

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

Deadre Jefferson, Circuit Court Judge

Appellate Case No. 2024-001124

RECEIVED

Oct 27 2025

SC Court of Appeals

The State of South Carolina,

Respondent,

v.

Melshaun Antwan Robinson,

Appellant.

RECORD ON APPEAL

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INDEX

INDEX	i
MOTION TO DISMISS PURSUANT TO SECTON 16-11-450.....	1
FILED JANUARY 26, 2023	
MEMORANDUM IN RESPONSE TO DEFENSE’S MOTION TO DISMISS	5
DATED JUNE 18, 2024	
IMMUNITY HEARING TRANSCRIPT	13
DATED JUNE 20, 2024	
TESTIMONY	
HANNAH MANZI	
Direct Examination by Mr. Jennings	25
Cross Examination by Mr. Simpson	44
STEVEN LARIBO	
Direct Examination by Mr. Jennings	52
HEATHER DIAMOND	
Direct Examination by Mr. Jennings	63
Cross Examination by Mr. Simpson	70
MELSHAUN ROBINSON	
Direct Examination by Mr. Jennings	78
Cross Examination by Mr. Simpson	124
Redirect Examination by Mr. Jennings.....	139
JAZIEL ARMENTA	
Direct Examination by Mr. Simpson	141
Cross Examination by Mr. Jennings	165
Redirect Examination by Mr. Simpson.....	180
DANIEL WILSON	
Direct Examination by Mr. Simpson	183
Cross Examination by Mr. Jennings	194
Redirect Examination by Mr. Simpson.....	202
STATE’S EXHIBIT NO. 1 (STIPULATION 1)	253
STATE’S EXHIBIT NO. 2 (STIPULATION 2)	255
STATE’S EXHIBIT NO. 3 (STIPULATION 3)	256

STATE’S EXHIBIT NO. 4 (WOUND CHART)	258
STATE’S EXHIBITS NO. 5 – 11 (PHOTOS)	259
STATE’S EXHIBITS NO. 13 – 16 (PHOTOS)	266
DEFENSE EXHIBITS NO. 1 – 15 (PHOTOS).....	271
MEMORANDUM IN SUPPORT OF IMMUNITY.....	286
FILED JUNE 20, 2024	
ORDER DENYING MOTION FOR IMMUNITY FROM PROSECUTION	294
FILED OCTOBER 8, 2024	
TRIAL TRANSCRIPT	321
DATED JUNE 24-27, 2024	
JURY SELECTION.....	358
OPENING STATEMENT BY MR. SIMPSON	385
OPENING STATEMENT BY MR. JENNINGS	399
TESTIMONY	
KEVIN SPEERS	
Direct Examination by Ms. Bozarth	411
Cross Examination by Mr. Jennings	419
Cross Examination by Ms. Bozarth	422
ASHLEIGH WOJSLAWOWICZ	
Direct Examination by Mr. Simpson	428
Cross Examination by Mr. Jennings	454
Redirect Examination by Mr. Simpson.....	459
JEFF MILLER	
Direct Examination by Ms. Bozarth	464
Cross Examination by Mr. Jennings	473
RENE CHARLES	
Direct Examination by Ms. Bozarth	476
Cross Examination by Mr. Jennings	484
Redirect Examination by Ms. Bozarth.....	485

HOLLY (SAUNDERS) BENNETT	
Direct Examination by Mr. Simpson	486
 TASHA OTTE	
Direct Examination by Ms. Bozarth	490
Cross Examination by Mr. Jennings	496
Cross Examination by Ms. Bozarth	502
 DANIEL WILSON	
Direct Examination by Mr. Simpson	504
Cross Examination by Mr. Jennings	577
Redirect Examination by Mr. Simpson.....	602
 JAZIEL ARMENTA-ZAVALA	
Direct Examination by Mr. Simpson	614
Cross Examination by Mr. Jennings	654
Redirect Examination by Mr. Simpson.....	687
 HANNAH PERLITZ (MANZI)	
Direct Examination by Mr. Simpson	700
Cross Examination by Mr. Jennings	721
Redirect Examination by Mr. Simpson.....	733
 MOTION FOR DIRECTED VERDICT.....	738
 COURT’S RULING	743
 STEVE LARIBO	
Direct Examination by Mr. Jennings	751
Cross Examination by Mr. Simpson	757
 MELSHAUN ROBINSON	
Direct Examination by Mr. Jennings	767
Cross Examination by Mr. Simpson	802
Redirect Examination by Mr. Jennings.....	837
 MOTION FOR DIRECTED VERDICT RENEWED	841
 COURT’S RULING	841
 CHARGE CONFERENCE.....	842
 CLOSING ARGUMENT BY MR. SIMPSON	876
 CLOSING ARGUMENT BY MR. JENNINGS.....	914

FINAL CLOSING ARGUMENT BY MR. SIMPSON.....	940
CHARGE ON THE LAW	951
VERDICT	992
MOTION FOR NEW TRIAL.....	997
COURT’S RULING	998
SENTENCING	1009
DEFENSE EXHIBITS NO. 1 – 17 (PHOTOS).....	1012
AUTOPSY EXAMINATION REPORT CASE #2021-1442.....	1040
TOXICOLOGY REPORT BY LAURA M. LABAY, PH.D., F-ABFT.....	1053
INDICTMENTS AND SENTENCING SHEETS	1056
NOTICE OF APPEAL.....	1068
CERTIFICATE OF COUNSEL	1070

THE FOLLOWING EXHIBITS ARE ON FILE WITH THE
CHARLESTON COUNTY CLERK OF COURT’S OFFICE:
JUNE 24-27, 2024 TRIAL DEFENSE EXHIBIT #18 (FLASH DRIVE)
JUNE 20, 2024 IMMUNITY HEARING STATE’S EXHIBIT #12 (FLASH DRIVE)
JUNE 20, 2024 IMMUNITY HEARING DEFENSE EXHIBIT #16 (FLASH DRIVE)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
MOTION COVERSHEET

WARRANT/TICKET/

INDICTMENT #'s 2021A1010900174 - 176

STATE OF SOUTH CAROLINA

-vs-

MELSHAUN ANTWAN ROBINSON

DEFENDANT

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☒ MOTION HEARING REQUESTED

☐ FORM MOTION, NO HEARING REQUESTED

SECTION I: Hearing Information

Nature of Motion: IMMUNITY HEARING PURSUANT TO SECTION 16-11-450

Estimated Time Needed: 1-2 Days

Court Reporter Needed: ☒ YES/ ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of ☐ Solicitor ☒ Attorney for Defendant

Date submitted 1/26/20

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
THE STATE OF SOUTH CAROLINA,	)	CASE NO. 2021A1010900174 - 176
	)	
	)	
PLAINTIFF,	)	
	)	
vs.	)	
	)	
MELSHAUN ANTWAN ROBINSON,	)	
	)	
	)	
DEFENDANTS.	)	
	)	

MOTION TO DISMISS PURSIANT TO SECTION 16-11-450 SC CODE OF LAWS

TO: THE NINTH CIRCUIT SOLICITORS OFFICE:

YOU WILL PLEASE TAKE NOTICE that on the tenth day after service, or at such other time as scheduled by the Court, the Defendant, Melshaun Robinson, by and through his undersigned counsel, will move for an Order to dismiss the above referenced warrants pursuant to Section 16-11-450, South Carolina Code of Laws (1976) and *State v. Duncan*, 392 S.C. 404, 709 S.E.2nd 662 (2011) and its progeny.

The Defendant's motion is based upon the following:

- 1) The Defendant, Melshaun Antwan Robinson, was arrested on April 27, 2021 by Officers with the City of Charleston Police Department and charged with Murder, Attempted Murder and Possession of a Weapon During a Violent Crime resulting from an incident that took place at the King Street Cabaret on April 25, 2021.
- 2) On the evening of April 25, 2021, Mr. Robinson was working at the King Street Cabaret as the Assistant General Manager. The alleged victims in this case, Jaziel Armenta and Zabdiel Tinoco-Hernandez were patrons of the club that night.
- 3) Mr. Robinson reserves the right to submit additional evidence in support of this motion. The evidence presented during the hearing will establish the following:

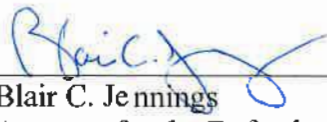
- a. At approximately 8pm, Mr. Robinson was informed by club employees that Mr. Armenta and Mr. Hernandez were extremely intoxicated, and that Mr. Armenta had physically and sexually assaulted a female employee and was generally causing a disturbance in the club. Mr. Robinson approached the men and confronted them over the assault of the club employee. Mr. Robinson asked them to leave. Despite initial protests, Mr. Armenta and Mr. Hernandez eventually agreed to leave the club. While he was escorting them out of the club, Mr. Robinson told them not to come back. In addition to other threats and caustic comments, Mr. Armenta replied "I will kill you and everyone in here" and that he would "kill that snitching bitch".
- b. When Mr. Robinson had escorted the men out of the club, he returned to the club office to retrieve his handgun in case the men returned. Mr. Robinson was concerned for his safety, in addition to the safety of the other employees and patrons due to the threats from Mr. Armenta. Mr. Armenta had a bag draped over his shoulder during the night, and Mr. Robinson believed that the bag contained a weapon. Additionally, Mr. Robinson was concerned the men might retrieve a weapon from their vehicle in the parking lot if they intended to return and act on the threats of Mr. Armenta.
- c. Mr. Robinson went out into the parking lot of the Club to make sure the men left the area, and to get the tag number of their truck in order to file a police report with the Charleston Police Department. Mr. Robinson had his handgun secured out of view in his pants. Once safely in their truck, rather than driving away to avoid any future confrontation, Mr. Armenta and Mr. Hernandez drove towards Mr. Robinson who was in the private parking lot near the club entrance. As the vehicle stopped, Mr. Robinson produced his handgun in an attempt to deter the men from approaching him. Rather than leaving the area and avoiding a conflict, Mr. Armenta got out of the truck and aggressively approached Mr. Robinson on the Club's property.
- d. Significantly, Mr. Robinson had recently undergone surgery on his foot. He was wearing a boot to immobilize his foot, and could only move around with the use of a scooter to support his injured foot. Both Mr. Armenta and Mr. Hernandez approached Mr. Robinson on the club's private property, and instigated a physical confrontation that resulted in Mr. Robinson firing his weapon in self-defense as the men attacked him.
- e. Mr. Robinson was at all times during the incident at a place he had a right to be, as it was his place of business pursuant to SC Code Ann Section 16-11-440(c).

- f. Mr. Robinson at all times during the incident was not engaged in an unlawful activity;
- g. Mr. Robinson was attacked by Mr. Armenta and Mr. Hernandez, and had no duty to retreat; had the right to stand his ground; had the right to meet force with force; and reasonably believed that his actions were necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60, South Carolina Code of Laws (1976).

Therefore, Mr. Robinson requests an Order from the Court finding that he was justified in using deadly force on April 25, 2021 and is immune from criminal prosecution pursuant to Section 16-11-450, South Carolina Code of Laws (1976).

January 26, 2023

By


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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

vs.

MELSHAUN ANTWAN
ROBINSON,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

**Memorandum in Response to Defense's Motion to
Dismiss and Memorandum in Response**

Arrest Warrant #2021A1010900174
Arrest Warrant #2021A1010900175
Arrest Warrant #2021A1010900176

Indictment #2024-GS-10-03064
Indictment #2024-GS-10-03065
Indictment #2024-GS-10-03066

On June 19, 2024, this Court will hold a hearing on the Defense's motion for immunity from prosecution pursuant to the Protection of Persons and Property Act, S.C. Code §§16-11-420, *et seq.* ("the Act"). By overwhelming video evidence, certainly meeting this Court's preponderance of the evidence standard, the Act does not apply to the present case and the motion should be denied. The State respectfully submits the following memorandum in support of the motion's denial.

I. Relevant Facts

On April 25, 2021, at 1337 King Street Extension ("The King Street Cabaret," an adult entertainment business) at approximately 8:20 p.m., two patrons decided to leave the night club after spending the early evening there. After about an hour and a half at the club, the two left of their own accord and the great majority of their time there was captured on video. The Defense will spend a good deal of the Court's time during the hearing disparaging these two men by offering a version of their conduct while attending the club that either doesn't comport with that on video or is alleged to have occurred during times they were not on video. During the jury portion of this trial, the State will have comment and rebuttal to these allegations, but as this is a hearing on the applicability of the law over an event happening outside of the club a good while later, not in view of these interior witnesses, all of these allegations of victim misconduct earlier, that have since this incident grown from mildly inappropriate, to moderately offensive, now to "sexual assault," are largely irrelevant to the current hearing. To the extent they are relevant, they

would only go to show why and how angry the defendant was at these two patrons, thus making his later shooting of them an act of malice, and not fearful self-defense.

What is relevant to the current hearing follows:

After they exited the establishment, they began walking toward their truck to leave. While walking toward their truck to go home, however, they were verbally confronted by the defendant, a bouncer at the club, who pursued them outside the doorway, partially exited the business, and began yelling at them over a perceived disrespect to another employee at the club (an adult dancer). According to the surviving victim (one of the two patrons exiting) and the video evidence, this was the first interaction shared between them and the defendant that evening. This verbal exchange between them at the front entrance of the business ended with the defendant telling the two to stay where they were and wait for him to get back. The two ignored these demands and proceeded to their truck to leave, as going home was their only intention.

The defendant, however, was not going to just let them leave. Utilizing a wheeled scooter at the time due to an injured foot, he rolled with haste to the office of the business, retrieved his handgun, concealed it in his rear waistband, and quickly returned to the front door location where he demanded the two patrons wait for him. He had a problem however, when he returned – the two were gone. They had already left the premises, wishing only to go home.

Sadly though, they were parked in an auxiliary parking lot across the street and their path out to King Street and home passed right up to a stop sign, where the armed defendant stood nearby waiting for them. At this point, the defendant confronted the truck at the stop sign and renewed his verbal confrontation that he (not the victims) began earlier on video outside of the front door. The passenger of the truck, window down, seeing this angry person again trying to confront them, returned the defendant's verbal taunts, but the confrontation remained just that - merely verbal. In direct contradiction of the defendant's later statement, the two victims remained in their car, limiting this entire affair to merely a childish exchange of words at a stop sign.

The defendant, however, now the only person armed with a firearm in this situation, was apparently not content with limiting this exchange to mere words. Depicted clearly on video, after it became obvious that the verbal taunts were not going to be enough to draw the victims into a confrontation with his pistol, the defendant then reached to the ground, picked up a sizeable rock, and threw it at the victims, hitting their truck on the passenger side.

Upon having a rock thrown at them, the two individuals in the truck exited the vehicle and began walking toward the defendant. Their approach, however, never even approximated an arm's length distance before the defendant presented his weapon and pointed it at both of their heads. The two reacted on video as any rational person would. Upon the pointing of the firearm, the two stopped, placed their hands and arms in submissive postures, and began to step backwards. Each can be seen retreating to get distance between themselves and the conspicuously armed defendant.

Their slow backwards movement became an all out run when the defendant began to chase them, gun pointed at their heads, around a parked car. One of the individuals, Jaziel Zavala, was able to evade the pursuing armed defendant around a car, but the defendant ultimately caught up with him and began to strike him and place him into a headlock. The second patron, Zabdiel Hernandez, seeing his friend being actively chased down, beaten and choked, attempted to grab the defendant from behind and save his friend. This action was unsuccessful, however, as the defendant threw Zabdiel to the ground.

What followed is shocking. After confronting the two men at the door, confronting them again at the stop sign, throwing a rock at them when they refused to get out of the truck, pointing a gun at their heads and chasing them as they attempted to flee him, the defendant shot Zabdiel in the back as he lay on his hands and knees facing down on the pavement:



Upon the initial shot, both men tried to run away from the defendant as fast as they could, but the defendant continued to shoot at their backs as they ran away, moving the gun from one to the other and back. In total, six shots were fired, three at each fleeing man.

Zabdiel Tinoco Hernandez, age 30 at the time, a husband and father, sadly was killed by three gunshots to his back. Jaziel Armenta-Zavala, also age 30, survived two gunshot wounds and will testify. The establishment in question was equipped with a video surveillance system and most of the evening, including the events described above, were captured on video.

II. Analysis: Self-Defense

In State v. Glenn, 429 S.C. 108, 838 S.E.2d 491 (2019), our Supreme Court provided a manual-like instruction on the approach our courts are to take to a claim of prosecutorial immunity pursuant to the Act. Glenn explains that a claim of “stand your ground” immunity is not an abdication of a traditional self-defense claim, but merely an added wrinkle to long-established self-defense doctrine in South Carolina. Accordingly, before even analyzing the more current statutory language of the Act, “a trial court should first consider whether the defendant has proved the elements of self-defense by preponderance of the evidence.” Id. at 118, 838 S.E.2d at 496. As will be discussed below, the Act merely outlines certain situations where the duty to retreat may not apply to a claim of self-defense and other situations where fear of harm may be presumed reasonable. If the defendant cannot first prove to a preponderance of the evidence that the other traditional elements of self-defense are met, then the claim to immunity fails. Further statutory analysis is unnecessary. Id.

The traditional elements of self-defense are as follows:

First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Dickey, 394 S.C. 491, 499, 716 S.E.2d 97, 101 (2011).

“A valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant’s entitlement to the Act’s immunity.” State v. Curry, 406 S.C. 364, 372, 709 S.E.2d 263, 266 (2013). According to Glenn and Curry, the trial court must make a specific factual finding on the record, preferably in a written order, that each element of self defense has been proven by the defense, save the reasonable fear of harm and the duty to retreat (the only elements potentially impacted by the statute), before moving on to statutory analysis.

Here, the defendant’s claim of immunity fails before it begins. The defendant’s motion for immunity would first absolutely require the Court to find on the record that he has proven by a preponderance of the evidence that he is completely without fault in bringing on this difficulty. The Court has viewed irrefutable video evidence of the defendant pursuing the leaving victims out of the front door to engage them. Following a very brief verbal exchange, the Court has viewed the defendant rush to grab his handgun, conceal it, and return to confront the victims, only to again find that they’ve left. The Court has viewed the defendant’s armed search for the victims, ending when he found them leaving at the stop sign. The court has viewed the victims stay in their truck, only verbally sparring with the defendant until he assaults them with a rock. The Court has viewed the victims stop, back up, and retreat at the sight of defendant’s gun, then bolt in fear as the defendant, pointing a gun at their heads, chases them around parked cars. Finally, the Court has viewed the defendant shoot at each defendant’s back as they ran from him. To determine immunity applied, the Court would have to explain on the record that none of the above constituted any fault whatsoever in bringing on this incident. That would simply be a finding without evidentiary support and, thus, an abuse of discretion.

Our analysis should end there, but in caution we continue. The second finding by the Court required to move forward would be that the defendant has proven he was in danger of losing his life. This is likewise unsupported by the record. The defendant smiles at the door while verbally jarring with the victims, he runs before further verbal conflict to grab his gun, ensuring he’s the only armed man of the group. A man afraid does not pursue the trouble, a man afraid, once safely inside, shuts and locks the front door of the business he is managing and calls the police. The defendant went looking for a fight and had to engage a vehicle at a stop sign to get it. A man afraid for his life, surely at least then, would have his words and that’s it, but the defendant threw a rock at the truck to escalate the situation. This is not the behavior of a man fearing death. When he

finally coaxed them out of their truck with a rock, the defendant chased them! Pursuit in search of conflict is not the action of man afraid for his life. The motion for immunity fails on this element as well.

The third requirement for immunity is that the Court conclude that it is proven that the defendant's belief that he had to strike a fatal blow was reasonable. Not to belabor a point already made but explaining the actions of the defendant in this video as "reasonable" would be a difficult task for any court.

III. Analysis: The Act

Because the presumptions outlined in S.C. Code §16-11-440(A) and (B) do not apply here,¹ the State will focus, as the defense has, on the application of §16-11-440(C), which reads in full:

(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonable believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

Importantly, having failed to prove by a preponderance of the evidence the other elements of self-defense, analysis of this section is unnecessary. However, even if the Court were to find this section generally applicable to this case, the defendant's claim still fails under the plain language of the statute.

The Statute first requires a defendant to act lawfully for the statute to apply. The defendant in the present case was not acting lawfully. While the mere unlawful possession of a handgun may not in itself negate this requirement, certainly the assault with the rock and the chasing of the victims around the car with the firearm pointed at their heads is unlawful conduct which would negate the applicability of this statute. The defendant's tepid claim of "right of ejection" does not make this conduct legal. The victims in this case left on their own accord – they repeatedly showed they were self-ejecting and were it not for the defendant's repeated engagements with them, would have clearly gone home. If anything, the defendant continues throughout the video to interrupt their peaceful self-ejectment. The defendant's continued confrontations and assaults (initially

¹ There is no allegation the victims were attempting the forceful entry into a dwelling or vehicle or attempting to remove anyone from same.

verbal, then physical with the rock, then the pointing and presenting of the gun, then the pursuit of the fleeing victims around the car, then the physical assault on Jaziel between the cars, then the shocking firing upon Zabdiel while he was on all fours on the ground, and finally the repeated firing at both of their backs as they fled) constitute unlawful conduct negating this section's applicability. Should the Court entertain the imaginative notion that this was merely a lawful business ejection, even State v. Dickey, 394 S.C. 491, 716 S.E.2d 97 (2011), oft cited by the defense, requires that a business ejection be conducted in good faith to negate the duty to retreat, and the above conduct certainly cannot be considered that.

Secondly, the statute by its own language maintains the traditional requirement that the actions of the defendant be reasonably necessary to prevent death or great injury. Without belaboring this repeated point, no Court could draft an order after scrutinizing this video justifying this defendant's actions, such as his continual confrontations or the throwing of a rock at the victims, as reasonable, nor the repeated firing at fleeing unarmed subjects' backs as necessary to prevent harm.

Lastly, Section C, even if deemed applicable under the strict application of its own language, merely operates to negate a defendant's duty to retreat. The statute in no way grants the subject a right of preemptory violent attack. After he initiated several confrontations with the victims, it remains Melshaun Robinson who is the attacker and pursuer of the victims in the final conflict. There is nothing in the Act that allows a citizen the right, in fear or not, to become the primary aggressor in the conflict, even in a scenario where the duty to retreat is arguably absent. This is also the primary distinction between this matter and the good faith ejection of Dickey, Mr. Dickey was attacked while ejecting patrons, Melshaun Robinson, to the contrary, was the attacker. Section C makes clear its application only to a person "who is attacked . . . in his place of business," not, as here, a person who attacks. Melshaun Robinson, therefore, had a legal duty to take advantage of his several opportunities to retreat and stand down from this confrontation he instead repeatedly attempted to initiate and escalate.

For the above stated reasons, the defendant's motion for immunity pursuant to the Protection of Persons and Property Act, S.C. Code §§16-11-420, *et seq.*, should be denied and this case proceed to jury trial.

Respectfully submitted,

 6.18.24
Assistant Solicitor Chad Simpson

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF CHARLESTON

4 State of South Carolina,

5 vs.

Transcript of Record
2024-GS-10-03064,
2024-GS-10-03065,
2024-GS-10-03066

6 Melshaun Antwan Robinson,

7 Defendant.
8
9
10

11 June 20, 2024
12 Charleston, South Carolina

13 B E F O R E:

14 The HONORABLE DEADRA L. JEFFERSON

15 A P P E A R A N C E S:
16

17 Benjamin C. Simpson, Solicitor

18 Sara Bozarth, Solicitor

19 Blair Jennings, Representing the defendant
20
21
22

23 SHARON G. HARDOON, CSR
24 Official Circuit Court Reporter, III
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2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

Witness Name	Page	Line
HANNAH MANZI		
Examination By Mr. Jennings	13	17
Cross By Mr. Simpson	32	6
Steven Laribo		
Examination By Mr. Jennings	41	6
Heather Diamond		
Examination By Mr. Jennings	51	9
Cross By Mr. Simpson	58	22
Melshaun Robinson		
Examination By Mr. Jennings	66	5
Cross By Mr. Simpson	112	22
Jaziel Armenta		
Examination By Mr. Simpson	129	15
Cross By Mr. Jennings	153	14
Re-Direct By Mr. Simpson	168	8
Daniel Wilson		
Examination By Mr. Simpson	171	16
Cross By Mr. Jennings	182	17
Re-Direct By Mr. Simpson	190	4
Certificate of Reporter	240	1

E X H I B I T S

STATE EXH. 1, Stipulation 1	8	11
STATE EXH. 2, Stipulation 2	8	13
STATE EXH. 3, Stipulation 3	8	15
STATE EXH. 4, Wound Chart	8	17
STATE EXH. 5, Photo;	8	19
Surveillance		
STATE EXH. 6, Photo	8	21
STATE EXH. 7, Photo	8	23
STATE EXH. 8, Photo	8	25
STATE EXH. 9, Photo	9	2
STATE EXH. 10, Photo	9	4
STATE EXH. 11, Photo	9	6
STATE EXH. 12, USB Drive	9	8
STATE EXH. 13, Autopsy Photo	9	10
STATE EXH. 14, Autopsy Photo	9	12
STATE EXH. 15, Autopsy Photo	9	14
STATE EXH. 16, Autopsy Photo	9	16

1 EXHIBITS CONTINUED:

2	DFT. EXH. 1, Photo	9	18
	DFT. EXH. 2, Photo	9	20
3	DFT. EXH. 3, Photo	9	22
	DFT. EXH. 4, Photo	9	24
4	DFT. EXH. 5, Photo	10	1
	DFT. EXH. 6, Photo	10	3
5	DFT. EXH. 7, Photo	10	5
	DFT. EXH. 8, Photo	10	7
6	DFT. EXH. 9, Photo	10	9
	DFT. EXH. 10, Photo	10	11
7	DFT. EXH. 11, Photo	10	13
	DFT. EXH. 12, Photo	10	15
8	DFT. EXH. 13, Photo	229	7
	DFT. EXH. 14, Photo	229	9
9	DFT. EXH. 15, Photo	229	11
	DFT. EXH. 16, USB Flashdrive	229	13

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1 THE BAILIFF: All rise.

2 THE COURT: I believe you-all tested the
3 technology you need to utilize; is that correct?

4 MR. SIMPSON. I believe so, Your Honor.

5 MR. JENNINGS: I believe so.

6 THE COURT: This is the State vs.
7 Melshaun Antwan Robinson, indicted for murder,
8 GS-10-3064, and 2024-GS-10-3065 on indictment for
9 attempted murder, and 2024-GS-10-3066, possession
10 of a weapon during the commission of a violent
11 crime. And all of those indictments refer to an
12 event which is alleged to have occurred on April
13 25th of 2021.

14 This is before the Court pursuant to a
15 motion filed on January 26th of 2023 by
16 Mr. Jennings on behalf of the defendant seeking
17 immunity pursuant to 16-11-450 on the code of laws
18 as amended, what we would commonly refer to as the
19 stand-your-ground statute.

20 According to my list, the State has two
21 witnesses; is that correct?

22 MR. SIMPSON: One or two, Your Honor.

23 THE COURT: And the defense has four
24 witnesses; is that correct?

25 MR. JENNINGS: That's correct, Your

1 Honor.

2 THE COURT: Okay. And the other list
3 that you provided to me, Mr. Simpson, that's your
4 list of trial witnesses, correct?

5 MR. SIMPSON: It is, Your Honor.

6 THE COURT: Okay.

7 MR. SIMPSON: We have significantly
8 paired it down.

9 THE COURT: That's fine. I just wanted
10 to make sure I was referencing the correct
11 documents.

12 And this is on the docket for next week,
13 is that also correct?

14 MR. SIMPSON: It is, Your Honor.

15 THE COURT: And, Mr. Jennings, have you
16 provided us with a witness list as well for trial
17 purposes?

18 MR. JENNINGS: I have not, but I will,
19 Your Honor.

20 THE COURT: Okay.

21 MR. JENNINGS: Either this afternoon or
22 in the morning, as well as voir dire.

23 THE COURT: Thank you. I appreciate
24 that.

25 And has the State already submitted its

1 voir dire?

2 MR. SIMPSON: It has, Your Honor.

3 THE COURT: I left my notes downstairs.
4 I'm sure it's attached to it. My clerk just went
5 to get it for me. I'm pretty sure I recall having
6 it.

7 MR. SIMPSON: Okay. I was just going to
8 note, just to save time, Monday usually my voir
9 dire is very boring, but question 5 and 6 are
10 unusual in this case.

11 THE COURT: Okay. I'll look at them.

12 MR. SIMPSON: I wanted to point that
13 out.

14 THE COURT: I'll look at them and see if
15 we need to take that up today.

16 We have with us court reporter from
17 Beaufort today.

18 THE COURT REPORTER: Sharon Hardoon.

19 THE COURT: Who we are very appreciative
20 that she was able to come from Beaufort this
21 morning and stand in for Jamie. And, since she
22 doesn't know everybody, let's make sure she knows
23 everyone who is appearing for everyone.

24 So who is appearing on behalf of the
25 State?

1 MR. SIMPSON: Chad Simpson and assisting
2 me is Sara Bozarth for the State.

3 THE COURT: And, Mr. Jennings, is there
4 anyone assisting you today?

5 MR. JENNINGS: My paralegal, Miss
6 Jennings, but she will not be appearing before the
7 Court. Just myself.

8 THE COURT: Okay.

9 All right. State ready to proceed?

10 MR. SIMPSON: Yes, Your Honor.

11 THE COURT: Is the defense ready to
12 proceed?

13 MR. JENNINGS: Yes, Your Honor.

14 THE COURT: Did you-all premark any
15 exhibits?

16 THE COURT REPORTER: I'm doing it right now,
17 Judge.

18 THE COURT: Okay.

19 MR. SIMPSON: May I approach the court
20 reporter?

21 THE COURT: Yes, sir.

22 (Off the record.)

23 THE COURT: Yes, sir.

24 MR. SIMPSON: Your Honor, we have some
25 preliminary matters.

1 THE COURT: Hold on one second.

2 MR. SIMPSON: Your Honor, I pulled these
3 from our overall trial list.

4 THE COURT: We'll have to mark them
5 consistent for this hearing, so you are going to
6 need to get with the court reporter for her
7 marking system so we can make sure we are
8 consistent so that when she has the document, that
9 she is able to have a consistent numbering system.

10 MR. SIMPSON: 1 through 11.

11 (STATE EXH. 1, Stipulation 1, was
12 marked and entered into evidence.)

13 (STATE EXH. 2, Stipulation 2, was marked and
14 entered into evidence.)

15 (STATE EXH. 3, Stipulation 3, was marked and
16 entered into evidence.)

17 (STATE EXH. 4, Wound Chart, was marked and
18 entered into evidence.)

19 (STATE EXH. 5, Photo; Surveillance, was
20 marked and entered into evidence.)

21 (STATE EXH. 6, Photo, was marked and entered
22 into evidence.)

23 (STATE EXH. 7, Photo, was marked and entered
24 into evidence.)

25 (STATE EXH. 8, Photo, was marked and entered

1 into evidence.)

2 (STATE EXH. 9, Photo, was marked and entered
3 into evidence.)

4 (STATE EXH. 10, Photo, was marked and
5 entered into evidence.)

6 (STATE EXH. 11, Photo, was marked and
7 entered into evidence.)

8 (STATE EXH. 12, USB Drive, was marked and
9 entered into evidence.)

10 (STATE EXH. 13, Autopsy Photo, was marked
11 and entered into evidence.)

12 (STATE EXH. 14, Autopsy Photo, was marked
13 and entered into evidence.)

14 (STATE EXH. 15, Autopsy Photo, was marked
15 and entered into evidence.)

16 (STATE EXH. 16, Autopsy Photo, was marked
17 and entered into evidence.)

18 (DFT. EXH. 1, Photo, was marked and entered
19 into evidence.)

20 (DFT. EXH. 2, Photo, was marked and entered
21 into evidence.)

22 (DFT. EXH. 3, Photo, was marked and entered
23 into evidence.)

24 (DFT. EXH. 4, Photo, was marked and entered
25 into evidence.)

1 (DFT. EXH. 5, Photo, was marked and entered
2 into evidence.)

3 (DFT. EXH. 6, Photo, was marked and entered
4 into evidence.)

5 (DFT. EXH. 7, Photo, was marked and entered
6 into evidence.)

7 (DFT. EXH. 8, Photo, was marked and entered
8 into evidence.)

9 (DFT. EXH. 9, Photo, was marked and entered
10 into evidence.)

11 (DFT. EXH. 10, Photo, was marked and entered
12 into evidence.)

13 (DFT. EXH. 11, Photo, was marked and entered
14 into evidence.)

15 (DFT. EXH. 12, Photo, was marked and entered
16 into evidence.)

17 THE COURT: Now, are there any exceptions
18 to the admission to any of these -- let me start
19 in order.

20 So for the purposes of this immunity
21 hearing, is there any exception to the admission
22 of State's 1 through 11?

23 MR. JENNINGS: None from the defense,
24 Your Honor.

25 THE COURT: Is there any exception to the

1 defense's exhibits 1 through 15?

2 MR. SIMPSON: None, Your Honor, but I'll
3 just note that the State just added a 12.

4 THE COURT: Okay.

5 MR. JENNINGS: And the defense just added
6 a 16.

7 THE COURT: All right. So that would be
8 State's 1 through 16 without objection, correct?

9 MR. JENNINGS: Correct, Your Honor.

10 THE COURT: And defense's 1 through 12
11 without objection?

12 THE COURT REPORTER: The other way around.

13 MR. SIMPSON: Flip it around.

14 THE COURT: Oh, you know what? I did it
15 backwards. I apologize. Normally, I list it
16 differently. My mistake.

17 Defense's 1 through 16 without objection,
18 and the State's 1 through 12 without objection; is
19 that correct? From the State?

20 MR. SIMPSON: Yes, Your Honor.

21 THE COURT: From the defense?

22 MR. JENNINGS: Correct.

23 THE COURT: Okay. Are we ready to
24 proceed?

25 MR. SIMPSON: Yes, Your Honor. I would

1 note that State's 1 through 3 are stipulations
2 that the defense has and I have entered to be read
3 at your convenience, Your Honor.

4 THE COURT: Thank you.

5 MR. SIMPSON: They need to be
6 read into the record.

7 THE COURT: I'll read those. That's
8 State's 1 through 3.

9 MR. SIMPSON: Yes, Your Honor.

10 THE COURT: Okay. Anything else before
11 we proceed with testimony? From the State?

12 MR. SIMPSON: No, Your Honor.

13 THE COURT: From the defense?

14 MR. JENNINGS: No, Your Honor.

15 THE COURT: Call your first witness.

16 MR. JENNINGS: Your Honor, the defense
17 would call Hannah Manzi.

18 THE CLERK: Do you swear or affirm the
19 testimony you shall give the Court to be truth,
20 the whole the truth, and nothing but the truth so
21 help you God?

22 THE WITNESS: I do.

23 THE COURT: Please have a seat for me.
24 Will you state your full name for the record.
25 Just spell your last name, please.

1 THE WITNESS: I have kind of two last
2 names right now. It's either under Hannah
3 Catherine Manzi or Hannah Catherine Perlitz.

4 THE CLERK: I'm sorry. Please say and
5 spell your -- the last -- please spell both of the
6 last names.

7 THE WITNESS: Manzi is M-a-n-z-i.
8 Perlitz is P-e-r-l-i-t-z.

9 THE COURT: Thank you. You may
10 proceed.

11 MR. JENNINGS: Thank you, Your Honor.
12 May it please the Court?

13 THE COURT: Yes, sir.

14 WHEREUPON:

15 HANNAH MANZI,
16 after having been sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. JENNINGS:

19 Q Good morning, Hannah.

20 A Good monring.

21 Q Where are you currently living?

22 A In Myrtle Beach.

23 Q And where are you working?

24 A I work at Grand Strand Medical Center.

25 Q And what capacity are you employed there?

1 A I'm an anesthesia resident.

2 Q All right. I believe you are in your residency
3 right now?

4 A That's correct.

5 Q How long have you been up in Myrtle Beach?

6 A For a year now.

7 Q Where did you go to medical school?

8 A MUSC in Charleston.

9 Q And was it -- were you here in April of 2021?

10 A I was.

11 Q Where did you grow up?

12 A In Mount Pleasant.

13 Q And did you go to high school here?

14 A I did. I went to Academic Magnet.

15 Q What year did you graduate?

16 A 2014 from Academic Magnet.

17 Q And then where did you go to college?

18 A College of Charleston.

19 Q What year did you graduate in?

20 A 2018.

21 Q And then when did you begin at MUSC?

22 A 2019.

23 Q In April -- for the incident that we are here for
24 today, April 25th of 2021, what year were you in
25 medical school?

1 A I was in my third year of medical school.

2 Q And did you also have a job?

3 A I'm sorry. Second year.

4 Q Second year, okay.

5 Were you working at the King Street Cabaret?

6 A I was.

7 Q What type of business is that?

8 A It's a strip club.

9 Q How often would you work each week?

10 A Anywhere from one to three times a week.

11 Q And was it, sort of, at your choosing as to when
12 you went in to work, or did you have a set schedule?

13 A Yeah. I didn't have a schedule.

14 Q You'd work it around your school schedule?

15 A Yes. I was full-time student at the time as
16 well.

17 Q When you were at work, what capacity did you work
18 at King Street Cabaret?

19 A I was a dancer there.

20 Q And did you go by Hannah or did you have --

21 A I went by Isabella.

22 Q Isabella?

23 A Uh-huh.

24 Q Okay. When did you begin working at King Street
25 Cabaret?

1 A It was in April of 2021.

2 Q This happened on April 25th. Can you give us an
3 idea how long you had been there before this incident
4 took place?

5 A About three weeks.

6 Q Okay. I want to turn your attention to Sunday,
7 April the 25th. Do you recall that day?

8 A I do.

9 Q Do you remember what time you went in to work?

10 A Around 4:30 that day.

11 Q Okay.

12 A Which is when I got there most days.

13 Q What time does the club open?

14 A I believe at this time they opened at 4:00.

15 Q And so just give me an idea of what, sort of, you
16 would do when you got there. How a normal day would
17 go.

18 A It was mainly socializing and talking to the
19 customers at the bar, and then I would go back and
20 do private dances.

21 Q We've got some photographs that we'll be pulling
22 out, but I believe there's also stages in the main bar
23 area?

24 A There is. I didn't go on the stage very
25 frequently, though.

17
1 Q Okay. So how does the -- explain to me, sort of,
2 the inner workings of how you're compensated, how that
3 interchange with customers worked with the dances?

4 A So we -- there are two options for the types
5 of dances. There is a semi-private room, which
6 was a room with a bunch of chairs around it. And
7 those were anywhere from, like, 25 to 35 per song.
8 And the club would be compensated \$5 per song, and
9 we would keep the remainder of it.

10 And then the other side was a private room
11 with the small couch that you could book for more
12 money and those -- the girls set the prices for those
13 rooms; however, most started anywhere from, like, 150
14 to 300 per increments of 15 minutes, and we would owe
15 the club \$50 per increment of 15 minutes that we were
16 back in those rooms.

17 Q So \$50 for 15 minutes, \$100 for 30 minutes, and
18 keep going up?

19 A Yes.

20 Q And how would those, how would the prices be
21 determined for the dance?

22 A The girls would set them ahead of time and
23 communicate them with the customer. Most -- there
24 isn't a set amount that the club mandated that you
25 charge, but you needed to charge at least \$50

1 because that's how much you owed the club.

2 Q And anything above that you would keep?

3 A Correct.

4 Q And how would the money be -- I assume you would
5 collect the money from the customer at the end of the
6 dance?

7 A Yes.

8 Q And then how do you pay the club its share?

9 A You pay them after your time is up.

10 Q At the end of the shift, or at the end of the
11 dance?

12 A No, no. At the end of each -- whether you're
13 in the private room at the end of each song or
14 increments of songs that you do, or if you are in
15 the -- sorry, semi-private. And then if you're in
16 the private room, then you pay them at the
17 completion of the increment of however long you're
18 back there.

19 Q Who would you pay?

20 A I would pay the bouncer/manager, so that
21 would be Melshaun or James, or a couple of the
22 other guys that worked there.

23 Q Okay. You know Melshaun Robinson?

24 A I do.

25 Q Was he the manager on the night of April 25th of

1 2021?

2 A He was.

3 Q And had you known him over the time that you had
4 been there for three weeks?

5 A I have.

6 Q So on that afternoon -- we'll, kind of, skip
7 forward a little before 8:00. Did you have an
8 opportunity at the bar to talk with several gentleman
9 about a private dance?

10 A Yes.

11 Q Can you tell me about that, please?

12 A So there were two men that approached me,
13 both of which were in the courtroom -- or Steve
14 actually stepped out. But they wanted to do a
15 dance -- they were suggesting doing a dance
16 together. I was newer at the time. I didn't know
17 that that was not really something that women did
18 typically, do a dance with two guys at once. I
19 had done a dance with a guy and a girl, so I
20 thought it was okay to have two men back there at
21 once, but I was told after the fact that that was
22 not typically what was done.

23 So we just discussed going back and doing a
24 private dance with the two of them.

25 Q Okay. And you said you saw one gentleman in the

1 courtroom. Do you see the other gentleman in the
2 courtroom?

3 A Yes. He's directly across from me.

4 Q In the blue shirt?

5 A Yes.

6 MR. JENNINGS: Your Honor, the record can
7 reflect she identified Mr. Armenta, please.

8 THE COURT: Mister who?

9 MR. JENNINGS: Armenta.

10 THE COURT: You may proceed.

11 BY MR. JENNINGS:

12 Q And do you remember how the -- we'll say the
13 financials of the dance, how it was going to go?

14 A I don't remember what we decided on in terms
15 of the exact amount that we agreed upon, but one
16 of the gentleman was going to pay for the first
17 dance and the other one was going to pay for the
18 second dance.

19 Q Which gentlemen was going to pay for the first
20 dance, and which the second dance?

21 A I don't remember.

22 Q Okay. I'll show you what's Defendant's Exhibit 1.
23 Do you recognize -- can you see it on the screen?

24 A Yeah, I see it right here.

25 Q Do you recognize that gentleman?

1 A I do.

2 Q And that's Mr. Armenta?

3 A Yes, sir.

4 Q When you saw him in the club, did he have the
5 bag?

6 A The fanny pack, yes.

7 Q And how was he wearing that?

8 A Across his chest.

9 Q Okay. Defendant's Exhibit 2, can you just, sort
10 of, describe to us what we see in that photograph and
11 orient the Court as to the inside of the club, please?

12 A Sure. So what you are seeing on the far
13 right side is the hallway that leads from the
14 entrance to the club. This is the main area. Off
15 of the camera is the center stage. To the right
16 are the couches with the VIP area where sometimes
17 the manager and bouncer would sit, kind of
18 watching the club. To the left of that is a
19 mirror against the wall. These bar stools on the
20 bottom right are -- you can see the back of the
21 bar reflecting in the mirror, and then these are
22 the couches and tables that are surrounding the
23 center stage.

24 Q So the bar in the bottom right, is that where you
25 were sitting with these gentlemen?

1 A Yes. It's kind of off this picture, but it
2 was to the far right.

3 Q Defendant's Exhibit 7, I believe, is just from,
4 sort of, the opposite angle. So on the bottom left
5 corner, that's generally where you were sitting?

6 A Yes.

7 Q Defendant's Exhibit 6, I believe you referenced
8 the hallway.

9 A Uh-huh.

10 Q As you walk down the hallway, the first area to
11 the right, what is that, what rooms are those?

12 A Those are four, like, private rooms, which
13 are couches with curtains in front of them.

14 Q Okay. And then to the left?

15 A Are the semi-private rooms, which is one
16 giant room with a series of a bunch of different
17 seats surrounding the walls.

18 Q And, finally, Defendant's Exhibit 5, I believe is
19 the hallway down to the -- or just where the private
20 rooms are?

21 A Yes. This that first right that you were
22 just referencing with the four rooms.

23 Q And are there two on the left, two on the right?

24 A Uh-huh.

25 Q And is there any kind of a -- is there a door or

1 any sort of --

2 A No doors.

3 Q -- dividers?

4 A Just the curtains.

5 Q Okay. And so then the private dance then, just
6 the dancer and the customer go back into the room?

7 A Uh-huh.

8 Q Is the music in the rooms different from the music
9 that's playing in the bar?

10 A No.

11 Q Is it piped in separately or you're just hearing
12 the music?

13 A You can just hear it over the speakers.

14 Q Is it pretty loud?

15 A It's very loud.

16 Q So you and Mr. Armenta and Mr. Laribo go back to
17 the private rooms?

18 A That's correct.

19 Q And so the two of them would have been sitting on
20 the couch?

21 A Uh-huh.

22 Q And you would have been dancing?

23 A Yes.

24 Q Tell me how things went during the dance, if you
25 would, please?

1 A When we went back there, I -- so what's
2 typical is that we remove most of our clothing
3 except for our underwear, and we're doing a
4 topless dance. I did a dance for both of them;
5 however, Mr. Armenta, kind of, monopolized the
6 dance and pulled me back towards him a lot. He
7 was a little rough towards me in just in terms of
8 the way he was grabbing me and tossing me around
9 as I doing the dance. And Steve made a comment to
10 me that he felt uncomfortable and he ended up
11 leaving the dance early

12 Q Explain to me in a little more detail what you
13 mean about grabbing you and tossing you around?

14 A Just the way he was gripping me was a little
15 rough. I guess, it was almost as if he was
16 mimicking, like, sex with me and grabbing me,
17 tossing me around a little bit. It's kind of hard
18 to describe, but moving me around in different
19 positions really quickly, like fast, rough
20 movements.

21 Q Okay. I hate to ask you this, but how were you
22 dressed at the time?

23 A I just had a thong on.

24 Q Anything up above?

25 A No.

1 Q How did you feel while this -- while he was doing
2 this to you?

3 A I felt -- I don't -- I typically work the day
4 shift because I don't like dealing with the more
5 boisterous night crowd and people that were
6 intoxicated. I like to deal with more of a sober
7 crowd, just causally talking with people after
8 work. So I definitely felt very nervous. I was
9 new to the strip club and I didn't know how to
10 handle the situation.

11 I voiced to him several times throughout the
12 dance that he needs to be more gentle with me and to
13 stop, but I don't think those expressions were taken
14 seriously.

15 Q In the time that you've been with Mr. Armenta at
16 the bar, was he drinking alcohol?

17 A He was.

18 Q And based on your impressions dealing with him,
19 could you tell if he was intoxicated?

20 A He was.

21 Q What characteristics gave you that impression?

22 A He was slurring his words and swaying.

23 Q When you were up at the bar?

24 A Uh-huh.

25 Q Okay. I think you said at some point Mr. Laribo

1 got up and left the dance?

2 A Yes.

3 Q Did you -- did you terminate the dance at that
4 point or did things continue?

5 A Things continued.

6 Q Describe to me then how. At this point, it's just
7 you and Mr. Armenta in the room?

8 A That's correct.

9 Q And what happened from that point on?

10 A He continued to be rough with me. He picked
11 me up and dropped me, kind of was pushing me
12 against the wall, and just the grip on my body was
13 very tight and I felt uncomfortable.

14 Q Okay. So was this then -- how many songs or how
15 long were you in the room, do you remember?

16 A It was supposed to be a total of 15 minutes,
17 but we ended it a bit little early.

18 Q And what led to it ending early?

19 A I mean, I was uncomfortable the entire dance,
20 but at one point he did expose himself and I
21 thought that it would probably be better to -- at
22 that point, I felt like it was probably best to
23 end the dance and not continue tolerating that
24 behavior.

25 Q When you said that he exposed himself, can you

1 tell me in detail?

2 A He unzipped his pants.

3 Q And did he pull his penis out?

4 A He did.

5 Q At that point towards -- did he try to touch
6 you?

7 A He had been touching me the entire time.

8 Q What parts of your body?

9 A He tried to put his hands in my underwear.

10 Q And was that towards the end?

11 A Yes. There were several times throughout as
12 well, but I would constantly try to redirect his
13 hands.

14 Q And so then at the end, did he pay you as you-all
15 had agreed for the dance?

16 A No. He did not pay the full amount. I can't
17 remember what he offered, but I think -- I don't
18 remember exactly. I think maybe we agreed on 300,
19 and he might have offered a hundred.

20 Q Did you-all -- how did that conversation go? Was
21 it cordial?

22 A No. I felt -- I asked him if he would pay
23 the full amount that we agreed on, and he said,
24 *No, you're taking advantage of me. We're not*
25 *doing that. That's too much money, even though*

1 that's what we agreed on prior to the dance. And
2 then he just said, "I'm not paying you."

3 Q Did you suggest to him what you might do if he
4 refused?

5 A Yes. I told him that I would have to go get
6 the manager to talk to him because they don't --
7 they don't like when the customers don't pay.

8 Q And what was his response to that?

9 A "Do that and I'll beat his ass."

10 Q In the time that you were with Mr. Armenta at the
11 bar, at any point, did you see if he was there with a
12 friend?

13 A He was.

14 Q And, at some point, did the friend come back to
15 the room?

16 A He did. I think he heard us arguing about
17 the money, and he came in and he was going through
18 his ones and trying to count them and help -- was
19 trying to help offer to pay.

20 Q Did you let him know what the problem was at that
21 point?

22 A I did.

23 Q And did he pay you some money?

24 A I think he tried to. I don't remember if he
25 actually ever handed my the money or not.

1 Q Okay. So then tell me how things progressed from
2 there?

3 A I remember accepting whatever amount that
4 they offered at the time because I didn't really
5 want to continue engaging with these people, and I
6 went and saw Steve outside the room. At that
7 time, I was a little upset and told him what had
8 happened. And then I spoke to Duane at the bar as
9 well and told him what had happened as well, and
10 both of them encouraged me to tell Sean because
11 they didn't want him to continue interacting with
12 the other girls in the club in that way and
13 continuing causing problems there. So they
14 encouraged me to tell him -- to ask him so that he
15 could be asked to leave.

16 Q Why didn't you just go and tell Sean as soon as
17 you came out of the room?

18 A Like I said, I was new and I didn't want to
19 be causing any problems. I was also worried about
20 the threat that he made and Sean was on a scooter
21 at the time. I'm not sure if he had a broken
22 ankle or a broken foot or some sort of surgery,
23 but he was on scooter. So I was concerned about
24 him about making that threat to him with him not
25 being able to walk.

1 Q At some point then did you talk with Sean and tell
2 him what happened in the room?

3 A I did. Sean was sitting up in the couches
4 and I went over and explained the situation to
5 him.

6 Q Did you point the men out to him?

7 A I did.

8 Q And then what did Sean do?

9 A Sean got out of the couches and went to go
10 talk to him.

11 Q And did you see anything or do anything that
12 happened after that?

13 A No.

14 Q Obviously, you know what ultimately happened in
15 the parking lot, correct?

16 A Correct.

17 Q How long did you stay at the King Street Cabaret?

18 A I worked there all the way through medical
19 school, so I left in May or June of last year.

20 Q Okay. So how long would that have been?

21 A That would have been an additional, I think,
22 two and a half years.

23 Q Okay. In that two and a half years, did you
24 encounter another situation that was similar to this
25 and this activity?

1 A No. No one that was ever this aggressive or
2 rough towards me.

3 Q After everything transpired in the parking lot,
4 the Charleston Police Department arrived, correct?

5 A Correct.

6 Q And there were lots of police officers?

7 A Uh-huh.

8 Q I believe you spoke to an officer briefly at the
9 scene?

10 A I did.

11 Q Did anybody ever follow up with you after the
12 night of the incident?

13 A Not until this past week.

14 Q Last week?

15 A Yeah, last week.

16 Q Okay. Of 2024?

17 A Correct.

18 Q Okay. But nobody called you the next week and
19 said, could you come in and give a written
20 statement?

21 A No.

22 Q Ask you for any more details about what
23 happened?

24 A No.

25 MR. JENNINGS: Beg the Court's

1 indulgence. That's all the questions I have,
2 Your Honor.

3 If you would answer any questions the
4 prosecution has.

5 MR. SIMPSON: Thank you.

6 CROSS-EXAMINATION

7 BY MR. SIMPSON:

8 Q Good morning.

9 A Good morning.

10 Q How are you?

11 A Doing well. How are you?

12 Q I'm okay. I know this is probably not fun for
13 you. I appreciate you being here. Thank you.

14 I just really want to review a couple things
15 you said --

16 A Of course.

17 Q -- to make sure I understand them correctly.

18 You said it's always the most expensive
19 dances and the most money the club is going to make
20 off of a dance are those that happen in that private
21 room, is say that fair?

22 A Yes.

23 Q They get the \$50 cut for every 15 minutes. Am I
24 wrong to describe that as sort of, like, that's -- the
25 money maker is going on in that room?

1 A Uh-huh.

2 THE COURT: Did you say "yes" or "no?"

3 THE WITNESS: Yes.

4 THE COURT: Thank you.

5 BY MR. SIMPSON:

6 Q And you said that each dancer gets to determine
7 the amount that they are going to charge for the time
8 back in the private room?

9 A That's correct.

10 Q Okay. And also you mentioned here, because of
11 that, it's a good practice or policy to, kind of,
12 hammer out those details prior to going back?

13 A Yes.

14 Q But you were a relatively new dancer at the
15 time?

16 A I was.

17 Q After this incident in the years you continued to
18 work there, did that -- was that a point that you made
19 more of a point of after this, to really hammer out
20 the details prior to a private dance?

21 A I think I did clarify the details prior to
22 this.

23 Q Oh, okay.

24 Mr. Jennings asked you if you remembered the
25 exact amount that you guys had worked out prior to

1 going into the room. You said, "I don't remember the
2 exact amount." Is that fair?

3 A Yes.

4 Q You also said you don't recall today out of
5 Mr. Laribo, who I believe is here somewhere, and the
6 individual you pointed out, who was going to pay for
7 the first one or the second. You don't recall how
8 they figured out they were going to split that up?

9 A Yeah, I don't really think it mattered. One
10 of them was going to pay one song. The other one
11 was going to pay the other song.

12 Q Right. At this point in time, you didn't have any
13 reason to believe that either of them was going to
14 attempt to not pay you?

15 A Correct.

16 Q Okay. You also noted that the music is pretty
17 loud in the club?

18 A It is.

19 Q It kind of sets the vibe of the club?

20 A Yes.

21 Q Okay. So sometimes speaking between you and
22 patrons or patron to patron is a little difficult over
23 the music sometimes?

24 A It can be.

25 Q Okay. I just want to ask, is there a possibility,

1 particularly between Mr. Laribo and Jaziel, is there a
2 possibility that they had some confusion as to what
3 the financial agreement was prior to going back into
4 the room?

5 A No.

6 Q No?

7 A (Witness moves head from side to side.)

8 Q Okay. This is not the first time you've talked
9 about this incident, right? You've given statements
10 prior to?

11 A Yes, I have.

12 Q Do you recall giving a statement that night?

13 A To the police officer?

14 Q Right.

15 A Yes.

16 Q Do you recall describing the events to the police
17 officer that occurred that night?

18 A Yes. I mean, I don't remember exactly.

19 Q I'm not trying to trick you. I'll get right to my
20 point. Did you leave anything out that night when you
21 were speaking with the police officer?

22 A I don't think we fully discussed everything.

23 Q Okay. Did you mention to the police officer, to
24 get specific, that night that Jaziel had exposed
25 himself?

1 A No, I didn't.

2 Q Do you recall the Charleston public defender's
3 office investigator getting in touch with you later?

4 A Yes.

5 Q Does June 2, 2021 -- I know, dates are weird --
6 but does that sound about right to you?

7 A Yes.

8 Q Do you recall providing them with a pretty lengthy
9 statement on June 2nd?

10 A Yes.

11 Q Okay. Do you recall, either yes, no, or I don't
12 recall, if you mentioned during that five-page
13 statement you gave that he exposed himself to you?

14 A I did not on my initial statement --

15 Q Okay.

16 A -- but on the second one I gave, I made a
17 comment on that.

18 Q Thank you. Yeah, so then you gave a third
19 statement. I know dates are weird, but does June 10th
20 sound about right?

21 A Approximately.

22 Q Approximately a week after that first one?

23 A Yes.

24 Q It was in that third statement that you did
25 mention that he exposed himself to you?

1 A Yes.

2 Q And, again, that's pretty personal stuff; isn't
3 it?

4 A Yes.

5 Q All right. Is it fair, am I characterizing it
6 okay, that that wasn't a fact that you were real
7 anxious to share with other people?

8 A Correct.

9 Q Until the 10th?

10 A (Witness nods head up and down.)

11 Q And was that the first time you had shared that he
12 exposed himself?

13 A On an official statement, yes.

14 Q Okay. Did you tell Melshaun that he exposed
15 himself that night?

16 A I don't remember.

17 Q Okay. Again, I should just convey to you because
18 I have the opportunity, I'm sorry if you felt unsafe
19 in that room. We're here to talk about what Melshaun
20 knew. And you mentioned in your direct that you did
21 explain the situation to Melshaun.

22 A Uh-huh.

23 Q You don't recall if you told him if he exposed
24 himself or not?

25 A Yeah, I don't recall.

1 Q What, if you could to the best you can -- I know
2 it's been a long time -- what did you share with
3 Mr. Robinson about what happened in that room?

4 A I think the name -- I don't remember the
5 minute details, but I do remember saying, *I don't*
6 *feel safe, I feel uncomfortable.*

7 Q Okay.

8 A *He's not paying me the amount we agreed upon,*
9 *and he was handling me rough. I think me just*
10 *saying, I'm uncomfortable, I don't feel safe, was*
11 *all that needed to be said to him.*

12 Q Okay. I want to make sure we understand you and
13 don't change your words and twist them around later.

14 A Yeah.

15 Q You felt at the time that that sort of general
16 description was enough and that you didn't need to get
17 into any further details.

18 A Yes.

19 Q You understand that? Fair enough?

20 A Uh-huh.

21 Q And included in that was that you weren't paid?

22 A Yes.

23 Q Thank you for your patience. I just don't want to
24 miss anything.

25 You mentioned in your direct from

1 Mr. Jennings that at this point in the time that he
2 exposed himself, you said you decided enough was
3 enough, and that even though the dance had not gotten
4 to the final minute, I think in a previous statement,
5 if I was wrong tell me, you said it was probably two
6 minutes until end time of the dance --

7 A Uh-huh.

8 Q -- you said, *Un-huh*, correct?

9 A Yes.

10 Q We're stopping the dance, and you left?

11 A Yes.

12 Q So, is it fair to say that, even with the
13 aggression, you could stop and leave? You, in fact,
14 did, correct?

15 A Yes. So I -- they told me after that I
16 definitely should have left as soon as I felt
17 uncomfortable and that was standard protocol.

18 Q Okay. And I'm just saying, no one -- he did not
19 prevent you from leaving when you decided it was over,
20 correct?

21 A Correct.

22 Q Thank you. A little more patience from you.
23 Thank you.

24 MR. SIMPSON: I don't have any more
25 questions for you, Doctor, thank you.

1 THE COURT: Any redirect?

2 MR. JENNINGS: No, Your Honor.

3 THE COURT: Any objection to the witness
4 being excused for the purpose of this hearing from
5 the State?

6 MR. SIMPSON: Not for the purposes of
7 this hearing, Your Honor.

8 THE COURT: From the defense?

9 MR. JENNINGS: No, Your Honor.

10 THE COURT: Ma'am, you are excused
11 subject to being recalled.

12 Next witness.

13 MR. JENNINGS: Steve Laribo.

14 THE CLERK: Do you swear or affirm the
15 testimony you shall give the Court to be truth,
16 the whole truth, and nothing but the truth so help
17 you God?

18 THE WITNESS: I do.

19 THE CLERK: Please state your full name
20 for the record, spelling your last name, please.

21 THE WITNESS: My name is Steven
22 Christopher Laribo, L-a-r-i-b-o.

23 THE COURT: Can you please spell Steven
24 as well, sir?

25 THE WITNESS: It's S-t-e-v-e-n.

1 THE COURT: Thank you. You may
2 proceed.

3 WHEREUPON:

4 STEVEN LARIBO,
5 after having been sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. JENNINGS:

8 Q Good morning, Mr. Laribo.

9 A Good morning.

10 Q Appreciate you being here. You had a doctor's
11 appointment at the VA?

12 A Yes, sir.

13 Q You okay?

14 A Still a little blurry, but I'm good.

15 Q Okay. Well, I don't think I'm going to show you
16 any pictures, but, if I do, let me know if you have a
17 problem seeing it and I can walk up and show it to you
18 closer.

19 How old are you, sir?

20 A I'm fifty-eight.

21 Q You live here in Charleston?

22 A Yes.

23 Q How long have you lived here?

24 A Since '93, so about 25, 28 years.

25 Q What brought you here, the Air Force?

1 A Yes. Retired from the Air Force.

2 Q Okay. And after -- so you came here in '93 after
3 you retired?

4 A Yes. Well, I was born and raised in
5 Summerville. We traveled. But I retired in
6 '90 -- well, really in 2012, and just made
7 Charleston my home.

8 Q All right. And where do you live?

9 A I live in West Ashley in Carolina Bay.

10 Q Are you familiar with the King Street Cabaret?

11 A Yes.

12 Q And tell me what that is.

13 A It's an adult entertainment club.

14 Q Do you go there from time to time?

15 A We meet up with some of my friends and stuff
16 down there, yes.

17 Q And were you there on April the 25th of 2021?

18 A Yes.

19 Q If you -- just generally, how many times do you
20 think you might go in a month back in 2021?

21 A It wouldn't be every month. It would
22 probably be about every two or three months we'd
23 meet up and go down there.

24 Q But were you familiar with some of the staff?

25 A Yes.

1 Q Did you know Mr. Melshaun Robinson?

2 A Yes.

3 Q And he was a manager there?

4 A He was one of the bouncers that I knew of.

5 Q Okay. Do you remember what time you went there on
6 the 25th?

7 A It was probably about 5:00, 5:30 in the
8 afternoon.

9 Q And just, kind of, walk me through what you would
10 typically do?

11 A Well, that day none of my friends showed up,
12 so I sat at the bar. We were talking to a young
13 lady, and we were just having random
14 conversations. And then the other guy showed up
15 and wanted one of the dances and stuff. He was
16 pretty persistent, and I told her that she should
17 go ahead, and, you know, give him a dance or
18 whatever. And he insisted that we do a double
19 one, which I've never done, but we went back there
20 and we did the dance with her.

21 Q And the dancer that you were talking to, did you
22 know her name?

23 A Yeah, but I don't remember her name right
24 now.

25 Q Okay. So you were talking. Who was the gentleman

1 that you were talking with at the bar? Can you
2 describe him for me, please?

3 A He was a Mexican guy. I didn't catch his
4 name. We just started doing a random
5 conversation, just talking to the dancer.

6 Q Do you remember what he was wearing?

7 A I don't remember exactly what he was wearing,
8 but I knew he had, like, a fanny pack or something
9 across his chest to hold his money and stuff in.

10 Q Okay. So you-all were sitting at the bar talking
11 to the dancer and were going to go back and have a
12 private dance?

13 A Right.

14 Q Had you-all talked about how much it was going to
15 cost?

16 A Yeah. She told us the price of it, and we
17 agreed to it, so we went in the back and did the
18 dance.

19 Q How long was it going to last; one song, two
20 songs?

21 A One song.

22 Q And did you have a chance to talk with this
23 gentleman about how -- if you were going to pay, if he
24 was going to pay?

25 A He was going to pay for his and I was paying

1 for mine.

2 Q And so how would that work with one song? How did
3 you think it was going to take place?

4 A Well, I've never done it before, so we were
5 back there and she was just going to go between
6 the two of us back and forth.

7 Q So you go down the hallway to the right where the
8 private rooms are?

9 A Right.

10 Q So you and this other gentleman?

11 A Right.

12 Q And the dancer?

13 A Yes.

14 Q Describe for me what happened back -- or how
15 things progressed back in the room?

16 A Once we got back there, she started in front
17 of him for a few seconds, and then she came over
18 to me for about five or ten seconds, then he
19 pulled her back to him and pretty much kept her
20 over there. He just wanted her all to himself,
21 so...

22 Q How far apart were you-all?

23 A The seats about were about as big as -- well,
24 smaller than like a love seat, I guess, you would
25 find in a home. So they weren't that far apart.

1 Q Could you see what interaction he was having with
2 her?

3 A Yes.

4 Q How, could you tell, was he have touching her,
5 grabbing her?

6 A He was more aggressive because they have
7 policies on there about touching the girls and
8 stuff, but he was definitely all over her. His
9 hands were all over her, so...

10 Q And how did -- so how did things continue then
11 with the dance?

12 A It was pretty much just the two of them, and
13 I sat there. And then when my song was over, so I
14 paid her. And he wanted her to stay back there,
15 so she stayed with him. So I paid her and then I
16 walked out of the room.

17 Q And then do you know what happened in the room
18 after you left?

19 A No.

20 Q When you were at the bar with the gentleman
21 talking, could you tell if he was drinking alcohol?

22 A Yeah. It's like I've been around enough
23 military guys when they've been drinking. Yeah,
24 he already had a few drinks, I could tell.

25 Q And what characteristics was he exhibiting that

1 led you to that conclusion?

2 A He was pretty persistent and just with the
3 slurred speech and everything, I could tell that
4 he already had a few drinks, or whatever.

5 Q When -- so then you leave the room, and I assume
6 you leave the dancer back there with this gentleman,
7 where did you go when you left?

8 A I went to the bar, and then I went to the
9 ATM. And then I, kind of, like just walked back
10 and forth up and down the hallway, because, like,
11 they'd already been back there one other song and
12 then another song came on and they were still back
13 there. And you really can't see anything from the
14 hallway, so I, kind of, walked back towards the
15 room but the curtain was closed so I couldn't see
16 anything in there.

17 Q Okay. Just so we're clear, as you were coming in
18 the courtroom, a woman was leaving --

19 A Yes.

20 Q -- did you recognize her?

21 A She looked like the dancer, yes.

22 Q So you couldn't -- because the curtain was closed,
23 you couldn't see what was going on?

24 A Right.

25 Q At some point then later, did you see the young

1 woman when she came out of the room?

2 A Yeah. When she came out, I went up and
3 talked to her, and she seemed like she was pretty
4 upset. And I asked her what happened, and she
5 said he was pretty aggressive back there.

6 MR. SIMPSON: Objection.

7 THE COURT: Basis.

8 MR. SIMPSON: Hearsay.

9 THE COURT: Sustained. Hearsay.

10 BY MR. JENNINGS:

11 Q You can't say what someone told you.

12 A Well, she told me that --

13 THE COURT: Sir, you can't say what she
14 told you.

15 THE WITNESS: Okay.

16 THE COURT: You can only say what you did
17 as a result.

18 THE WITNESS: I went and talked to her
19 and she was just upset about whatever happened
20 back there in the room.

21 BY MR. JENNINGS:

22 Q And did you make any suggestion to her based on
23 what she told you?

24 A I told her that she needed to go talk to the
25 bouncer at the time.

1 Q And then obviously we're here for what happened
2 afterwards out in the parking lot. You weren't out
3 there, correct?

4 A No, I wasn't.

5 Q You didn't witness that?

6 A No.

7 Q Did you have the opportunity that night to talk to
8 any police officers from the City of Charleston Police
9 Department?

10 A Yeah. There was one inside the club taking
11 statements from everyone and I spoke to him about
12 what I noticed and what happened inside the bar.

13 Q When you say "taking statements," did you have an
14 opportunity to write down your statement?

15 A No. He wrote down the statements and got our
16 names and addresses and phone numbers and said
17 that someone would be contacting us.

18 Q And did you ever hear from anybody?

19 A Yes. It was probably, I want to say maybe a
20 month later, or two months, I got a phone call.
21 And, I guess, they were investigators or
22 something. And I met them at Panera Bread and
23 they took my statement then.

24 Q And that was an investigator from the public
25 defender's office, correct?

1 A I'm guessing yes.

2 Q And you provided a written statement at that
3 time?

4 A Yes.

5 Q Thank you, Mr. Laribo. That's all the questions I
6 have for you.

7 THE COURT: Any questions for the
8 witness?

9 MR. SIMPSON: No, Your Honor.

10 THE COURT: Any objection to the witness
11 being excused for the purposes of this hearing
12 from the State?

13 MR. SIMPSON: No, Your Honor.

14 THE COURT: From the defense?

15 MR. JENNINGS: No, Your Honor.

16 THE COURT: Sir, you are excused subject
17 to recall.

18 Call your next witness.

19 MR. JENNINGS: Your Honor, we call
20 Heather Diamond.

21 THE CLERK: Do you swear or affirm the
22 testimony you shall give the Court to be truth,
23 the whole truth, and nothing but the truth so help
24 you God?

25 THE WITNESS: Yes.

1 THE CLERK: Please state your full name
2 for the record and spell your last name please.

5 THE COURT: You may proceed.

6 WHEREUPON:

9 DIRECT EXAMINATION

10 BY MR. JENNINGS:

12 A Good morning.

4 A Thirty-nine.

16 A Yes.

18 A Uh-huh.

20 THE COURT: Ma'am, if you could tell us
21 yes or no.

23 MR. JENNINGS: The court reporter's taking
24 down everything what you're saying.

1 THE WITNESS: Understood.

2 THE COURT: Thank you.

3 THE WITNESS: Since October 2020, is when
4 I worked there.

5 BY MR. JENNINGS:

6 Q Okay. And you still work there?

7 A I do.

8 Q And I believe you also are the director of
9 Birthright of Charleston?

10 A Yes.

11 Q That's a crisis pregnancy center, as I understand
12 it.

13 A Yes.

14 Q April the 25th of 2021, you worked that Sunday?

15 A Yes.

16 Q And I believe you worked up at the front desk?

17 A Yes.

18 Q Is that where you normally work, between that and
19 bartending?

20 A Yes. Yes.

21 Q And is that kind of still what you do?

22 A I don't work the door anymore. Just
23 bartender.

24 Q Did you recall that Sunday what time you got to
25 work?

1 A Eight o'clock.

2 Q And was that typical when you were going to be up
3 at the front?

4 A Yes.

5 Q So being up at the front, what are duties and
6 responsibilities?

7 A I check ID's to make sure everyone is old
8 enough to enter, and I take payment for the cover
9 charge, and make sure everyone is in dress code.

10 Q Let me show you what is marked as Defendant's
11 Exhibit 3. That's the front of the bar?

12 A Yes.

13 Q The club?

14 A Yes.

15 Q Are there any windows on the door?

16 A No.

17 Q Any windows on the exterior of the building?

18 A No.

19 Q And I believe your desk is, kind of, just right
20 inside that back door, correct?

21 A Correct.

22 Q So, every time the door opens, do you have any
23 idea who's coming in?

24 A You cannot see anything. You have no idea
25 who is going to walk through that door.

1 Q I'll show you Defendant's Exhibit 8. That's the
2 side of the building?

3 A That is, yes.

4 Q Again, no windows?

5 A No windows.

6 MR. JENNINGS: Beg the Court's indulgence
7 one moment.

8 THE COURT: Yes, sir.

9 BY MR. JENNINGS:

10 Q All right. So you got there about eight o'clock
11 and were up front.

12 A Yes.

13 Q And I assume, at that time, patrons were coming
14 in?

15 A Yes.

16 Q Other employees were coming in?

17 A Oh, yes. Lots of people at the door.

18 Q Was there a point around getting closer to 8:15
19 that two Hispanic gentlemen came and were leaving the
20 club and Melshaun Robinson came up and there was some
21 interaction at the front door?

22 A Yes.

23 Q You knew Melshaun Robinson?

24 A Yes.

25 Q Was he the manager at the club?

1 A Yes.

2 Q And was working that night?

3 A Yes.

4 Q How long had you known him?

5 A Since I started working there.

6 Q Back in --

7 A Yes.

8 Q What was his physical condition that night?

9 A He had an injured foot, I believe. He was
10 either in a cast or a walking boot and he was
11 on -- like getting around on a cart where his knee
12 rested on it and his injured foot could be up. So
13 he was, you know, not fully capable of walking
14 around on his own.

15 Q Tell me what you remember about the interaction
16 between the three gentlemen that night?

17 A The two patrons were walking out, one of them
18 was quiet, the other one was saying something but
19 I couldn't really understand him. As they were
20 walking out, you know, I heard Melshaun say, you
21 know, *Don't come back*.

22 Q Do you remember where that interaction took
23 place?

24 A They were like walking out of the door.
25 There's like a little vestibule area when you walk

1 first in that front door, and then there's a
2 separate door past the desk and they were walking
3 out of there. He probably was walking through
4 that door as they were in the vestibule area.
5 They were in front of him.

6 Q Do you remember what that gentleman was wearing or
7 what he looked like?

8 A Hispanic male. I think he was wearing a
9 white shirt. I know he had like a sling bag on.
10 That's about all I can remember.

11 Q I'll show you what's marked as Defendant's Exhibit
12 Number 1. Do you recognize the bag?

13 A Yes. The sling bag, yeah. It was his friend
14 that had the white shirt then.

15 Q But that's the gentleman that you saw exiting?

16 A Yes.

17 Q What was Melshaun's demeanor like during the
18 interaction that you saw?

19 A He was calm, but he was assertive in making
20 sure that they moved towards the door. But he
21 wasn't touching them, or -- you know. He just,
22 you know, was saying, *You need to leave.*

23 Q And don't come back?

24 A He said, *Do me a favor and don't come back,*
25 is what he said.

1 Q Could you hear what the gentlemen with the
2 shoulder bag was saying?

3 A No.

4 Q Could you hear what the tone of his voice or what
5 his demeanor was?

6 A He was, like, angry. He didn't want to be
7 told to leave, but I couldn't really understand
8 anything he said. He had a thick accent. I'm not
9 sure he was speaking English or not, to be
10 honest.

11 Q And then Mr. Robinson comes back into the club,
12 and did you know where he went?

13 A I don't. I was sitting at the desk. He just
14 walked past me.

15 Q And then did he come back out?

16 A Yes, he walked back out.

17 Q When he went back out, did he have anything in his
18 hands?

19 A I saw nothing, no.

20 Q Did you see a handgun?

21 A No, no. I didn't see anything.

22 Q And did you see anything that happened outside?

23 A No, I couldn't see anything outside.

24 Q Again, there's no windows.

25 A No.

1 Q No transparency.

2 That night, did you have an opportunity to
3 talk to the police officers that came to the scene?

4 A I believe they talked to all of us, but there
5 was nothing in-depth at that point. They kind of
6 got our name and phone numbers and contact info,
7 but I don't think they really asked me any
8 questions that night that I can remember.

9 Q Did you give a written statement or asked to give
10 a written statement?

11 A Not that night.

12 Q Okay. And did anybody from the police department
13 ever follow up with you?

14 A Not the police department, no.

15 Q All right. Thank you.

16 MR. JENNINGS: That's all the questions I
17 have, Your Honor.

18 THE COURT: Any questions for the
19 witness?

20 MR. SIMPSON: Just you a few, Your Honor.

21 THE COURT: You may proceed.

22 CROSS-EXAMINATION

23 BY MR. SIMPSON:

24 Q Ms. Diamond, good morning.

25 A Good morning.

1 Q I think I may have misheard you. Did you just say
2 that you didn't give a statement that night?

3 A I mean, I don't remember giving a written
4 statement.

5 Q Oh, you were discussing about a written
6 statement?

7 A I never gave a written statement, no.

8 Q Do you remember speaking, though, about the
9 incident with the police that night?

10 A Briefly, yes.

11 Q And --

12 A But I don't remember a lot about that.

13 Q Okay. And you may not be aware of this, but do
14 you know that they have body cams and they record
15 their interactions with people?

16 A I do know that, that officers do, yeah.

17 Q So in this day and age, it would be more typical
18 to just have a talk with you and get it on video.
19 Fair enough?

20 A Yeah.

21 Q And you don't remember much about it, but do you
22 remember them coming specifically to you and saying,
23 *Hey, what happened tonight and give your version of*
24 *the event?*

25 A Yeah, they might have outside, now that I

1 think about it. All I can really remember is, in
2 the club, we all kind of lined up and gave our
3 names and numbers and contact info. They could
4 have spoken with me maybe outside of the club.

5 Q It sounds like you just don't have a very clear
6 recollection?

7 A I don't. I don't have a recollection.

8 Q That's okay.

9 You mentioned that you did give a written
10 statement later to the public defender's office; is
11 that correct?

12 A Yeah. Yes.

13 Q And I'd like to ask you just a couple of questions
14 about that, but first, if you could, sort of, describe
15 the entrance to the club? That front door is a pretty
16 heavy, like, metal door, am I right?

17 A Yes.

18 Q Does it lock? Are you able to lock it? Are you
19 able to lock it up at night?

20 A It does lock. I don't know how to lock it.

21 Q Oh, okay.

22 A I would have no way of knowing how to lock or
23 unlock that door.

24 Q So the manager that manages the place opens and
25 closes would know how to lock the front door.

1 A Yes.

2 Q You also -- so you say you do this anymore, but
3 you spent some time working that front door.

4 A Yes.

5 Q If a patron were to come in and have some sort of
6 bag or duffle bag, backpack bag, could you just say,
7 *Hey, could we just search that bag?* Or is it --

8 A I have never been in a position to where I
9 would be told to search anyone's bag.

10 Q Just let anything that could come in come in.

11 A I would imagine that would be at management's
12 discretion. I know that they don't like to have
13 bags in there.

14 Q How do you know they don't like to have bags in
15 there?

16 A Because of what has happened.

17 Q Right. So that is a policy that came about after
18 this?

19 A I don't -- I don't know for sure. I couldn't
20 tell you that.

21 Q Okay. You testified to this Court that you know
22 Melshaun was calm. You know that the Hispanic
23 gentleman with the satchel was angry because you could
24 see him from where you were?

25 A When they were walking out, I could see them.

1 Yeah, they walked right past me.

2 Q So were we to watch the video of them walking out,
3 we would see an angry talking upset man leaving that
4 club?

5 A I believe you would hear him. I mean, you
6 can't hear it, but I think so, yeah.

7 Q He wouldn't just be walking out kind of chill?

8 A No. I mean, I heard the man yelling like in
9 the club area as they started to walk up, like
10 while Melshaun was walking them out. I don't know
11 if he was, like, physically yelling as he walked
12 past me. But the man -- I mean, I heard his voice
13 like while he was in that club in the process of
14 being walked out. Yes.

15 Q And certainly his demeanor was angry. We'd see
16 that on the video.

17 A Yeah.

18 Q And then you say that, I'm not trying to put words
19 in your mouth. Clarify if I've got this wrong. This
20 confrontation happens and Melshaun's sort of out the
21 door, and they're out of the door, and that's when
22 this exchange happens. Is that fair?

23 A When Melshaun -- when I heard him speak to
24 them, the door was still open and somebody -- I
25 mean, they were not fully outside when I heard him

1 say that.

2 Q The two Hispanic males were still in the doorway
3 when you heard this exchange?

4 A At least one of them probably.

5 Q Okay.

6 A Yeah, like a foot in the door or something.

7 Like, the door was open. I don't recall him
8 having to open the door to follow them out to say
9 that.

10 Q Okay. But the Hispanics are right there in the
11 door so you can proceed and hear what they're
12 saying?

13 A They're there, yeah. They are right there.

14 Q We can watch the videos.

15 A Yeah.

16 Q And what about visible, when you're telling the
17 Court that you hear and you can't understand -- this
18 is important. You're not saying you heard a single
19 word that was spoken by them; is that correct?

20 A Yes.

21 Q Okay. But you can hear words even over the music;
22 is that correct?

23 A Yeah, I can hear somebody speak.

24 Q And you can see the two Hispanic males when this
25 happened?

1 A I mean --

2 Q Or at least one of them. You clarify.

3 A Yeah.

4 Q Okay.

5 A The door is open, I know that. I can't tell
6 you if they're in the door at that time or not.

7 Q But you're basing some of this demeanor on your
8 sight line to them, or at least one of them, I think
9 you said.

10 A Yes.

11 Q Clarify?

12 A Yes.

13 Q Thank you. Just a moment. Thank you,
14 Ms. Diamond. I have no further questions.

15 THE COURT: Any questions of the witness?

16 MR. JENNINGS: No, Your Honor.

17 THE COURT: Any objection to the witness
18 being excused for the purpose of this hearing from
19 the State?

20 MR. SIMPSON: No, Your Honor.

21 THE COURT: From the defense?

22 MR. JENNINGS: No, Your Honor.

23 THE COURT: Ma'am, you are excused
24 subject to being recalled.

25 THE WITNESS: Thank you.

1 THE COURT: You're welcome. We're going
2 to take a brief comfort break. During the
3 break -- I'm thinking about 10 minutes. It's
4 11:33, why don't we just say 11:45.

5 (A break was taken from 11:33 a.m. to 11:45 a.m.)

6 THE BAILIFF: All rise.

7 THE COURT: You may proceed. Defense
8 ready to proceed?

9 MR. JENNINGS: Yes, ma'am.

10 THE COURT: You may call your next
11 witness.

12 MR. JENNINGS: Your Honor, we call
13 Melshaun Robinson.

14 THE COURT: Sir, if you would come to the
15 stand to be sworn.

16 THE CLERK: Do you swear or affirm the
17 testimony you shall give the Court to be truth,
18 the whole truth, and nothing but the truth so help
19 you God?

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Please have a seat for me.
22 State your full name for the record, spelling your
23 last name, please.

24 THE WITNESS: Melshaun Antwan Robinson,
25 R-o-b-i-n-s-o-n.

1 THE COURT: You may proceed.

2 WHEREUPON:

3 MELSHAUN ROBINSON,
4 after having been sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. JENNINGS:

7 Q Melshaun, make sure you speak into the microphone.

8 THE COURT: If there are any telephones
9 on, they need to be turned off. If they are not,
10 they will be taken and they will not be returned.

11 You may proceed.

12 MR. JENNINGS: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 BY MR. JENNINGS:

15 Q Good morning, Melshaun.

16 A Morning.

17 THE COURT: Sir, I'm going to need you to
18 speak up a lot clearer than that or I'm going to
19 you need to speak directly into the mic. Thank
20 you.

21 THE WITNESS: Good morning.

22 BY MR. JENNINGS:

23 Q Just make sure you speak clearly, "yes's" or
24 "no's." The court reporter is taking down your
25 testimony. She can't take down head nods. Please say

1 "yes" or "no," so just speak audibly.

2 How old are you, sir?

3 A I'm 41 years old.

4 Q And where do you live?

5 A Summerville, South Carolina.

6 Q And you have lived in Charleston your whole
7 life?

8 A Yes, sir, I have.

9 Q You've got children?

10 A Yes, sir. I have four kids. I have a
11 daughter and three sons.

12 Q How old is -- we'll start with your daughter. How
13 old is your daughter?

14 A My daughter is 26. My next oldest a 20 years
15 old. And I have a nine-year-old son and a
16 four-year-old son.

17 Q Your daughter, what is her name?

18 A Alicia Coker.

19 Q Where does she live, in Charleston?

20 A Yes, sir. Right now she's in the Air Force.
21 She's stationed here now.

22 Q And your oldest son, how old is he?

23 A He's 20. He stays in Centerville,
24 Virginia.

25 Q In Virginia?

1 A Yes, sir. Centerville, Virginia.

2 Q And your two little boys?

3 A Yes, sir. They stay in Orangeburg, South
4 Carolina.

5 Q Back up a little bit because we're getting some
6 feedback.

7 How old are those two?

8 A They're nine and four years old.

9 Q What's the nine-year-old's name?

10 A [REDACTED]. And the four-year-old's
11 name is [REDACTED].

12 Q And where do they live?

13 A Orangeburg, South Carolina.

14 Q They live with their mother?

15 A Yes, sir.

16 Q How often are you able to see them?

17 A Pretty much daily. I mean, it's a hike, but
18 pretty much daily and definitely the weekends.

19 Q Okay. You're able to help them with homework.

20 A Homework, sports, bedtime stories, stuff like
21 that.

22 Q Okay. Let's talk a little bit about your
23 background. You grew up here. I think you went to
24 Goose Creek High School?

25 A Yes, sir. I graduated in 2001.

1 Q What did you do after you got out of high
2 school?

3 A I went and worked with a family friend at the
4 Glass Shoppe for a little while. I left from
5 there and I worked Blanchard Machinery, a
6 technical program which is in Columbia, South
7 Carolina. And I came back to work in Summerville
8 for the next six or seven years.

9 Q I want you to slow down a little bit. Take a deep
10 breath.

11 A All right.

12 Q I know it's stressful, but speak clearly so the
13 judge can hear what you have to say.

14 A Yes, sir.

15 Q Where was the Glass Shoppe?

16 A 129 Red Bank Road, Goose Creek.

17 Q And tell me when you say "glass shop," I assume
18 you're just using that term generically. What is the
19 Glass Shoppe?

20 A Commercial, residential, auto glass, heavy
21 equipment, stuff like that.

22 Q How long did you work there?

23 A Off and on probably six, seven years. And
24 then I purchased a company from my friend's wife
25 when he passed away.

1 Q And then I think you said you also were working
2 with Blanchard Machinery?

3 A Yes, sir.

4 Q You were trained as diesel mechanic?

5 A Yes, sir.

6 Q Where did you do that training?

7 A Columbia, South Carolina. The Cayce exit up
8 there. There's a school over there.

9 Q So how long were you living up in Columbia?

10 A It was off and on for, like, two and a half
11 years.

12 Q Once you completed the program and started
13 working, were you working in Columbia or back in
14 Charleston?

15 A Back in Summerville, South Carolina.

16 Q And what kind of time frame was that?

17 A It was six, seven years. I was a main shop,
18 level one master mechanic.

19 Q And at some point you started working at the King
20 Street Cabaret?

21 A Yes, sir.

22 Q And when did you start working there?

23 A I think it was -- I think I came in 2013,
24 2014, somewhere in there.

25 Q And you worked there through this incident in

1 April of 2021?

2 A Yes, sir.

3 Q Once you were released from pretrial detainment,
4 and been out on bond the last two years or so, where
5 have you been working?

6 A For a company called Rap Contracting and Rap
7 Development. It's a commercial/residential
8 subsidy of Coldwell Banker.

9 Q What types of things did you do for that
10 company?

11 A So I'm superintendent over all of the housing
12 projects, and project manager on most of the
13 commercial projects they had going, and stuff like
14 that.

15 Q So the parent company is a commercial real estate
16 company?

17 A Yes, sir.

18 Q And you supervise the projects, various
19 projects?

20 A Start to finish on all the houses, start to
21 finish on a few of the shopping centers, and start
22 to finish on a lot of the upfit remodels, and
23 stuff. Like, if they purchased locally in the
24 area, and so I did stuff like that.

25 Q And you're still working there at this time?

1 A Yes, sir.

2 Q I want to talk a little bit about some of your
3 health background.

4 A Yes, sir.

5 Q I believe you are asthmatic.

6 A Yes, sir. I was born asthmatic.

7 Q What kind of treatment do you do for that?

8 A I have a rescue inhaler, and I take Albuterol
9 sulfate, and my nebulizer.

10 Q Do you do those daily or just as needed?

11 A Really kind of seasonally. Like, when the
12 season starts to change, like, I'll have, like,
13 bad sinus and chest tighten, throat starts to
14 close up, stuff like that, so I use the treatment
15 a lot more then.

16 Q How has that condition affected you as you went
17 from a boy, to a teenager, to an adult?

18 A It's put a lot of limits on stuff that I
19 wanted to do, or did do.

20 Q Were you able to play sports growing up?

21 A Yes, sir, but I wasn't able to be the best I
22 could be, you know. Just having asthma, I was
23 always catch your breath and take -- or use your
24 inhaler, or even using the treatment sometimes. I
25 usually take treatment sometimes before, or stuff

1 like that.

2 Q How about intense physical activity now?

3 A Same thing. I'm a lot older now, and I'm not
4 on light side at all, so that comes into play
5 too.

6 Q In April of 2021, I know we'll look when we see
7 the video, you were moving around on a scooter. You
8 had injured your right foot, I believe.

9 A Yes, sir.

10 Q Tell me what happened with that.

11 A I ordered some restaurant size can goods, and
12 the box -- they got delivered before I opened the
13 club. And the boxes got wet and I picked them
14 both up together, and the cans fell through the
15 box and crushed my right foot.

16 Q When you say "club," you're talking about the
17 King Street Cabaret?

18 A Yes, sir.

19 Q When -- what time period? If we're focusing on
20 April 25th of 2021, when did that injury take place?

21 A Probably a few months before that. I had
22 corrective surgery probably two weeks before the
23 incident happened.

24 Q So you've had surgery on your foot?

25 A Yes. I had it reconstructed. I had three

1 plates that have, like, 21, 22 screws in it.

2 Q Uh-huh. And what -- on April the 25th of 2021,
3 what was your -- were you able to work?

4 A Yes, sir.

5 Q Were you able to walk, put pressure on your
6 foot?

7 A No, sir. No, sir. I was using my scooter to
8 actually be mobile while I was at work and stuff
9 like that.

10 Q And that's the scooter that we see in the
11 videos?

12 A Yes, sir.

13 Q All right. Let's talk about April the 25th. That
14 was a Sunday?

15 A Yes, sir.

16 Q And how had you -- when you got to King Street
17 Cabaret, how were you employed? What was your
18 position there?

19 A I came in as a floor host, and I got promoted
20 to assistant GM.

21 Q What does the floor host mean?

22 A Basically, just help with the customers, help
23 the girls with the money and try to dissolve any
24 situation that may come up, stuff like that.

25 Q And when did you progress or promoted to assistant

1 manager?

2 A Probably a year and a half after I was there
3 I got promoted to assistant manager.

4 Q This happened in 2021. How long had you been
5 assistant GM, roughly?

6 A Maybe five, six years.

7 Q For a general night, how many -- explain to me
8 kind of what the workforce looks like, who is there
9 working and in what positions?

10 A So, initially, I opened. It was just me and
11 I opened up, so it would be me and a bartender.
12 And the DJ comes in at 7:00 and the girls come in
13 at 8:00. And all of the girls that come in,
14 they're just private contract. None of them are
15 employees of the company.

16 Q So like a typical business where there may be a
17 shift list on the back of the manager's office and
18 says, like, Blair's working Monday from 9:00 to 5:00,
19 you don't have that?

20 A No, sir.

21 Q Do you -- on any given night, do you know who is
22 going to show up to work?

23 A No, sir.

24 Q How does the compensation work within the club for
25 the girls that are dancing?

1 A Basically, they make a deal with a customer
2 and they -- they exchange their currency that way.

3 Q Do they get an hourly salary?

4 A No, sir. They're under contract. So we
5 charge them for the rooms they use. Just, you
6 know, the time that they are in the rooms we
7 charge for that. Like, if they're on the stage
8 and stuff, they keep all that money. But
9 everything as far as anywhere in the room, they
10 have to pay us for that.

11 Q And Hannah testified to that. You were in the
12 courtroom, correct?

13 A Yes, sir.

14 Q So in the private rooms for 15 minutes, I think
15 she would owe \$50, for 30 minutes, \$100, and up in \$50
16 increments?

17 A Yes.

18 Q And she testified once the dance is complete, then
19 she would come, I assume, pay you her portion?

20 A Yes. In most cases, they usually pay us up
21 front, but then, like, most 15-minute, 30-minute
22 rooms, they end up going over. The customer
23 usually want more time. So she would just settle
24 with me when she comes out of the room.

25 Q Would the dancer tell you before they go back

1 what's going on, or they just come and tell you when
2 they're finished?

3 A They would come back, or I'll go check the
4 amount of time on her. The amount of time on the
5 girls. I'll go, *Hey, your time's up.* And then I
6 have them go a little longer, so I don't want to
7 break the situation up that's going on.

8 Q What time did you get to work on that Sunday the
9 25th?

10 A Probably more closer to 3:30 that day.

11 Q And you're the first one to get there?

12 A Yes, sir.

13 Q And so you open up the front door, obviously.

14 A Yes, sir.

15 Q How does -- I guess you can unlock it from the
16 outside, obviously.

17 A Yes, sir.

18 Q Does the door lock from the inside?

19 A No. You have to go outside and turn the
20 locks on it.

21 Q Okay. So is it possible -- from the inside, is
22 there, kind of, like a corresponding dead bolt that
23 you can turn and lock the door?

24 A No, sir.

25 Q Let me show you Defense Exhibit 3. That's the

1 exterior of the building, correct?

2 A Yes, sir.

3 Q And as several people have already testified,
4 there's no windows in the door?

5 A No, sir.

6 Q Any windows on any of the exterior of the
7 building?

8 A No, sir. There are no windows on the club.

9 Q I think you can point on the screen where you
10 unlock the door?

11 A Yes, sir. Right here (indicating).

12 Q Okay. And from your testimony, it's not -- you're
13 not able, from the inside, to lock the door?

14 A No, sir.

15 Q What did you do Sunday the 25th when you got
16 there? What did you do to get the club ready for
17 people to arrive?

18 A I usually turn the music on, get the ice
19 troughs ready, get the money bags out to the
20 bartenders. And, you know, get the live set and
21 start the night. I put a list together. Put the
22 list out back for the girls, check the rooms, and
23 stuff like that.

24 Q And things progressed normally that night?

25 A Yes, sir. It actually progressed pretty fast

1 that night. There were a bunch of girls before
2 eight o'clock.

3 Q Where were you sitting for most of the night?

4 A I sat up in the VIP section because I have a
5 good vantage point over the club and I was able to
6 elevate my foot and it helped keep the swelling
7 and stuff down.

8 Q Was that part of your doctor's orders? Were you
9 supposed to elevate the foot?

10 A Yes, keep it elevated as much as possible.

11 Q I'll show you Defendant's Exhibit 2. Can you see
12 in that where you were sitting for the majority of the
13 night?

14 A Yes, sir. I was actually sitting in this
15 chair right here up on the globe in the back.
16 This area right here (indicating).

17 Q You may have to tap on it.

18 A I was in that chair right here.

19 Q And then the bottom right, that's the bar area?

20 A Yes, sir. So this area right here is the
21 main bar right here. This is the small satellite
22 stage. If I wasn't on that scooter, I would
23 usually sit here. This is the manager's chair
24 right here.

25 Q Okay. And then to the left, off the screen, is

1 the main --

2 A The main dance stage goes directly up between
3 these tables right here.

4 Q Defendant's Exhibit 7, I think you said the top
5 left corner is the center stage?

6 A Yes, sir. This is the main stage right here,
7 right here.

8 Q Okay. Defendant's Exhibit 6 is the end of the
9 bar, and then the hallway. If you can orient us to
10 where those private rooms are that you discussed?

11 A All right. So you come up the hall. So this
12 wall right here, the tan wall right here would be
13 the VIP. Those are basically individual songs.
14 And then you go up, these are -- the champagne
15 room is right here. There's four of those. And
16 those would have the little couches in them for
17 like a more intimate walk-through with the
18 customer. Then you have the office right here.
19 Bathroom up here on the right. This is the
20 entryway for the -- the door is right here.
21 That's the door leading to the vestibule right
22 here.

23 Q Okay. Defendant's Exhibit 5, as Ms. Manzi
24 testified to, this is the hallway where the four
25 private rooms are?

1 A Yes, sir.

2 Q And so two on either side of the hall?

3 A Yes, sir.

4 Q And I think just the curtains, as you can see, can
5 be drawn when a dance is going on with a customer?

6 A Yes, sir. You pull the curtains closed.

7 Q Were you familiar with Ms. Manzi? I believe she
8 was known as Isabella at the club.

9 A Yes, sir.

10 Q How long had she been working there prior to the
11 night of the 25th?

12 A Probably not even a good month yet. She was
13 fairly new.

14 Q Uh-huh, okay.

15 So, things are normal at the beginning of the
16 night.

17 A Yes, sir.

18 Q At some point, did you have an opportunity to have
19 a conversation with Isabella where she told you what
20 happened during the private dance that she had taken
21 part in?

22 A Yes, sir. She said the guy was being extra
23 aggressive. He threw her down in one of the
24 booths and he tried to put his fingers inside her
25 vagina.

1 Q Did she point the gentleman out to you?

2 A Yes, sir.

3 Q And how did she describe him to you?

4 A She said it was the Mexican guy that had the
5 satchel.

6 Q Okay. I'm going to show you what is marked as
7 Defense Exhibit 1. Do you recognize that gentleman?

8 A Yes, sir.

9 Q Is that who she pointed out?

10 A Yes, sir.

11 Q And do you see him in the courtroom today?

12 A Yes, sir.

13 Q Can you identify him, please?

14 A He's sitting behind -- the public area. He's
15 wearing a light blue shirt and khaki pants.

16 MR. JENNINGS: Let the record reflect he
17 identified Mr. Armenta, please, Your Honor.

18 THE COURT: You may proceed.

19 BY MR. JENNINGS:

20 Q After she told you this, what did you do?

21 A I told him it's time for you to go. I'm
22 ready to escort him out.

23 Q Where in the club did you come into contact with
24 him?

25 A Going up the hallway to the -- by the

1 bathrooms and vestibule and exit.

2 Q So Defendant's Exhibit 4, that's the front door to
3 the business?

4 A Yes. That's the vestibule door that goes to
5 the front door.

6 Q And so where was it, was it then outside of that
7 door when you first came into contact with him?

8 A Midway. Like I started talking to him in the
9 hallway.

10 Q Can you could point where exactly it was?

11 A Right up in this area. Like this area right
12 here, and then following him out to the front
13 door.

14 Q Okay. Can you describe for us, please, how that
15 interaction went between you and the gentleman?

16 A Yes, sir. I told him to leave and never come
17 back. He's not welcome here. We don't treat
18 people like that in America.

19 Q So there was two gentlemen, correct?

20 A Yes, sir.

21 Q Mr. Armenta who wore a black shoulder bag?

22 A Yes, sir.

23 Q And the friend, I'm assuming, was with him?

24 A Yes, sir.

25 Q Did the other gentleman say anything to you?

1 A No, he was -- he was pretty chill.

2 Q What kind of interaction did you have with
3 Mr. Armenta after you told him to leave and not to
4 come back?

5 A Sorry for cursing, Your Honor.

6 THE COURT: No need.

7 THE WITNESS: He told me, "Fuck you."

8 BY MR. JENNINGS:

9 Q Where did that happen?

10 A Right outside the door in the doorway, right
11 there, he walked back towards me for a second and
12 was exchanging words with me, back and forth like
13 that.

14 Q What was he saying?

15 A It went to, *You don't want to fuck with me,*
16 *I'll kill you, I'll kill everybody, I'll kill that*
17 *snitching bitch.*

18 Q How did you interpret those threats?

19 A At first, I really didn't take it too serious
20 because I hear that all the time in that line of
21 work. But then he started walking back towards me
22 and he zipped the satchel around and put his hands
23 up, and the friend turned around and walked back
24 and grabbed him and pulled him away from the
25 door.

1 Q Had you seen them during the course of the night
2 while they were there?

3 A Yes, sir.

4 Q Did he seem like he was intoxicated to you?

5 A He seemed like he had a couple. He had a
6 good buzz.

7 Q What did you say back to him, after he made these
8 threats?

9 A I told him to go home, get his ass home.

10 Q And then what happened?

11 A Like I said, his friend, he already had his
12 hand back and he was walking away, so I was like,
13 shit -- I mean, you know, I need to get a tag
14 number off of these guys because the thing is I
15 don't know them, they don't -- we don't have
16 facial recognition software on our cameras. The
17 cops are going to find out about this. Because
18 the thing is, like, if they come back and shoot
19 the club up, like what can we do, you know.

20 Q Did you take his threats seriously?

21 A I did. That's why I went back into the
22 office and got my gun and I went outside and
23 started looking for vehicles that was leaving the
24 parking lot.

25 Q Why did you get your gun?

1 A Because, like I said, like, the bag he's
2 carrying -- I mean, he seemed like a straight guy
3 coming to a strip club. He got the bag, he
4 probably carrying guns in it, you know.

5 Q Why didn't you just go back into the club and have
6 things carry on as usual?

7 A Because of the simple fact if I just went
8 back in the club and he was serious, we never saw
9 it coming.

10 Q So you got the gun and you come back outside?

11 A Yes, sir.

12 Q Describe the outside of the club for me. I assume
13 there's a parking lot.

14 A Yes, sir. You come out the door, to the left
15 there's a parking lot there. A few cars just
16 parked right there. There were some other cars
17 parked to the right. And then they were actually
18 parked wrong. But then it's our regular parking
19 lot to the left over there. So I kind of went
20 over to the right side of the parking lot just in
21 case, you know, they spotted me and I didn't see
22 them.

23 Q Let me show you what's State's Exhibit 5. So if
24 you can just sort of orient us with the club at the
25 top of the photograph.

1 A Yes, sir.

2 Q And kind of explain the parking lot. First of
3 all, that is King Street, Highway 78, correct? Or
4 King Street extension that's in front of the club.

5 A This is King's Street through here. This is
6 Courtland Avenue here. I came out here and went
7 over towards the fence over here. So I was
8 basically looking around to see what cars was
9 moving in the parking lot to grab tag numbers, and
10 stuff like that.

11 Q All right. Did you see any cars in that first
12 parking lot?

13 A It was a little small compact car that left,
14 so I got that tag number. Then Robert King, one
15 of our regular customers, came walking up towards
16 me. I asked him, *Did you see any guys pull out of*
17 *the parking lot yet?* He was like, *No, I didn't*
18 *see anything.*

19 Q And then across the street I think is the
20 axillary.

21 A This is the overflow lot up here, in this
22 area to the right, right here.

23 Q Okay. And, again, when you came out of the club
24 into the parking lot, what was your intention?

25 A Get the tag number and make to sure he was

1 gone so I could give it to the cops because he was
2 threatening and he was being rough with
3 Isabella.

4 Q We'll kind of work between two photographs here.
5 I will show you Defendant's Exhibit 13, and that's, I
6 think, the fence you're talking about where you came
7 out?

8 A Yes, sir.

9 Q Can you point where, approximately, you thought
10 you were standing when you first came out into the
11 parking lot?

12 A Probably up in this area here.

13 Q Okay.

14 A I came out and he was swinging over this way
15 here, up in this area here.

16 Q And Defendant's Exhibit 15, I believe if you look,
17 the blue truck then was between you and Courtland
18 Street, correct?

19 A Yes, sir.

20 Q So you would have been standing off to the far
21 left probably off of this picture?

22 A Yes, sir. Like more towards the front of
23 that blue truck.

24 Q And the black GMC pickup truck, that's the truck
25 that Mr. Hernandez and Mr. Armenta were in, correct?

1 A Yes, sir.

2 Q And how far do you think it was from the truck
3 there at the stop sign to where you were standing?

4 A Probably 45, 50 feet.

5 Q So is this roughly about how far you were from the
6 truck when it pulled up?

7 A Yes, sir. Probably further.

8 Q Okay. When you came out into the parking lot, did
9 you have anything in your hand? Did you have a gun in
10 your hand?

11 A No. I actually was holding onto the
12 scooter.

13 Q Is that a handle?

14 A Yes, sir.

15 Q Where was the gun when you got it out? Where did
16 you put it on you when you got it out of the office?

17 A I took it in my lower back.

18 Q Were you displaying it when you came out into the
19 parking lot?

20 A No, sir.

21 Q What happened then as you were standing in the
22 parking lot?

23 A I heard some screaming and yelling, but I
24 really couldn't see where it was coming from until
25 the truck actually came up closer to the light and

1 parked.

2 Q And once that happened, could you see who was in
3 that truck?

4 A Yes, sir. It was the two gentlemen that I
5 just asked to leave and never come back.

6 Q Before that, did you know where they had gone?

7 A No, sir.

8 Q And so, what, a car pulls up there to the stop
9 sign?

10 A Yes, sir.

11 Q When it pulls up, then what kind of interaction
12 did you-all have?

13 A The gentleman in the back was still hanging
14 out the window and screaming. It looks like --
15 he's going, fuck you, he's going kill me, stuff
16 like that.

17 Q What were you're saying to him?

18 A Get your ass home. Get off the property.

19 Q Were you threatening him in any way?

20 A No, sir.

21 Q Did you have the gun out?

22 A Yes, sir.

23 Q What was going through your mind at this point?

24 A I hope he don't pop of a cap on my ass.

25 Q Could you still see the bag?

1 A I could see the top part of the strap from
2 the way he was turned hanging out the window and
3 stuff.

4 Q To be clear, we'll look at the video, but when you
5 say "hanging out the window," he had his entire upper
6 body out of the window?

7 A Yes, sir.

8 Q Could you see both of his hands?

9 A Kind of, but not really.

10 Q And so how did things progress then?

11 A He was still yelling back and forth. He
12 threw something out. I reached down and picked up
13 something I thought he threw and I threw it back.
14 And he walked -- the lights were on in the truck
15 so I figured he had the doors were open. They got
16 out and they started approaching me.

17 So the guy that was driving came around the
18 back side of this white car right here, and I could
19 see his hands was clear, so he really wasn't my focus
20 anymore. So I pulled my gun because the guy with the
21 bag again, so I sped up to him to lock his hand into
22 the bag so that he couldn't pull any of the bag out on
23 me. So we got into an altercation from there.

24 And his friend jumped on my back and started
25 hitting me from behind, and so I started firing my gun

1 to get him off me.

2 Q I want to be clear, when you got out into the
3 parking lot and the truck pulls up to that
4 interaction, did you hail them down in any way?

5 A No, sir. I actually couldn't see them at
6 first. Like I said, I heard the screaming and
7 yelling. I didn't know where it was coming
8 from.

9 Q Were you inhibiting their travel in any way,
10 preventing them from turning onto King Street and
11 leaving?

12 A No, sir.

13 Q And you said Mr. Armenta threw something. Could
14 you see what he threw?

15 A Not really.

16 Q So when you reached down and picked up something
17 and threw something back at them, why did you do that?

18 A Because I was throwing back what he threw at
19 us -- me, really.

20 Q Uh-huh. And then at what point did you pull out
21 your handgun?

22 A After they was trying to trap me up between
23 the cars.

24 Q And why did you do that?

25 A Because I was trying to scare them away and

1 make them leave.

2 Q What were you saying to them?

3 A I started yelling. I started cussing, *Get in*
4 *your fucking car and leave.*

5 Q When you went out of the club, out to the parking
6 lot, did you have any intentions of engaging with
7 these men?

8 A No, sir.

9 Q Did you want to fight with them?

10 A No, sir.

11 Q What was your hope when you went out there?

12 A I would see them leave, get the tag number
13 and. You know, get the situation on record.

14 Q I'm showing you State's Exhibit 5. Again, there's
15 multiple routes of exit from the axillary parking lot,
16 isn't there?

17 A Yes, sir.

18 Q You can come out, you can turn right on Courtland
19 and get to the interstate, correct?

20 A Yes, sir.

21 Q You can come out, you can turn left or right on
22 King Street, correct?

23 A Yes, sir.

24 Q There's no stop light there that you have to wait
25 on?

1 A No, sir.

2 Q At the point when they pulled up to the stop sign,
3 did you do anything to prevent them from simply making
4 that turn and leaving?

5 A No, sir.

6 Q Was there anything going on on the street that
7 prevented them from making that turn and leaving the
8 area?

9 A No, sir.

10 Q I believe after once everything happened,
11 obviously, police arrived; is that correct?

12 A Yes, sir.

13 Q What did you do when the police officers got
14 there?

15 A They asked me what the suspect looked like.
16 I told them, I wasn't a suspect. I got into an
17 altercation with them. The officer asked me
18 again, *What was the suspect like?* I said, *I was*
19 *the one that got into the altercation with them.*
20 And he's, *Oh, it was you.* And so I told him I got
21 my gun on me and I handed my gun off to him and
22 stand there and talked to him.

23 Q You completely cooperated with them, correct?

24 A Yes, sir.

25 Q And then I believe Detective Wilson or another

1 officer took you down, actually, to the City of
2 Charleston Police Department, correct?

3 A Yes, sir.

4 Q And you met with them that night into the
5 morning?

6 A Yes, sir.

7 Q You gave multiple statements, I think, for several
8 hours.

9 A Yes, sir.

10 Q That night they allowed you to go home, correct?

11 A Yes, sir.

12 Q And then I believe you were arrested on the 27th,
13 if I'm not mistaken.

14 A I think, like, two or three days.

15 Q Okay. Let's see if this will work.

16 All right. This camera is in the -- kind of
17 the front door there is to your left where Miss
18 Diamond -- that's Miss Diamond sitting at the front
19 desk?

20 A Yes, sir.

21 Q All right. So you're coming down the hall?

22 A Yes, sir.

23 Q Do you recognize that gentleman that's propping
24 the door open?

25 A Yes, sir.

1 Q And who was that?

2 A That's the driver.

3 Q He was there with Mr. Armenta?

4 A Yes, sir.

5 THE COURT: Is this an Exhibit Number?

6 MR. JENNINGS: Yes, Your Honor. I'm
7 sorry. This is off of Defendant's Exhibit 16.

8 THE COURT: Thank you.

9 MR. JENNINGS: And just for clarity, we
10 have multiple -- I think the State has one that
11 has multiple --

12 THE COURT: Is there a reason I wasn't
13 provided these in advance?

14 MR. SIMPSON: Yes, Your Honor. As we
15 covered in our phone conference last week, we got
16 this case -- consented to the admission of what
17 will be in trial State's Exhibit 1 and it's
18 entered for this hearing as State's Exhibit 12,
19 literally probably seven hours of video. And so
20 what we agreed, you know, rather than waste you
21 and your staff's time, was to provide you on
22 Friday with the final five-and-a-half minutes of
23 that video.

24 THE COURT: I thought that was the only
25 one that was going to be utilized. I was clear I

1 wanted all videos that were going to be used in
2 this hearing.

3 MR. SIMPSON: Okay.

4 THE COURT: I need to watch them in
5 advance for myself.

6 MR. SIMPSON: Okay, I apologize. My
7 understanding of the conversation --

8 THE COURT: I need to know every video
9 that's going to be utilized.

10 MR. SIMPSON: We have entered by consent for
11 this hearing State's Exhibit 12.

12 THE COURT: Which is the last five
13 minutes, correct?

14 MR. SIMPSON: No. State's Exhibit 12 is
15 all of the video that we've got. It's -- most of
16 it is pretty boring, I might add.

17 THE COURT: My question to you-all was,
18 what do you plan to utilize at trial for the
19 purposes of this hearing?

20 MR. SIMPSON: I plan to enter all of
21 those videos at trial. I do not plan on wasting
22 the jury's --

23 THE COURT: You intend to enter Number
24 12, all of the video at trial?

25 MR. SIMPSON: Yes, ma'am. Identical --

1 we've stipulated to their introduction. I do not
2 plan on playing or publishing. Only portions of
3 that, mostly in reaction to some things the
4 witnesses may say, a couple of little portions.
5 But because the relevant -- I think you can
6 already see this, Your Honor, and we'll certainly
7 see it, there will be references to these two
8 males and Mr. Robinson's conduct in the hour and a
9 half proceeding this event. And I think it may be
10 important to both sides that, at some point in
11 time, we go to certain parts of that hour and a
12 half and say, *Is this what you're talking about?*

13 THE COURT: But you should have isolated
14 those clips.

15 MR. SIMPSON: I can't possibility predict
16 what clips we would be needing to do that for. I
17 was pretty familiar --

18 THE COURT: You should have been able to
19 for this hearing, correct?

20 MR. SIMPSON: Oh, what we're really
21 talking about in this hearing, and what we're
22 seeing, this is part of what we submitted that
23 you've shown.

24 MR. JENNINGS: Right.

25 MR. SIMPSON: I think Mr. Jennings --

1 THE COURT: Part of it is, part of it is
2 not.

3 MR. SIMPSON: Yeah, Mr. Jennings --

4 THE COURT: The one that I have does not
5 have any of these other views of the bar or
6 otherwise. The only thing that I have that
7 you-all submitted to me is the interaction at the
8 door and what happened in the parking lot.

9 MR. SIMPSON: Yes, Your Honor. I believe
10 Mr. Jennings went approximately 15 seconds further
11 back than I had provided you on Friday. Right
12 now, the substantial portion, what we're covering,
13 what you were provided in advance, and certainly
14 entered as an exhibit by consent is hours of
15 video. But relevant to this hearing is really the
16 portions we're watching now.

17 THE COURT: Okay. But I wouldn't need
18 all the hours of video if you're not going to
19 utilize them.

20 MR. SIMPSON: I plan to utilize them,
21 certainly, Your Honor. We stipulated to
22 they're admission.

23 THE COURT: That's not my question. Do
24 you plan -- you say you have hours of video, are
25 you telling me you're going to play hours of video

1 for a jury?

2 MR. SIMPSON: I'm telling you that I
3 cannot possibly be expected to predict -- and I'll
4 give you a great example. Mr. Laribo's testimony
5 today, all right, pointed out quite some things on
6 these videos that I would like to show the jury.
7 I could not have predicted that for today.

8 For other witnesses, it's going to go the
9 same way. Witnesses are going to testify. I'm
10 going to need to --

11 THE COURT: The trial is not my concern.
12 This hearing is my concern.

13 MR. SIMPSON: I am not --

14 THE COURT: I should have been provided
15 with video that you-all are relying on for
16 purposes of this hearing. That was my request.
17 So I could watch them in advance.

18 MR. SIMPSON: Although, we have submitted
19 all of the video as an exhibit, I am relying only
20 in my argument and in substance for this hearing
21 on the evidence that we submitted.

22 THE COURT: And what exhibit is that?

23 MR. SIMPSON: That is Exhibit 12 for the
24 State, and it contains more than you see.

25 THE COURT: No, no. If you want it for

1 the purposes of this hearing and what you want me
2 to consider, it needs to be separate. It needs to
3 be a separate exhibit.

4 MR. SIMPSON: The State would
5 then move --

6 THE COURT: Because on appeal, the Court
7 should not have to look at hours of video to
8 figure out what you're talking about.

9 MR. JENNINGS: I've got these two videos.

10 MR. SIMPSON: I have what I submitted to
11 Your Honor exactly --

12 THE COURT: That should be made an
13 exhibit.

14 MR. SIMPSON: And I can burn that to a
15 flash drive or submit it.

16 THE COURT: We can use the one we have.

17 MR. SIMPSON: Okay, no problem.

18 THE COURT: I mean, you all can use the
19 one I have because I have no need for retain it.

20 MR. SIMPSON: Excellent. At this point
21 in time, the State would move State's 13, the
22 flash drive we provided.

23 THE COURT: Any exception,
24 Mr. Jennings?

25 MR. JENNINGS: No. As I said in our

1 phone call, I have the video -- there's two videos
2 from the parking lot.

3 THE COURT: Okay.

4 MR. JENNINGS: It shows the same thing.

5 THE COURT: It shows -- but is it a
6 different view?

7 MR. JENNINGS: Yes, ma'am.

8 THE COURT: Yes. I should have had
9 those. So those will need to be marked as well as
10 exhibits.

11 MR. JENNINGS: I'll just pull everything
12 else off of Defendant's Exhibit 16.

13 THE COURT: Well, is 16 just those two
14 angle views? Or is 16 the whole thing?

15 MR. JENNINGS: No. I just have those two
16 videos and then the interviews of Mr. Armenta. I
17 don't think we need that today, so I'll pull those
18 off and do another flash drive, if necessary, for
19 trial.

20 THE COURT: I mean, for purposes of this
21 hearing, what are you relying that's on State's --
22 Defendant's 16? Is it just these two videos that
23 you're talking about?

24 MR. JENNINGS: Yes, ma'am.

25 THE COURT: You also made reference to

1 someone's interview being on that exhibit?

2 MR. JENNINGS: And that's why I'm going
3 to take it off because I don't think we're going
4 to need it in this hearing.

5 THE COURT: Okay. But now that it's in
6 evidence, I can't let you have it back.

7 MR. JENNINGS: That's fine.

8 THE COURT: So, we'll just say whatever
9 else is on the --

10 Is it a USB, Madame Court Reporter?

11 THE COURT REPORTER: Yes.

12 THE COURT: It's not being utilized for
13 the purposes of this hearing.

14 Okay, you may continue.

15 MR. JENNINGS: Thank you.

16 BY MR. JENNINGS:

17 Q That's you going out the front door, correct?

18 A Yes, sir.

19 Q So, at this point, you're still inside the
20 business but looking out, who are you talking to at
21 that point?

22 A The gentleman right there.

23 Q Okay. Mr. Armenta?

24 A Yes, sir.

25 Q Now this shows looking down at the front door from

1 the exterior of the building, correct?

2 A Yes, sir.

3 Q What -- at this point when Mr. Armenta walked back
4 up to you, what does he say to you?

5 A He said, "Fuck you."

6 Q Did he say anything to you at that point?

7 A I was like, *You don't want to fuck with me.*

8 Q I believe you testified that he walks off and
9 turns back?

10 A He turns back again like right here and
11 that's when he was saying, like, he'll shoot and
12 kill everybody in there. He'll kill that
13 snitching bitch and kill me. And then his
14 friend -- well, the other camera view, that's when
15 he turned around in the parking lot and comes
16 back. That's when he was driving away from the
17 door.

18 Q That's the office?

19 A Yes, sir.

20 Q All right. Now, at this point, as you say, you
21 come out into the parking lot?

22 A Yes, sir.

23 Q Where you're looking straight across, I guess, is
24 Courtney?

25 A Actually --

1 Q Courtland. I'm sorry.

2 A It was a car moving to the left over here and
3 looking at that car, and that car, where I can
4 see, like, a lady's head. So I'm looking back to
5 the back side of -- like, to that van right there,
6 behind that van right there. I honestly thought
7 they were in the van, to tell you the truth.

8 Q And, at this point, do you have any weapons in
9 your hand?

10 A No, sir.

11 Q And to the right is the black fence that you
12 referenced in the prior photographs?

13 A Yes, sir. And this is Robert King that
14 walked up to me. He seen these two guys leave.

15 Q Now, what car is that that just pulled up?

16 A That's actually the truck, the driver right
17 there. Like I said, when he got right there, like
18 his head is screaming, and you can see him
19 actually hanging out of the window right there.

20 So I move, actually move away because I
21 didn't know whether, you know, he was going to shoot
22 or whatever. He reached out of the truck. And he
23 ain't going to kill me, so I stood where I still had
24 some protection right there by the car.

25 Q And, again, at this point, have you done anything

1 preventing them from turning or leaving?

2 A No, sir.

3 Q Are you asking them to stick around or come and
4 fight?

5 A No, sir.

6 Q What are you trying to do at this point?

7 A I'm telling them to get their ass on and get
8 back in the truck. Like I say, that's when he
9 scoots up.

10 Q And at that point you can see Mr. Armenta hanging
11 out with both of his arms out of the window?

12 A Yes, sir.

13 Q And what is he saying to you at this point?

14 A He was cursing and screaming. He was going
15 from Spanish to English. *I'll fuck you up, I'll*
16 *do this, I'll do that to you.*

17 Q When you say, "*I'll do this, I'll do that,*" what
18 was he saying?

19 A He was saying he's going to kill me. He's
20 going to fuck me up, all this stuff like that.

21 Q Could you see the black bag at that point when he
22 was in the truck?

23 A I could see like the top strap. You couldn't
24 really see where he was. But the strap -- you
25 couldn't see the actual whole bag the way he was

1 hanging out of the truck, you know.

2 Q Could you see if he had anything in his hands?

3 A At the time, he didn't have anything in his
4 hands.

5 Q At what point did you think he threw something?

6 A Something flew over there, so I reached out
7 and I threw it back. You see that's -- like, the
8 light -- like I said, the light was on. I could
9 actually see both of them in there at the time
10 then.

11 Q All right. Now, I believe you can see the driver
12 is out?

13 A Yeah, he's out. The door is open, so he's
14 out too. He's like standing on the running board
15 for a little bit.

16 Q Now Mr. Armenta is out of the truck on the left
17 side. As we're looking at it, on the left side of the
18 white car?

19 A Yes. You see right there, he's got his hand,
20 like, down in the bag. That's when I sped up on
21 him and locked his hands in the bag so he couldn't
22 pull it back out.

23 Q What did you think was in the bag?

24 A A gun, something like that. Because I was
25 like, Why are you unzipping your bag? Why are you

1 looking in the bag if you don't have nothing?

2 Q What was that?

3 A I said, like, why would you be zipping your
4 bag down and going into your bag and still talking
5 trash if you didn't have anything in the bag, you
6 know.

7 Q Could you see if he had anything in his hand?

8 A No, sir. At the time, he didn't. And when
9 he had his hand down in the bag, that's when I got
10 to him as quick as I could to try to get his hand
11 to stay in the bag to get the bag off of him.

12 Q Why did you do that?

13 A Because I didn't want him to shoot and kill
14 me.

15 Q Was that a fear of yours?

16 A Yes, sir.

17 Q How did you assess the situation at the time? Why
18 did you do what you did?

19 A Like I said, I saw his friend's hands. Both
20 his friend's hands was clear. And to see him, his
21 hands was clear for a second, but then whatever he
22 tossed back to the truck, he had his hand down in
23 the bag. So I was, like, what are you going to
24 pull out this bag while it's still open. You're
25 still saying you're going to fuck me up, you're

1 going to hurt me, or do this, that's why -- I pull
2 my gun and sped towards him. I didn't think he
3 had a fucking bag, you know.

4 Q Why didn't you just turn around and go back to the
5 club?

6 A They'd shot me in the back. You know, they
7 didn't get me.

8 Q So as you're going around the white car
9 approaching Mr. Armenta, what are you trying to
10 accomplish?

11 A Trying to keep his hand out of the bag.

12 Q And what was he doing?

13 A He was trying to go for my gun. And then his
14 friend came out of somewhere and jumped me.

15 Q So you two were engaged right there?

16 A Yes, sir.

17 Q And then his friend comes up behind you?

18 A Yes, sir.

19 Q Why did you fire your gun?

20 A I didn't want to die. My thing is, you pull
21 a gun on somebody that's -- in their right mind,
22 they turn around and leave or back up, you know.

23 Q Just to be clear, when you -- as they were
24 approaching you and you pulled your gun, what were you
25 saying to him?

1 A "Get in your fucking truck and leave."

2 Q What was your intention when you pulled the gun?

3 A To scare them away.

4 Q Let's look at the same thing just from a different
5 angle from the back of the parking lot.

6 A All right.

7 Q This gives you a little better depth of the
8 distance between where the truck was and where you
9 were, how far away you were?

10 A Yes, sir. See, he's out of the window right
11 there. Right there screaming.

12 Q You can see him hanging out of the window right
13 there, correct?

14 A Yes, sir.

15 Q Again, you don't have your gun out at this point,
16 do you?

17 A No, sir.

18 Q At the last moment as you fired your weapon
19 towards Mr. Hernandez, I know there's photographs that
20 make it look like you were shooting him in the back,
21 what was your impression of what was happening as that
22 all unfolded?

23 A As I was trying to get away from him, I
24 thought he was still chasing me.

25 Q He's following towards you?

1 A Yes, sir.

2 Q By my account, the truck sat at the stop sign for
3 about 48 seconds before there was any interaction
4 between you or the occupants of the truck. In that 48
5 seconds, did you do anything to impede their ability
6 to drive away?

7 A No, sir.

8 Q Did you do anything to keep them there and to
9 create this altercation?

10 A No, sir.

11 Q Did you want this to happen?

12 A No, sir.

13 Q What were you trying to accomplish by going out
14 into the parking lot?

15 A For one, make sure they was gone. Two, get
16 their tag number. And three, just make sure we
17 was in a good situation, make sure everybody is
18 going to be all right.

19 Q Were you concerned for your safety as well as the
20 safety of those inside?

21 A Yes, sir. Especially with the climate of the
22 world right now. People shooting up places for no
23 reason. Kids can't play in parks no more. They
24 shooting parks up for no reason. People tell you
25 that stuff. I always hear that at work. But like

1 I said, by him zipping his bag down and putting
2 his hand in the bag, that's what changed the
3 environment.

4 Q Was there any way for you to have just gone on
5 back into the club and have been able to monitor where
6 they were going to make sure they didn't come back?

7 A No, sir. You can't see who was coming.
8 Everybody that come through that door is a
9 surprise. The front door opens, you don't know
10 who is coming in.

11 Q Could you have just gone back into the club and
12 locked the door?

13 A You got to lock the door from the outside.

14 MR. JENNINGS: That's all the questions I
15 have, Your Honor.

16 THE COURT: Any questions for this
17 witness?

18 MR. SIMPSON: Yes. Thank you, Your
19 Honor.

20 THE COURT: You may proceed.

21 MR. SIMPSON: Thank you.

22 CROSS-EXAMINATION

23 BY MR. SIMPSON:

24 Q Mr. Robinson, good afternoon.

25 A Good afternoon.

1 Q Just Several points I want to hit on in your
2 testimony. I'd like to start by your assertion that
3 you cannot -- in a business of a public club with that
4 big metal door, you cannot lock that door from the
5 inside?

6 A No, you couldn't.

7 Q That's your testimony before this judge?

8 A Yes.

9 Q If we were to call in management from this club
10 that we talked about an allen key that you have that
11 you can lock that door from the inside and how that's
12 how you close it down every night is taking that allen
13 key and doing it and just shutting the door behind
14 you?

15 A No, we shut it and lock it this way.

16 Q So, if you just lock it from the outside, you mean
17 I can go at 4:00 o'clock in the morning, just unlock
18 it from the outside, and walk right in?

19 A No, it has a turn latch. You turn the latch
20 and unlock the door that way.

21 Q And then calling the manager of the club, they
22 will confirm that. You just lock and unlock that door
23 from the outside.

24 A I actually fixed that door. That's what I do
25 for a living. I'm a glass man. I replaced the

1 lock on the door. It doesn't have the deadbolt
2 system on it.

3 Q Okay. You gave a statement -- let's begin --
4 actually, let's begin with this exchange that you had
5 with these two males at the front door.

6 THE COURT: I'm going to let you ask a
7 couple more questions, Mr. Simpson, and then we'll
8 go and take a break for lunch. I lost track of
9 time. I didn't realize it was two minutes after
10 1:00.

11 MR. SIMPSON: Sure, Your Honor. I'm
12 happy -- anytime you want.

13 THE COURT: Is this -- well, go ahead and
14 ask your next couple questions and then we'll take
15 a lunch break.

16 BY MR. SIMPSON:

17 Q We're about to watch on video, and you correct me
18 if I'm wrong, the part where two rowdy angry men leave
19 your club, right? And I think you testified to this.
20 You had not had any interaction with them thus far,
21 right?

22 A I never said they both were rowdy.

23 Q Okay.

24 A Only one of them got aggressive and that's
25 the guy that had the bag on.

1 Q Okay.

2 A He was actually -- he was actually --
3 honestly, I thought if he was by himself, he
4 probably would have pulled that out of the bag and
5 used it if he didn't have the friend with him.

6 Q So this is the part we're about to watch is the
7 first interaction you had with him that night.

8 A No. The first interaction I remember is he
9 was taking the money ball and hitting girls with
10 it. And I was like, *Hey, you can't do that in*
11 *here.*

12 Q All right. And other than that, this is the first
13 interaction, the only interaction with them.

14 A There was a few more interactions, but it
15 wasn't nothing major.

16 Q A few more. Okay. So we'll just put a pin in
17 that. There's a few more that we can find and watch
18 on the video. But what's happening right now is the
19 exchange, I believe, you shared with the Court.

20 First off, what are they doing when you find
21 them there? Are they leaving?

22 A I don't know what they're doing. One is
23 standing in the door. The other one is by the
24 bathroom.

25 Q Yeah, we'll watch it. It doesn't seem that

1 confusing to me. Who stops him from leaving at the
2 door?

3 A Them.

4 Q They do. That's interesting, okay.

5 And you say, "Leave and never come back,
6 you're not welcome here, we don't treat women like
7 that in America," correct?

8 A Right.

9 Q He says, F-U punta?

10 A Right.

11 Q And you take punta to be an insult?

12 A I didn't know what it meant.

13 Q Okay.

14 A I know what they meant now. Now that I'm
15 working in the construction and I work with a lot
16 of Spanish individuals, I know what it means
17 now.

18 Q Okay. And then he says, "You don't want to F with
19 me, I'll kill you, I'll kill everyone in here, you son
20 of a bitch;" is that correct?

21 A No, he said he'd kill "that snitching bitch."

22 Q That snitching bitch. And you didn't take it
23 seriously until you saw him reaching for his
24 satchel?

25 A Well, like I say, I've been doing this for a

1 long time so I hear is every night almost. I'll
2 kill you, I'll do this and I'll do that. People
3 say that because they leave.

4 Q It sounds to me -- and I'll obviously give you as
5 much time as you need to answer. It sounds to me like
6 what you described, the guy with the satchel doing a
7 lot of the talking not you. It sounds like most of
8 those words are coming from this threatening patron
9 who's leaving. Most of the words are not coming from
10 you, all you said is, *Don't come back?*

11 A Sir, I am smiling when I'm talking. It's
12 like, *Hey, you have a nice night, just don't come*
13 *back.*

14 Q Let's watch.

15 A Okay.

16 Q Miss Diamond does not appear to be too concerned,
17 is that just because you can't hear things in there
18 with the loud music?

19 A Well, Miss Diamond's not security either so
20 she doesn't worry about the situation right then
21 and there.

22 Q Okay. And could it also be because of the loud
23 music she couldn't hear?

24 A You can hear. There are no speakers out
25 front right there.

1 Q Okay. So in this, are we going to see him
2 reaching for that bag?

3 A Sir, the camera stops right here. If you
4 watch the other video that there is, you'll see
5 where his friend turns around in the parking lot
6 to walk back to --

7 Q Let's watch. Let's play it. Okay. He did look
8 like he might have said F you right there. I bet that
9 made you mad.

10 A Doing that for what? This isn't personal.

11 Q Well, look at this. Sir, if you could just watch
12 your face, it sure seems to me like there's a person
13 talking?

14 A Yeah, I'm still smiling. *Yeah, have a nice*
15 *life. Have a good night, sweetheart.*

16 Q That was have a good night sweetheart.

17 A Yeah.

18 Q When was another person allowed to talk? It sure
19 looks like you were talking the whole time.

20 A (No response.)

21 Q Let's move on. You told the judge in your direct
22 that when you went out into the parking lot, the first
23 thing you did, because it was your intent just to get
24 the tag number, was to get the tag number of the
25 little car that was leaving?

1 A I said I looked at the tag number of the car.

2 I said there was a female in the vehicle.

3 Q You didn't say that you got that tag number of a
4 different car first?

5 A At one point in time, I was grabbing tag
6 numbers.

7 Q Okay. And we can see that on the video then too.

8 A That's when I lost my cell phone that night,
9 sir.

10 Q Okay. Do you remember that night when this
11 incident was fresh in your mind talking to police and
12 giving them the story of what happened?

13 A Bits and pieces. It's almost four years
14 ago.

15 Q Okay. Do you remember telling the police that
16 when you went out there to find that tag number, this
17 truck speeds up at you and they jump out of that truck
18 and you even say on several occasions -- or do you
19 remember saying on several occasions, *They jump out of*
20 *that truck before it even fully stops. They are out*
21 *and rushing me immediately.*

22 A No, sir. Honestly, it happened really,
23 really fast.

24 Q It did? Because your attorney pointed out that
25 there was quite a long period of time.

1 A Like I said, I didn't hide the fact. Like I
2 told them, *Sir, there's a camera. Everybody can*
3 *see everything.*

4 Q Okay.

5 A I never hid anything or lied about it.

6 Q And then you said in your direct testimony that
7 they threw something at you, which was odd?

8 A They did throw something first.

9 Q And when you were asked about what they threw, you
10 told the police that night, when your memory was
11 fresh, that it was a little piece of plastic, right?

12 A I said I thought it was a charger. That's
13 what I said.

14 Q Okay. And you described it as a little piece of
15 white plastic, do you remember that?

16 A I thought it was a changer.

17 Q Okay. So, tell me if I'm right, when we see you
18 reach down in -- by the way, at the end of the fence
19 there, what is there at the end of the fence? Is it a
20 pile of rocks, a pile of broken concrete at the end of
21 the fence?

22 A There's all kinds of stuff on there, sir.

23 Q Right. When you reach down and you take it, and
24 you see them, are you still telling the Court here
25 today, this afternoon, that what you were doing there

1 was throwing a little piece of white plastic back at
2 them that they threw at you, or are you picking up a
3 chunk of concrete and throwing it at that truck?

4 A I don't remember what I picked up. Like I
5 said, I thought it was a piece of plastic. I
6 picked it up. I thought they threw it at me.
7 That's why I tossed it back.

8 Q Because you didn't want it to escalate, right?
9 Right now it's just verbal words being exchanged,
10 right? When did they get out of that truck?

11 A Like I said, the lights were already on, so
12 the door is already cracked.

13 Q Okay. We can watch. Was it not when you threw a
14 huge chunk of concrete at them that they got out of
15 that truck?

16 A A huge chunk of concrete, no, sir.

17 Q Okay. You know what, I like to be honest, that's
18 my job. Was it not -- maybe "huge" is probably a
19 mistake on my part. Is it not maybe a baseball-size
20 chunk of concrete?

21 A No, sir. Not at all.

22 Q Okay. Do you remember telling the police that
23 night that when that truck pulled up and they were
24 yelling at you, do you remember being asked directly,
25 *Oh, my God, what were they yelling at you, and you*

1 said, *It was all in Spanish, I couldn't understand a*
2 *thing they were yelling?*

3 A I said it was going back and forth between
4 English and Spanish.

5 Q Oh, I understand that's what you're saying today.

6 A I said it that night too.

7 Q I'm saying that night when they pulled up in the
8 truck, you're saying, *It was all in Spanish, I had no*
9 *idea what they were saying to me.*

10 A I said it was going back and forth between
11 English and Spanish.

12 Q Okay. Today they were saying conveniently --

13 A I said it that night too.

14 Q -- *I'll F you up, I'm going to kill you.*

15 A He said that in the doorway, sir.

16 Q Okay. An unarmed man pulling up --

17 A The thing is, how would I know he is unarmed?

18 Q Okay.

19 A Most guys that carry, when they carry guns,
20 that carry concealed weapons, carry that type of
21 bag.

22 Q Okay.

23 A Not -- I don't have anything against gay
24 people, but I'm saying is, a heterosexual man
25 coming to a club where women is with that bag on,

1 all owners didn't really --

2 Q I'm glad you said that. Let me ask you, that bag
3 was very concerning to you, right?

4 A Yes, sir.

5 Q And it had been concerning to you throughout that
6 whole night?

7 A It was concerning to me when he zipped it
8 down and said he would do what he said he was
9 going to do.

10 Q But you just said that that kind of bag you
11 associate with a gun always?

12 A Right. But the thing is, people bring guns
13 in all the time. I can't go up there and harass
14 them and bother them.

15 Q You can't search a bag in your club? You can't
16 search the bag?

17 A Our owners don't want us to do that. They
18 made it a thing that to do after this situation
19 happened.

20 Q We'll talk about this again. Your concern with
21 that bag because it's associated with firearms.

22 A I didn't say it was associated. I said
23 people who carry concealed weapons carry bags like
24 that.

25 Q Understood. You've thrown the concrete at the

1 truck, they get out. Let's get the distance right.

2 They get out, take a couple of steps -- take a couple
3 steps, get a little closer to you, you pull out that
4 gun, right?

5 A Uh-huh.

6 Q What do they do when you pull out that gun? I
7 mean, there's a gun to their face. What do they do
8 when you pull out that gun?

9 A They didn't run away.

10 Q I'm asking you. You were there.

11 A I said, they didn't run away.

12 Q They didn't, hands up, step back, back up?

13 A No. If you look at the video, the guy right
14 there --

15 Q And what did you do? You didn't chase them?

16 A I sped up and --

17 Q And run from you as fast as they could?

18 A No, he didn't run. We met in between the two
19 cars.

20 Q Was that not because he freaked out because he had
21 a gun to his face and ran away from you between the
22 two cars and you chased him, ditched the scooter, hit
23 him with the gun hand, got him in a head lock?

24 A I didn't ditch the scooter. They threw me
25 off the scooter. What are you talking about?

1 Q Thank you for saying that. So anybody that
2 watches this video --

3 A Right.

4 Q Will see the them rip the scooter from you. Is
5 that your testimony?

6 A He threw me off the scooter. When we got
7 into the scuffle and his friend jumped me and
8 started hitting me, that's when I got off the
9 scooter.

10 Q You did not pursue and chase down Jaziel?

11 A I'm not denying that I did chase him down,
12 because, like I say, he's got his hand in that
13 bag.

14 Q Okay.

15 A You've seen the video. I grabbed his hand to
16 hold it down in the bag. That's all I was trying
17 to do, is get the bag off of him.

18 Q When Jaziel came to help his friend, you threw him
19 to the ground; is that correct?

20 A No.

21 Q And when you decided -- Mr. Robinson, let me make
22 it clear. There was one guy you were more concerned
23 about than the other, that's correct?

24 A The guy that had the bag.

25 Q Okay. Who did you shoot first?

1 A I don't know. I didn't sit there and pick a
2 person. I just started firing the gun to back him
3 up.

4 Q I thought that the firing of the gun was because
5 you saw a guy reaching into a bag and you wanted to
6 use your firearm to stop that from happening. Is that
7 not correct?

8 A No, sir.

9 THE COURT: We're going to break until
10 2:30 for lunch.

11 Sir, during this break, please do not
12 discuss your testimony with anyone. I remind you,
13 you are still under oath. You may step down.
14 Have a good lunch. I'll see you-all at 2:30.

15 (A break was taken from 1:16 p.m. to 2:30 p.m.)

16 THE BAILIFF: Courtroom will come to
17 order.

18 THE COURT: You may be seated.

19 State ready to proceed?

20 MR. SIMPSON: Yes, Your Honor.

21 THE COURT: Defense ready to proceed?

22 MR. JENNINGS: Yes, Your Honor.

23 THE COURT: Mr. Robinson, you may take
24 the stand. I remind you, you are still under
25 oath.

1 Mr. Simpson, you may resume your cross.

2 MR. SIMPSON: The State has no further
3 questions of this witness for the purpose of this
4 hearing.

5 THE COURT: Any redirect?

6 MR. JENNINGS: Just briefly, Your Honor.

7 THE COURT: Take your time.

8 BY MR. JENNINGS:

9 Q When you spoke with detectives that night and in
10 the morning, did you tell them the threats Mr. Armenta
11 made to you that night?

12 A Yes, sir.

13 Q You told him that he said, *Fuck you, punta?*

14 A I've been trying to -- it's either mucho or
15 cudro, or something like that. I understand them
16 more now. I'm working with a lot of Spanish
17 people now, so I'm trying to learn the language
18 now.

19 Q This was immediately after an obviously traumatic
20 incident?

21 A Yes, sir.

22 Q And you told detectives that he said, *I'll kill*
23 *you and all these bitches?*

24 A All the people and the snitching bitch.

25 Q You told him that he said, *I'm going to fucking*

1 *kill you, punta.* You said that was the part that
2 really scared you?

3 A That part and then him, you know, zipping
4 down his bag at the door like that.

5 Q And you told him that you were in fear for not
6 only your physical safety and life, but those of the
7 others that were in the club, correct?

8 A Yes, sir.

9 MR. JENNINGS: That's all the questions I
10 have, Your Honor.

11 THE COURT: Sir, you may step down.

12 You may call your next witness.

13 MR. JENNINGS: We have no other
14 witnesses, Your Honor. We would rest our case at
15 this point.

16 THE COURT: The State may proceed.

17 MR. SIMPSON: Thank you, Your Honor. At
18 this time, the State calls Jaziel Armenta.

19 THE CLERK: Do you swear or affirm the
20 testimony you shall give the Court to be truth,
21 the whole truth, and nothing but the truth so help
22 you God?

23 THE WITNESS: Yes.

24 THE CLERK: Please have a seat for me.
25 Please state your full name for the record, spell

1 your last name, please.

2 THE WITNESS: Jaziel Armenta,
3 A-r-m-e-n-t-a.

4 THE COURT: Spell your first name for me,
5 please.

6 THE WITNESS: J-a-z-i-e-l.

7 THE COURT: Spell it for me one more
8 time.

9 THE WITNESS: J-a-z-i-e-l.

10 THE COURT: I just wanted to make sure I
11 heard you right. You made proceed.

12 WHEREUPON:

13 JAZIEL ARMENTA,
14 after having been sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. SIMPSON:

17 Q Mr. Armenta, do you mind if I call you Jaziel? Is
18 that okay?

19 A That's fine.

20 Q Jaziel, just to give the Court a little background
21 of who you are, where are you from?

22 A I am from Mexico.

23 Q What part of Mexico?

24 A Sinaloa.

25 Q And what brought you here to South Carolina?

1 A So I got here when I was 13.

2 Q Okay.

3 A They brought me here. Work, I guess.

4 Q What kind of -- what kind of --

5 A When I got here, I went to school for, like,
6 about six months.

7 Q Okay. What kind of work do you do?

8 A I do construction work.

9 Q Okay. Has that gone pretty well for you through
10 the years?

11 A Yes, of course.

12 Q And Zabdiel Tinoco Hernandez -- am I saying that
13 right?

14 A Yes.

15 Q What was his relationship to you?

16 A Brother-in-law.

17 Q So he was married to your sister?

18 A No. I'm married to his sister.

19 Q You're married to his sister.

20 A Yes.

21 Q Okay, got you.

22 Were you two close?

23 A Yes.

24 Q Did you meet here or in Mexico?

25 A We met here in school.

1 Q How long have you known him?

2 A About, like, 20 years.

3 Q About 20 years.

4 A Nineteen, yes.

5 Q Good friends?

6 A Yes.

7 Q Family?

8 A Yes, sir.

9 Q Okay. You were married to his sister; is that

10 right?

11 A Yes.

12 Q Okay. Did he have children?

13 A Yes.

14 Q Okay. Are they still living?

15 A Yes, sir.

16 Q And he had a spouse, obviously?

17 A Yes, sir.

18 Q Were you employed as a construction worker during

19 the time of this incident?

20 A Yes, sir.

21 Q And what did Zabdiel do during this time?

22 A He was doing construction as well.

23 Q Okay.

24 A Heavy equipment, construction work.

25 Q Do you recall -- maybe not exactly, but do you

1 recall how old his children were at the time?

2 A Not too sure, but he had one, I think, that
3 he was 12, the other one 9, and a four-year-old.

4 Q And a four-year-old, too?

5 A Yes.

6 Q I know there was a child seat in the back of the
7 truck. I guess that's the four-year-old's?

8 A That was for the four-year-old's, yes.

9 Q Now, around this time in 2021, had you come into
10 some money, had some cash?

11 A Yes, sir.

12 Q And what happened? How did you come to be in
13 possession of a good bit of cash?

14 A So, that weekend, I believe it was Saturday,
15 I sold one of my four wheelers.

16 Q Okay.

17 A I had two four wheelers, so I told one
18 Saturday and sold the other one Sunday.

19 Q Oh, you sold both.

20 A Yes, sir.

21 Q So did you and your friend decide to go out and
22 have a little fun?

23 A Yes, sir.

24 Q And you obviously know why we're here today?

25 A Yes.

1 Q I don't want to waste a lot of the time today for
2 this hearing, but let's generally, sort of -- and have
3 you been in here for the whole hearing?

4 A Yes, sir.

5 Q Okay. So, where did you and Zabdiel go on Sunday,
6 April the 25th?

7 A So -- so we went to Hooters first. We had a
8 couple of drinks in there. We stayed there for
9 like 40 minutes.

10 Q Okay.

11 A And then after that, we went straight to the
12 Cabaret.

13 Q You said the Cabaret?

14 A Yes, sir.

15 Q That's the Cabaret on King Street?

16 A That's correct.

17 Q Was it still light outside when you got there?

18 A Yes.

19 Q Okay. And tell the Court a little bit about how
20 your evening progressed at the Cabaret?

21 A So we got there. We got a couple of drinks.
22 We just stood there. So, basically, we just -- we
23 were hanging out there, talking to people, the
24 girls.

25 Q Okay. Did you talk to some dancers there?

1 A Yes, we did.

2 Q Did you purchase some private dances?

3 A They offer --

4 Q Well, I'm sure for a price.

5 A Yes, they were offering some dances. At
6 first, we didn't take them, but then I spoke with
7 this lady at the bar with this guy too.

8 Q Let's get to that. So you spoke with a female at
9 the bar with another guy?

10 A Yes, sir.

11 Q Did you see that other guy here today?

12 A Well, he's not here.

13 Q Well, I mean, earlier today.

14 A Yes, yes.

15 Q Was it an African American gentleman who
16 testified?

17 A Yes.

18 Q Okay. Did you know him before that evening?

19 A No, sir.

20 Q But you and he were talking with the dancer at the
21 bar. Is that what you said?

22 A Yes, sir.

23 Q And what happened then?

24 A So we were spoken (sic) to her, because he
25 wanted to get a dance. And I was like, *Well, we*

1 *should do it together. He was like, Oh, yeah, we*
2 *should do it. I've never done it before. I was*
3 *like, Okay. I mean, if you pay like half of the*
4 *price, I'll pay half of the price, and we'll go*
5 *and do it.*

6 Q And the dancer you were speaking to, did you see
7 her today?

8 A She was here.

9 Q She testified also?

10 A Yes, sir.

11 Q That's the dancer you're referring to?

12 A Yes, sir.

13 Q Your understanding was that he would pay half and
14 you would pay half?

15 A Yes, sir.

16 Q Okay. So what happened then?

17 A Then we went to the private room.

18 Q Okay. And I know this is personal, but we're all
19 adults and we all know this is an adult entertainment
20 establishment.

21 A Yes, sir.

22 Q But what occurs in the private rooms with you and
23 this dancer and the other individual?

24 A So, when we got into the room, she started
25 dancing. And she did a dance for me first, and

1 then she jumped to the other guy and started
2 dancing. And after the song was finished, she
3 came back to dance with me and she started, like,
4 just dancing and the other guy was just standing
5 there. He was, like, I'm just going to get out.
6 He walks out.

7 Q So at some point he walked out?

8 A Yes.

9 Q Did you see -- as he walked out, did you ever see
10 them exchange any sort of money or cash?

11 A No, they didn't.

12 Q She was still dancing?

13 A Yes, yes. She was still dancing, yes.

14 Q Okay. Do you recall -- and this is a personal
15 question, but did you touch her at all during this
16 dance?

17 A No. No, sir.

18 Q Okay. You didn't put your hands on her at all?

19 A I mean, I think I did grab her just once, but
20 she was like, *Hey, you ain't supposed to do that,*
21 and I was like, *Okay.*

22 Q Okay. At some point in time in this, you were
23 doing *something*, and she said, *Hey, you're --*

24 A *You're not supposed to do that.*

25 Q *You're not supposed to do that?*

1 A Yes, sir.

2 Q And so how did you respond to, *You're not suppose*
3 *to do that?*

4 A I just sat back and relaxed.

5 Q At some point in time, did the dancing cease or
6 stop?

7 A No.

8 Q But, I mean, you're not still in there. It ended
9 at some point in time. When did the dance end? When
10 was it over?

11 A Like, it passed, like, three or four songs.

12 Q Okay. So the length of about three or four songs
13 you were in there?

14 A Yes.

15 Q Okay. And did a disagreement arise between you
16 and the dancer at the conclusion of the dance?

17 A Yes, when the dance was over.

18 Q And describe that disagreement or argument to the
19 Court that arose between you and the dancer?

20 A It was about money wise, because she was
21 trying to get \$400. So when we step into the
22 private room, me and the other guy agreed to only
23 pay half. So I was like, *Okay, \$400*. I opened my
24 bag, I got \$200 out, and I give it to her and she
25 was like, *No, you're going to pay the full amount*.

1 And I was like, *No, we don't agree to that.* She
2 was like, *No, you have to pay the \$400.* And I was
3 like -- and then I got another \$50 out, I was
4 like, *Here, here's \$250 and I'm out of here, so --*
5 yes.

6 Q So you're understanding was that if all three of
7 you went into the room --

8 A Yes.

9 Q -- you were to pay half and this other individual
10 was to pay half?

11 A Yes, sir.

12 Q And at the conclusion of the dance, what did you
13 feel she was trying to do when she was trying to make
14 you -- did you think it was fair for you to pay for
15 the whole thing?

16 A No.

17 Q And did you refuse to pay for the whole thing?

18 A Yes, sir.

19 Q But did you also, sort of, agree to give her a
20 little extra as well?

21 A That's correct.

22 Q At any point in time, did you expose your penis to
23 that dancer in that dance room?

24 A No, sir.

25 Q Okay. At any point in time, did she tell you to

1 stop doing something and you refused to stop?

2 A No, sir.

3 Q When she wanted to leave that dance room, did you
4 prevent her from leaving that dance room?

5 A No, sir.

6 Q In fact, who left first; you or her?

7 A I can't remember, but I believe I did.

8 Q Okay.

9 A I left first, yes, sir.

10 Q And how did your night continue after that dance?
11 What did you do?

12 A So we just -- when I walked out, Zabdiel was
13 like -- it's like cold in there. And he was
14 walking in. When he saw me he was like, *Hey, I*
15 *was looking for you.* And then we walked out to
16 the bar again.

17 Q So you went back to the bar again.

18 A Yes, sir.

19 Q Did you talk to any other dancers once you got
20 back to the bar?

21 A No.

22 Q Did you socialize with other people at the club
23 when you got back to the bar?

24 A I don't think so.

25 Q So how did the night progress from there?

1 A So we just stayed there. We were, like, just
2 chilling and we finished our drinks. We stayed
3 there for maybe, like 10, 15 more minutes. We
4 finished our drinks. He had, like, 20 or 30
5 dollars in his hands.

6 Q And "he" is who?

7 A Zabdiel.

8 Q Zabdiel.

9 A Yes, sir. And he was, like, *Let me throw*
10 *these dollars*, and then we head out.

11 Q Did anyone kick you out of the bar?

12 A No, sir.

13 Q Did you decide to leave on your own?

14 A That's correct.

15 Q Okay. Did you stop anywhere on the way out?

16 A I stopped in the restroom.

17 Q You went to the restroom?

18 A Yes, sir.

19 Q Okay. When you stepped out of the restroom, did
20 anyone kick you out?

21 A No, sir.

22 Q Did anyone scream at you?

23 A No, sir.

24 Q Okay. Where did you go from there?

25 A We went out. Just walked out.

1 Q Out the front door?

2 A Yes, sir.

3 Q Where were you headed when you walked out the
4 front door?

5 A To the car.

6 Q Once you got into your car, where were you guys
7 going?

8 A To the house.

9 Q Say that again.

10 A To the house.

11 Q Okay. What happened after you stepped out of the
12 front door and were out of the bar?

13 A So when we were walking out. We were just --
14 we were talking about some stuff, and then I heard
15 this guy yelling at us.

16 Q Okay.

17 A That's when I turned back and he was at the
18 door.

19 Q Is this guy you're talking about, is he in the
20 courtroom right now?

21 A Yes, sir.

22 Q Where is he?

23 A He's sitting right there.

24 Q Okay. Are you talking about the defendant over
25 there?

1 A Yes, sir.

2 MR. SIMPSON: Let the record so reflect.

3 BY MR. SIMPSON:

4 Q Jaziel, to the best that you can do today, you
5 said you were just walking out and talking with your
6 brother-in-law?

7 A Yes.

8 Q You were interrupted by he yelling at you-all?

9 A Yes.

10 Q What, to the best of your recollection, can you
11 remember he said?

12 A I remember him saying, *If you guys leaving,*
13 *don't fucking come back here. You guys just go*
14 *and don't come back.*

15 Q Okay. What did he say back to him in response?

16 A When I heard him, I was like -- I turned
17 around and he was like sticking his head out of
18 the door, and I was like, *Hey, you don't have to*
19 *worry about us. We're not coming back.*

20 Q And what did he say? Did he say anything in
21 response to that?

22 A And, I mean, he, I think he said something
23 like, *Don't come back in here. And we were like,*
24 *Hey, don't worry about us. We're about to leave.*

25 Q Okay.

1 A You know, we were outside.

2 Q What did he have to say about that?

3 A I don't remember what he was saying, but he
4 was saying some other stuff. But we were like,
5 okay. We stepped back and walked to the car, and
6 he stepped in.

7 Q He stepped in. Did you think it was over when he
8 stepped back in?

9 A Yes, sir.

10 Q Okay. Do you remember -- what did you do then?
11 Where did you go?

12 A So we just walked to the car, to the truck.

13 Q Okay. Why were you walking to your truck, what
14 were you doing?

15 A We were about to go home.

16 Q Okay.

17 A Yes, sir.

18 Q Did you get back to your truck?

19 A Yes, we did.

20 Q Okay. What did you do when you got in the
21 truck?

22 A So we got in the truck. We put our seat
23 belts on. I got my phone out to play some music.
24 So Zabdiel was driving. Yes, sir.

25 Q Did you attempt to go home?

1 A Yes.

2 Q Now, when you guys got in the truck, did you talk
3 at all or say anything like, *Let's go drive and find*
4 *that guy, let's F him up?*

5 A No, no. Not at all. We told him it was
6 over.

7 Q So, where did the truck go when you pulled out to
8 go home?

9 A So we were on the other side of the parking
10 lot. So he backed out, moved forward to the lane.
11 We were like turning left. We were about to turn
12 right.

13 Q So you take a left to pull up and then take a
14 right --

15 A Yes, sir.

16 Q -- onto main road?

17 A So if you were turning, like, to the main
18 road, like left, the first road, then we saw
19 him.

20 Q The same guy?

21 A Yes.

22 Q Wait. When you saw him, were you yelling at
23 him?

24 A No, he was yelling at us.

25 Q He was yelling at you-all?

1 A Yes, sir. At that point, I got the window
2 up, so I couldn't hear what he was saying.

3 Q Okay.

4 A So when I saw him that he was yelling at us,
5 I was like, I'm going to put the window down.

6 Q Okay.

7 A Yes, sir.

8 Q And when you put the window down, what was being
9 said?

10 A He want us to stop.

11 Q Was he just having a polite conversation? Was he
12 yelling? Was he angry? What was your perception of
13 the --

14 A I mean, he was yelling at us to stop, like,
15 for no reason. We were, like, why do you want us
16 to stop. So that's when Zabdiel makes the first
17 stop.

18 Q Okay. Did you yell back at him?

19 A I was like, *What do you want?*

20 Q Yeah. Like, how are you guys --

21 A *What's going on?*

22 Q *What's going on?*

23 A Yeah.

24 Q Okay. Did this back and forth between you and he
25 remain verbal only, did you stay in the truck?

1 A Yes.

2 Q Did you throw something at him?

3 A No. No, sir.

4 Q You didn't throw a tiny white piece of plastic at

5 him?

6 A No, sir.

7 Q You didn't throw a phone accessory at him?

8 A No, sir.

9 Q Okay. Did you yell at him that you were going to

10 F'ing kill him?

11 A Not at all.

12 Q I guess let's was back up. Back at the door, did

13 you ever say, *I'm going to F'ing kill you and*

14 *everybody in here?*

15 A No, sir.

16 Q I don't remember you saying that you ever said

17 anything like that, am I correct?

18 A No, sir.

19 Q Okay. So, there are some verbal interaction that

20 was going on between you and the passenger seat and

21 Melshaun; is that correct?

22 A Yes, sir.

23 Q What made it go from verbal to you and Zabdiel

24 stepping out of the truck?

25 A First, he wants to stop us -- to stop the

1 truck, so Zabdiel stopped the truck. And then he
2 throw us a rock. That's when Zabdiel got out of
3 the truck.

4 Q Okay. It's a pretty nice truck?

5 A Yes, sir.

6 Q Okay.

7 A He got kind of mad.

8 Q Okay. And did you also step out of the truck?

9 A Yes, sir.

10 Q Okay. What happened after you stepped out of the
11 truck?

12 A So when I stepped out of the truck, Zabdiel
13 came around and he was like -- I don't know. He
14 wanted to fight, you know. He was like -- his
15 intention was, like, he wanted us to go him to
16 make us fight.

17 Q When you say "he wanted to fight," who are you
18 talking about?

19 A This guy.

20 Q The defendant?

21 A Yes, sir. That was, I mean --

22 Q What made you think that?

23 A Because by the stuff he was saying, like, *You*
24 *punks, you're bitches*, and stuff like that.

25 Q Okay.

1 A He was trying to provoke us, you know.

2 Q Okay. So did you take a step or two towards
3 him?

4 A No. When I step out of the car, I was like,
5 I went to -- there was a car in there, so I went
6 kind of like behind the car and I stood there,
7 because I didn't want to -- like, the metal with
8 the car.

9 Q Okay. So what happened then?

10 A Then he pulled out the gun.

11 Q Okay.

12 A When he pulled out the gun, I just walked
13 back like (indicating).

14 Q Correct my body if I'm doing it wrong, but you
15 just did a gesture like this.

16 A That's correct.

17 Q So it wasn't sort of hidden?

18 A (Witness nods head up and down.)

19 Q Did you know you had a gun pointed at you at that
20 point?

21 A Yes, sir.

22 Q Okay. How did you react when you knew you had a
23 gun pointed at you?

24 A So I just walked back and tried to cover
25 myself with that car that was there.

1 Q If you were aware -- I mean, that's a pretty high
2 intense moment -- what was Zabdiel doing once the gun
3 came out?

4 A He raised his hands.

5 Q Okay. And you said that he had moved over to
6 between the two -- sort of at the -- were the two cars
7 parked next to each other?

8 A Yes, sir.

9 Q So did you run and charge at the defendant at that
10 point in time?

11 A No, sir.

12 Q What happened then?

13 A I was just standing there and he was like,
14 *Don't move, don't move.* He was telling Zabdiel,
15 *Don't move.* And then when I realized he was like
16 going around the car, like trying to chase me.

17 Q So when he comes around the car, that's coming at
18 you?

19 A Yes, sir.

20 Q You said chasing you?

21 A Yeah, with the gun in his hand like pointing
22 at me, so I tried to run between the cars.

23 Q Okay. Was there a time when he was able to sort
24 of catch up to you?

25 A Yeah, because I think I tripped between those

1 cars and that's when he, kind of, got close to me,
2 so I tried to like grab his arm.

3 Q The arm that has the gun pointed at you?

4 A Yeah. So I tried to keep that hand away from
5 me.

6 Q Okay. And then what occurred?

7 A So, first, I heard the first shot. He shot
8 me first. Then when he shot me, I let his arm go
9 and I start running to the truck.

10 Q Oh, you believe he shot you first, and then you
11 turned around and ran?

12 A Yes, sir.

13 Q Did you hear more shots?

14 A Yes.

15 Q Okay. I know it's tough, but do you know about
16 how many, or can you even guess?

17 A So I think I heard, like, four shots, or
18 five.

19 Q Okay.

20 A Yes, sir.

21 Q And your goal in running away was to get where?

22 A I was trying to go to the truck.

23 Q Okay. To find cover?

24 A Yes, sir.

25 Q Okay. When you got to the other side of the

1 truck, did you see Zabdiel?

2 A Uhm...

3 Q Did he ever make it, I guess, to the other side of
4 the truck as well?

5 A I think he make it, but he just opened the
6 door and then he fainted.

7 Q When you say "the door," you mean the driver's
8 side door?

9 A Yes, sir.

10 Q At any point in time -- oh, I should ask. To the
11 best of your knowledge, was there a gun in that
12 truck?

13 A No, sir.

14 Q Much has been said about sort of a satchel you
15 were wearing that night. Do you remember that
16 satchel?

17 A Yes, sir.

18 Q Is that where you kept your cash?

19 A That's correct.

20 Q Is that where you kept some camera accessories?

21 A Yes, sir.

22 Q Was there a gun in that satchel?

23 A No, sir.

24 Q At any point in time that night was there a gun in
25 the satchel?

1 A No, sir.

2 Q At any point in time that night, was there a gun
3 on your person?

4 A No, sir.

5 Q To the best of your knowledge, was there a gun in
6 that truck?

7 A No, sir.

8 Q Okay. Was the first gun you saw that night the
9 one in Mr. Robinson's hand?

10 A That's correct.

11 Q Okay. And did you ever threaten to kill
12 Mr. Robinson?

13 A No, sir.

14 Q Did you, at the front door, respond to him saying,
15 *Don't come back? Did you ever say, I'll kill you and*
16 *every -- did you ever say, I'll kill that snitch'in*
17 *bitch?*

18 A No, sir.

19 Q Would you ever say anything like -- in reaction to
20 him saying, *Don't come back*, would you say something
21 like, *I'll kill that snitching bitch?*

22 MR. JENNINGS: Objection.

23 THE COURT: Basis?

24 MR. JENNINGS: Leading question.

25 MR. SIMPSON: I'll withdraw, Your

1 Honor.

2 THE COURT: Question is withdrawn.

3 MR. SIMPSON: Court's indulgence, Your

4 Honor.

5 THE COURT: Yes.

6 BY MR. SIMPSON:

7 Q Mr. Armenta, that's all I have for you today. If
8 you could, just answer any questions Mr. Jennings has.

9 A Uh-huh.

10 THE COURT: You may proceed.

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

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. JENNINGS:

16 Q Good afternoon. Mr. Zabdiel; is that correct?

17 A Armenta.

18 Q Armenta.

19 A Yes, sir.

20 Q My name is Blair Jennings. I represent
21 Mr. Robinson. I don't think you and I have ever met.

22 A No, sir.

23 Q In getting ready for these proceedings, did you
24 have an opportunity to meet with the prosecutor
25 Mr. Simpson in the solicitor's office?

1 A No, sir.

2 Q You've never spoken to anybody in the solicitor's
3 office?

4 A This guy, yes. Yes, yes. I think I did.

5 MR. SIMPSON: When he says the
6 solicitor's office, he means me.

7 THE WITNESS: My bad. Sorry. Yes, I
8 did.

9 BY MR. JENNINGS:

10 Q You met with Mr. Simpson to get ready for your
11 testimony?

12 A Yes. I just know his name. That's why.

13 Q Following the incident, you had an opportunity to
14 talk with a police officer in the hospital, correct?

15 A That's correct.

16 Q And you talked with him for a while and there are
17 some recordings of that conversation?

18 A Yes.

19 Q Have you listened to those in preparation for this
20 hearing?

21 A No. No, I haven't.

22 Q Okay. So you've never listened to the recording
23 that you -- from when you talked to the police
24 officer?

25 A No, I haven't.

1 Q And then a police officer came to the hospital, I
2 think, two days later and spoke with you as well?

3 A That's correct.

4 Q I think your sister and other family members were
5 in the room?

6 A Yes.

7 Q Have you listened to that, watched that recording?

8 A No, sir.

9 Q So now, as of now, three years later, you have
10 never seen those -- listened to those recordings or
11 watched those videos?

12 A No, sir. I mean, I did watch the video that
13 you were showing.

14 Q Okay.

15 A Yeah. But not the recording.

16 Q So you watched the video of the surveillance video
17 at the club?

18 A But not the recordings, I didn't.

19 Q Not your statements.

20 A Yes, sir.

21 Q All right. I believe on that Sunday you said that
22 you-all went to Hooters and had a couple of drinks.

23 A That's correct.

24 Q Do you remember what time you went to Hooters?

25 A It was around -- I can't remember the time.

1 It was around three or two o'clock.

2 Q Okay. And it was just you and Mr. Hernandez?

3 A That's correct.

4 Q And do you recall how much you had to drink while
5 you were at Hooters?

6 A Two drinks.

7 Q Beers or liquor drinks?

8 A It was Crown and Coke.

9 Q Crown and Coke?

10 A Yes, sir.

11 Q And then did Mr. Hernandez have the same?

12 A No, he had a beer.

13 Q And then you-all drove down to North Charleston, a
14 little further down to King Street Cabaret?

15 A That's correct.

16 Q Is that the first time you had been there?

17 A No, sir.

18 Q How many times, if you had to estimate, had you
19 been there?

20 A It was my third time, I believe.

21 Q Okay. And so I think you probably got there about
22 5:30-ish?

23 A I believe so, yes, sir. 6:00.

24 Q You had some drinks while you were there,
25 correct?

1 A That's correct.

2 Q Did you have any shots of liquor?

3 A No, no. It was the same drinks.

4 Q So you were drinking Crown and Coke the whole
5 night?

6 A Yes, sir.

7 Q How many did you have at the King Street
8 Cabaret?

9 A I believe it was like three or four. So
10 three or four drinks.

11 Q So five to six in total.

12 A Yes.

13 Q Over the night.

14 A Yes.

15 Q Did you think -- how were you feeling as you
16 were -- by the end of the night, were you drunk?

17 A No, I was okay.

18 Q Okay.

19 A Yeah, I was good.

20 Q Now, when you ultimately got to the hospital and
21 then you were discharged, did you ever see your
22 hospital records when you were discharged?

23 A No. No, I haven't. I haven't looked at
24 them.

25 Q Were you aware that, according to the hospital's

1 records and the testing they did, they determined that
2 your blood alcohol level was .20. Were you aware of
3 that?

4 A No, sir.

5 Q Are you aware that in South Carolina the legal
6 limit for alcohol consumption is .08?

7 A Oh, okay.

8 Q You're not aware of that?

9 A No, sir. First time hearing that.

10 Q So .20, you would have been two-and-a-half times
11 the legal limit in South Carolina?

12 A Okay.

13 Q But you said you felt fine?

14 A Yes, sir.

15 Q And I heard your testimony with Mr. Simpson about
16 the interactions that you had with Ms. Manzi in the
17 room for the private dance and with Mr. Laribo.
18 According to your testimony, there was no
19 confrontation between you and Ms. Manzi?

20 A No, sir.

21 Q It was just a simple conversation.

22 A Yes.

23 Q She asked you for this amount and you didn't think
24 you owed her that amount?

25 A That's right.

1 Q And I think you said you offered her \$250?

2 A Two hundred first.

3 Q Right.

4 A Yes. And then she was like, *No, you have to*
5 *pay the full amount*, and I was like, *No, I don't*
6 *do that*. And she was like, *No, you have to give*
7 *me more*. So I got 50 more dollars and I was like
8 here, 250.

9 Q Just to try to resolve it?

10 A Yes, sir.

11 Q And, at some point, Mr. Hernandez comes back down
12 the hallway into the room?

13 A Yes, that's when I was working out.

14 Q Okay. Why, if everything was so amicable and
15 there was no real issue, why did Mr. Hernandez have to
16 come back to the room where the two of you were?

17 A I mean, I have no idea. He was like, when I
18 saw him, he was like, *Oh, I was looking for you*.
19 *Where are you?* I was like, *I was just in the*
20 *room*. He was like, *Okay*. Then we just walked
21 back to the bar.

22 Q You were sitting in the courtroom. Miss Manzi
23 testified that he tried sort of resolve the
24 confrontation and offered her -- pulled out some money
25 to try to give her.

1 A No, that's not true.

2 Q That did not happen?

3 A No, sir.

4 Q Okay. Then so everything is fine. You go back to
5 the bar for you a little bit.

6 A That's correct.

7 Q And then you-all make the decision to leave?

8 A Yes.

9 Q Correct?

10 A That's correct.

11 Q Okay. So you go, you go to the -- you-all both go
12 the restroom?

13 A Uh-huh.

14 Q You come out. You're going out the front door,
15 and Mr. Robinson, kind of, wheels up to you,
16 correct?

17 A Yes.

18 Q And you saw him. He was not completely healthy,
19 was he?

20 A I mean, I didn't saw him because he was
21 sticking his head out the door. So I didn't know
22 he was -- like with that thing on his foot.

23 Q Later you saw him. His foot was injured and he
24 was on the scooter.

25 A Yes, yes. Later.

1 Q So when you-all are there at the front door, did
2 you say, *Fuck you, punta*, to him?

3 A No, sir.

4 Q You never said that?

5 A No.

6 Q You're positive?

7 A Yes, sir.

8 Q You never cussed at him at all?

9 A I mean, I did. I did.

10 Q What did you say?

11 A *We out of here, bitch, so we're about to*
12 *leave*, stuff like that.

13 Q But you never said, *Fuck you, punta*?

14 A Not in Spanish, no. Not that word.

15 Q What does that word mean?

16 A Same, bitch.

17 Q Okay. You never told him, *I'll fuck you up*?

18 A No, sir.

19 Q You never said, *I'll fucking kill you*?

20 A No. We were about to go home.

21 Q And so you walk out. Go to the car.

22 A Yes.

23 Q Get in the car. You-all pull out?

24 A Yes, sir.

25 Q Onto King Street.

1 A On the first road.

2 Q Yeah, I apologize. Courtland and the intersection
3 of King. And where do you see him first?

4 A So when we were pulling out of that parking
5 lot, the light hit him, and that's when we saw
6 him, like, yelling and stuff like that. That's
7 when we put the window down.

8 Q And how far away from him -- how far away from
9 you-all was he?

10 A So from the street there's, like -- could
11 have been, like, 50 feet, 40. Yeah.

12 Q So you were -- when I was -- earlier, and I was
13 standing back here --

14 A Somewhere in there.

15 Q Around here?

16 A Yes, sir. (Indicating).

17 Q And you-all pull up to the stop sign?

18 A Uh-huh.

19 Q Do you agree with me at that point there was no --
20 nothing keeping you-all from just going ahead and
21 turning and leaving?

22 A Yeah, nothing. Just him that he want us to
23 stop.

24 Q So from this far away, if you just wanted to get
25 home and wanted no issues, why did you stop?

1 A I wasn't driving, you know.

2 Q Did you tell Mr. Hernandez, *Hey, let's go, let's*
3 *not mess with this?*

4 A I did not.

5 Q Were you hanging out of the window yelling at
6 Mr. Robinson?

7 A No, I just told him, *What do you want?* I
8 mean, *What's wrong?*

9 Q You were here when we played the videos,
10 correct?

11 A Yes, sir.

12 Q Could you see you hanging out of the window with
13 both of your arms gesturing at Mr. Robinson?

14 A No, I didn't see myself.

15 Q You didn't see that?

16 A No, sir.

17 Q Do you remember speaking with the officers when
18 you were first in the hospital -- or both times when
19 you were in the hospital, the first time they came and
20 talked with you, the officer asked you why you got
21 kicked out of the club. Do you remember that?

22 A I don't remember him asking me that, but I do
23 remember I spoke with an officer.

24 Q Okay.

25 A He asked me --

1 Q Do you remember telling him -- I'm sorry.

2 A He asked me what happened and all of the
3 stuff.

4 Q Do you remember telling him that you-all did not
5 get kicked out of the club, that the club was
6 closing?

7 A No, I don't remember saying that.

8 Q Because the club was not closing, was it?

9 A No, it wasn't closing. No.

10 Q Do you remember the officers, when they asked you
11 what happened, multiple times you told them that
12 Mr. Robinson approached you in the truck with the gun
13 out and came right up to your window with the gun out?
14 Do you remember telling him that?

15 A I mean, at that time I was confused.
16 Because, first, when we saw him, I think he had
17 the gun out. That's what I was, like -- I believe
18 at the beginning. You know?

19 Q Uh-huh.

20 A Because when we, like, make the first stop, I
21 believe he had, like, the gun in his hands because
22 he was like raising -- like his hand, because I
23 was, like, *He had a gun in his hands.* That's why
24 I actually stepped out of the car to, like, not
25 stand right there so I can protect myself with the

1 cars so he don't shoot me.

2 Q We know now that didn't happened?

3 A But, yeah. I seen the video, so I'm there.

4 Q And so when they asked -- when you kept telling
5 them that, that didn't happen. He was never close to
6 the truck, was he?

7 A I mean, not that close.

8 Q Okay. I mean, he was 45 feet from the truck?

9 A At the beginning?

10 Q Right.

11 A And then he started walking towards the
12 truck.

13 Q But he never got close to you until the two of you
14 got out of the truck?

15 A That's correct.

16 Q And, in fact, the officers asked you if he threw
17 anything at the truck when you were in the hospital
18 and he told them no?

19 A Because I couldn't remember.

20 Q Okay.

21 A Yes, sir.

22 Q But now today you were so mad because he threw
23 something at the truck, that that was why you-all got
24 out?

25 A I mean, I wasn't that mad because that was

1 Javier's truck. That wasn't my truck, you know.

2 Q Okay. But on the night of the incident and then
3 two days when you had the chance to talk with the
4 officers, you didn't think that anything had been
5 thrown at the truck?

6 A I couldn't remember. I was on medication and
7 stuff like that.

8 Q You told the officers multiple times that Melshaun
9 came up to the car and he had the gun out. Do you
10 remember telling them that?

11 A I believe so, yes, sir.

12 Q And the officers, they tried to clarify it, they
13 would say, *Are you sure the gun was already out when*
14 *he came up to the window?* And you said, *Yes, Yes, for*
15 *sure.* Do you remember telling the officers that?

16 A I don't remember that part.

17 Q They asked you again if Melshaun came up to the
18 window of the truck with the gun out, and you said
19 yes?

20 A I don't even remember that.

21 Q In fact, you said it was because Melshaun was so
22 close to the truck that that's why you took the
23 opportunity to get out of the truck because you wanted
24 to take the gun from him. Do you remember telling him
25 that?

1 A Yes, yes, yes. Now that you're saying it,
2 yes, I remember.

3 Q Do you remember telling the police officer that
4 you said, *Don't pull that fucking gun on me unless*
5 *you're going to use it?*

6 A No.

7 Q You didn't say that?

8 A No, sir.

9 Q They asked you multiple times if anything happened
10 inside the club that would have lead to this
11 happening, and you said no.

12 A I mean, I didn't -- I didn't knew what
13 happened because we didn't -- we didn't get kicked
14 out.

15 Q You've watched the video several times as it's
16 been shown. Do you agree with me that it was about 48
17 seconds that you-all were sitting at that stop sign
18 where there was no interaction between either the two
19 of you and Mr. Robinson? Do you agree with that?

20 A Yes, sir.

21 Q And you would agree with me that had you-all just
22 driven off none of this would have happened, would
23 it?

24 A Yes. I wish that was the case.

25 Q If you-all had not gotten out of the truck and

1 approached Mr. Robinson who was on the scooter, none
2 of this would have happened?

3 A That's correct.

4 MR. JENNINGS: That's all the questions I
5 have, Your Honor.

6 THE COURT: Mr. Simpson.

7 MR. SIMPSON: Thank you.

8 REDIRECT EXAMINATION

9 BY MR. SIMPSON:

10 Q And if you hadn't stopped to go to the bathroom on
11 your way out, none of this would have happened,
12 correct?

13 A That's correct.

14 Q But does that mean you deserved to get chased
15 around a car with a gun pointed at your head?

16 MR. JENNINGS: Objection, your Honor.

17 THE COURT: Basis.

18 MR. JENNINGS: Calls for speculation.

19 THE COURT: I don't think it calls for
20 speculation because it's based on his perception.
21 The more adequate objection is leading. I need
22 you to reask the question, Mr. Simpson.

23 BY MR. SIMPSON:

24 Q Isn't it true there were hundreds of decisions
25 that day that, if they were made differently, could

1 have ended up with Zabdiel being alive today?

2 A That's correct.

3 Q But in any of your decisions, any of your
4 decisions on that night in your mind justify someone
5 chasing you down, shooting your friend, and shooting
6 you?

7 A No.

8 Q Does anything you do justify that response?

9 A None. No, sir.

10 MR. SIMPSON: Nothing further, Your
11 Honor.

12 THE COURT: Sir, you may step down.

13 Any further witnesses by the State?

14 MR. SIMPSON: The State would call
15 Detective David Wilson who will be our final
16 witness, Your Honor.

17 MR. COOPER: Your Honor, may Mr. Zavala be
18 excused from his subpoena for purposes of this
19 hearing?

20 THE COURT: And you represent him?

21 MR. COOPER: Yes, ma'am, I represent him.

22 THE COURT: I need you to identify
23 yourself for the record.

24 MR. COOPER: Michael Cooper.

25 MR. SIMPSON: No objection from the

1 State.

2 THE COURT: Sir, you are excused for the
3 purposes of this hearing subject to recall. You
4 may proceed.

5 MR. COOPER: Thank you, Judge.

6 THE COURT: You're welcome.

7 THE CLERK: Do you swear or affirm the
8 testimony you shall give the Court to be truth, the
9 whole truth, and nothing but the truth so help you
10 God?

11 THE WITNESS: I do.

12 THE CLERK: Please state your full name
13 for the record and spell your last name, please.

14 THE WITNESS: Yes, ma'am. My name is
15 Daniel Wilson, W-i-l-s-o-n.

16 THE COURT: You may proceed.

17 MR. SIMPSON: Thank you, Your Honor. May
18 I make an inquiry of the Court?

19 THE COURT: Sure.

20 MR. SIMPSON: We are in this trial
21 seeking to admit the statement by the defendant
22 Melshaun Robinson. For efficiency's purpose
23 during this testimony, I'll just go ahead and
24 elicit some *Jackson v. Denno* testimony, if that is
25 okay with the Court?

1 THE COURT: Any exceptions?

2 MR. JENNINGS: We will not be asking for
3 Jackson v. Denno hearing, Your Honor. We agree
4 for the statement to come in.

5 MR. SIMPSON: I'll keep it very
6 perfunctory, then.

7 THE COURT: He said he's agreed to it, so
8 there's no issue. He is not objecting to the
9 statement.

10 MR. SIMPSON: Okay, agreed. Thank you,
11 Your Honor.

12 THE COURT: You're welcome.

13 WHEREUPON:

14 DANIEL WILSON,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SIMPSON:

18 Q Detective Wilson, we will try to keep this direct
19 this afternoon.

20 A Yes, sir.

21 Q Where are you employed?

22 A Charleston Police Department.

23 Q What is your current rank and position with that
24 department?

25 A My current rank is sergeant, detective

1 sergeant with the police department.

2 Q Okay. Could you just give an account, a very
3 brief synopsis for the Court, your history with the
4 department?

5 A Yes, sir. I began my career with CPD in
6 2009. I spent approximately six years on patrol.
7 After that, I was assigned to the detective
8 division where I spent about another six, six and
9 a half and working in special victim's, robbery,
10 and in my final assignment in that role was with
11 the homicide division before I was promoted to
12 sergeant.

13 Q And were you with that division in April of 2021?

14 A I was.

15 Q And did you have occasion in that position to
16 become involved in the incident that brings us here
17 today?

18 A Yes, sir, I did. On April 25th at around
19 8:30 in the evening, I was called by my then
20 supervisor, Sonny Perkowski, and notified of a
21 shooting which occurred at the King Street
22 Cabaret.

23 So I was notified by him. He gave me a briefing
24 just about the in-progress investigation and asked
25 that I respond to begin assisting with that

1 investigation.

2 Q How did your assistance begin?

3 A I first, once Sergeant Perkowski and I
4 discussed what tasks were already in progress, I
5 responded to the department in order to draft a
6 search warrant to begin examining and processing
7 the scene and recover any evidence and video that
8 may be on scene.

9 Q So video is already, sort of, on your mind and
10 your department's mind as an important aspect of this
11 case?

12 A Video has -- throughout my career has become
13 more and more important in everything and it's
14 become much more ubiquitous, so, yes, video is
15 always one of the first things that we attempt to
16 procure.

17 Q And, in the course of starting the process of
18 procuring that video, what occurred?

19 A During the course of that, we were notified
20 that officers on scene had made contact with
21 witnesses, and made contact with the defendant,
22 who, essentially, informed them that he was
23 involved, that he had shot the victims, and he
24 essentially relinquished his firearm at that
25 point, and he had signaled his intent that he

1 would provide a statement to us.

2 Q Okay. Did you participate in the taking of that
3 statement?

4 A Yes.

5 Q Okay. Just had a discussion about the
6 voluntariness of that statement, so I would just ask
7 you, understanding that this isn't the jury trial of
8 course --

9 A Of course.

10 Q -- could you briefly paraphrase, and just as
11 simply as you can, the gist of Mr. Robinson's
12 statement?

13 A Yes. Mr. Robinson explained his role at the
14 club, explained that throughout the night he had
15 been -- his attention had been brought to the two
16 victims, that they -- their behavior was either
17 aggressive with some of the females in the club,
18 their behavior was inappropriate, and that he had
19 attempted to eject them from the club. Upon doing
20 so, an altercation ensued that the two of them,
21 and from our understanding and from his portrayal,
22 were, kind of, the primary instigators in that
23 altercation.

24 Q So when Mr. Robinson described to you what
25 occurred out in the parking lot, was it pretty clear

1 that his version of events was that -- who was the
2 attacker?

3 A It was the victims.

4 Q The victims were the attacker?

5 A Correct.

6 Q According to his statement?

7 A Correct.

8 Q Did you listen carefully to his statement?

9 A Yes.

10 Q Is that statement recorded?

11 A Yes, audio and video.

12 Q Was it important to you to give him all the
13 opportunity he needed to convey to you what happened
14 that night?

15 A Of course. We -- much of the actual incident
16 occurred in the parking lot. There were no
17 witnesses in the parking lot. There were plenty
18 of people inside the club at the time, but as the
19 altercation occurred, it was very important to
20 take his statement to -- you know, to determine
21 what had happened.

22 Q Okay. When he finish his statement, did you say,
23 did you -- *You're a liar, we're going to arrest you?*

24 A No.

25 Q What happened at the conclusion of the statement?

1 A At the conclusion, we took his -- the
2 entirety of his statement. We didn't really draw
3 any conclusions from that. We knew that there was
4 more that we needed to learn about this
5 investigation and the incident and knew that we
6 needed the video, so he was ultimately released.

7 Q Skipping ahead, did you in the future have
8 occasion to review this video?

9 A Yes.

10 Q Is that location of 1337 King Street, King Street
11 Cabaret, pretty well covered by video surveillance?

12 A Yes. It does have quite a bit of cameras.

13 Q Did you personally and in conjunction with other
14 officers review these cameras?

15 A Yes.

16 Q Was the actual shooting, you know, the incident in
17 question, captured on one of those cameras?

18 A Yes, it was.

19 Q Did you review that?

20 A Yes.

21 Q Did you give it a tertiary review, or did you give
22 it some scrutiny?

23 A I gave it scrutiny.

24 Q And was that scrutiny given just by you, or was it
25 shared and opinions given by lots of officers?

1 A No. That was -- any kind of decision that we
2 make is a collaborative process. There were many
3 detectives who we all had a chance to watch the
4 video confer about what we learned and then draw
5 conclusions from that.

6 Q Did the video -- if could you share with the
7 Court, did the video comport with the statement that
8 Mr. Robinson had given you after the incident in your
9 opinion?

10 A No, it did not.

11 Q And in what manner did it not comport with the
12 video?

13 A There were several -- several inconsistencies
14 with the statement that the defendant gave, and
15 then what we later observed on the video that the
16 portrayal of the victims inside the club being
17 very boisterous, being very aggressive, did not
18 appear to consistent. The idea that the defendant
19 armed himself to just go out and get a tag and his
20 only intent was to get this tag off the car, and
21 that the car came across the parking lot and the
22 defendant's immediately hopped -- or excuse me,
23 the victim's immediately hopped out of the car to
24 confront him and charge at him was not consistent,
25 among other aspects as well.

1 Q On the video you said "charged at him," who was
2 doing the charging on the video?

3 A Through our review, we discovered that it was
4 actually the defendant who pursued the victims in
5 this incident around and that were in the car.

6 Q To the best that -- given all we know today, how
7 many firearms were involved in the incident?

8 A Only one.

9 Q And who had that firearm?

10 A The defendant.

11 Q Are you also, as a lead detective, familiar
12 generally with the crime scene process and anything
13 collected at the scene?

14 A Yes.

15 Q Okay. Are you familiar with a rock or piece of
16 concrete being thrown?

17 A Yes.

18 Q Okay. Where was that located?

19 A That was in the general vicinity of where the
20 victim's truck is found at its resting point, and
21 there appear to be corresponding damage on the
22 truck, which indicated that the rock had been
23 flung, actually hit the truck.

24 Q In the area of where -- in your review of the
25 video, do you ever see a moment where it appears that

1 the defendant throws something?

2 A Yes.

3 Q And does there appear to be a moment where he
4 picks that something off the ground?

5 A Yes.

6 Q And what is sort of around that area that he
7 reaches down?

8 A Rocks and broken concrete.

9 Q To the best of a layperson's ability, does the
10 rock found near the truck seem to look and appear to
11 be like the types of broken concrete and rock found at
12 the defendant's feet?

13 A To the best that we could determine, yes,
14 sir.

15 Q Okay. In your review of the video, does the
16 confrontation between the defendant and victims remain
17 verbal up until the point in time the rock is
18 thrown?

19 A It appears so, yes.

20 Q Okay. And what happens after the rock is
21 thrown?

22 A It appears that the rock was the --
23 essentially, one of the victims stopped the truck
24 and got out and continued the verbal -- the verbal
25 altercation, at which point the defendant produces

1 a handgun.

2 Q And how did the victims respond when the defendant
3 produces his handgun?

4 A It appeared that the victims took at least a
5 step backwards and then put their hands up.

6 Q Okay. How does defendant respond once he wields
7 the handgun?

8 A The defendant, at that point -- I'm not sure
9 how much time passes, but the defendant then
10 pursues Jaziel around -- essentially, closes the
11 distance and pursues him.

12 Q And once he closes the distance, does he attack
13 Jaziel?

14 A Yes. Once they reach the back of the car,
15 and fumbled in between the two parked cars, a
16 fight ensues.

17 Q Okay. Once shots are fired, what did the victims
18 do at that point in time?

19 A They began to retreat back to the truck.

20 Q And what does the defendant do as they are
21 retreating?

22 A Continues to fire at both of them.

23 Q And at what part of their bodies?

24 A At their backs.

25 Q Okay. And, to the best of your knowledge, showing

1 what's been admitted by -- well, I should say this.

2 I'm going to show you what's been admitted by consent
3 as State's Number 14 -- State's Number 4 for the
4 purposes of this hearing.

5 A Yes, sir.

6 Q Do you recognize that?

7 A Yes. This is an anatomical drawing showing
8 points of injury.

9 Q Okay. And where on Jaziel's body are those points
10 of entry?

11 A You have one, two, three that all appear to
12 be on the back.

13 Q I'm showing you briefly what's been marked for the
14 purposes of this hearing, as State's 6, 7, 8, 9, 10,
15 11 entered by consent into evidence for purposes of
16 this hearing only.

17 A Yes, sir.

18 Q Can you review those images?

19 A Yes. These are the still images of the
20 incident captured on video.

21 Q Okay. And do those six images correspond with
22 anything meaningful in the video?

23 A Yes. These are images of the shots being
24 fired.

25 Q Okay. To the best we can tell, is that fair to

1 say?

2 A Yes, sir.

3 Q How many shell casings were found at the scene?

4 A Six.

5 Q Okay. All of the same caliber and brand?

6 A Yes. Brand, I don't recall. I'd have to
7 refer to my notes. But calibers are the same.

8 Q Same caliber.

9 MR. SIMPSON: Court's indulgence.

10 BY MR. SIMPSON:

11 Q Detective Wilson, please answer any questions the
12 defense has for you.

13 A Yes, sir.

14 THE COURT: You may proceed.

15 MR. JENNINGS: May it please the Court?

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. JENNINGS:

19 Q Good afternoon, Detective Wilson.

20 A Sir.

21 Q You were the lead detective, for lack of a better
22 term?

23 A Yes, sir.

24 Q So all information, I assume, comes through you?

25 A Essentially, yes.

1 Q All the evidence processing at the scene, those
2 reports came to you, photographs, all that?

3 A Our evidence technicians create their own
4 reports and they're included in the overall report
5 packet.

6 Q You've a chance to review that?

7 A Yes.

8 Q And the interviews of Mr. Armenta, you had a
9 chance to review those?

10 A Yes.

11 Q And he was interviewed twice that I know of. Once
12 I believe by Detective Deluche --

13 A Deluche, yes.

14 Q -- that night at MUSC, and then four days later on
15 the -- I think two days later by Officer Durell?

16 A Yes, sir.

17 Q Both at MUSC?

18 A Yes.

19 Q Have you reviewed those, listened to those?

20 A Yes, I have.

21 Q Okay. Now, I know you went through great stakes
22 to do a subtle analysis and picking apart
23 Mr. Robinson's statements.

24 How -- in one word, how would you describe
25 Mr. Armento's statements and the accuracy of those

1 statements with what happened?

2 A That's a tough question to answer. In one
3 word, describing both sets of statements?

4 Q Uh-huh. Accurate or inaccurate?

5 A I would say there were portions of accuracy
6 and then portions of inaccuracy.

7 Q Would you agree there were portions of gross
8 inaccuracy?

9 A I would say inaccuracy for sure, yes.

10 Q He's asked multiple times by both of the officers,
11 if they were kicked out, why they were kicked out,
12 correct?

13 A Yes, sir.

14 Q Initially he says they were weren't kicked out,
15 that the club was just closing.

16 A Right. I think that's correct.

17 Q Multiple times asked if anything happened in the
18 club that led to them being asked to leave?

19 A Right.

20 Q Okay. And every time in different versions, there
21 was, no, no, man, nothing happened, no issues,
22 correct?

23 A Correct.

24 Q Interestingly, even though in testimony's he said
25 he never uttered the word, "Fuck" or "Fuck You." He

1 did admit to the officers in those interviews that he
2 said, "Fuck you, punto."

3 A He said something to that effect, yes, sir.

4 Q Okay. Multiple times when given the opportunity
5 to give his rendition of what happened and how this
6 incident played out, he said Mr. Robinson came out
7 into the parking lot, approached the truck, came up to
8 the window of the truck with the gun out, threatening
9 him.

10 A I remember that from one of his statements, I
11 don't remember if that was consistent through both
12 of them.

13 Q And the officer followed up with him multiple
14 times and said, *When he came to the truck, he had the*
15 *gun out?* And he said, *Yes, yes, for sure. That's why*
16 *I did what I did.* I think one time he even said he
17 fired into the truck.

18 A Okay.

19 Q But we know that none of that happened, correct?

20 A That's correct.

21 Q Because, in fact, throughout all of this
22 situation, Mr. Robinson was about 45 feet away from
23 these guys until they came out of the truck and
24 everybody got closer.

25 A Forty five feet sounds like a long distance,

1 but I didn't personally take any measurements of
2 any kind of scene.

3 Q Okay. They certainly weren't -- I mean,
4 Mr. Robinson wasn't in any position that he could
5 impede their progress, was he?

6 A In which portion of the event?

7 Q When they first pulled up to the stop sign.

8 A No. Robinson was not in a position to impede
9 them.

10 Q Nothing prevented them from driving away,
11 correct?

12 A Well, nothing was in front of them,
13 preventing them from driving away.

14 Q Right.

15 In fact, officers, both officers asked
16 Mr. Armenta probably ten times, I don't know, but
17 multiple times, *Why didn't you just drive away?* And
18 he said, *I don't know.*

19 A Okay.

20 Q When you, I know you've watched the video many
21 times and watching it again today, do you agree with
22 me that you can see Mr. Armenta with his body out of
23 the passenger's side window, both arms visible?

24 A Like you, I've watched it a lot. There
25 appears to be some movement up there, but I can't

1 definitely say what that -- attribute what that
2 movement is, but I can see movement at that point.

3 Q And you would agree with me, there are no windows
4 in the King Street Cabaret on the exterior of the
5 building, correct?

6 A I think you would be hard pressed to find
7 many windows in an adult establishment, to be
8 honest.

9 Q Correct. You were at the scene that night,
10 correct?

11 A Myself and Sergeant Perkowski went out to
12 take a really quick walk-through the scene, and
13 that was the extent of our involvement at the
14 scene.

15 Q All right. First I'm going to show you Defense
16 Exhibit 14. This is the portion of the parking lot
17 where -- the black fence, the beginning of it?

18 A Yes, sir.

19 Q And this is the area where Mr. Robinson reaches
20 down and grabs something when throws back at the
21 truck, correct?

22 A Correct.

23 Q And there's two items in this photograph. One,
24 and I've got another picture of it, but one is a
25 charger.

1 A Right.

2 Q And to the left of that on the white divider is
3 the cell phone?

4 A Correct.

5 Q Okay. And Defendant's Exhibit 12 is the portable
6 charger?

7 A Right.

8 Q This is item number 5, Defendant's Exhibit 13.
9 That's 5 right by the end of the fence, correct?

10 A The evidence marker?

11 Q Yes.

12 A Yes, that's right.

13 Q And you would agree with me that that's right
14 where Mr. Melshaun reached down -- Mr. Robinson, I'm
15 sorry, when he reached down and grabbed what
16 ultimately was a rock and threw it back at the truck,
17 it was right in that vicinity?

18 A I would say that's probably approximate,
19 yes.

20 Q Defendant's Exhibit 11, this is the black bag that
21 Mr. Armenta had?

22 A Yes, sir.

23 Q This is the photograph that was taken as it was
24 recovered at the scene, correct?

25 A Right.

1 Q And it's open, correct?

2 A Yes, sir.

3 Q Now, finally, everybody can watch the video and
4 obviously have multiple interpretations. Would you
5 agree with me or disagree that a reasonable
6 interpretation is that, as those men get out of the
7 truck initially, Mr. Armenta comes around as you're
8 facing the cars on the left side, Mr. Hernandez is
9 coming around the right side attempting to outflank
10 Mr. Robinson in the parking lot?

11 A I don't know if I can characterize that as an
12 actual outflanking maneuver, but those are the
13 movements that he make.

14 Q And they are approaching him?

15 A They are, essentially, standing in the backs
16 of the cars.

17 Q Coming towards him, though.

18 A To get out of the car, yes.

19 Q And he has his gun out at that point.

20 A I believe that's correct, yes.

21 Q Okay.

22 MR. JENNINGS: Beg the Court's
23 indulgence.

24 THE COURT: Yes.

25 MR. JENNINGS: That's all the questions I

1 have, Your Honor.

2 THE COURT: If the State has questions?

3 MR. SIMPSON: Thank you, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. SIMPSON:

6 Q Picking up where Mr. Jennings left off, you said
7 there was a step from the victims towards
8 Mr. Robinson, and he said, when the gun comes out,
9 what is the physicality, what is the response of the
10 victim when the gun comes out? What direction do they
11 move?

12 A Backwards.

13 Q Okay. And who pursues to close that gap?

14 A Mr. Robinson.

15 Q You also looked at a picture of a phone and a
16 charger on the ground?

17 A Yes, sir.

18 Q What area of the ground is that phone and charger
19 on?

20 A Help me understand that question.

21 Q Sorry. It's poorly articulated on my part. Let's
22 use the pictures.

23 A Okay.

24 Q Defense's 14, do you see the phone and the charger
25 there?

1 A Yes.

2 Q Is this near the area Mr. Robinson is standing
3 during that initial verbal back and forth of the
4 truck?

5 A Yes.

6 Q When we see Mr. Robinson bend down and pick
7 something up, is this the area he picked it up from?

8 A Yes.

9 Q When you heard testimony before about broken
10 concrete and rocks, is that what you were referring
11 to?

12 THE COURT: Could you please repeat the
13 number of that exhibit?

14 MR. SIMPSON: Defense Exhibit --

15 THE COURT: I thought you said 14.

16 MR. SIMPSON: I believe it was 14. I
17 just want to be right. 14, yes.

18 THE COURT: Thank you.

19 BY MR. SIMPSON:

20 Q Now, we do see two things that aren't rocks, a
21 phone and a charger, right?

22 A Correct.

23 Q On the video, which you have watched, do we see
24 the phone -- do we see how the phone got there?

25 A Yes, I believe we do.

1 Q When and how did that get there?

2 A I believe that comes out during the
3 altercation between the two cars. It comes out of
4 the satchel.

5 Q And it falls from Jaziel's person?

6 A Yes.

7 Q If I picked up a charger from that spot and threw
8 it with the apparent gusto that Mr. Robinson threw an
9 item, would the charger still be right there at his
10 feet?

11 A Oh, no.

12 Q Okay. Mr. Jennings pointed out that Jaziel, when
13 interviewed, said, *Nothing really happened to get us*
14 *kicked out that night*, right? I believe that that was
15 sort of couched as an inaccuracy?

16 A Correct.

17 Q Were Jaziel and Zabdiel kicked out that night the
18 best you can see on the video?

19 A No.

20 Q Could it be linguistic difference between being
21 kicked out of a club and, you know, being confronted
22 outside on their way out?

23 A Yes.

24 Q Okay. So when he says, *Nothing got us kicked out*
25 *that night*, do you think that's inaccurate?

1 A No, I don't.

2 Q There was also some attempts by Mr. Jennings to
3 get you to, sort of, categorize or weigh the previous
4 statements of Jaziel, is that right, as far as
5 accurate or not accurate?

6 A That's correct.

7 Q Well, let me do something similar. You've spent a
8 lot of time scrutinizing this video; is that correct?

9 A Yes.

10 Q Did you scrutinize the video from inside the club?

11 A Yes.

12 Q Did you scrutinize the video from outside the
13 club?

14 A Yes.

15 Q Did you scrutinize the video of the incident that
16 occurred?

17 A Yes.

18 Q If having to sit there and say, particularly what
19 you feel the important points are, which statement you
20 received after this incident was more accurate or
21 inaccurate? Between Melshaun Robinson's and Jaziel's,
22 whose would you say is more accurate?

23 A I would say the victim's statement is more
24 accurate.

25 Q Okay.

1 MR. SIMPSON: I don't have any further
2 questions. Thank you, Your Honor.

3 THE COURT: Sir, you may step down.

4 THE WITNESS: Thank you.

5 THE COURT: Anything further from the
6 State?

7 MR. SIMPSON: No, Your Honor.

8 THE COURT: Anything further from the
9 defense.

10 MR. JENNINGS: No, Your Honor, not as to
11 testimony. I don't know if you want to hear
12 arguments from us.

13 THE COURT: I'm trying to determine if
14 you have any rebuttal witnesses.

15 MR. JENNINGS: No.

16 THE COURT: I'll be glad to hear any
17 argument.

18 MR. JENNINGS: Thank you. May it please
19 the Court?

20 THE COURT: Yes, sir.

21 MR. JENNINGS: The majority of my
22 argument, I will stand by the memorandum that we
23 submitted to Your Honor. Just sort of walking
24 through it, I think the correct analysis for the
25 Court, as the Supreme Court sort of fleshed out

1 the stand-your-ground statute now also encompasses
2 a self-defense analysis for the Court. Weighing
3 whether the defendant was at fault in bringing
4 their own difficulty, the defendant must have
5 actually believed he was in imminent danger of
6 losing his life or sustaining serious bodily
7 injury or actually was in such imminent danger, if
8 the defendant relies on his belief that a
9 reasonably prudent man must entertain the same
10 belief given the facts and circumstances, and,
11 finally, that the defendant had no other probable
12 means of avoiding the danger of losing his life or
13 sustaining serious bodily injury other than to act
14 as he did.

15 The Court has said that if issues arise
16 as the Court's analysis as to the belief of
17 imminent danger in certain circumstances, which
18 don't apply in this case, the Court can look at
19 16-11-440(a), and, as to the most relevant, (c) as
20 to the duty to retreat for a business owner, or a
21 business proprietor who has the right under
22 South Carolina law to eject somebody from a
23 business, and, if they're acting in good faith,
24 are relieved of the obligation to avoid the
25 danger.

1 Looking at these, sort of,
2 chronologically, first, looking at the fault of
3 bringing on the difficulty, I believe that the
4 most important time frame is that time frame when
5 Melshaun comes out of the business into the
6 parking lot. I think Your Honor sits as the fact
7 finder in these hearings. These are unusual
8 versus the normal course of a trial where the
9 Court is just the judge of the law, and the jury
10 acts as the finders of fact. The Supreme Court
11 has made clear that in these hearings, the Court
12 also sits as the finder of fact and is entitled to
13 make those types of decisions when analyzing the
14 motion and the evidence, and part that I think
15 includes credibility of the witnesses in
16 determining what happened. The standard is
17 preponderance of the evidence. It's not proof
18 beyond a reasonable doubt.

19 I think when you look at the evidence and
20 the witnesses have testified, Miss Manzi,
21 Mr. Laribo, Mr. Robinson as to the conduct that
22 happened inside the club and the mindset of
23 Mr. Armenta as they were exiting the club, that is
24 the relevant time period. What happened right at
25 the front door. Unfortunately, we don't have

1 video or audio of much of that interaction, so I
2 think the Court's determination is going to have
3 to come down to credibility to decide what
4 happened, what threats were made.

5 As Mr. Robinson testified to the threats
6 that Mr. Armenta made, he was concerned because
7 Mr. Armenta kept reaching in the bag. He was
8 making threats about causing harm to Mr.
9 Robinson -- yeah, Mr. Robinson and to the patrons
10 in the club. And that was the fear that drove him
11 back inside to get the gun to come out and make
12 sure that these gentlemen left and that there no
13 was no further issues.

14 At that point, I don't think it can be
15 argued that he had done anything to create a
16 problem. He had acted as the proper business
17 proprietor and ejected people. Told them not to
18 come back and they were leaving.

19 As he comes out into the parking lot and
20 they were leaving, as he demonstrated, I think
21 everybody agreed with the general distances, he's
22 40, 45 feet away from this car. There is nothing
23 stopping this car from driving off. It could have
24 driven the other way on Courtland Drive, from the
25 stop sign, they could have easily turned left and

1 turned right onto King Street. Mr. Robinson does
2 absolutely nothing to inhibit their ability to
3 leave the area.

4 I would submit to Your Honor, you can
5 watch the video, it seems clear to me that
6 Mr. Armenta is hanging out the window, yelling at
7 him. I believe he throws the charger at
8 Mr. Robinson as he testified. The relevance of
9 those photographs is that the charger is literally
10 found right where Melshaun said he reached down
11 and he grabbed what he thought was thrown. It
12 wasn't the rock. It was the charger. But it's
13 straight up the alley between those two cars where
14 he testified that it was thrown.

15 He testified that Mr. Armenta continued
16 to reach in the bag and that was what caused him
17 concern for his physical safety in life. He
18 thought that he had a weapon in it. He testified
19 he thought he had something in his hand. We know
20 now, from looking at the video, that that was a
21 phone, but South Carolina law does not require you
22 to make that distinction in a split second of an
23 accident like this.

24 As Your Honor is aware, individuals are
25 entitled to act on appearances, even if those

1 appearances turn out to be false. We know he had
2 something in his hand. We know these objects end
3 up in the vicinity where Melshaun reaches down and
4 grabs what he thinks was thrown. And we know that
5 the bag is open. We've got a photograph, which is
6 all consistent with what Melshaun testified to.

7 And I think when Your Honor looks at all
8 this testimony and judges the credibility, I
9 cannot agree if they think that what Mr. Armenta
10 said was more credible and more factually accurate
11 than what Mr. Robinson said, that's just --
12 couldn't be further from the truth.

13 The statements that he made to the
14 officers the night in the hospital, three days
15 later, are not within the realm of any sort of
16 veracity or truth as to what happened. It's just
17 not close to what happened when he says that
18 Mr. Robinson came to the window of the truck, was
19 right by the truck with the gun, and that's why he
20 got out. I just don't think that there's a shred
21 of truth to what Mr. Armenta said when he
22 described the incident.

23 I do not believe that Mr. Robinson was at
24 fault in bringing on the difficulty. I think he
25 went out to the parking lot to make sure that

1 these men left because of those threats. He did
2 not have the gun out. He was not trying to
3 instigate any kind of problem. He only pulled the
4 gun out and displayed it when they got out of the
5 truck.

6 And as far as a reasonable man, what he
7 would assume, I don't know that there's any other
8 assumption that you can have that when you produce
9 a gun in hopes of deterring somebody from
10 approaching you and the people continue to come
11 towards you and not leave the situation, not get
12 back in the truck and drive away, the only
13 reasonable presumption is that they are armed, and
14 intend to do ill will. So I think he certainly
15 had a subjective belief that he was in imminent
16 danger.

17 He had no -- I'll submit to Your Honor,
18 that he had -- did not have a duty to retreat
19 based on 16-11-440(c).

20 And I would ask, Your Honor, when you're
21 analyzing these issues, I think *State vs. Dickey*
22 is the most on point case. I think almost to the
23 letter of this case. In that case you had
24 Mr. Dickey, who had significant health problems,
25 in our case Mr. Robinson suffered from asthma, he

1 had his broken foot, he was on a scooter. He was
2 not able to move around well. In *Dickey*, as in
3 this case, Mr. Dickey testified that under the
4 circumstances and appearances he believed he was
5 in actual danger of death or serious bodily harm.

6 The court found it reasonable that
7 Mr. Dickey made such an assumption and a person of
8 his stature and limited agility would entertain
9 the same fear when faced with an attack by a
10 belligerent, intoxicating, more agile, and younger
11 male who appeared to be reaching for a weapon, all
12 of which Mr. Robinson testified to.

13 The court in *Dickey* said had petitioner
14 turned his back he would have likely been attached
15 from behind as he tried go through the doors back
16 to the apartment complex. As Mr. Robinson
17 testified, he did not think it was safe for him to
18 turn his back and return to the business because
19 he thought that Mr. Armenta had a weapon and would
20 likely use it on him or return to the club and
21 harm individuals inside.

22 Similarly in *Dickey*, the alleged victim
23 in that case, after Mr. Dickey had brandished the
24 gun and presented it, continue to advance on him,
25 and the court said that that was a reasonable

1 inference, as we are arguing to Your Honor in this
2 case. When you produce a handgun asking somebody
3 to leave, asking them to go, and they continue to
4 advance on you, that that's the only reasonable
5 assumption, is that they're armed and have a
6 weapon and intend to cause injury to you.

7 So for those reasons and the others that
8 we laid out in our memorandum, we would ask you to
9 rule that Mr. Robinson is immune from prosecution
10 based on 16-11-450, and that these indictments
11 should be dismissed.

12 THE COURT: Would the State like to
13 respond?

14 MR. SIMPSON: Yes, Your Honor, thank you.

15 Like Mr. Jennings, I'll refer mainly to my
16 brief that I think outline our position with some
17 exactitude, but I'll just, sort of, review that as
18 Mr. Jennings did.

19 As you know, Your Honor, we agree largely
20 that both of our briefs are consistent in how the
21 law approaches the stand-your-ground motion. That
22 is that, first, you approach it without even
23 wading into the statutory language of the
24 Stand-Your-Ground Act. We first start with just a
25 good 'ol self-defense elements. We don't have to

1 start with those now. It's really the first
2 element of self-defense. I think is immunity
3 claim fails before it begins. And that, of
4 course, is the requirement that to establish
5 self-defense, the defense as to have proven by a
6 preponderance of the evidence presented to you
7 here today, that their client was without fault in
8 bringing on the difficulty.

9 To that note, imagine a situation where I
10 were to walk out of this courtroom, curse at
11 someone across the street, throw a rock in their
12 direction, and then when they turn to approach me,
13 shot them, and said I was afraid that they were
14 coming at me to get me because they were coming
15 towards me.

16 Obviously, you would find in that scenario
17 that I, at least, contributed to and was not without
18 fault in bringing on the difficulty. That and more
19 occurred here.

20 We're really fortunate here because I
21 think juries and courts are often in a real tough
22 spot weighing who they want to believe, who they
23 find more credible. We are fortunate here because
24 we get to watch this occur. And so they really --
25 at the end of the day, the things that we are not

1 one hundred percent certain about, like the audio
2 that's not present, are pretty small and
3 insignificant in the overall analysis.

4 Your Honor gets to watch what happened,
5 and, again, look at that and say, well, which
6 story that we heard here today is more close to
7 the truth and certainly the victims.

8 But back to the element of being without
9 fault in bringing on the difficulty, I would just
10 note to Your Honor that this analysis is not a
11 weighing of the conduct of both parties to see if
12 somebody's 51 percent to blame and somebody else
13 is 49 percent to blame.

14 The element of self-defense is this: Is
15 the defendant 100 percent without fault in
16 bringing on that difficulty? In order to find
17 immunity here, you would have to conclude that
18 that was the case. That it was 100 percent fault
19 and zero percent fault by Mr. Robinson without --
20 the defendant is wholly without fault in bringing
21 on the difficulty.

22 To recount what you've seen and heard all
23 day, Your Honor, these two individuals had left
24 the King Street Cabaret, were facing their car and
25 walking to their car when they were stopped to be

1 cursed at and confronted by the defendant. Was it
2 warranted in this situation? You know, who knows,
3 but he was the one that started and brought on the
4 confrontation. He was the one that ran back into
5 the club to get a gun and interject a firearm into
6 what's just a verbal conversation.

7 At that point in time, what did the
8 victims do? Oh, okay, this is crazy. Continue to
9 walk to their car, to get in the car, and go home
10 and leave. Got in the car, pulled out, pulled out
11 onto King Street -- which I know they're, you
12 know, arguing all the ways you could go, it would
13 be the main way you could go to get out of this
14 place -- when they are confronted again by the
15 defendant. If the defendant didn't grab his gun
16 and go back out there to renew this confrontation,
17 it wouldn't have happened, so he is not without
18 fault in bringing on the difficulty. That's
19 certainly fault.

20 But then he still had a problem. It's
21 just verbal. His confrontation isn't working.
22 They're just yelling at one another.

23 What escalates it from just verbal to
24 them getting out of the car? Him throwing a rock.
25 And then I just ask Your Honor, as you sit as a

1 trier of fact, to listen about what you heard
2 about that. Defendant's standing by a big pile of
3 rocks, reaches down where the big pile of rocks
4 are, throws a rock by the truck in the crime
5 scene, there's a rock right next to the truck, and
6 the corresponding ding in the truck to where the
7 rock is lying on the ground. I think that that's
8 a pretty fair conclusion of that for the --
9 particularly for preponderance of the evidence for
10 the Court to conclude he threw a rock at them.
11 And it's right when that occurs that, you will see
12 on video, that again the defendant with fault
13 escalates the situation from merely verbal to them
14 getting out of the truck.

15 And here is what happens, the ultimate
16 irony of this, is that when Melshaun Robinson
17 pulls out the gun, it works. It works. They
18 start backing up. He's not under attack. The
19 victims are moving backwards. The person that
20 makes it an attack, the attacker at this point --
21 and I would disagree Mr. Jennings -- I think this
22 point is the most crucial in the analysis, which
23 is, as the victims are backing up, Mr. Robinson
24 moves. And I know that he has a hurt foot, but
25 you get to watch how quick he goes. He goes right

1 at Jaziel, chases him around the car, gets up
2 catches up to him, assaults him, that's where the
3 items fall out of his bag, and is assaulting him,
4 and it is only Zabdiel who comes to help him,
5 which he has a 100 percent lawful right to do.
6 That's really the only time that the defendant is
7 in any sort of harm in any way. At this point,
8 that's completely justified.

9 The defendant throws Zabdiel to the
10 ground -- you have seen the image. The exhibit is
11 right there -- where Zabdiel is on all fours on
12 the ground and the defendant shoots him, bending
13 down and shoots him in the back. It happens
14 quickly, but you don't look at a man on his hands
15 and knees and shoot him in the back in
16 self-defense or when you're standing your ground.

17 And that's probably a good time to bring
18 out the crux of the defense's support in this
19 case, *State vs. Dickey*. *State vs. Dickey* is an
20 interesting case. It does have some similarities
21 with this case, but boy does it have a gigantic
22 glaring difference that makes the defense's
23 attempt to use it here crumble. And that's, in
24 *State vs. Dickey*, a person was attacked while the
25 ejecting patrons. In *State vs. Dickey*, he is

1 armed and ejecting patrons from a business. In
2 that case, he's actually ejecting them. Not
3 interrupting them from leaving. Actually kicking
4 them out of the business. When one of these -- a
5 business in that case being a residence hall.

6 In *State vs. Dickey*, he is escorting them
7 out when one of the people, who they presented
8 evidence, armed with a broken bottle turns and
9 charges him. In *State vs. Dickey*, he is the
10 attacked, not the attacker. And that's the most
11 important difference. And that's exactly why
12 *Dickey* doesn't apply here.

13 In this case, Melshaun Robinson -- and I
14 don't have to argue witness credibility or
15 anything. You can watch Melshaun Robinson as the
16 attacker, not the attacked, and that's why *Dickey*
17 doesn't apply here.

18 Another point to make really in all this
19 is where you keep hearing that Melshaun was just
20 so worried about this guy with a gun in his hand
21 going in the bag. It is worth noting, that's not
22 who he shot. At least it doesn't appear
23 initially. I know Jaziel thought he got shot
24 first, but when you watch the video, it looks like
25 the first guy he shoots is Zabdiel, while he's on

1 all fours on the pavement. And then he certainly
2 shoots at both when they respond, as anybody
3 would, to the shots by trying to get out of
4 there -- just like Mr. Robinson should have
5 done -- trying to get out of there with as much
6 speed as they can and watch Mr. Robinson just go
7 back and forth shooting one to the other, to the
8 other, in the other in the back as they flee the
9 scene. That's not self-defense and it's not
10 stand-your-ground.

11 I won't belabor the other two elements of
12 self-defense. Go to my brief where I explained
13 why those would not apply to those either. If you
14 were to weigh also into the actual test,
15 16-11-440(c), and that's the applicable section of
16 statute that applies here. State's position is
17 that (a) and (b) would be inapplicable. Those are
18 the sections of the Stand-Your-Ground Act related
19 to the presumption of reasonable fear because in
20 here we don't have attempted to forced entry into
21 a dwelling or a vehicle, or attempting to remove
22 anyone from a dwelling or a vehicle. So we're
23 really focused on 16-11-440(c).

24 Like I already stated, I don't think the
25 analysis gets this far. I think it's sort of like

1 a hurtle race and you trip and fall in the first
2 hurdle, the race is over. But if we imagine a
3 situation where Melshaun Robinson cleared those
4 first three hurdles of the traditional
5 self-defense element, he would fail also under
6 section (c) by the plain language of the act. And
7 that's this: One, you have to have a person who
8 is not engaged in any lawful activity.

9 Now, Mr. Robinson should not have had
10 that handgun concealed on his person at that time.
11 There is some case law out there, I will
12 acknowledge negative case law for me, that
13 suggested that in and of itself is not going to
14 mean he's acting unlawfully. So I do concede that
15 point.

16 But when you have a gun and go out and
17 point it at people's heads and chase them down
18 with the gun, and then assault somebody
19 physically, remember on the video he assaults
20 Jaziel prior to even the shooting, that is not
21 acting lawfully. That's assault. That's pointing
22 and presenting. And so if you're not acting
23 lawfully prior to the alleged self-defense, then
24 section (c) doesn't apply.

25 It also, section (c) itself contains that

1 classic word that we see throughout the law and we
2 see in traditional self-defense of reasonableness.
3 So you have to watch that video, Your Honor, to
4 find immunity here, and find, even under the
5 language of Stand-Your-Ground Act, that all of
6 these decisions, stopping him outside the door,
7 going back and grabbing a gun, running over to get
8 over near the stop sign, to meet them at the stop
9 sign, chasing them around the car, shooting them
10 in the back as they fled, you would have to find
11 that all of those were reasonable to find section
12 (c) exists.

13 And then finally, sort of as we talked
14 about with the *Dickey* analysis, the only thing
15 section (c) does, if it applies, is, it does away
16 with the self -- the traditional self-defense duty
17 to retreat. Okay? And this is an important
18 difference. Doing away with the duty to retreat,
19 does not grant a person permission to attack. It
20 doesn't allow someone -- there's nowhere in the
21 law you're going to find that, since you didn't
22 have the duty to retreat, you were allowed to make
23 a preemptory violent attack on the people that you
24 are afraid of. That's what Melshaun does on this
25 video.

1 If you were just to almost illogically
2 accept everything he has to say about this night,
3 and what I hope I have pointed out and what I will
4 continue to, a lot of it was untrue, you would
5 still have to say that Melshaun had a right
6 because he was afraid to just go ahead and take
7 the initiative, become the primary aggressor, and
8 take a preemptory strike on Zabdiel and Jaziel
9 that night, and that's simply not what section (c)
10 does.

11 Section (c) allows merely one to stand
12 their ground, as the act itself is often called,
13 and meet force with force. There was no force to
14 meet. He was pointing the gun and the victims
15 were walking away. So there's no force for him to
16 meet that wasn't his own and his own pursuit of
17 the fleeing victims.

18 You know, we'll really save credibility
19 issues for later, but I could note, just as
20 Mr. Jennings did about Jaziel. You heard little
21 bits and pieces of Mr. Robinson's statement that
22 night that describes a story completely different
23 than that that we observed in the video, that
24 being the truck with some speed flying up to them,
25 the occupants of the truck jumping out.

1 He said, *Jumping out before the truck*
2 *could even stop and rushing me to jump me.* That's
3 the initial story that Mr. Robinson gives. It
4 couldn't be farther from the truth that we see on
5 the video. In fact, it was the defense's case
6 that kept noting the 48-second time period before
7 when they exited the truck that really cuts
8 against Mr. Robinson's story. It's the story that
9 night. It's changed quite a bit. But 48 seconds,
10 which is an eternity in a quickly developing event
11 like that. If I were to stop and pause for 48
12 seconds, we would all get very bored.

13 For those reasons we think that,
14 respectfully, Mr. Jennings' motion should be
15 denied, that immunity should not be granted in
16 this case and that we be allowed to proceed to
17 jury trial next week, and we thank you for hearing
18 us, Your Honor.

19 THE COURT: You're welcome.

20 Anything further, Counsel?

21 MR. JENNINGS: No, Your Honor.

22 THE COURT: Were any offers extended to
23 Mr. Robinson?

24 MR. SIMPSON: No, Your Honor. We had
25 some general decisions and sort of determined

1 that --

2 THE COURT: So did you-all conclude,
3 based on the administrative order, you were not
4 going to extend an offer to him?

5 MR. SIMPSON: Correct, Your Honor.

6 THE COURT: And tell me why.

7 MR. SIMPSON: Your Honor, because we
8 believe that the video doesn't -- the evidence in
9 this case does not warrant an offer.

10 Again, I would never mention something
11 like this in front of a jury, but Mr. Robinson is
12 also out on bond for a very similar behavior.

13 THE COURT: For pointing and presenting,
14 correct?

15 MR. SIMPSON: Yes, Your Honor.

16 THE COURT: Didn't I hear both of those
17 bond motions?

18 MR. SIMPSON: You may have, Your Honor.
19 You have a great memory.

20 THE COURT: I think I did. Is your
21 client interested in any type of plea offer,
22 Mr. Jennings?

23 MR. JENNINGS: I would never say no.
24 We've not had any conversation, so I don't know
25 what they would be talking about.

1 THE COURT: So you-all haven't talked
2 about it. I'm asking for PCR purposes. I don't
3 take a position one way or the other, but I think
4 it needs to be clear for PCR purposes before we
5 proceed with the trial. Hindsight has a funny way
6 of being 20/20.

7 Do you-all need to talk?

8 MR. SIMPSON: We don't intend to make him
9 an offer, Your Honor.

10 THE COURT: So, if he pled, it would be
11 straight up, is what you're saying?

12 MR. SIMPSON: Yes, Your Honor.

13 THE COURT: So I assume then you've made
14 your client aware of that, Mr. Jennings.

15 MR. JENNINGS: We talked about that, yes,
16 Your Honor.

17 THE COURT: And he has no desire to enter
18 a plea, correct? Again, I'm just asking for PCR
19 purposes.

20 MR. JENNINGS: He has pled not guilty.

21 THE COURT: Does he have any record?

22 MR. JENNINGS: I don't believe he does.

23 THE COURT: What do you-all plan to do
24 with the pointing and presenting? Have you-all
25 sent him an offer on that?

1 MR. SIMPSON: Your Honor, before we did,
2 this occurred and it would just be --

3 THE COURT: You still need to comply with
4 the administrative order. Do you plan on
5 extending an offer on pointing and presenting?

6 MR. SIMPSON: No, Your Honor.

7 THE COURT: And have you made
8 Mr. Jennings aware of that? Do you represent him
9 on pointing and presenting?

10 MR. JENNINGS: I do, Your Honor.

11 THE COURT: Okay.

12 MR. JENNINGS: He does not have any
13 record. Obviously, we've not plead to the
14 pointing of presenting before the trial.

15 THE COURT: Well, I wouldn't expect you
16 to. Again, I'm just these asking questions for
17 PCR purposes. Memory has a way of being hazy
18 three years later. And I find that
19 contemporaneous -- having heard many PCRs, I
20 find -- I think some judges may thank you later
21 for a contemporaneous record when memories fresh.

22 So did you-all make Mr. Jennings aware
23 that you were not going to extend an offer in
24 compliance with the administrative order to the
25 pointing and presenting?

1 MR. SIMPSON: Your Honor, we came here to
2 the tribunal. I didn't. We've just been focused
3 on the larger case. I'm happy to speak with them
4 after. I know that we can't resolve it prior to
5 this trial.

6 THE COURT: I wasn't expecting you to.
7 Just again, for PCR purposes, I just need a clear
8 record.

9 MR. SIMPSON: It came through and
10 certainly -- I mean, I told don't want to speak
11 for Mr. Jennings, but I don't think any offer
12 would resolve this today. And perhaps, I know
13 that those charges came through prior to the
14 administrative order.

15 THE COURT: Those are from 6/5 of 2019,
16 correct?

17 MR. SIMPSON: Yes. They have a lot of
18 age on them.

19 THE COURT: So these are almost a year
20 before we shut down, a year old, the pointing and
21 presenting. And then these took place in 2021,
22 but were indicted in 2024.

23 MR. SIMPSON: Yeah, Your Honor. Your
24 Honor, on that point, we obtained indictments
25 pretty recently in a good time frame after the

1 incident, and then we had that issue that it
2 lacked a signature that we had in the circuit.
3 That's our fault. And we had to cancel and
4 re-indict with the 2024 numbers.

5 THE COURT: Yeah, these were just
6 indicted June 3rd of 2024.

7 Do you all have -- I guess we have to
8 wait to see who the court reporter is for Monday.
9 How many more exhibits do you-all anticipate
10 having for trial, other than what you've already
11 submitted for this hearing?

12 MR. SIMPSON: I have a list. I believe
13 that I have a copy now and I can share it with the
14 defense and Court.

15 THE COURT: That would be helpful.

16 MR. SIMPSON: I think we're at --

17 THE COURT: We should do that ahead of
18 time so we know what we are doing.

19 MR. SIMPSON: I believe it's at 104.

20 THE COURT: How many witnesses do you
21 have?

22 MR. SIMPSON: I believe just him, I
23 think.

24 THE COURT: You have ten witnesses. It
25 seems like you gave me a list.

1 MR. SIMPSON: It's an expansive list. I
2 just like to cover my bases. May I approach, Your
3 Honor?

4 THE COURT: I think you give me one. I
5 just separated it. Yeah, I have 20 on this
6 list.

7 MR. SIMPSON: Right. I think we've cut
8 that in about half.

9 THE COURT: So about 10 witnesses.
10 How many witnesses do you anticipate
11 having, Mr. Jennings, the same ones from today?

12 MR. JENNINGS: I think so, Your Honor.

13 THE COURT: Is there say evidence that's
14 going to need to come from SLED? Any expert
15 witnesses?

16 MR. JENNINGS: No, Your Honor.

17 MR. SIMPSON: And I also note that that
18 number, 104, sounds scary, but they're almost all
19 photographs.

20 THE COURT: I'm sorry. Say that again.

21 MR. SIMPSON: I said, when you asked me
22 how many exhibits, I said 104. I said that sounds
23 like a whole lot but they're almost all photos.

24 THE COURT: If you have an exhibit list,
25 that would be helpful. Did you provide one to

1 Mr. Jennings?

2 MR. SIMPSON: I just did.

3 THE COURT: Thank you. Is there any
4 evidence entered regarding the height, weight, or
5 otherwise of the deceased, Mr. Hernandez. You-all
6 made reference to an anatomical drawing. Did that
7 have any information on there?

8 MR. SIMPSON: It did not, Your Honor.

9 THE COURT: Do you have a pathologist's
10 report? Do you-all have the pathologist's report?

11 MR. SIMPSON: We do have a copy of it.
12 It was not part of -- Mr. Jennings, by
13 stipulation, covered the points from it that we
14 agreed to.

15 THE COURT: There are things in there I
16 need to look at. Do you-all have a copy of the
17 report? And I haven't seen the stipulations.
18 Would you hand those up to me?

19 MR. SIMPSON: Certainly. I say that only
20 because one of the stipulations addresses that,
21 Your Honor.

22 THE COURT: Do you-all plan to call the
23 forensic pathologist as a witness?

24 MR. SIMPSON: I don't, Your Honor,
25 because we stipulated to the --

1 THE COURT: Cause and manner of death?

2 MR. SIMPSON: Yes. This is referred to
3 in the stipulations.

4 THE COURT: Thank you. We are 2, 3, 4,
5 5, 6? I have 4. Where is the State's Exhibits 2,
6 3, 5, and 6?

7 MR. SIMPSON: We are going to -- I didn't
8 think they were important for purposes today, but
9 I will --

10 THE COURT: Yeah, I don't know how I can
11 make any assessment about the stipulation without
12 knowing what it is making reference to.

13 MR. SIMPSON: May I email them to you,
14 Your Honor?

15 THE COURT: I prefer to have hard
16 copies.

17 MR. SIMPSON: Okay. May I be excused?

18 THE COURT: Sure. What are State's 2 and
19 3?

20 MR. SIMPSON: They are blank and white --
21 those are black and white autopsy photos that just
22 show the entry wounds that you see in the diagram.

23 THE COURT: Have you-all consented to
24 those coming in?

25 MR. SIMPSON: Yes. Well, yes, Your

1 Honor.

2 THE COURT: Is that correct,
3 Mr. Jennings?

4 MR. JENNINGS: Yes, Your Honor.

5 THE COURT: So 2 and 3, 5 and 6 are black
6 and white autopsy photos? Is that what you're
7 saying?

8 MR. SIMPSON: I'll tell you. It is -- 2,
9 3, and 4 are.

10 THE COURT: 4 is the diagram. I mean, 4
11 is the diagram.

12 MR. SIMPSON: I'm sorry. We renumbered
13 them.

14 THE COURT: Is that a different
15 numbering? I'm sorry for the confusion.

16 MR. SIMPSON: I think we have in total --

17 THE COURT: But the stipulation makes
18 reference to State's Exhibits 2, 3, 4, 5, and 6.

19 MR. SIMPSON: And I'm making this more
20 difficult than it needs to be. Yes. Under our
21 numbers for trial, 2, 3, 4 -- the numbers you just
22 said were black and white photos from the autopsy
23 showing the entry wounds marked on the diagram.

24 And, if you'd like, Your Honor, I can go
25 print those for you right now.

1 THE COURT: You can put them in my box
2 once we're done.

3 MR. SIMPSON: Thank you, Your Honor.

4 THE COURT: You're welcome.

5 Do you have an unsigned stipulation
6 attached to your number 2, which is signed?

7 MR. SIMPSON: I think that was an error
8 on my part.

9 THE COURT: I'll give it back to you.
10 Yeah, this is just a duplicate of the same thing,
11 but without --

12 MR. SIMPSON: I made some copies.

13 THE COURT: That's okay.

14 MR. SIMPSON: Thank you.

15 THE COURT: You're welcome.

16 Do I have these video clips that are
17 referred to in stipulation 3? I think I only have
18 one. I don't think I have these other 1, 2, 3, 4
19 that are referenced.

20 MR. SIMPSON: Your Honor, we discussed
21 that earlier. You have them -- for the purposes
22 of the hearing, they are on State's 12.

23 THE COURT: But they're not isolated for
24 me, are they?

25 MR. SIMPSON: On State's 12, yes.

1 THE COURT: They are.

2 MR. SIMPSON: What do you mean isolated?

3 THE COURT: It means that I don't have to
4 search through hours of videos to see what you're
5 referring to in stipulation 3.

6 Stipulation 3 refers to a video clip
7 following Melshaun Robinson.

8 MR. SIMPSON: Yes.

9 THE COURT: Video clip B following
10 Zabdiel Tinoco Hernandez and Jaziel Armenta
11 Zavala.

12 C, video clip following Hannah Manzi.

13 MR. SIMPSON: Right.

14 THE COURT: Video clip incident in split
15 screen, bottom regular, top Zoom from channel one,
16 parking lot view.

17 MR. SIMPSON: Right.

18 THE COURT: And Defense Exhibit A, flash
19 drive containing a video clip and that being view
20 of incident from channel 13, second parking view.
21 I have all of these. Is there a redacted form as
22 they are referenced in this stipulation.

23 MR. SIMPSON: Your Honor, State's Exhibit
24 12, for the purposes of this hearing, contains all
25 four of those clips. Those are all what we were

1 referring to earlier. Those are lengthy clips.
2 Essentially, the Melshaun clip shows Melshaun all
3 night.

4 THE COURT: All right.

5 MR. SIMPSON: But to see the incident
6 doesn't require a whole lot of searching on your
7 part. You just go to the end.

8 THE COURT: Which is the one you provided
9 to me Tuesday.

10 MR. SIMPSON: Right. The last five
11 minutes of it. They all have --

12 THE COURT: What about B, C, D and then
13 A? The defense exhibit, what number is that,
14 Mr. Jennings? That's on a separate media.

15 MR. JENNINGS: I'm sorry, Your Honor?

16 THE COURT: The one that's video clip,
17 view of the incident from Channel 13 second
18 part.

19 MR. JENNINGS: That's correct. That's on
20 ours.

21 THE COURT: That's on yours.

22 MR. JENNINGS: Yes, ma'am.

23 THE COURT: So where do I find B, C, and
24 D referred to in the State's -- the part of the
25 stipulation dealing with the State.

1 MR. SIMPSON: State's 12 is a flash
2 drive. Okay? For the jury trial, it's going to
3 be State's 1. But for our purposes of today, it's
4 State's 12. State's 12 contains four video clips.
5 The first follows Melshaun all night. The second
6 follows Jaziel and Zabdiel all night. The third
7 follows Hannah Manzi all night. And so rather
8 than, you know, closing and reopening just as they
9 walk from one camera view to the other, it follows
10 them. So to get to the incident, you just have to
11 go to the end of either Zabdiel's or Melshaun's.

12 If you want to just watch the incident,
13 the view of the incident is clip D, which is just
14 the parking lot incident on a split screen.

15 THE COURT: Which is what you sent to me?

16 MR. JENNINGS: Yes. That is what I sent
17 you in its entirety earlier this morning.

18 THE COURT: Okay. You mean Tuesday.

19 MR. SIMPSON: Tuesdays. Yes.

20 THE COURT: Now, is the medical
21 examiner's report, the forensic pathologist
22 autopsy report available?

23 MR. SIMPSON: I have a copy here.

24 Because of our stipulation, I was just --

25 THE COURT: Do you have a copy of the

1 autopsy report, Mr. Jennings? I assume you
2 already reviewed it.

3 MR. JENNINGS: Yes, I do have a copy.

4 THE COURT: I think it would be helpful
5 for me to see it as well. It has information in
6 there that this record is void of that is
7 essential to this court making an appropriate
8 finding.

9 MR. SIMPSON: Right. Would you like me
10 to have it marked?

11 THE COURT: That's not your only copy, is
12 it?

13 MR. SIMPSON: No. I have a digital copy.

14 THE COURT: Okay. Do you have any
15 exception to the Court reviewing the autopsy
16 findings?

17 MR. JENNINGS: I do not, Your Honor.

18 THE COURT: And, likewise, there was no
19 testimony elicited as to the height and weight of
20 Mr. Armenta. And there was no testimony elicited
21 as to the height and weight of Mr. Robinson. Can
22 you-all stipulate to that information for the
23 Court's benefit, or do we need to supplement the
24 record with testimony?

25 MR. JENNINGS: We can stipulate. That

1 would be fine.

2 MR. SIMPSON: We have the information,
3 Your Honor.

4 THE COURT: Okay, please.

5 MR. SIMPSON: The State and the defense
6 agree that Zabdiel, getting information from the
7 autopsy report, is five five 230 pounds.

8 THE COURT: Sixty-six inches, 230
9 pounds.

10 MR. SIMPSON: And for Jaziel, from his
11 medical --

12 MR. JENNINGS: -- hospital records, is
13 five eight and 197 pounds.

14 THE COURT: Okay.

15 MR. JENNINGS: And Mr. Robinson is
16 approximately six feet and 270 pounds.

17 THE COURT: Thank you so much. What were
18 you asking?

19 MR. SIMPSON: Your Honor --

20 THE COURT: Oh, the photos.

21 MR. SIMPSON: Yes, Your Honor. The
22 stipulation 1, as you noted, refers to State's
23 Exhibit 2, 3, 4, and 5.

24 THE COURT: Yes, sir.

25 MR. SIMPSON: I am ending up what's been

1 marked for the purposes of this hearing as State's
2 13, 14, 15, 16, which will be those exhibits.

3 May I approach?

4 THE COURT: Yes, sir.

5 MR. SIMPSON: Thank you.

6 (DFT. EXH. 13, Photo, was marked and entered
7 into evidence.)

8 (DFT. EXH. 14, Photo, was marked and entered
9 into evidence.)

10 (DFT. EXH. 15, Photo, was marked and entered
11 into evidence.)

12 (DFT. EXH. 16, USB Flash Drive, was marked
13 and entered into evidence.)

14 THE COURT: Okay. The stipulation
15 mentions 1, 3, 4, 5.

16 MR. SIMPSON: It's the last --

17 THE COURT: Is the anatomical drawing one
18 of them?

19 MR. SIMPSON: Correct.

20 THE COURT: Okay. For the purposes of
21 this record, that was marked as Number 4.

22 All right. In the interest of time, I am
23 going to issue a written order, which probably
24 will take me most of tomorrow to complete. But, I
25 think we all are clear on the law as in regards to

1 the request for immunity and a motion to be
2 immune, based on what we commonly refer to as the
3 stand-your-ground statute.

4 And the case law is really quite clear.
5 To prevail on an immunity claim under the
6 Protection of Persons and Property Act, the
7 defendant must meet by a preponderance of the
8 evidence the elements of self-defense, save the
9 duty to retreat. And we know a preponderance of
10 the evidence is the more likely than not standard,
11 which we commonly refer to as the greater weight
12 of the evidence.

13 First, the defendant must be without
14 fault in bringing on the difficulty.

15 Second of the third elements is that he
16 must have actually believed he was in imminent
17 danger of losing his life or sustaining serious
18 bodily injury, or he actually was in such imminent
19 danger. If his defense is based upon his belief
20 of imminent danger, a reasonably prudent man of
21 ordinary firmness and courage would have
22 entertained the same belief.

23 If he was actually in imminent danger,
24 the circumstances were such as would warrant a man
25 of ordinary prudence, firmness, and courage to

1 strike the fatal blow in order to save himself
2 from serious bodily harm, or losing his own life.

3 So in order to establish a credible case
4 of, based on the stand-your-ground statute, the
5 defendant would have to establish, and it is his
6 burden to establish by a preponderance of the
7 evidence, the satisfaction of the three elements
8 of self-defense. Again, that would be that he was
9 without fault in bringing about the difficulty.

10 Of course, if the defendant's conduct was
11 of the type which was reasonably calculated to
12 provoke a deadly assault, then the defendant would
13 be at fault in bringing on the difficulty and
14 would not be entitled to the stand-your-ground
15 defense.

16 In addition, he would have to prove by a
17 preponderance or a greater weight of the evidence
18 that he was, in fact, in imminent danger, which
19 I've already articulated for the record.

20 And, finally, he would have to prove that
21 there was no other way to avoid the danger, which
22 is the final element. In other words, that there
23 was -- the defendant had no other probable way to
24 avoid the danger of death or serious bodily injury
25 than to act as he did in this particular instance,

1 of course acknowledging that if he was on his own
2 premises or on a place where he legally has a
3 right to be, he has no duty to retreat before
4 acting in self-defense.

5 The Court finds by a preponderance of the
6 evidence that the defendant has failed to
7 establish the three elements of self-defense.

8 And, again, in the interest of time, I
9 will issue a very detailed written order. That
10 order may be finished before we begin trial on
11 Monday, it any not. But, in any event, it will be
12 filed prior to the conclusion of the trial because
13 I need to go back and review the record and make
14 sure it correlates with my notes and make those
15 specific findings of facts and conclusions of law
16 that are consistent with the record.

17 As in regards to the first element, which
18 is to be without fault in bringing on the
19 difficulty, the Court is hard pressed to find it
20 credible that Mr. Robinson had no other way to
21 have -- not be at fault in bringing on this
22 difficulty in light of the fact that he was in a
23 place of safety, left that place of safety, and
24 pursued these individuals in the parking lot.

25 And, again, without going into a great

1 amount of detail, which will be reserved for
2 purposes of the written order and in the interest
3 of time.

4 Our case law is very clear that
5 contemptuous language has to be -- it's not
6 available if contemptuous language is also being
7 utilized by the person who acted in self-defense
8 and such was calculated to bring about the
9 difficulty. In other words, being some
10 interaction, violent interaction between the
11 individuals.

12 And if his behavior was such that
13 would -- that was reasonably calculated to provoke
14 an assault. I think the fact of him placing the
15 gun in his waistband, leaving a place of safety
16 and going out into the parking lot, fails to
17 establish by a preponderance of the evidence that
18 he was without fault in bringing on the
19 difficulty.

20 And no matter how -- in his own testimony
21 he said he used contemptuous language. He dealt
22 with it every day. And the Court is not persuaded
23 that the language used would have brought about a
24 physical encounter or did contribute to a physical
25 encounter.

1 The second element is whether he was
2 actually in imminent danger of death or serious
3 bodily injury, or that he actually believed he was
4 in imminent danger of death or serious bodily
5 injury. Again, the Court is required to look at
6 Mr. Robinson's objective observations and to rely
7 on what he perceived as regarding this incident as
8 to whether he was actually in imminent danger, or
9 whether he believed he was in imminent danger of
10 death or serious bodily injury.

11 And based on my review -- again, I have
12 to review these other videos, but based on my
13 review of the initial video that was provided to
14 the Court, the Court is hard pressed to find
15 credible that testimony.

16 And of course when considering that,
17 that's why I asked for the additional information.
18 The Court has to look at all of surrounding facts
19 and circumstances, including the physical
20 condition and characteristics of the defendant and
21 the victims, or the victim in this case. There's
22 only one person, or he's asking for immunity from
23 both acts, that being the attempted murder of one
24 individual and the actual murder of the other.
25 And the Court must look to whether a reasonably

1 prudent person of ordinary firmness and courage
2 would have held the same belief, and would have
3 been felt by an ordinary person in the same
4 situation.

5 And, again, the Court must look to the
6 size and age comparatively of the individuals
7 involved, whether there are any threats by the
8 victim, whether intoxication was involved. And
9 the -- I think what is really dispositive in this
10 analysis, and what I found most troubling
11 regarding the presentation, which is no other way
12 to avoid the danger, and that is the final element
13 of self-defense, which is that the defendant had
14 no other probable way to avoid the danger of death
15 or serious bodily injury than to act as he did.

16 Of course, again, he does not have the
17 duty to retreat where he has the legal right to be
18 on the premises. But what I find most troubling
19 is that he would leave a place of safety and
20 engage in an altercation with individuals where --
21 and I don't find credible somehow this thought
22 process that he was going to come in and shoot up
23 the place. This place is covered with cameras.
24 Nobody could have gotten a drop on him. They had
25 the ability to see the parking lot. They had the

1 ability to observe them. Even more important,
2 they the ability to call the police if he thought
3 the situation was that exigent before he left a
4 place of safety.

5 He went out into a parking lot where he
6 knew his health was compromised to confront these
7 individuals. And I do not find it credible that
8 he simply went to look for their license tag
9 numbers. It's clear that this situation had
10 gotten heated. The purpose of him going out in
11 the parking lot amounted to a confrontation.

12 And the degree of force. Of course, when
13 we're looking at that, where these individuals
14 were unarmed. Of course, in self-defense, you're
15 not limited to the degree or amount of force used
16 by the victim. But in this instance, there is no
17 evidence that the victims in this case acted
18 initially such that it would have justified the
19 use of deadly force. And there's no evidence in
20 the record that, at the time Mr. Robinson was in
21 the parking lot, he was acting in the defense of
22 someone else.

23 And there has been reference made to the
24 *Dickey* case, which actually is not similar to this
25 case. It could be argued that it is, but it

1 really is quite dissimilar. In the *Dickey* case,
2 the defendant in that case called the police. He
3 only went outside because he believed the police
4 had arrived on the scene. And it was more of a
5 simultaneous situation where the defendant was
6 accompanying the individuals he was ejecting.

7 And the courts found that when you have a
8 situation of that type where the defendant is
9 accompanying the ejection, where there's
10 threatening words of posture, than a jury question
11 has arisen.

12 And the only similarity given in that
13 case is where the defendant in that case had the
14 right to eject trespassers from the premises.
15 Other than that, those are the only two
16 similarities. But it's not -- case law, of
17 course, is accurate, but the facts are not
18 similar. They're slightly similar but they're not
19 the same. They cannot be characterized in the
20 same vein.

21 So, as such, the Court is denying the
22 motion. I will do a very specific written order,
23 which will contain the appropriate findings of
24 fact and conclusions of law consistent with the
25 record. Everybody will be provided a copy of that

1 order. I am hopeful that I will have it done
2 tomorrow sometime, but I'm not making any
3 promises. I may not be able to get it done and we
4 may be well into the middle of trial before I
5 actually am done with it. It looks like the order
6 probably will be in excess of 15 pages, so it will
7 probably take me a little while to get it done.

8 Anything further from the State?

9 MR. SIMPSON: Not pertaining to this,
10 Your Honor. I have a brief matter after this.

11 THE COURT: I need to talk to you about
12 another case that on a whole other docket. I'm
13 glad you said that because it reminded me.

14 Anything further, Mr. Jennings?

15 MR. JENNINGS: No, Your Honor. Thank
16 you.

17 THE COURT: You're welcome. You-all have
18 a good week.

19 Sir, I advise you that your case will
20 start on Monday. You need to be present. If you
21 fail to appear, a bench warrant will be issued for
22 your arrest. You will be tried in your absence.
23 The Court will go forward. And, if convicted, you
24 will be sentenced. That sentence will be sealed
25 and a warrant will be issued for your arrest. Do

1 you understand?

2 MR. ROBINSON: Yes, ma'am.

3 THE COURT: Thank you. You-all have a
4 good day.

5 (The hearing was concluded.)

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1 CERTIFICATE OF REPORTER

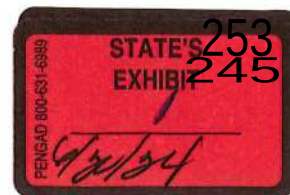
2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, III for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the hearing
8 of the captioned case, relative to appeal, in General
9 Sessions for Charleston County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.

13
14 November 4, 2024

15
16 

17 _____
18 Sharon G. Hardoon, CSR
19 Official Circuit Court Reporter, III
20
21
22
23
24
25



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Stipulation 1

vs.

Arrest Warrant #2021A1010900174
Arrest Warrant #2021A1010900175
Arrest Warrant #2021A1010900176

MELSHAUN ANTWAN
ROBINSON,

Indictment #2024-GS-10-03064
Indictment #2024-GS-10-03065
Indictment #2024-GS-10-03066

DEFENDANT.

The State and the Defense agree to the following:

On Sunday, April 25, 2021, in the parking lot of 1337 King Street ("The King Street Cabaret"), Zabdiel Tinoco Hernandez, age 30 (DOB: [REDACTED]), was pronounced deceased by responding medical personnel.

A later autopsy concluded that Mr. Hernandez "died as the result of multiple penetrating and perforating indeterminate-range gunshot wounds."

Gunshot wound A entered Mr. Hernandez's back left shoulder area, internally damaging Mr. Hernandez's left lung and heart.

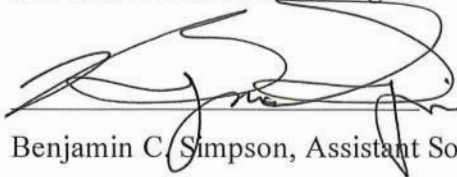
Gunshot wound B entered Mr. Hernandez's lower left back, closer to the midline, internally damaging Mr. Hernandez's bowel.

Gunshot wound C entered Mr. Hernandez's rear right arm below the elbow, passed through soft tissue, and exited on the other side of the arm (exit wound marked 'D').

The State and the Defense agree that State's Exhibit 2, 3, 4, 5 and 6 are fair and accurate photographs and/or diagrams of the gunshot wounds described in this stipulation and admissible in the present trial.

The State and the Defense agree that toxicology analysis performed on the femoral blood of Zabdiel Tinoco Hernandez detected the presence of alcohol and revealed a blood alcohol concentration of 0.123. The toxicology screen was otherwise negative.

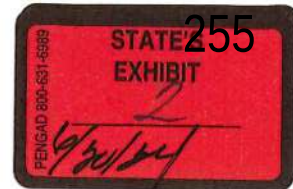
The State and the Defense agree.

A handwritten signature in black ink, appearing to read "Benjamin C. Simpson", written over a horizontal line.

Benjamin C. Simpson, Assistant Solicitor

A handwritten signature in blue ink, appearing to read "Blair Jennings", written over a horizontal line.

Blair Jennings, Esq., Attorney for the Defendant



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Stipulation 2

vs.

Arrest Warrant #2021A1010900174
Arrest Warrant #2021A1010900175
Arrest Warrant #2021A1010900176

MELSHAUN ANTWAN
ROBINSON,

Indictment #2024-GS-10-03064
Indictment #2024-GS-10-03065
Indictment #2024-GS-10-03066

DEFENDANT.

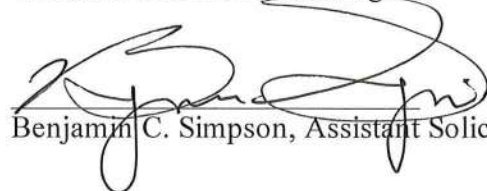
The State and the Defense agree to the following:

On Sunday, April 25, 2021, in the parking lot of 1337 King Street ("The King Street Cabaret"), Jaziel Armenta-Zavala, age 30 (DOB: [REDACTED]), was located on the ground, appeared to be suffering from one or more gunshot wounds, and was promptly transported to the Medical University of South Carolina for treatment. Later treatment revealed that Mr. Armenta-Zavala suffered from two gunshots wounds.

The first was a gunshot wound to the right hip. The projectile traveled laterally into the hip and was located inside his body near the L4 spinal segment, also causing a fracture to the right pelvic bone. The second was a grazing gunshot wound to the front of the scalp.

The State and the Defense agree that toxicology analysis was performed on a blood sample of Mr. Armata-Zavala. The test detected the presence of alcohol and revealed a blood alcohol concentration of 0.200. The toxicology screen was otherwise negative.

The State and the Defense agree.


Benjamin C. Simpson, Assistant Solicitor


Blair Jennings, Esq., Attorney for the Defendant



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Stipulation 3

vs.

Arrest Warrant #2021A1010900174
Arrest Warrant #2021A1010900175
Arrest Warrant #2021A1010900176

MELSHAUN ANTWAN
ROBINSON,

Indictment #2024-GS-10-03064
Indictment #2024-GS-10-03065
Indictment #2024-GS-10-03066

DEFENDANT.

The State and the Defense agree to the following:

The incident subject to the present trial occurred on Sunday, April 25, 2021, in the parking lot of 1337 King Street, an adult entertainment establishment known as "The King Street Cabaret."

The King Street Cabaret is an establishment equipped with a video surveillance system containing thirteen different surveillance cameras. Generally speaking, the fixed camera positions are as follows:

Channel One – view of the parking lot, from front corner of building
Channel Two – view of front door (exterior view)
Channel Three – view of front lobby / check-in counter
Channel Four – reverse view of Channel Three from behind front check-in counter
Channel Five – view of the hallway from the lobby to the main bar area
Channel Six – view of the main bar area from behind the bar
Channel Seven – view of the interior of the bar / bartender.
Channel Eight – view into the D.J. booth.
Channel Nine – office view
Channel Ten – view of exterior back patio
Channel Eleven – view of the entrance to the walk-in food cooler
Channel Twelve – second view of the parking lot, this view from back patio
Channel Thirteen – view of interior dance area

Following this incident, the entirety of the video recordings from the date of the incident were seized by the Charleston Police Department. The video was copied and later provided in its entirety to both the State and the Defense.

Following acquisition of the video surveillance, the State created video clips which followed certain individuals for the relevant portions of the night in question as they passed from one camera view to another. These video clips were subsequently provided to the defense as well.

The State and the Defense agree that the video clips referenced above are fair and accurate depictions of various areas of the King Street Cabaret on the night in question, they contain accurate and consistent time stamps, and they were properly collected and distributed to the parties.

The State and the Defense agree that the following exhibits are admitted into evidence in this trial and any pretrial hearing by consent of the parties:

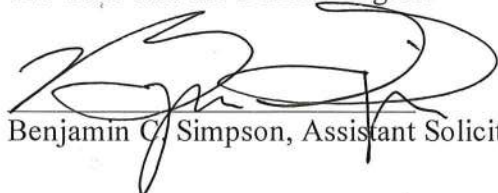
State's Exhibit One (A flash drive containing video clips): (For Duncan - State's 12)

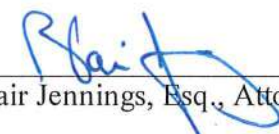
- 1 (A) Video Clip following Melshaun Robinson.
- 1 (B) Video Clip following Zabdiel Tinoco-Hernandez & Jaziel Armenta-Zavala
- 1 (C) Video Clip following Hannah Manzi
- 1 (D) Video Clip: Incident in Split Screen (Bottom: Regular, Top: Zoom) (From Channel 1, parking lot view)

Defense Exhibit (A flash drive containing a video clip):

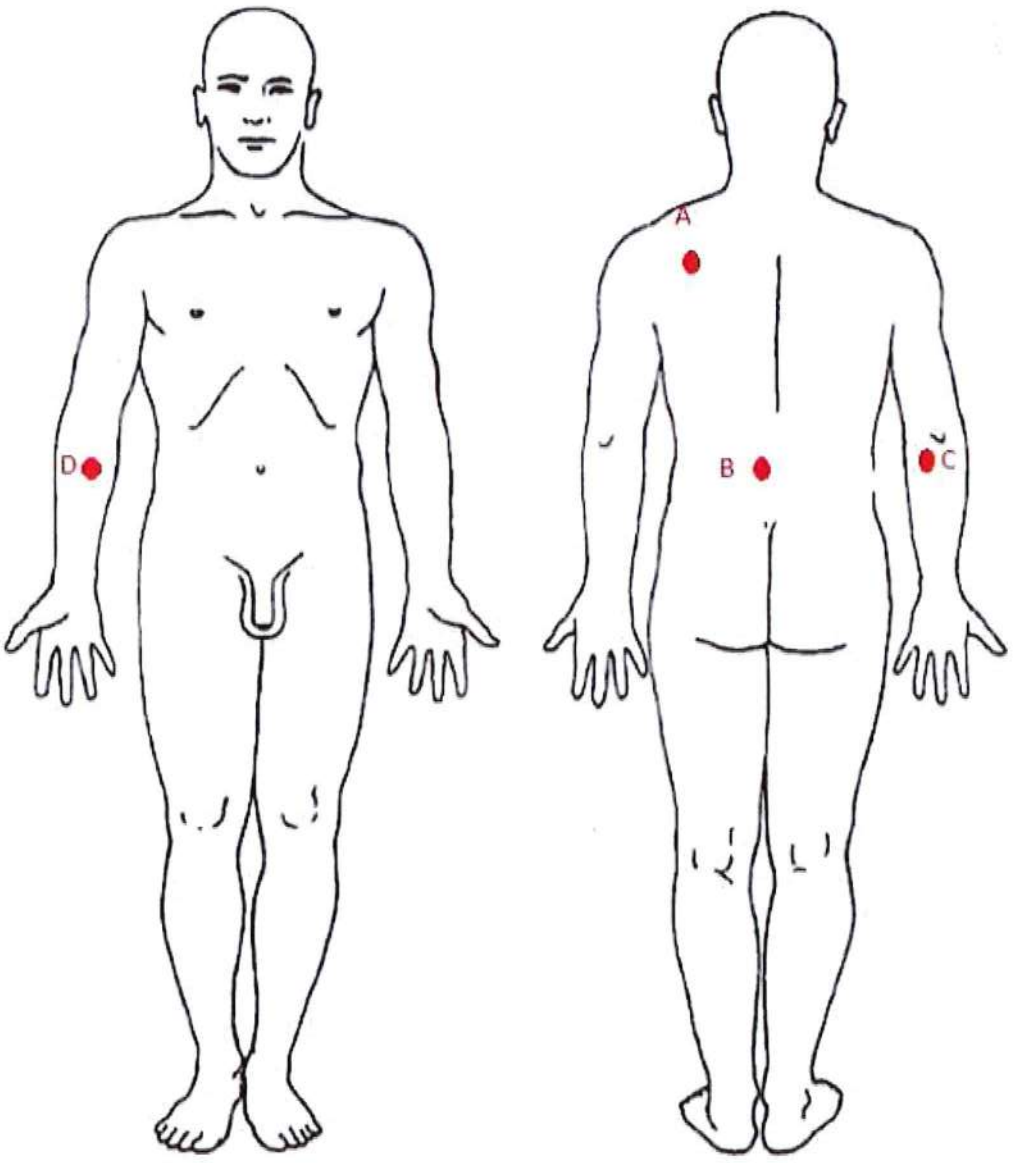
- __ (A) Video Clip: View of Incident from Channel 13 (Second Parking View).

The State and the Defense Agree.


Benjamin C. Simpson, Assistant Solicitor

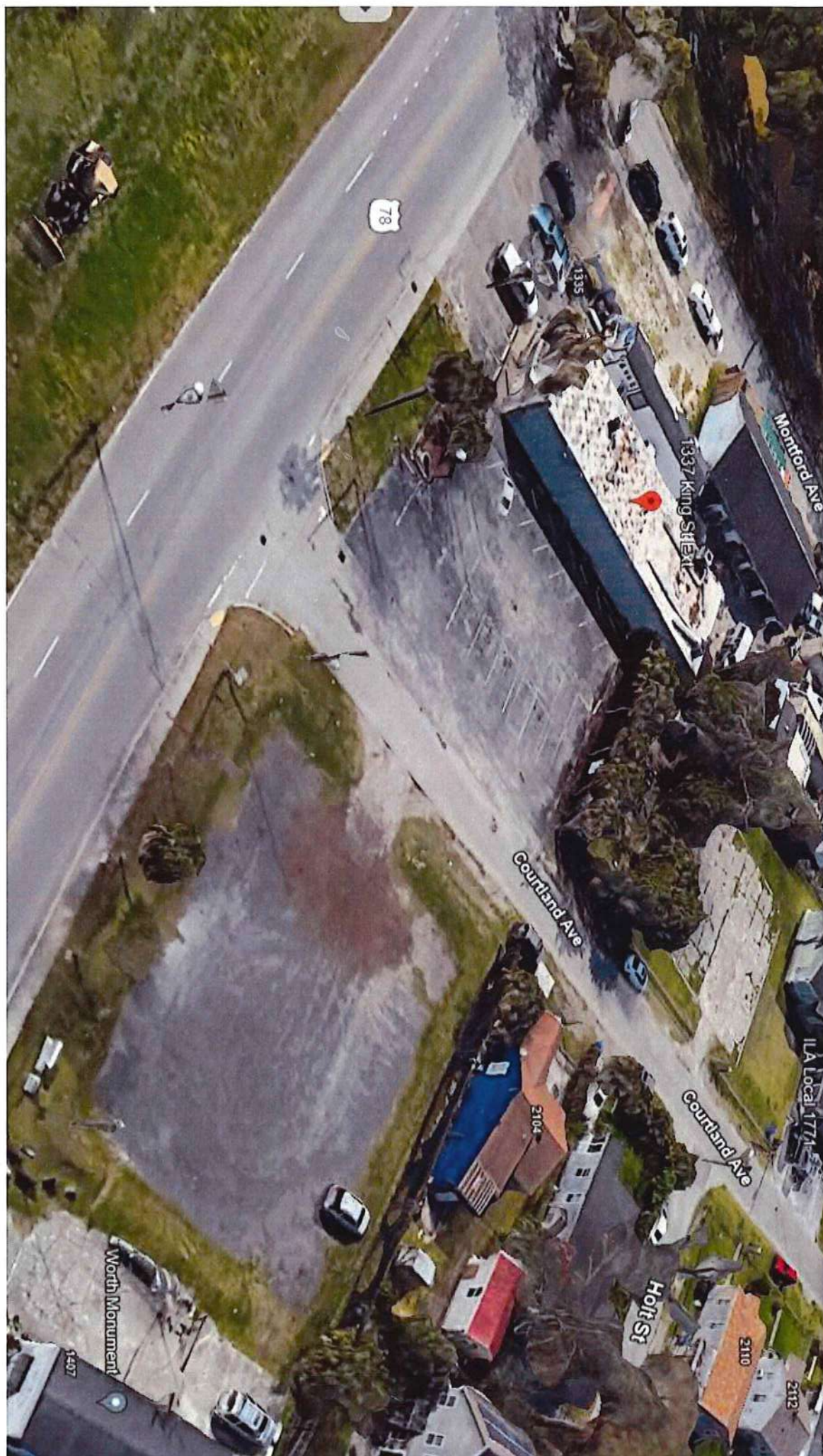

Blair Jennings, Esq., Attorney for the Defendant

Name _____ Autopsy No. _____
Age _____ Race _____ Sex _____ Date _____



The diagram shows a front and back view of a human body. Four red dots are marked on the body: A is on the upper left shoulder, B is on the lower back, C is on the lower right arm, and D is on the lower left arm.





PENGAD 600-631-6989

STATE'S
EXHIBIT





PENGAD 800-631-6983

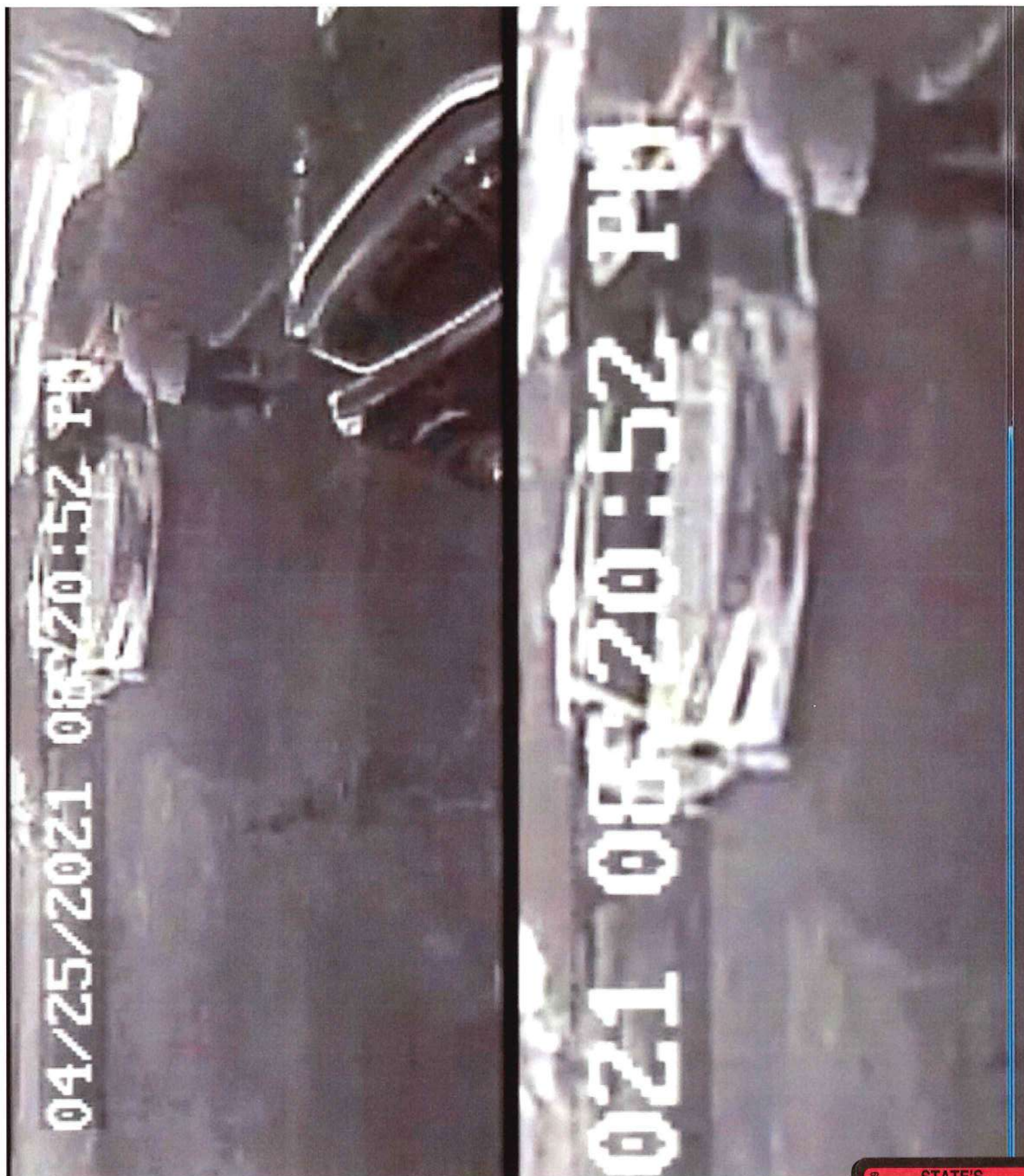
STATE'S
EXHIBIT

6/20/24



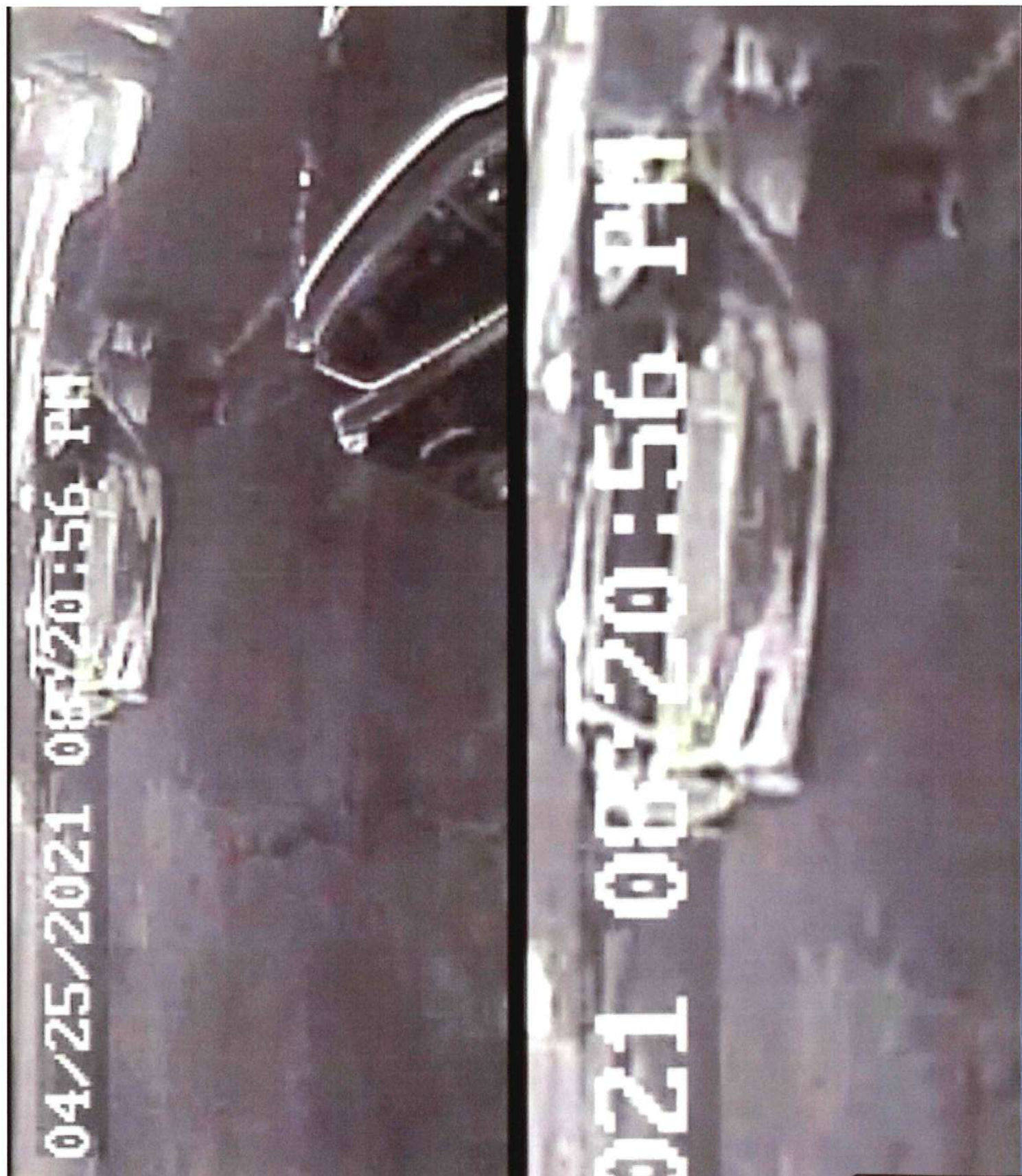


STATE'S
EXHIBIT
9
4/25/21
PENGAD 800-531-6099



PENGAD 800-531-6989

STATE'S
EXHIBIT10
6/2/21



PENGAD 800-631-6969

STATE'S
EXHIBIT11
4/25/21

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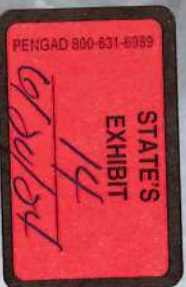
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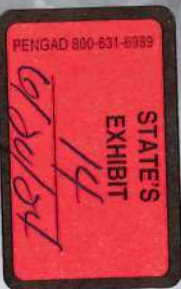
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STATES
EXHIBIT
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04.26.2021 09:11





04.26.2021 09:11



Contents:
James Downs
Tinoco Hernandez, Zabdriel
2021-1412
210426-121
26 APR 2021

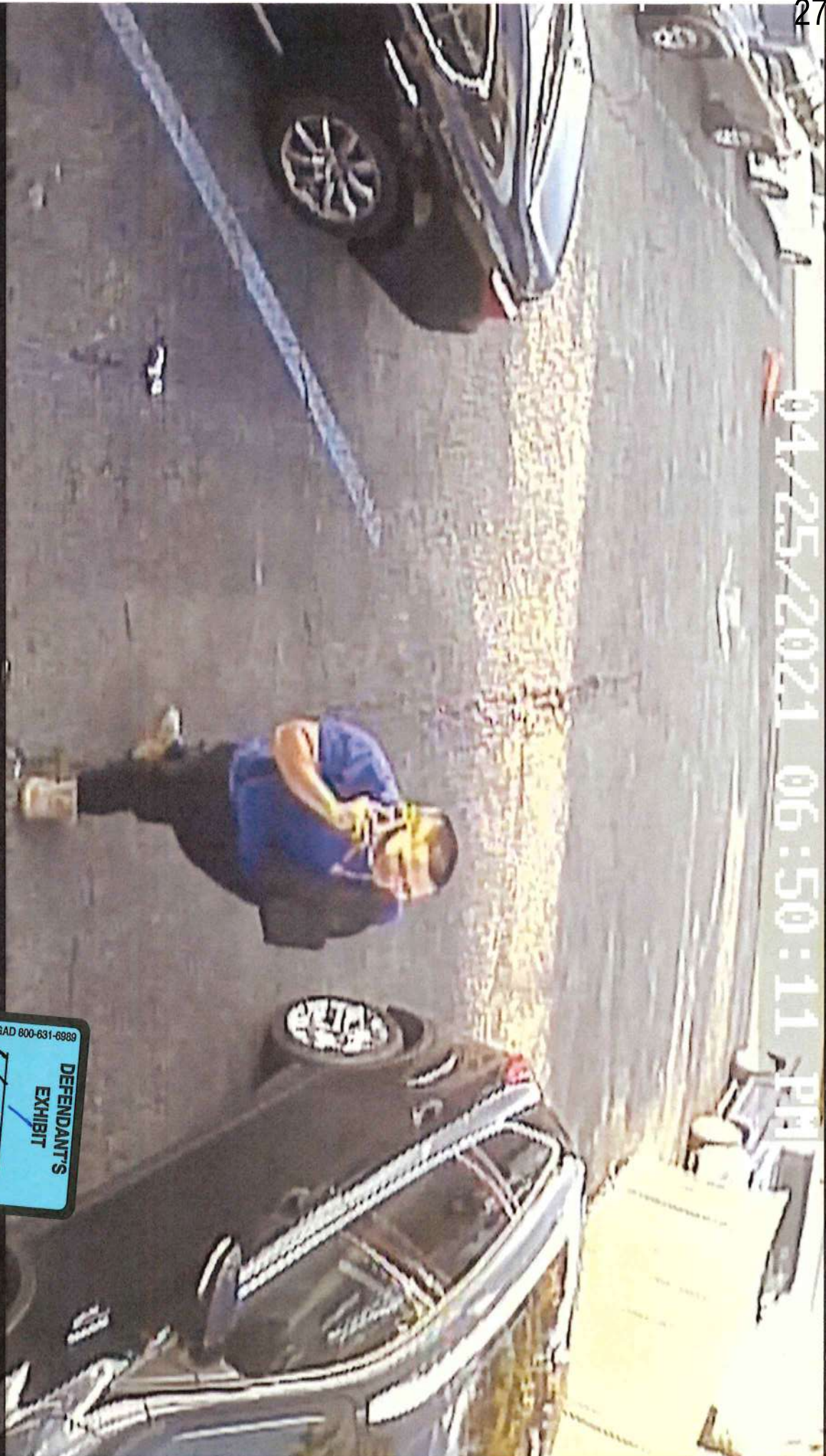
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STATE'S
EXHIBIT
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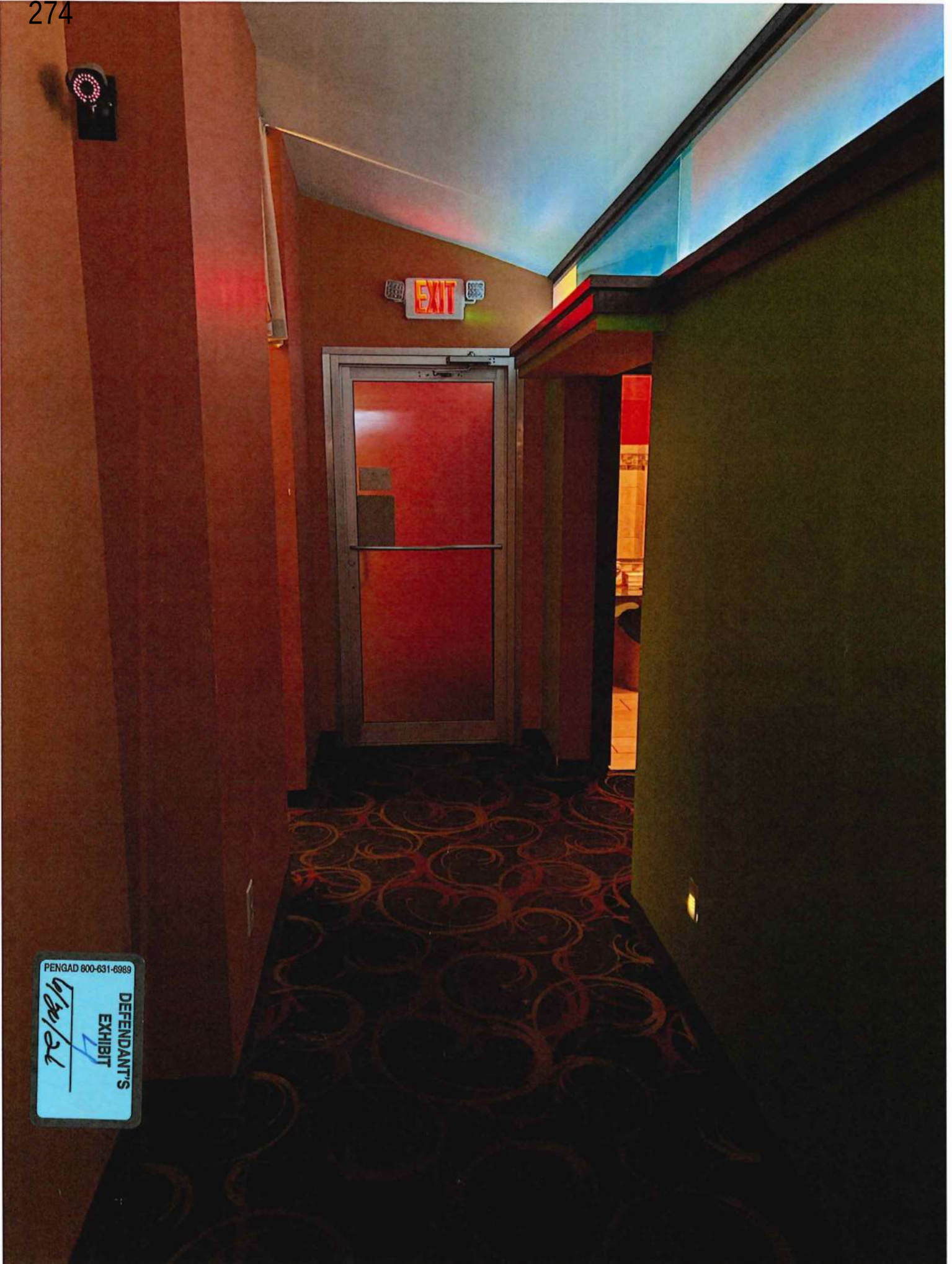




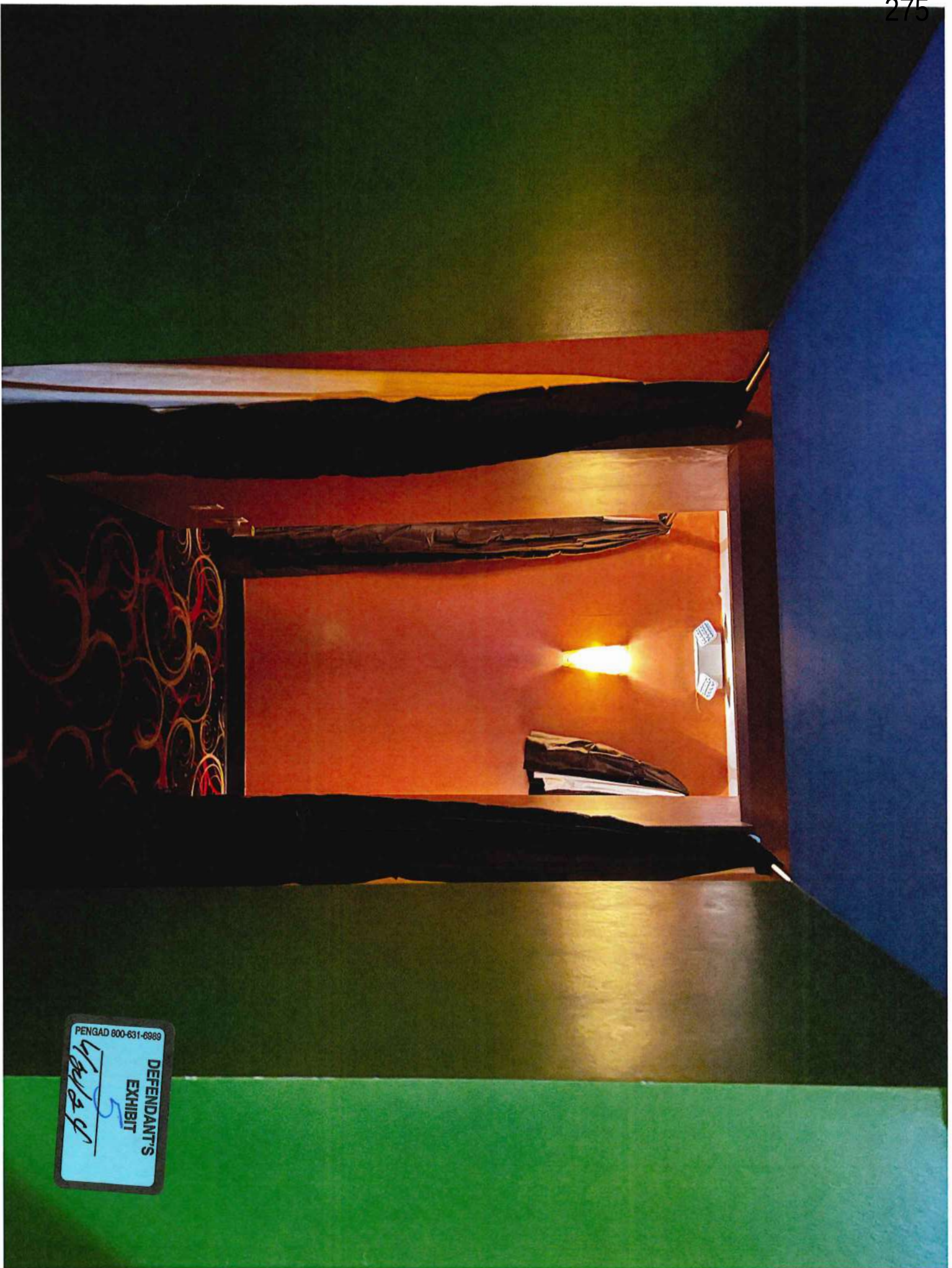
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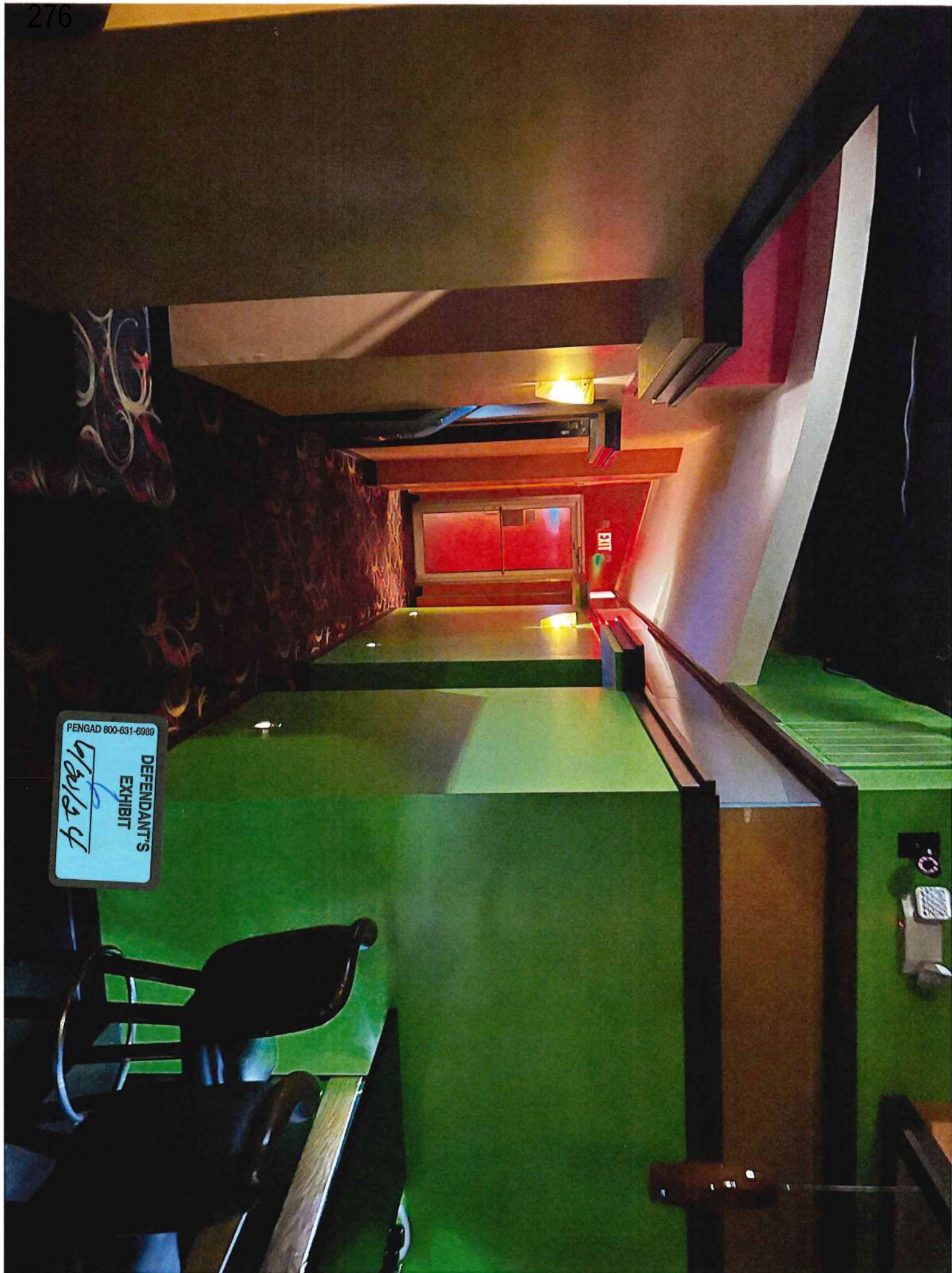
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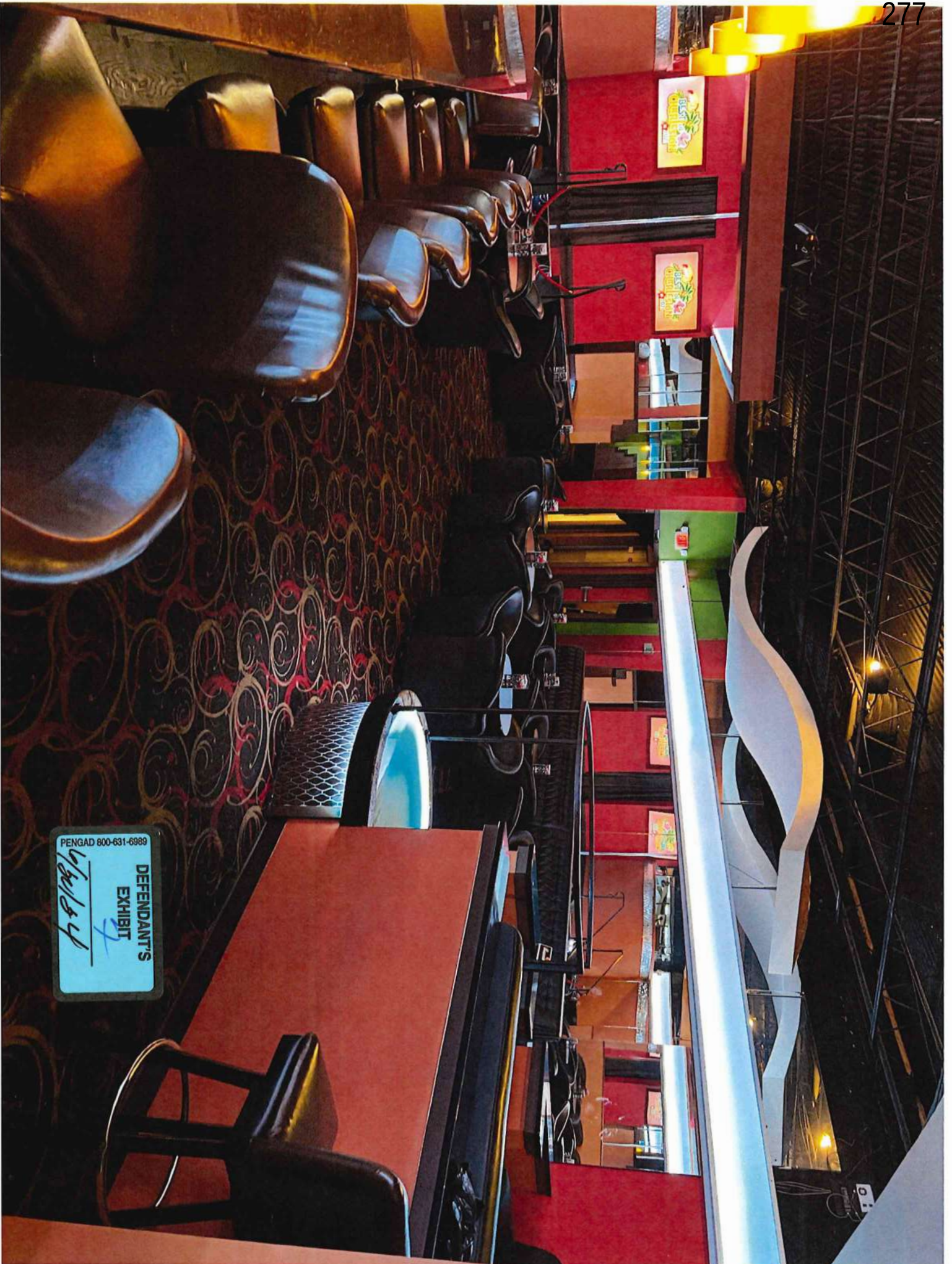
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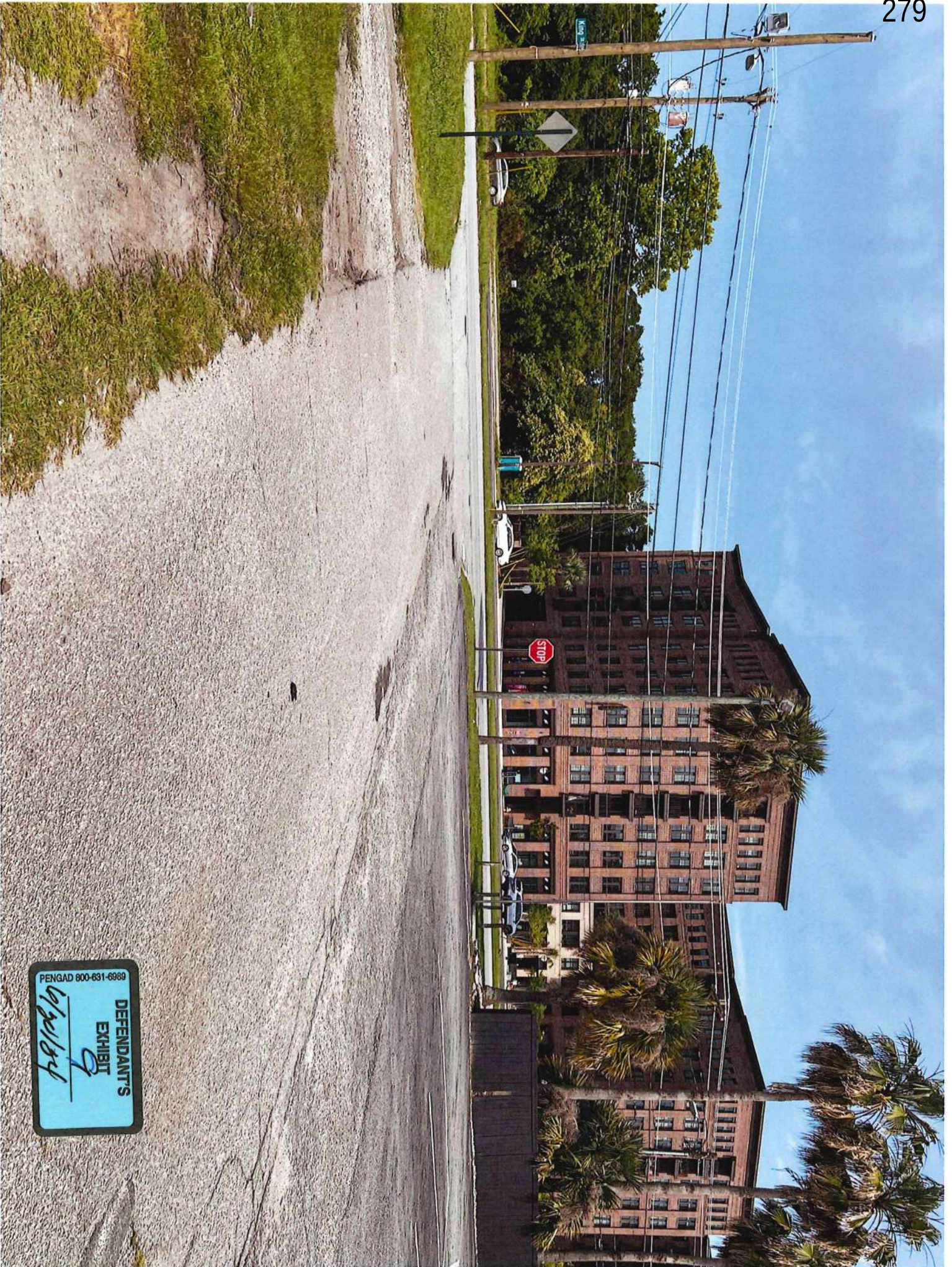




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FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON)
2024 JUN 20 PM 4:13)
NINTH JUDICIAL CIRCUIT
THE STATE OF SOUTH CAROLINA)
JUNE J. ARMSTRONG)
CLERK OF COURT)
CASE NO. 2024-GS 10-3064
2024-GS 10-3065
2024-GS 10-3066
BY AMW)
PLAINTIFF,)
))
vs.) **MEMORANDUM IN SUPPORT OF**
) **IMMUNITY**
MELSHAUN ANTWAN ROBINSON,)
))
))
DEFENDANT.)

FACTUAL BACKGROUND

On the evening of April 25, 2021, Mr. Melshaun Robinson was working at the King Street Cabaret as the Assistant General Manager. Mr. Robinson had recently undergone foot surgery, due to fracturing his foot at work. He was wearing a boot and had to use a scooter to move around the club as he was ordered by his doctor to put no weight on the foot. The King Street Cabaret is a "gentleman's club" with female dancers who perform and dance in various stages of undress in the main bar area, and also perform private dances in separate private rooms for customers for an agreed upon price. The alleged victims in this case, Jaziel Armenta and Zabdiel Tinoco-Hernandez were patrons of the club that night.

At approximately 8:00 pm, Mr. Robinson was informed by a female club employee that Mr. Armenta and Mr. Hernandez were extremely intoxicated, and that Mr. Armenta had physically and sexually assaulted her during a private dance, and had refused to pay her the amount the agreed upon before the dance. Based on this disclosure, Mr. Robinson made the decision to ask the men to leave and not return to the club.

During the time the female employee was discussing the situation with Mr. Robinson, the men went to the bathroom near the front of the club. Mr. Robinson approached the men as they exited the bathroom

and asked the men to leave the club and not return. Mr. Armenta became verbally threatening and antagonistic to Mr. Robinson at the front door, telling him "fuck you punta" and "you do not want to fuck with me." In addition to other threats and caustic comments, Mr. Armenta stated, "I will kill you and everyone in here" and that he would "kill that snitching bitch." Mr. Armenta was wearing a bag with a cross strap over his shoulder, and during his verbal exchange with Mr. Robinson kept reaching towards the bag as if he had a weapon inside. Mr. Robinson was concerned that the bag contained a gun, and feared for his safety and those inside the club based on the threats from Mr. Armenta.

Due to the threats from Mr. Armenta, Mr. Robinson returned to the club office to retrieve his handgun for his protection. Mr. Robinson was concerned that Mr. Armenta was armed and would return to the club and act on the threats he previously made. Significantly, there are no windows on the front door of the club, or the exterior of the building. Therefore, it was impossible for Mr. Robinson to monitor Mr. Armenta's actions from inside the club, and the only way for Mr. Robinson to ensure that Mr. Armenta left the area was to go out to the parking lot and verify for himself.

Mr. Robinson went out to the parking lot to make sure the men left the area and to get the tag number of their truck, in order to file a police report with the Charleston Police Department. Mr. Robinson had his handgun tucked in the back of the waistband of his pants so that it was not visible. Mr. Hernandez was driving his pickup truck, and Mr. Armenta was in the passenger seat when they exited the parking lot across Courtney Street and pulled up to the stop sign at King Street. Mr. Robinson did not know who was in the truck as it pulled up to the stop sign. At this point, nothing prevented the men from turning onto King St. and leaving the area. Mr. Robinson, who was standing more than 40 feet from the truck, had several cars between him and the pickup truck. Mr. Armenta and Mr. Robinson exchanged words as the pickup truck sat at the stop sign. Mr. Robinson continued to tell the men to leave, and Mr. Armenta continued to threaten Mr. Robinson with bodily harm, and reach into the shoulder bag as if he were reaching for a weapon. During this time, Mr. Armenta was hanging out of the passenger side window of the truck, and Mr. Robinson's thought that Mr. Armenta took something out his bag and threw it at him. Mr. Robinson grabbed an object from the ground and threw it back at the truck.

At this point, both men got out of the truck and began approaching Mr. Robinson. Mr. Armenta continued to threaten Mr. Robinson, as the men flanked to surround him on both sides. Mr. Robinson produced his handgun, in an attempt to deter the men from approaching him. Rather than leaving the area and avoiding a conflict, Mr. Armenta and Mr. Hernandez continued to approach Mr. Robinson on the club's property. Due to his limited ability to move, Mr. Robinson feared that the men were going to attack him and that Mr. Armenta was armed and that he was in danger of suffering serious bodily injury or death.

Mr. Armenta continued to reach for his bag, as Mr. Robinson repeatedly told him to take his hands out of the bag. Mr. Armenta physically engaged Mr. Robinson and they began to struggle over the gun. Mr. Hernandez attacked Mr. Robinson from behind while Mr. Robinson was struggling with Mr. Armenta. Mr. Robinson was able to free himself from the men, and fired his gun several times, striking both men. Both men retreated to their pickup truck, and Mr. Robinson remained in the parking lot. 911 was called, and the Columbia Police Department arrived shortly after the incident.

Mr. Robinson voluntarily spoke with officers on the scene and turned over the gun used in this incident. Later that night, Mr. Robinson voluntarily met with Detectives and provided a video recorded statement documenting his version of the events of the incident.

Mr. Hernandez was deceased when Officers arrived. The autopsy revealed that he had been shot three times and had a blood alcohol concentration of 0.123.

Mr. Armenta was transported and treated at MUSC for a gunshot wound. During his treatment, he was found to have a blood alcohol concentration of 0.200.

LEGAL ANALYSIS

In 2006, the South Carolina General Assembly codified the Protection of Persons and Property Act to provide immunity from prosecution to persons acting in defense of themselves or others if they are found to be justified in using deadly force. S.C. Code Ann §16-11-420 et al. A claim of immunity under the Act requires a pre-trial judicial determination under a preponderance of the evidence standard. *State v. Duncan*, 392 S.C. 404, 709 S.E.2nd 662 (2011). The Act requires that the Court sit as fact-finder during

the immunity hearing, weigh the evidence and reach a factual and legal conclusion under the Act. Further, just because conflicting evidence is presented at the immunity hearing, the Court is not necessarily required to deny immunity. *State v. Dennis Elvin Cervantes-Pavon*, 426 S.C. 442, 827 S.E.2d 564 (2019). The relevant inquiry for the Court during the immunity hearing is whether the Defendant has proven his entitlement to immunity by a preponderance of the evidence.

The General Assembly provided in §16-11-450 that “A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution ... for the use of deadly force....”

In S.C. Code Ann §16-11-440(A) the General Assembly set out the circumstances in which immunity may apply:

- (A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:
 - (1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling....and
 - (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

Further, in §16-11-440(C) the General Assembly stated that “A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person”

The South Carolina Supreme Court has found that, consistent with the text of the Act and the Castle Doctrine, “another applicable provision of law” justifying the use of deadly force under the act is the common law of self-defense, and a valid case of self-defense must exist and the trial court must consider the elements of self-defense to determine a defendant’s entitlement to immunity under the Act. *State v. Curry*, 406 S.C. 364, at 372, 752, S.E.2d 263, at 267 (2013). This means that Mr. Robinson may seek immunity from prosecution under the Act by “demonstrating the elements of self-defense to the

satisfaction of the trial court by the preponderance of evidence.” *Curry*, 406 S.C. at 372, 752 S.E.2d at 267.

Therefore, the Court should first consider whether Mr. Robinson has proven the elements of self-defense by a preponderance of the evidence. If the Court finds that he has failed to prove the reasonable fear of death or serious bodily injury or the duty to retreat by a preponderance of the evidence, then the Court should consider whether §16-11-440(A) or (C) is applicable. *State v. Glenn*, 429 S.C. 108 at 117, 838 S.E.2d 491 at 496 (2019).

Under the South Carolina common law of self-defense, a person can use deadly force to protect himself if the following elements are met:

- 1) The defendant must be without fault in bringing on the difficulty;
- 2) The defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger;
- 3) If his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life.
- 4) The defendant had no other probable means of avoiding the danger of losing his life or sustaining serious bodily injury than to act as he did.
State v. Dickey, 394 S.C. 491, 716 S.E.2d 97, 453 (2011).

A. Fault in Bringing on the Difficulty

South Carolina has long recognized a business proprietor’s right to eject a trespasser from the premises of the business. The South Carolina Supreme Court has ruled that “if the proprietor is ‘engaged in the legitimate exercise in good faith of his right to eject, he would in such case be without fault in bringing on the difficulty, and would not be bound to retreat.” *State v. Brooks*, 252 S.C. 504, 510, 167 S.E.2d 307, 310 (1969); *State v. Dickey*, 394 S.C. at 498, 716, S.E.2d at 101).

As Mr. Robinson was the Assistant General Manager for the King Street Cabaret on the night in question and was acting in that capacity when these events took place, he is rightfully considered a business proprietor under the law as outlined above. Based on the complaints of the female employee

concerning the actions of Mr. Armenta, Mr. Robinson made the lawful, good faith decision to eject the men from the business. All the actions in this case took place in either the physical business or in the curtilage of the parking lot as Mr. Robinson ejected the men from the premises and attempted to insure that they were leaving the area. Therefore Mr. Robinson's good faith ejection of Mr. Armenta and Mr. Hernandez cannot be considered as placing him at fault in bringing on the difficulty.

B. Subjective and Objective Belief of Imminent Danger

The critical and relevant encounter between Mr. Armenta and Mr. Robinson takes place at the front door of the club as he is asking the men to leave and not return. Mr. Armenta stated to Mr. Robinson at the front door "fuck you punta" and "you do not want to fuck with me." In addition to other threats and caustic comments, Mr. Armenta stated "I will kill you and everyone in here" and that he would "kill that snitching bitch." Mr. Robinson believed that he was in imminent danger of losing his life or suffering serious bodily injury due to the threats from Mr. Armenta coupled with Mr. Robinson's belief that Mr. Armenta had a gun in the shoulder bag he carried. In addition, he also believed that the patrons and workers inside the club could be in imminent danger of losing their lives or suffering serious bodily injury if Mr. Armenta acted on his threats.

The South Carolina Supreme Court has held that "words accompanied by hostile acts may, depending on the circumstances, establish a plea of self-defense" *State v. Fuller*, 297 S.C. 440, 444, 377 S.E.2d 328, 331 (1989). Additionally, Mr. Robinson had the right to act on appearances, under the circumstances, as they appeared to him, even if ultimately proven wrong, and if he reasonably believed he was in such danger, and a reasonable prudent person would have entertained the same belief then he was justified in acting in self-defense. *Dickey*, 394 S.C. at 501, 716, S.E.2d at 102.

Both Mr. Armenta and Mr. Hernandez were highly intoxicated and both were significantly younger and stronger than Mr. Robinson, who had recently undergone foot surgery and was unable to apply any pressure to his leg or walk normally. He was only able to move about with the use of a scooter that he propped his leg on. During his interaction with Mr. Armenta, Mr. Robinson was concerned that

Mr. Armenta had a gun inside the crossbody bag he wore. Significantly, Mr. Armenta continued to reach in his bag as he threatened Mr. Robinson, even as Mr. Robinson demanded that he leave the premises and stop reaching in the bag. The Supreme Court in *Dickey* quoted a previous decision and stated "Once the right to fire in self-defense arises, a defendant is not required to wait until his adversary is on equal terms or until he has fired or aimed his weapon in order to act." *Dickey*, 394 S.C. at 501, 716, S.E.2d at 102.

As Mr. Armenta and Mr. Hernandez left the club to return to their car, had they simply driven away, this situation would never have taken place. There were multiple avenues of travel the men could have taken and they never would have had any contact with Mr. Robinson had they not stopped their truck so Mr. Armenta could reengage with his threatening conduct. When they pulled onto Courtney Street and stopped at the stop sign at King Street there was nothing stopping or deterring them from turning in either direction and simply leaving the area. Mr. Robinson stood more than 40 feet away from the intersection and did nothing to force, compel or suggest that the men stop. It was their act of stopping, getting out of the truck and aggressively approaching Mr. Robinson (even after he produced his handgun) that confirmed his fear of death or serious bodily injury and led him to fire his handgun.

The South Carolina Supreme Court in *State v. Dickey* ruled under a very similar factual scenario that the Defendant acted in self-defense as a matter of law when a highly intoxicated victim, aggressively approached Mr. Dickey even after he produced a handgun and acted in a threatening manner that led Mr. Dickey to believe that he was armed. Given the totality of the circumstances known to Mr. Robinson, the only reasonable conclusion when threatened by Mr. Armenta and his continued reaching in the bag and advancing upon Mr. Robinson after he produced his gun, was that Mr. Armenta was armed and that he was in serious threat of death or serious bodily injury and was thus justified to act in self-defense.

C. Duty to Retreat

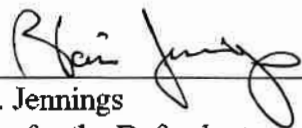
The Defense believes that Mr. Robinson had no duty to retreat, as he believed that if he turned his back on Mr. Armenta he thought he would be attacked. The South Carolina Supreme Court has held that "a defendant is not required to retreat if he has 'no other probable means of avoiding the danger of losing

his own life or sustaining serious bodily injury than to act as he did in the particular instance.” *State v. Wiggins*, 330 S.C. 538, 545, 500 S.E.2d 489, 493 (1998).

Finally, as the facts of this case took place at his place of business, and he was at all times within the curtilage of the business, the statutory language of §16-11-440(C) relieves Mr. Robinson of his duty to retreat.

CONCLUSION

For the reasons outlined above, the Defense moves that the Court dismiss the above referenced indictments and grant Mr. Robinson immunity pursuant to §16-11-450 SC Code of Laws, otherwise known as the Protection of Persons and Property Act.

By 
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Attorney for the Defendant

North Charleston, South Carolina

Dated: June 18, 2024

FILED
 JUN 20 PM 4:43
 JULIE ANN STRONG
 CLERK OF COURT
 BY KW

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

State of South Carolina,)

vs.)

Melshaun Antwan Robinson,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUITCASE NO(s): 2024-GS-10-03064¹2024-GS-10-03065²2024-GS-10-03066³**ORDER DENYING DEFENDANT'S
MOTION FOR IMMUNITY FROM
PROSECUTION**

Presiding Judge:

State's counsel:

Defendant's counsel:

Date of Hearing:

Court Reporter:

Hon. Deadra L. Jefferson

Benjamin Chad Simpson, Esq.

Sara B. Bozarth, Esq.

Blair C. Jennings, Esq.

June 20, 2024

Sharon Hardoon

FILED
2024 OCT -8 PM 4:14
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

This matter came before the Court on June 20, 2024 on the Defendant's Pre-Trial Motion for a Duncan Immunity Hearing, filed on January 26, 2023. Present at the hearing were Benjamin Chad Simpson, Esq. and Sara B. Bozarth, Esq. as counsel for the State, Blair C. Jennings, Esq. as counsel for the Defendant, and the Defendant Melshaun A. Robinson.

Based upon the record, as well as the testimony of the Defense and the State, the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

On the afternoon of April 25, 2021, Zabdiel Tinoco-Hernandez (hereinafter "the Deceased")⁴ and Jaziel Armenta-Zavala (hereinafter "the Surviving Victim")⁵ visited the King

¹ Indictment for Murder.

² Indictment for Attempted Murder.

³ Indictment for Possession of a Weapon During the Commission of a Violent Crime.

⁴ The Deceased was a 30-year-old man, who weighed approximately 230 pounds and measured 66 inches in length. Charleston County Coroner's Office (2021). Autopsy Examination Report Case #2021-1442.

⁵ At the conclusion of the presentation of evidence by the State and Defense the Court inquired into the height and weight of the involved parties. The Surviving Victim testified that he is approximately 197 pounds and measures 68

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Street Cabaret, an adult entertainment business, located at 1337 King Street Extension. The Surviving Victim desired to receive a private dance from Hannah Catherine Perlitz (formerly Manzi),⁶ an employee at King Street Cabaret. Steven Laribo, a frequent patron of King Street Cabaret, the Surviving Victim, and Hannah Perlitz (hereinafter “Perlitz”) negotiated and agreed for the patrons to receive a joint private dance for \$300.00 to \$400.00⁷ and share the financial responsibility for the dance fifty-fifty. Perlitz testified that during the joint dance, the Surviving Victim “monopolized” the dance, kept pulling her towards him, was “mimicking sex” with her, was moving her around roughly and quickly, tried to put his hands in her underwear, and exposed his penis. Perlitz testified that at some point Steven Laribo (hereinafter “Laribo”) left the private dance. Perlitz testified that the dance continued after Laribo left. Perlitz further testified that throughout the dance she tried to “redirect” the Surviving Victim, but when he exposed himself she terminated the dance. Perlitz testified that she does not remember the full amount that the Surviving Victim agreed to pay for the dance, but at the end of the dance he refused to pay the agreed upon price stating “you’re trying to take advantage of me.” Perlitz testified that an argument ensued and she informed the Surviving Victim that she would notify the manager. Perlitz testified that the Surviving Victim responded, “Do that and I’ll beat his ass.” Perlitz testified that the Deceased overheard the argument and offered to help pay for the private dance. The surveillance video reflects that the Deceased and Surviving Victim remained in the club for some time socializing after the dance prior to exiting the club. Perlitz testified that she was encouraged to inform the bouncer/manager about what occurred and she did. The video surveillance reflects that there was a significant delay between the conclusion of the dance and Perlitz going to the

inches in length. The Defendant testified that he is approximately 270 pounds and measures 72 inches in length. At the time of the incident the Surviving Victim was 30-years-old and the Defendant was 38-years-old.

⁶Hannah Perlitz’s stage name was Isabella.

⁷ Ms. Perlitz testified that she really isn’t clear the exact amount that was negotiated for the private dance.

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bouncer/manager to report her concerns about the private dance. The bouncer/manager on the night of the incident was Melshaun Antwan Robinson (hereinafter "the Defendant").

At 8:17:39 PM the Deceased and Surviving Victim can be seen on surveillance footage exiting the doorway of the King Street Cabaret. The Deceased and Surviving Victim had cleared the doorway heading away from the club. At 8:17:45 PM the Defendant can be seen entering the doorway making comments and calling the Deceased and Surviving Victim back toward the doorway. As a result, the Surviving Victim and the Defendant exchange words until 8:18:14 PM at which point the Defendant exits the doorway, returns inside the King Street Cabaret and the Deceased and Surviving Victim proceed away from the building to the Deceased's car. The Defendant is then seen on surveillance making his way to his office inside the Cabaret and retrieving a firearm at 8:18:31 PM. The Defendant places the firearm in his back waistband and then proceeds to the parking lot of the King Street Cabaret. It is uncontested that at the time of the incident the Defendant was recuperating from a work-related injury and was utilizing a scooter to navigate.⁸ The Defendant is seen exiting the King Street Cabaret at 8:18:52 PM. The Defendant stops in the parking lot at 8:18:58 PM and looks around. From 8:19:03 PM to 8:19:11 PM the Defendant makes his way towards the edge of the parking lot near King Street Extension. At 8:19:30 PM the Deceased's vehicle pulls onto Courtland Avenue near King Street Extension. The Deceased and the Surviving Victim were in the vehicle leaving the club. The vehicle containing the Deceased and the Surviving Victim are approximately forty-five (45) feet away from the Defendant. Another verbal exchange occurs between the Surviving Victim and the Defendant from 8:19:30 PM to 8:20:07 PM. During this verbal exchange the Surviving Victim can be seen hanging out of the window. At 8:20:07 PM the Defendant is seen on surveillance video throwing an object

⁸ The Defendant testified that while working his foot was injured and crushed by a large food can from the business's kitchen requiring surgery on his foot.

at the Deceased's vehicle causing damage to the side panel of the vehicle. At this point the Deceased and the Surviving Victim exit the vehicle and begin to approach the Defendant. At 8:20:26 PM the Defendant retrieved his firearm and points it towards the Deceased and the Surviving Victim. When the Defendant brandished the gun, the Surviving Victim began to retreat while the Deceased shielded himself with a car. At 8:20:31 PM as the Surviving Victim was retreating away from the Defendant the Defendant pursued the Surviving Victim. The Defendant reached the Surviving Victim at 8:20:38 PM. When the Defendant reached the Surviving Victim, a physical altercation ensued. At 8:20:45 PM the Deceased engaged in the physical altercation. At the time of the incident the Defendant was suffering from a broken foot and utilized a scooter to navigate. During the physical altercation the Defendant was dislodged from his scooter. It is clear from the video that the Defendant is larger and of a significant taller stature than the Deceased and the Surviving Victim. At 8:20:48 PM the Defendant threw the Deceased to the ground and broke free from the altercation. The Defendant held the Deceased down by the back of his neck after which the Deceased is facing the street and is fleeing away from the Defendant. While the Deceased was on the ground on his hands and knees, the Defendant fired multiple shots at the Deceased striking him in his back. After the initial shot was fired, the Deceased and Surviving Victim resumed their retreat. As they were retreating, the Defendant fired five (5) additional shots.⁹ The Defendant began to hobble away from the incident location at 8:21:17 PM. The only firearm recovered from the scene was the firearm used by the Defendant. There is no evidence that either the Deceased or the Surviving Victim were in possession of a firearm. After being given his

⁹ The parties stipulate that the Deceased "died as the result of multiple penetrating and perforating indeterminate-range gunshot wounds." Stipulation 1. The parties further stipulate that the Surviving Victim "suffered from two gunshot wounds. The first was a gunshot wound to the right hip. . . The second was a grazing gunshot wound to the front of the scalp." Stipulation 2.

Miranda warnings, the Defendant confessed to shooting the Deceased and Surviving Victim citing “stand your ground” to the responding officers.

The Defense provided the following witnesses and testimony: Dr. Hannah Catherine Perlitz, Steven Christopher Laribo, Heather Diamond, and Melshaun Antwan Robinson. The first to testify for the Defense was Dr. Hannah Catherine Perlitz. Perlitz testified that she is currently doing her residency in Anesthesiology at Grand Strand Hospital. She testified that at the time of the incident she was in her second year of medical school at the Medical University of South Carolina in Charleston. She testified that she was working at the King Street Cabaret as a private dancer one (1) to three (3) times a week. Perlitz testified that she had been working at the King Street Cabaret for about three (3) weeks prior to the incident. Perlitz further testified that she mainly socialized with customers at the bar and offered private dances as opposed to dancing on the stage. Perlitz stated that semi-private dances were twenty-five (25) dollars to thirty-five (35) dollars per song. She testified that the club took fifty (\$50) dollars per song. Perlitz testified that the dancers set the prices for private dances and that the price typically ranged from one hundred fifty (150) to three hundred (300) dollars for fifteen (15) minutes. She testified that the club takes fifty (50) dollars per fifteen (15) minutes. Perlitz testified that the dancers paid the bouncer/manager at the conclusion of each private dance.

Perlitz testified that on the night of the incident she was asked by two (2) men at the bar for a private dance. One of the men was Laribo and one of the men was the Surviving Victim. Perlitz testified that it was not typical to give two (2) men a private dance at the same time, but she agreed to the joint dance as she had previously done a joint dance with a man and a woman. Perlitz testified that on the night of the incident she witnessed the Surviving Victim drinking and believed him to be intoxicated. She testified that she observed the Surviving Victim slurring his speech and

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swaying. She testified that on the night of the incident the Surviving Victim was wearing a fanny pack across his chest. She testified that she and the two (2) men went to the private dance room together, one gentleman would pay for the first dance and the other gentleman would pay for the second dance. She testified that she does not remember the amount that was to be paid by the gentlemen for the dances. Perlitz testified that at the time of the private dance the two (2) men were sitting on the same couch while she was dancing. She testified that she removed all of her clothing except her underwear. She testified that the Surviving Victim monopolized the dance and kept pulling her towards him. She testified that the Surviving Victim was gripping her tightly, moving her around quickly and roughly, was mimicking sex with her, and tried to put his hands inside of her underwear several times. Perlitz further testified that the Surviving Victim picked her up, dropped her, and pushed her against the wall. Perlitz stated that she expressed to the Surviving Victim several times to stop and that he needed to be more gentle. She further testified that Laribo left the dance early. She testified that the private dance continued after Laribo left. Perlitz testified that the Surviving Victim exposed his penis about thirteen (13) minutes into the private dance and at that point she decided to terminate the private dance. Perlitz testified that once the dance concluded the Surviving Victim paid her one hundred (\$100) dollars but did not pay the full amount agreed upon. Perlitz stated that she does not remember the amount that the Surviving Victim agreed to pay prior to the private dance. Perlitz testified that she informed the Surviving Victim that she would have to get the manager. She testified that the Surviving Victim responded "Do that and I'll beat his ass." She testified that she was employed at the King Street Cabaret until the early summer of 2023. She testified that during the remainder of her employment she never encountered another situation this rough or aggressive. She further testified that the Deceased heard her and the Surviving Victim arguing about the money and entered the private dance room.

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She testified that the Deceased offered to help pay for the private dance, but she does not remember if the Deceased ever gave her money. Perlitz testified that after her encounter with the Surviving Victim she discussed the encounter with Laribo and another individual. She testified that the two (2) individuals encouraged her to request that the Defendant ask the Deceased and the Surviving Victim to leave. Perlitz testified that law enforcement did not follow up with her until approximately a week prior to trial.

On cross-examination Perlitz testified that private dances are the “money makers.” She testified that there is no possibility that the Surviving Victim had any confusion regarding the price of the dance. She testified that when she initially spoke with law enforcement she did not fully share everything with law enforcement. Perlitz expressed that she did not share with law enforcement that the Surviving Victim exposed his penis. Perlitz further testified that on June 2, 2021 she gave a lengthy statement consisting of five (5) pages to the Charleston County Public Defender’s investigator. Perlitz expressed that she did not share with the investigator that the Surviving Victim exposed his penis. Perlitz testified that on June 10, 2021 she gave another statement to the Public Defender’s investigator. Perlitz testified that it wasn’t until her June 10, 2021 statement when she mentioned that the Surviving Victim exposed his penis. Perlitz testified that she doesn’t remember if she told the Defendant that the Surviving Victim exposed his penis. Perlitz shared with the Defendant that she was uncomfortable and didn’t feel safe. Perlitz stated that telling the Defendant she was uncomfortable and didn’t feel safe was enough and was all that needed to be said. Perlitz testified that the Surviving Victim did not prevent her from leaving the room and terminating the dance when the song was over.

Steven Christopher Laribo was next to testify for the Defense. Laribo testified that he is retired from the US Air force, resides in Carolina Bay and has resided in the Charleston area since

7/27/21
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1993. Laribo testified that he and his friends would meet at the King Street Cabaret monthly about every two (2) to three (3) months. Laribo arrived at the King Street Cabaret around 5:00 PM to 5:30 PM on the night of the incident. On the night of the incident none of Laribo's friends showed up to the King Street Cabaret, so Laribo sat at the bar by himself. He further testified that he knew the Defendant. Laribo testified that he did not know the Surviving Victim's name but that he was wearing a fanny pack on the night of the incident to hold his money. Laribo, also, could not recall the dancer's name but could maybe recognize her today. Laribo witnessed the Surviving Victim drinking and could tell that the Surviving Victim had previously consumed a couple of drinks. This was evident to Laribo by the Surviving Victim's persistence and slurred speech. Laribo testified that the Surviving Victim was persistently requesting a private dance from Perlitz so he encouraged Perlitz to give the Surviving Victim a private dance. Laribo testified that he and the Surviving Victim received a "double dance." Laribo further testified, that he had never participated in a "double dance" prior to the night of the incident. He testified that the "other guy" insisted on a "double" so he went ahead and did it. Laribo testified that prior to the private dance, Perlitz informed him and the Surviving Victim of the price and they agreed to each pay for their dance. Laribo testified that the Surviving Victim was all over Perlitz and "it was pretty much the two of them." Laribo stated that when the song was over for his private dance he paid Perlitz and left the room. After Laribo left the private dance, the Surviving Victim and Perlitz remained in the private room for more than one song. As a result, Laribo walked the hallway where the private room was located. However, the curtain to the private room was closed so Laribo could not see what was happening in the private room.¹⁰ Laribo testified that after the private dance Perlitz

¹⁰ Video surveillance reflects that Mr. Laribo left the room and resumed socializing in the club with other dancers and patrons.

seemed to be upset and he encouraged Perlitz to speak with the Defendant. The State did not cross-examine Laribo.

The Defense then called Heather Diamond to testify. Heather Diamond is an employee at the King Street Cabaret. Diamond has worked at King Street Cabaret since October of 2020. Diamond was working the reception desk area at the entrance of the club on the night of the incident and arrived to work at 8:00 PM. Diamond testified that at the door she typically checks for ID, checks for compliance with dress code, and takes payment for the cover charge. Diamond testified that she noticed the Surviving Victim was wearing a "sling bag" on the night of the incident. Diamond testified that when she observed the Defendant talking to the Deceased and the Surviving Victim in the doorway he told them "Do me a favor and don't come back." Diamond testified that the Defendant was calm and assertive and the Surviving Victim was "rowdy" and did not want to be told to leave. Diamond testified that the Defendant never touched the Deceased or the Surviving Victim while in the club. Diamond observed the Defendant leave the doorway, re-enter the club, and then leave the club again. Diamond did not observe the Defendant to be carrying anything as he exited the club. Diamond denies seeing the Defendant exit with a gun. She also denies being able to observe any events that transpired in the parking lot. Diamond gave a statement to CPD the night of the event.

On cross-examination Diamond testified that the front door to the King Street Cabaret is a heavy metal door that can be locked. She also testified she had no idea how to lock the door but the manager would have that knowledge. She further testified that the club does not like for patrons to bring bags inside the club, but she has never checked anyone's bag. She was not sure when this policy was put in place. She testified that the Deceased and Surviving Victim were angry and yelling as they were being escorted out of the club and that their angry demeanor can be seen on

9 9/27
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the surveillance video. Diamond testified that the Surviving Victim and the Defendant had a verbal exchange after the Deceased and the Surviving Victim were escorted out of the club. Diamond testified that the front door was open while this verbal exchanged occurred. Diamond testified that she can hear words over the club's music, but could not hear a single word that the Deceased or the Surviving Victim said. She further testified that she gave a verbal statement to the police based on her sight lines and maybe was aware of the officer's body worn camera. However, she does not recall giving any form of written statement to the police.

The last witness to testify for the Defense was the Defendant, Melshaun A. Robinson. The Defendant first testified about his personal life which included a time line of his upbringing and work history. He testified that he was forty-one (41) years of age. He explained that he was born with Asthma. The Defendant played sports growing up, but was not allowed to be his best due to his asthma. The Defendant testified that at the time of the incident the Defendant was suffering from a work related injury. The Defendant had previously dropped restaurant sized cans of marinara sauce on his foot. The injury required corrective surgery including the placement of plates and screws in the Defendant's foot. The Defendant was not able to put pressure on his foot and required the use of a scooter to get around. The Defendant then went on to testify about the operations of the King Street Cabaret. The Defendant was initially employed as a floor host at the club, but was promoted to general manager after one and a half (1.5) years of employment. The Defendant testified that he was employed at the King Street Cabaret for approximately five (5) or six (6) years and was a general manager on the date of the incident. The Defendant testified that the dancers who worked on stage kept one hundred (100) percent of their money. However, the dancers who offered semi-private and private dances had to pay the club to use the private rooms. The dancers charge in fifty (\$50) dollar increments and they each "settle up" and pay the general

manager after each dance. There are four (4) "champagne" rooms. The Defendant identified where he was sitting on the date of the incident in the back corner of the club where he could elevate his injured foot. (Defense Ex. 2). Otherwise, he said, he would have occupied the usual "manager's chair." The Defendant testified that he was not able to lock the front door from inside of the club as it requires an Allen key. The Defendant testified that after he was notified of the incident between the Surviving Victim and Perlitz, it was time for the Surviving Victim "to go" so he escorted the Deceased and Surviving Victim out of the club. The Defendant testified that he told them to leave and not come back. He further testified that he told the Deceased and the Surviving Victim "Leave. Don't come back. We don't treat women like that in America." The Defendant testified that while he was arguing with the Surviving Victim, the Deceased was "pretty chill." The Defendant further testified that while he was arguing with the Surviving Victim, the Surviving Victim stated "You don't want to fuck with me. I'll kill you. I'll kill everybody. I'll kill that snitching bitch." The Defendant did not take the threats seriously at first as he hears threats every night at the club. The Defendant claims he did not take the threats seriously until the Surviving Victim unzipped his satchel and placed his hand inside. The Defendant testified that when the Surviving Victim unzipped his satchel, the Deceased grabbed the Surviving Victim and pulled the Surviving Victim from the door. The Defendant testified after that he thought he should get their vehicle tag number. The Defendant then went to retrieve his firearm from inside the club. The Defendant testified that after retrieving his firearm, he went out to the parking lot to obtain the license plate number from the Deceased's vehicle in case they returned. The Defendant testified that he had no intention of shooting or engaging with the Deceased and the Surviving Victim when he exited the club. The Defendant heard screaming and yelling, but could not tell where it was coming from. The Defendant testified that he could not determine where the yelling and screaming

was coming from until the Deceased's vehicle pulled up to the stop sign. The Defendant testified that when the Deceased's vehicle pulled up to the stop sign at King Street Extension the Defendant was forty-five (45) to fifty (50) feet away from the Deceased's vehicle. The Defendant testified that he did not hail the Deceased and Surviving Victim to stop. When the truck pulled up to the stop sign, the Defendant could see who was in the vehicle as the Surviving Victim was "hanging out of the window" saying he was going to fuck the Defendant up and kill the Defendant. The Defendant testified that he did not threaten the Deceased and Surviving Victim, but simply said "Carry y'all ass on." The Defendant testified that he did not prevent the Deceased and Surviving Victim from turning onto King Street Extension and leaving. The Defendant testified that while the vehicle was at the stop sign, the Surviving Victim threw an object out of the vehicle's window then the Defendant picked the object up and threw it back towards the vehicle. At that point the Deceased and the Surviving Victim exited the vehicle and began approaching the Defendant. The Defendant testified that he observed the Surviving Victim reaching into his crossbody bag. At that point, the Defendant pulled out his firearm. The Defendant testified that he did not pull out his firearm until the Deceased and the Surviving Victim tried to trap him between two cars. The Defendant further testified that after he pulled his firearm out, he proceeded to the Surviving Victim as quickly as he could to ensure that the Surviving Victim kept his hand in his bag. The Defendant testified that he did not want to shoot and kill the Deceased or the Surviving Victim. The Defendant testified that he pulled out his gun to scare the Deceased and the Surviving Victim.

On cross-examination the Defendant reiterated that the front door of the King Street Cabaret cannot be locked from inside. The Defendant testified that only the Surviving Victim was being "rowdy." The Defendant testified that the Surviving Victim's bag was very concerning to him, because the Defendant always associates "that kind of bag" with a gun. The Defendant

testified that he encountered the Surviving Victim earlier in the evening when the Surviving Victim was “balling money up” and hitting the dancers with the balled up money. The Defendant testified that he told the Surviving Victim not to ball money up and throw it at the dancers. The Defendant further testified that he had a “few more interactions” with the Surviving Victim that night. The Defendant testified that he hears threats from patrons every night. The Defendant testified that he was smiling during his verbal exchange with the Surviving Victim in the doorway to the King Street Cabaret. The Defendant testified that during the verbal exchange at the doorway he told the Surviving Victim “If this ain’t for you don’t come back.” The Defendant testified that during the verbal exchange at the stop sign the Surviving Victim threw a small piece of white plastic. The Defendant reiterated that he picked up the object he believed was thrown at him and threw it back towards the vehicle. The Defendant testified that on the night of the incident the Surviving Victim was speaking “back and forth in Spanish.” During the Defendant’s testimony, the Defendant stated “I’m not denying that I did chase them down.”

On re-direct the Defendant testified that he was concerned for his safety and the safety of everyone in the club. The Defendant stated that the Surviving Victim’s grabbing of his bag is what really scared the Defendant. The Defendant testified that he shared with law enforcement the threats that the Surviving Victim made towards him including “I’m going to fucking kill you punta.” He testified that based on his previous work experience he understood “punta” to be a derogatory slang term.

The State provided the following witnesses and testimony: Jaziel Armenta-Zavala, the Surviving Victim, and Detective Daniel Wilson. The Surviving Victim testified that he is originally from Mexico, came to the United States when he was thirteen (13) years old, and currently does construction work. He further testified that the Deceased also worked in construction and had

minor children aged 12 (twelve), 9 (nine) and 4 (four) at the time of his demise. The Deceased was the Surviving Victim's brother-in-law and they have known each other for twenty (20) years. The Surviving Victim testified that he had sold both of his four (4) wheelers on the weekend of the incident and wanted to spend some of his proceeds. Prior to going to the King Street Cabaret, the Deceased and Surviving Victim went to Hooters to have a "couple of drinks." The Deceased and Surviving then proceed to the King Street Cabaret where they had a "couple" more drinks. The Surviving Victim testified that he "spoke to a female at the bar with another guy." The female was Hannah Perlitz and the "guy" was Steven Laribo. The Surviving Victim testified that the "girls were offering dances" and that he and Laribo agreed to purchase a private dance together. The Surviving Victim testified that Laribo agreed to pay for half of the private dance and he agreed to pay for the other half of the private dance. The Surviving Victim testified that while in the private dance room Perlitz danced with him, then danced with Laribo, then the song ended, and then Perlitz went back to dance with him. The Surviving Victim testified that once the song ended, Laribo left the private dance room. The Surviving Victim testified that at one point in the dance he did touch Perlitz. The Surviving Victim further testified that when he touched Perlitz, she informed him that he was not allowed to touch her, and he stopped. The Surviving Victim testified that Perlitz continued to dance for about three (3) to four (4) songs after Laribo left the private dance. The Surviving Victim denies exposing his penis during the private dance. The Surviving Victim further testified that he never prevented Perlitz from leaving the private room and he actually left the room first. He contradicts Perlitz and testified that he and Laribo agreed to four hundred (\$400) dollars for the cost of the dance to be split equally between the two (2). At the conclusion of the dance Perlitz requested the entire four hundred (\$400) dollars from him. The Surviving Victim testified that he gave Perlitz two hundred (\$200) dollars for his half of the dance. Perlitz demanded that the



Surviving Victim pay the full four hundred (\$400) dollars for the dance. In an attempt to abate the problem, the Surviving Victim testified that he offered to pay Perlitz and additional fifty (\$50) dollars. He testified that he gave her a total of two hundred fifty (\$250) dollars for his portion of the dance. The Surviving Victim testified that he left the King Street Cabaret on his own accord and was not kicked out. He further testified that on his way out of the club he finished his drinks, "threw dollars," and stopped to use the bathroom before proceeding to leave the club. The Surviving Victim testified that when he exited the club, he was heading to the Deceased's vehicle and going home. As the Deceased and the Surviving Victim were leaving the club, the Surviving Victim heard the Defendant yelling "If you guys are leaving, go and don't fucking come back." The Surviving Victim responded "You don't have to worry about us. We're not coming back." The Surviving Victim further testified that the Defendant was calling the Deceased and Surviving Victim "punks" and "bitches." After the verbal exchange, the Defendant went back into the club and the Surviving Victim believed the altercation had ended. The Surviving Victim testified that as he and the Deceased attempted to exit the parking lot, the Defendant was near the stop sign yelling for them to stop. At this point the Surviving Victim lowered his window to hear what the Defendant was saying. He denies "cussing" at or ever threatening the Defendant. The Surviving Victim testified that he never threw anything at the Defendant, but the Defendant threw a rock at the Deceased's Vehicle. He testified that at this point the Deceased was mad at the damage caused to his vehicle by the Defendant because it was a "nice" truck. When the Defendant threw the rock at the Deceased's vehicle, the Deceased and the Surviving Victim exited the vehicle and began to approach the Defendant. He then testified that it was his perception that the Defendant wanted to fight. When the Deceased and the Surviving Victim stepped out of the vehicle, the Defendant pointed a firearm at them. When the Deceased and Surviving Victim saw the firearm, they

15-27
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attempted to retreat. The Defendant then began to chase the Surviving Victim. When the Defendant caught up to the Surviving Victim, the Surviving Victim tried to grab his arm. The Surviving Victim testified that the Defendant shot him and at that point the Surviving Victim turned and began to run away. As he was running away he heard four (4) to five (5) more shots. The Surviving Victim saw the Deceased run to the driver door of the Deceased's vehicle and then "fade" to the ground. The Surviving Victim testified that he used his bag to hold money and camera accessories. The Surviving Victim further testified that he never had a gun on the night of the incident. The Surviving Victim testified that he never said that he was going to kill anyone.

On cross-examination the Surviving Victim testified that he and the Deceased went to Hooters around two (2) to three (3) o'clock on the afternoon of April 25, 2021. At hooters he had two (2) crown and cokes and the Deceased was drinking beer. The Surviving Victim testified that he and the Deceased arrived at the King Street Cabaret between five thirty (5:30) and six(6) on the night of the incident. The Surviving Victim testified that he had previously been to the King Street Cabaret twice before and this was his third visit. The Surviving Victim testified that while at the King Street Cabaret he had three (3) to four (4) crown and cokes. The Surviving Victim testified that he was not drunk. He testified that he was not aware that his blood alcohol level was 0.200, but he still believes that he felt fine. He testified that the Deceased came back to the private room, because he was looking for his friend not because he overheard an argument between the Surviving Victim and Perlitz. The Surviving Victim testified that during his verbal exchange with Defendant he said things like "We out of here bitch", but he never said "Fuck you punta," "I'll fuck you up," or "I'll kill you." The Surviving Victim testified that when the Deceased's vehicle arrived at the corner of Courtland Avenue and King Street Extension, he was yelling out of the window "What do you want?" The Surviving Victim admitted that he originally told officers that nothing was

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thrown at the truck. He testified his memory was not clear at that time because he was under the influence of medication. The Surviving Victim also admitted that he originally told officers that the Defendant came close to the Deceased's vehicle and had his gun out when he came to the vehicle. The Surviving Victim testified that if the Deceased had kept driving or if they had never approached the Defendant, none of this would have happened.

The last witness to testify for the State was Detective Daniel Wilson. Detective Wilson testified that he did not find the Defendant's version of events credible as the Defendant's story was inconsistent with the investigation. Detective Wilson testified that he believed the Defendant to be the aggressor as the Defendant was the only party with a firearm. Moreover, when the Defendant presented his firearm the Deceased and Surviving Victim retreated and the Defendant continued to pursue them and firing his weapon. Additionally, all gunshot wounds that the Deceased sustained entered from the Deceased's back.

On cross-examination Detective Wilson testified that there were portions of inaccuracy in the Surviving Victim's statements. For example, the Surviving Victim said that he was leaving the club because it was closing not because he was being kicked out. However, the club was not closing at the time of the incident. Additionally, the Surviving Victim originally told officers that he told the Defendant "fuck you punta." Detective Wilson also testified that a portable charger was recovered from the scene.

On re-direct Detective Wilson testified that on surveillance video he observed the Deceased and Surviving Victim backing away when the Defendant pulled out his firearm. Detective Wilson testified that he believed the Surviving Victim's statements are more accurate than the Defendant's statements.

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At the conclusion of the hearing the Court requested the record be supplemented with the Coroner's Office Autopsy Examination Report. Neither party objected to this request and the autopsy of Zabdiel Tinoco Hernandez was provided to the Court. The autopsy was performed by Dr. J.C. Upshaw Downs, M.D. on April 26, 2021 at 9:08 AM. The cause of death was determined to be multiple gunshot wounds and the manner of death was determined to be homicide. The autopsy report concluded that the Deceased suffered from three (3) gunshot wounds: one (1) located on the Deceased's parascapular back; one (1) located on the Deceased's paramedian spine; and one (1) located on the Deceased's right forearm. The gunshot wound to the Deceased's back is described in the autopsy as follows:

A 0.34 horizontal by 0.35 vertical circular entry defect is on the parascapular back of the Deceased, located 12 1/4 inches below the top of the head, 3 7/8 inches left of the posterior midline back, and 5 5/8 inches from the C7 vertebral prominence. The Deceased's shirt has a corresponding defect but no evidence of soot deposition or gun powder stippling is seen on the corresponding shirt defect or on the surrounding skin. Internally, fresh blood and secondary bony projectiles are associated with the wound track. The shot passes through the corresponding subcutaneous soft tissues, inferomedial of the scapular margin and continues to enter the corresponding hemithorax via a 1/2 inch defect in the posterior #3 intercostal space. The shot continues to enter the corresponding posteromedial apical left upper lung lobe via a 3/4 inch defect and continues to the hilar left lower lung lobe. The shot continues to enter the corresponding pericardial sac via a 1/4 inch defect. The shot continues with a 3/8 inch defect in the posterior right cardiac atrium with associated 3/4 inch subepicardial and intramural blood. The shot traverses the cardiac chamber to exit the anterior right atrium. The shot continues to exit the corresponding floor of the pericardial sac via a 1/4 inch defect. The shot continues to traverse the corresponding hemidiaphragm via a 1/4 inch defect and continues to lacerate the corresponding soft tissues, continuing to the lateral left hemidiaphragm and exits the intercostal space adjacent to the intact ribs to lodge in the corresponding soft tissues adjacent to the later #7 intercostal space. The wound path is directed forward, downward, and leftward.

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Charleston County Coroner's Office (2021). Autopsy Examination Report Case #2021-1442.

The gunshot wound to the Deceased's spine is described in the autopsy as follows:

A 0.42 horizontal by 0.26 vertical ovoid entry defect on the paramedian spine of the Deceased, located 23 1/8 inches below the top of the head, 0.55 inches left of the posterior midline back, and 12 inches from the gunshot wound to the Deceased's back. The Deceased's shirt has a corresponding defect but no evidence of soot deposition or gun powder stippling is seen on the corresponding shirt defect or on the surrounding skin. The wound has a surround faint purple contusion that measures 0.5 inches. Internally, fresh blood and secondary bony projectiles are associated with the wound track. The shot passes posterolateral of the T12-L1 spine fracturing the lateral processes; the corresponding spinal cord lack gross blood or trauma. The shot continues to the retroperitoneum via a 1 1/4 inch overall posterior stellate defect with an anteriorly contiguous 2 inch pelvic defect. The corresponding soft tissues have copious blood. The shot continues through the peritoneum adjacent to the intact small bowel; the small bowel has focal associated surface serosal bleeds and lacks gross defect. The shot continues to the anterior abdominal wall at the area of the umbilicus with an associated 1/4 inch defect. The projectile lodges in the soft tissues of the median abdominal wall; a 1 3/4 inch soft tissue bleed is associated. The mildly deformed radiopaque yellow metal jacketed grey metal projectile is recovered 26 1/4 inches below the top of the head at the midline abdomen. The wound path is directed forward, downward, and minimally rightward.

Id.

The gunshot wound to the Deceased's forearm is described in the autopsy as follows:

A 0.35 horizontal by 0.24 vertical slightly irregular circular flattened ovoid on the dorsal right forearm of the Deceased, located 23 5/8 inches below the top of the head, 14 1/4 inches proximal to the tip of the #2 finger, 0.8 inches left of the posterior median forearm, 1 3/4 inches from the central elbow, and 2 1/4 inches from the palpable bony elbow. The Deceased's shirt has a corresponding defect but no evidence of soot deposition or gun powder stippling is seen on the corresponding shirt defect or on the surrounding skin. The wound has a surround faint purple contusion that measures 0.5 inches. Internally, fresh blood is associated with the wound track. The shot passes through the corresponding forearm soft tissues but lacks associated fracture to exit anteriorly via an irregular partially stellate

19 of 27
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ovoid defect of the proximal anterior corresponding forearm. The exit wound measure 0.55 horizontal by 0.32 vertical, 13 1/4 proximal to the tip of the corresponding #2 finger, 0.7 medial of the proximal anterior forearm, and 2.6 inches from the mid antecubital fossa. The Deceased's shirt has a corresponding defect to the exit wound but no evidence of soot deposition or gun powder stippling is seen on the corresponding shirt defect or on the surrounding skin. The wound path is directed forward, downward, and rightward.

Id.

The toxicology report provided the following findings: Femoral Blood – 123 mg/dL (0.123%) ethanol; no other positive findings of toxicological significance have been identified. NMS Labs (2021). Toxicology Report (Workorder 21150004). Laura M. Labay, Ph. D., F-ABFT, DABCC-TC.

CONCLUSIONS OF LAW

I. Defendant's Motion for Immunity from Prosecution under the Protection of Persons and Property Act is Denied.

The Protection of Persons and Property Act provides immunity from criminal prosecution to an individual who uses deadly force against an attacker in his home or another place where he has a right to be. See S.C. Code Ann. §16-11-440(A)-(C); §16-11-450. However, deadly force may only be used if the person “reasonably believes it is necessary to prevent great bodily injuries to himself or another person or to prevent the commission of a violent crime . . .” See S.C. Code Ann. §16-11-440(C).¹¹

A presumption of reasonable fear may arise if the person,

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or

¹¹ A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60. S.C. Code Ann § 16-11-440(C).

28 of 27
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occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and
 (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

S.C. Code Ann. §16-11-440(A).

However, a presumption of reasonable fear will not apply if the person,

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or . . .

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; . . .

S.C. Code Ann. §16-11-440(B).

Thus, the person seeking immunity must show, by a preponderance of the evidence, that he was justified in the use of deadly force when he killed the victim. See State v. Manning, 418 S.C. 38, 45, 791 S.E.2d 148, 151 (2016). Consistent with the text of the Act, a valid case of self-defense must exist; in other words, the defendant must establish the elements of self-defense, save the duty to retreat, in order to prevail on a claim for immunity under the Protection of Persons and Property Act. See State v. Curry, 406 S.C. 364, 371, 752 S.E.2d 263, 267 (2013).

There are four elements required by law to establish a case of self-defense:

First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance.

State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984).

21 

Absent a showing that a defendant has been attacked, a request for immunity, which would excuse the duty to retreat, must fail, and a defendant must present his evidence of self-defense to a jury. State v. Scott, 420 S.C. 108, 115, 800 S.E.2d 793, 797 n.8 (Ct. App. 2017).

ANALYSIS

To prevail on an immunity claim under the Protection of Persons and Property Act, the Defendant must meet, by a preponderance of the evidence, the elements of self-defense, save the duty to retreat. First, the defendant must be without fault in bringing on the difficulty. The Defendant testified that he did not intend to engage the Deceased and Surviving Victim, but only exited the club to obtain the Deceased's license plate number. The Defendant further testified that he brandished his firearm to scare the Deceased and the Surviving Victim away. However, the club's video surveillance contradicts the Defendant's testimony. On the video surveillance a verbal altercation can be seen between the Surviving Victim and the Defendant. This verbal altercation occurred in the front doorway to the King Street Cabaret. The verbal altercation concludes, the front door closes, the Deceased and the Surviving Victim proceed to the Deceased's vehicle, and the Defendant re-enters the club. The initial altercation is over. It is at this time that the Defendant is seen on video surveillance retrieving his firearm from an office inside the King Street Cabaret. After retrieving his firearm, the Defendant exits the club and makes his way to the corner of Courtland Avenue and King Street Extension. The Defendant's location on the corner of Courtland Avenue and King Street Extension contradicts the Defendant's testimony that he merely exited the club to obtain a license plate number. From the Defendant's location, the probability that the Defendant would be able to observe the license plate at the rear of a vehicle is unlikely. There is a dispute as to whether it was the Surviving Victim's or the Defendant's actions that lead to the Deceased and the Surviving Victim stopping at the corner of Courland Avenue and King Street

22/27


Extension. The Court finds it unnecessary to reach this conclusion as there is more than ample evidence to show that the Defendant brought on and aided in bringing on) the difficulty. For example, while the Deceased, the Surviving Victim, and the Defendant were at the corner of Courtland Avenue and King Street Extension, the Defendant provoked the Deceased and Surviving Victim by throwing a rock at and damaging the Deceased's vehicle. It was not until this point that the Deceased and Surviving Victim exited the vehicle. The Court finds it credible that the Defendant did not brandish the weapon until the Deceased and Surviving Victim exited the vehicle and began to approach him. However, when the Defendant brandished the weapon the Deceased and Surviving Victim retreated away from the Defendant. Most importantly, the Defendant chased down the Surviving Victim and engaged in a physical altercation after the Surviving Victim attempted to retreat. It was not until this point that the Deceased and Surviving Victim began to engage in a mutual assault with the Defendant. The Defendant then fired a shot and the Deceased and Surviving Victim resumed their retreat. After holding the Deceased by the neck and forcing him to the ground the Defendant then fired five (5) more shots at the Deceased and Surviving Victim.¹² Therefore, this Court finds that the Defendant has failed to prove, by a preponderance of the evidence, that the Defendant was without fault in bringing on the difficulty.

The second and third elements of self-defense are that the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. If his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save

¹² The entire interaction in the parking lot between the Defendant, the Deceased and the Surviving Victim is captured from several angles on the club's exterior video surveillance.

himself from serious bodily harm or losing his own life. The Defendant testified that he didn't initially take the threats of the Surviving Victim seriously as he hears similar threats every night at the King Street Cabaret. The Defendant went on to testify that he did not become worried until he observed the Surviving Victim unzipping his bag. The Defendant testified that he was concerned for his safety and for the safety of everyone in the club. The Defendant's actions as can be observed on video surveillance contradict the Defendant's testimony that he believed himself to be in imminent danger. The Deceased and the Surviving Victim had already exited the club and were well on the way to their vehicle when the Defendant beckoned them back to the club exit to instigate and engage in a verbal altercation with them. After the initial verbal altercation in the doorway, the Defendant did not cower or retreat as someone in fear would have. Contrarily, the Defendant left his place of safety in the club and not only approached but pursued the supposed danger. While inside the club the Defendant did not take the opportunity to request the aid of law enforcement nor did the Defendant request that anyone inside of the club call law enforcement. The Defendant's progression to the parking lot as displayed on the video surveillance was bold as opposed to frightened. While the Defendant was in the parking lot, the Defendant interacted with three (3) patrons. During these interactions the Defendant appeared calm, jovial and in good spirits. The Defendant did not appear to warn the patrons of any imminent danger nor request that the patrons call for help. Moreover, the Defendant's demeanor appeared aggressive and provocative during the altercation on the corner of Courtland Avenue and King Street Extension. Additionally, the Defendant did not appear to be fearful as he threw the rock towards the Deceased's vehicle. Accepting that the Defendant was in fear as the Deceased and Surviving Victim exited from the vehicle, the fear abated when the Defendant brandished his firearm and the Deceased and Surviving Victim began their retreat. The Court does not find credible the Defendant's testimony

24 of 27
XPG

that he chased the Surviving Victim and engaged in a physical altercation with the Surviving Victim because the Defendant believed he had a firearm. Due to the Defendant's failure to prove, by a preponderance of the evidence, that the Deceased was the aggressor, the Defendant has failed to prove by a preponderance of the evidence that a reasonably prudent man of ordinary firmness and courage, similarly situated, would have felt that he was in imminent danger of losing his life or sustaining serious bodily injury. As a result, the Court finds that the Defendant has failed to prove, by a preponderance of the evidence, that he was actually in imminent danger or believed he was in imminent danger of losing his life or sustain serious bodily injury, sufficient enough to justify using deadly force on the Deceased and Surviving Victim.

Fourth, the defendant must have had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. As previously stated, the Defendant left his place of safety in the club and approached the supposed danger. While inside the club the Defendant did not take the opportunity to request the aid of law enforcement nor did the Defendant request that anyone inside of the club call law enforcement. The Court recognizes that the Defendant did not have a duty to retreat pursuant to §16-11-440 (C). However, the lack of a duty to retreat did not give the Defendant permission to aggressively pursue the Deceased. Therefore, the Court finds that the Defendant has failed to show, by a preponderance of the evidence, that he had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury. In conclusion, the Court finds that the video evidence does not corroborate the Defendant's recitation of the facts from the evening.

CONCLUSION

The Court finds that the Defendant has failed to meet his burden of proof in that the Defendant has failed to prove, by a preponderance of the evidence, that he was justified in the use

25 of 27
[Signature]

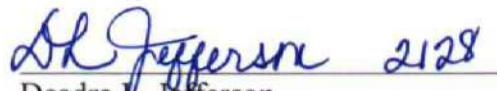
of deadly force against the Deceased and the Surviving Victim. The Protection of Persons and Property Act provides immunity from criminal prosecution to those who use deadly force in a place where an individual has a right to be. The evidence provided confirms that the Defendant had a right to be at the King Street Cabaret on April 25, 2021, however, the Court finds the Defendant's testimony lacks veracity and the Defendant has failed to satisfy the elements of S.C. Code Ann. §16-11-440. In determining a defendant's entitlement to immunity under the Act, the circuit court must necessarily consider the elements of self-defense. State v. Glenn, 429 S.C. 108, 838 S.E.2d 491 (2019). A valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity. Id. Accordingly, a trial court should first consider whether the defendant has proved the elements of self-defense by a preponderance of the evidence. If the defendant has failed to meet the elements of reasonable fear or the duty to retreat, the court should then determine whether section 16-11-440(A) or (C) is applicable. Not only did the Defendant fail to meet the elements of reasonable fear, but the Defendant also failed to meet the element of lack of fault in bringing on the difficulty. The Defendant has failed to meet his burden of proof in proving the elements of self-defense, save the duty to retreat, as required by law to prevail on a claim for immunity under the Protection of Persons and Property Act. For these reasons the Court must find that the Defendant's request for immunity fails.

While this Court recognizes that the Defendant "doesn't have to wait until his assailant gets the drop on him, he has a right to act under the law of self-preservation and prevent his assailant getting the drop on him." State v. Rash, 182 S.C. 42, 188 S.E. 435, 438 (1936), the Court does not find that to be a credible theory to be applied in these circumstances.

26 of 27
[Signature]

Accordingly, the Defendant's Motion is heard and respectfully **DENIED**.¹³

AND IT IS SO ORDERED.


Deadra L. Jefferson
Chief Administrative Judge
Ninth Judicial Circuit

September 30, 2024
Charleston, South Carolina
Nunc pro tunc: June 20, 2024

FILED
2024 OCT -8 PM 4:14
JULIE J. ARMSTRONG
CLERK OF COURT
BY 

¹³ The Court made contemporaneous findings of fact and conclusions of law at the conclusion of the hearing of this matter on June 20, 2024. Those findings of fact and conclusions of law are incorporated in this Order as if stated verbatim herein. The Court advised counsel that it would supplement the record with a written Order subsequent to the trial.


27 of 27

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I-N-D-E-X

WITNESS/DESCRIPTION PAGE NUMBER

(Monday, JUNE 24, 2024)

Jury Voir Dire.....17

Jury Selection.....38

Opening Statements

 By: Mr. Simpson.....65

 By: Mr. Jennings 79

STATE'S WITNESSES

KEVIN SPEERS

 Direct by Ms. Bozarth.....91

 Cross by Mr. Jennings.....99

 Redirect by Ms. Bozarth.....102

ASHLEIGH WOJSLAWOWICZ

 Direct by Mr. Simpson.....108

 Cross by Mr. Jennings.....134

 Redirect by Mr. Simpson.....139

(Tuesday, June 25, 2024)

JEFF MILLER

 Direct by Ms. Bozarth.....144

 Cross by Mr. Jennings.....153

CONTINUED

I-N-D-E-X

WITNESS/DESCRIPTION**PAGE NUMBER****RENE CHARLES**

Direct by Mr. Simpson.....156

Cross by Mr. Jennings.....164

Redirect by Mr. Simpson.....164

HOLLY (SAUNDERS) BENNETT

Direct by Mr. Simpson.....166

TASHA OTTE

Direct by Ms. Bozarth.....170

Cross by Mr. Jennings.....176

Redirect by Ms. Bozarth.....182

DANIEL WILSON

Direct by Mr. Simpson.....184

Cross by Mr. Jennings.....257

Redirect by Mr. Simpson.....282

JAZIEL ARMENTA-ZAVALA

Direct by Mr. Simpson.....294

Cross by Mr. Jennings.....334

Redirect by Mr. Simpson.....367

CONTINUED

1
2
3
4
5
6
7
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9
10
11
12
13
14
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16
17
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I-N-D-E-X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
(Wednesday, June 26, 2024)	
HANNAH PERLITZ (MANZI)	
Direct by Mr. Simpson.....	380
Cross by Mr. Jennings.....	401
Redirect by Mr. Simpson.....	413
State Rests.....	417
Motions.....	418
Defendant's Rights.....	424
<u>DEFENSE WITNESSES</u>	
STEVE LARIBO	
Direct by Mr. Jennings.....	431
Cross by Mr. Simpson.....	437
MELSHAUN ROBINSON	
Direct by Mr. Jennings.....	447
Cross by Mr. Simpson.....	482
Redirect by Mr. Jennings.....	517
Defense Rests.....	519
Motions.....	520
Charge Conference.....	521
CONTINUED	

1
2
3
4
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10
11
12
13
14
15
16
17
18
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25

I-N-D-E-X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
(Thursday, June 27, 2024)	
Closing Arguments:	
On Behalf of the State.....	556
On Behalf of the Defendant.....	594
On Behalf of the State.....	620
Jury Charge.....	631
Verdict.....	672
Sentence.....	689
Court Reporter Certificate.....	691

E-X-H-I-B-I-T-S				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>ADMIT</u>
1				
2				
3	S-1	Flash Drive Video Files: consists of:		53
4	1A	Video Following M. Robinson		
5	1B	Video Following Z. Hernandez & J. Armenta		
6	1C	Video Following H. Manzi		
7	1D	Incident Split Screen		
8	S-2	Photo Gunshot Wounds A, B, C		53
9	S-3	Photo Gunshot Wounds A, B		53
10	S-4	Photo Gunshot Wound C		53
11	S-5	Photo Gunshot Wound D		53
12	S-6	Diagram of Body w/Gunshot Wounds		53
13	S-7	Stipulation 1		53
14	S-8	Stipulation 2		53
15	S-9	Stipulation 3		53
16	S-11	Flash Drive Video Files, consists of		53
17	11A	Interview Clip 1		53
18	11B	Interview Clip 2		53
19	11C	Interview Clip 3		53
20	S-12	Photo Passenger Side Truck		53
21	S-13	Photo Damage Passenger Door		53
22	S-14	Photo Damage Passenger Door		53
23	S-15	Video Body Cam Officer Speers		53
24	S-16	Photo Speers Arrival		53
25	S-17	Photo Jaziel on Ground		53

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>ADMIT</u>
3	S-18	Photo Zabdiel Sitting Up		53
4	S-19	Photo Distance Between Victims		53
5	S-20	Photo Treating Wound		53
6	S-21	Photo Defendant Full Body		53
7	S 22	Photo Defendant Right Head		53
8	S-23	Photo Defendant Left Head		53
9	S-24	Photo Defendant Back Head		53
10	S-25	Photo Defendant Back of Hands		53
11	S-26	Photo Defendant Palms Up		53
12	S-27	Photo Defendant Left Palm		53
13	S-28	Photo Defendant Gun and Magazine		53
14	S-29	Photo Rounds		53
15	S-30	Photo Black GMC Truck		53
16	S-31	Photo Black GMC Truck		53
17	S-32	Photo Black GMC Truck		53
18	S-33	Photo Black GMC Truck		53
19	S-34	Photo Black GMC Truck		53
20	S-35	Photo Black GMC Truck		53
21	S-34	Photo Black GMC Truck		53
22	S-35	Photo Black GMC Truck		53
23	S-36	Photo Black GMC Truck		53
24	S-37	Photo Black GMC Truck		53
25	S-38	Photo Black GMC Truck		53

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>ADMIT</u>
3	S-39	Photo Black GMC Truck		53
4	S-40	Photo Black GMC Truck		53
5	S-41	Photo Black GMC Truck		53
6	S-42	Photo Black GMC Truck		53
7	S-43	Photo Black GMC Truck		53
8	S-44	Photo Black GMC Truck		53
9	S-45	Photo Black Truck, Tent, Clothing Items		53
10	S-46	Photo Inside Tent, Covered Body		53
11	S-48	Photo Blood Running Board		53
12	S-49	Photo Camera from Pocket		53
13	S-50	Photo Bankcards, Passport from Pocket		53
14	S-51	Photo Open Passport		53
15	S-52	Photo Black Satchel		53
16	S-53	Photo Open Satchel		53
17	S-54	Photo Cash from Satchel		53
18	S-55	Photo Compartment 2 Satchel		53
19	S-56	Photo Compartment 3 Satchel		53
20	S-57	Photo Earphone Case		53
21	S-58	Photo Compartment 4 Satchel		53
22	S-59	Photo Contents Satchel		53
23	S-60	Photo Earphone Case		53
24	S-61	Photo Earphones		53
25	S-62	Photo Tripod		53

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>ADMIT</u>
3	S-63	Photo Selfie Stick		53
4	S-64	Photo End of Stick 1		53
5	S-65	Photo End of Stick 2		53
6	S-66	Photo Front of Truck		53
7	S-67	Photo Passenger Side Rock		53
8	S-68	Photo Passenger Side 2 Rock		53
9	S-69	Photo Rear of Truck		53
10	S-70	Photo Driver Side Blood		53
11	S-71	Photo Closer Blood		53
12	S-72	Photo Interior Cab Driver Side		53
13	S-73	Photo Interior Cab Passenger Side		53
14	S-74	Video Still Ch. 1		53
15	S-75	Photo Between Two Cars		53
16	S-76	Photo in Front of Cars		53
17	S-77	Photo in Front of Cars		53
18	S-78	Photo Closer		53
19	S-79	Photo in Between Front of Cars		53
20	S-80	Photo Marker 4, cell phone		53
21	S-81	Photo Marker 5, portable charger		53
22	S-82	Photo Marker 6, shell casing		53
23	S-83	Photo Marker 7, 8, 9, 10, 11		53
24	S-84	Photo Marker 7, shell casing		53
25	S-85	Photo Marker 8, shell casing		53

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>ADMIT</u>
3	S-86	Photo Marker 9, shell casing		53
4	S-87	Photo Marker 10, blood stain		53
5	S-88	Photo Marker 11, shell casing		53
6	S-89	Photo Marker 12, wide		53
7	S-90	Photo Marker 12, close, shell casing		53
8	S-91	Photo Space Between Cars		53
9	S-92	Photo Space Blood, closer		53
10	S-93	Photo Lot Cleared Out		53
11	S-94	Photo Rock		53
12	S-95	Photo Marker 13, rock		53
13	S-96	Photo Close Up Rock		53
14	S-97	Rock		53
15	S-98	Shell Casing Marker 6		53
16	S-99	Shell Casing Marker 7		53
17	S-100	Shell Casing Marker 8		53
18	S-101	Shell Casing Marker 9		53
19	S-102	Shell Casing Marker 11		53
20	S-103	Shell Casking Marker 12		53
21	S-104	Overhead Map 1337 King Street		53
22	S-105	Video Still M. at Door		53
23	S-106	Video Still M. at Door 2		53
24	S-107	Video Still Shot 1		53
25	S-108	Video Still Shot 2		53

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>ADMIT</u>
3	S-109	Video Still Shot 3		53
4	S-110	Video Still Shot 4		53
5	S-111	Video Still Shot 5		53
6	S-112	Video Still Shot 6		53
7	S-113	Hannah Perlitz Interview		399
8	S-114	Body Cam of Hannah Perlitz		414
9	S-115	Cam Still 8:20:47		511
10	S-116	Cam Still 8:20:48		511
11	S-117	Cam Still 8:20:50		511
12	S-118	Cam Still 8:20:52		511
13	<u>DEFENSE EXHIBITS</u>			
14	D-1	Still Image 8:19:57		54
15	D-2	Still Image 8:19:59		54
16	D-3	Still Image 8:19:58		54
17	D-4	Still Image 8:19:31		54
18	D-5	Photo of Scooter & Cares		54
19	D-6	Photo of Black GMC		54
20	D-7	Photo of Satchel Open		54
21	D-8	Photo of Black GMC		54
22	D-9	Photo of King Street Cabaret Side		54
23	D-10	Photo of Jaziel 6:50:11		54
24	D-11	Photo of Inside Street Cabaret		54
25	D-12	Photo of Front of King Street Cabaret		54

1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARK</u>	<u>ADMIT</u>
3	D-13	Photo of Hall		54
4	D-14	Photo of Hall with Curtains		54
5	D-15	Photo of Hall, End of Bar		54
6	D-16	Photo of Bar, Lounge, Circle		54
7	D-17	Photo of Road facing King Street Cabaret		54
8	D-18	Thumb Drive		378
9	<u>COURT'S EXHIBITS</u>			
10	C-1	State Proposed Voir Dire		
11	C-2	Defendant Request Voir Dire		
12	C-3	Defendant Consent to Stay on Bond, copy		
13	C-4	Defendant Consent to Stay on Bond, original		
14	C-5	Defense Request to Charge		
15	C-6	State Request to Charge		
16	C-7	Jury Question about Charge		
17	C-8	Second Jury Question about Charge		
18	C-9	Jury Question about Legal Provocation		
19				
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1 (COURT REPORTER'S NOTE: Due to remote platform
2 interruption and audio interference throughout the
3 hearing, those instances are denoted with
4 (inaudible) in the transcript.)

5 P-R-O-C-E-E-D-I-N-G-S

6 (WHEREUPON, the proceedings for the trial began on
7 June 24, 2024, at 12:45 p.m.)

8 THE COURT: Ladies and gentlemen, we're going to
9 select a jury for the State of South Carolina v. Melshaun
10 Antwan Robinson.

11 We're going to go through a process called voir
12 dire, which is simply a legal term meaning that I'm going to
13 ask you some questions so that the attorneys can more
14 effectively exercise their peremptory challenges in jury
15 selection. If a question applies to you, I need for you to
16 stand and in a loud and clear voice tell us your name, your
17 juror number, and answer to the question if applicable, and
18 remain standing until I've completed questioning you.

19 Before we begin that process, I'm going to have
20 Counsel for the State to stand and introduce themselves,
21 anyone who will be assisting, any attorneys that will be
22 assisting them in the trial of the case, and also provide us
23 with the names of the lawyers in their office. And I would
24 ask Counsel for the Defense to provide us with the same
25 information and have his client stand and face the panel.

1 You may proceed.

2 MR. SIMPSON: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 MR. SIMPSON: Good morning. Heading into a good
5 afternoon right now. My name is Chad Simpson. I'm proud to
6 represent the State of South Carolina here in the Ninth
7 Circuit. I work for Assistant -- I work for Solicitor
8 Scarlett Wilson, who is the elected prosecutor for
9 Charleston County. Assisting me in this trial is Assistant
10 Solicitor Sara Bozarth, as well as Investigator Chuck Jolis
11 (ph), who is seated right over here. Forgive me, I have to
12 refer to a list to get everyone, but I'm going to read off
13 the names of other assistant solicitors in our office.

14 First, we've got Chief Deputy Solicitor Jennifer
15 Shealy, Assistant Solicitor Russ Abrams, Marian Askins,
16 Jessica Baldwin, Kelly Barber, Elliott Barrow, Cassity
17 Brewer, Ashley Brown, Daniel Cooper, Kelsey Davis, Timmy
18 Finch, Jason Finley, Catherine Fries, Lauren Frierson,
19 Jewell Gearding, Mallory Haliena, Amy Harrell, Durham Hill,
20 Tiffany Izer, Kasey Knox, Stephanie Linder, Andrew
21 McAllister, Marianella Namlick, Jordan Norvell, Anna Outten,
22 Charles Patrick, Hunt Russell, Tyler Whitaker, and Lemuel
23 Zeigler. Those are the members of my office who works next
24 door from the Ninth Circuit. I appreciate your time. Thank
25 you.

1 THE COURT: Mr. Jennings.

2 MR. JENNINGS: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 MR. JENNINGS: May it please the Court?

5 THE COURT: Yes, sir.

6 MR. JENNINGS: Good morning, ladies and gentlemen.

7 My name is Blair Jennings. I'm representing Melshaun
8 Robinson. I'm a sole practitioner. I have an office in
9 North Charleston. I have no other lawyers, but my wife,
10 Bonnie, is my paralegal, and she'll be here later this
11 afternoon sitting with us throughout the trial. Thank you.

12 THE COURT: Again, ladies and gentlemen, we're
13 selecting a jury for the cases of the State of South
14 Carolina v. Melshaun Antwan Robinson, Indictments
15 2024-GS-10, excuse me -3064, an indictment for murder, and
16 that indictment alleges that in Charleston County, South
17 Carolina on or about April 25th of 2021, the defendant,
18 Melshaun Antwan Robinson, with malice aforethought, did kill
19 and murder Zabdiel Tinoco-Hernandez by means of a gunshot.
20 And Zabdiel Tinoco-Hernandez did die in Charleston County as
21 a result thereof on or about April 25th of 2021, alleging a
22 violation of Code Section 16-3-10 of the Code of Laws as
23 amended.

24 In Indictment 2024-GS-10-3065, the State v.
25 Melshaun Antwan Robinson, an indictment for attempted

1 murder. And that indictment alleges that in Charleston
2 County, South Carolina, on or about April 25th, 2021, the
3 defendant, Melshaun Antwan Robinson, did with intent to kill
4 and malice aforethought attempt to kill Jaziel
5 Armenta-Zavala, alleging a violation of Code Section 16-3-29
6 of the Code of Laws as amended.

7 And Indictment 2024-GS-10-3066, the State v.
8 Melshaun Antwan Robinson, an indictment for possession of a
9 weapon during the commission of a violent crime. And that
10 indictment alleges that in Charleston County, South
11 Carolina, on or about April 25th, 2021, the defendant,
12 Melshaun Antwan Robinson, did possess a firearm or did
13 visibly display what appeared to be a firearm during the
14 commission of or attempted commission of a violent crime, to
15 wit, attempted murder and murder, alleging a violation of
16 Code Section 16-3-490 of the Code of Laws as amended.

17 Your client waives a formal arraignment, correct
18 Mr. Jennings?

19 MR. JENNINGS: Correct, Your Honor.

20 THE COURT: Ladies and gentlemen, again, we're
21 going to go through a process called voir dire, where I'm
22 going to ask you some questions. If any of these questions
23 apply to you, I would ask that you stand and in a loud and
24 clear voice, tell us the -- tell us your name, your juror
25 number, and how the question may apply to you, and remain

1 standing until the Court has completed questioning you.

2 VOIR DIRE

3 THE COURT: And here are the questions:

4 Is there any member of the panel related by blood
5 or marriage to Melshaun Robinson, Jaziel Armenta-Zavala, or
6 anyone who's related to Zabdiel Tinoco-Hernandez? If so,
7 please stand at this time.

8 Does any member of the panel have a close personal
9 or social relationship with Melshaun Antwan Robinson,
10 Zabdiel Tinoco-Hernandez, or anyone who is related to
11 Mr. Hernandez, or Jaziel Armenta-Zavala? If so, please
12 stand at this time.

13 The following are a list of potential witnesses in
14 this case. I would ask that you listen carefully. Jaziel
15 Armenta-Zavala, Dwayne Marvin Green, Dr. Hannah Catherine
16 Perlitz, also known as Hannah Catherine Manzi, Officer Kevin
17 Speers, Officer Edward Celkos, C-E-L-K-O-S, Officer Douglas
18 Kelly, Officer Alexis -- I don't know -- is that
19 Justiniano -- J-U-S-T-I-N-I-A-N-O, Officer Andrew Howell,
20 Sergeant Matthew Jahngen, J-A-H-N-G-E-N, Detective Paul
21 Krasowski, Detective Jason Jarrell, Holly Saunders, Rene
22 Charles, J.C. Miller, Ashleigh -- that's a hard one. I was
23 trying to do it phonetically and I know that J was silent,
24 it's spelled W-O-J-S-L-A-W-O-W-I-C-Z, Detective Daniel
25 Wilson, and Jason D. Mossman. All of the Charleston Police

1 Department, Tosha Otte, Officer Nicholas Rizzo, the
2 Charleston Police Department. Melshaun Robinson, Heather
3 Diamond, Heather Manzi, Steven Laribo, Rick Pennoyer, and
4 James Bozeman.

5 Is there any member of the panel related by blood
6 or marriage to any of the people that I've just listed? Or
7 does anyone have a close personal or social relationship
8 with any of these individuals? If so, please stand at this
9 time.

10 Has any member of the panel ever been represented
11 by any of the attorneys involved in this case or any of the
12 lawyers in their offices?

13 If so, please stand at this time.

14 Is there any member of the panel related by blood
15 or marriage to --

16 JUROR 164: (Inaudible.)

17 THE COURT: Oh, I'm sorry, ma'am. Tell me your
18 name and juror number.

19 JUROR 164: Juror Number 164. Carla Manning.

20 THE COURT: And who is it that you have a
21 relationship with?

22 JUROR 164: Elliott Barrow with the Prosecutor's
23 Office.

24 THE COURT: Elliott Barrow?

25 JUROR 164: Yeah.

1 THE COURT: How would you characterize that
2 relationship?

3 JUROR 164: He's my next-door neighbor.

4 THE COURT: Okay. Would you characterize that as
5 a social acquaintance?

6 JUROR 164: Yes.

7 THE COURT: As a result of this experience, do you
8 feel that you can be fair and impartial and render a fair
9 and impartial decision in this case based solely on the
10 evidence as it will be presented and on the law as the Court
11 will instruct?

12 JUROR 164: Yes.

13 THE COURT: Thank you, ma'am. You may take your
14 seat.

15 Is there any member of the panel related by blood
16 or marriage to or have a close personal or social
17 relationship with any of the attorneys involved in this
18 case, any of the lawyers in their offices, or any person
19 employed at any capacity whatsoever in their offices?

20 If so, please stand at this time.

21 Yes, sir. Tell me your name and juror number.

22 JUROR 269: James Taylor, 269.

23 THE COURT: Yes, sir.

24 JUROR 269: I -- Blair and I play tennis together.
25 Mr. Jennings.

1 THE COURT: How often would you say you do that?

2 JUROR 269: In the past, pretty often, not so much
3 anymore, but...

4 THE COURT: Give me an estimate.

5 JUROR 269: 40 times.

6 THE COURT: This year?

7 JUROR 269: No, over the past two years,
8 three years.

9 THE COURT: Would you characterize this as a close
10 friendship or social acquaintance?

11 JUROR 269: Close friendship.

12 THE COURT: As a result of this experience, do you
13 feel that you can remain fair and impartial and render a
14 fair and impartial decision in this case based solely on the
15 evidence as it will be presented and on the law as the Court
16 will instruct?

17 JUROR 269: Yes.

18 THE COURT: Thank you, sir. You may take your
19 seat.

20 Has any member of the panel formed or expressed an
21 opinion about any issue or matter involved in this case?

22 If so, please stand at this time.

23 Yes, sir. Tell me your name and juror number.

24 JUROR 230: Patrick Romain. Jury Number 230.

25 THE COURT: Yes, sir. Are you telling me you're

1 predisposed regarding this case?

2 JUROR 230: Yes, Your Honor.

3 THE COURT: And what would that be based on, sir?

4 JUROR 230: Your Honor, I'm -- I'm worried that my
5 answer may actually affect the jury pool --

6 THE COURT: Okay. I think you're -- actually, you
7 may need to just take your seat, because I think there's
8 some other questions I'm going to ask that may apply to your
9 situation if I'm anticipating correctly. And if not,
10 there's a catch-all at the end where you can stand again.

11 JUROR 230: Certainly. Thank you.

12 THE COURT: Thank you, sir.

13 THE BAILIFF: Someone is standing, Your Honor.

14 THE COURT: Yes, ma'am. Tell me your name and
15 juror number.

16 JUROR 33: Erin Burris. Juror Number 33.

17 THE COURT: Yes, ma'am.

18 JUROR 33: A personal relationship with the murder
19 victim.

20 THE COURT: Okay. I think that your answer also
21 will apply to another question. So this -- really, this
22 question goes to whether you have any personal knowledge
23 about the facts and circumstances and if that in any way
24 affects you or gives you a predisposition regarding the
25 factual nature of this case, if that gives clarity.

1 Has any member of the panel read, watched, or
2 listened to any media accounts about this case? If there
3 were any in the newspaper, radio, television, or internet,
4 and you read them and they've affected your ability to be
5 fair and impartial?

6 If so, please stand at this time.

7 Is there any member of the panel who has any
8 personal knowledge of the alleged facts and circumstances of
9 this case?

10 If so, please stand at this time.

11 And ladies and gentlemen, this incident is alleged
12 to have taken place at the King Street Cabaret. Is there
13 any member of the panel who has any personal knowledge of
14 the alleged facts and circumstances of this case, or if
15 you've read, watched, or listened to any media accounts
16 about this case, such that it has affected your ability to
17 be fair and impartial, I would ask that you stand at this
18 time.

19 Is there any member of the panel aware of any bias
20 or prejudice toward either the State or the Defense in this
21 case? If so, please stand at this time. Okay.

22 THE BAILIFF: One standing, Your Honor.

23 THE COURT: Yes, I see. And you're number 33,
24 correct, sir?

25 JUROR 230: I'm not, Your Honor.

1 THE COURT: I'm sorry. I apologize. Number 2 --

2 JUROR 230: Number is 230.

3 THE COURT: -- 30. And you're standing because
4 you have a bias or prejudice toward either the State or the
5 Defense?

6 JUROR 230: That's correct.

7 THE COURT: Is it such that you cannot be fair and
8 impartial?

9 JUROR 230: Yes, ma'am.

10 THE COURT: Is -- can you set aside your fixed
11 opinion in this matter and listen to the facts of this case,
12 apply the law to those facts, and render a fair and
13 impartial verdict?

14 JUROR 230: I don't believe I can, Your Honor.

15 THE COURT: Sir, then I'll excuse you from the
16 trial of this case only. You may take your seat.

17 Is there any member of the panel who was a member
18 of the grand jury which issued the indictments in this case.

19 If so, please stand at this time.

20 You were a member of the grand jury which issued
21 the indictments in this case, ma'am?

22 JUROR 33: No, I'm sorry.

23 THE COURT: That's okay.

24 Is there any member of the panel who is a member
25 of or contributor to any group which has as its primary

1 concern promotion of law enforcement or victims' rights?
2 These groups would include, but are not limited to, Mothers
3 Against Drunk Driving, Students Against Drunk Driving,
4 Citizens Against Violent Crime, People Against Rape, Parents
5 Advocating a Return to Decency and Ethics, Darkness to
6 Light, the South Carolina Law Enforcement Officers
7 Association, Sister Care, any other type community watch
8 group?

9 If so, please stand at this time.

10 JUROR 230: I'm sorry, Your Honor -- community
11 watch group --

12 THE COURT: I've excused you from this panel, sir.
13 That's Number 230 for the record.

14 Is there any member of the panel who has a moral,
15 philosophical, or religious opposition to sitting in
16 judgment of a fellow human being?

17 If so, please stand at this time.

18 FEMALE SPEAKER: (Inaudible.)

19 THE COURT: It wouldn't apply to this.

20 FEMALE SPEAKER: Okay.

21 THE COURT: Yeah, I'm going to get to it. Give me
22 a few minutes. I think I know which question you would
23 stand in response to.

24 FEMALE SPEAKER: (Inaudible.)

25 THE COURT: No worries, I appreciate your candor.

1 Is there any member of the panel who has a moral,
2 philosophical, or religious opposition to adult
3 entertainment, such that it affects your ability to be fair
4 and impartial?

5 If so, please stand at this time.

6 JUROR 208: (Inaudible.)

7 THE COURT: Did you not hear the -- you need me to
8 repeat it?

9 JUROR 208: For adult entertainment?

10 THE COURT: Adult entertainment.

11 JUROR 208: Okay.

12 THE COURT: Meaning any type of adult
13 entertainment, that being strip clubs, pornography, or
14 otherwise, do you feel that you have a religious, moral, or
15 philosophical opposition, and it is such that it would
16 affect your ability to be fair and impartial?

17 JUROR 208: Yes.

18 THE COURT: Tell me your name and juror number.

19 JUROR 208: Teresa Platt, 208.

20 THE COURT: And, ma'am, are you standing because
21 you have a moral, philosophical, or religious opposition to
22 that category of activity?

23 JUROR 208: Yes, I don't --

24 THE COURT: Do --

25 JUROR 208: I don't agree with it.

1 THE COURT: Okay. And do you have a fixed opinion
2 about this?

3 JUROR 208: I don't believe in any of that stuff.

4 THE COURT: Okay. And is it such that -- are you
5 able to set aside that opinion and listen to the facts of
6 this case impartially and apply the law to those facts and
7 render a fair and just verdict in this case based on the
8 facts and the law?

9 JUROR 208: I would hope so, yes.

10 THE COURT: Okay. There's no right or wrong
11 answer, but it has to be yes or no. I need to know if you
12 have an opinion, if it's a fixed opinion, in other words,
13 one that you feel strongly about. But even in spite of
14 that, can you set that opinion aside and abide by the law --

15 JUROR 208: Yes.

16 THE COURT: -- listen to the facts impartially,
17 and apply the law to those facts impartially, and render a
18 fair and just verdict?

19 JUROR 208: Yes.

20 THE COURT: An impartial verdict. So you're
21 telling me that you have a fixed opinion; is that correct?

22 JUROR 208: Uh-huh.

23 THE COURT: I need you to tell me yes and no.

24 JUROR 208: Yes.

25 THE COURT: Are you telling me you can set that

1 fixed opinion aside?

2 JUROR 208: Yes.

3 THE COURT: Are you telling me that you can listen
4 to the facts of this case fair and impartially?

5 JUROR 208: Yes.

6 THE COURT: Are you telling me that you can apply
7 the law to those facts fairly and impartially?

8 JUROR 208: Yes.

9 THE COURT: And are you telling me that you can
10 render a fair and impartial verdict in this case?

11 JUROR 208: Yes.

12 THE COURT: Thank you, ma'am, you may take your
13 seat.

14 Is there any member of the panel who has a moral,
15 philosophical, political, or religious opposition to
16 immigration into the United States?

17 If so, please stand at this time.

18 Okay. Tell me your name and juror number.

19 JUROR 117: Grace Hudak, 117.

20 THE COURT: Okay. And ma'am, are you telling me
21 you have a fixed opinion about this issue?

22 JUROR 117: About immigration or just illegal
23 immigration?

24 THE COURT: Well --

25 JUROR 117: In general, immigration?

1 THE COURT: In general.

2 JUROR 117: Oh, yeah.

3 THE COURT: Okay. Now, are you telling me that's
4 a fixed opinion?

5 JUROR 117: Oh, yeah.

6 THE COURT: And are you telling me -- and can you
7 set this opinion aside and -- and -- and listen to the facts
8 in this case impartially?

9 JUROR 117: Not if -- no, I guess if it --

10 THE COURT: Well, I don't need --

11 JUROR 117: -- involves that subject matter, no.

12 THE COURT: Okay. Then, ma'am, you'll be excused
13 from the trial of this case only. You may take your seat.

14 JUROR 117: Can I clarify that one, Judge?

15 THE COURT: Sure.

16 JUROR 117: Okay. So I have a strong opinion
17 about immigration, but I wouldn't be against a person
18 individually that was harmed in any way. Do you understand
19 what I'm saying?

20 THE COURT: Yes, ma'am. And that's why I asked
21 the question the way that I did. I need to -- it's not --
22 never a problem to have a fixed opinion. We're human
23 beings. We have opinions. But what I have to determine is
24 whether you can set that opinion aside --

25 JUROR 117: Okay.

1 THE COURT: -- and whether you can apply the --
2 whether you can look at the facts of this case impartially
3 and apply the law impartially and render a fair and
4 impartial -- and it's long questions --

5 JUROR 117: Thank you.

6 THE COURT: -- and render a fair and impartial
7 verdict in this case based on those facts and the law. And
8 there isn't a right or wrong answer, but I have to ensure
9 that you are fair and impartial and that any predisposition
10 you may have -- again, there are no right or wrong answers,
11 we all have strong opinions, I would imagine, about
12 something or another.

13 JUROR 117: Right. Okay. Then I -- I'm in good
14 shape then. You want me to answer yes or no?

15 THE COURT: Why don't we start over?

16 JUROR 117: (Inaudible.)

17 THE COURT: Okay. You've stood in response to the
18 question that you feel you have a strong, fixed opinion
19 about immigration.

20 JUROR 117: Yes.

21 THE COURT: And what I'm trying to determine is
22 can you set that fixed opinion aside?

23 JUROR 117: Yes.

24 THE COURT: I'm sorry?

25 JUROR 117: Yes, ma'am.

1 THE COURT: Can you listen to the facts in this
2 case impartially?

3 JUROR 117: Yes.

4 THE COURT: Can you render a fair and impartial
5 decision in this case based solely on the evidence as it
6 will be presented and on the law as the Court will instruct?

7 JUROR 117: Yes, Your Honor.

8 THE COURT: And you are Number 117, correct?

9 JUROR 117: Yes. Sorry about that.

10 THE COURT: That's okay. It's better that there
11 are no wrong questions, only the ones you don't ask. So 117
12 is qualified. She's indicated she can set aside her fixed
13 opinion and remain fair and impartial.

14 Is there any member of the panel who is related by
15 blood or marriage to someone who's employed in law
16 enforcement?

17 If so, please stand at this time.

18 Okay. If you would tell me your name and juror
19 number and who you are, what relationship that person has,
20 and what agency, and remain standing. Yes, ma'am?

21 JUROR 164: 164, Carla Manning. My father is a
22 retired police officer and --

23 THE COURT: In what agency?

24 JUROR 164: In North Carolina.

25 THE COURT: Okay.

1 JUROR 164: And my ex-husband is a retired police
2 officer. He also worked with the DEA for about five years.

3 THE COURT: Okay. And what agency was he employed
4 with?

5 JUROR 164: Also with the -- with the Burlington
6 Police Department in North Carolina.

7 THE COURT: Okay. If you would remain standing.
8 And yes, sir. Name and juror number.

9 JUROR 101: I'm Samuel Hagen, and my juror number
10 is 101.

11 THE COURT: Yes, sir.

12 JUROR 101: My father is a retired police officer
13 who worked for MUSC.

14 THE COURT: Okay. If you would remain standing.
15 Yes, ma'am, in the -- with the orange, yes.

16 JUROR 102: Oh, yeah. Robin Hanckel, Juror 102.
17 My -- my -- my future brother-in-law is a school resource
18 officer.

19 THE COURT: You said your future brother-in-law is
20 a police officer?

21 JUROR 102: A school resource officer.

22 THE COURT: School -- what -- what -- what agency?

23 JUROR 102: In Tennessee.

24 THE COURT: If you'd remain standing.

25 Yes, right behind you.

1 JUROR 18: Mark Borst, Juror Number 18.

2 THE COURT: Yes, sir.

3 JUROR 18: My father-in-law, Dick Schnarr,
4 St. Louis, Missouri, Creve Coeur Police Station, he's
5 retired.

6 THE COURT: Okay. If you'd remain standing.

7 Yes, ma'am.

8 JUROR 33: Erin Burris, Juror 33. My grandfather
9 is a retired New York City Bronx homicide detective, and my
10 uncle is a New York City --

11 THE COURT: Okay. And you said he is a retired
12 New York City detective in the Bronx, and?

13 JUROR 33: And my uncle is a New York City
14 detective, retired. And my cousin is a Brooklyn, New York,
15 police officer.

16 THE COURT: Okay. Did I get everyone?

17 Yes, sir. Tell me your name and juror number.

18 JUROR 75: Jimmie -- Jimmie Fitch, Juror
19 Number 75. My wife's stepfather is a retired chief of
20 police from like two different small towns in northern
21 Kentucky.

22 THE COURT: As a result of these experiences, do
23 you all feel that you can remain fair and impartial and
24 render a fair and impartial decision in this case based
25 solely on the evidence as it will be presented and on the

1 law as the Court will instruct?

2 If your answer is yes, please take your seats.

3 Let the record reflect that all answered yes with
4 the exception of Number 75, who will be excused from the
5 trial of this case. You may take your --

6 JUROR 33: 33.

7 THE COURT: I'm sorry. Did I get my number wrong?
8 Number 33. I apologize. Number 33, he'll be excused from
9 the trial of this case only.

10 You may take your seat, ma'am, and I apologize for
11 getting your number wrong.

12 Is there any member of the panel who has had what
13 they would characterize as an unpleasant experience with law
14 enforcement such that it affects your ability to be fair and
15 impartial?

16 If so, please stand at this time.

17 Is there any member of the panel or a member of
18 your immediate family been the victim of a violent crime?

19 If so, please stand at this time.

20 Yes, ma'am. Tell me your name and juror number.

21 JUROR 61: So I think it was the question you
22 asked before the --

23 THE COURT: Which was the unpleasant experience
24 with law enforcement or employed with somebody in law
25 enforcement?

1 JUROR 61: Well, I've had a family member that's
2 had, like, an unpleasant experience.

3 THE COURT: Has it affected you?

4 JUROR 61: Yes.

5 THE COURT: Okay. Tell me your name and your
6 number.

7 JUROR 61: It is Le'arian Doiley. My number is
8 61.

9 THE COURT: Okay. Has this experience affected
10 your ability to be fair and impartial?

11 JUROR 61: No.

12 THE COURT: Okay. Do you feel that you can render
13 a fair and impartial decision in this case based solely on
14 the evidence as it will be presented and on the law as the
15 Court will instruct?

16 JUROR 61: Yes.

17 THE COURT: Thank you, ma'am. You may take your
18 seat.

19 Does any member of the panel know of any reason
20 whatsoever why he or she should not serve as a juror in this
21 case with emphasis placed on your ability to be fair and
22 impartial to both the State and the Defense?

23 If so, please stand at this time.

24 Yes, sir. Tell me your name and juror number.

25 JUROR 227: Tobias Robinson --

1 THE COURT: And --

2 JUROR 227: -- 227.

3 THE COURT: -- are you standing because you're
4 telling me you cannot be fair and impartial?

5 JUROR 227: I served on a murder trial for a jury
6 before and it was a very traumatic experience.

7 THE COURT: So is that -- are you telling me you
8 cannot be fair and impartial?

9 JUROR 227: Yes, ma'am.

10 THE COURT: Okay. You'll be excused from the
11 trial of this case only. Tell me your name and juror number
12 again, sir.

13 JUROR 227: Tobias Robinson. That's 227.

14 THE COURT: Thank you, sir. You may take your
15 seat.

16 Okay. Any additional questions from the State?

17 MR. SIMPSON: None, Your Honor. Thank you.

18 THE COURT: You're welcome. Any additional
19 questions from the Defense? Just give me a number if you
20 have an additional question, I'll tell you why I didn't ask
21 it or why I modified it.

22 MR. JENNINGS: Yes, Your Honor. I guess the only
23 question would be number 3, Your Honor. I think the rest --

24 THE COURT: I asked that question when I asked
25 about law enforcement, so they would have --

1 MR. JENNINGS: Okay.

2 THE COURT: -- stood in response to that.

3 MR. JENNINGS: Thank you, Your Honor.

4 THE COURT: All right. Anything further from the
5 State regarding voir dire?

6 MR. SIMPSON: No, Your Honor.

7 THE COURT: Anything further from the Defense
8 regarding voir dire?

9 MR. JENNINGS: No, Your Honor.

10 THE COURT: Okay, strikes are 10 and 5.

11 Ladies and gentlemen, if you would give us a few
12 moments to prepare strike sheets. These strike sheets are
13 random. They list you randomly. It would be one through --
14 I'm not good at math, y'all, so I'm not going to try,
15 because it changes with the number of strikes. But your
16 numbers will be listed randomly. If your name is called,
17 please stand in place until we either seat or excuse you as
18 a juror. We appreciate your patience. It's going to take
19 us a little short moment to create those. We do those by
20 computer now.

21 Just a little bit of anecdotal history. We used
22 to do it when I was a law clerk, which was a long, long time
23 ago, and I'm too vain, so I'm not going to tell you how old
24 I was or what year it was. But it was in the old
25 courthouse, and we had this huge barrel that, I tell you, is

1 probably almost as big as this front portion of the bench.
2 And it was -- had this unusual perforated design on it. And
3 we had these little capsules. And I used to have to help
4 the clerk's office. We'd cut them in strips, and we'd fold
5 everybody's name up and put it in the capsule, and we put
6 them in that big old barrel. And the -- actually, state law
7 prescribed that a member from the Commission of the Blind
8 come and pick each of those names. And at that time, we had
9 a wonderful snack bar that the Commission for the Blind
10 operated. Matter of fact, they made the best grits in town,
11 I ate there every morning. And the gentleman would come in
12 with his dog, and we would turn that barrel, and it would
13 make all this noise. And he literally would pick every name
14 out of those little capsules, and we'd have to take them
15 out, and we'd pick every person. But now, I guess,
16 unfortunately -- because I'll tell you the truth, I miss
17 him, and I miss the snack bar -- we now do it by computer.
18 So we don't do it that way anymore. So just so you have a
19 little bit of history.

20 I always think one day I'm going to be on Jeopardy
21 and that history is going to help me somehow. I'd probably
22 be the person that froze up and couldn't answer the
23 question, be sitting there mumbling, and they'd -- you know,
24 I'd lose all my points, but anyway. All right.

25 As soon as the clerk's ready, I would ask that you

1 give them your undivided attention. This is enough people?
2 Are you sure? Oh, I see what happened. Okay. All right.
3 I'm good.

4 JURY SELECTION

5 THE CLERK: Ladies and gentlemen, as soon as I
6 call your name and juror number, please stand, please grab
7 your belongings. If you are chosen for jury service you are
8 going to walk over here and come into the jury box.

9 THE COURT: And bring all of your personal
10 belongings with you if we seat you as a juror. If not, you
11 may be seated in place. We thank you for your patience.

12 You may proceed, Madam Clerk.

13 THE CLERK: Thank you.

14 THE COURT: You're welcome.

15 THE CLERK: Juror 126.

16 THE COURT: You don't need to say -- you just need
17 to say their number.

18 THE CLERK: What say you for the State?

19 MR. SIMPSON: Please seat Mr. Keefe.

20 THE CLERK: What say you for Defense?

21 MR. JENNINGS: Please seat Mr. Keefe.

22 THE CLERK: Sir, you've been selected as a juror
23 in the trial of this panel -- trial in the --

24 THE COURT: We're having a Monday.

25 THE CLERK: Yes.

1 THE COURT: None of us can talk.

2 THE CLERK: Sir, you've been selected as a juror.
3 Please take a seat in the jury box.

4 Juror 288. What say you for the State?

5 MR. SIMPSON: Court's indulgence?

6 THE COURT: Uh-huh.

7 MR. SIMPSON: Please excuse Mr. Warren.

8 THE CLERK: Sir, you've been excused from the
9 trial of this case. Please take a seat.

10 THE COURT: And --

11 THE CLERK: Juror 229.

12 THE COURT: I'm sorry. Strikes are 10 and 5. You
13 may continue.

14 THE CLERK: What say you for the State?

15 MR. SIMPSON: Could you repeat the number, Madam
16 Clerk?

17 THE CLERK: 229.

18 MR. SIMPSON: Please excuse Ms. Rodriguez.

19 THE CLERK: Ma'am, you've been excused from the
20 trial of this case. Please take a seat.

21 Juror 276. What say you for the State?

22 MR. SIMPSON: Please seat this juror.

23 THE CLERK: What say you for the Defense?

24 MR. JENNINGS: Please sit -- seat Ms. Tippet.

25 THE CLERK: Ma'am, you've been selected as a

1 juror. Please take a seat in the jury box.

2 Juror 101. What say you for the State?

3 MR. SIMPSON: Please seat Mr. Hagen.

4 THE CLERK: What say you for the Defense?

5 MR. JENNINGS: Please excuse Mr. Hagen from trial
6 of this case.

7 THE CLERK: Sir, you've been excused from the
8 trial of this case. Please take a seat.

9 Juror Number 75. What say you for the State?

10 MR. SIMPSON: Please seat Mr. Fitch.

11 THE CLERK: What say you for the Defense?

12 MR. JENNINGS: Please excuse Mr. Fitch.

13 THE CLERK: Sir, you've been excused from the
14 trial of this case. Please take a seat.

15 Juror Number 60. What say you for the State?

16 MR. SIMPSON: Please seat Juror Number 60.

17 THE CLERK: What say you for the Defense?

18 MR. JENNINGS: Please seat Ms. Disrud.

19 THE CLERK: Ma'am, you've been selected in the
20 trial of this case. Please grab your belongings have a seat
21 in the jury box.

22 Juror 151. What say you for the State?

23 MR. SIMPSON: Seat Mr. Lindley.

24 THE CLERK: What say you for the Defense?

25 MR. JENNINGS: Please seat Mr. Lindley.

1 THE CLERK: Sir, you've been selected in trial of
2 this case. Please grab your belongings. Have a seat in the
3 jury box.

4 Juror Number 18. What say you for the State?

5 MR. SIMPSON: Please seat Mr. Borst.

6 THE CLERK: What say you for the Defense?

7 MR. JENNINGS: Please excuse Mr. Borst.

8 THE CLERK: Sir, you've been excused from the
9 trial of this case. Please take a seat.

10 Juror Number 182. What say you for the State?

11 MR. SIMPSON: Please seat this juror.

12 THE CLERK: What say you for the Defense?

13 MR. JENNINGS: Please seat Mr. Mizell.

14 THE CLERK: Sir, you've been selected in the trial
15 of this case. Please grab your belongings. Have a seat in
16 the jury box.

17 Juror 61. What say you for the State?

18 MR. SIMPSON: Please excuse Ms. Doiley.

19 THE CLERK: Ma'am, you've been excused from the
20 trial of this case. Please take a seat. The State has
21 exhausted three of five strikes.

22 Juror 130. What say you for the State?

23 MR. SIMPSON: Seat Ms. King.

24 THE CLERK: What say you for the Defense?

25 MR. JENNINGS: Please seat Ms. King.

1 THE CLERK: Ma'am, you've been selected in the
2 trial of this case. Please grab your belongings. Have a
3 seat in the jury box.

4 Juror 247. What say you for the State?

5 MR. SIMPSON: Please seat Ms. Schroeck.

6 THE CLERK: What say you for the Defense?

7 MR. JENNINGS: Please excuse Ms. Schroeck from the
8 trial of this case.

9 THE CLERK: Ma'am, you've been excused from the
10 trial of the case. Please remain seated.

11 Juror 76. What say you for the State?

12 MR. SIMPSON: Excuse Mr. Fludd.

13 THE CLERK: Sir, you've been excused from the
14 trial of this case. Please have a seat. State has
15 exhausted 4 of the 5 strikes.

16 Juror Number 90. What say you for the State?

17 MR. SIMPSON: Please seat Mr. Gibson.

18 THE CLERK: What say you for the Defense?

19 MR. JENNINGS: Please seat Mr. Gibson.

20 THE CLERK: Sir, you've been selected in the trial
21 of this case. Please grab your belongings. Have a seat in
22 the jury box.

23 Juror Number 211. What say you for the State?

24 MR. SIMPSON: Please seat Mr. Powell.

25 THE CLERK: What say you for the Defense?

1 MR. JENNINGS: Please excuse Mr. Powell.

2 THE CLERK: Sir, you've been excused from the
3 trial of this case. Please take a seat. Defense has
4 exhausted 5 of the 10 strikes.

5 Juror 102. What say you for the State?

6 MR. SIMPSON: Please seat Ms. Hanckel.

7 THE CLERK: What say for the Defense?

8 MR. JENNINGS: Please excuse Ms. Hanckel.

9 THE CLERK: Ma'am, you've been excused from the
10 trial of this case. Please have a seat.

11 Juror 127. What say you for the State?

12 MR. SIMPSON: Please seat Mr. Keener.

13 THE CLERK: What say you for the Defense?

14 MR. JENNINGS: Please seat Mr. Keener.

15 THE CLERK: Sir, you've been selected for the
16 trial of this case. Please grab your belongings and have a
17 seat in the jury box.

18 Juror 181. What say you for the State?

19 MR. SIMPSON: Please seat Ms. Mitchell.

20 THE CLERK: What say you for the Defense?

21 MR. JENNINGS: Please seat Ms. Mitchell.

22 THE CLERK: Ma'am, you've been selected for the
23 trial of this case. Please grab your belongings. Have a
24 seat in the jury box.

25 Juror 224. What say you for the State?

1 MR. SIMPSON: Please seat Mr. Roberts.

2 THE CLERK: What say you for the Defense?

3 MR. JENNINGS: Please excuse Mr. Roberts.

4 THE CLERK: Sir, you've been excused from the
5 trial of this case. Please have a seat. Defense has
6 exhausted 7 of 10 strikes.

7 Juror Number 262. What say you for the State?

8 MR. SIMPSON: Please see Ms. Stephens.

9 THE CLERK: What say you for the Defense?

10 MR. JENNINGS: Please seat Ms. Stephens.

11 THE CLERK: Ma'am, you've been selected in the
12 trial of this case. Please grab your belongings and have a
13 seat in the jury box.

14 Juror Number 117. 117.

15 THE COURT: She's standing.

16 THE CLERK: What say you for the State?

17 MR. SIMPSON: Please excuse this juror.

18 THE CLERK: Ma'am, you've been excused from the
19 trial of this case. Please have a seat. State has
20 exhausted all strikes.

21 Juror Number 51. Any challenges for the State?

22 MR. SIMPSON: Nothing yet, Madam Clerk.

23 THE CLERK: What say you for the Defense?

24 MR. JENNINGS: Please seat the juror.

25 THE CLERK: Sir, you've been selected in the trial

1 of this case. Please grab your belongings. Have a seat in
2 the jury box.

3 Juror Number 269. Any challenge from the State?

4 MR. SIMPSON: Yes, the State strikes for cause.

5 THE CLERK: What say you for the Defense?

6 THE COURT: Wait, I need to address that. That
7 was Number 269, right?

8 THE CLERK: Yes, it is.

9 THE COURT: I see no reference for the State
10 striking for cause.

11 MR. SIMPSON: Okay.

12 THE COURT: It's not indicated he cannot be fair
13 and impartial, he did not.

14 MR. SIMPSON: Thank you, Your Honor.

15 THE COURT: Yeah. You can use a peremptory strike
16 if you'd like, but he's indicated he can be fair and
17 impartial.

18 MR. JENNINGS: Please seat Mr. Taylor, Your Honor.

19 THE CLERK: Sir, you've been selected in the trial
20 of this case. Please have a seat in the jury box.

21 THE COURT: Two. Strikes 1 and 2.

22 THE CLERK: For alternates.

23 THE COURT: There will be two alternates. Strikes
24 1 and 2.

25 THE CLERK: Juror Number 249. What say you for

1 the State?

2 MR. SIMPSON: The State will exercise the
3 peremptory strike.

4 THE COURT: I'm sorry, I couldn't hear you. Are
5 you striking Number 249?

6 MR. SIMPSON: Yes, Your Honor.

7 THE CLERK: Sir, you're excused from the trial of
8 this case. Please take a seat.

9 Juror Number 58. Any challenges from the State?

10 MR. SIMPSON: None.

11 THE CLERK: What say you for the Defense?

12 MR. JENNINGS: Please seat Ms. Delph.

13 THE CLERK: Ma'am, you've been selected as an
14 alternate in the trial of this case. Please grab your
15 belongings. Have a seat in the jury box.

16 Now, strike for the second alternate.

17 Juror Number 259. What say you for the State?

18 MR. SIMPSON: Seat Ms. Springer.

19 MR. JENNINGS: Please excuse Ms. Springer from the
20 trial of the case.

21 THE CLERK: Ma'am, you've been excused from the
22 trial of this case. Please have a seat.

23 Juror Number 245. What say you for the State?

24 MR. SIMPSON: Please seat this juror.

25 THE CLERK: What say you for the Defense?

1 MR. JENNINGS: Please seat Mr. Sargent.

2 THE CLERK: Sir, you've been selected as an
3 alternate in the trial of this case. Please grab your
4 belongings and have a seat in the jury box.

5 THE COURT: Any motions regarding the selection of
6 the Jury from the State?

7 MR. SIMPSON: No, Your Honor.

8 THE COURT: From the Defense?

9 MR. JENNINGS: No, Your Honor.

10 THE COURT: Ladies and gentlemen, we thank you for
11 your time and your patience. We just -- you're excused for
12 the day. I need you to call the jury information line after
13 6:00 each evening for further instructions. Have a
14 wonderful day. Try to stay cool. I think it's 101 outside.

15 (WHEREUPON, the jury panel exited the courtroom.)

16 THE COURT: Ladies and gentlemen, you've been
17 selected for the case of Melshaun Antwan Robinson v. the
18 State of South Carolina. We are going to take our lunch
19 break. In my head, it was 12:30, I'm sorry, it's 1:30. I
20 know y'all must be hungry. I know I am.

21 However, this is a procedure we're used to, it's
22 sort of a routine we have every week and we're used to it.
23 I know it is foreign to you all. So again, I emphasize, we
24 appreciate your patience as we go through this process. If
25 you all would stand for me, please, and raise your right

1 hand so the Clerk can administer the oath to you.

2 THE CLERK: Do you swear or affirm that you shall
3 well and truly try, and true deliverance make, between the
4 State of South Carolina and the defendant at the bar, whom
5 you shall have in charge, and a true verdict render,
6 according to the evidence and laws, so help you God? Please
7 indicate by saying I do.

8 JURY: I do.

9 THE CLERK: If you have accepted this oath, please
10 be seated. And if you have not accepted this oath, please
11 remain standing. Let the record reflect all jurors have
12 been seated.

13 THE COURT: Ladies and gentlemen, we're going to
14 take a brief lunch break until quarter of 3:00, which will
15 give you about an hour and 15 minutes for lunch. I'm just
16 trying to count in my head. I'm horrible at math. I'm just
17 trying to make sure. Yeah, 2:45 is when we'll resume. The
18 bailiffs are going to show you how to go to your jury room
19 and how to re-enter the courthouse. In all likelihood, we
20 will make arrangements for you all to park next door on
21 tomorrow when you return. But I would caution you strongly
22 not to move your cars during the lunch break because if you
23 come back down at Cumberland, it is likely you will not have
24 a parking space. There are several establishments that you
25 can eat at that are located around the courthouse. But --

1 and also, I don't know, I think y'all will probably be
2 coming back into the courthouse at a downtime because most
3 people are coming at a different time, so you should be okay
4 regaining entry into the courthouse. But the bailiffs again
5 are going to show you how to do that.

6 During this break, please do not discuss this case
7 in any manner. Please don't speculate about what you think
8 it may or could be about. Please do not read, watch, or
9 listen to any media accounts if there are any. That
10 includes radio, television, internet, or the newspaper. And
11 please don't do any independent research of any type on the
12 internet. I know we like to believe what we read online is
13 accurate, but most times it is not. And in addition to
14 that, by your oath, you are sworn to decide this case
15 according to the testimony that is presented by sworn
16 witnesses and the other evidence that will be introduced.
17 And I have no doubt that each of you will abide those
18 instructions accordingly.

19 Please don't have any contact with anyone in or
20 about the courthouse as you return. Again, we would not
21 want an innocent conversation to be misinterpreted and
22 misconstrued. Attorneys tend to be a little paranoid during
23 litigation. So we would not want you to have a conversation
24 about the weather and someone think you're having a
25 conversation about the case. Witnesses look very different

1 outside the courtroom than in the courtroom. So again, we
2 would not want an innocent or passing comment to be
3 misinterpreted.

4 If you would go with the Bailiffs, I'll turn you
5 into their hands. They'll show you how to -- where your
6 jury room is and how to gain entry back into the courthouse.
7 Have a good lunch. I'll see you at quarter of 3:00.

8 (WHEREUPON, the jury exited the courtroom.)

9 THE COURT: All right. Is there anything we need
10 to take up before we break for lunch from the State?

11 MR. SIMPSON: No, Your Honor.

12 THE COURT: From the Defense?

13 MR. JENNINGS: No, Your Honor.

14 THE COURT: And I would ask that y'all come back a
15 few minutes early to make sure that the court reporter has
16 the exhibits and that they are marked accordingly so that
17 she -- she can't type and do that at the same time. It
18 makes it a whole lot easier. We've already provided her
19 with a copy of the State's witness list. If there's a
20 witness list we need from the Defense, if you all would
21 provide that as well so that we can provide that to her. It
22 makes things go a whole lot more smoothly. And if you all
23 could review that list and determine which of those items
24 you agree upon, because again, that makes things go a whole
25 lot more smoother as well.

1 I received the Consent to Stay on Bond by Greg
2 Robinson. I need the original so that it can be placed in
3 the record. If you have that, Mr. Jennings?

4 MR. JENNINGS: I do, Your Honor.

5 THE COURT: Thank you, sir. And then we can swap
6 that out for the other one I had marked and that marked as a
7 Court's exhibit.

8 Sir, Mr. Robinson, I need to advise you that if
9 you fail to appear this case will continue. You'll be tried
10 in your absence. A bench warrant will be issued for your
11 arrest. And if you are convicted, you will be sentenced.
12 That sentence will be sealed, and a bench warrant will be
13 issued for your arrest. Do you understand?

14 MR. ROBINSON: (No verbal response.)

15 THE COURT: Do you understand?

16 MR. ROBINSON: Yes, Your Honor.

17 THE COURT: All right. Thank you so much. Have a
18 good lunch. See y'all at quarter of 3:00.

19 MR. SIMPSON: Thank you, Your Honor.

20 THE COURT: You can leave whatever you need in
21 here. This courtroom's locked. No one will have access to
22 any of your items.

23 (WHEREUPON, a lunch break was held.)

24 THE COURT: There was something I was going to
25 ask. I'm trying to remember -- mark the exhibits?

1 MR. SIMPSON: We did, Your Honor, and I had a
2 conference with Mr. Jennings about the -- any objections
3 that he had to our exhibits. And would you like me to
4 discuss that, Your Honor?

5 THE COURT: Actually, give me one second.
6 According to this list I have, the State has Exhibits 1
7 through 112. Mr. Jennings, do you have any objections to
8 any of those exhibits?

9 MR. JENNINGS: I had one objection, and I think
10 that was --

11 THE COURT: Just tell me what number it is, and
12 then we --

13 MR. JENNINGS: Number 47, Your Honor.

14 THE COURT: I'm sorry, say that for me one --

15 MR. JENNINGS: Number 47.

16 THE COURT: Give me one second.

17 MR. JENNINGS: Mr. Simpson has agreed not to put
18 that into evidence. I think we've resolved all our issues.

19 THE COURT: So y'all withdrawn that exhibit then?

20 MR. SIMPSON: We have, Your Honor. 47 withdrawn
21 by consent.

22 THE COURT: 47 is withdrawn by consent. But all
23 the others, do you agree to those, Mr. Jennings, or do --
24 are there going to be objections to those -- any of those as
25 well?

1 MR. JENNINGS: There will not be objections, Your
2 Honor.

3 THE COURT: Okay. So can we admit 1 through --
4 bear with me one second. 1 through 46 without objection and
5 48 through 112 without objection?

6 MR. SIMPSON: Yes.

7 THE COURT: Okay.

8 (WHEREUPON, State's Exhibit Nos. 1-46 and 48-112
9 were admitted into evidence.)

10 THE COURT: And did you have an opportunity to
11 mark any exhibits?

12 MR. JENNINGS: I haven't marked -- we'll have to
13 mark my flash drive in the morning when I create that, but I
14 have Defense Exhibits 1 through 17, which are all
15 photographs. And then --

16 THE COURT: So that's Defense 1 through 17?

17 MR. JENNINGS: Yes, ma'am.

18 THE COURT: And you said they're all exhibits?

19 MR. JENNINGS: All photographs, yes, ma'am.

20 THE COURT: I'm sorry. Did I say exhibits? I
21 meant to say photographs. I apologize, y'all. I worked the
22 whole lunch, so I'm a little -- I probably needed more
23 nourishment than SkinnyPop, but anyway. Are there any
24 exceptions to Defense 1 through 17, Mr. Simpson?

25 MR. SIMPSON: No, Your Honor.

1 THE COURT: Okay. So those can come in without
2 objection?

3 MR. SIMPSON: Yes.

4 THE COURT: So that'll be Defense 1 through 17
5 will come in without objection.

6 (WHEREUPON, Defendant's Exhibit Nos. 1-17 were
7 admitted into evidence.)

8 THE COURT: Okay. And there's -- I feel like
9 there was something else we needed to take up before we got
10 started, but I can't remember.

11 Was there anything else we needed to take up
12 before we start with opening instruction and opening
13 argument from the State?

14 MR. SIMPSON: No, Your Honor. I just missed a
15 call from my daughter, which makes me panicky. Can I step
16 outside?

17 THE COURT: Go -- yeah. I understand.

18 MR. SIMPSON: I appreciate it. It will --

19 THE COURT: Yeah.

20 MR. SIMPSON: -- only take 30 seconds.

21 THE COURT: Go right ahead.

22 MR. SIMPSON: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 MR. SIMPSON: She wanted to remind me to ask for
25 witness sequestration.

1 THE COURT: That is funny to me. But you're like
2 me. If somebody from my family calls me while I'm at work,
3 I assume it's something catastrophic because we just don't
4 chat during the week, I mean, during the work week, that I
5 understand.

6 Okay. So there was something else I was going to
7 ask -- you all indicated to me there were no other pretrial
8 motions and we dealt with all the pretrial motions on last
9 week, correct?

10 MR. JENNINGS: Correct, Your Honor.

11 THE COURT: Okay. We have notebooks and writing
12 implements for the Jury?

13 THE CLERK: We do -- (inaudible.)

14 THE COURT: If you could -- I just want them
15 passed out -- once they're seated, if those could be passed
16 out to them.

17 Number 126, is the fourth person, so if you would
18 bring him in last.

19 And also, if there are objections that need to be
20 made, you should stand, indicate by saying, I object. I
21 will ask for the basis of the objection, which should be
22 very limited, you know, leading, pinning, burden shifting.
23 I don't expect there to be any lengthy speaking objections
24 in the presence of the Jury.

25 Okay. You can go ahead and get the panel.

1 Madam Clerk, you can turn on my mics for me and
2 when I'm done you can turn them off. And for the gallery,
3 you should make sure that all of your phones are off, not
4 silent or vibrate, that they are off. If any phones go off,
5 the deputies will take your phone, or the bailiff, and it
6 will not be returned to you. And there is to be no walking
7 while the Court is speaking or the parties are giving open
8 and -- arguments to the Jury. So if you feel the need to do
9 that, you may need to excuse yourself at this time.

10 THE BAILIFF: Your Honor, I'm sorry, is 126 the
11 Foreperson?

12 THE COURT: Yes.

13 THE BAILIFF: Thank you.

14 THE COURT: You're welcome.

15 (WHEREUPON, the jury entered the courtroom.)

16 THE BAILIFF: All jurors are present.

17 THE COURT: You may be seated.

18 Ladies and gentlemen, you've been selected for the
19 case of the State of South Carolina v. Melshaun Antwan
20 Robinson. I'm going to give you some preliminary
21 instructions so that you will know how we will be proceeding
22 in the trial of this case. Each of you has a notebook, if
23 you would write your juror number on the sticker that is on
24 the front of each notepad so that you will be able to
25 identify which notebook is yours. And I will give you some

1 further instructions regarding note-taking near the
2 conclusion of this instruction. And, again, this is merely
3 a preliminary instruction so that you will know how we will
4 be proceeding in the trial of this case.

5 These remarks are not a charge on the law. I will
6 instruct you on the law applicable to this case at the end
7 of the case before you retire to deliberate. And so that
8 you know, charge is a legal term of art that simply means
9 instructions, so charge and instructions are interchangeable
10 terms that mean the same.

11 The defendant is charged by three indictments
12 filed in this Court with the crimes of murder, attempted
13 murder, and possession of a weapon during the commission of
14 a violent crime, the elements of which I will explain to you
15 at the conclusion of the case. Again, this is merely an
16 introduction to the procedures the Court will be following
17 so that you may better understand what is happening.

18 The indictments, ladies and gentlemen, are simply
19 the charge or charges by which the case is brought into
20 Court and they are not in any sense evidence of any of the
21 allegations they may contain. The defendant has pled not
22 guilty to the indictments. The State, therefore, has the
23 burden of proving each of the elements of the indictments
24 beyond a reasonable doubt. And it will be your duty, ladies
25 and gentlemen, to decide whether the State has met that

1 burden or not. Your purpose as jurors is to find and
2 determine the facts. You are the sole judges of the facts.
3 If, at any time, I make any comment regarding the facts, you
4 must disregard it. You are to determine the facts from the
5 testimony you hear and the other evidence that will be
6 introduced during the course of the trial. It is up to you
7 to determine the inferences which you feel may be properly
8 drawn from the evidence. It is especially important that
9 you perform your duty of determining the facts diligently
10 and conscientiously because ordinarily, there is no way to
11 correct an erroneous determination of facts made by a trial
12 jury.

13 On the other hand, and with equal emphasis, the
14 same law that makes you the judges of the facts makes me the
15 judge of the law. The law as given by the Court is the only
16 law you can consider. You must accept and follow it even
17 though you may disagree with it. The Court cannot tell you
18 what the facts are, and you cannot disagree with the Court
19 about what the law is or what the law should be. Your
20 responsibility, ladies and gentlemen, is to take the law as
21 I instruct it and apply it to the facts as you find them
22 from the testimony of the witnesses and any other evidence
23 that is introduced.

24 After doing that, you'll render your verdict in
25 this case, pursuant to the solemn oath that you have taken

1 as jurors. Until I advise you to begin your deliberations,
2 you must not discuss this case with anyone. That includes
3 among yourselves, with your friends, family members, or
4 anyone involved in the case. After the case is submitted to
5 you, you must discuss it only in the jury room among your
6 fellow jurors.

7 The attorneys and the parties have been advised
8 they're not -- that they're not to speak with you at all.
9 So if you should run into them, you know, in -- on the
10 street during lunch or in the garage or even in the elevator
11 or otherwise, and they don't speak with you, please don't
12 think they're being untoward, they're simply following the
13 Court's instructions. Again, we would not want an innocent
14 conversation to be observed and misinterpreted.

15 During the trial, you're not to read, listen to,
16 or watch any news reports about this case. That includes
17 anything that may be in the newspapers, on the internet,
18 radio, or television. You must not consider anything that
19 you may have read or heard about this case outside the
20 courtroom, whether before or during the course of the trial.
21 It is essential that you maintain an open mind and not
22 decide any issue in this case until all of the evidence has
23 been presented, the parties have made their closing
24 arguments, and I've instructed you on the law which applies
25 to this case.

1 It is your solemn responsibility to determine
2 whether the State of South Carolina has met their burden of
3 proof or not. And your verdict must be based solely on the
4 evidence as it is presented to you in this trial and on the
5 laws I will instruct you during and at the close of the
6 trial.

7 In just a moment, the Solicitor will make what is
8 called an opening statement in which he or she will explain
9 to you what they perceive the issues to be in this case.
10 The attorney for the Defense may also make an opening
11 statement, although he is not required to do so. Keep in
12 mind that what the attorneys tell you during their opening
13 statements is not evidence. It is only their contention as
14 to what they believe the evidence will show in this case.

15 The evidence will be presented to you by the
16 testimony of sworn witnesses from the witness stand and/or
17 by exhibits that may be introduced into evidence. From time
18 to time, you will hear the attorneys say, Your Honor, I
19 object. Just as in sports, business, or any other
20 structured activity, there are certain rules that we must
21 obey in the presentation of evidence. These rules have a
22 definite purpose. They ensure that you receive the most
23 trustworthy and reliable evidence available.

24 An objection is the procedure that an attorney
25 uses to call a possible violation of these rules to my

1 attention as the Judge of the Court. And for this reason,
2 you should never hold an attorney's objection against them,
3 nor should you conclude from the Court overruling or
4 sustaining an objection that I favor one side or the other.
5 In fact, you should expect objections. They are a healthy
6 part of our adversarial process. And again, I emphasize
7 that you should not infer anything from the Court overruling
8 or sustaining an objection, or that I favor one side or the
9 other.

10 Also, from time to time, you may hear the
11 attorneys say they have a question of law to discuss, and it
12 might be necessary for us to exclude you from the courtroom
13 while we discuss matters of law. Again, we do this because
14 you are the finders of the facts. And sometimes when I'm
15 discussing matters of law with counsel, it might be
16 necessary for me to make some comment on the facts in
17 connection with the ruling. And for this reason, we exclude
18 you from the courtroom so that in no way will you be
19 influenced by anything that the Court may say or do in
20 connection with the facts of the case.

21 In determining the facts in this case, you must
22 decide whether or not the testimony of a witness or
23 witnesses is believable. It is my responsibility to rule as
24 a matter of law as to whether certain testimony is
25 admissible at all or not. But once the testimony is

1 admitted, whether or not you believe it is solely a matter
2 for you to determine in your fact-finding province. In
3 deciding whether to believe a witness, you have the right to
4 consider the interest of any witness, the bias of any
5 witness, the prejudice of any witness, the opportunity for
6 the witness to have seen the matters and things about which
7 the witness may testify and the way the witness acts on the
8 witness stand, what we would commonly refer to as their
9 demeanor.

10 You have a right to consider anything that is in
11 the record that will help you evaluate the testimony of the
12 witnesses. That means, ladies and gentlemen, that it is
13 your duty to pay close attention to the witnesses, to
14 observe them, to listen to them, and pay close attention to
15 counsel and to the Court. Although I know it is very
16 difficult, please do not allow your thoughts to wander, but
17 give strict attention to the testimony so that at the end of
18 the testimony after the arguments of counsel and the charge
19 of the law given by the Court, you will be in a position to
20 determine what the facts are, apply the law to those facts,
21 and render a verdict in this case.

22 During the course of this trial, you will be given
23 the opportunity to take notes. Note-taking is a preference
24 that you may choose to exercise or choose not to exercise.
25 Please don't feel you're required to take notes. Not

1 everyone finds note-taking helpful to them. If you should
2 decide to take notes, please don't try to record everything
3 that is said. It's physically impossible. And as I've
4 explained, you must rely on your powers of observation. So
5 please do not allow note-taking to become a distraction to
6 you. You may want to keep an outline of the main points and
7 arguments that are being made so that once you retire to
8 deliberate, you can allow your notes to refresh your memory.

9 Please be reminded -- and we -- your notes will be
10 left in your seats during breaks and recesses. And we do
11 this to make sure there's no premature temptation to
12 deliberate on any factual matter in this case. And again,
13 you may want to keep an outline of the main points so that
14 you can allow your notes to refresh your memory during
15 deliberations. I would remind you that your notes are for
16 your individual and your specific purposes. They're not to
17 be shared with anyone else. And I would also remind you
18 that your notes should not be given any greater weight than
19 the memory of a fellow juror. The memory of a fellow juror
20 should be considered just as reliable as notes that may have
21 been taken by another fellow juror.

22 It is your added duty, Mr. Foreman, to be the
23 Jury's scrivener, so to speak. You will fill out the
24 verdict form and if the Jury has any questions during
25 deliberations, it will be your responsibility to write out

1 the questions. I will give you additional instructions on
2 that at the conclusion of the case.

3 Ladies and gentlemen, the foreperson is a purely
4 random selection, I wish we had a more scientific method,
5 but one does not exist. We just try to make sure that there
6 is a cross-section of the community that is represented in
7 that capacity. I would emphasize again, however, that the
8 selection of a foreperson is random. They are simply your
9 scrivener, in other words, they take down the verdict and
10 they also write out any questions you may have during the
11 deliberation process. And I would emphasize that the
12 foreperson does not have any greater vote or voice than any
13 other juror. Again, it is merely that we need a scrivener
14 for that purpose.

15 In order to preserve everyone's rights, I'm going
16 to give counsel the opportunity to take exception to
17 anything that the Court has said by way of opening
18 instruction. Any exceptions from the State?

19 MR. SIMPSON: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. JENNINGS: No, Your Honor.

22 THE COURT: Ladies and gentlemen, I would ask that
23 you give Counsel your undivided attention in opening
24 argument. You may proceed when you're ready.

25 MR. SIMPSON: Thank you, Your Honor.

1 THE COURT: You're welcome.

2 OPENING STATEMENTS ON BEHALF OF THE STATE

3 MR. SIMPSON: Ladies and gentlemen, good
4 afternoon. I want to join the sentiments that the Court's
5 already shared with you about your time and how appreciative
6 we are of that. We're all parents and employees as well,
7 and so we understand the sacrifice that we ask of you to be
8 away from your family, away from your jobs, and that it is a
9 supreme inconvenience.

10 And I'll just share with you that I've been doing
11 this for some time and have spoken with a lot of juries
12 after their service, and rarely do they say that was
13 awesome, but they always say that it was -- it's a
14 meaningful experience for them. And, sadly, that's about
15 all I can offer you is at the conclusion of this, no matter
16 what your verdict is, you will find it to be an educational
17 and meaningful experience.

18 But it's going to be -- and I'll be real about
19 this -- it's going to be a difficult one. It's a difficult
20 one in every case and under every circumstance. And your
21 job this week will be difficult as well, I don't want to say
22 otherwise, but I do want to hold out to you right from the
23 bat, there's one particular thing I think about this case
24 that's not going to make your job easy, but it's going to
25 make your job a little easier. And it kind of goes to a

1 little bit that you just heard from Judge Jefferson, and
2 that is week after week in this system, jurors just like
3 you, seated just where you are, hear versions of events from
4 this witness stand, and are asked really kind of a herculean
5 task, an almost impossible task, and that's to hear
6 contradicting stories that aren't exactly the same and then
7 send you back there to decide who you believe.

8 You know, there's often physical evidence that
9 might go one way or the other, but in some capacity, jurors
10 are always asked to go back there and ask, What version of
11 those events do I believe? And what a difficult thing that
12 is to ask of you.

13 There are some parts of this case that will be the
14 same way. But I want to start with a theme that I'm going
15 to repeat over and over again this week until you're sick of
16 hearing me say it, and that's that what I'm going to ask of
17 you, and what the Government of South Carolina is going to
18 ask of you in this trial to do is let's figure out who you
19 believe and believe yourself. I'm going to ask you to
20 believe -- what we do every day, believe your own eyes,
21 believe your own senses, and believe your own perception.
22 Because in the case that we're about to start today, this
23 case happened at a nightclub -- in an adult nightclub, and
24 it was a nightclub that had a lot of video surveillance.
25 And so the great majority, including the incident itself,

1 what occurred here, was captured on that video surveillance.
2 And so what we're about to undertake this week is not a
3 murder mystery. I hate to disappoint you if you love
4 Netflix and true crime and things like that, but what -- the
5 fact that Melshaun Robinson, the individual seated here,
6 shot and killed one man and shot another man is not a
7 mystery and, I don't think a fact that is going to be in any
8 dispute between the parties.

9 This instead is what we call a, What is it, case,
10 which can come with its own difficulties. And a, What is
11 it, case is that the State subjects to you that what you're
12 going to see and perceive with you own senses is a murder.
13 And the Defense is going to argue to you that what you see
14 is a -- is what's called a justified killing in
15 self-defense.

16 So let's get on to what happened here, to what we
17 believe that the evidence will show you. On April the 25th
18 of 2021 at 1337 King Street, it's called King Street
19 Cabaret. That is an adult nightclub. In other words, it is
20 a business where women dance in various states of undress
21 for the enjoyment of not solely male customers, but largely
22 male customers.

23 At that location, two individuals, they had just
24 sold a couple of 4-wheelers and were sort of in one of those
25 fortunate times in their life, that I could sure use right

1 now, where they were a little cash heavy, decided that they
2 were going to enjoy themselves that night at this location.
3 They went there pretty early. You'll see the sun. Again,
4 you're going to watch this. You'll see that when they
5 arrive, the sun is still out. And they don't stay an
6 incredibly long time, they stay about an hour and a half,
7 it's not exactly an hour and a half, but it's about an hour
8 and a half.

9 And then around 8:20 P.M., they decide, an
10 important point, that they've been there long enough, and
11 they decide that it's time for them to leave. And so they
12 both leave under their own accord, okay. Again, you're
13 going to see it. And as they're walking out of the
14 nightclub -- it's a nightclub you're going to have a pretty
15 good familiarity with the layout of it before the end of the
16 week, this week, they stop on their way out to use the
17 restroom, which isn't abnormal at all, I'll just point that
18 out, because it's one of the sad facts that had they not
19 stopped to use the restroom, they'd probably ultimately be
20 here today.

21 And why is that? It's because one of these
22 individuals, a guy named Jaziel Armenta-Zavala, had some
23 time previous to them deciding to leave gone to a private
24 dancer. And for those unfamiliar, one of the business
25 models you'll hear about is that the dancers try to talk

1 patrons in, and let's just say sometimes it doesn't take a
2 whole lot of talking to convince them to do this, decided to
3 convince the patrons to go into a private room and get a
4 private dance with them. And that's really, you'll hear,
5 where the money's made here because the prices are agreed to
6 before they go in these private rooms. And that's what
7 Jaziel had agreed to do with another male that he had just
8 met at the club and a female dancer. They'd agreed all
9 three of them to go into this private room and have a
10 private dance quite a few minutes before they decided to
11 leave. What occurred in that private room is going to be up
12 for some dispute this week. But again, let me -- I hope
13 you're not disappointed when I do this. Let me take the
14 mystery out of the room.

15 A couple of things are agreed upon, okay? One is
16 it seems like every person that went back in that room had a
17 different idea of what the financial agreement was, okay?
18 Who was paying what and how much. And so a payment dispute
19 arose at the conclusion of that private dance -- that
20 private dance, which lasted about 15 or 20 minutes. And the
21 other individual I told you about had already left. And so
22 this left Jaziel and Hannah Perlitz. She was Hannah Manzi
23 at the time. She's now Hannah Perlitz. She's actually now
24 Dr. Hannah Perlitz, was the dancer at that time. But it
25 left Jaziel and Hannah -- or Hannah with a disagreement over

1 the amount of money that was owed.

2 You're also going to hear some things about some
3 inappropriate behavior on the part of Jaziel in that dance
4 room. And while it is up -- disputed exactly the degree of
5 that inappropriateness, that is an element of the case that
6 you're going to hear about. The good news is that's one of
7 the very few things that are not on visit -- video in this
8 case, and that's what occurred in that room.

9 All of the parties leave the room and go back to
10 the main area of the club. Ms. Manzi or Perlitz, the
11 dancer, convenes talking to other patrons and cozying up to
12 other patrons. That's all on video. Jaziel goes back to
13 his friend, Zabdiel, and they start having -- continuing to
14 have a good time at the club, doing the kind of things that
15 guys do at strip clubs. And I'm not saying that that's
16 okay, but we've all agreed that we can put our feelings
17 about that kind of behavior aside for the purposes of this
18 trial. They hang around for a while longer, and then they
19 decide to leave. Again, leaving on their own accord.

20 As they leave and go to the restroom, that dancer
21 that was in the private room that had the payment dispute
22 goes up to the defendant, Melshaun Robinson, and talks to
23 him. And we can presume, and she will say, informs him of
24 what happened in that room. She will say informed him in
25 general terms, because she didn't feel the need to get into

1 a lot of details, informed him generally that they didn't
2 pay, a cardinal sin in strip clubs, and two, made her feel
3 unsafe, which let me just go ahead and say that I'm not
4 saying that's okay, okay? She said, Made -- they made me
5 feel unsafe. They made me feel unsafe, and we had this
6 payment dispute back in that room.

7 Following this conversation, the defendant, who is
8 the bouncer of this club, goes to look for Zabdiel and
9 Jaziel. At the time, he has an injured foot, and so you'll
10 see him, he is one of those scooters that you can kick
11 around. But you'll also see plenty of time that he really
12 doesn't have a hard time getting around, he's gotten quite
13 good at it.

14 At this point in time, I submit to you that two
15 things will be very obvious to you. The first thing, clear
16 as day through your own perception, is that Zabdiel and
17 Jaziel had decided to leave on their own and were leaving
18 and going home and left -- left on their own. The second
19 thing I submit to you that will be equally as obvious is
20 that Melshaun Robinson, having just heard of this payment
21 dispute, wanted to have a confrontation with them. He
22 wanted to have some words with them. If he didn't, there
23 would be no need to follow them out of the door outside.
24 They were leaving. They were gone. They were going home.

25 When they were confronted outside by the bouncer,

1 Mr. Robinson, a verbal exchange takes place. For the
2 entirety of this verbal exchange, you can see Melshaun
3 Robinson's face and conclude that most of the talking is
4 being done by Mr. Robinson. He's got a lot to say and
5 there's an argument to be made that he had a reason to say a
6 lot to these guys. But the confrontation was caused by him,
7 taken on by him, against two people who had already left and
8 were continuing to leave the premises. This confrontation
9 is brief, and you will see it. When it is over, Jaziel and
10 Zabdiel say, Ah, all right, whatever, see you. And continue
11 what they're doing, and what was that, going home. And they
12 walked towards their truck.

13 Their truck, at this time, was in an auxiliary
14 parking lot across the street from the Cabaret. They walk
15 all the way to their truck. They are going home. They are
16 gone. It is over. But it's not over for Melshaun Robinson.
17 He turns around. He goes right back into that club. He
18 goes right to the office and grabs a handgun from the
19 office, puts it right down in the back of the -- behind his
20 jeans, and goes right back outside to find them. He comes
21 back out and they're gone because they're going home. But
22 because of where they parked, they have to pull out and come
23 to a stop sign on King Street.

24 And as they pull out, and as you're going to watch
25 their headlights come around to go out on King Street, there

1 they are met by Melshaun Robinson, who's now got a gun and
2 now wants to continue this confrontation that he started
3 right outside of the club. You see him again. There is no
4 audio, but there'll be no doubt in your mind when you see
5 his body language that as they're pulling up to that stop
6 sign, he's got some things to say to them, and they're not
7 happy things. You can see by the body language he's talking
8 to him.

9 Jaziel, who is in the passenger seat of the truck
10 driven by Zabdiel, rolls down the window. You'll see the
11 same thing from Jaziel. He's saying things back. You don't
12 hear it. You can see -- it's hard to see, but you can see
13 the body language. He's talking back. But what is this
14 confrontation importantly? Verbal, childish, and immature.
15 We see this a lot of time in males, even men of my age, I'm
16 sorry to say, but verbal, two guys talking trash to each
17 other and there's no reason to think it's going to get
18 anything worse than verbal until a decision is made.

19 Just like it was Melshaun's decision to start the
20 confrontation it was Melshaun's decision to escalate the
21 confrontation. Verbal. In the truck, he's out of the
22 truck. Gun wedged in the waistband. You'll see him reach
23 to an area that has a bunch of broken concrete and rocks.
24 You'll see plain as day him pick it up, and you'll see him
25 beating that truck with a rock. A pretty nice truck. And

1 so this verbal confrontation gets escalated by one of the
2 two -- by one of the parties. And that's the party that's
3 sitting right here.

4 In reaction to the rock hitting the truck -- by
5 the way, there's a dent in the side of the truck and the
6 rock sitting right in the road right next to the truck -- in
7 reaction to the escalation, Zabdiel and Jaziel get out of
8 the truck. They do. They're trying to leave, they've been
9 confronted by this guy screaming at him, who's now throwing
10 rocks at them, they step out of the car and get out. And
11 there's still lots of distance between Melshaun Robinson and
12 Zabdiel and Jaziel at that point in time. Here comes the
13 gun. Head high at both of them.

14 And here we get into something that's kind of
15 sadly ironic, that even after starting the confrontation at
16 the front door, going to get the gun to be the only armed
17 member of this confrontation, coming back out looking for
18 them, starting it again, and then escalating it from verbal
19 to the throwing of the rock, after all of those actions on
20 the part of Melshaun, there's still an out here. Still an
21 out. Because as you'll see with your own eyes, the pulling
22 of the gun works. Jaziel and Zabdiel react how any person
23 would react to having a gun pointed at their face,
24 submissive postures and backing up, increasing the distance,
25 which is already a good bit of distance -- increasing the

1 distance between them and Melshaun's gun.

2 But that distance between them is closed like
3 that. It's closed like that. And once again, just as he
4 started the confrontation at the front door, went and got
5 the gun, renewed the confrontation at the stop sign,
6 escalated the confrontation by throwing of the rock,
7 escalated it again by pulling of the gun, that gap between
8 them is closed like that by Mr. Robinson, who chases Jaziel.
9 Chases him with a gun pointed to his head around the parked
10 car. You're going to watch this. You don't have to listen
11 to what I say. You don't have to believe anybody that saw
12 it. You're going to watch it. Chases him around to the car
13 until he chases up with Jaziel.

14 When he catches Jaziel, he hits him, they get
15 entangled, it looks like he's got him in the headlock -- in
16 a headlock. And then Zabdiel, who had gone a really smarter
17 route than Jaziel and hidden behind his own car, sees his
18 friend getting attacked and comes to help. Melshaun
19 Robinson -- it doesn't work at all -- Melshaun grabs him,
20 throws him to the ground, and then here's another one of
21 those deciding moments. Zabdiel is on all fours in -- on
22 the parking lot, hands down, knees down, head down when
23 Melshaun shoots him the first time in the back as he sits on
24 the ground right there.

25 Adrenaline's a wild thing. And just as they had

1 backed up upon seeing the gun, upon getting shot with the
2 gun, both Zabdiel and Jaziel run, run to get away. But
3 you're going to see on video that as they're running to get
4 away, running to get that truck in between them and
5 Melshaun, he goes back and forth. Back and forth. Six
6 shots. Six shell casings found on the scene. Zabdiel
7 Tinoco-Hernandez, sadly, was shot three times. About
8 midline, about right here, and through the arm. The back
9 shots were fatal. Zabdiel Tinoco-Hernandez is no longer
10 with us. He is deceased.

11 Jaziel Armenta-Zavala, while he was fleeing, was
12 shot in the right hip. A pretty serious injury, but one
13 that's not life-threatening. It went into the hip and
14 damaged some bones and came to a rest right by his spine.
15 It came to a rest without hitting his spine. He was shot
16 again in the head, but it was a grazing wound to the head,
17 so it turns out it was nonfatal, not a serious shot to the
18 head.

19 In our closing arguments is really when we talk
20 about law, after you've heard all the facts, when we talk
21 about the law is. But I'm going to give you a little bit
22 about that as you start to hear about this case and just
23 talk about what self-defense means. There's a more
24 lengthier definition that you'll hear finally from the Judge
25 at the end of the trial but also I'm sure, from both parties

1 in closing arguments. But, essentially, self-defense means
2 four things we call elements under the law. Four boxes you
3 have to check for you to find self-defense.

4 The first is going to be of crucial importance to
5 that. I'd like you to think about it all week. And that's
6 that the person saying this is self-defense has to be fully
7 without fault in bringing on the difficulty. It's going to
8 be a super important part of this week. Does it mean that
9 you sit there and weigh the decisions of everyone and
10 decide, Oh, is someone a little more at fault than the
11 other? No, no, no. You have to find that the defendant was
12 100 percent blameless, without fault, in bringing on this
13 difficulty in order to find that he acted in self-defense.

14 Secondly, you have to find that he was in imminent
15 danger of losing his life, imminent meaning right at that
16 second. You don't get to preemptively kill people because
17 you think they might hurt you in the future. You have to be
18 in imminent danger of losing your life right then. And if a
19 person believes that, you -- the third thing is you have to
20 agree that that belief was reasonable.

21 And lastly, you have to come to the conclusion as
22 a jury to find self-defense, there was just no choice. No
23 choice than the person to use deadly force in that
24 situation. We'll explore this later, but self-defense is
25 not stopping and confronting people who are trying to leave,

1 even if you have a reason to be mad at them. It does not
2 include throwing things at them, even if you have a reason
3 to be mad at them. It does not include chasing them around
4 the car with a gun pointed at their head. It does not
5 include firing at the backs when they're on the ground. It
6 does not include continuing to fire as they try to flee.

7 Believe what you see. Believe your perceptions.
8 Believe your eyes when you see these things. Not what I say
9 or what you hear on the stand. And a quick note, I was
10 about to wrap, but I wanted to make one quick point really
11 quick.

12 You'll see these screens are pretty big, but
13 they're a good distance away from you. I just want to let
14 you know that all of this video, if you ever find yourself
15 having a hard time seeing it or clear -- or wanting to see
16 it a little clearly, I'm sure Mr. Foreman could ask to move,
17 if that's what you think. But also keep in mind that this
18 is evidence, so it's going to go back with you and you're
19 going to have the opportunity to watch it as many times as
20 you need to at the end of this. So if you think you want to
21 see things closer, you're going to get that opportunity.
22 And I'm going to be the one telling you now and telling you
23 at the end, watch it 100 times if you need to. And trust
24 your eyes and trust what you see.

25 And in the end, there's no joy here or anything.

1 This is a sad, serious thing. But at the end, sadly, you're
2 going to come to the conclusion that Mr. Robinson committed
3 murder and attempted murder. Thank you for your time this
4 evening.

5 THE COURT: You may proceed.

6 MR. JENNINGS: Thank you, Your Honor. May it
7 please the Court?

8 THE COURT: Yes, sir.

9 OPENING STATEMENTS ON BEHALF OF DEFENDANT

10 MR. JENNINGS: Ladies and gentlemen, all they had
11 to do was drive away. That's all they had to do was drive
12 away. They had left the club. They were in their truck,
13 and they sat at a stop sign for 48 seconds. During that
14 time, all they had to do was drive away. Nobody was
15 blocking them. Nobody was deterring them from leaving.
16 You'll see the videos, you'll see the parking lot, Melshaun
17 was 45 feet away from them. Had nothing to do with them
18 staying, lingering, and bringing on this confrontation.

19 All they had to do was drive away. If they drove
20 away, I wouldn't be here in court today defending Melshaun.
21 If they had driven away, the 14 of y'all, you might be
22 sitting on another case, but you wouldn't be sitting,
23 listening to this case. If they would have just driven
24 away, the Solicitor's office would no doubt be prosecuting a
25 case today, but it would be a different case. It wouldn't

1 be this case. But they didn't drive away, and had every
2 opportunity to. And because of that decision, three lives
3 were inexorably changed. And it's that decision, the
4 decision not to drive away, which is why we're here today.

5 Now, as Mr. Simpson said, a lot of the facts are
6 -- we do agree on. The nuance of those facts, the
7 interpretation of those facts, what was going through each
8 person's mind, we don't. And that's what this case is going
9 to be about. What was in Melshaun's mind? What was he
10 afraid of when he went into the parking lot? Why did he go
11 into the parking lot? Why did Mr. Armenta act the way that
12 he acted? That's what this case is going to be about. And
13 those are the things that you're going to have to determine
14 in order to return a verdict.

15 Now, we've got a very different story to tell than
16 the story that Mr. Simpson told you in his opening
17 statement. You're going to hear as part of this trial, I'm
18 sure, the statement -- recorded statement that Melshaun gave
19 to detectives with the City of Charleston that night, right
20 after this incident. He was taken to the police department,
21 completely cooperated when the police arrived, gave them the
22 gun, said he was the person that did it. Went with the
23 police, talked with them probably two hours that night.

24 And Melshaun is going to take the stand and
25 testify and tell you exactly what happened that night and

1 exactly what was going through his mind and exactly why he
2 did what he did. Now, you're also going to hear two
3 recorded statements from Mr. Armenta. One, police officers
4 go and talk with him the night that this happened, and they
5 interview him at the Medical University where he's being
6 treated. That recording is an audio recording, and you will
7 hear that. You're going to hear what he has to say and why
8 he did what he did. And I can promise you that the words
9 that you hear from Mr. Armenta that night, and then two days
10 later when he's interviewed by another detective are
11 diametrically different than how Mr. Simpson described this
12 incident. And these are going to be Mr. Armenta's words.
13 And he's going to tell you exactly what he did and why he
14 did it.

15 Years ago, there used to be, before the days of
16 podcasts and shows that you could listen to you on your
17 phone, there used to be a guy named Paul Harvey. I don't
18 know if any of y'all remember him. He had a radio show that
19 was called The Rest of the Story. So what he would do is he
20 would tell a story and then he would tell you the rest of
21 the story, certain facts and aspects of it that the average
22 person might not know, and fill in some of the details.

23 And what I want to do with the rest of my opening
24 statement to you is tell you some of the rest of the story.
25 Some things Mr. Simpson left out because what I submit when

1 Melshaun testifies and when you see his -- the statement
2 that he gave to the police, he's going to tell you that yes,
3 Mr. Armenta and his friend came to the club that night.
4 Melshaun was the assistant manager, had broken his foot
5 about six months prior to this incident and hadn't done
6 exactly what the doctor told him to do and it acerbated the
7 condition a little bit. So he had to have surgery, and he
8 had had surgery about three weeks before the incident.

9 And so, in order to get back to work, he was on a
10 scooter where you prop your leg, hold the handles, and he
11 could move around the club. He had to spend a lot of the
12 night sitting with his foot propped up to try to reduce the
13 swelling. But you'll -- I'm sure you're going to see videos
14 from inside the club that night. You're going to see him
15 scooting around. He wasn't able to put any pressure on it.

16 Mr. Armenta and his friends -- friend had been at
17 Hooters prior to this, drinking Crown and Coke, had come to
18 King Street Cabaret, continued drinking and were hanging
19 out. And there's not going to be anything extraordinary on
20 video. Most of -- as Mr. Simpson said, most of what
21 happened that led to them being ejected happened in this
22 private room with Isabella was her stage name, Hannah Manzi.

23 Now, significantly, when Mr. Armenta got to MUSC
24 that night and they tested his blood alcohol level, his
25 blood alcohol level was .20. And I don't know if you all

1 know, but the legal limit in South Carolina is .08, so it
2 was about two and half times the legal limit.

3 Also, significantly, Mr. Armenta was wearing a
4 black shoulder bag. It's kind of a fanny pack that you wear
5 across your chest and he wore that the entire night.

6 Isabella has a private dance with him and another
7 patron. She is going to come and testify. She's going to
8 tell you what happened in that room. She's going to tell
9 you how Mr. Armenta was physical with her, that he threw her
10 against the wall several times. He picked her up, dropped
11 her on her head, and even exposed himself. And she can tell
12 you, she was frightened. She had only been there for two or
13 three weeks, the first time that she had ever experienced
14 something like that. And she was scared. She came out, she
15 was upset, talked with several people. She didn't really
16 know how to handle the situation. There was a dispute about
17 money with Mr. Armenta. And she told him -- trying to
18 diffuse the situation, she said, Look, I'm going to have to
19 go tell my manager, you know, if we can't work this out.

20 It was such a disagreement in the situation that
21 his friend came back to the room to try and give her some
22 money to make things right. Mr. Armenta -- when she told
23 him she was going to have to go and tell the manager,
24 Mr. Armenta said, That's fine, I'll beat his ass. And that
25 concerned her because she knew the condition of Melshaun,

1 she knew he was on the scooter, and she didn't want to cause
2 problems. She thought if she could just let it go, that
3 that would be best.

4 But talking with several of the other girls in the
5 club and several of the patrons, they said, Well, you need
6 to tell Melshaun just so that he doesn't mess with any of
7 the girls and there are no other problems. So she goes and
8 tell Melshaun what happened, and he goes to find the
9 gentleman to tell him that it's time to go, time to call it
10 a night. As Mr. Simpson said, he's going to the front of
11 the club, and they're coming out of the bathroom, and
12 they're leaving.

13 There's a camera by the front door that shoots
14 down, so some of this interaction is captured. Some of it
15 happens off-camera. What you'll see as Melshaun comes to
16 the door, he's smiling, and you can almost read his lips as
17 he's telling the guys, like, Look, just go on. Don't come
18 back. Your money's not good anymore here. That's not how
19 we act.

20 Mr. Armenta, who's walking away, comes back to
21 Melshaun, and you can read his lips. He says, Fuck you.
22 Melshaun's going to testify that he also told him, You don't
23 want to fuck with me, and made other threats. He walks
24 off-camera and comes back. There's another camera view
25 that's pointing out to the parking lot where you can see his

1 friend, who's walking back -- has to come back twice to get
2 Mr. Armenta.

3 Now, I don't know what triggered him or what
4 caused it, but he was pissed, and his friend has to come
5 back twice to get him. And they walk off. And that black
6 bag is important because Melshaun's going to tell you that
7 Mr. Armenta kept reaching for the bag -- reaching in the bag
8 and Melshaun was concerned that he had a gun.

9 So given the interaction with Isabella. Given the
10 threats at the front door. Melshaun knew from past
11 experiences that if he was going to make a report, he needed
12 to get -- have some identifying information. Obviously, you
13 can't make a police report with nobody's name or no address.
14 So he made the decision to go out to the parking lot to try
15 to get their tag number. And in an abundance of caution, he
16 went back into his office and got his handgun, put it in the
17 waistband of his pants, and went out to the parking lot.

18 He gets to the parking lot, and you'll see in the
19 video. He's 45 feet away from the street. The truck pulls
20 up to the stop sign, intersection of Courtland and King
21 Street. There's no stoplight. There's no traffic
22 inhibiting them from driving and turning. Nothing.
23 Melshaun's 45 feet away. The idea that somehow he kept them
24 from leaving is preposterous.

25 All they had to do was turn and they would be on

1 their way home. But you will see the video -- you'll see in
2 the video, I've got still photos that I think will help
3 clarify, but you can see Mr. Armenta, as they pull up to the
4 stop sign, is hanging out of the window. His full body,
5 both arms out of the window, yelling at Melshaun. And
6 Melshaun's talking back to them, telling them, Look, guys,
7 just go on and go. Go home. He doesn't want any trouble.
8 He hasn't pulled his gun. He's just telling them to leave.
9 He's trying to get the tag number. It's dusk out, and
10 you'll see on the video how light continues to decrease. It
11 gets darker and darker.

12 As Mr. Armenta is hanging out of the window of the
13 truck, Melshaun thinks he throws something at him. And he
14 reaches down, in a next stage to try to get them to leave,
15 and picks an object up off the ground and throws it at them.
16 Continuing to tell them, Come on, guys, go. They get out of
17 the truck. At this point, Melshaun, on his scooter, is not
18 able to run away. Mr. Armenta has continued to reach into
19 the bag. The bag is open, and he's pulled an item out of it
20 and has it in his hand. They flank him, come around both
21 sides, there's a car -- at all times, Melshaun had kept the
22 car between himself and the truck -- they come around both
23 sides of the car, coming towards Melshaun, and he pulls the
24 gun.

25 Mr. Armenta has this item in his hand and Melshaun

1 makes the decision that he thinks he's going to be shot.
2 And he pursues Mr. Armenta around the side of the car to try
3 to get what he has in his hand. They struggle. And you're
4 going to hear Mr. Armenta's statement, twice, the police ask
5 him multiple times, Why did you get out of the truck? It
6 doesn't make any sense. And he said because he was mad when
7 he saw the gun and he wanted to take the gun. And you'll
8 hear his words where he said he was trying to take the gun
9 from Melshaun as they were struggling. And his friend comes
10 behind Melshaun and starts hitting him in his back and in
11 the back of his head. And in five seconds -- that's as long
12 as it lasted -- Melshaun pulled away, fired several shots.

13 His friend, I submit, when you see the video,
14 grabbed onto Melshaun's arm as he was pulling away and fell
15 towards him, and yes, was on the ground, but Melshaun will
16 tell you, he still thought that he was coming after him.
17 And he fired several more times. Five seconds. He didn't
18 pursue them. He wasn't chasing them. This was a
19 split-second reaction to what was happening to Mr. Armenta
20 trying to take the gun from him.

21 Now, ladies and gentlemen, my name is Blair
22 Jennings. It's my pleasure to be representing Melshaun. I
23 sat at the same table that Mr. Simpson sat -- is sitting at
24 for 13 years as a prosecutor. I prosecuted cases in
25 Richland County in this courthouse, in Berkeley County, in

1 Aiken, Dorchester County, Orangeburg. And for the last
2 14 years, I've had the pleasure doing this as a defense
3 attorney and my job is going to be to defend Melshaun on
4 these charges.

5 As you've heard, self-defense is an affirmative
6 defense. We don't have to prove it, but once it's raised,
7 the State has to disprove it beyond a reasonable doubt. So
8 not only do they have to prove that he committed murder and
9 attempted murder with proof beyond a reasonable doubt, but
10 they have to disprove all the elements of self-defense
11 beyond a reasonable doubt. And the burden is entirely on
12 them, because right now Melshaun is presumed innocent.

13 This is the greatest protection that any of us as
14 Americans have is the presumption of innocence. And what
15 that means is when the government accuses you of a crime
16 you're presumed innocent. You are entitled to have your day
17 in court, to come in front of a jury, 14 people just like
18 yourself from the community, to hear the case and require
19 the government to prove you guilty beyond a reasonable
20 doubt. And he wears that protection throughout this trial
21 up until Judge Jefferson charges you on the law and you all
22 go back into your jury room for your deliberations. And
23 you'll decide whether the government has proven him guilty
24 beyond a reasonable doubt.

25 Reasonable doubt is just that. Doubt that would

1 cause the average person hesitation to act. The Judge will
2 charge you if after hearing the evidence you're firmly
3 convinced in his guilt, then it would be your obligation to
4 find him guilty. By the same token, if you are not firmly
5 convinced, if you have a doubt as to the case, then it's
6 your obligation -- would be your obligation to find him not
7 guilty.

8 We talked briefly about self-defense, as
9 Mr. Simpson said we'll address this more in closing
10 arguments, but there's three key components that I want to
11 talk to you about. One is the right of a person to act on
12 appearances. And what that means is you're entitled to act
13 on the appearances as they seem to you, even if it's
14 ultimately proven wrong. The law does not hold you to some
15 infallible level of analysis. So if somebody has something
16 in their hand that you can reasonably think is a gun, you
17 can act on that appearance if you're reasonably in fear for
18 either your life or suffer serious bodily injury.

19 The second is that a business proprietor, owner,
20 worker is not required to retreat from a situation when they
21 are ejecting somebody from the business in good faith. And
22 finally, a person's not required to wait for somebody to get
23 the drop on, for lack of a better term. In other words, you
24 don't have to wait, if you reasonably think that your life
25 is in danger, think that somebody is armed with a deadly

1 weapon, you're not required to wait for them to fire a shot
2 or to assault you. You can act under the reasonable
3 appearances as they seem at the time.

4 And the most important word in self-defense is
5 that word "reasonable." Would a reasonable person have been
6 in fear? Would a reasonable person have thought they were
7 in imminent danger of suffering serious bodily injury or
8 death? What's a reasonable person? It's not me. It's not
9 Mr. Simpson. It's not any of you. A reasonable person is a
10 person in Melshaun's shoes at the time of the incident. A
11 reasonable person who knew what he knew and had experienced
12 what he had experienced that night.

13 In this case, a reasonable person couldn't walk
14 away or run away because he was using a scooter. A
15 reasonable person was afraid he would be attacked or shot in
16 the back if he ran. A reasonable person who had already
17 told these men to leave. And they had had every opportunity
18 to leave. A reasonable person had watched them sit in their
19 truck for 48 seconds and not drive away. A reasonable
20 person who had pulled a gun to try and get them to leave and
21 they didn't.

22 What's a reasonable person to conclude when you
23 pull the gun and the people keep approaching you and you
24 think that they have something in their hand? The only
25 reasonable thing to conclude is that the person's armed and

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 intends to hurt you.

2 And that's what y'all are here to decide. As
3 Mr. Simpson says, this is not a case like you see on TV.
4 It's not a whodunit like you see on Dateline. It is a what
5 is it? Is it murder? Or is it self-defense? And I submit
6 to you that once you've heard all the evidence you're going
7 to be left with one conclusion, all they had to do was drive
8 away. And once you reach this conclusion you will determine
9 that it was self-defense and will return a verdict of not
10 guilty. Thank you.

11 THE COURT: Call your first witness.

12 MS. BOZARTH: Your Honor, the State calls Kevin
13 Speers.

14 KEVIN SPEERS, after being duly sworn,
15 testified as follows:

16 THE CLERK: Please be seated. Please state your
17 full name, spelling your last name loudly and clearly into
18 the microphone.

19 THE WITNESS: I'm Officer Kevin Spears. It's
20 S-P-E-E-R-S.

21 THE COURT: You may proceed.

22 DIRECT EXAMINATION

23 BY MS. BOZARTH:

24 Q. Officer Kevin Speers, where do you work?

25 A. I work for the City of Charleston Police

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 Department.

2 Q. And for how long have you been working there?

3 A. Coming up close to seven years now. I've worked
4 for -- in patrol.

5 Q. All right. And what is, I guess, your prior
6 training with regard to law enforcement?

7 A. So before I got into law enforcement, I was a
8 healthcare specialist in the Army Reserves. I was a
9 volunteer EMT while I was in college. That's where I got --
10 I went to school in Farmville, Virginia. I got a four-year
11 degree in criminal justice.

12 Q. And you said now you're an officer?

13 A. Yes.

14 Q. And what are your, briefly, current duties right
15 now?

16 A. Right now, I'm a robbery detective within the
17 Central Investigations Unit. Before that, I was a patrol
18 officer until July of 2021. From there, I went into more of
19 an investigative role. I started off kind of working within
20 a patrol team as an investigator. Then I moved to Central
21 Investigations in November of 2022.

22 Q. So you said back in 2021 you worked patrol?

23 A. Yes.

24 Q. And at that time what were your duties as patrol?

25 A. As a patrol officer, I would respond to calls for

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 service, take police reports, complete, you know, any sort
2 of follow-up that a patrol officer would do, like going to
3 the hospital for traffic accidents, kind of just talking
4 with members of the community. Anytime someone gets a call
5 for -- makes a call for 911, I would respond.

6 Q. And on April 25th, 2021, did you receive a call
7 about this case?

8 A. Yes.

9 Q. What did you do, if anything, in response to that
10 call?

11 A. So at that time, I was driving. I was a patrol
12 training officer, so I had a trainee that was within his
13 first two weeks. So once we got the call, we -- I activated
14 my blue lights and sirens, and I began driving to the
15 incident location.

16 Q. And you remember around what time you got that
17 call and you arrived?

18 A. It was around 8:30 P.M.

19 Q. Did you know what type of crime you were
20 responding to?

21 A. It was a shots-fired call.

22 Q. Okay. And where were you responding? What was
23 the location?

24 A. It was 1337 King Street Extension, which is the
25 King Street Cabaret.

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 Q. And is that in the City of Charleston County?

2 A. Yeah, that's within the City and County of
3 Charleston.

4 Q. Can you describe the scene when you arrived?

5 A. So I came from the south side of the intersection
6 to -- it'd be, like, King Street and Mount Pleasant Street.
7 And I came north on King Street Extension. So the business
8 was to my left. I parked on King Street Extension. At that
9 time, there was another patrol car in front of me, so we
10 arrived on scene at the same time. I saw a -- a large crowd
11 kind of formed in the parking lot as well as on Courtland
12 Ave, which is a road that kind of cuts through the
13 business's parking lot, as well as there's a gravel lot
14 across the street. And then I observed the victims lying on
15 the ground on Courtland Ave near a truck.

16 THE COURT: Sir, if you could pull that microphone
17 toward you and speak into it for me, that would be helpful.

18 MR. SPEERS: Yes, ma'am.

19 THE COURT: Thank you.

20 BY MS. BOZARTH:

21 Q. And were you wearing your body-worn camera at the
22 time?

23 A. I was.

24 Q. Was that turned on?

25 A. Yes.

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 Q. Okay. I'm showing you what's been already entered
2 into evidence as State's 15; do you recognize this?

3 A. I do.

4 Q. And you've reviewed the context on this?

5 A. I have.

6 MS. BOZARTH: Your Honor, permission to publish
7 State's 15?

8 THE COURT: You may proceed.

9 BY MS. BOZARTH:

10 Q. And before we play that, is this just a clip of
11 your body cam?

12 A. Yes.

13 Q. And is it just your body cam without sound?

14 A. Yes.

15 (VIDEO RECORDING PLAYING.)

16 Q. So that's just of your body cam. Just to further
17 explain, provided the bigger picture, what -- when you're
18 arriving, can you describe where the victims were
19 positioned?

20 A. Yes. So the -- the -- the living victim, who's
21 the one that I was interacting with in the clip, he was
22 laying on his left side on Courtland Ave. And then the
23 deceased victim was a little bit closer, like, to the black
24 pickup truck that was there. He was kind of slumped over
25 the, like -- the little step to get into the truck. Then

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 kind of the door was open. The driver's door was open. The
2 living victim, he had a -- a laceration to his forehead --
3 or to the top of his head, and then an apparent GSW to the
4 -- his right hip and abdomen area.

5 Q. And GSW means?

6 A. A gunshot wound.

7 Q. So you tend to that victim first. What was the
8 other victim doing?

9 A. The other victim was unresponsive. There was
10 another officer that approached the -- that victim. He
11 wasn't responsive with that officer. And then they moved
12 further back into the parking lot or down Courtland Ave.

13 Q. Do you know about how far apart the two victims
14 were?

15 A. Just a few feet.

16 Q. And the victim you attended to, what was his
17 demeanor?

18 A. He -- he kind of had, like, labored speech. He
19 was, you know, a little bit communicative towards me. He
20 was able to articulate where he had been shot, but he kind
21 of was just -- didn't have much to say. He was kind of
22 almost in shock a little bit.

23 Q. And did you stay with the victim until EMS
24 arrived?

25 A. That's correct.

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 Q. And about what time did EMS arrive?

2 A. Within a few minutes.

3 Q. And do you know when crime scene arrived?

4 A. I don't know the approximate time that they
5 arrived, but that was several minutes later.

6 Q. But you got there before everybody?

7 A. Yes.

8 Q. And so what were your primary duties when you got
9 there?

10 A. When I got there, I was responding, providing
11 initial aid to the -- the living victim until EMS and the
12 firefighters arrived on scene. After that, I began to
13 establish the crime scene.

14 Q. And establishing the crime scene? Can you explain
15 that?

16 A. Yes. So that means to secure it. So preventing
17 any additional or unnecessary foot traffic into the area
18 where the victims and any sort of evidence would have been
19 located, putting up crime scene tape, starting a crime scene
20 log that kind of documents who is coming into the crime
21 scene, because more officers are responding, more medical
22 personnel are responding, our crime scene technicians,
23 people like that.

24 Q. So were people allowed to leave the club?

25 A. The witnesses, no. We set -- we -- there was

KEVIN SPEERS DIRECT BY MS. BOZARTH

1 another area that was set up to kind of keep them separated.

2 Q. And were the cars allowed to drive away?

3 A. No.

4 Q. Okay. So y'all have a specialized crime scene
5 unit. What's the purpose of that?

6 A. It's their responsibility to collect evidence.

7 Q. So your job -- are you there to take statements?
8 Are you there to interview a defendant?

9 A. I just -- no, I'm not.

10 Q. Are you there to collect video footage?

11 A. No.

12 Q. Are you there to collect fingerprints?

13 A. No.

14 Q. Nothing like that?

15 A. No.

16 Q. You're just there to respond?

17 A. That's correct.

18 Q. So when crime scene arrived, what did you do?

19 A. When crime scene arrived, I was still on one of
20 the perimeter positions of the crime scene, just making sure
21 no one else that was not law enforcement related or the
22 coroner's office or anything like that, that they were not
23 entering the crime scene.

24 Q. And for how long did you stay on scene?

25 A. Until the detectives and our crime scene

KEVIN SPEERS CROSS BY MR. JENNINGS

1 technicians concluded there on scene.

2 Q. So was that, like, in the early morning?

3 A. Yeah, I believe so.

4 Q. Did you have any further involvement?

5 A. No.

6 MS. BOZARTH: Please answer any questions Defense
7 may have.

8 THE COURT: Mr. Jennings?

9 MR. JENNINGS: Thank you, Your Honor.

10 THE COURT: You're welcome.

11 CROSS-EXAMINATION

12 BY MR. JENNINGS:

13 Q. Good afternoon.

14 A. Good --

15 Q. Detective?

16 A. Yes.

17 Q. All right. So when you arrived, I think you said
18 the crime scene was hectic?

19 A. It was.

20 Q. Lots of people around?

21 A. Yes.

22 Q. And looking at the video, there's a gentleman
23 helping Mr. Armenta when you get there. I think he actually
24 lived in the neighborhood, correct?

25 A. I believe so.

KEVIN SPEERS CROSS BY MR. JENNINGS

1 Q. Behind the club?

2 A. That sounds familiar.

3 Q. Okay. And I think a truck had driven up that was
4 from the neighborhood behind the club?

5 A. Are you referring to --

6 Q. The white truck.

7 A. -- the white truck? Yes.

8 Q. Okay. So there were a lot of people before you
9 got there --

10 A. Correct.

11 Q. -- at the scene? Do you know how long it was
12 after the call came in that you got to the scene?

13 A. It was within a few minutes, if that.

14 Q. Okay. And all you can do then is kind of take
15 control once you get there, correct?

16 A. Yes.

17 Q. At that point, you don't know if things have been
18 disturbed or moved before you got there?

19 A. No.

20 Q. You don't know if anything's been removed before
21 you got there?

22 A. That's correct.

23 Q. At the time when you were an officer kind of
24 responding to the scene, one thing you typically do will be
25 to take an incident report, correct?

KEVIN SPEERS CROSS BY MR. JENNINGS

1 A. Yes.

2 Q. If you go to a traffic accident scene, you'll do a
3 report, document everybody's information, name, address,
4 license plate, et cetera.

5 A. Uh-huh.

6 Q. If you get called to a scene of a trespassing or
7 an assault or something, you'll take suspect information in
8 the report, correct?

9 A. Yes.

10 Q. All right. Part of the information that you need
11 in the report, obviously, is identifying information of the
12 suspect. You need their name, their address, personal
13 information, correct?

14 A. Uh-huh.

15 Q. And in the course of your duties, I'm sure you
16 have many opportunities to get a tag number out of the scene
17 of an accident or somebody said, Hey, this car was doing
18 this, and this was the tag number?

19 A. Yes.

20 Q. Yes? And you've got a system where you can call
21 in to dispatch and you can say, Can you run this tag for me,
22 correct?

23 A. Yes.

24 Q. And you'll get the information back almost
25 instantly --

KEVIN SPEERS REDIRECT BY MS. BOZARTH

1 A. Yes.

2 Q. -- on the tag. They'll give you the name of the
3 registered owner, the registered owner's address, and then
4 you can use that for whatever you might need, correct?

5 A. Correct.

6 MR. JENNINGS: Thank you, Your Honor. That's all
7 the questions I have.

8 THE COURT: Any re-direct?

9 MS. BOZARTH: Briefly.

10 REDIRECT EXAMINATION

11 BY MS. BOZARTH:

12 Q. So when you arrive, is it your first priority to
13 help people?

14 A. Yes.

15 Q. Especially someone who's been shot?

16 A. That's correct.

17 Q. And the other person who's been shot and killed?

18 A. Yes.

19 Q. Is your second priority establishing a crime
20 scene?

21 A. That's correct.

22 Q. So you'd say you prioritize people over the crime
23 scene?

24 A. Yes.

25 MS. BOZARTH: Thank you.

KEVIN SPEERS REDIRECT BY MS. BOZARTH

1 THE COURT: Any objection to the witness being
2 excused from the State?

3 MS. BOZARTH: No, Your Honor.

4 THE COURT: From the Defense?

5 MR. JENNINGS: No, Your Honor.

6 THE COURT: Sir, you're excused.

7 THE WITNESS: Thank you.

8 THE COURT: You're welcome. Call your next
9 witness.

10 MR. SIMPSON: Your Honor, at this point in time,
11 with the Court's permission, the State would seek to publish
12 the stipulations.

13 THE COURT: You may proceed.

14 MR. SIMPSON: Thank you.

15 THE COURT: What numbers are those, please? 7, 8,
16 and 9; is that correct?

17 MR. SIMPSON: Yeah, of course, Judge. I'm so
18 sorry. That will be State's 7, 8, and 9. Yes, Your Honor.

19 THE COURT: Ladies and gentlemen, a stipulation is
20 an agreement between counsel and it requires no further
21 proof. You may proceed.

22 MR. SIMPSON: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 MR. SIMPSON: Stipulation 1, the State and the
25 Defense agrees to the following: On Sunday, April the 25th,

1 2021, in the parking lot of 1337 King Street, the King
2 Street Cabaret, Zabdiel Tinoco-Hernandez, age 30, date of
3 birth [REDACTED] was pronounced deceased by responding
4 medical personnel.

5 The later autopsy concluded that Mr. Hernandez
6 died as a result of multiple penetrating, perforating,
7 indeterminate range gunshot wounds. Gunshot wound A entered
8 Mr. Hernandez's back left shoulder area, internally damaging
9 Mr. Hernandez's left lung and heart. Gunshot wound B
10 entered Mr. Hernandez's lower left back closer to the
11 midline, internally damaging Mr. Hernandez's valve. Gunshot
12 wound C entered Mr. Hernandez's rear right arm below the
13 elbow, passed through soft tissue, and exited on the other
14 side of the arm, exit wound marked D.

15 The State and the Defense agree that State's
16 Exhibit 2, 3, 4, 5, and 6 are fair and accurate photographs
17 and/or diagrams of the gunshot wounds described in this
18 stipulation and admissible in the present trial. The State
19 and the Defense agreed that toxicology analysis performed on
20 ephemeral blood of Zabdiel Tinoco-Hernandez detected the
21 presence of alcohol and revealed a blood alcohol
22 concentration of 0.123. The toxicology screening was
23 otherwise negative.

24 Your Honor, at this point in time, the State will
25 seek to publish the referred to Exhibits 2, 3, 4, 5, and 6.

1 State's Exhibit 2, State's Exhibit 3, State's Exhibit 4,
2 State's Exhibit 5, and State's Exhibit 6.

3 (STATE'S EXHIBITS NO. 2, 3, 4, 5, and 6 were
4 published.)

5 MR. SIMPSON: Stipulation 2, The State and the
6 Defense agree to the following: On Sunday, April 25th, 2021,
7 in the parking lot of 1337 King Street, King Street Cabaret,
8 Jaziel Armenta-Zavala, age 30, date of birth [REDACTED], was
9 located on the ground, appeared to be suffering from one or
10 more gunshot wounds, and was promptly transported to the
11 Medical University of South Carolina for treatment.

12 Later, treatment revealed Mr. Armenta-Zavala
13 suffered from two gunshot wounds. The first was a gunshot
14 wound to the right hip. The projectile traveled laterally
15 into the hip and was located inside his body near the L4
16 spinal segment, also causing a fracture to the right pelvic
17 bone. The second was a grazing gunshot wound to the front
18 of the scalp.

19 The State and the Defense agree that toxicology
20 analysis was performed on a blood sample of
21 Mr. Armenta-Zavala. The test detected the presence of
22 alcohol and revealed blood alcohol concentration of 0.200.
23 The toxicology screening was otherwise negative.

24 Stipulation 3, the State and the Defense agree to
25 the following: The incident subject to the present trial

1 occurred on Sunday, April 25th, 2021, in the parking lot of
2 1337 King Street, an adult entertainment establishment known
3 as the King Street Cabaret. The King Street Cabaret is an
4 establishment equipped with video surveillance system, with
5 a video surveillance system containing 13 different
6 surveillance cameras.

7 Generally speaking, the fixed camera positions are
8 as follows: channel 1, view of the parking lot from the
9 front corner of the building; channel 2, view of the front
10 door, exterior view; channel 3, view of the front lobby
11 check-in counter; channel 4, reverse view of channel 3 from
12 behind the front check-in counter; channel 5, view of the
13 hallway from the lobby to the main bar area; channel 6, view
14 of the main bar area from behind the bar; channel 7, view of
15 the interior of the bar/bartender; channel 8, view into the
16 DJ booth; channel 9, office view; channel 10, view of the
17 exterior back patio; channel 11, view of the entrance to the
18 walk-in food court; channel 12, second view of the parking
19 lot, this view from the back patio; channel 13, view of the
20 interior dancing room.

21 Following this incident, the entirety of the video
22 recordings from the date of this incident received by the
23 Charleston Police Department, the video was copied and later
24 provided in its entirety by the State and the Defense.

25 Following the acquisition of the video

1 surveillance, the State created video clips which followed
2 certain individuals for the relevant portions of the night
3 in question as they passed from one camera view to the
4 other. These video clips were subsequently provided to the
5 defense as well.

6 The State and the Defense agree that the video
7 clips referenced above are fair and accurate predictions in
8 various areas of the King Street Cabaret on the night in
9 question. They contain accurate and consistent timestamps,
10 and they were properly collected and distributed to the
11 parties.

12 The State and the Defense agree that the following
13 exhibits are admitted into evidence in this trial and any
14 pretrial hearings by consent of the party.

15 State's Exhibit 1, described as a flash drive
16 containing video clips. 1A, video clip following Melshaun
17 Robinson; 1B, video clip following Zabdiel Tinoco-Hernandez,
18 and Jaziel Armenta-Zavala; 1C, video clip following Hannah
19 Manzi; 1D, video clip, the incident in split screen, the
20 bottom regular view, top zoom from channel 1 parking lot
21 view.

22 And, finally, Defense Exhibit, a flash drive
23 containing a video clip, a view of the incident from channel
24 13 and the second parking lot view. The State and the
25 Defense agree.

1 Your Honor, again, the stipulations are marked and
2 entered into evidence. Thank you, Your Honor.

3 THE COURT: You may proceed with your next
4 witness.

5 MR. SIMPSON: The State calls Ashleigh
6 Wojslawowicz.

7 ASHLEIGH WOJSLAWOWICZ, after being duly
8 sworn, testified as follows:

9 THE CLERK: Please be seated. Please state your
10 full name, spelling your last name loudly and clearly into
11 the microphone.

12 THE WITNESS: Ashleigh Wojslawowicz,
13 W-O-J-S-L-A-W-O-W-I-C-Z.

14 THE COURT: And if you could spell your first name
15 as well for the court reporter.

16 THE WITNESS: Ashleigh, A-S-H-L-E-I-G-H.

17 THE COURT: You may proceed.

18 MR. SIMPSON: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 DIRECT EXAMINATION

21 BY MR. SIMPSON:

22 Q. I was very close this time. Is it okay with you
23 if I refer to you as Ashleigh; is that okay?

24 A. Absolutely.

25 Q. Okay. Thank you for that. Ashleigh, I could

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 start by introducing you a little bit to the Jury. What is
2 it that you do now? Because I think it's kind of
3 interesting.

4 A. I am the research manager for the Charleston
5 County Criminal Justice Coordinating Counsel.

6 Q. And what sort of things do you do in that
7 capacity?

8 A. I oversee research, essentially. So anything to
9 do with the criminal justice system, data points,
10 benchmarks, I oversee it, I conduct that. Think of it as a
11 professor, but in the field, I call it pracademic so I'm
12 conducting research that helps people make decisions.

13 Q. Okay. Those are law enforcement-related
14 decisions?

15 A. Absolutely, yes.

16 Q. Are you frequently a public speaker in that
17 capacity?

18 A. I am, yes.

19 Q. And then what sort of arenas are you asked to
20 speak of?

21 A. I am a subject matter expert for the National
22 Center for Biomedical Research and Training, an adjunct
23 professor for Truett McConnell University. I'm a National
24 Institute of Justice Lead Scholar, so Law Enforcement
25 Advancing Data and Science. And I speak with the Department

1 of Justice.

2 Q. Okay. Well, we started kind of at the end there.
3 Obviously, you don't wake up with that kind of position.
4 Can you explain to this jury sort of what brought you there,
5 your educational history, your professional history, et
6 cetera?

7 A. Yes. Before my current role, I worked 12 years
8 with the Charleston Police Department as a crime scene
9 investigator. I continued my education and eventually ended
10 up where I am today.

11 Q. And in the course of being a crime scene
12 investigator, would that require -- what kind of educational
13 background does that require?

14 A. Well, at the time of obtaining the position, I had
15 a bachelor of science in criminal justice and a minor in
16 psychology. But then I also obtained a master of science in
17 criminal justice, and then eventually, a doctorate of
18 education with an emphasis on organizational leadership.

19 Q. Thank you. And so thank you again for letting me
20 refer to you as Ashleigh --

21 A. Yeah.

22 Q. -- or doctor or (inaudible.)

23 Does being a crime scene analyst during that time
24 when you had that position require continuing education?

25 A. Yes. Absolutely.

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 Q. Okay. And what sort of things would you receive
2 continuing education on part and in addition to the formal
3 education you just discussed?

4 A. So standard continuing education with -- for this
5 position would be 400 hours of in-service training that
6 occurs on the onset of the position, but then continual
7 throughout the career.

8 So there are different certification levels that
9 can be obtained. My certification level was the highest,
10 the Certified Senior Crime Scene Analyst position through
11 the International Association for Identification, which
12 requires 10 years of experience in addition to different
13 types of cross-training and disciplines. So there's areas
14 that you can specialize in. I was in latent recovery.

15 Q. Okay. And what was the -- you sort of covered a
16 long time frame there. What was your specific role in April
17 of 2021?

18 A. On that date, I was a master crime scene
19 investigator, so the equivalent of a -- a road sergeant.

20 Q. Okay. And in that capacity, did you have an
21 occasion on April the -- Sunday, April the 25th, to respond
22 to 1337 King Street?

23 A. I did.

24 Q. And if you could just describe to this Jury a
25 little bit about your initial response to that scene.

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 A. Yes. So on that date and time, I was contacted by
2 my fellow investigators of a -- a scene response that was
3 undergoing. I was not the first crime scene investigator on
4 scene, I was a secondary. And when I arrived on scene, I
5 was advised of the scene layout, what had been -- what was
6 present at the scene, the type of evidence, the detectives
7 on scene. So debriefed of the situation, essentially.

8 Q. And is a big part of a crime scene response
9 documenting the scene as you find it when you respond?

10 A. Yes.

11 Q. And how did you go about doing that in this case?

12 A. Through photographs and video and note-taking.

13 Q. Okay.

14 MR. SIMPSON: And, Your Honor, we've got some
15 exhibits, photographic exhibits, that have been entered by
16 consent.

17 BY MR. SIMPSON:

18 Q. I want to give you -- it's quite a few. I think I
19 -- I think we'll do this in sections.

20 A. Okay.

21 Q. Begin by showing you what's been already entered
22 into evidence as State's 45 through 51, noting that 47 is
23 not included.

24 A. Okay.

25 Q. And so we'll do these.

1 A. Okay.

2 Q. You recognize those?

3 A. I do.

4 Q. Okay. And if you could, I just want you to --
5 we'll be going through quite a few photographs. And I'll
6 just ask with each that you sort of describe to the Jury
7 what we're looking at. And if I have any specific questions
8 about any, I'll interrupt you, if you don't mind.

9 A. Okay.

10 Q. Start with State's 45.

11 A. So this is the -- a portion of the crime scene
12 that had been marked off with yellow barrier tape. Inside
13 this taped area, there was a black GMC truck. And alongside
14 the driver's side of the truck was the decedent who is
15 currently being shielded by that privacy screen right there.

16 Q. Okay. This is a really dumb, obvious question.
17 This is something that the crime scene unit brings?

18 A. Yes.

19 Q. And you call that a privacy screen. What's the
20 point of that?

21 A. The -- the point is twofold. One is to be
22 respectful of the decedent, but then also to protect
23 evidence that may be on, around, or nearby.

24 Q. And, you know, again, another obvious question:
25 but we see sort of a numbered placard here; what's that?

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 A. Those numbered placards indicate items of
2 interest. So those -- 1 and 2 are items of clothing that
3 were nearby.

4 Q. And in your long experience as a crime scene
5 investigator and responder, is clothing often discarded in
6 the course of medical treatment that might occur in a first
7 responding situation?

8 A. Yes. In my experience, that's the standard
9 medical practice for life-saving measures.

10 Q. Okay. Moving on to 46.

11 A. This is a photograph of that same area, but this
12 is now inside the privacy tent. So you can see the driver's
13 side of that GMC truck and then the decedent is covered by a
14 medical blanket.

15 Q. And then, would you spend some time sort of
16 hopefully painting a picture for the Jury of the layout of
17 this area? Do we see -- what do we see here through the
18 rear windows?

19 A. That would be the adult nightclub, King Street
20 Cabaret.

21 Q. Okay. And is that -- that lit-up portion of that,
22 is that the front entrance?

23 A. Yes.

24 Q. Let's go to State's 48.

25 A. This is the exterior driver's side of that GMC

1 truck, the -- the foot area.

2 Q. And then we'll backtrack to 46. Do you generally
3 know whether it was the end there on 48?

4 A. Yes. It's a close-up of that silver foot.

5 Q. You said driver's side?

6 A. Yeah.

7 Q. State's 49?

8 A. This is a cell phone that was pulled from the
9 decedent's pocket in his pants.

10 Q. State's 50?

11 A. These are additional personal items that were
12 removed from clothing that were on the decedent.

13 Q. State's 51?

14 A. And a -- a passport photo of -- that were -- that
15 was removed from the clothing as well.

16 Q. So that's -- it appears that you're documenting
17 items found on the person of the deceased?

18 A. Yes.

19 Q. I noticed -- I didn't see any pictures of a gun.

20 A. That's correct.

21 Q. Would you have documented any sort of firearms
22 that were reported?

23 A. Yes, I would have.

24 Q. If you had seen a firearm?

25 A. Yes.

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 Q. To the best of your knowledge, was there any
2 firearms -- were there any firearms found on the scene?

3 A. Not, no.

4 Q. Okay. I'll show you now what's been marked and
5 entered as State's 52 through 65. If you could take a
6 minute to review those.

7 A. Sure. Okay.

8 Q. We'll just proceed in the same manner. Here's the
9 fifth, State's 52.

10 A. So this is item marker number 3 is notating a
11 black bag that was next to the decedent.

12 Q. And is this in -- would this have been
13 photographed in the same manner in which you found it?

14 A. Yes, it would have.

15 Q. Okay. Is there any manipulation by you in any way
16 happening to this bag prior to this photograph?

17 A. No.

18 Q. Okay. State's 53?

19 A. This is a close-up image of that same bag.

20 Q. Now, I noted just now that the previous picture
21 had not been manipulated by you. Would this have been
22 manipulated by you in some way?

23 A. Yes. This -- this would be me opening to document
24 the contents of the bag.

25 Q. And if you can tell, what do we see sort of --

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 this corner right here, what is that, the little glare on
2 it?

3 A. Right. It appears to be cash.

4 Q. And moving on to State's 54. What is this?

5 A. This is that same bundle of cash that was pulled
6 out and -- and spread out to show the -- the contents.

7 THE COURT: What number is that, please?

8 MR. SIMPSON: 54, Your Honor.

9 THE COURT: Okay.

10 BY MR. SIMPSON:

11 Q. 55?

12 A. This is the same bag. This is a different
13 compartment. So this is me going through the -- the bag and
14 looking for items.

15 Q. 56?

16 A. So this is demonstrating, again, the same bag, but
17 an item that is in one of those pockets.

18 Q. 57?

19 A. This is me pulling out the items, so earphones.

20 Q. 58?

21 A. And then another pocket, noting some lottery
22 tickets.

23 Q. Now, I want to jump ahead a bit chronologically in
24 your work. When you find sort of like a bag or a container
25 or something, what's done with that sort of -- first of all,

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 do you seize that, take control of it?

2 A. Yes, yes.

3 Q. And what's done with that later on in the process?

4 A. Later on, it is documented again with all the
5 contents spread out to more easily show what was inside the
6 bag.

7 Q. Where is that during that time?

8 A. At the -- at a secured location at the crime scene
9 office.

10 Q. Okay. Next, I'm showing you what's been marked as
11 -- and entered as State's 59. What are we seeing here?

12 A. This is that photograph that I just described at
13 the crime scene office with the same bag and all the
14 contents removed and laid out so we can easily see what was
15 inside.

16 Q. Okay. State's 60?

17 A. That's the close-up photograph of those earphones.

18 Q. And this is going to be really exciting for the
19 Jury. State's 61, what's in there?

20 A. The opened compartment of the earphones.

21 Q. All right. Earlier, we see the contents here in
22 59, and we see two items here in the top left corner?

23 A. Uh-huh.

24 Q. Showing you State's 62. What is that?

25 A. So this is what I described as a -- a tripod

1 accessory. So there were several items that had the -- the
2 Joby logo on it. And so this appeared to go along with the
3 other items.

4 Q. Do you see that in State's 59?

5 A. Yes. That's the -- the item that's on the -- the
6 top left next to the --

7 Q. Is this that right here?

8 A. The tripod. Yes. Yes.

9 Q. So it unfolded to a tripod?

10 A. Exactly.

11 Q. All right. State's 63?

12 A. And so this is another component of that tripod or
13 what I describe as a tripod.

14 Q. Okay. It's a photography accessory.

15 A. Yeah, yes.

16 Q. Is that fair? 64?

17 A. Is a close-up picture of that screw top of the
18 photography accessory.

19 Q. And 65?

20 A. And a -- another portion of it where you can
21 attach all the pieces.

22 Q. And that -- did -- that item is retractable and
23 expandable?

24 A. Yes, it is.

25 Q. Okay. It's sort of a selfie stick, I think,

1 whatever we saw here.

2 A. Yes, yes.

3 Q. At any point in time -- I didn't notice the
4 firearm in the bag.

5 A. That's correct.

6 Q. Was a firearm or weapon found in the satchel that
7 was searched?

8 A. No, there was not.

9 Q. Showing you what's been marked and entered as 66
10 through 73. Give you a chance to look through those.

11 A. Okay.

12 Q. And you're familiar with sort of the overall scene
13 in the larger shots. Showing you State's 66. What is that
14 depicted?

15 A. So this is the front portion of that GMC truck.
16 The -- the privacy tent would have been on the, if you're
17 looking at the photo, on the right side. And so the left
18 side is that parking lot, and then where you would see the
19 front entrance of the club is going to be on the left side
20 of the image.

21 Q. Thank you. Answered the question I was about to
22 ask. So if we were looking for the front of the club, would
23 that be to the right or the left -- my right or left as I
24 look at this image?

25 A. As you look at the image, it would be on the left

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 side.

2 Q. Okay. So we move from 66 to 67. Is that the same
3 truck?

4 A. Yes. This is the same truck. This is the
5 passenger side.

6 Q. I know I'm jumping ahead again chronologically,
7 but is there some item of interest to you in the -- on the
8 pavement there by that truck?

9 A. Yes.

10 Q. What is that? You can circle this if you need to.

11 A. So right here, I was advised that information had
12 been obtained from surveillance footage, that there was
13 potentially an item or a rock in that area that would have
14 been of interest. So I searched that side of the truck and
15 did locate what appeared to be a rock that was not
16 consistent with the rest of the area.

17 Q. Okay. I'm backing back to 66. I know it's not as
18 easy, but can you see that same item in 66?

19 A. Yes, that item would be --

20 Q. Okay.

21 A. -- right -- right there.

22 Q. Doctor, if you could tap on the top right. We
23 usually do this for you, but we're having some technical
24 difficulties --

25 A. Oh. No.

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 Q. Okay.

2 A. All right.

3 Q. And 68? You don't need to circle again, but do we
4 see that same item there in 68?

5 A. Yes. It would be on the ground next to the front
6 passenger wheel.

7 Q. And, Doctor, is this the same truck in State's 69?

8 A. This is, yes.

9 Q. Do you see another vehicle to the right side of
10 that photograph?

11 A. I do.

12 Q. Within the stop sign, sorry. What's that vehicle
13 doing?

14 A. The -- the white truck?

15 Q. I would say to the right of that, the other side.

16 A. The -- the blue truck, yes.

17 Q. Okay. State's 72, what do we see?

18 A. So this is a photograph inside of the -- the black
19 truck.

20 Q. Any items of note inside the truck?

21 A. Yes. So this would be me photographing the
22 interior of the contents in plain view. So this is not me
23 entering the truck but just looking into the window. So
24 notice it looks to be some blood-like staining on the -- the
25 seat, the driver's seat, as well as a set of keys in the

1 driver's seat.

2 Q. And State's 73?

3 A. And this would be me looking into the passenger
4 side.

5 Q. I'm going to give you State's 74 through 92 that
6 have been entered into evidence.

7 A. Okay.

8 Q. Take a moment to review those.

9 A. Okay.

10 Q. Okay. I think now is as good a time as any to
11 sort of show the Jury a certain camera angle. You did not
12 have anything to do with the video surveillance collection
13 or anything like that; is that fair?

14 A. That's correct.

15 Q. But if I showed you State's 74, relevant to maybe
16 some of your previous testimony, is there any frame of
17 reference you can give us to some things we've already seen
18 with this image?

19 A. Yes. So perhaps the most helpful would be on the
20 right side of that image. There's a black fence. So that
21 fence runs alongside the -- the front portion of the
22 entrance to the nightclub. This camera angle is the -- the
23 parking lot area of where that black GMC truck would have
24 been parked towards the back center of the image.

25 Q. Okay. And to be clear: we don't -- the last thing

1 you see is not evidence?

2 A. Correct.

3 Q. Okay. I'm going to jump back to State's 69 and
4 have you point out the blue pickup truck. Do you see that
5 here?

6 A. Yes.

7 Q. If we go forward again to 74, do we see that
8 pickup truck in this image?

9 A. Yes.

10 Q. Okay. Where is that?

11 A. The -- the top right corner where that privacy
12 fence is.

13 Q. Okay. And then so is it -- you were at the scene
14 that night. The black GMC, was it behind these two vehicles
15 here?

16 A. Yes, yes.

17 Q. Okay. Again, at approximately that distance?

18 A. Correct, yes.

19 Q. Describe to the Jury what we're looking at in
20 State's 75.

21 A. So this would be a shot of that blue truck and
22 that white car. And you can see the privacy fence kind of
23 in between the two near the front of that business entrance.

24 Q. And just because I'm a lawyer and I have to
25 belabor every point: do you see the two vehicles that we

1 just saw in this image here?

2 A. Yes, in the top right corner.

3 Q. Okay. The white and pickup truck?

4 A. Yes.

5 Q. Okay. And State's 76, what's that perspective
6 here?

7 A. So this is moving closer towards the entrance to
8 the nightclub with that privacy fence on the left. So this
9 is a different perspective of that same parking lot.

10 Q. Okay. You pointed out the black fence. Do you
11 see that here?

12 A. Yes, we do.

13 Q. And is this the end of that black fence?

14 A. Yes, it is.

15 Q. And I'm just going to point out, sometimes we see
16 something in front of items. This almost, like, white piece
17 of paper here, what is that?

18 A. Yeah. So those are officer business cards. So
19 when we have a scene that is very complex, it is common
20 practice to help identify items that might be of evidentiary
21 value to -- to help avoid tampering or stepping or moving
22 haphazardly during the response. So those white pieces of
23 paper are indicators of -- of caution, essentially.

24 Q. And if those items are later determined to have
25 some significance, you would put markers where you've seen

1 them?

2 A. Yes, yes.

3 Q. Show you State's 78.

4 A. So this is that same area, but at this point, I
5 have been walked through the scene and evaluated those
6 items, deemed them to be of interest, and have placed down
7 yellow evidence markers.

8 Q. And to the degree you can, is each item given a
9 unique number so the numbers aren't repeated?

10 A. Yes, they are.

11 Q. And here, what numbers do we see here?

12 A. Items 4, 5, and 6.

13 Q. And here you can see State's 79. Do we see more
14 of the markers there?

15 A. Yes.

16 Q. I'll ask that you read those just yet on State's
17 80.

18 A. All right. This is evidence marker number 4.
19 Appears to be a cell phone.

20 Q. State's 81?

21 A. Evidence marker number 5, which appears to be a --
22 a battery pack.

23 Q. State's 82?

24 A. Evidence marker number 6, which is notating a
25 fired cartridge casing.

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 Q. Just to give reference, this is going back to
2 State's 78, Do you see 6 in there?

3 A. Yes.

4 Q. Is that in the foreground?

5 A. Yes.

6 Q. State's 83?

7 A. So this is further down that fence line. So this
8 is showing evidence markers 7, 8, 9, 10, and 11.

9 Q. 7?

10 A. Evidence marker 7 was noted to document a fired
11 cartridge casing.

12 Q. State's 85?

13 A. Evidence marker 8 notating another fired cartridge
14 casing.

15 Q. 86?

16 A. Evidence, marker 9 notating a fired cartridge
17 casing.

18 Q. State's 87?

19 A. Evidence marker 10. This was notating a
20 blood-like stain.

21 Q. State's 88?

22 A. Evidence marker 11 notating a fired cartridge
23 casing.

24 Q. State's 89?

25 A. This is evidence marker 12, which is closer to the

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 front entrance of the -- the business.

2 Q. And that roof we see in the top right, is that the
3 King Street Cabaret?

4 A. Yes.

5 Q. Closer up on 12?

6 A. And this is a close-up of evidence marker 12,
7 which is notating a fired cartridge casing.

8 Q. Oh, that was State's Exhibit 90 showing evidence
9 marker 12.

10 MR. SIMPSON: Thank you, Your Honor.

11 THE WITNESS: Yes.

12 BY MR. SIMPSON:

13 Q. State's 99 -- sorry, 91?

14 A. So this is the area in between that blue truck and
15 the white car that we saw at the end of that black fence.

16 Q. And 92?

17 A. And this is the pavement in between those two
18 vehicles noting a red blood-like staining on the ground.

19 Q. Going back to your view inside of the truck,
20 what's the policy with crime scene when a vehicle is deemed
21 to be relevant to a crime? Do you search that whole vehicle
22 on scene?

23 A. No, we do not.

24 Q. What do you do?

25 A. Our policy is that a search warrant would be

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 obtained. The vehicle would then be transported and
2 escorted to our forensic services division where the vehicle
3 will be searched and documented in a secured location.

4 Q. Nevertheless, it seems you do a -- at least a
5 cursory view inside of the vehicle on the scene; is that
6 correct?

7 A. Right, just notating what was in plain view.

8 Q. Okay. And in your cursory view inside of that
9 truck, did you note any firearms?

10 A. No, nothing in plain view.

11 Q. And I think we see in these last photographs of
12 that blood spot, it appears that the GMC has been moved
13 after its location is documented; is that correct?

14 A. (No verbal response.)

15 Q. So it was moved --

16 A. I --

17 Q. -- from the scene, as you said --

18 A. Yes.

19 Q. -- to be processed?

20 A. Yes.

21 Q. Okay.

22 A. Yes. It was escorted from the scene.

23 Q. Okay. So following the GMC being transported from
24 the scene to be processed in a secure location, were -- was
25 any firearm revealed under the truck, under a tire, or

1 anything like that?

2 A. No, there was not.

3 Q. In your entire processing -- your entire
4 processing of this entire scene was there a second firearm
5 (inaudible)?

6 A. No.

7 Q. I'm handing you a container. Could you take a
8 look inside of that?

9 A. Sure.

10 Q. Doctor, if you know, do you recognize that from
11 any of the markings outside of the --

12 A. I do --

13 Q. -- cases.

14 A. -- recognize this.

15 Q. And how do you recognize it?

16 A. So this is my handwriting with my name notating
17 the fired cartridge casings that I collected from the scene.

18 Q. Okay. And are those the fired shell casings we've
19 already noted on the photographs?

20 A. Yes.

21 Q. And do those boxes have the State's evidence
22 stickers on them, numbered stickers?

23 A. Yes, they do.

24 Q. Could you take a look at State's 98, tell me which
25 marker that corresponds to?

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 A. 98 corresponds to evidence marker 6.

2 Q. 99?

3 A. 99 corresponds to evidence marker 7.

4 Q. 100?

5 A. 100 corresponds to evidence marker 8.

6 Q. 101?

7 A. 101 corresponds to evidence marker 9.

8 Q. 102?

9 A. 102 corresponds to evidence marker 111.

10 Q. And 103?

11 A. And 103 corresponds to evidence marker 12.

12 Q. For any member of the Jury who's not familiar with
13 the functioning of firearms, what is a fired shell casing?

14 A. A fired shell casing is when a projectile is
15 discharged from a firearm. There is a component to the
16 projectile that contains propellants. So when a gun is
17 discharged, there's a small explosion that occurs within the
18 firearm. And that accelerant, which is held within the
19 casing, is then ejected and left behind in certain types of
20 firearms.

21 Q. Okay. And you mentioned a small explosion. Is
22 that what, you know, propulsions the projectile forward?

23 A. Yes. The combustion of gas within the -- the
24 handgun is what projects whatever projectile --

25 Q. And if --

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 A. -- forward.

2 Q. -- we were to watch, you know, surveillance video
3 of someone firing a gun, might we even visibly be able to
4 see parts of that explosion?

5 A. Potentially, yes.

6 Q. Okay. And what would that appear to be in a video
7 if someone were to fire a gun?

8 A. A bright flash of light.

9 Q. Okay. Thank you. So how many shell casings total
10 did you collect from the scene?

11 A. Six.

12 Q. And were those all of the same caliber?

13 A. Yes, they were.

14 Q. And what does that mean, caliber?

15 A. Caliber is the size, so different sizes of
16 firearms. The -- the barrels of which the projectile
17 travels through come in different sizes. So to have
18 something of the same caliber would indicate consistency
19 between the -- the different projectiles.

20 Q. I'm showing you what's been entered as State's 93
21 through 96 for review.

22 A. Sure. Okay. Okay.

23 Q. And you just viewed these exhibits?

24 A. Yes.

25 Q. Have -- is the scene as depicted in these exhibits

ASHLEIGH WOJSLAWOWICZ DIRECT BY MR. SIMPSON

1 different a little than the previous ones?

2 A. It is, yes.

3 Q. Good work. You moved your van?

4 A. This is further on in the crime scene
5 investigation process. So we were able to clear out the
6 parking lot from a lot of the -- the cars that had been
7 there. Some of the evidence had already been picked up
8 after it had been photographed and measured. So this is
9 further along in the process.

10 Q. Okay. Showing you State's 93. What is this?

11 A. So this is that same parking lot area. You can
12 see the front of the King Street Cabaret and that black
13 privacy fence along towards the center of the photograph.
14 But we've been able to -- to move several of the vehicles
15 now. So this is that parking area.

16 Q. What are we looking at in 94?

17 A. So this is a -- the -- the rock that was noted to
18 be of interest that was on that passenger side of the Black
19 GMC.

20 Q. 95?

21 A. And this is the same rock now with evidence marker
22 13 next to it?

23 Q. And 96?

24 A. And a closeup, again, of the same rock with
25 evidence marker 13.

ASHLEIGH WOJSLAWOWICZ CROSS BY MR. JENNINGS

1 Q. And would you have seized that rock?

2 A. I did.

3 Q. I'm showing you what's been marked and entered as
4 State's 97. Do the markings allow you to identify what's in
5 that bag? You can use something to open it if you need to.

6 A. Yes, this is -- this is the rock I collected.

7 Q. Is that the rock given number 13 --

8 A. Yes.

9 Q. -- that you marked?

10 MR. SIMPSON: Approach with evidence?

11 THE COURT: Yes, you may.

12 BY MR. SIMPSON:

13 Q. And Doctor, just to repeat, at any point in time
14 during your processing of this entire scene is the firearm
15 compared?

16 A. No, not by myself.

17 MR. SIMPSON: Please answer any questions

18 Mr. Jennings has for you.

19 THE WITNESS: Okay.

20 THE COURT: You may proceed.

21 MR. JENNINGS: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 CROSS-EXAMINATION

24 BY MR. JENNINGS:

25 Q. Good afternoon.

ASHLEIGH WOJSLAWOWICZ CROSS BY MR. JENNINGS

1 A. Good afternoon.

2 Q. I won't try your last name either.

3 A. It's okay.

4 Q. I've just -- I've got a few questions.

5 Looking at your report, I think you waited for a
6 search warrant --

7 A. Yes.

8 Q. -- to be obtained?

9 A. Yes.

10 Q. And that was for the building of King Street
11 Cabaret as well as the parking lot?

12 A. That's correct, yes.

13 Q. So do you consider the adjacent parking lot part
14 of the business?

15 A. Yes.

16 Q. And when you get there, kind of as the head of the
17 forensic team, you're documenting and recovering evidence
18 that's on the scene, correct?

19 A. Correct. I was not the only crime scene
20 investigator. There was another investigator prior to me
21 who had been on scene. But as the -- the supervisor, I was
22 debriefed and advised of what had already been conducted,
23 and then we allocated roles at that point.

24 Q. And what I meant, you just -- you're documenting
25 as things play?

ASHLEIGH WOJSLAWOWICZ CROSS BY MR. JENNINGS

1 A. Yes.

2 Q. Okay.

3 A. Yes.

4 Q. You didn't -- don't know how they came to be
5 there?

6 A. That's correct.

7 Q. You don't know if things were inadvertently moved
8 during EMS or other people in the scene?

9 A. Correct.

10 Q. Things could be removed from the scene?

11 A. Could, yes.

12 Q. The -- I noted in your report also looking at some
13 of the photographs. The parking lot was pretty dimly lit;
14 wasn't it?

15 A. Yes, it was.

16 Q. There was no lighting in the parking lot aside
17 from what y'all brought in afterwards to help you process
18 the scene, correct?

19 A. Correct.

20 Q. You did some diagrams and very detailed report
21 itemizing what you found at the scene and set up some sort
22 of base places for distances, correct, like one end of the
23 privacy fence to the other end of the privacy fence?

24 A. Yes, we did.

25 Q. And then one corner of the building, I believe,

ASHLEIGH WOJSLAWOWICZ CROSS BY MR. JENNINGS

1 was another set point. I think that was point C in one of
2 the diagrams?

3 A. Yes.

4 Q. Okay. And then you use that to measure where
5 certain things were found from those points?

6 A. Yes, correct.

7 Q. So looking at State's Exhibit 78, the 4 was the
8 black cell phone, correct?

9 A. Correct.

10 Q. And that was 4 feet, 6 inches from the edge of the
11 black privacy fence, correct?

12 A. Correct.

13 Q. Okay. And 5 was the portable charger. And that
14 was 2 feet, 3 inches from the edge of the privacy fence,
15 correct?

16 A. Correct.

17 Q. When you noted the rock that was in the street --
18 State's Exhibit 95, item 13, I noted in your report, you did
19 not take a measurement from 13 back to the edge of the
20 privacy fence?

21 A. That's correct.

22 Q. And what was the reason for that?

23 A. The reason for the lack of measurement was that by
24 the time that we had been -- or my crime scene team had been
25 advised that this item may have been of interest, the GMC

ASHLEIGH WOJSLAWOWICZ CROSS BY MR. JENNINGS

1 truck had already been towed from the scene.

2 Q. But what about the -- you didn't measure back to
3 the fence?

4 A. That's correct, yeah.

5 Q. Okay. I noted in your report, you took a number
6 of latent -- latent -- latent lifts, fingerprints off of the
7 truck as well as DNA swabs, correct?

8 A. Correct, yes.

9 Q. And as far -- no subsequent testing is done on any
10 of those, correct?

11 A. Not to my knowledge. That would not have been my
12 role or responsibility to request that. I would only
13 collect.

14 Q. I'll show you State's Exhibit 5. Is that, do you
15 know if that where the scooter was, or had it just been
16 placed by the Charleston Police Department vehicle? Do you
17 know how it came to be there?

18 A. I couldn't tell you.

19 Q. Okay.

20 A. I'm not sure.

21 Q. But you didn't do any documenting of that or any
22 analysis of that scooter?

23 A. No, I did not.

24 MR. JENNINGS: Your Honor, that's all the
25 questions I have. Thank you.

1 THE COURT: You're welcome. Any redirect?

2 REDIRECT EXAMINATION

3 BY MR. SIMPSON:

4 Q. Doctor, just to clarify an answer you gave. So
5 your job is to document and collect, correct?

6 A. Yes.

7 Q. And both your agency and the South Carolina law
8 enforcement division have forensic labs; is that correct?

9 A. That's correct, yes.

10 Q. Okay. And so it's possible to send evidence for
11 analysis to either of those places, depending on what type
12 of evidence, right?

13 A. Correct, yes.

14 Q. So fingerprint analysis can be done?

15 A. Yes.

16 Q. And DNA analysis can be done?

17 A. Yes.

18 Q. But that is not your decision to determine after
19 it's been collected and documented what gets sent to either
20 of those places; is that true?

21 A. That's true.

22 Q. Okay. But there is other officers who can inquire
23 about that?

24 A. Correct, yes.

25 Q. And what -- why they would have made the decisions

1 that they did regarding evidence later?

2 A. Right.

3 Q. Okay.

4 A. Right.

5 MR. JENNINGS: That's all. Thank you for being
6 here.

7 THE COURT: Any exception to the witness being
8 excused from the State?

9 MR. SIMPSON: No, Your Honor.

10 THE COURT: From the Defense?

11 MR. JENNINGS: No, Your Honor.

12 THE COURT: Ma'am, you're excused.

13 THE WITNESS: Thank you.

14 THE COURT: You're welcome. Mr. Foreman, ladies
15 and gentlemen, we're going to take advantage of this break
16 in testimony to take our evening recess. During the break,
17 please do not discuss the case in any manner whatsoever
18 among yourselves or with anyone else. Please do not read,
19 watch, or listen to any media accounts about this case. I
20 need for the gallery to remain in place until the Court has
21 concluded speaking to the Jury. Thank you. And again, a
22 reminder, there should be no movement in the gallery when
23 the Court is speaking or when counsel is speaking.

24 Ladies and gentlemen, you're not to read, watch,
25 or listen to any media accounts about this case if there are

1 any -- if there's anything in the newspaper, radio, or
2 television. In addition, you are strictly instructed not to
3 do any independent research of any type on the internet.
4 When you return to the courthouse in the morning, you'll
5 return directly to your jury room. And again, please avoid
6 any contact with anyone you do not recognize to be a fellow
7 juror. If you would leave your notepads, if you would stack
8 them on the banister as you leave, we'll secure them during
9 the evening recess.

10 Hope you all have a great evening. We'll see you
11 in the morning at 9:30. Have a good night.

12 (WHEREUPON, the jury exited the courtroom.)

13 THE COURT: You may be seated. Is there anything
14 we need to take up from the State before we recess?

15 MR. SIMPSON: Nothing from the State, Your Honor.

16 THE COURT: From the Defense?

17 MR. JENNINGS: No, Your Honor.

18 THE COURT: Have a good evening. You all can
19 leave your items in place. The courtroom will be locked as
20 soon as you leave, and your items will not be disturbed.

21 Thank you.

22 (WHEREUPON, the proceedings convened Monday, June,
23 24, 2024 at 5:15 P.M.)

24 (WHEREUPON, the proceedings reconvened Tuesday,
25 June, 25, 2024 at 9:52 a.m.)

1 THE COURT: Is the defense ready to proceed?

2 MR. JENNINGS: Yes, Your Honor.

3 MR. SIMPSON: Can I make a quick note that's
4 housekeeping-wise?

5 THE COURT: Yes, sir.

6 MR. SIMPSON: We have all of our witnesses ready
7 to proceed today, save one, Dr. Hannah Perlitz, whom you've
8 met in the Duncan hearing, Your Honor, lives in Myrtle Beach
9 and is a medical professional. She said she could not make
10 it today. So it would be our intention to do everyone today
11 but her and call her first thing tomorrow morning.

12 THE COURT: I'll see where we are, but I'm not
13 sending the Jury home early.

14 MR. SIMPSON: Okay. Thank you, Your Honor. That
15 sounds good.

16 THE COURT: You're welcome. We'll see if your
17 colleague is kind enough maybe to let some folks go out of
18 order.

19 MR. SIMPSON: We would be doing her last anyway.

20 THE COURT: How many witnesses do you have, sir?

21 MR. SIMPSON: We have seven left. So six.

22 THE COURT: All right. We'll see. We'll take it
23 as it comes, figure it out.

24 MR. SIMPSON: Okay. Thank you, Your Honor.

25 THE COURT: You're welcome. Anything before we

1 proceed, Mr. Jennings?

2 MR. JENNINGS: Nothing from the Defense, Your
3 Honor.

4 THE COURT: Okay. Please bring in the Jury.
5 Who's the State's first witness?

6 MS. BOZARTH: Your Honor, the State's first
7 witness is Jeff Miller.

8 THE COURT: Is he present in the courtroom?

9 MS. BOZARTH: He is outside the hallway, Your
10 Honor.

11 THE COURT: You might need to go ahead and get
12 him.

13 (WHEREUPON, the jury entered the courtroom.)

14 THE BAILIFF: Jurors are all present.

15 THE COURT: You may be seated. Okay. Good
16 morning, ladies and gentlemen. I hope everybody had a
17 pleasant evening. We'll now resume testimony. You may call
18 your next witness.

19 MS. BOZARTH: Thank you, Your Honor. State will
20 call Jeff Miller.

21 THE COURT: Please swear the witness.

22 JEFFREY MILLER, after been duly sworn
23 testified as follows:

24 THE CLERK: Please be seated. Please state your
25 full name. Spell your last name loudly and clearly into the

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 microphone.

2 THE WITNESS: Jeffrey Miller, M-I-L-L-E-R.

3 THE COURT: You may proceed.

4 MS. BOZARTH: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. BOZARTH:

7 Q. And, Investigator Miller, where are you employed?

8 A. Charleston Police Department.

9 Q. And for how long have you worked there?

10 A. Thirty-eight-and-a-half years.

11 Q. And what's your official title?

12 A. Crime scene investigator.

13 Q. And for the past 38-and-a-half years, in what
14 capacity have you worked there?

15 A. In December of '85, I started as a patrolman, then
16 became a patrol supervisor. Then eventually, in September
17 of '94, I went into the crime scene unit as a crime scene
18 officer. And then I retired as an officer in 2009. This is
19 where I am today.

20 Q. And specifically the crime scene, how long have
21 you been there?

22 A. I make it to September 29 -- 30 years.

23 Q. And what is your prior education?

24 A. I received an associate's degree while I was
25 working, I took college classes. I figured up I had over

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 600 hundred hours just of crime scene-related classes and
2 that's after I went into the union. I attended classes in
3 Illinois at the Northwestern Traffic Institute, the FBI
4 Academy, Rollins College in Florida, and I've done all
5 different aspects of crime scene investigation, blood
6 spatter, shooting scenes.

7 Q. Does that include photography?

8 A. Yes, a lot of photography classes.

9 Q. And do you know about how many crime scenes you've
10 processed?

11 A. I couldn't even count.

12 Q. And as a crime scene investigator, what are your
13 present duties?

14 A. I respond to calls, and that could be just to take
15 a picture for us to look for, collect blood evidence, it
16 could be a fingerprint, it could be a DNA swab, it could be
17 a blood swab, it could be a shell casing, it could just be
18 anything.

19 Q. And back in April 2021, where were you employed?
20 You were still crime scene?

21 A. Yeah, with the police department.

22 Q. And back then, were your duties the same as they
23 are now?

24 A. Correct.

25 Q. On April 25th, 2021, did you become involved in

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 this case?

2 A. I did.

3 Q. How did you become involved?

4 A. I responded to a nightclub that was at Courtland
5 and King Street in reference to a shooting.

6 Q. Do you remember around what time you arrived?

7 A. It was just before 9:00 at night.

8 Q. And upon arrival, what did you observe?

9 A. There was a pickup truck that was on Courtland
10 facing King Street. There was another pickup truck that was
11 in front of it, that was a white one. On the driver's side
12 of the black pickup truck there was a deceased individual.
13 There were officers all over the place in two separate
14 parking lots that were separated by Courtland.

15 Q. By the time you arrived, was the scene secured?

16 A. Yes, there were several officers that secured the
17 area.

18 Q. And can you describe what it means to secure the
19 area?

20 A. They just tried to keep people from walking
21 through the scene. There were people still in front of the
22 club, but they were on the King Street side. And then there
23 was the parking lot that was on the opposite side. It had a
24 few people that were in that parking lot as well.

25 Q. And upon your arrival, what was your role

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 immediately?

2 A. I was -- originally, I was going to be the primary
3 on the scene. But shortly after I've arrived, another crime
4 scene investigator showed up and had somebody that was in
5 training. So they were going to be the primary and I was
6 just going to be there to assist in any way that I could.

7 Q. And when you got there, do you know if the
8 defendant was still on the scene?

9 A. Yes. I was advised that he was sitting in the
10 back of one of the trucks.

11 Q. You said there were a lot of other officers
12 around?

13 A. Yes.

14 Q. Do you know what they were doing at this time?

15 A. They were just making sure that nobody would drive
16 through or try to walk there.

17 Q. And did you know if the victims were on the scene?

18 A. The deceased victim was still there. He was on
19 the pavement on the driver's side of the black pickup truck.
20 And another victim had been transported then to MUSC.

21 Q. And based on that information, what did you do?

22 A. Well, I started by just taking overall photos in
23 the area, the area of the parking lot near the club, the
24 street where the two pickup trucks were, and just that
25 general area to show how it was prior to the crime scene

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 investigators doing anything.

2 Q. And did you collect any physical evidence from the
3 crime scene?

4 A. I collected a pistol that had been placed into
5 back of one of the patrol cars and a gunshot residue test.

6 Q. Do you know where that pistol was recovered from?

7 A. From the defendant.

8 Q. On the defendant?

9 A. I believe so, yes.

10 Q. And what did you do with that gun after you
11 collected it?

12 A. The gun was secured and then taken to our office
13 where it was photographed with a case number, my initials,
14 and an item number and then it was sealed up into a box.

15 Q. I'm going to show you what's been previously
16 entered into evidence as 28 and 29. Do you recognize those?

17 A. Yes, these are photos that I took. It shows the
18 case number for this incident, my initials, and then the
19 item number for the pistol.

20 Q. And the other, State's 29?

21 A. This is just a picture of the shells, the bullets
22 that were found inside the gun.

23 Q. Thank you.

24 MS. BOZARTH: Your Honor, permission to publish?

25 THE COURT: You may proceed.

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 BY MS. BOZARTH:

2 Q. I'm showing you -- yeah. Well, I'm showing you
3 State's 29. And can you describe those?

4 A. Those are just three, 380 caliber bullets.

5 Q. And where were those bullets from?

6 A. From the handgun.

7 Q. Now, I'm showing you State's 28. Will you start
8 off with that?

9 A. That's the handgun, the three bullets, the
10 magazine, and then the information of the case and my
11 initials and the item number.

12 Q. Okay. So when did you leave the incident
13 location?

14 A. I responded, it was about 10:37, I believe, to
15 MUSC.

16 Q. And why did you go to MUSC?

17 A. They requested photos of the victim and to collect
18 the clothing items. But when I got there, I was able to get
19 the clothing and I was able to do a GSR on the victim, but
20 because of the medical treatment he was going through, I
21 couldn't actually get any photos of him or his injuries.

22 Q. And at some point, did you leave MUSC?

23 A. I left MUSC and responded to the station to an
24 interview room to take photos of the defendant.

25 Q. I'm showing you what was previously entered into

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 evidence as State's 21 through 27. Can you go over those?

2 A. Yeah, these are photos that I took of the -- the
3 defendant while sitting in the interview room.

4 MS. BOZARTH: Your Honor, permission to publish?

5 THE COURT: You may proceed.

6 BY MS. BOZARTH:

7 Q. I'm showing you what's State's Evidence 21. Where
8 was the defendant when you took this picture?

9 A. That's inside the interview room at the police
10 department.

11 Q. And do you remember around what time you arrived
12 there?

13 A. I can look in my report real quick.

14 Q. It was after 10:30?

15 A. Yeah, because I went straight -- I was at the
16 hospital within a few minutes.

17 Q. Showing you State's 22. Did you notice any
18 injuries on the right side of his head?

19 A. No, I did not.

20 Q. The right side of his face?

21 A. No, I did not.

22 Q. Showing you State's 23. Did you notice any
23 injuries on the left side of his face?

24 A. I did not.

25 Q. Left side of his neck?

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 A. I did not.

2 Q. Left side of his head?

3 A. I did not.

4 Q. Showing you State's 24. This is the back of his
5 head?

6 A. Yes.

7 Q. And his neck?

8 A. Yes.

9 Q. Did you see any injuries there?

10 A. I did not.

11 Q. Did you see any markings?

12 A. I did not.

13 Q. Showing you State's 25. Did you notice any
14 abrasions on the back of his hands?

15 A. I didn't see any.

16 Q. Any markings?

17 A. No.

18 Q. Showing you State's 26. Did you notice any
19 markings on his palms?

20 A. I did not.

21 Q. On his arms?

22 A. I did not.

23 Q. Showing you State's 27, this is just from his left
24 palm. Did you notice any injuries there?

25 A. I did not.

JEFFREY MILLER DIRECT BY MS. BOZARTH

1 Q. And going back to State's 21, did you notice --
2 besides the -- well, I guess, can you describe the -- did
3 you notice anything about his foot?

4 A. Well, he was in a -- his foot was in a cast.

5 Q. Was that from this incident?

6 A. No, it was -- it was something prior.

7 Q. And did you notice any injuries on his arms?

8 A. I didn't see any -- any visible injuries anywhere.

9 Q. No injuries anywhere?

10 A. None.

11 Q. If you saw injuries, would you take pictures of
12 those?

13 A. If I saw them, yes.

14 Q. Did you notice his clothes were torn or anything?

15 A. I did not see any.

16 Q. Can you describe his demeanor while you were
17 taking his pictures?

18 A. He seemed fine to me. I took his photos and there
19 was no issue at all taking them.

20 Q. All right. After you took photos of the
21 defendant, what did you do, if anything?

22 A. I went back to the scene to escort the black
23 pickup truck that I believe belonged to the deceased back to
24 the crime scene officer where it could be locked in the bay,
25 because they want to get a warrant to actually search that

JEFFREY MILLER CROSS BY MR. JENNINGS

1 truck.

2 Q. And what's the process for that?

3 A. It was transported, I followed it to the office
4 and then it's placed in the bay. And then it's locked in
5 there until there's until the warrant was obtained. And
6 then another crime scene investigator or whoever was working
7 they would actually do the processing.

8 Q. So did other people have access to the truck while
9 it was being transported?

10 A. While it's being transported.

11 Q. Well, besides the towing company?

12 A. Well, the tow company, and then it's followed, and
13 then it's locked in the bay, and then it's secured by me, it
14 was taken in there.

15 Q. Please answer any questions defense may have.

16 THE COURT: You may proceed.

17 MR. JENNINGS: Thank you, Your Honor.

18 THE COURT: You're welcome.

19 CROSS EXAMINATION

20 BY MR. JENNINGS:

21 Q. Good morning, Detective Miller.

22 A. How are you doing?

23 Q. When you were asked about his -- Melshaun's
24 demeanor and you said it was fine, by that, I assume you
25 mean he was cooperative with you?

JEFFREY MILLER CROSS BY MR. JENNINGS

1 A. Yes, that is.

2 Q. Okay. And fully compliant, did whatever you
3 asked?

4 A. I had no issues at all taking his photo.

5 Q. I'll show you State's Exhibit 28, the handgun,
6 that's a semi-automatic handgun, correct?

7 A. Yes, it is.

8 Q. And just explain to the Jury kind of how -- the
9 mechanics of how a semi-automatic handgun work.

10 A. Well, the -- when the bullets go inside the
11 magazine, and the magazine will then go up into the grip
12 area. And then you pull the slide back, and then that will
13 clean the chamber. So then the gun will be ready to fire.
14 And then, as you pull the trigger, it will eject the empty
15 shell case and then re chamber another round behind it.

16 Q. And how many bullets did the magazine in this
17 handgun hold?

18 A. I don't know if I recorded that. I just had the
19 three that I found in it. I don't recall actually counting
20 how many it could hold.

21 Q. Okay.

22 A. Because a magazine can hold a certain amount, but
23 you can also preload one into the chamber. So would have
24 it -- just say if it held ten, so you could have ten plus
25 one.

JEFFREY MILLER CROSS BY MR. JENNINGS

1 Q. But the gun had not been fully discharged. There
2 were still three bullets in there?

3 A. Correct. That was from the gun, yes.

4 Q. Correct. And the way the -- semi-automatic means
5 is that if you pull the trigger, the gun will continue to
6 fire very quickly.

7 A. Each pull of the trigger will continue to fire as
8 long as the gun functions correctly.

9 Q. Correct. And a semi-automatic gun can fire
10 multiple rounds in a matter of seconds, correct?

11 A. Yes, as long as your -- your finger can --how
12 quickly you can pull your finger, yes.

13 Q. And that's different from a revolver, the gun you
14 would see on westerns with that cylinder cartridge, where it
15 has to cycle every time that the --

16 A. Yes.

17 Q. -- trigger's pulled.

18 A. Correct.

19 Q. Okay.

20 MR. JENNINGS: That's all the questions I have,
21 Your Honor. Thank you.

22 THE COURT: You're welcome. Any redirect?

23 MS. BOZARTH: Nothing further from the State, Your
24 Honor.

25 THE COURT: Any objection to the witness being

RENE CHARLES DIRECT BY MS. BOZARTH

1 excused from the State?

2 MS. BOZARTH: No, Your Honor.

3 THE COURT: From the Defense?

4 MR. JENNINGS: No, Your Honor.

5 THE COURT: Sir, you're excused.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: You're welcome. Call your next
8 witness.

9 MS. BOZARTH: Thank you, Your Honor. State calls
10 Rene Charles.

11 RENE CHARLES, after being duly sworn,
12 testified as follows:

13 THE CLERK: Please be seated. Please state your
14 full name and spell your last name loudly and clearly into
15 the microphone.

16 THE WITNESS: Rene Charles. Last name, Charles,
17 C-H-A-R-L-E-S.

18 DIRECT EXAMINATION

19 BY MR. SIMPSON:

20 Q. Rene, where do you currently work?

21 A. I work with the Charleston Police Department.

22 Q. And what's your official title?

23 A. I'm a crime scene investigator.

24 Q. And how long have you been working for the
25 Charleston Police Department?

RENE CHARLES DIRECT BY MS. BOZARTH

1 A. I've been working with CPD for 26 Years.

2 Q. And in what capacity?

3 A. Working as a -- my duty as a crime
4 scene investigator.

5 Q. And what's your educational background?

6 A. I completed forensic crime scene investigation at
7 UT. And I also completed several crime scene investigations
8 to include fingerprint, photography, evidence collections.

9 Q. And have you completed any specific trainings to
10 crime scene, and how often do you do it?

11 A. For the past 20-plus years, it's -- every year, we
12 train with different aspect, different -- fingerprint,
13 photography. Once a year we all train and -- on-site
14 training.

15 Q. And back in April of 2021 with the Charleston
16 Police Department as a crime scene investigator, can you
17 further explain your duties?

18 A. Yes. At that time, I was working as a crime scene
19 investigator, and I was advised about the search warrant on
20 the -- on the car.

21 Q. And was that on April 26, 2021?

22 A. Yes, ma'am.

23 Q. Is that when you became involved in this case?

24 A. Yes, ma'am.

25 Q. And how did you become involved?

RENE CHARLES DIRECT BY MS. BOZARTH

1 A. I was advised by the detective that a search
2 warrant would be provided to be searched for the items that
3 need to be recovered from the vehicle.

4 Q. And what was your role with regard to that
5 vehicle?

6 A. My role was -- my duty was to process the vehicle
7 for evidence and photographs, document the car.

8 Q. And can you further say what it means to process a
9 vehicle?

10 A. To process a vehicle is document the car, pretty
11 much take photographs and fingerprints and search the
12 vehicle and also DNA, all the information that's provided in
13 the search warrant.

14 Q. And do you remember what kind of vehicle it was?

15 A. Yes, ma'am. It was black in color, a GMC Sierra
16 pickup truck.

17 Q. And can you describe its condition?

18 A. The vehicle was observed to be in fairly good
19 condition, fairly new.

20 Q. And at the time, were you aware of the specifics
21 of the crime?

22 A. Not really at the time. I was just advised that
23 the vehicle needed to be searched and processed from a
24 shooting incident that occurred at the club on King Street.

25 Q. Were you aware that the shooting occurred outside

RENE CHARLES DIRECT BY MS. BOZARTH

1 the vehicle?

2 A. Yes. I was advised the shooting took place in the
3 parking lot outside the car, the club.

4 Q. And so how did you, in this case, begin to process
5 the vehicle?

6 A. I began to process the vehicle by taking overall
7 photographs of the outside of the car and the -- the inside
8 of the vehicle, and also all the items that -- inside of the
9 vehicle.

10 Q. I'm showing you what's been previously entered
11 into evidence as State's 30 through 44. You can just flip
12 through those.

13 A. Thank you.

14 Q. And are those pictures that you took of the
15 vehicle?

16 A. Yes, ma'am, they are.

17 MS. BOZARTH: Your Honor, permission to publish?

18 THE COURT: You may proceed.

19 BY MS. BOZARTH:

20 Q. I'm showing you what's been marked as State's 30.
21 Is this the vehicle you processed?

22 A. Yes, it is.

23 Q. I'm showing you State's 31. What side of the
24 vehicle is this?

25 A. This photograph is showing the front passenger

RENE CHARLES DIRECT BY MS. BOZARTH

1 side and also the -- the exterior condition of the front
2 passenger side.

3 Q. And did you notice anything about this side of the
4 vehicle?

5 A. Yes, ma'am. I noticed the small dent on this side
6 right here and the small dent on the front passenger side.

7 Q. And is this just another angle of the dent?

8 A. Yes, ma'am. That's a -- a different angle of the
9 damage to the car, the dent.

10 Q. And otherwise, the car was pretty new?

11 A. Yes.

12 Q. I'm showing you State's 33. Can you show me what
13 we have?

14 A. This photograph's showing the interior of the --
15 the driver's side area the floorboard, the driver's seat,
16 and also showing the bloodstain on the driver's seat.

17 Q. And is this the same area?

18 A. Yes. This photograph is a close-up photograph
19 showing the area the driver's side area to include the
20 driver's seat.

21 Q. I'm showing you State's 35. Do you know where
22 these items were recovered?

23 A. These items were recovered from the center console
24 of the vehicle.

25 Q. And can you describe what we're looking at?

RENE CHARLES DIRECT BY MS. BOZARTH

1 A. Here, you're looking at water bottles, and papers,
2 and checks, receipts, and also a reflective vest.

3 Q. I'm showing you State's 36. Is that the same
4 vest?

5 A. Yes. That's the close-up photographs of the
6 reflective vest with the blood-like -- blood-like stains on
7 the -- on the vest.

8 Q. I'm showing you State's 37. Is this just the car
9 with the doors open?

10 A. Yes, with the doors open, a different angle.

11 Q. I'm showing you State's 38. Can you tell us about
12 this?

13 A. This a photograph showing the items located on the
14 rear floorboard, driver's side floorboard, and also the
15 items located on the rear driver's side seat.

16 Q. Can you please describe what we're looking at
17 here?

18 A. These -- these items -- showing the close-up
19 photographs of all the items recovered from the rear
20 driver's side floorboard.

21 Q. I'm showing you State's 40. Can you describe what
22 you found there?

23 A. Yes. This -- that's the -- the book bag that was
24 located on the rear driver's side floorboard with all the
25 contents inside the -- the book bag.

RENE CHARLES DIRECT BY MS. BOZARTH

1 Q. Is that a tackle box?

2 A. Yes.

3 Q. I'm showing you State's 41. Can you tell us about
4 this?

5 A. In these photographs are showing the items located
6 on the rear passenger floorboard and also the items located
7 on the rear passenger seat.

8 Q. Can you tell us where you found these, State's 42.
9 Can you tell us where you found these?

10 A. Yes. This photograph is showing a close-up of the
11 items from the rear passenger seat.

12 Q. I'm showing you State's 43. Can you share what
13 that is?

14 A. Yes. That's overall pictures of the -- all the
15 items from the -- on the trunk, the -- bed of the pickup
16 truck.

17 Q. And showing State's 44. Is that a toolbox?

18 A. That's a toolbox and also the items located inside
19 of the toolbox.

20 Q. And so in your search of the interior, including
21 all the compartments, the bags, any containers, did you find
22 any weapons?

23 A. I did not.

24 Q. Did you find any ammunition?

25 A. No, ma'am, I did not.

RENE CHARLES DIRECT BY MS. BOZARTH

1 Q. Find any magazines?

2 A. No, I did not.

3 Q. All right. Okay.

4 And in your search of -- after you searched it,
5 once you processed it, what did you do?

6 A. After I complete the search warrant, I will notify
7 the detective to explain that the vehicle has been processed
8 and he will advise me to call the towing company to -- to
9 pick up the -- the vehicle from the crime scene office.

10 Q. And back to the search, were you specifically
11 looking for weapons?

12 A. Yes, I searched the vehicle for weapons or fired
13 shell casings.

14 Q. And you didn't recover any?

15 A. I did not.

16 Q. And so you just set up the towing. So after you
17 finished processing it the vehicle was towed?

18 A. Yes.

19 Q. Did you notice where it was towed?

20 A. The vehicle was towed to CPD headquarters, 180
21 Lockwood.

22 Q. And you do you know why?

23 A. Oh, that's based on the instruction from the
24 detective for further investigation purposes.

25 Q. Did you have any further involvement?

RENE CHARLES CROSS BY MR. JENNINGS

1 A. No, ma'am.

2 MS. BOZARTH: Please answer any questions Counsel
3 may have.

4 THE WITNESS: Okay.

5 THE COURT: You may proceed.

6 MR. JENNINGS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. JENNINGS:

9 Q. Good morning, Detective.

10 A. Good morning.

11 Q. As part of your processing, you also took some
12 touch DNA swabs from different areas of the truck?

13 A. Yes, I did.

14 Q. And basically, that's taking a swab that could
15 later, if it turns out to be relevant, could be submitted
16 for DNA testing?

17 A. Yes.

18 Q. And you took from the -- so it looks like two from
19 the outside of the front passenger side door and as well as
20 the inside passenger side door?

21 A. Yes.

22 MR. JENNINGS: Thank you. That's all the
23 questions I have.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

RENE CHARLES REDIRECT BY MS. BOZARTH

1 BY MS. BOZARTH:

2 Q. And you're aware that the shooting took place
3 outside of the vehicle?

4 A. Yes, I was aware.

5 MS. BOZARTH: Thank you.

6 THE COURT: Any objection to the witness being
7 excused from the State?

8 MS. BOZARTH: Nothing from the State, Your Honor.

9 THE COURT: From the Defense?

10 MR. JENNINGS: No, ma'am.

11 THE COURT: Sir, you're excused.

12 THE WITNESS: Thank you.

13 THE COURT: You're welcome. Call your next
14 witness.

15 MR. SIMPSON: Thank you, Your Honor. The State
16 calls crime scene investigator, Holly Saunders.

17 HOLLY SAUNDERS BENNETT, being duly
18 sworn, testified as follows:

19 THE CLERK: Please be seated.

20 THE WITNESS: Okay.

21 THE CLERK: Please state your full name spelling
22 your last name loudly and clearly into the microphone.

23 THE WITNESS: Holly Bennett, B-E-N-N-E-T-T.

24 THE COURT: You may proceed.

25 MR. SIMPSON: Thank you, Your Honor.

HOLLY BENNETT DIRECT BY MR. SIMPSON

DIRECT EXAMINATION

BY MR. SIMPSON:

Q. Ms. Bennett, I knew you as Holly Saunders?

A. Yes, I got married.

Q. Oh, congratulations.

A. Thank you.

Q. When did that occur?

A. Last February.

Q. I'm a little late, but congratulations.

A. Thank you.

Q. And, Ms. Bennett, where are you currently employed?

A. The Charleston Police Department.

Q. And how long have you been with them?

A. About seven-and-a-half years.

Q. Okay. And can you recount for the Jury just a brief sort of synopsis of your history with that department?

A. Yes. So I started in 2016 as a crime scene investigator. We have on-the-job training that we go through, and then we're out in the field working cases on our own. My job as a crime scene investigator is to respond to crime scenes and collect, document, and preserve evidence.

Last year, I got promoted to master crime scene investigator. So on top of the -- responding to calls, I

HOLLY BENNETT DIRECT BY MR. SIMPSON

1 also have administrative duties where I will review reports
2 and I'm in charge of in-house training.

3 Q. And, Ms. Bennett, you stated one of your
4 responsibilities would be to document?

5 A. Yes.

6 Q. So is photography a big part of that?

7 A. Yes.

8 Q. It's one of the more or less interesting aspects
9 of your job. You sometimes get asked to take pictures at
10 certain times?

11 A. Yes.

12 Q. And then how did you become involved in the
13 present case?

14 A. So I was asked to go photograph damage to a
15 vehicle that was involved in this case.

16 Q. And where was that vehicle?

17 A. It was towed to a lot next to our police
18 department.

19 Q. Okay. And what was the nature of the damage you
20 were asked to go --

21 A. There was a small dent on the rear passenger door.

22 Q. Okay. And did you, at that time, have any further
23 information as to what the relevance of this might be?

24 A. No:

25 MR. SIMPSON: Your Honor, may I approach the

HOLLY BENNETT DIRECT BY MR. SIMPSON

1 witness?

2 THE COURT: You may.

3 BY MR. SIMPSON:

4 Q. Showing what has been entered into evidence as
5 State's 12, 13, and 14. Just give you an opportunity to
6 read this. Do you recognize those photographs?

7 A. Yes, these are the pictures I took of those --
8 that damage on the car.

9 Q. Okay. Publishing State's 12. I know we have a
10 lot of glare on the side of the truck there. Can you still
11 point out the damage that you were asked to go photograph?

12 A. Yes.

13 Q. And that screen in front of you is a touch screen.

14 A. Oh, okay.

15 Q. And you can point to the jury were it is.

16 A. Yes, I believe it is here.

17 Q. Okay. Publishing State's 13. Is that a better
18 view of the same thing?

19 A. Yes.

20 Q. Publishing again State's 14. What are we looking
21 at here?

22 A. The same damage just put a scale in place to get
23 it sized.

24 Q. I thought you said we see the scale, that's in
25 centimeters?

HOLLY BENNETT DIRECT BY MR. SIMPSON

1 A. Yes.

2 MR. SIMPSON: Thank you, Ms. Bennett.

3 THE WITNESS: Yeah.

4 MR. SIMPSON: Answer any questions the defense may
5 have.

6 THE WITNESS: Okay.

7 MR. JENNINGS: I don't have any --

8 THE COURT: You may proceed.

9 MR. JENNINGS: -- questions, Your Honor.

10 THE COURT: Any objection to the witness being
11 excused? From the State?

12 MR. SIMPSON: None, Your Honor.

13 THE COURT: From the Defense?

14 MR. JENNINGS: No, ma'am.

15 THE COURT: Ma'am, you're excused.

16 THE WITNESS: Thank you.

17 THE COURT: You're welcome. Call your next
18 witness.

19 MS. BOZARTH: Your Honor, State calls Tasha Otte.

20 TASHA OTTE, after being duly sworn,
21 testified as follows:

22 THE CLERK: Please be seated. Please state your
23 full name and spell your last name loudly and clearly into
24 the microphone.

25 THE WITNESS: Tasha Otte, O-T-T-E.

TASHA OTTE DIRECT BY MS. BOZARTH

1 THE COURT: And if you would spell your first name
2 as well?

3 THE WITNESS: T-A-S-H-A.

4 THE COURT: And if you could speak -- if you
5 could, you can pull that mic a little closer to you. You
6 may proceed.

7 DIRECT EXAMINATION

8 BY MS. BOZARTH:

9 Q. Tasha, where do you work?

10 A. King Street Cabaret.

11 Q. And how often do you work there?

12 A. Right now, only a couple of times a month.

13 Q. And when you work there -- well, how long have you
14 been working there?

15 A. Since February 2019.

16 Q. '19?

17 A. Yes.

18 Q. And what -- in what capacity?

19 A. I dance, unless I'm pregnant, and then I work the
20 bar or the door.

21 Q. And back in April 25th, 2021, were you working
22 that night as a bartender?

23 A. Yes, ma'am.

24 Q. Do you remember when your shift started?

25 A. 4:00 P.M.

TASHA OTTE DIRECT BY MS. BOZARTH

1 Q. And do you remember around the time the club
2 opened?

3 A. 4:00 P.M.

4 Q. And at some point, do you remember the two victims
5 walking in?

6 A. Yeah.

7 Q. Do you remember where they were sitting?

8 A. Against the mirrors. Pretty far away from the
9 bar.

10 Q. At that time was it busy?

11 A. No.

12 Q. Do you recall what they were doing when they got
13 in there?

14 A. They just -- one of them came to the bar, got
15 ones, ordered drinks, and they just sat over there.

16 Q. Do you remember if they came together?

17 A. I think so, yeah.

18 Q. Can you describe what they looked like and what
19 they were wearing?

20 A. They were both Hispanic, and I only remember the
21 one had a fanny pack.

22 Q. And what do you know about the fanny pack?

23 A. Unusual.

24 Q. Unusual in what way?

25 A. You don't see a man carrying a fanny pack in the

TASHA OTTE DIRECT BY MS. BOZARTH

1 strip club very often.

2 Q. Is that what stood out to you?

3 A. Yes.

4 Q. Was there anything else notable about them?

5 A. No, not really.

6 Q. So what was their demeanor when they got there?

7 A. Normal. The one with the fanny pack seemed
8 excited, not really anything exceptional about them.

9 Q. Did you serve them?

10 A. Yes, ma'am.

11 Q. Do you know how much they were drinking?

12 A. I think only a few drinks.

13 Q. Did they look like they were having fun?

14 A. Yeah.

15 Q. And you said one was excited?

16 A. Yes.

17 Q. Did they appear to be -- that they had been
18 drinking a lot of alcohol before?

19 A. Not to my knowledge, but they were pretty far away
20 from the bar, so I didn't really notice them acting in a
21 certain way.

22 Q. Do you remember if they drank a lot later?

23 A. No.

24 Q. And throughout the night were they loud and
25 boisterous?

TASHA OTTE DIRECT BY MS. BOZARTH

1 A. Not that I noticed.

2 Q. Okay. Were they super loud or anything?

3 A. No.

4 Q. Would you characterize them as being wasted?

5 A. No.

6 Q. Was there anything else besides the fanny pack,
7 out of the ordinary with two that you can recall?

8 A. No, not that I noticed.

9 Q. Did you recognize or did you notice any arguments
10 between either victim and staff?

11 A. No.

12 Q. Or any of the dancers?

13 A. No.

14 Q. Do you remember them leaving?

15 A. No.

16 Q. Well, did you see anyone escorting them out, I
17 suppose?

18 A. No. Where I'm at the bar I'm not going to be able
19 to see anything like that or hear anything.

20 Q. Do you sometimes communicate with security if
21 someone gets kicked out?

22 A. Sometimes, yeah.

23 Q. Did you communicate with anyone that night about
24 them?

25 A. Not that I recall, no.

TASHA OTTE DIRECT BY MS. BOZARTH

1 Q. And I guess you've been working there Since 2019?

2 A. Yes, ma'am.

3 Q. So have you seen drunk people before?

4 A. Yes.

5 Q. Have you seen some wild stuff?

6 A. Yes.

7 Q. Have you seen some boisterous behavior?

8 A. Yes.

9 Q. Were those two victims, were they acting in any
10 way like that?

11 A. Not that I saw, no.

12 Q. And if someone is over served or acting a little
13 too inebriated, have you cut people off before as a
14 bartender?

15 A. Yes.

16 Q. And would you have any issue cutting people off?

17 A. No.

18 Q. And in this case, did you cut either of those
19 victims off?

20 A. No.

21 Q. And where were you when the shooting occurred?

22 A. At the front with the door girl.

23 Q. Do you remember how many shots you heard?

24 A. No. I just remember we heard shots and went to
25 got get the DJ.

TASHA OTTE DIRECT BY MS. BOZARTH

1 Q. After you heard those, did you go outside at all?

2 A. No.

3 Q. Do you remember law enforcement coming?

4 A. Yes.

5 Q. Were you allowed to leave the establishment?

6 A. No.

7 Q. Was anyone else in the establishment trying to
8 leave?

9 A. No.

10 Q. Was anyone allowed to go to leave the parking lot?

11 A. Not where it happened, the main parking lot,
12 because it was liked blocked off.

13 Q. And when law enforcement talked to you did you
14 know anything about the two victims?

15 A. No.

16 Q. Did they say that to you?

17 A. No.

18 Q. Did you know a dancer was involved?

19 A. Yes.

20 Q. When did you know about that?

21 A. Once the police got there and everybody was
22 talking.

23 Q. So that's just around the bar? That's not your
24 personal knowledge?

25 A. No. Yeah, no.

TASHA OTTE CROSS BY MR. JENNINGS

1 Q. Do you know which dancer?

2 A. I don't know her name, but I know what she looks
3 like.

4 Q. And did you see -- you said you didn't see any
5 arguments or anything inappropriate between victims or any
6 dancers?

7 A. No, I wouldn't because I'm behind the bar.

8 Q. With regards to the two victims, was it otherwise
9 -- in the shooting, was it otherwise a normal night?

10 A. Yes.

11 Q. And the only reason you remember these two victims
12 is because of the shooting?

13 A. Yeah.

14 Q. Otherwise, they kind of blended in?

15 A. Yeah.

16 MS. BOZARTH: Please answer any anything defense
17 may have.

18 THE COURT: Mr. Jennings.

19 CROSS-EXAMINATION

20 BY MR. JENNINGS:

21 Q. Good morning, Ms. Otte?

22 A. Yes.

23 Q. You -- I think you said that when you're pregnant,
24 you don't dance.

25 A. Obviously, yeah.

TASHA OTTE CROSS BY MR. JENNINGS

1 Q. You were pregnant at the time --

2 A. Yes, sir.

3 Q. -- back in 2021, and so you were just working as a
4 bartender?

5 A. Yes, sir.

6 Q. How long have you been at the King Street Cabaret?

7 A. Since February 2019.

8 Q. And so I assume over that time, you've seen a fair
9 amount of disagreements or fights in the club?

10 A. Yeah.

11 Q. And it's fair to say when people have too much to
12 drink, they can be inconsistent in their behavior; can't
13 they?

14 A. 100 percent, yeah.

15 Q. One minute, everything's fine, they're laughing.

16 A. Yeah.

17 Q. When somebody says something to them, looks at
18 them the wrong way, the next second is just totally out of
19 control --

20 A. Yeah.

21 Q. -- correct?

22 A. Yeah.

23 Q. And that's common to men, whether it's a strip
24 club or any kind of bar?

25 A. Uh-huh.

TASHA OTTE CROSS BY MR. JENNINGS

1 Q. Drunk people are drunk.

2 A. Yeah.

3 Q. And you don't know how they're going to act.

4 Were you aware that the gentleman -- I think you
5 said the gentleman that had the shoulder bag was -- that's
6 kind of unusual, it stood out?

7 A. Yes.

8 Q. You don't see that often?

9 A. No.

10 Q. Were you aware that his blood alcohol level was
11 0.20 that night?

12 A. No.

13 Q. You are aware that the legal limit in South
14 Carolina is 0.08?

15 A. Yes.

16 Q. And simple math, that would be about
17 two-and-a-half times the legal limit in South Carolina?

18 A. Yes, sir.

19 Q. The drinks that you were serving them were they
20 drinking beer or liquor?

21 A. I'm pretty sure one was drinking liquor and one
22 was drinking beer.

23 Q. The one with the shoulder bag was drinking liquor?

24 A. Yes.

25 Q. I think Crown and Cokes?

TASHA OTTE CROSS BY MR. JENNINGS

1 A. Yes.

2 Q. Do you remember specifically how many drinks he
3 had?

4 A. No.

5 Q. And I think they were paying cash, correct?

6 A. I don't recall.

7 Q. Okay. Do you remember the police asking you to
8 hurry back and pull their receipts, but you couldn't because
9 they were paid in cash. Do you recall that or not?

10 A. No.

11 Q. So you were not -- I think that you said the only
12 times you saw then was when they were at the bar?

13 A. Yes, sir.

14 Q. If any of them had gone back down the hall to the
15 private dance rooms you would not have been a witness to any
16 of that activity?

17 A. No.

18 Q. You would not have seen their conduct in that
19 room?

20 A. No.

21 Q. But you don't know the name of the dancer who had
22 to dance with the man with the shoulder bag?

23 A. No, I don't know her name, but I know what she
24 looks like.

25 Q. Do you know that -- do you recall that she had

TASHA OTTE CROSS BY MR. JENNINGS

1 just started working there for maybe a couple of weeks?

2 A. I -- I don't really remember. I feel like she's
3 been there for a minute.

4 Q. Okay. And you know Melshaun?

5 A. Yes.

6 Q. He's the general manager?

7 A. Yes.

8 Q. And if you started in 2019, had he been working
9 there the entire time?

10 A. Yes.

11 Q. As a general manager?

12 A. Yes.

13 Q. And around this time he had broken his foot hadn't
14 he?

15 A. Yes.

16 Q. And so had missed some work, had surgery on right
17 foot?

18 A. Yeah.

19 Q. And I think he had just come back to work a couple
20 of weeks before this incident happened?

21 A. Uh-huh.

22 Q. And he was on a -- had a boot on the foot?

23 A. Yeah.

24 Q. And was using a scooter to get around --

25 A. Yes.