the problem --

3 Q. Can you say that again. I didn't quite hear
4 it.

5 A. I said: I didn't know them and they didn't
6 know me. I didn't know until later what the initial
7 problem was over.

8 Q. Had Sydni Collins not pulled the gun out would
9 you have pulled a gun out and fired?

10 A. Not at all. Not at all.

11 Q. And do you feel like a self-defense charge
12 would have helped you?

13 A. Absolutely.

14 MR. WISE: Thank you. I believe that's all I
15 have right now.

16 THE COURT: Mr. Barlow?

17 MR. BARLOW: Thank you, your Honor. May it
18 please the Court.

19

20 CROSS-EXAMINATION

21 BY MR. BARLOW:

22 Q. Mr. Middleton, let's jump right in on these
23 allegations here.

24 You said on direct: That you received a text
25 and "we all went". Who is "we"?

1 A. I believe it was Mr. Johnson, it was Ronnie
2 Scott, and myself.

3 Q. It was just you, Mr. Scott, and Mr. Johnson in
4 this text message and that's who you were referring to
5 as the "we"?

6 A. No. I don't know who-all got the text
7 message. You said: Who all was there. Who all
8 responded, you said.

9 Q. Okay. Let's talk about you pulling into the
10 turning lane. How many lanes over were you from the
11 motorcycles in the turning lane?

12 A. That's not my area. But I want to say if it
13 wasn't a three lane, it was a four lane. I know that
14 they was on the far side and then Ricky Montgomery and
15 Natasha was in this lane. (Indicating.) No, Ronnie
16 Scott was in this lane -- I think three or four. Things
17 happened so fast, it wasn't --

18 Q. So is it your testimony that you pulled into
19 the left turn lane -- what time of night was this?

20 A. Yes.

21 Q. What time of night was this?

22 A. I didn't hear you. You're breaking up.

23 Q. What time of night was that?

24 A. I want to say about 9:30, 10:00.

25 Q. And you pulled into the left turning lane?

1 A. Yes.

2 Q. And in a Toyota Yaris?

3 A. Yes.

4 Q. What vehicle was to the direct right of you?

5 A. I'm assuming it was Natasha Coad.

6 Q. Do you recall what she drove?

7 A. Excuse me.

8 Q. Do you recall what type of vehicle she drove?

9 A. No. I didn't know her at all.

10 Q. I guess I'm just struggling to understand how
11 you pulled into the left turn lane at 10 o'clock at
12 night and were able to see three lanes over what was
13 going on with the motorcycles.

14 Can you help us understand that.

15 A. Oh, yeah. That's not a problem. I said
16 initially, I left to the left to go into the mall
17 because everybody was leaving. Because everybody was
18 leaving because of the incident with Outcast and the two
19 females. There was two females that the Collins' jump
20 them. So when the Collins' jumped on them, and it's on
21 video, everybody disbursed. So when the Collins' jumped
22 on them, everybody disbursed because the police were
23 coming, I left to the left and everybody left to the
24 right. I got stuck in a lot of traffic at the mall. I
25 turned around. When I turned around, I went to the

1 highway, to this side of the highway, there was just as
2 much traffic. So I said: Let me get on this turn lane
3 and I'm gonna shoot down the side street. When I got to
4 the light, it was a red light. I looked, I seen them
5 going at it. So I'm like... and that's what happened.

6 Q. Mr. Middleton, again, I'm still trying to
7 understand how you saw three lanes over in the turn lane
8 at 10 o'clock at night when they were in the far right
9 lane. I'm just trying to understand how you saw over
10 there and you could see what they were doing and what
11 was going on. What prompted you to get out of your
12 vehicle?

13 A. I just told you. It's summertime. You can
14 see everything in the summertime. The lights, the cars,
15 the music, everything's out there.

16 Q. Were your lights on or off?

17 A. My lights was on.

18 Q. When you departed from the scene, were your
19 lights on or off?

20 A. My lights was always on.

21 Q. You would argue that the video evidence that
22 was used at your trial against you that showed your
23 vehicle with your lights off is incorrect?

24 A. No. I wouldn't state that.

25 Q. So were your lights on or off?

1 A. My lights was on. You asked: Was my lights
2 on when I pulled up at the light.

3 My lights was on.

4 Q. And I asked you, when you pulled away were
5 they on or off?

6 A. Sir, I didn't hear that. I don't know if
7 everybody else heard you. But when I pulled off I got
8 scared. I was like, what... I didn't know what just
9 happened, so I panicked.

10 Q. So you didn't know that you just shot someone?

11 A. ^ Check I did know I just shot somebody. I
12 just said what happened, I panicked, but it was
13 self-defense.

14 Would you not shoot somebody shooting at you?

15 Q. Let me ask you this. You got out of your
16 vehicle at a red light; correct?

17 A. I did because of the altercation.

18 Q. And you were carrying a gun with you; correct?

19 A. Yes.

20 Q. So you walked into a situation that was not
21 involved with you; correct?

22 A. How was that not involved with me. If they're
23 my friends, I'm trying to stop them.

24 Q. So you got out of your car with a gun in your
25 hand?

1 A. No. I didn't have a gun in my hand. Ronnie
2 Scott testified to me pulling a gun out of my waist.
3 And I didn't have a gun in my hand, 'cause I told you,
4 when I hit Mr. Montgomery, I didn't have no gun in my
5 hands.

6 Q. And how many shots did you say the victim, Ms.
7 Sydni Collins shot?

8 A. She was the shooter. But she shot a few times
9 because her gun jammed.

10 Q. Would it surprise you that there was only one
11 shot from her gun?

12 A. Would it surprise me, yeah. But how would you
13 know when the people stepped on all the shells. There
14 was shells being stepped on. And in the video, the
15 police said: We're loosing shells. We're loosing shell
16 casings.

17 Q. Yes, sir. I'm not referring to that. I'm
18 referring to the number of bullets that were found
19 inside her gun and what her gun capacity is?

20 A. So I don't know. I don't know if she had one
21 in the chamber. I don't know she if she had the
22 cartridge full, I don't know.

23 Q. Let's move on to this. You said that
24 Mr. Ronnie Scott was also behind the bikers; correct?

25 A. Yes, sir.

1 Q. And he is what in your club?

2 A. Excuse me?

3 Q. What is he in your club?

4 A. He was the vice president.

5 Q. So you, the vice president of your club, and
6 Mr. Johnson, who's also apart of that club, y'all just
7 ended up behind these bikers?

8 A. Well, yes.

9 Q. And moving on. You testified that -- let me
10 ask you this. You did not testify to, where was
11 Ms. Sydni Collins shooting?

12 A. Ms. Sydni Collins was shooting at me.

13 Q. Okay. She was shooting at you and you shot
14 back?

15 A. Yeah. And I want to also say, that there was
16 hundreds of bikes in that lane.

17 Q. And why exactly did she shoot at you?

18 A. I don't know. Cross talk -- Natasha Coad
19 testified to the reason of them being there was to
20 "check my attitude", and that came from Mr. Fyall. So
21 if the purpose of them being there was to "check my
22 attitude" and they had a lot of guns on him, multiple
23 guns.

24 Matter fact, Ricky Montgomery had so many
25 guns. That they asked him: Was all of these guns

1 yours?

2 But Ricky Montgomery said: No, only one.

3 Q. Let's move on. You also testified that there
4 was some testimony to gang, the word "gang" being used;
5 correct?

6 A. All through my trial.

7 Q. Would it surprise you that it was only used
8 nine times?

9 A. Should it have been used once?

10 Q. It was used nine times throughout your entire
11 trial and that only -- excuse me. There were 14
12 instances of the word "gang" and only nine of them were
13 used to refer to the "biker gang", would that surprise
14 you?

15 A. No, it wouldn't surprise me. But should it
16 have been used once? I mean, does it not paint a
17 picture.

18 Q. Would it surprise you that the word "club" was
19 testified to 145 times?

20 A. A "club" and a "gang" are two different
21 things.

22 Q. Are they?

23 A. I said, a "club" and a "gang" are two
24 different things.

25 Q. How so?

1 A. Because if I asked you: Do you want to go to
2 this country club?

3 You would say: "Yay" or "nay".

4 If I asked you: Do you want to go to this
5 "gang bar"?

6 You would say: "No".

7 Q. Mr. Middleton, I'm not sure that that kind of
8 -- I don't think that correlates when we're talking
9 about a motorcycle club versus a motorcycle gang.

10 What's the difference between a motorcycle
11 club and a motorcycle gang?

12 A. It's two different things. A "gang" and a
13 "club" is two different things.

14 Q. Explain to me what the difference is.

15 A. I just did, but if you want me to say it
16 again. A "club" is something like a "country club" and
17 a "gang bar", is a "gang bar". And you will pick and
18 choose which one you go to.

19 I mean, you got to look at the whole thing.
20 This was said in front of these people and I don't have
21 nobody representing me. My attorney Sutherland, if he's
22 there, he told my family they didn't even need to come
23 to the trial. So I'm in a trial with nobody with me.
24 So the jury is seeing me by myself with these charges
25 and don't nobody -- you mean to tell me, don't nobody

1 love this man and then he's in a biker gang?

2 Q. Let's move on. You testified to the, Hand of
3 One is the Hand of All, correct?

4 That that should have been objected to;
5 correct?

6 A. Absolutely.

7 Q. The Hand of One, Hand of All, in this case,
8 let me ask you. What was it used for?

9 Was that used for the Sydni Collins murder or
10 the Aaron Collins murder?

11 A. I was tried for both.

12 Q. Correct, but they --

13 A. I was tried for both, so it was used for both.

14 Q. And you received a mistrial on Aaron Collins;
15 correct?

16 A. Yes, sir.

17 Q. After they asked the question of: Hand of One
18 is the Hand of All.

19 A. No. Actually, if you go back, they needed
20 more time and the judge said: Just give me what you've
21 got.

22 Had he just let them deliberate, who knows
23 what would have happened.

24 But in the same -- it's written right there.
25 It said: Just give me what you've got and I'll take it

1 from there.

2 And that's when they came up with that
3 verdict.

4 Q. And you got a "not guilty" on the Ricky
5 Montgomery attempted murder; correct?

6 A. Yes.

7 Q. And you wanted to testify, but you told the
8 judge that you did not want to testify?

9 A. Yes.

10 Q. Why?

11 A. Because my attorney argued me down and said, I
12 wasn't ready. I wasn't prepared. I'm going to hang
13 myself. So I listened.

14 Q. And you made that decision though; correct?

15 A. I wasn't prepared to testify.

16 MR. BARLOW: Beg the Court's indulgence.

17 Nothing further, your Honor.

18 THE COURT: I have a question.

19 Sir, you've testified that there's a
20 difference between a motorcycle club and a motorcycle
21 gang. But I heard the previous witness describe the
22 Thunderguards as a "One Percent Club", what does that
23 mean?

24 THE WITNESS: A 99 and 1 percent -- for me --
25 a "One Percent" for me, it equals more girls. Girls

1 like the One Percent, that's what it was.

2 THE COURT: Isn't there a reference to, One
3 Percent as outlawed bikers from that quote from the
4 1960s?

5 THE WITNESS: Yeah, but it's not like that no
6 more. But if that's the case, Outcast, which was the
7 Collins is also One Percent. So One Percent, One
8 Percent.

9 THE COURT: Thank you, sir.

10 Mr. Wise any redirect?

11 MR. WISE: Nothing I can think of, your Honor.

12 THE COURT: Thank you, sir.

13 MR. WISE: Can we take a ten minute break or a
14 few minutes?

15 THE COURT: Sure. We can take a ten minute
16 break.

17 MR. WISE: Can we leave Mr. Middleton and I to
18 talk in preparation for Mr. Sutherland.

19 THE COURT: If we turn off the WebEx everyone's
20 got to log back in. My suggestion is, is there a phone
21 there Mr. Middleton, like a landline telephone?

22 MR. MIDDLETON: No.

23 MR. WISE: I thought that there was a way we
24 could communicate in private on this system?

25 THE COURT: There maybe away, but I don't know

1 how to do it. What typically happens is, there's a
2 phone and I mute you and I mute Mr. Middleton, and you
3 call him on the phone at SCDC.

4 There's no phone there in that room
5 Mr. Middleton?

6 MR. MIDDLETON: No.

7 THE COURT: Ma'am, his attorney needs to speak
8 privately, is there a phone he could use?

9 CORRECTION OFFICER: I supposed he could use
10 my phone (803) 896-2909.

11 THE COURT: Make sure it connects.

12 Let's take a ten minute break and I will leave
13 WebEx on.

14 (Whereupon, a short recess was taken.)

15 THE COURT: Okay, Mr. Wise, did you have enough
16 time to speak with your client?

17 MR. WISE: I have and the Applicant would
18 rest, your Honor.

19 THE COURT: Okay. Mr. Barlow?

20 MR. BARLOW: We would call Mr. Tivis
21 Sutherland.

22 Mr. Sutherland, please raise your right hand.

23 *Do you swear to tell the truth, the whole*
24 *truth, and nothing but the truth, so help*
25 *you god.*

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: Mr. Barlow?

3 MR. BARLOW: May it please the Court.

4

5 DIRECT EXAMINATION

6 BY MR. BARLOW:

7 Q. Mr. Sutherland, how long have you been
8 practicing law?

9 A. 20 years plus. 20 plus. 20 plus.

10 Q. How much of that has been criminal?

11 A. Hundred percent. Wait a minute, I had one --
12 I actually sat third chair on a civil case where a C.O.
13 beat up one of my clients, but I didn't really do
14 anything.

15 Q. Mr. Middleton testified that he retained you;
16 correct?

17 A. That's right. The case was maybe around a
18 year old, something like that. But I think I'd run into
19 him a couple times at the jail.

20 Q. And during that time, did you receive
21 discovery?

22 A. I did. I did.

23 Q. Did you review the discovery with Mr.
24 Middleton?

25 A. I mean, he's saying -- I don't know if he's

1 saying that we didn't, I thought we did. I'm pretty
2 sure we did. I can't imagine not doing it. I remember
3 one day just watching all the body cams down there. But
4 again, I have a lot of cases. This is Ricks case. So
5 his memory on this case is probably going to be better
6 than mine. But I just can't imagine that we didn't go
7 over this stuff.

8 Q. Let's see, based off the State's evidence,
9 what was your defense strategy?

10 A. It's just misidentification. You can tell
11 with Natasha -- and I think I talked to the jury about
12 this. She had told three different stories. And then
13 she got on the stand and told a fourth different story.

14 And so at the end I was like: Man, I didn't
15 know she was gonna tell another different story.

16 Basically, that these people can't be trusted.
17 Their identifications can't -- that Montgomery is a
18 liar.

19 And I don't know what she is, but she's
20 telling four different stories.

21 Then Ronnie Scott is just trying to help
22 himself out, that kind of thing.

23 That it was just misidentification. That he
24 was there because everybody's there, because it's Bike
25 Night and it's what you do when you're in these clubs.

1 Hence, the phone being in the area, but that there was
2 dozen of bald, black dudes, with beards out there.

3 I think I showed the jury about 13 in one of
4 the videos and that it was just misidentification.

5 Q. What was Mr. Middleton's recitation of the
6 facts for you, what did he tell you happen?

7 A. Now, I know that "attorney client" isn't for
8 one of these things, but our discussions were that he
9 wasn't there and that it was misidentification. That's
10 my recollection of it. Now, if he remembers something
11 different, then I'd lean credibility to that.

12 But the defense was, that he wasn't there.
13 That they got it wrong.

14 I mean, half the people out there looked
15 exactly like that description of him and there's no
16 getting around that.

17 Q. You were here for his testimony; correct?

18 A. Right, right.

19 Q. Was there any discussion on self-defense?

20 A. No, none. Not that I remember. This is a few
21 years ago.

22 Q. What did you base not pursuing self-defense
23 on?

24 A. There's really two issues with it. The
25 standard is, any evidence. And the way that the

1 evidence was stacked up, which is: These people roll up
2 to a light, people come in on two sides. I think I
3 added in that Ronnie Scott was back here creeping up on
4 this thing.

5 So if you're pulling up and boxing somebody
6 in, which my cross -- 'cause Scott was up there, he's
7 the vice president of the club and he's up there
8 throwing his guy under the bus, is the way I looked at
9 it. He's basically up there snitching. So he was up
10 there trying to act like he was a Marine or something.

11 So I was like: If you're a Marine, what are
12 you doing with your truck here creeping up on these
13 people?

14 Aren't you boxing them in so they can't get
15 away?

16 Aren't you doing this?

17 Hence: So you're up here throwing him under
18 the bus because you did it, is the way that I looked at
19 it.

20 But as far as self-defense (a) It wasn't him,
21 it was a misidentification. And (b) Where do you get it
22 out of that, was my view.

23 Q. So do you recall how many times you met with
24 Mr. Middleton?

25 A. I can't tell you. We met a good bit, as far

1 as I remember. We tried to get him up -- tried to get
2 him out a couple of times maybe. We talked and I had --
3 see I don't know if I had secured jail calls at the
4 time. There was this email system and if any of my guys
5 ever needed to talk to me, they'd be like: Hey, can you
6 come down here.

7 There's a secured email system these days, but
8 I think all of that stuff was post COVID. But there was
9 some email system, it was like three or four back, where
10 if he needed to it was like: Hey, can you come talk to
11 me.

12 But as far as "number of times" I can't tell
13 you. But it was whenever he needed to talk about
14 something.

15 Q. How would you categories or how would you rate
16 yourself in readiness for preparation for this trial?

17 A. You're always just ready. 'Cause what you
18 have to do is -- when I was first doing this --

19 MR. WISE: I would object to the question,
20 your Honor, on the grounds: How he rates himself is not
21 the standard.

22 THE COURT: That's fair. I'll sustain the
23 objection. Rephrase the question Mr. Barlow.

24 MR. BARLOW: Thank you, your Honor.

25 Q. (By Mr. Barlow) Were you prepared for this

1 case?

2 A. Sure.

3 Q. Let's jump into some of these allegations.

4 THE COURT: Mr. Barlow, I just want to clarify
5 one point factually. Mr. Sutherland, I'm gonna ask you
6 directly. Did the defendant ever tell you he was there
7 or that he shot the victim in self-defense?

8 MR. SUTHERLAND: No, sir.

9 THE COURT: Thank you.

10 Q. (By Mr. Barlow) Do you have a copy of the
11 transcript in front of you?

12 A. I got emailed this thing and thanks for it.
13 I've got it up here now.

14 Q. I will try to stay a little in line. We
15 jumped a little bit on direct with the last two. But
16 I'm gonna try to stay in line with the way that these
17 allegations were presented on paper.

18 So Ms. Coad, is that how you say her name?

19 A. I just called her Natasha, it's Natasha Coad.

20 Q. Natasha. There was testimony that you failed
21 to use the inconsistent statements of Natasha Coad or
22 Ms. Natasha. Can you turn to page 104, line 4. And you
23 may recall, so let me ask you this:

24 Do you recall your opening statement?

25 A. Oh, yeah. I just went up there and took after

1 it.

2 I was like: Look, she says this. Then she
3 says that. Then she said that.

4 Then during closing I was like: Geez, I
5 wasn't expecting her to tell a fourth story, but there
6 you are.

7 I think she initially said, a couple of people
8 were on bikes. Then she said, one person was a
9 pedestrian. Then maybe something about the car.

10 And I think the theme of this is: Any time
11 that people talk to law enforcement, it's not because
12 anybody's crooked of anything, it's because they're
13 human beings. They just magically, in a human being
14 fashion, lean closer to the line, that the State is
15 saying things that the government wants them to say.

16 Q. Do you recall using the statements of
17 Ms. Natasha in closing?

18 A. Oh, yeah. Yeah. How are you going to believe
19 her?

20 She says this, that, and the other, and then
21 another thing. I just don't get it.

22 But they found something in there. Lord. I
23 think it was Ronnie Scott, but that's just me.

24 Q. Did you know of Mr. Marquez Johnson?

25 A. Oh, yeah. I went over to his lawyer's office

1 and sat down with him one or two times. But there was
2 no way I was getting at him.

3 Q. And why is that?

4 A. Well shoot, he's Harvey's guy. If Harvey
5 wants to talk to my guy, that's just not happening. Do
6 your own thing over here.

7 Q. There's an allegation of the term "gang" being
8 used.

9 A. Right. Now, that -- I remember you were going
10 back and forth with Rick there. The way I look at this
11 case is, it's just so close. I know "close" is horse
12 shoes and hand grenades.

13 But I remember going back with Rick, I think I
14 should have objected to that. My idea was, there was an
15 elephant in the room. Right. But still, in a close case
16 like that, who know's what tips it one way or another.
17 We could have walked out of there, maybe, you know.

18 Q. Let's see, there's an allegation of, Hand of
19 One is the Hand of All.

20 How did you go about handling that?

21 A. Well again, you got people riding up on either
22 side and one person -- and again, the standard is "any
23 evidence" for it. So it didn't really make sense to
24 really try to fight that thing. Ultimately, I tried to
25 preserve -- a lot of folks would just argue every little

1 thing and fight every little thing. I tried to
2 preserved fighting for things that are legit. You have
3 more credibility that way with judges. With my
4 pretrials typically, instead of a day, maybe half a day.
5 But it's legit -- I think just being straight forward is
6 the best way to go.

7 So it did not occur to me to try to get up
8 there and try to argue against that under the facts and
9 circumstances of this case.

10 Q. What happened with the conversation about Mr.
11 Middleton's right to testify?

12 A. Well, now I was coming down -- he's right. I
13 was coming down on him. I about poked a hole in my palm
14 in there, because we were talking about it.

15 I'm like: Look, man, you're gonna blow this
16 thing.

17 You're gonna get up there and you're gonna
18 blow this.

19 I did come down -- he's right, I did come down
20 on him about that. I mean, I didn't cut my palm or
21 anything, but I did tell him that we were gonna be
22 finished if he got up there.

23 MR. BARLOW: Beg the Court's indulgence, your
24 Honor.

25 Thank you Mr. Sutherland. I think that's all

1 I have.

2 THE COURT: Sure. Mr. Wise, all yours.

3

4 CROSS-EXAMINATION

5 BY MR. WISE:

6 Q. Mr. Sutherland, there's a lot of "cell tower"
7 testimony in this case; was there not?

8 A. Yes, sir.

9 Q. And they used the cell tower to put Ricardo
10 Middleton's cellphone close to the scene of the
11 shooting?

12 A. Well yes, sir. My view was that it was close
13 to the bar. It was close to the Bike Night, it was the
14 same thing.

15 Q. What?

16 A. My view was it was the same thing. He was
17 there to go to Bike Night with hundreds of other people
18 that were there. In my view, that didn't really show
19 anything. And I swear, that person screwed up their on
20 direct testimony and denied it in cross-examination, but
21 you've got to take the answers as they are.

22 Q. Your defense was: He was at the scene, he
23 just didn't do the shooting.

24 A. He was at the club with hundreds of other
25 bikers.

1 Q. I understand, but the cell tower also put him
2 close to the scene of the shooting?

3 A. Now, that's what they said, but they also --
4 they legitimately did this, put him somewhere else with
5 the same cell tower hit on direct examination. Then
6 they come in and denied that. I talked to the jury
7 about that.

8 I was like: Y'all remember, at first they say
9 here's here and then they say, he's there. And what
10 they're saying is they're in this vicinity of this cone.

11 But, again, the argument was: So what. We're
12 not saying he wasn't at Bike Night.

13 We're saying, he's not a murderer.

14 Q. Your theory of defense was: He was at the
15 scene of the shooting, he just didn't do the shooting?

16 A. No, sir. Not at the scene. That he was at
17 Bike Night, he's riding around, like I said.

18 Q. Where was he "riding around"?

19 A. He's riding around My House. I think they
20 mentioned some waffle place or something. But just in
21 that -- it's right up the road here. I can get there in
22 a minute and a half driving from right here. Everything
23 is right there that they are talking about. You've got
24 the mall here. You've got Claudia here. You've got Two
25 Notch here. You got My House here. All of it is right

1 there in the same, this is just in the same zone.

2 So my view -- they're like: His cell phone
3 was there.

4 My view was: So what. There's hundreds of
5 other cell phones there from hundreds of other bikers.

6 Q. If you had conversations with Mr. Middleton,
7 where did he tell you he was at the time of the
8 shooting?

9 A. As of the end of that trial, until today --
10 look, I'm under oath here. Until today, I did not
11 believe or know that he was at the scene of the
12 shooting, until I heard that testimony today. So if
13 that testimony today is correct, then it's correct.

14 But I did not believe he was there when I
15 tried this case. And I did not believe anyone that said
16 he was there.

17 Q. Where did Mr. Middleton tell you he was at the
18 time of the shooting?

19 A. Just over there partying, it's Bike Night.
20 Everybody comes up there and they hang out and drink,
21 that kind of thing.

22 Q. We understand that. And clearly, he was at My
23 House earlier in the evening.

24 So at the time of the shooting, what
25 discussions did you have with Mr. Middleton as to where

1 he was?

2 A. Just that he was not there. He was not at the
3 scene of the shooting. He could have been at the bar.
4 Honestly, this is four or five years ago. I don't
5 recall where, but he was not present at the scene of the
6 shooting. Maybe he was on his way out of town or
7 something, I don't know.

8 Q. Do you have any notes -- and what was this
9 about "out of town"?

10 A. Maybe he was on his way back home. He lived
11 in Monks Corner.

12 Q. Do you have any written notes of your
13 interview with Mr. Middleton where he told you where he
14 was at the time of the shooting?

15 A. No, sir.

16 Q. You do not?

17 A. No, sir.

18 Q. You would agree if your defense is, "he was
19 not there", it's extremely important to know where he
20 was?

21 A. Well, sure. But it's important to know he was
22 not there and they can't prove he was there with these
23 people saying that. If we go back, I'm sure he said
24 something about it, I can't remember. Again, the
25 defense was "misidentification", that's the defense. He

1 was not there.

2 Q. I understand that. But if you could prove he
3 was three miles away, that would help your defense of:
4 He wasn't the shooter and identification was bad,
5 wouldn't it?

6 A. I'm not getting the memory hit of that. I
7 think there's just still -- I'm not remembering. It's
8 just -- who cares where he was, right? He's there,
9 everybody's partying, everybody's riding around. It's
10 just, he is not here, right? You always got to keep up
11 with every minute -- does every human being have to keep
12 up with every minute? No. The government has to prove
13 that he was there. So that was sort of the defense.
14 And it wasn't like he wasn't in the area. He was, so
15 was everybody else.

16 I could have been in the area for all I know.

17 Q. Again, where did Mr. Middleton tell you he was
18 if he was not at the scene of the shooting?

19 A. I don't remember. Maybe back at the club, in
20 the area, something like that.

21 Q. Maybe going back to Summerville?

22 A. Well, I said "maybe", but that actually
23 doesn't make sense.

24 Q. Why does that not exist?

25 A. I think what I'm doing is getting some sort of

1 conflict in my recollection with the testimony of their
2 expert versus what I'm actually remembering. 'Cause I
3 remember arguing -- they were saying, "he was fleeing"
4 and I remember arguing, "he was going home". And I
5 think that they were pointing out at some point he's on
6 his way back to --

7 Q. It's fair to say in your conversations with
8 Mr. Middleton, as you sit here today, you have no notes
9 or no recollection of where he told you he was?

10 A. I can't remember exactly, but I know he wasn't
11 there.

12 Q. And you don't have any notes about where he
13 was?

14 A. No, sir.

15 Q. You would agree that referring to a group of
16 people as a "motorcycle gang" and "motorcycle club" is a
17 big difference?

18 A. Yes, sir.

19 Q. And you would prefer for this to be a
20 motorcycle club; correct?

21 A. Yes, sir.

22 Q. I want you to look at your opening statement
23 on page 106, if you would.

24 A. One second. Yes, sir.

25 Q. And look at line 15 through 18.

1 A. Yes, sir. That's a mistake. I don't know
2 about "bikers", but certainly "biker gang".

3 Q. So you made a reference in your opening
4 statement saying: So it's not beyond imaging that maybe
5 there's an idea to throw somebody under the bus from the
6 other rival biker gang in this fashion.

7 A. Yes, sir. I think that was a mistake in
8 retrospect.

9 Q. Okay. And there was several other places
10 where people referred to "gang unit" investigating this
11 case.

12 A. I remember that. I remember that. Yes, sir.

13 Q. I believe one of the officers that testified
14 was a member of the "gang unit", whatever that means.

15 A. Yes, sir. I remember that. I do remember
16 that.

17 Q. Did you ever consider objecting to that?

18 A. I should have. Yes, sir.

19 Q. It's best to leave the word "gang" out?

20 A. Yes, sir.

21 Q. Now going back to the, Hand of One is the Hand
22 of All. When did you first learn this was the theory of
23 the State's case?

24 A. As soon as I took a look at it.

25 Q. What did you see that told you it was, Hand of

1 One, Hand of All?

2 A. Well, you've got people riding up on the left.
3 People riding up on the right. A shooting in the
4 middle.

5 Q. But you had no testimony that any of this was
6 preplanned?

7 A. Well, I believe what Natasha said is -- well,
8 she said a bunch of different things. But all of the
9 things that she said involved people coming in from this
10 way and that way, that's what I remember.

11 Q. But you would agree that there's no testimony
12 of any preplanning with Marquez Johnson?

13 A. Oh, "preplanning". No, sir. I don't remember
14 hearing that.

15 Q. In a typical Hand of One, Hand of All case
16 involves two people who plan to do a shooting or plan to
17 do a robbery?

18 A. Well, circumstantial evidence is, if there's
19 "any evidence" they get the charge.

20 Q. I understand that. The only circumstantial
21 evidence in this case was: Everybody at the same place
22 at the same time?

23 A. I guess you could say that, other than the
24 witnesses that were saying what they said happened. I
25 don't really believe what they said.

1 Q. Saying what they've said, when?

2 A. They're talking about being ambushed,
3 basically is what the witnesses say. And as far as the
4 video evidence, that's just -- up on two sides, one
5 thing coming around here. Truck creeping up in the back.
6 And their testimony is, these people get up, they get
7 down and they start shooting. One over here and one
8 over there. I don't see the point of objecting to a
9 Hand of One charge under those circumstances.

10 Q. Clearly the judge in Mr. Johnson's case did
11 not find, Hand of One, Hand of All.

12 A. Yes, sir. I don't think Natasha went and
13 testified.

14 Q. And the jury asked about being recharged on
15 Hand of One, Hand of All, did they not?

16 A. They sure did.

17 Q. And this was a pretty big shootout in the
18 number of bullets actually fired, wasn't it?

19 A. Yeah. That's what I remember and seeing the
20 scene in my mind. Yes, sir.

21 Q. Would the number of about "18 shell casings"
22 ring a bell of being testified to in this case?

23 A. This is recollection wise. It seems like
24 more, but if that's the testimony, that's fine.

25 Q. So 18 or more is your recall?

1 A. Yes, sir. It's just like a shootout.

2 Q. And you would agree, under the evidence in
3 this case, that there's clearly evidence that Natasha
4 Coad fired at least one shot?

5 A. That's Sydni.

6 Q. Sydni, excuse me. I apologize.

7 A. Yes, sir.

8 Q. She fired one shot?

9 A. She discharged her firearm, that's my view and
10 recollection.

11 Q. I believe her testimony was, they believed it
12 jammed?

13 A. I'm sorry. I'm not jaded here. I'm not a big
14 fan of the State's theories and all their stuff.
15 They're there to win.

16 Q. And she had two injuries, both of which would
17 be fatal --

18 A. Was one right here, (indicating) or am I
19 misremembering that?

20 Q. Yes, sir.

21 A. Yes, sir.

22 Q. And one in the chest that penetrated an aorta
23 artery leading to the heart?

24 A. Yeah. Oh, yeah. The way this went back --
25 yes, sir. I think either one of those would have been

1 fatal.

2 Q. You would agree that based upon the medical
3 testimony in this case, as to the nature of the
4 injuries, it would have been virtually impossible for
5 her to have shot after being shot?

6 A. Oh, sure --

7 MR. BARLOW: -- Your Honor, I'm going to
8 object. He's not an expert in this.

9 MR. SUTHERLAND: That's the argument though,
10 I'll tell you.

11 THE COURT: Hold on. There's been an
12 objection. Let me rule.

13 I'm going to overrule the objection to the
14 extent the questions asking: How the witness, as trial
15 counsel, viewed the evidence.

16 Q. (By Mr. Wise) I think my next question may
17 clarify that.

18 In fact, I think that was part of your
19 argument.

20 A. Yes, sir. These are, "kill shots". The one
21 through the aorta, you've got a little bit of time, but
22 not a bunch of time. I mean, you basically just drop
23 and the one in the head. Yes, sir.

24 Q. And if she fired first, then you'd have a
25 plausible self-defense charge against whoever the

1 shooter was?

2 A. Yes, sir. You can say that. It's just, my
3 argument was: It wasn't him, he wasn't there.

4 Q. I sent you a copy of the exhibits that I've
5 talked about in this case.

6 A. Yes, sir.

7 Q. Looking at Exhibit 1, the affidavit of Natasha
8 Coad. While it's dated before this trial -- it's dated
9 23rd of May, 2019.

10 Would you agree that that affidavit is
11 different from what she said at trial and in her other
12 statements?

13 A. One second -- "exited the passenger side of a
14 vehicle." Well, he's either on foot. He's either on
15 the bike, on that one.

16 "As the person exited, the car opened and
17 struck Ricky's motorcycle." I thought she said -- "hit
18 with the handle of a gun. The encounter caused Mr.
19 Montgomery to fall" -- wait. "Two shooters, the one who
20 shot two other people, Aaron and Sdyni Collins, who were
21 with Mr. Montgomery..."

22 I mean, there are differences here. But every
23 time she says anything, there was a difference.

24 Q. It's like the more statements she had the more
25 difference you could have?

1 A. Yes, sir. If she came in here right now she
2 would say something differently honestly.

3 Q. Even those differences in the affidavit would
4 have been helpful?

5 A. Oh, sure. Sure.

6 Q. Did you discuss with Mr. Middleton how well he
7 knew Ronnie Scott?

8 A. I'm sure that I did, because it's -- I'm sure
9 that I did because I remember going down and actually
10 talking to him. My investigator had actually talked to
11 Scott. And Scott, kind of, sandbagged us right there.

12 I remember talking to Rick and saying: This
13 guy looks like he's on board from what he told the
14 investigator.

15 Q. Now in the closing argument of the State, page
16 472, it's lines 25 through the next page.

17 A. Page 472 and line 4, was it, sir.

18 Q. Line 25 at the bottom.

19 A. Okay.

20 Q. And the Solicitor there, makes reference to:
21 "Ronnie Scott who was in the same motorcycle gang as the
22 defendant"?

23 A. Yes, sir.

24 Q. And that was at closing argument by the State
25 to the jury?

1 A. Yes, sir.

2 Q. There was really no testimony in this trial
3 that this was what we call a "motorcycle gang", was it?

4 A. Sir, I believe in retrospect it was a mistake.
5 My view, at the time, it's the elephant in the room.
6 But anything could have made a difference in this case
7 in my view. I believe that was a mistake.

8 Q. And no expert on "gang activity" testified in
9 this case?

10 A. No, sir.

11 Q. And if you look at the testimony I believe of,
12 it's the last witness for the State, It's Tiama Jordan.

13 A. Yes, sir.

14 Q. It's on page 427 beginning with line 11
15 through line 21.

16 There's testimony in there about the nature of
17 motorcycle gangs testifying; correct?

18 A. Right. "And not talking to the cops."

19 Q. And he made reference that it seldom happens?

20 A. Yes, sir.

21 Q. Or words to that effect?

22 A. Yes, sir.

23 Q. Isn't that an opinion of hers?

24 A. What I remember, I remember Ricky testifying
25 to that as sort of his excuse as to why he was changing

1 his story.

2 We don't like to talk to the cops as one
3 percenters. (Sic)

4 My view on that was -- I'm sure it had to be,
5 it's 5 years later. If it's already testified to, then
6 somebody can talk about it. That could have been a
7 mistake.

8 Q. And that could have been Ricky's excuse for
9 his change in testimony and all that too, couldn't it?

10 A. Yeah, and that's what he did. And I remember
11 talking to the jury like:

12 Anytime they want to explain their different
13 stories and all this different stuff, they fall back on
14 this "One Percent" thing.

15 I do remember. Yes, sir.

16 Q. But this woman gave her professional opinion
17 as to what members of these gangs do; correct?

18 A. Is that Jordan?

19 Q. Yes.

20 A. Jordan is a dude. But I would say that's
21 opinion. Yes, sir.

22 Q. And that person was not qualified as an
23 expert?

24 A. No, sir.

25 Q. And you didn't object to that opinion

1 testimony?

2 A. No, sir. Actually, Jordan was -- I let Jordan
3 run for a good while. I can't remember exactly the
4 circumstance. But I remember sitting there with Rick --
5 and I should have cut him off probably ten minutes
6 before I did, whatever he was saying at the time. I
7 shouldn't have let him run. And the idea is, you don't
8 want to look like a jerk. But he was saying something,
9 I can't remember exactly what it was.

10 Q. One of the allegations of the State was that
11 there was bad blood between a guy name Jayrell Johnson
12 and Ricardo Middleton?

13 Q. Yes, sir. I don't remember the guy testifying.
14 It was a long time ago.

15 Q. I don't think Johnson testified?

16 A. Good. Good. Yes, sir.

17 Q. That's why you don't remember it. But there
18 was testimony that Ricardo Middleton allegedly had a
19 run-in with Jayrell Johnson a week earlier.

20 A. His gear was messed up or something. Yes, sir.

21 Q. And there was criticism of the way he wore his
22 club uniform or club logos and stuff?

23 A. Yes, sir.

24 Q. And in the stuff I sent you as Exhibit 4, if
25 you get that up.

1 A. Yes, sir. I see it.

2 Q. On page 3 of that affidavit --

3 A. Yes, sir.

4 Q. It says there -- obviously, this is Jayrell
5 Johnson statement's. And Mr. Johnson said: We shook
6 hands and I walked off."

7 A. Yes, sir.

8 Q. And that refutes the State's theory that there
9 was some bad blood between Mr. Middleton and the Outcast
10 club; correct?

11 A. I think so. I feel like there was -- and this
12 is just remembering. There was something further
13 between the two, but maybe not, but about that line.
14 Yes, sir. Maybe that's why they didn't call him.

15 Q. It would have been helpful to have Mr. Johnson
16 confirm his affidavit in trial?

17 A. Let me take a look at that. I thought there
18 was something else about some kind of dust up or
19 something. My recollection was that something wasn't
20 good. I think they might have even talked about the
21 guy. Then maybe didn't call him or something. I've got
22 a negative impression of the guy for some reason.

23 I agree with what you pointed out on there,
24 that would have been helpful to the defense. Yes, sir.

25 Q. Let me ask you another question about your

1 closing argument. On page 490 --

2 A. One second. Yes, sir.

3 Q. The paragraph beginning on line 4. You made a
4 reference to, in England they hold it against you if you
5 don't testify.

6 A. Yes, sir. Yes, sir.

7 Q. And of course, Ricardo didn't testify in this
8 case.

9 A. Yes, sir.

10 Q. You think it was a good idea to call the
11 attention to the jury that: In England you hold it
12 against people that don't testify?

13 A. I think -- and look, sometimes I go through
14 more amendments depending on the circumstances. But I
15 think the distinction between us and the rest of the
16 world. 'Cause I saw it, it's a Winston Churchill quote.

17 "We've got the worst judicial system in the
18 world, except for all the others."

19 I think and this is just my view, the
20 distinction between the way we treat each other and the
21 way other countries treat each other, is a good thing.
22 Like it's an elevated thing. Basically, I'm doing a
23 scrutiny argument on the government's case and it's sort
24 of a why. It could have been a bad idea. That's not
25 the first time, I can tell you that.

1 Q. Okay. You thought it was an appropriate thing
2 to do to tell the jury that: In some countries you hold
3 it against the defendant if they don't testify?

4 A. Yes, sir. They got a jury instruction on it.

5 Q. I understand. I understand.

6 Now, you will agree that you had really never
7 prepared Ricardo Middleton to testify?

8 A. Yes, sir. We did not prepare him to testify.

9 Q. If you had prepared him to testify, you would
10 have probably better recall of where you said he was
11 that night?

12 A. Again, my view and my recollection, you've got
13 to understand, I really believe these things when I go
14 in there. I starve myself and really get into the zone.
15 Him saying that he was there 45 minutes ago, that is the
16 first time that I heard that and I have to believe it.
17 He's under oath. But I did not believe that he was
18 there until 45 minutes ago. I guess he was.

19 Q. My question is, how serious of a discussion
20 did you have with Mr. Middleton about the events that
21 night if you were not preparing him to testify?

22 A. It's just like, look they're saying it's you.
23 These people are a bunch of lairs. I did not think --
24 everything is my guys decision. I didn't they think
25 their case was great. I understand there's three people

1 saying this stuff. I just didn't view these people as
2 immanently credible for various reasons.

3 But I didn't believe he was there and I talked
4 to him.

5 I was like: Look this is how we're gonna do
6 this -- talked to him about it. But when we did get to
7 the trial, he was talking about testify. And I was
8 like: Man, you're gonna blow it.

9 Q. Did you discuss during the trial with him,
10 what he would say if he testified or did you just tell
11 him: You're not gonna testify, it's too late now?

12 A. There was a piece of paper. Yes, sir. He had
13 it written down.

14 Q. He what?

15 A. He had it written down. What I saw, what was
16 put in my hand.

17 Q. He had what written down?

18 A. I wouldn't characterize them as criticisms of
19 the State's case.

20 Q. He had criticisms of the State's case too?

21 A. Right. That was my understanding of what the
22 testimony was gonna be.

23 They didn't find the gun here.

24 That's my understanding of what the testimony
25 was gonna be, but I could be wrong.

1 Q. Overall, I well understand your position, if
2 there's a problem identifying who did what in this case.
3 And there was inconsistent statements given by a lot of
4 the witnesses, agreed?

5 A. Yes, sir.

6 Q. But you never had a serious discussion with
7 Ricardo Middleton as to what he would actually say if he
8 took the stand?

9 A. No, sir. We did not discuss it. He wasn't
10 there. What could he add. He's not there. Is he gonna
11 say, he's up the road?

12 MR. WISE: Thank you. That's all I have, your
13 Honor.

14 THE COURT: Any redirect Mr. Barlow??

15 MR. BARLOW: Briefly, your Honor.

16

17 REDIRECT EXAMINATION

18 BY MR. BARLOW:

19 Q. Mr. Sutherland, if you'll do me a favor and
20 turn to the affidavit. I think it's Applicant's 1,
21 Ms. Natasha's affidavit that she gave in a civil trial,
22 correct.

23 A. I see it.

24 Q. Mr. Wise had you refer to it and you spoke on
25 it. And there's been direct testimony this was given on

1 May 23, 2019.

2 However, can you tell me, if you look to the
3 side, there's a file date on it.

4 First off, let me ask you this. Were you a
5 party to this action?

6 A. No. No, nothing to do with that.

7 Q. If you could tell me what was the file date of
8 that affidavit when it became a public record?

9 A. It looks like April 22nd, 3:59 p.m.

10 Q. And when was Mr. Middleton's trial?

11 A. We were -- I thought we were in September, but
12 there was testimony about August. It was 2019, it was
13 before Corona.

14 Q. Would you have been privileged to this
15 affidavit during the trial if it was not filed until
16 April of 2020?

17 A. I wouldn't have, but it's unsurprising that
18 Natasha has another story, I'll just say that.

19 Q. And I want to go to the -- on page 425,
20 Mr. Wise directed you to some testimony by Officer
21 Jordan. What is the remedy to that testimony?

22 A. On page 425, which line was it?

23 Q. Line 7 through 17?

24 A. 7 through 17 -- I don't remember reading this.

25 Q. Page 425. Mr. Wise on cross with you was

1 saying, this was opinion testimony that you should have
2 objected to.

3 A. Was it 427 or "no"?

4 Q. 425.

5 A. I got a pretty good memory. I don't remember
6 looking at this page, I've never seen this page that I'm
7 looking at. I can tell you that just by looking at it.

8 MR. WISE: I think y'all are looking at two
9 different things.

10 MR. BARLOW: Yeah, we are.

11 MR. WISE: Let's clarify that.

12 MR. SUTHERLAND: On 427 I see -- they're
13 talking to the police. I remember this. On mine it's
14 427, if it's 425 on yours.

15 MR. BARLOW: Beg the Court's indulgence real
16 quick.

17 THE COURT: Yes, sir.

18 Q. (By Mr. Barlow) I believe it's 420.

19 A. 420?

20 Q. No, no. Hold on, I'm gonna get it right.

21 A. "You're saying it's not common for them to
22 talk to the police, One Percent culture."

23 MR. WISE: I have 427 also.

24 MR. BARLOW: Was that the opinion testimony?

25 MR. WISE: Yes.

1 Q. (By Mr. Barlow) 427, lines 3 through 10.

2 A. We know the One Percent culture, they don't
3 like to talk to police, all of that?

4 Honestly, I let them run for too long. I
5 think I even told the judge: Judge, look he's been
6 going on ten minutes, he's got to stop.

7 Q. Real quick. My question is on that, what is
8 the remedy to this? What is the basis of your
9 objection?

10 A. If he's up there and he's not an expert and
11 giving an opinion, actually you ask for a mistrial.

12 But you get a curative instruction and then
13 you get curative instruction and you're like: I don't
14 know. The cats out of the bag, kind of thing.

15 But typically, a judge would be like: Look,
16 this is not an expert -- whatever their curative
17 instruction is on that.

18 Q. Is it possible for the State to have someone
19 qualified as an expert?

20 A. Sure. I don't know if they had went through
21 the thing -- Jordan's been doing this stuff -- they
22 could have anybody as an expert honestly, under the
23 rules. They could have had somebody up there. But
24 you've got to remember again, in my view, and this was
25 probably a mistake was: This is the elephant in the

1 room, so I'm just gonna talk about it. And this was a
2 very close case. Maybe going with "these are a bunch of
3 lying bikers" thing was a mistake, and maybe that's what
4 put it that way, I can't say. But in retrospect I think
5 it was mistake.

6 MR. BARLOW: Thank you Mr. Sutherland.
7 Nothing further.

8 THE COURT: Any recross Mr. Wise?

9 MR. WISE: No -- I need to ask Ricardo, do you
10 have anything I really need to ask again?

11 MR. MIDDLETON: No.

12 MR. WISE: Okay, we're good.

13 THE COURT: Thank sir, Mr. Sutherland. You're
14 excused.

15 MR. SUTHERLAND: Thank you, your Honor.

16 THE COURT: Mr. Wise, argument?

17 MR. BARLOW: Your Honor, we have one more
18 witness.

19 THE COURT: Oh, I'm sorry. You have another
20 witness. I apologize.

21 MR. BARLOW: The State would call Lamar Fyall.

22 THE COURT: *Mr. Fyall, do you swear to tell the*
23 *truth, the whole truth, and nothing but the truth, so*
24 *help you god.*

25 MR. FYALL: I do.

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DIRECT EXAMINATION

BY MR BARLOW:

Q. Good morning, Mr. Fyall. How are you doing?

A. I'm doing well.

Q. Thank you for being here. How did you become involved in this case?

A. The murder happened while I was on the violent crimes -- while I was the violent crimes prosecutor in the Richland County Solicitor's office. Initially, it belonged to someone else in the office. I think that person resigned or left or transferred or something, and then I got it and began preparing for trial.

Q. What was the State's theory in this case?

A. The State's theory of the case was that, Mr. Middleton had gotten into an altercation with -- I think Ashley Hill testified about this.

A member of some kind of "support club" they called it, the week before that lead to another altercation between Mr. Middleton and Sydni and Aaron the day of. They left and on the video you see Aaron Collins and Sydni Collins leave, get to the traffic light. And in video, it's at the far end back of the parking lot, we see Marquez Johnson and Ricardo Middleton interacting with each other on their bikes --

1 not on their bike's, but Mr. Johnson is on his bike and
2 Mr. Middleton is in his car and then they leave. They
3 end up on either side of them and then the shoot out
4 occurred.

5 Based on the evidence and the testimony, even
6 prior to the testimony, it was our theory that Ricardo
7 Middleton struck Ricky Montgomery, shot Sydni Collins,
8 and that Marquez Johnson, as a part of that planned
9 attack, shot Aaron Collins or AC.

10 The Hand of One, Hand of All theory, as it
11 relates to Mr. Middleton, was only as to Aaron Collins,
12 because the forensic evidence was very clear that
13 Marquez Johnson had shot him -- the forensics evidence.
14 And also very clear that Ricardo Middleton had shot
15 Sydni Collins.

16 Q. And just to be clear, the Hand of One, Hand of
17 All charge, was to Montgomery only; correct?

18 Is that what you just testified to?

19 A. To AC or Aaron Collins, he was shot by Marquez
20 Johnson. So Sydni Collins' husband also shot further
21 over to the right. He was the driver of the bike.
22 Sydni Collins was on the back of his bike. To their
23 left was Ricky Montgomery on his bike. So the Hand of
24 One, Hand of All, only applied to Aaron Collins who was
25 shot by Marquez Johnson.

1 Q. Understood. And how would you characterize
2 the evidence in this case -- withdrawn.

3 What was the distinction between the Middleton
4 case and the Johnson case?

5 A. The biggest distinction was that the case
6 against Johnson was, I would say was purely
7 circumstantial. All of the witnesses testified that the
8 shooting started and they, sort of, ducked down. Before
9 that happened, most of the witnesses were able to
10 identify Ricardo Middleton at the scene. You can see at
11 least a portion of his actions. Nobody was there when
12 we testified to what Marquez Johnson had done. It was
13 obvious to us that he had shot Aaron Collins. We found
14 the gun in his yard that shot Aaron Collins and that gun
15 matched the shell casings at the scene and the bullets
16 that had shot Aaron Collins. But nobody was able to
17 testify as to what he did until after all the shooting
18 was done.

19 So Ronnie Scott was able to say: After the
20 shooting, he got in my car. He was shaken up. He went
21 back to get his bike.

22 But no one was able to testify to his actions
23 prior to the first shot, except him. And that only
24 occurred for the first time at a Stand Your Ground
25 Hearing.

1 Q. Who was Tiama Jordan?

2 A. He was one of the the lead investigators on
3 the case.

4 Q. Do you recall the term "gang" being used?

5 A. Yes. It was used sort of intermittently
6 throughout the trial. We didn't have a motion or a
7 hearing about it. We sort of made a determination
8 ourselves not to overuse it. If it came to that point I
9 think it would have been fine to use it, because I think
10 that was part of the motivation for the shooting to
11 begin with. The conflict the week before, the conflict
12 the night of between two rival gangs and then a shooting
13 of those same two rival gangs.

14 So we didn't think it was a problem to use the
15 word "gang", but we just decided not to over do it.

16 Q. Have you had an opportunity to review page
17 427?

18 A. Yes.

19 Q. Why was Jordan not qualified as an expert?

20 A. So he was testifying as to his reasoning for
21 why he took that action. As I read the Rules of
22 Evidence, if you have, sort of, the general knowledge
23 about something -- he wasn't stating the reason -- the
24 best I could tell it is, he didn't seem to be giving
25 testimony in that case that would require him to be

1 qualified as an expert. General knowledge of groups of
2 people, like -- if he would have testified that "Blood
3 gang members wear red" or "gangs generally don't like to
4 cooperate with the police". To me, that's not testimony
5 that would required him to be qualified as an expert.

6 In particular, he was saying: Based on his
7 experience as an officer, heres why we took certain
8 actions we engaged in.

9 Q. I don't think that you got a copy of all of
10 this. But there was a statement by Jayrell Johnson that
11 was done July 30, 2017.

12 Do you recall that?

13 A. I recall his statement. We actually wanted
14 Jayrell to testify. Jayrell was not cooperative with
15 letting us know where he was and allowing himself to be
16 served with the subpoena. We weren't able to figure out
17 where he was, but I'm familiar. We wanted him to
18 testify because it fit in well with our theory of the
19 case. It put Ricardo Middleton at that same bar the
20 week before engaging in that incident, which Ashley Hill
21 also testified too. And then it put him at the scene at
22 the bar a week later. So that pattern of activity to
23 us, put him closer to the scene. And there's video from
24 the day of the incident of Ricardo Middleton getting
25 into a spat with an Outlaw Motorcycle Gang member.

1 Yeah, I'm familiar generally with what he
2 said. I haven't seen it in a while, but we couldn't get
3 him to testify. And a lot of the testimony, I think,
4 about Jayrell Johnson was during a Bigger's Hearing
5 about Tiama Jordan. We had him testify to it just in
6 case he changed his mind and decided to come in, but he
7 didn't.

8 MR. BARLOW: I think that's all I have for
9 you.

10 THE COURT: Mr. Wise, any questions?

11 MR. WISE: Yes, just a few.

12

13 CROSS-EXAMINATION

14 BY MR. WISE:

15 Q. Are you aware of the statement in -- Jayrell
16 Johnson's statement where an answer to a question after
17 he had a conversation with Ricardo Middleton.

18 "And what did you say when you told him that?"

19 "I said, 'respect is respect.' We shook hands
20 and I walked off."

21 Do you remember that testimony of Mr. Johnson?

22 A. You mean, Jayrell Johnson?

23 Q. Yes.

24 A. I take you at your word. I haven't seen it,
25 but I'm sure that's accurate.

1 Q. I understand. If I'd known you'd be here, I
2 would have sent you a copy too. I apologize for that.

3 Are you aware that Mr. Johnson basically said
4 that he and Ricardo made up the week before?

5 A. After the initial confrontation, yes.

6 Q. What Jayrell Johnson basically said is, when
7 they had a run-in the week before, they parted friends
8 because they shook hands; correct?

9 A. When they "shook hands" and "pardon as
10 friends" I think is a little strong.

11 Q. Excuse me?

12 A. I think "parted friends" is a little strong,
13 but they did shake hands.

14 Q. How about, parted on good terms?

15 A. Given what happened subsequently, I would
16 disagree with that too.

17 Q. At least parted respecting each others
18 position.

19 A. Yes. I would agree with that.

20 Q. Basically, there was really no bad blood
21 between Ricardo Middleton and Jayrell Johnson the week
22 before when they left?

23 A. I don't know. I'm willing to say they both
24 left and nothing further happened.

25 Q. You're correct. You wouldn't know because you

1 weren't there and I wouldn't know either.

2 Based upon that statement, there would be
3 reason to believe there was no bad blood, agreed?

4 A. That would be one interpretation.

5 Q. You also help prosecute Marquez Johnson's
6 case?

7 A. I did.

8 Q. And under the same theory of, Hand of one,
9 hand of all, and all that?

10 A. Not entirely. So Marquez Johnson's case was
11 sort of the reverse. So he was, Hand of One, Hand of All
12 as to Sydni and Ricky. He was the "murderer" as it
13 relates to Aaron Collins. So it was partly, Hand of One,
14 Hand of All and partly not.

15 Q. It was "what"?

16 A. He was Hand of One, Hand of All as to Sydni
17 Collins because Ricardo Middleton had shot Sydni.

18 Q. Right.

19 A. But the evidence was pretty clear that he had
20 shot Aaron Collins. He was not Hand of One, Hand of
21 All. He was just the shooter.

22 Q. Mr. Johnson was charged with both murders?

23 A. Yes.

24 Q. And your theory is, that as far as Sydni
25 Collins is concerned as to Marquez Johnson that's Hand

1 of One, Hand of All?

2 A. That's correct.

3 Q. And your theory in Ricardo Middleton's case is
4 that as to AC Collins it's Hand of One, Hand of All?

5 A. Correct. I think the direct evidence was
6 pretty clear that he had shot Sydney.

7 Q. Was the jury told that Hand of One, Hand of
8 All only applies to Mr. Collins?

9 A. They weren't told, but it was clear to me that
10 they got it.

11 Q. I understand. But they were not told that the
12 Hand of One, Hand of All theory is limited to
13 Mr. Collins?

14 A. No, they weren't told that. I guess they
15 weren't told that directly.

16 Q. The theory of Hand of One, Hand of All was
17 simply the fact that all of these people were at the
18 scene at the same time and were members of the same
19 club?

20 A. No, sir. So I believe Ronnie Scott testified
21 that one of the reasons they had gotten there was
22 because of a text message or someone telling them to
23 come and be there.

24 You had Ricardo Middleton who had the conflict
25 the day before. On the video, at My House Bar and Grill

1 you see him getting into another conflict with some
2 rival motorcycle club members. And him and Mr. Johnson
3 meet up at of the back parking lot on surveillance video
4 and leave together. Then they both arrive at the
5 intersection on opposite sides of those bikes.

6 So you have rival clubs, two members of the
7 same club getting there right after a dispute. Arriving
8 at the intersection at the same time and both ending up
9 shooting people at an intersection. That's a little
10 bizarre to be a coincident. So that was, sort of, the
11 theory.

12 Q. You mentioned about Ricardo Middleton having a
13 conflict the day before. Did you mean the day of?

14 A. The day of.

15 Q. Who did Ricardo Middleton have a confrontation
16 with the day of the shooting?

17 A. Based on the video, there's no sound on the
18 video, but there was a group of Outlaw Members that
19 arrived, including Aaron and Sydni. And it was clear
20 that he was just like, what looked to be like a negative
21 interaction with their group.

22 Q. You would agree Marquez Johnson is seen on the
23 video having a negative reaction with some members of
24 Outcast including Mr. Collins?

25 A. Correct.

1 Q. But you never see Ricardo Middleton having a
2 confrontation with anybody on that video because he
3 didn't arrive until late?

4 A. He arrived and you saw him, sort of -- he was
5 stomping around in the parking lot being very aggressive
6 in his interactions with various members of the Outcast.
7 I think if you look at -- I haven't in a long time -- Ty
8 Jordan's testimony. He's describing Ricardo Middleton's
9 behavior in that video.

10 Q. Whose testimony?

11 A. Tiama Jordan.

12 Q. Jordan?

13 A. Yes.

14 Q. That's the deputy?

15 A. He was the lead investigator, one of the lead
16 investigators for the case.

17 Q. But the deputy wasn't there at the time the
18 alleged confrontation took place?

19 A. No, he wasn't at the scene. No. He just
20 described what was on the video.

21 Q. The deputy would be in no position to know if
22 Ricardo Middleton was involved in an altercation?

23 A. I think it was a reasonable conclusion from
24 the video. And that was...

25 Q. You said that y'all made a conscious decision

1 not to overuse the word "gang" or "biker gang"?

2 A. Yes.

3 Q. Because you knew if you overused it, it could
4 be prejudicial?

5 A. Generally, yes, it's prejudicial. Was it more
6 prejudicial then probative was our, sort of, analysis.
7 Since that was the whole motive for the entire conflict.
8 We generally believed that if we had an argument about
9 it, it would have been fine. I think that's why we
10 didn't argue about it pretrial, but we just decided not
11 to overuse it.

12 Q. Not to overuse it?

13 A. Yes.

14 Q. Just make it a little bit prejudicial, not way
15 prejudicial?

16 A. Well, prejudicial is not the standard as you
17 and I both know. It's more prejudicial then probative
18 and it was very probative of all the evidence. Of course
19 it's prejudicial but he --

20 Q. Did you introduce any evidence that the
21 Thunderguards was a motorcycle gang?

22 A. Using the word "gang" no. I think the term
23 "Outlaw Gang" was used and "One Percent Gang".

24 Q. Did you introduce any evidence that the
25 Thunderguard Motorcycle Club was a gang?

1 A. I'm not sure. I defer to you in the
2 transcript. I know some of the members testified about
3 what it was.

4 Q. Fair enough. Did you introduce or did you
5 intend to introduce any evidence that the Outcast
6 Motorcycle Club was a gang?

7 A. No. I think they were both described as
8 Outlaw Motorcycle Clubs or One Percent Clubs or
9 something like that.

10 MR. WISE: That's all I have, your Honor.

11 THE COURT: Anything further, Mr. Barlow?

12 MR. BARLOW: None, your Honor.

13 THE COURT: Thank you, sir. You're excused.

14 MR. FYALL: Thank you, your Honor.

15 THE COURT: Mr. Wise, argument?

16 MR. WISE: First of all, your Honor, I would
17 like to introduce an issue in to this case dealing with
18 collateral estoppel. It is quite clear from the Marquez
19 Johnson case that Hand of One Hand of All was rejected
20 by the judge after being litigated. And the State was a
21 party to that action. I don't think that the State can,
22 in this action, now contend that Hand of One Hand of All
23 was a viable theory of trying this case --

24 THE COURT: -- Mr. Wise, you've entirely lost
25 me.

1 In trials with multiple criminal defendants
2 inconsistent verdicts are possible and the State is not
3 estopped. I don't understand what --

4 MR. WISE: I understand that. But I'm talking
5 about the substantive issue of whether or not this is a
6 Hand of One Hand of All case. That issue was thoroughly
7 litigated in the Marquez Johnson case and rejected by
8 the judge.

9 THE COURT: Which is not binding at all on this
10 case. That's what I'm saying. It has no bearing at
11 all.

12 MR. WISE: I think it is under the doctrine of
13 collateral estoppel. Had the Hand of One Hand of All
14 been litigated in this case and upheld on appeal, I
15 think the Court could be well correct. But Hand of One,
16 Hand of All was never litigated --

17 THE COURT: -- Mr. Wise, I do not agree with
18 that. I do not think the fact that a trial judge at a
19 Stand Your Ground Hearing -- granted the Stand Your
20 Ground motion precludes the State in a different
21 criminal prosecution from arguing Hand of One, Hand of
22 All. Plus, all that means is, Mr. Johnson wasn't apart
23 of Hand of One, Hand of All. It doesn't mean this
24 defendant wasn't. It could be the hand of other people.

25 So that's on a nonstarter.

1 MR. WISE: Except I don't think that was the
2 State's theory.

3 THE COURT: I am not at all convinced on that
4 point.

5 MR. WISE: Okay. Regardless, I don't think
6 there's any real evidence in this case of Hand of One,
7 Hand of All and it should have been objected to. And I
8 think that objection would have been sustained.

9 THE COURT: Mr. Wise, I disagree entirely. The
10 testimony -- what I've read was, that there were text
11 messages calling the bikers to come to the scene, boxed
12 in the other people on video at the shooting site.

13 The standard is: Is there any evidence?

14 I understand you disagree with it, but there's
15 no way you can say there's no evidence.

16 MR. WISE: It wasn't, come to the scene of the
17 shooting. It was come to the scene of another
18 altercation.

19 THE COURT: Right before the shooting. And
20 then they all end up at the same intersection boxed in,
21 coming from two different directions. Mr. Wise, I don't
22 see how you could possibly argue, there's no evidence at
23 all of a Hand of One, Hand of All.

24 MR. WISE: Well, I think I can argue there's
25 no substantial circumstantial evidence of it. And if

1 you're gonna use circumstantial evidence, which was used
2 here because there was no direct evidence, then I don't
3 think there was substantial circumstantial evidence of
4 Hand of One, Hand of All.

5 THE COURT: I do not agree. I do not agree.

6 MR. WISE: Secondly, using the word "gang" not
7 to excess is an admission that the word "gang" should
8 not have been used at all. And there's no evidence
9 really that these are motorcycle gangs. They never
10 attempted to introduce any evidence that this was a
11 motorcycle gang. And as result, when it came in, it was
12 certainly prejudicial to the defense. And when defense
13 counsel at opening statement makes a reference to as
14 "biker gang" I think terribly prejudicial to the defense
15 in this case, because that's exactly, I think, what it
16 is.

17 THE COURT: Mr. Wise, the whole defense was, he
18 wasn't even there. That was the defense. The defense
19 was, he wasn't there. It wasn't him that did the
20 shooting. There was no -- how is that -- I agree it's
21 prejudicial to the reputation of the Thunderguard
22 Motorcycle Club. But, in this case, what the defense
23 was: Mr. Middleton was not there. How is that
24 prejudicial to the extent that I would grant PCR?

25 MR. WISE: It's prejudicial because he was a

1 member of the club which was labeled a "motorcycle gang"
2 and that gave the jury, I think, another basis believing
3 he was there, because he was a member of this gang and
4 all the gangs stick together.

5 I think the fact his defense was different --
6 and actually, to say his defense was, he wasn't there is
7 not true at all, that would be required Alibi charge,
8 which was not given.

9 THE COURT: The State could not prove he was
10 there.

11 MR. WISE: The defense was, I gathered, he was
12 misidentified, but might have been there.

13 If that is true, I think that "gang" clearly
14 would be prejudicial.

15 THE COURT: Mr. Wise, the testimony today was
16 very clear that he was present at the restaurant and the
17 club, but he was not at the shooting scene. That was
18 what his attorney testified too, that was the defense.

19 MR. WISE: I didn't quite interpret it that
20 way, to be frank with you. The defense lawyer pointed
21 out that he tried to point out a lot of people with
22 beards at the scene.

23 But anyway, I also think that defense counsel
24 in this case really never sat down with Mr. Middleton
25 and truly asked him what happened. I think that's

1 evident from the testimony. That he has no notes about
2 where Mr. Middleton said he was. He had definitely done
3 no preparation for Mr. Middleton testifying, he admitted
4 that. Mr. Middleton testified he wanted to testify.
5 And you don't make a decision at end of a trial to all
6 of sudden to have your client testify. That decision is
7 made early on. You may make a decision at the end of a
8 trial not to have him testify. But if you remotely
9 think the witness is gonna testify, you prepare him for
10 trial and prepare him to testify.

11 THE COURT: Mr. Wise, you're telling me after
12 the entire defense was: He couldn't be identified or
13 wasn't there. But Mr. Middleton testifying as he did
14 today, that would have been to his benefit at trial?

15 MR. WISE: It would have been a benefit at
16 trial had defense counsel sat down and had a serious
17 conversation with his client about where he was. He
18 admitted because he assumed Mr. Middleton was not going
19 to be testifying, he never had a serious conversation to
20 prepare Mr. Middleton for trial or to testify and he
21 didn't. Mr. Middleton says, he told him he was there.
22 But that doesn't change the fact that Mr. Sutherland
23 clearly did not prepare -- I mean, he doesn't have a
24 single note as to where Mr. Middleton was at the time of
25 the shooting, which is the first thing you would ask

1 somebody: Where were you at the time of the shooting,
2 when you're preparing for a case.

3 THE COURT: Except that said he wasn't there.
4 In fact, there was no self-defense claim made. Why
5 would he possibly call Mr. Middleton to the stand when
6 there's no self-defense claim that's gonna be made, how
7 would that have helped him? That's a serious question?

8 MR. WISE: He could not have called Mr.
9 Middleton to the stand at trial because he never
10 prepared Mr. Middleton --

11 THE COURT: -- Mr. Wise, so what's the
12 prejudice? Are you saying he would have gotten on the
13 stand -- the defense was, he wasn't there.

14 What would putting him on the stand have done
15 to help that defense?

16 MR. WISE: It would not have helped that
17 defense quite obviously.

18 THE COURT: Right. He never once told his
19 lawyer he acted in self-defense or told his lawyer, he
20 shot the victim or anything.

21 MR. WISE: To be frank with you, when a
22 defense lawyer cannot tell me where the client was at
23 the time of the shooting, it tells me the defense lawyer
24 never had a serious conversation with his client, but
25 that's another story.

1 Also, we'd point out to the Court that it's
2 clearly prejudicial to Mr. Middleton for Mr. Sutherland
3 to argue in closing argument that the court's in England
4 infer bad stuff from your not testifying. There was no
5 need to tell the jury that. Granted the judge charged
6 the juror. But when you tell a jury, in other countries
7 people frown upon your testifying and/or you can draw
8 prejudice from it. That opens the door to completely
9 whip out what the judge charged in his charge.

10 THE COURT: I agree with that. I don't
11 understand the benefit. I think the point he was trying
12 to make is, we have a better system in a America and we
13 don't let that be held against you.

14 But pointing out what other countries do is
15 probably not a great way to make that point.

16 MR. WISE: It was a poor way of expressing it,
17 I'd agree with that.

18 And the case is clearly not a slam dunk for
19 the State, with the statements all over the place by one
20 or two witness, in particular one witness.

21 Finally, I think the testimony of Marquez
22 Johnson would have been beneficial to Mr. Middleton in
23 this case, because it would help refute the Hand of One,
24 Hand of All. He was allegedly the other hand and he
25 clearly said, there was no preplanning in this. And

1 that direct testimony easily could have overcome the
2 circumstantial evidence.

3 THE COURT: How is that deficient on defense
4 counsel's part. At the time Mr. Johnson had pending
5 criminal charges.

6 MR. WISE: It's really not deficient on
7 counsel's part because he had no ability to get him
8 there --

9 THE COURT: -- right --

10 MR. WISE: -- But it is a basis for granting a
11 new trial on the basis of evidence that's now available
12 to Mr. Middleton that was not available at the time of
13 the trial.

14 THE COURT: Okay.

15 MR. WISE: That's why we think we're entitled
16 to relief.

17 THE COURT: Okay. Mr. Barlow?

18 MR. BARLOW: Thank you, your Honor. May it
19 please the Court.

20 Just going on the "gang" issue, your Honor. I
21 ran a report on it and "gang" was used.

22 THE COURT: -- nine times. I listened
23 carefully.

24 MR. BARLOW: Your Honor, while Mr. Wise did
25 put out that it was never used against anyone else. It

1 was only used against his club. That's not true. There
2 were three instances where it was used against the
3 others. I think 24/7 was one of them that they used it
4 in and I believe Outcast I believe is the other one.
5 And then you have "club" was always used the rest of the
6 time. That goes to the weight or the probative versus
7 the prejudicial impact that it has. I think your Honor,
8 from the facts of this case, these were motorcycle
9 clubs, there were multiple involved. And it goes to
10 showing what they were all involved in and what they
11 were doing. I think that the probative value of that
12 overrides the prejudicial value of that.

13 I'm not sure that the argument that, the
14 attorney never sat down with him and had any real
15 conversation about this case. I think that the trial
16 transcript itself bears out that he did. He knew the
17 case quite well. I think that the --

18 THE COURT: -- you can move onto the next
19 issue. I don't need anymore argument on that one.

20 MR. BARLOW: I think with regard to the
21 "England issue". I would just argue that the jury was
22 able to discern and wave through that. It was a
23 mistrial on one. He got a not guilty on one. And he
24 got a guilty on one. If it was so prejudicial, I'm not
25 sure that he would have been found not guilty or had a

1 mistrial on any of the charges.

2 And to the "statements all over the place" was
3 just Natasha and the other -- the vice president of Mr.
4 Middleton's club came in and testified against him.
5 There were other people that testified to the events
6 that occurred there. Plus, I think there was argument
7 that Mr. Middleton was not at the club, but there was
8 video. And from Tiama Jordan's testimony, there was
9 video that Mr. Middleton was involved in some issues.

10 Your Honor, I just think at this point the
11 State would ask that -- we don't believe that he's met
12 his burden on any of the issues that he's raised here
13 today and we'd ask this Court to deny his application.

14 THE COURT: Mr. Wise, let me go back to you on
15 the claim of newly discovered evidence. What I heard
16 from Mr. Johnson is the best he could do. What he said
17 was, he saw the victim, Ms. Collins, raising her hand or
18 there was a shadow of something in his peripheral
19 vision. Is that what you think is the helpful
20 testimony?

21 MR. WISE: It's twofold. One, it's clear
22 testimony, she fired a gun.

23 THE COURT: That would be new?

24 MR. WISE: There's no disputing the fact she
25 fired a gun.

1 THE COURT: Right.

2 MR. WISE: And you raised your hand to fire a
3 gun. From that a jury can clearly conclude, when he saw
4 her raise her hand and he ducked down, he heard
5 gunshots. She fired a gun.

6 THE COURT: But the jury already heard
7 evidence there, right?

8 MR. WISE: Excuse me?

9 THE COURT: The jury already knew she fired a
10 gun; right?

11 MR. WISE: It's when she fired a gun.

12 THE COURT: I'm sorry. What I'm trying to say
13 is, where is the new evidence we heard today from
14 Mr. Johnson that we've never heard before?

15 MR. WISE: It's absolutely nothing we've never
16 heard before in a sense. What Mr. Johnson would do if
17 he were available for the original trial, would have
18 clearly refuted the Hand of One, Hand of All argument.
19 The jury, in this case, came back and asked a specific
20 question about Hand of One, Hand of All. So that was a
21 concern of theirs.

22 And I also pointed out to the Court, while
23 Mr. Johnson testified --

24 THE COURT: -- Mr. Wise, I'm sorry. I did not
25 follow that point at all. How would Mr. Johnson have

1 refuted Hand of One, Hand of All?

2 MR. WISE: He testified there was no
3 agreement. That we did not agree to go down there and
4 shoot these people. We just -- what the Hand of One,
5 Hand of All is about. You'd have to have some sort of
6 an agreement ahead of time. You can't have a
7 spontaneous Hand of One, Hand of All. And that seemed
8 to be the State's theory, to be frank with you. So
9 Mr. Johnson clearly would have refuted the Hand of One,
10 Hand of All theory that the State presented in this case
11 without question --

12 THE COURT: -- he would have testified, I
13 assume, like he did today. But how did that refute it?
14 As a criminal defendant, he was involved --

15 MR. WISE: -- it refuted it by saying, there
16 was no preplanning. Hand of One, Hand of All involves
17 preplanning. You can't have a spontaneous Hand of One,
18 Hand of All, it simply doesn't exist in the law.

19 THE COURT: I understand that's what he would
20 say. I'm not sure "refute" is the word I would use.

21 MR. WISE: How about simply be evidence there
22 was No Hand of One, Hand of All action?

23 THE COURT: That I would agree with.

24 MR. WISE: That's probably a better way of
25 putting it, I agree. And that would have been

1 important for the jury to hear. And to be frank with
2 you, your Honor, even if the defense was, "he wasn't
3 there". That would have been enough evidence, I think
4 in this case, where there's testimony that Ms. Collins
5 fired a gun in this case. There's testimony that due to
6 the nature of her injuries, that shot was probably fired
7 before she fired. And the evidence could be, whoever
8 fired it, did it in self-defense. You still could have
9 gotten a self-defense charge in I believe.

10 THE COURT: You mean, Mr. Sutherland could
11 have said: My client wasn't there, the State can't
12 prove he was, but even if he was, we want a self-defense
13 charge?

14 MR. WISE: Yes, I think so.

15 THE COURT: I'm not sure as the judge I
16 would've agreed to that. If the whole defense is, you
17 can't prove he's there, I'm not...

18 MR. WISE: -- but Whoever did the shooting did
19 it in self-defense, the jury should find the defendant
20 not guilty if they believed he was there. The State's
21 theory was, he was there. So if the State's theory is,
22 he was there, then he arguably shot in self-defense.

23 THE COURT: If he was there it was in
24 self-defense, but he wasn't there.

25 MR. WISE: My dog didn't bite you. If the dog

1 did bite you, I don't own no dog and the dog doesn't
2 bite. So it's been done before.

3 THE COURT: Fair enough.

4 MR. WISE: Defense is, all I have is
5 inconsistent defenses.

6 THE COURT: Mr. Barlow, any response?

7 MR. BARLOW: Your Honor, I guess I would argue
8 to the self-defense charge. Number 1, he could not
9 bring the difficulty upon himself. He was in a roadway
10 in his vehicle three lanes away from people. He got out
11 of his vehicle with a gun and inserted himself in the
12 middle of it. We don't know what was going on at the
13 time, but he inserted himself in the middle. So he
14 brought this upon himself. He entered the situation
15 knowing something was going on. And I'm not sure he
16 even had a legal right to be in the middle of the
17 roadway.

18 THE COURT: -- Mr. Wise, I'm thinking it
19 through as we're talking out here. One of the elements
20 of self-defense is that he have a reasonable fear for
21 his life or great bodily injury. How can that be shown
22 by the defense without him testifying?

23 MR. WISE: It was shown by the nature of the
24 injuries to Ms. Collins and shown by the fact that she
25 fired at least one round.

1 THE COURT: In order to get a self-defense
2 charge, Mr. Middleton has -- his counsel has to show, he
3 was in fear for his life.

4 How can you do that if they're arguing: He's
5 not there, he didn't testify.

6 How do you get to: He was in fear for his
7 life, without him getting on the stand?

8 MR. WISE: The State's theory is, he was
9 there.

10 THE COURT: Right.

11 MR. WISE: So let's assume the State's theory
12 of "he was there" is correct. If he was there and
13 Collins fired at him, he's entitled to fire back.

14 THE COURT: If he's in fear for his life. And
15 normally the way you get that is, someone says on the
16 witness stand: Mr. So and so pointed the gun and shot
17 at me and I was afraid and shot back.

18 But if he doesn't testify, how do you get the
19 charge?

20 MR. WISE: Or in a situation where it's clear
21 that someone fired first and the shot that killed her
22 was fired second.

23 THE COURT: It depends on who she shot at.

24 MR. WISE: Yes and no. Yes and no. Because
25 then you get to the really interesting aspect of the

1 defense of others. If she's shooting at somebody for no
2 reason, he has a right to protect that person.

3 THE COURT: Again, that has -- I just think you
4 can't connect the circle without testimony from the
5 defendant on that.

6 MR. WISE: There have been cases where the
7 defendant's not testified and you've gotten a
8 self-defense charge. I haven't got them in front of me
9 but --

10 THE COURT: -- can you send those to me because
11 I would like to see that.

12 MR. WISE: I can do that.

13 THE COURT: I want to read those cases.

14 MR. WISE: They are rare, I agree, but they
15 exist.

16 THE COURT: Mr. Wise, I would just say, the big
17 picture to me seems to be, that your client choose a
18 trial strategy of arguing: The State couldn't prove he
19 was there. And then the codefendant took a different
20 strategy of arguing it was self-defense. And it looks
21 like after the fact that the codefendant made a better
22 choice and Mr. Middleton now regrets not going down that
23 road. That's what it seems to me going on here.

24 MR. WISE: That could be one view, but I still
25 question whether Mr. Middleton consciously made -- I

1 think he made a choice to want to testify and there was
2 no preparation to get him ready to testify, but that's
3 another argument.

4 THE COURT: Okay. Counsel, I'm going to take
5 this under advisement. And Mr. Wise, can you send me
6 the cases about self-defense without any testimony from
7 the defendant?

8 MR. WISE: I will. It may be Monday because
9 I've got to be at a hearing in Greenville tomorrow
10 morning and I'm not sure when I'll get back.

11 And before we break up, I'd like to tell
12 Ricardo I'll try to arrange a zoom call with him next
13 week to discuss today's hearing.

14 THE COURT: Thank you.

15 (Whereupon, the above-captioned hearing
16 was concluded.)

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C E R T I F I C A T E

I, the undersigned Maria DiScioscia, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for Richland and Kershaw Counties, South Carolina, on the 26th day of September, 2024.

I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.



Maria DiScioscia
Official Court Reporter

State of South Carolina) In the Court of General Sessions
County Of Richland) Fifth Judicial Circuit
2017-GS-40-5852
2017-GS-40-5854
2017-GS-40-5855

The State of South Carolina,)
Plaintiff,)
vs.) Transcript of Record
Ricardo Laroy Middleton,)
Defendant.)
_____)

August 19, 20, 21, 22, 2019
Columbia, South Carolina

B E F O R E:

The Honorable L. Casey Manning, Judge, and a jury

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

Lamar J. Fyall, Esquire, Assistant Solicitor
Jeremiah J. Shellenberg, II, Esquire, Assistant Solicitor
John W. Steadman, Esquire, Assistant Solicitor
Attorneys for the State

Tivis C. Sutherland, IV, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

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12	S-58	Photograph	133	150
13	S-59	Photograph	133	150
14	S-60	DVD - 911 Call (Audio not included)	133	141
15	S-61	Photograph	133	150
16	S-62	Photograph	133	150
17	S-63	Photograph	133	150
18	S-64	Photograph	133	150
19	S-65	Photograph	133	150
20	S-66	Photograph	133	150
21	S-67	Photograph	133	150
22	S-68	Photograph	133	150
23	S-69	Photograph	133	150
24	S-70	Photograph	133	150
25	S-71	Photograph	133	150

				11
1	No.	Description	I.D.	Ev.
2	S-72	Photograph	133	150
3	S-73	Photograph	133	150
4	S-74	Photograph	133	150
5	S-75	Photograph	133	150
6	S-76	Photograph	133	150
7	S-77	Photograph	133	150
8	S-78	Photograph	133	150
9	S-79	Photograph	133	150
10	S-80	Photograph	133	150
11	S-81	Photographs (2)	133	150
12	S-82	Photograph	133	150
13	S-83	Photograph	133	150
14	S-84	Photograph	133	150
15	S-85	Photograph	133	150
16	S-86	Photograph	133	150
17	S-87	Photograph	133	150
18	S-88	Photograph	133	150
19	S-89	Photograph	133	150
20	S-90	Photograph	133	150
21	S-91	Photograph	133	150
22	S-92	Photograph	133	150
23	S-93	Photograph	133	150
24	S-94	Photograph	133	150
25	S-95	Photograph	133	150

				12
1	No.	Description	I.D.	Ev.
2	S-96	Photograph	133	150
3	S-97	Photograph	133	150
4	S-98	Photograph	133	150
5	S-99	Photograph	133	150
6	S-100	Photograph	133	150
7	S-101	Photograph	133	150
8	S-102	Photograph	133	150
9	S-103	Photograph	133	150
10	S-104	Photograph	133	150
11	S-105	Photograph	133	150
12	S-106	Photograph	133	150
13	S-107	Photograph	133	150
14	S-108	Photograph	133	150
15	S-109	Photograph	133	150
16	S-110	Photograph	133	150
17	S-111	Photograph	133	150
18	S-112	Diagram	133	149
19	S-113	Fired Cartridge Casings	133	153
20	S-114	Projectiles and Fragments	134	154
21	S-115	Sunglass Lens	134	154
22	S-116	Gun	134	154
23	S-117	DVD of AM/PM Surveillance	134	139
24	S-118	Photograph	260	268
25	S-119	Photograph	260	268

				13
1	<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
2	S-120	Photograph	260	268
3	S-121	Photograph	260	268
4	S-122	Photograph	260	268
5	S-123	Photograph	260	268
6	S-124	Photograph	260	268
7	S-125	Photograph (2)	261	268
8	S-126	Photograph	261	268
9	S-127	Receipts	261	266
10	S-128	Box with Gloves/Wallet/ID	261	267
11	S-129	Autopsy Diagram	261	313
12	S-130	Autopsy Diagram	261	313
13	S-131	Photograph	261	409
14	S-132	DVD - Collection of Photographs	261	288
15	S-133	Box with Black Bag/Knife/Jacket	261	266
16	S-134	Metal Fragment	285	293
17	S-135	Projectile Fragments	285	293
18	S-136	Projectiles	285	294
19	S-137	Clothing of A. Collins	294	294
20	S-138	Clothing of S. Collins	294	295
21	S-139	GRS Kit	298	335
22	S-140	Photograph	300	314
23	S-141	Photograph	300	314
24	S-142	Photograph	300	314
25	S-143	Photograph	300	314

				14
1	No.	Description	I.D.	Ev.
2	S-144	Photograph	300	314
3	S-145	Photograph	300	314
4	S-146	Photograph	300	314
5	S-147	Photograph	300	314
6	S-148	Photograph	300	314
7	S-149	DVD of Cell Phone Records	341	343
8	S-150	Call Phone Analysis	341	351
9	S-151	Photograph	341	406
10	S-152	Photograph	341	406
11	S-153	Photograph	341	406
12	S-154	Photograph	341	406
13	S-155	Photograph	341	406
14	S-156	Photograph	341	406
15	S-157	Photograph	341	404
16	S-158	Photograph	341	406
17	S-159	Photograph	341	434
18	S-160	Photograph	341	434
19	S-161	Photograph	341	434
20	S-162	Photograph	341	434
21	S-163	Photograph	341	434
22	S-164	Photograph	341	434
23	S-165	Photograph	341	434
24	S-166	Photograph	341	434
25	S-167	Photograph	341	434

				15
1	<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
2	S-168	Photograph	341	434
3	S-169	Firearm with Magazine/Cartridges	377	378
4	S-170	Two Cell Phones	409	410
5	S-171	Vehicle Registration	419	438
6	S-172	Vehicle Registration	419	438
7				
8				
9				
10				
11	C-1	Statement by N. Coad		220
12	C-2	Jury Note		261
13	C-3	DMV Affidavit		419
14	C-4	Jury Note		520
15	C-5	Jury Note		521
16	C-6	Jury Note		521
17	C-7	Jury Note		527
18	C-8	Jury Note		530
19				
20				
21				
22				
23				
24				
25				

1 MONDAY, AUGUST 19, 2019

2 (DVD OF PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER 1
3 FOR IDENTIFICATION.)

4 (DVD OF PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER 2
5 FOR IDENTIFICATION.)

6 THE COURT: All right, is everybody ready?

7 MR. FYALL: Yes, Your Honor.

8 THE COURT: What motion do y'all want to start with
9 first? It doesn't matter. What are you going to -- what
10 would you like to start with?

11 MR. FYALL: We'll start with *Biggers*, Your Honor.

12 THE COURT: All right.

13 MR. SUTHERLAND: And if I may, Judge, I would just
14 move to sequester the witnesses at this time.

15 THE COURT: What now?

16 MR. SUTHERLAND: I would move to sequester the
17 witnesses at this time, sir, if they have any of their ID
18 witnesses or witness.

19 THE COURT: I'm going to ask you to speak up.
20 Sequestration of witnesses, who is there? We've got the
21 chief investigator; he's not going anywhere.

22 MR. SUTHERLAND: Yes, sir.

23 THE COURT: And this is a *Biggers*, right?

24 MR. FYALL: Yes, Your Honor.

25 THE COURT: And there are no other fact witnesses in

1 here, right?

2 MR. FYALL: No, sir.

3 MR. SUTHERLAND: Okay. Thank you.

4 THE COURT: All right. That's all right. Just double
5 checking to make sure, but the gentleman at the table,
6 there's no problem with that, is there, and the motion is
7 for sequestration on down the road. That's a different
8 story.

9 MR. SUTHERLAND: Yes, sir.

10 THE COURT: All right, then, Solicitor.

11 MR. SHELLENBERG: Your Honor, the state calls
12 Investigator Michael Laurita.

13 MICHAEL LAURITA, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 CLERK: Please have a seat in the witness stand and
16 state your full name for the record.

17 WITNESS: Michael Laurita.

18 CLERK OF COURT: And spell your last name.

19 THE COURT: Michael what?

20 WITNESS: Laurita.

21 CLERK: Spell your last name, please.

22 WITNESS: L-a-u-r-i-t-a.

23 DIRECT EXAMINATION BY MR. SHELLENBERG:

24 Q. Good morning, Investigator Laurita.

25 A. Good morning.

1 Q. Did you became involved in a case on July 27, 2017?

2 A. I did.

3 Q. And what was that case?

4 A. It was the case involving the homicide of one Aaron
5 and Sydni Collins. Took place around 7720 Parklane Road.

6 Q. And were you the lead investigator on it?

7 A. I was.

8 Q. Did you speak with any witnesses in this case?

9 A. I spoke with several witnesses in this case.

10 Q. And did you show a lineup to a Natasha Coad?

11 A. I did.

12 Q. And why did you show her a lineup in this case?

13 A. She was a friend of the victims, and she was actually
14 in a vehicle right behind the victims at the time of the
15 incident. She was several feet away from where the
16 incident took place.

17 Q. Did she have a chance to observe the shooting?

18 A. She did.

19 Q. And when you brought her in -- and how far away did
20 say she was from the ---

21 A. She was -- they were stopped at a stoplight, and she
22 was literally right behind them. So, several feet away
23 from where the incident happened.

24 Q. And, well, I'm going to show you what has been marked.

25 MR. SHELLENBERG: Your Honor, may I approach?

1 THE COURT: Yes, sir.

2 BY MR. SHELLENBERG:

3 Q. For identification as State's 1.

4 (PHOTO LINEUP MARKED AS STATE'S EXHIBIT NUMBER 3 FOR
5 IDENTIFICATION.)

6 COURT REPORTER: State's 3 for ID.

7 BY MR. SHELLENBERG:

8 Q. Ahead of myself. Do you recognize that?

9 A. I do.

10 Q. What do you recognize that as?

11 A. This is the photo lineup that I had initially showed
12 Ms. Coad.

13 Q. And what day did you show her that lineup?

14 A. I believe it was August 1, 2017.

15 Q. And who was present when you showed her the lineup?

16 A. Me and my partner, Investigator Jordan.

17 Q. Who did you place in that lineup?

18 A. I replaced -- Ricardo Middleton is one of this -- is
19 the main person in the lineup.

20 Q. And why was he chosen to be in the lineup?

21 A. Through our investigation, we determined that he was a
22 potential suspect in the case.

23 Q. And did you tell the witness anything before, during,
24 or after the lineup?

25 A. No. Oh, yeah, we got a statement from her as far as

1 what she saw, but nothing.

2 Q. Did you indicate to her who to pick?

3 A. No.

4 Q. Did you, did you do anything to try and manifest who
5 she should select in this?

6 A. No.

7 Q. Did anyone else influence her?

8 A. No.

9 Q. Did she talk to any other witnesses when she gave the
10 statement?

11 A. No.

12 Q. Where was the lineup -- where was the defendant in the
13 lineup?

14 A. He is number 5 in this lineup.

15 Q. And was the witness able to make an identification?

16 A. Not on this lineup, no.

17 Q. And what was the defendant's -- or what was witness's
18 reasoning for not being able to make an ID?

19 A. She told me that the photos were very blurry and that
20 she was unable to see clearly whether or not -- she didn't
21 feel comfortable making a positive ID on anybody just
22 because the pictures were very blurry and fuzzy, she said.

23 Q. And had the witness ever seen the defendant before?

24 A. No.

25 Q. Did you show her a second lineup?

1 A. I did.

2 (PHOTO LINEUP MARKED AS STATE'S EXHIBIT NUMBER 4 FOR
3 IDENTIFICATION.)

4 (COUNSELORS CONFER.)

5 BY MR. SHELLENBERG:

6 Q. Let me show you what's been marked State's 4 for
7 identification. Do you recognize that?

8 A. I do.

9 Q. And what do you recognize that as?

10 A. This is the second lineup I showed Ms. Coad.

11 Q. And when did you show her the second lineup?

12 A. On the 3rd of September.

13 Q. And who, who was present at that lineup?

14 A. 3rd of August. I'm sorry. This one, I believe it was
15 just me, and at the time Ms. Coad had an attorney with her,
16 and we were the only ones present at that one.

17 Q. And was the defendant placed in that lineup?

18 A. He was.

19 Q. And where was he placed in the lineup?

20 A. This one, again he was placed in number 5. I actually
21 didn't create this lineup. This one was created by SLED,
22 so.

23 Q. And why did you put the defendant in this lineup?

24 A. Again, because he was still a potential suspect in
25 this case, and I went through SLED because at the time,

1 their photos tend to be a little more clear and more, and
2 more colorful.

3 Q. And what was told to the witness before you showed her
4 the lineup?

5 A. I didn't tell her anything before I showed her the
6 lineup. I asked her if she had seen any news articles or
7 talked to anybody in reference to the case, which she,
8 which she told me that she had not.

9 Q. And was there anyone else that identified the
10 defendant in the witness's presence?

11 A. Excuse me?

12 Q. Was there anybody else who identified the witness at
13 the same the time -- or the defendant at the same time as
14 Ms. Coad?

15 A. No. No, there was not.

16 Q. Did you indicate who to pick?

17 A. I did not.

18 Q. Did you tell her in any way -- verbally, nonverbally
19 -- who to select?

20 A. I did not.

21 Q. And how long did it take the witness to identify the
22 defendant?

23 A. Not very long at all.

24 Q. And was -- the witness wasn't shown any pictures prior
25 to making that identification?

1 A. No.

2 Q. And has the witness ever seen the defendant before
3 other than on the incident date?

4 A. No.

5 MR. SHELLENBERG: All right, no further questions,
6 Your Honor.

7 MR. SUTHERLAND: If it please the court, sir?

8 CROSS-EXAMINATION BY MR. SUTHERLAND:

9 Q. Okay, I wanted to take you back to the night of the
10 incident.

11 A. Okay.

12 Q. The 27th, and she gave a statement to Investigator
13 Taylor. Is that correct?

14 A. It's my -- yeah, Investigator Taylor. She gave a very
15 brief statement to Investigator Taylor that night.

16 Q. Do you happen to have that in front of you?

17 A. I do not have it in front of me.

18 MR. SUTHERLAND: Beg the court's indulgence.

19 THE COURT: Okay.

20 MR. SUTHERLAND: May I approach, Judge?

21 THE COURT: Yes, sir.

22 BY MR. SUTHERLAND:

23 Q. Okay, and if you could follow along with me: Can you
24 describe what you witnessed at Parklane and Claudia? This
25 is the second question other than the introductions.

1 A. Yes, sir.

2 Q. Where she says:

3 Two people rolled up on bikes, shot them, and
4 rode off down Parklane towards Farrow Road.

5 A. Yes, sir.

6 Q. Is that right? Okay:

7 What were the suspects driving? Two motorcycles.
8 I can't describe them.

9 A. Yes, sir.

10 Q. Can you describe the subjects? No. It happened
11 so fast.

12 A. Yes, sir.

13 Q. Okay. That is it for that. So, there was no initial
14 description given because the incident happened too fast,
15 this is according to her.

16 A. That was her statement that night, yeah.

17 Q. Right.

18 A. Actually, I think she refused to even sign this
19 statement.

20 Q. But that's what she told Investigator Taylor?

21 A. That's what -- yeah, that's what's written here, yeah.
22 Yeah, I'm assuming that, yeah.

23 Q. The statement ---

24 A. I wasn't there. I wasn't there, yeah.

25 Q. --- wasn't taking literary licence with the ---

1 A. Yeah.

2 Q. --- thing there. Because it happened too fast, okay.

3 All right, so let's move along here to the second
4 incident, or the second interview. I'm sorry.

5 A. Okay.

6 Q. The statement that she gave you when she did not do a
7 -- the no-pick statement.

8 A. Okay.

9 Q. You got that?

10 A. I do not have that statement in front of me.

11 MR. SUTHERLAND: Beg the court's indulgence. I'm just
12 taking time. I'm sorry.

13 (A PAUSE.)

14 BY MR. SUTHERLAND:

15 Q. I think these are all of them.

16 A. So, you're referring to the one on August 1st?

17 Q. On August the 1st. It's the one where she did not
18 pick.

19 A. Correct.

20 Q. Okay. Now, when you asked -- I'm trying to get to the
21 part about the lineup. Okay, you asked her, you showed her
22 the lineup, and she was unable to make the pick. Now, your
23 testimony was that she had said the lineup was fuzzy or
24 something. This was at a later date. At this time, she
25 just said I'm not sure. She -- if you saw these guys,

1 would you be able to identify them, and she said ---

2 A. Oh.

3 Q. That's on page 5 at the top.

4 A. Page 5: If you saw either of these guys again, would
5 you be able to identify them? She said: I'm not sure.

6 Yes.

7 Q. Okay. So, just really the extent of that is that you
8 show her the lineup, and she's unable to make a pick at
9 that time?

10 A. Yeah. She just -- yeah.

11 Q. All right. Okay, and it is at the third -- oh, and
12 during that second time, she tells you in the interview
13 that there was a pedestrian in a red shirt coming from the
14 left and someone in a white shirt coming from the right
15 that, that was shooting. So, she did give some kind of
16 description.

17 A. She did give some kind of description as far as she
18 says that there was a guy in a red shirt she saw walking
19 across the street:

20 Walking towards us. At the same time, the guy in
21 the white T-shirt came up on the right side of my
22 car and kind of cut me off. The gun, the gun --
23 the red shirt hit Ricky.

24 Who is Ricardo or who is...

25 Q. Montgomery?

1 A. Montgomery:

2 In the head with the gun and punched him over.

3 At the same time, the guy in the white shirt
4 started shooting.

5 And then she does say in the next question that the
6 guy in the white shirt was a guy she saw speaking to -- at
7 the club and was approached by some other guys and the same
8 guys that approached him near the mall by the light.

9 Q. Okay, but there's no, there's no, no description given
10 at that time, and she said she wasn't sure. You're not --
11 she said she wasn't sure she'd be able to identify him
12 and ---

13 A. Yes. She said she was not sure if she would be able
14 to identify him, yeah.

15 Q. And she -- turns out she wasn't able to, looking at
16 the, at the lineup?

17 A. Not on this date, correct.

18 Q. Right. Okay, now in the interim, you all had arrested
19 Mr. Middleton?

20 A. Correct.

21 Q. And there, you know, there's a press release. There
22 were news stories, and his, you know, picture was on TV?

23 A. Correct.

24 Q. How did the conversation go? Did Natasha reach back
25 out to you after she saw him on TV, or did you all ---

1 A. Her attorney reached out to me.

2 Q. Okay.

3 A. I can give you the date on my -- if I look through my
4 follow up here. I believe it was on the 2nd.

5 Q. Okay.

6 A. Of August. Sorry. Her attorney reached out to me and
7 said that she wanted to come back in and look at the
8 lineups again, and she had told him that they were too
9 distorted and fuzzy for her to recognize anybody, and so
10 that's when we had her come back in.

11 Q. Okay. When you spoke with her, I noticed that you
12 were questioning her. This isn't about, this isn't about
13 you didn't see it on TV.

14 A. Yes.

15 Q. How, how did that, how did that come up?

16 A. Well, that was one of the first things I asked her
17 when I came in, just to make sure that this was not being
18 influenced by anything she had seen on TV or heard from
19 anybody or anything like that. So, that was one of the
20 first questions I'd actually asked her.

21 Q. Okay, and this second lineup, I think you said that
22 you all had done the first.

23 A. Uh-huh.

24 Q. And that SLED had done the second.

25 A. Yes, sir.

1 Q. Are both of those ---

2 A. They're right here.

3 Q. --- there?

4 MR. SUTHERLAND: Oh. Sorry, Judge, approaching the
5 witness.

6 Q. Okay, now, in both of these lineups, this is the same
7 picture in this lineup and that?

8 A. Correct.

9 Q. Okay. Now, did, did you speak with her, or did
10 anybody from the solicitor's office speak with her after
11 that about anyone else who might have been in that, in that
12 lineup?

13 A. About anybody else in that lineup?

14 Q. That she recognized, that she recognized somebody?
15 She had known somebody in, in this lineup other than the
16 defendant?

17 A. Not to my recollection.

18 Q. Okay.

19 MR. SUTHERLAND: Beg the court's indulgence.

20 THE COURT: Yes, sir.

21 (COUNSELORS CONFER.)

22 MR. SUTHERLAND: Okay, I, I believe the solicitor's
23 office has said they're going to stipulate -- what I'm
24 trying to track down, Your Honor, is in an update. I
25 believe they had interviewed Natasha a third or a fourth

1 time, and this was in mid June. And at that time, she
2 informed them that she knew a person in the second lineup
3 where she identified him. In other words, that she had
4 known someone else in the lineup, thereby, you know, taking
5 down the number of choices that she would have had
6 certainly. So, I guess it becomes a five-photo lineup at
7 that time.

8 THE COURT: I don't understand. Is this a motion?

9 MR. SUTHERLAND: Oh, no, sir. I had asked them if the
10 -- the witness didn't have any knowledge of it. The
11 solicitor's office does, does recall, but they don't know
12 who had interviewed Natasha at the time where she said that
13 she knew another person in the lineup. And so the
14 solicitor's office is saying that they will stipulate that
15 in this second lineup, Natasha knew one of the people in
16 the lineup other than the defendant. So, she personally
17 knew one of the pictures in the lineup that was not the
18 defendant. So, that would narrow, narrow it down to a
19 five-person photo.

20 THE COURT: All right.

21 MR. SUTHERLAND: Yes, sir, and that's a stipulation.

22 MR. FYALL: Yes, Honor, just for purposes of this
23 hearing.

24 MR. SUTHERLAND: Okay.

25 THE COURT: All right.

1 BY MR. SUTHERLAND:

2 Q. okay, now, which -- you have the solicitor's stuff?

3 A. Yes, I have the solicitor's.

4 Q. Okay, and so again, in both of these lineups, you used
5 the ---

6 THE COURT: You need to specify what number they're
7 marked as for the record.

8 MR. SUTHERLAND: Oh, yes. Yes, sir.

9 BY MR. SUTHERLAND:

10 Q. So, both Exhibit 3 and Exhibit 4 is the same
11 photograph of the defendant?

12 A. Yes.

13 MR. SUTHERLAND: And beg the court's indulgence.

14 THE COURT: All right, sir.

15 (A PAUSE.)

16 MR. SUTHERLAND: Okay, no further questions at this
17 time, Judge.

18 THE COURT: All right, anything in redirect?

19 REDIRECT EXAMINATION BY MR. SHELLENBERG:

20 Q. Who created the second lineup?

21 A. SLED. It would have been the SLED Fusion Center would
22 have created the second lineup.

23 COURT REPORTER: Speak up, please.

24 A. I'm sorry. It's the SLED Fusion Center.

25 Q. So, you didn't create it?

1 A. I did not.

2 MR. SHELLENBERG: All right. No further questions.

3 THE COURT: Anything further from this witness?

4 MR. SUTHERLAND: I just have a motion with respect to
5 identification.

6 THE COURT: Anything further of this witness?

7 MR. SUTHERLAND: Oh. No, sir. No, sir.

8 THE COURT: You may step down, sir.

9 (THE WITNESS EXITS THE STAND.)

10 THE COURT: Anything further from the state?

11 MR. SHELLENBERG: No, Your Honor.

12 THE COURT: Yes, sir.

13 MR. SUTHERLAND: Thank you, Your Honor. May it please
14 the court? Your Honor, in the, in the witness's initial
15 interview, she had stated to investigators that she didn't,
16 did not see what happened and that it happened too fast.
17 In the initial lineup, she was presented with a lineup at
18 that time in which ---

19 THE COURT: Which exhibit is the initial lineup?

20 MR. SUTHERLAND: Which -- with Exhibit 3, I believe it
21 is, where she was unable to identify the defendant. In the
22 interim, the, the new -- the -- law enforcement released
23 news of his arrest to the media and it was broadcast pretty
24 widely, and I do have some examples of that, but after that
25 release to the media, that's when the witness, per the

1 testimony, comes back in for another viewing.

2 Now in that second lineup, they have the same -- the
3 only photo that is the same as the initial lineup is the
4 photo of the defendant. The other photos are SLED or
5 established by SLED, different photos, and one of the
6 people in the second lineup is someone that she knows. So,
7 with respect to this being a suggestive lineup and a
8 suggestive procedural process, she goes from not being --
9 knowing anything or seeing anything to making this
10 identification through this process. So, the second lineup
11 is suggestive in those respects that I've pointed out.
12 That it's only five -- it ends up being only a five-person
13 lineup, and it can take -- even though SLED has created the
14 lineup, it's the same photograph from the first one. So,
15 the defense believes that that is unduly -- that's an
16 unduly suggestive lineup procedure.

17 Now, the state has handed some cases up to the court.
18 I believe -- let's see, *State vs. Drayton*, *State vs.*
19 *Stewart*, and then of course *Neil vs. Biggers* for the
20 factors. This is distinguishable from these two cases in
21 that in both cases, the attentiveness of the witness is
22 manifested by the details of the description. There are no
23 -- there is no description at the time of the offense. In
24 fact, she said that she could not see it.

25 So, I would make the argument, I would base the

1 defense argument on the cases that the state submitted to
2 the court on their own behalf. That this is
3 distinguishable from that because the witnesses in both of
4 these cases gave detailed descriptions of the person versus
5 no description at all, and then a description of a T-shirt
6 that ended up being incorrect ultimately of a red T-shirt
7 and, and, and a white T-shirt at the second -- at the
8 no-pick lineup.

9 So, even at the time of the second lineup, the
10 description only involved two T-shirts at that time. It is
11 only after the broadcasting of the pictures of the news
12 media that she's able to come in and make a pick.

13 Now, I am aware that in and of themselves that, you
14 know, the news media broadcasting these -- it's what the
15 news media does. It's not a state action, though. The,
16 you know, the police release the public information and it
17 goes out. But certainly the totality of circumstances
18 where you have a suggestive lineup procedure that takes a
19 witness from an incapacity to remember a single detail
20 about a person to making an identification and giving
21 details about that, I think that in and of itself speaks to
22 the suggestiveness of the lineup procedure.

23 And just on to the second -- I actually was filling
24 this in during testimony -- and onto the factors, the
25 opportunity of the witness to view the criminal at the time

1 of the crime, the witness's degree of attention is zero for
2 the *Neil vs. Biggers* factors. It's zero. That's per the
3 testimony. The accuracy of the witness's prior description
4 of the criminal, there's no description under, under that
5 factor. And the level of certainly demonstrated by the
6 witness at the confrontation, we had too fast, I'm not
7 sure, and then a pick. So -- but we had a, we had a no
8 pick, and I believe unsure at the last instance and then
9 pick, and then picking him out once they presented the
10 photo lineups. Still no description.

11 The length of time between the crime and
12 confrontation. This was July the 27th to August the 3rd,
13 which is -- July has thirty-one days. So, this would be a,
14 this would be a week later with all of this activity and
15 interaction with the police happening in the interim, as
16 well the media broadcasting out there.

17 I just think under these circumstances, the totality
18 of the circumstances on both ends of this thing, I don't
19 see how the state could argue that this lineup should be
20 admissible.

21 THE COURT: All right.

22 Yes, sir.

23 MR. SHELLENBERG: Thank you, Your Honor. The initial
24 statement was taken immediately on the scene right after
25 the incident happened. And the victims -- the witness was

1 still processing seeing her two friends be killed. And
2 when the second statement was taken, and I believe number
3 3, lineup number 3 that was the no pick was done on August
4 the 1st. They actually asked her: Did you recognize either
5 of the guys you saw? And she said: The guy in the white
6 T-shirt. It was the same guy that they spoke to in the
7 club, and also the same guy that approached them at the
8 light near the mall who ends up being the defendant she
9 picks out.

10 She's also able to give them the story of what
11 happened, and she says that she's not able to pick. I'm
12 not sure when she's shown the photo lineup is different
13 than I cannot pick somebody out at that time three days,
14 two days later they show another photo lineup. This one is
15 given by SLED and asked -- she's asked point blank as soon
16 as she comes in. Did you see this on TV? Did you talk to
17 anybody about it? She says no, and she's able to almost
18 immediately pick out the defendant. She was on the scene
19 immediately when it happened, feet away from the shooting;
20 her opportunity to observe and witness was almost face to
21 face.

22 The first lineup she said was fuzzy. The second
23 lineup she picks him out nearly immediately, and within one
24 week of the incident happening is not too long under Neil
25 vs. Biggers.

1 codefendant as the same person they were speaking about
2 before and the person that pulled up at the light, they're
3 making an argument that identification of the codefendant
4 is, is relevant. And I'm arguing that it's not relevant
5 because they are identifying the codefendant.

6 With respect to him, the only description we have with
7 him is a red T-shirt at this time, and so they're, they're
8 not even speaking of him, and just wanted the record to be
9 correct on that. There's no identification, no description
10 whatsoever beyond red T-shirt, so.

11 THE COURT: All right, Solicitor, what's your
12 response?

13 MR. SHELLBERG: Your Honor, she does, in fact, say
14 Mr. Middleton's wearing the red T-shirt and the
15 codefendant's wearing the white T-shirt, but then she calms
16 down and says that she'll be able to pick out the person in
17 the white T-shirt. She gives a third, third statement
18 where she actually says:

19 The first time you were shown a photo lineup, why
20 did you not pick somebody?

21 She says: They were distorted and blurry. Then they
22 say:

23 You were showed a cleared up lineup. Did you see
24 the suspect in there? Yes. Which suspect did
25 you pick out? The one in the white shirt.

1 THE COURT: How far away was the witness from the
2 incident, the shooting?

3 MR. SHELLENBERG: She was parked in a car directly
4 behind the two motorcycles at a light, so 6 feet, 6 feet or
5 so.

6 THE COURT: All right.

7 MR. SUTHERLAND: Oh, and just to, just to, just to
8 correct the record, when she's speaking of the guy in the
9 white T-shirt was the same guy they spoke to at the club
10 and was also the guy that approached them at the light near
11 the mall, that's the codefendant, Your Honor. That's
12 Compton that approached at the mall and was doing the
13 waving to side of the head. They're not speaking about Mr.
14 Middleton. They're speaking about the codefendant who is
15 not present.

16 The codefendant in this case pulled up to the light
17 and was interacting with -- AC is the, is the nickname for
18 Aaron, and they were going back and forth and talking about
19 going to the side of the road. That is the person that she
20 identifies with the white T-shirt because in the third
21 interview with them, she switches the T-shirts of the guy
22 and puts the white T-shirt on Mr. Middleton. That at the
23 second -- at the time of the second interview, he's
24 supposed have a red T-shirt on. So, they're talk --
25 they're making an argument that an identification of the

1 So, she just has the shirts confused when she
2 initially gives the statement.

3 Where was the guy in the white shirt when you saw
4 him? He was standing right in front of me.

5 And that's the statement she gives when she picks him
6 out, and then she's able to say:

7 Did you see anyone shoot before he did? No. He
8 was the first one. Did the guy in the red
9 shirt's motorcycle have saddlebags? No.

10 She's able to give a description of the incident with
11 more detail than she previously gave.

12 THE COURT: All right, anything further?

13 MR. SUTHERLAND: And, and just briefly, that, that
14 doesn't -- I'm sorry, Judge. That doesn't change that they
15 were making their argument about the codefendant's
16 interactions with them, and they were identifying ---

17 THE COURT: Let me ask this. Who did she pick out,
18 the codefendant or this gentleman?

19 MR. SHELLENBERG: This gentleman.

20 THE COURT: All right. Anything further?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: Your motion to suppress, is that correct?

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: It's denied.

25 MR. SUTHERLAND: Thank you, Your Honor.

1 THE COURT: I think there is plenty of time. It was
2 within a week. She couldn't pick him out the first time,
3 but then she recognized his photo from TV? Help me out.

4 MR. FYALL: She did not, Your Honor. They asked her
5 if she had seen the news, and she said that she had not
6 seen the news.

7 THE COURT: Oh, she had not seen the news.

8 MR. FYALL: Right, sir.

9 THE COURT: So, the first time she didn't recognize
10 him. The second time she says this is the guy in the white
11 T-shirt. She was within 15 feet of him. Was that --
12 sorry, 6 feet of the shooter, and she identifies him as the
13 shooter. Is that correct?

14 MR. SHELLBERG: Yes, sir.

15 THE COURT: I think there is not a substantial
16 likelihood that she misidentified the defendant. Your
17 motion is denied.

18 MR. SUTHERLAND: Thank you, sir.

19 THE COURT: All right.

20 MR. FYALL: Thank you, Your Honor. The next witness
21 is Investigator Taima Jordan.

22 TAIMA JORDAN, BEING DULY SWORN,
23 TESTIFIES AS FOLLOWS:

24 CLERK: Please have a seat in the witness stand and
25 state your full name for the record.

1 WITNESS: Taima Jordan.

2 CLERK: Spell your first name.

3 WITNESS: T-a-i-m-a.

4 DIRECT EXAMINATION BY MR. FYALL:

5 Q. Investigator Jordan, where are you employed?

6 A. Richland County Sheriff's Department.

7 Q. How long have you been employed there?

8 A. Sixteen years.

9 Q. And what is your current duty?

10 A. I'm assigned to the Major Crimes Unit: armed robbery
11 and homicide.

12 Q. How did you become involved in the case involving
13 Ricardo Middleton?

14 A. During this incident, I was part of the gang unit, and
15 I was notified to assist Investigator Laurita with the
16 case.

17 Q. All right, and, and investigating this case, did you
18 have an opportunity to interview a Ronnie Scott?

19 A. Yes, sir.

20 Q. Can you tell us the date of that interview?

21 A. I believe it was on July 31st.

22 Q. Do you have what Mr. Scott told you?

23 A. Yes. He told us that he was in the -- at the location
24 during the incident, during the time of the shooting.

25 Q. All right, and can you tell us substantially what was

1 in his statement about the incident?

2 A. When myself and Investigator Laurita interviewed Mr.
3 Scott, he told us that he was in his work truck. He was at
4 the light at Parklane and Claudia when he observed the
5 shooting take place, and that he had information about the
6 shooting.

7 Q. All right, and did Mr. Scott -- was Mr. Scott showed a
8 lineup?

9 A. Yes, he was.

10 Q. I'm going to show you what's been marked as State's 5.
11 (PHOTO LINEUP MARKED AS STATE'S EXHIBIT NUMBER 5 FOR
12 IDENTIFICATION.)

13 Q. Show you what's marked State's 5 for identification
14 purposes. Do you recognize that?

15 A. Yes, sir.

16 Q. What is it?

17 A. It's a six-picture photo lineup.

18 Q. And who was in that lineup?

19 A. Mr. Ricardo Middleton.

20 Q. When you showed that lineup to Mr. Scott, did you
21 suggest to him to who to pick?

22 A. No, sir.

23 Q. Was any influence placed on him at all?

24 A. No, sir.

25 Q. And who did he pick in that lineup?

1 A. Number, number 4, which is Ricardo Middleton.

2 Q. What did he tell you about Ricardo Middleton?

3 A. That he was a part of Thunderguard, as he was as well.

4 He was, I believe, the vice president at the time, Mr.

5 Scott, and that Mr. Middleton was a part of the

6 Thunderguard as well.

7 Q. Okay. So, Mr. Scott knew Mr. Middleton just by name

8 and sight prior to this incident?

9 A. Yes.

10 Q. All right. Did he tell you about Mr. Middleton's

11 involvement in this incident?

12 A. He did.

13 Q. And what did he say Mr. Middleton's involvement was?

14 A. He said that he pulled up in a -- I think they called

15 it an egg car. Got out of the car and he saw a muzzle

16 flash.

17 Q. All right, and where was Mr. Scott -- where did this

18 take place, first of all?

19 A. The corner or intersection of Parklane and Claudia.

20 Q. And, and where was Mr. Scott in reference to Mr.

21 Middleton, according to him?

22 A. He was in the outside lane. Mr. Middleton was --

23 pulled up in the turning lane to turn on to Claudia, so

24 within a few feet of Mr., Mr. Middleton.

25 Q. And he said he witnessed Mr. Middleton get out of the

1 car?

2 A. Yes.

3 Q. And again, you said he knew Mr. Middleton actively by
4 name and sight?

5 A. He did.

6 Q. And he identified him in a lineup?

7 A. He did.

8 MR. FYALL: No further questions.

9 THE COURT: Mr. Sutherland.

10 MR. SUTHERLAND: Please the court, Your Honor? Just
11 briefly, Your Honor.

12 THE COURT: Yes, sir. Take your time.

13 CROSS-EXAMINATION BY MR. SUTHERLAND:

14 Q. Sir, did Ronnie ever -- I think initially he said he
15 didn't see anything. Is that correct?

16 A. I think so at first, yes.

17 Q. Okay, and then he made the statement to you, made the
18 identification. Did he ever recant that identification?

19 A. Not to me.

20 Q. To anyone involved with the solicitor's office and law
21 enforcement?

22 A. I, I guess. I think so. I think I did hear about
23 that, yes.

24 MR. SUTHERLAND: No further questions. No motions,
25 Judge.

1 THE COURT: All right, anything further, Solicitor?

2 MR. FYALL: One more, Your Honor.

3 (PHOTO LINEUP MARKED AS STATE'S EXHIBIT NUMBER 6 FOR
4 IDENTIFICATION.)

5 REDIRECT EXAMINATION BY MR. FYALL:

6 Q. Investigator Jordan, I'm going to show you what's now
7 marked as State's 6 for ID.

8 THE COURT: Do you have all these photographs, Mr.
9 Sutherland?

10 MR. SUTHERLAND: I have them in ---

11 THE COURT: Well, look. This is how we do it. Please
12 show the attorney what you want the witness to testify
13 about before you hand it to the witness so we'll be on the
14 same page.

15 MR. FYALL: Yes, Your Honor.

16 THE COURT: Do you have a copy for Mr. Sutherland?
17 Just as a matter of courtesy, show him what you're showing
18 the witness.

19 MR. SUTHERLAND: I've got it. Thank you, sir.

20 THE COURT: All right. Any objection?

21 MR. SUTHERLAND: No objection, Your Honor.

22 BY MR. FYALL:

23 Q. All right, I'm going to show you what's marked State's
24 6 for ID. Do you recognize that?

25 A. Yes, another six-picture photo lineup.

1 Q. Can you tell us what that is?

2 A. Put a six-picture photo lineup with Mr. Middleton's
3 photograph in it.

4 Q. And who was the witness that identified him in that
5 lineup?

6 A. Jayrell Johnson.

7 Q. All right. Did you have an opportunity to speak to
8 Mr. Johnson?

9 A. Yes.

10 Q. And what did he have to say in regards to this case?

11 A. Mr. Johnson is a part of a car, bike club known as the
12 24/7 Boyz. They are a support club of the club that Mr.
13 Aaron Collins was in, which was Outcast. The 24/7 Boyz are
14 a support club of Outcast. He told us that a week prior,
15 the defendant had approached him about his vest or rags, as
16 they call it, because in the back of his vest had Columbia,
17 South Carolina, on it, which is supposed to be a no-no in
18 regards to claiming territory. He was told to get in
19 contact with his superior or his overseer, if you will,
20 which would have been Aaron Collins, to get the matter
21 handled. Then the next week, they are at the same incident
22 location. They ---

23 Q. What's that incident location?

24 A. My House restaurant.

25 Q. Okay.

1 A. And Mr. Middleton was approached about what happened
2 the week before.

3 Q. Okay. You said Mr. Middleton was approached. You
4 mean Mr. Johnson?

5 A. I'm sorry, Mr. Johnson. Excuse me, yes, Mr. Johnson.

6 Q. Who did he say he was approached by?

7 A. As far as?

8 Q. I'll take -- did he say he interacted with the
9 defendant at My House?

10 A. Yes, he did.

11 Q. All right. How did he describe that?

12 A. Describes him as being short.

13 Q. Did he say that he spoke to the defendant or that the
14 defendant spoke to him?

15 A. Yes.

16 Q. What did he say the defendant said?

17 A. He called him -- excuse my language -- a pussy.

18 Q. So, this would have been the second interaction he had
19 had with Mr. Middleton?

20 A. Yes.

21 Q. And again, you showed him a lineup. Who did he
22 select?

23 A. Mr. Middleton.

24 Q. All right, and again, did you suggest to him that Mr.
25 Middleton was in the lineup or who to pick in that lineup?

1 A. I did not.

2 Q. All right, and did he, Mr. Middleton of his own
3 accord?

4 A. He did.

5 Q. Thank you.

6 MR. FYALL: No further questions, Your Honor.

7 THE COURT: All right, Mr. Sutherland.

8 MR. SUTHERLAND: Yes, sir. Please the court?

9 RECROSS EXAMINATION BY MR. SUTHERLAND:

10 Q. Okay, as I understand, your testimony is that Mr.
11 Johnson had interacted with Mr. Middleton a week prior to
12 the incident?

13 A. Yes. Asked him about his, his vest.

14 Q. And how, how did that, how did that conclude? You
15 know, it didn't conclude with any -- what, what happened?
16 Was it a violent encounter? What kind of encounter did Mr.
17 Johnson tell you?

18 A. That he needed to ask him about his vest, and he
19 needed to let his superior know that he needed to get in
20 contact with him about the vest.

21 Q. How, how did they part ways? Did they shake hands or
22 slap each other? What?

23 A. I wasn't there. I don't, don't know. He didn't
24 specify. I mean, I don't...

25 Q. Okay. If he didn't -- okay, that, we can get to that

1 later. I wanted, I did want to ask you one thing. I've
2 got an email from Scott McDonald or -- well, to Laurita
3 from Scott McDonald from -- and you're the originator of
4 this. In this email, there's a lot of information
5 provided. You said that you spoke to somebody that was
6 close to the victims in the case. Is that -- is this
7 Jayrell Johnson that ---

8 A. It is not.

9 Q. It is not? Okay.

10 MR. SUTHERLAND: All right, no further questions. No
11 motions.

12 THE COURT: All right, anything further from this
13 witness?

14 MR. FYALL: No, sir, Your Honor.

15 THE COURT: You may step down, sir.

16 (THE WITNESS EXITS THE STAND.)

17 MR. FYALL: Your Honor, that's all for the *Biggers*
18 matter. There are no more motions.

19 THE COURT: Anything further regarding the *Biggers*?

20 MR. SUTHERLAND: No, sir. No, sir.

21 THE COURT: Same motion, I would assume?

22 MR. SUTHERLAND: Oh, yeah, with -- certainly we'll be
23 renewing ---

24 THE COURT: Okay.

25 MR. SUTHERLAND: --- the motion with respect to that

1 particular identification.

2 THE COURT: All right, sir, go ahead.

3 MR. FYALL: All right, Investigator ---

4 THE COURT: Let me stop you for a minute.

5 (OFF THE RECORD.)

6 (WHEREUPON, TAIMA JORDAN RETURNS TO THE WITNESS
7 STAND.)

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION BY MR. FYALL:

10 Q. All right, Investigator Jordan, just sort of
11 fastforwarding here, at some point were you able to locate
12 Mr. Middleton?

13 A. Yes, in Summerville.

14 Q. In Summerville, and when you arrived in Summerville,
15 did you detain Mr. Middleton?

16 A. He was -- yes, he was detained with the help of the
17 Marshals Service and other investigators from the
18 surrounding area.

19 Q. All right. Did you end up speaking to him that day?

20 A. Yes.

21 Q. Before you spoke to him, what happened?

22 A. He was mirandized by Investigator Laurita.

23 Q. And how was he mirandized by Investigator Laurita?

24 A. We have a card that have Miranda rights written on
25 them, and Mr. -- Investigator Laurita read his Miranda

1 rights to him.

2 Q. All right, and what are those rights?

3 A. You have the right to remain silent. Anything you say
4 can be used against you in a court of law. You have the
5 right to talk to an attorney. If you cannot afford an
6 attorney, one will be appointed for you if you wish. If
7 you decide to answer questions without an attorney present,
8 you have the right to stop answering any time. You also
9 have the right to stop answering any time until you talk to
10 an attorney.

11 Q. All right, and these rights were read to Mr.
12 Middleton?

13 A. Yes.

14 Q. And after those rights were read to him, did he tell
15 you he wanted an attorney?

16 A. He did not.

17 Q. Did he tell you that he didn't want to talk to you
18 anymore?

19 A. He did not.

20 Q. And so give me the context of how you were talking to
21 him.

22 A. Mr. Middleton rode back with me. He was -- I was
23 followed by Captain Lanier of the Fugitive Task Force. We
24 had small talk about where he was from, family, life,
25 things ---

1 MR. SUTHERLAND: I'm sorry. May I interrupt? Your
2 Honor, could we take about ten, ten minutes? This report
3 had -- his report had not been turned over to me. Could we
4 take about ten minutes before we go through it, before we
5 continue with the hearings?

6 THE COURT: Slow down a minute. You want to look at
7 something, you said?

8 MR. SUTHERLAND: Yes, sir. I just, I did not have
9 Investigator Jordan's report in my discovery. So, if I
10 could have about ten minutes to look through it prior to
11 the ---

12 THE COURT: Your request is granted.

13 MR. SUTHERLAND: Thank you. Thank you, sir.

14 THE COURT: From now on, y'all show me a copy of what
15 you're introducing into evidence. I need to see it at the
16 same time everybody else does.

17 Just let me know when you're ready. Give him a chance
18 to go over the statement.

19 (OFF THE RECORD.)

20 THE COURT: Ready?

21 MR. SUTHERLAND: Very nearly. Very nearly, Judge.

22 THE COURT: What?

23 MR. SUTHERLAND: Very, very nearly, sir. It's all
24 single spaced. I'm almost finished.

25 THE COURT: All right. Whose statement is this

1 anyway?

2 MR. FYALL: This is Investigator Jordan's report, Your
3 Honor. The actual statement portion is only on page 6. I
4 think Mr. Sutherland wanted to look at the entire ---

5 THE COURT: I didn't understand a word you said. You
6 need to speak up.

7 MR. FYALL: This is Investigator Jordan's report. The
8 actual statement is just about a paragraph on page 6 of
9 that report.

10 (A PAUSE.)

11 THE COURT: Gentlemen, I'm going to lunch. I'll see
12 y'all back at 2 o'clock.

13 (OFF THE RECORD.)

14 THE COURT: Is everybody ready?

15 MR. SUTHERLAND: Good to go. Yes, sir.

16 THE COURT: Mr. Fyall, I think you may continue.

17 MR. FYALL: Yes, Your Honor.

18 BY MR. FYALL:

19 Q. All right, Investigator Jordan, I think we were
20 talking about Mr. Middleton being read his rights by
21 Investigator Laurita in your presence?

22 A. Yes.

23 Q. Then you were sort of like having small talk with him
24 on the ride back from Summerville to -- where were you
25 going?

1 A. Back to Richland County.

2 Q. All right. While you were there, where was
3 Investigator Laurita?

4 A. He was still in Summerville conducting the search
5 warrant.

6 Q. All right, and so you were on the ride back. This is
7 after he's read his Miranda rights?

8 A. Yes.

9 Q. Can you tell me the conversation that you to had?

10 A. It was mostly small talk about where he was from.
11 Said he was from Massachusetts. So, we talked about some
12 things, you know, in regards to his childhood and things of
13 that nature. Then I asked him if he had been in Columbia
14 the last two weeks at bike night. He said no. Said the
15 last time he was in Columbia he was at a pool party, but he
16 couldn't tell me the female's name that he was, that he was
17 with. I asked him if he owned a motorcycle. He stated he
18 did, but it wasn't working at the time. Asked him was he
19 part of a club. He said he wasn't a part of any kind of
20 club, bike club for that matter.

21 THE COURT: Would you speak into the microphone?

22 WITNESS: I'm sorry.

23 BY MR. FYALL:

24 Q. You said you asked him if he was part of the bike
25 club?

- 1 A. Correct.
- 2 Q. And what did he tell you?
- 3 A. He was not.
- 4 Q. What else did you ask him?
- 5 A. I told him that he was being arrested for a shooting.
- 6 Said he didn't know anything about a shooting.
- 7 Q. All right, and did you ask him about his nickname?
- 8 A. I did. Asked him if his nickname was Tiptoe. He
- 9 stated it wasn't.
- 10 Q. All right. Is that pretty much the gist of your
- 11 conversation with him?
- 12 A. It is, yes.
- 13 Q. All right. After that, where did you take him?
- 14 A. To the jail.
- 15 Q. All right, and once he was went to jail, did you have
- 16 any other conversation with him that day?
- 17 A. Not that day, no.
- 18 Q. When was the next time you talked to him?
- 19 A. It was the next day with Investigator Laurita.
- 20 Q. All right. Tell me about that.
- 21 A. We picked him up from the jail. I'm sorry, we go, we
- 22 go to the jail and we would read him Miranda rights again.
- 23 He stated he understood the Miranda rights and he waived
- 24 them. During the conversation, he stated he wanted to talk
- 25 to us about what happened but that he feared for his

1 safety. Said he needed to talk to us, people at his club,
2 about what happened. He would get back with us. Then he
3 told us that his name was Tiptoe and that he was a part of
4 the Thunderguard bike club.

5 Q. All right, and after you had that conversation, what
6 happened?

7 A. He stated, you know, he just didn't want, I guess he
8 didn't to want to talk anymore. We were kind of going
9 around in circles, so we kind of ended the interview.

10 Q. All right, and then did you talk to him anymore after
11 that?

12 A. We did on August the 6th.

13 Q. Tell me about that.

14 A. Myself and Investigator Laurita tried to talk to him
15 again, and at that time he asked for an attorney.

16 Q. All right, and so at that time, he told you that he
17 didn't want to talk to you anymore?

18 A. Correct.

19 Q. And did you talk to him at any point since then?

20 A. I have not.

21 Q. All right. Thank you.

22 MR. FYALL: No further questions.

23 MR. SUTHERLAND: Briefly, Your Honor.

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION BY MR. SUTHERLAND:

1 Q. So if I recall, once he was taken into custody, did --
2 you all had mirandized him down in Summerville?

3 A. Yes, sir, Investigator Laurita did, yes.

4 Q. And also up here?

5 A. No. We just mirandized him the day he was arrested.
6 Investigator Laurita mirandized him in Summerville.

7 Q. Okay.

8 A. That was it.

9 Q. All right, and then when y'all went to the jail again?

10 A. Yes.

11 Q. Okay. Were there any audio or video recordings of any
12 of the conversations?

13 A. At that time we were not doing audio/video recording.

14 MR. SUTHERLAND: No further questions. No motions,
15 Judge.

16 THE COURT: All right, anything further?

17 MR. FYALL: Nothing further, Your Honor, and that's
18 all for pretrial from the state.

19 THE COURT: You may step down, sir.

20 (THE WITNESS EXITS THE STAND.)

21 THE COURT: Do you have a motion?

22 MR. SUTHERLAND: No, sir.

23 THE COURT: All right.

24 MR. SUTHERLAND: Oh, wait. We have a -- we're going
25 to settle the witnesses before, just before they come up

1 for records or -- okay, I guess we're going to handle the
2 witnesses with each one, settle the records when they come
3 up.

4 Okay, and I did want to move to have Mr. Middleton
5 unshackled during jury selection. He can -- he's -- I
6 don't want him ---

7 THE COURT: He's going to come around and walk around
8 or so going to stay there?

9 MR. SUTHERLAND: He'll stay here.

10 THE COURT: All right. Well, can they see his legs?

11 MR. SUTHERLAND: They might hear.

12 THE COURT: What?

13 MR. SUTHERLAND: They ---

14 THE COURT: I don't know if they can or not.

15 MR. SUTHERLAND: Yes, sir.

16 THE COURT: What's your position? Let me ask you,
17 Solicitor. What's your position? If they can't see it, I
18 don't think it matters that much.

19 DEPUTY: We prefer he stay.

20 THE COURT: What?

21 DEPUTY: We would prefer he stay with just the leg
22 shackles.

23 THE COURT: I know that. So, all he's going to do is
24 sit there, stand up, right? .

25 MR. SUTHERLAND: Yes, sir.

1 THE COURT: It's denied. I don't think anybody is
2 going to be able to see it. Can they see across?

3 MR. SUTHERLAND: No. It's -- I don't, I don't believe
4 so.

5 THE COURT: All right. Well, let him remained
6 shackled for the time being.

7 Call the jury.

8 MR. SHELLENBERG: Your Honor, while we bring the jury
9 up, looking at his proposed voir dire, the only thing,
10 number 4 ---

11 THE COURT: I asked you gentlemen for your voir dire.
12 I haven't received it yet from either side. Are y'all
13 going to show it to me or not?

14 MR. SUTHERLAND: I'm sorry, Judge. I turned in a copy
15 over here.

16 (OFF-THE-RECORD BENCH CONFERENCE.)

17 THE COURT: How many alternates do you think we need,
18 two or three?

19 MR. FYALL: I would say three, Your Honor. This
20 case ---

21 THE COURT: Why would you say three instead of two?

22 MR. FYALL: This case was on the news a little bit,
23 and so as the trial moves along, people might, you know,
24 start remembering things.

25 THE COURT: All right, three, we'll get three.

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: All right, any motions or anything at this
3 time before the jury comes up?

4 MR. SUTHERLAND: No, sir.

5 THE COURT: All right. Very well, and of course the
6 state wants me to call out all fifty witnesses. Is that
7 correct?

8 MR. FYALL: Thank you, Your Honor.

9 THE COURT: All right.

10 (WHEREUPON, THE JURY PANEL ENTERS.)

11 JURY VOIR DIRE

12 THE COURT: Well, good afternoon, ladies and
13 gentlemen. How are y'all? Still okay?

14 Now, at this time we're going to select a jury in the
15 case of *The State vs. Ricardo Middleton*. Now, Mr.
16 Middleton is seated at that table.

17 Turn around and face the jury panel, please, Mr.
18 Middleton. All right, thank you, sir. You can take a
19 seat.

20 Mr. Middleton is charged with three different counts,
21 three different indictments: two for murder and one for
22 attempted murder. I caution you at the very beginning that
23 these are allegations. The state must prove Mr. Middleton
24 guilty beyond a reasonable doubt. I need to read these
25 indictments to you so you have an idea of what the case is

1 all about.

2 First I read to you indictment number 2017-5855, *The*
3 *State vs. Ricardo Middleton*. This is an indictment for
4 murder. The allegations are, members of the panel, that
5 Ricardo Middleton did in Richland County on or about July
6 27, 2017, kill the victim, Aaron Collins, with malice
7 aforethought, either expressed or implied, by means of a
8 gunshot, and the victim died as a proximate result thereof.

9 Next indictment is also for murder, is indictment
10 number 2017-5854, *The State vs. Ricardo Middleton*, and the
11 allegations of this murder indictment are that Ricardo
12 Middleton did in Richland County, on or about July 27,
13 2017, kill the victim, Sydni Collins, with malice
14 aforethought, expressed or implied, by means of a gunshot,
15 and the victim did die as a proximate result thereof.

16 The next indictment is attempted murder. It's
17 indictment number 2017-5852, and the allegations are,
18 members of the panel, that Ricardo Middleton did in
19 Richland County, on or about July 27th of 2017, did with
20 the intent to kill attempt to kill Ricky Montgomery with
21 malice aforethought, either expressed or implied.

22 Now, let me introduce the lawyers involved in this
23 case. First, Mr. Middleton is being represented by Mr.
24 Tivis Sutherland. This is Mr. Sutherland; he represents
25 the defendant, Mr. Middleton. And the state's table we

1 have three solicitors from the Fifth Circuit here.

2 Lamar Fyall, stand up and face the jury panel.

3 J.J. Shellenberg, and John Steadman. They represent
4 the state by way of the Fifth Circuit Solicitor's Office,
5 and what I want to ask is this. Have you or any members of
6 your immediate family ever been represented by Mr. Tivis
7 Sutherland? If so please stand. Y'all know Mr.
8 Sutherland, have any dealings with Mr. Sutherland? Have
9 you or an immediate member of you family been on the other
10 side of a case involving Mr. Tivis Sutherland? If so,
11 please stand.

12 All right. I need to ask you this question. Yes,
13 ma'am, your name and number, please.

14 JUROR: Latashia Shriver.

15 THE COURT: What number?

16 JUROR: 247.

17 THE COURT: What?

18 JUROR: 247.

19 THE COURT: 247, and you've been on the other side of
20 a case involving Mr. Sutherland?

21 JUROR: Yes.

22 THE COURT: What type of case was it, ma'am?

23 JUROR: A murder case.

24 THE COURT: A murder case? How long ago was this?

25 JUROR: About 2015.

1 THE COURT: All right. When you say on the other
2 side, were you related to a victim? Okay, and when was it
3 again, ma'am?

4 JUROR: 2015.

5 THE COURT: All right. I need to ask you this
6 question. Would that or could that affect your ability to
7 be a fair juror in the trial of this case?

8 JUROR: Yes.

9 THE COURT: Okay. That's fine. I want you to go back
10 in the back of the courtroom. Have a seat. Thank you so
11 very much, and your number again was 247. Is that correct?

12 JUROR: Yes.

13 THE COURT: All right, gentlemen, she's off the list,
14 okay?

15 Do you see her, Pat?

16 CLERK: Yes, Your Honor.

17 THE COURT: Okay. I need to ask the same question
18 likewise regarding Mr. Lamar Fyall, John Steadman, and
19 Jeremiah Shellenberg. They all work with the Fifth Circuit
20 Solicitor's Office, and the question is this. Have you or
21 any members of your immediate family ever been involved in
22 a case involving these three gentlemen from the solicitor's
23 office? If so please stand. Do you know either one of
24 these gentlemen from the solicitor's office? If so, please
25 stand. Have you ever been on the other side of a case

1 involving the solicitors in this case? If so, please
2 stand.

3 (NO ONE STANDS.)

4 THE COURT: Now, members of the jury panel, this is
5 going to be kind of tedious, but this is only way I know
6 how to do it. There is a list of fifty witnesses. They
7 are potential witnesses, but I need to ask y'all whether or
8 not, the same question. The question is going to be in
9 regards to Mr. Middleton, as well all of these, any of
10 these witnesses. Any member of this jury panel related by
11 blood or marriage, or any member of this jury panel related
12 by blood or connected by marriage or employment, or are you
13 a close personal acquaintance of Mr. Ricardo Middleton? If
14 so, please stand. I think I already asked that.

15 Now, I'm going to ask you the same question about this
16 list of witnesses I've got to call out. It's very long.
17 Like I said, it's going to be tedious, but this is the only
18 way we can do it, and the potential witnesses in this case
19 will be Antonio Lloyd. He's a fact witness, I assume, at
20 the scene. Ricky Montgomery, Holly Gibson, Jermaine
21 Gibson, Barrett Coston, Natasha Coad, C-o-a-d, Iliana
22 Martinez, Tiffany Morgan, Jayrell Johnson, Ashley Hill,
23 Ronnie Scott, Lori Ann Summers, Kevin Hunt, Phillip Coates,
24 Cedric Barnes, John McNeely, Perry Bradley, Deborah Noble,
25 Connie Hopkins, Kiara Hopkins, Lacoshia Smith, Tiffany

1 Lester, Hattie Baylock, Matthew Taylor, Brittany Maller,
2 Linda Houck, Michelle Edwards Mobays, Deputy Joseph Lanier,
3 Deputy Demorian Priester, Deputy Alexander Laird,
4 Investigator Taima Jordan, Amanda Metz, Sara Humphries,
5 Yvonne Woods, Kerrie McLary. These are all from the
6 Richland County Sheriff's Department. Investigator Michael
7 Lautria.

8 Say that for me.

9 INVESTIGATOR LAURITA: Laurita.

10 THE COURT: Stan Richards. Stan Richards here?

11 Stand up, Deputy.

12 This is Deputy Lautria. I think I said that
13 correctly. If I didn't, I apologize.

14 INVESTIGATOR LAURITA: That's fine, Judge.

15 THE COURT: Stan Richards, Investigator Melissa Perry,
16 Investigator Marsden Roe, CSI Harold Bouknight, Amy Durso,
17 a pathologist, and Lieutenant Jennifer Nates from SLED.

18 Now, this is the question. Any member of the jury
19 panel related by blood or connected by marriage or
20 employment, or are you a close personal acquaintance of any
21 of those names I called? I'm going to call them out one
22 more time and listen carefully. If you think you know
23 anybody, you need to let us know.

24 Antonio Lloyd, Ricky Montgomery, Holly Gibson,
25 Jermaine Gibson, Barrett Coston, Natasha Coad, Iliana

1 Martinez, Tiffany Morgan, Jayrell Johnson, Ashley Hill,
2 Ronnie Scott, Lori Ann Summers, Kevin Hunt, Phillip Coats,
3 Cedric Barnes, John McNeely, Perry Bradley, Deborah Noble,
4 Connie Hopkins, Kiara Hopkins, Lacoshia Smith, Tiffany
5 Lester, Hattie Baylock, Matthew Taylor, Brittany Maller,
6 Linda Houck, Michelle Edwards, Deputy Joseph Lanier, Deputy
7 Demorian Priester, Deputy Alexander Laird, Investigator
8 Tamia Jordan, Tamia Jordan, Amanda Metz, Sara Humphries,
9 Yvonne Woods, Kerri McLary, Michael Lautria, Stan Richards,
10 Melissa Perry, Marsden Roe, Harold Bouknight, Amy Durso,
11 and once again Jennifer Nates. Related by blood or
12 marriage? Do you have any idea whether or not you know
13 these people or not? If so, please stand. Do you know any
14 of them?

15 (NO ONE STANDS.)

16 THE COURT: Okay. Now, was any one, was any one of
17 you a member of the grand jury that found the indictments
18 in this case? This is a question I have to ask. If so,
19 please stand. Nobody has been on the Richland County grand
20 jury in last three years, have you?

21 (NO ONE STANDS.)

22 THE COURT: All right. Has any member of the jury
23 panel formed or expressed any opinion about this case or as
24 to the guilt or innocence of Ricardo Middleton? If so,
25 please stand.

1 (NO ONE STANDS.)

2 THE COURT: Is any other member of the jury panel
3 aware of any bias or prejudice in connection with this case
4 or any of the parties thereto? That is the victims or the
5 defendants. If so please stand.

6 (NO ONE STANDS.)

7 THE COURT: Does any member of the jury panel know of
8 any reason why you could not give the state and the
9 defendant a fair and impartial trial of this case? If you
10 don't think you could be a fair juror in a case like this,
11 please stand, a murder case and attempted murder case. Is
12 there anything about the nature of what I have described to
13 you that happened, the charges, that would make you
14 uncomfortable as a juror, please stand.

15 (NO ONE STANDS.)

16 THE COURT: Now, has any member of the jury panel, any
17 member of your family, or any close friend or acquaintance
18 been a victim of a violent crime, and I repeat that. Has
19 any member of the jury panel, any member of your family or
20 close friend or acquaintance been a victim of a violent
21 crime? If so, please stand.

22 All right, let me ask you all to come down here and
23 form a line. I'm going to talk to y'all individually and
24 privately.

25 (THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH IN

1 THE PRESENCE OF COUNSEL.)

2 CLERK: Number 526.

3 THE COURT: All right, 526. Yes, sir, you need to
4 talk this way so they can hear you.

5 JUROR: Yes, sir. My brother was shot probably about
6 twenty, twenty-five years ago.

7 THE COURT: Did he survive the shooting?

8 JUROR: Yes, sir, he did.

9 THE COURT: All right.

10 Did y'all get that?

11 MR. SUTHERLAND: Yes, Your Honor.

12 MR. FYALL: Yes, sir.

13 THE COURT: His brother was shot.

14 I need to ask you this. Would that or could that
15 affect your ability to be a fair juror in this case?

16 JUROR: I'm not sure, to tell you the truth.

17 THE COURT: Well, if you hesitate.

18 JUROR: I'd like to do it. I -- yeah, my head's
19 stuck. I don't, I don't think so. I don't think it -- I
20 think it affect my ability, yes.

21 THE COURT: Y'all hear that? He thought he could be
22 fair.

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: Okay. Thank you, sir. I didn't want to
25 call that out in front of everybody. That's juror number

1 526.

2 Yes, ma'am.

3 CLERK: Number 122.

4 JUROR: My son was ---

5 THE COURT: I'm sorry, you're ---

6 JUROR: My son was ---

7 THE COURT: Wait. Slow down. Slow down. It's okay.

8 You're 122?

9 JUROR: Yes.

10 THE COURT: And you said your son?

11 JUROR: My son was murdered by a stray bullet in 2007.

12 THE COURT: By a stray bullet. How long ago was that,
13 ma'am?

14 JUROR: 2007.

15 THE COURT: 2007. I'm sorry. Now, would that or
16 could that affect your ability to be a fair juror in this
17 case?

18 JUROR: Not really, but I just think gun violence is
19 bad. I have an opinion about gun violence.

20 THE COURT: Well, do you think you could be a fair
21 juror in this case?

22 JUROR: Not really.

23 THE COURT: Okay. That's fine. I'll excuse you,
24 ma'am. Have a seat in the back.

25 Juror number 122, y'all get that?

1 MR. SUTHERLAND: Yes, sir.

2 MR. FYALL: Yes, Your Honor.

3 THE COURT: Yes, Pat.

4 CLERK: Number 269.

5 THE COURT: And your name, please?

6 JUROR: Naomi Timmons.

7 THE COURT: Naomi what?

8 JUROR: Timmons.

9 THE COURT: Okay, Ms. Timmons, were you a victim or a
10 member of your family?

11 JUROR: My daughter was and my cousin.

12 THE COURT: Okay, what happened? How long ago was it?

13 JUROR: My daughter, it was 2012. She was raped by a
14 man at Claflin University.

15 THE COURT: Okay, and who's the other?

16 JUROR: Cousin, he was shot.

17 THE COURT: How long was that?

18 JUROR: This was in 2015.

19 THE COURT: And did he survive the shooting?

20 JUROR: Yeah, by the grace of God.

21 THE COURT: Okay. So, your daughter at Claflin, your
22 cousin, right?

23 JUROR: Yes.

24 THE COURT: Was shot. Would that or could that affect
25 your ability to be a fair juror in this case?

1 JUROR: No.

2 THE COURT: You sure?

3 JUROR: Uh-huh.

4 THE COURT: Okay. Thank you, ma'am.

5 That's juror number 269. Y'all get that?

6 Yes, Pat. Is that it? All right.

7 CLERK: And, Your Honor, for the record that was 256,
8 not 526. 256. We just double checked it. The first one
9 that came up is 256.

10 THE COURT: All right.

11 CLERK: Not 526.

12 (END OF CONFERENCES AT THE BENCH.)

13 THE COURT: Now, members of the jury panel, it may be
14 necessary for me to bring a couple more of y'all up here in
15 response to some of these questions, and you can understand
16 something this sensitive, I'd rather do it privately.

17 Now, ladies and gentlemen, this case involves members
18 of motorcycle clubs or bikers. This case involves members
19 of motorcycle clubs or bikers. Is there anyone who cannot
20 be able to -- is there anyone who could not be able to
21 fairly consider the case on that basis? Do you have any
22 bias or prejudice against motorcycle clubs or bikers that
23 it would affect your ability to be a fair juror in this
24 case? If so, please stand.

25 (NO ONE STANDS.)

1 THE COURT: This case accuses the defendant of murder
2 and attempted murder. Is there anyone on the panel who
3 will not be able to fairly consider this case because of
4 the nature of the accusations? That is murder and
5 attempted murder. If so, please stand.

6 (NO ONE STANDS.)

7 THE COURT: Members of the jury panel, the defendant
8 in this case is presumed innocent. Is there anyone on the
9 jury panel who does not understand that concept or who does
10 not believe they can follow the instructions, the
11 instruction that the defendant will remain presumed
12 innocent throughout this trial?

13 A defendant in this country, any defendant, is
14 presumed innocent until a jury renders a verdict of guilty.
15 So, any members of the jury panel do not accept the concept
16 that someone is presumed innocent until actually proven
17 guilty in a court of law? If so, please stand.

18 (NO ONE STANDS.)

19 THE COURT: Is there any other reason anyone on the
20 panel might have, any other concern, hesitancy, or belief
21 they will not be able to fairly consider this case?
22 Anybody out there feel they couldn't be a fair juror in
23 this type of case? If so, please stand.

24 (NO ONE STANDS.)

25 THE COURT: Now, is there any member of this jury

1 panel who supports prisoners' rights? If so, please stand.
2 Any member of this jury panel?

3 (NO ONE STANDS.)

4 THE COURT: Any members of this jury panel donate any
5 money in support to law enforcement organizations? If so,
6 please stand. Any policemen's benefit union, whatever it
7 is, anybody donate any money in support of law enforcement
8 or the police in general? If so, please stand.

9 (NO ONE STANDS.)

10 THE COURT: Any additional *voir dire* from the state?
11 Anything further y'all want me to ask?

12 MR. FYALL: No, Your Honor.

13 THE COURT: Mr. Sutherland, that cover everything?

14 MR. SUTHERLAND: No, sir.

15 THE COURT: You mean I did cover everything?

16 MR. SUTHERLAND: Oh, yeah. Good to go. Good to go.
17 Nothing. Nothing further.

18 THE COURT: All right. Okay, I think the strikes are
19 five for the state, ten for the defendant and, Ms. Falcone,
20 you may give us a jury.

21 I need to see which ones were taken off. Could y'all
22 come up here a minute?

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 JURY SELECTION

25 CLERK: Ladies and gentlemen of the jury panel, as I

1 call your number, please come to the microphone. Bring any
2 personal belongings with you. Please just state your
3 number only and your occupation, please.

4 Number 238. State your number and your occupation.

5 JUROR: 238. I'm a career facilitator with Richland

6 II.

7 CLERK: What says the state?

8 MR. FYALL: Please present this juror.

9 CLERK: What says the defense?

10 MR. SUTHERLAND: Please present the juror.

11 CLERK: Please have a seat in the jury box.

12 Number 96.

13 JUROR: 96, patient liaison.

14 CLERK: What says the state?

15 MR. FYALL: Please present this juror.

16 CLERK: What says the defense?

17 MR. SUTHERLAND: Please swear the juror.

18 CLERK: Please have a seat in the jury box.

19 Number 254.

20 JUROR: Number 254. I edit TV commercials.

21 CLERK: What says the state?

22 MR. FYALL: Please present this juror.

23 CLERK: What says the defense?

24 MR. SUTHERLAND: Please swear the juror.

25 CLERK: Please have a seat in the jury box.

1 Number 248.

2 JUROR: 248. I'm a waitress.

3 CLERK: What says the state?

4 MR. FYALL: Please present this juror.

5 CLERK: What says the defense?

6 MR. SUTHERLAND: Please swear the juror.

7 CLERK: Please have a seat in the jury box.

8 Number 135.

9 JUROR: 135, welding instructor.

10 CLERK: What says the state?

11 MR. FYALL: Please present this juror.

12 CLERK: What says the defense?

13 MR. SUTHERLAND: Please excuse the juror.

14 CLERK: Please have a seat in the back of the
15 courtroom.

16 Number 76.

17 JUROR: Number 76, Bernard Doctor, retired logistics
18 manager.

19 CLERK: What says the state?

20 MR. FYALL: Please present this juror.

21 CLERK: What says the defense?

22 MR. SUTHERLAND: Please swear the juror.

23 CLERK: Please have a seat in the jury box.

24 Number 289.

25 JUROR: 289, control room operator.

1 CLERK: What says the state?
2 MR. FYALL: Please present this juror.
3 CLERK: What says the defense?
4 MR. SUTHERLAND: Please swear the juror.
5 CLERK: Please have a seat in the jury box.
6 Number 219.
7 JUROR: 219, long-haul truck driver.
8 CLERK: What says the state?
9 MR. FYALL: Please excuse the juror.
10 CLERK: Please have a seat in the back of the
11 courtroom.
12 Number 188.
13 JUROR: 188, clinical research coordinator.
14 CLERK: What says the state?
15 MR. FYALL: Please present the juror.
16 CLERK: What says the defense?
17 MR. SUTHERLAND: Please excuse the juror.
18 CLERK: Please have a seat in the back of the
19 courtroom.
20 Number 274.
21 JUROR: 274, cardiovascular monitor.
22 CLERK: What says the state?
23 MR. FYALL: Please present the juror.
24 CLERK: What says the defense?
25 MR. SUTHERLAND: Please excuse the juror.

1 CLERK: Please have a seat in the back of the
2 courtroom.

3 Number 30.

4 JUROR: Juror 30, retired supervisor at the Department
5 of Corrections.

6 CLERK: What says the state?

7 MR. FYALL: Please present this juror.

8 CLERK: What says the defense?

9 MR. SUTHERLAND: Please excuse the juror.

10 CLERK: Please have a seat in the back of the
11 courtroom.

12 Number 273.

13 JUROR: 273, Penny Turner, stay-at-home mom.

14 CLERK: What says the state?

15 MR. FYALL: Please excuse this juror.

16 CLERK: Please have a seat in the back of the
17 courtroom.

18 Number 12.

19 JUROR: Juror number 12, martial arts instructor and
20 college student.

21 CLERK: What says the state?

22 MR. FYALL: Please present this juror.

23 CLERK: What says the defense?

24 MR. SUTHERLAND: Please excuse the juror.

25 CLERK: Please have a seat in the back of the

1 courtroom.

2 Number 78.

3 JUROR: Number 78, paramedic.

4 CLERK: What says the state?

5 MR. FYALL: Please present this juror.

6 CLERK: What says the defense?

7 MR. SUTHERLAND: Please excuse the juror.

8 CLERK: Please have a seat in the back of the
9 courtroom.

10 Number 77.

11 JUROR: Number 77, IT application design.

12 CLERK: What says the state?

13 MR. FYALL: Please present this juror.

14 CLERK: What says the defense?

15 MR. SUTHERLAND: Please swear the juror.

16 CLERK: Please have a seat in the jury box.

17 Number 52.

18 JUROR: Number 52, full-time college student.

19 CLERK: What says the state?

20 MR. FYALL: Please present this juror.

21 CLERK: What says the defense?

22 MR. SUTHERLAND: Please swear the juror.

23 CLERK: Please have a seat in the jury box.

24 Number 283.

25 THE COURT: 283?

1 CLERK: Yes, Your Honor.

2 JUROR: 283. I'm a professor.

3 CLERK: What says the state?

4 MR. FYALL: Please present this juror.

5 CLERK: What says the defense?

6 MR. SUTHERLAND: Please swear the juror.

7 CLERK: Please have a seat in the jury box.

8 Number 302.

9 JUROR: 302, audit manager at South Carolina
10 Department of Transportation.

11 CLERK: What says the state?

12 MR. FYALL: Please present this juror.

13 CLERK: What says the defense?

14 MR. SUTHERLAND: Please swear the juror.

15 CLERK: Please have a seat in the jury box.

16 Number 26.

17 JUROR: May take me a while to get up there.

18 THE COURT: Which number?

19 CLERK: Number 26.

20 SPEAKER8: 26. I'm sorry. Prisma Health.

21 CLERK: What says the state?

22 MR. FYALL: Please present this juror.

23 CLERK: What says the defense?

24 MR. SUTHERLAND: Please excuse the juror.

25 CLERK: Please have a seat in the back of the

1 courtroom.

2 JUROR: Thank you.

3 CLERK: Number 108.

4 JUROR: Number 108, speech language pathologist.

5 CLERK: What says the state?

6 MR. FYALL: Please present this juror.

7 CLERK: What says the defense?

8 MR. SUTHERLAND: Please swear the juror.

9 CLERK: Please have a seat in the jury box.

10 Number 310.

11 JUROR: Juror 310, residential real estate broker.

12 CLERK: What says the state?

13 MR. FYALL: Please present this juror.

14 CLERK: What says the defense?

15 MR. SUTHERLAND: Please swear the juror.

16 CLERK: Please have a seat in the jury box.

17 Number 136.

18 THE COURT: Is that twelve?

19 CLERK: Yes, Your Honor.

20 THE COURT: This the first alternate?

21 CLERK: Yes, Your Honor.

22 THE COURT: Everybody on the same page?

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: What was the number again?

25 CLERK: 136.

1 JUROR: 136, a Baptist pastor. Full-time.

2 CLERK: What says the state?

3 MR. FYALL: Please excuse the juror.

4 CLERK: Please have a seat in the back of the
5 courtroom.

6 Number 22.

7 JUROR: Number 22, retired correctional officer.

8 CLERK: Does the state challenge for cause?

9 MR. FYALL: No, ma'am.

10 CLERK: What says the defense?

11 MR. SUTHERLAND: Please excuse the juror.

12 CLERK: Please have a seat in the back of the
13 courtroom.

14 Number 183.

15 JUROR: Number 183, professor.

16 CLERK: Does the state challenge for cause?

17 MR. FYALL: No, ma'am.

18 CLERK: What says the defense?

19 MR. SUTHERLAND: Please swear the juror.

20 CLERK: Please have a seat in the jury box.

21 THE COURT: That's the first one?

22 CLERK: Yes, Your Honor.

23 Number 11.

24 JUROR: 11, travel agent.

25 CLERK: What says the state?

1 MR. FYALL: Please present the juror.

2 CLERK: What says the defense?

3 MR. SUTHERLAND: Please swear the juror.

4 CLERK: Please have a seat in the jury box.

5 Number 301.

6 JUROR: 301, administrative manager.

7 CLERK: What says the state?

8 MR. FYALL: Please present the juror.

9 CLERK: What says the defense?

10 MR. SUTHERLAND: Please excuse the juror.

11 CLERK: Please have a seat in the back of the
12 courtroom.

13 Number 40.

14 JUROR: Number 40, architect.

15 CLERK: What says the state?

16 MR. FYALL: Please present the juror.

17 CLERK: What says the defense?

18 MR. SUTHERLAND: Please swear the juror.

19 CLERK: Please have a seat in the jury box.

20 THE COURT: Is there anything, any matters that need
21 to be taken up at this time in connection with the
22 selection of this jury? Anything from the state?

23 MR. FYALL: No, Your Honor.

24 THE COURT: Anything from the defendant?

25 MR. SUTHERLAND: No, sir.

1 THE COURT: To the remaining jurors, I thank you for
2 your patriotic service. You're free to go back downstairs.

3 Jim, do we want them to call in after 6?

4 DEPUTY CLERK: Yes, Your Honor.

5 THE COURT: Just call in after 6. I don't think we'll
6 need you again this week, but call in anyway, okay? Thank
7 y'all so very much.

8 (WHEREUPON, THE JURY PANEL EXITS.)

9 THE COURT: Ladies and gentlemen, members of the jury,
10 before we begin, I'll be giving you a short break so y'all
11 can go back and refresh yourselves. Some legal issues I
12 need to talk to the lawyers about, and I'll bring you back
13 out shortly. Just don't discuss this case in any way,
14 shape, or form. Thank you all so very much. The bailiff
15 will escort you to the jury room you should use during this
16 trial.

17 (THE JURY EXITS AT 3:04 P.M.)

18 THE COURT: How does it look for y'all? Do y'all want
19 to -- are you prepared to go forward this afternoon with
20 witnesses? Got your opening statements? How long are
21 y'all going to take?

22 MR. FYALL: I'm prepared to open, Your Honor. It's
23 not long. We have one short witness, the responding
24 officer, and a few custodians that we might put up.

25 THE COURT: Okay. How does that sound, Mr.

1 Sutherland? You ready for all this?

2 MR. SUTHERLAND: Good to go, yes.

3 THE COURT: Let's take a short break, and we'll come
4 back and get started.

5 MR. SUTHERLAND: Yes, sir.

6 (OFF THE RECORD.)

7 (DVDs OF SURVEILLANCE MARKED INDIVIDUALLY AS STATE'S
8 EXHIBIT NUMBERS 7, 8, 9 FOR IDENTIFICATION.)

9 THE COURT: All right, is everybody ready?

10 MR. SUTHERLAND: Sir, actually an issue. The
11 solicitors are better equipped, I think, to address it.
12 There is an issue with two jurors already.

13 MR. FYALL: I don't think it's an issue, Your Honor.
14 One of Ms. McBill -- Ms. McMillan, I'm sorry, one's the
15 victim's mother's -- I think she recognized juror 183.

16 THE COURT: I can't, I can't hear you clearly. I have
17 to understand you. Speak up.

18 MR. FYALL: I think she recognized juror 183. She
19 said their mothers were in the same nursing home. They may
20 have shared a room together, so.

21 THE COURT: What now? Her mother was in a nursing
22 home?

23 MR. FYALL: Her mother was in a nursing home, and she
24 believed that juror number 183, her mother was in the same
25 nursing home in the same room, so they might have

1 interacted in the past.

2 THE COURT: What do y'all want me to do?

3 MR. FYALL: I don't, I don't think ---

4 THE COURT: For the record. Go ahead.

5 MR. FYALL: I don't think that's an issue.

6 THE COURT: You think it's an issue?

7 MR. SUTHERLAND: Well, it could be if they recognize
8 each other or if they recognize one other during the trial,
9 so.

10 THE COURT: So, what's your remedy? What do you
11 suggest?

12 MR. SUTHERLAND: Out of an abundance of caution.

13 THE COURT: What?

14 MR. SUTHERLAND: Out of an abundance of caution, we
15 could excuse the juror, sir.

16 THE COURT: No, I'm not going to excuse the juror.
17 They have a right to serve. I asked the generic questions
18 of this jury. They gave the right answers. You know, I
19 don't know who knows who.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Now, you don't know that for a fact, do
22 you? Do you know this for a fact?

23 MR. SUTHERLAND: All I know is what they told me, sir.
24 Maybe voir dire.

25 THE COURT: So, one juror's mother was in the same

1 nursing home with who?

2 MR. FYALL: With Ms. McMillan, who is the mother of
3 one of the victims. We can verify it, Your Honor, just ask
4 her one ---

5 THE COURT: I'll be happy to do that.

6 MR. FYALL: If her mother was in a nursing home.

7 THE COURT: That's okay. That's okay.

8 MR. FYALL: And see if she recognizes her.

9 THE COURT: That's fine, and what's the second
10 problem?

11 MR. FYALL: Number, juror number 289, her son was on
12 the same football team as my paralegal's son.

13 THE COURT: Same football team with whom?

14 MR. FYALL: The son of my paralegal. I just brought
15 it to Mr. Sutherland's attention just to be transparent
16 with him.

17 MR. SUTHERLAND: And my concern, again, would be that
18 that could potentially impact the, the deliberations, and
19 I'd ask that the ---

20 THE COURT: Do you have any authority to support that
21 argument?

22 MR. SUTHERLAND: This just ---

23 THE COURT: No, you don't.

24 MR. SUTHERLAND: This just hit me, sir.

25 THE COURT: Y'all relax. Bring the first juror out.

1 I'll be happy to ask, but when you bring the jurors out,
2 you generally burn them. Y'all understand that? We'll
3 see, but bring the juror out.

4 MR. FYALL: 183.

5 CLERK: 183.

6 THE COURT: 183, ask 183 to come around.

7 Now, what do you propose I should ask this juror?

8 MR. FYALL: One, if her mom was ever in a nursing
9 home, and then two, if she knows ---

10 THE COURT: Y'all have got to agree on this. I just
11 can't --- what's your position? You're the one that wants
12 me to ask. What inquiry do you want me to make?

13 MR. SUTHERLAND: If she, if you recognizes the family
14 member ---

15 THE COURT: Speak up so I can understand you.

16 MR. SUTHERLAND: If she, if she recognizes the, the
17 family member and if that would impact her capacity as a
18 juror.

19 (JUROR NUMBER 183 ENTERS THE COURTROOM.)

20 THE COURT: That's okay, ma'am, just stand. Give me
21 your name, please.

22 JUROR: Susan McCarver.

23 THE COURT: McCarver?

24 JUROR: McCarver.

25 THE COURT: Was your mother recently in a nursing home

1 or still in a nursing home?

2 JUROR: No.

3 THE COURT: Your mother was never in a nursing home?

4 JUROR: No, sir.

5 THE COURT: Is this the juror that -- was concerned
6 about the nursing home?

7 MR. FYALL: I believe so, Your Honor.

8 THE COURT: Huh?

9 MR. FYALL: Yes, Your Honor.

10 THE COURT: Thank you, ma'am. We just wanted to
11 settle an issue we couldn't resolve without your presence.

12 JUROR: Thank you.

13 (JUROR NUMBER 183 EXITS THE COURTROOM.)

14 THE COURT: That's the juror you were concerned that
15 her mother was in the same nursing home as somebody else,
16 right? She said her mother was never in a nursing. What
17 y'all want me to do?

18 MR. SUTHERLAND: We're good to go, Judge.

19 THE COURT: That's all right, and what was the second
20 juror? What was the second issue?

21 MR. FYALL: That was juror number...

22 THE COURT: Somebody played on the same high school
23 football team, I think it was, right?

24 MR. FYALL: Yes, Your Honor.

25 THE COURT: Somebody's son played on the same football

1 team with whom?

2 MR. FYALL: My paralegal.

3 THE COURT: Let me slow down a little bit. What's
4 this juror's name?

5 CLERK: Dauta Wilson.

6 THE COURT: What number?

7 CLERK: Number 289.

8 THE COURT: 289. Let's see, it's all right. We want
9 to get it straight. Dauta Wilson, 289.

10 MR. FYALL: Yes, Your Honor.

11 THE COURT: Is that the juror you're concerned about,
12 Mr. Sutherland?

13 MR. SUTHERLAND: It's their information, sir.

14 THE COURT: That's all right.

15 MR. SUTHERLAND: But I -- and ---

16 THE COURT: So, you believe that Dauta Sullivan --
17 Dauta Wilson had a son that played on the same high school
18 football team with whom? The defendant?

19 MR. FYALL: My paralegal.

20 THE COURT: Your paralegal?

21 MR. FYALL: Yes, Your Honor.

22 THE COURT: What's your paralegal's name again? Tell
23 me.

24 MR. FYALL: Shernita Lewis, S-h-e-r-n-i-t-a Lewis,
25 L-e-w-i-s.

1 THE COURT: Shernita Lewis. Is that right?

2 MR. FYALL: Yes, Your Honor.

3 THE COURT: Bring out juror number 289.

4 (A PAUSE.)

5 THE COURT: Out of an abundance of caution, we'll go
6 through this. You never can tell.

7 (JUROR NUMBER 289 ENTERS THE COURTROOM.)

8 THE COURT: Hello, Mr. Wilson. How are you doing?

9 JUROR: Good. How are you?

10 THE COURT: You have a son that played high school
11 football?

12 JUROR: No.

13 THE COURT: Huh?

14 JUROR: No.

15 THE COURT: You did not have a son that played high
16 school football?

17 JUROR: No. I mean, not that I know of. I mean, not
18 that I know of. I mean, you know.

19 THE COURT: All right. That satisfies everybody?

20 MR. FYALL: Yes, Your Honor.

21 THE COURT: That's all I needed to ask. Thank you
22 very much. There's nothing wrong. I just needed to ask
23 you that question.

24 JUROR: All right. You kind of scared me there.

25 THE COURT: No, no, no, you're fine, Mr. Wilson.

1 Thank you.

2 (JUROR NUMBER 289 EXITS THE COURTROOM.)

3 THE COURT: All right, anything further before we
4 bring in the jury? And really, gentlemen, this is no big
5 deal. We want to make sure.

6 MR. FYALL: My apologies, Your Honor. That was the
7 wrong juror.

8 THE COURT: What?

9 MR. FYALL: That was the wrong juror. Juror 302. My
10 apologies.

11 THE COURT: No, who is the juror you want me to talk
12 to now?

13 MR. FYALL: Juror 302.

14 THE COURT: What, you said 289 the last time, didn't
15 you?

16 MR. FYALL: I kind of got my jury list based on what
17 she ---

18 THE COURT: 302. Wait. Hold on.

19 MR. FYALL: She said she had on a striped dress, if
20 that ---

21 THE COURT: What now?

22 MR. FYALL: If that helps. My paralegal said she had
23 on a striped dress, so if that helps, but we ---

24 THE COURT: Wait. Slow down. Let's back up a little
25 bit. Now, your paralegal says the lady had on a strapless

1 dress?

2 MR. FYALL: A striped dress.

3 THE COURT: Striped dress.

4 MR. FYALL: Yes, Your Honor.

5 THE COURT: That's who the juror is?

6 MR. FYALL: Yes.

7 THE COURT: Whose son might have played football with
8 her son?

9 MR. FYALL: Yes, Your Honor.

10 THE COURT: What's her name? You don't know? You
11 don't know the lady with the striped dress?

12 MS. LEWIS: Lashawn Wilson.

13 MR. FYALL: Lashawn Wilson.

14 THE COURT: What number is she?

15 MR. FYALL: 302.

16 THE COURT: 302, that's the juror number, right? And
17 once again, it's whether or not Ms. Wilson's son played on
18 the same football team as Ms. Lewis's son. Is that
19 correct?

20 MR. FYALL: Yes.

21 THE COURT: Beg your pardon?

22 MR. FYALL: Yes, Your Honor.

23 THE COURT: All right, bring her out.

24 BAILIFF: 302?

25 THE COURT: Juror number 302.

1 And where did they play high school football together?

2 Where did they attend high school?

3 MR. FYALL: Westwood, Your Honor.

4 THE COURT: Westwood.

5 (JUROR NUMBER 302 ENTERS THE COURTROOM.)

6 THE COURT: You can stay right there.

7 JUROR: Okay.

8 THE COURT: Ms. Wilson, is that correct?

9 JUROR: Yes.

10 THE COURT: Do you have a son that played football at
11 Westwood High School?

12 JUROR: Yes, I do.

13 THE COURT: How long ago was that?

14 JUROR: Say again?

15 THE COURT: How long ago was that?

16 JUROR: He's a, he's a senior there now.

17 THE COURT: Senior there now?

18 JUROR: Yes.

19 THE COURT: Do you know who Shernita Lewis is?

20 JUROR: Yes; I know Ms. Lewis.

21 THE COURT: And how long have you known her?

22 JUROR: We were booster club officers together.

23 THE COURT: What now?

24 JUROR: We were booster club officers together.

25 THE COURT: Okay. You and the mother of the kid that

1 played football with your kid, right, Ms. Lewis, you know
2 Ms. Lewis?

3 JUROR: Yes. Yes.

4 THE COURT: All right. Now, and your son and her son
5 played football together at Westwood High School. Is that
6 correct?

7 JUROR: Westwood, yes.

8 THE COURT: Crestwood or Westwood?

9 JUROR: Westwood.

10 THE COURT: Westwood. Would that or could that affect
11 your ability to be a fair and impartial juror in the trial
12 of this case?

13 JUROR: No.

14 THE COURT: You sure about that?

15 JUROR: Yes.

16 THE COURT: Absolutely positive?

17 JUROR: I am positive.

18 THE COURT: All right. Thank you, ma'am.

19 (JUROR NUMBER 302 EXITS THE COURTROOM.)

20 THE COURT: You're fine with it?

21 MR. SUTHERLAND: Yes, sir.

22 THE COURT: You're fine with it?

23 MR. FYALL: Yes, Your Honor.

24 THE COURT: Things happen. Relax. I think we're
25 ready now. You sure now?

1 MR. FYALL: Yes, sir.

2 THE COURT: Okay. Bring the jury in.

3 (THE JURY ENTERS AT 3:36 P.M.)

4 THE COURT: Welcome back, members of the jury.

5 Becky, you may swear them.

6 CLERK: Ladies and gentlemen of the jury, would you
7 please stand and raise your right hand to be sworn?

8 (WHEREUPON, THE JURY IS DULY SWORN.)

9 THE COURT: Now, members of the jury, what I will now
10 say is intended to serve as an introduction in the trial of
11 this case. It is not a substitute for the detailed
12 instructions on the law which I will give you at the close
13 of this case and before you retire to consider your
14 verdict.

15 This is a criminal case commenced by the state, which
16 I sometimes refer to as the prosecution, against Ricardo
17 Middleton. This case is based on the indictments, the
18 three that I read to you earlier which the solicitor may or
19 may not read to you, but two counts of murder, one count of
20 attempted murder. You should distinctly understand that
21 these indictments are simply charges, and that it is not in
22 any sense evidence of the allegation it contains.

23 The defendant has pled not guilty to these
24 indictments. The state, therefore, has the burden of
25 proving each of the essential elements of these indictments

1 beyond a reasonable doubt. The purpose of the trial is to
2 determine whether the state has met this burden.

3 Your purpose as jurors is to find and determine the
4 facts. Under our system of criminal procedure, you are the
5 sole judges of the facts. If at any time I should make any
6 comments regarding the facts, you are at liberty to
7 disregard it. It is especially important your duty of
8 determining the facts diligently and conscientiously for
9 ordinarily there is no means of correcting an erroneous
10 determination of the facts.

11 On the other hand, and with equal emphasis, I instruct
12 you that the law as given by the court constitutes the only
13 law for your guidance, and it is your duty to accept and
14 follow it. It is your duty to follow the law as I give it
15 to you even though you may disagree with the law.

16 You are to determine the facts from the testimony you
17 hear and the other evidence introduced in court. It is up
18 to you to determine the inferences you may feel may
19 properly be drawn from the evidence. You must not consider
20 anything you may have read or heard about the case outside
21 this courtroom, whether before or during the trial.

22 Until this case is submitted to you, you must not
23 discuss it with anyone, even with your fellow jurors.
24 After it is submitted to you, you must discuss it only in
25 the jury room with your fellow jurors. It is important

1 that you keep an open mind and not decide any issue in this
2 case until the entire case has been submitted to you under
3 the instruction of the court. It is your duty.

4 And I'll name a foreperson later. I will select one
5 tomorrow, but I want y'all to get to know each other before
6 I actually pick someone. Is that okay?

7 Now we will first hear opening statements, first from
8 Mr. Fyall and then from Mr. Sutherland.

9 Yes, sir.

10 MR. FYALL: Thank you, Your Honor. May it please the
11 court?

12 THE COURT: Yes, sir.

13 MR. FYALL: Good afternoon. Most of you probably
14 drove here today and stopped at an intersection. And when
15 you do that, you stop and pay attention, you notice some
16 interesting things. You look to your right, you might see
17 someone trying to eat breakfast on the way to work. You
18 look to your left, you might see someone looking in the
19 mirror at a red light trying to get something out of their
20 face or fix their clothes. Look around, you see people
21 trying to cross the street. Just normal, everyday things,
22 things that you probably won't remember the next hour.
23 Certainly not the next day.

24 But what if you are at an intersection, driving on the
25 corner of Parkland and Claudia, and while you were at that

1 intersection you happened to witness a murder? That's what
2 happened in this case: cold-blooded murder and attempted
3 murder. I want you to hold that thought. Let me give you
4 a little bit of background.

5 The defendant in this case, Mr. Middleton, is a part
6 of a motorcycle club called the Thunderguards. The victims
7 in this case are part of a motorcycle club called Outcast,
8 and these groups have what they call support clubs. There
9 are support clubs that belong to Outcast. Some are car
10 clubs, some are bike clubs, and in this culture, you don't
11 approach the support club of another biker gang, but that's
12 what Mr. Middleton did on July 20, 2017, at an event called
13 bike night, and bike nights were at My House Bar and Grill
14 right off of Two Notch Road.

15 Now as a result of that, the following week, July 27,
16 2017, some people from Outcast approached a member of Mr.
17 Middleton's bike club about that incident. He didn't like
18 it; he felt he was disrespected. And what do you do when
19 you feel disrespected? Some people shrug it off; some
20 people fight. Mr. Middleton chose to murder.

21 So, he sees the victims enter My House Bar and Grill,
22 and then they leave. They get on their motorcycles and
23 they travel down Parklane. And shortly after they leave,
24 not so coincidentally, Mr. Middleton leaves, along with
25 another member of his bike club, Marquez Johnson, and

1 another member of his bike club, Phillip Coates, and
2 another member of his bike club, Ronnie Scott. And when
3 they get to the intersection of Parklane and Claudia, Mr.
4 Middleton, in the far-left turning lane, turning lane,
5 driving Toyota Yaris, and he gets out of his car at an
6 intersection and pistol whips Ricky Montgomery. Knocks him
7 off his bike, dazes him, and his bike falls on top of him.

8 Sydni Collins, a victim in this case, gets off of the
9 back of her husband's bike, which is right next to Ricky
10 Montgomery, to defend herself. She starts pulling her gun.
11 Mr. Middleton already has a gun, and he shoots her in the
12 chest. She's still alive and as she's breathing, taking
13 her last breaths, she gets a shot off, but she doesn't have
14 a good grip on her gun, so her slide locks back. After
15 that, Mr. Middleton get even closer, and he shoots her in
16 the face and she dies.

17 But that's not enough because then after killing her,
18 he then tries to kill Ricky Montgomery and shoots him even
19 more times, trying to get him, but the bike fell on top of
20 him. Saved his life.

21 While that's going on, his accomplice, Marquez
22 Johnson, shoots and kills her husband, Aaron Collins. And
23 the reason Mr. Middleton is charged with that murder,
24 because of a concept called the hand of one is the hand of
25 all. You plan, you scheme, you execute, you're just as

1 guilty.

2 How do we know these things? One, eyewitnesses saw
3 Mr. Middleton there. They saw him July 20th; they saw him
4 July 27th. Eyewitnesses saw him get out of the car and
5 participate and kill one person, try to kill another
6 person, while his partner killed a third.

7 After he does this, he drives up Parklane just from
8 Mobay's, cuts his lights off, does a U-turn, and runs away.
9 Runs away to the Lowcountry, Summerville, South Carolina,
10 where police finally catch him. And then when they catch
11 him, what's in the driveway where he's staying? The same
12 Toyota Yaris that he got out of when he committed this
13 murder. And that same day, law enforcement finds his
14 phone, and his phone is pinging at the incident location
15 the same night of this murder.

16 Now, my name is Lamar Fyall. At the table is Jeremiah
17 Shellenberg and John Steadman, and we represent the state.
18 And we are here because for his actions, Mr. Middleton's
19 facing these charges, and we have to prove those charges
20 beyond a reasonable doubt. And today, this week,
21 throughout this trial, we'll meet that burden. Even more
22 so, the evidence will meet that burden.

23 At the end of this trial, I'm going to come back to
24 you and ask you to find Ricardo Middleton guilty, guilty
25 for the actions he took: guilty for taking two lives and

1 trying to take another. Guilty of two counts of murder,
2 one count of attempted murder. Thank you.

3 MR. SUTHERLAND: Please the court, Judge?

4 THE COURT: Yes, sir, Mr. Sutherland.

5 MR. SUTHERLAND: Yes, sir. Thank you, Your Honor.

6 I'm not quite sure where to start here, and I think
7 when you're not sure where to start, I guess you start with
8 introductions. My name is Tivis Sutherland. I'll go ahead
9 and write my name up here for you because it's unusual. My
10 people are from up in the mountains where it's less
11 uncommon.

12 Somebody that runs away to the, to the Lowcountry, it
13 might be because they live there.

14 Let me just back up just a little bit. I've been
15 doing this about fifteen, sixteen years, and I haven't
16 always done this. I've done everything from sweeping
17 floors, loading trucks. I was a soldier. I did some
18 accounting in school. You know, I'd had another life other
19 the lawyer's life. I wasn't hatched as a lawyer, but I am
20 one and I have been one for fifteen or sixteen years.

21 Generally there's instructions from the court about
22 opening statements, that opening statements aren't evidence
23 generally because they're not. You know, the evidence
24 comes in from the witness stand. But to me, the opening
25 statement is one of the most significant points in any, any

1 trial. This may sound counterintuitive, but for me, it is
2 the first time that I hear with precision what the state
3 wants you to believe and how they intend to prove it to
4 you.

5 What popped out, a, a number of things popped out to
6 me about it. They mentioned that he had an accomplice and,
7 you know, they got to Marquez Johnson. The government
8 lawyer got to Marquez Johnson ten minutes towards the end.
9 This is the individual against whom they have all of the
10 physical evidence in this case. This is the individual
11 who's had a rare firearm, a rare caliber of ammunition
12 that's 5.7 millimeter, and to top it off had blue plastic
13 tips on the rare 5.7 millimeter ammunition which was
14 recovered from the deceased. The physical evidence
15 against, in this case, against Ricardo, against my guy is
16 none. It's people talking.

17 Now, if you've ever wondered how the government can
18 get it wrong, I would say that a happy development in the
19 last fifteen or sixteen years, I think, is with the
20 development of technology of, of these things. People just
21 have a lot more, wider access to information. If fifteen,
22 sixteen years ago you tried to talk to people about
23 wrongful convictions, about the Innocence Project, they'd
24 just look at you. I remember about wrongful conviction,
25 they'd look at you like you were crazy. The government,

1 the government doesn't get it wrong, you know. Well, this
2 is, I think this is a pretty good example of how they, how
3 they do get it wrong.

4 His name, as, as I understand it -- it's not apparent
5 from the opening, the government's opening here -- but as I
6 understand it, having read through everything, all of the
7 reports, watched all the videos and everything, as I
8 understand it, just someone inserts his name into this the
9 night of, of the event. And it's, it's at that point that
10 they develop their -- they begin developing their theory,
11 and they just pursue this theory, and they follow it to the
12 point where he's arrested and charged with two murders and
13 an attempted murder that he did not commit.

14 How could the government do that? Say if someone just
15 drops their name in there? Well, they had a witness. They
16 had a witness that's going to come in here, is going to sit
17 right here, is going to tell you he was shooting, that he
18 discharged his firearm, that, that, that he did this.

19 I think the problem, you know, when there's no
20 physical evidence to back that up -- you know, we're not
21 saying he's not a biker. We're not saying that he wasn't
22 at the, at the, at the bike week. It's kind of what bikers
23 do, you know, to be frank. I'm not going to dance around
24 it here. We are talking about bikers here. Just so
25 happens that within the same cell, when they plop their

1 little map up there, the bar is in the same cell. They say
2 aha. He was there. Well, the place where, where the party
3 was, was, was there.

4 This witness that they're going to put up here that's
5 going to say he did all these awful things, in the
6 statement to the police, the witness says a few things.
7 Says two guys rode up on bikes and they shot them. It all
8 happened so fast. I couldn't see anything. Could you
9 describe the bikes? Not really. Can't give a description
10 of the bikes. Could you describe the individuals that,
11 that came up and did the shooting? No. It all happened
12 too fast.

13 All right. Well, this is going to be one of their
14 star witnesses, and what's interesting about that is they
15 bring this witness back in after a few days. I think, see,
16 the 27th. Maybe it's the 1st, the 1st of August. So, four
17 days in July. So, we're talking about five days later.
18 They bring this witness in, and they interview her again.
19 Her name is Natasha Coad, and she will be testifying, and
20 she tells them a different story: that there was a
21 pedestrian and there was a guy on a bike, and she can give
22 a description of the clothes at that time. This guy over
23 here had a red T-shirt, this guy over here had a white
24 T-shirt, and that's it.

25 Well, it's at that point that the investigators,

1 having had his name dropped in this case by some unknown
2 person and another individual that we'll talk about in a
3 minute, that they show a photo lineup. You're going to see
4 these things. They're coming into evidence, and the way
5 that the officers will do it is they have six pictures and
6 they show you, and they say is the guy in here. And you
7 look and if the guy is in there, you say it's that guy.
8 And if the guy's not in there, you say the guy is not in
9 there.

10 Well, they showed a lineup to Natasha Coad, and guess
11 what she said? He's not in there. Well, guess who was in
12 there? Ricardo Middleton was that lineup, right?

13 It gets more interesting. They arrested him at this
14 place that he fled to where he's from and where he lives.
15 You go home after the bike party, whatever, whatever it is.
16 They arrest him down there and they broadcast it all over
17 the news media.

18 I was really surprised during jury selection. I
19 thought we were going to have to deal with individuals on
20 the jury saying that they knew, knew about the case because
21 it was a big media case at the time back in, in 2017.

22 And so when he's arrested, they release the
23 information, and there's pictures of him all over the TV,
24 all over the newspapers: Ricardo Middleton, Ricardo
25 Middleton. August 3rd, which is two days, two days after

1 Natasha Coad looks at the lineup and says he's not in
2 there, she comes back in. She contacts them and wants to
3 look at another lineup. I wonder -- and she comes in and
4 she picks him out after this had been broadcast all over.

5 But what's more interesting than that is she's not
6 just changed her story from I didn't see anything and
7 nothing happened, and you know it all happened so fast,
8 which is really realistic in a situation like that. Any --
9 I don't know if there are any military people here or
10 whatever. You know, things go sideways and things just
11 narrow down. You just don't know; you don't remember. It
12 can be the same if you're in a car accident. What
13 happened? You know, I don't know. The first reaction was
14 that it was the normal. I think that was the truth because
15 remember we're dealing also with rival bikers. So, it's
16 not beyond imagining that maybe there's an idea to throw
17 somebody under the bus from the other rival biker gang in
18 that fashion.

19 She changes her story again, and this time the person
20 that she couldn't identify in the red T-shirt now has a
21 white T-shirt on because they are going around and talking
22 to people, and he had a white T-shirt on.

23 That's not that great -- I will tell you this. Bald
24 black dude with a beard and a white T-shirt at bike night
25 is not a great description because you're going to be

1 talking about twenty, twenty-five percent of these cats.
2 You will see it in the video that they put up of the place
3 where they're having the party. At any given place you can
4 stop it, and I actually did this. I went through with
5 them. You stop it and you're, like, okay. Here's one,
6 two, three guys fitting this description with a white
7 T-shirt. Let it play. Holy cow, look at this. There's
8 one, two, three, four, five, six, seven, eight, nine, ten,
9 eleven, right? And I imagine in support of this theory,
10 they're going to go, well, this one must be him or that one
11 must be him.

12 But to get back to, to the point that I think makes
13 the point, you know, when they've got the wrong guy is that
14 now Natasha's saying that she saw the whole thing. She's
15 got the T-shirts right. She's got the ID right. She picks
16 him out this time. She says that the, the -- her -- the
17 investigators say, now, this isn't because you saw on it
18 TV. I kid you not. This isn't because you saw it on TV,
19 and she says oh, no, no, you know, in this statement. It's
20 not because of that even though I was here the day before
21 yesterday looking at the same picture of the guy.

22 Now, well, the, the lineup, I think refers to a lineup
23 as fuzzy and then the lineup was slanted. Well, whatever
24 the condition of that lineup, they have one that SLED did.
25 Then they have one that they did, but there's something

1 interesting about that is it's the same picture of him in
2 both lineups. There's nothing different, and there's
3 nothing slanted or fussy or blurry about that one. So, she
4 picks him, and all of a sudden she's seen everything, and
5 she's got all the details of like here, this guy was over
6 here, that guy was over here. He was riding a motorcycle.
7 He comes up. He, he gets out of this mysterious little,
8 little car and all that, all, and of these details.

9 Now, where could they, they, they be picked up? I
10 mean, how do you excuse that because, you know, we're all
11 human beings here and we all know other human beings, and
12 we talk to other human beings, and we know when other human
13 beings are being disingenuous or deceitful or whatever.
14 One of the clues, and this is actually a court rule, is a
15 prior inconsistent statement: if someone has misled you
16 before. In life, misleading people, you can't trust what
17 they say.

18 And in, and in a situations like this where all of the
19 physical evidence is against the other guy -- now they'll
20 show videos and zoom in and say, well, you know, that's his
21 car. I told them one thing. We were looking. I was,
22 like, that looks like my wife's minivan. Seriously, and
23 how many Toyotas are there out there? Well, this is a
24 Yaris. It's a spec -- I mean, I don't know the different
25 things, but you go out on the street and you just look

1 around.

2 Talking about stopping at any, any stoplight and
3 looking around, do the thing. I encourage you to do the
4 thing with the video of all the guys that fit the
5 description in this case. But, you know -- well, I don't
6 think you're supposed to deliberate or think about the
7 case. I can't encourage you, I don't think, on the way
8 home to count the Toyotas, but we all know, you know, these
9 are common cars. It's a gray car. It's a silver car. I
10 don't know. I got a Dodge Ram. I mean, it -- you know,
11 I'm not a Toyota guy. I'm a pickup truck guy, but I know
12 that they're all over the place because it's just -- I see
13 them.

14 This is a common thing, and so you're going to take a
15 common thing and say this: because someone has a common
16 thing, that they committed murder. Because that's what
17 this, this is really, what this really comes down to.

18 When you get away from, say, Natasha -- or Ronnie
19 Scott is another witness that they're going to call. Well,
20 Ronnie Scott, if you're watching the video, you're going to
21 actually see his vehicle, and you can know it's his vehicle
22 because his truck pulls up right behind all this stuff
23 while it is happening, happening. And interestingly he
24 drives off with this sort of little -- this minimalized,
25 you know, little codefendant, coconspirator, you know, this

1 guy with all the evidence against him who, who's -- you
2 know, he's the bad guy.

3 Where's the other guy? Where's the guy with the blue
4 plastic stuff? You know, where is that guy? Why are we --
5 what is this? Well, Ronnie Scott drives him away from the
6 scene. In South Carolina, if you know that someone has
7 committed a felony -- in this case shooting, under -- and
8 you drive them away, the getaway driver, then if you knew
9 before, you're an accessory before and after the fact.
10 You're facing the same penalties. If you just knew after,
11 if this just developed in front of you, then you're an
12 accessory after the fact. So, he drives him away from
13 this, and how much time is he looking at, and where is he
14 sitting in the dock over ---

15 MR. FYALL: Objection, Your Honor. May we approach?

16 THE COURT: I think you're exceeding the scope of
17 opening statements.

18 MR. SUTHERLAND: Yes, sir. I will try to wind it
19 down.

20 One thing that if you want to look out for during --
21 throughout the case is any time anyone comes closer to the
22 theory, their theory from the name drop and from Natasha
23 and Ronnie ultimately, who at first said that he didn't see
24 anything -- by the way, their stories kind of hem to the
25 government line.

1 Now, what is this? Is this corruption? Am I saying
2 these -- I know these people. They're not corrupt.
3 There's nothing wrong with these people over here. They're
4 good people, but they got a theory and that's it, and you
5 can feel it. It's another human being thing. You know
6 what people want you to say; you know what they want you to
7 agree with. You just -- it's who we are. We are
8 pattern-seeking, social mammals. We're human beings.
9 We're social creatures. When we come together, you can,
10 you can feel a lift, a boost. People want to agree,
11 particularly with authority figures, and any Army veterans
12 out there, you always agree with your, your drill sergeant
13 and NCOs and all, all that.

14 But it's -- I'm not saying there's any corruption
15 here, but I am -- what I am saying is that this theory is
16 wrong and that they don't have any physical evidence to
17 support it. And I think when you're going to accuse
18 somebody of two counts of murder and one count of attempted
19 murder, you should maybe have a little of something that's
20 on the other side of this case with the other guy, you
21 know, like connecting, say, connecting a weapon to
22 somebody, connecting ammunition to somebody instead of two
23 people and others, whatever their contribution of it is,
24 but really just working off of two people here that are
25 working whatever company line. They're going along with

1 the theory, whatever that is.

2 It's about credibility. When somebody says that
3 somebody else did something and there's no real physical
4 evidence of it, it's about the credibility of the person
5 making the accusation. And when we're talking about
6 murder, it's just not enough when it leaves open a real
7 possibility that they're wrong.

8 And in criminal cases, the standard, what does beyond
9 a reasonable doubt mean? When you hear it on -- what does
10 it, what does it mean? It means that if there is a real
11 possibility that they're not right and then he's not
12 guilty, that he walks because this is America, not the
13 Soviet Union, all right? We don't give the government the
14 benefit of the doubt here. We give each other, we give the
15 citizens the benefit of the doubt, and that's the
16 distinction between this country and every other country in
17 the world.

18 How is it that civilization rockets up after, you
19 know, this radical idea that individual people have value
20 and establishing systems that civils societies on that
21 basis? That's it. This, this is why he's not guilty.
22 They can't prove it, and saying so in the end is who we
23 are. So, I thank you for your time and considerations.

24 And I'm sorry, Judge. I'm done.

25 And I'll see you at the end. I promise not to take up

1 too much time asking questions that don't mean anything to
2 anybody. Thank you.

3 THE COURT: All right, Solicitor, you may call your
4 first witness.

5 MR. STEADMAN: The state calls Alexander Laird with
6 the Richland County Sheriff's Department.

7 THE COURT: All right.

8 ALEXANDER LAIRD, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 CLERK: Have a seat on the witness stand, please.
11 State your name for the record.

12 WITNESS: My name is Master Deputy Alexander Laird.

13 DIRECT EXAMINATION BY MR. STEADMAN:

14 Q. Deputy Laird, where are you employed?

15 A. I'm employed with Richland County Sheriff's Department
16 since September of 2015. I've been patrolling on the road
17 since July of 2016 and from border area of Forest Drive to
18 Sparkleberry Lane, which is all in Richland County, and
19 encompasses where the incident happened.

20 Q. And is that -- what region is that of the county?

21 A. We refer to it as Region 2.

22 Q. And so that's how y'all are broken up within the
23 county? Y'all are split up into regions?

24 A. Yes, sir. We have eight regions, seven of which are
25 actual physical in-the-county locations. The eighth one is

1 the courthouse system.

2 Q. And the shooting that happened, that happened in your
3 region, correct?

4 A. Yes, sir.

5 Q. And that's also in Richland County?

6 A. Yes, sir.

7 Q. All right. Well, I want to go ahead and take your
8 attention back to July 28 -- excuse me, July 27, 2017. You
9 were working that night?

10 A. Yes, sir.

11 Q. And what did you do? What kind of call did you get
12 that night?

13 A. In reference to this particular call, we received a
14 confirmed shooting hit call. The address that was given
15 was 7720 Parklane Road, which again is in Richland County.
16 It's right off of Two Notch. When I got there, it was
17 basically at the intersection of Parklane and Claudia Road.

18 Q. And what exactly was the call you said?

19 A. A confirmed shooting hit.

20 Q. What does that mean?

21 A. Normally what happens is a 911 call is made. The 911
22 operator receives the call and sends it to us through a
23 dispatcher. Whatever is explained to the 911 operators and
24 the dispatchers is relayed to us. What was related over
25 the radio to us by our dispatcher was a confirmed shooting

1 hit, which means somebody was shot or something was hit by
2 a gun.

3 Q. I'm going to go ahead and show you what's been marked
4 as State's Exhibit Number 2.

5 MR. SUTHERLAND: Without objection, Judge.

6 BY MR. STEADMAN:

7 Q. And you've reviewed this Exhibit Number 2?

8 A. Yes, sir.

9 MR. STEADMAN: Your Honor, at this point we'll go
10 ahead and admit State's 2 into evidence.

11 THE COURT: All right.

12 (DVD OF PHOTOGRAPHS MARKED INTO EVIDENCE AS STATE'S
13 EXHIBIT NUMBER 2.)

14 BY MR. STEADMAN:

15 Q. And, Deputy Laird, if you don't mind standing down? I
16 want you to look at this exhibit. Stand there, face that
17 way, and I'm also going to go ahead and show you State's
18 Exhibit 1.

19 (COUNSELORS CONFER.)

20 MR. SUTHERLAND: Without objection, Judge.

21 THE COURT: All right.

22 MR. STEADMAN: Your Honor, we move State's 1 into
23 evidence at this time.

24 THE COURT: All right, without objection.

25 (DVD OF PHOTOGRAPHS MARKED INTO EVIDENCE AS STATE'S

1 EXHIBIT NUMBER 1.)

2 BY MR. STEADMAN:

3 Q. Now, why don't you, while we're waiting for this to
4 load, why don't you go ahead and tell me what you observed
5 when you first got on the scene.

6 A. When I first got to the scene, I was one of the last
7 vehicles to arrive. So, in front of me was at least one
8 EMS truck, two motorcycles that were laying -- to me, I
9 believe they were on their left-hand side. They were laid
10 down on the left-hand side. A silver vehicle, a van type,
11 maybe an SUV directly in front of those, roughly 10 to 15
12 feet in front of the motorcycles.

13 My first impression of it was I saw EMS workers with
14 somebody on the other side of a hedge of a parking area,
15 working on somebody, and as I came around the silver truck,
16 I saw what appeared to be a woman laying on the ground.

17 Q. What did you know about the victims' health at that
18 point?

19 A. As far as I was aware, since EMS was working on
20 whoever was on the other side of the hedges, which ended up
21 being Mr. Collins -- he was at that point still alive. I'm
22 not a medical professional, so I wasn't given that
23 information concerning him. When I approached the lady on
24 the ground, she appeared to be not moving. Did not appear
25 to be breathing to me.

1 Q. Why don't you go ahead and step over here. So, make
2 sure you're facing the court reporter.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER 1 IS PLAYED
4 THROUGHOUT THE FOLLOWING EXAMINATION.)

5 Q. Tell us what -- tell the jury what you see, what we
6 see in this picture right here.

7 A. This is me approaching.

8 MR. STEADMAN: And this is State's 1, Your Honor.

9 A. This is my body camera.

10 THE COURT: What?

11 MR. STEADMAN: State's Exhibit 1, Your Honor.

12 THE COURT: All right.

13 MR. STEADMAN: For the record.

14 BY MR. STEADMAN:

15 A. This is a picture from my body camera, captured from
16 my body camera video. This is me approaching the scene.
17 Again, over here you see the motorcycles. Ms. Collins is
18 roughly right about here off the screen, and there's a
19 silver vehicle about here. As you come across, again you
20 see the EMS truck. As you come across here, you can see
21 that's an EMS worker. I believe that's one of their
22 chiefs. Over here you can see a group of people. The EMS
23 folks are working on somebody who's laying on the ground
24 here; it turned out to be Mr. Collins.

25 Q. And what about the third person, the third victim,

1 Ricky Montgomery?

2 A. Yes, sir. At this point, I believe he has already
3 been transferred, but he was found to be here. He was
4 knocked off his bike here, and when he came to, according
5 to him, the information we received from him, he was
6 knocked completely out. When he came to, he realized that
7 Mr. Collins was somewhere over here, and he attempted to go
8 -- excuse me -- attempted to go him, but he couldn't
9 because his foot was hurting pretty badly.

10 Q. And how did you observe Sydni Collins?

11 A. I observed her to be laying on her back, looking
12 straight up. Her left hand was out in this position. Her
13 right hand had a Glock handgun, and her hand was -- the gun
14 was under her like this, and her hand was positioned over
15 it like this.

16 Q. And we're going to go ahead and go to the second
17 picture on State's 1. What do we see on this picture right
18 here?

19 A. So, this is the silver vehicle I was referring to.
20 You can see the motorcycles here. So, that first picture
21 was taken from over here, over there kind of thing. So,
22 we're kind of looking at it this way. So, I did not
23 immediately see her body when I came around this way. You
24 can see the description. This is her gun. You can see the
25 silver part here. That's the front of the gun. When the

1 slide locks back, the slide comes back here. You can see
2 her hand. Her finger is outside of the trigger guard on --
3 along the side of the weapon. You can see her left hand
4 here is again out this way.

5 Q. And again, are these screenshots from your body cam or
6 a video?

7 A. Yes.

8 Q. And can you show the jury with your hand how exactly
9 she had her hand on the, the gun if you can? Can you use
10 your hand and show that to the jury?

11 A. Yes, without taking the gun out.

12 WITNESS: Begging your indulgence, sir? If you take
13 the taser out, it's roughly the same size and shape as a
14 gun.

15 THE COURT: Beg your pardon?

16 WITNESS: If you would ---

17 MR. STEADMAN: Is it okay if he demonstrates with the
18 taser?

19 THE COURT: Sure. Go ahead.

20 Well, any objection, of course.

21 MR. SUTHERLAND: Just as long as it's not the firearm.

22 WITNESS: I will not turn it on.

23 MR. SUTHERLAND: I guess.

24 WITNESS: I just will show you ---

25 MR. SUTHERLAND: Okay. All right.

1 WITNESS: --- it's the same, same shape and roughly
2 the size.

3 BY MR. STEADMAN:

4 A. So, this is roughly how a gun is done. You can see
5 the trigger here. Her hand was like this. It was along
6 the side of the gun and was not in the trigger guard. The
7 trigger guard is the bottom part down here. You can see
8 where her fingers extended along it.

9 Q. And after you observed her laying like this, what did
10 you do next?

11 A. We were still trying to get everything that was going
12 on. You can see this deputy here has a camera. We're
13 trying to take pictures of different things that are there.
14 At this point the crime scene investigators haven't
15 arrived, so we try to take pictures as well to supplement
16 whatever they end up doing.

17 On this particular case, this EMS woman is effectively
18 shouting at us to remove the gun because they're going to
19 take her to the hospital. Her contention, if I remember
20 correctly, and I don't know if you can actually hear it on
21 the video very well, is that they believe that because she
22 is still warm, the body is still warm, that there's the
23 chance she might survive and wanted to take her in the EMS
24 vehicle. Because they want to put her in the vehicle, they
25 can't take the gun with her. So, I was asked to remove the

1 gun.

2 We had a supervisor on scene. When we told him that's
3 what the EMS person wanted, he informed us and this
4 particular deputy here to take pictures of her prior to
5 removing the gun. I took the gun off her. Again, I
6 noticed that the, the top of the gun, the slide was locked
7 completely back. There did not appear to be any kind of
8 obstruction on the chamber, and I could see the top of a
9 bullet where the magazine was inserted. I removed that
10 from her.

11 A short time later as we're still trying to collect
12 what's going on and get the -- as much information from the
13 scene, information as we can, I removed the magazine. At
14 the base of the weapon right around this area here, I could
15 see a little bit of what appeared to be blood, a dark red
16 liquid drying.

17 Q. Where exactly did you observe the blood?

18 A. Sorry. It would be right at the bottom. Right at the
19 base of the gun. Right where the magazine goes in, right
20 about this part right here, somewhere in this general area.
21 I don't believe that that would be caught on any kind of
22 video because I was looking down at it.

23 Q. Okay.

24 A. But I did remove the magazine. The magazine appeared
25 to me to have twelve rounds in it, twelve bullets in the

1 magazine itself. Again, I checked the gun. The gun was
2 clear; there was no bullets in the barrel or anywhere else
3 in the gun at that point.

4 Q. And what else did you observe about her person? Did
5 you observe where the wounds, the bullet wounds were?

6 A. I did not actually -- I don't recall seeing the chest
7 wound, but I did see that it appeared she had been shot
8 roughly in this area of the face.

9 Q. And I'm going to go ahead and move on the State's 2.
10 It's already entered into evidence, and why don't you
11 orient the jury to what we see here?

12 (WHEREUPON, STATE'S EXHIBIT NUMBER 2 IS PLAYED
13 THROUGHOUT THE FOLLOWING EXAMINATION.)

14 A. Okay. So, right here, this is Two Notch Road. This
15 is leading out from Columbia, what we refer to as outbound
16 toward Sandhills. Excuse me. That would be I-20. So,
17 this is Two Notch. This is Decker Boulevard. This is
18 Parklane. The area we're talking about here is this would
19 be My House. This would be Kiki's Waffles.

20 Q. What is significant about My House?

21 A. My House, what originally -- excuse me. The way it
22 ended up going down for myself was there was a call to My
23 House about a fight in progress, an actual hands on,
24 physical fight going on at My House. While deputies
25 started moving towards My House, that's when the call came

1 out for the shooting hit. So, it basically rearranged us
2 to go down here. So, this is My House. This is KiKi's
3 Waffles, which is -- just so you have a general idea of
4 where we were going.

5 Q. What's this right here?

6 A. This is Columbia Mall.

7 Q. In the bottom left corner, okay. Keep going.

8 A. So, here we have -- this is the AM/PM Mart right here.
9 This is Claudia Boulevard right here, and when we get to
10 the next pictures, you'll see the closes up of -- close ups
11 of it. This is the BP Gas Station right here, and this is
12 My Place.

13 Q. And do you remember ---

14 A. Another grill.

15 Q. --- My Place? So, that's different than ---

16 A. This is ---

17 Q. --- My House?

18 A. This is My House. This is My Place, which is a club
19 right there at the corner of Claudia and Parklane.

20 Q. Both clubs?

21 A. Yes, sir.

22 Q. What do we see here in this picture? This is the
23 second picture from State's 2.

24 A. This again is My Place and Kiki's Waffles. This is
25 Two Notch and Parklane going that way. This here would be

1 -- I guess you'd call it an access or, or frontage road to
2 the mall itself, which is roughly here.

3 Q. And what do we observe in this picture, number 3 of
4 State's 2?

5 A. Okay. So, again this is the AM/PM Mart. This is --
6 at the time it was a vacated building, brick-faced
7 building. Over here is My House, excuse me, My -- I get
8 them mixed up because of the, the names, but this is
9 Parklane. Excuse me, this is Parklane. This is Claudia.
10 This is the BP Gas Station. The motorcycles were found in
11 these two lanes right here.

12 Q. And tell us, if you can. Would this picture show us
13 where the victims were laying when you first showed up on
14 the scene?

15 A. So, that first picture you saw where I was approaching
16 it was roughly about here. I observed the EMS workers
17 somewhere in this area working on the man who ended up
18 being Mr. Collins. Ms. Collins, if the motorcycle is right
19 at the white line, she would be roughly right at the end of
20 that little dark smudge.

21 Q. And she was laying at the base of a vehicle?

22 A. Yes, at the -- I believe it was a silver minivan or a
23 grayish minivan.

24 Q. Okay. Thank you, sir. You can go back to the stand.

25 And, Deputy, everything that -- all the pictures you

1 just showed, all those locations are within Richland
2 County?

3 A. Yes, sir.

4 Q. And after you secured the gun, what did you do with
5 Ms. Collins's gun?

6 A. It was bagged and turned in to Richland County
7 Sheriff's Department evidence locker.

8 Q. And then at that point, after you've done that, you
9 spoke with a few witnesses, what your next step?

10 A. At that point we were, we were gathering information.
11 We received information for Mr. Montgomery about how he had
12 gone to the hospital. The deputy who was taking the
13 pictures in there spoke with him mostly, and that's where
14 we got information that he was knocked out. When he woke
15 up, he saw Mr. Collins.

16 MR. SUTHERLAND: I'm sorry, Judge. It's hearsay.

17 THE COURT: What?

18 MR. SUTHERLAND: Objection to hearsay.

19 THE COURT: All right.

20 MR. STEADMAN: I'll move on, Your Honor.

21 MY MR. STEADMAN:

22 Q. And at some point, did you turn over the crime scene
23 or the investigation to detectives?

24 A. I don't recall. I imagine I talked to them while we
25 were out there. Normally what happens in a scene like this

1 is we're gathering information. Investigators show up, and
2 there's a bunch of collaboration on what we're seeing, what
3 was out there, and what they need, you know. And of course
4 they're developing their own ways to work the situation as
5 well.

6 Q. And so at that point, your job is kind of done, and
7 you send it over to investigators for further
8 investigation?

9 A. For all intents and purposes, yes.

10 MR. STEADMAN: Thank you, sir. No further questions.

11 THE COURT: Mr. Sutherland.

12 MR. SUTHERLAND: Please the court?

13 CROSS-EXAMINATION BY MR. SUTHERLAND:

14 Q. Sir, how are you?

15 A. All right.

16 Q. Want to ask you a question about the slide, the slide
17 back.

18 A. Yes.

19 Q. When you got this firearm and you cleared it, you
20 testified that there was no obstruction?

21 A. Correct.

22 Q. Right.

23 A. That I could see.

24 Q. Okay, and you, you cleared it?

25 A. Yes, sir.

1 Q. Okay. Well, how, how does it come to pass that a
2 slide gets locked back after -- it's after you, after you
3 dump it, after you empty the magazine. Isn't that, isn't
4 that right?

5 A. No -- in my experience, yes. I'm not a gunsmith. So.

6 Q. Okay.

7 A. I don't know all the particulars that can lock a slide
8 back.

9 Q. And so then it just could be that this magazine that
10 appeared to be full could have been a second, second
11 magazine?

12 A. Theoretically.

13 Q. Okay. Also, how far back was, how far back was Sydni
14 from the motorcycle that she was on, and how far back --
15 because wasn't she back by a vehicle, one of the vehicles
16 or something?

17 A. Yes, sir. I would -- there were two motorcycles. I
18 don't know which motorcycle she was riding. I don't know
19 whose was whose, but you had the two motorcycles laying
20 like this in the lanes, one lane, second lane. Roughly one
21 lane, second lane. The silver vehicle was kind of like
22 this. I would say that from the bike to the vehicle is
23 maybe 10 to 15 feet, and she was in between. So, maybe 4
24 or 5 feet from the bike.

25 Q. I gotcha.

1 A. Where her foot is and a couple feet from the vehicle
2 with her head.

3 Q. You mentioned a SUV. Did you see a black SUV when you
4 were out there?

5 A. I don't recall. It might be on my video, but I don't
6 recall it.

7 MR. SUTHERLAND: Okay, beg the court's indulgence
8 briefly?

9 THE COURT: Yes, sir.

10 (A PAUSE.)

11 MR. SUTHERLAND: I have no further questions, Judge.

12 THE COURT: Anything further on redirect?

13 MR. STEADMAN: No, Your Honor.

14 THE COURT: You may step down, sir.

15 WITNESS: Thank you.

16 (THE WITNESS EXITS THE STAND.)

17 MR. STEADMAN: Your Honor, the state calls Larry
18 Sanders.

19 LARRY SANDERS, BEING DULY SWORN,
20 TESTIFIES AS FOLLOWS:

21 CLERK: Please have a seat in the witness stand, and
22 state your full name for record. State your full name,
23 please.

24 WITNESS: Larry Sanders.

25 DIRECT EXAMINATION BY MR. STEADMAN:

1 Q. Mr. Sanders, what do you do here in Columbia?

2 A. I remodel houses, and I got a restaurant.

3 Q. And what is the name of that restaurant?

4 A. My House.

5 Q. And where exactly is My House?

6 A. 7205 Two Notch Road.

7 Q. And are you the owner of My House? What I'm going to
8 do is I'm going to show you State's Exhibit Number 7. Have
9 you seen that before?

10 A. Look like what I saw earlier.

11 Q. And this is what -- that's your signature on the front
12 of that disk showing that you watched this video?

13 A. Not entire thing. I seen some of it.

14 Q. But you watched enough to ---

15 A. Yeah.

16 Q. --- to see if this is surveillance video from your
17 restaurant?

18 A. Yeah.

19 Q. Thank you, sir.

20 MR. STEADMAN: At this point, move State's Number 7
21 into evidence.

22 MR. SUTHERLAND: No objection, Judge.

23 THE COURT: All right.

24 (DVD OF MY HOUSE SURVEILLANCE MARKED INTO EVIDENCE AS
25 STATE'S EXHIBIT NUMBER 7.)

1 BY MR. STEADMAN:

2 Q. And, sir, at My House Bar and Grill, were you there
3 back in July 27, 2017?

4 A. No, sir.

5 Q. Do you know what was happening that night at your
6 restaurant on July 27, 2017?

7 A. After.

8 Q. Do you -- does your restaurant often house something
9 called bike night?

10 A. It was on a Thursday night during that time, I think.

11 Q. What exactly is bike night?

12 A. Just a bunch of local bikers just get together and, I
13 guess, just the comradery of it.

14 Q. And so on bike night, people show up on their bikes
15 and hang out at your restaurant. How often do you have
16 bike night?

17 A. Once a week. I don't have it anymore, but once a week
18 during that time.

19 Q. And at some point, you learned about a fight and then
20 a shooting that had happened after a fight down the road?

21 A. Uh-huh.

22 Q. When you got that information, at some point did you
23 direct your employee to provide surveillance of the video?

24 A. I didn't know he had it.

25 Q. Okay.

1 A. I don't know you had it until y'all contacted me.

2 Q. Okay, but that surveillance video is from your
3 restaurant?

4 A. Yes.

5 MR. STEADMAN: Thank you sir. No further questions.

6 MR. SUTHERLAND: Briefly, Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION BY MR. SUTHERLAND:

9 Q. Sir, were you -- you said that you weren't there on
10 the 27th of July. Were you at the, the previous on the
11 20th? Were you there the week before?

12 A. No. I took a vacation, so I probably -- I was in
13 Florida.

14 Q. Oh. Okay. I gotcha. Thanks.

15 MR. SUTHERLAND: No further questions, Judge.

16 THE COURT: All right. You may step down, sir.

17 MR. STEADMAN: Your Honor, can we approach?

18 THE COURT: Sure. Are you finished with this witness,
19 sir?

20 MR. STEADMAN: Yes, Your Honor. No further questions
21 for this witness.

22 THE COURT: I just didn't know.

23 (THE WITNESS EXITS THE STAND.)

24 (OFF-THE-RECORD BENCH CONFERENCE.)

25 THE COURT: I was just confirming, ladies and

1 gentlemen of the jury, that's all the evidence you will
2 hear today. We will resume at 9:30 in the morning. In the
3 meantime, I'll remind you of my preliminary instructions to
4 you.

5 Please don't discuss this case with anybody in any
6 way, shape, or form, not even your wives or husbands. It
7 would be unfair for either side for you to do so.

8 I trust you will have a pleasant and restful evening.
9 We'll see you again tomorrow morning at 9:30. Thank you
10 all so very much.

11 (THE JURY EXITS AT 4:31 P.M.)

12 THE COURT: All right, anything further?

13 MR. FYALL: Not from the state, Your Honor.

14 THE COURT: And last witness was Larry Sanders,
15 S-a-n-d-e-r-s?

16 MR. STEADMAN: Yes, Your Honor.

17 THE COURT: I just didn't see him on my list. Is he
18 on the list here?

19 MR. SUTHERLAND: I didn't, I didn't recall that, that.

20 THE COURT: Huh?

21 MR. SUTHERLAND: I didn't recall that either, Judge.

22 MR. FYALL: He was the record custodian for the place.
23 We just put records custodian because we didn't know who
24 would be coming.

25 THE COURT: What now?

1 MR. FYALL: He's the records custodian from My House.
2 I think we put records custodian on the witness list
3 because we didn't know who was coming.

4 THE COURT: That's fine with me.

5 MR. SUTHERLAND: I don't recall the -- well, they said
6 Larry Sanders, and I thought of the HBO...

7 THE COURT: Y'all can discuss this later. See y'all
8 at 9:30 in the morning. Thank you.

9 (WHEREUPON THE CASE IS AT EASE.)

10 TUESDAY, AUGUST 20, 2019

11 (COURT RESUMES AT 9:54 A.M.)

12 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
13 NUMBERS 10 THROUGH 59 FOR IDENTIFICATION.)

14 (DVD OF 911 CALL MARKED AS STATE'S EXHIBIT NUMBER 60
15 FOR IDENTIFICATION.)

16 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
17 NUMBERS 61 THROUGH 80 FOR IDENTIFICATION.)

18 (TWO PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER 81
19 FOR IDENTIFICATION.)

20 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT
21 NUMBERS 82 THROUGH 111 FOR IDENTIFICATION.)

22 (DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 112 FOR
23 IDENTIFICATION.)

24 (FIRED CASINGS MARKED AS STATE'S EXHIBIT NUMBER 113
25 FOR IDENTIFICATION.)

1 (PROJECTILES AND FRAGMENTS MARKED AS STATE'S EXHIBIT
2 NUMBER 114 FOR IDENTIFICATION.)

3 (SUNGLASS LENS MARKED AS STATE'S EXHIBIT NUMBER 115
4 FOR IDENTIFICATION.)

5 (GUN MARKED AS STATE'S EXHIBIT NUMBER 116 FOR
6 IDENTIFICATION.)

7 (DVD OF SURVEILLANCE MARKED AS STATE'S EXHIBIT NUMBER
8 117 FOR IDENTIFICATION.)

9 THE COURT: Is everybody ready?

10 MR. SUTHERLAND: Yes, sir.

11 MR. FYALL: Yes, sir.

12 THE COURT: Mr. Sutherland, are there any issues with
13 what's been marked already?

14 MR. SUTHERLAND: I'm sorry?

15 THE COURT: Any issues with any exhibits that have
16 been marked already?

17 MR. SUTHERLAND: No, sir. We've been through the ---

18 THE COURT: Y'all have agreed on these?

19 MR. SUTHERLAND: They're squared away. I think
20 they've still got those, those autopsy pictures over there.

21 THE COURT: What now?

22 MR. SUTHERLAND: I think they still have the autopsy
23 pictures.

24 THE COURT: Okay.

25 MR. FYALL: That's not for today.

1 THE COURT: All right, bring the jury in.

2 (THE JURY ENTERS AT 9:56 A.M.)

3 THE COURT: Welcome back, members of the jury. I hope
4 and trust you had a pleasant and restful evening. Y'all
5 did, right? Good, good.

6 We're ready to resume this trial. You may call your
7 next witness, Mr. Solicitor.

8 MR. STEADMAN: State calls Paramjit Singh. He goes by
9 Mike.

10 PARAMJIT SINGH, BEING DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 CLERK: Please have a seat in the witness stand, and
13 state your full name for the record. Please spell your
14 first and last name.

15 WITNESS: My first name is Paramjit, P-a-r-a-m-j-i-t.
16 Last name Singh, S-i-n-g-h. I go by Mike. Lot of people
17 call me Mike.

18 DIRECT EXAMINATION BY MR. STEADMAN:

19 Q. Do you want me to call you Mike?

20 A. Sure.

21 Q. Okay. Mike, have you -- do you work at AM/PM
22 convenience store?

23 A. Yes. My father owns the business; I help run the
24 business.

25 Q. And where exactly is the AM/PM store located?

1 A. 7230 Parklane, Columbia.

2 Q. Okay, and back in July 27, 2017, were you asked to
3 download some video from the surveillance cameras at AM/PM?

4 A. Yeah. That was maybe next day, I think it was.

5 Q. And how many cameras do y'all have at the AM/PM?

6 A. Twenty-four, thirty-two. Twenty-four to thirty-two
7 cameras.

8 Q. And the exterior cameras that you downloaded, about
9 how many cameras did you download?

10 A. It's three of them.

11 Q. And how do those cameras work?

12 A. They pick up by sensor motion. Somebody's walking by,
13 it'll pick up; there's no motion, it won't pick up the
14 video.

15 Q. So, they are motion-activated cameras?

16 A. Yeah.

17 Q. I'm going to show you what's been marked as State's
18 Exhibit 8 and number 9. Can you please take a look at
19 that?

20 A. Yeah. It's videos I watched and signed.

21 Q. Have you watched both of these?

22 A. Yes, sir.

23 Q. And one of these is the surveillance video from your
24 store, and one of these is a zoomed-in version of one of
25 the cameras, correct?

1 A. Yes. Yes, sir.

2 MR. STEADMAN: Your Honor, at this point we introduce
3 State's 8 and 9 into evidence.

4 MR. SUTHERLAND: No objection, Judge.

5 THE COURT: Which is -- number 9 is the zoom?

6 MR. STEADMAN: Number 9 is the regular surveillance
7 camera.

8 THE COURT: All right.

9 MR. STEADMAN: Number 8 is the zoomed-in version.

10 THE COURT: All right, without objection.

11 (DVD OF AM/PM SURVEILLANCE MARKED INTO EVIDENCE AS
12 STATE'S EXHIBIT NUMBER 9. EXHIBIT 8 INCORRECTLY IDENTIFIED
13 AND IS RESUBMITTED BELOW.)

14 MR. STEADMAN: And thank you, sir. No further
15 questions.

16 THE COURT: Wait.

17 Do you have any?

18 MR. SUTHERLAND: No questions. Have a good day.

19 THE COURT: You may step down, Mr. Singh. Thank you.

20 (THE WITNESS EXITS THE STAND.)

21 MR. STEADMAN: State now calls Michelle Edwards.

22 MICHELLE EDWARDS, BEING DULY

23 SWORN, TESTIFIES AS FOLLOWS:

24 CLERK: Please have a seat in the witness stand, and
25 state your full name for the record.

1 WITNESS: Michelle Edwards.

2 DIRECT EXAMINATION BY MR. STEADMAN:

3 Q. Good morning, Ms. Edwards. Do you work at Mobay's Bar
4 and Grill?

5 A. I used to when it was open.

6 Q. And were you asked to provide some video from Mobay's
7 Bar and Grill back in July 27, 2017?

8 A. Yes, sir.

9 Q. And I'm showing you what's been marked as State's
10 Exhibit 8. Have you seen this before?

11 A. Yes, sir.

12 Q. And did you watch the video before coming to court
13 today?

14 A. Yes, sir.

15 MR. STEADMAN: Your Honor, at this point ---

16 Q. And this is Mobay's surveillance video?

17 A. Correct.

18 Q. Okay.

19 MR. STEADMAN: At this point, we introduce State's
20 Exhibit 8. And, Your Honor, I spoke earlier. The prior
21 exhibit that we introduced through Mike was 117.

22 THE COURT: All right, back up a little bit. 8 and 9,
23 they should be 117?

24 MR. STEADMAN: Yes, Your Honor.

25 THE COURT: Yes. Is that correct, Mr. Sutherland?

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: Yes, sir, 117. Yes, sir.

3 MR. STEADMAN: And this is actually State's Number 8,
4 the Mobay surveillance video, and we ask that that be
5 admitted into evidence at this time.

6 MR. SUTHERLAND: No objection, sir.

7 THE COURT: All right.

8 (DVD OF MOBAY'S SURVEILLANCE MARKED INTO EVIDENCE AS
9 STATE'S EXHIBIT NUMBER 8.)

10 (DVD OF AM/PM SURVEILLANCE MARKED INTO EVIDENCE AS
11 STATE'S EXHIBIT NUMBER 117.)

12 MR. STEADMAN: Thank you, ma'am. No further
13 questions.

14 MR. SUTHERLAND: No questions for this witness.

15 THE COURT: You may step down, Ms. Edwards.

16 (THE WITNESS EXITS THE STAND.)

17 MR. STEADMAN: State calls Lacosha Smith.

18 THE COURT: Is she on the witness list, Solicitor?

19 MR. STEADMAN: She should be. Lacosha Smith? Yes,
20 Your Honor, she is.

21 THE COURT: First or second page?

22 MR. SUTHERLAND: The first page, about twenty percent
23 of the way up. No, about a quarter of the way up.

24 THE COURT: Yes, sir.

25 LACOSHA SMITH, BEING DULY SWORN,

1 TESTIFIES AS FOLLOWS:

2 CLERK: Please have a seat in the witness stand, and
3 state your full name for the record, and please spell your
4 first name.

5 WITNESS: Lacosha, L-a-c-o-s-h-a.

6 DIRECT EXAMINATION BY MR. STEADMAN:

7 Q. Good morning, Ms. Smith. Do you reside here in
8 Columbia?

9 A. I do.

10 Q. I'm going to take your attention back to July 27,
11 2017. What were you doing that night?

12 A. I was at a church function from 7 till about -- church
13 ended about 9:20, but we stood out in the parking lot for
14 maybe about ten minutes talking, and then I left church and
15 proceeded to go home.

16 Q. And where was the church located, and what route did
17 you take to go home?

18 A. The church was located on Parklane. It was Fellowship
19 Baptist Church. It was right across from Firestone on
20 Parklane.

21 Q. Okay, and what did you observe while going home?

22 A. As I was going home, when I left the church, I went
23 down Parklane and I came up on two, two motorcycles that
24 was turned -- I mean, turned over or laid down, and I saw a
25 car on the left-hand side, but I didn't see anyone inside

1 of the car. And then in front of me I saw a white SUV, and
2 I saw a guy, and it looks like he had ran from the
3 motorcycles. Look like he may have gotten something
4 because he went to the motorcycle and looked like he picked
5 up something, and then he ran and jumped into a white SUV.
6 And then they made a right turn on the street that was
7 right in front of where the accident happened.

8 Q. And you felt the need to call 911 after you saw what
9 you saw?

10 A. Yes.

11 Q. And I'm showing you State's 60. Do you recognize
12 that?

13 A. Yes.

14 Q. And is this your 911 call that you make and you
15 listened to it?

16 A. Yes.

17 Q. Okay.

18 MR. STEADMAN: Your Honor, at this point we would
19 introduce State's 60 into evidence.

20 MR. SUTHERLAND: No objection.

21 THE COURT: Without objection.

22 MR. STEADMAN: And we're going to publish it for the
23 jury as well.

24 (DVD OF 911 CALL MARKED INTO EVIDENCE AS STATE'S
25 EXHIBIT NUMBER 60.)

1 (WHEREUPON, STATE'S EXHIBIT NUMBER 60 IS PLAYED FOR
2 THE COURT. AUDIO NOT INCLUDED IN TRANSCRIPT.)

3 BY MR. STEADMAN:

4 Q. Ms. Smith, when you first pulled up to that
5 intersection, did you realize that a shooting had just
6 taken place?

7 A. No, I didn't. I initially ---

8 MR. SUTHERLAND: Leading. Objection to leading.

9 A. I think it was a ---

10 THE COURT: Wait.

11 MR. SUTHERLAND: Objection. Did you realize that a
12 shooting had just taken place is, is a leading question,
13 and rather maybe what did you think had taken place.

14 THE COURT: Rephrase the question.

15 BY MR. STEADMAN:

16 Q. So in your mind, what did you think had just taken
17 place when you pulled up to that intersection?

18 A. Excuse me. Initially I thought it was a accident with
19 the car, but then when I saw the guy, looks like he ran and
20 picked up something from the scene and jumped in the
21 vehicle. Then I realized at that point, you know, it was a
22 shooting.

23 Q. And the guy that you mentioned, is that the guy that
24 got into the white truck?

25 A. Uh-huh. It is, yes.

1 Q. And what did you say he did before getting into the
2 white truck?

3 A. It looks like he went to the motorcycles. It looks
4 like he grabbed something. I don't know what it was, and
5 then he ran and jumped into the vehicle.

6 Q. Okay, Ms. Smith, now I'm going to get, get you down.
7 If you mind stepping down from the witness stand, get you
8 to point out where your car was on the video.

9 A. Okay.

10 MR. STEADMAN: And, Your Honor, at this point we're
11 going to play State's number 9, which is the AM/PM
12 surveillance video looking out toward the street.

13 COURT REPORTER: Can you have her face me, please?
14 Thank you.

15 THE COURT: Yes, stand on the other side of him.

16 WITNESS: Oh. Okay.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER 9 IS PLAYED
18 THROUGHOUT THE FOLLOWING EXAMINATION.)

19 BY MR. STEADMAN:

20 Q. Now, Ms. Smith, when you see your car on the video,
21 please point it out. That's your car?

22 A. Uh-huh.

23 Q. And is the truck that's in front of you on the video,
24 is that the one that you saw the person get into?

25 A. It is.

1 THE COURT: She need to speak up.

2 A. Yes, it is.

3 Q. Is this where you say you ran the red light?

4 A. Yes, it is.

5 Q. And at that point, where did you go?

6 A. I went up and I turned back around and came back down.

7 Q. And when did you lose sight of the white truck?

8 A. As soon as it turned, as soon as it made that right
9 turn, then I lost sight of it.

10 Q. Thank you, Ms. Smith. You can take a seat.

11 Also, Ms. Smith, when you first pulled up, did you
12 observe anybody laying in the street?

13 A. I, I, when I first pulled up, I saw the two
14 motorcycles and they were turned. It's like they had fell
15 down, and it was, it was two people. If I'm not mistaken,
16 the female was on the left side and the gentleman was on
17 the right side, if I'm not mistaken.

18 Q. And did you see them through your car window?

19 A. Yes.

20 Q. And, and was that before you pulled off from -- and
21 went through the red light?

22 A. Yes, because I was right behind it.

23 Q. And once again, what did the guy that got into the
24 white truck, what did you see him doing before he got into
25 the white truck?

1 A. He had, it looks like he had picked up something.
2 It's, it's -- almost looked like he had ran back to the
3 scene and got something and then ran and jumped into the
4 white vehicle.

5 Q. And when you said he ran back to the scene, what do
6 you mean by the scene?

7 A. Far as the scene, it was, it was the motorcycles laid
8 there, and he was, like, a little bit from the motorcycles
9 as if he had dropped something. So, then he went back and
10 picked something up and then proceeded and jumped in the
11 white vehicle, and then they made that right turn.

12 MR. STEADMAN: Thank you, ma'am.

13 WITNESS: Okay.

14 MR. STEADMAN: No further questions.

15 WITNESS: Okay.

16 MR. SUTHERLAND: Please the court, sir?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION BY MR. SUTHERLAND:

19 Q. This, this will be brief here.

20 A. Okay.

21 Q. I understand it sounds like you ride up on this thing
22 you think is an accident, and you see a dude hop off a
23 motorcycle, run in there, go for something, and then jump
24 in that white vehicle. Is, is that about it?

25 A. Yes. Initially I thought it was a accident because I

1 saw the motorcycles laying down.

2 Q. Yes, ma'am.

3 A. But then when I saw the guy, he was just off a
4 distance from the motorcycle and he grabbed something, and
5 then he proceeded to the truck.

6 Q. ~~Do you remember what that guy was wearing that you~~
7 saw?

8 A. ~~He was wearing some jeans and a white shirt.~~

9 Q. ~~Jeans and a white shirt?~~

10 A. ~~Uh-huh.~~

11 MR. SUTHERLAND: All right. No further questions.

12 Thank you.

13 WITNESS: Okay.

14 THE COURT: Anything on redirect?

15 MR. STEADMAN: No. No, Your Honor.

16 THE COURT: You may step down. Yes, ma'am, thank you.

17 (THE WITNESS EXITS THE STAND.)

18 THE COURT: Call your next witness.

19 MR. FYALL: State calls Investigator Kerri McClary.

20 KERRI McCLARY, BEING DULY SWORN,

21 TESTIFIES AS FOLLOWS:

22 CLERK: Please have a seat in the witness stand.

23 Please state your full name for the record, and please
24 spell your first and last name.

25 WITNESS: My name is Kerri McClary, K-e-r-r-i. Last

1 name M-c-c-l-a-r-y.

2 DIRECT EXAMINATION BY MR. FYALL:

3 Q. Investigator McClary, where are you employed?

4 A. I'm employed with the Richland County Sheriff's
5 Department here in Columbia.

6 Q. I'm sorry. It's Senior Investigator McClary. My
7 apologies.

8 A. Yes, sir.

9 Q. Can you tell us a little bit about how you got to be
10 employed at the Richland County Sheriff's Department?

11 A. I've been in -- actively investigating crime scenes
12 for approximately twenty-four years. I started with the
13 State Law Enforcement Division working in the headquarters
14 here in Columbia, South Carolina, and I applied for a
15 position with the Richland County Crime Scene Unit in 2013.
16 So, I've been employed there for the last six years.

17 Q. All right, and tell us about your duties as a crime
18 scene investigator.

19 A. I am called to respond to incidents where a crime has
20 occurred. I will examine the scenes visually, photograph
21 them, make diagrams, take notes, process the scene and the
22 items within the scene for possible evidence, whether it be
23 fingerprints, footwear, tire tread, collect for possible
24 DNA. I also collected items of evidence and take back to
25 our headquarters to process more extensively in our lab.

1 And, you know, if there's an item that I collect at the
2 scene that is not going to be anything that I would
3 physically be processing, I will submit it to our evidence
4 and property section so that it can be forwarded to
5 whatever department in our lab who will do the processing
6 of it.

7 Q. All right, and on July 27, 2017, did you have an
8 opportunity to do some of those things in relation to this
9 case?

10 A. Yes, I did.

11 Q. All right. I'm going to start by showing you what's
12 marked as State's 112.

13 MR. SUTHERLAND: No objection, Judge.

14 THE COURT: 112 is a diagram of the scene?

15 MR. FYALL: Yes, Your Honor.

16 BY MR. FYALL:

17 Q. Do you recognize that?

18 A. Yes, I do.

19 Q. And what is that?

20 A. That is a reference diagram I created for
21 demonstrative purposes for court based on a diagram sketch
22 that I prepared of the incident location.

23 MR. FYALL: All right, Your Honor, at this time I'd
24 introduce 112 into evidence.

25 MR. SUTHERLAND: Again no objection.

1 THE COURT: Without objection.

2 (DIAGRAM MARKED INTO EVIDENCE AS STATE'S EXHIBIT
3 NUMBER 112.)

4 BY MR. FYALL:

5 Q. All right, and want to give you a moment to look at
6 State's 10 through 111.

7 THE COURT: 10 through 111?

8 MR. FYALL: Yes, Your Honor.

9 THE COURT: How many photos?

10 MR. FYALL: That is 91.

11 MR. SUTHERLAND: That'd be 101.

12 MR. FYALL: 101 photos, Your Honor.

13 THE COURT: 101?

14 MR. FYALL: Yes, Your Honor.

15 (A PAUSE.)

16 MR. FYALL: I'm sorry, Your Honor. It's 10 through
17 59, and then 61 through 111.

18 THE COURT: And 61 through 111?

19 MR. FYALL: Yes, Your Honor.

20 BY MR. FYALL:

21 Q. Give you a chance to look at those.

22 (A PAUSE.)

23 A. Okay.

24 Q. Do you recognize those?

25 A. Yes. They appear to be enlargements of the

1 photographs I took at the incident location that night.

2 Q. All right, and do these photographs fairly and
3 accurately represent the incident location?

4 A. Yes, they do.

5 MR. FYALL: At this point, Your Honor, I offer State's
6 10 through 59 and 61 through 111 into evidence.

7 THE COURT: I think they're in evidence without
8 objection?

9 MR. SUTHERLAND: Yes, sir, they're already in.

10 MR. FYALL: Thank you, Your Honor.

11 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
12 STATE'S EXHIBIT NUMBERS 10 THROUGH 59.)

13 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
14 STATE'S EXHIBIT NUMBERS 61 THROUGH 111.)

15 BY MR. FYALL:

16 Q. Investigator McClary, you mind stepping down for me?
17 All right, can you just sort of -- I'm going to have you
18 stand over here.

19 A. Okay.

20 Q. So she can hear you. All right, can you sort of
21 orient the jury as to what this shows here?

22 A. This is showing an area near where Columbia Mall is
23 located. So, this is Parklane Road, and this direction
24 would be towards 277, Farrow Road. You've got Claudia
25 Drive here and Moonglo Circle here. So, this, this small

1 area within here is where the actual incident location
2 occurred and the items of, of evidence that I was
3 documenting were.

4 Q. Okay, and you have sort of a key over here. Can you
5 sort of explain what those are to the jury?

6 A. Basically when I created this diagram is was -- I had
7 multiple fired cartridge casings that were collected at the
8 scene, and so just for ease in my mind, I color coordinate
9 the various types of basically groupings of similar
10 cartridge casings, whether it's a .40 millimeter, whether
11 it's a 9 millimeter, whatever. And so where I've got FCC
12 is abbreviation for fired cartridge casing, and then I've
13 got the numbers associated with where they were located
14 within the actual scene. And so I've done -- green is the,
15 the -- what is a 5.7 times .28 head stamp was on the head
16 stamp. The pink colors here are the .10 millimeter fired
17 cartridge casings that I collected. This blue number 7 was
18 the only one that appeared to be a .40 millimeter caliber,
19 and then the orange colors are associating where I have --
20 where I located possible fragments or projectile or
21 projectile fragments. And then the, the numbers associated
22 with the red color are where I could see a substance that
23 appeared to be blood, red-brown, red-brown stains, so.
24 Q. All right, and when you have your fired cartridge
25 casings and your projectile fragments, will you -- did you

1 collect those items?

2 A. Yes, I did. I collected all of these.

3 Q. All right. I'm going to show you State's 115 and 116,
4 ask you if you recognize those?

5 A. These are labels that I filled out, yes, and so this
6 is my original packaging.

7 Q. All right, and that's 116?

8 A. Yes.

9 Q. And can you tell us what that is?

10 A. That is a Glock model 23. The serial number is
11 LGX468. It had a magazine that contained twelve -- do you
12 have it?

13 Q. Yes.

14 A. Unfired cartridges, or on the label it's actually
15 marked UFCs, which is an abbreviation.

16 Q. All right, and 115?

17 A. This is my label, and it is marked one sunglass lens
18 -- excuse me -- that I collected from the roadway near
19 marker 10. It was on Parklane Road.

20 Q. All right, and 113 and 114?

21 A. 113 are the fired cartridge casings that I collected
22 from the roadway, and 114 are projectile and projectile
23 fragments that I collected in the roadway and the parking
24 lot area.

25 Q. All right. Thank you.

1 MR. FYALL: Your Honor, at this time the state would
2 seek to admit 113 through 116 into evidence.

3 THE COURT: All right.

4 MR. SUTHERLAND: Without objection, Judge.

5 THE COURT: Without objection.

6 (FIRED CASINGS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
7 NUMBER 113.)

8 (PROJECTILES AND FRAGMENTS MARKED INTO EVIDENCE AS
9 STATE'S EXHIBIT NUMBER 114.)

10 (SUNGLASS LENS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
11 NUMBER 115.)

12 (GUN MARKED INTO EVIDENCE AS STATE'S EXHIBIT NUMBER
13 116.)

14 BY MR. FYALL:

15 Q. All right, I'm going to show you some of the photos
16 you took on this big screen right here.

17 A. All right.

18 Q. All right, can you tell the jury what we're looking at
19 here? I'll have to switch sides with you again.

20 A. This is one of the photographs, overall photographs
21 that I took of the overall scene location. So, this is
22 Parklane Road. This is the intersection line right here,
23 and you can see that is the vehicle that is located here.
24 So, those are the two motorcycles.

25 Q. All right, and these sort of cone-shaped things, can

1 you tell the jury what that is?

2 A. The green cones that you see throughout the roadway
3 area are my evidence markers, and they are numbered 1
4 through 20.

5 Q. All right, and what, what are the purposes of those
6 sort of evidence markers?

7 A. When we locate an item of evidence, especially if it's
8 on the ground where people are walking around, we want to
9 identify them, one, so that they show up in the photograph,
10 our overall photographs that we do, but also to help
11 protect anybody from possibly walking over them if they're
12 inside the scene. So, it just gives us the ability to be
13 able to see them.

14 Q. All right. Let me show you State's 19. All right,
15 can you describe that for us?

16 A. This is just a closer view showing -- I'm actually
17 trying to get photographs where it's depicting the actual
18 item numbers on the various markers, but this was just more
19 of a medium view to show what -- where the evidence markers
20 were in relation to the two motorcycles that were still
21 within the scene.

22 Q. All right, and you said earlier you have your markers
23 here. For example, this is marker 12 and that is lined up
24 with the key you have here on your diagram?

25 A. Yes, it is. Marker 12 is right here in front of that

1 silver in color vehicle.

2 Q. All right, going to go a little bit further and have
3 you talk some more about your markers and what you found.
4 This photo right here has marker 3 and marker 4.

5 A. 3 and 4. You would notice 3 is located up here, and
6 number 4 is located in between the motorcycles.

7 Q. All right, and just to sort of orient the jury here,
8 how did you actually, like, take these measurements? Like
9 what type of, like, reference point did you use?

10 A. In the roadway surface, this would -- basically this
11 dark line is indicating basically where the crosswalk is.
12 If you were to cross the road, it's that white line in the
13 road. And on the sidewalk, just outside the sidewalk
14 there's a power pole that the tree -- the street lights
15 would be hanging from in the roadway surface. So, that is
16 what I made my fixed point or my reference point, my fixed
17 point. And I pulled -- basically used the front side of
18 the curb as my baseline.

19 And what I did was go from this center reference point
20 and measure out to a 90 degree intersection for each item
21 of evidence so I would have a measurement that went along
22 my baseline, and then I would have a measurement out to
23 that item of evidence. And if --anything that, that fell
24 on this side of that sidewalk on my measure sheet is
25 indicated with a positive. Anything that fell on the back

1 side of it is indicated with a negative. But it was just a
2 90 degree measurement off of each one.

3 Q. All right. I'm going to start showing the jury just
4 pictures of some close ups of some of your markers, and if
5 you could just point out in your diagram ---

6 A. Okay.

7 Q. --- again for the jury where those are. We'll start
8 with evidence marker 1. Can you tell us what that is and
9 where it was located?

10 A. Evidence 1, evidence marker 1?

11 Q. Yes.

12 A. Is red-brown stains, so stains that appeared to be
13 blood, and I located then in the roadway area. There was
14 some kind of drips around the area, so I, I marked them so
15 they could be photographed and collected.

16 Q. Okay, marker 2.

17 A. Marker 2 is a fired cartridge casing, 5.7 by .28.
18 It's located here just in, in front of that, that crosswalk
19 road.

20 Q. Okay, marker 3?

21 A. Marker 3 is a fired cartridge case, 5.7 by .28, and it
22 was located near marker 2.

23 Q. Okay, 4?

24 A. Marker 4 is located near the motorcycles. It is
25 actually -- I had some projectiles and projectile

1 fragments. I believe I had a projectile, two projectiles,
2 and a projectile fragment there.

3 Q. Okay. Yeah. See a projectile?

4 A. You can see there another projectile, and then I had a
5 -- this is kind of blurry. Should be right in there.

6 Q. Thank you. All right, just a close up of -- so, that
7 fragment?

8 A. Yeah. Projectile, and then that's...

9 Q. All right, marker 5.

10 A. Marker 5 is located near the motorcycles. It is also
11 a fired cartridge casing, 5.7 by .28.

12 Q. Okay, and number 6?

13 A. Marker 6 is located out here more towards the center
14 of the roadway. It is a fired cartridge casing, but it was
15 a .10 millimeter.

16 Q. And number 7?

17 A. Number 7 is located right here near the motorcycle in
18 close proximity to the motorcycle, and it is a fired
19 cartridge casing. Initially I misread apparently the head
20 stamp. I've got LOS and W. It, I believe, was a .40, .40
21 caliber.

22 Q. That, that was -- were there any more .40 caliber
23 rounds found?

24 A. No. There were no other .40s.

25 Q. Okay, move on to marker 8.

1 A. Marker 8 is located in -- right here in close
2 proximity to, to the front of that vehicle, and marker 8 is
3 a fired cartridge casing. That is a .10 millimeter.

4 Q. All right, we'll go to 9.

5 A. Number 9 is also a fired cartridge casing. It's .10
6 millimeter and it is located near the center line of the
7 road but a little bit further back from, from the actual
8 motorcycles.

9 Q. All right, and marker 10?

10 A. Marker 10 is a fired cartridge casing, .10 millimeter,
11 and it's located in close proximity to the vehicle, also to
12 the marker 9.

13 Q. All right, and marker 11?

14 A. Marker 11 is where I identified pooling of a red-brown
15 substance, and it's right here by the front bumper, front
16 driver, front wheel of that silver vehicle that was stopped
17 in the road.

18 Q. All right. Just for, you know, the jury's sake, why
19 do you in your initial report call it a red-brown
20 substance?

21 A. Well, until it's tested in the laboratory setting, I
22 mean, it may look like blood, but we, we try not to call it
23 blood. We can say apparent blood, but it's just simple and
24 it's kind of a standard in our lab just to call it a
25 red-brown stain or a red-brown substance.

1 Q. Okay. So, that's the same with marker 12?

2 A. Yes. That was towards the front of the vehicle in the
3 roadway.

4 Q. All right. Marker 13?

5 A. Once again, marker 13, it's in the roadway. It's a
6 fired cartridge casing, 5.7 by .28, and it is -- it's 13,
7 correct? 13 is located over here towards the sidewalk on
8 the side of the road.

9 Q. All right. Marker 14?

10 A. 14 is actually up on the sidewalk near some shrubs
11 that were growing there. 14 is a fired cartridge casing,
12 5.7 by .28.

13 Q. All right, and marker 15?

14 A. 15 is where I identified another stain area, red-brown
15 in color. It was over here in the parking lot area.

16 Q. That?

17 A. Yes.

18 Q. All right, marker 16?

19 A. Marker 16 is showing a fired cartridge casing. It is
20 a .10 millimeter and it was located near the center line of
21 the road in close proximity to the motorcycles.

22 Q. All right, marker 17?

23 A. Should be that area right there. 17 is one of the
24 projectile or projectile fragments that I located, and it's
25 towards the center line of the roadway.

1 Q. Okay, and marker 18?

2 A. Marker 18 is another projectile or projectile fragment
3 located in close proximity to the motorcycles.

4 Q. All right, marker 19?

5 A. 19 is another fired cartridge casing, 5.75 by .28, and
6 it is located in the roadway in close proximity to the two
7 motorcycles.

8 Q. All right. Can you tell us about marker 20 before I
9 put that on up there?

10 A. Yes, I can. After initially completing the, the
11 primary scene location, when we have shooting-type scenes,
12 it's a practice for us to kind of survey the surrounding
13 areas. And so as I was working along the parking lot area
14 and checking the building front here to see if I could see
15 any possible projectile or projectile impacts, I observed
16 what appeared to be a projectile on the sidewalk in front
17 of that building.

18 Q. All right. This is 91, which is sort of...

19 A. One more. 180.

20 Q. Sorry. Is that it?

21 A. Yeah. That's it. So, here we have the building front
22 and there's marker 20, and there was a projectile on the
23 sidewalk there. So, that's what we marked here.

24 Q. All right. So, I show you 93.

25 A. And that's just a closer view of the projectile.

1 Q. All right, does that about sum it up as far as your
2 markers are concerned?

3 A. I believe so.

4 Q. All right. You can take your seat.

5 All right, when you labeled some of the rounds from
6 the fired cartridge casings that -- being the .10
7 millimeter, 45.7, how do you identify that?

8 A. We can look at the end of the casing, the cartridge
9 casing, and it's something that's called a head stamp. And
10 oftentimes it will have a particular mark or it will have
11 the manufacturer, and it will have oftentimes the caliber.

12 Q. All right, I'm going to show you out of State's 113,
13 which is an envelope, marked 29.A. If you can look at that
14 for me?

15 A. I can see the head stamp, but I can't read it.

16 Q. Okay.

17 A. Without more magnification. I apologize.

18 Q. So, the head stamp is located on the top side there?

19 A. Yes.

20 Q. I don't see it on here, but -- and so when you say
21 fired cartridge casings, is that what colloquially some
22 people call shell casings or shells?

23 A. Some people do refer to, refer to them as that.

24 Q. All right, and once you were done collecting this
25 evidence, you processed and submitted it for -- submitted

1 it to the crime lab essentially?

2 A. Yes. I processed the evidence that I collected, the
3 fired cartridge casings. I processed them in our lab for
4 latent fingerprints and also for -- swabbed them to collect
5 any possible DNA that might have been on them.

6 Q. All right. How did you swab them? Did you swab one
7 at a time or?

8 A. With, with scenes like this, it's in -- the DNA
9 analysts want us to try and concentrate as much DNA as
10 possible if, if there's DNA present to swab. And so with a
11 situation like this where I had, like, a grouping of fired
12 cartridge cases that were 5.7 by .28 and they were located
13 in the same vicinity very near to one another, I went ahead
14 and swabbed all of those on one swab, and I did the same
15 thing for the .10 millimeter. They were kind of grouped
16 into an area in close proximity to each other, and so I
17 concentrated -- I swabbed all of those on to one swab.

18 Q. All right, and is it typical to get DNA off of a shell
19 casing or fingerprints based on your experience in crime
20 scene investigations?

21 A. On fired cartridge casings, I, I don't know the exact
22 percentage, but it's not uncommon to not get prints or DNA.

23 Q. And that's why you try and swab as much as you can?

24 A. Yes. Yes.

25 MR. FYALL: All right, beg the court's indulgence.

1 (A PAUSE.)

2 MR. FYALL: No further questions, Your Honor.

3 THE COURT: All right, Mr. Sutherland.

4 MR. SUTHERLAND: Okay. Thank you, Your Honor. Please
5 the court?

6 I so not need the TV. Appreciate it, though.

7 CROSS-EXAMINATION BY MR. SUTHERLAND:

8 Q. Really got a generalized question that's specific
9 towards this case, but when, when an incident happens like
10 this in the middle of traffic, what are some of the
11 challenges that you face as a crime scene investigator
12 investigating the scene?

13 A. Well, being in a roadway area like that, our first
14 responding officers did a very good job at basically
15 securing, establishing a perimeter around the scene and
16 getting people out and then keeping people out. So, the
17 challenge really is going to fall upon those first
18 responding officers to try and get things under control and
19 establish that crime scene perimeter.

20 Q. But from your perspective as a crime scene
21 investigator, what are your concerns about any incident
22 occurring in an open roadway?

23 A. I, I, I guess I don't understand what you're asking.

24 Q. Okay. Do you believe that evidence may have been
25 affected by, by the chaos and the traffic? That's, that's

1 what I'm getting at with the initial evidence just, just
2 being disturbed or translocated or something in that
3 fashion because ---

4 MR. FYALL: Your Honor, I think he's asking the
5 witness to speculate about what happened before she got
6 there.

7 THE COURT: He hasn't finished asking his question
8 yet.

9 What's the question, Mr. Sutherland?

10 BY MR. SUTHERLAND:

11 Q. Do you have concerns that some of the evidence may
12 have been moved or disturbed at this particular scene?

13 A. There would be a possibility that maybe first
14 responders stepped on something, or someone leaving the
15 scene, but everything was pretty much centrally located
16 right there in, in, in the roadway area where the incident
17 occurred.

18 Q. Sure, and -- but would, say, a white truck rolling
19 through this after this had happened, that would impact the
20 evidence that was on the ground there if a white truck had
21 driven through the scene after the shooting occurred?

22 A. If any kind of a vehicle drove over something, it
23 would -- if you're talking about fired cartridge casings,
24 there's a potential for it to kind of flatten it out, but
25 it hasn't been in my experience that it caused it to go

1 elsewhere out of the scene.

2 Q. Okay, and is it -- while you were out there -- I've
3 reviewed the body cameras in this case. Didn't some of the
4 police vehicles and some of the officers come into contact
5 with some of the evidence at the scene?

6 A. I don't recall them coming into contact with evidence
7 while I was on scene.

8 Q. Okay. The point that I'm trying to make is it's
9 chaotic out there, and sometimes evidence is disturbed in
10 the middle of a bunch of traffic but, I mean, that's not
11 your view? That's not your view?

12 A. When I arrived on scene, the perimeter had been
13 established and, you know, I made sure that the deputies
14 were staying out of the perimeter and that they weren't
15 letting any foot traff -- we did have bystanders and stuff,
16 but nobody was coming into the scene.

17 Q. How long was the scene insecure?

18 A. I, I can't answer that question.

19 Q. Okay.

20 A. From the time I was arrived, a perimeter had been, had
21 already been established and ---

22 Q. Okay, so ---

23 A. --- a crime scene log started.

24 Q. --- prior to police officers arriving when the scene
25 was insecure and vehicles were driving through the scene,

1 then the evidence would have been disturbed. Isn't, isn't
2 that correct?

3 A. I don't think I can answer that. I wasn't there; I
4 didn't see what happened.

5 Q. You've watched the video? You've watched the videos?

6 A. No, sir.

7 Q. Oh, you have not? Okay.

8 A. No, sir.

9 Q. I'm sorry, ma'am.

10 MR. SUTHERLAND: Thank you, Your Honor. No further
11 questions.

12 THE COURT: Anything in redirect?

13 MR. FYALL: Briefly, Your Honor.

14 REDIRECT EXAMINATION BY MR. FYALL:

15 Q. I'm going back to the pictures. I'm going to show you
16 State's 112 again. When you got there ---

17 THE COURT: What exhibit is that?

18 MR. FYALL: 112, Your Honor.

19 THE COURT: All right, sir.

20 BY MR. FYALL:

21 Q. When you arrived on the scene, that was still there?

22 A. Yes, that car was still there, yes.

23 Q. And both those motorcycles were still there?

24 A. Yes.

25 Q. And you said the scene was pretty secure when you were

1 there?

2 A. Yes.

3 Q. Did you run into any problems collecting evidence from
4 any outsiders, law enforcement, anyone?

5 A. No.

6 MR. FYALL: No further questions.

7 THE COURT: Mr. Sutherland, anything further?

8 MR. SUTHERLAND: No, sir.

9 THE COURT: You may step down.

10 WITNESS: Thank you.

11 (THE WITNESS EXITS THE STAND.)

12 THE COURT: Now, members of the jury, I'm going to
13 give you a short break to refresh yourselves. We'll come
14 back in a moment. Please don't talk about the case.

15 (THE JURY EXITS AT 10:55 A.M.)

16 THE COURT: I gave them a break. They looked a little
17 tired from everything. Who's next? What do you have lined
18 up for the next couple of witnesses?

19 MR. FYALL: We have two witnesses definitely lined up
20 for the morning, Your Honor.

21 THE COURT: Beg your pardon?

22 MR. FYALL: We have two witnesses defiantly lined up
23 for the morning.

24 THE COURT: How long will they be? Any idea? Long?
25 Short? Medium?

1 MR. FYALL: They should be short.

2 THE COURT: Well, it's only 11 o'clock. We'll see
3 what happens. Let's take a little break.

4 (OFF THE RECORD.)

5 THE COURT: During the break, Mr. Sutherland raised an
6 issue about two investigators being here after the
7 witnesses had been sequestered.

8 What was your concern, Mr. Sutherland?

9 MR. SUTHERLAND: Well, my, my view is that the lead
10 investigator should -- is, of course, present throughout
11 but that any other investigator should be sequestered.

12 THE COURT: All right. Thank you.

13 And Mr. Fyall.

14 MR. FYALL: Yes, Your Honor. They worked this case
15 jointly.

16 THE COURT: They worked it jointly. Is that correct?

17 MR. FYALL: Yes, from start to finish.

18 THE COURT: What?

19 MR. FYALL: They were both assigned this case that
20 night.

21 THE COURT: Okay. For that reason, I'm going to let
22 them both of them stay in even if you object to it, but I
23 wanted you to put your concerns on the record.

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: All right.

1 MR. SUTHERLAND: All right. Thank you.

2 THE COURT: You've done so. Thank you.

3 Everybody ready? Bring the jury in.

4 (THE JURY ENTERS AT 11:20 A.M.)

5 THE COURT: Solicitor, you may call your next witness.

6 MR. SHELLENBERG: Thank you, Your Honor. State calls
7 John McNeely.

8 THE COURT: John McGillis?

9 MR. SHELLENBERG: McNeely.

10 JOHN D. McNEELY, BEING DULY SWORN,

11 TESTIFIES AS FOLLOWS:

12 CLERK: Please have a seat in the witness stand, and
13 state your full name for the record, and please spell your
14 last name.

15 WITNESS: My name is John Dennis McNeely. My last
16 name is M-c-n-e-e-l-y.

17 DIRECT EXAMINATION BY MR. SHELLENBERG:

18 Q. Good morning, Mr. McNeely. How are you?

19 A. Morning, sir. Fine. Yourself?

20 Q. Where are you from?

21 A. Detroit, Michigan.

22 Q. How did you end up in South Carolina?

23 A. Retired Army.

24 Q. And what did you do when you retired from the Army in
25 South Carolina?

1 A. Bought a bar.

2 Q. And what bar did you buy?

3 A. My Place.

4 Q. And where is My Place located?

5 A. The corner of Parklane and Claudia Drive, sir.

6 Q. Were you working at My Place the night of July 27th of
7 2017?

8 A. Yes, sir.

9 Q. And what were you doing that evening?

10 A. At that particular time, I was picking up trash on the
11 outside.

12 Q. Now, Mr. McNeely, she has to take down everything that
13 we say. So, if you'll speak a little slower and a little
14 louder and so the jury can hear you as well?

15 A. Yes, sir.

16 Q. So, that night you said you were working at My Place,
17 and what were you doing?

18 A. I was picking up trash on the outside in the parking
19 lot area and the grass -- grassy area outside the bar.

20 Q. Okay, I have kind of a crude diagram. I'm going to
21 show you what's been marked as State's 12. It's already
22 in. Just from there. So if this is My Place, where were
23 you picking up trash?

24 A. Right here, sir.

25 Q. And what got your ---

1 A. Oh, from here. From the front door to right here,
2 that's where I was picking up trash before the shots went
3 off.

4 Q. Okay, and you said from right there. What got your
5 attention in the road?

6 A. When the car stopped. Well, not when the car stopped.
7 When the person got out of the car and started saying words
8 to the people on the bikes.

9 Q. Okay, let me slow you down. So, so, what did you see
10 first?

11 A. First a few bikes pulled to the stop, stoplight,
12 stopped at the red light. A car pulled up to the left side
13 of them.

14 Q. Okay.

15 A. A guy got out of the car.

16 Q. So, you have bikes on the right side, and then to the
17 left of them a car?

18 A. Yeah, a car. It was in the turn lane, the left turn
19 lane.

20 Q. And what color was the car? What did it look like?

21 A. Sedan, light blue.

22 Q. Was it big? Small?

23 A. Small, small. Small sedan. I wasn't paying
24 attention. I was picking up trash.

25 Q. And what happened when you looked over at the car?

1 What was the next thing that happened?

2 A. I was picking up trash. What brought my head up from
3 picking up trash was when the guy got out, he started
4 saying words to the people on the bike and...

5 Q. Who start saying words to people?

6 A. A black male. I couldn't identify him, but a black
7 male got out and...

8 Q. And where did the black male come from?

9 A. The driver's side of the car.

10 Q. Was the, the driver's side of the car that pulled up
11 on the left?

12 A. Yes, sir.

13 Q. So, he got out of the car?

14 A. Yes, sir. He walked around the front of the car and
15 looked over to the bikes and said what you going to do now,
16 bitch.

17 Q. And so -- I'm sorry. Can you slow down and speak up a
18 little just ---

19 A. Sorry, and he got up to -- walked to the front of the
20 car and said what you going to do now, bitch, and that's
21 when I looked up and the shots started ringing, and I ran
22 back to the bar.

23 Q. And the man that got out of the car, do you recall
24 what he looked like?

25 A. Not what he looked like. He wore a white T-shirt.

1 Looked like he had a short haircut -- could have been a
2 do-rag -- and facial hair.

3 Q. And a beard?

4 A. Not a full beard like mine, but a beard, a small
5 beard.

6 Q. Okay, but a -- not a -- I guess that's a goatee.

7 A. Yes, sir.

8 Q. But a beard.

9 A. Yes, sir.

10 Q. What, after the shots were fired, what did you see
11 next?

12 A. I turned around and started back in the -- all the way
13 back to the bar.

14 Q. Where ---

15 A. And I called -- go ahead.

16 Q. And where did the man in the white shirt with the
17 beard go after, after the shooting?

18 A. Well, I -- to his car, sir. When I came back from the
19 bar after I told them to call 911, the car was already --
20 he was already in his car.

21 Q. So, he went back to the car that was on the left?

22 A. Yes, sir.

23 Q. This, you said, sedan?

24 A. Yes, sir.

25 Q. And from there you, after you go in the bar, what

1 happened?

2 A. I, I, I told the people call 911, and for some reason
3 everybody wants to come out and see. They don't want to
4 call 911. So, walking back towards where the shots were
5 fired, towards the sign at the corner of, the, the corner
6 of Claudia and Parklane, the car had went around, the
7 lights off, did a U-turn in front of Mobay's. And then
8 when he was coming by back I said that guy. Drive by,
9 drive by.

10 Q. Okay, let me, let me slow you down.

11 MR. SHELLENBERG: Your Honor, may he get down?

12 THE COURT: Yes, sir.

13 MR. SHELLENBERG: Thank you.

14 BY MR. SHELLENBERG:

15 Q. Okay. So, did you come back outside after you went in
16 to call 911?

17 A. Yes, sir. I was basically at the door. Opened the
18 door and said call 911. That's when everyone started
19 coming out the bar.

20 COURT REPORTER: Excuse me.

21 Q. Yeah. Can you repeat? Here, come on this side so we
22 can hear you.

23 A. After I went to the bar, after I went to the bar, I
24 opened the door. I said call 911. Somebody -- there's --
25 they're shooting. So, everybody started coming out and

1 that's when we all, like, a line of about eight walking
2 towards the corner, walking back towards the corner from
3 here.

4 Q. Let me turn you this way. Sorry. She's got to write
5 down everything, and you can point to the jury.

6 A. I was here picking up trash. I ran after the shots
7 were fired. I ran back to the bar. I said, you know,
8 shots -- there's shooting. Call 911, and then everybody
9 comes out the bar like a dummy and we're walk -- walking up
10 here, and the car went -- got back in the car. Went up
11 here about where Mobay's was.

12 Q. So, Mobay's is right here?

13 A. Oh. That's a long way.

14 Q. It's not to scale.

15 A. Yeah. Okay. My fault.

16 Q. Sorry.

17 A. But the lights were off. Then he comes back around.
18 Probably lined up on the grassy area here, and the car came
19 back and that's when I said -- I turned around and said
20 drive by. I thought he was going to come back and start
21 shooting people.

22 Q. So, the car makes a U-turn where?

23 A. Right past the stoplight. Mobay's is right there.

24 Q. In front of Mobay's?

25 A. Yes. Approximately it's right -- BP and Mobay's, that

1 area right there if you're at the BP. So, so, about here.
2 I couldn't see exactly where, but that's when he was coming
3 back around with the lights off.

4 Q. He turns his lights off before he comes back?

5 A. I think the lights were off the whole time.

6 Q. Okay.

7 A. I'm thinking the lights were off, off the whole time
8 because when, when he got to right here is when -- right
9 here is when I said, hey, drive by, drive by. So,
10 everybody was -- everybody kind of looked back. They
11 didn't duck or nothing.

12 And so the car pulled in here, drove by to where he
13 shot the people, or where the people were shot, and he
14 pulled into a gas station because there was a gas station
15 right here, but there was some -- the traffic was backed
16 up. So, there was more traffic here. And when he was
17 pulling into the gas station, he, he went in and hesitated
18 and turned back and started going down the street, and two
19 Rice Rockets, a motor -- sports bike came out and followed
20 him down the street.

21 Q. So, he tried to turn in but couldn't and ---

22 A. Yeah, but he didn't. He started and then came back
23 out. I mean, he could probably force his way in, but he
24 didn't do it.

25 Q. Okay. You can sit back down again.

1 A. Yes, sir.

2 Q. Did you go out and check on Sydni and Aaron at any
3 point?

4 A. I didn't know that that was them but, yes, as soon as
5 they drove by and he went down the street -- bikes were
6 following them down the street. I went up to the first
7 victim, which was a female. Had a Mohawk, had a helmet
8 with, like, little Mohawk studs on it, and I checked her
9 pulse, her, her -- she was laid on her back. Her -- the
10 gun was cocked back. It had been chambered, so all rounds
11 suspended. She was laying with her head turned. I checked
12 her pulse. No pulse, and I looked up at Calvin and I said
13 she's dead.

14 Q. You looked up at who?

15 A. Calvin, a local bar person there, so, and that's when
16 the cops and people started showing up. Or police
17 officers, I'm sorry.

18 Q. I'm going to show you State's Number 8. This is a
19 video from Mobay's.

20 MR. SHELLENBERG: Your Honor, may the witness step
21 down again?

22 And if you'll stand on this side so the court reporter
23 can hear you. I'm going to show you, and tell me if and
24 when you see the car from the shooting.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER 8 IS PLAYED

1 THROUGHOUT THE FOLLOWING EXAMINATION.)

2 A. That's it.

3 Q. This is the car?

4 A. Yeah. That's the small -- the blue, I guess the blue.
5 Yeah, lights off.

6 Q. All right.

7 A. And that was it.

8 Q. And I'm going to show you one more video from -- and
9 Mr. Fyall will -- all right, this is from the AM/PM, and
10 when you see the car that the man got back into after the
11 shooting, and so where is your restaurant?

12 A. Right here. In fact, that's me right there.

13 Q. And so what is, what is right there?

14 A. That's the stoplight.

15 Q. And so how far from the actual shooting are you
16 standing when it happens?

17 A. Say about three-quarter. See the sign? The sign is
18 right here. The sign's right here, and the shooting
19 happened right here. Sorry, I keep touching.

20 Q. No, you're fine.

21 A. Yeah, about where the lights are. They're going to
22 stop in a second.

23 Q. All right.

24 A. And there's about, about there.

25 COURT REPORTER: Keep your voice up, please.

1 WITNESS: Yes, ma'am. Sorry.

2 BY MR. SHELLENBERG:

3 Q. Now, is that where you saw the man getting back into
4 his car?

5 A. I can't really tell from here. That's where I saw
6 him. I just can't see it from here. I'm sorry.

7 Q. No problem.

8 A. And people started bolting.

9 COURT REPORTER: Repeat that, please.

10 WITNESS: Sorry.

11 BY MR. SHELLENBERG:

12 A. People started leaving. Shots were fired, so people
13 got out of there and there's -- you see running back in the
14 bar. That's all us. Everybody come out like a dummy, and
15 the car went down and turned around there.

16 Q. And the car comes back. Will you please point it out
17 for the jury?

18 A. There it is. There it is.

19 Q. Oh.

20 A. There it is. See it, no lights on, and it's right --
21 turn in here. So, he's, right now he's right in front of
22 me because he's trying to turn. He tries to turn, he
23 hesitated, and there's the two bikes that came up. There's
24 one of them. There's the other one.

25 Q. All right.

1 A. And I thought they were -- speculating now. I'm
2 speculating now.

3 Q. You can sit back down.

4 MR. SHELLENBERG: Court's indulgence, Your Honor.

5 (A PAUSE.)

6 MR. SHELLENBERG: No further questions, Mr. McNeely.
7 Thank you.

8 CROSS-EXAMINATION BY MR. SUTHERLAND:

9 Q. Sir, how are you?

10 A. I'm fine, sir. Yourself?

11 Q. I'm doing well. You're retired Army?

12 A. Yes, sir.

13 Q. All right. Just real quickly while this is getting
14 set up, sir.

15 MR. SUTHERLAND: Is this okay, Judge?

16 THE COURT: Yes, sir.

17 BY MR. SUTHERLAND:

18 Q. While this is getting set up, you were pretty close

19 ---

20 A. Yes, sir.

21 Q. --- to this. Is it like you to me, or is it you to
22 that thing there?

23 A. About to that thing.

24 Q. About to that thing?

25 A. Yes, sir, about 10 ---

1 Q. So ---

2 A. --- 15.

3 Q. --- while they're getting this over, would you say it
4 was a black male with low cut hair?

5 A. Low cut hair, dark hair. I couldn't tell.

6 Q. I gotcha, and he had a beard?

7 A. Facial hair.

8 Q. But not like ours?

9 A. No.

10 Q. Is it like ---

11 A. I wasn't paying attention. He had facial hair, sir.

12 Q. I gotcha.

13 A. I couldn't measure.

14 Q. But, I mean, it wasn't -- you testified it wasn't big,
15 right?

16 A. Yes, sir.

17 Q. Okay.

18 THE COURT: Solicitor, will y'all move that back a
19 little bit so the court may have a view of it?

20 MR. FYALL: Yes, Your Honor.

21 THE COURT: Put it back toward your desk. You can
22 turn it a little bit.

23 Y'all can see clearly, ladies and gentlemen? All
24 right. Can y'all see clearly, members of the jury? All
25 right.

1 BY MR. SUTHERLAND:

2 Q. Okay. So, the, the description, again white T-shirt.

3 A. Black male, white T-shirt, facial hair, short hair or
4 dark hair, do-rag.

5 Q. A possibly something on ---

6 A. Yes, sir.

7 Q. --- the head.

8 (A PAUSE.)

9 Q. Okay, and let me get the pointer here. Okay, so again
10 it's white T-shirt, little bit of facial hair, maybe low
11 haircut or something on top?

12 A. Yes, sir.

13 Q. All right. So, I'm going to let this play through.

14 A. Yes, sir.

15 Q. Until the parking lot afterwards here.

16 (WHEREUPON, AN UNIDENTIFIED EXHIBIT IS PLAYED
17 THROUGHOUT THE FOLLOWING EXAMINATION.)

18 Q. Did you see, did you see that black SUV?

19 A. I probably did. I wasn't paying attention. I was ---

20 Q. I, I gotcha.

21 A. Shots were fired, sir.

22 Q. And I'll let you know.

23 A. Okay.

24 Q. Okay.

25 THE COURT: Mr. Sutherland, would you be kind enough

1 not to block the screen?

2 MR. SUTHERLAND: Absolutely. Yes.

3 THE COURT: Stand on one side or the other.

4 MR. SUTHERLAND: Yes, sir. That's why I got the
5 pointer.

6 BY MR. SUTHERLAND:

7 Q. Does that fit the description of the T-shirt?

8 A. Yeah. He's a little bigger, though. From what I --
9 what they described, yes, sir, it's a ---

10 Q. Okay.

11 A. --- a black T-shirt -- I mean, a white T-shirt I saw.
12 Black man, white T-shirt, yes.

13 Q. I gotcha.

14 A. I see what you're saying.

15 Q. It'll keep rolling here. And this one, this guy right
16 up here. Okay, I'm going to stop it there. Now, are you
17 able to see?

18 A. Black man, white T-shirt. Yes, sir, I can see that.

19 Q. Are you able to, able to see facial hair?

20 A. No, not on that one.

21 Q. Okay.

22 MR. SUTHERLAND: Is it, is it okay if the witness
23 steps down?

24 THE COURT: Sure.

25 BY MR. SUTHERLAND:

1 Q. All right, and what I'm going to do is press play, and
2 we're just standing here watching as it plays out, okay?
3 He's getting -- I think he goes up to the car. See, that's
4 the bigger dude with a little bit what you call a do,
5 right?

6 A. That's what on there, yeah.

7 COURT REPORTER: I can't hear you.

8 WITNESS: Yes.

9 COURT REPORTER: Either of you.

10 MR. SUTHERLAND: Oh. Yes, ma'am. Sorry. Okay, good
11 to go.

12 BY MR. SUTHERLAND:

13 Q. Please take a seat, and I'm just going to play this
14 through a little bit more here, but there's two guys just
15 in this video here fitting the description?

16 A. Understood, sir, yeah.

17 Q. Yeah.

18 A. One of them has shorts on. One of them -- I see what
19 you're saying, sir.

20 MR. SUTHERLAND: Okay, that, that's enough. Thank you
21 for letting me use this. I don't want to break your stuff.
22 I'm done.

23 BY MR. SUTHERLAND:

24 Q. And I want to ask you a question. Do motorcycle club
25 guys come to your place a good bit?

1 A. They used to. Not anymore.

2 Q. I gotcha. Now, with the -- this business of a white
3 T-shirt, you may know this, you may not, but it seems like
4 a lot -- there's a lot of white T-shirts going around on
5 this bike night evening. Do you know, is it something
6 where they wear their cut over a white T-shirt, or do you
7 just not know?

8 A. I do not know that, sir.

9 Q. Okay. Thank you.

10 MR. SUTHERLAND: No further questions for this
11 witness.

12 THE COURT: Anything on redirect?

13 MR. SHELLENBERG: Yes, sir just briefly.

14 REDIRECT EXAMINATION BY MR. SHELLENBERG:

15 Q. Where did the man with the beard and the white T-shirt
16 that you saw get of the car go after the shooting?

17 A. Into his car.

18 Q. And drove his car where?

19 A. Out in front of Mobay's and did a U-turn, sir.

20 Q. Thank you.

21 MR. SHELLENBERG: No further questions.

22 MR. SUTHERLAND: No further questions, Your Honor.

23 THE COURT: You may step down, sir.

24 WITNESS: I'm good, Your Honor?

25 THE COURT: I beg your pardon?

1 WITNESS: Good?

2 THE COURT: Yes.

3 WITNESS: Thank you, sir.

4 (THE WITNESS EXITS THE STAND.)

5 THE COURT: All right.

6 MR. FYALL: Thank you, Your Honor. The state calls
7 Ashley Hill.

8 ASHLEY HILL, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 CLERK: Please have a seat in the witness stand and
11 state your full name for the record. Please spell your
12 first name.

13 WITNESS: Ashley Hill.

14 CLERK: Spell your first name, please.

15 WITNESS: A-s-h-l-e-y.

16 DIRECT EXAMINATION BY MR. FYALL:

17 Q. All right, Ms. Hill, could you tell us where you're
18 from?

19 A. Columbia, South Carolina.

20 Q. Where did you go to high school?

21 A. Spring Valley.

22 Q. Now, what do you do for a living?

23 A. I work at MedCare, place called MedCare.

24 Q. What do you do at MedCare?

25 A. Medical supplies.

1 Q. Are you familiar with Aaron and Sydney Collins?

2 A. I am.

3 Q. How did you meet Sydney?

4 A. I knew her when she was in high school, and I then --
5 I was younger but I knew her. So, we've known each other a
6 while.

7 Q. And how did you meet Aaron or AC, as people called
8 him?

9 A. Once AC and Aaron -- I mean, AC and -- Aaron and Sydney
10 got together, when they started going out in a
11 relationship.

12 Q. All right. So, you met Sydney when you were young, and
13 then when her and Aaron got together, you met Aaron?

14 A. Yes.

15 Q. All right. So July 27, 2017, where were you when
16 Aaron and Sydney died that night?

17 A. I was at My House Bar and Grill.

18 Q. All right, and why were you at My House Bar and Grill?

19 A. I went there for a crab legs, crab legs bash. It was
20 Friday night also.

21 Q. All right. Was there a bike night the Thursday before
22 that?

23 A. It was.

24 Q. You were at that bike night as well?

25 A. I was.

1 Q. Can you tell me. Do you know an individual named
2 Jayrell Johnson?

3 A. Who?

4 Q. Jayrell.

5 A. Jayrell? I don't.

6 Q. Okay. Could you tell us what happened at that bike
7 night the week before, the 20th?

8 A. Okay, a guy that was in the bike club came up to him,
9 had some words with him and then ---

10 Q. You say him. Who are you talking about?

11 A. The guy from 24/7, Rells.

12 Q. Rells is what he's called? Okay. So, I'll call him
13 Rells. So, Rells from 24/7. What is 24/7?

14 A. Car club.

15 Q. And Aaron and Sydni were affiliated with Outcast?

16 A. They were.

17 Q. Okay. How so?

18 A. He was a member and she was his wife.

19 Q. All right, and how was 24/7 Boyz, how were they
20 related to Outcast?

21 A. A support club.

22 Q. A support club, and tell me what happened with Rells
23 and the Thunderguard members.

24 A. He just -- well, I don't know what he said to him. He
25 walked up to him and said something to him, and because he

1 didn't want any problems, he just got in the car and left.

2 Q. So after what was said, Rells got in the car and left?

3 A. Uh-huh.

4 Q. Do you remember what that Thunderguard member was
5 wearing?

6 A. He has -- he had a vest on.

7 Q. Had a vest on?

8 A. Uh-huh.

9 Q. Do you know what kind of vest?

10 A. It was a Thunderguard vest.

11 Q. What about the material? Could you tell, or the
12 color?

13 A. I want to say it was black. I'm not sure.

14 Q. All right. Now, did you notice anything else with
15 that Thunderguard member that night?

16 A. Well, he went over to another club member. Not a club
17 member but someone in a different club and was talking to
18 him, and we actually was sitting out there and they kind of
19 pointed us out.

20 Q. Kind of pointed you out?

21 A. Uh-huh, and two other people.

22 Q. All right, and what is your affiliation with Outcast?

23 A. I was the Property Of.

24 Q. Okay, and ---

25 COURT REPORTER: Excuse me. Repeat that.

1 A. Property Of.

2 Q. For those who don't know, what -- well, can women be
3 members of Outcast?

4 A. They cannot.

5 Q. So, if you want to be affiliated, you have to be
6 Property Of?

7 A. Yes, sir.

8 Q. Have to be sponsored by another member ---

9 A. Yes, sir.

10 Q. --- of the club, and who was that member for you?

11 A. AC.

12 Q. Okay. So, the same with Sydni?

13 A. Yes. Yes.

14 Q. Now that Thunderguard member, had you seen him before
15 that?

16 A. That Thur -- no, Thursday was the first time I --
17 well, Thursday's the time I realized that he wasn't -- I'd
18 never seen him before that.

19 Q. All right, and you came back to My House the next
20 week?

21 A. Yes.

22 Q. And did you see him again?

23 A. I did.

24 Q. Tell me, tell us about what, if anything, you saw.

25 A. I just saw him kind of walking around the parking lot.

1 I didn't really see him talk to many people, but I saw him
2 walking around, and I realized that's the guy from last
3 week.

4 Q. The same guy that had approached Rells?

5 A. Yes, sir.

6 Q. Did Aaron and Sydni show up?

7 A. They did.

8 Q. Who were they with?

9 A. Their selves.

10 Q. And tell us what happened after they showed up.

11 A. Well, basically they, they probably was there maybe
12 fifteen to twenty minutes. They got a beer; they didn't
13 even get to drink the beer. A fight broke out that had
14 absolutely nothing to do with us, so AC said I'm leaving.
15 I got to go to work in the morning. I walked over, talked
16 to him. He said I'm leaving; I'm going home. I'll talk to
17 you tomorrow. I'm tired. We just got back from ---

18 MR. SUTHERLAND: Objection. It's hearsay, Judge.

19 THE COURT: All right.

20 MR. FYALL: I don't think it's hearsay, Your Honor.
21 It's a statement of his intent.

22 THE COURT: What?

23 MR. FYALL: It's a statement of his intent go home. I
24 think it's fine, Your Honor.

25 THE COURT: Overruled.

1 BY MR. FYALL:

2 Q. Now, did he leave?

3 A. He did.

4 Q. And did you leave with them?

5 A. I did not.

6 Q. You stayed?

7 A. I did.

8 Q. Did you see that same Thunderguard member from the
9 week before, did you see him leave?

10 A. I did.

11 Q. When did he leave?

12 A. I was walking back and he was running across the
13 parking lot as AC and Coco was leaving out with their
14 bikes.

15 Q. Okay.

16 A. On the bikes. Sorry.

17 Q. And did you end up going to the crime scene?

18 A. I did.

19 Q. Why?

20 A. Because I was called and was told that they had just
21 got shot.

22 (A PAUSE.)

23 Q. Now, did you know or -- the name of that Thunderguard
24 member at that time?

25 A. I did not.

1 Q. But you saw him the week before and the week -- and
2 the day Aaron and Sydni died?

3 A. Yes.

4 Q. Subsequently to that, did you see a picture of him
5 somewhere?

6 A. I did not.

7 Q. Now I'll go back. The night of the, of the incident,
8 do you know -- do you remember what he was wearing?

9 A. A white T-shirt and, and some dark-colored jeans.

10 Q. Some jeans. Not shorts?

11 A. No. I don't think so.

12 Q. Did you get a opportunity to see him again, either in
13 the news or social media or anything like that?

14 A. I did see him on the news. When they -- when it came
15 across the news, I saw that.

16 Q. And when you saw him on the news, what did you
17 recognize about him?

18 A. I said that's the guy that's been at bike night. He
19 was -- he wasn't from Columbia. He didn't hang out with
20 the regular, the regular TG. I said that's the guy that
21 was at bike night that I had a funny feeling about.

22 Q. So, he stood out to you because he just sort of showed
23 up?

24 A. Uh-huh.

25 Q. Before he got there, did you guys have any problems

1 with members?

2 A. Not that, uh-uh, not that I'm aware of.

3 MR. FYALL: Beg the court's indulgence.

4 THE COURT: Sure.

5 (A PAUSE.)

6 MR. FYALL: No further questions, Your Honor.

7 THE COURT: Mr. Sutherland.

8 MR. SUTHERLAND: Please the court, sir?

9 CROSS-EXAMINATION BY MR. SUTHERLAND:

10 Q. Ashley?

11 A. It is. It is.

12 Q. We met outside not knowing who the other is.

13 A. Uh-huh.

14 Q. Okay. Well, hello again.

15 Now, this was a, this was a long time ago. I
16 understand that, so I'm just going to take you through a
17 few things. You know I've got to clean up that part of, of
18 this. Do you remember making a -- sitting down and making
19 a statement to law enforcement a couple years ago?

20 A. I do.

21 Q. Okay. Do you remember describing the interaction
22 between Rells and the other guy, saying that it was not an
23 aggressive conversation?

24 A. Yes, I said that. I don't know what the conversation
25 was.

1 Q. All right, but, but, but actually using the
2 descriptive words that it wasn't aggressive, do you
3 remember that?

4 A. I don't remember using those words, but...

5 Q. Do you think you probably -- if, I, if I showed it to
6 you, would that help you, or do you think you probably said
7 it?

8 A. I mean, I can't tell you that. I don't know what they
9 said. I just know he said something to him and he left.

10 Q. Okay.

11 MR. SUTHERLAND: All right, beg the court's
12 indulgence?

13 THE COURT: All right, sir.

14 MR. SUTHERLAND: May I approach the witness?

15 THE COURT: Yes, sir.

16 BY MR. SUTHERLAND:

17 Q. Okay, and let's see, this was 31 July, 2017, so it's a
18 while.

19 THE COURT: What is it that you're holding?

20 MR. SUTHERLAND: This is her, this is her statement,
21 sir. Should I mark it for ID?

22 THE COURT: It's up to you.

23 MR. SUTHERLAND: I'll go ahead and proceed.

24 BY MR. SUTHERLAND:

25 Q. So, you remember sign -- you remember sitting down

1 with the cops?

2 A. Uh-huh.

3 Q. And doing this thing, right?

4 A. Uh-huh. Yes.

5 Q. Okay. Just this question right here:

6 Did you see anything happen that night? I saw a
7 guy walk over to Rells and talk to him. It was
8 not an aggressive conversation, and then Rells
9 got in his car and left.

10 A. Yes.

11 Q. Good to go?

12 A. Uh-huh.

13 Q. All right, and let's see, Now, Aaron, Aaron was the
14 vice president?

15 A. I don't know.

16 Q. You don't know that?

17 A. Uh-huh.

18 Q. Okay, and briefly what is -- what are, what are the
19 duties -- or you're, you're affiliated or you were
20 affiliated with Outcast?

21 A. Uh-huh. Yes, sir.

22 Q. Are you allowed to talk about what the -- what your
23 duties as a PO are?

24 A. Yes, I am.

25 Q. Okay. So, what were your duties to the, to the club?

1 A. My duties, only duties I had was to go to the parties.
2 I had no other duties.

3 Q. Okay. Now, what does -- is it property of the club,
4 or is it property of a particular person?

5 A. Well, Property Of is just a word. You have to be
6 sponsored because you cannot, as a female, be a part of
7 that club.

8 Q. Okay.

9 A. Been in the bike world a long time. So, being the
10 Property Of was no dues. Just be able to ride a bike and
11 hang out.

12 Q. Okay.

13 A. Do what I love.

14 Q. I gotcha. I'm going to take you to one more bit of
15 your testimony. You had testified that you saw the same,
16 same guy the next week?

17 A. Yes.

18 Q. And that you saw him leave. Do you think that you may
19 have said in your previous statement that you did not see
20 him leave?

21 A. No. I said I saw him go outside, go across the
22 parking lot and people across the parking lot, and I was
23 assuming he left.

24 Q. Okay. So, you assume. You did not -- because you say
25 you did not see him leave.

1 A. Okay.

2 Q. Okay. What was the, what was the fight that, that,
3 that went on there? Was it -- was there a fight and then
4 everyone started to leave?

5 A. It was a fight over a girl and another girl about her
6 boyfriend a drink.

7 Q. About her boyfriend a drink?

8 A. Buying another woman a drink.

9 Q. Okay. So, this, did this involve any Outcast people
10 or POs or anything?

11 A. It was a PO and another woman, a civilian.

12 Q. So, a civilian and a PO?

13 A. Yes.

14 Q. Okay.

15 MR. SUTHERLAND: Beg the court's indulgence.

16 THE COURT: Yes, sir.

17 MR. SUTHERLAND: I have no further questions. Thank
18 you, ma'am.

19 THE COURT: Anything in redirect?

20 MR. FYALL: Yes, Your Honor, very briefly.

21 REDIRECT EXAMINATION BY MR. FYALL:

22 Q. Just to clear up something Mr. Sutherland said. He
23 asked you about whether or not you said you saw him leave,
24 and you didn't actually see him leave?

25 A. I saw him run across the parking lot.

1 Q. Okay. Now, based on your knowledge, he asked you
2 about the conversation being aggressive. Could you hear
3 the conversation?

4 A. I didn't.

5 Q. Any piece of it?

6 A. No, but I knew something was going because he just
7 left, but I couldn't tell you what their conversation was
8 in reference to.

9 Q. About that, are members of another club supposed to
10 approach the support club of -- are members of one club
11 supposed to approach and talk to support clubs for another
12 club?

13 A. I mean, you can talk to, you can talk to them. I
14 mean, everybody get -- I mean, people get along. So, so
15 there was no reason why he couldn't say anything to them,
16 but I figured there was a problem when he just got up and
17 just left, when he just left.

18 Q. All right, and Rells, again, is affiliated with
19 Outcast?

20 A. He's in a support club, yes.

21 Q. Support club. Gotcha. Thank you.

22 MR. FYALL: No further questions, Your Honor.

23 MR. SUTHERLAND: Briefly, Judge.

24 RECROSS EXAMINATION BY MR. SUTHERLAND:

25 Q. One last time.

1 A. Okay.

2 Q. Ashley, I just heard you testify that you saw the guy
3 running. Is it possible that you said in the statement I
4 did not see him leave but I did see him walking very fast?

5 A. It's possible, but, I mean...

6 Q. Okay.

7 A. Running fast, it was, I mean.

8 Q. I, I gotcha. I gotcha. Okay, we're good.

9 A. Okay.

10 MR. SUTHERLAND: No further questions.

11 THE COURT: Anything further of this witness?

12 MR. FYALL: No, Your Honor.

13 THE COURT: You may step down, Ms. Hill.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: You need to approach?

16 MR. FYALL: Yes. Yes, Your Honor.

17 (OFF-THE-RECORD BENCH CONFERENCE.)

18 THE COURT: Members of the jury, I'm going to give you
19 your lunch break now. Hour and a half, is that good enough
20 for everybody? Be back at 1:30. Well, that's what we're
21 going to do.

22 So, just don't talk about this case. I hope you have
23 a pleasant lunch. We'll see you back in the jury room at
24 1:30. Thank you very much.

25 (THE JURY EXITS AT 11:52 A.M.)

1 THE COURT: Is there anything we need to take up now?
2 Everybody's fine?

3 MR. SUTHERLAND: Nothing from the defense.

4 THE COURT: See y'all at 1:30.

5 (OFF THE RECORD.)

6 THE COURT: Is everybody ready?

7 MR. SHELLENBERG: Yes, sir.

8 MR. SUTHERLAND: Briefly, Judge. We were looking at
9 the rap sheet. I think there's nothing within the last ten
10 years on here for this witness.

11 THE COURT: All right.

12 (COUNSELORS CONFER.)

13 THE COURT: We ready?

14 MR. SHELLENBERG: Yes, sir.

15 THE COURT: Bring the jury.

16 (THE JURY ENTERS AT 1:32 P.M.)

17 THE COURT: All right, welcome back, members of the
18 jury.

19 Solicitor, you may call your next witness.

20 MR. SHELLENBERG: Thank you, Your Honor. May it
21 please the court? State calls Natasha Coad.

22 NATASHA COAD, BEING DULY SWORN,
23 TESTIFIES AS FOLLOWS:

24 CLERK: Please have a seat in the witness stand and
25 state your full name for the record, and please spell your

1 last name.

2 WITNESS: Natasha Coad, C-o-a D as in dog.

3 DIRECT EXAMINATION BY MR. SHELLENBERG:

4 Q. Good afternoon, Ms. Coad. How are you?

5 A. I'm good.

6 Q. Are you from South Carolina?

7 A. Yes.

8 Q. And where do you live in South Carolina?

9 A. I live in Columbia.

10 Q. And what do you do for a living here in Columbia?

11 A. I've been a paralegal for over twenty years.

12 Q. And in your spare time, are you part of a motorcycle
13 club?

14 A. Yes.

15 Q. And what motorcycle club is that?

16 A. Outcast.

17 Q. And what was your relationship with Aaron and Sydni
18 Collins? Were they also in the motorcycle club?

19 A. Yes.

20 Q. And can you tell the jury a little bit about y'all's
21 relationship?

22 A. Tomorrow would have been thirty years that Sydni and I
23 were best friends.

24 Q. And were you with them on the night of July 20, 2017?

25 A. July 20th?

- 1 Q. July 20th, the week before the incident. Were you at
2 bike night that week with -- that evening with them?
- 3 A. No, I wasn't with them that evening. I was at bike
4 night that evening.
- 5 Q. You were at bike night that evening. Did -- what
6 happened at bike night that evening?
- 7 A. The evening of the 20th?
- 8 Q. The evening the 20th. Was there anything between
9 Outcast, the club, and any of the other clubs that evening?
- 10 A. Not with Outcast.
- 11 Q. But with whom? With a club that's underneath them?
- 12 A. Support club.
- 13 Q. Okay. What club was that?
- 14 A. 24/7.
- 15 Q. And so just to explain the -- explain to the jury,
16 what is a support club?
- 17 A. A lesser, for lack of a better word, a lesser club
18 that falls underneath.
- 19 Q. Like a smaller club or something?
- 20 A. You could say that, a smaller club.
- 21 Q. But it's under the umbrella of whatever the larger ---
- 22 A. Right.
- 23 Q. And so 24/7 falls under Outcast. Is that correct?
- 24 A. That's correct.
- 25 Q. And so what was the interaction with the 24/7 member?

- 1 A. He was approached by another One Percent club member.
- 2 Q. From which club?
- 3 A. Thunderguard.
- 4 Q. And what does One Percent mean?
- 5 A. Just the hierarchy.
- 6 Q. Okay. Is that like the top one percent of the club?
- 7 A. Yes.
- 8 Q. Okay, and is a One Percent member supposed to talk to
- 9 other club's support group?
- 10 A. No.
- 11 Q. How is that supposed to work?
- 12 A. If there's an issue, they would contact the club that
- 13 that support club falls under.
- 14 Q. It's sort of everybody keeps track of their members?
- 15 A. Correct.
- 16 Q. In the hierarchy?
- 17 A. Correct.
- 18 Q. Okay. So, was there any, any argument, any talk,
- 19 anything that happened on the night of the 20th?
- 20 A. 24/7's president was approached by a member of
- 21 Thunderguard.
- 22 Q. And who was 24/7's president?
- 23 A. Rells.
- 24 Q. And who -- and did Rells go talk to anybody after
- 25 that?

1 A. Did he go ---

2 Q. After, after he spoke to the Thunderguard.

3 A. He left.

4 Q. Okay, and do you remember -- do you know the
5 Thunderguard that talked to Rells, or were you there when
6 that interaction occurred?

7 A. I was there.

8 Q. Okay.

9 A. And I did not know that member. I hadn't seen him
10 before that night.

11 Q. Now, what was your affiliation with Outcast at that
12 time in 2017?

13 A. My affiliation?

14 Q. Well, I believe Ms. Hill said that women are not
15 allowed to be members. So, how ---

16 MR. SUTHERLAND: Objection, Judge. He's pitting one
17 witness against another.

18 MR. SHELLENBERG: I'm just trying to clarify.

19 THE COURT: Go ahead and ask the question again.

20 BY MR. SHELLENBERG:

21 Q. Did -- so as a woman, what was your affiliation with
22 Outcast? Was there...

23 A. As a woman, you're a subordinate.

24 Q. Okay, and so who do you affiliate with in the club? I
25 mean, were you a PO of anybody?

1 A. Yes.

2 Q. Okay, and who were you a PO of?

3 A. Ricky Montgomery.

4 Q. And what is, is -- what is PO? I mean, what does
5 that ---

6 A. Property Of.

7 Q. But you're not literally property of somebody else.

8 A. No, you're not literally ---

9 Q. Okay.

10 A. --- property of.

11 Q. But -- so, what, what does that -- what do you get
12 being a PO? What does that do for you club-wise?

13 A. Club-wise? You, if you ride your own bike, you ride
14 with the club from behind most of the time. Sometimes it's
15 from the front.

16 Q. Okay. Now, let's fastforward to the night of July 27,
17 2017. Were you at bike night that evening?

18 A. I was.

19 Q. And who were you with that evening?

20 A. Sydni and Aaron Collins.

21 Q. Was anybody else with you that night?

22 A. Rick, Rick Montgomery was there as well.

23 Q. And what time did y'all arrive?

24 A. Sometime after 8 we arrived.

25 Q. And what did you do when you got there?

1 A. We got a beer. We stood around. We were at bike
2 night.

3 Q. And did any ---

4 A. That's what you do at a bike night.

5 Q. And was there AN incident that happened at bike night?

6 A. There was an altercation between one of our POs and
7 another female.

8 Q. But that PO -- was that PO Sydni?

9 A. No.

10 Q. Did the fight involving the PO and the other person
11 involve y'all at all?

12 A. No.

13 Q. So at that point, what did y'all do after the fight
14 broke out?

15 A. We didn't do anything.

16 Q. When did you leave? When did y'all leave bike night?

17 A. We stayed approximately thirty to forty minutes.

18 Q. And then when you left -- who all left together?

19 A. Rick was on his bike. Sydni and Aaron were on his
20 bike together, and I followed.

21 Q. And where did y'all go from there?

22 A. We were going back to Sydni and Aaron's house.

23 Q. And can you walk me through what happened as y'all --
24 when y'all were leaving?

25 A. Be more specific.

1 Q. As y'all leave in the -- on your bikes, did you arrive
2 at any stoplights?

3 A. Okay. We did.

4 Q. And what was the first stoplight you arrived at? Do
5 you remember?

6 A. Stoplight was at -- is that O'Neil Court and Parklane?

7 Q. Okay.

8 A. Coming from My House, which is on Mall Boulevard. I
9 believe it's called Mall Boulevard in front of Columbia
10 Mall, the road that runs right in front of it.

11 Q. And was there anyone besides your group at that
12 stoplight?

13 A. We were at the stoplight, and two bikes came to the
14 right of us.

15 Q. And what happened with those bikes?

16 A. They stopped and the rider on the inside, I guess
17 closest to Aaron's bike, that rider said something to
18 Aaron.

19 Q. So.

20 MR. SHELLENBERG: Your Honor, may I approach?

21 THE COURT: Yes, sir.

22 BY MR. SHELLENBERG:

23 Q. So, if I'm -- I'm going to roughly draw. So, if
24 you're at the first stoplight, which would be here, so how
25 many bikes are -- we'll call this stoplights -- are here?

- 1 A. There are four.
- 2 Q. There are four.
- 3 A. At that point.
- 4 Q. So, who is on the inside bike? Do you remember?
- 5 A. The inside bike was Aaron.
- 6 Q. And was ---
- 7 A. And Rick was to the left of him.
- 8 Q. Okay. Is there going to be ---
- 9 A. No, no, no, no.
- 10 Q. Oh, I'm sorry. To the left?
- 11 A. Left.
- 12 Q. Okay.
- 13 A. And then the other two bikes are...
- 14 Q. So then there were two bikes ---
- 15 A. There.
- 16 Q. --- on this side that were not with you, and where ---
- 17 A. They were not with us.
- 18 Q. --- were you?
- 19 A. And they rolled up after we stopped.
- 20 Q. And where were you?
- 21 A. Where that line is.
- 22 Q. So, you'd be right here?
- 23 A. Right there.
- 24 Q. And what were ---
- 25 A. Right.

1 Q. --- you in?

2 A. A silver Kia.

3 Q. Okay, and did you know either of the people on those
4 two other bikes?

5 A. The person on the closest bike to Aaron was the
6 defendant.

7 Q. Okay. That would be right here?

8 A. Right there.

9 Q. Okay. When you went through that light, where did you
10 end up next?

11 A. We ended up at the light on Parklane and Claudia.

12 Q. And what happened at that light?

13 A. We stopped and then a vehicle came up on my left, and
14 then ---

15 Q. So.

16 A. --- two bikes came up on my right.

17 Q. So, you had two bikes on your right, and then you had
18 another car come up on your left here?

19 A. Correct.

20 Q. Okay.

21 A. More adjacent to where I was is where the car stopped.

22 Q. Okay. More next to you?

23 A. More next to me.

24 Q. And what happened from there?

25 A. From there, the rider on the right side took off, and

- 1 the rider that was closest to AC ---
- 2 Q. So, this guy took off?
- 3 A. Right.
- 4 Q. Okay, and you said there was a car on the inside,
- 5 would be here, and this is a crude drawing, but...
- 6 A. Right.
- 7 Q. Okay.
- 8 A. So, again, right there next to AC is the defendant.
- 9 Q. Okay.
- 10 A. And he got off his bike.
- 11 Q. Okay, and what did you observe him do at that point?
- 12 A. ~~He went up to AC.~~ He said something, and then he
- 13 ~~started~~ shooting.
- 14 Q. Did you see anyone else shoot?
- 15 A. Yes. The person that got out of the car.
- 16 Q. Okay. So, the person here gets out of the car?
- 17 A. Yes.
- 18 Q. Goes around. How do they...
- 19 A. The car is more parallel with, with...
- 20 Q. Yeah.
- 21 A. With me.
- 22 Q. Okay, and so they get out and come around?
- 23 A. Right, and that person hit Rick in the head.
- 24 Q. What happened to Rick when he got hit in the head?
- 25 A. He fell and his bike fell on top of him.

1 Q. Okay, and then what did the person who hit Rick do?

2 A. He started shooting.

3 Q. Do you remember what the defendant was wearing that
4 evening?

5 A. A white T-shirt.

6 Q. And did you go and talk to the police? Did they show
7 you a lineup?

8 A. Yes.

9 Q. Let me show you what is marked as State's Number 3.
10 Do you recognize that?

11 A. Yes.

12 Q. Is it the first lineup that they showed you?

13 A. Yes.

14 Q. And were you -- what did you tell them about this
15 lineup?

16 THE COURT: What exhibit is this?

17 MR. SHELLENBERG: Sorry. This is State's 3. I'm
18 showing her State's 3.

19 BY MR. SHELLENBERG:

20 Q. And what did you tell them about this lineup?

21 A. I told them that I couldn't see all of the faces.

22 Q. In this one?

23 A. In that one.

24 Q. And then a couple days later, did you come in and do a
25 second lineup?

1 A. Yes.

2 Q. I'm going to show you what has been marked as State's

3 4. Was that one more clear?

4 A. This one's more clear.

5 Q. And were you able to pick out the defendant in that
6 one?

7 A. Yes.

8 Q. How long did it take you to pick out the defendant?

9 A. Immediately.

10 Q. And what did they have you do?

11 A. They had me initial and date it.

12 Q. And then did you fill out -- did they have you fill
13 out a second page or did they -- and who did you identify
14 the defendant as?

15 A. As the shooter that I saw with the white T-shirt.

16 Q. And is the man that you saw shoot your friends in the
17 courtroom today?

18 A. Yes.

19 Q. Can you please point him out for the jury? Can you
20 identify him? What is he wearing?

21 A. He's wearing -- is that a blue jacket?

22 MR. SHELLENBERG: Your Honor, let the record reflect
23 that she identified the defendant, Ricardo Middleton.
24 Court's indulgence.

25 MR. SUTHERLAND: And renewing my previous objection,

1 Judge.

2 THE COURT: What is it?

3 MR. SUTHERLAND: Renewing my previous objection from
4 pretrial to the identification.

5 THE COURT: All right. Fine.

6 MR. SHELLENBERG: Your Honor, at this time we move
7 State's 3 and 4 into evidence.

8 MR. SUTHERLAND: Previous objection.

9 THE COURT: I understand. They're in over his
10 objection. That's number 6 and number 4?

11 MR. SHELLENBERG: Number 3 and 4, Your Honor.

12 THE COURT: Number 3 and number 4.

13 (PHOTO LINEUPS INDIVIDUALLY MARKED INTO EVIDENCE AS
14 STATE'S EXHIBIT NUMBERS 3 AND 4.)

15 MR. SHELLENBERG: No further questions, Your Honor.
16 Thank you.

17 MR. SUTHERLAND: Please the court, Judge?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION BY MR. SUTHERLAND:

20 Q. Ma'am, my name is Tivis Sutherland, and I'd, I'd just
21 like to ask you a few questions. It's clear that you, you
22 don't want to be here. I'd just like ---

23 A. Oh, I want to be here.

24 Q. You do want to be here?

25 A. Oh, I do want to be here.

1 Q. Okay. Well, let me, let me ask you, let me ask you
2 the questions then. You, you're saying that my guy got off
3 of this bike here and shot AC?

4 A. Yes.

5 Q. And you're positive about that?

6 A. I'm positive.

7 Q. Hundred percent?

8 A. One hundred percent.

9 Q. Okay. I want, just want to ask you about your
10 previous interactions with law enforcement, you know, the
11 first, the second time, the third time, try to do yes or no
12 questions or however you want to answer. Let's see, the
13 initial night, you remember talking to Investigator Matt
14 Taylor?

15 A. I talked to about five different police officers the
16 first night.

17 Q. And there was -- and I've seen the body cams. There
18 were uniformed officers. Then there's a guy shows up kind
19 of with a clipboard, was a white dude, clean shaven. You
20 remember? Okay. Well, he wrote down a statement for you
21 to sign that you did not sign. Do you remember that?

22 A. I don't.

23 Q. You don't? Okay.

24 A. Not ---

25 Q. Do you ---

1 A. --- specifically, no. I know I spoke to ---

2 Q. Sure.

3 A. --- at least five ---

4 Q. And this ---

5 A. --- different officers that night.

6 Q. And this is two years ago and it's chaos. I, I
7 understand. Do you remember telling him that two people
8 rolled up on bikes and shot them and rode off down Parklane
9 towards Farrow Road?

10 A. No. Only one bike rode towards Farrow Road.

11 Q. Okay.

12 A. The bike that the defendant was on.

13 Q. Okay. So, you don't -- let's see, two motorcycles. I
14 can't describe them. Do you remember being asked: Can you
15 describe the subjects? And answering: No, it happened so
16 fast?

17 A. No, I don't remember saying that.

18 Q. All right, and just going to move forward to, I
19 believe, it is August the 1st. A couple of days later, do
20 you remember meeting with Investigators Laurita and Jordan?

21 A. Yes.

22 Q. Okay. Do you remember that -- well, clearly you
23 remember this lineup. On that ---

24 MR. SUTHERLAND: May I approach the witness?

25 THE COURT: Sure, but if you're going to cross her on

1 her statements, she's entitled to have that statement with
2 her.

3 MR. SUTHERLAND: Oh. Yes, sir.

4 BY MR. SUTHERLAND:

5 Q. Well, would you like to look at the last statement
6 really quickly before we talk about this one?

7 THE COURT: No, just the one you just talked about.

8 MR. SUTHERLAND: Oh, this, this present one. Okay.

9 BY MR. SUTHERLAND:

10 Q. Okay. Now, here is the one that was taken at that
11 time, if you want to go through it. I'm not going to ask
12 you too much about it. I want to ask you about the
13 lineups. Now, you were shown this lineup, and you could
14 not make a pick.

15 THE COURT: What's the exhibit number, Mr. Sutherland?

16 MR. SUTHERLAND: Yes, sir. Exhibit 3.

17 THE COURT: All right, sir.

18 MR. SUTHERLAND: And then Exhibit 4.

19 BY MR. SUTHERLAND:

20 Q. And you could not make a pick in this lineup. Is that
21 correct?

22 A. Correct, because three of the images are kind of
23 distorted. As you can see, his head's kind of cut off.

24 Q. Okay. Now, I want to ask you about this lineup here,
25 and did you know somebody that was in this, or was that a

1 mistake? I got in the notes of your last meeting with the
2 solicitor's office that you said that you knew one of these
3 other people in the lineup. Is that ---

4 A. I've seen one of these other people in the lineup
5 before.

6 Q. Okay. Now, if you look, they use the same photo in
7 both lineups. Now, that one does look like a little piece
8 of the head is gone out of there, and that looks like
9 there's some kind of growth, but this is the same photo
10 here and here?

11 A. Right, but this one's larger, and this one is more
12 focused.

13 Q. It's larger and more focused, okay.

14 A. It looks more lifelike.

15 Q. Looks more lifelike, okay, but you agree that this is
16 the same, same picture?

17 A. It is.

18 Q. It is. Okay. Thanks.

19 A. It appears to be the same person.

20 Q. Okay, the second time that you meet, you don't --
21 you're not able to make the pick, but you do the
22 description of shirt colors. I think you told them one guy
23 was in a red or another -- and another guy was in a white
24 shirt. Do you remember telling them that?

25 A. Correct.

- 1 Q. Okay. That's really the only question I have about
2 the second. Just that you had a no pick. You did not pick
3 from the lineup, and that you gave a more detailed
4 description to whatever degree the second time. All
5 righty. Thank you.
- 6 A. Are you asking me a question?
- 7 Q. Is that, is that true what I just said?
- 8 A. You just made three statements.
- 9 Q. Is that true?
- 10 A. Repeat that.
- 11 Q. Is, is that true that you gave you more detailed
12 description in that you described T-shirts the second time?
- 13 A. You mean on the meeting on August the 1st?
- 14 Q. Yes, ma'am.
- 15 A. August the 1st, I made a statement. The other day --
16 the, the first day, as you said, it wasn't signed. So ---
- 17 Q. All right, so you ---
- 18 A. --- I don't know that's my statement.
- 19 Q. You don't know that that's your statement?
- 20 A. If I didn't sign it, how...
- 21 Q. Okay, have you felt at any point that law enforcement
22 or anybody with law enforcement have taken your words out
23 of context?
- 24 A. I wouldn't know because I wouldn't have seen
25 everything that they wrote.

1 Q. Okay. So ---

2 A. If I signed it, then...

3 Q. Okay, but you remember what you said, right?

4 A. I remember I spoke to five different officers.

5 Q. Okay. Let me ask you this. I'm going to give you the
6 first statement.

7 THE COURT: Show it to the ---

8 MR. SUTHERLAND: They, they've got it, sir.

9 THE COURT: I know, but make sure it's the same one,
10 Mr. Sutherland, please.

11 MR. SUTHERLAND: Yes, sir.

12 BY MR. SUTHERLAND:

13 Q. And if you could just read it, and if you didn't say
14 any of that to ---

15 THE COURT: You need to mark it for ID if she's going
16 to read from it, okay?

17 MR. SUTHERLAND: Okay. I'm sorry. This should be
18 Court Exhibit -- I'm not sure what number we're on on court
19 exhibits.

20 (STATEMENT MARKED INTO EVIDENCE AS COURT'S EXHIBIT
21 NUMBER 1.)

22 MR. SHELLENBERG: Your Honor, may we approach briefly?

23 (OFF-THE-RECORD BENCH CONFERENCE.)

24 BY MR. SUTHERLAND:

25 Q. I just ask you to read it, and are those your words?

1 THE COURT: This is number what for ID, Mr.
2 Sutherland?

3 MR. SUTHERLAND: Number 1 for Court, Court Exhibit 1
4 for ID.

5 BY MR. SUTHERLAND:

6 Q. I'd ask you to read it, and are those your words or
7 not your words?

8 A. You just asked me a question.

9 Q. Do ---

10 A. The same question.

11 Q. Yes, ma'am. Did, did you say that or is that what ---

12 A. No, I ---

13 Q. --- you said?

14 A. I just told you I didn't say that.

15 Q. Okay.

16 A. You said -- you have highlighted here: Two people
17 rolled up on bikes and shot them. And I just clarified
18 that only one person rode toward Farrow Road.

19 Q. Okay. Well, you, that you -- that it happened so
20 fast, you didn't, you didn't say that, that ---

21 A. No, I ---

22 Q. --- too fast to make ---

23 A. --- I did not ---

24 Q. --- an ID?

25 A. --- say that.

1 Q. Thank you.

2 THE COURT: Is that the statement that's unsigned?

3 MR. SUTHERLAND: Yes, sir.

4 THE COURT: All right, sir.

5 Yes, sir?

6 MR. SHELLENBERG: Nothing, Your Honor.

7 BY MR. SUTHERLAND:

8 Q. Okay, and, ma'am, you met again on the 10th a third
9 time with law enforcement on the 10th. Do -- 10th of
10 August last year.

11 A. Okay.

12 Q. About week later, and that is the point where you made
13 the identification. You made the pick. Do you remember
14 having a conversation with investigators about media
15 coverage?

16 A. A conversation?

17 Q. Yes. Do you remember them asking you or you telling
18 them that the media coverage had nothing to do with your
19 identification?

20 A. They didn't ask me that.

21 Q. So, you, you did not discuss that with them at all?

22 A. Your -- I don't understand your question.

23 Q. Did you ---

24 A. First of all.

25 Q. --- discuss the media coverage with law enforcement

1 when you met?

2 A. Did I discuss media coverage?

3 Q. Yes. That's speak to them about it.

4 A. They asked me had I watched TV coverage, and I told
5 him I hadn't watched any TV.

6 Q. Okay, that was the question. All right, and you met
7 again with the solicitor's office. Was it back in June?

8 A. Okay. Is, is that a question? I'm...

9 Q. Well, what that is, that's a leading questions. So,
10 that was a question mark ---

11 A. That was a statement.

12 Q. Well, but it's a leading question, so there is a
13 question mark at the end of all of those. I'm, I'm not
14 talking to you. I'm asking you questions.

15 THE COURT: Mr. Sutherland, please just ask the
16 question, okay?

17 A. It, it sounded like a statement to me.

18 Q. Okay. Did you meet with the solicitor's office again
19 back in June?

20 A. I did.

21 Q. And did you all discuss your testimony here today?

22 A. Yes.

23 Q. Okay. Did you tell the solicitors that the purpose of
24 going back to My House was to check Ricardo's attitude?

25 A. No.

1 Q. You did not tell them that? Okay.

2 A. To check his attitude?

3 Q. That's, that's what they gave me. You did not say
4 that you went to My House, everyone went to My House to
5 check Ricardo's attitude? You did, you did not tell them
6 that?

7 A. No. How do you check someone's attitude?

8 Q. I was going to ask you. Did you tell them -- did you
9 all discuss who had firearms, who -- which Outcast members
10 has firearms?

11 A. No.

12 Q. You did not? Okay. Okay, that ---

13 A. A discussion with whom?

14 Q. With the solicitor's office and their investigators.

15 A. Your question is?

16 Q. Did you discuss in the meeting with the solicitor's
17 office and the investigators back in June who, if anyone,
18 had firearms among the Outcast members that were there with
19 you?

20 A. Are you asking me did they ask me who had firearms?

21 Q. I'm asking you if it was a topic of discussion from
22 anyone in the room.

23 A. No. A topic of -- I'm not understanding your
24 question.

25 Q. I'm asking you if anybody talked about it in that room

1 that you were in.

2 A. Did Outcast have firearms?

3 Q. I will withdraw the question. I just want to make
4 sure -- last time. You didn't tell any of these people
5 that you, that you all had gone to My House to check for
6 Ricardo's attitude?

7 A. No, not to check his attitude.

8 Q. Okay.

9 MR. SUTHERLAND: Beg the court's indulgence.

10 THE COURT: Sure.

11 (COUNSELORS CONFER.)

12 MR. SHELLENBERG: Your Honor, I think we have a matter
13 of law. Your Honor, I think we need to take up a matter of
14 law.

15 THE COURT: All right, members of the jury, this issue
16 that has arisen, the only way I can resolve it is in your
17 absence. So, go to the jury room, and please don't discuss
18 this case.

19 (THE JURY EXITS AT 2:04 P.M.)

20 THE COURT: Yes, sir.

21 MR. SUTHERLAND: Judge, per the, per the information
22 that I was provided by the solicitor's office, that was,
23 that was false testimony, and they now know it's false.

24 THE COURT: What now?

25 MR. SUTHERLAND: Per the information I was provided by

1 the solicitor's office, she just, she just lied under oath.
2 The, the summary that -- the witness summary, the
3 information that they provided to me following June 14, 15,
4 somewhere around in there, was in quotes: That they went
5 there to check his attitude.

6 THE COURT: Is that her statement? Is it the other
7 side's statement? What exhibit are you talking about?

8 MR. SUTHERLAND: That's the, that's the information
9 that I was provided.

10 THE COURT: No, no, answer my question. Which
11 statement is it?

12 MR. SUTHERLAND: That's the solicitor's office
13 statement.

14 THE COURT: Their statement?

15 MR. SUTHERLAND: Yes, sir. That's what they told me
16 in supplementing the discovery process in this case after
17 an interview with the witness. They told me that the
18 witness said that, that they had gone there to check his
19 attitude.

20 THE COURT: Who had gone there?

21 MR. SUTHERLAND: That the Outcast had -- that she said
22 to them that the Outcast went to that bar to check his
23 attitude, and that is significant in, in the context of
24 this case.

25 THE COURT: That's enough.

1 Solicitor, what's your response?

2 MR. SHELLENBERG: Could I see the email he's talking
3 about? I didn't even have a copy.

4 THE COURT: Sure.

5 MR. SHELLENBERG: It would also be speculation, what
6 he's talking about. If he wants to ask about going to
7 check Ricardo's attitude ---

8 THE COURT: Why don't y'all show me a copy of what the
9 dispute is about, will you? Do you have an extra copy?

10 MR. SUTHERLAND: I've got this. I'm sure I've got a
11 couple more back here.

12 (OFF-THE-RECORD BENCH CONFERENCE.)

13 THE COURT: Anything further on this topic?

14 MR. SUTHERLAND: I will have nothing, nothing further
15 on this topic.

16 THE COURT: All right.

17 MR. SUTHERLAND: And once they get in, nothing further
18 of the witness.

19 THE COURT: Beg pardon?

20 MR. SUTHERLAND: One the jury's in, nothing further of
21 the witness.

22 THE COURT: All right. Let's give them another five
23 minutes or so before we bring them back in.

24 (OFF THE RECORD.)

25 THE COURT: Is everybody ready?

1 MR. SUTHERLAND: Yes, sir.

2 MR. FYALL: State's ready.

3 THE COURT: You may bring the jury back in.

4 (THE JURY ENTERS AT 2:15 P.M.)

5 THE COURT: Welcome back, members of the jury.

6 Mr. Sutherland, you may continue, sir.

7 MR. SUTHERLAND: I have no further questions, Your
8 Honor.

9 THE COURT: Huh?

10 MR. SUTHERLAND: No further questions.

11 THE COURT: All right, anything on redirect?

12 MR. SHELLENBERG: Just briefly.

13 REDIRECT EXAMINATION BY MR. SHELLENBERG:

14 Q. Ms. Coad, how were you feeling when you saw your
15 friends of thirty years killed in front of you?

16 A. I was devastated and in shock. I'd never seen anyone
17 killed in front of me, much less someone that close to me.

18 MR. SHELLENBERG: Thank you. No further questions,
19 Your Honor.

20 THE COURT: Anything further of this witness?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: You may step down.

23 (THE WITNESS EXITS THE STAND.)

24 THE COURT: Call your next witness.

25 MR. FYALL: State calls Ronnie Scott.

1 RONNIE LEE SCOTT, BEING DULY
2 SWORN, TESTIFIES AS FOLLOWS:

3 CLERK: Please have a seat in the witness stand and
4 state your full name for the record.

5 WITNESS: Ronnie Lee Scott.

6 DIRECT EXAMINATION BY MR. FYALL:

7 Q. Now, Mr. Scott, how are you doing today?

8 A. I'm well.

9 Q. All right, Mr. Scott, are you from Columbia?

10 A. Yes, I am.

11 Q. How long have you lived here?

12 A. Approximately fifteen years.

13 Q. All right. Let me slide this mic up for you. Speak
14 up a little bit so she can, she can hear you.

15 Approximately fifteen years. What do you do for a living?

16 A. I'm retired with the U.S. Marine Corps.

17 Q. Marine Corps. How long were you in the Marines?

18 A. Sixteen years, medically retired.

19 Q. All right, and if I understand, currently you're in
20 school?

21 A. That's correct.

22 Q. All right. You're also a minister or pastor?

23 A. That's correct.

24 Q. Mr. Scott, back in July 2017, were you a member of
25 Thunderguard?

- 1 A. Yes, I was.
- 2 Q. Are you still a member?
- 3 A. No, I'm not.
- 4 Q. Back in that time, what was your position in regard in
5 Thunderguard?
- 6 A. I was the vice president during that time.
- 7 Q. Okay, vice president of a certain chapter?
- 8 A. Of the Columbia chapter.
- 9 Q. And I'm going to take your attention to July 27, 2017.
10 What were you doing that night? Let's go around 9 p.m.
- 11 A. I was working for a construction company during that
12 time and actually on my way to work that night.
- 13 Q. All right. When you were on your way to work, what
14 happened?
- 15 A. During my travels to work, I was notified by via text
16 that it was a ---
- 17 Q. Don't say what the text said, but you got a text?
- 18 A. Yeah. I, I received a text.
- 19 Q. All right.
- 20 A. That it was a possible disagreement at My House club
21 with one of the club members. Due to the fact it was en
22 route to where I was going, I went by just to assess and
23 make sure everything was okay.
- 24 Q. Okay. Was there a particular member that you were
25 going to check on?

1 A. Yes.

2 Q. Who was that?

3 A. His name was Compton.

4 Q. When you say the name was Compton, is that his real
5 name?

6 A. Club name.

7 Q. His club name?

8 A. Correct.

9 Q. Do you know his real name?

10 A. I think his real name is Marquez.

11 Q. Okay.

12 A. Marquez.

13 Q. Marquez?

14 A. Yeah.

15 Q. Okay. When you got to the My House, did it turn out
16 that everything was okay?

17 A. That's correct.

18 Q. Did you see Marquez there?

19 A. Yes.

20 Q. Who else did you see there?

21 A. I talked to Marquez and I briefly seen Tippy Toe, Mr.
22 Middleton.

23 Q. Mr. Middleton. Tippy Toe, is that his club name?

24 A. Correct.

25 Q. And I'm going to show you what's been marked as

1 State's 5. At some point after this incident, you did a
2 photo lineup with law enforcement?

3 A. That's correct.

4 Q. I'm going to show you State 5. Is that that lineup?

5 A. Yes, it is.

6 Q. And is that your signature and your initial where you
7 circled the number 4 there?

8 A. Yes.

9 MR. FYALL: Your Honor, at this time we seek to admit
10 State's 5 into evidence.

11 THE COURT: I think it's already in without objection.

12 MR. SUTHERLAND: Yes, sir. No, no objection just in
13 case.

14 (PHOTO LINEUP MARKED INTO EVIDENCE AS STATE'S EXHIBIT
15 NUMBER 5.)

16 BY MR. FYALL:

17 Q. All right, and so in State's 5, you circled number 4?

18 A. That's correct.

19 Q. And who was that?

20 A. Tippy Toe.

21 Q. All right. Do you see Tippy Toe in the courtroom
22 today?

23 A. Yes.

24 Q. Can you point him out and describe what he's wearing?

25 A. He's directly across from my direct front to my right.

1 Q. All right, and what is he wearing?

2 A. He's wearing a blue suit with a tie.

3 MR. FYALL: All right, let the record reflect the
4 witness has identified the defendant.

5 THE COURT: All right, sir.

6 BY MR. FYALL:

7 Q. When you arrived at My House, did you see -- I'm just
8 going to call him Tiptoe for the purpose of this. Did you
9 see him there?

10 A. Yeah. We weren't actually at My House. We were in
11 the back of Kiki Waffles's parking lot.

12 Q. The back of Kiki's Waffles's parking lot?

13 A. Yes.

14 Q. What, what was he doing? What was he -- in, like,
15 what context did you see him?

16 A. He was just, he was there in his car. We didn't make
17 no conversation. Just observed him being there.

18 Q. Okay, and then after that, what happened?

19 A. After that, we -- Compton that I was talking about
20 what happened. Everything was good. They departed the
21 parking lot. I was on my way to work, and we left from
22 there.

23 Q. All right. At some point, did you get to the
24 stoplight on Parklane and Claudia where the BP, AM/PM, that
25 area?

1 A. Yes, sir.

2 Q. Tell me what happened when you got there.

3 A. When I got there, the light was on red. At that time,
4 I noticed Compton and a gentleman and his wife on the
5 motorcycle. They were having a brief conversation, leaning
6 forward. Shortly after that is when I seen a car pulling
7 around against traffic, a gentleman exiting the vehicle.
8 The guy on the motorcycle was punched. Almost fell off the
9 motorcycle.

10 Q. Okay, so just -- you said Compton was talking to the
11 guy and the lady on their vehicle?

12 A. That's correct.

13 Q. All right. So, he was, he was next to them?

14 A. Correct.

15 Q. And when you said vehicle, this was a motorcycle?

16 A. Motorcycle, correct.

17 Q. Yes, and the guy that got punched, he was next to
18 them?

19 A. The guy that punched was on the motorcycle as well.

20 Q. Correct. All right, tell me what happened to that
21 guy.

22 A. Once he, he tried to regain control of the motorcycle,
23 his wife exit the motorcycle, and she was exiting. She was
24 reaching into her vest, vest very aggressively. From that
25 point, muzzle flash and there was a lot of gunfire I

1 definitely heard at that time.

2 Q. Okay. You said a vehicle turned around and pulled up
3 against traffic. Did you see who came out of that vehicle?

4 A. I didn't see who came out the vehicle, but I notice, I
5 noticed who it was once the, the contact was made with the
6 gentleman on the motorcycle.

7 Q. And who was that?

8 A. That was Tippy Toe.

9 Q. And you said you saw a muzzle flash. From which
10 direction did that initial muzzle flash come from?

11 A. The muzzle flash was towards me, pointed towards me.

12 Q. Okay, and I'm assuming you heard some gunshots?

13 A. Yeah.

14 Q. After -- so, the first shots happened. What did you
15 do?

16 A. I ducked down.

17 Q. Okay, and you say you ducked down. Where did you go?

18 A. I leaned over in my vehicle I was driving at the time.

19 Q. And that's the white truck?

20 A. Correct.

21 Q. And how long did you stay there?

22 A. Until the, the firing ceased.

23 Q. All right. All right. When the firing ceased, you
24 looked back up. What did you see?

25 A. I saw Compton at the time trying to crank his bike up,

1 and that was that.

2 Q. All right. When he was trying to crank his bike up,
3 at this point did you know whether or not Compton had been
4 involved in anything?

5 A. No, I did not.

6 Q. All right. What did you and Compton do at that point?

7 A. Once I noticed his bike wouldn't crank, I pulled
8 forward in my vehicle and I said get in this truck. This
9 is serious.

10 Q. All right, and he, he got in the truck?

11 A. Correct.

12 Q. And where did y'all go?

13 A. We pulled up towards My House, and he brought to my
14 attention that he couldn't left his bike there at the red
15 light where the incident has happened. I pulled my truck
16 into My House, My House, pulled on the back side and parked
17 in that area, and Compton exited my truck at the time.
18 Went back and got his motorcycle.

19 Q. Okay, and once he went and got his motorcycle, did you
20 encounter him again?

21 A. Yeah. He -- I waited on him back there like a side
22 road where I was parked at, and he came back and got in my
23 truck.

24 Q. Okay.

25 A. I took him home from there.

1 Q. You took him home, and then where did you go?

2 A. I headed to Lumberton, North Carolina. That's where
3 my work destination was at.

4 Q. All right. So, you said you told Compton get in my
5 truck. This is serious. Was that in case there was any
6 more danger out there?

7 A. I don't, I don't know. Just being in the military,
8 three combat wars, adrenaline pumping, my sense of security
9 was to make sure him and myself was safe. And from the
10 gunshots, I knew something serious had happened.

11 Q. Okay. All right, and at this point you, you saw --
12 Tippy Toe is the one who punched the guy, you said,
13 correct?

14 A. That's correct.

15 Q. And did you see any shots or anything coming from
16 Johnson's direction?

17 A. Not at all.

18 Q. Okay. So when those other shots are ringing out, you
19 were under your dashboard or?

20 A. Correct.

21 Q. You took Johnson home. Where did you go?

22 A. To Lumberton, North Carolina.

23 Q. All right, and why were you going to Lumberton, North
24 Carolina?

25 A. The construction company I worked with at the time,

1 Carolina Bridge, they built bridges and that was the only
2 time we had access to the road. So, they would shut 95
3 down in the evenings and the guys would work at night.

4 Q. I'm going to show you a few videos. The first one I'm
5 going to show you is State's 7.

6 MR. FYALL: And I think I have this right, Your Honor.
7 I'm going to play it on both so the jury can look at that
8 one, and the remainder can look at this screen right here.

9 All right, can the witness step down, Your Honor? Can
10 the witness step down?

11 THE COURT: Yes.

12 BY MR. FYALL:

13 Q. Can you step down, Mr. Scott? I'll put you on this
14 side over here and fastforward this a little bit.

15 (WHEREUPON THE STATE'S EXHIBIT NUMBER 7 IS PLAYED
16 THROUGHOUT THE FOLLOWING EXAMINATION.)

17 Q. All right, I want you to let me know when you see your
18 truck.

19 A. That's my white truck in the background.

20 Q. Okay. So in the back back there, that's your white
21 truck?

22 A. Yes, sir.

23 Q. So, right here?

24 A. Correct.

25 Q. All right, and I don't want to preempt you. Can you

1 tell what you do after you pull into this area?

2 A. I went to the back, to the very far back end of the
3 parking lot. That's where Compton was standing at back
4 there during that time.

5 Q. All right.

6 A. I parked. Got out of the truck, assess the situation,
7 ask what happened.

8 Q. All right. Let's wait on that.

9 (A PAUSE.)

10 Q. So right now, you're here in the back?

11 A. That's correct.

12 Q. All right, and who, who do you talk to when you're
13 there?

14 A. Compton.

15 Q. All right, and you also said a car. Tiptoe comes and
16 meets you in a car?

17 A. He didn't meet me. A car pulled up there.

18 Q. Okay. All right, and just to be clear, so if you had
19 never gotten that text, you would, you would have never
20 even went to My House?

21 A. Correct.

22 Q. This day?

23 A. That's correct.

24 Q. It's a little blurry, but that car right there that's
25 leaving now, was that the car you're talking about that was

1 Tippy Toe's car?

2 A. That's correct.

3 Q. And at that point, you're heading out?

4 A. Yes.

5 Q. All right, and where is your intent to go at this
6 point?

7 A. To Lumberton.

8 Q. All right, you can have a seat, sir.

9 I am going to show you State's 9. I'm going to
10 fastforward a little bit here.

11 (WHEREUPON STATE'S EXHIBIT 9 IS PLAYED THROUGHOUT THE
12 FOLLOWING EXAMINATION.)

13 Q. And this is at the red light you were talking about
14 earlier?

15 A. That's correct.

16 Q. Yeah. You can see, you know, some commotion going on
17 right there. And when you're driving up right now, what
18 are you doing?

19 A. I'm engaging Compton at the time.

20 Q. Okay, and he ends up in your car?

21 A. That's correct.

22 Q. And you, you drive off. Okay, let me show you a
23 different video here, or same exhibit, a different video on
24 that same exhibit.

25 (A PAUSE.)

1 Q. All right, I remember you testifying you went onto a
2 back street to wait for Compton. Is that your truck right
3 there again?

4 A. Yes it is, correct.

5 Q. And fastforward a little bit more. Is that your work
6 vest you have on right there? Is that you, you just
7 dressed to go to do your job ---

8 A. Correct.

9 Q. --- in Lumberton?

10 A. Yeah. That's correct.

11 Q. All right, and after this, you leave and you go to
12 pick up Compton?

13 A. Right. Correct.

14 Q. I'm going to show you one more video. This is going
15 to be State's 8.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER 8 IS PLAYED
17 THROUGHOUT THE FOLLOWING EXAMINATION.)

18 Q. All right, and tell me again. You said you passed
19 Mobay's and did, did what?

20 A. Made a right turn behind Mobay's.

21 Q. Okay. Let me know when you can see your truck again.

22 A. That's my truck.

23 Q. Okay. Right there, did you make a right turn?

24 A. That's correct.

25 Q. All right. Now, Mr. Scott, as you said, when this

1 incident sort of happened, you were the vice president of
2 the Thunderguard?

3 A. That's correct.

4 Q. But you're no longer a member?

5 A. That's correct.

6 Q. And today, correct, you're here under a subpoena to
7 testify?

8 A. That's correct.

9 MR. FYALL: Beg the court's indulgence.

10 THE COURT: Yes, sir.

11 MR. FYALL: No further questions.

12 MR. SUTHERLAND: Please the court, Judge?

13 CROSS-EXAMINATION BY MR. SUTHERLAND:

14 Q. Mr. Scott.

15 A. Yes, sir.

16 Q. Sir, I'd like to ask you about the structure of the,
17 the One Percent, the motorcycle club. What does One
18 Percent mean?

19 A. One Percent is, means it's an outlaw motorcycle ---

20 Q. Means it's outlaw?

21 A. --- club, correct.

22 Q. Okay.

23 A. Or, or in conjunction One Percent is 99 percent pretty
24 much falls under the regulations of the American Motorcycle
25 Association. One Percenters don't.

1 Q. I gotcha, but outlaw?

2 A. Correct.

3 Q. Okay. Now, as the vice president of an outlaw
4 motorcycle club, you are in, in charge of it pretty much.
5 Who, who was the president at this, at this time?

6 A. Quinton Feld, Q.

7 Q. And is it a matter that people go to you and then you
8 go to the president, or is it the chain of command? Marine
9 Corps. Is it like a chain of command like you go to your
10 NCOs, then you go to junior officers, then you go to senior
11 officers?

12 A. Not really. It's own free will. However, being
13 overall accountable, I am -- I was in charge at the time.

14 Q. Okay. So, if some sort of issue of, of conflicts
15 comes up, is it the vice president or, or the president, is
16 it their responsibility to decide what to do or decide how
17 to handle it?

18 A. Pertaining to what it is, yes.

19 Q. Okay, and so that is why you went out on scene that
20 evening?

21 A. Correct.

22 Q. Because Compton had been surrounded by Outcast?

23 A. Correct.

24 Q. Okay. Do you know -- well, I guess you weren't there
25 for that so, so you wouldn't know, but you did know that he

1 was surrounded by Outcast, and was it kind of a distress
2 call or an SOS? Is, is that...

3 A. No, it wasn't a distress. It was more of a concern.
4 Due to the fact I was in the area, like any good leader, I
5 went out there to assess the situation.

6 Q. Okay, and initially when you first spoke with
7 investigators here, you had told them that you, you did not
8 see anything. Is that correct?

9 A. I don't recall that.

10 Q. You don't? You don't recall that?

11 A. Well, you're asking did I -- I, I don't recall telling
12 them I never seen anything.

13 Q. Okay. Have you ever attempted to recant your
14 identification? In other words, to go back to either one
15 of these investigators and recant your identification of
16 Mr. Middleton in this case?

17 A. No.

18 Q. You have not?

19 A. No. What do you mean recant? I don't understand the
20 question.

21 Q. Tell them that you were mistaken, you were wrong?

22 A. No.

23 Q. Did you ever feel when you were meeting with law
24 enforcement that they were putting any kind of pressure on
25 you to answer things a certain way or maybe twisting your

1 words around?

2 A. Yes, I did.

3 Q. You did? Okay, and you recall -- I don't know if you
4 do recall this, and I don't recall the exact date, but do
5 you recall meeting a defense investigator, Jay Phillips?

6 A. Correct.

7 Q. Okay, and I believe that you pointed out to him it
8 looks like twelve or thirteen, a number of places in your
9 statement where your words were being twisted around. Is
10 that, is that accurate?

11 A. That's correct.

12 Q. Okay, but your testimony is that you did not tell them
13 initially that you did not see him shoot?

14 A. That's correct.

15 Q. Okay. Now, I want to ask you a little bit. You were
16 going to Lumberton for a job?

17 A. Correct.

18 Q. You told them that you were coming from a female's
19 house, I believe Trenholm Extension, up there? Is that ---

20 A. Correct. That's correct.

21 Q. And you were going for a job. What, why type job was
22 it?

23 A. Construction job.

24 Q. Okay, it was a construction job. So, Lumberton's
25 about an hour 45, hour 50?

1 A. Correct.

2 Q. Okay, and so this was 10. So, you were just, you were
3 working at midnight?

4 A. Correct.

5 Q. Okay, and you, you stated that you were in the Marine
6 Corps. The way that this can appear is it can appear that
7 these bikes roll up, that you come up behind. That these
8 people are being boxed in.

9 MR. FYALL: I'm going to object, Your Honor. I don't
10 think this is a question.

11 THE COURT: Your objection is what?

12 MR. FYALL: He's narrating to the witness instead of
13 asking the witness a question.

14 THE COURT: Well, it's his cross-examination.

15 Ask the question again.

16 MR. SUTHERLAND: Yes, sir.

17 BY MR. SUTHERLAND:

18 Q. Having watched that video ---

19 MR. SUTHERLAND: And, in fact, can you cue that one
20 back up of the AM/PM?

21 (COUNSELORS CONFER.)

22 (WHEREUPON, STATE'S EXHIBIT NUMBER 9 IS PLAYED
23 THROUGHOUT THE FOLLOWING EXAMINATION.)

24 BY MR. SUTHERLAND:

25 Q. Okay, so just from a tactical standpoint, when you

1 have these bikes pulling up here, and then you have other
2 bikes pulling up beside here, you're pulling up right on
3 the tail of it. Now, would you agree from a tactical
4 perspective that if this was going to be this ambush that
5 they claim, that they claim it is, that boxing these people
6 in from these sides would be a good idea?

7 A. No. I disagree with that.

8 Q. You, you disagree with that?

9 A. Correct.

10 Q. Okay. Well, what would you say about someone creeping
11 up behind these motorcycles if they're the intended victim?

12 A. I wasn't creeping. I can only hold myself
13 accountable. The light was red, so I had no choice but to
14 stop. And in conjunction to what took place immediately
15 after that, I had no clue, no idea.

16 Q. So, your testimony is that with different people
17 leaving however they were leaving, that it's just a
18 coincidence that on your way to your construction job in
19 Lumberton, you pull up behind all these bikes?

20 A. That's correct.

21 Q. Okay. I want to go back when -- to the One Percent
22 and you were talking about.

23 THE COURT: Stop.

24 COURT REPORTER: There's feedback coming from the
25 machine. If we could turn it off if you're not going to

1 use it?

2 MR. SUTHERLAND: Oh, yes, ma'am.

3 (A PAUSE.)

4 BY MR. SUTHERLAND:

5 Q. I want to take you back and ask you about One Percent
6 and outlaw bikers. If an act of violence like this were to
7 occur, wouldn't it require authorization?

8 A. No.

9 Q. So, it's people are -- free will to conduct violence
10 against one another?

11 A. Yes.

12 Q. So, they would not need to check with you?

13 A. That's correct.

14 Q. So, if there was some errant, willy-nilly war started
15 by somebody's actions, I'm just wondering. There's just no
16 check on what anybody does?

17 A. No. You, you don't -- first of all, it depends on the
18 circumstances. But at nowhere in the organization that
19 there's a phone call now to be made that you have to defend
20 yourself or report something that's going on if a situation
21 is dictating a life threaten situation. So, that's not a
22 phone call that needs to be made, happen. Everybody is
23 grown men, sir, prior to joining any organization. So,
24 they're going to defend themselves the best of their
25 ability, but there is not an authorization code or --

1 that's in place for that.

2 Q. Okay. So, this was, this was self-defense?

3 A. I don't know.

4 Q. You don't know?

5 A. Yes.

6 MR. SUTHERLAND: Beg the court's indulgence.

7 THE COURT: Yes, sir.

8 (A PAUSE.)

9 MR. SUTHERLAND: No further questions of this witness,
10 Judge. No further questions.

11 THE COURT: Anything on redirect?

12 MR. FYALL: Briefly, Your Honor.

13 REDIRECT EXAMINATION BY MR. FYALL:

14 Q. Mr. Sutherland asked you about some statements you
15 gave to law enforcement, and when you spoke with, you spoke
16 with an attorney -- I mean, an investigator from the
17 defense, correct?

18 A. Correct.

19 Q. And you spoke to our office as well?

20 A. Correct.

21 Q. And so you've been willing to speak to both parties in
22 this, representing, representing in this trial.

23 A. That's correct.

24 Q. And so you talked about some things you corrected in
25 your statement. One of those things was law enforcement

1 interpreted, interpreted you as saying you saw Tiptoe get
2 out of the car, and you corrected that as saying you didn't
3 see him get out of the car. You saw him when the punch
4 happened?

5 A. I said I seen a gentleman. I didn't say I said Tiptoe
6 got out of the car.

7 Q. Correct.

8 A. That's what I corrected.

9 Q. Yes.

10 A. Yes, sir.

11 Q. And you corrected that to say the first time you knew
12 it was Tiptoe was when the, when -- the punch?

13 A. Correct.

14 Q. You talked to them about that, and you talked to us
15 about that?

16 A. Correct.

17 MR. FYALL: No further questions.

18 THE COURT: Anything further?

19 MR. SUTHERLAND: Briefly beg the court's indulgence.

20 (A PAUSE.)

21 RECROSS-EXAMINATION BY MR. SUTHERLAND:

22 Q. Okay, and again just briefly, when you met with
23 defense investigator, you did point out about twelve or
24 thirteen places where you thought that your words were
25 being twisted in the statement, the police statement?

1 A. I don't recall twelve or thirteen, but I do recall
2 addressing some things that was stated that I didn't, in
3 fact, said.

4 Q. That you did not say?

5 A. Correct.

6 MR. SUTHERLAND: Thank you, sir.

7 FURTHER DIRECT EXAMINATION BY MR. FYALL:

8 Q. Is everything you stated here what you intended to say
9 and the truth?

10 A. That I stated, yes.

11 MR. FYALL: All right, no further questions.

12 THE COURT: You may step down, sir.

13 (THE WITNESS EXITS THE STAND.)

14 THE COURT: State calls Phillip Coates, Your Honor.

15 PHILLIP COATES, BEING DULY SWORN,

16 TESTIFIES AS FOLLOWS:

17 CLERK: Please have a seat in the witness stand and
18 state your full name for the record, and please spell your
19 last name.

20 WITNESS: Phillip Coates.

21 CLERK: Spell your last name, please.

22 WITNESS: C-o-a-t-e-s.

23 CLERK: Thank you.

24 DIRECT EXAMINATION BY MR. FYALL:

25 Q. Mr. Coates, how are you?

- 1 A. I'm here.
- 2 Q. Now, Mr. Coates, I'm going to try to be as brief as
3 possible. I'm going to take your attention to July 27,
4 2017. Were you at My House Bar and Grill or any of the
5 surrounding areas that night?
- 6 A. Yeah.
- 7 Q. How did you get there?
- 8 A. I road my motorcycle.
- 9 Q. What prompted you to go?
- 10 A. Received a text.
- 11 Q. Was that a group text?
- 12 A. Yeah.
- 13 Q. For members of the Thunderguard?
- 14 A. Yeah.
- 15 Q. And you received that text and you went. Who did you
16 see when you got there?
- 17 A. I didn't see anybody there.
- 18 Q. All right. At some point, did you encounter Marquez
19 Johnson or Compton?
- 20 A. Yeah, I did.
- 21 Q. Where was that?
- 22 A. It was on my way home.
- 23 Q. And when you got to the light on Claudia and Parklane
24 on your way home, what happened?
- 25 A. Stopped at the light, and Johnson was talking to

1 somebody on a bike, and I heard a gunshot. I had an
2 anxiety attack and I went home.

3 Q. Was Johnson on your left or your right?

4 A. He was on my left.

5 Q. You had an anxiety attack. When, when you heard the
6 gunshot, what did you do?

7 A. Honestly, I don't remember. I, I don't remember.

8 Q. What happened when you got home?

9 A. I put my bike in the garage, and then I checked my
10 phone, and I had a missed call from Tiptoe. I called him
11 back. He didn't answer.

12 Q. All right. Did you hear from Johnson?

13 A. Yeah. He called me. He actually came to my house,
14 and we went and got his motorcycle.

15 Q. What did y'all use to get it?

16 A. He had a trailer.

17 Q. So, he came back and got his motorcycle from that
18 intersection?

19 A. No. It was, it was, like, at a house.

20 Q. Okay, and so y'all got that and presumably took it
21 back to his house?

22 A. Yeah.

23 Q. And you went home?

24 MR. FYALL: No further questions.

25 MR. SUTHERLAND: Please the court?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION BY MR. SUTHERLAND:

3 Q. Briefly, Mr. Coates. You did not see Tiptoe, or
4 Ricardo Middleton, there, did you?

5 A. No, I didn't.

6 MR. SUTHERLAND: Thank you, Your Honor. No further
7 questions.

8 THE COURT: Anything further of this witness?

9 MR. FYALL: No. No, Your Honor.

10 THE COURT: You may step down, sir.

11 (THE WITNESS EXITS THE STAND.)

12 MR. STEADMAN: The state calls Lori Ann Summers.

13 LORI ANN SUMMERS, BEING DULY

14 SWORN, TESTIFIES AS FOLLOWS:

15 CLERK: Please have a seat in the witness stand and
16 state your name for the record.

17 WITNESS: Lori Ann Summers.

18 DIRECT EXAMINATION BY MR. STEADMAN:

19 Q. Ms. Summers, do you reside here in Columbia?

20 A. Yes.

21 Q. What do you do for a living?

22 A. I, I work at the University of South Carolina.

23 Q. And what do you do at the University of South Carolina
24 specifically?

25 A. I manage fundraisers in health sciences.

1 Q. And I'm going to go ahead and direct your attention
2 back to July 27, 2017. What were you doing that day?

3 A. I was playing tennis at Parklane Tennis Center.

4 Q. And after you played tennis, what did you do?

5 A. I went to a restaurant with friends on Two Notch Road
6 and had a Sprite.

7 Q. And after that, what did you do?

8 A. I was returning home, so I took the shortcut on O'Neil
9 Court to get back on Parklane Road.

10 Q. And after getting onto O'Neil Court, you turned onto
11 Parklane?

12 A. Yes.

13 Q. Let me back up. So at the light of O'Neil Court and
14 Parklane, what did you observe?

15 A. So, the light was red on my side, and I observed the
16 motorcycles and some -- a car or more coming out of the
17 mall area because that's sort of a mall parking lot. They
18 were turning left, and they had the left turn signal. So,
19 they were aggressively driving, turning left, and once they
20 passed, I turned right on red.

21 Q. And so at that point in time, you're behind that group
22 of motorcycles and the car?

23 A. Yes.

24 Q. Okay, and then after that, what did you observe?

25 A. So, we got to the red light at Claudia, and there was

1 a car that turned -- shifted over into the left-hand turn
2 lane, and there was a black SUV in front of me. So, I was
3 the second car behind that, and the person in the
4 grayish-silver sedan got out of the car on the driver's
5 side.

6 Q. And, Ms. Summers, if you don't mind stepping down, I'm
7 going to show you video from a surveillance camera.

8 MR. STEADMAN: And, Your Honor, this is State's 9, the
9 surveillance camera that focuses on that particular
10 intersection.

11 Q. All right, Ms. Summers, if you don't mind, face the
12 court reporter. Stand over here, if you don't mind. Stand
13 right here. We're going to watch this and when you see
14 your car, go ahead and point it out.

15 (WHEREUPON, STATE'S EXHIBIT NUMBER 9 IS PLAYED
16 THROUGHOUT THE FOLLOWING EXAMINATION.)

17 Q. Do you see your car as yet?

18 A. Right there. That's me turning around right there in
19 that Jeep.

20 Q. That's you, and you were behind the black SUV?

21 A. Yes.

22 Q. Okay, you can go ahead and take the stand. Thank you.

23 So going back to that, the small gray sedan you said
24 was in the left-hand lane, what exactly do you mean by
25 left-hand lane?

1 A. There was a turn lane, and the car just sort of pulled
2 over into the turn lane. Not like they were going to turn,
3 but that they just sort of turned over, turned over in that
4 lane and stopped.

5 Q. And did it appear to you that they were turning or
6 were going to turn?

7 A. No.

8 Q. And then what did you see about the driver of that
9 vehicle?

10 A. When he got out of the car?

11 Q. Yes.

12 A. So, he got out of the car, and obviously I became --
13 this is not usual. This is not good. And so it was a
14 male, black male, about 6 feet tall, 200, 210, 220-ish
15 pounds. Jeans or slouchy pants, T-shirt, and something on
16 his head that wasn't a hat but something on his head,
17 bandana-like, but...

18 Q. Do you remember what color shirt that person ---

19 A. Light.

20 Q. --- was wearing?

21 A. Light colored.

22 Q. Light colored?

23 A. Gray light, light colored.

24 Q. And did you say he got out of the driver's side door?

25 A. Yes.

1 Q. The driver's seat ---

2 A. Yes.

3 Q. --- he got out of? And what did you see him do?

4 A. He walked to the front of the car and turned to walk
5 in front of his car and continued to walk in front of the
6 black SUV that was in front of me, and then I lost line of
7 sight.

8 Q. And then did you hear something after that?

9 A. Yes.

10 Q. What did you hear?

11 A. Many gunshots.

12 Q. And what did you do when you heard the gunshots?

13 A. I got in the floorboard of my car.

14 Q. And the direction he was walking from his car, was he
15 walking toward the motorcycles?

16 A. Yes.

17 Q. Okay, and you said you were behind that black SUV that
18 we saw on the video camera?

19 A. Yes.

20 Q. At any point in time, did you see anybody get out of
21 that black SUV?

22 A. No.

23 MR. STEADMAN: Thank you. No further questions.

24 MR. SUTHERLAND: Please the court?

25 CROSS-EXAMINATION BY MR. SUTHERLAND:

1 Q. Actually, ma'am, I really don't -- you said 6 foot,
2 220, and that's pretty much the description?

3 MR. SUTHERLAND: I, I don't have any questions of this
4 witness. Thank you, ma'am.

5 THE COURT: All right, anything further?

6 MR. STEADMAN: No, Your Honor.

7 THE COURT: You may step down.

8 (THE WITNESS EXITS THE STAND.)

9 THE COURT: Call your next witness.

10 MR. FYALL: May we approach, Your Honor?

11 (OFF-THE-RECORD BENCH CONFERENCE.)

12 THE COURT: I'm going to give you a brief recess,
13 about ten minutes or so. Please don't talk about this
14 case. If you need something, the bailiffs will be happy to
15 accommodate your request.

16 (THE JURY EXITS AT 3:06 P.M.)

17 THE COURT: Anything we need to take up now,
18 gentlemen?

19 MR. SUTHERLAND: No, sir.

20 THE COURT: All right. We'll be at ease.

21 (OFF THE RECORD.)

22 THE COURT: Thank you. Keep your seats.

23 You can bring them in.

24 I stopped by and said we were going to stop for the
25 day and explained exactly why, and they're fine. I told

1 them I'd dismiss them on the record, and y'all can start
2 back at 9:30 in the morning. Is that right?

3 MR. STEADMAN: Yes, sir.

4 THE COURT: All right.

5 (THE JURY ENTERS AT 3:29 P.M.)

6 THE COURT: Welcome back, members of the jury. I
7 stopped by the jury room and explained to y'all why we were
8 stopping for the day, and that holds true. We'll start
9 again tomorrow morning at 9:30.

10 And once again I need to remind you not to discuss
11 this case with anyone. There was something else I was
12 going to tell you. I appreciate your courtesy and
13 attention so far in this matter. That's what I was going
14 to tell you. So, I hope you have a pleasant and restful
15 evening. Be back tomorrow morning at 9:30, and I think the
16 trial will move a lot quicker tomorrow. The end is in
17 sight, in my opinion. So, once again just don't talk about
18 the case. I look forward to seeing y'all tomorrow morning
19 at 9:30, ladies and gentlemen.

20 (THE JURY EXITS AT 3:30 P.M.)

21 THE COURT: Anything further for today?

22 MR. STEADMAN: No, Your Honor.

23 THE COURT: Y'all get a good night's sleep, too. See
24 you in the morning.

25 (PHOTOGRAPHS INDIVIDUALLY MARKED AS STATE'S EXHIBIT

1 NUMBERS 118, 119, 120, 121, 122, 123, 124 FOR
2 IDENTIFICATION.)

3 (TWO PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER 125
4 FOR IDENTIFICATION.)

5 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 126 FOR
6 IDENTIFICATION.)

7 (RECEIPTS MARKED AS STATE'S EXHIBIT NUMBER 127 FOR
8 IDENTIFICATION.)

9 (GLOVE, WALLET, ID MARKED AS STATE'S EXHIBIT NUMBER
10 128 FOR IDENTIFICATION.)

11 (WHEREUPON, THE CASE IS AT EASE.)

12 *WEDNESDAY, AUGUST 21, 2019*

13 (COURT RESUMES AT 9:53 A.M.)

14 (AUTOPSY DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 129
15 FOR IDENTIFICATION.)

16 (AUTOPSY DIAGRAM MARKED AS STATE'S EXHIBIT NUMBER 130
17 FOR IDENTIFICATION.)

18 (PHOTOGRAPH MARKED AS STATE'S EXHIBIT NUMBER 131 FOR
19 IDENTIFICATION.)

20 (DVD WITH PHOTOGRAPHS MARKED AS STATE'S EXHIBIT NUMBER
21 132 FOR IDENTIFICATION.)

22 (BOX WITH BLACK BAG, KNIFE, JACKET MARKED AS STATE'S
23 EXHIBIT NUMBER 133 FOR IDENTIFICATION.)

24 (JURY NOTE MARKED INTO EVIDENCE AS COURT'S EXHIBIT
25 NUMBER 2.)

1 THE COURT: Are we all ready? Bring them in, please.

2 (THE JURY ENTERS AT 9:54 A.M.)

3 THE COURT: Welcome and good morning, members of the
4 jury. I trust and hope y'all had a pleasant and restful
5 evening. This case will continue with the solicitor
6 calling the next witness on behalf of the state.

7 MR. STEADMAN: State calls Investigator Yvonne Woods
8 with the Richland County Sheriff's Department.

9 THE COURT: All right.

10 YVONNE WOODS, BEING DULY SWORN,
11 TESTIFIES AS FOLLOWS:

12 THE COURT: Please take a seat. Tell us your full
13 name and spell your last name for the record.

14 WITNESS: Yvonne Woods, W-o-o-d-s.

15 THE COURT: Thank you.

16 DIRECT EXAMINATION BY MR. STEADMAN:

17 Q. Investigator Woods, where are you, where are you
18 employed?

19 A. Richland County Sheriff's Department.

20 Q. And what do you do with the Richland County Sheriff's
21 Department?

22 A. Crime scene investigator.

23 Q. And have you always been a crime scene investigator?

24 A. For fourteen years.

25 Q. And what are your primary duties and responsibilities?

1 A. We respond to all calls in Richland County.

2 Q. And how did you get involved in this case?

3 A. I was -- I received a search warrant to process a
4 vehicle.

5 Q. And on what date did you get involved in this case?

6 A. On the 5th.

7 Q. And specifically what were your tasks and
8 responsibilities per the search warrant?

9 A. I was to go out and process the vehicle interior.

10 Q. And what was the vehicle that you were supposed to
11 examine?

12 A. It was a 2007 Yaris.

13 Q. And where did the examination take place?

14 A. At the compound located on Powell Road.

15 Q. And that's Richland County Sheriff's Department
16 property?

17 A. Yes, it is.

18 Q. Okay, and why don't you go ahead and tell the jury how
19 you processed and what exactly you did.

20 A. I photographed the vehicle prior to processing it
21 outside so you could tell what it looked like prior to me
22 processing it. The vehicle was locked, and I couldn't gain
23 entry. I gained entry through a passenger, small passenger
24 window and unlocked it and started photographing on the
25 inside. Once I completed my photographs, I started surface

1 GSR, which is collection of any chemicals or bonds from a
2 gunshot.

3 Q. And so how you do the GSR? Can you explain just
4 briefly the process for GSR and how you did it in this
5 case?

6 A. In GSR, you have sticky tabs and it's a tube, and the
7 tab is the sticky part, and what you do, you place it on
8 the area that you want to collect GSR from.

9 Q. And once you take the GSR kit, where do you submit it
10 to for testing?

11 A. I, I submit it to evidence and property, and then it's
12 from there to SLED.

13 Q. So, does -- the Richland County Sheriff's Department
14 doesn't do the GSR testing?

15 A. No, sir.

16 Q. That's done by the South Carolina Law Enforcement
17 Division?

18 A. Law Enforcement Division.

19 Q. Okay, and after you did the GSR, what else did you do
20 in this case?

21 A. I started collecting swabs from different areas in the
22 car.

23 Q. And what do you meant by swabs?

24 A. It's what -- we have sterile cotton and sterile water
25 and where I process it at to look for prints, I collected

1 swabs from those areas.

2 Q. And those swabs, what, what is the purpose of those?

3 A. Any DNA evidence.

4 Q. And then you submitted that for -- to evidence, those
5 swabs?

6 A. That's correct.

7 Q. Okay, and after the swabs, what did you do?

8 A. After the swaps, I started collecting items that
9 Investigator, Investigator Laurita may have possibly
10 needed.

11 Q. And specifically what items did you find in the
12 vehicle, and what did you submit to evidence?

13 A. I found a black wallet, ID and miscellaneous
14 paperwork, receipts, black Harley-Davidson bag, a knife
15 with knife case, a black jacket, suitcase with
16 miscellaneous paperwork, and a red solo cup.

17 Q. All right, Investigator Woods, I'm going to show you
18 what's been premarked as State's 133. Can you tell us
19 what, what that is?

20 A. This is the black Harley-Davidson bag with the knife
21 and case and a black jacket that I collected.

22 Q. And this is an item that you collected?

23 A. Yes, sir.

24 Q. And then you submitted into evidence?

25 A. Yes, sir.

1 MR. STEADMAN: Your Honor, at this point we would
2 introduce State's 133 into evidence.

3 MR. SUTHERLAND: Without objection, Judge.

4 THE COURT: Without objection.

5 (BOX WITH BLACK BAG, KNIFE, AND JACKET MARKED INTO
6 EVIDENCE AS STATE'S EXHIBIT NUMBER 133.)

7 BY MR. STEADMAN:

8 Q. Investigator Woods, I'm going to show you what's been
9 premarked as State's 127. Can you tell us what that is?

10 A. These are receipts from the front passenger floorboard
11 of the vehicle.

12 Q. And you collected these and submitted them into
13 evidence?

14 A. That is correct.

15 MR. STEADMAN: Your Honor, at this point we would
16 introduce State's 127 into evidence.

17 MR. SUTHERLAND: Without objection, Judge.

18 (RECEIPTS MARKED INTO EVIDENCE AS STATE'S EXHIBIT
19 NUMBER 127.)

20 BY MR. STEADMAN:

21 Q. Investigator Woods, can you please take a look at
22 State's 128 and tell us what that is?

23 A. Excuse me. This is going to be the white gloves and
24 the black wallet and chain attached with ID and
25 miscellaneous paperwork.

1 Q. Black wallet, ID, and gloves?

2 A. And a glove.

3 Q. And a chain, okay.

4 A. That's correct.

5 Q. And where was, where was this found?

6 A. The gold was in, in the front, and the wallet and
7 stuff was in the glove compartment of the vehicle.

8 Q. And that, that was where the ID was found was in ---

9 A. That is correct.

10 Q. --- in the glove compartment?

11 A. Yes, sir.

12 MR. STEADMAN: Your Honor, at this point we'd
13 introduce State's 128 into evidence.

14 MR. SUTHERLAND: Again, no objection.

15 THE COURT: Without objection.

16 (GLOVES, WALLET, ID MARKED INTO EVIDENCE AS STATE'S
17 EXHIBIT NUMBER 128.)

18 BY MR. STEADMAN:

19 Q. Investigator Woods, I'm going to show you what's been
20 premarked as State's 118, 126, 125, 119, 120, 121, 122,
21 123, 124, and 125. Can you take a look at these pictures
22 and tell us whether those are the pictures that you took?

23 (A PAUSE.)

24 A. These are the pictures that I took, sir.

25 Q. And these are the pictures that you took of the Yaris

1 and the items that you collected from within it?

2 A. That is correct, sir.

3 Q. Thank you, and I'm going to put these up here, and if
4 you can just ---

5 MR. STEADMAN: Your Honor, at this point we'd
6 introduce the previously mentioned exhibits into evidence.

7 THE COURT: All right.

8 MR. SUTHERLAND: No objection, Judge.

9 THE COURT: Without objection.

10 MR. STEADMAN: And permission to publish to the jury?

11 THE COURT: Yes, sir.

12 (PHOTOGRAPHS INDIVIDUALLY MARKED INTO EVIDENCE AS
13 STATE'S EXHIBIT NUMBERS 118 THROUGH 126.)

14 BY MR. STEADMAN:

15 Q. First I'm going to show what's been marked as State's
16 118, and what is that?

17 A. The license tag.

18 Q. And State's 126, another?

19 A. Front view of the vehicle.

20 Q. And this is the Toyota Yaris that ---

21 A. That's correct.

22 Q. --- we talked about? State's 125, another angle of
23 the Yaris. Is that the window that you had to gain entry
24 through?

25 A. Yes, sir.

1 Q. State's 119, State's 120, State's 121, 122, and 123,
2 those are all the pictures you took of this Yaris?

3 A. Yes, sir.

4 Q. And State's 124, what is this?

5 A. This is Middleton's ID.

6 Q. And this is the ID that was found in the glove
7 compartment?

8 A. That's correct.

9 Q. Was it just found laying out like this, or was it in
10 something?

11 A. It was in his wallet, sir.

12 Q. And State's 125, what is this?

13 A. That is the bag, the Harley-Davidson bag with the
14 knife and jacket.

15 Q. So, in that bag was the knife and a black jacket?

16 A. Yes, sir.

17 Q. All right. Thank you, Investigator, and after you
18 took those pictures, you collect those items and submit
19 them into evidence, what else did you do with respect to
20 this case?

21 A. I notified the investigator and let him know what all
22 was collected.

23 MR. STEADMAN: Thank you. I have no further
24 questions.

25 THE COURT: Mr. Sutherland.

1 CROSS-EXAMINATION BY MR. SUTHERLAND:

2 Q. Briefly, ma'am. Ma'am, when you were going through
3 the car, did you notice any tools in the, in the car that
4 you recall?

5 A. Yes, sir.

6 Q. Was it, was it a bunch of them?

7 A. Yes, sir, it was.

8 Q. Did it look like a work car to you maybe or that ---

9 A. Could be.

10 Q. All Okay. Thank you.

11 A. Because there was a bunch of clothes as well.

12 Q. Yes, ma'am, and these are the last few questions here.
13 When you with the GSR kit, the interior door handle?

14 A. Yes, sir.

15 Q. The interior driver's door?

16 A. Yes, sir.

17 Q. The interior passenger door handle?

18 A. Yes, sir.

19 Q. The interior passenger door?

20 A. Yes, sir.

21 Q. The interior driver's roof?

22 A. That's correct.

23 Q. And -- oh lord, getting old.

24 A. Steering wheel.

25 Q. Thank you very much. Okay, that's it.

1 MR. SUTHERLAND: No further questions, Your Honor.

2 Thank you.

3 THE COURT: All right, anything on redirect?

4 MR. STEADMAN: No, Your Honor.

5 THE COURT: You may step down.

6 (THE WITNESS EXITS THE STAND.)

7 THE COURT: You may call your next witness.

8 MR. SHELLENBERG: The state calls Ricky Montgomery.

9 RICKY MONTGOMERY, BEING DULY

10 SWORN, TESTIFIES AS FOLLOWS:

11 THE COURT: Please have a seat. Tell us your full
12 name, and spell your last name for the record.

13 WITNESS: Ricky Montgomery, M-o-n-t-g-o-m-e-r-y.

14 DIRECT EXAMINATION BY MR. SHELLENBERG:

15 Q. Good morning, Mr. Montgomery. How are you?

16 A. Pretty good.

17 Q. Mr. Montgomery, where do you live?

18 A. In the Upstate, South Carolina.

19 Q. And what do you do up there?

20 A. I'm a car ---

21 THE COURT: You'll have to speak up.

22 A. In the Upstate, South Carolina.

23 Q. And what do you do for work up there?

24 A. I'm a car consultant.

25 Q. And are you in a motorcycle club?

1 A. Not at the moment.

2 Q. And in July of 2017, were you in a motorcycle club?

3 A. Yes.

4 Q. And what motorcycle club was that?

5 A. Outcast Motorcycle Club.

6 Q. And why are you no longer in that motorcycle club?

7 A. I took of leave of absence because having trouble
8 sleeping, dreaming, stuff like that.

9 Q. And what was that from?

10 A. From the July 27th incident.

11 Q. Well, let's talk about that July 27th incident. Did
12 you learn about any incident that took place on July the
13 20th at ---

14 MR. SUTHERLAND: Objection to hearsay. He's asking
15 did he learn about something.

16 THE COURT: Well, what's the hearsay? He hasn't
17 answered the question yet.

18 MR. SUTHERLAND: Knowledge has to come from another
19 party; in my view, learning something would be from another
20 person.

21 THE COURT: Ask the question. Overruled.

22 MR. SUTHERLAND: Yes, sir.

23 BY MR. SHELLENBERG:

24 Q. Did you learn about any incident involving your club
25 and another club from July 20th?

1 A. Nothing involving our club.

2 Q. But what was it involving?

3 A. One of our support clubs had a situation with one of
4 the ---

5 THE COURT: Mr. Montgomery, I'm going to ask you to
6 speak up one more time, sir.

7 A. One of the support clubs had an incident with another
8 member of an outlaw motorcycle club, and they brought it to
9 our attention.

10 Q. And what was the significance of somebody from another
11 club, from the Thunderguard, talking to one of your support
12 clubs?

13 A. Well, basically outlaws should talk to outlaws and if
14 they, if they have an issue with our support club, then
15 they should have reached out to us.

16 Q. And what do you mean by outlaws?

17 A. One percenters, dominant motorcycle clubs.

18 Q. You said dominant motorcycle?

19 A. Dominant motorcycle clubs.

20 Q. And what is being a one percenter?

21 A. Well, basically you, you, you share a passion for
22 riding. It's called a grown man's club is what it's
23 called.

24 Q. Now, let me turn your attention to July 27, 2017. Did
25 you go to My House Bar and Grill?

1 A. I did.

2 Q. And who did you go with?

3 A. I went with AC and Coco, and Natasha was following us
4 in her car.

5 Q. Now, what is AC's real name?

6 A. Aaron Collins.

7 Q. What is Coco's real name?

8 A. Sydni. I don't remember her last name right off the
9 bat.

10 Q. Was she married to Aaron?

11 A. She was. Collins.

12 Q. Mr. Montgomery, are you a little nervous?

13 A. Little bit.

14 Q. Okay. When you arrived at My House, what did y'all
15 do?

16 A. We just hanging out, chatting with friends.

17 Q. Did you encounter any members of Thunderguard while
18 you were there?

19 A. Yeah. The person that confronted the support club
20 member was there, and me, myself, AC, and a couple other
21 guys went over. And we talked to him and pretty much told
22 him if, if you have a problems with one of our support
23 clubs, come to us. You know, don't...

24 Q. Now, was that talk heated?

25 A. No. It was -- wasn't heated at all.

1 Q. Was it just more informative, just...

2 A. Just informative.

3 Q. Okay, and after that, did you encounter any other
4 Thunderguard members?

5 A. I did. Well, we did as of later.

6 Q. Okay, and who did you encounter?

7 A. Tiptoe.

8 Q. Okay.

9 MR. SHELLENBERG: And, Your Honor, if he may step
10 down? I'm going to show him ---

11 THE COURT: Sure.

12 MR. SHELLENBERG: --- what is State's, what's marked
13 as State's 7, My House video.

14 (WHEREUPON, STATE'S EXHIBIT NUMBER 7 IS PLAYED
15 THROUGHOUT THE FOLLOWING EXAMINATION.)

16 BY MR. SHELLENBERG:

17 Q. I'm going to fast-forward for you, Mr. Montgomery. Do
18 you recognize that area, though?

19 A. I do.

20 Q. And what do you recognize it as?

21 A. The bike night.

22 Q. What is bike night?

23 A. Bike night is an event ---

24 THE COURT: Can I ask you to again please refer to the
25 exhibit that's being shown?

1 MR. SHELLENBERG: I'm showing him State's 7 right now.

2 THE COURT: Okay.

3 BY MR. SHELLENBERG:

4 Q. And, Mr. Montgomery, can you come stand on this side
5 for me so that you can talk towards the court reporter
6 who's got to write down everything that we say? All right,
7 and if I can fast-forward a tad without messing this whole
8 thing up.

9 Now, do you recognize anybody over here? You can give
10 it a second.

11 A. Yeah. That would be me.

12 Q. Okay.

13 A. Right there.

14 Q. And what are you doing at this time?

15 A. Just conversating with friends.

16 Q. So, what is this back here? What building is this?
17 Do you know?

18 A. I'm not sure. I think that's a restaurant on the
19 other side there. Some kind of waffle or chicken place.

20 COURT REPORTER: Can you repeat that, please?

21 MR. SHELLENBERG: He said a waffle and chicken place.

22 BY MR. SHELLENBERG:

23 A. Some kind of waffle and chicken place. I don't know
24 exactly the name of it.

25 Q. Now, do you recognize this person?

1 A. I do.

2 Q. And who is that?

3 A. That would be Tiptoe.

4 Q. And who is he talking to right there?

5 A. Couple of my, my bros, my brothers.

6 Q. And what is he talking to y'all about at that point?

7 A. I don't remember exactly but he, he was upset. Just
8 doing a bunch of talking.

9 Q. And so at this point, where are you?

10 A. I am right here leaving.

11 Q. And so what was your take on the interaction with him?
12 What -- how did y'all feel about it?

13 A. Didn't think twice about it.

14 Q. And who else is leaving over here?

15 A. That would be AC and Coco.

16 Q. All right, and so the person you know as Tiptoe, is he
17 in the courtroom right now?

18 A. He is.

19 Q. Can you point him out for the jury if I can move this?

20 A. It's this gentleman sitting over here.

21 MR. SHELLENBERG: Your Honor, let the record reflect
22 that the witness identified the defendant, Ricardo
23 Middleton.

24 BY MR. SHELLENBERG:

25 Q. Mr. Montgomery, would you please return to your seat?

1 Now, what did y'all do? We saw you walking off the
2 street. Where did y'all go after that?

3 A. We went to motorcycles, preparing to leave.

4 Q. And how did, how did you -- where were you heading
5 after that?

6 A. We were, we were heading back to AC and Coco house.
7 That's where we were leaving.

8 Q. And so what direction did you go in?

9 A. I'm not real familiar with Columbia, but I know we
10 was, like, leaving the mall and...

11 Q. I tell you what.

12 A. Little fuzzy on the streets.

13 Q. Well, did you end up at a stoplight?

14 A. We did.

15 Q. And what happened at that stoplight?

16 A. One of the, one of the members of the Thunderguards
17 pulled up, the guy who we were talking -- was, was talking
18 to earlier.

19 Q. Now at the stoplight, can you just explain where
20 everybody was sitting, who was on motorcycles and who was
21 in cars? What was going on?

22 A. Well, I was on the -- in the left, left-hand lane. AC
23 and Coco was in the right-hand lane, and we were on
24 motorcycles, and the other guy pulled up on a motorcycle as
25 well on the right side of AC and was talking to AC.

1 Q. Now, is this the person you originally talked -- the
2 Thunderguard member you originally had the conversation
3 with?

4 A. Yes.

5 Q. And so at that point -- without saying what they said,
6 what did it look like AC and the Thunderguard member were
7 doing?

8 A. Well, they were discussing about what happened
9 earlier.

10 Q. Okay, and as the light turned green, what did y'all
11 do?

12 A. When the light turned green, I just kind of told AC,
13 threw my hands up and told him let's go, and we drove off.
14 We actually turned left on to Parklane, and we got stopped.
15 We stopped at another light.

16 Q. And what happened when you got to that light? Well,
17 where was everybody when you got to that light?

18 A. Same, same place. I was on the left-hand side, AC was
19 on the right side, and the gentleman, he followed us and
20 pulled up again and was doing the same thing.

21 Q. And was he on the -- it would be you, AC, and Coco,
22 and then did he pull up on the right side?

23 A. He pulled up on the right side.

24 Q. And what was he doing at that point?

25 A. He was still talking to AC. In my opinion, he was

1 stalking us.

2 Q. And what happened after that?

3 A. Well, I really couldn't hear what they were talking
4 about because I had my music up pretty loud, but I -- my
5 attention was diverted with them the whole time I was
6 watching. And something nudged my motorcycle, and I turned
7 around and when I turned around, I got hit in the mouth.

8 Q. You got hit in the mouth. What did you get hit in the
9 mouth with?

10 A. Something very hard. Knocked me completely off my
11 motorcycle. Motorcycle then fell on the back of me. Caved
12 me in.

13 Q. And what was your state of mind at that point?

14 A. I was unconscious; I was unconscious.

15 Q. Did you come to at some point on the ground?

16 A. I did.

17 Q. And where was your motorcycle?

18 A. Motorcycle was basically on my back. I was bent over
19 like a pretzel.

20 Q. And what did -- were you able to see anything from
21 that point?

22 A. Well, I, I saw who hit me.

23 Q. Well, who hit you?

24 A. In the face. Tiptoe.

25 Q. And that's Ricardo Middleton that you identified

1 earlier?

2 A. Yes.

3 Q. And were you able to see anything once you got on the
4 ground?

5 A. Again, I was semi-unconscious when I was on the
6 ground. Was able to hear very good, though.

7 Q. And what did you hear?

8 A. I distinctly heard three different guns being shot.

9 Q. Were any of those shots directed at you?

10 A. I think so. I'm not 100 percent certain, but I think,
11 I think so.

12 Q. And when Tiptoe hit you, what side of you was he
13 coming from? So, I guess I'm saying if you were where you
14 are, AC and Coco are where Ms. Harris is, over, what side
15 does he come from? So, then you would have the other
16 Thunderguard guy be on this ---

17 A. Right. He came from the left-hand side.

18 Q. From the left-hand side, okay.

19 MR. SHELLENBERG: Beg the court's indulgence, Your
20 Honor.

21 THE COURT: Yes, sir.

22 (A PAUSE.)

23 BY MR. SHELLENBERG:

24 Q. Is the person you had the initial conversation with
25 that pulled up on the bike out -- on the outside of Aaron