

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Nov 13 2025

SC Court of Appeals

Appeal from Charleston County

Honorable William C McMaster, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COURTNEY CHARLES CORDAE RICHARDS,

APPELLANT

APPELLATE CASE NO. 2024-001274

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
DEFENSE EXHIBIT #2 (PICTURE OF LAYLOW VON FACEBOOK (ID ONLY)),
DEFENSE EXHIBIT #18 (FULL ZION’S VIDEO), DEFENSE EXHIBIT #19 (JAVON
WALK-UP REGULAR SPEED.MOD), DEFENSE EXHIBIT #20 (JAVON WALK-UP
SLOWED DOWN.MOD), DEFENSE EXHIBIT #21 (ZION REGULAR SPEED
ZOOMED-IN CAR DOOR.MOD), STATE’S EXHIBIT #8-10 (DISC REPRESENTING A
CLIP OF A VIDEO FROM ZION’S FACEBOOK PAGE), STATE’S EXHIBIT #10
(FIREARM FROM THE TRAFFIC STOP)**

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 9
COUNTY OF CHARLESTON) DOCKET NO. 2023-GS-10-03777
2023-GS-10-03778

STATE OF SOUTH CAROLINA,
Plaintiff,
versus
COURTNEY C. C. RICHARDS,
Defendant.

H E A R I N G
BEFORE THE HONORABLE WILLIAM C. MCMASTER

DATE: July 22-26, 2024
TIME: ***
LOCATION: South Carolina Circuit Court 9

TRANSCRIBED BY: Mary Ragsdale

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11	Abigail Perry	168,349	178,359	363	
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24	(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL		
25	IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)		

1 THE COURT: All right. Is the State ready?

2 MS. LINDER: State's ready, your Honor.

3 THE COURT: All right. Defense waiting on your client.

4 MR. BISCHOFF: Yes, sir.

5 THE COURT: All right.

6 MR. BISCHOFF: He's coming right out.

7 THE COURT: All right. Okay. All right.

8 Defense ready now?

9 MR. BISCHOFF: Yes, sir.

10 THE COURT: All right. Looks like we're -- we're going
11 to go on the record now on the
12 State versus Courtney Charles Cordae Richards. He is charged
13 in 2023-GS-10-03777 and 2023-GS-10-03778, charges: murder and
14 possession of weapon during commission of a violent crime.

15 And we're going to take care of some pretrial matters
16 now that we had discussed previous -- previously in chambers,
17 but we want to go ahead and take care of those now. So I'll
18 be happy to hear from the parties and we can -- we can start
19 in any order you all would like.

20 MR. MCGUIRE: So, Judge --

21 THE COURT: All right. So, Mr. McGuire, you're going
22 to start of course. All right. Go ahead.

23 MR. MCGUIRE: Thank you, your Honor. I did file a
24 pretrial brief with the clerk of Court and I think, your
25 Honor, has a copy. The first issue would be that -- my

1 understanding is that the State's going to allege that my
2 client fired a .45 caliber pistol, semi-automatic pistol at
3 the scene. And a search of my client's automobile thereafter
4 revealed some items in the car. Just typical stuff that you
5 would see in a car. Some ID stuffs, some a bag of loose
6 change, some school IDs. In the bag of loose change were a
7 number of 9mm -- 9mm unfired bullets.

8 And they're not related to the case at all. There's no
9 allegation that my client had a 9mm gun at the scene. To
10 this -- this ammunition is just completely not relevant to
11 the case. And there's no probative value to it. So it's not
12 relevant, it's not probative. It does have a prejudicial
13 effect in the sense that my client would be seen as somebody
14 who's driving around with 9mm bullets for just having a gun
15 and just being around guns, kind of painting with a gangster
16 personality perhaps. So we would move to keep all of those
17 unrelated 9mm bullets up.

18 THE COURT: All right. And we hear from the State.

19 MS. OUTTEN: Thank you, your Honor. So just as a
20 preliminary to address what Mr. McGuire's argument was is
21 brief. We don't intend to use that evidence or any evidence
22 to argue any sort of gangster-like persona on the behalf --
23 on the -- for the Defendant. And we would argue that items
24 would -- are found in his vehicle, which he was arrested near
25 to his vehicle, are relevant in this case.

1 And we would also say that there's not any substantial
2 prejudice. It's not going to be in dispute in this case that
3 he fired a gun, which suggests that he's familiar with
4 firearms and uses them. The fact that he owns multiple
5 firearms we don't think would be so substantially prejudicial
6 that the jury would be -- would conclude that he killed him
7 because he owns multiple firearms. We just don't think that
8 they cleared that substantial prejudice bar.

9 THE COURT: Is there any -- so there's -- and obviously
10 I don't know anything about the facts yet, other than what
11 I've read in pretrial briefs. There's not going to be any
12 evidence that -- that the Defendant filed -- fired a 9mm at
13 any time?

14 MS. OUTTEN: No.

15 THE COURT: Is there going to be any other evidence
16 about any other firearms that will be put in evidence by the
17 -- by the State?

18 MS. OUTTEN: No other firearms, Judge, but our -- but
19 our other kind of concern, besides just items that are found
20 in the Defendant's car when he's arrested are relevant. Is
21 that we are also going to have to kind of conversely argue
22 that our victim was defending himself from the Defendant, and
23 his understanding and knowledge of the fact that the
24 Defendant might have multiple firearms is relevant and his
25 decision to fire back -- back. So we would argue that it has

1 some probative value and that there's not substantial
2 prejudice -- prejudice.

3 THE COURT: What -- what do you have to say about that,
4 Mr. McGuire?

5 MR. MCGUIRE: Well, again, Judge, if we go back to the
6 basic definition of relevance, does the evidence make a fact
7 an issue more or less likely? And the answer is no. So it
8 has no relevance.

9 The -- the alleged victim can't testify about his
10 knowledge of Courtney and what he might or might not have.
11 And to say that there's -- we're going to make the leap from
12 bullets that are completely unrelated, not relevant at all to
13 say, well, maybe the alleged victim thought that Courtney
14 might have more than one firearm is a leap so large where any
15 probative value is about nil. That the prejudice is
16 obviously there, for instance, if -- and sometimes the way to
17 analyze this is just take it to the extreme.

18 Let's say you had 100 bullets in the car, all not
19 related to the shooting. Would we let 100 bullets in? What
20 about 100 bullets and 100 guns, would we let that in? The
21 answer is no to all these questions and just because it's 10
22 and not a great number, doesn't mean that the prejudice goes
23 away. While it might be somewhat less, it's there.

24 So we have no relevance, no probative value, and there
25 is a prejudicial effect based. And the prejudicial effect

1 would be that he's painted as somebody who just kind of rolls
2 around with ammunition. Based on all of that, I think it
3 would be proper to exclude it.

4 THE COURT: All right. Based on arguments, Counsel,
5 I'm going to decide on 403, I'm going to suppress any
6 9mm unfired -- unfired bullets that were found in a search of
7 the Defendant's car.

8 All right. Number two, next, sir.

9 MR. MCGUIRE: Yes, sir. Number two, when I inspected
10 the physical evidence at the prosecutor's office, the gun
11 that is attributed to be Courtney's is a .45 pistol. And in
12 the box -- and I believe recovered -- when they recovered the
13 gun from a third party not connected with Mr. Richards
14 sometime later after the shooting, the gun had with it a
15 26-capacity extended magazine.

16 And I have -- I can offer testimony to the Court that
17 is not the magazine that was in the gun at the time. And
18 this is very similar to the first situation with unrelated
19 bullets. They can't prove that it was in the gun. It's a
20 menacing, extended clip with a high -- high capacity. It --
21 it essentially turns the pistol into a battlefield weapon or
22 assault weapon. And just the nature of the -- inherent
23 nature of the extended clip is menacing. It would paint
24 Courtney as being more dangerous, more malicious, more
25 gangster, that sort of thing.

1 And again, we can put up testimony to say that that
2 clip was not in the gun on the day in question. And -- and
3 again, just to throw it in when it's not relevant, it's not
4 probative, and it does have a prejudicial effect, it should
5 be suppressed as well.

6 THE COURT: Was it just one clip found with the gun
7 when it was recovered?

8 MR. MCGUIRE: Yes, sir.

9 THE COURT: Just the -- and it's the high capacity?

10 MR. MCGUIRE: Yes, sir. And just for the Court's
11 benefit, Courtney -- Courtney sold the gun and it ended up in
12 different -- there's a chain that takes it to the ultimate
13 juveniles that were pulled over on an unrelated or where they
14 had interaction with -- interaction with law enforcement on
15 an unrelated case. Nothing to do with Courtney. Apparently,
16 they bought and put in the gun a high-capacity clip that
17 Courtney never saw, never bought, never had.

18 THE COURT: All right. State?

19 MS. LINDER: Thank you, your Honor. May it please the
20 Court? A couple things as far as what Mr. McGuire was
21 saying, dealing with the high-capacity magazine. First of
22 all, we think that while we can appreciate that he's telling
23 us today that they have something to offer -- that it was not
24 the magazine that was in the gun then shooting. We have
25 nothing of that. I'm assuming they're going to have their --

1 his -- his client, the Defendant say that that's not the one
2 that he used. But again, I -- I think everything deal -- I
3 think that's a question of facts up to the jury. I think
4 that, you know, just because he said that's not the one he
5 used -- I mean he has an interest in -- in saying that if in
6 fact he's concerned about the clip kind of painting him in a
7 menacing way. We don't think that it would be substantially
8 prejudicial order to have that, as that is the way that the
9 firearm was located.

10 We are going to be very clear with the officer who
11 conducted that traffic stop during the testimony, a report of
12 which Mr. McGuire has been given that -- that is how it was
13 found. There is a time difference of when the incident
14 happened and when that gun was recovered. For all we know,
15 my confused jury, if they see a firearm, they don't see a
16 clip. And there's no magazine there. We are absolutely not
17 making any mention of gangs, or gang involvement, or
18 gang-like persona dealing with Mr. Richards or anyone
19 involved in this case.

20 Something that I think might matter a bit is there is
21 an audio recording from a Facebook page where a search
22 warrant was done during the trial itself, that the
23 individual, who is the videographer of a portion of the
24 shooting, she talks about how the Defendant was so smooth and
25 he -- he waited for the victim to empty his clip before he

1 then issued the fatal shots, if that matters.

2 Furthermore, we do have somebody from SLED coming to
3 testify, Michelle Eichenmiller, and she will testify about if
4 that firearm frame of the gun matches the fire cartridge case
5 located at the scene. And she is not going to intimate or in
6 any way suggest that that clip -- she can -- she can say
7 clearly that clip is the one, but I think just to -- to keep
8 that out, today's the first time we've heard that the
9 Defendant sold the gun.

10 We -- we don't know all this information, and all that
11 information I'm guessing is going to come from the Defendant.
12 Again, I don't know. I've never -- I don't know anything of
13 what he's going to say, if Mr. McGuire has a witness that
14 he's claimed to call, you know, if he has multiple people and
15 it is like, well, this is the image of the -- the gun when it
16 was sold and there was no extended magazine, and then only
17 later was this magazine put in. I think maybe there's a
18 conversation to be had, but we don't have anything saying
19 that that was not against. And so, I think that it's
20 important to show the firearm, as it was recovered months
21 after the shooting, how it was recovered by law enforcement.

22 THE COURT: All right. Based on the arguments,
23 Counsel, I appreciate those arguments. I'm going to allow
24 the .45 caliber pistol and the clip to be offered as evidence
25 in this case.

1 Certainly, I -- I -- we are not going to have any
2 mention of gangs. I think everybody's been pretty clear
3 about that. We're not going to talk about gangs, or I think
4 you used the term gangster persona, or anything of that
5 gangster-like persona. We're not going to have any mention
6 of that. I believe this does survive a 403 analysis. It is
7 certainly relevant, it is the gun that, according to Counsel
8 was tested and fired, and matches the -- the bullet that I
9 believe is -- was recovered from the deceased in this case.
10 Is -- is that my understanding?

11 MS. LINDER: Michelle Eichenmiller says the projectile
12 is too deformed. It does look like it's from a .45 and
13 likely is locked. Michelle Eichenmiller compares the prior
14 cartridge cases recovered from the scene. It says those fire
15 cartridge cases were in fact fired from that gun. So it is
16 -- it is the weapon. She just can't say that definitely the
17 projectile was fired from that firearm.

18 THE COURT: So the casings is what you're -- the --

19 MS. LINDER: Yes.

20 THE COURT: -- casings match?

21 MS. LINDER: Yes, Judge.

22 THE COURT: Tool marks on the case?

23 MS. LINDER: Yes, Judge.

24 THE COURT: Okay. All right. Yes, sir.

25 MR. MCGUIRE: And, Judge, I'm not sure if you were

1 thinking about something else or -- or misspoke, but you
2 indicated that this was -- what we're talking about is the
3 decedent's gun. It's actually Courtney's gun.

4 THE COURT: I -- I'm sorry.

5 MR. MCGUIRE: Okay. I didn't --

6 THE COURT: I -- I might have misspoke. Yes, I did.
7 The -- this is the Defendant's gun. It is -- it is the gun
8 that -- that is the State's position that was used by the
9 Defendant to -- and that -- and Mr. -- and the victim in this
10 case deceased -- died from a round fire from that gun -- is
11 the State's position. Based on the -- the gun being
12 recovered, they have attributed that -- they indicate they're
13 going to attribute that gun to the Defendant. And I believe
14 it survives 402 and 403.

15 MR. MCGUIRE: I understand, Judge.

16 THE COURT: Thank you.

17 MR. MCGUIRE: Just -- just briefly, later in the
18 pretrial brief I make an offer to agree to the fact that
19 these are in fact the casings fired from the .45 attributed
20 to Courtney. I'm not requiring chain of custody, any expert
21 testimony, to prove that the toolmark evidence indicates that
22 these are the -- the same shell casings fired by the .45
23 recovered in an unrelated matter.

24 So the fact that there -- I'm agreeing to -- it's --
25 it's a gun. It's a .45, it's Courtney's gun, and the shell

1 casings recovered at the scene that are .45s are all
2 attributed to Courtney. And in my pretrial brief, I indicate
3 that it would be appropriate for any party, without laying a
4 foundation, just to say, this is the .45 that Mr. Richards
5 fired. These are the shell casings that that gun fired.
6 These are the shell casings recovered at the scene that are
7 the shell casings that came from that gun.

8 Given that offer, that agreement, that stipulation, the
9 clip has no relevance or probative value at all. And it
10 would have some prejudice, maybe not the greatest in the
11 whole world, but in these times where we have school shooters
12 and mass shooters, people that have extended clips for a
13 semi-automatic weapon, it does turn it into an assault
14 weapon, and that has a very negative connotation. So based
15 on all these grounds -- so I'd move to suppress.

16 THE COURT: Any -- any further argument about the State
17 or response?

18 MS. LINDER: Your Honor, I would just -- I would just
19 point to that I don't believe it substantially prejudices
20 anything. There are -- there are only five fire cartridge
21 cases that were recovered at the scene. So it's not --
22 there's an amount that would necessarily fulfill, that we're
23 not referring to as an assault rifle. The firearm is going
24 to be -- we intend to enter it into evidence. It is a
25 regular Glock banger. We're not referring to it as any kind

1 of assault rifle or -- or intimating in any way that it could
2 be used as such.

3 THE COURT: I don't think the probative value is
4 substantially outweighed. So I'm going to allow the -- the
5 pistol, the .45, and the clip that we'll be discussing later
6 in the case to be -- be entered into evidence that if -- that
7 -- if the proper foundation is obviously laid for the
8 Defense. Thank you.

9 Next motion?

10 MR. MCGUIRE: Next motion, your Honor, is, our request
11 for a Duncan Hearing.

12 THE COURT: All right. We're going to hear that at
13 1:00 or 1:30 this afternoon.

14 MR. MCGUIRE: Yes, sir. And -- and just to give the --
15 the Court a heads up, I'm going to be asking for the
16 presumptions contained within the immunity statute to be
17 charged to the jury at the end of the case, if we go that
18 far. If we have to have a jury trial -- and the case that
19 I'll rely on is, I believe it's McPrairie, I can provide a
20 copy to the case where it specifically states that based on
21 the facts of the case -- the facts that were presented to the
22 jury, it is appropriate to have additional charges that over
23 and above -- just the basic Davis charge, which is the -- the
24 basic elements of self-defense.

25 And in the case that I -- I cited, the Court found that

1 the facts weren't necessarily sufficient enough to warrant
2 the immunity presumptions to be charged, but I think in this
3 case they will be. So, I'm just giving the Court sort of a
4 heads up if we get that far, I will be making that request
5 with regard to jury instructions.

6 THE COURT: All right. Yeah.

7 MS. LINDER: And, Judge, I'd like to be heard of that
8 in the appropriate time. We, of course, would object to
9 charging the jury about in limine as that's determination
10 made by the Court. And I would just reserve the right to
11 argue that at a later time, and I'd appreciate whatever cases
12 that they have because I believe to be the case unless Court
13 says otherwise.

14 THE COURT: Well, I'd like to see the case -- the case
15 is on both sides, but that -- that'll be dealt with at a
16 charge conference later down the road. So we'll -- we'll
17 just hold that in advisement. All right.

18 MR. MCGUIRE: Yes, sir.

19 THE COURT: All right.

20 MR. MCGUIRE: Yes, sir. We've reviewed the crime scene
21 photographs and we would object to anything that would be
22 unduly gruesome or prejudicial. Given the fact that we are
23 putting up a self-defense case, we're obviously conceding the
24 fact that shots were fired with the victim and ultimately
25 killed the victim. So there's really no need for these type

1 of gruesome photographs describing or showing the wound.

2 The alleged victim was shot in the back, the neck area,
3 and there's some very gruesome photos of the body on the
4 grass in the neighborhood bleeding out essentially. So we --
5 whatever pictures the State would want to show the jury, we'd
6 ask that they be submitted to the Court, so the Court can
7 analyze it with regard to a 403 analysis.

8 THE COURT: From the State?

9 MS. OUTTEN: And, your Honor, if I -- I may approach?
10 I'll also show Defense Counsel the two photos that we intend
11 to enter, just so that we can have a conversation about it in
12 light of photos that we intend to do.

13 THE COURT: And these are the only two now, the only
14 two --

15 MS. OUTTEN: Yes, sir.

16 THE COURT: -- you are going to enter?

17 MS. OUTTEN: Yes, sir.

18 THE COURT: All right. But let me take a look at it.

19 MS. OUTTEN: May I approach?

20 THE COURT: Sure. You may approach.

21 Now, we're going to -- to identify these. So I'm asking --

22 MS. OUTTEN: Judge, so --

23 THE COURT: -- complete record.

24 MS. OUTTEN: So, these are marked -- these two are
25 marked for the Duncan hearing as State's 77 and 78.

1 THE COURT: All right.

2 MS. OUTTEN: These two are marked for trial as
3 State's 29 and 30. And -- and just for clarification, we do
4 not intend to show any autopsy photos. We intend to show
5 just an X-ray of the victim's head, which will show where the
6 projectile was found on him ultimately. Those first -- those
7 last two photos are stills from the video that captured this
8 incident. And the first two are crime scene photos.

9 THE COURT: All right. So State's 29 and State's 30,
10 Mr. McGuire, what do you say to those two pictures? You've
11 got a chance to review these now.

12 MR. MCGUIRE: Yes, sir. Judge, we would object to all
13 of the photographs with the exception of number 77. Again,
14 we're conceding a gunfight, we're conceding firing at the
15 alleged victim. We're conceding that he died from a gunshot
16 wound inflicted by -- by Courtney, my client. So there is no
17 probative value as to the way the condition of the body and
18 the way it was left, for instance, in a capital case, you
19 would have photographs of the body to show maybe torture, the
20 heinous act of the crime. The condition of the body's always
21 relevant or somewhat relevant in cases like this.

22 This is the -- the moment in time that's relevant to
23 the jury. And the Court will be -- when Courtney pulled the
24 trigger to fire at the Defendant. What happened -- I mean,
25 the alleged victim -- whatever happens after that is really

1 almost irrelevant.

2 The moment in time that's at issue is when Courtney has
3 to pull the trigger in self-defense. Gruesome body shots
4 doesn't do anything. It has no probative value with regard
5 to that.

6 I believe that they should be able to show -- event the
7 -- the eventual location of the body where the body ends up,
8 because distances and how many seconds the Defendant may --
9 alleged victim may have survived, or walked, or ran would be
10 relevant, but close-ups of him bleeding out on the grass,
11 that would not be relevant, that would not have any probative
12 value. Really the only thing is just a distance-type issue.
13 And I would agree with that.

14 THE COURT: Ms. Outten?

15 MS. OUTTEN: Thank you, your Honor. So for the two
16 crime scene photos, we believe that they're probative of
17 where the victim's body is found, yes. But they are also
18 probative of the fact of law enforcement adequately securing
19 and documenting the scene, showing that the victim's body is
20 in the same place, both at the end of Mr. Davis' video, but
21 also when law enforcement arrives is an important fact that
22 the jury ought to understand in this case.

23 We also believe the photos are probative of the
24 victim's injury, and we think that we have left off some of
25 the more graphic photos. For example, there are photos where

1 you can see more blood and that are more gruesome. We picked
2 two: One shows the front of his body, one shows the back of
3 his body.

4 We -- and on that point, the Supreme Court actually
5 recently decided a case State v. Benton. It actually does
6 not have a cite, so I have a -- because it's so new. So, I
7 have a copy brief if you'd like to see it.

8 THE COURT: Sure.

9 MS. OUTTEN: Where they basically -- the Court
10 distinguishes between --

11 THE COURT: You got to give me that cite or if you have
12 a copy for me.

13 MS. OUTTEN: There's not -- there's no cite --

14 THE COURT: B-E-N-T-O-N. I've got the
15 opinion number 28185.

16 MS. OUTTEN: And, Judge, in that case it distinguished
17 -- at the case of State v. Nelson -- which was obviously
18 decided, which essentially cautioned solicitors for putting
19 in any autopsy photos unless absolutely necessary. But in
20 that case, the Court held that the crime scene photos, even
21 when gruesome, and I don't believe that these are -- these
22 photos are particularly gruesome, although they show a
23 homicide victim.

24 The -- the Court in holding that case said that, "The
25 pictures gave and pointed context to the testimony and other

1 evidence about who did what at the scene." And I believe
2 that that exactly describes what we are looking at here.
3 This photo is going to give context to the fact that in the
4 video -- going to see Javon Thomas back up, the video cuts
5 away, and then you see his dead body. I think that's
6 important to see that he died exactly -- what the end of Mr.
7 Davis' video. He is found there, like I said before -- also
8 probative of adequate (inaudible) police securing the scene.

9 So I believe that the photos -- those two crime scene
10 photos, as well as the still photos, allow the jury to fully
11 accurate -- fully and accurately determine how the victim
12 died, where his body was found, and relative to other items
13 along the scene.

14 And most importantly, to determine distances between
15 where the victim's fire cartridge cases, versus where is his
16 body, versus where the Defendant's fire cases -- we think all
17 of that matters and we think that putting in simply two
18 photos is not substantial prejudice, particularly considering
19 when there's not going to be the autopsy.

20 THE COURT: All right. You have a chance to look at
21 this case, Mr. McGuire?

22 MR. MCGUIRE: No, sir, but I am familiar with Nelson.
23 So I can speak on that. And my understanding is been some
24 time since I reviewed it, but my -- my understanding is there
25 was a murder case, and in opening statement the Defense

1 lawyer said, "This is not a whodunit, this is a -- this
2 person was clearly -- no, it was a hoot." I mean, I don't --
3 I mean, I'm not that familiar with Nelson. But anyway, there
4 was a concession by the Defense lawyer, and it made the
5 condition of the body not relevant and not probative.

6 And in this case we're conceding a gunfight,
7 self-defense -- we're conceding that the alleged victim was
8 in fact struck by a bullet fired by Courtney and died from
9 it. And I think the only relevance of the -- the body is
10 where does it end up? That's it. The blood, why -- we don't
11 need blood, we don't need gruesome photographs of blood
12 close-up. And those are gruesome photographs.

13 The -- still number 77 marked for the Court as
14 number 77 is a -- a picture of the body. It's -- it's got it
15 located. It's actually the best photograph for location
16 because it actually takes in more geography, more area, and
17 the -- we're going to have maps, we're going to have
18 testimony of whose house is this? Whose fence is this?
19 Where's the body? What intersection is that? How many feet
20 is it from here? All that information's going to be provided
21 to the jury.

22 So, a gruesome, bloody photograph is not necessary to
23 show who did what, and when, or where. Because that's all
24 going to be taken care of with other evidence. The fact that
25 -- the fact of the matter is we don't need a close-up bloody,

1 gruesome photograph of the alleged victim. Just don't.

2 I have no objection to 77. I think that's the one that
3 best shows location -- the ground where the body was found in
4 relation to the -- the incident location, the -- the incident
5 scene. I have no problem with that. But the other ones are
6 -- the only thing they add, Judge, is gruesome blood. That's
7 it.

8 What issue does -- do the other photographs address?
9 How does it move the ball forward on any issue in dispute?
10 And they don't, they're close-ups. You can't tell really
11 where they are. That number 77 does that. We have no
12 objection to that.

13 THE COURT: All right. Anything further?

14 MS. OUTTEN: Yes, your Honor. Briefly, just to address
15 the point of State v. Nelson. In Nelson, part of the concern
16 with that case was that the body had significantly
17 decomposed. And so, these were autopsy photos after the body
18 decomposed. So that was particularly gruesome. I think that
19 that's completely distinguishable from crime scene photos
20 taken, I believe less than an hour after the Defendant died
21 because they reflect accurately where the Defendant was.

22 If the Court does have concerns, the State has -- we
23 did create black and white photos of these two pictures. For
24 State's 29, the black and white photo is -- is pretty much
25 the same -- or excuse me, State 30, the black and white

1 photos pretty much the same. But with State's 29, the reason
2 that we'd like to show that is that it does show the victim's
3 injury, and the fact that he did die -- the gunshot wound to
4 the back of his head that is completely relevant to the
5 self-defense case. You were dying of a gunshot to the back
6 of your head because it suggests that you were fleeing, which
7 is going to be an issue.

8 So, I do not believe that it shows nothing. It doesn't
9 matter at all. It is just gruesome. I believe that the
10 gunshot went to the back of the head and demonstrating that
11 is important. Mindful of not creating substantial prejudice
12 by coming forth with 15 different photos of the victim's
13 body. Think that two photos, or a total of four accomplishes
14 us -- need to prove our burden beyond a reasonable doubt
15 while still -- while not prejudicing this jury to make an
16 improper determination.

17 THE COURT: You've shown Mr. McGuire the two black and
18 white photos?

19 MS. OUTTEN: Also -- right now.

20 THE COURT: Thank you.

21 MR. MCGUIRE: And, Judge, while I'm -- while I'm
22 looking at these, I have had a chance to think back -- back
23 on Nelson, the Defense lawyer in that case conceded to the
24 jury in opening statement, this is a murder -- that person
25 was murdered. No doubt about it. This is not an accidental

1 death, that person was killed. It's just who did it.

2 And the condition of the body did not add anything to
3 who did it. In this case, this is not a "whodunit", we're
4 admitting to the bullet striking the alleged victim and
5 ultimately killing him.

6 The -- these pictures are -- they have a picture of the
7 body, and then just a little bit of grass around it. There
8 may as well be no context at all, just a picture of a body
9 because that doesn't add anything. The grass doesn't add
10 anything. The ground doesn't add anything. The only thing
11 that is added to this is blood.

12 There's going to be a pathologist testify as to the
13 entrance wound and how this man was killed after he fired at
14 Courtney. And in this case, it's the same thing. It's a
15 picture of a body and you can see the face. It's very -- I
16 mean, this could have a very inflammatory emotional impact on
17 somebody looking at a -- a young man. He just lost his life
18 on the side of the street. And nothing is added here with
19 the grass -- the ground, placement of the body, nothing.

20 The only thing is the prejudicial nature. That's
21 what's added with the front of his face. If they want to say
22 that we have to get this in because the wound was in the back
23 of the head, you don't even see it here. You see his face,
24 it tugs at your heartstrings. It's emotional. It has the
25 date. The substantial -- the prejudice is -- substantially

1 outweighs any probative value.

2 Again, this is not a "whodunit". There's no probative
3 value in blood in this case. And that's blood or -- or a
4 very angelic face of a young man. These are emotional
5 issues. That's what they add. That's the only thing they
6 add.

7 Number 77 shows the placement of the body where it came
8 to rest. You're also going to have maps, crime scene people
9 flush all that out for the Court. Again, the -- the only
10 thing that these pictures do is to add the prejudicial value
11 of an angelic face of a teenage boy and a lot of blood off
12 the back of his head. And that's not what we're here for.
13 This is a self-defense case. We admit it, we concede all
14 that. This just adds blood and inflammatory picture of a
15 young man's face as he lays on the ground after he fired five
16 shots at Courtney, or at least five shots at Courtney.

17 And the fact that it's black and white doesn't take
18 away from the fact that the only reason they're interested is
19 to show prejudicial information. Number 77 covers the
20 information you need. It's not like we're objecting to every
21 picture of a body. I believe they do get to put one in to
22 say this is where the body ended up. I think that's fair. I
23 think number 77 covers that the best of any of the
24 photographs submitted to the Court.

25 And that, in conjunction with other crime scene

1 testimony, will fully establish what happened. How far
2 things are, that sort of thing. The photographs that the --
3 they've submitted to the Court that are beyond number 77 just
4 introduce prejudicial information.

5 And we would say that -- that a 403 analysis with
6 regards to prejudice -- danger of unfair prejudice
7 outweighing the probative value should be at issue here and
8 should keep the photographs from evidence.

9 THE COURT: All right. So as to 77, there is no
10 objection to 77 being entered into evidence?

11 MR. MCGUIRE: Yes, sir.

12 THE COURT: All right. So, we're looking now at
13 State's 29, and 30, and 7 -- and State's 78 at this time. As
14 far as State's 30 and 78, the Court has done a 403 analysis
15 that do not believe that these are unfairly substantial
16 prejudice.

17 And there is no substantial prejudice in this case.
18 These are not particularly gruesome photos, but they are
19 relevant. They show the positioning of the body, and in this
20 case, so 30 and 78 will be -- certainly will be -- can be
21 proffered for -- to be put into evidence at the appropriate
22 time, subject to any objections you make at that time.

23 MR. MCGUIRE: Your Honor, knowing that this is a motion
24 in limine, and generally I would have to object again when
25 they're introduced at trial. If we get that far. I'm asking

1 the Court to make a final ruling on that, so I don't have to
2 raise and object again.

3 THE COURT: So, you're going to stipulate to the
4 proffer found -- the foundation photos?

5 MR. MCGUIRE: No, what I'm saying is if generally in a
6 motion in limine, I would be forced to object when they try
7 to introduce them at a later time.

8 THE COURT: Correct.

9 MR. MCGUIRE: And the only reason that that's necessary
10 is because there might be other information that was provided
11 to the Court regarding their admissibility. I don't see any
12 information that would affect that. I mean, they are what
13 they are. So, I'm asking that the Court's ruling be final
14 and not require me to object when they're introduced to
15 trial.

16 THE COURT: And so, you do not want me to say, "Subject
17 to your objection" if these are entered into evidence?

18 MR. MCGUIRE: That's right.

19 THE COURT: That's -- that's what you want?

20 MR. MCGUIRE: Yes, sir.

21 THE COURT: Does State got any position on that?

22 MS. OUTTEN: We don't have any position on that, Judge.

23 THE COURT: All right. All right. I'll make a final
24 ruling that those 30, 78, and 77 at the appropriate time will
25 be admitted into evidence. And your objection is noted for

1 your prior objection. The Court is going to -- is looking at
2 29, I'm not going to make a final ruling on that right now.

3 MR. MCGUIRE: Yes, sir.

4 THE COURT: Take that under advisement. I'm going to
5 think about that one a few minutes, but as far as the other
6 three, those will be admitted, and your objection is noted
7 and protected.

8 MR. MCGUIRE: Thank you, Judge.

9 THE COURT: Thank you.

10 MR. MCGUIRE: And if -- and if there is information
11 that's entered into evidence that would -- so that would
12 alter their admissibility, I would let the Judge -- let the
13 Court know that I'm going to relay that objection and the
14 grounds on which I would raise it.

15 THE COURT: All right. That's noted.

16 MS. OUTTEN: Your Honor, would you like to see the
17 black and white motion, State's 29, for purposes of your
18 ruling?

19 THE COURT: Yes, that'd be great. And I know you've
20 already shown that, Defense Counsel, as well.

21 MR. MCGUIRE: Yes, sir.

22 THE COURT: Yes, you can take those. All right. I'm
23 going to review State's 29 in black and white, and State's 29
24 in color. And I'm taking that under advisement at this time.
25 And I will -- I'm going to -- I'm going to think about that

1 probably during the lunch break and -- and I'll make a
2 decision on that before we start the motion.

3 All right. Next?

4 MR. MCGUIRE: Judge, we would object to Javon Thomas
5 being referred to as "the victim." If that's -- that's a
6 conclusion that's not yet been reached. He is -- in fact,
7 he's an armed aggressor out there at that incident location.
8 And to refer to him as a victim, is already saying that this
9 is not self-defense, he was murdered, which -- that's the
10 ultimate question for the jury. So, up until the jury would
11 vote to convict -- up until that point, he should be referred
12 to as Javon Thomas.

13 THE COURT: What's the State say to that -- about that?

14 MS. OUTTEN: As a preliminary matter, your Honor,
15 Javon Thomas is a homicide victim. Whether or not the jury
16 decides that he's not a murder victim is a -- is a probative
17 for them to decide, but he's a homicide victim. He was
18 killed by a single gunshot to the back of his head. And so,
19 we would -- we would rest on that first.

20 And we would also point out, as I'm sure, your Honor
21 knows, the Defendant and victim are often shorthands that we
22 use in this context to refer to people so we don't have to
23 say their names, but we're also not saying he did this and he
24 did that, which can be confusing in a very short and tight
25 time frame that we're talking about. And that could be

1 confusing to have -- have us have to use names, which could
2 be confusing to people that are not as familiar to -- to this
3 case as we are.

4 And pronouns would also be confusing. And it's also
5 difficult to turn that off for people who work in this field.
6 And it can just lead to some needless objections that would
7 slow down the trial. For something that ultimately, your
8 Honor, is not very prejudicial.

9 The jury here, is here to decide a murder trial. And
10 so, the idea that they would be substantially prejudiced by
11 the words "Defendant", "victim", "crime scene" is a little
12 bit absurd. And it would also lead to some absurd results,
13 for example, the State is going to call Jodi Hunt, her title
14 with the North Charleston Police Department is crime scene
15 technician. So, she would not be able to say her job title
16 or explain her job. She's not an "on-incident-to-location
17 technician," she's a crime scene tech.

18 And so, I think that the Court -- granted a Defense
19 request could lead to some sort of -- of kind of absurd and
20 clunky results here. And using the normal words "victim" and
21 "crime scene" are not going to substantially prejudice this
22 jury in any way. And I think, it's just a -- a bit of a -- I
23 don't -- I'm not sure I really see a point in that. I don't
24 think that, and I would also certainly object after the
25 Defense would object we start calling the Defendant an

1 "armed aggressor", which seems to be how he wants to refer to
2 "victim" in that case.

3 THE COURT: All right. You kind of lumped five and six
4 together, so...

5 MS. OUTTEN: I -- I apologize.

6 THE COURT: That's all right. That's okay. That's all
7 right. I'll just let you be heard on -- on number six about
8 crime scene, and I can then rule on both of them.

9 MR. MCGUIRE: I mean, I'll -- I'll concede pretty
10 quickly that number 6 is a little bit different than
11 number five, and my objection is not as strenuous on that
12 one.

13 I don't have any objection to a truck being called "the
14 crime scene vehicle" or "the crime scene team", or this is a
15 "crime scene technician." I don't have any objection to
16 that. But to use the term "crime scene" when it's not
17 related to those technicians, I think it's -- it says a crime
18 happened. Well, the crime was that Javon Thomas fired on
19 Courtney. That's the crime. And I can make that clear.
20 It's going to require us to do a little bit more in a way of
21 questions, but we'll do it, or we can just not refer to the
22 -- to it as a crime scene. It's up to the judge of course.

23 Now, going back to number five, I don't think any adult
24 is going to have difficulty saying Javon Thomas or Mr. Thomas
25 as opposed to "the victim". I mean, these are basic English

1 words. I think we have the skill here to use Javon Thomas
2 instead of victim. I think we're all capable of that. It's
3 not difficult. There is an indication that I would object to
4 Courtney being called "the Defendant". I have no objection
5 to that. He is the Defendant, so I don't object to that.

6 Saying that Javon Thomas is "the victim" when the
7 charge is murder -- is he's a victim of murder, not homicide.
8 I agree. He is a victim of homicide. That's when a human
9 kills a human. He died of a homicide, no doubt about it.
10 But if we're going to call them "the victim", we're going to
11 have to do a lot more questioning about what does homicide
12 mean? Homicide's not necessarily a crime. A lot of people
13 die of homicide and there is no crime there.

14 And if you want us to be tedious in our question, not
15 the Court be, but if they want to make us be tedious in our
16 questioning, drawing out with the pathologist, for instance,
17 what a homicide is exactly, and its legal definition, that it
18 doesn't mean murder, and that she's saving plenty of homicide
19 victims where there was no crime and no murder. I mean, we
20 can do that. I don't want to -- I just want to go ahead,
21 just don't call him "the victim".

22 THE COURT: All right.

23 MR. MCGUIRE: And I'm not going to call him the --
24 "an armed aggressor" unless it's very exactly relevant. I'm
25 not just going to throw that term around.

1 THE COURT: Any -- anything further?

2 MS. OUTTEN: Yeah, Judge, we discussed our prior
3 argument.

4 THE COURT: All right. I'm going to take number five
5 under advisement. I'm going to deny the number 6: The
6 location -- instant location will be referenced as crime
7 scene. It -- it sounds like from your argument, it's a crime
8 scene either way. It -- you -- under your position, is that
9 the deceased fired at your client, and their position is your
10 client shot and killed the deceased. So, it is a crime scene
11 either way under your argument.

12 MR. MCGUIRE: I don't necessarily disagree.

13 THE COURT: So, I think we're going to have to go with
14 that one. That's going to -- that's going to be called "a
15 crime scene".

16 MR. MCGUIRE: Yes, sir.

17 THE COURT: All right. And number -- so number five is
18 under advisement. I will get back to you on that. And
19 number 7, this talks about post-incident silence -- yeah,
20 that'll be it. I have to hear from you on that one.

21 MR. MCGUIRE: Sure. Your Honor, you know, one of the
22 -- the most common grounds for a mistrial is to draw
23 attention to a Defendant's post-arrest silence. It's easy to
24 do -- it's easy to do by accident. I'll tell you that
25 Courtney did not give a statement after his arrest, he

1 invoked his right to remain silent. So, if there's a line of
2 questioning about Mr. Richards never calling the police,
3 never trying to let them know what happened, get his side of
4 the story out. If you're innocent, why didn't you call the
5 police? That sort of thing. Then the jury is going to be
6 wondering, well, what -- when did he ever give his side?
7 Well, did he never give his side? If they come to the
8 conclusion, well, I guess he never gave his side then those
9 questions about his -- the post-incident, but pre-arrest
10 silence is going to draw. So, post-incident --

11 THE COURT: Uh-huh.

12 MR. MCGUIRE: -- post shooting -- after shooting. He
13 doesn't call the police. He doesn't go walk into a police
14 station. He doesn't say, "Call 911. Let me tell you what
15 happened. I just got shot at." So all of the post-incident,
16 post-shooting silence, it's going to cause the jury to think,
17 well, when did he ever get his side out? When did he ever
18 give a statement? And it's going to be that he invokes his
19 right to remain silent. It's a constitutional right. They
20 can't draw attention to his constitutional right to remain
21 silent. And it's a -- it's a Mapp -- Ohio Mapp violation to
22 draw attention to that.

23 And I think any line of silence about not -- him not
24 contacting the police, saying, "Well, you know, how to --
25 your fingers know how to dial 911, you know where you can

1 drive to the police station, walk in the front door and say,
2 'I need to tell you what happened'." Any kind of questions
3 like that's going to draw attention to his post-arrest
4 silence, which is a violation of his Fifth and Sixth
5 Amendment rights to not communicate to law enforcement after
6 arrest.

7 THE COURT: All right. Ms. Outten?

8 MS. OUTTEN: Thank you, your Honor. So the State is
9 very aware -- conscious of Defendant's constitutional rights.
10 He did not get a statement. We obviously would not comment
11 upon that at all, but some important background information
12 that I believe may be helpful for you in deciding this. The
13 Defendant was actually not arrested until five days after
14 this incident, being taken in by the US Marshals.

15 And during this time, he actually is discussing the
16 case via text message with multiple people, but at no point
17 does he come forward to tell law enforcement his side of the
18 story.

19 And the State's not aware of anything that prohibits
20 talking about that five-day period where he did not come
21 forward. Where he is discussing the case with a lot of
22 people. And Doyle v. Ohio, 426 U.S. 10 discusses its primary
23 concerns with, I believe Mr. McGuire said, "It's a Mapp
24 violation." It was a Doyle violation.

25 And that case is primarily concerned with -- once

1 somebody has been warned of their rights, and the case makes
2 this very clear that it would be a violation of them in order
3 to question somebody about their post-arrest silence.

4 And the South Carolina Supreme Court actually
5 considered this issue in State v. Holiday. That's 3 --
6 333 S.C. 332, which is a 1998 case. And in that case, the
7 Court ultimately did find that the solicitor had properly
8 cross-examined the Defendant about post-incident silence and
9 post-arrest silence. But what I think is very particular
10 about that case, is that some of the -- and this is reading
11 from the case, "Although some of the solicitor's questions
12 dealt with Aaron's failure to tell his story to anyone before
13 he received his Miranda warnings. Other questions asking
14 whether he told the solicitor's office, or anyone involved in
15 the prosecution, clearly unpaid the time period following the
16 man's Miranda warnings."

17 So the solicitor's questions violated the Doyle rule,
18 but in that case, you were talking about questioning that
19 implicated basically the booking procedure. The solicitor
20 was questioning the Defendant. The solicitor asked the
21 Defendant, "When you were being booked, did you tell anybody
22 your side of the story?" And so, what the Court found was
23 that because you got so close to that Miranda line, that --
24 that was a violation because he got his Miranda warnings
25 right after the questioning.

1 And I think in this case, this is different when we're
2 talking about a five-day period during which the Defendant
3 could have come forward. I think that that is important.
4 I'm not -- we're not aware of any case that says that
5 post-incident silence is not allowed. And in fact, there's
6 cases -- all of the cases draw very specific attention to
7 post-Miranda silence. And certainly, the State would be
8 extremely careful to not edge up to the line that the Supreme
9 Court laid out in -- in all day.

10 THE COURT: So you're trying -- you're -- I just make
11 sure I'm understanding because again, I don't have all the
12 facts yet. Obviously we're working through it. You're going
13 to -- he sent your position -- the State's position is he
14 sent text messages about the incident in the five days before
15 he was arrested?

16 MS. OUTTEN: Yes, your Honor.

17 THE COURT: And that's what you want to get into?

18 MS. OUTTEN: We want to get into that, but also the
19 fact that he's discussing the case with other people and
20 seeking advice from people about what to do, and that
21 ultimately he does not come forth to law enforcement until
22 he's taken in by law enforcement.

23 THE COURT: Right. I'll -- I'll hear from you briefly
24 on that, but...

25 MR. MCGUIRE: So, I mean -- if I understand it -- it's

1 -- it's not a comment on total silence. It's -- he's -- he
2 is talking, he's not silent. He's talking to other people.
3 And the question will be, "But you never told the police
4 that. You never told the cops that, you never called the
5 police. You never went and saw a detective. You're just
6 talking to your friends about it. But you never really" --
7 "if you were innocent, you'd to talk to the police." Now,
8 those questions are going to cause the jury to think, well,
9 when did he -- when did he give his side of the story to the
10 police? And it's going to be, oh, well, the answer to that's
11 never. And they're going to be thinking about his
12 post-arrest silence.

13 So even though they're not -- so the line of
14 questioning is inherently loaded with questions that will
15 cause the jury to think and -- and ask themselves, when are
16 we going to hear when he gave his side of the story to the
17 police?

18 Because he's talking to these other people and the line
19 they're going to draw is, but you didn't tell the police
20 that. That is -- that's prototypical calling attention to
21 one's right to not call the police, not have contact with law
22 enforcement under both the Fifth and Sixth Amendments.

23 So that question right there at that moment, is
24 essentially dressing him down for not contact -- not taking
25 affirmative action to contact the police to have contact with

1 law enforcement. That's what he has a constitutional right
2 not to do.

3 So they're commenting directly on his constitutional
4 rights not to talk to the police, not to have contact with
5 them. And it doesn't really matter in this context if it's
6 right after you get Miranda or sometime before.

7 If the whole line of questioning is going to be, "Oh,
8 you were chatting with other people, but you didn't tell the
9 police that", they are commenting directly on his Fifth and
10 Sixth Amendment right not to have contact with law
11 enforcement, not to give a statement.

12 THE COURT: And does the State anticipate this is going
13 to come up, but the text messages would be, in your
14 case-in-chief?

15 MS. OUTTEN: Yes, your Honor.

16 THE COURT: And then the secondary part of what Defense
17 counsel's talking about would be if his client would've
18 testified. Is that --

19 MS. OUTTEN: Correct, your Honor. And -- and we would
20 -- we would definitely be -- would tread lightly. We
21 obviously would not want to get -- we obviously not want to
22 get ourselves into a Doyle violation or any sort of issue
23 like that. But I do think that questions of when he is
24 alleging that -- that somebody shot at him, I think questions
25 of, "Did you stay on the scene? Did you call 911?" I think

1 that those are relevant. I think that that is -- that is
2 post-incident silence. But at that point, he's not been
3 given his Miranda warnings.

4 And so, I do believe that we're allowed to get into
5 those kinds of things. So, I think that that is relevant
6 because I think that we -- we -- we're kind of in a
7 double-edged sword because if we are showing messages that
8 show him talking to other people about it, the jury is going
9 to wonder one way or the other if he -- if he talked to law
10 enforcement, we're going to stay far, far away from the
11 arrest date. We're going to stay far -- far away.

12 Detective Butler who is sitting with us here is the
13 case agent. We're not going to ask her probably anything
14 about that day that he was arrested. We're going to stay far
15 away. We do feel like -- did you stay on the scene? Did you
16 call 911? Are -- are things that implicate only a
17 post-incident silence that are relevant when we are having to
18 reply to claimant's arguments.

19 THE COURT: All right.

20 MR. MCGUIRE: Judge, if I can just add one point -- not
21 to belabor it. I appreciate it.

22 THE COURT: No. You're in order.

23 MR. MCGUIRE: So, I agree that evidence of flight can
24 be relevant.

25 THE COURT: Sure.

1 MR. MCGUIRE: But that's when you need to draw an
2 inference from something because you don't really know or see
3 what's going on. When you have a video of exactly what
4 happened, you don't need this collateral evidence of "you
5 didn't go to the police" to infer something. It's on video.
6 What happened happened and I know you don't know the facts of
7 the case, but I will tell you this shooting is on video and
8 you can hear who shoot --

9 THE COURT: And I've been provided some video, but I
10 don't know if that is the video you're talking about --

11 MR. MCGUIRE: Sure.

12 THE COURT: -- pretrial.

13 MR. MCGUIRE: And I -- and I would agree that the --
14 the probative value of something like flight, leaving a
15 scene, the probative value of maybe not coming forward when
16 you have to draw an inference of guilt, sure. That becomes a
17 little bit more probative.

18 When you have a video and you know what happened when
19 you see the exact -- the shooting, and when you see what
20 happened, you don't need any inferences at all. So the
21 probative value of this, well, you didn't tell the police
22 this is --

23 THE COURT: But they're not going to -- they're not
24 going to say, "That is what they just told me." They're not
25 going to say, "You didn't tell" -- say, tell the police this.

1 They're going to talk about that he did not stay on the --
2 the scene and didn't call 911, is what they just said; is
3 that correct? I mean, did I miss that?

4 MR. MCGUIRE: I mean, I don't think they're limiting
5 themselves to that.

6 MS. OUTTEN: I -- I think we should be able to speak
7 about the day of the incident and actions that he took, which
8 would include not calling 911, not staying on the scene, and
9 not speaking with law enforcement that day.

10 THE COURT: Not calling law enforcement.

11 MS. OUTTEN: Not calling, or speaking, or call -- not
12 calling 911, not speaking with law enforcement, and not
13 remaining on the scene the day of the incident to be -- and
14 just to say again that it was not Mirandized about five days
15 after the incident happened when he was taken in custody.

16 THE COURT: Okay.

17 MR. MCGUIRE: I mean, I would still object to
18 post-incident silence.

19 THE COURT: All right. All right. I'm going to take
20 that under advisement. Okay. All right. Now, we have some
21 -- some things that we're stipulating to, I believe we are
22 waiving -- the Defense is waiving any objection or -- or are
23 (inaudible) hearing be held in this case; is that correct?

24 MR. MCGUIRE: Yes, sir.

25 THE COURT: All right. And there's no -- obviously no

1 Jackson v. Denno that needs to be here of?

2 MR. MCGUIRE: No, sir.

3 THE COURT: We just cleared that up.

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: So, we got that. We're going to have no
6 chain of custody, like, you have some stipulations on chains
7 of -- on chain of custody for some shell casings; is that
8 correct?

9 MR. MCGUIRE: Yes, sir. I'm not requiring chain on any
10 physical evidence.

11 THE COURT: Okay.

12 MS. OUTTEN: And -- and, Judge, we would just -- with
13 four and five have sort of the same argument about Defendant
14 and victim, Defendant's gun, victim's gun.

15 THE COURT: Right. Okay. And --

16 MS. OUTTEN: So, we wouldn't necessarily stipulate to
17 it exactly that way.

18 THE COURT: All right. And it's subject to the ruling
19 that I'll make on whether we call it the "victim's gun."
20 We'll -- we'll go through that.

21 MR. MCGUIRE: Yes, sir.

22 THE COURT: So, no foundations necessary from some work
23 records on Five Guys Enterprises -- Five Guys burgers? No
24 objection to that by the Defense, I stipulated to you.

25 MS. OUTTEN: Judge --

1 MR. MCGUIRE: Those are my records.

2 THE COURT: Those are your records. Okay.

3 MS. OUTTEN: And, Judge, we haven't seen those so
4 without -- we're -- we're not really willing to stipulate
5 that at this point, without really seeing those records and
6 understanding what relevance they may have.

7 I don't think it's in dispute that he worked at
8 Five Guys, but we're not sure what those work records would
9 show. And again, we have not seen them. We don't -- we are
10 not in possession of them. Defense is in possession of them.
11 So that would really be our only need. It's not necessarily
12 an issue, it's just more of a question of what are they and
13 what they show.

14 THE COURT: All right. You all think you can clear
15 that up then for --

16 MR. MCGUIRE: I -- I think so. I mean, I -- the -- the
17 search shows -- of the car reveals that Courtney had paycheck
18 stubs, some other ID from Five Guys. I mean, I don't think
19 that's in dispute.

20 MS. OUTTEN: Is -- are those the records you're --

21 MR. MCGUIRE: No.

22 MS. OUTTEN: -- referencing?

23 MR. MCGUIRE: No. No.

24 MS. OUTTEN: Right.

25 MR. MCGUIRE: So I can provide the records, we can talk

1 about it, we can clear it up, I'm sure.

2 THE COURT: Yeah, you'll clear that up. All right.

3 Well, you're going to show her those records and I -- I think
4 you can get that cleared up. Doesn't sound like it's much
5 dispute. There's no foundation for any social media, whether
6 audio or video attributed to potential witness, Zara Davis;
7 is that correct?

8 MR. MCGUIRE: Yes, sir.

9 THE COURT: All right. Anything else from the State?

10 MS. OUTTEN: Judge, I do -- we did have one thing we
11 wanted to raise about number -- Defendant's proposal
12 number 7, I believe you might have skipped over that one.

13 THE COURT: I thought -- okay, we found here seven.
14 Okay. No foundation necessary for the body-worn camera
15 footage?

16 MS. OUTTEN: So, Judge, many officers responded to
17 incident location that day -- many of them had on body cams.
18 Unfortunately, only one body-worn camera video is properly
19 saved and associated with this case of all of the people that
20 were wearing them.

21 That officer is not somebody who we intend to call at
22 trial. That body-worn camera, at least in our estimation or
23 our feeling about it, just doesn't really give much
24 information.

25 And also there -- the primary concern with that video -

1 - of kind of all the things that are on it is that one cop --
2 so not the cop wearing the cam, but another cop comes up to
3 that officer and says, "Neil's daughter said the victim fired
4 first." Now, law enforcement unfortunately -- I suppose did
5 not document Neil's was -- who his daughter was in any sort
6 of report. There's no body-worn camera footage of her
7 interview with officers.

8 So, she's not been somebody that we've been able to
9 locate despite some -- some efforts to try and find her. So
10 -- and I understand why the Defense would want that statement
11 in because it -- it corroborates, you know, his theory of the
12 case.

13 And we wouldn't necessarily have an objection should
14 Neil's daughter be found, and she'd come in and testify and
15 say, "Yes, I saw the victim fire first," but I don't think
16 that it would really be -- I think it would be confusing and
17 misleading to allow this body cam video to be played with
18 that one statement and nothing else. I think that that would
19 be confusing because it would wonder who -- who's Neil --
20 who's Neil's daughter, who's this cop? And so, that would be
21 really our only objection to that body cam video, which is
22 like, fact -- I said the only one.

23 THE COURT: How long is that body-worn camera video
24 footage?

25 MR. MCGUIRE: Hour 10 minutes.

1 MS. OUTTEN: Yes. Yes, it is an hour and ten minutes.

2 THE COURT: All right. And so, this is -- you all go
3 ahead and talk -- tell her in detail.

4 MS. OUTTEN: The clip of that one little statement is
5 just a five-second statement that we were referencing. And
6 again, this is just our speculation about why the Defense
7 might want that video in, because like we said, the -- that
8 officer was wearing that body cam on our witness list, so we
9 didn't find anything that the video showed. Not saying, of
10 course, Defense cannot, but we would just have objection to
11 that. So, we would either want that to be redacted for the
12 body worn camera to be admitted.

13 THE COURT: All right. So the body-worn camera -- you
14 don't plan to put the body-worn camera footage in at all?

15 MS. OUTTEN: No, Judge.

16 THE COURT: Okay. You're not going to put that --
17 you're not going to offer that at all?

18 MS. OUTTEN: No, Judge.

19 THE COURT: All right. Okay. All right. With that
20 (inaudible) mind to hear from the Defense.

21 MR. MCGUIRE: Sure. So the body cam footage is right
22 there on the scene. It's a -- it's a chaotic scene.
23 Different officers are talking to this person over here, this
24 person over here they're -- they kind of huddle up. They're
25 all given their version of what they heard from this person,

1 that person. So there's a lot going on. This is
2 Classic Kyles v. Whitley evidence used to impeach the
3 integrity of the investigation.

4 The assistant solicitor -- my colleague sort of made my
5 argument for me -- who is she? Where is she? What -- why
6 didn't they talk to him? That sort of thing. Yeah, those
7 are big questions. And that's exactly what Kyles v. Whitley
8 stands for. Why weren't these questions answered on the
9 scene? When people were there when they could find that
10 person, when they already talked to that person, they were
11 all there. That was the moment in time to conduct a
12 competent, thorough investigation.

13 The body camera footage shows all these leads where
14 they -- some were sadly not followed up on. And the lead
15 detective would've had access to this body camera footage,
16 would be able to review it, would be able to task other
17 officers, go find Neil's daughter. Who's that? There are
18 other people mentioned on the body camera video. One's
19 referred to as sort of a drug dealer, who said his victim
20 shot first.

21 And there's a reference -- there's a line saying, "Oh,
22 when I was in 'weed and seed' that guy was a real pain in my
23 butt." I'm not sure if you're not familiar with "weed and
24 seed" here in Charleston. It's a sort of a drug task force
25 local law enforcement in North Charleston. The theme was to

1 "weed out" the bad guys and let the good people stay there
2 and "seed" the good things.

3 So they're -- they referred to a fellow who was active
4 in the community as a drug -- drug person when he was on
5 "weed and seed." And they don't -- there's no follow-up. I
6 mean, they talk to him on the scene, there's no follow-up.
7 Did you bring him in for a statement? Did you have the body
8 camera running when somebody talked to him? Was an officer
9 ever tasked to go out there, knock on a door, find the guy?

10 All of these things are prototypical, impeaching the
11 investigation. That's what it stands for. It's not for the
12 truth of the matter asserted at all. It's to point out a
13 failure in law enforcement's activity and investigation.
14 That's why it's relevant, that's why it's admissible.

15 THE COURT: I'm going to allow that in. I think it's
16 -- it is relevant. I think it -- and he's allowed to get
17 into that, and talk about their investigation, and what they
18 did or what they didn't do in that -- in -- in regards to the
19 investigation. I think that's -- that's fair game when the
20 officer's up there. All right.

21 MS. OUTTEN: Briefly -- briefly, Judge, just on that
22 point that --

23 THE COURT: No, I've already ruled that. That's --
24 that's not --

25 All right. Next is going -- I think I want to talk

1 about going to the scene.

2 MR. MCGUIRE: Yeah, Judge, I actually agree with
3 Ms. Linder that it would be useful. I don't -- I -- her --
4 when she first contacted me, she asked if I objected. I
5 said, "Of course not", but I've come along to -- to her side
6 to -- to say I think it is useful.

7 We've been out to the scene, they've been out to the
8 scene many times. One of the things that strikes you when
9 you're there is this -- is a narrow -- narrow street.
10 Everything is on top of each other. There's not a lot of
11 room to move here and there. It does add some light as to
12 the altercation and how things developed.

13 And we would also probably add a park -- a city park
14 that was nearby that's involved in a collateral -- somewhat
15 collateral incident as well. It's about a block and a half
16 away. It wouldn't be any additional real significant time or
17 logistic problem.

18 And there's a corner store -- maybe we might ask that
19 the jury see the corner store, which is two blocks away from
20 the -- the incident location. So I -- I agree with
21 Ms. Linder. I think it would shed some light on how things
22 developed and sort of the -- the geography of the
23 neighborhood, and how it's -- how it's really unique. When
24 you're on these streets driving them, you will feel like you
25 are in another world, not the United States of America.

1 These streets are like past that have been paved over.

2 And I think -- I think that's relevant in the -- the
3 distance and how fast this situation developed in the very
4 short -- the very small space. I think it is all relevant.
5 And again, my first reaction was, I have no objection, but
6 now I've come over to her side. I think it would be useful.

7 THE COURT: Ms. Linder?

8 MS. LINDER: Thank you, your Honor. May it please the
9 Court? As -- as we discussed in the chambers, I -- I
10 explained and -- and Mr. McGuire kind of did about the same
11 thing. Just saying that I think it's important we have
12 somebody at one location who's videoing a portion of the
13 shooting. Is -- not everything is captured on video.

14 We have witnesses who are standing in different
15 locations. I think it's important also to understand the
16 distances. With that, I don't think the -- the point you get
17 across very effectively just through testimony in here.

18 As far as other locations, I don't know anything. This
19 -- as far as was the first time I heard about the wine, or
20 park, or a store, or any collateral incident. I have no idea
21 what Mr. McGuire's talking about. So, I would object to
22 anything at -- anything at whatever store they're talking
23 about. Anything at whatever park they're talking about. I
24 don't know anything about that. If we're out there to view
25 the scene, then we should view the scene, which is the area

1 of where everything's talked about in dealing with this
2 shooting.

3 I think that we have maybe ten witnesses. I thought,
4 well, in trying to kind of guesstimate how long testimony
5 would take, I think -- I think we have less than a day and a
6 half of testimony in our case-in-chief. That of course would
7 be greatly dependent upon how long the Defense's crosses are.
8 There are a fair number of ones that I don't think they're
9 going to make the crossing for long. I would doubt they
10 would cross the crime scene technic period long. But, you
11 know, those kinds of things I just don't see taking a little
12 -- lot time. So, I would estimate that we would be about a
13 day and a half to do that.

14 If so, I would suggest in the email when our office
15 first contacted, your Honor, we had courthouse security on
16 that email, and we received a response that they were going
17 to preliminarily start looking into it to potentially make
18 arrangement, which we greatly appreciate.

19 We would suggest doing it -- we don't need to do it at
20 the end of our case. We would suggest doing it probably
21 first thing Wednesday morning. Probably the best if -- if
22 scheduling was up to us. We don't need it necessarily before
23 or after any specific release. Thank you, Judge.

24 THE COURT: All right. Thank you. All right. I'm
25 going to deny that motion. I believe you can develop your

1 case without having to get to the crime scene. You -- I've
2 indicated that -- that you have maps, and you can measure out
3 distances and so forth to -- and you have photographs to
4 adequately describe the scene in this case. So, I'm going to
5 deny the motion at this time. And as to the crime scene --
6 and then Mr. McGuire added park, and corner store, I'm going
7 to deny that motion as well.

8 All right. Okay. Anything else we need to do for --
9 before we take a break? And then we're going to come back
10 for the Duncan hearing here at shortly. Anything else you
11 need to take up?

12 MS. LINDER: Nothing from the State, Judge.

13 MR. MCGUIRE: Your Honor, my client is going to testify
14 in the Duncan hearing. If the State intends to offer any
15 type of 404(b) prior bad act evidence or convictions, we'd
16 ask to be put on notice and -- and be able to argue in front
17 of the Court.

18 THE COURT: The State intend to do anything like that?

19 MS. LINDER: Judge, the State does not intend to do
20 anything like that for the Duncan hearing. The Defendant
21 testifies in trial -- absolutely. We have additional people
22 on our witness list to be read -- part of the jury -- that
23 would include those that we would've asked for at that time.
24 So, I don't think it needs to be addressed at this time. We
25 don't intend to go into any of that for the purposes of the

1 Duncan.

2 And one additional thing, as far as the Duncan is
3 concerned, your Honor, we were -- respectfully requested, any
4 -- any witnesses that would be utilized in the Duncan or the
5 trial, be sequestered during it.

6 For, your Honor, to know -- I believe it was mentioned
7 in our brief, the Defendant and his girlfriend were in the
8 same -- were in the vehicle when this happened. We suspect
9 that the Defendant's girlfriend's mother who lived on that
10 street might -- might also potentially be a witness for the
11 Defense. And even though it's our understanding -- as a few
12 moments ago that they're only calling the Defendant for the
13 purposes of Duncan.

14 If they intend to call or potentially call any of
15 those witnesses during the trial, then we would ask maybe
16 some question for the Duncan itself as well. We do not have
17 a copy of the witnesses from the Defense, so we can't say for
18 certain anything regarding people in particular. But we know
19 for a fact that the Defendant's fault was caused.

20 THE COURT: Okay.

21 MR. MCGUIRE: So --

22 THE COURT: Go ahead.

23 MR. MCGUIRE: -- so when I said that my client would
24 testify at the Duncan hearing, I didn't limit it to just
25 that. He might testify at trial as well. That's his right.

1 We'll see how it goes.

2 With regard to sequestration, well, first off the
3 witness list -- there are no witnesses that I have that are
4 not on there, so they have the names.

5 And then with regard to sequestration, I would object
6 to it in this case and -- but if sequestration is ordered, I
7 would ask that the State make the showing of necessity with
8 regard to the lead investigator being here. The rule doesn't
9 say everybody gets sequestered except for the lead
10 investigator.

11 It says if you grant the motion to sequester, then the
12 State has to make a showing of necessity as to why they need
13 the lead investigator. So if we're going to sequester, I
14 would request they make that showing.

15 THE COURT: All right. We are going to sequester. So
16 therefore I'll -- I'll hear from the State. One lead
17 investigator needs to be present.

18 MS. LINDER: Beg Court's indulgence.

19 THE COURT: Sure.

20 MS. LINDER: Your Honor, frankly, I -- I would -- at
21 loss for words. Next month -- 19 years of being here, I've
22 never had somebody ask them, I, the detective be sequestered
23 during a trial, during a Duncan. So, you know, just kind of
24 as -- as in with my investigator from my office --

25 THE COURT: Why don't we just do this -- why don't we

1 just -- you can look over that over lunch and we'll just talk
2 about that later.

3 MS. LINDER: Thank you, Judge.

4 THE COURT: All right. That's fine. You all can get
5 together. You can show her any rules you're going on now.

6 MR. MCGUIRE: Sure.

7 THE COURT: All right.

8 MR. MCGUIRE: Thank you, Judge. That's all we have.

9 THE COURT: All right. Anything else?

10 MR. MCGUIRE: No, sir.

11 MS. LINDER: No, Judge.

12 THE COURT: All right. We're going to be at ease till
13 -- we're going to get back at 1:45 -- 1:45. All right.

14 MS. LINDER: Thank you, your Honor.

15 THE COURT: Thank you.

16 MR. MCGUIRE: Thank you, your Honor.

17 (Off the record.)

18 THE COURT: Mr. Will, ready to proceed?

19 MS. OUTTEN: Yes, your Honor.

20 THE COURT: Defense?

21 MR. MCGUIRE: Yes, sir.

22 THE COURT: All right. First we need to take up the
23 sequestration issue we did -- we had before lunch.

24 Is the State ready to address that issue?

25 MS. OUTTEN: Yes, your Honor. We did a little bit of

1 research over the break. The chief concerns, your Honor,
2 those -- the sequestration would be that witness's testimony
3 is going to be tainted by having heard each other's
4 testimony. However, we got a lead detective that is not a
5 concern -- that the lead detective puts together the case
6 file. She's reviewed everything. She sat in with us on
7 trial-prep meetings. There's not going to be really anything
8 that should come up in the duration of trial that -- that she
9 would need to be sequestered from.

10 And under State v. Moore, which is 257 S.C. 147, the
11 solicitor has the right to confer with witnesses. I think
12 that being able to confer with a lead detective during a
13 murder trial is extremely important.

14 And the only case law that we saw that -- where the
15 leave was entirely sequestered was just for portions of
16 testimony. We're not aware of any case where a lead
17 detective has been entirely removed from a trial and we don't
18 think that would be appropriate. We also believe it would be
19 Mr. McGuire's burden to show why specifically -- means that
20 he wants her out of the trial.

21 THE COURT: All right. Thank you.

22 Anything for me, Mr. McGuire?

23 MR. MCGUIRE: Well, just the rule on its face, Judge,
24 makes it not my burden that there has to be a showing of
25 necessity. And the danger of hearing other witnesses'

1 testimony, and then incorporating it in yours is exactly why
2 the person sitting at that table shouldn't be allowed to hear
3 everybody, and then tie up all the loose ends at the end of
4 the hearing or the trial. That's -- that's the -- the basis
5 of the rule. And that's how it works.

6 There's always the person that's sitting at the table
7 and they clear up anything that's left a little confusing or
8 unsaid, and they -- they've got a front row seat to take
9 notes on all the other witnesses to do that job. They should
10 just sit outside, give their testimony independently without
11 any preview or analysis of all the witnesses that have come
12 before. That's why the rule exists. That's why it says they
13 have to make a showing of necessity. The rule on its face
14 doesn't assign any burden to us whatsoever.

15 THE COURT: All right. Thank you. I'm going to rule
16 615 is under the purview of the Court and -- and I'm going to
17 allow the investigating officer to -- I think she's an
18 essential part of the party -- party's case of the State's
19 case, and I believe she can sit in, and she does not need to
20 be sequestered in this case. So, we're ready to get started
21 with the stand your ground.

22 MS. LINDER: Your Honor, very -- very briefly. I -- I
23 apologize, the victim's mother in this case has not seen the
24 video, and so I would just ask -- I -- I know when I'm going
25 to be utilizing it -- I would just ask -- just prior to

1 Mr. McGuire doing it so I can have her exit the courtroom.
2 It take moments just to get her out of Court with that
3 binder.

4 THE COURT: You agree with that Mr. McGuire?

5 MR. MCGUIRE: Of course.

6 THE COURT: Thank you. Yes, please alert the Court so
7 we know --

8 MR. MCGUIRE: Yes, sir.

9 THE COURT: -- the appropriate time. All right. Let's
10 get started.

11 MR. MCGUIRE: Judge, Defense calls Courtney Richards.

12 THE COURT: All right.

13 MR. MCGUIRE: All right. Go around to her.

14 COURTNEY CHARLES RICHARDS,
15 having been duly sworn, testifies as follows:

16 THE CLERK: Just state your full name for the record,
17 spelling your last name, please?

18 THE WITNESS: Courtney Charles Richards.

19 THE COURT: Can you pull that mic down just a little
20 bit, Mr. Richards? Thank you.

21 THE WITNESS: Courtney Charles Richards.

22 THE COURT: Thank you. All right. Before we get
23 started, Mr. McGuire, obviously this is your client, the
24 Defendant in the case. Have you discussed with him that his
25 rights concerning testifying -- understanding that when he --

1 whatever he says here today will be obviously recorded and it
2 can be used against him in a later proceeding?

3 MR. MCGUIRE: Yes, sir. He wishes to testify and tell
4 his side of the story regarding February 19, 2022.

5 THE COURT: All right. Mr. Richards, do you understand
6 that -- do you understand that you -- anything you say here
7 will be recorded and the State will have the opportunity to
8 cross-examine you on those -- anything you have to say, and
9 it can be used against you later in actual -- in the actual
10 trial of your case as we get to that part. Do you understand
11 that?

12 THE WITNESS: Yes, sir.

13 THE COURT: Any question about that?

14 THE WITNESS: No, sir.

15 THE COURT: Do you have -- do you need any more time to
16 talk to your lawyer about that before you proceed?

17 THE WITNESS: No, sir.

18 THE COURT: Is that your decision -- to want to testify
19 in this hearing?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Go ahead.

22 DIRECT EXAMINATION

23 BY MR. MCGUIRE:

24 Q. Courtney, back in February of 2022, were you
25 working at Five Guys burgers?

1 A. Yes, sir.

2 Q. Was that on King Street?

3 A. Correct.

4 Q. And were you on your way to work in the afternoon
5 of February 19, 2022?

6 A. Correct.

7 Q. Was your girlfriend with you?

8 A. Yes.

9 Q. And -- and who is she?

10 A. Emonie.

11 Q. Emonie Burgess?

12 A. Correct.

13 Q. And were you going to take her all the way to work
14 with you or were you going to take her someplace else?

15 A. Take her to her mom's house.

16 Q. Where does her mom -- where does her mom live?

17 A. [REDACTED] Comstock Avenue.

18 Q. And what neighborhood is that in?

19 A. Union Heights. The Height they call it.

20 Q. Right. Slang is The Height. But it's
21 Union Heights?

22 A. Correct.

23 Q. And that's off Comstock Avenue?

24 A. Correct.

25 Q. And when you were on the way to Emonie's mom's

1 house, did you guys make a stop?

2 A. Correct.

3 Q. Is there -- is there a store close by?

4 A. Uh-huh.

5 Q. Is it -- where is it?

6 A. On the corner of the Spruill Avenue in Comstock.

7 Q. Okay. So it's on the corner of Spruill, which is
8 a busy street?

9 A. Correct.

10 Q. And it's on the same street -- the corner of the
11 same street where Emonie's mom lives, correct?

12 A. Correct.

13 Q. After you stopped at the store, did Emonie call
14 her mom?

15 A. Correct.

16 Q. Why did she call her mom?

17 A. The letter -- know we was about to be outside.

18 MS. LINDER: Your Honor, I would object for speculation
19 and also the fact that this questions all leading.

20 MR. MCGUIRE: First off, Judge, we're not leading, it's
21 a South Carolina case law point. You can ask a question, for
22 instance, did Emonie buy anything at the store? That's not
23 leading. Because it doesn't suggest the answer. If I phrase
24 the question, isn't it true that Emonie bought a Snickers bar
25 at the store? That's leading. Asking a witness, did you

1 stop at the store?

2 THE COURT: I'm going to ask you to re-phrase the
3 question and let's go through it step-by-step. And -- and he
4 can't testify to -- I'll sustain the objection for
5 speculation - he can't testify to what the girlfriend
6 might've thought.

7 MR. MCGUIRE: Right.

8 BY MR. MCGUIRE:

9 Q. Courtney --

10 THE COURT: All right. Hold on. Somebody's got a cell
11 phone. All right. Let's try to silence all the cell phones.
12 Go ahead, Mr. McGuire, I'm sorry.

13 MR. MCGUIRE: Thank -- thank you, your Honor.

14 BY MR. MCGUIRE:

15 Q. Courtney, at the store, did -- when you all were
16 leaving, did Emonie call her mom?

17 A. Yes.

18 Q. Did she let her know you all were close by?

19 A. Yes.

20 Q. How close is the store to Emonie's mom's house?

21 A. Less than one minute.

22 Q. How many blocks?

23 A. I'd say about one.

24 Q. Okay. Just right down the street?

25 A. Right down the street.

1 Q. When you and Emonie are going down to Comstock,
2 the street that Emonie's mom is on, do you come to the
3 intersection before her mom's house?

4 A. Yes.

5 Q. Is her mom's house in the middle of the street or
6 right on the corner?

7 A. Right on the corner.

8 Q. Corner of Comstock and Cosmopolitan?

9 A. Correct.

10 Q. When you got to that corner, was there a stop
11 sign?

12 A. Yes.

13 Q. Were you slowing down for it?

14 A. Yes.

15 Q. Before you stopped, did you see anything?

16 A. Yes.

17 Q. People?

18 A. Uh-huh.

19 Q. Who?

20 A. Javon and Antoniya.

21 Q. And who's Javon?

22 A. The victim.

23 Q. And who's Niya?

24 A. His girlfriend.

25 Q. When you slowed down, did Niya or Javon do

1 anything?

2 A. Yes.

3 Q. What did they do?

4 A. Start bickering through the window.

5 Q. Okay. When you say, "Start bickering through the
6 window," who's doing the bickering?

7 A. Antoniya.

8 Q. Did she and Emonie have a beef that was going on?

9 A. Correct.

10 Q. And did Emonie say anything first or did Niya say
11 something first?

12 A. She said something first.

13 Q. Do you remember the words?

14 A. No.

15 Q. But it was in a bickering way?

16 A. Correct.

17 Q. And what did Javon do?

18 A. Clutch at his arm -- firearm.

19 Q. When you say "clutch", what does that word mean?

20 A. Grabbing his waistband like he fixing to pull a
21 firearm out.

22 Q. Okay. Did he come towards the car?

23 A. Correct.

24 Q. Did he come to your side or Emonie's side?

25 A. Emonie's side.

1 Q. When he went to your car, did it look like he was
2 going to pull the door open?

3 A. He was close enough.

4 Q. Okay. We are going to talk about this maybe
5 later, but has Javon ever pulled your car to work before?

6 A. Correct.

7 Q. Did he try to get you out of the car before?

8 A. Correct.

9 Q. And he was doing the same thing to Emonie that
10 hurt you?

11 A. Correct.

12 Q. Now, did you engage with Javon? Did you talk to
13 him, say anything to him? Yell at him?

14 A. No.

15 Q. When he clutched at his gun at his waistband, what
16 did you do?

17 A. Just drove away instead of stopping at her house.

18 Q. Okay. So, you drove away from Javon when he went
19 for his gun?

20 A. Correct.

21 Q. And this is -- this at the -- the stop sign -- the
22 intersection where Emonie's house is?

23 A. Correct.

24 Q. So, was Emonie's house just across the street from
25 where Javon was grabbing that stuff?

1 A. Correct.

2 Q. And you wanted -- did you want to drop Emonie off
3 her mom's house?

4 A. That's what I was planning on doing.

5 Q. That was your plan?

6 A. Correct.

7 Q. But you couldn't do your plan?

8 A. Correct.

9 Q. Because you had to drive. Did you drive away from
10 Javon when he pulled the gun?

11 A. Yes.

12 Q. How far did you get down the road when you drove
13 away from Javon after he grabbed for his gun?

14 A. Not that far.

15 Q. And did you slow down?

16 A. Yes.

17 Q. Did -- what did Emonie do when you slowed down?

18 A. Opened the door and put her foot out the car.

19 Q. Like she was getting out of the car?

20 A. Correct.

21 Q. Did you hit the brakes?

22 A. Yes.

23 Q. Did you stop the car?

24 A. Yes.

25 Q. Did you want to stop the car and engage with

1 Javon?

2 A. No.

3 Q. Emonie wanted to get out the car?

4 A. Correct.

5 Q. And you stopped for her?

6 A. Correct.

7 Q. And she was the one who had the beef with Niya?

8 A. Correct.

9 Q. When Emonie gets out of the car and you stop it
10 for her, what does Javon do?

11 A. Walking up the street with his gun in his hand.

12 Q. So when you saw him at the corner, he grabbed at
13 his gun, and you left that situation, but then when Emonie
14 got you to stop your car, Javon came down the street?

15 A. Correct.

16 Q. And he had his gun in his hand?

17 A. Correct.

18 Q. And you couldn't just -- could you just drive away
19 with Emonie in the roadway?

20 A. No.

21 Q. You couldn't leave her there?

22 A. No.

23 Q. And when you saw Javon marching towards you and
24 Emonie, did you get your gun?

25 A. Correct.

1 Q. Did you go towards the -- where did you go when
2 you got your gun?

3 A. Towards the back of the car.

4 Q. And did you show -- did you show Javon you had the
5 gun?

6 A. Yes.

7 Q. And why did you do that? What was your hope?

8 A. Tried to get him to leave me alone. Didn't work.

9 Q. He kept coming?

10 A. Correct.

11 Q. Did he yell at you?

12 A. Correct.

13 Q. What did he yell when he saw the gun?

14 A. "Do something nigger."

15 Q. He said, "Do something nigger?"

16 A. Correct.

17 Q. And what did you do?

18 A. Fired a warning shot in the ground.

19 Q. So he says something, like, "Use it nigger, shoot
20 it nigger?"

21 A. Correct.

22 Q. And he keeps coming?

23 A. Correct.

24 Q. And you shot him -- warning shot in the ground?

25 A. Correct.

1 Q. Did that stop him?

2 A. Nope.

3 Q. Did he keep marching towards you?

4 A. Correct.

5 Q. And Emonie?

6 A. Yep.

7 Q. Emonie was pregnant with your child?

8 A. Correct.

9 Q. After the warning shot didn't stop Javon -- he
10 kept marching towards you all with his gun out. What's the
11 next thing he made? Did you shoot at him?

12 A. I shot one time at the ground.

13 Q. Did that stop him?

14 A. No.

15 Q. Is that when he started shooting at you and
16 Emonie?

17 A. Correct.

18 Q. And then, when you were able to -- shot back?

19 A. Correct.

20 Q. Did you shoot him to protect Emonie?

21 A. Correct.

22 Q. Did you shoot him to protect yourself?

23 A. Correct.

24 Q. Did you shoot at him to protect your unborn child?

25 A. Correct.

1 Q. And you did shoot him?

2 A. Correct.

3 Q. In self-defense?

4 A. Yes.

5 Q. Now, there was a fellow at the intersection -- had
6 a phone and he filmed this shoot-out, and you've seen that,
7 right?

8 A. Correct.

9 MR. MCGUIRE: I'm going to -- at this time, Judge, we
10 will go ahead and play that video.

11 THE COURT: All right. Just do -- we're going to take
12 a brief minute.

13 (Off the record.)

14 THE COURT: All right. We're about to play a video.
15 If anyone else needs to exit the courtroom please do so at
16 this time. No one else is indicating they need to exit. So,
17 we're going to -- we're -- we're going to be ready to start
18 the video.

19 Yes, sir, Mr. McGuire.

20 BY MR. MCGUIRE:

21 Q. All right. So, Courtney I'm going to have
22 Mr. Beck play this video. We're just going to let it play in
23 its entirety, and then I'm going to ask you some questions
24 about it, okay?

25 A. Correct

1 (Video starts.)

2 MR. THOMAS: (Inaudible) shoot that nigger.

3 (Video ends.)

4 MR. MCGUIRE: All right. If you would just keep your -
5 - pause.

6 BY MR. MCGUIRE:

7 Q. So, Courtney, when we're watching that -- before
8 that window, that car is rolled down, there's a pop, like a
9 shot, is that coming from you?

10 A. Yes.

11 Q. Is that the warning shot that you put in the
12 ground?

13 A. Yes.

14 Q. And then we see that window rolled down and we
15 hear some words on the audio. Is that -- what you're saying
16 is, "Shoot that nigger, shoot -- use that gun nigger." Or
17 something like that?

18 A. Yes.

19 Q. And that's -- that's not coming from you, that's
20 coming from Javon?

21 A. Correct.

22 Q. As he's marching towards you guys with his gun?

23 A. Correct.

24 Q. In the warning shot that we heard the soft pop,
25 that didn't deter Javon, he kept coming?

1 A. Kept coming.

2 Q. And then the next shot, that's also from you and
3 it's in Javon's direction; is that right?

4 A. Correct.

5 Q. And then is it Javon who fires the next succession
6 of shots?

7 A. Correct.

8 Q. Of volley shots?

9 A. Correct.

10 Q. And was that directed at you and Emonie?

11 A. Correct.

12 Q. And then you returned fire?

13 A. Yes.

14 Q. Just the moment he stopped shooting. Is that when
15 you returned fire?

16 A. Yes.

17 Q. And you did that in self-defense?

18 A. Yes.

19 Q. Now, Courtney, after Javon shot at you, and shot
20 at Emonie, and you shot, did you leave the scene?

21 A. Yes.

22 Q. Where'd you go?

23 A. Back to Summerville.

24 Q. In Summerville, do you and Emonie have an
25 apartment there?

1 A. Correct.

2 Q. And you went back home?

3 A. Correct.

4 Q. Did you stop to eat or anything else?

5 A. No.

6 Q. Scared?

7 A. Scared.

8 Q. Called the police?

9 A. No.

10 Q. Why were you scared?

11 A. Because the police wasn't listening to my side of
12 the story, you know, somebody died so they wouldn't kill -
13 see what they did now right.

14 Q. So despite this shooting being captured on video,
15 despite it showing Javon marching down the street, yelling at
16 you, "Shoot it there", is the police having all this -- you
17 -- you were afraid you were going to get arrested?

18 A. Correct.

19 Q. And you were arrested?

20 A. Correct.

21 Q. And you were jailed?

22 A. Correct.

23 Q. You've got to wait until the day to fight this
24 out?

25 A. Correct.

1 Q. The gun that you had -- did they have a really
2 long clip?

3 A. No.

4 Q. -- hold, like, 26 bullets?

5 A. No.

6 Q. It had a regular clip?

7 A. Standard clip.

8 Q. Standard clip. Standard means it's flushed with
9 the bottom of the gun, right?

10 A. Right.

11 Q. And that's what you had?

12 A. Right.

13 Q. You didn't have a super long 26-bullet magazine?

14 A. No.

15 Q. After this, you -- you sold the gun, right?

16 A. Correct.

17 Q. And do you remember how much you got for it?

18 A. Around \$200, 250.

19 Q. Do you remember who you sold it to?

20 A. No.

21 MR. MCGUIRE: Okay. Give me just one second, Judge.
22 Courtney, that's all the questions I have for you. Please
23 answer any questions they have for you.

24 THE COURT: Cross?

25 MS. LINDER: Yes, your Honor. May it please the Court?

1 CROSS-EXAMINATION

2 BY MS. LINDER:

3 Q. Good afternoon, Mr. Richards. All right. I just
4 want to kind of take you few -- through a few of these things
5 to make sure and that I'm understanding what -- what you just
6 testified to, okay? So, it's your testimony that you were
7 driving down Comstock, and before you reached the
8 intersection of Comstock and Cosmopolitan, you stopped the
9 car?

10 A. Correct.

11 MR. MCGUIRE: Yeah, sure. If you would just refer it
12 to as State's 57 for ID and then you're going to put it in
13 evidence -- three people. That's fine.

14 MS. LINDER: Okay. All right. At this time, your
15 Honor, may I approach the witness?

16 THE COURT: You may.

17 BY MS. LINDER:

18 Q. I'm going to show you, Mr. Richards, which are
19 marked as State's Exhibits 57 and 58 for ID purposes for the
20 Duncan hearing.

21 MS. LINDER: And, your Honor, as I indicated to
22 Mr. McGuire, we are intending to put these into evidence
23 later on through our witness as well.

24 BY MS. LINDER:

25 Q. Will you please look at these? Do you recognize

1 those?

2 A. Uh-huh.

3 Q. And how do you recognize what those are?

4 A. What are you asking? Do I recognize?

5 Q. I'm asking if you recognize these.

6 A. The streets, yeah.

7 Q. The streets you recognize?

8 A. Uh-huh.

9 Q. And you're familiar with the streets that are
10 shown on these maps?

11 A. Yes.

12 Q. And do these fairly and accurately show the
13 streets from the Union Heights neighborhood, specifically
14 Comstock and Cosmopolitan as they were back in
15 February of 2022?

16 A. Yes.

17 Q. All right.

18 MR. MCGUIRE: Judge, I don't have any objection if you
19 just want to move them back.

20 MS. LINDER: Okay. Your Honor, at this time, the State
21 seeks to admit State's Exhibits 57 and 58 into evidence for
22 the limited purposes of the Duncan hearing.

23 THE COURT: And no objection?

24 MR. MCGUIRE: No objection, Judge.

25 THE COURT: All right. They're admitted for limited

1 purposes of this hearing without objection. And they're 57
2 and --

3 MS. LINDER: 57 and 58, Judge.

4 THE COURT: 57 and 58.

5 (State's Exhibit 57 and 58 admitted into evidence.)

6 BY MS. LINDER:

7 Q. All right. So if you can look in front of you,
8 there's a monitor in front of you, that's probably the
9 easiest way for you to see it, Mr. Richards. What's this
10 road right here?

11 A. Comstock.

12 Q. Okay. And this road right here?

13 A. Cosmopolitan.

14 Q. All right. And right here, what is this right
15 here?

16 A. [REDACTED] Comstock.

17 Q. And you testified that that's where your
18 girlfriend's mother lived at the time?

19 A. Correct.

20 Q. All right. And the store you were talking about,
21 is the store off the map this way?

22 A. Correct.

23 Q. Okay. So just to make sure I understand -- and
24 that is a touch screen in front of you, so if you use your
25 finger on it it'll show up on the touch screen. And if you

1 prefer I can switch to State's 58, which is this. So you
2 just let me know what's easiest for you, okay?

3 A. The screen --

4 Q. So --

5 A. -- the screen messed up.

6 Q. You want the other one?

7 A. The screen is messed up.

8 Q. Street is messed up?

9 A. The screen.

10 THE COURT: Screen.

11 BY MS. LINDER:

12 Q. Oh, it's not touching. Okay.

13 A. Like is --

14 Q. All right. I'll try to do my best here. So, your
15 testimony is that you were driving -- you were driving your
16 Jeep Compass, right?

17 A. Correct.

18 Q. It was -- it was a relatively newer one. It was,
19 like, less than 10 years old, right?

20 A. Correct.

21 Q. And that Jeep Compass, what did it have -- was it,
22 like, a crank window or automatic?

23 A. Automatic.

24 Q. Was it a stick shift or a -- or a -- an automatic
25 car?

1 A. Automatic.

2 Q. All right. So, you're driving your Jeep and I
3 just want you to tell me -- and as you're driving your Jeep,
4 you said, "You're driving this way down Comstock to
5 Cosmopolitan," correct?

6 A. Correct.

7 Q. And I believe you testified that you stopped on
8 Comstock before getting to Cosmopolitan?

9 A. No.

10 Q. Okay. But isn't it true -- on direct you
11 testified that you were driving on Comstock, and you were --
12 you slowed because there was a stop sign coming up?

13 A. But that doesn't mean I stopped.

14 Q. And then, when you were in -- isn't it true that
15 on your direct, you said that, "You were slowing because the
16 stop sign was coming up" and that's when you say that,
17 "Antoniya," the victim's girlfriend, "started bickering
18 through the window?"

19 A. Correct. When I got at the intersection.

20 Q. So, you're saying you -- that did not happen and
21 you testified on direct because you were going up to that
22 stop sign?

23 A. That did happen until they got at the
24 intersection.

25 Q. That did happen -- what?

1 A. She did start bickering when I got at the
2 intersection.

3 Q. Okay. So, you're here on -- on Comstock
4 approaching this intersection, and your testimony is that
5 Antoniya start bickering with your girlfriend?

6 A. When I got to the stop sign.

7 Q. Okay. So -- so you got in the -- so you're the --
8 stop sign's on Comstock, it's not past Cosmopolitan, is
9 before; is that correct?

10 A. Correct.

11 Q. Okay. All right. But you testified that you
12 didn't hear what Antoniya was saying -- you don't know what
13 words she was saying?

14 A. No.

15 Q. And the Jeep, it -- it is a standard Jeep Compass.
16 So is it fair to say that Antoniya was, according to you,
17 maybe five feet away from you?

18 A. I'd say about.

19 Q. Okay. So, you couldn't hear what she was saying
20 when she was five feet away?

21 A. No, because I already knew it was aggressive,
22 animosity type. The window wasn't all the way down. It was
23 halfway down.

24 Q. Okay. But you're saying, "You couldn't hear what
25 Antoniya was saying when she was like about five feet away

1 from?"

2 A. No.

3 Q. Okay.

4 A. Because I'm on the opposite side of the car.

5 Q. All right. Perfect. So you also testified on
6 direct, that the victim, Javon, at this point clutched his
7 waistband?

8 A. Correct.

9 Q. Right. So, you testified that just -- clutch at
10 his waistband?

11 A. Yeah, clutch at his waistband.

12 Q. Okay. All right. And at that point, your
13 testimony is that after he clutched his waistband and after
14 Antoniya was five feet away from you -- but you don't know
15 what she was saying, you started to drive away?

16 A. Correct.

17 Q. All right. Now -- so when you were sitting right
18 there, it's your testimony that Javon didn't have his gun out
19 pointing at you?

20 A. No.

21 Q. Okay. Just want to make sure. So your testimony
22 was, you said, "You -- you drove through the intersection."
23 So after this you -- your testimony that you drove through
24 the intersection and you kept on driving. I believe you said
25 not that far down the road. What is "not that far?" Did you

1 stop here?

2 A. No.

3 Q. Did you stop here?

4 A. No.

5 Q. Here?

6 A. No.

7 Q. Here?

8 A. No.

9 Q. Here?

10 A. Yes.

11 Q. You stopped right here?

12 A. Yes.

13 Q. Okay. And if this is where you stopped, I don't
14 know, it's not very -- I can zoom in for you. (Inaudible)
15 you stopped right here. What is this number right here?

16 A. It's 2010.

17 Q. Okay. And what's this number right here?

18 A. 2009.

19 Q. Okay. All right. So you stopped 2009, 2010 part
20 to your testimony, and I believe you testified that you then
21 went to the back of your car; is that correct? You got out
22 and went to the back of your car?

23 A. Correct.

24 Q. Okay. So would you agree that, if you're driving
25 down the street this way, and your car stops here facing this

1 direction, and you get to the back of your car, you're
2 walking back this direction; is that correct?

3 A. I -- I never walked, I just got out and stood by
4 the car.

5 Q. Okay. So, you're now saying that you did not go
6 to the back of your car?

7 A. Towards the gas tank? Yes, I did.

8 Q. So -- so you walked toward the rear of your
9 vehicle then?

10 A. Yes, and I stopped right there.

11 Q. Okay. All right. So, you're out of the car and
12 you testified -- so your girlfriend's out of the car at this
13 time?

14 A. Correct.

15 Q. And did your girlfriend walk to the back of the
16 car like you did?

17 A. Correct.

18 Q. On direct, you testified that she had a foot out
19 of the car?

20 A. That what made me stop the car.

21 Q. So as you're -- so you're still in driving --
22 you're still in driving -- you're still driving and she --
23 she opens her door and gets her foot out the car?

24 A. That made me stop.

25 Q. Okay. So, your newer Jeep Compass then doesn't

1 automatically lock the doors when you put the car on drive?

2 A. Yes, it does.

3 Q. But as you're driving she's able to open the door
4 and start getting out of the car?

5 A. Up the lock and open the door.

6 Q. And you testified on direct that when you got out
7 of your car and walked toward the rear of your car toward the
8 gas tank -- but we agree that's the rear of the car. You're
9 walking toward the car -- so you're walking toward the back
10 of the car -- sorry, you're all the way up here, I'm sorry.
11 You're walking toward the back of the car and you're walking
12 this direction off Comstock?

13 A. Correct.

14 Q. And this whole time, Javon and Antoniya are back
15 here where they were before?

16 A. No, she stayed back and he was walking up.

17 Q. Okay. And your testimony is that at that point
18 you showed --

19 A. Him that I had a gun.

20 Q. -- you showed him that you had a gun at that
21 point?

22 A. Yes.

23 Q. Okay. And then your testimony is that you fired -
24 - shot into the ground?

25 A. Correct.

1 Q. And then your testimony is that he kept walking?

2 A. Correct.

3 Q. And then your testimony is that you shot at?

4 A. I shot at the concrete.

5 Q. So, you fired into the ground for the first shot
6 because on -- on direct you testified fired --

7 A. I fired like this and then I fired like this.

8 Q. Okay. On direct, you testified that you fired a
9 warning shot into the ground?

10 A. Correct.

11 Q. You fired shot into the ground?

12 A. Uh-huh.

13 Q. And then on direct you said that, "You fired
14 second shot in the victim's direction -- in Javon's
15 direction?"

16 A. Yeah, but it wasn't going to hit him.

17 Q. So you test -- but your testimony is that --

18 A. Correct.

19 Q. -- you got out of your car, you walked towards the
20 rear of the car, which is the direction of the victim, right?

21 A. And he was yelling, "Do something nigger."

22 Q. Not the question. You got out of the car, you
23 walked back through the direction of the victim, and you also
24 testified that you showed the victim that you had a gun,
25 right? And you testified that you fired a warning shot into

1 the ground with concrete, right? And then you fired second
2 shot towards the direction of the victim, right?

3 A. Correct.

4 Q. Okay. All right. Sure. At that point, the
5 victim shot you a good number of times?

6 A. Correct.

7 Q. And then, your testimony also was that you then
8 fired back multiple times. The moment he stopped shooting --
9 at the moment the victims -- the moment the victim stopped
10 shooting is when you fired at him?

11 A. Correct.

12 Q. And when you started firing back, your girlfriend
13 was already sitting in your car, right?

14 A. Not that I remember.

15 MS. LINDER: Beg Court's indulgence.

16 BY MS. LINDER:

17 Q. Okay. Just a couple more things for you, okay,
18 Mr. Richards. I'm just trying to get this -- this sequence
19 as clear as possible. So, first time you saw Javon and
20 Antoniya was when you were driving down Comstock that day?

21 A. When I got to the intersection.

22 Q. Right. When you were approaching that
23 intersection on Comstock, Cosmopolitan, the first time you
24 saw them was at that time?

25 A. Correct.

1 Q. And you were slowing down because of the stop
2 sign, right?

3 A. Correct.

4 Q. And then Antoniya was bickering with your
5 girlfriend, right?

6 A. Correct.

7 Q. You said -- you "about five feet away, but you
8 couldn't hear what they were saying?"

9 A. No.

10 Q. Because the window was halfway down. I believe
11 you testified?

12 A. The music was playing.

13 Q. All right. So then you said that Javon clutched
14 his waistband. So -- so Javon clutched his waistband like
15 this? So he grabbed it right there where that gun would be,
16 right?

17 A. Correct.

18 Q. So he grabbed his front. Okay. So at that point
19 you drove away?

20 A. Correct.

21 Q. After you drove away, you -- you only went to
22 about 2009, 2010, you stopped, got out and walked back toward
23 the rear of your car toward the victim?

24 A. Uh-huh.

25 Q. For the record, you can make sure you just try to

1 say yes or no. Sometimes it's tough for uh-huhs. Thank you.

2 And as you're still driving, Emonie's able to open the door,
3 she opens the door and puts her foot out as you're driving?

4 A. Yes.

5 Q. The car still moving?

6 A. Yes.

7 Q. You then are walking -- you then go to the rear --
8 get out of your car, and you walk toward the rear of your
9 car, and you show -- you pull out your gun --

10 A. Yes.

11 Q. -- to victim. You shoot once into the ground or
12 concrete, right?

13 A. Yes.

14 Q. And then you shoot at the victim -- towards the
15 victim in the -- it is not at the ground. Your second shot
16 is not at the ground, it's toward him, right?

17 A. No.

18 Q. It -- it is in the direction of the victim?

19 A. It wouldn't hit him.

20 Q. It wouldn't hit him?

21 A. No.

22 Q. All right. But it was in his direction?

23 A. Correct.

24 Q. Right. I mean, if you're -- if you're shooting
25 toward her, it's in my direction, even if it wouldn't

1 necessarily hit me; is that fair? Okay.

2 A. It's fair to say.

3 Q. And then only at that point -- and you said the
4 shot in the ground -- Javon kept walking -- shot in Javon's
5 direction, Javon kept walking towards you?

6 A. Yes.

7 Q. Even after that second shot, he's walking towards
8 you?

9 A. Yes.

10 Q. And then, the moment he stopped shooting is when
11 you fired back at him?

12 A. Yes.

13 Q. And when you fired back at him, you literally
14 fired at his back, right?

15 A. I guess so.

16 Q. You -- you fired at his back, right?

17 A. I fired the gun in self-defense.

18 Q. That's not my question, Mr. Richards.

19 A. But that's what happened.

20 Q. That's not my -- my question is, after Javon
21 stopped firing, he turned around and started running away
22 from you, right?

23 A. Right.

24 Q. And then at that point you shot Javon in the back,
25 right? Or in the back of the head actually, right?

1 A. Correct.

2 Q. And you shot at Javon many times after that?

3 A. About three times.

4 MS. LINDER: I don't have any further -- anything
5 further. Please re-direct.

6 THE COURT: Re-direct, please.

7 MR. MCGUIRE: Thank you, Judge.

8 RE-DIRECT EXAMINATION

9 BY MR. MCGUIRE:

10 Q. Courtney, when the prosecutor was asking you, "Did
11 you walk towards Javon or Niya or did you walk towards the --
12 the intersection -- the corner where you had seen him, where
13 Javon clutched his gun" did you take more than just one or
14 two steps? Just --

15 A. No.

16 Q. -- away from the car?

17 A. No.

18 Q. So, you didn't march back to them?

19 A. No.

20 Q. You weren't claiming to meet Javon halfway or
21 anything like that?

22 A. No.

23 Q. You just went away from the car just enough where
24 he could see you had a gun?

25 A. Yes.

1 Q. Okay. And you weren't marching towards him?

2 A. No.

3 Q. You wanted him to turn around and go the other
4 way?

5 A. Yes.

6 Q. And you were hoping displaying the gun would do
7 that?

8 A. Yes.

9 Q. It didn't?

10 A. No.

11 Q. And I think you were describing the first warning
12 shot to the prosecutors didn't work, like, really going
13 straight in the ground?

14 A. Yes.

15 Q. And the second shot was -- was it also directed to
16 the ground, but also in the general direction of --

17 A. Yes.

18 Q. -- Javon? And did you kind of "up the game" a
19 little bit there? Because the first warning shot didn't
20 work?

21 A. Yes.

22 Q. And so you -- you tried to set the signal that was
23 a little stronger by shooting his direction?

24 A. Yes.

25 Q. But still on the ground?

1 A. Yes.

2 Q. Not going to hit him?

3 A. No.

4 Q. But that didn't stop him?

5 A. No.

6 Q. He kept coming?

7 A. Yep.

8 Q. When you -- when -- when Javon was marching
9 towards you guys and Emonie said something, like -- or let
10 you know she wanted to get out of the car and that was so she
11 could talk to Niya?

12 A. Yes.

13 Q. Because they had the beef?

14 A. Yes.

15 Q. You never did anything to Javon?

16 A. Never did.

17 Q. Did he put himself in the beef?

18 A. Yes.

19 Q. Whenever you saw Javon and Niya in the
20 neighborhood, did Javon always clutch up his gun?

21 A. Yes.

22 Q. And when he would do that and go for his gun -- he
23 saw you in the neighborhood, would he give you a kind of a
24 mean stare?

25 A. Yes. That he always did.

1 Q. All the time?

2 A. All the time.

3 Q. They lived just a couple of blocks from Emonie's
4 house?

5 A. Yes.

6 Q. The store was on Spruill?

7 A. Yes.

8 Q. And they had to walk -- or they would often walk
9 right by Emonie's mom's house to the store?

10 A. Yes.

11 Q. You'd see them -- you'd see them walk in there?

12 A. Yes.

13 Q. You'd see them in the store?

14 A. Sometimes.

15 Q. And every time you ran into him -- these chance
16 meetings, Javon -- would Javon clutch at his gun and give you
17 a hard stare?

18 A. Yes.

19 Q. And he did it that day at that intersection?

20 A. Yes.

21 Q. And he didn't just grab it, his shirt, or his
22 waistband, he really had a gun there?

23 A. He really did.

24 Q. And he always really did?

25 A. Yes.

1 Q. Now, the prosecutor asked you, "When you started
2 firing, was Emonie safely in your car?" That's not true,
3 right?

4 A. No.

5 Q. When -- when the -- when the events led up to the
6 shooting with Javon marching towards you guys with the gun,
7 did you yell at Emonie to get back in the car?

8 A. Yes.

9 Q. But she didn't?

10 A. No.

11 Q. And you couldn't leave her?

12 A. No.

13 Q. And when the shooting happened, did she scurry
14 around and hide behind the door?

15 A. Yes.

16 Q. She didn't get back in the car?

17 A. No.

18 MR. MCGUIRE: Javon, that's all -- I mean, Courtney,
19 that's all I have for you (inaudible). Thank you.

20 THE COURT: Anything further?

21 MS. LINDER: Nothing further, Judge.

22 THE COURT: All right. All right. You can step down.
23 Can the attorneys -- clerk just one second.

24 (Off the record.)

25 THE COURT: All right. Back on the record.

1 MR. MCGUIRE: Thank you, Judge. Just for the record,
2 the video that we showed was a video from a Facebook that was
3 received from Facebook pursuant to a subpoena issued by the
4 prosecutor's office or a search warrant actually from the
5 prosecutor's office. My understanding is they are going to
6 actually enter into evidence a hard disc marked
7 State's Exhibit 80. And that'll be the video that we
8 referenced with Mr. Richards.

9 THE COURT: For the purposes of this hearing?

10 MR. MCGUIRE: Yes, sir.

11 THE COURT: All right. Is that correct from the State?

12 MS. OUTTEN: Yes, your Honor.

13 THE COURT: All right. It's number 80?

14 MS. LINDER: Judge, actually this disc has more than
15 just that on there that we are entering.

16 THE COURT: All right.

17 MS. LINDER: But there is a clip of a video, the
18 Defense stopped the -- stopped the video before it ended and
19 our video is the entire video. So it -- what we have on our
20 disc is not the trim version that the Defense played while
21 their client was on the stand.

22 THE COURT: All right. Can I mark it?

23 MR. MCGUIRE: So, Judge, I'll -- I'll mark it and put
24 it in.

25 THE COURT: All right. Thank you.

1 MR. MCGUIRE: Okay. It'll take us just one second,
2 Judge.

3 THE COURT: That will be fine.

4 MR. MCGUIRE: Mark it as Defense 1, please. Hey,
5 Judge, we would move into evidence (inaudible).

6 THE COURT: All right. Defense 1 -- they're offering
7 Defense 1, which is the video they played.

8 MS. LINDER: No objection.

9 THE COURT: All right. Defense 1 is in evidence for
10 this hearing only with no objection.

11 (Defense's Exhibit 1 admitted into evidence.)

12 MR. MCGUIRE: Thank you, Judge.

13 THE COURT: Thank you.

14 MR. MCGUIRE: And the court reporter has the exhibit.

15 THE COURT: Thank you.

16 MR. MCGUIRE: At this time we'd rest, Judge.

17 THE COURT: Thank you. All right. Anything from
18 State?

19 MS. OUTTEN: State calls Jodi Hunt.

20 THE COURT: All right.

21 MS. OUTTEN: And, your Honor, just a housekeeping
22 matter, we added our exhibit list for the hearing printed --
23 that we had a copy for the court reporter. I neglected to
24 give it to the continuous hearing.

25 JODI HUNT,

1 having been duly sworn, testifies as follows:

2 THE CLERK: Please state your full name for the record
3 spelling your last name.

4 THE WITNESS: Jodi Hunt, H-U-N-T.

5 MS. OUTTEN: Beg Court's indulgence, your Honor.

6 THE COURT: All right.

7 DIRECT EXAMINATION

8 BY MS. OUTTEN:

9 Q. Good afternoon.

10 A. Hello.

11 Q. Where do you work?

12 A. North Charleston Police Department.

13 Q. And how long have you worked there?

14 A. Six years.

15 Q. And what is your current role and what are your
16 job responsibilities?

17 A. I'm a crime scene investigator. I'm also
18 supervisor of the crime scene unit and a latent printing
19 examiner.

20 Q. And can you please just sort of tell the Court
21 about your education and experience?

22 A. I'm originally from New Jersey. I have a
23 bachelor's in criminal justice and prior to working at
24 North Charleston Police Department, I was a crime scene
25 investigator at Dorchester County Sheriff's Office.

1 Q. And back in February of 2022, did you have the
2 same role and job responsibilities?

3 A. Yes.

4 Q. And were you involved in this case?

5 A. Yes.

6 Q. Case -- the State versus Courtney Richards?

7 A. Yes, ma'am.

8 Q. Please explain to the jury how you got involved in
9 this case?

10 A. On -- I was dispatched to Union Heights in
11 reference to a shooting victim lying on the ground.

12 Q. And where specifically in Union Heights were you
13 dispatched to?

14 A. [REDACTED] Comstock Avenue.

15 Q. And approximately what time did you respond on the
16 scene?

17 A. It was around 1331 hours.

18 Q. Can you describe what that area looks like?

19 A. It's a one-way narrow street. There's no
20 sidewalks and all the houses are very close together.

21 Q. And if I were to show you a street view of that
22 location, would you recognize it?

23 A. Yes.

24 MS. OUTTEN: May I approach, your Honor?

25 THE COURT: Yes.

1 THE WITNESS: Yes.

2 BY MS. OUTTEN:

3 Q. Did you --

4 A. Oh, I'm sorry.

5 Q. Do you recognize that street view?

6 A. Yes.

7 Q. And what is that street view?

8 A. It is the -- it's the street view of the
9 intersection of Cosmopolitan and Comstock.

10 Q. And is that a fair and accurate copy of what that
11 intersection would've looked like in February of 2022?

12 A. Yes.

13 MS. OUTTEN: At this time, the State's going to offer
14 State's Exhibit 59 into evidence.

15 THE COURT: Show it to the Defense, please.

16 MS. OUTTEN: I did before.

17 THE COURT: Any objection?

18 MR. MCGUIRE: No objection, Judge.

19 THE COURT: All right. State's 59 has entered into
20 evidence for this hearing only with no objection. Thank you.

21 (State's Exhibit 59 admitted into evidence.)

22 MS. OUTTEN: Permission to publish, your Honor?

23 THE COURT: Yes. You can publish it.

24 BY MS. OUTTEN:

25 Q. So this is Comstock Avenue?

1 A. Yes.

2 Q. And when you say it's narrow, how -- approximately
3 how wide is Comstock Avenue?

4 A. It's approximately 15 and a half feet.

5 Q. And is the entirety set up like this where there's
6 really no sidewalks?

7 A. Yes.

8 Q. And the houses are sort of up on the street?

9 A. Yes.

10 Q. So, can you explain what the procedure is that you
11 follow when you're asked to respond to a crime scene?

12 A. When I first arrive on scene, I'll speak with the
13 detectives to get an overall view, like, understanding of the
14 case. And then once that is complete, I'll start taking
15 overall photographs of the area, and then I'll place placards
16 down by any relevant evidence, and then take mid-range and
17 then close-up photographs.

18 Q. Okay.

19 MR. MCGUIRE: I mean -- I agree as the judge is less
20 likely to be in defend by style, he kind -- kind of says we
21 trust him. We'll let him go.

22 BY MS. OUTTEN:

23 Q. I'm going to show you what has been marked as
24 State's Exhibits 1 through 51. Just look through those. Do
25 you recognize these photos?

1 A. Yes.

2 Q. And how do you recognize them?

3 A. I took them.

4 Q. And are they a fair and accurate depiction of what
5 the crime scene looks like that day?

6 A. Yes.

7 MS. OUTTEN: At this time, the State can offer
8 Exhibits 1 to 51 in evidence.

9 THE COURT: Any objection?

10 MR. MCGUIRE: For purposes of this hearing, your Honor,
11 no objection.

12 THE COURT: They're entered without objection for
13 purposes of this hearing.

14 (State's Exhibit 1 through 51 admitted into evidence.)

15 MS. OUTTEN: Permission to publish, your Honor?

16 THE COURT: You can publish them.

17 BY MS. OUTTEN:

18 Q. I am going to start by showing you
19 State's Exhibit 39. So, now we're looking at your actual
20 crime scene photo. What street is that?

21 A. That is Comstock.

22 Q. And all the way down here, this white tent, what
23 does that cover?

24 A. The victim.

25 Q. And is that the policy of the

1 North Charleston Police Department to cover bodies like that?

2 A. It's our common procedure to preserve the dignity
3 of the victim.

4 Q. So the perspective of this photo, you were at the
5 opposite end of Comstock Avenue from where the victim's body
6 is?

7 A. Yes.

8 Q. And then right here -- and this is going to sound
9 like a silly question, but what is this yellow tape right
10 here?

11 A. It's a crime scene tape.

12 Q. And who is responsible for putting that up?

13 A. The first officers on scene will do that to secure
14 the scene.

15 Q. So the crime scene tape is -- is the crime scene
16 tape already up typically before you arrive on a scene?

17 A. Yes, it's up prior to my arrival.

18 Q. And once that crime scene tape is up, does that
19 define the area that you're going to search in?

20 A. Yes. Because that's the secure area.

21 Q. I'm now going to show State's Exhibit 15. Does
22 this photo also show Comstock Avenue?

23 A. Yes.

24 Q. And why is there that fire truck on the scene?

25 A. Fire Rescue will arrive before me to render aid to

1 the victim or attempt to.

2 Q. Would the fire truck have come through -- down
3 Comstock Avenue before you have an opportunity to search for
4 evidence?

5 A. Yes.

6 Q. And now I'm going to show State's Exhibit 1. What
7 does this photo show?

8 A. That's the victim.

9 Q. And had the victim received any sort of EMS or
10 medical attention when you took this photo?

11 A. Yes.

12 Q. But did you move the body in any way before you
13 took this photo?

14 A. No, ma'am.

15 Q. Show State's Exhibit 2. And then, what does this
16 photo show?

17 A. That's the victim from another angle.

18 Q. And where approximately on Comstock Avenue was the
19 victim's body found when you arrived on the scene?

20 A. The victim was near the corner of Cosmopolitan
21 right around [REDACTED]

22 Q. And did you recover any items from around the --
23 from near -- around the victim's body?

24 A. Yes, a firearm.

25 Q. Is this the firearm you recovered?

1 A. Yes.

2 Q. And is that red tent part of the tent that you
3 would've used to cover up the victim's body before you began
4 documenting everything?

5 A. That was covering up the fence so that people
6 couldn't see through the fence.

7 Q. And I'm just going to show State's Exhibit 53,
8 just a closer view.

9 A. Yes, ma'am. Closer view of the gun.

10 Q. I'm going to show now what's been marked as
11 State's Exhibit 3 or admitted, excuse me, as
12 State's Exhibit 3. These yellow markers that we see here,
13 what do those represent?

14 A. Those are photo placards representing fire shell
15 casings that were recovered.

16 Q. And what generally speaking is a fired cartridge
17 case?

18 A. It's what's left behind once a firearm has been --
19 a weapon has been fired.

20 Q. And how many fired cartridge cases are in this
21 photo?

22 A. In that photo, five.

23 Q. And did all of these visually match one another?

24 A. Yes.

25 Q. And when you're looking at a fire cartridge case,

1 how do you know that they all match each other?

2 A. After a visual -- a visual examination will match
3 that the calibers are the same, and if the calibers are the
4 same, then we'll look at the firing pin impression, and the
5 breach face, and if there's any ejector marks to confirm that
6 they have similar patterns.

7 Q. I am going to show State's Exhibit 15 again. And
8 what are the placards we see in this photo represent?

9 A. Fired cartridge casings also.

10 Q. And where was this photo taken?

11 A. Those were around 2019 Comstock Avenue.

12 Q. And did all of those fired cartridge casings from
13 this part of the scene match each other?

14 A. Yes.

15 Q. And you would've followed the same procedure you
16 just described when doing the visual confirmation?

17 A. Yes.

18 Q. Okay. So, I know this photo showing
19 State's Exhibit 15 again is a bit zoomed out, but when you're
20 on the scene, how would you characterize these fired
21 cartridge casings in relation to one another?

22 A. I would say that they were, like, in a cluster.

23 Q. And how -- when we looked at State's Exhibit 3,
24 how far away are the cartridge cases from State's Exhibit 3
25 to the fired cartridge cases in State's Exhibit 15?

1 A. So the 9mm casings in reference to the .45 caliber
2 were approximately 100 feet away -- 170 feet away.

3 MS. OUTTEN: Your Honor, at this time we would like to
4 demonstrate the length of that -- the length that those were
5 away using a -- a measuring tape.

6 THE COURT: All right. Go ahead.

7 BY MS. OUTTEN:

8 Q. Okay. Ms. Hunt, I'm going to ask you to hold this
9 end of the measuring tape and then I'm going to walk about as
10 far back as I can. And then, I'm going to ask you to read
11 them. How far away am I from you right now for the measuring
12 tape that you're holding?

13 A. 31 feet.

14 Q. And about how far away am I from you now?

15 A. 42 feet.

16 Q. Thank you. And so, bringing us back to what we
17 were saying before the two -- the two groupings of fired
18 cartridge casings in 15 and 3 were how far apart?

19 A. Approximately 170 feet.

20 Q. And one more question, Ms. Hunt. I showed you the
21 photo, State's Exhibit 1, excuse me, I'm showing
22 State's Exhibit 2 of the victim's body, which was
23 approximately in front of [REDACTED] Comstock. And then
24 Exhibit 15, which is these 9mm shells. About how far away
25 are these 9mm shells from the victim's body?

1 A. They were approximately 59 feet, 4 inches.

2 MS. OUTTEN: I don't have any further questions for
3 you. Please answer any questions that Mr. Bischoff may have.

4 THE COURT: Cross?

5 MR. BISCHOFF: Thank you, your Honor.

6 CROSS-EXAMINATION

7 BY MR. BISCHOFF:

8 Q. Officer Hunt?

9 A. Yes.

10 Q. How far is a 9mm fire?

11 A. I'm not qualified to answer that.

12 Q. Further than 170 feet?

13 MS. OUTTEN: Objection, your Honor. The witness
14 indicated she can't say how far a 9mm firearm can fire.

15 THE COURT: Sustained.

16 BY MR. BISCHOFF:

17 Q. So, you're a crime scene technician or a crime
18 scene investigator?

19 A. Investigator.

20 Q. And so does that mean you do more than just take
21 pictures?

22 A. I collect evidence and I'll also process it.

23 Q. Okay. So, you would also measure other distances
24 on the scene?

25 A. Yes.

1 Q. All right. I want to first get our bearing about
2 -- if you don't mind -- if they map on the general area. All
3 right. So for purposes of this, again, we're looking at
4 State's 57. Would you agree that's an accurate map of the
5 general area that we're talking about here in this case?

6 A. Yes.

7 Q. All right. And would you also agree with me that
8 you can't see it on State's 57, but to the right is
9 Spruill Avenue about a block down toward the right?

10 A. Yes.

11 Q. And there's a corner store right there, correct?

12 A. I believe so.

13 Q. Yellow in color, do you remember that?

14 A. Yes.

15 Q. Okay. So the actual area where Javon Thomas' body
16 was found -- I'm going to point to State's 57, just the
17 (inaudible). Is that the area right there?

18 A. Yes.

19 Q. Okay. Where exactly did he move toward Javon when
20 he first fired his shots?

21 MS. OUTTEN: Objection, your Honor. That would be
22 speculation as to the crime scene investigator.

23 MR. BISCHOFF: Well, she got --

24 THE COURT: Wait a minute, if she can -- if she can
25 answer it, but that's -- she has to -- give her a chance to

1 answer whether she knows or not.

2 THE WITNESS: I can't, I don't know.

3 BY MR. BISCHOFF:

4 Q. You're not sure?

5 A. No, I'm not sure.

6 Q. Got it. Have you seen the video in this case?

7 A. I have.

8 Q. You have?

9 A. Yes.

10 Q. So you saw on the video -- and again the video
11 we're talking about is what has been entered into evidence as
12 the Defense 1, but it's a cell phone video of a bystander?

13 A. Yes.

14 Q. And you've seen that in video as a cell from
15 inside the vehicle?

16 A. Yes.

17 Q. Okay. And so on that video, do you remember when
18 Javon fires six shots in the left direction of Comstock? Do
19 you remember that?

20 A. In the video I actually did not -- I did not. I
21 could not see him shooting.

22 Q. You don't see him shooting?

23 A. I -- no, I don't.

24 Q. All right. Where were the shell casings recovered
25 on Comstock?

1 A. The casings --

2 Q. For Javon's gun.

3 A. -- for Javon? Well, the 9mm casings were in a
4 cluster in front of 2006 Comstock.

5 Q. Okay. And how far is 2006 Comstock from the
6 corner of Comstock and Cosmopolitan?

7 A. It was approximately 60 feet or 59 feet, 4 inches
8 is what I had.

9 Q. Okay. And then, how much further down Comstock
10 until you get to the shell casings that were recovered from
11 Courtney's gun?

12 A. The .45.

13 Q. Is that the 170 feet?

14 A. Between the two casings, yes.

15 Q. Okay. So then from the end of the crime scene
16 where Courtney's shell casings are -- are found into the
17 corner of Comstock and Cosmopolitan where Javon's body is
18 located, what's the distance between those two points?

19 A. It's approximately 256 feet.

20 Q. Okay. And I want to ask you about the width of
21 the roadway. Did you measure the width of the roadway?

22 A. Yes, sir.

23 Q. All right. What is the width of the roadway?

24 A. Comstock Avenue was
25 approximately 15 and a half feet.

1 Q. 15 and a half feet?

2 A. Yes. Wide.

3 Q. Do you know the size of a standard road? A normal
4 road?

5 A. A two-way street?

6 Q. Yes.

7 A. Most likely. I don't know.

8 Q. Or rather --

9 A. I would --

10 Q. -- any idea?

11 A. No, I don't. I would -- I assume double, but...

12 Q. All right.

13 A. I don't know that off the top of my head.

14 Q. And the shell casings from Courtney's gun, they're
15 again on the sort of left side of the crime scene, right?
16 We're looking at the map.

17 A. Yes, sir.

18 Q. Reference to State's 57, we're talking about where
19 Courtney's shell casings were found. They were found very
20 close to a vacant lot and there's a house in a vacant lot
21 sort side by side; is that right?

22 A. I -- I don't know if the house was vacant, but
23 yes, I know what you're talking about.

24 Q. Okay. And show you what's been marked as
25 Defense Exhibit 2 is just for identification right now. Do

1 you recognize that house?

2 A. I don't.

3 Q. You do not?

4 A. No, sir.

5 Q. Okay. Do you remember what it's just -- looking
6 at State's 19 now, do you remember what is just on basically
7 the -- from where you're taking that picture, do you remember
8 what was immediately to your left?

9 A. Was that the vacant house?

10 Q. (Crosstalk).

11 A. I -- I'd -- I'd have to look at all the pictures.
12 I don't remember off the top of my head, no.

13 Q. Okay. So, what you also see in the State's 19 is
14 crime scene tape that goes across the picture from left to
15 right; do you agree?

16 A. Yes.

17 Q. And then you see placards. What numbers are those
18 that you see on State's 19?

19 A. Those would be -- they should be one through five.

20 Q. And those are Courtney's shell casings?

21 A. I believe so, they're the .45 caliber casings.

22 Q. All right. And you said it was what numbers
23 again?

24 A. It should be one through five. I can't -- the
25 pictures. Yeah, one through five.

1 Q. One through five. Okay. And that'll show you
2 what's been marked for identification right now as Defense 3.
3 Do you recognize that photograph?

4 A. Yes.

5 Q. And that's a photograph of Courtney's shell
6 casings you recovered from that general area?

7 A. Yes.

8 Q. And is that shell casing a .45?

9 A. It should -- it should be a Blazer .45.

10 Q. Blazer .45?

11 A. Uh-huh.

12 Q. Did you notice any distinguishing features about
13 that shell casing?

14 A. That it's damaged.

15 MR. BISCHOFF: Okay. Your Honor, I'm sorry, I should
16 have moved it to admit as Defense -- Defense's Exhibit 3.

17 THE COURT: Sure. Any objection?

18 MS. OUTTEN: No objection from the State.

19 THE COURT: All right. Then Defense 3 is in evidence
20 for this hearing without objection.

21 (Defense's Exhibit 3 admitted into evidence.)

22 BY MR. BISCHOFF:

23 Q. And so this is -- you said "damaged?"

24 A. Yeah. Deformed.

25 Q. So that's not how a shell casing looks when it's

1 discharged from that, correct?

2 A. Not particularly, no.

3 Q. I'm showing you State's 19, there has been damage
4 by the fire truck?

5 A. Yes.

6 Q. So the fire truck drove through the crime scene
7 prior to your arrival?

8 A. Yes.

9 Q. Okay. So you have no way of knowing where
10 Courtney was from the -- where -- from the locations of these
11 shell casings?

12 A. No, sir.

13 Q. Shell casings can get kicked around?

14 A. Yes, sir.

15 Q. Shell casings can get run over and drive by the
16 vehicle?

17 A. Yes.

18 Q. Now, I want to talk to you about the other side of
19 this fire truck. I'm showing you what's been marked as
20 State's 6. Do you -- you recognize the photo, right?

21 A. Yes, sir.

22 Q. And for purposes of orientation, this is on the
23 Cosmopolitan side of the fire truck?

24 A. Yes.

25 Q. And are those Javon Thomas' shell casings?

1 A. They're the 9mm casings.

2 Q. Okay. And in reference to the video that we're
3 talking about from the cell phone --

4 A. Uh-huh.

5 Q. -- inside the car, one of the individuals you
6 cannot see firing a weapon. Do you remember that video?

7 A. Yes.

8 Q. And you can see another person firing a weapon.
9 Do you remember that?

10 A. No. Like I said, I couldn't see anybody firing.
11 I could hear the shots that I know everyone -- what they say,
12 but I personally just saw it once and I couldn't see anybody
13 shooting.

14 Q. I understand.

15 A. Okay.

16 Q. When you arrived, did other officers who were
17 already on scene alert you -- orient you?

18 A. Yes.

19 Q. So what they had already marked off?

20 A. Yes.

21 Q. Okay. And this part of the crime scene was marked
22 off from the moment the officers arrived -- very close to it,
23 was it not?

24 A. I believe so.

25 Q. Because they arrived in -- just on the

1 Cosmopolitan side of this picture, toward these two police
2 vehicles that we see in State's 6, that's where Javon's body
3 was found, correct?

4 A. Yes.

5 Q. And so that area was not manipulated?

6 A. Not that I'm aware of, no.

7 Q. Not disturbed that you're aware of?

8 A. Correct.

9 Q. None of those shell casings were bent?

10 A. I don't believe so, no.

11 Q. And so the picture of State's 6 -- we've got 7, 8,
12 and 9. Do you know the distances between those or would you
13 agree that they're very close together?

14 A. Yes, sir.

15 Q. How far from 9 until 10 in State's 6 blocker nine
16 to blocker 10. Do you know the distance between those two?

17 A. I don't, sir.

18 Q. All right. You didn't measure that?

19 A. No, I didn't.

20 Q. So you're not sure whether the grounds that were
21 fired were all in this area, or maybe this area -- this area
22 being 7, 8, and 9 on State's 6.

23 A. Uh-huh.

24 Q. Or 10 maybe. Do you know whether or not it's
25 possible that 10 is a round that was fired in that general

1 area north of 7, 8, 9? Is that possible?

2 A. Yes, it is.

3 Q. Okay. And you're just -- I'm just asking this
4 difficult job -- you're crime scene investigators and you're
5 not interviewing people --

6 A. No, sir.

7 Q. -- that somebody else's job?

8 A. Yes.

9 Q. You're there photographing?

10 A. Yes, sir.

11 Q. But you do a report?

12 A. Yes, sir.

13 MR. BISCHOFF: Your Honor, may I approach the witness?

14 THE COURT: Uh-huh.

15 BY MR. BISCHOFF:

16 Q. Just take a look at those two pages of that
17 document I just gave you.

18 A. Okay.

19 Q. You know what that is, right?

20 A. Yes.

21 Q. And that's your report?

22 A. Yes, sir.

23 Q. Is there any other pages that belong in your
24 report from analyzing -- documenting the crime scene?

25 A. Wait, we're missing one page.

1 Q. Well --

2 A. There was two pages.

3 Q. You have a copy of your report with you?

4 A. Yeah.

5 Q. Do you mind if I take a look at it? All right.

6 So there is a third page?

7 A. Yes.

8 Q. Correct? And the third page deals with part of
9 the 2013 Jeep Compass vehicle search, correct?

10 A. Yes, sir.

11 Q. And then there's in-house processing?

12 A. Yes, I -- I've processed the firearm.

13 Q. Okay. Got it. I understand. All right. Thank
14 you. So I'm -- talk about the first two pages of your
15 report, okay?

16 A. Yes, sir.

17 Q. Is there anywhere in this report where distances
18 are documented?

19 A. No, sir.

20 Q. So where's the documentation of the distances?

21 A. I did that after the fact.

22 Q. Did you take notes?

23 A. Yes.

24 Q. You did. Did you bring your notes with you?

25 A. Yes.

1 MR. BISCHOFF: May I approach the witness?

2 THE COURT: Yes.

3 BY MR. BISCHOFF:

4 Q. Does this make up all of the notes or information
5 that you recorded and preserved contemporaneous with your
6 processing of the crime scene?

7 A. That's everything, yes.

8 Q. There's no additional documents beyond this?

9 A. No.

10 Q. Did you turn this document over as evidence?

11 A. No.

12 Q. You did not?

13 A. No, it was just my -- my own notes.

14 Q. Your own personal notes?

15 A. Yes.

16 Q. But you've testified to them today?

17 A. Yes.

18 Q. Regarding distances.

19 A. Yes, sir.

20 MR. BISCHOFF: But I like to mark this -- this is
21 Court's exhibit for right now. We need to probably get a
22 copy of it.

23 THE COURT: Yeah, we need to get a copy of it. But you
24 can -- you can mark it.

25 MR. BISCHOFF: Just as a Court's exhibit?

1 THE COURT: Let's mark -- let's mark it as a Court's
2 exhibit right now.

3 MR. BISCHOFF: And (inaudible).

4 THE COURT: Yeah, go ahead.

5 BY MR. BISCHOFF:

6 Q. Can we -- do you mind -- talk about this on your
7 own?

8 A. No, that's fine.

9 Q. Can we just talk about it together.

10 A. Sure.

11 MR. BISCHOFF: All right. Is that okay?

12 THE COURT: Go ahead. Keep going. We're going to say
13 it's Court's Exhibit 1 for this purpose.

14 (Court's Exhibit 1A was admitted into evidence.)

15 THE COURT: Let's hold on one second.

16 Madam Clerk, can you make a copy of that for us,
17 please?

18 THE CLERK: (Inaudible).

19 THE COURT: Is there any?

20 MR. BISCHOFF: Can we take a five minute recess?

21 THE COURT: Yeah, let's take five minutes and do that.
22 We're going to stand these for five minutes. Get a copy bag.
23 Let the clerk take -- take it.

24 (Off the record.)

25 THE COURT: All right. State, Defense ready?

1 MS. OUTTEN: State's ready, your Honor.

2 MR. BISCHOFF: We are, your Honor.

3 THE COURT: All right. Officer Hunt, you're still
4 under oath.

5 THE WITNESS: Yes, sir, your Honor.

6 THE COURT: And I believe the -- the sticker is on the
7 copy now. It's on the copy.

8 MR. BISCHOFF: Yes, sir.

9 All right. May I approach the witness?

10 THE COURT: Yes, you can. You -- you don't need to ask
11 permission. You go ahead, you all move around the courtroom
12 freely.

13 THE WITNESS: You're welcome.

14 BY MR. BISCHOFF:

15 Q. All right. Ms. Hunt, for purposes of the next few
16 questions, I want to refer to a one-page document that's been
17 marked as Court's Exhibit number 1. And so, this is a
18 document that you prepared shortly after you visited the
19 crime scene on February 19, 2022?

20 A. No, it was sometime this month.

21 Q. Sometime this month?

22 A. Yes.

23 Q. Okay. And do you remember when this month?

24 A. Couple weeks ago. I don't know the exact date.

25 Q. And are you still employed with the

1 North Charleston Police Department?

2 A. Yes.

3 Q. And who asked -- who asked you to go to the scene
4 this past month?

5 A. The Solicitor.

6 Q. Ms. Stephanie Linder?

7 A. No.

8 Q. Who else?

9 A. Investigator Butler and solicitor.

10 Q. Solicitor who?

11 A. Oh, Anna.

12 THE COURT: Solicitor Outten?

13 THE WITNESS: I don't know her last name.

14 BY MR. BISCHOFF:

15 Q. Is this Solicitor Anna Outten?

16 A. Yes.

17 Q. Plaintiff's counsel?

18 A. Yes. Solicitor Anna.

19 Q. So she asked you to go to the scene and take these
20 measurements that are documented in Court's Exhibit number 1?

21 A. She didn't ask me. We -- we were doing a
22 pretrial-like meeting and I wanted to take -- I wanted to
23 take the measurements to -- to help accurately describe the
24 scene.

25 Q. Okay. So the measurements that you testified to

1 on direct between evidence placards, and other items on the
2 scene, you measured a few weeks ago?

3 A. Yes.

4 Q. So how did you figure out where the placards were
5 supposed to be?

6 A. They were approximate because of the -- the
7 buildings. That's why I said approximate.

8 Q. So the day of your investigation, you went to the
9 scene, you did no measurements?

10 A. No.

11 Q. And then you did measurements a few weeks ago
12 using houses as general points of interest to try and guess
13 where evidence was located the day of the -- of -- of the --

14 A. There was no guessing they were approximate.

15 Q. What does approximate mean to you?

16 A. An average area. The houses haven't moved. The
17 fixed points haven't moved.

18 Q. I'm not concerned about the houses, I'm concerned
19 about the actual evidence placards.

20 A. Okay.

21 Q. So you're not sure?

22 A. I didn't say that.

23 Q. Oh, okay. Well I'm just --

24 A. I said approximate.

25 Q. Approximate. Okay.

1 MR. BISCHOFF: Your Honor, this is the first time --
2 reading this before. Beg for Court's indulgence, would you
3 just a second?

4 THE COURT: You have -- take all the time you need.

5 MR. BISCHOFF: All right. Let's just start at the top.

6 MS. OUTTEN: Your Honor, maybe we -- we have not seen
7 this document. Is there any way that we could review it as
8 well before he begins questioning her about it?

9 MR. BISCHOFF: I'm happy to put it on the screen.

10 THE COURT: Yeah.

11 MR. BISCHOFF: She may (inaudible).

12 THE COURT: Parties approach.

13 (Bench conference.)

14 THE COURT: All right. We're going to be at recess for
15 about 15 minutes. So we're going to take a 15-minute recess.
16 It -- I'll check with the parties after 15 minutes if you
17 need some more time, you just need to let me know.

18 MR. BISCHOFF: Yes, sir.

19 THE COURT: And we'll be happy to give you as much time
20 as you need. And that goes for State, Defense.

21 Officer Hunt, you're still under oath. Please don't
22 discuss your testimony with anyone while we're on recess,
23 okay?

24 THE WITNESS: Yes, sir. Yes, your Honor.

25 THE COURT: All right. Thank you. We're on recess.

1 MR. BISCHOFF: Thank you, your Honor.

2 (Off the record.)

3 THE COURT: It has to let Defense and State take a look
4 at Court's Exhibit number 1 and it -- has the Defense had
5 enough time to -- to look over Court's Exhibit number 1?

6 MR. BISCHOFF: We have, your Honor,

7 THE COURT: And -- and obviously the State had enough
8 time to study Court's Exhibit number 1 as well?

9 MS. OUTTEN: We have, your Honor.

10 THE COURT: All right. In regards to
11 Court's Exhibit number 1, does Defense need to put anything
12 on the record in regards to this -- this exhibit?

13 MR. BISCHOFF: Regarding Defense Exhibit number 1,
14 Judge, we --

15 THE COURT: Court's Exhibit number 1.

16 MR. BISCHOFF: I'm sorry. Yes, sir.
17 Court's Exhibit number 1. The hearing today is the first
18 time that we have received this particular document. We
19 don't have any prior information about distances measured by
20 anybody working with the solicitor's office or law
21 enforcement in this case.

22 And we don't intend to make any motions right now at
23 this time. However, we would like the Court to order the
24 government to -- to give us a heads up and let us know if
25 they claim to elicit the same type of testimony discussed in

1 Court's Exhibit 1 in trial if you do end up having a trial --
2 for jury trial.

3 THE COURT: All right. And what's the State's position
4 on that? Did you -- did you hear his position that he wants
5 to make sure that he's on notice? If you're going to elicit
6 this type of testimony, if we end up in a trial posture here?

7 MS. OUTTEN: Yes, your Honor. We understand that. And
8 just for the record, we -- this today -- this hearing was the
9 first time we were also seeing that document. So, it's not
10 something that was in our possession and we failed to turn
11 over.

12 THE COURT: All right. As far as the Defense, do you
13 need any more time to prepare for this document,
14 Court's Exhibit number 1?

15 MR. BISCHOFF: I do not, Judge.

16 THE COURT: Do you feel like you need a continuance in
17 order to have more time to -- to study
18 Court's Exhibit number 1?

19 MR. BISCHOFF: No, we do not.

20 THE COURT: Are you ready to go forward and continue
21 this hearing?

22 MR. BISCHOFF: I am.

23 THE COURT: All right. Let's get started. We'll --
24 we'll continue the hearing now. Thank you.

25 BY MR. BISCHOFF:

1 Q. Corporal Hunt, we're back on the record here. I
2 want to ask you some questions about
3 Court's Exhibit number 1. This is the third page or fourth
4 page of your report regarding distances measured at the
5 scene?

6 A. Well, it's not part of my report, but it's my --
7 just my notes, but yes.

8 Q. All right. Show you what has been marked. Just
9 --

10 A. Yep.

11 Q. It's Court's Exhibit number 1. We're going to
12 review that document, okay?

13 A. Yes.

14 Q. And you've got a copy of it?

15 A. Yes, sir.

16 Q. All right. So, this is a document that you
17 prepared after visiting the scene of this case; is that
18 correct?

19 A. Yes.

20 Q. And you have in the top -- Court's document
21 incident date July 22nd, 2022?

22 A. Yes. That's a -- that's a typo.

23 Q. All right. Did you -- what did you intend to
24 conclude?

25 A. I -- I intended to write down the -- the incident

1 date of 2/19 of 2022.

2 Q. All right.

3 A. I'm not sure where the 7/22 came from because
4 that's today, so...

5 Q. Okay. Do you remember exactly what day you went
6 to the scene --

7 A. I --

8 Q. -- to prepare this report?

9 A. -- I don't -- I could find that out. Like I said,
10 I want to say it was two weeks ago.

11 Q. Okay. And as the report indicates you were -- you
12 met with Charleston County Solicitors, Anna Outten and
13 Stephanie Linder at the scene?

14 A. Yes.

15 Q. Investigator Butler was also at the scene?

16 A. Yes.

17 Q. Anybody else at the scene that's not mentioned in
18 this document?

19 A. No.

20 Q. Now, the document basically gives general
21 distances and measurements that you and the other people
22 mentioned perhaps believe are relevant and important to
23 figuring out what happened that day. Is that fair to say?

24 A. Yes.

25 Q. And before we went and took a break, your

1 testimony was that you were basically giving approximate
2 distances?

3 A. Yes, sir.

4 Q. To general areas that you tried to sort of
5 recreate?

6 A. Yes.

7 Q. A couple weeks ago. Is that fair to say?

8 A. Yes.

9 Q. I'm going to first talk about State's 19. You
10 would agree with me that that's a photograph -- day of the
11 incident of the area where the Defendant fired his weapon?

12 A. Yes.

13 Q. You would agree with me that there are four
14 placards in this photograph? Evidence placards?

15 A. Yes, sir.

16 Q. You would agree with me that they are numbered
17 four, five, six, and seven?

18 A. No.

19 Q. No?

20 A. They're one, two, three, and four.

21 Q. I'm sorry. They're one, two, three, and four.
22 Thank you. So regarding State's 19, we have evidence
23 placards one, two, three, and four.

24 A. Yes.

25 Q. Those are where -- the day of the incident -- is

1 believed the Defendant fired his weapon?

2 A. Yes.

3 Q. And this is after the fire truck drove through to
4 that parking scene?

5 A. Yes, sir.

6 Q. Okay. You would agree that one, two, three, and
7 four are not all on top of one another?

8 A. Correct.

9 Q. And in your report, the Court's Exhibit number 1,
10 you reference measuring to an area that you refer to as "The
11 cluster of .45 caliber cartridge casings fired from the
12 Defendant." You used that terminology a couple of different
13 times, correct?

14 A. Correct.

15 Q. So which placard or what area -- what fixed point
16 on page -- on State's Exhibit 19 is the area that is used to
17 determine the distance for one fixed point to another?

18 A. The center of 2021 Comstock Avenue -- the center
19 of that house, the middle is what I measured from.

20 Q. And you don't see 2021 Comstock in this
21 photograph?

22 A. No.

23 Q. And --

24 A. It's to the right I believe.

25 Q. But it's not to the right closer to the fire truck

1 at placard number 4, that's the driveway.

2 A. It was -- I'm sorry, the left. The white -- the
3 white fence I -- I believe was 2021.

4 Q. You don't remember?

5 A. Well, I do. That house is the one I used.

6 Q. So, you believe (crosstalk) at the house on the
7 left is 2021 Comstock?

8 A. Yes.

9 Q. All right. I'm going to show you
10 State's Exhibit 57. Would you agree that's a close-up of
11 Comstock Avenue?

12 A. Yes.

13 Q. And in State's Exhibit 19, we are looking up
14 Comstock Avenue from left to right on the picture that we're
15 looking at on the screen.

16 A. Okay.

17 Q. Yes.

18 A. Yes.

19 Q. So --

20 A. It's the house on the right, like I said first,
21 I'm sorry.

22 Q. So 2021 is on the right side of the road?

23 A. Right.

24 Q. Earlier you testified it was on the left?

25 A. Well, I said right first, and then you tried to

1 trick me and I said the left, and I said right again, so...

2 Q. No, I'm not trying to trick, I'm just trying to
3 get an idea.

4 A. Well, my first answer was the right.

5 Q. Okay.

6 A. That's what I said.

7 Q. That's what you remember now?

8 A. Yes.

9 Q. Okay. So, you're saying you did not measure to a
10 specific placard or you just measured to the house?

11 A. Yes.

12 Q. What part of the house?

13 A. The middle. You look at the house right center
14 and the middle, that's what I measured from.

15 Q. Okay. Did you measure any distance from the spot
16 that you said is in front of the house, to the house itself
17 or is that just generally on the road? Is it on the grass
18 area?

19 A. In the center of the road.

20 Q. Center of road?

21 A. Yes.

22 Q. Okay. And I'm assuming that you did the same
23 thing. Just took a general guess with regard to the shell
24 casings that we know required by Javon Thomas. We're looking
25 right now at State's Exhibit number 6. You would agree those

1 are the casings that corresponds with Javon Thomas's gun?

2 A. Yes.

3 Q. And State's Exhibit 6 is a picture the day of?

4 A. Yes.

5 Q. And what placard did you use to measure the
6 distances in your Court's Exhibit 1 report according to
7 State's Exhibit 6? Or do you not remember?

8 A. Can I see the rest of my photos? All the exhibits
9 -- and I could tell you I need more than one picture.

10 Q. I -- I withdraw the question, but did you -- did
11 you write anything else in addition to this document that --

12 A. No

13 Q. -- references an exact point?

14 A. No, I didn't write any exact points. All
15 approximate.

16 Q. Okay. Now, you also used the word "cluster"?

17 A. Yes, sir.

18 Q. All right. What does "cluster" mean to you?

19 A. A grouping.

20 Q. Okay. So would you say -- do you see a grouping
21 in State's Exhibit number 6?

22 A. Yes.

23 Q. So even though seven, eight, and nine are close
24 together and ten is a good distance away, is that one
25 cluster?

1 A. I wouldn't -- yes, I wouldn't consider that a far
2 distance away. I've dealt with hundreds of shootings and to
3 me this is a cluster.

4 Q. Did you measure the distance from where placard 10
5 was to placard 9?

6 A. No.

7 Q. Okay. You would agree with me that in
8 State's 6, 7, 8, 9 are much more visible than the number 10?

9 A. Yes.

10 Q. But that's a cluster to you?

11 A. Yes, sir.

12 Q. All right. I want to -- oh, did you take any
13 pictures a couple weeks ago?

14 A. Yes

15 Q. You did?

16 A. I did.

17 Q. Where are those pictures?

18 A. At my office.

19 Q. Do you remember the content of those pictures?

20 A. I photographed the -- the road.

21 Q. You photographed the road?

22 A. Uh-huh.

23 Q. But you never turned those over to the
24 prosecutor's office?

25 A. No, I did not.

1 Q. Did they see you using a camera then?

2 A. Yes.

3 Q. Did you take any video?

4 A. No.

5 Q. Were you the one who actually measured it?

6 A. Yes.

7 Q. And you're the one who took pictures?

8 A. Yes.

9 Q. So everybody else that was there seeing Ms.

10 Linder, and Ms. Outten, and Investigator Butler, they were

11 there to simply observe?

12 A. Butler -- Investigator Butler wrote down the
13 measurements that I -- I got and the Solicitors were speaking
14 amongst themselves. They weren't speaking with me.

15 Q. Okay. So, Butler and you were working together?

16 A. Yes.

17 Q. And Butler is the lead case agent?

18 A. Yes.

19 Q. You still have those photos at your office?

20 A. Yes.

21 Q. You're not able to pull them up today?

22 A. No.

23 Q. You don't have a thumb drive or anything like
24 that?

25 A. Uh-huh.

1 MR. BISCHOFF: May I approach the witness?

2 THE COURT: You may.

3 BY MR. BISCHOFF:

4 Q. I'm showing you a photograph, you know what the
5 photograph is, correct?

6 A. Yes.

7 Q. All right. What's the photograph of?

8 A. The firearm in relation to where the body had
9 been.

10 MR. BISCHOFF: Okay. Let's see that. And this is --
11 Defense number 4 moves up into evidence.

12 MS. OUTTEN: No objection, go ahead.

13 THE COURT: All right. Defense 4 is admitted with no
14 objection for purposes of this hearing.

15 (Defense's Exhibit 4 admitted into evidence.)

16 BY MR. BISCHOFF:

17 Q. And, Corporal Hunt, we're looking at Defense 4.
18 Is that the location where placard 11 -- is that the location
19 where Javon Thomas's gun was found by the initial responding
20 officers?

21 A. Yes.

22 Q. And in the photograph do you see some red tint,
23 white-tarp looking materials in the road?

24 A. Yes.

25 Q. That was put on the outer perimeter to shield any

1 view of -- of the body; is that correct?

2 A. Yes.

3 Q. All right. What about the white part there is
4 that after the body has been moved up?

5 A. That's -- I believe that's the -- the body bag.

6 Q. Okay. And do you have a photograph of the weapon
7 with Javon Thomas's body at the same time?

8 A. No.

9 Q. As far as you know, that's where the gun was
10 found?

11 A. Yes, when I got there, that's where it was.

12 Q. And that is indeed his gun -- Javon Thomas's gun?

13 A. As far as I know, yes.

14 Q. When you swabbed it, correct?

15 A. Yes. Uh-huh.

16 Q. Do you know the results of that?

17 A. I don't know if they sent the -- the swabs up to
18 SLED or not.

19 Q. Okay. Are you able to tell you had -- this is a
20 9mm gun, correct?

21 A. Yes.

22 Q. Okay. And the other weapon we're talking about --
23 the .45?

24 A. Yes, sir.

25 Q. And the shell casings that were slightly up the

1 road at seven, eight, nine, ten -- those belong to that gun?

2 A. Yes.

3 MR. BISCHOFF: No further questions. Thank you.

4 THE WITNESS: You are welcome.

5 THE COURT: All right. Any re-direct?

6 MS. OUTTEN: Beg Court's indulgence.

7 No re-direct from the State, your Honor.

8 THE COURT: All right. You can step down. Thank you.

9 MS. HUNT: Thank you, your Honor.

10 THE COURT: Next -- call your next witness, please.

11 MS. OUTTEN: State calls Monique Perry.

12 MONIQUE PERRY,

13 having been duly sworn, testifies as follows:

14 THE WITNESS: The Lord Jesus who will -- the right of
15 Judge, I, Monique Perry, questions asked I will answer
16 truthfully.

17 THE COURT: That reflect as an affirmation that you
18 will tell the truth; is that correct?

19 THE WITNESS: Yes. Yes.

20 THE COURT: Thank you. All right.

21 THE CLERK: Just state your full name for the record
22 spelling your last name, please.

23 MS. LINDER: You can sit down, ma'am.

24 THE WITNESS: Oh, okay.

25 THE COURT: You'll just get up close to the mic so we

1 can hear you. Thank you.

2 THE WITNESS: Okay. Say my name.

3 THE COURT: Just you -- you can say she's going to ask
4 some questions.

5 THE WITNESS: Oh, okay.

6 THE COURT: Just get a little closer to the mic, so
7 we'll make sure we can hear you. Thank you.

8 DIRECT EXAMINATION

9 BY MS. LINDER:

10 Q. If you could say your name and spell your last
11 name, please?

12 A. Monique Perry, P-E-R-R-Y.

13 Q. And what area of town do you live in, Ms. Perry?

14 A. North Charleston.

15 Q. And do you currently work?

16 A. Yes.

17 Q. Where are you working?

18 A. Walmart.

19 Q. I want to bring you back to February 19th of 2022.
20 What were you doing that day?

21 A. My daughter and I, we went to a woman program at
22 my church and -- oh, I'm sorry.

23 Q. Where is -- what church is that?

24 A. Jehovah Tabernacle.

25 Q. And where is that church located?

1 A. Comstock Avenue on The Height, North Charleston.

2 Q. And are you from that neighborhood? The Height?

3 A. No.

4 Q. From the neighborhood?

5 A. No.

6 Q. How did you get there that day?

7 A. My daughter and I -- my daughter drove my car and
8 we went there, and anything else I can get there.

9 Q. And then when you were -- when you were riding in
10 your car that your daughter was driving --

11 A. Uh-huh.

12 Q. What road did you drive down to -- to get there?

13 A. Well, the best way to explain it, I -- we -- we
14 took the Suburban Funeral Home at Bertha's Kitchen at, I
15 don't -- I don't pay attention. That's the only way I can
16 find the church. And we as we pulled to the church, we did
17 an illegal turn, you know, to go to park and --

18 Q. Okay. So -- so you're driving down the street,
19 approaching the church?

20 A. Uh-huh.

21 Q. Okay. And then, did you all try to park the car
22 then?

23 A. Yes, but we did, you know -- we drive down a
24 one-way street to come around and park in the grass area
25 facing the church.

1 Q. Okay. Did you see the victim in this case walking
2 with a female that day on that road?

3 A. Yes. As we turned, we saw the gentleman and a
4 female walking that day.

5 Q. And when you all were parked -- and as you were
6 parking, did you see the two of them meet up with or talk to
7 anybody else face-to-face?

8 A. No. As we -- as we parked, they was a distance
9 away walking toward where we would be parked at, and those
10 two was together.

11 Q. Okay. And after you parked, did you stay in the
12 car and keep watching?

13 A. Yeah, I stayed in the car.

14 Q. All right. And what else did -- what did you see
15 next?

16 A. Next thing I saw the gentleman was walking and,
17 like, he was -- I don't know who was down the street, but he
18 was like -- like, you know -- may I show you? Like, doing
19 his hands like this, you know, and whatnot.

20 Q. Okay.

21 A. Yeah.

22 Q. And when he was -- when he was doing his hands,
23 did he have a gun in his hands?

24 A. No, he had nothing in his hands.

25 Q. And when he's walking and he has nothing in his

1 hands, did you hear anything?

2 A. I know he was talking to someone down the street,
3 but I didn't hear on the other side. But I know, like, you
4 know, he was doing that, like -- like, how you, like, young
5 people, I guess, arguing or something like that.

6 Q. And then, when he's walking down there you -- you
7 think she's talking or something, you see his mouth. Do you
8 hear any sound -- not of him talking, but you hear his sounds
9 at that point?

10 A. No, other than his back was to -- towards them.

11 Q. Okay.

12 A. And so, I didn't see who he was talking to, or
13 confronting, or whatever on the opposite side.

14 Q. All right. Did you hear a gunshot?

15 A. Yes, I heard a gunshot coming from the opposite
16 side.

17 Q. The opposite side meaning --

18 A. Okay.

19 Q. -- past, where?

20 A. Yeah. He was -- okay. The gentleman was
21 facing -- walking that way. And the gunshot --

22 Q. Actually, let me pause you really quick.

23 A. Okay.

24 Q. I may be able to help everyone --

25 A. Okay.

1 Q. -- with this. I'm going to show you what's
2 already been entered as State's Exhibit 57, all right? So,
3 this is Comstock.

4 A. Uh-huh.

5 Q. Actually, let me show you all the pictures.
6 That'll be easier. Let me show you State's 58 instead. All
7 right. Does this help you out at all? If this -- it says
8 it's Comstock.

9 A. Okay.

10 Q. And then, this right here, you see a steeple?

11 A. A steeple? Uh-huh.

12 Q. Does that help you to be able to say which
13 direction?

14 A. Okay. Well, the best way to say -- can I turn
15 this way?

16 Q. Sure.

17 A. Okay. He was on the right side, facing that way
18 going down Comstock, and then this side coming up from
19 Comstock, from the opposite way, I heard the gunshot coming
20 from the opposite way.

21 Q. Towards where you were?

22 A. Yes.

23 Q. Okay.

24 A. And stopped the front of it.

25 Q. Okay. All right. And then after you heard that

1 gunshot, what did you see that -- that the victim do? What
2 did you see that gentleman do?

3 A. Okay. When -- when I heard the gunshot and he
4 must have -- and then I heard a gunshot from the direction
5 where the young man was going, and then he turned, and he
6 ran, and he fell down in front of this house.

7 Q. Okay.

8 A. After he got struck.

9 Q. So, I'm just trying to clear this up. So, you
10 heard a gunshot from further away?

11 A. Yeah.

12 Q. You didn't see who did that?

13 A. No, I didn't see who did that.

14 Q. And then you saw --

15 A. But I know the person.

16 Q. -- the gentleman --

17 A. Yeah.

18 Q. -- shooting?

19 A. Yeah, because I guess -- the defend himself, but
20 the first gunshot came from the opposite direction.

21 Q. Okay.

22 A. That he was walking.

23 Q. And then the -- after -- so you heard the gunshot
24 from down where the victim --

25 A. Yeah. Yeah. Like, facing him. Yeah. Like,

1 where he was headed. Yeah.

2 Q. Okay. The victim then shot Javon -- shot, and
3 then you said he turned around?

4 A. Yeah. After he got hit, he probably -- because he
5 -- okay. The one that got shot that lost his life, he
6 probably draw his gun in self-defense, and trying to shoot
7 the person that shot first. And then, he turned around and
8 he fell in front of this house.

9 Q. Okay.

10 A. Yeah.

11 Q. And did you know that the fellow that you saw that
12 day that the gentleman or -- or the girl he was with that day
13 -- did you know them?

14 A. No, I didn't know them.

15 MS. LINDER: Okay. I have nothing else for this
16 witness. If you could answer any questions that the Defense
17 may have.

18 THE WITNESS: Okay.

19 MS. LINDER: Thank you, Ms. Perry.

20 THE COURT: Cross?

21 MR. MCGUIRE: Briefly.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. MCGUIRE:

25 Q. Good afternoon, Ms. Perry.

1 A. Good afternoon.

2 Q. My name is Will. I represent Courtney over here.

3 A. Uh-huh.

4 Q. Okay. So that day you saw a fellow walking down
5 the street. Was he wearing a red shirt?

6 A. I don't remember what color shirt he had on.

7 Q. Okay. But you remember the girl had a white
8 jacket?

9 A. I didn't pay attention, but I know after the
10 gunshot came from the opposite direction, she cut and she ran
11 the opposite direction where the gentleman that got shot was
12 walking.

13 Q. Right. So the fellow who got shot, he was walking
14 down the street away from you guys, away from the church,
15 right?

16 A. Yeah, but if he was parked. I could still see him
17 walking.

18 Q. Sure. Because you're parked and you can see that
19 street?

20 A. Yeah. That's as far -- as far as on his side go.

21 Q. Sure. And he was -- he was walking and looked
22 angry?

23 A. No, he didn't look angry to me.

24 Q. He -- but he was talking with his hands?

25 A. Yeah. But -- but who -- whatever the

1 confrontation was, maybe he knew the person or whatever, but
2 -- but he was, like, you know, doing his hand like that and
3 whatever, but he didn't look angry.

4 Q. Okay. So he looked peaceful?

5 A. He looked peaceful, but he was, like -- like, you
6 know, like, you raise your hand, like, what's -- what's going
7 on? Like, how them young people like to do?

8 Q. Uh-huh.

9 A. Yeah.

10 Q. Okay.

11 A. But he didn't look angry.

12 Q. And --

13 A. If anything he looked surprised.

14 Q. Okay.

15 A. Yeah.

16 Q. And -- and then you -- you hear a shot that comes
17 from in front of him?

18 A. Yeah.

19 Q. Where he is walking to?

20 A. Yeah. On the opposite side of where he walking
21 at.

22 Q. Okay.

23 A. Because you can tell when a gun shoot, you can
24 tell what side it is, even though you don't see the shooter.

25 Q. Right. You can -- your ears can tell you kind of

1 where it --

2 A. Yeah. You can tell which area.

3 Q. Okay. And it didn't come from the fellow walking
4 down --

5 A. No.

6 Q. -- away from --

7 A. No, no. He was -- no.

8 Q. Came from somebody down the street?

9 A. Yeah. Because he didn't have no gun in his hand.

10 Q. Okay.

11 A. I didn't even know he had a gun until I heard he
12 shot.

13 Q. Okay.

14 A. Yeah.

15 Q. So when you hear the one shot that comes from --

16 A. No.

17 Q. -- the front of him.

18 A. It wasn't one shot, it was several shots.

19 Q. Okay. I thought you said that you heard one shot
20 first?

21 A. No, I heard one shot and then after the one shot,
22 another shot, and -- and then he took out his gun probably.
23 And then he shot back -- defend himself.

24 Q. Okay.

25 A. Yeah. But all I know he turned, and he run, and

1 he fell in front of the house.

2 Q. Okay. So you hear one shot --

3 A. And then another.

4 Q. -- was from the fellow?

5 A. Yeah. Well, multiple shots really.

6 Q. And then another shot.

7 A. Uh-huh. Yeah.

8 Q. And then the fellow who was walking down the
9 street --

10 A. Yeah.

11 Q. -- took out his gun?

12 A. No, what happened was, I heard the first shot.

13 Q. Okay.

14 A. And then there was another shot.

15 Q. Okay.

16 A. And then I heard one shot from the guy who lost
17 his life, but it was multiple shots from the person that was
18 shooting.

19 Q. How many shots in total?

20 A. I'd say about three or four.

21 Q. Three or four total?

22 A. Yeah.

23 Q. Okay.

24 A. I don't know how much hit him, but I know I heard
25 three or four shots from the opposite side.

1 Q. Okay. And tell me about the girl in the white --
2 the girl that was with them. You don't remember now if she
3 had a white jacket on or not?

4 A. Well, I didn't pay attention to what color they
5 had on because when she -- when the shot came from the
6 opposite direction. She ran on the opposite street.

7 Q. And that's Cosmopolitan?

8 A. I don't know because my church is here and there's
9 a two-story house here.

10 Q. Uh-huh.

11 A. And there's a house that -- a green-painted house,
12 where he fell at whatever that street is on the side of the
13 two houses.

14 Q. Yeah, that's -- I think that is Cosmopolitan.

15 A. Yeah. Okay.

16 Q. That's okay. So, your church is right there kind
17 of on the corner?

18 A. Of -- of Comstock and I don't know what that
19 street is that my -- the church faced us on, but I came
20 around that way because I don't pay attention to the sign. I
21 don't know how to get there.

22 Q. Sure.

23 A. Yeah.

24 Q. And -- and when -- when the boy got shot and fell
25 --

1 A. Uh-huh.

2 Q. The girl that was with him ran down the street
3 away from the church?

4 A. Yeah. That way would be to the right, where the
5 house that he fell.

6 Q. Uh-huh.

7 A. And there's another house right there. And she
8 ran that direction.

9 Q. Kind of between those two?

10 A. Yeah.

11 Q. Okay. So there's the green house. There's the
12 tan house.

13 A. Yeah. But a two-story.

14 Q. The -- the tan was two-story.

15 A. Uh-huh.

16 Q. The green one was one-story.

17 A. Uh-huh.

18 Q. And the street that splits them, she went away
19 down that street?

20 A. Yeah.

21 Q. Did you see where she went?

22 A. No. She ran so fast. I don't know which
23 direction she turned -- yeah.

24 Q. Did you ever see her come back?

25 A. No.

1 Q. The first time you saw the boy who got shot, where
2 did you see it? Where was it?

3 A. Well, I know he was coming the opposite way, would
4 go past the green house way. I don't know the name, but I
5 don't know if that's -- that's not Comstock - that might've
6 been Comstock. Yeah. Because he was coming the opposite
7 way, like, coming way down that way walking, when we turned
8 the park, we saw him walking, and then he started walking
9 rapidly, you know, like, doing his hand like that. But I
10 didn't see on the opposite side of the church because my view
11 was blocked.

12 Q. Got you. So, you know, do you know the yellow
13 corner store on Spruill?

14 A. Who?

15 Q. There's a little, yellow corner store on Spruill
16 and Comstock right there where Comstock runs into Spruill.

17 A. Oh, yeah. The little convenience store-like
18 thing.

19 Q. The convenience.

20 A. Yeah. Yeah.

21 Q. Did it -- the -- the fellow that got shot and the
22 girl that were together did it -- they were coming in the
23 direction of your church and if they were going to the store,
24 they'd be going on that path?

25 A. Yeah, they was on the opposite side where they

1 would be walking in that direction.

2 Q. Okay.

3 A. Yep. But I don't think he got as far as the
4 corner store though.

5 Q. All right. He did not get to the corner store?

6 A. Yeah.

7 Q. Do you remember giving this statement -- this
8 information to a police officer?

9 A. I don't remember.

10 Q. Okay. When's the first time you told anybody
11 about this?

12 A. Other than the officer that I spoke to -- well --
13 solicitor when we came here -- when we had came, yeah.

14 Q. So, do you remember talking to a police officer
15 that day of when the fellow got shot? Do you remember
16 talking to the police officer that day or was it sometime?

17 A. No, it was that day.

18 Q. It was that day?

19 A. Yeah, I think it was.

20 Q. Do you remember?

21 A. Well, I was -- okay, let me explain something. I
22 had just got out the hospital January 7th from an aneurysm on
23 the brain. So -- but I do remember talking to a police
24 officer, and I do remember telling him that we heard gunshots
25 from that way, and he turned and he -- I heard his gunshot,

1 and he turned, and he fell in front of the house.

2 Q. Okay.

3 A. Yeah.

4 Q. And -- and thank you for sharing that you had that
5 medical issue.

6 A. Uh-huh.

7 Q. About three weeks before the shooting?

8 A. Yeah. Because I buried my son the 14th of
9 January, so yeah.

10 Q. I'm sorry to hear that too.

11 A. Yeah.

12 Q. Did you tell me that because you were having some
13 trouble remembering some things?

14 A. Not I -- my memory is good, but I -- but I can
15 remember some things, but I do remember that day.

16 Q. Okay.

17 A. Yeah.

18 Q. Do you remember what the police officer looked
19 like who you -- the one you talked to first?

20 A. No.

21 Q. Do you know if it's a man or woman?

22 A. I think it was a man and a woman. Yeah.

23 Q. Okay. Just one second. So when you -- when you
24 talked to the officer the very first time that day, do you
25 remember telling the officer that a fellow who got shot was

1 yelling at somebody down the road?

2 A. Yeah, I know he was having a confrontation with
3 somebody.

4 Q. So it -- it would be a confrontation?

5 A. Yeah. But not -- not physically, like, I don't
6 know what was said on the opposite side, but whatever it was,
7 yeah. He was, like, you know -- his hands was going up like
8 this. Yeah.

9 Q. And -- and you -- you would describe that as a
10 confrontation?

11 A. I -- I wouldn't know if it would be considered.
12 Well, yeah, I know his words was exchanged or whatever.

13 Q. Okay.

14 A. That's all, I just know that he was doing this and
15 whatnot, and kept on walking that direction.

16 Q. Okay. Would you describe him as angry?

17 A. No, I wouldn't describe him as being angry. I
18 guess he was -- I would describe him as, you know, what you
19 doing here, you know, the hand motion or whatnot. Because I
20 don't know what was going on from the opposite side until I
21 heard gunshots.

22 Q. Okay.

23 A. Yeah.

24 Q. So I'm going to ask you again about the girl that
25 was with the fellow that got shot.

1 A. Yeah.

2 Q. Did you ever see her rush over to the fellow when
3 he was on the ground or did she just take off from him?

4 A. Well, I know that when he turned, when -- when the
5 -- when the gunshot was going in the opposite direction
6 because I only heard one gunshot from the young man that lost
7 his life.

8 Q. Just one?

9 A. Yeah. Just one that I heard.

10 Q. So -- so the fellow who ended up falling on the
11 ground --

12 A. Yeah.

13 Q. -- getting shot --

14 A. Yeah. Yeah.

15 Q. -- he only fired once?

16 A. That's what I remember.

17 Q. Okay.

18 A. Yeah. But multiple from the opposite direction.

19 Q. Okay. Multiple from the other?

20 A. Yeah.

21 Q. I think earlier you said about three or four
22 total?

23 A. Yeah, about three or four.

24 Q. Okay. And the girl, you described her running --

25 A. Well --

1 Q. -- away from the church?

2 A. -- well, what happened was he was ahead of her and
3 then -- and then, when the gunshots started -- and then he
4 turned, and he fell, and she ran, I guess, she saw him fall
5 and she took off running in the opposite direction.

6 Q. Away from the church?

7 A. Yeah. On -- yeah. Yeah.

8 Q. Other side street?

9 A. Yeah. Between where he fell and the house right
10 here.

11 Q. Right.

12 A. Yeah. Whatever that street is.

13 Q. Okay.

14 A. Yeah.

15 Q. And -- and before she went and got out of there --

16 A. Uh-huh.

17 Q. Did she go over to the fellow that fell or did she
18 just take off running?

19 A. Well, when she -- when he fell -- because she was
20 still walking, and then when he fell, then she went to him,
21 and then she took off in the opposite direction.

22 Q. Okay. And you -- you weren't able to see where
23 she got to?

24 A. No, because I didn't know which direction she
25 turned.

1 Q. And she was walking fast?

2 A. Yeah.

3 Q. That's all I have for you. Thank you.

4 A. Okay.

5 THE COURT: Any re-direct?

6 MS. LINDER: No re-direct, your Honor.

7 THE COURT: All right. You can step down. Thank you.

8 THE WITNESS: Okay.

9 THE COURT: Call your next witness, please.

10 MS. LINDER: State calls Abigail Perry.

11 THE COURT: I'm not going to ask her about the record.

12 ABIGAIL PERRY,

13 having been duly sworn, testifies as follows:

14 THE CLERK: State your full name for the record,
15 spelling your last name, please.

16 DIRECT EXAMINATION

17 BY MS. LINDER:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. What area -- town do you live in?

21 THE COURT: Let's give her name first.

22 MS. LINDER: Oh, I'm sorry.

23 THE COURT: It's okay.

24 THE WITNESS: Hi, my name is Abigail Perry, P-E-R-R-Y.

25 THE COURT: All right. Thank you.

1 THE WITNESS: You're welcome.

2 BY MS. LINDER:

3 Q. What area -- town do you live in?

4 A. North Charleston.

5 Q. And do you work?

6 A. I do.

7 Q. All right. I want to bring you back to
8 February 19 of 2022. What were you doing that day?

9 A. I was at Jehovah Tabernacle. My mom, my daughter,
10 and I we were attending a women's meeting there.

11 Q. And Jehovah Tabernacle, is that the church?

12 A. Yes.

13 Q. Where's that located?

14 A. [REDACTED] Comstock Avenue.

15 Q. And then, you had attended that church for a
16 while?

17 A. I have.

18 Q. Are you from that neighborhood where the church is
19 located?

20 A. I'm not.

21 Q. Did anything happen while you were driving to or
22 parking for this church meeting?

23 A. Yes. Not driving to, but while I was parking,
24 yes.

25 Q. Okay. Can you please tell us which way were you

1 driving into the neighborhood to head toward the church?

2 A. I was -- okay. So, I take Delaware Avenue, and
3 then I turn on Cosmopolitan, and then across from the church
4 is a -- sorry, it's a patch of land that I parked the car on
5 in front of the entrance of the church.

6 Q. Okay. Let me -- I guess this will help. Okay.
7 State's 58, it's already been admitted. You know what this
8 is right here?

9 A. Yes. That's Jehovah Tabernacle.

10 Q. Okay. And then, you're talking about grass
11 parking over here?

12 A. I did.

13 Q. Okay. And so when you're driving there, which
14 road were you driving up? This is Comstock.

15 A. I was coming up Cosmopolitan.

16 Q. Okay.

17 A. And then at the very end of Cosmopolitan, I turned
18 right, which is the wrong way, but I turn right, and then
19 into the -- the grass.

20 Q. So, you're -- so you're going this way, and then
21 you're turning the wrong way?

22 A. No, I'm coming up Cosmopolitan.

23 Q. Okay.

24 A. At the end it's a stop sign and then I turn, make
25 a right turn, and then I turn into the -- the grass in front

1 of the entrance of the church.

2 Q. Okay.

3 A. Yes.

4 Q. Okay. So, is my finger doing the right thing?

5 You said --

6 A. Yes.

7 Q. -- going Cosmopolitan, wrong way on the one-way?

8 A. Yes.

9 Q. And then you turned in here --

10 A. And parked.

11 Q. When you parked that day, which way was your car
12 facing?

13 A. The front -- the front entrance of the church
14 facing Cosmopolitan.

15 Q. So, your car was facing this direction?

16 A. Yes.

17 Q. Okay. All right. So, when you're -- when you're
18 driving -- when you're coming up across the Cosmopolitan and
19 getting onto Comstock, do you see anybody there?

20 A. Yes.

21 Q. Who do you see?

22 A. The victim and his girlfriend.

23 Q. All right. And where were they? Do you remember?

24 A. Yes. They were a few houses down on Comstock
25 Avenue.

1 Q. All right. If I need to find something, then I
2 think about it. All right. Keep talking. I hope this hour
3 will help me.

4 A. Okay.

5 Q. All right. So, you saw -- you said that the
6 fellow and his girl -- and they were on Comstock, I believe
7 you said a few houses down?

8 A. Yes, ma'am.

9 Q. All right. I'm going to show you what's been
10 marked and entered as State's Exhibit 59 for the purposes of
11 this hearing - oops. The State's 59, just so we can
12 understand everything, what is this right here?

13 A. That is Jehovah Tabernacle, the church.

14 Q. All right. And when you say you were driving, you
15 were coming up Cosmopolitan?

16 A. Yes.

17 Q. Turn the wrong way down Comstock?

18 A. I did.

19 Q. And then came into this parking lot facing this --
20 this church. So, you're in this parking lot?

21 A. Yes.

22 Q. Okay. When you said that you saw the fellow who's
23 deceased and his girlfriend, where -- were they back here?
24 Were they over here? Where were they located?

25 A. They were located on Comstock. Where in front of

1 that house -- that green house where your finger was last
2 placed.

3 Q. This house?

4 A. Yes.

5 Q. And is this say 1996?

6 A. Yes.

7 Q. Okay. And were they standing in the middle of the
8 street or -- where were they standing?

9 A. They were close to the house, but --

10 Q. All right. And that -- when you parked and you're
11 -- you're sitting there, did you stay in the car or did you
12 get out of your car immediately?

13 A. I stayed in the car.

14 Q. What did you see from when those two people were
15 right there in front of 1996 off the road? What did you see
16 happen then?

17 A. I saw the victim, I saw him arguing -- from his
18 body language, I saw him arguing with someone down Comstock.
19 I could tell he was -- it was getting heated, so I told my
20 mom to stay in the car in case, because it's The Height,
21 first of all. So I told her to stay in the car because I
22 feel something that was about to happen.

23 Q. Okay. And then, when you saw him and you said he
24 was arguing, and you tell me if it is easier, I -- I think
25 this might be easier -- so this is 1996.

1 A. Uh-huh.

2 Q. And you said he was arguing, was he back here when
3 he was arguing or where was he along here?

4 A. He was back there in 1996.

5 Q. Okay.

6 A. And he was arguing with someone down Comstock,
7 past the church.

8 Q. Down this -- down Comstock, down this street sign?

9 A. Yes.

10 Q. And could you see who was down here?

11 A. I could not.

12 Q. Okay. And then when he's arguing, did he have
13 anything in his hands?

14 A. He did not.

15 Q. Did he have a gun in his hands?

16 A. He did not.

17 Q. All right. So, you see he's arguing. He's got
18 nothing in his hands. You decided to stay in the car. Where
19 -- where was this girl this whole time?

20 A. She was with him, but as he was arguing with
21 whoever was down there, he was -- she was a good distance
22 behind him.

23 Q. Okay. So, he's here and he's arguing. Does he
24 start moving this direction?

25 A. He does.

1 Q. Okay. And his girlfriend or whoever that girl
2 was, was she moving in this direction too?

3 A. Yes, but she was a good distance behind him.

4 Q. Okay. What did you see or hear actually next?

5 A. Okay. At this point, as he's moving along down
6 Comstock, he's still arguing. I heard a gunshot coming from
7 the opposite end of Comstock. And --

8 Q. And I'm sorry to interrupt, you was fair --

9 A. No.

10 Q. When you say the opposite end, he's -- he's here
11 for -- wherever around here, and you hear it, you mean the
12 opposite end back this way or the opposite end up here?

13 A. Where your hand is.

14 Q. Okay. I just want to clarify. So, you hear a
15 gunshot coming from down Comstock that way away from further
16 down the road than the church?

17 A. Yes.

18 Q. Okay. Then what?

19 A. And next thing you know, he has -- the victim has
20 his gun in his hand and now they're both shooting at each
21 other.

22 Q. Okay. So after you heard the shots coming from
23 further down, at that point you saw the victim pull out his
24 gun?

25 A. Yes.

1 Q. And he fired?

2 A. He did.

3 Q. Okay. And as he was shooting, was he standing
4 still?

5 A. No.

6 Q. Was he walking further down Comstock toward where
7 those -- that first shot was coming from?

8 A. He was.

9 Q. He -- or was he walking back towards -- closer
10 toward the church?

11 A. He was -- first he was -- as he was shooting, he
12 was approaching whoever was down there. And then again, they
13 were both firing at each other. So then he started to
14 retrieve, then he started backing away.

15 Q. All right. He started backing away. After he was
16 done shooting, what did he do?

17 A. He turned -- he fully turned and was coming back
18 towards where he was originally. But whoever was shooting at
19 him, the bullet caught him and he end up falling at the
20 corner.

21 Q. Okay. So he turned and you say going back from
22 where he was originally?

23 A. Yes.

24 Q. Does that mean he's heading back this way?

25 A. He's heading back that way.

1 Q. And he -- he has -- he's heading -- so he's not
2 walking backwards, he's heading back that way?

3 A. Yes.

4 Q. Okay. And he was not shooting at that time?

5 A. He was not.

6 Q. All right. And when you're sitting in that
7 parking lot and you see all of this happening, do you notice
8 any kind of car in front of you or Cosmopolitan kind of in
9 between, like, right in front of those church doors?

10 A. I did. One was an elderly lady, but she end up
11 backing back up on Cosmopolitan and even turned the wrong way
12 herself to leave.

13 Q. Uh-huh.

14 A. So --

15 Q. And what -- the other vehicle, do you remember if
16 that was a truck or a sedan or --

17 A. It was a sedan.

18 Q. A new one? An old one?

19 A. It was an older model.

20 Q. All right. So just to be clear, did the victim in
21 this case -- did he have his gun out when you heard the first
22 shots?

23 A. No.

24 Q. And he pulled out his gun after you already heard
25 shots coming from down street?

1 A. Yes.

2 Q. And did you know the victim in this case at all?

3 A. I did not.

4 Q. Did you know the girl he was with that day at all?

5 A. No.

6 MS. LINDER: Beg the Court's indulgence. I don't have
7 anything further. You could answer anything the Defense may
8 have.

9 THE WITNESS: Okay.

10 THE COURT: Cross-examination, please?

11 MR. MCGUIRE: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. MCGUIRE:

14 Q. Hey Abigail.

15 A. Hey.

16 Q. My name is Will. I represent Courtney here today.

17 A. Okay.

18 Q. Just got a couple questions for you.

19 A. Okay.

20 Q. Being here. Let me start off with what kind of
21 car do you drive?

22 A. At the time it was a Volkswagen Beetle.

23 Q. Okay. Kind of low to the ground?

24 A. Yes.

25 Q. Okay. And tinted windows, clear?

1 A. Clear.

2 Q. Clear. And this was February. Were they up?

3 A. They were up.

4 Q. They were up. And -- and you told -- you told
5 your mom to stay in the car?

6 A. Yes.

7 Q. She had some recent surgery?

8 A. She did.

9 Q. And how was she doing?

10 A. Well, she didn't have recent surgery, but she's
11 doing well.

12 Q. Okay. And how was her eyesight and memory that
13 day?

14 A. It was pretty good.

15 Q. Pretty good. Was there ever a time back then when
16 it wasn't that good?

17 A. No.

18 Q. Okay. And you see the fellow who got shot sort of
19 right in front of you guys, right?

20 A. Yes.

21 Q. And his body language put you at unease?

22 A. It did.

23 Q. You were tense?

24 A. Yeah.

25 Q. And a little fearful?

1 A. Yeah.

2 Q. Based on the way he was acting?

3 A. Uh-huh.

4 Q. When he got shot?

5 A. Yeah.

6 Q. And it puts you at unease to the extent where you
7 said, "Mom stay there?"

8 A. Uh-huh.

9 Q. Because it is Union Heights?

10 A. Yeah.

11 Q. Rough neighborhood also referred to as The Height.

12 A. Uh-huh.

13 Q. Okay. And some bad violent things happened there?

14 A. Yeah.

15 Q. Okay. And knowing all of that, you said, "Mom,
16 you stay here."

17 A. Yeah.

18 Q. And then you see the -- the boy who got shot --
19 the fellow who got shot, he -- he doesn't just stay in front
20 of you arguing, he starts to march down the street?

21 A. Yes.

22 Q. And when he's marching down the street, he -- he's
23 arguing with somebody else?

24 A. Yes.

25 Q. And you can tell that by the tone of his voice?

1 A. By his body language.

2 Q. By his body language.

3 A. But yes. And also his mouth was moving. Like he
4 -- he's arguing.

5 Q. He was arguing.

6 A. He was arguing.

7 Q. For sure?

8 A. For sure.

9 Q. And at some point you hear a shot that's sort of
10 beyond him -- it's in front of him, it's not him.

11 A. Uh-uh.

12 Q. But you hear a shot?

13 A. Yes.

14 Q. And then -- but he keeps marching?

15 A. At this point, yes - well, no, he didn't stop
16 marching, but he did pull out his weapon as well and started
17 firing back.

18 Q. Okay. When he was firing back, was he still
19 marching down towards the guy he was arguing with?

20 A. He was a little.

21 Q. He was a little?

22 A. But as they were firing at each other, he started
23 retreating. He started backing off, backing away, and then
24 he fully turned, but the other -- at the other end, shots
25 were still being fired, and it caught him, and he fell at the

1 corner.

2 Q. Okay. So, let me see if I have it straight. So
3 he -- the guy that's arguing.

4 A. Yes.

5 Q. Somebody down the road?

6 A. Uh-huh.

7 Q. He's marching down the road at somebody?

8 A. Yes.

9 Q. And he's doing his body language and he's arguing?

10 A. Yes.

11 Q. And he hears a shot or you hear a shot?

12 A. Uh-huh.

13 Q. But that doesn't stop him. He keeps going.

14 A. Yeah - well, yeah.

15 Q. Okay. So he -- there's the shot that he keeps
16 going, and then he takes out his gun?

17 A. He does.

18 Q. And he's still marching towards the person he's
19 arguing with?

20 A. Yes. This point they shooting at each other, yes.

21 Q. Okay. And then he starts shooting?

22 A. Yes.

23 Q. And when he starts shooting, he's marching towards
24 the car for a little bit, right?

25 A. Just a little, yeah.

1 Q. But then he goes backwards?

2 A. Yes.

3 Q. And when he goes backwards, he doesn't turn and
4 run. He's backing off like this, right?

5 A. Yes.

6 Q. Where he's still looking at the guy he was arguing
7 with -- the guy that he shot at, when he goes backwards
8 first, he's just going -- taking steps backwards, right?

9 A. Yes.

10 Q. He didn't turn and fully run towards the church.
11 He took steps with his back towards you?

12 A. Yes.

13 Q. And he was walking backwards?

14 A. Yep. And then he turned and --

15 Q. Oh, eventually he turned.

16 A. He eventually, yes.

17 Q. But he didn't turn right away?

18 A. No.

19 Q. And when he's shot -- he shoot and he's going
20 forward?

21 A. Yes.

22 Q. He shoots off a couple of shots, right?

23 A. Yes.

24 Q. And then he goes backwards for some distance, he
25 gets another shot off, right?

1 A. Yes.

2 Q. Okay. So he's shooting kind of forward to --
3 closer to the guy he's arguing with, and he gets some shots
4 off, right?

5 A. Yes.

6 Q. And then he walks backwards some distance and he
7 gets another shot off, correct?

8 A. And he --

9 Q. And he still walks backwards and he doesn't fully
10 turn to run, until he is pretty close to the corner, right?

11 A. He' -- right. He turned to run right shortly
12 before that blue church -- not the blue church, the blue
13 house at the end of the corner.

14 Q. The blue house?

15 A. Yes. There's a -- the blue house right at the
16 very end of the corner of Cosmopolitan and Comstock. But he
17 turned shortly before he gets it because one of the bullets
18 caught him and he end up sliding -- he fell, end up sliding
19 to the corner.

20 Q. Okay. So the blue house -- so we have the -- the
21 brown roof house on the wall?

22 A. I believe that's the blue one.

23 Q. That's the blue one?

24 A. I believe so.

25 Q. Okay. I thought it was green, but you could be --

1 so the house that's on the corner of Comstock and
2 Cosmopolitan, the one you referring to the -- the blue house,
3 he doesn't turn the -- fully run to the corner until he is
4 right at that house?

5 A. Yes.

6 Q. Okay. And all the other times he was just kind of
7 walking backwards?

8 A. Yes, he was retreating a little.

9 MR. MCGUIRE: All right. That's all I have for you.
10 Thank you, ma'am.

11 THE COURT: All right. Any re-direct?

12 MS. LINDER: No re-direct, your Honor.

13 THE COURT: All right. You can be excused. Thank you.

14 THE WITNESS: Okay. No problem.

15 MS. LINDER: Judge, we have one other witness who will
16 be short, at least from my end. We need to make sure that
17 disc will flag, but we can do that one.

18 THE COURT: All right.

19 MS. LINDER: Thank you.

20 MR. MCGUIRE: Thanks, Abigail.

21 MS. LINDER: State calls Jennifer Butler.

22 JENNIFER BUTLER,

23 having been duly sworn, testifies as follows:

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

1 THE WITNESS: Jennifer Butler, B-U-T-L-E-R.

2 MS. LINDER: Your Honor, (inaudible).

3 THE COURT: Sure. We need a second. We -- we can just
4 -- just for a minute, we -- we're going to stay in place, but
5 we'll let them fix whatever they have.

6 (Off the record.)

7 MS. LINDER: All right. Judge, thank you very much.

8 THE COURT: All right. I'm back on the record.

9 DIRECT EXAMINATION

10 BY MS. LINDER:

11 Q. Where were you working back in February of 2022?

12 A. The North Charleston Police Department.

13 Q. And what was your position there?

14 A. Persons crimes detective.

15 Q. And were you involved with this case, the
16 State versus Courtney Richards in any way?

17 A. Yes, ma'am.

18 Q. And were you the lead detective in that case?

19 A. Yes, ma'am.

20 Q. As part of your investigation, did you execute a
21 search warrant and get Facebook records belonging to a page
22 called Zion G. Davis?

23 A. Yes, ma'am.

24 Q. And did items from that Facebook return -- did
25 that include any video recordings or audio recordings?

1 A. Yes, ma'am.

2 Q. All right. This time I'm going to show you --
3 it's been marked for this document hearing
4 State's Exhibit 80. Do you recognize it?

5 A. Yes, ma'am.

6 Q. How do you recognize it?

7 A. My initials are on the disc.

8 Q. And the items on this disc, do they fairly and
9 accurately represent items that you retrieved from Facebook
10 and utilized during your investigation?

11 A. Yes, ma'am.

12 MS. LINDER: Your Honor, at this time the State would
13 seek to admit State's Exhibit 80 into evidence for this
14 hearing.

15 THE COURT: Defense?

16 MS. LINDER: Your Honor, may we approach?

17 THE COURT: You can. Let's go off the record.

18 (Off the record.)

19 THE COURT: We had a bench conference where we were
20 discussing the speed in which the video would be played. It
21 -- it will be State's Exhibit 80. Defense, do you have any
22 position on that at this time? State's Exhibit 80 has been
23 offered into evidence for this hearing.

24 MR. BISCHOFF: No objection for this hearing.

25 THE COURT: All right. No objection. All right. This

1 State's 80 is in evidence for this hearing.

2 (State's Exhibit 80 admitted into evidence.)

3 THE COURT: You can proceed.

4 MS. LINDER: Thank you. At this time, we would play
5 the full video at the regular speed.

6 (Video starts.)

7 MR. THOMAS: Drop that gun down boy.

8 MR. RICHARDS: You tell stop (inaudible).

9 MR. THOMAS: Could just drop (inaudible).

10 (Video ends.)

11 MS. LINDER: All right. And then, your Honor, at this
12 time the State would ask -- be publishing the -- the
13 slowdown. It's zoomed and slowed, which can be done through
14 the player. It's safe that way.

15 (Video played - inaudible.)

16 BY MS. LINDER:

17 Q. At this time, I'm going to show you what's been
18 marked as ID -- for ID State's Exhibits 62, 64, 65, 66, 67,
19 68, 69, 70, 71, 72, 73, 74, 75, and 76. Will you please look
20 at these? And after you have the chance to look at them --
21 we please let us know if you recognize them?

22 A. Yes, ma'am.

23 Q. And how do you recognize those?

24 A. Screenshot or grabs from the video.

25 Q. And you can fairly and accurately represent the

1 screen grabs from that video that has already been admitted
2 in this case that you reviewed, from retrieving the Facebook
3 records from your search warrant?

4 A. Yes, ma'am.

5 MS. LINDER: Your Honor, at this time State would seek
6 to admit for this hearing State's Exhibits 62, 64, 65, and I
7 believe 66 through 76.

8 THE COURT: Defense position?

9 MR. BISCHOFF: I would object to the format that
10 they're being presented in, Judge, there's no reference to
11 time on the -- on the video or -- determine the exhibits
12 themselves without a reference to time. It's very difficult
13 to determine the relevance for the significance of the actual
14 stills.

15 THE COURT: Are the still -- aren't the stills from the
16 video?

17 MS. LINDER: Yes, sir.

18 THE COURT: That we just watched?

19 MS. LINDER: Yes, sir.

20 THE COURT: All right. Overruled. They are admitted.

21 (State's Exhibits 62, 64, 65, 66 through 76 admitted into
22 evidence.)

23 BY MS. LINDER:

24 Q. All right. Detective Butler, I'd like to show you
25 State's 62. All right -- I'd like to show you State's 62.

1 Is this one of the videos? It was this one of the stills
2 from that video right when you testified?

3 A. Yes, ma'am.

4 Q. Now, published State's 64?

5 A. Same thing, yes, ma'am.

6 Q. And State's 65?

7 A. Yes, ma'am.

8 Q. And do you know the address of any of these
9 houses?

10 A. Yes. The furthest one that looks kind of like
11 there's a board on the door is 2010 Comstock.

12 Q. So, this is 2010 Comstock?

13 A. Yes, ma'am.

14 Q. Okay. State's 66?

15 A. Yes, ma'am.

16 Q. And can you -- what is this?

17 A. That would be the victim. It appears that he's
18 taking a step back.

19 Q. State's 67?

20 A. Same. Shows that the victim is taking a step
21 back.

22 Q. State's 68?

23 A. Shows the victim turning his body towards
24 2010 Comstock.

25 Q. Towards 2010?

1 A. Yes, ma'am.

2 Q. Okay. And then is his left arm hanging out here
3 or where's his left arm?

4 A. It appears it's behind -- his -- it appears his
5 left arm is in front of him, and his right arm is behind his
6 back.

7 Q. Oh, I apologize, my eye is locked to 70. All
8 right. State's 70?

9 A. The victim has his arm raised.

10 Q. And?

11 A. His left foot is back.

12 Q. All right. State's 71?

13 A. He has now changed stances. His arm is still
14 raised and now his right foot is back.

15 Q. State's 72?

16 A. This appears that he -- it is -- as he's in motion
17 retreating backwards, and it appears his left arm is up. It
18 seems like his right arm is starting to come down.

19 Q. And this white house up here, that's
20 2010 Comstock, right?

21 A. Yes. And then the blue house is 2008 and then
22 2006.

23 Q. Okay. So just -- so you've got State's 70?

24 A. Correct.

25 Q. And then we have State's 72?

1 A. Yes, ma'am.

2 Q. State's 74?

3 A. Yes, ma'am.

4 Q. And where's he in front of?

5 A. I believe he's at 2006 Comstock and it appears
6 both his arms are down at that point.

7 Q. Okay. I want to show you State's 72, he's in
8 front of --

9 A. The blue house. 2008.

10 Q. State's 74?

11 A. 2006 grey or white.

12 Q. State's 76?

13 A. Near, like -- almost looks like he's in between
14 the two, like, retreating back from 2008 to 2006.

15 Q. Okay. Did you also do a search warrant on the
16 Defendant's phone that was seized from his person -- he was
17 arrested five days later?

18 A. Yes, ma'am.

19 Q. And -- and did you receive an extraction from the
20 Defendant's phone?

21 A. Yes, ma'am.

22 Q. And as part of those items that were downloaded
23 and you reviewed, did it include text messages authored by
24 the Defendant?

25 A. Yes, ma'am.

1 Q. At this time, I show you -- it's marked as
2 State's Exhibit 81. Do you recognize this?

3 A. Yes, ma'am.

4 Q. How do you recognize it?

5 A. It's a screen grab or a screenshot of a text
6 message from the Defendant's phone.

7 Q. And does it fairly and accurately represent one of
8 the text messages that you reviewed when looking at this
9 phone that was seized from the Defendant in this case?

10 A. Yes, ma'am.

11 MS. LINDER: Your Honor, at this time the State would
12 seek to admit for the purposes of this hearing
13 State's Exhibit 81.

14 MR. BISCHOFF: No objection.

15 THE COURT: All right. State's 81 is admitted without
16 objection.

17 (State's Exhibit 81 admitted into evidence.)

18 BY MS. LINDER:

19 Q. All right. State's Exhibit 81. This text message
20 is to --

21 A. Zion.

22 Q. And what does the text message say?

23 A. "Man, that shit will get me booked bruh, everybody
24 got the video."

25 Q. And what date was this sent?

1 A. February 21, 2022.

2 Q. And what date did the murder happen in this case?

3 A. February 19, 2022. I'm sorry.

4 Q. And the video that was posted that we've reviewed
5 a number of times, when was that video posted? Was it posted
6 prior to February 21, 2022?

7 A. Yes, it was posted immediately following the
8 shooting -- where possibly during.

9 MS. LINDER: Beg the Court's indulgence. I don't have
10 any other questions.

11 THE COURT: All right.

12 MS. LINDER: Please answer anything Defense may have.

13 THE COURT: Cross-examination?

14 CROSS-EXAMINATION

15 BY MR. BISCHOFF:

16 Q. Detective, this is your case?

17 A. Correct.

18 Q. And you were the lead investigator responsible for
19 making the decision whether or not to issue an arrest
20 warrant?

21 A. Yes, sir.

22 Q. What time did you get to the scene on
23 February 19, 2022?

24 A. I do not know the exact time.

25 Q. You don't know?

1 A. I don't know the exact time. No, sir.

2 Q. Did you write it down anywhere?

3 A. I don't recall.

4 Q. It's not on the computer-aided dispatch report.

5 So, you have no idea what time?

6 A. I don't recall. No, sir.

7 Q. What time did you leave the scene?

8 A. I do not recall the exact time.

9 Q. What time did the incident occur?

10 A. I would need the report or the CAD to give you
11 that exact time.

12 Q. You're not sure?

13 A. Not off the top of my head, no sir.

14 Q. Does 1:30 p.m., sound about right?

15 A. Sounds approximately, yes, sir. In the afternoon.

16 Q. Any idea what time you got the arrest warrant?

17 A. No, sir.

18 Q. But you got it that day?

19 A. Okay.

20 Q. Did you deny that?

21 A. No.

22 Q. Okay. So, you got the arrest warrant in this case
23 on the same day as the -- that the incident took place?

24 A. Do you have a copy of the arrest warrant?

25 Q. Show you what has been marked as

1 Defense's Exhibit 5. Just take a look and tell me when you
2 actually --

3 A. Yes, sir. It was signed February 19, 2022.

4 Q. Do you ever indicate the time anywhere on the
5 incident or the -- the arrest warrant when you actually get
6 it signed by the judge?

7 A. No, sir.

8 Q. So you're not sure?

9 A. I'm unsure of the exact time.

10 Q. Do you remember the judge, Samantha Vaughn?

11 A. I do, yes, sir.

12 Q. Did you meet with her at city hall?

13 A. I believe so, yes, sir.

14 Q. Okay. Any objection -- further evidence? And
15 this is the arrest warrant that you obtained for murder for
16 Courtney Richards, correct?

17 A. Yes, sir.

18 MR. BISCHOFF: All right. We'll admit this -- it is
19 just for this hearing.

20 THE COURT: This does --

21 MR. BISCHOFF: Defense's 5.

22 THE COURT: Defense's 5. State, any objection?

23 MS. LINDER: No objection for the purposes of this
24 hearing.

25 THE COURT: No objection as to Defense's Exhibit 5 for

1 this hearing. It is in evidence. Thank you.

2 (Defense's Exhibit 5 admitted into evidence.)

3 BY MR. BISCHOFF:

4 Q. So just to conclude, you met with
5 Judge Samantha Vaughn over Charleston City Hall and got that
6 warrant signed the same day the incident took place?

7 A. Yes, sir. That's the best of my recollection. It
8 was at City Hall.

9 Q. Okay. Did you interview anybody?

10 A. Yes, sir.

11 Q. Who did you interview?

12 A. I took -- I spoke with both of the Perrys and
13 Antoniya.

14 Q. And Antoniya?

15 A. Yes, sir.

16 Q. Anybody else?

17 A. Off the top of my head, I do not remember.

18 Q. Okay. And the Perrys told you that they were
19 actually in their vehicle?

20 A. Yes, sir.

21 Q. Correct? Do you know where their vehicle was
22 parked?

23 A. Yes, sir.

24 Q. Where was it parked?

25 A. In front of -- at the time of the shooting or the

1 time of my response?

2 Q. At the time of the shooting.

3 A. In front of the church.

4 Q. When you say "front", you mean the parking lot?

5 A. I mean the grassy area that's located across
6 Cosmopolitan in front of the church.

7 Q. Okay. And there are a lot of other cars parked
8 there too?

9 A. Yes, sir.

10 Q. And then, did you listen to any of the 911 calls?

11 A. Yes, sir.

12 Q. You did before your arrest warrant?

13 A. I can't say that I did before the arrest warrant
14 because you have to request those from dispatch.

15 Q. You have listened to them now though, correct?

16 A. Correct.

17 Q. And you remember one of the callers called in, you
18 did not want to give their name?

19 A. If you could play them to refresh my memory.

20 Q. Well, I can show you a transcript if needed. Do
21 you remember -- is it common to have people call 911 for
22 incidents like this and not get their name?

23 A. It is very common, yes, sir.

24 Q. Do you remember one of the callers saying that
25 Javon squared up when he was marching down the road?

1 A. I do not recall that off the top of my head, no,
2 sir.

3 Q. There's a point in the body cam video, on the
4 scene where it's you and an African-American officer in
5 uniform.

6 A. Uh-huh.

7 Q. And then two other white men that are not in
8 uniform, but they're wearing (inaudible).

9 A. Yes, sir.

10 Q. And they're talking, do you remember that clear?

11 A. Yes. I remember they were talking and then I
12 walked off. Yes, sir.

13 Q. And they mentioned that there was someone --
14 Neil's daughter said, "Javon fired first." Do you remember
15 that statement?

16 A. I -- I walked off before that was said to the
17 other two officers.

18 Q. Did you know about it now?

19 A. Yes, sir.

20 Q. Did you ever follow up on who Neil's daughter
21 might be?

22 A. I did not.

23 Q. Do you know of any other officers that followed
24 up?

25 A. No, sir.

1 Q. So nobody spoke to Neil's daughter that day, even
2 though she said Javon fired first?

3 A. No, sir. I spoke with Sergeant Foster at the time
4 and clarified all the information that he had provided, and
5 all of the information that he had provided were not
6 witnesses that were eyewitnesses that were on scene.

7 MR. BISCHOFF: Understand. For purpose of this hearing
8 is going to (inaudible) these together. They're all stills
9 from the video.

10 THE COURT: The -- the video we just watched. Okay.

11 MR. BISCHOFF: We said these at the time.

12 THE COURT: All right. Any objection?

13 MS. LINDER: I don't have any objection to the photos
14 of the stills themselves being put in. However, if the
15 Defense is trying to indicate that they are chronological
16 based on time because of the time stamp, there are multiple
17 stills, it's just at equal second. So there are multiple at
18 six seconds, there are multiple at seven seconds.

19 So, I don't think that the same way Mr. Bischoff did
20 not want me to say which ones were in order -- I think
21 video's in evidence when the Court wants to review it -- if
22 the Court wants to review it.

23 However, when there's multiple photos where the -- the
24 victim in this indication in this case is in different spots
25 all the same second, I think it's hard for him necessarily --

1 specifically to say that, but I have no problem with -- with
2 additional stills from the video coming in.

3 THE COURT: All right. That's number six.

4 MR. BISCHOFF: It's Defense's 6, Judge.

5 THE COURT: Defense's 6. And how many sub-parts of
6 Defense's 6 are there?

7 MR. BISCHOFF: One, two, three, four, five, six, seven,
8 eight, nine, 10, 11, 12.

9 THE COURT: Okay. Defense's 6, Exhibit 6 is 12
10 sub-parts -- photographs of the scene with time stamps from
11 the video that's already in evidence. There is no objection
12 by the State from that. So they're admitted into evidence
13 with no objection.

14 (Defense's Exhibit 6 admitted into evidence.)

15 MR. BISCHOFF: Thank you, Judge.

16 THE COURT: Okay. All right.

17 BY MR. BISCHOFF:

18 Q. So, earlier you were testifying about various
19 pictures and stills in the video, correct?

20 A. Yes, sir.

21 Q. So do you remember exactly page one,
22 Defense's Exhibit 6? You'd agree that that's one second into
23 the video?

24 A. I can tell you that that appears to be the
25 beginning of the video because it appears that the window is

1 rolled up on the vehicle of the person that is recording the
2 video.

3 Q. Okay. And that's one second then?

4 A. Based on your time stamp. Yes, sir.

5 Q. This is Thomas (inaudible) the video. Would you
6 want me to play the video first?

7 A. Well, I'm saying based on what you provided me
8 that is one second. Yes, sir.

9 Q. And then we're at second five -- five seconds in?

10 A. Based on what's in front of me. That is
11 five seconds in. Yes, sir.

12 Q. That's Javon in that picture, correct?

13 A. Yes, sir.

14 Q. Six seconds in still Javon?

15 A. Based on that photo. Yes, sir.

16 Q. Arms straight out?

17 A. Correct. Yes, sir.

18 Q. Pointed in the direction of Jeep is --

19 A. Yes, sir. The Jeep.

20 Q. Arms still pointed out again, but in a slightly
21 different location. Six seconds in?

22 A. Based on that picture, yes, sir.

23 Q. Arm pointed in the same direction. They slightly
24 up six seconds in?

25 A. Can you zoom in a little bit? I don't --

1 Q. Sure. But a different position for the last page
2 that I showed you?

3 A. Yes, it appears his right arm is going down, his
4 left arm is going up in that one.

5 Q. Okay. Still facing towards Courtney Richards?

6 A. It's as if -- well he's angled as if he's turning
7 to the left.

8 Q. Okay. Can you tell me -- is that
9 Courtney Richards' vehicle that we see?

10 A. That appears to be the Jeep Compass at the front.
11 Yes, sir.

12 Q. All right. For --

13 MR. BISCHOFF: Your Honor, as been said, if you don't
14 mind, I'll just use my finger.

15 BY MR. BISCHOFF:

16 Q. Is that what we're talking about or running up
17 there?

18 A. Yes, sir. That appears to be the Jeep Compass.

19 Q. And do you see the passenger-side door?

20 A. Possibly.

21 Q. Not sure?

22 A. Not sure.

23 Q. Okay. On the next page, seven seconds in, we
24 still have Javon's arm fully extended in the direction of
25 Courtney Richards, correct?

1 A. According to that picture. Yes, sir.

2 Q. Seven seconds in, still arm fully extended, but
3 maybe walking backwards?

4 A. Can you zoom in?

5 Q. Sure.

6 A. An arm is extended. Yes, sir. I can't tell which
7 one, but yes seven seconds in.

8 Q. Door still open?

9 A. It appears so from here. Yes, sir.

10 Q. Seven seconds in, arm still pointed out forward,
11 it's a slightly different spot as he's backing up, correct?

12 A. That's what it appears, yes, sir.

13 Q. So, earlier you testified that he was shooting as
14 he was backing up. So as he's backing up, his arm is fully
15 extended in the direction of Courtney Richards' vehicle --
16 where his pregnant girlfriend's also located, correct?

17 A. An arm -- one of his arms is extended as it
18 appears that he's retreating.

19 Q. And the next page we got section eight, eight
20 seconds in. We still have Javon looking in the direction of
21 Courtney Richards.

22 A. Can you go backward?

23 Q. Sure.

24 A. So, this says "20 seconds" for the video and the
25 next one says "21".

1 Q. Okay. You would agree that this one says
2 "eight seconds" into the video?

3 A. Of whatever that photo is. Yes, sir.

4 Q. And you see the same images, but same things in
5 this particular still that you see in these?

6 A. Besides the second count on the bottom. Yes, sir.

7 Q. Nine seconds, they only still have Javon looking
8 in the direction?

9 A. In the 21-second clip. Yes, sir.

10 Q. The ten seconds, that's when we first see movement
11 of the body in maybe a different direction. Would you agree?

12 A. I would not agree with that.

13 Q. You would not agree with that?

14 A. No, sir.

15 Q. Well, in your opinion, is he still facing
16 Courtney Richards' vehicle at that point?

17 A. Can you zoom in?

18 Q. Sure.

19 A. It appears he's -- I mean it's very blurry, but it
20 appears that he's facing towards Comstock. (Crosstalk) I
21 mean, the houses. I apologize.

22 Q. So, he's like -- he's facing the houses on the
23 right side of the road?

24 A. Yes.

25 Q. Okay. And then 11 seconds in, we've got -- that's

1 Zion right next to the video?

2 A. Can you zoom out?

3 Q. That help?

4 A. Yes. According to that picture, it's 11 seconds
5 on the 20-second clip.

6 Q. Okay. So, at 10 seconds that's when we see a -- a
7 slight change in the body?

8 A. No, there was one previous where he was angled
9 towards the opposite side of the street.

10 Q. Okay. Well, would you agree with me that
11 nine seconds he's facing toward Courtney Richards' car?

12 A. At nine seconds on the 21-second clip, yes.

13 Q. All right. And then at 10 seconds we've got
14 turning. He's not retreating, but he's turned sideways
15 toward the houses.

16 A. At ten seconds on the 20-second clip he's facing
17 the houses.

18 Q. Okay.

19 THE COURT: Which exhibit is this that you're talking
20 about?

21 MR. BISCHOFF: This is Defense's 1 for (inaudible).

22 THE COURT: All right. Thank you.

23 BY MR. BISCHOFF:

24 Q. Now, this is Defense's Exhibit 1. It was the same
25 video we're talking about, correct?

1 A. Yes, sir. The 20-second clip.

2 Q. Can you recognize this one?

3 A. Yes, sir.

4 Q. Okay. Can you play?

5 (Video played - inaudible.)

6 BY MR. BISCHOFF:

7 Q. All right. That's shot one, correct?

8 A. Correct. And the victim at that time appears to
9 -- his right shoulder appears to be leaning back and he is --
10 appears to be facing the houses at that time.

11 Q. I'm sorry, that's actually shot two.

12 A. Okay.

13 Q. Correct. Step back to the very beginning, I'm
14 sorry.

15 (Video played - inaudible.)

16 BY MR. BISCHOFF:

17 Q. Do you hear that pop?

18 A. Yes, sir.

19 Q. Does that sound like a gunshot?

20 A. It could be, yes, sir.

21 (Video played - inaudible.)

22 BY MR. BISCHOFF:

23 Q. All right. So, what do we have right then --
24 12 seconds in?

25 A. Into this 20-second clip. Yes, sir.

1 Q. Okay. And right before that, about a second or
2 so, you heard a return fired shot, did you not?

3 A. Yes, sir.

4 Q. So in one second, between Javon Thomas walking
5 down the road in the direction of Courtney Richards, that's
6 when you hear return fire?

7 A. From the first shot, is that what you mean?
8 Sorry, re-phrase the -- can you ask the question again?

9 Q. By the video again, as you listen to it, I want
10 you to tell me when you hear return fire.

11 A. Okay.

12 Q. We're going to stop the video at that point in
13 time, okay?

14 A. Okay.

15 (Video played - inaudible.)

16 THE WITNESS: Right there. Yes, sir.

17 BY MR. BISCHOFF:

18 Q. So 11, 12 seconds that's when we actually hear
19 return fire, correct?

20 A. No -- oh, from the other end of the street. Can
21 you play it?

22 Q. Different sounding weapon.

23 A. From -- so my -- I -- my understanding of your
24 question, the first time was -- went from the first two shots
25 to the victim. So, your warning from the victim to the

1 Defendant.

2 Q. So we see on video Javon shooting six times,
3 correct?

4 A. I didn't -- I'm -- I believe it was six times.
5 Yes, sir.

6 Q. Okay. And then there's a break in the audio where
7 you don't hear gunshots.

8 A. Okay.

9 Q. Do you agree with me on that, yes?

10 A. Can we play the video one more time?

11 Q. Sure.

12 A. I apologize I had a different question in my head.

13 (Video played - inaudible.)

14 BY MR. BISCHOFF:

15 A. Yes.

16 Q. Okay. So we have a warning shot, another shot
17 presumably from Courtney?

18 A. Yes, sir.

19 Q. And then we have six shots from Javon?

20 A. Yes, sir.

21 Q. And then we know he's walking, he's got his --
22 he's facing Courtney Richards with his arm extended.

23 A. As he's firing. Yes, sir.

24 Q. As he's firing?

25 A. Yes, sir.

1 Q. And then at around 11 seconds?

2 A. Yes, sir.

3 Q. That's when you hear shots again, presumably from
4 Courtney?

5 A. Yes, sir.

6 Q. Correct. Now, I'm going to play the rest of that
7 if you need it, but do you remember the end of the video
8 that's been played, that Zion -- saying Courtney told that
9 boy to stop playing?

10 A. Yes, sir.

11 Q. You -- you remember that?

12 A. Yes, sir.

13 Q. Did you follow up and ask anybody about prior
14 threats that Javon had made against Courtney?

15 A. Yes, sir. During the course of my investigation I
16 was -- no one was able to provide me with any information in
17 regards to the Defendant or the victim.

18 Q. Well, your investigation lasts a few hours.

19 A. The investigation is continuing -- ongoing past
20 the warrant being typed.

21 Q. You went to a judging on a warrant within a few
22 hours. Did you talk to anybody within those few hours about
23 the feud between Javon and -- and Courtney? May I ask you?

24 A. Everyone that I interviewed was not able to
25 provide any statement in regards to an ongoing feud between

1 Courtney and Javon.

2 Q. On the day of February 19, 2022 --

3 A. Yes, sir.

4 Q. You told me that you spoke with Niya -- Antoniya?

5 A. Uh-huh.

6 Q. And the Perrys -- Abigail Perry and Monique Perry.

7 A. Correct.

8 Q. You didn't mention anybody else that you spoke to
9 that day?

10 A. Well, I would've talked to the victim's family.

11 Q. You didn't talk to anybody else that day about the
12 incident that we're here for, the feud between those two
13 people -- the fighting between those two people, whatever it
14 may be.

15 A. Okay. So I did not -- I spoke to the victim's
16 family. When you speak to the victim's family, you get
17 something we call "victimology," which you would ask, you
18 know, does he have any issues, anything like that. So that's
19 what I mean in regards to that. And in my investigation, no
20 one was able to provide any information of an ongoing feud
21 between Courtney and Javon.

22 Q. But you're aware of it now in that video?

23 A. That's just a shooting that took place, that
24 doesn't show an ongoing feud.

25 Q. Okay. Did you -- did you have a chance to look at

1 any of the other text messages?

2 A. Yes, sir.

3 Q. So, the State admitted one text message that is
4 State's 81 show you -- show you what's marked as
5 State's Exhibit 7.

6 THE COURT: Defendant's Exhibit 7?

7 BY MR. BISCHOFF:

8 Q. I'm sorry, Defendant's Exhibit 7. Now, this is
9 the same general format, so let me know.

10 A. Okay.

11 Q. Do you recognize that?

12 A. This is a screen grab.

13 Q. Screen grab and that's from Courtney Richards'
14 phone, correct?

15 A. Correct.

16 MR. BISCHOFF: Move to admit Defendant's Exhibit 7,
17 just for purposes of this hearing.

18 THE COURT: Any objection?

19 MS. LINDER: Your Honor, I -- I don't know which one he
20 has labeled what, but I have no problem to what the Defendant
21 is texting, which are the green messages. But I do take
22 issue with the blue text messages, which are from other
23 people who are saying things to the Defendant including that
24 person in one of those. That individual says something about
25 self-defense. So, I would have an issue with -- I've no

1 issue with the green boxes, which are what the Defendant
2 texted. I do have an issue with the blue boxes.

3 THE COURT: All right. I -- I need to look at it.

4 MR. BISCHOFF: Just (inaudible).

5 THE COURT: Okay. Is that -- you going to try that
6 one? This is -- that's the State.

7 MR. BISCHOFF: Yes, sir. We can redact.

8 THE COURT: Let's just redact out the blue then. We'll
9 -- we will admit the statements of the -- of the Defendant on
10 State's -- excuse me, Defendant's Exhibit 7. There's no
11 objection to the -- what's going to be characterized as the
12 green boxes, which are the text messages from the Defendant.
13 They're going to the -- Defense is going to redact out the
14 blue messages to -- or blue message from an unknown
15 individual that we have not discussed.

16 MR. BISCHOFF: And, Judge, for purpose of the hearing,
17 can we just proceed with the testimony, and then perhaps that
18 clerk make a copy.

19 THE COURT: Yes, I think that'd be the most -- that's
20 the best way to handle this hour.

21 BY MR. BISCHOFF:

22 Q. All right. So this is Defense's Exhibit 7.

23 A. Yes, sir.

24 Q. Do you recognize that?

25 A. Yes, sir.

1 Q. And that's from Courtney Richards' phone?

2 A. Yes, sir.

3 Q. And the green text on the side -- the right side,
4 that's Courtney Richards?

5 A. Yes, sir.

6 Q. And he says, "I know God got me because he know I
7 was protecting me and my baby mama wife also." He stated,
8 "Busted down me first, sorry."

9 A. Yes, sir.

10 Q. All right. And the date and time on that is
11 2/23/2022?

12 A. Yes, sir.

13 Q. And that's after the shooting?

14 A. Yes, sir.

15 Q. And that's before his arrest?

16 A. Yes, sir.

17 Q. Defense's Exhibit 8 for identification. And you
18 know what that is, correct?

19 A. Yes, sir. Screen grabs.

20 Q. More screen grabs from your download of
21 Courtney Richards' phone?

22 A. Yes, sir.

23 Q. All right. Thank you.

24 A. Uh-huh.

25 Q. So I draw your attention --

1 THE COURT: You admit this into evidence?

2 MR. BISCHOFF: I -- I move to admit Defense's 8.

3 THE COURT: Eight. Same objection. The blue is out
4 the green --

5 MS. LINDER: Yes, Judge

6 THE COURT: -- then. Okay.

7 MS. LINDER: Yes, Judge.

8 THE COURT: I don't know if I said it officially.
9 Defendant's Exhibit 7 is in evidence subject to the objection
10 to removing the blue boxes.

11 (Defense's Exhibit 7 admitted into evidence.)

12 THE COURT: Defense's Exhibit 8 is in evidence now same
13 objection. Green is admitted, blue will be redacted.

14 (Defense's Exhibit 8 admitted into evidence.)

15 MR. BISCHOFF: Judge, I'll ask the Court allow this
16 response right here at the top of the page in blue.

17 THE COURT: I'll also note this is -- does
18 Defendant's Exhibit 8 is two pages as well. All right.

19 MR. BISCHOFF: Yes, sir. Defendant's Exhibit 8 is two
20 pages, and at the top of the second page in a blue box is a
21 response to someone -- who is Courtney's father. We not
22 offering the truth about, or serving, but rather it's, in
23 fact, accordingly.

24 THE COURT: What's the State have to say about that?

25 MS. LINDER: I guess, your Honor, I -- I think our

1 objection remains the same. I mean, I appreciate that he
2 says it's from the father, however the name is saved -- is
3 saved as Big J. Our position is still the same for this. I
4 don't think any new ones come in because they want to lay a
5 different foundation or something like that. That's fine.
6 But again, I don't -- I don't think that these come in with
7 --

8 THE COURT: I agree. I'm going to let the greens in,
9 but the blues will stay out in total at this time.

10 BY MR. BISCHOFF:

11 Q. All right. Detective Butler, want draw your
12 attention to the bottom right-hand corner.

13 A. Yes, sir.

14 Q. Of Defense's Exhibit 8?

15 A. Yes, sir.

16 Q. Where it's from the owner Cash Mulla, I'm not
17 pronounce that -- but that --

18 A. Cash Mulla.

19 Q. Cash Mulla, that's --

20 A. Yes, sir.

21 Q. -- Courtney Richards?

22 A. Yes, sir.

23 Q. And we know that based on the way that the bubble
24 is -- is arranged, but that's from Courtney.

25 A. Yeah. Because it says "from" at the top. Yes,

1 sir.

2 Q. All right. To someone named Big J?

3 A. Yes, sir.

4 Q. And he tells Big J, "What do you think I should do
5 Pops?"

6 A. Yes, sir.

7 Q. And then there's a response on the following page
8 from Pops?

9 A. The blue. Yes, sir.

10 Q. Who was Big J?

11 A. Who was Big J?

12 Q. Well, the response on the next page is from Big J.

13 A. Oh, yes, sir. Sorry.

14 Q. It's immediately after that's in the bottom right
15 hand.

16 A. Yes, sir.

17 Q. Right. And I'll show you what's marked as
18 Defense's Exhibit number 9. And you know what that is,
19 correct?

20 A. The screen grab. Yes, sir.

21 Q. Screen grab from Courtney Richards' phone?

22 A. Yes, sir.

23 Q. Yes.

24 THE COURT: Are you offering that?

25 MR. BISCHOFF: I am, Judge. Judge, I move to admit

1 Defense's Exhibit number 9 into evidence.

2 THE COURT: All right. What State say?

3 MS. LINDER: No objection to that. I mean the -- the
4 blue square, but that's not really part of that conversation.

5 THE COURT: All right. So, the total exhibit of
6 Defense's Exhibit 9 is admitted into evidence without
7 objection for this hearing.

8 (Defense's Exhibit 9 admitted into evidence.)

9 BY MR. BISCHOFF:

10 Q. All right. So, Detective Butler, you had
11 Courtney Richards' phone?

12 A. Correct.

13 Q. And you were aware that you had this text message
14 on February 13, 2022, which is before the shooting, correct?

15 A. Yes, sir.

16 Q. And before you -- Richards is telling somebody,
17 "Javon trying to start?"

18 A. Yes, sir.

19 Q. On February 13th?

20 A. Yes, sir.

21 Q. And then he's scary AFOMN?

22 A. Yes, sir.

23 Q. And AF is?

24 A. He's scary as fuck, that's -- that's my
25 understanding.

1 Q. Again, this was before the shooting?

2 A. Yes, sir.

3 Q. Were you aware of that before the shooting?

4 A. Yes, sir.

5 Q. You aware of that text message before the
6 shooting?

7 A. Like, before the incident or through the
8 investigation?

9 Q. Before the shoot -- before the shooting -- before
10 the incident -- before February?

11 A. No, sir. It was through the investigation,
12 through the Cellebrite extraction.

13 Q. Were you aware of it before you got the arrest
14 warrant?

15 A. No, sir.

16 Q. You were aware sometime later?

17 A. Yes, sir.

18 Q. And last couple of questions.

19 A. Yes, sir.

20 Q. I'm going to ask questions about the scene.

21 A. Okay.

22 Q. So, you've seen the video that we just played?

23 A. Yes, sir.

24 Q. That's Exhibit number 1. And you would agree
25 there are 13 shots fired?

1 A. Yes, sir.

2 Q. And we have ten shell casings?

3 A. I believe so, yes, sir.

4 Q. So, we're missing three shell casings?

5 A. Yes, sir.

6 Q. Not sure where those are?

7 A. No, sir.

8 Q. Thank you, Detective.

9 A. Yes, sir.

10 THE COURT: Any -- any re-direct?

11 MS. LINDER: Very briefly, Judge.

12 RE-DIRECT EXAMINATION

13 BY MS. LINDER:

14 Q. Were you able to interview the Defendant's
15 girlfriend, Emonie Burgess?

16 A. No ma'am. She never.

17 Q. Was she interested in you talking to her?

18 A. Not at all, no, ma'am.

19 Q. In Defense's Exhibit 9, you talked about what AF
20 is, what about LOML?

21 A. Love of my life.

22 Q. So, the text is to love of my life?

23 A. Yes, ma'am.

24 Q. And Emonie Burgess, the Defendant's girlfriend no
25 interest to talk to?

1 A. Correct.

2 Q. Would not be interviewed by?

3 A. Would not, no, ma'am.

4 MS. LINDER: That's all I have.

5 THE COURT: All right. Anything else?

6 MR. BISCHOFF: No, your Honor.

7 THE COURT: All right. You may step down. Thank you.

8 MS. BUTLER: Thank you, Judge.

9 THE COURT: All right. Call your next witness?

10 MS. LINDER: We don't have any other witnesses, Judge.

11 THE COURT: Okay. All right. Due to the late hour,
12 I'm going to talk to the attorneys in chambers in a -- a
13 minute, kind of lay out tomorrow. We've got to decide how
14 we're going to handle a few things -- far as let you all make
15 an argument and then -- but we're going to probably do that
16 in the morning, but we'll talk about that in chambers.

17 I know everybody's just -- it's a little late in the
18 day. And I'm going to let the -- we're going to be at
19 recess. It's 5:00 -- about 5:30 almost. I'm going to have
20 -- I'd like all the court personnel back in place at 9:00 in
21 the morning -- at 9:00 in the morning.

22 The jury is supposed to be here at 9:30, and we can
23 discuss that back in chambers, and we can talk about whatever
24 questions and so forth a little bit this afternoon before we
25 leave. But I'm going to let all the rest of you get to go,

1 all right?

2 MS. LINDER: Thank you, Judge.

3 THE COURT: All right. Thank you. Anything further?

4 All right. We're at ease.

5 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

6 5:27 P.M.)

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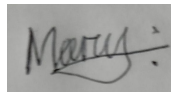
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on the 22nd Day of July, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 15, 2024

A rectangular box containing a handwritten signature in dark ink. The signature appears to be "Mary" followed by a stylized flourish and a period.

MARY RAGSDALE

Transcriber

1 CONTINUATION OF PROCEEDINGS - JULY 23, 2024

2 THE COURT: We're going to go on the record. I've got
3 Kathleen Stringer sitting with me. Today she is a clerk from
4 down in the family court, but she's going to be joining us
5 today, and hopefully can stay with us the rest of the week if
6 possible. She's a clerk down there for them, but she wanted
7 to come up and -- and see a case.

8 I'm -- first thing I want to talk about are the
9 redactions at the end of the close of evidence yesterday --
10 we went off the record. We had an issue of how to redact
11 Defendant's 7 and 8, which had blue text messages that were
12 objection -- objected to. And I -- I sustained those
13 objections. I admitted them for the green, but not the blue.
14 We decided to use a black Sharpie and mark those out. So,
15 I'm just putting that on the record that those have been --
16 those have been altered, and the blue messages have been
17 blacked out with that Sharpie.

18 All right. What we're going to do this morning, we
19 talked about a little bit. We're going to do a -- we're
20 going to do a summation and our stand your ground. And after
21 that, we're going to kind of see where the jury is. We hope
22 they will be -- be ready to go by about 9:45 -- is what the
23 hope is that they'll be here.

24 And then, we can go in and pick a jury. We will not
25 swear the jury at that time. I'll have to rule on the stand

1 your ground. Then, we'll probably start the trial that
2 afternoon. If I do not rule in the Defense's favor for the
3 stand your ground. That's kind of where we are. And that's
4 going to be kind of procedural history. We do have some
5 motions that are outstanding that -- that have to be ruled
6 on, that I took under advisement as well. We're a little bit
7 ahead of 9:00, so I'm going to go ahead and rule on those
8 while we have a minute, and everybody ready to --

9 State ready? And is Defense ready?

10 MR. MCGUIRE: Yes, sir.

11 MS. LINDER: Yes, your Honor.

12 THE COURT: All right. Okay. I'll start with
13 number four. Number four, indicates that was the -- the
14 pictures. We -- the -- the Court had admitted pursuant to a
15 403 analysis numbers 37, 77, and 78, as they're all relevant
16 probative. And the probative value is not out -- substantial
17 out -- outweighed by the unfair prejudice. The picture in
18 question was that we were still taking under advisement. It
19 was number 29.

20 Number 29, the Court finds that picture is probative in
21 nature to show the gunshot wound to show the deceased was
22 shot in the back of the head. However, there is a large
23 amount of blood present on the -- in the photo, and it could
24 be considered unfairly prejudicial.

25 Therefore, the Court will allow this State to use the

1 photo subject to the proper foundation being laid and -- and
2 in a black and white format -- black and white format. The
3 format should limit any unfair prejudice of the photo from
4 the -- the red blood that was very evident in the colorized
5 photo.

6 As to number five, number five we're dealing with --
7 there the -- the use of the term "victim". The -- so the --
8 in the -- in that number five, the Court has considered the
9 arguments to the parties and will grant the Defendant's
10 motion not to allow the -- the deceased in this case to be
11 called the victim.

12 Javon Thomas should be referred to by all parties as
13 Javon Thomas, Mr. Thomas, or the deceased, but the Court is
14 aware that the use of "victim" in the -- is regularly used in
15 criminal investigations. It is used in trial, it is used in
16 -- in, you know, the deposition of criminal cases. And we're
17 going to have to instruct the previously-sequestered jurors.
18 I'm going to ask both parties to get together and -- and take
19 care of that, and instruct the previously-sequestered jurors
20 the -- about this ruling.

21 And while the parties understand this order -- want
22 everybody to understand this -- to be difficult to -- to get
23 across. It's just common vocabulary in -- in these types of
24 cases, the use of "victim".

25 I understand the Defense's argument and therefore I'm

1 going to grant it, but I just want everybody to understand
2 that it is going to be difficult to corral this. And -- and
3 we -- you know, especially with lay witnesses I heard it a --
4 a couple of times yesterday -- I think so, but that is the
5 ruling of the Court on number five.

6 Number six, we've already taken care of. Number seven,
7 the Court will grant, and part, and deny, and part the
8 Defense's motion to limit a post-incident silence and
9 post-arrest silence. The Court will deny the motion as to
10 post-incident silence before arrest. State indicates there -
11 - they have numerous texts and Defendant's actions could show
12 some type of consciousness of guilt as to post-arrest silence
13 the -- as indicated.

14 The State says they don't plan to mention any
15 post-arrest silence, but I just caution them that the -- the
16 Court is granting that part of the -- of the Defense's
17 motion. And so, let's just be very careful with our
18 questions on post-arrest silence. Now, if somebody opens the
19 door, we'll have to address that at the time. But I would
20 feel like, if you think someone has opened the door, let's --
21 let's approach -- maybe take that outside -- outside the
22 presence of the -- the jury.

23 I don't know as far as Miranda, Doyle violations -- I
24 mean, he's got to have Miranda to have a Doyle. So I -- I
25 think we've got to have a -- a Mirandize -- we have him

1 Mirandized, and then we comment on this -- this post-arrest
2 silence. But just -- just be careful all the parties. But
3 if -- if you feel the door is open, I just caution everyone,
4 please, let's address that outside the presence of the jury.
5 We just don't want to get down that -- that path. Does
6 everybody understand those rules?

7 MR. MCGUIRE: Yes, sir.

8 THE COURT: Any questions from the State?

9 MS. LINDER: Nothing from the State.

10 THE COURT: Anything from the Defense?

11 MR. MCGUIRE: No, sir.

12 THE COURT: All right. Let's move on to the summations
13 on your stand your ground, and certainly be happy to hear
14 from you, Mr. McGuire.

15 MR. MCGUIRE: Thank you, Judge. So, Judge, the
16 evidence in this case shows that Courtney is on his way to
17 work. He works at Five Guys, with him and his girlfriend,
18 she's pregnant. They're going to stop at Emonie's mom's
19 house. Drop her off so he can continue to work. When they
20 come up on the corner, where Emonie's house is there's Javon,
21 there's Zion. Niya and Emonie had been beefing as Courtney
22 told you clearly there's some sort of disagreement. That's
23 not a dispute.

24 Niya yells something, bickering or picking at Emonie.
25 Javon does what always does. He lets word of when it's going

1 to be done. Lets just say it's done. Gives him a hard stare
2 like he always does whenever there's a chance to meet him.
3 What does Courtney do? He leaves, gets away from that scene
4 -- gets away from the conflict.

5 Javon, his body language was so menacing that
6 Abigail Perry told her mom, "Mom, stay in the car." That's
7 how menacing his body language was. But what did Courtney do
8 in response to that, he left, he left -- he got away from it.

9 Courtney, not the big guy with the gun -- with the
10 bully here. If he was -- he was just parked right there in
11 Emonie's mom's house and said, "Emonie, I got this taken care
12 of. I can handle him. You go around and get tp your mom's
13 house." That's not what happened. And he leaves completely.
14 He wants to drop Emonie off at her mom's house, but he can't
15 because there's the bully there with the gun, Javon.

16 So Courtney goes to leave and he gets down the street
17 and again, beef is between Emonie and Antoniya, Javon's
18 girlfriend. And Emonie is like, "Let me out the car. I'm --
19 I'm getting out." The car door opens, he's got no choice.
20 He's -- he hits the brake, he stops.

21 And Emonie pops out of the car and he's yelling at her,
22 "Get in the car" -- "Get in the car", but Emonie wants to
23 confront Niya who's down the street. Niya doesn't confront
24 Emonie, she doesn't come, Javon comes. He's armed, he's
25 dangerous, he's hostile, his body language is still menacing.

1 Abigail Perry felt that she had to protect her mom.

2 That's what he's doing. He's marching down the street.
3 Courtney can't leave, Emonie's on the roadway. He can't
4 leave like he wants to. Like he did just a second ago --
5 just a second ago. He left the conflict and he can't do it
6 now. Because Emonie is on the roadway, he has no choice.
7 He's stranded there, he's stuck -- he's stuck. He's kind of,
8 like, almost quartered like a small animal. He can't go, he
9 can't get away from Javon.

10 So, what he does is he goes, and he gets his gun, and
11 he steps a couple steps away from the car, so he can see
12 Javon. And he lets him know, look what -- he got it. And
13 the only message he's trying to send is, don't -- don't come
14 down here. Don't -- don't -- I don't want this fight. Turn
15 around, go away.

16 And then Courtney fires a shot in the ground, a warning
17 shot. How do we know it's a warning shot? It's when you
18 hear it. Javon is just marching, marching, marching. The
19 shot goes off his body, his gait, his march to the car
20 doesn't slow up a bit, not a second. He just keeps coming.
21 Marching, marching, marching. Why did he do that? We knew
22 that shot wasn't for him. He saw the gun pointed to the
23 ground. He knew it was a warning shot.

24 In the history of mankind -- in the history of
25 firearms, there's one message that a warning shot says in

1 this context. One, don't come down here. I don't want this
2 fight. Turn around, please go away. And in the history of
3 man that warning shot has that one meaning - hey Judge, this
4 doesn't have to be a -- a summation -- a unilateral
5 presentation of information from me. If the Court will
6 complete any explanation, or has a question about what
7 message does clear shot on the ground -- a warning shot mean,
8 ask me that, I'll take it off.

9 One explanation: Please don't come down here. I don't
10 want you to fight. Please go away. That's the only message
11 that Courtney can send with that. And we know 100 percent
12 it's a warning shot because Javon doesn't change his gait.
13 You hear the pop, he keeps coming because he knows that shot
14 is a warning shot.

15 So Courtney, he is stuck. He can't leave, but he just
16 left the second, he can't do that again. So he escalates a
17 little bit, the warning shot, puts it in the direction of
18 Javon, but it's still at the ground. But this time he knows
19 for real because Javon flexes, his body moves. And what does
20 he do? Unfortunately, the "please go away message" is not
21 headed at all.

22 When -- when Javon hears the warning shot, he keeps
23 coming. When he keeps coming, there's only one message there
24 too, and that is, "I disregard your warning shot. I
25 disregard your plea for me to not come towards you. I

1 disregard your plea to end this fight. I intend to bring my
2 fight to you, my argument to you, and my gun to you."

3 When Javon kept going, that's the only message he sent.
4 There is no other explanation of that. And again, if the
5 Court would say, "Well, maybe there's another explanation,"
6 tell it to me now and I'll take it on, I'll answer it,
7 because there's only one explanation. And that is
8 "I disregard the warning shot. I disregard your plea for me
9 to go away, to not come, to not bring the fight to you. I
10 disregard that I'm bringing the fight to you. I'm bringing
11 my gun to you."

12 So Courtney fires the -- the second one shot in his
13 direction, then sadly that does not work either. Javon
14 brings up his gun in less than a second -- less than a
15 second, and fires and you see it, boom, boom, boom. The
16 bullets coming at Emonie from the -- Courtney and then
17 there's a tiny little pause -- tiny little pause, less than
18 the time that it took me to take that breath. Courtney
19 returns fire. It's almost simultaneous.

20 Abigail Perry said, "When the boy stopped shooting at
21 Courtney, he was still facing Courtney, and he was walking
22 backwards." He didn't lie. He was walking backwards like
23 this. And she said, "He walked back some steps and got
24 another shot off." And I think it's in that volley -- the
25 last volley of shots. And Courtney fired in self-defense and

1 he shot Javon. And any death is tragic and Javon -- I'm sure
2 he is missed by family and he's a brother to somebody, he's a
3 son to somebody, but that day he was an armed aggressor. He
4 was armed, he was dangerous, he was hostile. He didn't hear
5 Courtney's plea to end this, to let it de-escalate.

6 But Courtney just drove away from the intersection,
7 didn't drop Emonie off -- that was the first time -- hey, I
8 don't want any trouble. I don't want any argument with you,
9 any quarrel with you. That was the message Courtney sent
10 when he drove away from the conflict.

11 When Courtney showed him the gun, when he was marching
12 towards Courtney and Emonie after clutching at his gun at the
13 intersection, Courtney shows the gun and hopes that, hey,
14 he'll turn around, he'll go away. Javon doesn't keep that
15 blade. The warning shot, Javon keeps coming. The warning
16 shot could only be interpreted as, please don't come any
17 closer, I don't want this quarrel, I don't want this body.
18 Please go away. Javon doesn't hear that he keeps coming.

19 And I'll challenge the Prosecutor, you know, the
20 history of mankind and the history of firearms, we all know
21 what that warning shot means. If they can't explain that,
22 come up with a different message for that warning shot --
23 that plea to please end this fight, then we prevail.

24 If they can't come up with a -- an explanation -- an
25 interpretation of Javon's steady march to the car, steady

1 march to Courtney, steady march to Emonie after the warning
2 shot. If they can't explain that behavior as anything other
3 than him completely disregarding the warning shot and his
4 message is, I'm coming at you, I'm bringing the argument, and
5 I'm bringing my gun. If they can't explain that behavior any
6 other way, we prevail.

7 Now, the State spent some time with the shot being
8 towards the back of Javon Thomas, and they spent some time
9 with photographs saying he's retreating. Well, first off, he
10 wasn't really retreating. He's walking backwards, still
11 eyeballing Courtney and maybe got a shot off. Like
12 Abigail Perry said, "That's not a retreat", it's a tactical
13 maneuver. He gets some distance while you're still a threat
14 to Courtney and Emonie. It's not a retreat. And just say,
15 that at some point he decides to go ahead and run. That's
16 not a retreat.

17 Courtney doesn't know where he is going, how many
18 bullets he has, how many clips he has. There's none of that
19 -- none of that. He's a danger -- he's a danger -- more
20 dangerous, hostile with menacing body language.

21 Courtney does -- can't predict his mood force. There's
22 no rule that says when the guy that is shooting at you stops
23 for a second, it's over. That's over -- I mean, Judge,
24 imagine -- imagine me and my wife just walking on
25 Church Street, not by our -- our fellows and a fellow comes

1 by and snatches my wife's purse, and it's dark, it's at
2 night. And I say, "Hey, come back to your son of a bitch."
3 And he turns, and he's got a gun, and he fires a couple of
4 rounds. Me and my wife's standing there and I -- I glance
5 away -- glance from bullets, get my wife behind me. And then
6 when I come up, I've got a gun and you know what? He's still
7 looking at me. He's still facing me. And in the second
8 before I can even take a full breath, I start firing at him.
9 And at some point, he turns, or the rules said, "Whoa, I've
10 got to stop." I've got to stop. Say, I shoot five or six
11 times, in my last round, I hit him in the back of his head.
12 Are you going to convict me for that. Jail me?

13 Judge, we all -- you tell jurors all the time, you
14 bring your common sense in the courtroom, you don't leave it
15 outside, and Judge you bring yours too. Again, in the
16 history of mankind, the history of firearms, the warning shot
17 means, "I don't want the fight. Don't come any closer please
18 go away." That's common sense. When Javon disregards that
19 and he continues on his march, I'm bringing the argument, I'm
20 bringing my attitude, I'm bringing my gun. There's only one
21 message there. It's on. We're fighting. I'm coming.

22 And he was going to do what he did. He got his gun
23 shot -- he shot at Emonie. Again, that's common sense.
24 Common sense says, when he disregarded that warning shot, he
25 was clear like a bear, I'm coming at you, coming at you, but

1 I can control this. I'm bringing my gun to you. Courtney
2 had a right to fire. Law says he's presumed -- presumed to
3 believe that he's in imminent peril.

4 And Emonie is in imminent peril of death. That's what
5 the law says. And he acted in that frame of mind -- in that
6 mindset when he fired in self-defense. And common sense says
7 so. If the prosecutor can't come up with another explanation
8 for what a warning shot means, and what Javon's steady march
9 to them means, we prevail. Thank you.

10 THE COURT: Thank you. You had your time.

11 MS. LINDER: Thank you, your Honor. May it please the
12 Court? As the Court's well aware, the full purpose of this
13 Protection of Persons and Property Act is for the -- the
14 Defendant has the burden -- the Defendant has the burden to
15 show to you the products -- the evidence that they meet, the
16 elements of self-defense for saving that last one, that duty
17 to retreat.

18 We do not believe that the Defendant has shown any of
19 those three. And I think that if we look at what the
20 Defendant's versions of the facts are and the Defendant's
21 version of the activities, I think even with only what they
22 presented, that they failed to meet that burden.

23 We did however, call our initial four witnesses to
24 this. So, I think it's important to go kind of through what
25 the Defendant said, and what all the testimony yesterday

1 brought out the -- in the exhibits in this case. The
2 Defendant said he was driving down Comstock. It was the
3 first time that day that he had seen Javon at all. Javon was
4 just walking down the street with his girlfriend.

5 The Defendant chose to stop and to slow down near that
6 intersection knowing that everybody was there. There was
7 bickering between the -- between Javon's girlfriend and
8 between the Defendant's girlfriend. The Defendant told you
9 he was maybe five feet away, but couldn't hear anything. He
10 didn't know what they were bickering about. He couldn't hear
11 any words. He was right there, but he couldn't hear
12 anything. He then drove away. He said he never got out of
13 the car at that point.

14 He claims that at some point the victim put his hand on
15 the front of his waistband. And I confirmed that with him
16 when he testified. I said, "front" and I put my hand up
17 here. I think that's important. He did not see any firearm.

18 You heard from both Monique and Abigail Perry that they
19 didn't see this grey car -- this grey Jeep. They're coming
20 up Cosmopolitan, facing that intersection. They didn't even
21 know, like, the green house. They know all the colors of all
22 the houses because they go to that church often. They never
23 saw the grey Jeep there. Never. They didn't see the Jeep
24 there. They didn't see the Jeep drive away. What they did
25 see was Javon and his girlfriend before the intersection of

1 Cosmopolitan and Comstock -- Comstock. That's where they saw
2 them.

3 They also told you that, as they were driving up to
4 that intersection and they kind of, you know, illegally
5 turned right down Comstock and then into the parking lot,
6 they saw the -- they saw Javon and they saw his girlfriend.
7 Javon wasn't yelling down the street at that time. Javon
8 didn't have a gun out. Javon didn't have anything in his
9 hands. Nothing. Both of them told you that.

10 Then we go back to what the Defendant told you. He --
11 he tells you he just drove away. He drove up until the
12 street in between 2009 and 2010 Comstock on that map. I
13 said, "Well, how far down did you go?" My finger was moving.
14 He told me where to stop. He then read those addresses where
15 he was, he stopped from 2009 to 2010, putting him even
16 further away from anybody. He decided to stop. He wanted to
17 take that Defendant out.

18 He claimed that he had to stop because his girlfriend
19 opened her door while the car was moving. The car -- the
20 newer car that the door was automatically locked when you're
21 in drive. She opened that door and she -- she had a foot out
22 of her car. She was stepping out of the car. She got out of
23 the car.

24 Well, if you look at the video, you'll see that the
25 Defendant's car stopped much -- much further down that

1 street. You'll also see that you don't see brake lights.
2 You'll see that the door is open, the passenger door.
3 Unfortunately, you can't see the driver's side door from the
4 angle, but if you look, you'll see the door. You don't see
5 legs, you don't see a figure. You see no one outside, in
6 front of, next to, not even a leg out of that passenger door.

7 So if you look at that video, you see different things.
8 You see, like, a fence, and you see different houses, and if
9 you look through all the exhibits and you look through that
10 map, you can see just how much further -- and actually he
11 stopped them for the testimony -- it was closer to 2019
12 Comstock, which is twice the distance that he told you he
13 was. And more than four times the demonstrated distance here
14 in the courtroom. There was not danger. He did not have his
15 -- Javon did not have his gun out and the Defendant was very
16 -- very far away.

17 The Perrys told you that they parked in that grass lot
18 and they were facing up Comstock. They couldn't see any
19 person or any vehicle further down that street. But at this
20 time, Javon was walking up the street. Nothing was in his
21 hands. There was no gun, there was no nothing. We know
22 based on case law, there must be more than words. There must
23 be hostile acts by the victim. Words and walking down the
24 street doesn't cover it. Watch the video. He's walking,
25 he's not running, he's not charging, he's walking down the

1 street and you know it's got to be hostile acts accompanying
2 those words.

3 And, you know, the Defendant testified that he could
4 not hear what was happening five feet from him when his
5 girlfriend was quibbling according to him. Oh, but he could
6 hear that car down the street. He could hear those words
7 accompanied by non-existent acts.

8 I'm not telling you that -- that Javon was not saying
9 something. We know that his mouth was moving, but the victim
10 couldn't -- the Defendant couldn't hear his girlfriend
11 five feet from him. But he claims he can hear 170 feet up to
12 200 feet away from him of what was being said. I submit to
13 you as very doubtful.

14 The Defendant told you he fired his gun into the ground
15 and then he said he fired his gun for the victim. He fired
16 his gun down Comstock. Abigail and Monique Perry also told
17 you that they heard that gunshot coming down Comstock. The
18 video is key. Watch.

19 Upon that shot at the victim, down Comstock that the
20 Defendant admitted to, everything changed for the victim.
21 Everything changed for Javon. He stops. His stance stops.
22 He turns as if he's trying not to be hit. He bends -- he
23 bends his right knee and appears to be reaching toward the
24 rear or the small of his back. I submit to pull his gun out.
25 Not a gun that's here, not a gun that's already out. Not a

1 gun that people who are much -- much closer to him -- Perrys
2 don't see.

3 The victim then -- Javon. He then -- yes, he starts
4 firing. He's trying to defend himself. He was just shot at
5 by this Defendant the entire time the victim is shooting.
6 You see him backing up. He's scared. You see he's holding
7 the gun like this. He's holding the gun sideways. He's
8 shooting it. It's like this. It is not aimed. It's not
9 clutched down. He's backing up. He's trying to cover
10 himself so he can get the heck out of there.

11 The Defendant was trying to kill and ends up killing
12 the victim, Javon. The Defendant started shooting at Javon.
13 The passenger door was open again, no lights, no person seen
14 in that video. The Defendant testified that as soon as Javon
15 was done shooting -- and according to the Perrys, he turned
16 completely around and he was running away. That's when this
17 Defendant decided to finish what he started.

18 He claimed that he had to shoot because Emonie was out
19 of the car and she scurried around the door, still outside of
20 the car to try to shield herself while Javon was shooting.
21 It is not on video. And we see the passenger door on the
22 video. We do not see a leg, we do not see a person. We do
23 not see Emonie scream. We see none of that. I submit to you
24 because it didn't happen. This Defendant already decided
25 what he was going to do and did it.

1 The Defendant says that he shot the moment it was done.
2 It's amazing. You can slow down the video and one second
3 feels like eternity. But what we do know is before the
4 videographer turns the camera on himself, the volume -- the
5 volume difference of the firearms, you see the victim pull
6 out, you hear him shoot while he's backing up, and then you
7 don't hear that -- the loud shots anymore.

8 The video goes to the videographer's lap and then to
9 his face. And then you start hearing the Defendant shooting,
10 shooting, shooting. And you see all the way past the houses,
11 the closest to -- the closest gets to the Defendant when he
12 bends and pulls his gun out, he is not even up to
13 2010 Comstock as Butler testified. You can see that white
14 house, not 2010 Comstock. And then he's -- back it up, back
15 it up, back it up. And then he makes it from where his fired
16 cartridge cases lie, which are all in that area, another
17 60 feet to where his body is.

18 Listen, I am not 18, I cannot run that fast, but I
19 submit to you the Perrys say he turned completely around and
20 started running. The Defendant then, as you heard, drove
21 away with his girlfriend who I -- that was already in the car
22 based upon the video. He didn't call 911 that day. He
23 didn't know the police that day. Nothing. It's important to
24 look at these elements.

25 The first element we need to look at is that the

1 Defendant was without fault in bringing out the difficulty.

2 I submit to the Court that the difficulty started when he
3 pulled that car over. He was in the car, he was driving. He
4 didn't have to stop. He did.

5 The difficulty furthermore -- when he got out of his
6 car -- when he got out of his car and no one else was out of
7 the car on that video. The difficulty started also when the
8 Defendant got out of that car with his gun and he told you it
9 was to threaten the victim. The difficulty started when the
10 Defendant began firing his gun at the victim down Comstock.
11 So I submit to you any of those reasons is the Defendant
12 bringing about the difficulty, and him not being without
13 fault in that matter. Therefore it should be denied.

14 Then, I think we have to look to the next one. Was the
15 Defendant in actual imminent danger or believed to be in
16 imminent danger of losing his life or sustaining serious
17 bodily injury? I do not think that the Defendant meets that
18 either. The Defendant never testified that he was in fear
19 for his life. The Defendant never testified that -- that he
20 thought that that was going to happen. I think that's
21 important. I think this is where the distances that
22 Jodi Hunt testified to. And even without that, looking at
23 the map of the locations of where the fire cartridge cases
24 are and looking at those crime scene photos that were taken
25 that day. You can see the houses, you can see the mailboxes.

1 You can see just how -- how far everything was. It was 170
2 feet -- that Javon was 170 feet from the Defendant when he
3 first shot. 230 feet is how far away Javon was from -- from
4 the approximate area of the fire cartridge cases when he was
5 killed.

6 Javon was 60 feet from his own fire cartridge cases,
7 running away in the opposite direction trying to get to a
8 path out. There was testimony that the Defendant turned
9 around, stopped shooting, turned around entirely and ran. He
10 was running away. I think that is extremely important and
11 that there was no gun in his hand throughout any of the
12 arguments, only after the Defendant started firing shots at
13 him.

14 The third is going to be the reasonable person
15 standard. I submit to you that all the items that I stated
16 in -- under the second one about the imminent danger, also
17 qualifies that a reasonable person would not have acted the
18 way the Defendant did.

19 Your Honor, for all of those reasons, the State would
20 respectfully request that you deny the Defense's motion for
21 immunity under the protection of persons and property acts.
22 And we continue to trial. Thank you.

23 THE COURT: Thank you. All right. I appreciate the
24 arguments on both parties. You all did a great job. Thank
25 you. And I'm going to take it under advisement of, as you

1 said, we're going to pick the jury, and then I'm going to
2 take the evidence back and review some of that evidence that
3 I need to take a look at, and then I'll make a ruling
4 obviously before the trial starts force majeure.

5 All right. We'll help check with the jury and figure
6 out where we are. Still rolling in right now. Okay. All
7 right. Well, we're going to -- we'll be at ease if everybody
8 can stay in the courtroom at ease, but we'll -- we'll, you
9 know, if you need to take a restroom break or something,
10 that's certainly fine, but let's try to stay around so when
11 the jury gets here we can get started.

12 I know we got some folks watching in the back. We're
13 probably going to have to have all response when we get the
14 jury coming up, so I'm -- have to ask you all to just step
15 out please for that. Because we're have to have a receipt
16 that we can possibly have in here. All right. We'll be at
17 ease just for a few minutes until the jury arrives.

18 (Off the record.)

19 THE COURT: Back on the record. We had an -- in
20 chambers discussion about one of the jurors that is present
21 downstairs. It is number 17, Amanda Beth. She's wearing a
22 T-shirt. And -- and I'm going to let the liaison describe
23 the T-shirt -- what we discussed, and we're going to put on
24 the record the -- what the parties have agreed to do. In
25 order to address this -- this issue. Just state your name

1 over to him?

2 Q. Yes.

3 A. No, sir.

4 THE COURT: All right. Based on that information,
5 we're -- we'll -- I'll still let the -- let the State have
6 the opportunity to try to find Riedel, and get him on the
7 phone, and we can -- and discuss the specifics of his -- his
8 application of the search warrant, and include -- include the
9 search warrant -- excuse me, plugging the phone in the
10 Graykey and executing the search warrant on the phone at that
11 time. Obviously, if it is -- we just -- there's no way to
12 know based on that testimony what the time periods were, so
13 we just might talk to him. So I'll -- I'll give you the
14 opportunity to find him - to get that information based on
15 the late hour that this motion came up.

16 MS. OUTTEN: Thank you, your Honor.

17 THE COURT: Okay. All right. You can step down.

18 MS. BUTLER: Thank you.

19 THE COURT: All right. All right. Now, the Court's
20 ruling on the Duncan hearing, Court finds the Defendant was
21 in an area which he had the right to be as described in the
22 -- in the Glenn case, the Court does not believe the
23 Defendant has established by a preponderance of the evidence
24 that he possessed a valid case of self-defense.

25 In making the determination, the Court has reviewed the

1 exhibits to listen to the testimony. The Court found
2 persuasive the testimony of Monique -- Monique Perry and her
3 daughter. Those two individuals are independent witnesses,
4 who have no connection to either the Defendant or the
5 deceased.

6 The Court also finds the videos of the incident
7 compelling, and the testimony of the officer regarding the
8 distance of the Defendant from the deceased of note. Based
9 on the review, the Court finds the Defendant was not without
10 fault in bringing on the difficulty. The Defendant stopped
11 in the street after a conversation with the Defendant's
12 girlfriend and the deceased's girlfriend.

13 According to the witnesses, the deceased was walking
14 toward the Defendant with his hands in the air, and no
15 firearm was visible. There's testimony that the deceased
16 could have been yelling in the direction of the -- of the
17 Defendant. The facts are not in dispute that the Defendant
18 fired twice, once at -- at the -- according to the Defendant
19 "at the ground," and once in -- toward the direction of the
20 deceased before the deceased then returned fire.

21 In addition to bringing on the difficulty, the evidence
22 is unclear if the Defendant was in imminent danger of losing
23 his life, and would a reasonable person hold that belief.
24 I'm taking consideration of whether the Defendant would
25 believe he was in imminent danger. Is the video evidence and

1 the eyewitness evidence that deceased had turned to run when
2 the fatal shot the -- the first that the -- the deceased had
3 his hands up, when the initial shot was fired, and then that
4 he was turned, and was running away when the fatal shot was
5 fired to the back of the head of the deceased.

6 The Court -- also in reviewing the evidence and under
7 point of standard, the Defendant testified his girlfriend was
8 out of the car, that the Court reviewed the slow-motion video
9 that was in evidence. It is clear that an individual is
10 still in the passenger seat of -- of the -- the passenger
11 front seat of the Defendant's vehicle. As the deceased
12 returns fire, the passenger-side door of this vehicle is
13 closed, therefore someone would be in -- in the vehicle.

14 According to the Defendant's testimony, he was still
15 outside of the vehicle near the -- I believe he said the --
16 where the gas would be put into the vehicle -- back of the
17 Compass -- the Jeep Compass that he was driving.

18 This also goes directly to the Defendant's statement,
19 that he was in fear of his pregnant girlfriend being harmed
20 by the deceased. And is that reasonable, based on the fact
21 that -- that video evidence would show that she was still in
22 the car at the time, and was able to close the door during
23 this altercation.

24 Based on those factors and the evidence that was
25 presented - and I have the -- I will deny the Defendant's

1 motion on the stand your ground of Duncan hearing at this
2 time.

3 All right. We're -- and if the State would please
4 provide me a formal order when we get a chance for that, and
5 get that worked out, and reflect those findings that I had in
6 this case. All right. Are we ready to bring the jury in?

7 State ready?

8 MS. LINDER: State's ready.

9 THE COURT: And Defense ready?

10 MR. MCGUIRE: Yes, sir.

11 THE COURT: All right. Let's get the jury. Let's --
12 let's bring them in.

13 (Jury enters courtroom.)

14 THE BAILIFF: All jury present.

15 THE COURT: All right. Thank you. Please be seated.

16 All right. Ladies and gentlemen, we're about to begin
17 the -- the -- the case of -- of State versus Courtney
18 Richards.

19 Madam Clerk?

20 THE CLERK: Will the Defendant will stand and panel of
21 jury stand and raise your right hands.

22 (Jury sworn)

23 THE CLERK: If you have accepted this oath, please be
24 seated. If you have not accepted this oath, please remain
25 standing. Let the record reflect all jurors have been

1 seated.

2 THE COURT: All right. Thank you. As I indicated,
3 we're about to begin the case, the
4 State of South Carolina versus Courtney Charles Cordae
5 Richards. I -- when you were being selected as a juror
6 earlier today in this case, I did read for you the
7 indictments -- the charges that we have here are -- are
8 brought forth on -- on indictments, and the charges are for
9 indictment, for murder and for possession of a weapon during
10 the commission of a violent crime.

11 As I indicated earlier, the indictments are just -- are
12 nothing more than the charging document that the State brings
13 this case to court. They are not evidence, they're not to be
14 considered as evidence. This is just simply how this case
15 arrives here, and we call it -- it -- the docket numbers for?
16 The murder charge are 2023-GS-10-03777, and the possession of
17 a weapon or the commission of a violent crime is
18 2023-GS-10-03778. Again, these are not evidence.

19 Ladies and gentlemen, in this case, the State has the
20 burden of proof. This is criminal court and the State will
21 have the burden of proof in this case that that burden of
22 proof is beyond a reasonable doubt. You may have served in
23 other capacities in civil court before and the burden would
24 be different. This is the highest burden of beyond a
25 reasonable doubt, and it is the State's burden.

1 The way the trial will work. I -- like says, kind of
2 broken up into stages, and we have an opening stage, which
3 we'll have in a few minutes where the parties are given an
4 opportunity to make an opening statement, which is not
5 evidence, but is just their idea of what -- how the case will
6 go. Then there's an evidentiary stage, and then we go
7 forward and we have a closing -- an opportunity for closing,
8 and then we have charges and deliberation. So, we go through
9 all those stages.

10 We are -- you have been sworn in now and we're about to
11 begin. But there's a couple of things I want you to know.
12 There -- during this -- the trial, we will probably take a
13 break every hour to an hour and a half. However, if you
14 decide you need to take a break for whatever reason, you need
15 to just raise your hand and get the bailiff's attention.
16 He'll get my attention, and we can -- we can address that if
17 anything like that comes up.

18 We don't want anybody to be uncomfortable, we don't
19 want to put anybody in a bad situation. But I would ask you
20 to just raise your hand, if you need to take a break. But we
21 will probably try to take a break every hour, hour and a
22 half.

23 There'll be times when we are -- when we have to take
24 things up outside of -- of your presence possibly. And we
25 are -- we will send you out, and we may have to take up what

1 is called as a "matter of law". And that's where I'll have
2 to talk to the attorneys and make a ruling on the law.

3 I'm the judge of the law. You are the judge of the
4 facts. Your facts will come from the witness stand, or from
5 exhibits, or information given in the Court that I'm the
6 judge of the law.

7 We're not trying to keep anything from you, if we have
8 to take -- send you out -- or trying to hide the ball from
9 you, or anything like that. That's just something that has
10 to happen to -- to uphold the integrity of the trial. And
11 again, let me do my job as being the -- the judge of the law.

12 I talked to you a little bit about -- about what you're
13 expected to do as jurors, meaning that you are asked to
14 listen to the witnesses and observe the evidence. But you
15 also -- you cannot discuss this case before it is given to
16 you in deliberations.

17 And then, I will give you a signal when you can do
18 that. You cannot discuss the case amongst yourselves.
19 Please do not do any independent research. Do not look up
20 any facts of the case. I do not expect there to be immediate
21 coverage of this case. But if there were, I would tell you
22 to please, do not read it, or observe it, or however --
23 whatever manner it comes in, any Facebook post, or anything
24 like that.

25 I also will tell you again, any time there is a

1 situation where someone approaches you about this case before
2 this case is completed, I will tell you, you need to report
3 that to the bailiff immediately, and -- and certainly do
4 that.

5 You cannot speak with the attorneys. The attorneys
6 obviously represent their -- their sides. You can't go and
7 ask them independent questions, or call their offices, or
8 anything like that. We can't do that. I know it sounds
9 silly, but we wouldn't be saying it if somebody probably
10 hadn't tried to do it one time.

11 So just please, you know, remember your oath, that you
12 are here to decide this case based on the evidence and -- and
13 the -- and the facts, and the law as I'll give it to you at a
14 later -- at a later date.

15 Before we get started any further, I will tell you that
16 we have to pick a foreperson in -- in this -- in this. And I
17 -- and I'll be in charge of picking the foreperson. And the
18 way I do it is -- is highly scientific, that I believe it's
19 juror number 152. I believe you were seated in the seat here
20 on the end, when we -- when we set -- when we were seating
21 the jury earlier where the lady in the striped shirt is now.
22 And I would ask you to trade places with her now. And that's
23 you Mr. Lawson, if you could move down there. I'm going to
24 name you the foreperson of the jury.

25 Your vote is the same as foreperson of the jury and all

1 those things, but you will preside in the jury room. Make
2 sure there's no deliberation ahead of time. All right. Sir.

3 JUROR NUMBER 152: Uh-huh.

4 THE COURT: You agree to serve as foreperson in this
5 case?

6 JUROR NUMBER 152: I do.

7 THE COURT: All right. And I'll give you further
8 instructions as foreperson at a later date. Again, we're
9 about to start the -- the beginning of this case. It'll
10 begin with opening statements. I'll tell you again, opening
11 statements are not evidence, they're just the idea of what
12 the parties believe that the evidence could show.

13 So, I first need to make sure that I haven't said
14 anything that -- that the parties have concerns with. Are
15 there any objections to the preliminary instructions that the
16 Court has given to the jury.

17 From the State?

18 MS. LINDER: None -- none from the State.

19 THE COURT: Anything from the Defense?

20 MR. MCGUIRE: No, sir.

21 THE COURT: All right. That -- in that case -- that
22 the State -- please proceed with opening statement.

23 MS. OUTTEN: May it please the Court?

24 THE COURT: Yes, certainly.

25 MS. OUTTEN: February 19, 2022, started off as a very

1 normal day for Javon Thomas and his girlfriend,
2 Antoniya Singleton. Around the middle of the day that day,
3 they decided that they were going to leave Antoniya's house
4 where they were staying at the time, and they were going to
5 walk the short distance to a corner store on the corner of
6 Comstock and Spruill Avenues.

7 And in order to get there, they were going to leave
8 Antoniya's house. They were going to come through a park and
9 go down Comstock Avenue. And Comstock Avenue, it's a very
10 narrow one-way street. There are a lot of houses on it. The
11 houses are close to each other, and they're also close to the
12 roadway. But on February 19, 2022, Javon Thomas would never
13 get to that store.

14 The evidence will show that while Antoniya and Javon
15 were walking in the direction of Spruill Avenue down
16 Comstock, that the Defendant's -- that a vehicle sped right
17 past them, and the evidence will show that that vehicle was
18 driven by the Defendant, Courtney Richards.

19 The evidence will show that Courtney -- the evidence
20 will show that as that vehicle sped past them, it nearly hit
21 them. The evidence will also show that a verbal dispute
22 ensued between Antoniya, Courtney's girlfriend, who was in
23 the car. Words may have been exchanged between all parties.

24 The evidence will show that the Defendant continued
25 driving his car down Comstock Avenue several blocks down.

1 And he will show -- the evidence will show that he exited his
2 vehicle and fired a shot in the direction of Javon Thomas.
3 And the evidence will also show that after that shot was
4 fired, Javon Thomas pulled out his gun, and that he fired
5 back in the general direction of the Defendant's vehicle.

6 The evidence will also show that the Defendant stopped
7 firing and fled. And the evidence will show that while he
8 was fleeing, the Defendant shot multiple more times,
9 ultimately striking the victim in the back of his head and
10 killing him.

11 The Defendant in this case is charged with murder and
12 possession of a weapon during a violent crime. And in the
13 state of South Carolina, murder is defined as the intentional
14 killing of a human being with malice or aforethought.

15 Now, that might sound kind of complicated or -- or a
16 weird way of putting that, but malice is hatred, ill will,
17 hostility towards another person. And importantly, there's
18 not a particular amount of time that that malice has to exist
19 for a crime to be defined as murder.

20 And possession of a weapon during a violent crime is
21 when somebody possesses a weapon and commits a violent crime.
22 And a weapon is a firearm, a gun, and a violent crime is
23 statutorily defined in South Carolina. And murder satisfies
24 that definition.

25 In this case, the Defendant is likely to allege that he

1 acted in self-defense. And what that means is that he's
2 going to allege that he was entitled to kill Javon Thomas
3 that day.

4 Remember -- to the jury, the evidence you'll hear in
5 this trial will show the Defendant was not defending himself
6 against Javon Thomas. And so in order to make out a claim of
7 self-defense in South Carolina, four elements have to be
8 present.

9 The person seeking a self-defense must be without fault
10 in bringing on the difficulty. The Defendant must have been
11 in imminent danger or have an actual belief of imminent
12 danger. A reasonable person in the Defendant's position must
13 have also believed they were in imminent danger and the
14 Defendant had no probable means of avoiding the danger.

15 The evidence you'll hear throughout this trial will
16 show that the Defendant was -- was at fault in bringing on
17 the difficulty that he nearly hit Javon Thomas with his car,
18 that he continued down the roadway far away before stopping
19 and firing his weapon, and ultimately killing Javon Thomas.

20 The evidence will show that the Defendant was not in
21 imminent danger. He was in a vehicle much further down the
22 road than Javon Thomas. And the evidence will show -- there
23 will be testimony that the victim was not armed, and did not
24 -- was not brandishing a weapon, and did not appear to be
25 armed in the verbal altercation that preceded the Defendant's

1 first shot.

2 The evidence will also show that his vehicle was
3 pointed in the opposite direction of Javon Thomas on
4 Comstock Avenue. And that at any time he could have
5 continued down Comstock Avenue and driven away.

6 A reasonable person in a vehicle many feet from someone
7 else, who the evidence will show is not brandishing a
8 firearm, would not be in fear of imminent peril. And because
9 members of the jury -- getting to that fourth element, the
10 Defendant had a very easy and probable way to get away that
11 day. He could have kept driving.

12 Now, the state of South Carolina has the burden of
13 proof in criminal cases. And what that means is -- is that I
14 don't get to stand up here and tell you all of these things,
15 and sit down, and let you decide. I have to prove it. And I
16 have to prove that beyond a reasonable doubt. And beyond a
17 reasonable doubt does not mean beyond every doubt. It does
18 not mean beyond all doubt.

19 Beyond a reasonable doubt means that if you are firmly
20 convinced at the end of this trial that we have satisfied our
21 burden in proving that the Defendant murdered Javon Thomas,
22 you will find him guilty. And we will satisfy that burden
23 with evidence that you'll hear and evidence that will be
24 admitted, including from law enforcement witnesses who
25 responded to the scene and investigated the case. You will

1 also hear from eyewitnesses, you'll hear from
2 Antoniya Singleton who I mentioned earlier.

3 There was also somebody that day on Comstock Avenue who
4 captured the shooting on video. You will be able to see that
5 video, and by the end of this trial you'll be firmly
6 convinced that this Defendant made a conscious decision to
7 kill Javon Thomas with malice, and you'll return a verdict of
8 guilty. Thank you.

9 THE COURT: Response, Mr. McGuire?

10 MR. MCGUIRE: So, I disagree with a lot of that. This
11 case, even though Courtney sits next to me accused of murder,
12 the focus is going to be on Javon Thomas, a bully who was
13 armed, and dangerous, and hostile. That is where your focus
14 is going to be. You did hear a damn thing about Javon Thomas
15 just now, and I want to tell you about it. Javon's gun.
16 He's a bully. He'd been picking on Courtney and his
17 girlfriend -- had been picking on Courtney's girlfriend.

18 The Judge told you that Courtney worked at
19 Five Guys burgers on King Street. He also worked in
20 Mount Pleasant, Summerville. And I tell you that because
21 Courtney was on his way to work that day, that's what he
22 wanted to do. His girlfriend was with him. Her name is
23 Emonie and she's pregnant. They're still together today.
24 They were high-school sweethearts and they're still together.

25 Courtney and Emonie are driving to Emonie's mom's house

1 so Courtney can drop her off, so she can spend some time with
2 her mother, but Courtney can't do that. He can't go ahead --
3 forward with his plan to drop his girlfriend off because he
4 sees Javon and Javon's girlfriend, Niya, right at the corner
5 where Emonie's mom's house is.

6 Javon is so dangerous, so dangerous Courtney does not
7 want to be around him at all. When they get up to the corner
8 close to Emonie's mom's house, Niya yells something mean at
9 Emonie, bickering with her, picking on her. Courtney sees
10 Javon. And what does Javon do? He clutches at a pistol at
11 his waistband, which gives Courtney a mean, hard stare. Not
12 for the first time.

13 Emonie had sort of an ongoing-beef feud with Niya.
14 They were picking each other in person because this is a
15 small neighborhood they would run into each other. Niya
16 would always pick, pick, pick on Emonie on social media pick,
17 pick, pick, pick always.

18 And Javon enters that argument, that beef between these
19 two girls. And he's a tough guy and he's taking no
20 disrespect at all. Whenever they have chance meetings in
21 this neighborhood, Javon does what he did that day on that
22 corner, gives Courtney a hard, mean stare. Clutches out his
23 waistband where his gun is.

24 Courtney wants no harm of this armed, dangerous,
25 hostile man. So what does he do? He wants to drop Emonie

1 off at her mama's house right there at the corner. But he
2 can't because the bully is there, Javon Thomas.

3 So he drives away kind of fast, gets away from him. He
4 does the right thing, he leaves the conflict, he leaves the
5 aggressive -- the armed, dangerous, hostile man. He gets
6 away from them. But Emonie -- and you'll hear this in
7 evidence, Emonie and Niya used to be close. They used to
8 call each other cousin. Emonie lived with Niya before this.
9 Emonie wants to get out and confront Niya, and Courtney's
10 driving. But she's pulling at the lock saying, "Let me out
11 the car." She wants to get out the car and go tell Niya,
12 quit the pick -- quit the bickering, quit the picking.

13 And she gets her door open, and she's got a foot coming
14 down on the pavement on the roadway, and Courtney is forced
15 to slow down and stop the car so she doesn't go tumbling out
16 on the roadway. That's why he stops his car. Because Emonie
17 opened the door and was getting out, and he couldn't just let
18 her tumble out on the roadway. He hits the brakes, he stops
19 the car. That's true.

20 Emonie gets out and she yells at Antoniya, she wants to
21 confront her. No doubt about that. But Niya doesn't come.
22 Antoniya doesn't engage with Emonie. Javon does. The man
23 who just clutched his pistol at his waistband, the one who
24 was clutching his gun every time Courtney ran into him at the
25 store, on the street, at the corner. Javon comes with his

1 gun, with his anger, with his attitude. He comes marching
2 down the street marching, yelling.

3 His behavior was so unsettled to a churchgoer. There's
4 a church on this corner too. A woman was going to church and
5 she sees him acting so angry, so menacing his body language
6 that she said, "Mom -- mom, you stay in the car." Because
7 her mom was going to get out -- out and go into church. She
8 says, "Mom -- mom you stay in the car." That's how angry --
9 menacing Javon Thomas looked to a person who didn't know him.
10 Courtney knew him. He knew he was troubled.

11 Now, let's go back to the car. The car stops because
12 Emonie is trying to get out of the car. She wants to
13 confront the girl that she used to call cousin, the girl she
14 used to live with to say, stop picking, stop the picking.
15 And she yells down the street and Niya doesn't come. Javon
16 comes with his anger, his hostility, and his gun. He was
17 marching -- marching towards Courtney's car.

18 Courtney sees it, Courtney stopped. He can't just
19 leave like he did a second ago. He left the conflict a
20 second ago. He did the right thing. He got down the street,
21 he got him away from Javon, and his anger, and his gun. He
22 gets down the street. Emonie is out of the car. He can't
23 give it the gas stop. He can't get away. He can't leave
24 like he wants to do. He's stuck.

25 And here comes Javon, the bully, the gunman. So

1 Courtney gets his gun, and he steps out of the car, and he
2 lets Javon see it. Hey, I have a gun. Chill out, back off,
3 go away. Does that work? No. Javon keeps marching --
4 marching to Courtney and Emonie who is pregnant. She's about
5 four months pregnant. She's been having trouble with morning
6 sickness. His pregnant girlfriend's unborn child are on the
7 other side of the car, he gets his gun.

8 Javon look, I got a gun, back off man. That's what
9 he's trying to do. That's a normal thing to do in this
10 situation. This is not Courtney trying to start trouble.
11 This is him trying to get away from trouble.

12 Javon keeps marching, marching, marching. Courtney
13 puts a shot in the ground, and you'll hear it on the video --
14 and you'll hear it. You'll hear the pop. And I think the
15 State's witnesses will agree that was the gunshot. We agree
16 that was a gunshot. There was a warning shot in the ground.
17 And how you want to see Courtney on the video, he's -- this
18 is all Javon. Courtney's a little out of frame. This is
19 what happens. Javon's marching -- marching towards the car -
20 - gunshot, he sounds muffled, but it's not pointed up. It's
21 pointed down. You're going to hear the pop and this is what
22 you're going to see Javon do.

23 And you hear the pop and he's coming right out. He
24 doesn't slow down, he doesn't stop. A warning shot was just
25 fired into the ground, and he's coming, and he's coming, and

1 he's coming.

2 We all say to jurors, when you guys come into this
3 courthouse, you don't leave common sense outside. Each and
4 every one of you know what a warning shot in those
5 circumstances mean. Don't come any further. Don't come over
6 here, turn around, please go away. I don't want a fight with
7 you.

8 In the universal language of a warning shot, that's
9 what it means. There is no other in the history of firearms,
10 in history of man, there is no other explanation or meaning
11 for a warning shot.

12 Courtney put off that shot in the ground. And what was
13 he saying with that shot? Don't come any further. I don't
14 want to fight with you, I don't want to fight with you.
15 Please go away. But did it work? No, you're going to hear
16 the pop and you're going to see Javon marching -- pop keep
17 coming. Doesn't change his gait one bit. Doesn't slow down
18 one bit, doesn't stop, doesn't turn away. He's bringing his
19 attitude, his anger, and his gun to Courtney, his girlfriend,
20 and their unborn child.

21 Courtney escalates it a little bit. He goes for a
22 second warning shot. This time it's going to be in the
23 direction of Javon to let him know, I mean business go away
24 -- go away. So you hear a second shot. Second shot, Javon
25 takes serious, takes out his gun, boom, boom, boom, boom,

1 boom. And he tries to gun down Courtney and Emonie on that
2 street, and you'll see it.

3 Courtney pops up with his gun and immediately returns
4 fire. Bam, bam, bam. One of the shots hit Javon Thomas, no
5 doubt about it. And Courtney was acting in complete and
6 allowed self-defense. That's what our law allows him to do
7 in that situation. He wanted no quarrel with Javon. He
8 wanted no fight with him. He did not want a gunfight with
9 him. He tried to get Javon to turn away, but Javon's a
10 bully. He's a bully. He's a tough guy. He carries a gun.
11 He's mean.

12 Let me say a little bit about this. Go back in time a
13 little bit. I told you that Emonie and Niya were friends,
14 good friends. Emonie's mom didn't have a place for her, a
15 home. And Emonie lived with Niya and Emonie's mom in this
16 neighborhood. It's actually Emonie, Courtney's girlfriend,
17 that introduced Javon to Niya. They went to the same high
18 school, Emonie and Javon. Niya did -- she went to a
19 different high school. Javon wanted an introduction, wanted
20 to talk to Niya and rode the bus home with Emonie. She made
21 the introduction. Niya, Javon been -- been together ever
22 since.

23 Trying to think how to put this. Well, Javon was a man
24 who took no disrespect, real or madness. Niya, Javon's
25 girlfriend, sends Emonie a text message at 3:00 in the

1 morning, months -- a couple months before this, "Hey, me and
2 Javon, we want to go to the Waffle House." 3:00 in the
3 morning. Emonie and Courtney's position was, we have jobs we
4 can't go into the night by 3:00 in the morning. You tell
5 them no, you tell them, take an Uber.

6 The next day, Javon puts on Facebook mean and nasty
7 things about Courtney trying to undress him down and
8 humiliate him to the public for not taking him to the
9 Waffle House at 3:00 in the morning.

10 Emonie works at The Citadel. She served breakfast and
11 lunch to the cadets at the military college. She also served
12 me as a (inaudible) Hospital at night. Courtney, you've
13 already heard, works at the hamburger place, Five Guys.
14 Javon was not going to be disrespectful. You won't take me
15 to the Waffle House at 3:00 in the morning or post nasty
16 stuff about you.

17 And then from that moment on, every time there was a
18 chance running in this very small neighborhood where Emonie's
19 mom's house is -- on the path between Niya and Javon in the
20 -- the neighborhood store. It would be this.

21 Clutch my gun, I let you know I'm armed, dangerous, and
22 hostile to you. That's the interaction that Courtney always
23 would receive from Javon.

24 Courtney and Emonie were sitting in their car, again
25 before this, in a park in the neighborhood listening to

1 music. The windows are up, the car is running. And after
2 they refuse to take Javon to the Waffle House at 3:00 in the
3 morning, sometime after that, Courtney and his girlfriend,
4 Emonie, were sitting in their car at a park under the Smoke
5 trees. And what happens? Bam, out of nowhere Courtney's
6 door is just yanked open and who's there? Javon Thomas
7 shirtless with his tattoos. "Get out of the car" to
8 Courtney.

9 Courtney, you can see him. He's kind of a small guy
10 and there's Javon hovering over him, door open -- trying to
11 get the door open, trying to get him out of the car, "Get out
12 the car" -- "Get out the car," calls him the N word and got a
13 thuggish way. "Get out the car" -- "Get out the car."
14 Courtney struggles with the door, gets it closed.

15 MS. OUTTEN: Judge, objection. May we approach?

16 THE COURT: Sure.

17 (Bench conference.)

18 MR. MCGUIRE: Thank you, Judge.

19 THE COURT: All right. Objection is overruled. Please
20 continue.

21 MR. MCGUIRE: So let's go back to that park, Emonie,
22 Courtney, sitting in the car listening to music under Smoke
23 trees. This park is between Niya's house, Emonie's mom's
24 house, in this little neighborhood. Told you about Javon
25 yanking at the door being there, shirtless, "Get out the car"

1 -- "Get out the car," yelling at him. And he wanted to get
2 him out of that car and beat him down. That's
3 Javon Thomas, the bully. Who's normally armed, and dangerous
4 and, hostile, Javon.

5 You know if Courtney did that -- he left, got his car
6 running, got in gear, it was already running, got in gear,
7 and he left. He left the confrontation, he left the threat
8 of a beat down that was about to be delivered by Javon
9 Thomas. The neighborhood bully, got away. He left just like
10 he did on the day of the shooting. He left.

11 Courtney couldn't leave the day of the shooting.
12 Emonie was out of the car. He couldn't just give it the gas
13 and leave what he wanted to. Javon was marching -- marching
14 with his gun. He got his gun, showed that, and that slow him
15 down? No, the warning shot in the ground. Did that slow
16 Javon down? No.

17 The second one he shot in Javon's direction. Does that
18 slow him down? No, he just produces the gun that he always
19 has and bang -- bang -- bang, tries to gun down Courtney and
20 Emonie. It is tragic when anyone dies.

21 However, I represent Courtney, but I have little -- or
22 little or no charity. My heart goes for Javon Thomas, you
23 brought this on. It's his fault. He's a bully. He did what
24 anyone would do to protect their pregnant girlfriend. You
25 cannot convict him. You cannot jail him. He needs to be

1 found not guilty. Not because I asked for it, but because
2 justice demands it.

3 THE COURT: All right. Thank you. State could call
4 your first witness please.

5 MS. LINDER: Okay. Your Honor, may it please the
6 Court? State will call Sean Jellico.

7 THE COURT: Thank you.

8 SEAN JELLICO,
9 having been duly sworn, testifies as follows:

10 THE CLERK: If you can state your name and spelling
11 your last name please.

12 THE WITNESS: Sean Jellico. Jellico is J-E-L-L-I-C-O.

13 DIRECT EXAMINATION

14 BY MS. LINDER:

15 Q. Good afternoon.

16 A. Afternoon.

17 Q. Who is your employer?

18 A. The city of North Charleston

19 Q. And you work for the police department?

20 A. Yes, ma'am.

21 Q. And what is your current position with the
22 North Charleston Police Department?

23 A. Currently I'm assigned to the
24 Intelligence SLED Policing unit.

25 Q. And can you explain what that is?

1 A. That unit is responsible for locating and
2 apprehending individuals with high-risk warrants.

3 Q. And what was your position back in
4 February of 2022?

5 A. I was assigned to patrol.

6 Q. And is the jurisdiction of North Charleston -- is
7 that split into different areas?

8 A. Yes, ma'am. We have a North Central and a
9 South District.

10 Q. And what area were you assigned to?

11 A. The South District.

12 Q. What area of North Charleston does the
13 South District or South Bureau cover?

14 A. On the river side of it -- it is from rivers in
15 Durant down to meeting in Pittsburgh, which is where it batch
16 up to Charleston City's jurisdiction. And then on the
17 Dorchester side, it is from Dorchester and 526 where it runs
18 into the King Street connector leading down to
19 Meeting Street, Pittsburgh area as well.

20 Q. And when you were on patrol in February of 2022,
21 what did your duties include?

22 A. Respond to dispatch calls for service in
23 patrolling neighborhoods.

24 Q. And will you please tell the jury a little bit
25 about your education, your training, and experience?

1 A. Yes. I have an associate's degree in criminal
2 justice. I received my class one law enforcement
3 certification from the
4 South Carolina Criminal Justice Academy. I've been on the
5 SWAT team with North Charleston for four years.

6 I've had crisis intervention training, which is
7 essentially just diffusing incidents involving mental health
8 patients. And then, we also have an annual block training.
9 So about every six to eight months we go through various
10 policy -- policy tests and, like TacMed, just making sure
11 everything stays up to date.

12 Q. Were you working back on
13 Saturday, February 19, 2022?

14 A. Yes, ma'am.

15 Q. And in what capacity were you working?

16 A. I was a patrolman on the -- on a south day shift
17 team in the southern end of the city.

18 Q. And were you involved in the investigation of this
19 case, the State versus Courtney Richards in any way?

20 A. I was, yes, ma'am.

21 Q. How were you first brought into the case?

22 A. I believe it was approximately 1:33 p.m., on that
23 date I was dispatched to the area of Comstock and
24 Cosmopolitan, and the Union Heights community for a shooting.

25 Q. And is that located in Charleston County?

1 A. It is.

2 Q. Can you describe the area of Union Heights, and of
3 Comstock and Cosmopolitan to the jury?

4 A. Yes. So it is about ten to twelve blocks in
5 length. Four to five blocks wide, I'd say. It's situated
6 between Meeting Street Road and Spruill Avenue. Lots of
7 one-way streets, very narrow roads, houses are on the smaller
8 side. That's -- that's pretty much it. Lots of chain-link
9 fences.

10 Q. And when you arrived on scene that day, what did
11 you observe when you first arrived?

12 A. When I got to Comstock and Cosmopolitan, there was
13 a crowd that had formed. People seemed very upset. Some
14 people were taking pictures, and then I observed the decedent
15 laying in a grassy area at that intersection.

16 Q. And who was the deceased that you saw?

17 A. An 18-year-old black male by the name of
18 Javon Thomas.

19 Q. And what was Javon Thomas' appearance when you saw
20 him?

21 A. He was face down in a grassy area. It didn't look
22 like he was breathing, he was not moving and he had blood
23 coming from his head.

24 Q. And could you any see any sort of injuries on
25 Javon Thomas?

1 A. What appeared to be a gunshot wound to the back of
2 the head.

3 Q. Did any other first responders come to the scene
4 that day?

5 A. Yes, ma'am. EMS and Fire responded.

6 MS. LINDER: Your Honor, may I approach the witness?

7 THE COURT: You may.

8 BY MS. LINDER:

9 Q. All right. At this time I'm going to show you
10 what's been marked as
11 State's Exhibits 1, 2, 3, 4, 5, 7, 82, and 102. If you could
12 please just take a moment and look at those, and let me know
13 after you've looked at them.

14 A. I have looked at them.

15 Q. And do you recognize those exhibits?

16 A. Yes, ma'am. They are pictures of the
17 Union Heights neighborhood.

18 Q. All right. And do all these exhibits fairly and
19 accurately represent the Union Heights neighborhood? As
20 you're familiar with it back home -- the date and time of
21 question?

22 A. Yes, ma'am.

23 MS. LINDER: Your Honor, at this time the State would
24 seek to admit State's 1, 2, 3, 4, 5, 7, 82, and 102.

25 THE COURT: Any objection?

1 MR. BISCHOFF: No, your Honor.

2 THE COURT: All right.

3 State's Exhibit 1, 2, 3, 4, 5, 7, 82, and 102 are entered
4 without objection.

5 (State's Exhibit 1, 2, 3, 4, 5, 7, 82, 102 admitted into
6 evidence.)

7 BY MS. LINDER:

8 Q. All right. And at this time I'm going to actually
9 put these up on this projector. The images will show on
10 these big screens, and also the one in front of you. I may
11 point at things and you'll see my hand here, but that's also
12 a touch screen in front of you. So, if you need to touch it,
13 or want to touch it, feel free to.

14 A. Okay.

15 Q. And we can always use our computer back there to
16 remind us of what you did, okay? All right. This is
17 State's Exhibit 1. Can you explain to the jury what are they
18 seeing -- all right here?

19 A. That is the Union Heights community.

20 Q. Okay. And just to get some bearings. What's
21 this?

22 A. That's 26 -- I-26.

23 Q. All right. And then what's this main road here?

24 A. That is Spruill Avenue.

25 Q. Okay. And what about this?

1 A. That would be Meeting Street Road.

2 Q. All right. And so this area in here is what
3 neighborhood?

4 A. Union Heights.

5 Q. And does that neighborhood have -- go by any other
6 nicknames?

7 A. Not that I'm aware.

8 Q. All right. State's Exhibit 2, can you please tell
9 the jury what this picture shows?

10 A. This is a closer image of Union Heights showing
11 the incident location -- looks like.

12 Q. All right. State's 3, what does this show?

13 A. The -- the same thing. The closer image of
14 Union Heights.

15 Q. All right. State's Exhibit 4?

16 A. So, this is closer to where the incident actually
17 occurred. That intersection of Comstock and Cosmopolitan
18 where that red is.

19 Q. Okay. And then -- so what road is this?

20 A. Comstock Avenue.

21 Q. And is this a one-way street?

22 A. I believe so.

23 Q. All right. And State 5, what does this show?

24 A. It's the -- the exact same image, just not with
25 color.

1 Q. Oh, with the houses?

2 A. Yes.

3 Q. Okay. All right. And when you arrived on scene -
4 - if you can use your finger -- if you can direct me, I can
5 try to use my finger to point. Approximately where did you
6 see Javon Thomas laying?

7 A. Let's see if this works in this general area right
8 here.

9 THE COURT: Which exhibit are we referring to?

10 MS. LINDER: This is Exhibit 4.

11 THE COURT: Exhibit 4. Thank you.

12 BY MS. LINDER:

13 Q. All right. And then State's 7, what road is this?

14 A. So, we're looking down Comstock. And at that one
15 way sign on the left, that is Cosmopolitan.

16 Q. So, this road that I'm moving my finger across
17 here on 67, this is Cosmopolitan?

18 A. Correct.

19 Q. And this is Comstock?

20 A. Yes, ma'am.

21 Q. Okay. And then State's 82, can you explain what
22 this is? What road is this?

23 A. That is -- the one you're tracing with your finger
24 is Cosmopolitan and we are looking down Comstock.

25 Q. All right. And back to the same, we were just at

1 number 82. Can you use your finger and show approximately
2 where the -- where Javon Thomas was lying on the ground when
3 you got there?

4 A. Yes, ma'am. This grassy area.

5 MS. LINDER: Beg the Court's indulgence. I don't have
6 any further questions for you. If you could please answer
7 anything that the Defense may have.

8 THE WITNESS: Thank you.

9 THE COURT: Cross?

10 CROSS-EXAMINATION

11 BY MR. BISCHOFF:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. I've got your report in here, I believe.

15 MR. BISCHOFF: May I approach?

16 THE COURT: Yes.

17 THE WITNESS: No.

18 BY MR. BISCHOFF:

19 Q. Just take a look at that if you don't mind. Is
20 that your full report?

21 A. This was my supplement, yes, sir.

22 Q. Your supplement. Is there another report?

23 A. No, I'm -- no, not from me.

24 Q. So, the only report that you wrote in this case is
25 right there?

1 A. Correct.

2 Q. About five sentences long?

3 A. Correct.

4 Q. You responded about 1:33?

5 A. Yes.

6 Q. And the EMS and Fire had also responded?

7 A. They did, yes, sir.

8 Q. Did they arrive after you were there or before?

9 A. I don't recall.

10 Q. Recall. Also mentions that you had your body-worn
11 camera active?

12 A. That's correct.

13 Q. Was that saved and uploaded when you returned to
14 the police department?

15 A. It was, yes, sir.

16 Q. Do you know if that was preserved?

17 A. That I do not know.

18 Q. That's not your responsibility, someone else deals
19 with that?

20 A. Correct.

21 Q. State showed you a bunch of pictures of the area
22 Union Heights, correct?

23 A. Yes, sir.

24 Q. Can show you what's been admitted State's 7.
25 That's Comstock Avenue?

1 A. Yes, sir. We are looking down Comstock.

2 Q. All right. And so if we're looking down?
3 Comstock, behind us is Spruill?

4 A. That's correct.

5 Q. And on the corner of Comstock and Spruill, there's
6 a corner store, is there not?

7 A. Yes, there is.

8 Q. All right. And can you -- you also see here
9 there's a stop sign?

10 A. Yes.

11 Q. So, any vehicle traveling down Comstock going in
12 the direction away from Spruill needs to stop at that stop
13 sign?

14 A. That is correct.

15 Q. And are you familiar with the area in between the
16 stop sign and that house there on the right in State's 7?

17 A. That is the roadway of Cosmopolitan.

18 Q. And when you were there that day, did you see an
19 area of trembled grass in between the stop sign and that
20 house?

21 A. Not that I remember.

22 Q. You're not aware that that's a cut through --

23 A. No, sir.

24 Q. -- before the corner store? Were you one of the
25 first officers to arrive on the scene?

1 A. I believe I was second.

2 Q. Second.

3 A. I -- I think, don't quote me on that.

4 Q. Okay. And when you arrived, you said you saw
5 Javon face down?

6 A. That is correct.

7 Q. Am I right? And are you aware of who lives at
8 that house that's right there where Javon was located?

9 A. I'm not aware.

10 Q. No one's told you who lives in that green house
11 there at the point?

12 A. No, sir.

13 MR. BISCHOFF: I don't have any more questions. Thank
14 you, your Honor.

15 THE COURT: Any re-direct?

16 MS. LINDER: No re-direct, your Honor.

17 THE COURT: All right. You may step down, sir.

18 MR. JELLICO: Thank you.

19 THE COURT: All right. State call your next witness,
20 please.

21 MS. LINDER: State calls Monique Perry.

22 THE CLERK: Please raise your right hand.

23 MONIQUE PERRY,

24 having been duly sworn, testifies as follows:

25 THE CLERK: Just have a seat and please state your full

1 name for the record spelling your last name, please.

2 THE WITNESS: Monique Perry.

3 THE COURT: Ms. Perry, you pull that mic a little
4 closer.

5 THE WITNESS: Oh.

6 THE COURT: So we can hear you.

7 THE WITNESS: Monique Perry.

8 THE COURT: Thank you.

9 THE WITNESS: Spelling of my last name is P-E-R-R-Y.

10 DIRECT EXAMINATION

11 BY MS. LINDER:

12 Q. Good afternoon, Ms. Perry.

13 A. How you doing?

14 Q. What area of town do you live in?

15 A. North Charleston.

16 Q. And are you working?

17 A. Yes.

18 Q. Where are you working?

19 A. Walmart.

20 Q. All right. I -- I'd like to go ahead and bring
21 you back to February 19 of 2022. What were you doing that
22 day?

23 A. My daughter and I, and -- and her at the time, I
24 think her daughter was one years old. Granddaughter. I
25 didn't mention that yesterday. The granddaughter as well.

1 We was going to my church to a -- a women's meeting.

2 Q. All right. And what church is that?

3 A. Jehovah Tabernacle.

4 Q. And where is that church located?

5 A. On Comstock Avenue.

6 Q. And have you been a member of that church for a
7 couple of years?

8 A. Three years.

9 Q. And are you from that neighborhood where all this
10 happened -- Comstock in your church?

11 A. No.

12 Q. How did you get over towards your church that day?

13 A. My daughter and I -- my daughter did the driving
14 because I hadn't too long got out the hospital a month prior,
15 so we got to the church in my car.

16 Q. All righty. And when you were driving down to go
17 over to -- to get over to church, did you see anything when
18 you were -- when you were riding on the way to church --
19 right there nearby?

20 A. Well, I didn't see anything until we, like, I told
21 you on yesterday, we did an illegal turn on a one-way street
22 and then parked facing the church. I saw the young man and
23 the young lady walking from the opposite direction as we did
24 the illegal turn. He was coming this way, which was on the
25 right side. And then we parked. Yeah.

1 Q. Okay. I'm just --

2 A. Okay.

3 Q. I -- I appreciate the illegal turn.

4 A. Okay.

5 Q. That's not (inaudible). All right. What I'd like
6 to do -- and I'd like to show you State's Exhibit 7 that's
7 already been admitted into evidence.

8 A. Okay.

9 Q. All right. Ms. Perry, what is this right here?

10 A. That's the church.

11 Q. That's the church?

12 A. Yes.

13 Q. Okay. And so, when you and your daughter were
14 coming and you said you did an illegal turn, that screen
15 right in front of you -- actually that same picture should
16 come up. You can use your finger and draw all over it. So,
17 if you want to kind of show us where you --

18 A. Okay.

19 Q. -- were -- what road you were coming up and
20 everything.

21 A. Well, I still don't remember the road. All I know
22 how to -- we came by Suburban Funeral Home, which was by
23 Bertha's Kitchen. And then, we would be coming this way in
24 front of the church.

25 Q. Okay. So, you're coming this way in front of the

1 church?

2 A. Yes.

3 Q. Okay.

4 A. And then -- and then right at the corner, right
5 here, we did the illegal turn, and then we parked facing the
6 church on the grass.

7 Q. So, you came in here and you got up in here?

8 A. Yes. Yes.

9 Q. All right. And then when you were coming up the
10 road and all this, did you see any other cars in this area?

11 A. No. I didn't see any car when we did a U-turn
12 when we was parked -- we was parked more toward this window
13 right here.

14 Q. Okay.

15 A. To the church at --

16 Q. And you said that you saw a -- a fellow or a
17 guy -- gentleman. I don't remember what you said.

18 A. Yeah. A gentleman and a young lady with him.

19 Q. Gentleman and a young lady?

20 A. Yes.

21 Q. And where were -- they were that -- were they back
22 down this way?

23 A. Yeah, they was coming from this way.

24 Q. So they --

25 A. They were coming from behind coming --

1 Q. -- so they were walk -- they were coming up the
2 street this way?

3 A. Yes.

4 Q. But they were back here?

5 A. Yeah. But they were back here when we did --
6 yeah, the turn.

7 Q. Okay.

8 A. Yeah.

9 Q. So, they weren't at this intersection or anything?

10 A. Not yet.

11 Q. And they weren't past that intersection when you
12 were first getting there?

13 A. Not yet, no.

14 Q. Okay. All right. After that turn -- and then you
15 pulled into that church parking lot with your daughter.

16 A. Right.

17 Q. What did you notice next?

18 A. Well, the young man -- when he got up to where we
19 was parked at because he was still a distance when we parked,
20 so he was still walking toward us. Well, was -- well that
21 side where we was parked -- and then, I don't know who he was
22 -- who was on the other side facing the side of the church
23 where we was facing. I couldn't see that far where we was
24 parked. And all he was doing -- this hand like that. Like
25 he was talking to somebody or, you know, not talking, but

1 someone opposite him. He was doing that, like, you know, the
2 same, you know, like, how we would say what's up, what's
3 going on, or whatever. But he -- that's what he was doing --
4 having his -- doing hand motions.

5 Q. All right. And what -- when -- when you saw him
6 then, you said you couldn't see anybody else further down
7 Comstock --

8 A. No. Nothing.

9 Q. -- far?

10 A. Yeah, not far. Yeah.

11 Q. Okay. But when you saw him, did he have anything
12 in his hands?

13 A. Nothing in his hands.

14 Q. Did he have a gun in his hands?

15 A. Nothing in his hand.

16 Q. Gun in his right hand?

17 A. Nothing in his hands.

18 Q. None in his left hands?

19 A. None in his hands.

20 Q. And you saw those hands?

21 A. That's all I saw.

22 Q. All right.

23 A. Yeah.

24 Q. So he's walking, nothing is in his hands?

25 A. Uh-huh.

1 Q. And where is his girlfriend at the time?

2 A. Well, she was -- he was walking ahead of her and
3 she was more behind.

4 Q. Okay.

5 A. And then, as he kept on walking and until I could,
6 you know, I couldn't see him anymore because he went a little
7 further away. I couldn't see no more. All I know he was
8 still doing his hands like that.

9 Q. Right.

10 A. And next thing I heard, a gunshot coming from the
11 opposite direction in the way he was walking.

12 Q. Okay.

13 A. Yeah.

14 Q. So let me -- let me just stick with -- with
15 State's 7 here, okay?

16 A. Okay.

17 Q. This is the one you saw earlier.

18 A. Right.

19 Q. It's already been admitted into evidence.

20 A. Right.

21 Q. So --

22 A. He was still walking, going --

23 Q. He was walking this way?

24 A. Going that way.

25 Q. You see hands, there no guns.

1 A. Yeah, no gun.

2 Q. And then, you said a gunshot coming from the
3 opposite way.

4 A. Yeah.

5 Q. What do you mean?

6 A. Okay. He's going this way and I would say, and
7 coming toward us direction.

8 Q. So the gunfire --

9 A. Was coming --

10 Q. -- was coming --

11 A. -- from the -- the left side.

12 Q. -- Comstock toward where you were?

13 A. Yeah, but I couldn't see the shooter. I couldn't
14 see the shooter.

15 Q. Couldn't see the shooter?

16 A. Yeah.

17 Q. Okay. All right. After you heard that gunshot
18 coming down Comstock towards where we all -- where -- where
19 that -- that gentleman was --

20 A. Uh-huh.

21 Q. What did he do at that point?

22 A. I couldn't see what he did at that point, but all
23 I know -- the gunfire came from the opposite direction of the
24 direction he was walking. And I heard several shots.

25 Q. Uh-huh.

1 A. And then I heard on his side that he was walking,
2 one gunshot.

3 Q. Okay. And --

4 A. But the young man who lost his life was not the
5 first shooter.

6 Q. Okay.

7 A. No.

8 Q. And then at any point, did you see that -- the
9 young man who lost his life, did you see him turn around and
10 start running back towards, like, where you all were --

11 A. Yeah.

12 Q. -- where that intersection was?

13 A. Yeah, he turned around and he started walking back
14 -- running back. And he fell in front of that house with the
15 -- with the fence on it -- around it --

16 Q. All right.

17 A. -- porch screen. And then --

18 Q. So, then I was going to show you State's 7, I'm --

19 A. Okay. Yeah.

20 Q. So at -- at some point you saw the guy who had
21 lost his life, you saw him turn around.

22 A. Yes.

23 Q. So he's facing this way?

24 A. Yeah. On the same side he on -- on the same side
25 he was going down.

1 Q. Okay. And he starts running down the street?

2 A. Yeah, when he fell right there where that house
3 at.

4 Q. Okay. Did you know the guy who ended up dying
5 that day?

6 A. No, I did not.

7 Q. Did you know the guy's girlfriend --

8 A. No.

9 Q. -- who was out there with him?

10 A. No. When the -- may I say something? Can I?

11 Q. Sure.

12 A. Okay. When the gunshot came from the opposite
13 direction, the young lady that was with him, she turned and
14 ran between the house where he fell and the other house on
15 the side.

16 Q. So she ran up that street?

17 A. Yeah.

18 Q. Right away?

19 A. Yeah.

20 Q. Okay.

21 A. Yeah.

22 MS. LINDER: All right. Beg the Court's indulgence. I
23 don't have anything further for you, Ms. Perry, if you can
24 please answer anything the Defense may have.

25 THE WITNESS: Okay.

1 MS. LINDER: Thank you.

2 THE COURT: Cross?

3 CROSS-EXAMINATION

4 BY MR. MCGUIRE:

5 Q. Good afternoon, Ms. Perry.

6 A. Good afternoon.

7 Q. You and I have talked before.

8 A. Yes.

9 Q. Pretty recently at a different hearing.

10 A. Yes.

11 Q. Thank you for being here today.

12 A. Thank you.

13 Q. How many shots did you hear total?

14 A. Well, coming this way, either it was two or three
15 shots that I heard. All I heard is -- was constantly bang,
16 bang, bang. Yeah. And I only heard one shot from the young
17 man that lost his life.

18 Q. Okay. So Javon Thomas, you think he only shot one
19 time?

20 A. Yeah.

21 Q. Okay. Do you remember your daughter when
22 Javon Thomas the deceased, when he was close to you guys in
23 the church parking lot, when he was on the street over there
24 and you were in the church parking lot --

25 A. Uh-huh.

1 Q. -- do you remember your daughter saying --

2 MS. LINDER: Objection, your Honor. Hearsay.

3 THE COURT: Sustained.

4 BY MR. MCGUIRE:

5 Q. Did your daughter want you to stay in the car?

6 A. No, we stayed in the car because when we heard
7 gunshots we wasn't getting out the car.

8 Q. Okay.

9 A. Yeah.

10 Q. Okay. Did your daughter ever express any concern
11 about the man Javon Thomas was in front of you?

12 A. No. Not to my knowledge, other than it was sad
13 that, you know, he lost his life because he was just walking
14 down the street.

15 Q. That's all she said?

16 A. Yeah, it is. Yeah

17 Q. It is.

18 A. No one want to see that.

19 Q. No.

20 A. Yeah. And I never went in the church to the
21 women's conference because he was some mother's child and I
22 wasn't going to leave him out there by himself. I didn't go
23 to where he was, but I stayed out there.

24 Q. Right.

25 A. Yeah. Because I lost my son to murder. So, I

1 know how that mother feels.

2 Q. I understand that.

3 A. Yeah.

4 Q. So you believe that Javon Thomas, the young man
5 who was deceased, fired one time?

6 A. Yes. That's what I can remember. I only heard
7 one shot.

8 MR. MCGUIRE: Thank you, Judge.

9 THE COURT: All right. Re-direct?

10 MS. LINDER: No re-direct.

11 THE COURT: All right. You step down Ms. Perry. Thank
12 you.

13 MS. M. PERRY: Thank you.

14 THE COURT: Call your next witness. Please State call
15 your next witness.

16 MS. LINDER: State calls Abigail Perry.

17 ABIGAIL PERRY,

18 having been duly sworn, testifies as follows:

19 THE CLERK: Please have a seat for me. Can you state
20 your full name for the record spelling your last name?

21 THE WITNESS: Okay. Good evening. My name is Abigail
22 Perry, P-E-R-R-Y.

23 DIRECT EXAMINATION

24 BY MS. LINDER:

25 Q. Good afternoon, Ms. Perry.

1 A. Good afternoon.

2 Q. What area of town do you live in?

3 A. North Charleston.

4 Q. And do you currently work?

5 A. I do.

6 Q. All righty. I'm going to bring you back to
7 February 19, 2022. What were you doing that day?

8 A. So that day, my mom and I, and my daughter, we
9 were attending a women's meeting outside of Jehovah
10 Tabernacle, which is a church.

11 Q. And where is that church located?

12 A. Comstock Avenue.

13 Q. And have you attended that church for a while?

14 A. I have.

15 Q. And are you from that same neighborhood where that
16 church is?

17 A. I am not.

18 Q. Did anything happen while you were driving to or
19 parking for this church meeting?

20 A. Yes.

21 Q. Let -- please tell the jury.

22 A. Okay. So that day as I was parking, we noticed
23 the -- the victim, he was arguing with someone down the
24 street, and from his body language -- we couldn't hear
25 anything because the windows were up. But from his body

1 language, he was -- it was getting intense. So we knew
2 something was, -- I told my mom to stay in the car because I
3 could feel something was about to happen. So --

4 Q. All right. And so, I just want to make sure we
5 slow this down so we get it all. How did you drive to get to
6 the church and park?

7 A. Okay. So usually I come down Meeting Street, you
8 know, past Military magnet, come down Meeting Street, turn on
9 Delaware Avenue, and then I turn on Cosmopolitan.

10 Q. All right. And then on Cosmopolitan, where did
11 you go?

12 A. I took an illegal turn on Comstock and I turn into
13 the -- the grassy area across the church.

14 Q. All right. I'm going to put State's Exhibit 7 up
15 here. These are all these big screens, but it's probably
16 going to be easiest for you to see it right in front of you
17 on that screen. That is a touch screen. So if you touch it,
18 just be aware --

19 A. Okay.

20 Q. -- key things, which is okay, we can always delete
21 that stuff.

22 A. Okay.

23 Q. But so, I'm going to make sure that I fully
24 understand. On the top here, what -- what is this right
25 here?

1 A. That's Jehovah Tabernacle.

2 Q. Okay. And then, what is this road?

3 A. That's Comstock.

4 Q. All right. And then, which road were you coming
5 down to go to church?

6 A. I was coming down Cosmopolitan.

7 Q. Is that this road -- that?

8 A. Yes.

9 Q. And is this a one-way road?

10 A. Yes.

11 Q. Are these roads pretty narrow?

12 A. Yeah, they are.

13 Q. Okay. So, you're going down Cosmopolitan. And
14 then, what do you do here?

15 A. I make a right turn onto Comstock.

16 Q. Okay. And then come into the church lot?

17 A. Yes.

18 Q. All right. When you're coming down Cosmopolitan,
19 do you see any other cars over in this area?

20 A. No.

21 Q. When you're turning down the wrong way down
22 Comstock, was the car on your way down here?

23 A. No.

24 Q. Okay. So you're coming down Cosmopolitan, you got
25 quick little loop.

1 A. Yes.

2 Q. On Comstock to get into the -- into the parking
3 lot. Do you see any people on Comstock at that time?

4 A. Yes, I saw the victim and his girlfriend.

5 Q. Okay. So you saw a -- a young fellow and his
6 girlfriend. Were they up here on this side of Comstock or
7 were they back here?

8 A. Where your finger is.

9 Q. Okay. So, this is like 1996?

10 A. Yes.

11 Q. All right. So, you saw a guy and his girlfriend
12 standing there by 1996?

13 A. Yes.

14 Q. And when they were standing there at 1996, did --
15 did he have a gun out?

16 A. No, he did not.

17 Q. Okay. So what happened from when they were there
18 on 1996? Did they just stay there the whole time or where'd
19 they go?

20 A. So, he was arguing with someone down the street.
21 Eventually he started moving further up Comstock approaching
22 who was down there. His girlfriend was also going in that
23 direction, but she was a good distance behind him.

24 Q. Okay.

25 A. He made it past the stop sign, past a little ways,

1 past the blue house.

2 Q. Okay. This -- is this the blue house?

3 A. Yes.

4 Q. Okay. Got it.

5 A. And then --

6 Q. And where was the girlfriend?

7 A. She was right by the stop sign. She didn't pass
8 it. She was just --

9 Q. She didn't --

10 A. Uh-uh.

11 Q. -- she didn't go up there?

12 A. No, she did not.

13 Q. Okay. So as he crossed over the intersection and
14 is walking up past that blue house, I believe you said your
15 windows were up, but you could tell it -- his body language
16 he was arguing?

17 A. Yes.

18 Q. All right. And when he was arguing, did he have
19 anything in his hands?

20 A. He did not.

21 Q. Did he have a gun in his right hand?

22 A. He did not.

23 Q. The gun in his left hand?

24 A. He did not, no.

25 Q. Did he have a -- did he have a holster that you

1 could see on the front of his waistband?

2 A. No, he had sweats on, so -- and he neither had
3 pockets on it, so no.

4 Q. Okay. Okay. All right. And when you first saw
5 the -- the guy who died and his girlfriend, were they, like,
6 in the middle of the street here -- oops, I'll (inaudible).
7 Were they in the middle of the street or were they kind of
8 over here off the edge?

9 A. You talking about after he was walking?

10 Q. No. When you first were driving up?

11 A. When I first were driving up, they was kind of on
12 the edge.

13 Q. They were -- they were up -- they were up on the
14 edge there. Correct. Okay. All right. So then -- so then
15 you see the guy who ended up being killed, you see him
16 walking up the street?

17 A. Yes.

18 Q. Is he running up the street?

19 A. No.

20 Q. Is he -- is he, like, power walking up the street?

21 A. No, he's not.

22 Q. No.

23 A. Uh-uh.

24 Q. Walking up the street?

25 A. He's walking.

1 Q. All right. Nothing in his hand?

2 A. Nothing in his hand.

3 Q. All right. So, what was the next thing you heard?

4 A. So as he was walking up the street, we heard a
5 gunshot coming from further up Comstock.

6 Q. And what direction is that coming? Where -- where
7 is further up Comstock? It's further --

8 A. Past the church.

9 Q. -- Comstock here? Past, so further up Comstock
10 here?

11 A. Yes.

12 Q. Okay. All right. So you hear a gunshot from up
13 that direction?

14 A. Yes.

15 Q. And then what did -- what did the guy you could
16 see -- what did he do as a result?

17 A. I see him when -- we heard the shot, I seen him,
18 he had his gun in his hand. He quickly pulled it out.

19 Q. Right.

20 A. Because like I said, he had on sweats.

21 Q. Right.

22 A. But when I looked up, he had his gun in his hand
23 and then he also fired back.

24 Q. Oh, so -- so after that gunshot, he quickly pulled
25 out his gun and then he fired back?

1 A. Yes.

2 Q. Okay. And when he fired back, was he walking
3 further down Comstock for where that first gunshot was coming
4 from?

5 A. At first he was, yes. And then, once also too,
6 when he was firing back, then he started to back, he started
7 to --

8 Q. And then he was backing up?

9 A. Yes.

10 Q. So he was backing up -- backing up and then what
11 happened when he stopped firing?

12 A. He turned and he was going back to originally
13 where he was.

14 Q. Okay. When you say he turned, I mean, does -- is
15 he turned a little bit?

16 A. He fully turned.

17 Q. He fully turn.

18 A. He fully turned.

19 Q. So his back is where he was just facing?

20 A. Yes. His back was to the shooter.

21 Q. And is -- is he then slowly walking?

22 A. No. He -- he kind of ran a little bit.

23 Q. He was running, okay.

24 A. Yes.

25 Q. And then what happened?

1 A. The shooter was still firing his shots, and then
2 one of the bullet caught the victim, and he end up, you know,
3 sliding --

4 Q. Okay.

5 A. -- through the corner of the blue house.

6 Q. All right. When you were there watching this, did
7 you notice any -- any car here at the stop sign?

8 A. I saw one car. It was like burgundy color. It
9 was an older lady.

10 Q. Okay.

11 A. When she heard the -- the shot she actually backed
12 up Cosmopolitan and turned around.

13 Q. Was there any other car up here?

14 A. Not that I'm aware of. I want to say it probably
15 was a tan one too, but he drove past the stop sign.

16 Q. So he -- he drove -- he drove up Comstock?

17 A. Yep.

18 Q. Okay.

19 A. Cosmopolitan.

20 Q. Oh, Cosmopolitan, thank you.

21 A. You're welcome.

22 Q. Cosmopolitan.

23 MS. LINDER: Beg the Court's indulgence. I don't have
24 anything further for you. You can answer anything the
25 Defense may have.

1 THE WITNESS: Okay.

2 MS. LINDER: Thank you.

3 THE COURT: Cross?

4 MR. MCGUIRE: Thank you, Judge.

5 CROSS-EXAMINATION

6 BY MR. MCGUIRE:

7 Q. Good afternoon Ms. Perry.

8 A. Good afternoon.

9 Q. Have you and I -- have talked before?

10 A. Yes.

11 Q. In another hearing, right?

12 A. Yes.

13 Q. Okay. I'm going to ask you the best I can ask you
14 -- the exact same questions and get the exact same answers
15 from you, okay?

16 A. Okay.

17 Q. So when you get to the church?

18 A. Yes.

19 Q. Did you see a silver Jeep, like, below the stop
20 sign or speed down the road or --

21 A. No.

22 Q. No. Nothing like that?

23 A. No.

24 Q. You didn't see the -- you didn't see a Jeep go
25 close to these two people that were walking?

1 A. No.

2 Q. Okay. Didn't see that at all?

3 A. At all.

4 Q. All right. And you saw the person, the deceased,
5 the fellow that ended up dying, you saw that he was arguing?

6 A. Yes.

7 Q. And he was angry?

8 A. Yes.

9 Q. And his behavior -- his body language put you at
10 unease?

11 A. Yes.

12 Q. And you actually wanted your mom to stay in your
13 car?

14 A. Yes.

15 Q. And you didn't know this person at all?

16 A. Didn't know him.

17 Q. But just by looking at his body language and his
18 anger, you considered him a threat?

19 A. By his body language, I could -- I could tell he
20 was arguing with someone. I wouldn't say he wasn't a -- a
21 threat to me, no.

22 Q. Oh, no. He wasn't focused on you?

23 A. No.

24 Q. He was just angry and arguing. And his body
25 language made it look like he was angry?

1 A. Yes.

2 Q. Not at you?

3 A. No.

4 Q. But somebody else?

5 A. Yeah.

6 Q. And he started walking to that somebody else down
7 the road, right?

8 A. Yes.

9 Q. And he was angry and gesturing with his hands?

10 A. Yeah.

11 Q. And he -- he's marching towards that person down
12 the street. You don't know who that is, right?

13 A. I do not.

14 Q. You just know there's another person down the
15 street, but he's marching towards that person, right?

16 A. Yes.

17 Q. And you hear a shot?

18 A. I did.

19 Q. And he kept on marching?

20 A. At that time, he pulled out his gun when he -- he
21 heard the -- when we heard the first shot, down past the
22 church on Comstock, that's when he had his gun in his hand.

23 Q. And he pointed it at that other person?

24 A. Yes.

25 Q. And you said he went forward a little bit like

1 this shooting --

2 A. Shooting, yes.

3 Q. But then, he started to go backwards shooting --

4 A. Yes.

5 Q. And he shot more than one time?

6 A. Yes.

7 Q. And when he stopped shooting his first round, his
8 first volley, he continued to walk backwards, right?

9 A. Yes.

10 Q. And that was for some -- some steps. He was
11 walking backwards still facing the other guy?

12 A. Yes.

13 Q. And you called the house on the corner the -- the
14 blue house, right?

15 A. Yes.

16 Q. And that's right there at the corner where the
17 church is, right?

18 A. Yes.

19 Q. And he was doing his walking backwards thing and
20 he got off another shot, right?

21 A. Not by the blue house. Before he turned, he was
22 firing walking backwards. But before he got to the blue
23 house, the corner -- the blue house on the corner, that's
24 when he fully turned and then he started running.

25 Q. Right. He didn't fully turn until he got to the

1 house on the corner?

2 A. So he got close to it.

3 Q. Right. The car that you saw at the -- the
4 intersection, did you see somebody in it filming with her
5 phone?

6 A. No.

7 Q. Have you ever seen the video of the shooting in
8 this case?

9 A. One time.

10 Q. On Facebook? Social media?

11 A. No, not on social media.

12 Q. The Prosecutor showed it to you?

13 A. Yes.

14 Q. They didn't want you to rely on your own memory?

15 A. I don't think that --

16 MR. MCGUIRE: That's all I have for you, ma'am.

17 THE COURT: Any re-direct?

18 MS. LINDER: Just very -- very briefly.

19 RE-DIRECT EXAMINATION

20 BY MS. LINDER:

21 Q. When you first -- if State was law enforcement --
22 and it's your testimony today that was the guy who died?

23 A. Yes.

24 Q. Did he have a gun in his hand when you heard the
25 --

1 MR. MCGUIRE: Your Honor, re-direct.

2 MS. LINDER: Pardon?

3 MR. MCGUIRE: It has to be addressing issues that I
4 brought up in cross.

5 THE COURT: We got to keep it within whatever came up
6 at cross.

7 MS. LINDER: Can we approach?

8 THE COURT: Yes.

9 (Bench conference.)

10 THE COURT: All right. I'm going to overrule that
11 objection and just keep it within the direct examination.
12 Thank you.

13 MS. LINDER: Thank you, your Honor.

14 THE COURT: I mean the cross-examination, sorry.

15 BY MS. LINDER:

16 Q. At what point did you see the guy who died pull
17 out his gun?

18 A. After the first shot was taken from down the
19 street, past the church on Comstock.

20 Q. And after the fellow who ended up dying, after
21 being shot by this Defendant, did he end up -- before being
22 shot, turning all the way away and going the opposite
23 direction --

24 A. Yes.

25 Q. -- from the shooter?

1 A. Yes.

2 MS. LINDER: I have nothing further.

3 THE COURT: Anything else?

4 MR. MCGUIRE: No more questions.

5 THE COURT: All right. You may step down.

6 MS. A. PERRY: Thank you.

7 THE COURT: All right. Ladies and gentlemen, we're at
8 about an hour and 20 minutes. I told you we'll probably get
9 a break every hour to hour and a half. So, I think this is a
10 good time for our -- our afternoon break. Please go in there
11 and refresh yourselves as I already instructed you before.
12 Please do not -- you cannot discuss the case. Like I said,
13 we're just -- the evidence is coming in at this time. Please
14 do not discuss the case and -- and stay away from any type of
15 social media or any type of cell phones. Thank you very
16 much. You can take your half.

17 (Jury exits courtroom.)

18 THE COURT: All right. We're going to take our
19 afternoon break. I will remind the State and Defense that in
20 our prior ruling on the calling Mr. Thomas, the victim in the
21 case. I know that it's very difficult as we discussed
22 pretrial, but I would just reiterate my ruling that we need
23 to talk to the sequestered witnesses, go over that
24 information with them. I would appreciate you doing that.

25 MS. LINDER: And -- and, your Honor that I would say

1 that after your ruling, we did reach out and tell
2 everybody -- the lay witnesses and everybody else as your
3 Honor saw, I -- I never -- I kept trying to correct it with
4 Abigail, I think Monique was fine with it, but we will during
5 this break, we alarm in that same thing.

6 THE COURT: I appreciate that. Thank you.

7 MS. LINDER: Thank you.

8 THE COURT: Anything further before we take a break?

9 MS. LINDER: Nothing from the State.

10 MR. MCGUIRE: No, your Honor.

11 THE COURT: We'll be -- we'll be at ease 15 -- about
12 15 minutes.

13 (Off the record.)

14 THE COURT: All right. For kind of planning purposes
15 of -- of where we are. Can you tell me -- you know, I think
16 we probably go another hour or so? I didn't know how many
17 witnesses you think you could --

18 MS. LINDER: So --

19 THE COURT: -- improve.

20 MS. LINDER: We have -- we have plenty of people out
21 here. We can always send them away.

22 THE COURT: Okay.

23 MS. LINDER: We have Jessica Duncan who's a 911 caller.

24 THE COURT: All right.

25 MS. LINDER: I -- I would think she would be short. I

1 don't think there's a whole lot to cross her on.

2 THE COURT: Okay.

3 MS. LINDER: I know our testimony will be short. They
4 may have a different idea. We have -- she should be getting
5 here soon, but we are going to try to get Dr. Presnell done
6 today for her schedule again. I wouldn't think that Presnell
7 would take a long time, but I -- I don't know.

8 THE COURT: All right.

9 MS. LINDER: We have Javon's girlfriend,
10 Antoniya Singleton here. We have Sam Souther, who's the one
11 who arrested the Defendant here. We have -- that's the
12 order.

13 THE COURT: Well, that's -- that's probably -- would
14 take us through an hour easy, I mean.

15 MS. LINDER: Right. So I -- I -- we have all this, we
16 have more people, but we could send them home. We could send
17 certain people home, but --

18 THE COURT: Well, I don't -- I'm not going to get in
19 your -- you know, your business if I -- your, you know who
20 you call and when you call them, I'm not -- I'm not trying to
21 do that. I just was trying to get an idea of, you know, if
22 -- or kind of want to give you an idea that I want to try to
23 close this down. Like I -- I mentioned yesterday, I -- I
24 don't want to try to interrupt a cross if we can help it.

25 MS. LINDER: Yes.

1 THE COURT: But I also don't want to keep this jury. I
2 would like us to be trying to shoot for 4:45 to get them
3 back.

4 MS. LINDER: Got it.

5 THE COURT: I've got to grab one thing out of my office
6 and I'll be right back, and then we'll bring the jury up.

7 MS. LINDER: Perfect.

8 THE COURT: We've got one thing. Thank you. All
9 right.

10 (Off the record.)

11 MS. LINDER: The State ready to proceed, your Honor.
12 During the break, I just want to let, your Honor, know and I
13 let the Defense know that we did myself -- all of us will try
14 to tell our witnesses, do not say "victim". We were
15 reminding them that we've already told them. We just wanted
16 to let the Court know.

17 Also, I have meant to ask if the Perrys can be released
18 from their subpoena for the rest of the week?

19 THE COURT: Any objection to the Perrys being released
20 for the week?

21 MR. MCGUIRE: No objection.

22 THE COURT: All right. Without objection --

23 MS. LINDER: Okay.

24 THE COURT: -- they may be released.

25 MS. LINDER: Thank -- thank you your Honor.

1 THE COURT: You welcome.

2 MS. LINDER: That's all we have right now.

3 THE COURT: All right. Defense ready?

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: All right. Let's bring the jury.

6 THE BAILIFF: Yes, your Honor.

7 (Jury enters courtroom.)

8 THE BAILIFF: Judge, all jurors are present and seated.

9 THE COURT: Thank you, sir.

10 You -- you may be seated. Hope you enjoyed your --

11 your break. We're -- we're ready to continue.

12 State call your next witness, please.

13 MS. LINDER: State calls Jessica Duncan.

14 THE COURT: All right.

15 JESSICA DUNCAN,

16 having been duly sworn, testifies as follows:

17 THE CLERK: State your full name for the record

18 spelling the last name please.

19 THE WITNESS: Jessica Duncan, D-U-N-C-A-N.

20 DIRECT EXAMINATION

21 BY MS. OUTTEN:

22 Q. Good afternoon, Ms. Duncan.

23 A. Hi.

24 Q. What area of town do you live in?

25 A. North Charleston in Union Heights.

1 Q. And what specifically is your address?

2 A. 2021 Comstock Avenue, North Charleston,
3 South Carolina 29405.

4 Q. And when did you move into that area?

5 A. In May of 2021.

6 Q. And do you still currently live there?

7 A. Yes, ma'am.

8 Q. So bringing you back to February 19, 2022, do you
9 remember that day at all?

10 A. Yes, ma'am.

11 Q. And can you just sort of generally describe or
12 explain what you saw or heard that day?

13 A. Yes, ma'am. It was on the weekend, so I was
14 outside gardening and I just came -- I had just come inside
15 from gardening and I heard gunshots outside of my house, so I
16 went to the window in my living room facing out onto the
17 street. And I saw a shooter standing outside of his car
18 facing back up the street the way he had just came, shooting
19 in that direction which would be east.

20 Q. And did you see anyone else in the vehicle with
21 him?

22 A. I did see a female in the passenger seat.

23 Q. And so, just kind of backing up and sort of
24 breaking this down, where -- where in your house were you
25 when you witnessed this?

1 A. So coming in the front door which is right on
2 Comstock Avenue, it opens into my living room. So, I was in
3 my living room.

4 Q. And about how far away, if you're standing in your
5 living room window, are you from Comstock Avenue?

6 A. From Comstock Avenue, we don't have sidewalks so I
7 can't even fit my car between my house and the road. So,
8 it's less than a car-length distance.

9 Q. And so where -- if you're looking out your window
10 and there's no sidewalks and you see a vehicle, where is that
11 vehicle in proximity to the edge of your property or -- or to
12 your house?

13 A. So my front door -- there's a porch maybe about
14 two feet wide. There's probably maybe four feet of grass.
15 And then the road starts. So, if the vehicle is on the road
16 and someone's stepped outside of the vehicle and is standing
17 on the road, they're within a couple inches or sometimes on
18 my grass.

19 Q. And did you notice while you were out gardening --
20 did you notice that vehicle before?

21 A. No, while I was in the yard, I did not.

22 Q. Can you describe the man that you saw outside of
23 the Jeep?

24 A. Outside of the Jeep, it was a black man wearing a
25 red Five Guys shirt with a white undershirt.

1 Q. And had you ever seen him before?

2 A. No, ma'am.

3 Q. And had you ever seen -- you referenced a
4 passenger in the vehicle, you ever seen her before?

5 A. No, ma'am.

6 Q. So what did you -- in response to what you saw,
7 what did you do?

8 A. So I really -- I froze. I hear the shots, I go to
9 the window. I'm -- I'm looking at the guy standing outside
10 of his vehicle. He turns and looks at me, and we just lock
11 eyes. And then he -- I'm sorry, what was the question?

12 Q. That -- that --

13 A. That's it?

14 Q. Yes.

15 A. Okay.

16 Q. And -- and then did you do anything else after --
17 so after you see this, what did you do?

18 A. So he gets in the vehicle and drives away. I go
19 to my front door and I open the door to see if there was
20 anything going on down the street, and there was a body
21 laying down on the side of the street. And then -- so I go
22 inside and I call 911.

23 Q. Did you try to write anything down before you made
24 your call to 911?

25 A. I did. So as the vehicle was pulling away, I got

1 the license plate and I ran to the refrigerator, and grabbed
2 a dry erase marker and wrote down the license plate number.

3 MS. OUTTEN: Can I approach the witness, your Honor?

4 THE COURT: You can approach the witness.

5 BY MS. OUTTEN:

6 Q. I'm going to show you what's been marked for
7 identification as State's Exhibit 6.

8 A. Yes, ma'am.

9 Q. Do you recognize that disc?

10 A. Yes, ma'am.

11 Q. And how do you recognize it?

12 A. This is a copy of the 911 call that you played for
13 me in your office -- of my 911 call.

14 Q. And are your initials on that disc?

15 A. Yes, ma'am.

16 Q. And is -- and you -- and you referenced you've
17 listened to it before today?

18 A. Yes, ma'am.

19 Q. And it's a fair and accurate copy of that call
20 that you listened to?

21 A. Yes, ma'am.

22 MS. OUTTEN: All right. This time the State offers
23 exhibit -- into evidence Exhibit 6.

24 THE COURT: Any objection?

25 MR. MCGUIRE: No objection.

1 THE COURT: All right. Exhibit --

2 State's Exhibit number 6 is entered without objection.

3 (State's Exhibit 6 admitted into evidence.)

4 MS. OUTTEN: Permission to publish, your Honor?

5 THE COURT: Yes, you may.

6 MS. OUTTEN: Beg the Court's indulgence, your Honor,
7 just having a little technology issue.

8 THE COURT: Okay.

9 (Video playback starts.)

10 UNIDENTIFIED SPEAKER: 911, what's the address of the
11 emergency?

12 MS. DUNCAN: 2021 Comstock Avenue.

13 UNIDENTIFIED SPEAKER: Thank you, ma'am.

14 MS. DUNCAN: It -- on the corner Comstock and
15 Cosmopolitan.

16 UNIDENTIFIED SPEAKER: Thank you, ma'am. Okay. Tell
17 me what happened?

18 MS. DUNCAN: So a guy in a Compass, it was kind of
19 like, a grey color stopped in front of my house and started
20 doing shots at the corner across Cosmopolitan and Comstock.
21 And there's a guy --

22 UNIDENTIFIED SPEAKER: Ma'am, when you say you put
23 someone shots, was he shooting?

24 MS. DUNCAN: I'm sorry, shooting, yes.

25 UNIDENTIFIED SPEAKER: Ma'am, and when did this occur?

1 MS. DUNCAN: Just now. People are walking down to the
2 body right now.

3 UNIDENTIFIED SPEAKER: I'm sorry. The body?

4 MS. DUNCAN: Yes, there's a body on the ground.

5 UNIDENTIFIED SPEAKER: Okay. Give me one moment.
6 Update that (inaudible). And while did you (inaudible) can
7 you repeat that address for me for verification?

8 MS. DUNCAN: I live at 2021 Comstock Avenue. The
9 person is down the street on the corner of Comstock and
10 Cosmopolitan.

11 UNIDENTIFIED SPEAKER: Thanks, ma'am. Just give me one
12 moment to update this, I'll be back. Okay. It looks like we
13 do have -- we do have a call (inaudible). We do have help on
14 the way.

15 MS. DUNCAN: I have a description of the driver in the
16 car, the getaway car.

17 UNIDENTIFIED SPEAKER: Okay. Ma'am.

18 MS. DUNCAN: He was a black male in a Five Guys shirt.
19 The outside shirt was red and he had a white undershirt
20 underneath it. And he had a girl in the passenger seat who
21 was also black. She had longer hair with braids. And then I
22 had the license plate. Alexa, turn off the timer.

23 UNIDENTIFIED SPEAKER: A black male in a red Five Guys
24 shirt and another (inaudible) in the passenger seat?

25 MS. DUNCAN: Yes.

1 UNIDENTIFIED SPEAKER: Of the Jeep Compass?

2 MS. DUNCAN: Yes.

3 UNIDENTIFIED SPEAKER: Ma'am, and you advise you have
4 the tag number for that vehicle?

5 MS. DUNCAN: I do. It is Victor Frank, I can't read my
6 writing if that's an I or one, and the number 416.

7 UNIDENTIFIED SPEAKER: (Inaudible) number plate?

8 MS. DUNCAN: Yes.

9 UNIDENTIFIED SPEAKER: Again, we'll update with that
10 information. We appreciate you more, ma'am. We'll locate
11 the suspect.

12 MS. DUNCAN: All right. Thank you.

13 UNIDENTIFIED SPEAKER: No problem and can get your
14 name?

15 MS. DUNCAN: Jessica Duncan.

16 UNIDENTIFIED SPEAKER: Thank you, Ms. Duncan. Okay.
17 (Inaudible) with that information (inaudible).

18 MS. DUNCAN: All right.

19 UNIDENTIFIED SPEAKER: Appreciate you calling 911.

20 MS. DUNCAN: You're welcome.

21 (Video playback ends.)

22 MS. OUTTEN: Ms. Duncan, I don't have any further
23 questions for you, but please answer any questions that
24 Defense Counsel may have.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Cross?

2 MR. MCGUIRE: Thank you, Judge.

3 CROSS-EXAMINATION

4 BY MR. MCGUIRE:

5 Q. Good afternoon, Ms. Duncan.

6 A. Good afternoon.

7 Q. My name is Will. I represent Courtney. Thank you
8 for calling 911 that day and I (inaudible) what you did.

9 After that call, did you go outside and see the person
10 who had been shot?

11 A. I did not walk down to the body.

12 Q. Okay. Did you see his gun?

13 A. Whose gun?

14 Q. The person who died.

15 A. Did I see the person who died gun?

16 Q. Yeah. Did you ever see him with a gun or shot?

17 MS. OUTTEN: Objection, Judge. I believe that she
18 indicated that she didn't walk down to the body so she had
19 seen anything.

20 THE COURT: I'm going to allow it. Overruled.

21 BY MR. MCGUIRE:

22 Q. So my -- my question is, you did see a person
23 deceased on the ground or a person on the ground?

24 A. Yes, sir.

25 Q. And did you ever see that person with a gun?

1 A. Did I ever see that person with a gun? No.

2 Q. You've never saw that person with a gun?

3 A. I don't know if I've seen that person before. I
4 didn't walk down to the body.

5 Q. Okay. No, no, no. I'm not saying before that day
6 when you made your 911 call -- the person who was on the
7 ground, did you see that person with a gun at the time?

8 A. Have I ever seen that person with a gun? No.

9 Q. Okay. Or shoot?

10 A. No.

11 Q. Okay. So you just saw what happened in front of
12 your house?

13 A. All I could see was what was right outside my
14 window, and then I opened the door, the driver's gone and the
15 body's on the corner.

16 Q. Okay. And the person that was by the Jeep have a
17 Five Guys burgers shirt on?

18 A. Yes, sir.

19 Q. And this happened pretty quickly?

20 A. Yes, sir.

21 Q. I mean, very quickly -- how quickly do you
22 remember?

23 A. It seems within seconds, how quickly did what --
24 the whole incident take place?

25 Q. Yeah. From the first shot you heard to the first

1 moment you saw him leaving.

2 A. I would think seconds.

3 MR. MCGUIRE: Okay. That's all I have for you. Thank
4 you.

5 THE WITNESS: All right. Thank you.

6 THE COURT: Any re-direct?

7 MS. OUTTEN: No re-direct, Judge.

8 THE COURT: All right. You can step down.

9 MS. DUNCAN: Thank you.

10 MS. OUTTEN: And, Judge, we also ask this witness to be
11 released from the subpoena.

12 MR. MCGUIRE: No objection.

13 THE COURT: All right. You're released. Thank you.

14 All right. Call your next witness, please.

15 MS. LINDER: State calls Sam Souther.

16 SAMUEL STEVEN SOUTHER,

17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name for the record.

19 Spelling your last name, please.

20 THE WITNESS: Samuel Steven Souther, S-O-U-T-H-E-R.

21 DIRECT EXAMINATION

22 BY MS. LINDER:

23 Q. Good afternoon.

24 A. Afternoon.

25 Q. Where are you currently employed?

1 A. North Charleston Police Department.

2 Q. And how long have you been with
3 North Charleston Police Department or law enforcement in
4 general?

5 A. Law enforcement since 2006. North Charleston
6 since 2008.

7 Q. And what are your current duties?

8 A. I'm the sergeant and supervisor over the
9 North Bureau evenings, team two.

10 Q. And what was your position and duties back in
11 February of 2022?

12 A. I was a task force officer for the
13 US Marshal Fugitive Task Force.

14 Q. Will you please tell the jury a little bit about
15 your education, training, and experience?

16 A. I have an associates in criminal justice from
17 Katy County. I went -- I grew up in Kansas. I went to
18 Kansas State University after that. Whenever I joined the
19 police department I -- I first started out in Mount Pleasant,
20 came over to North Charleston in 2008.

21 I did a short stint on patrol. I was on a vice unit
22 for six years, went to a fugitive unit. From there I joined
23 the SWAT team in 2016. Currently, I'm still on
24 SWAT Harbor Unit. I was with the
25 US Marshals Fugitive Task Force for seven years and recently

1 got promoted and put back on -- on the street.

2 Q. So were you involved with this case
3 State versus Courtney Richards in any way?

4 A. Yes.

5 Q. And how did you first get involved with this case?

6 A. So the detectives with North Charleston contacted
7 me and requested assistance in locating and apprehending the
8 subject.

9 Q. And this is after arrest warrants have already
10 been sworn out for his arrest?

11 A. Yes.

12 Q. All right. And can you tell the jury as much as
13 you can, as far as the steps that you took in order to serve
14 those warrants on Mr. Richards?

15 A. So I -- I gather intelligence in various different
16 ways and ultimately with -- in hopes to locate and apprehend
17 that person safely.

18 Q. And after gathering intel, when and where did you
19 act on apprehending Mr. Richards? Where -- where was he
20 living?

21 A. So it was February -- February 24, 2002.
22 Conducted surveillance at 27 or 275 East --
23 North East 9th North Street in Summerville, so...

24 Q. All right. And was it just you by yourself
25 conducting the surveillance?

1 A. No, ma'am. We had our whole task force including
2 various people from different agencies, but I was the -- the
3 main eyes on the -- the building where I believed him to be
4 in.

5 Q. All right. And did you observe the Defendant that
6 day?

7 A. Yes, I did.

8 Q. You can tell the jury about that. What happened?

9 A. It was about 8:20 in the morning. I observed the
10 Defendant exit building 16 and get into a Jeep -- grey
11 Jeep Compass and leave the area.

12 Q. And who was that Jeep registered to?

13 A. To the Defendant.

14 Q. And did you arrest him as soon as you saw him that
15 morning?

16 A. No, ma'am. In surveillance situations like that,
17 we are typically spread out because we don't want to be all
18 bunched up in one spot and be obvious. So he was able to get
19 into the car and get out of the area, and once we kind of
20 found a safe place to kind of converge on him, he had pulled
21 into a parking lot, and we had apprehended him there.

22 Q. All right. And where did you end up arresting
23 him?

24 A. It was [REDACTED] North Main Street in Summerville.

25 Q. All right. And was this a business or a house?

1 A. It was a restaurant. It was a
2 Five Guys burgers and fries.

3 Q. And when you arrested the Defendant for the
4 outstanding murder and weapon warrant, was anything seized?

5 A. Yes, ma'am. We -- we seized the vehicle because I
6 was advised that it was used the night of the homicide and
7 also a -- a cell -- iPhone. It was like a blue iPhone.

8 Q. All right. This time I'll show you what's been
9 marked as State's Exhibit 24. Do you recognize that?

10 A. Yes, ma'am. Yeah, we --

11 Q. How do you recognize it?

12 A. We took it off of his person.

13 Q. And does it appear substantially the same
14 condition as it did when you took it off his person back in
15 February of 2022?

16 A. Yes, ma'am.

17 MS. LINDER: Thank you, your Honor. May it please the
18 Court? At this time, the State would seek to admit
19 State's 24 into evidence.

20 THE COURT: Any objection?

21 MR. MCGUIRE: No objection.

22 THE COURT: State's Exhibit 24 is entered into evidence
23 without objection.

24 (State's Exhibit 24 admitted into evidence.)

25 MS. LINDER: Beg Court's indulgence. I don't have

1 anything else for you. You can answer anything Defense may
2 have.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Cross?

5 MR. BISCHOFF: Thank you, your Honor.

6 CROSS-EXAMINATION

7 BY MR. BISCHOFF:

8 Q. Good afternoon.

9 A. Hey.

10 Q. So you were part of the task force?

11 A. Yes.

12 Q. Around this time.

13 A. Yeah.

14 Q. Back in February of 2022, correct?

15 A. Uh-huh.

16 Q. And when you're part of the task force, were you
17 still a North Charleston Police Department officer?

18 A. Yeah, so I'm -- I'm still employed by
19 North Charleston. I'm -- it's a -- I'm deputized in with the
20 US Marshal as a special deputy. The US Marshals pay for all
21 the training, pay for all overtime, pay for gear, pay for
22 everything to enable us to go all around the state and even
23 outside of the state.

24 Q. And how many other officers were in your task
25 force in February of 2022? To the best of your recollection.

1 A. Task force guys or full-time everything?

2 Q. Well --

3 A. It's -- it's hard for me to say because the -- the
4 full-time marshals rotate in and out, so I can't say
5 100 percent how many full-time marshals were there that day.
6 But I can tell you that I represented North Charleston. We
7 had Summerville represented, Berkeley County, Charleston
8 County, and Charleston City.

9 Q. So were you the only
10 North Charleston Police Department officer on the task force
11 --

12 A. Yes.

13 Q. -- at that time?

14 A. Yes.

15 Q. And so the way that it works is, if a warrant is
16 obtained by one of your colleagues for the
17 North Charleston Police Department, they get a judge to sign
18 it?

19 A. Uh-huh.

20 Q. Correct?

21 A. Yes.

22 Q. And then they put that warrant into a system.
23 That system's called NCIC; is that correct?

24 A. They -- they can or they -- or they could just
25 hand it straight to me so I can work it.

1 Q. Well, but --

2 A. But, yes. Essentially.

3 Q. NCIC, let's other officers know that there may be
4 a pending warrant for a particular person and maybe --

5 A. Correct.

6 Q. -- (inaudible) out?

7 A. Yeah. Correct.

8 Q. And the officer that actually gets the warrant
9 from the judge, they're not the ones that go out into the
10 field and serve the warrant?

11 A. Correct.

12 Q. And so --

13 A. No. Well, I can't say --

14 Q. They can.

15 A. They can, yes, but --

16 Q. You're there to help --

17 A. That's my main --

18 Q. -- is your main job.

19 A. Yeah, that's my main job.

20 Q. Okay. So do you -- around February of 2022, would
21 you typically go out each day and serve a warrant? You
22 testified earlier about the whole task force was helping you.

23 A. So it -- it completely depends on how many cases
24 I'm working at that time. Depends on how -- how much
25 traction I have on whatever particular case. Each case that

1 I get, I -- I work individually, it's just mine. I develop
2 the information on where I -- you know, where that person's
3 going to be. Once I -- once I can say this person is right
4 here, that's when we all come together as a task force and
5 then make the arrest.

6 Q. Got it. And you have a team that helps you --

7 A. Yes. Yeah.

8 Q. -- go and serve that warrant?

9 A. Yeah.

10 Q. Do you remember when you started working on the
11 task of serving Courtney Richards with his warrant?

12 A. I -- I can't tell.

13 Q. You can't tell?

14 A. There were so many cases throughout seven years.
15 I'm not sure.

16 Q. I understand. And you didn't -- you don't
17 document that. It's just -- you take them as you go sort of
18 at the time --

19 A. It's -- I mean -- so I -- I recollect it not being
20 that difficult of a case, so I don't believe it took that
21 long. So once I got the -- the warrant itself, I -- I can't
22 testify exactly how much time, but it wasn't that much time.

23 Q. Okay. Now, you also testified earlier about, you
24 know, some things that you guys do to maintain safety to
25 ensure that your unit is safe.

1 A. Uh-huh.

2 Q. Because apprehending people can be a dangerous
3 task; is that correct?

4 A. Uh-huh. Yes.

5 Q. And when you're on assignment, you typically take
6 multiple officers with you that are armed?

7 A. Yes.

8 Q. You guys have weapons?

9 A. Yes.

10 Q. And when you're apprehending someone, you don't
11 necessarily know whether they would be armed and if would
12 have a gun by their person?

13 A. Correct.

14 Q. And is it sort of like you see in the movies,
15 where if you're trying to walk up on somebody, you have your
16 guns drawn?

17 A. Not always.

18 Q. It depends.

19 A. But it -- it completely depends on the situation.

20 Q. In this case, you were doing surveillance on
21 Mr. Richards and you followed him from an apartment complex
22 to Five Guys, right?

23 A. Yes, sir. Yeah.

24 Q. But if you see a person who's out in the -- the
25 field and you're trying to take them into custody, you -- do

1 you presume that maybe they are armed?

2 A. You always assume, don't -- you know, you can't go
3 into a situation thinking, oh, everything's going to be fine
4 and become complacent because that's when bad things can
5 happen, so.

6 Q. And so there's always the possibility that a
7 suspect could have a gun?

8 A. Absolutely. Yeah.

9 Q. And they could have it on their waistband?

10 A. Uh-huh.

11 Q. They could have it in one of their pockets. They
12 could have it in the back of their waistband by the belt.

13 A. Uh-huh.

14 Q. Now, if you saw a suspect with a gun, you would
15 give them a warning, would you not?

16 A. Correct.

17 Q. And if they did not follow that warning and they
18 kept coming towards you, would you perceive that as a threat?

19 A. Depends on if they were holding the gun where the
20 gun was. If it were pointing at me -- it, you know, there's
21 -- there's different variables there.

22 Q. But that would maybe put you on a little bit of a
23 -- of alert?

24 A. That's going to rise the -- yeah, that's going to
25 rise the level of the situation. Yeah.

1 Q. And if they kept coming towards you, and then you
2 saw a gun --

3 A. Uh-huh.

4 Q. Would you consider them coming towards you with a
5 gun an imminent threat?

6 A. Not holding the gun?

7 Q. No. Holding the gun in their hand.

8 A. Well, that's a -- that's a pretty high threat.
9 Yeah. If -- if you have a noncompliant armed subject. Yeah.

10 Q. Your training teaches you that in that situation,
11 if they don't drop the gun -- they still have possession of
12 that gun, you're allowed to fire back?

13 A. I -- again, it depends on the situation. I -- I
14 can't say -- you can't say 100 percent every single time,
15 this is what's going to happen. I've -- I've been involved
16 in shootings -- I've been involved in situations with people
17 with -- with guns where there was no shooting. So you can't
18 say 100 percent this is what's going to happen in A, B, C,
19 and D.

20 Q. It happens quickly?

21 A. Absolutely. Yeah.

22 Q. And -- but your training does teach you that if
23 you feel that there's a threat and you fire one round, you're
24 allowed to fire six, you're allowed to -- to exhaust all the
25 rounds in your weapon, correct?

1 A. Well, it -- it -- you're stopping the threat.
2 That's -- it does -- whether it takes one round or, you know,
3 five rounds, it's you -- you have -- if it becomes just a
4 level where I have to pull the trigger, it's because the
5 threat was that high, and I need to stop that threat whether
6 I'm in danger or somebody else is in danger.

7 Q. And as long as that danger -- that threat still
8 has the gun in their hand, that's considered a threat?

9 A. I mean, again (crosstalk) depends on the
10 situation, you know.

11 Q. Now, also looking at your report, you -- you still
12 wrote a report, even though you didn't -- there wasn't much
13 of an incident?

14 A. Correct. Yeah.

15 Q. Right.

16 A. Yeah.

17 Q. I think you actually said that, "Mr. Richards was
18 apprehended without incident."

19 A. Correct.

20 Q. So he didn't -- there was no conflict with --

21 A. There was no -- no fighting or running, no. We --
22 we had to kind of -- had to jump on him pretty quick. We
23 tried to make things happen quickly and try to mitigate any
24 type of running, or fleeing, or anything like that, you know.

25 Q. And his car was towed from the scene?

1 A. Yes.

2 Q. No items were removed by you or your task force
3 from the car?

4 A. Not from the car, no, not that I recall. No.

5 Q. Thank you, sir.

6 A. Yep.

7 THE COURT: Any re-direct?

8 MS. LINDER: Just briefly.

9 RE-DIRECT EXAMINATION

10 BY MS. LINDER:

11 Q. Mr. Bischoff asked you lots of questions about
12 training, you're a sworn law enforcement officer, right?

13 A. Yes, ma'am.

14 Q. And you involved with SWAT team?

15 A. Uh-huh.

16 Q. For a number of years. And you involved with
17 US Marshal Task Force for a number of years?

18 A. Uh-huh.

19 Q. All these questions about threats and whatnot, are
20 you talking about your experience as a trained law
21 enforcement officer or about your experience as Sam on the
22 street?

23 A. That's my personal experience. I mean I -- you
24 know.

25 Q. If you -- your training with threat, I guess there

1 was a question about if somebody is walking towards you and
2 they do not have a gun presented.

3 A. Uh-huh.

4 Q. Is that a threat to where you would shoot and
5 empty, and kill somebody?

6 A. Of course not.

7 Q. And then if somebody fired a gun at you, then with
8 your law enforcement training, what would you do?

9 A. I'm going to fire my gun back.

10 Q. All right.

11 A. Uh-huh.

12 Q. But if somebody -- if somebody does not have a gun
13 out and is not firing at you -- are you shooting them?

14 A. No.

15 Q. And you've had many trainings for many years as
16 law enforcement?

17 A. Uh-huh.

18 Q. And specifically in apprehending people?

19 A. Yes.

20 Q. And when you're apprehending dangerous people, as
21 I think the -- the high-risk warrants that you've served so
22 many years, do you always serve them with your gun out and
23 running to shoot?

24 A. No, ma'am.

25 Q. Even though somebody is charged for murder, you

1 don't start with your gun?

2 A. The -- the old --

3 Q. That's not a starting point, is that --

4 A. No. No, ma'am. No.

5 MS. LINDER: All right. I don't have anything further.

6 THE COURT: Okay. Anything further for this witness?

7 MR. BISCHOFF: No, your Honor.

8 THE COURT: All right. You can step down.

9 MR. SOUTHER: Thank you.

10 MS. LINDER: May he be released from the subpoena, your
11 Honor?

12 MR. MCGUIRE: No objection.

13 THE COURT: All right. He can be released. Thank you.

14 MS. LINDER: Thank you.

15 MS. OUTTEN: State calls Dr. Erin Presnell.

16 ERIN PRESNELL,

17 having been duly sworn, testifies as follows:

18 THE CLERK: Thank you. Please have a seat for me.

19 You'll just state your full name for the record spelling your
20 last name.

21 THE WITNESS: Hi, my name is Susan Erin Presnell. It's
22 P-R-E-S-N-E-L-L.

23 DIRECT EXAMINATION

24 BY MS. OUTTEN:

25 Q. Good afternoon, Dr. Presnell.

1 A. Hello.

2 Q. Where do you work?

3 A. I'm a forensic pathologist at MUSC,
4 Medical University of South Carolina, just right up the
5 street.

6 Q. And how long have you been with MUSC?

7 A. Well I've been there since a student since 1989,
8 but I've been on as faculty as a forensic pathologist after I
9 finished my training since 1999. So 25 years.

10 Q. And can you please explain your educational
11 background?

12 A. I'm a forensic pathologist. So first I went to
13 Clemson and got my microbiology degree. And then I actually
14 -- after that I moved to MUSC for medical school. And I
15 basically have stayed at MUSC since, so I did medical school.
16 After that I chose pathology as my specialty. So I did the
17 five-year training in residency, is what they call it.

18 And then after that, I did an additional year
19 sub-specialty in forensic pathology before I took the boards.
20 So I'm board-certified in general pathology and forensic
21 pathology, as well as have a license to practice medicine in
22 the state of South Carolina.

23 Q. And can you explain to the jury what the field of
24 forensic pathology consists of?

25 A. Well, forensic pathology is a sub-specialty of the

1 field of pathology. So pathology means the study of disease.
2 So most pathologists or general pathologists are going to
3 look at, like, a biopsy or if someone has an operation and,
4 you know, piece of tissue is removed, the pathologist is
5 going to look at that and diagnose disease.

6 So I'm trained in general pathology, but then I -- the
7 -- the next step is not just disease, but also evaluating
8 trauma. And we do that not just by looking at a piece of
9 tissue, but of course if somebody -- an entire person of
10 somebody that's passed and that process that we do -- that
11 examination, of course you're familiar with the term
12 "autopsy".

13 Q. How many autopsies have you performed?

14 A. It's a -- a soft estimate over 200 a year, so for
15 24, so over 5,000.

16 Q. And have you ever been qualified as an expert
17 before?

18 A. In forensic pathology, yes.

19 Q. And approximately how many times?

20 A. Again, an estimate. So 200-ish.

21 MS. OUTTEN: At this time, the State offers
22 Dr. Presnell as an expert in the field of forensic pathology.

23 MR. MCGUIRE: No -- no objection.

24 THE COURT: All right. Dr. Presnell is -- is hereby
25 qualified as an expert in forensic pathology. Ladies and

1 gentlemen of the jury, normally a person cannot give opinion
2 testimony. Normally when a person testifies, they must
3 testify -- is what they've either saw, heard, or sensed by
4 smell or something of that nature.

5 However, there is an exception when someone is
6 qualified because of education or experience, they're
7 permitted to give their opinion in certain areas. If the
8 Court qualifies them in this way.

9 This witness has been qualified in the area of forensic
10 pathology to give an opinion testimony in that area. That
11 does not mean that you must accept the opinion, but it is
12 evidence for you to use in any way you see fit. Thank you.

13 BY MS. OUTTEN:

14 Q. So I know you were explaining kind of what an
15 autopsy determines, but can you sort of explain to the jury
16 what the process of an autopsy would be?

17 A. Of course. So in South Carolina we are a coroner
18 death investigation state. So in -- in the way that it
19 normally happens is if someone passes away in a county that
20 coroner for that county will respond to the scene and decide
21 whether somebody needs an autopsy or not, and then that
22 coroner can refer them to wherever they'd like to.

23 In this case, the -- the person would've been referred
24 to us at MUSC or -- or it wasn't MUSC specifically they were
25 referring it to, but to MUSC, and I was the forensic

1 pathologist on service that day. And so, that's how the
2 person would arrive to us.

3 Then when we would start the examination, we'll do full
4 documentation of how they are when they arrive to us. If
5 they're wearing clothes, we'll then unclothe them so we can
6 do the full evaluation of any trauma or diseases for that
7 matter. And do documentation. We'll do photographs, X-rays
8 if we need to. And then we do the inside process. So we
9 will open them up and look at all their organs. We might
10 take biopsies of them, of the organs if we need to look at
11 them under the microscope. Part of the process also includes
12 drawing blood for toxicology, just looking for any drugs and
13 alcohol.

14 And then all that -- all that information is gathered
15 together, the toxicology results come back to us. We get our
16 slides of tissues. If -- if we took them to look at under
17 the microscope, we put all of the findings together and
18 conclude well -- the -- the findings are together in an
19 autopsy report and we are concluding the -- the cause of
20 death and if we have an opinion on the manner of death.

21 Q. Did you perform an autopsy of Javon Thomas?

22 A. Yes, I did on February 22, 2022.

23 Q. And how old was Javon Thomas?

24 A. He was 18 at the time of the autopsy.

25 Q. And how tall was he?

1 A. Let's see, he's 68 inches, which is 5'8.

2 Q. And how much did he weigh at the time of autopsy?

3 A. 148 pounds.

4 Q. And when did you understand the date and time of
5 Javon Thomas' death to be?

6 A. Well, this again would be information provided to
7 us by the coroner. And we had a date of death as
8 February 19, 2022, pronounced at 1:44 p.m.

9 Q. And what did you determine the cause of death to
10 be for Javon Thomas?

11 A. Javon has a single gunshot wound that went through
12 his head.

13 Q. And how do you know that the bullet entered the
14 back of his head?

15 A. Well, so Javon has one gunshot wound therefore it
16 is the entrance gunshot wound. It actually enters if you
17 think, right, like, think of the back of the neck right at
18 the base of the skull. Little bit to the right of midline.

19 The bullet actually goes -- well it goes through the --
20 the skull bone through the brainstem and then the smaller
21 brain, the cerebellum and the larger brain, the cerebral
22 hemispheres all the way to the top of the left head. And the
23 bullet actually goes out of the skull, but it stays right
24 inside the skull. So we get the bullet there. So we know
25 that this is the entrance and there is no exit.

1 Q. So as part of your autopsy process, did you
2 perform X-rays on the victim?

3 A. Yes. We'll do X-rays to help us locate the
4 bullet.

5 Q. And what did those X-rays show you?

6 A. It -- well, it shows the bullet, and you can
7 actually kind of see the little bullet fragments along the
8 pathway of the gunshot.

9 Q. And if I were to show you these X-rays today,
10 would you recognize them?

11 A. Oh, yes.

12 Q. I am showing you what's been marked for
13 identification as State's Exhibits 27 and 28. Do you
14 recognize these?

15 A. I do.

16 Q. And how do you recognize them?

17 A. Well, I reviewed the case right before we came
18 here, and these are replicas of those X-rays that I took at
19 the time of autopsy.

20 MS. OUTTEN: At this time,
21 State moves Exhibits 27 and 28 into evidence.

22 THE COURT: Any objection?

23 MR. MCGUIRE: No objection.

24 THE COURT: State's 27 and 28 are in evidence without
25 objection.

1 (State's Exhibit 27 and 28 admitted into evidence.)

2 MS. OUTTEN: Permission to publish, your Honor?

3 THE COURT: You can publish.

4 BY MS. OUTTEN:

5 Q. So looking at State's Exhibit 27. So just for
6 those -- so is this the X-ray that you took of the victim,
7 Javon Thomas?

8 A. Uh-huh. Yes. So this is -- this would be like
9 him looking straight at you with the -- the X-ray coming
10 straight in front of him. So, obviously you can see what
11 looks like a normal skull. And then at the top of the skull
12 right there, you can see the white object, which is the
13 bullet.

14 Q. I'm going to show you State's Exhibit 28 now.

15 A. All right. So this is why we always get two views
16 of our -- of our -- with an X-ray, because that first picture
17 kind of looked like the bullet's in the head. But if you --
18 we take a side view now, and obviously you can see here's the
19 front of the -- the face and the -- here's the back, but the
20 bullet actually came out of the skull and is right here,
21 right underneath the scalp. You can actually see if you look
22 closely there's little bullet fragments showing you the
23 direction of the bullet.

24 Q. So this X-ray can show you the trajectory of the
25 bullet?

1 A. The -- the trajectory through his head. I can't
2 tell you how his head was positioned at the time he was shot
3 however.

4 Q. And were you able to recover this bullet fragment?

5 A. That's a projectile. Yeah.

6 Q. Projectile.

7 A. Yes. I -- I mean, yes, I did recover the bullet.
8 I didn't go after this little itty bitty tiny -- the tiny
9 pieces.

10 Q. And if I were to show that to you today, would you
11 recognize it?

12 A. Yes.

13 Q. I am showing you what's been marked for
14 identification as State's Exhibit 23. Do you recognize that?

15 A. It looks like the photographs I reviewed, and in
16 addition to that, it has the packaging that we put the bullet
17 in with the Javon's -- the autopsy label and my handwriting
18 labeling it, calling it the bullet.

19 MS. OUTTEN: At this time, the State would offer
20 Exhibit 23 in evidence.

21 THE COURT: Any objection?

22 MR. MCGUIRE: No objection.

23 THE COURT: State's 23 is in evidence without
24 objection.

25 (State's Exhibit 23 admitted into evidence.)

1 BY MS. OUTTEN:

2 Q. And, Dr. Presnell, just one final question for
3 you. Is sustaining this type of gunshot wound fatal?

4 A. Yes.

5 Q. Always?

6 A. Yes. This one -- this particular gunshot went
7 through the brainstem which is connecting the brain to the
8 rest of your body. So by doing that it basically severed any
9 communication from the brain to breathing, heart beating,
10 et cetera.

11 Q. Can you demonstrate on the exterior of your body
12 where the brainstem -- where hitting that would be?

13 A. Well, it's kind of on the inside, but wait --

14 Q. Or where a bullet would enter if it's going to hit
15 the brainstem?

16 A. Well, it could enter any number of places
17 depending on the direction, but think of your brain as right
18 up here in your skull and then the brainstem is coming out
19 and -- and the back part of it, and then down it becomes your
20 spinal cord inside your backbone.

21 MS. OUTTEN: I don't have any further questions for
22 you. Please answer any questions Defense may ask.

23 THE COURT: Cross. Any questions here?

24 MR. MCGUIRE: No questions. Thank you.

25 MS. PRESNELL: Okay. Thank you.

1 THE COURT: All right. You -- you step down.

2 MS. LINDER: Your Honor, can we approach?

3 THE COURT: Yes.

4 MS. LINDER: And may Dr. Presnell be released from her
5 subpoena.

6 THE COURT: Of course. You're released.

7 MR. MCGUIRE: No objection.

8 (Bench conference.)

9 THE COURT: Hey, you all come back up, please. I'm
10 sorry.

11 All right. Ladies and gentlemen, we've come to a good
12 stopping point for the evening. And I just want you to
13 remember my instructions. Please do not discuss the case, no
14 independent research. And if anybody contacts you, you let
15 that bailiff know.

16 All right? I don't expect there to be any media
17 coverage, but if you do, if there is -- happen to be any
18 media coverage, I will tell you please do not observe that
19 and -- and keep the oath, you know, to -- to listen to the
20 evidence that comes in through the Court.

21 We're going to break now. We are going -- we're going
22 to have you back here. If you can be back at 9:15 in the
23 morning -- 9:15 in the morning, like everybody checked in --
24 if you can all get checked in around 9:15, we will try to get
25 started, you know, shortly after that. All right? All

1 right.

2 (Jury exits courtroom.)

3 THE COURT: All right. Anything further from the
4 State?

5 MS. LINDER: Nothing further from the State, your
6 Honor.

7 THE COURT: How about the Defense?

8 MR. MCGUIRE: No, sir.

9 THE COURT: All right. We're going to -- I'd like the
10 attorneys back in the courtroom and -- and Mr. Richards back
11 in the courtroom by 9:15 in the morning. We'll take up
12 whatever we can.

13 I would like to get an update on this -- this evidence
14 from the Cellebrite, or Graykey, or whatever it was doing.
15 I'd like to try to get an update on that if we can in the
16 morning so we can kind of plan the rest of our day. And
17 we're going to go pretty hard tomorrow and -- and see how far
18 we get.

19 All right? All right. Be at ease until 9:15 in the
20 morning. You all have a good night.

21 MS. LINDER: Thank you, Judge.

22 THE COURT: Thank you.

23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
24 4:30 P.M.)

25

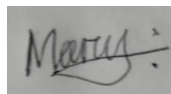
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CERTIFICATE OF TRANSCRIBER

I, MARY RAGSDALE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on the 23rd Day of July, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

October 15, 2024

A rectangular box containing a handwritten signature in dark ink. The signature appears to be "Mary" followed by a stylized flourish or surname.

MARY RAGSDALE

Transcriber

1 CONTINUATION OF PROCEEDINGS - JULY 24, 2024

2 THE CLERK: Wednesday, July 24, 2024.

3 Charleston County, Judge McMaster.

4 THE COURT: All right. We're back on the record.

5 There's anything we need to discuss before we get started?

6 All the jurors are here is what I've been told. I wanted to
7 check on the officer that was on vacation. Have we got an
8 update on that Ms. Outten?

9 MS. OUTTEN: Yes, your Honor. I -- I -- I spoke to him
10 last night. I'm happy to relay to the Court what he told me.
11 I told him that we may need to call him this morning. He is
12 obviously on vacation with his family.

13 I kind of gave him an approximate time so we can also
14 try to do that, or I can try to relay what he and I spoke
15 about last night, and see if that assuages any concerns.

16 THE COURT: What you have to say about that?

17 MR. BISCHOFF: Judge, I just -- I'd love to -- I think,
18 hear what we have to say and then make a decision.

19 THE COURT: All right. You just -- you want her to
20 relay that?

21 MR. BISCHOFF: Right now? Right now, certainly.

22 THE COURT: Okay. Go ahead.

23 MS. OUTTEN: Okay. So what he told me was consistent
24 with what Detective Butler said yesterday --

25 THE COURT: What he is?

1 MS. OUTTEN: Detective Sam Riedel with the
2 North Charleston Police Department.

3 THE COURT: All right.

4 MS. OUTTEN: And just for the Court's information, he,
5 at that time and still to this day, is the only person who
6 can perform data -- data extraction on cell phones. So he
7 would be the one who would know. He was consistent with
8 Detective Butler, which said that either the way that he
9 receives evidence is either via the detective case agent
10 putting it in the secure locker or if they hand it directly
11 to him, he puts it in the secure -- he puts it in the secure
12 locker.

13 He said that keeping the phone alive is essential to --
14 and as in not letting the battery completely die is essential
15 to that data extraction. He would consider that to be the
16 beginning of the extraction process.

17 He was able to have a colleague pull his logs. I'm
18 pulling up my phone to look at our text messages, not just to
19 -- not for no reason. He did say that there can be -- there
20 can be certain different delays that can happen.

21 The data extraction -- he said the one that he was
22 concerned about in this case was that the phone was pretty
23 much the newest or next to newest iPhone model at the time of
24 his arrest. And that sometimes Cellebrite and Graykey had to
25 have software updates that catch up to that.

1 He was able to look at his log and say that the data
2 was extracted from the device in March of 2022 when the
3 Cellebrite update was available.

4 The data gets extracted; it gets put through an
5 analyzer. That analyzer takes a bit of time to parse out the
6 data and put it in a format that, you know, not just the ones
7 and zeros, a format that you and I can read and that he would
8 -- he would've given his disc and his report to
9 Detective Butler on the date indicated on that chain of
10 custody form.

11 And that would've been the date that it was completed.
12 I believe the date on that chain of custody form matches the
13 date that the search warrant execution was completed. So, I
14 believe there's really no delay here -- is you can't sign a
15 search warrant return when you haven't had a return on items
16 yet.

17 THE COURT: All right. Does that take care of your
18 questions?

19 MR. BISCHOFF: Well, Judge, it actually creates some
20 new questions. I mean, he's creating logs and details about
21 where the phone is and what's going on. I just think we
22 ought to be able to have those documents and then those
23 documents may clear up any confusion. But for me, if he
24 started it in March of 2022 and it completed in
25 September of 2023, there should be something that says the

1 phone was connected to whatever machine and whatever programs
2 were being processed during that time. I think that
3 forensically, that's the protocol to document that stuff and
4 we'd just like to see the documents that show that it's done
5 properly.

6 MS. OUTTEN: And, Judge, I believe that I -- I -- I'm
7 not saying whether or not I think he's entitled to them. I
8 think that raising this objection at this late hour when the
9 Defense was aware -- certainly Mr. McGuire was aware, I don't
10 know if Mr. Bischoff himself was aware that our phone witness
11 would be unavailable. I think that had we had notice, we
12 could have provided those logs.

13 Those are certainly not logs that are in possession of
14 the state. Detective Riedel had to call somebody at the
15 North Charleston Police Department to pull those up. And
16 also, those are his internal logs and notes about when he
17 completed something. I don't know if that qualifies as a
18 chain of custody. But I believe that given the
19 representations by the Defense that they were not going to
20 make a challenge to this.

21 If we had known they were going to make these kinds of
22 specific challenges, we would've been able to provide the
23 evidence -- provide the documents over to them. We did not.

24 And we have concerns that should your Honor rule in a
25 way that suppresses this phone data, that could have

1 consequences in this county and statewide about phone data
2 extraction and the processes when the state really did not
3 have enough time to adequately rebut this issue.

4 And we believe we've made a showing sufficient to say
5 that there's no break in the chain of custody. There was no
6 undue delay. And that all normal cell-phone data extraction
7 procedures were followed in this case.

8 THE COURT: All right. I'll give you the last word.

9 MR. BISCHOFF: Judge, I just say that I -- I'm -- I
10 appreciate relaying information. But it is sort of -- we're
11 still speculating. I understand that re was on vacation. I
12 still think there's someone at the
13 North Charleston Police Department that could put together
14 the documents that are for -- that are required to make
15 forensic reliability perspective that say, "This is where the
16 phone was, this is what was going on in the 18 months that it
17 took to do whatever they did to it."

18 We just have nothing. And I don't think it's going to
19 create this floodgate of suppression opportunities for
20 Defense. This is just simply an 18-month period for when a
21 warrant is signed and when the return is delivered.

22 And we have no real concrete information other than
23 relaying -- for someone said that this is what we believe was
24 done. We -- we don't have anything. And I think that
25 doesn't -- that's just not sufficient.

1 THE COURT: All right. Let's -- to narrow down the --
2 let's narrow this down a little bit. I mean, are -- you're
3 in agreement that the search warrant was served and the phone
4 was turned over on the February date? Is that -- you're in
5 agreement with that?

6 MR. BISCHOFF: Correct.

7 THE COURT: And you're in agreement that it was hooked
8 up. Now, your issue is the extraction date of March. Is
9 that where we are now?

10 MR. BISCHOFF: Well, my issue is what happened from
11 February 28, 2022, when the log says that -- received it and
12 on -- until September 25, 2023, when read gives it back to
13 Detective Butler, which at that point in time -- I do think
14 it's reasonable to say that the Graykey operation or the
15 Cellebrite extraction has been completed by that point in
16 time.

17 So my concern is that we have a search warrant
18 authorizing a search within 10 days. I understand that
19 mobile devices or computer devices take a little bit longer,
20 but we have no information about where that phone sat, what
21 procedures were being done to it, whether Graykey was
22 utilized and Cellebrite. We just have nothing other than
23 Riedel says, "This is what typically happens in this
24 situation."

25 And I just wonder -- they couldn't have only gotten a

1 limited number of phones during that time, and that's
2 18 months. 18 months of cases where they're taking into
3 custody phones from people maybe a couple times a day. Where
4 are all those phones sitting? I just think it's just -- it's
5 the potential --

6 THE COURT: That's not relevant to where the phones are
7 sitting to your specific -- specific case.

8 MR. BISCHOFF: Well, what I'm -- I'm bringing that up
9 because I -- I don't know how we can say, we know where this
10 phone was and there's so many phones that only Riedel seems
11 to be working on. I just don't think that it's presented
12 enough information to show exactly what happened to the
13 phone. There's got to be documentation, Judge. That's all
14 I'm saying.

15 THE COURT: What is the situation of getting the --
16 what -- what can he do about getting Detective Riedel on the
17 phone? Is there any -- what is the time period of that?

18 MS. OUTTEN: I -- I can certainly try to call him right
19 now. I told him there was a possibility that we would, so
20 I'm happy to -- to step out and see if I can get him on the
21 phone this morning.

22 THE COURT: Hold on one second. I'm going to ask the
23 clerk now if we can get him on the phone, can we?

24 THE CLERK: I have to bring up a special phone to call
25 (inaudible). We have to bring up active testing first.

1 MR. BISCHOFF: And Judge, I -- I don't want to pull the
2 man away from his vacation. I -- I think this can be solved
3 by having somebody in the North Charleston Police Department
4 that has access to their records simply pull the records for
5 this case number that Riedel kept and used to document what
6 happened during 18 months. I think that's the way that will
7 satisfy our --

8 THE COURT: I'm not sure if that exists. That doesn't
9 --

10 MS. OUTTEN: My --

11 THE COURT: -- sounds like it was just running -- it
12 was plugged in and running. I -- I don't know if that would
13 exist now. I don't know, but I mean, I think that's what she
14 said.

15 MS. OUTTEN: I -- I'm not sure that that would exist
16 either. You know, I -- of course, again, not to belabor this
17 point, but, you know, for this to be raised in the middle of
18 trial when we're trying to coordinate a million other things,
19 and I'm also trying to reach somebody who's on vacation in a
20 remote area. It's hard for me to get all of the information
21 he wanted.

22 But I don't -- if -- if the logs was all he wanted that
23 could have -- we could have asked for -- he -- if he wanted
24 more documentation, we could have asked for that two days
25 ago. He said he wanted to talk to re so I -- I -- I just --

1 I feel like we're a little bit at a loss and I feel like the
2 -- the answer is they had no objection until it appears --
3 frankly that Mr. Bischoff saw the messages, not Mr. McGuire,
4 who's having his possession for two weeks.

5 And so, I -- I -- I'm not sure what it is that we can
6 do. It seems like they just don't want these messages in
7 anymore. And they're kind of using an end -- they're trying
8 to use an end run to get to that place.

9 THE COURT: I -- I'll certainly -- the Court does note
10 the late hour of the objection and concern. I -- I mean
11 there is no doubt about that. They -- they talked to us
12 earlier in the week about the fact that they -- the legal was
13 not available.

14 MR. BISCHOFF: Yes, sir.

15 THE COURT: We talked -- we had a motion hearing on all
16 the evidence and -- and you did not bring it up at that time.
17 I have no problem if you can attempt to see if you can find
18 these logs, but -- and -- and then we'll make a ruling based
19 on that. If there are some log -- if there are any logs -- I
20 don't know if there would be any logs on this. The evidence
21 sheet may be it.

22 MS. OUTTEN: It -- it --

23 MR. BISCHOFF: Judge, if they're not, then I think that
24 I understand we are bringing it up too late to contest at
25 that point. So if there are no logs, then I -- I think we'll

1 just rest on -- on our prior arguments that the inability to
2 present any information we believe is insufficient. If,
3 your Honor, wants to say that we brought it up too late, we
4 will, of course, accept the ruling.

5 But I -- I just think knowing what I know about
6 forensics, I believe there should be logs that talk about
7 where a particular device is and whether it be -- integrity
8 is being compromised or things are being done. Sure, the
9 integrity is not compromised -- that I'm fairly confident
10 that there should be some documentation.

11 MS. OUTTEN: Judge, my understanding is that
12 Detective Riedel is in the process of training another phone
13 extraction person, that is the person who he reached out to
14 last night after I called him with some questions.

15 I'm having to, now, investigator -- excuse, she's new
16 investigator in office. Formally, Detective Butler with
17 North Charleston Police Department sit with us or get with
18 him and see whether or not these logs exist. I would also
19 note possibly though that if those logs are not something
20 that is turned over to us in the course of regular discovery
21 -- I've never seen a log like that ever before.

22 You know, there is a possibility that is not something
23 that is readable or understandable to a normal person without
24 Detective Riedel's expertise. And I just don't know -- I
25 don't know what those logs look like. We'll see what efforts

1 we can do to -- to assuage any concern on that.

2 THE COURT: Well, I -- I --

3 MS. OUTTEN: We're checking into it.

4 THE COURT: I think we have the -- the logs, we have
5 the evidence sheet, we have where the phone was turned over
6 to him. I -- I believe we're not contesting anymore. Now,
7 correct me if I'm wrong, we're not contesting anymore that it
8 was turned over on that date and it was hooked up at that
9 day.

10 MR. BISCHOFF: I -- I believe that --

11 THE COURT: And I say hooked up, I mean plugged in.

12 MR. BISCHOFF: I would imagine that Riedel did what he
13 normally does with protocol in terms of once he received the
14 phone. I just don't know what happened over those next
15 18 months.

16 THE COURT: All right. Well, if that exists just take
17 a look into that. If Detective Butler could do that and
18 call, and let's just see what that is -- where is that in
19 your case as far as the State's concerned? Where is that
20 coming?

21 MS. OUTTEN: Please answer that question, Ms. Linder.

22 MS. LINDER: Texts. We can push people to be -- like,
23 early afternoon.

24 THE COURT: Okay. Well, hopefully we'll get an answer
25 a little quicker than that. I don't want to push you -- I

1 don't want -- I'm not trying to affect --

2 MS. LINDER: Right.

3 THE COURT: -- your -- your -- flow of your case, how
4 you want to try your case. So let's -- let's try to get our
5 -- if we could -- Detective Butler can reach out this morning
6 and try to get that information. Let's go from there and --
7 and then we'll make a decision on that. How -- how long just
8 -- and I guess just for planning purposes, how many more
9 witnesses does the State plan to call?

10 MS. LINDER: State plans to call -- oh my. I believe
11 seven or eight witnesses left in our case-in-chief.

12 THE COURT: All right. Okay. All right. And -- all
13 right. Well, what we're going to do is the jury's here,
14 they're ready, we're going to get started and anything else
15 we need to take up before we bring the jury in? Anything
16 from the Defense?

17 MR. BISCHOFF: No, your Honor.

18 THE COURT: Anything from the State?

19 MS. OUTTEN: No, your Honor.

20 THE COURT: All right. Well, let's bring the jury in,
21 please.

22 THE BAILIFF: Yes, your Honor.

23 THE COURT: Thank you.

24 THE BAILIFF: Judge, all jurors are present and seated.

25 (Jury enters courtroom.)

1 THE COURT: All right. Be seated, please. Good
2 morning, ladies and gentlemen. I hope you all had a good
3 night. We're ready to resume the case this morning. State,
4 if you'll call your next witness, please.

5 MS. OUTTEN: State calls Detective Danielle Cockrum.

6 THE CLERK: If you state your full name for the record,
7 spelling your last name.

8 THE WITNESS: Danielle Cockrum. C-O-C-K-R-U-M.

9 DANIELLE COCKRUM,

10 having been duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MS. OUTTEN:

13 Q. Morning, Detective Cockrum?

14 A. Good morning.

15 Q. Where are you employed?

16 A. North Charleston Police Department.

17 Q. And what's your current position?

18 A. I'm a detective.

19 Q. And back in February of 2022, did you have the
20 same position?

21 A. Yes, ma'am.

22 Q. And just generally speaking, what are your duties
23 included as a detective in police department?

24 A. Investigating cases, following up on cases, and
25 doing warrants and affidavits on people that may have

1 committed those crimes.

2 Q. And what types of things, generally speaking, will
3 you do when you're investigating a case?

4 A. Normally, when I'm investigating a case, I'll
5 gather the information that's available, such as speaking to
6 witnesses, speaking to suspects, reviewing video footage, and
7 just putting the pieces together.

8 Q. And can you tell the jury about your education,
9 training, and experience?

10 A. I have associates in criminal justice, a
11 bachelor's in sociology. I attended the
12 South Carolina Criminal Justice Academy and graduated as a
13 police officer in June, 2015. I've attended various
14 trainings on interviewing investigations and I'm also an
15 FBI-certified hostage negotiator.

16 Q. And were you on call on February 19, 2022?

17 A. Yes, I was.

18 Q. And what does that mean to be "on call"?

19 A. On call means that we have to respond to any
20 critical incidents after hours.

21 Q. So were you involved with the investigation of
22 this case, the State v Courtney Richards in any --

23 A. Yeah.

24 Q. -- Courtney Richards in any way?

25 A. Yes.

1 Q. How did you first get involved in the case?

2 A. I received a call while I was at home that a
3 shooting had occurred.

4 Q. Where did that shooting occur?

5 A. I was given the address of [REDACTED] Comstock Avenue.

6 Q. Is that Charleston County?

7 A. Yes.

8 Q. And what neighborhood is two -- is [REDACTED] Comstock
9 in?

10 A. Union Heights.

11 Q. And can you describe that area?

12 A. Union Heights is a small neighborhood. The roads
13 are very narrow so most of the streets are one-way, so two
14 cars aren't able to pass at the same time.

15 Q. And that's true of Comstock Avenue as well?

16 A. Yes.

17 Q. And so, when you arrived on scene, what did you
18 observe?

19 A. When I first got on scene, I saw that patrol was
20 already on scene, which is normal because they're the ones
21 that respond out there first. I then saw the case agent
22 already on scene. I saw a crowd of people behind the crime
23 scene tape and I also saw a person laying in the roadway in
24 front of [REDACTED] Comstock.

25 Q. And who was that person?

1 A. Javon Thomas.

2 Q. And do you know approximately how old he was?

3 A. Eighteen years old.

4 Q. So what was the first thing that you did on scene,
5 after you were briefed by Detective Butler?

6 A. After being briefed by Detective Butler, I then
7 made my way to the crowd of people and asked anybody if they
8 saw anything.

9 Q. And did you end up interviewing anyone based on
10 asking the crowd generally if anyone had seen something?

11 A. Yes.

12 Q. Who did you interview?

13 A. Abigail Perry and Monique Perry.

14 Q. And after interviewing them, what did you do?

15 A. After interviewing them, I then began to canvass
16 the neighborhood for any cameras that may have captured
17 anything.

18 Q. Did you make contact with anyone during that
19 canvass?

20 A. I made contact with Jessica Duncan.

21 Q. Did you interview her?

22 A. I did.

23 Q. And I -- and did you -- were you able to locate
24 any cameras that captured the incident -- or any time leading
25 up to immediately following the incident?

1 A. No.

2 Q. And so, after you interviewed Jessica Duncan, what
3 did you do next?

4 A. I then responded back to City Hall and I briefed
5 the case agent on my findings.

6 Q. And what -- and what were those findings? Did you
7 -- had you learned any specific information from
8 Jessica Duncan?

9 A. Iu was brought to my attention of a vehicle of
10 interest that she saw leaving the scene.

11 Q. And when you researched that vehicle, what did you
12 find out?

13 A. That it was registered to the Defendant.

14 MS. OUTTEN: I don't have any further questions for
15 you, but please answer any questions that the Defense Counsel
16 might have.

17 THE COURT: Cross?

18 MR. BISCHOFF: Thank you, Judge.

19 CROSS-EXAMINATION

20 BY MR. BISCHOFF:

21 Q. Good morning.

22 A. Good morning.

23 Q. I'm going to ask you a couple questions, first
24 about Union Heights and your neighborhood layout. It sounds
25 like you're familiar with the neighborhood.

1 A. I am fairly familiar with the neighborhood. When
2 I worked patrol, I worked on the other end of the city, but
3 I've responded to Union Heights a few times.

4 Q. Okay. I'll show you State's Exhibit number 2. If
5 you would tell me what you see a map of in that picture.

6 A. It's a map of Union Heights.

7 Q. All right. And if you would, would you look at
8 the right side of that map? We'll see a blue icon about
9 middle way up to the page. Kwik Mart?

10 A. Yes.

11 Q. Convenience store?

12 A. Yes, sir.

13 Q. Are you familiar with that Kwik Mart? And you
14 know what it is? It's the yellow-painted Kwik Mart corner
15 store on the corner of Spruill and Comstock?

16 A. Yes.

17 Q. And were you aware that that's where Javon and his
18 girlfriend were walking to the day of the incident?

19 A. No.

20 Q. Okay. Now, further down to Comstock, you see a
21 red icon right here, correct?

22 A. Yes.

23 Q. What do you know about that location in regard to
24 the incident?

25 A. That is the location -- near the location where

1 the -- where Javon was located.

2 Q. So the intersection of Comstock and Cosmopolitan?

3 A. Yes.

4 Q. And then if you'll look to your northwest, do you
5 know what that area is right there in the neighborhood?

6 A. I do not.

7 Q. You're not aware that a -- a park in this area,
8 basketball courts, that sort of thing?

9 A. I am not -- again, I did not patrol that area when
10 I was in patrol.

11 Q. Okay. And you don't know whether or not that is
12 in relation to the case that we're here for today?

13 A. I do not.

14 Q. All right. Now, further north we have
15 Hackemann Avenue. You know about Hackemann Avenue regarding
16 this case, right?

17 A. I do not.

18 Q. You do not? Okay. So when you responded, I
19 believe according to your report, you wrote that you arrived
20 -- very detailed report.

21 A. Yes.

22 Q. You wrote that you arrived after you were advised
23 to respond, you were advised to respond at 1:42 p.m.?

24 A. Yes.

25 Q. So if you were advised to respond at 1:42, you

1 arrived sometime later?

2 A. Yes.

3 Q. And when you were on scene, according to your
4 report, you listed the number of people you spoke to?

5 A. Yes.

6 Q. And then earlier in your testimony, you said that,
7 "You returned to City Hall and briefed case agent." Is that
8 Detective Butler?

9 A. Yes.

10 Q. And you briefed her on some of the things that you
11 learned while you were doing your investigation?

12 A. Yes.

13 Q. Do you know what time you left the scene?

14 A. I do not.

15 Q. Do you know if you briefed Detective Butler before
16 she interviewed Javon's girlfriend, Niya?

17 A. I am not sure.

18 Q. Did you have any involvement in the interview with
19 Niya?

20 A. I did not.

21 Q. Okay. So this was Detective Butler's case?

22 A. Yes.

23 Q. Now, how long have you been a police officer?

24 A. For nine years.

25 Q. All right. And before you can actually be

1 certified as a police officer, you have to go to the
2 Criminal Justice Academy, is that correct?

3 A. Yes.

4 Q. And that's where you received training?

5 A. Yes.

6 Q. And part of your training is on firearms and how
7 to use firearms?

8 A. Yes.

9 Q. And when you arrived on scene earlier, you did say
10 that you noticed Javon's body was laying at a particular
11 location?

12 A. Yes.

13 MR. BISCHOFF: I'm going to show you what's been marked
14 -- about to be marked as Defense's 1. May I approach the
15 witness?

16 THE COURT: You may.

17 BY MR. BISCHOFF:

18 Q. Do you recognize that picture?

19 A. I do not.

20 Q. You do not. So when you arrived --

21 THE COURT: That -- is that Defense's 1 what you're --

22 MR. BISCHOFF: Defense's 1. Yes, sir.

23 THE COURT: All right.

24 BY MR. BISCHOFF:

25 Q. So when you arrived you did not inspect the area

1 around Javon's body at all?

2 A. I did not.

3 Q. All right. Are you familiar with how a Glock 9mm
4 works?

5 A. Yes.

6 Q. All right. I want to ask you some questions about
7 a Glock 9mm, okay?

8 A. Okay.

9 Q. A Glock has a magazine, correct?

10 A. Yes.

11 Q. And in that magazine, a certain number of bullets
12 are able to be deposited; is that correct?

13 A. Yes.

14 Q. And some magazines -- standard magazines, you can
15 put six bullets in the Glock; is that correct?

16 A. Yes.

17 Q. And so, in order to fire the Glock, you have a
18 magazine that you would put into the Glock, and then if you
19 do not have a round in the chamber, you have to slide the
20 Glock back.

21 A. Yes.

22 Q. Correct? And when you slide that Glock back, the
23 chamber -- or to the chamber around, that takes a bullet from
24 the magazine and lifts it up into the chamber; does it not?

25 A. Yes.

1 Q. So then you would have -- if you did not have it
2 around in the chamber and you put six bullets in the
3 magazine, you loaded the magazine into the weapon slid -- or
4 slide in the -- the chamber back. Pull the chamber back, you
5 have one in the chamber and then you have five that are still
6 left in the magazine.

7 A. Yes.

8 Q. You can then -- if you want to fully load the
9 weapon, eject the magazine, correct?

10 A. Yes.

11 Q. And then you can top off that magazine with an
12 extra bullet?

13 A. Yes.

14 Q. So in other words, for a Glock, you can have
15 seven bullets that can be fired at one particular time if
16 it's fully loaded.

17 A. Yes.

18 Q. And even though you don't recognize this
19 particular picture, will you tell me if you recognize whether
20 or not that Glock has had all of the bullets fired from it?

21 A. So the chamber is slid back. So from my
22 understanding if the chamber is back then, yes.

23 Q. So in other words, when a Glock is fired and all
24 the bullets that are either in the magazine or the chamber
25 are fired, that Glock, the slide -- Glock's back in that

1 position at the end of firing that lever, correct?

2 A. Yes.

3 Q. And as the weapon is fired, shell casings are
4 being ejected?

5 A. Yes.

6 Q. And that can go to the left, it can go to the
7 right. It really just depends on a whole bunch of different
8 variables. Is that right?

9 A. Yes.

10 MR. BISCHOFF: Thank you, Detective. Appreciate it.

11 THE COURT: And you re-direct?

12 MS. OUTTEN: Very briefly, Judge. I beg Court's
13 indulgence.

14 RE-DIRECT EXAMINATION

15 BY MS. OUTTEN:

16 Q. Detective Cockrum, when you are looking at a -- at
17 a firearm after the fact or before the fact, is there any way
18 to know how many rounds are in a chamber based on how many
19 were fired?

20 A. Can you re-word that question?

21 Q. Can you fire a Glock with only one round in the
22 chamber?

23 A. With one round in the chamber? Yes.

24 Q. Or two rounds in the magazine, one round in the
25 chamber?

1 A. Yes.

2 Q. So the -- the Glock does not have to be -- let's
3 use the term "fully loaded" in order to be fired, is that
4 correct?

5 A. That's correct.

6 Q. And then just one last question, as the on-call
7 detective, what is your primary job that day?

8 A. My primary job that day is to assist the case
9 agent in whatever they might need as far as collecting
10 evidence, speaking to witnesses, doing search warrants,
11 trying to canvass her video footage. I'm just there to
12 assist that case agent in whatever they may need.

13 MS. OUTTEN: Thank you, your Honor, I have no further
14 questions.

15 THE COURT: Anything further this witness?

16 MR. BISCHOFF: Just briefly, Judge.

17 RE-CROSS EXAMINATION

18 BY MR. BISCHOFF:

19 Q. You interviewed Jessica Duncan that day?

20 A. Yes.

21 Q. And she told you that she could not see the other
22 shooter on the other side of where the male was -- right
23 outside of her door, correct?

24 A. Yes.

25 MR. BISCHOFF: Thank you. No more questions.

1 THE COURT: All right. Anything further?

2 MS. OUTTEN: Nothing further from the State.

3 THE COURT: All right. You may step down. Thank you.

4 All right. State, call your next witness, please

5 MS. OUTTEN: Judge, I believe that there may be a
6 matter of law that we need to take up before the State calls
7 their next witness.

8 THE COURT: Ladies and gentlemen, we're going to have
9 to take up the matter of law. I will ask you to return to
10 your jury room, please do not discuss the case. Thank you.

11 (Jury exits courtroom.)

12 THE COURT: All right. I'll be happy to hear from you,
13 Ms. Outten.

14 MS. OUTTEN: Judge, the State intends to call
15 Antoniya Singleton, who is Javon Thomas' girlfriend, as our
16 next witness.

17 THE COURT: Okay.

18 MS. OUTTEN: And based on commentary date and opening
19 by Mr. McGuire, the state has some concerns and would like
20 to, I guess, sort of make a motion in limine at this time
21 that the Defense not be allowed to bring up prior
22 difficulties between either Antoniya and Emonie, or general
23 things in that way.

24 Under State versus Day, under 404, Defense really can't
25 elicit specific testimony about difficulty unless it was

1 directed at the Defendant. The State would argue that
2 instances of difficulty between Antoniya and Emonie are not
3 relevant in this matter. That it would be improper of her
4 character evidence about all a witness. And unless the --

5 THE COURT: Isn't -- isn't that the purpose -- isn't
6 that what started this whole event? Is what the -- my
7 understanding, did they had an event happen in -- at a -- at
8 a corner mart or a stop sign, or something like that? Isn't
9 that the position of the State?

10 MS. OUTTEN: Judge, our -- our position is that the
11 argument was between Courtney and Javon, not between Courtney
12 and -- not between the Defendant and Antoniya, or Emonie and
13 her -- and the girlfriend. And our position is also, Judge,
14 frankly, that the car that -- that Defendant's vehicle
15 driving down Comstock Avenue and the victim's girlfriend were
16 coming the opposite direction.

17 I mean, our position is that that vehicle actually
18 never stopped. So -- so we -- in no way were we conceding
19 that some sort of argument took place at that time. And --

20 THE COURT: You'd agree they can ask her about that.
21 They could ask that witness about any potential argument?

22 MS. OUTTEN: An argument that -- that she witnessed,
23 that the Defendant also witnessed. Yes. But prior it --
24 prior issues between Antoniya and Emonie, that may have
25 happened at some other point. I believe that Mr. McGuire --

1 he said months before.

2 I don't believe he can ask her about. And I also
3 believe under, you know, his reciprocal rule file obligation,
4 if he has text messages, social media posts that he
5 referenced that were made that -- and he intends to elicit,
6 if he is in possession of those, then he needs to turn those
7 over to us now.

8 And we would also say that he can't examine her about
9 hearsay. That he can't ask her about these random social
10 media posts. There needs to be specific dates, times,
11 content so that the state can determine whether or not
12 they're relevant. You know, if the -- if for example, Judge,
13 you know, Emonie lived at Antoniya's house in 2018, and
14 that's four years before this happened.

15 And I believe in the defense opening, he kind of
16 painted this series of events as though everything is
17 happening in a very quick succession. And as far as social
18 media posts and text messages, as we told, your Honor --
19 Judge, yesterday, we are not aware of any of that.

20 So we don't believe he should be able to get into those
21 with her. But that certainly without disclosing to us, he
22 also should be able to talk about hearsay evidence with her.

23 And as far as difficulties between the two of them,
24 unless the Defendant -- I don't -- I believe the Defendant
25 himself needs to testify about what he witnessed between the

1 two of them and the impact it had on him.

2 I don't think that we would be eliciting, you know --
3 maybe if the Defendant was present. But I think there --
4 there's a lot of unknowns here and I think some foundations
5 to be laid. I think that we just want some instruction from
6 the Court before we call this witness and it goes off the
7 rules.

8 THE COURT: All right. Mr. McGuire, I'd be happy to
9 hear from you.

10 MR. MCGUIRE: Yeah, I'm going to cross-examine her
11 about a number of things that are extremely relevant to this
12 event. This does have a bit of history. It's relevant that
13 they live together because they're close, they know each
14 other, and they were good at one time. Then they've had some
15 falling out. And the -- the -- the status of that
16 relationship in this moment of time was relevant.

17 And there were some posts on social media that were
18 derogatory towards Courtney and that was Javon posting that
19 stuff. And if I do have them at my table, I'm not
20 introducing them in my case-in-chief.

21 I'm introducing them through their witness and I don't
22 have to turn them over pursuant to Rule 5. Now, they may or
23 may not exist. It may just be referenced in testimony and
24 that's fine. She can explain it. But the status of this
25 relationship at this moment in time is relevant. It's not a

1 -- it's not a vacuum where it's by itself. There's context.
2 You have to understand to think that Niya would yell out at
3 this corner by Emonie's house, that you would -- she would
4 yell out something ugly to Emonie.

5 It's relevant. It's going to be relevant that they
6 were -- they were friends for a while and good for a while
7 because -- you'll see that in her statement. She says that
8 she seems to try to mislead the detective into -- she doesn't
9 know who's there. She doesn't know who's in the -- at that
10 corner that a car comes by and Javon takes issue with it
11 because it comes close to him and he starts to go unhinged.
12 So unhinged that Abigail Perry told her mom, "You stay in the
13 car. The guy's looking kind of crazy here."

14 And Antoniya tries to mislead Detective Butler into
15 saying, "She doesn't even know who's in that car. Who that
16 car belongs to." So I'm going to have to get into -- she
17 knows Emonie, she's been in that car before. She knows it.
18 She's seen Emonie getting dropped off at her mama's by
19 Courtney all the time. All the time. So I need to go back
20 into all of that.

21 Now, with regards to other incidents of violence
22 directed at Courtney, that's what the law absolutely allows
23 in a self-defense case. The law -- you'll charge the jury
24 that Courtney is allowed to factor in prior difficulties with
25 Javon in deciding how to act and what kind of threat Javon

1 was. That's 100 percent relevant that the law requires me to
2 put that up.

3 If I didn't put that up, I'd be ineffective. If
4 Courtney sees an act of violence in front of him -- Javon
5 acting, it doesn't have to be directed to Courtney. If
6 Courtney and I are in that park next to Niya's house and
7 Javon comes over, yanks me out of a car, and beats me in
8 front of Courtney, he can take that into account.
9 Absolutely, 100 percent. This is a violent person. Javon is
10 -- and we're able to go into the acts of violence that he
11 engages in.

12 If Courtney knows about it. And he does all that's
13 relevant, I don't understand. I mean this is like the whole
14 purpose of cross-examination and getting out these facts. I
15 don't understand -- I don't have to show my legal playbook to
16 them. I don't think they -- they can object if they think
17 something's inappropriate. But I want to question this
18 witness like any lawyer always cross-examines a witness.

19 THE COURT: All right.

20 MS. OUTTEN: Judge, if I may respond briefly. And I'm
21 citing directly to State versus Day, which is
22 341 South Carolina 410. "Evidence of other specific
23 instances of violence are not admissible unless they were
24 directed against the Defendant or if directed against others
25 or so closely connected at points of time or occasion with

1 the homicide to reasonably indicate the state of mind."

2 I think that he has to lay a foundation if he wants to
3 talk about difficulties between Emonie and Antoniya. It
4 cannot be difficulties that took place four years ago in
5 2018. They have to be closely related and have an impact on
6 his state of mind. And that is the subject of this motion,
7 that we do not want him to get into these specific instances
8 between the two of them, especially -- especially without
9 laying foundation of a date or a time.

10 But you cannot just bring up general difficulties
11 between -- I would assume Ms. Burgess isn't a -- is a
12 potential witness in this case. You can't just bring up
13 difficulties between them as part of this, unless closely
14 related in time. And so, that would be our motion that he
15 can't -- he can't bring up these difficulties that may have
16 happened six months before -- a year before.

17 THE COURT: All right. Hold on. We're talking about
18 two different things. You're -- you are specifically talking
19 about the difficulties between Ms. -- is it Ms. Singleton and
20 Ms. Burgess?

21 MS. OUTTEN: Yes, your Honor.

22 THE COURT: All right. You're talking about those in
23 one respect?

24 MS. OUTTEN: Yes.

25 THE COURT: He was also talking about prior instances

1 of Javon Thomas and -- and the Defendant having trouble as
2 well.

3 MS. OUTTEN: And -- and I believe he can get into those
4 instances. He -- case law says he can't get into details of
5 them, but he can get into those instances. So --

6 THE COURT: So far as Ms. Burgess and Ms. Singleton,
7 your argument is -- is that they can't -- he can't get into
8 any of their prior history?

9 MS. OUTTEN: Unless he can make a showing that they're
10 so closely connected in a point -- at -- at a point of time.
11 And I believe in State versus Day it -- the Court allowed
12 something in that was four months prior. So I just believe
13 there needs to be a showing about a point in time before he
14 gets into that.

15 And -- and there has to be a ruling that -- that, you
16 know, he has to make those showings before he wants to get
17 into that. And I believe that he -- the State's position
18 would also be that Mr. Richards would've had to have
19 witnessed him -- witnessed them. They can't just have come
20 via hearsay to him from entity or from entity.

21 THE COURT: So if Ms. Singleton witnessed them, you're
22 okay with that?

23 MS. OUTTEN: I think if --

24 THE COURT: I'm not talking Mr. Richards, we don't need
25 to put -- what -- that comes -- that would be at a later time

1 if he decided to testify or not. I'm talking about just
2 Ms. Singleton, are you saying Ms. Singleton can't testify to
3 things she's seen that Mr. Thomas has done? Is that -- is
4 that what you're saying?

5 MS. OUTTEN: No -- no, Judge. Well, I don't want to
6 say blanket no. I think specifically what we're saying is --
7 is that if there was a difficulty between Ms. Singleton and
8 Ms. Burgess that it needs to have been close in time to the
9 point of Javon Thomas' homicide and that it also needs to be
10 something that I would argue that the Defendant himself
11 witnessed, so as to impact his state of mind. I think that
12 that's the standard articulated by the Court in
13 State versus Day.

14 THE COURT: All right. Anything further, Mr. McGuire?

15 MR. MCGUIRE: So, Judge -- so all of this is -- and I'm
16 trying to read Day here. I didn't get an advanced copy or
17 notice, so this was going to be an issue. So I'm trying to
18 read Day here, but I will tell you this is all relevant.
19 Relevant evidence is evidence that makes a matter hit at
20 issue more or less probable. This moment in time of that
21 intersection isn't -- doesn't stand alone by itself.

22 How do these people know each other? What's their
23 relationship? Is there tension in the relationship? Would
24 Niya have a motive to yell something ugly at Emonie at that
25 corner? Javon with his history of clutching at his weapon at

1 chance meetings and giving a hard stare to Courtney and
2 Emonie.

3 That's all relevant as to how Courtney would take that
4 into account as upon being a hard threat. A prior assault on
5 Courtney by Javon is extremely relevant to show that Javon is
6 motivated to attack him.

7 THE COURT: She agree Ms. Singleton would have to
8 assume this then.

9 MR. MCGUIRE: I'm going to ask her if she saw it. I
10 believe she was there. She can say no.

11 THE COURT: Okay. All right. Keep going. I'm sorry.

12 MR. MCGUIRE: So she can say no. She -- I can -- I'm
13 going to ask her questions about Javon carrying the gun and
14 how he carried it, how he clutched at it when they would see
15 Emonie and Courtney, that's relevant. There are acts of
16 violence that Javon engaged in -- in front of Courtney that
17 are not directly -- it's not an act of violence where
18 Courtney was attacked.

19 But Javon assaulted other people in his view -- that's
20 relevant to know that this -- this fellow Javon is an angry,
21 violent person and all of this is relevant. And it's all
22 close in time. They did live together some years before when
23 Emonie's mom didn't have her own home and she lived -- and
24 Emonie lived with Niya, and I'm going to ask her about that.

25 You guys were good. Y'all called each other cousin.

1 You had a falling out, you had an argument over a request
2 that you'd be taken to Waffle House at 3:00 in the morning.
3 And then that silly, silly thing led to some picking and some
4 bickering from them. Javon clutching at his weapon when he
5 sees them.

6 And it leads up to that moment in time at the corner
7 right there. And it's all relevant. I mean, I have to -- I
8 have a Sixth -- Courtney has a Sixth Amendment right to
9 present a full defense. This is what the Court is about. So
10 yeah, I'm going to get into all that and I'm entitled to.

11 THE COURT: All right. I'm going to take a short break
12 and I'm going to look at Day, and read that, and then I'll
13 come back and I'll make a ruling. We may have to proffer
14 some evidence. I have received a note from the -- from the
15 foreperson -- is this from the foreperson? It's -- and I'm
16 going to mark it as the Court's exhibit just so we'll have
17 it. It says, "The jury would like to have pen and paper to
18 take notes."

19 And it's signed. The sign -- it's a signature. I
20 can't read it, but it -- Will say it's from the foreperson.
21 7/24/24. I can address that with the jury who may come back
22 in. All right? Yes, sir. If you'll mark this as
23 Court's Exhibit 1. All right. Meet date. All right. We'll
24 be at ease for probably about 15 minutes.

25 (Court's Exhibit 1 marked for identification.)

1 MR. MCGUIRE: Thank you, Judge.

2 (Off the record.)

3 THE COURT: When the jury comes out, I'll address the
4 note that we received, Court's Exhibit 1. I don't allow
5 note-taking. And I'll talk to them about that, and tell them
6 that I don't like them to take notes because I feel that it
7 -- when you're taking notes, you may be looking down, and
8 taking a note, and not focusing on the rest of the testimony.

9 That's just right. That's my position on that. So I'm
10 not going to allow them to take notes in this case. I want
11 them to use their eyes, and ears, and -- and -- and their own
12 memory. I also don't want to have notes where they -- they
13 would be possibly relying on someone else's notes when we're
14 in a -- in the -- you know, in the jury room at some point.

15 I think that's improper as well. You should go with
16 what you remember, not what somebody else might have taken
17 down to something specific. So I'll deal with that. Far as
18 the -- I don't -- I'm going to say the girl -- girlfriends
19 and we were talking about Ms. Singleton and Ms. Burgess, and
20 we'll talk about them next. As far as their testimony, I
21 think that there's certainly construction historical data
22 between the two of them.

23 And historical how they know each other. If they have
24 any type of bias or -- or anything like that. I think
25 Mr. McGuire has a right to get into that on impeachment as

1 far as bias that they could have. Any type of reason and
2 motivation to lie, you know, I don't -- I don't know what
3 they're going to say. We don't know yet, but I -- I feel
4 like he has a right to get into that.

5 And it just -- it for the -- you know, the case itself,
6 I think that history and that background is certainly
7 something that's relevant. Far as the specific acts of
8 violence, if there are any that I think -- we're talking
9 about Ms. Singleton at this time. Ms. Singleton were to have
10 witnessed that the deceased conducted any acts of violence
11 toward the Defendant. I think she can go into that -- that
12 anything she personally saw, I think she can go into that.
13 Far as specific acts of violence by the deceased. In regards
14 to other acts of violence, I would put a limit on that.
15 Anything based in the back -- past 90 days before the -- the
16 shooting -- the incident day of this event that we have here.
17 I think that's what Day mentions, limiting the time period.

18 And I think that's important. It does -- Day does talk
19 about specific acts of violence that -- that could affect the
20 Defendant's state of mind. And I think if she witnessed
21 those personally, I think that would be relevant. I think
22 that is proper as well. As far as the -- and I don't know
23 about the text messages or anything like that. I would -- so
24 I don't know if there are any or there were any, or there's
25 Facebook or whatever.

1 I think it is proper in the rule of discovery that --
2 that -- that the State be given a copy of those text messages
3 or -- or -- or Facebook or whatever we have before the
4 witness testifies, in order that they can prepare as well.
5 And that's the rule on the Court.

6 MR. MCGUIRE: Judge, can I just note an objection under
7 State versus Northcutt, we would object to an obligation on
8 our part to provide them with materials that we don't have,
9 to under the rules in State v. Northcutt, it was a death
10 penalty -- I represented Mr. Northcutt's -- a death penalty
11 case in Lexington County.

12 And the Judge ordered those expert witnesses that were
13 being called by the defense, generate a report and provide
14 that to the prosecutor when the rules don't allow for that.
15 And the -- you know, the South Dakota Supreme Court found out
16 its error.

17 THE COURT: All right. We're not talking about expert
18 reports in this case.

19 MR. MCGUIRE: I understand. I think it's just similar
20 enough.

21 THE COURT: We -- we are talking about the text
22 messages, the Facebook post, you know, in the rules of
23 discovery for these witnesses. I believe that puts everybody
24 on equal playing field and that -- that's and I think -- and
25 that's the rule of the Court. So if you have anything like

1 that, I -- I'll ask you to disclose it.

2 At this time if you -- I don't know if you do or not, I
3 don't know what you have and I'm just -- they are some
4 indications that there may be something floating out there
5 that we may have, but that's the ruling of the Court.
6 Anything else before bringing the jury back out?

7 MR. MCGUIRE: Just being honest with the Court. One of
8 the decisions we could make would be -- given that that's the
9 ruling, we could choose not to deliver that material to the
10 State and not use it.

11 THE COURT: All right.

12 MR. MCGUIRE: I mean, just -- just to preserve that
13 issue.

14 THE COURT: All right. Thank you. I think we'd have
15 to have a record of what it is then that you're not giving
16 over. If you're going to do that. I don't know how we would
17 know what it is.

18 MR. MCGUIRE: I might proffer for something later.

19 THE COURT: All right.

20 MR. MCGUIRE: I appreciate that, Judge.

21 THE COURT: All right -- all right. Anything else
22 before we get started?

23 MS. OUTTEN: Just -- just wanted one point of
24 clarification about our -- the prior acts of the victim
25 within 90 days. Ms. Singleton needs to have witnessed those

1 herself.

2 THE COURT: Yes, she does --

3 MS. OUTTEN: It can't be -- it can't be, "Do you know
4 of this?" It has to be --

5 THE COURT: No.

6 MS. OUTTEN: -- "did you have to witness this?"

7 THE COURT: This is what she saw at this time. That --
8 because it would be -- she would have to be what she saw, not
9 things that she's heard or read about, or maybe -- I mean,
10 there's no way to -- to verify any of that and we're not
11 going to get into a Facebook war over here of what somebody
12 might have posted sometime on their page.

13 MS. OUTTEN: Your Honor, just want to clarify your
14 ruling. Thank you.

15 THE COURT: Okay. All right. Okay. Are we ready to
16 bring the jury in?

17 MS. LINDER: Yes, your Honor.

18 THE COURT: Okay. All right. Let's go get the jury.

19 MR. MCGUIRE: Thank you, your Honor.

20 (Jury enters courtroom.)

21 THE COURT: All right. Everybody you may have a seat.

22 THE BAILIFF: Judge, all the jurors are present and
23 seated.

24 THE COURT: All right. Everybody, let's seat, please.
25 Thank you. Ladies and gentlemen, I know a little longer

1 break than we anticipated, but that kind of ran into our
2 morning break. So I think we -- we -- we covered a lot of
3 things at one time. I did receive a note. I talked about
4 the request to take notes by the jury. I -- I do not allow
5 note-taking in -- in cases.

6 And -- and I'll tell you why. You know, when you take
7 notes, you're -- you're writing something down, you can be
8 distracted from other testimony or -- or that will be coming
9 from the witness stand.

10 Also, I don't allow note-taking because I want -- I
11 don't want you to rely on someone else's notes in a -- you
12 know, at a later time in this case, I -- what I would like
13 you to do is, I'd like you to use your eyes, and your ears,
14 and your senses, and recall what you recall. Not what might
15 be written on another note somewhere in the case. And we can
16 discuss that later. If there comes a time that, you know, to
17 re-hear some type of testimony or something, we can talk
18 about that later. But at any rate, I will add this -- why I
19 don't allow note-taking. So we're going to -- we're ready to
20 get started. And State if you call your next witness,
21 please.

22 MS. OUTTEN: The state calls Antoniya Singleton.

23 ANTONIYA SINGLETON,

24 having been duly sworn, testifies as follows:

25 THE CLERK: And if you'll state your name for the

1 record spelling your last name.

2 THE COURT: Please -- going to pull the mic down. You
3 adjust the mask so we can -- we can pull --

4 THE WITNESS: I'll just pull it down.

5 THE COURT: Thank you. If you just pull the mic down
6 towards you would be great. Thank you. All right. Go
7 ahead.

8 MS. OUTTEN: I believe she still needs to state --

9 THE COURT: Oh, okay. State your name.

10 THE WITNESS: Sorry. Antoniya Singleton.

11 THE COURT: All right. Spell your last name, please.

12 THE WITNESS: S-I-N-G-L-E-T-O-N.

13 THE COURT: All right. Thank you.

14 DIRECT EXAMINATION

15 BY MS. OUTTEN:

16 Q. Good morning, Ms. Singleton.

17 A. Good morning.

18 Q. Where do you work?

19 A. Bell's Home Care.

20 Q. And where are you originally from?

21 A. Jacksonville.

22 Q. But where do you live for the majority of your
23 life?

24 A. North Charleston.

25 Q. And so, you -- would you consider yourself born

1 and raised in Charleston?

2 A. Yes.

3 Q. And right now, where are you living?

4 A. Ladson.

5 Q. But back in 2022, where were you living?

6 A. Union Heights.

7 Q. And was there ever a nickname you used from
8 Union Heights?

9 A. The Height?

10 Q. Did you know the victim in this case,
11 Javon Thomas?

12 A. Yes.

13 Q. How did you know him?

14 A. He was my boyfriend.

15 Q. How did you meet Mr. Thomas?

16 A. In high school.

17 Q. Did y'all go to the same high school?

18 A. Yes.

19 Q. And how long had y'all been dating?

20 A. Three years.

21 Q. And back in 2022, how old were you?

22 A. 18.

23 Q. And was Javon staying with you most of the time
24 after February of 2022?

25 A. Yes.

1 Q. So I want to go back specifically to
2 February 19, 2022. Can you tell me a little bit about what
3 you were doing that day?

4 A. Trying to get my job back.

5 Q. So after you kind of made some phone calls with
6 that, what happened next?

7 A. I went to Walmart to get -- to try to get it back.

8 Q. And so, after you came home from Walmart, did you
9 see Javon that day?

10 A. Yes. He was asleep.

11 Q. And what happened after he woke up?

12 A. He went to the store.

13 Q. Did you decide to go to the store on foot?

14 A. Yes.

15 Q. So is that somewhere that you would go often?

16 A. Some -- well not me, but he would.

17 Q. And did he often walk to the store?

18 A. Yes.

19 Q. And what were y'all going to go buy there?

20 A. Snacks.

21 Q. And you said that when you got home, Javon was
22 sleeping. Was he working at the time?

23 A. No.

24 Q. Was he in school?

25 A. He --

1 Q. Taking classes, anything like that?

2 A. I think he -- he was taking classes.

3 Q. Where was he taking classes?

4 A. Trident Tech.

5 Q. So where were you before you and Javon decided to
6 go off to school?

7 A. Home.

8 Q. And do you mind buying what your address was at
9 that time?

10 A. 2018 Hackemann Avenue.

11 Q. And can you sort of explain it? If you need me
12 to, I can get a map out -- how you would've gone from your
13 house to the store. Just generally.

14 A. We walk through the -- well, when I'm leaving my
15 house, we'll usually walk through the park to go to the
16 store.

17 Q. And then when you went through the park, what park
18 does that -- what road does that park end on?

19 A. Arbutus.

20 Q. Or -- and then you -- so after the park ends, you
21 would've go -- gone down what street to ultimately make it
22 over to Comstock Avenue?

23 A. I don't remember what it's called.

24 Q. Okay. But you eventually would've walked down
25 Comstock to get to the store?

1 A. Yes.

2 Q. And where is the store that we're talking about?

3 A. It is on the corner. Like on the hike.

4 Q. Of Comstock?

5 A. Of Comstock.

6 Q. And maybe Spruill Avenue?

7 A. Yes.

8 Q. And did you see or interact with anybody while
9 y'all were walking to the store?

10 A. No, it was just us.

11 Q. So once you get down on Comstock Avenue, what
12 happened?

13 A. We was walking to the store and there was a grey
14 car speeding past us.

15 Q. And when you say, "It sped quickly past you," how
16 -- about -- so are you walking towards Spruill Avenue down
17 Comstock?

18 A. Yes.

19 Q. And who's on the outside? Closest to the window?

20 A. Javon.

21 Q. And so, you're on the inside then?

22 A. Yes.

23 Q. So about -- how close did that car get to Javon?

24 A. The streets was small, so it was, like, pretty
25 close because he was, like, in the road, like, walking. And

1 I was, like, on the side, like, in the grass, there.

2 Q. So Javon was almost in the road. And the car --
3 and you said, "The car drove by quickly?"

4 A. Yes.

5 Q. Did you have to move out the way of the car?

6 A. Yes.

7 Q. And what would've happened if you don't move out
8 the way?

9 A. The car would've hit us.

10 Q. And just to clarify, was the car traveling in the
11 same direction as you, or was the car coming towards you when
12 you were walking at Comstock?

13 A. Coming towards me.

14 Q. And you might have said this already, but what
15 kind of car was it?

16 A. It was a grey car, Jeep.

17 Q. And did you know who was driving that car?

18 A. Yes.

19 Q. Who was driving the car?

20 A. Courtney.

21 Q. Did it seem to you that Javon knew who was driving
22 the car?

23 A. Yes.

24 Q. And at that point, when you're standing on -- on
25 Comstock and the car just sped past you, did you see anyone

1 in the car with him?

2 A. No.

3 Q. And did Javon say anything as the car went by?

4 A. Yes. He got mad and he was like, "They did the
5 same thing the day before."

6 Q. So after the car passed by you and Javon, where
7 did it go? Like --

8 A. Down -- it went down Comstock and then it stopped.

9 Q. And pretty far, how far in front of you did you
10 think?

11 A. Far.

12 Q. So what happened after that car drove past you?

13 A. He turned -- well, when he mentioned that they did
14 the same thing before -- I mean, the day before he started
15 walking towards the car. And I was asking him, "Who" -- "who
16 was it?" Like, "Who" -- you know. I was like, "Who, who,
17 who?" And he was like -- he wasn't answering me. He just
18 was like, "Niya, go to the house. Go to the house." And I
19 was still asking him, "Who?" And he kept walking.

20 Q. And when -- so Javon told you to go to the house,
21 is that what you did?

22 A. No.

23 Q. What did you do?

24 A. I went on the side of the house. I was hiding.

25 Q. But you turned?

1 A. I turned off to walk -- to attempt to go home, but
2 I didn't. I went on the side of the house.

3 Q. So -- so you turned off of Comstock Avenue onto
4 Cosmopolitan?

5 A. Yes -- yes.

6 Q. And when you're standing there, what happens?

7 A. I heard gunshots.

8 Q. And how many gunshots did you hear?

9 A. At first it was, like, three. Then it was, like,
10 spaced out.

11 Q. And after -- when you're standing, so you turned
12 off of Comstock onto Cosmopolitan by the house?

13 A. Yes.

14 Q. Where you are standing and hiding, are you able to
15 hear anything that the Defendant, Courtney, is saying?

16 A. No.

17 Q. And why is that?

18 A. Because the -- the house was, like, in front of me
19 and it was, like, on the next street.

20 Q. And was Courtney -- when we're talking about that
21 corner in that house, was Courtney's car stopped close to it?

22 A. No.

23 Q. It was further down?

24 A. It was further down.

25 Q. And at that time when y'all -- when Javon's

1 walking down the street and he's sending you home, did you
2 see anything in Javon's hands?

3 A. No.

4 Q. And when y'all left the house, did you think Javon
5 had a gun with him?

6 A. No.

7 Q. Did Javon typically carry a firearm when y'all
8 were together?

9 A. Sometimes. Not -- well -- well, when me and him
10 was together, no.

11 Q. And so, when you kind of talk about -- so when --
12 so now you turned down there and Javon still on Comstock --
13 car is on Comstock, are -- are words being exchanged?

14 A. I just heard Javon yelling.

15 Q. Do you hear -- but not specific words?

16 A. No, I just heard him saying like, "What -- what --
17 what?"

18 Q. And so, do you know Courtney?

19 A. I know him through an old friend.

20 Q. And who's that old friend?

21 A. Emonie.

22 Q. And what's the relationship between Emonie and
23 Courtney?

24 A. They go -- they're together.

25 Q. And what is the relationship between you and

1 Emonie?

2 A. Nothing.

3 Q. At the time was there any relationship between
4 you?

5 A. No.

6 Q. Had there been a relationship between you in the
7 past?

8 A. Yes.

9 Q. But at the time of this incident, would y'all hang
10 out?

11 A. No.

12 Q. Had it been a while since y'all had hung out?

13 A. Yes.

14 Q. How long had it been since you'd seen her?

15 A. A year.

16 Q. So kind of coming back to the incident, after you
17 hear the gunshots, what do you do?

18 A. I froze.

19 Q. And then --

20 A. And then I stood right there.

21 Q. Would -- fair to say maybe you were in shock?

22 A. Yeah. Shock.

23 Q. And so -- then after that, what happened?

24 A. Then I noticed that he didn't come back, so then I
25 went to go look for him. Like, I started looking down the

1 street. I didn't see him. And then I looked down and he was
2 on the ground.

3 Q. And after you saw him lying on the ground, what
4 did you do?

5 A. I started to shake him and then scream.

6 Q. And what happened after that?

7 A. And then I -- I attempted to call 911, but then my
8 phone died. So the people that was behind me, they already
9 was calling them.

10 Q. So when the other people told you they were
11 calling 911, what did you do?

12 A. Oh, they was telling me -- once they did say, they
13 was calling 911, they was also telling me to go home too.

14 Q. Is that what you did?

15 A. Yes.

16 Q. And so, late -- but later on that day, you spoke
17 with Detective Butler with the
18 North Charleston Police Department?

19 A. Yes.

20 Q. And do you remember where you spoke to her?

21 A. I don't -- I don't remember at, but --

22 Q. Well, was it -- was it on Comstock Avenue near the
23 crime scene or was it at the police station?

24 A. Police station.

25 Q. And did she present you with a series of photos to

1 identify the person you saw driving the Jeep that day?

2 A. Yes.

3 MS. OUTTEN: I'm going to pass this to the witness,
4 your Honor.

5 THE COURT: All right.

6 BY MS. OUTTEN:

7 Q. I'm showing you what's been marked as
8 State's Exhibit 26. Do you recognize that?

9 A. Yes.

10 Q. And is -- is that one of the photos that
11 Detective Butler presented you with that day?

12 A. Yeah. I mean, yes.

13 Q. And does it have your initials on it?

14 A. Yes.

15 MS. OUTTEN: And at this time, the State would offer
16 Exhibit 26 in evidence?

17 MR. MCGUIRE: No objection.

18 THE COURT: All right. State's Exhibit 26 entered into
19 evidence without objection.

20 (State's Exhibit 26 admitted into evidence.)

21 MS. OUTTEN: Permission to publish, your Honor?

22 THE COURT: Yes, you can.

23 BY MS. OUTTEN:

24 Q. Is this the person you identified that day?

25 A. Yes.

1 Q. And is that person in the courtroom here today?

2 A. Yes.

3 Q. Can you please identify him by an item of clothing
4 he's wearing?

5 A. Pink. Wait --

6 Q. Is he sitting at the Defense Counsel table?

7 A. Yes.

8 MS. OUTTEN: Okay. Ms. Singleton, I do not have any
9 other questions for you. So I believe Mr. McGuire does.

10 THE WITNESS: Okay.

11 THE COURT: All right. Cross-examination, please.

12 CROSS-EXAMINATION

13 BY MR. MCGUIRE:

14 Q. Ms. Singleton, my name's Bill. I represent
15 Courtney.

16 A. Okay.

17 Q. We never talked before, right?

18 A. No.

19 Q. I want to start off by asking you about Javon's
20 gun, okay?

21 A. Okay.

22 Q. And you've seen it many times?

23 A. Not many times because he didn't have it around
24 me.

25 Q. So are you saying that he had a gun -- you know he

1 had a gun, right?

2 A. Yeah.

3 Q. Okay. And you've seen it before, right?

4 A. Not many times I saw it though.

5 Q. Okay. Where would you see it?

6 A. When I -- probably, like, when he -- nice. I
7 don't -- when he come around -- he didn't really have it
8 around me, so I can't really say when have I -- I can't be
9 specific about when I seen it because he didn't have it
10 around me.

11 Q. Did you tell him, "I don't like guns, so please
12 don't have a gun around me?"

13 A. Yes, he knew that. I didn't like guns.

14 Q. You don't -- you don't like guns?

15 A. No.

16 Q. Okay. Did Javon like guns?

17 A. I don't know. I mean --

18 Q. When he would carry his gun, how would he carry
19 it?

20 A. He didn't used to have it around me, so I wouldn't
21 know.

22 Q. So you've never seen him leave the house with his
23 gun in his waistband?

24 A. No.

25 Q. Did -- he hid that from you?

1 A. Yes.

2 Q. And did Javon wear kind of baggy -- kind of
3 sacking-down pants?

4 A. No.

5 Q. No?

6 A. They were tight.

7 Q. Tight?

8 A. Yeah.

9 Q. Okay. And he didn't wear his pants down low like
10 sagging.

11 A. Sometimes. Not all the time though.

12 Q. And he would carry his gun in -- in his pants even
13 when they were sagging, right?

14 A. I didn't see if -- I didn't see if he did or not.

15 Q. Okay. Because he kept the gun completely away
16 from you?

17 A. Yes. I didn't like guns, period.

18 Q. And you don't like guns?

19 A. No.

20 Q. Okay. Now, why did you like Javon if he liked
21 guns? Did you -- did you like the gun-carrying guy?

22 A. I didn't -- when we met in school, I just liked
23 what type of person he was and I liked his personality, not
24 because he liked the guns.

25 Q. Okay. But you never told him, "You know, I don't

1 like fellas that are violent or have guns, so we can't go
2 out?"

3 MS. OUTTEN: Objection, your Honor. I believe she -- I
4 believe that's asked and answered. And I also believe
5 there's -- we possibly venturing into improper evidence here.

6 MR. MCGUIRE: Judge, she can answer --

7 THE COURT: I -- I'm going to allow it. Overruled.

8 BY MR. MCGUIRE:

9 Q. Did you ever tell him in high school, "Guns are a
10 deal-breaker with me. I don't like guns. I like you, you
11 seem nice, but if you are going to be around guns, we can't
12 go out?" You never told him anything like that, did you?

13 A. Nope.

14 Q. You were okay with him being a gun guy?

15 A. I wasn't. I didn't really -- I just only liked
16 this for him -- for his personality. I -- I only liked him
17 for his personality. It had nothing to do with him liking
18 guns.

19 Q. Right. But him liking guns, that wasn't a
20 deal-breaker for you?

21 A. No.

22 Q. You were okay with him being around guns --
23 carrying guns?

24 A. I wasn't okay with it. That's why I didn't want
25 it around me.

1 MR. MCGUIRE: Can I mark this? I am going to ask you
2 about this. I would ask her about it.

3 MS. OUTTEN: Your Honor, I believe we might need to
4 approach.

5 MR. MCGUIRE: I need to ask her if she cried
6 (inaudible).

7 THE COURT: All right. Counsels approach.

8 (Bench conference.)

9 THE COURT: All right. We're back on the record.

10 BY MR. MCGUIRE:

11 Q. Ms. Singleton, I'm going to show you what's been
12 marked Defense's Number 2. You recognize that?

13 A. Yes.

14 Q. Who's in that picture?

15 A. Javon.

16 Q. And his nickname is Laylo Von (ph)?

17 A. His nickname was Von.

18 Q. Okay. But it says -- labeled Von on that picture.

19 A. Yes.

20 Q. And in that picture, he has a gun --

21 MS. OUTTEN: Objection. I don't believe he can ask her
22 about what's in the photo before it's been put into evidence.

23 THE COURT: I agree with that.

24 BY MR. MCGUIRE:

25 Q. This picture, it's not just, like, a family

1 picture that you guys take and have in your house. This is a
2 social media-post picture, right?

3 A. I don't recall. I don't -- social media or not.

4 Q. So do you get on Facebook? Have you ever been on
5 Facebook?

6 A. I've been on Facebook, but I don't -- I don't be
7 on it a lot.

8 Q. And on Facebook, you can put a profile picture,
9 right?

10 A. Yes.

11 Q. And Facebook has things on there like friends --
12 you can send instant messages on Facebook?

13 A. Yes.

14 Q. And you see those images on this picture.

15 A. What you point at? There's no images right there.

16 Q. Is there -- is there an area on this picture --
17 and it says friends like Facebook has?

18 A. Yes.

19 Q. All right. And it has a message -- a little
20 button where you can message -- instant message?

21 A. Yes.

22 Q. And you see that on here?

23 A. Yes.

24 Q. Do you recognize this as me from Facebook?

25 A. Yes.

1 MR. MCGUIRE: Thank you. Judge, I move to let the jury
2 see this. Move to admit it into evidence and then publish to
3 the jury.

4 THE COURT: State?

5 MS. OUTTEN: Judge, I would -- I would raise the prior
6 objection that I had that we -- that we spoke about at the
7 bench. I would also note that there's really no date, time,
8 no other context that's been offered. And I would also just
9 point out for the record that it appeared that Ms. Singleton
10 had some difficulty authenticating it. So I don't believe
11 that threshold's been satisfied here. And I would also raise
12 a relevance in form of objection.

13 THE COURT: All right. I'm going to sustain your
14 objection.

15 BY MR. MCGUIRE:

16 Q. Silver Bar Defense's Number 2. Take a look at, it
17 if you good. Where did Javon say he worked on that Facebook
18 post?

19 A. It doesn't have that on there.

20 Q. It doesn't say manager@truereligionbrandjeans
21 right at the top of the narrative?

22 A. It looks.

23 MS. OUTTEN: Your Honor, can we -- can we approach?

24 THE WITNESS: It doesn't say work though.

25 THE COURT: I'll tell you what we'll do. We'll -- I'm

1 going to send the jury out for a minute and we're going to
2 take a -- a matter outside their presence and please don't
3 discuss the case. Thank you all.

4 (Jury exits courtroom.)

5 THE COURT: All right.

6 MS. OUTTEN: Judge, I just have concerns. He's -- he's
7 walking around with this in his hand. He's getting close to
8 the jury with it. You have -- did not -- declined to allow
9 it into evidence at this time. I believe that he's entitled
10 to ask Ms. Singleton where did Javon work. I don't think he
11 can hand her an exhibit that she's already been unable to
12 authenticate and say where does it say he worked on here?

13 I think that we're -- and I'm also concerned at the way
14 that he sort of -- it feels like it may be a little -- there
15 may be some incidental publication here that I'm a little
16 worried about. So I just think we need to move on from this
17 Facebook post.

18 THE COURT: All right.

19 MR. MCGUIRE: Judge, I deliberately held the white side
20 to the jury when I was anywhere close to him. That's just a
21 fact.

22 THE COURT: All right. I -- I I'll say I did not
23 notice any type of publication to the jury. I -- I -- I was
24 watching that as well. I did not see that. But we -- the
25 impeachment or the attempting to cross -- get a

1 cross-examination of her based on something that's not in
2 evidence, that in questioning her about some piece of paper
3 for all it is at this point is improper.

4 You know, you can ask her the questions if she knows
5 the answer or not, but this -- there's no -- this isn't a
6 prior statement she's made or anything like that.

7 MR. MCGUIRE: Yes, sir.

8 THE COURT: So I would -- I would need to move on. I
9 will bring the jury back in. Anything else we need to take
10 up before the jury?

11 MS. OUTTEN: Nothing else from the -- oh --

12 MR. MCGUIRE: I can use it to refresh her recollection.
13 Even though it is not produced by her.

14 THE COURT: It's to refresh her recollection of where
15 she -- where he works?

16 MR. MCGUIRE: Yeah.

17 THE COURT: It's not her report or any of her
18 information.

19 MR. MCGUIRE: It doesn't have -- it doesn't have to be
20 produced by her or her own statement. You can refresh
21 recollection of a witness's memory by using documents not
22 produced by them. Photographs not taken by them. It doesn't
23 have to be hers. I can just ask her if she's reviewed it,
24 then I can ask her a question about it.

25 MS. OUTTEN: And -- and Judge, we don't know when that

1 screenshot was taken. I'm pretty sure if you went and looked
2 at my Facebook -- right now would say that I worked at my
3 family's store. Because that's what I did when I was in high
4 school. You know, we don't -- we don't know when it was
5 taken. I think if he -- if she wants -- if he wants to
6 impeach her on that.

7 And -- and I also just think that he's clearly trying
8 to continue to discuss this in front of the jury and
9 hopefully he can get it into evidence again. And I just
10 think I agree with the Court that it's just time to move on
11 to something different.

12 THE COURT: We're not -- we're going to move on from
13 this piece of evidence. All right. Your objection is made.

14 MR. MCGUIRE: Thank you, Judge. So the Court's ruling
15 is, I can't use that to refresh her recollection?

16 THE COURT: That's correct.

17 MR. MCGUIRE: Okay.

18 THE COURT: All right. We're ready to bring the jury
19 back in.

20 MS. OUTTEN: State's ready, your Honor.

21 THE COURT: All right. Defense ready?

22 MR. MCGUIRE: Yes, sir.

23 THE COURT: All right. Let's bring the jury back in.

24 (Jury enters courtroom.)

25 THE COURT: All right. We're ready.

1 THE BAILIFF: All jurors are present and seated.

2 THE COURT: All right. Thank you. Please continue
3 cross-examination.

4 MR. MCGUIRE: Thank you, Judge.

5 BY MR. MCGUIRE:

6 Q. Ms. Singleton, I'm not going to ask any more
7 questions about that photograph, or that posting. I am going
8 to ask you a couple more questions about Javon's gun. When
9 he was keeping it from you, where did he keep it? Did he
10 hide it someplace?

11 A. I don't recall.

12 Q. Okay. Did he have a car?

13 A. No.

14 Q. So he didn't keep it in a car, he was living with
15 you, right?

16 A. He -- he had a car, but it wasn't running.

17 Q. Okay.

18 A. It was an old car.

19 Q. Okay. So did he hide it in y'all's bedroom?

20 A. No.

21 Q. So where did the gun live?

22 A. I don't recall.

23 Q. Okay. He was very successful at hiding it from
24 you. So you never saw it?

25 A. I didn't like guns. I didn't -- I don't like

1 those around me.

2 Q. So you say -- do you know how to cock a gun
3 loaded?

4 A. No.

5 Q. You never saw him do that?

6 A. Nope.

7 Q. Now, you mentioned that Javon was taking classes
8 at Trident Tech?

9 A. Yes.

10 Q. Is that the north campus in North Charleston?

11 A. I wasn't -- I don't -- I'm not aware which one
12 because he was doing it online.

13 Q. He -- but he registered, right?

14 A. Yes.

15 Q. Did he pay tuition? Did he pay for the classes?

16 A. No.

17 Q. He just did it for free?

18 A. Yes.

19 Q. But did you have to go through a registration
20 process and sign up so he could get access to the class?

21 A. Yes.

22 Q. And did you see him taking the class on the
23 computer in your bedroom?

24 A. He used to do it on the phone.

25 Q. On his phone?

1 A. Yes.

2 Q. Okay. And what classes was he taking?

3 A. I don't recall.

4 Q. Do you recall him having homework?

5 A. It was, like, it wasn't homework, it was, like,
6 Edgenuity. So there was, like, online.

7 Q. I don't know what that means. Can you explain
8 that?

9 A. He used to do classes online. So it -- it was a
10 website called Edgenuity. It's basically a math website to
11 help you pass. So I know he was doing that, but I never saw
12 homework, just saw him doing that.

13 Q. Did he tell you what his grades were at
14 Trident Tech?

15 A. No.

16 Q. Okay. But he definitely told you, "I'm taking
17 classes at Trident Tech?"

18 A. Yes.

19 Q. Okay. Now, you know Emonie, right?

20 A. Yes.

21 Q. Okay. And you guys used to be close?

22 A. Yes.

23 Q. And y'all would call each other cousins?

24 A. Yes.

25 Q. And when Emonie didn't have her own place, Emonie

1 stayed with you and your mom?

2 A. Yes.

3 Q. And was that on (inaudible) address?

4 A. Yes.

5 Q. And then there were times where you guys would get
6 along and then times where you would fall out?

7 A. Yes.

8 Q. And not get along, right?

9 A. Yes.

10 Q. Okay. And that happened a couple of times over
11 the course of y'all's relationship -- fall out, be good?

12 A. Yes.

13 Q. Okay. Now, when -- Emonie eventually got a house,
14 right?

15 A. I don't -- she --

16 Q. On Comstock?

17 A. Oh, yes.

18 Q. Okay. And that's in Union Heights?

19 A. Yes.

20 Q. How many blocks -- how many blocks from your house
21 is there?

22 A. That's, like, three streets over.

23 Q. Okay. And you and Javon would go to the store a
24 lot?

25 A. Well, not me, just -- he would go a lot, but I

1 would usually -- in the house, I only go sometimes.

2 Q. Okay. Do you remember telling Detective Butler
3 that Javon made a statement to you, "This is the last time
4 I'm walking into the store with you because you wanted to go
5 the store all the time." And he was playing with you saying,
6 "This is it. This is the last time I walked into the store."
7 You remember telling Detective Butler that?

8 A. That's not how he said it, but I remember. Yeah.

9 Q. So you've been -- when Emonie finally got her own
10 place -- her house.

11 A. Yes.

12 Q. You went there before?

13 A. Yes.

14 Q. And you --

15 A. I didn't go in though.

16 Q. You hung out in the yard certainly?

17 A. Yes.

18 Q. Okay. And you knew where -- and Emonie stayed
19 there too, at her house?

20 A. Yes.

21 Q. Okay. And you knew that, right?

22 A. Yes.

23 Q. And you've seen Emonie in the neighborhood plenty
24 times, right?

25 A. Yes.

1 Q. And you've seen Courtney in the neighborhood
2 plenty times?

3 A. We used to live in the same neighborhood, so yes.

4 Q. So y'all would see -- it's a small neighborhood?

5 A. Yes, it's small. We wouldn't see each other all
6 the time because we was on two different roads, like, sides.
7 But we would see each other, like, sometimes.

8 Q. Do you remember around this time frame you texting
9 Emonie --

10 MS. OUTTEN: Objection, Judge. Lack of foundation.

11 THE COURT: You can ask that. Overruled.

12 BY MR. MCGUIRE:

13 Q. Do you remember around this time, a little bit
14 before this incident, texting Emonie asking at -- at 3:00 --
15 3:30 in the morning saying, "Can you bring -- you could
16 already bring us to the Waffle House." Do you remember that?

17 A. I don't recall that.

18 Q. No?

19 A. No.

20 Q. And you don't remember Emonie's response being,
21 "We work, we can't come out at 3:00 in the morning?"

22 A. No.

23 Q. Okay. And where did Javon work?

24 A. Last place he worked was Holy City.

25 Q. Holy City?

1 A. Yes.

2 Q. What was that?

3 A. It was a restaurant.

4 Q. Where?

5 A. I don't know. I'm -- I don't recall where it was,
6 but I just knew he worked there.

7 Q. How did he get there if his car was broken?

8 A. It was by -- I know it was somewhere by his house.
9 So he could have walked there.

10 Q. Did you ever see him there?

11 A. No, I never been there.

12 Q. You ever see him get a paycheck from there?

13 A. Yes.

14 Q. You saw him have a paycheck from Holy City?

15 A. That's I -- yeah.

16 Q. And when did happen?

17 A. When he got paid.

18 Q. Yeah. I'm talking about what -- this incident
19 happened February 19, 2022. His paycheck from Holy City.
20 How close in time?

21 A. That's -- I said that was the last place he
22 worked. That -- so just had to been, like, probably a couple
23 of months from that, from February.

24 Q. Did Javon -- I know you say the Waffle House thing
25 didn't happen. Do you remember that Javon put any negative

1 things about Courtney on social media?

2 A. No.

3 Q. Did it happen?

4 A. I don't -- no.

5 Q. Do you remember asking Courtney and Emonie for
6 rides -- places?

7 A. No.

8 Q. So -- so your car was broken -- Javon's car was
9 broken, didn't run, and wasn't it customary typical for you
10 to ask Emonie, "Hey, can Courtney take us someplace?"

11 A. No, I didn't need rides from them. I could have
12 asked my parents to take me anywhere I need to go.

13 Q. Are you saying you've never been inside Courtney's
14 Jeep?

15 A. I never been in his Jeep.

16 Q. Okay. You never got rides to places?

17 A. No. I only -- we only was together when we used
18 to be cool with each other.

19 Q. Okay. Now -- so you never asked Emonie, "Hey, can
20 Courtney give us rides to places?"

21 A. No.

22 Q. Do you remember an incident -- kind of close and
23 tight to this incident that we're here for today, where -- do
24 you remember seeing Emonie and Courtney parked in their car
25 at the park close to your house?

1 A. No.

2 Q. You never saw them there?

3 A. No.

4 Q. Do you remember Javon going on --

5 MS. OUTTEN: Objection, Judge. I -- I believe, again,
6 we're in a lack of foundation close in time. We need to lay
7 the foundation for when that was pursuant to your ruling.
8 And she also said she didn't see it. So I believe that
9 there's a speculation objection there as well.

10 MR. MCGUIRE: Oh. That's not what I'm asking, Judge.

11 BY MR. MCGUIRE:

12 Q. So -- so your --

13 THE COURT: I'm going to overrule your objection for
14 now.

15 BY MR. MCGUIRE:

16 Q. So your testimony is you never saw Javon try to
17 meet Courtney out of his car at the parking of your house?

18 A. No, I wasn't aware of that.

19 Q. You've been with Courtney and Emonie when Javon
20 pulled you out of Courtney's car by your hair?

21 MS. OUTTEN: Objection, again, Judge.

22 THE WITNESS: What? No.

23 MR. MCGUIRE: Okay. She says --

24 THE COURT: Attorneys approach.

25 (Bench conference.)

1 BY MR. MCGUIRE:

2 Q. So, Ms. Singleton --

3 THE COURT: All right. Hold on.

4 MR. MCGUIRE: Yes, sir.

5 THE COURT: I'm going to overrule your objection -- the
6 State's objection. And now you can proceed with your
7 question.

8 BY MR. MCGUIRE:

9 Q. So, Ms. Singleton I just asked you if Javon had
10 ever shoved you out of Courtney's car and Emonie was there by
11 your hair, you said no, correct?

12 A. Yes.

13 Q. And also, within 90 days of this incident that
14 we're here for today, Javon also yanked you out of Emonie's
15 yard by your hair when the Courtney was there?

16 A. No.

17 Q. Were you at your house when Courtney and Emonie
18 drove by in the car -- when somebody ran out from your yard
19 and chased him?

20 A. I wasn't aware of that.

21 Q. Okay. You don't know about that?

22 A. No.

23 Q. You do know, however, that Emonie's mom talked to
24 your mom trying to get control of Javon. Do you remember
25 that?

1 A. I wasn't aware of that either.

2 Q. Okay. You're not aware that Emonie's mama called
3 your mama and said, "Do y'all get control of Javon?"

4 A. No.

5 Q. Let's talk about the day we're here for. You and
6 Javon -- you said, "You were trying to get your job back from
7 Walmart?"

8 A. Yes.

9 Q. Were you fired?

10 A. Yes.

11 Q. For what?

12 A. Playing.

13 Q. I don't know what that means.

14 A. Like, just -- I was young back then, so we just
15 used to play a lot at Walmart. Wasn't really working.

16 Q. Wasn't working for you or working for you?

17 A. I said we wasn't -- well, me and other people who
18 worked there, it wasn't working. Like, we wasn't really
19 working. We just used to just play. We was young back then.

20 Q. They would pay you to come play at Walmart?

21 A. No. What I'm saying is that's why I got fired
22 because we -- I used to just play.

23 Q. And not work?

24 A. Yes.

25 Q. They were paying you for work?

1 A. Yes.

2 Q. But you weren't getting them any work?

3 A. No.

4 Q. You were giving them play?

5 A. Yep.

6 Q. And you got fired from Walmart close in time to
7 walking to the store that day with Javon?

8 A. That morning.

9 Q. You got fired that morning?

10 A. Yeah.

11 Q. Okay. And you were trying to call them back and
12 say, "Hey, don't fire me."

13 A. Yes. And then they said, "I could have come there
14 and talk to them about it." What happened?

15 Q. And how long have you worked?

16 A. It wasn't long. I started like December.

17 Q. Which one? Which Walmart?

18 A. Centre Pointe.

19 Q. Who's your boss?

20 A. I don't recall.

21 Q. Must have --

22 A. It was multiple -- it was multiple managers.

23 Q. How about their names?

24 A. One name was Tanisha.

25 Q. Tanisha?

1 A. Uh-huh.

2 Q. All right. So you and Javon are walking into the
3 store that day, right?

4 A. Yes.

5 Q. And Javon has a gun?

6 A. I didn't see a gun.

7 Q. Because he always keeps it hidden from you?

8 A. Yes.

9 Q. So -- but he has a gun, right?

10 A. Yeah.

11 Q. And he's keeping it super-secret somewhere on his
12 body?

13 A. I don't know where he's keeping it. It wasn't
14 around me.

15 Q. All right. And he makes a comment to you that
16 this is the last time I walk into that store with you because
17 you go all the time?

18 A. That's -- no.

19 Q. What did he say?

20 A. He was, like -- when we started walking to the
21 store, he made a joke and he was, like -- he grabbed me -- he
22 hugged me and he was, like, "Come here because you don't
23 know, this might be your last time walking to -- through the
24 park with me." And I was like, "What?" And he just made a
25 joke about it. Then we started walking to the store.

1 Q. You somehow knew that this could be the last time
2 you guys walked through the park together. What was he
3 planning?

4 A. Nothing. I don't know. I don't recall.

5 Q. Well, we weren't there. Tell us what -- what did
6 he mean by that?

7 A. I didn't know at the moment. He was -- I thought
8 it was a joke.

9 Q. Do you believe he knew that his death was coming?

10 A. No.

11 Q. Do you believe he knew he was going to get in a
12 gunfight that day?

13 A. No.

14 Q. He just said this out of the blue?

15 A. Out of the blue.

16 Q. Did you ask him what he meant?

17 A. No, I just told him. I just was like, what?
18 Like, confused about what he was talking about.

19 Q. Okay. And the path that you guys take to the
20 store takes you right by Emonie's mama's house?

21 A. Yes. You have to walk past the house to get to
22 the store.

23 Q. That's right. I mean, you could go another way,
24 but the most direct way is to walk right by Emonie's mama's
25 house.

1 A. Yes.

2 Q. And you did that that day?

3 A. Yes.

4 Q. And when you get to the corner around -- Emonie's
5 house is on the corner, right?

6 A. Yes.

7 Q. Across the street from her house, it's the church,
8 right?

9 A. Yes.

10 Q. And then there's a little passage of grass where
11 people park to go to church, right?

12 A. Yes.

13 Q. And then there's a two-story tan house on the
14 other corner, right?

15 A. I don't recall. I just remember the church being
16 in front of her house.

17 Q. You don't remember the house?

18 A. I don't remember the color.

19 Q. Oh, there's a house on the corner there, right?

20 A. Yes.

21 Q. Okay. And it's right up on the street?

22 A. Yes.

23 Q. And when you guys get kind of close to that corner
24 -- what really happened that day is you saw Emonie and
25 Courtney driving to the chief and you yelled something at

1 Emonie?

2 A. No.

3 Q. You yelled something to Emonie in kind of a
4 mocking, ugly tone, right?

5 A. I never said anything to Emonie.

6 Q. Did you recognize her or see her right there at
7 the corner?

8 A. Can you repeat that?

9 Q. When you're at that corner and that Jeep comes up
10 to that corner, that window is halfway rolled down, right?

11 A. The Jeep didn't come to the corner. As I stated
12 before, when we were walking towards the store, that's when
13 they passed us. So it never stopped at a corner. And I
14 didn't say anything to her because I didn't see her. I only
15 asked Javon, "Who was that?"

16 Q. Okay. So what really happened is that Jeep
17 stopped, slowed down in that corner you saw Emonie, and you
18 yelled at her, right?

19 A. The Jeep never stopped. It kept going.

20 Q. And when Javon sees that Jeep, he does this and
21 clutches at his gun, right?

22 A. No.

23 Q. You didn't see that?

24 A. No. He just said that, "They did that the same
25 the day before." And then he got mad.

1 Q. Okay. Well, let's talk about that. Day before
2 morning time, afternoon time, nighttime. When did this --

3 A. I wasn't aware of that because I was at work the
4 day before. That was actually my last day of working that
5 day. So he didn't --

6 Q. You got fired for playing?

7 A. Yeah.

8 Q. Okay. So you don't know when Javon had this run
9 in with this raggy?

10 A. No, because he didn't mention that to me until it
11 happened that day.

12 Q. All right. And what really happened was that Jeep
13 left that corner because Javon was clutching out his gun and
14 they kept going past Emonie's and Courtney's house and then
15 the passenger door opens up, right?

16 A. The Jeep never stopped and I didn't see Javon with
17 a gun.

18 Q. Okay. And you saw the Jeep stop down the road.
19 You probably testified to that -- you saw the Jeep stop down
20 the road.

21 A. I saw it stop down the road, but it didn't stop at
22 the corner -- at the stop sign.

23 Q. I didn't ask you that. The Jeep stopped down the
24 road?

25 A. Yes.

1 Q. And the passenger door opened up?

2 A. I saw -- it was two -- it was the driver's side
3 open and then I turned the corner when he was yelling at me
4 telling me to go home.

5 Q. You never saw the passenger door open up?

6 A. I just saw two doors open.

7 Q. All right. I just ask you a second -- again, did
8 you see the passenger open up?

9 A. I saw two doors open. It was the driver's side
10 and the passenger.

11 Q. Passenger opened up first?

12 A. I saw the -- the driver's door open first.

13 Q. Okay. And Emonie stepped out of the passenger
14 door and started yelling down the road to you about this sort
15 of beef you guys had had happening, right?

16 A. I didn't see her step out the car because he was
17 yelling at me telling me to go home. So, I already turned
18 the corner to attempt to go home.

19 Q. Okay. And Emonie, when she stepped out of the
20 door, she was actually yelling at you. Do you remember that?

21 A. I didn't see Emonie and she was never yelling at
22 me.

23 Q. Okay. And Javon starts walking towards Emonie and
24 Courtney, right?

25 A. He started walking towards the car.

1 Q. Right?

2 A. Yes.

3 Q. When did he cock his gun?

4 A. I didn't see him with a gun.

5 Q. What was that?

6 A. I didn't see the dog -- the gun, period.

7 Q. Okay. All right. So Javon's walking towards the
8 car, right?

9 A. Yes -- yes.

10 Q. And -- and you can see Javon walking towards the
11 car, right?

12 A. Yes.

13 Q. And you can see him walking in a strange way where
14 he's got his hand close to his body and his arm kind of close
15 to his body. He's swinging this one, but he's not moving
16 this one. You saw that, right?

17 A. I -- I just saw him. He was just walking fast and
18 he was telling me to go home.

19 Q. He was walking fast?

20 A. Yeah.

21 Q. Angry?

22 A. Yes.

23 Q. Yelling?

24 A. Yes.

25 Q. One arm close to his body?

1 A. I didn't see none of his arms, I just was focused
2 on going home because he yelled at me and told me to go home.

3 Q. Sure. Have you ever seen the video of shoot?

4 A. Yes.

5 Q. How many times?

6 A. I couldn't really watch it at first. So, like,
7 once.

8 Q. You never saw it at the prosecutor's office?

9 A. Yes.

10 Q. Yeah?

11 A. Uh-huh.

12 Q. So you saw on that video that Javon going down the
13 road, his arm close to his body, his -- his hand close to his
14 waistband and swinging his left arm, but keeping this arm
15 tight to his body. You saw that on that video, right?

16 A. No.

17 Q. How did that escape you?

18 A. Can you repeat that?

19 Q. How did you not see that, you saw the video?

20 A. Because I barely could have watched it. It wasn't
21 nothing good to watch.

22 Q. Well, the prosecutors wanted you to watch it,
23 right?

24 A. Yes.

25 Q. They asked you to watch it, right?

1 A. Yes.

2 Q. It was important to them, right?

3 A. I don't --

4 Q. To help their case?

5 A. Yes.

6 Q. Prepare for court. They said that's why they
7 wanted you there, right?

8 A. No, that's not what they said.

9 Q. Okay. So they would've asked you questions about
10 what you could see on this video, right?

11 A. Yes.

12 Q. And certainly, they must have said, "Why was Javon
13 walking like this?" Did they ask you that question?

14 A. No.

15 Q. And you didn't see that?

16 A. Nope.

17 Q. But you had as much time as you needed to see the
18 video, right?

19 A. I wasn't really watching the video. I was looking
20 away because I could have barely watched it. It wasn't
21 nothing good to watch.

22 Q. So you say -- did they want to know what Javon was
23 doing before he -- he's on the video? They asked you
24 questions about that?

25 A. Can you repeat that?

1 Q. So the video when it starts, Javon is walking down
2 the street yelling, hand close to his waistband, arms pinned
3 to his body, striding like this. But before that moment --
4 before we see him doing that, certainly the prosecutor said,
5 "Well, what was he doing right before that?" Right?

6 A. I don't recall them saying that.

7 Q. Did they ask you directly, "Did you see him take
8 out the gun?"

9 A. Yes.

10 Q. Did they ask you directly, "Did you see him
11 cocking?"

12 A. No.

13 Q. The gun fired, you know that, you know Javon shot
14 that gun, right?

15 A. I didn't see him shot a gun.

16 Q. You know he shot that gun though, right?

17 A. I didn't see him.

18 Q. All right. Listen to this question very careful.
19 You know Javon shot that gun that day?

20 A. Yes.

21 Q. Did they ask you, "Did you see him cocking."
22 Because we don't see him cock it on the video.

23 A. No, I don't recall them asking me that.

24 Q. Okay. They didn't say something like, "A gun
25 fires on that video, the only way it could be fired is --

1 there is somebody cocks it." Did you say, "Did you see him
2 do that?"

3 A. No.

4 Q. That would mean he cocked it at home. Is that how
5 he usually carries his gun? Cocking ready to go?

6 A. I -- he never had a gun around me.

7 Q. One more question. That means his gun was cocked
8 at home and I'm asking you, do you have knowledge that he
9 always -- when he carried his gun -- walked with it, cocked
10 and ready to go?

11 A. I don't have knowledge of him carrying the gun --
12 walked, and walking, and ready to go.

13 Q. Right. Now, that day when you were at that
14 corner, you see Emonie's mama, right?

15 A. Yes.

16 Q. She was on her porch?

17 A. She was in her yard -- walking in her yard.

18 Q. Okay. And you told Detective Butler that Emonie's
19 mom came out of her house and was being nosy?

20 A. Yes.

21 Q. Why would you describe her being nosy? She's in
22 her yard at her own house. Why is she nosy?

23 A. She came out the door once Javon was yelling, so
24 that is being nosy.

25 Q. All right. So Javon's behavior, you're saying is

1 what drew her out of her house?

2 A. I don't know what drew her out of her house. I
3 just know when Javon was yelling, I saw her coming outside.

4 Q. Okay. Did you mean nosy in a nice way?

5 A. Just -- no. Just being nosy.

6 Q. Okay. And Emonie's mom would've been right there
7 when Javon walked past her, right?

8 A. I already turned the corner.

9 Q. You already left, right? You're not involved
10 anymore?

11 A. I turned the corner when he told me to go home and
12 I was on the side of the house.

13 Q. Okay. So -- so your testimony earlier, talking to
14 the prosecutor, was that this fast-moving grey Jeep is coming
15 down this street fast, and if you don't jump out the way
16 you're going to get run over, right?

17 A. Yes. The streets were small, so we had to move
18 out the way.

19 Q. Did you -- I mean, was this like a dive to jump
20 out the way of the car or just a step aside, or this sounds
21 like a pretty dangerous car here. Did you jump out the way?

22 A. It just was going fast, so we had to, like, jump
23 out the way, really. The streets are really small over
24 there.

25 Q. And your -- your testimony is that Javon didn't

1 recognize the car, didn't know it was Courtney, didn't know
2 it was Emonie. Is that your testimony?

3 A. He recognized the car, I didn't.

4 Q. You told Detective Butler that when the car goes
5 by, Javon was saying things like, "Well, who is that? Who
6 did -- who -- who -- who did that? Who -- they did that
7 yesterday." You said that to Detective Butler, right?

8 A. No, he said that -- when I asked him, "Who was
9 that?" He said, "They did this the same thing yesterday."
10 And he got mad and started walking towards the car.

11 Q. He never said, "Well, who was that? Who was
12 that?"

13 A. I asked him, "Who was that?" Because I wasn't
14 aware of what he was talking about.

15 Q. Actually. You said to Detective Butler, "He said,
16 who was that? Who was that? Da, da, da, da, da."

17 A. No, he said, "What?" He was like, "What, what,
18 what?" I never -- no, never said that to him.

19 Q. So, is it your testimony that Javon knew who was
20 in the car -- didn't know who was in the car?

21 A. He knew.

22 Q. He knew it was Courtney and Emonie?

23 A. I don't know if he knew it was them, but when I
24 asked him -- when -- when I asked him, "What was" -- like --
25 basically, like, "What was wrong?" He was, like, "They did

1 the same thing the day before." But when I was asking him,
2 "Who was that?" He wasn't answering my question, he just
3 kept walking.

4 Q. So instead of saying, "Hey, Courtney did that
5 yesterday." He said, "They did that." Like he didn't know
6 who they were?

7 A. Yeah. He said -- he said, "They."

8 Q. So your boyfriend who carries a gun, had a gun
9 that day -- had a loaded gun that day, had it cocked and
10 ready to go that day -- is walking down the street to
11 confront this car. And he just says, "Go home. Just get
12 home." And you say, "That sounds like a good idea, I'm going
13 to do that." Is that how it happened?

14 A. No.

15 Q. But you did start to get home?

16 A. Yes.

17 Q. That means you're down the street a little bit on
18 the side of Emonie's mom's house, right?

19 A. Yes. But I didn't go home.

20 Q. Right. You heard Javon yell, right?

21 A. Well, I was -- when he was telling me to go home.

22 Q. Okay. Did you hear him yell, "Shoot that gun," in
23 word?

24 A. No.

25 Q. Okay. When you watched that video for the

1 prosecutors, you certainly heard it then, didn't you?

2 A. I just heard noise.

3 Q. Just noise?

4 A. Like loud. Yes.

5 Q. Just noise. Not, "Shoot that gun," in word. You
6 didn't hear what -- his voice say that?

7 A. No.

8 Q. Yelling that?

9 A. No.

10 Q. Now, did the prosecutors tell you that they
11 believed that --

12 MS. OUTTEN: Objection, Judge. You believe that he
13 could question her about what -- what anyone told her? I
14 believe that would be hearsay.

15 THE COURT: I'll sustain that objection.

16 BY MR. MCGUIRE:

17 Q. Did you learn that Courtney put a warning shot on
18 the ground? Did you ever learn that?

19 A. Can you repeat that?

20 Q. Sure. When Javon, armed with his gun, in fact, if
21 you would, when he's walking down the street like this, did
22 you ever learn that when he was walking like that to Emonie
23 and Courtney, that there was a warning shot prior? Did you
24 ever learn that?

25 A. I didn't see him walking like that.

1 Q. No?

2 A. No.

3 Q. So, he was walking like this?

4 A. He was walking --

5 MS. OUTTEN: I also object to Mr. McGuire continuing to
6 act this out in a manner that the witness repeatedly said she
7 did not see on the video, and she did not see that day. I
8 believe --

9 THE COURT: I'm going to -- I'm going to sustain the
10 objection. Asked and answered. Let's move on.

11 BY MR. MCGUIRE:

12 Q. You ran home after this, right? Did you walk
13 home?

14 A. After -- be more specific. Like, what do you
15 mean, "After this?"

16 Q. Well, after Javon was shot, you didn't stay at the
17 scene?

18 A. No, I -- I -- I went home.

19 Q. Didn't want to talk to the police?

20 A. Everybody in the neighborhood was telling me to go
21 home -- who was standing behind me.

22 Q. Yeah. I remember you talking to Detective Butler
23 about that. These well-meaning people were saying, "It is
24 going to be okay. You just go on home." And you went home
25 because the strangers were telling you to go home, right?

1 A. Yeah. They was telling me to go home.

2 Q. Yeah. And they were talking to you like -- like
3 you knew or they knew you?

4 A. They just was, like, "Go home."

5 Q. Yeah.

6 A. I didn't know none of them or didn't know me.

7 Q. So, your testimony is that Javon just got shot.
8 He's on the ground there and some people you don't know say,
9 "Honey, it's going to be okay. Why don't you just go on
10 home." And you do that?

11 A. Yes.

12 Q. You didn't say, "That is an absurd suggestion. I
13 want to stay here and talk to the police?"

14 A. No.

15 Q. You went home because these strangers told you to
16 go home?

17 A. Yes. And I was going to tell -- go home to tell
18 my family.

19 Q. Do you actually -- when you saw Javon start to
20 march towards Courtney and Emonie's car and he's going that
21 direction, you actually yelled at him to come back. "Don't
22 go out there." Right?

23 A. I was just asking him, "Who -- who was that? Who
24 was that?"

25 Q. So, you're saying you didn't know who that was?

1 A. No. When he mentioned that they did it the day
2 before, I was confused on that. Because he didn't mention
3 that to me.

4 Q. This Jeep Compass -- this -- that you've ridden it
5 before. That's always at Emonie's mom's house?

6 A. I never ridden in that. I mean, yeah. Ridden --
7 ride in that.

8 Q. So, you weren't yelling at Javon, "Come back, let
9 him go, chill out, come back here?"

10 A. I just was -- he was yelling at me telling me to
11 go home. I didn't get a chance to really say anything else.

12 Q. So when he says, "Go home." You started to go
13 home, but you didn't go until the strangers told you to go
14 home, you did?

15 A. When he -- when he yelled at me, he told me to go
16 home. I didn't go home because I didn't -- I didn't knew it
17 was going to turn out like that. I thought it was just a
18 normal day.

19 Q. When you started talking to Detective Butler, you
20 decided to tell her a story that would remove you from this
21 situation where you weren't involved, you didn't do anything
22 wrong, you didn't see anything, you just took yourself out of
23 this situation, and you tried to start telling her a story.

24 "I didn't know who was in that car, and then I left and
25 Javon must have done something, or the people in the car did

1 something. I just don't know anything." That's when you
2 started to tell Detective Butler, right?

3 A. No.

4 Q. No? You started off saying this car came by and
5 Javon said, "They did that yesterday." And Javon was saying,
6 "Who did that? Who would do that?" That's what you said,
7 right? To Butler.

8 A. No, I -- no, I didn't.

9 Q. But then what happened? That story didn't feel
10 like it was selling. So then you said, "It was Courtney and
11 Emonie," right? You changed your mind. You were going to
12 do, "I don't know who's in the car." And then you changed
13 to, "It was Courtney and Emonie?"

14 A. No.

15 Q. No? When Javon is walking away from you, he
16 allegedly tells you to go home. Did you hear him say, "I'm
17 going to wet this shit up?"

18 A. No.

19 Q. What does that mean at first?

20 A. I don't recall.

21 Q. You don't know?

22 A. No.

23 Q. Never heard that before?

24 A. No.

25 Q. Ms. Singleton, about your absence from the scene,

1 you left the scene after Javon got shot, right?

2 A. Yes.

3 Q. When you say it is because the nice people said
4 you should go home and you did, right?

5 A. Yes.

6 Q. And then you told Butler that you came back,
7 right?

8 A. Yes.

9 Q. And that you left again because the police
10 wouldn't talk to you; is that right?

11 A. I never told her that.

12 Q. You never told her that? That after you came
13 back, you left again because you -- the police wouldn't talk
14 to you?

15 A. No. I told her I came back, but I never told her
16 I left because the police wouldn't talk to me.

17 Q. Have you seen the -- the video of your interview
18 with her?

19 A. Yes.

20 Q. Yes? And you don't remember saying this?

21 A. I can't hear you.

22 Q. You don't remember saying, "I came back to the
23 scene, but I left again because the police wouldn't talk to
24 me." You don't remember saying that?

25 A. I remember telling her that I came back to the

1 scene, but I didn't tell her that I left because the police
2 wouldn't talk to me.

3 MR. MCGUIRE: Got an objection again?

4 BY MR. MCGUIRE:

5 Q. Ms. Singleton, I'm going to show you a series of
6 pictures. This one's marked Defendant's Number 3. Do you
7 recognize that?

8 A. Yes.

9 Q. What is it?

10 A. A field.

11 Q. Is it the park next to your house?

12 A. Across by my house, yes.

13 Q. Yeah. Your house is right there. Close there?

14 A. Yes.

15 Q. Well, this is Defense's Number 4. Same park?

16 A. Yes.

17 Q. Defense's Number 5, same park?

18 A. Yes.

19 Q. Number 6, same park?

20 A. Yes.

21 Q. This is the park that you and Javon were -- walked
22 through that day?

23 A. Yes.

24 Q. Defense's Number 7, same park?

25 A. Yes.

1 Q. Defense's Number 8. Is that the parking lot near
2 the park -- at the park with the oak trees?

3 A. Yes. That's the parking lot near the park.

4 Q. And you don't remember ever seeing Javon confront
5 Courtney underneath that oak tree?

6 A. No.

7 Q. If I could have just one second. Ms. Singleton,
8 I'm going to play for you your videotaped interview with
9 Detective Butler. Then I'm ask you some questions about it,
10 okay?

11 MS. OUTTEN: May we approach?

12 THE COURT: Yes.

13 (Bench conference.)

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, we're going to take just a quick comfort break. And we
16 will -- just so you can refresh yourself, it's going to be a
17 -- a very quick break. Probably about 15 minutes.

18 Please do not discuss the case, okay? Thank you.

19 (Jury exits courtroom.)

20 THE COURT: Got you. All right. We're taking a --
21 about 15-minute break, but the attorneys work on a -- this
22 that they have as a -- they're indicating would be a prior
23 inconsistent statement.

24 They're working to queue that up to get it at -- at a
25 specific point. I think -- they'll just let me know when

1 that happens. And at this point in time, Ms. Singleton, you
2 can step down and if you need to take a -- a break, but
3 you're still under oath, you cannot discuss your testimony
4 with anyone or speak to anyone about this case, but if you
5 need to take a break, you're welcome to step down and do
6 that.

7 THE WITNESS: Okay.

8 THE COURT: But if you -- but if you do that, again,
9 you cannot speak to any -- you understand?

10 THE WITNESS: I understand.

11 THE COURT: All right. Okay. All right. We'll be at
12 ease for about 15 minutes.

13 (Off the record.)

14 THE COURT: Are we ready to go?

15 MR. MCGUIRE: Yes, sir. Judge, just so -- just so you
16 know there's sort of a hardwire problem -- keep doing this.
17 I want to move past it.

18 THE COURT: All right.

19 MR. MCGUIRE: If we need to talk about -- if we can get
20 it working and we need to talk about it, I think we can
21 impeach through Butler -- Detective Butler. Because as you
22 said when we were at the bench, it's an inconsistent
23 statement. She denied something. It's on video with Butler.
24 We can do it with Butler. We're just -- but we agreed to
25 just move past it right now. We don't need to stop.

1 THE COURT: Okay. All right. So just quickly, we're
2 at 12:15. I'll bring the jury back in where we think we are.

3 MR. MCGUIRE: I've got -- I've got two more questions
4 for Ms. Singleton.

5 THE COURT: Okay. Then you'll have the ability to
6 re-direct?

7 MS. OUTTEN: So, Judge, one thing we do, I -- I -- I
8 really hate to -- the way this point, I know we've had a lot
9 of drawn-out things. I went back and referenced my notes
10 from this interview and I'm not so sure that Ms. Singleton
11 was properly confronted with statements that she made, as in,
12 like, I had a different -- I had it written down a different
13 way.

14 So, I'm not saying one way or the other. I'm saying
15 that, like Mr. McGuire said, if I recall, "You never said
16 that Javon -- you told Detective Butler that Javon said who
17 did this." Right. So, in my notes I have that she said,
18 "What are they doing that for?" I think that matters, and it
19 matters to be specific about the statement.

20 So, I would be hesitant of a situation where you're
21 just impeaching through Butler. If possibly the specific
22 statements have not been -- she hasn't been properly
23 confronted. And -- and I -- as much as we don't want to do
24 this, we would -- we would probably prefer that it just be
25 done through -- through her -- through Ms. Singleton and not

1 Detective Butler. Sorry.

2 MR. MCGUIRE: And -- and -- and Judge, I think that's
3 the subject for re-direct. They can clear up their position,
4 whatever it might be. If they want to -- if they can play
5 the video, they can play it. I'll move them past it.

6 THE COURT: Okay. Well, we're going to let you
7 continue with your cross-examination.

8 MR. MCGUIRE: Thank you.

9 THE COURT: And if there's a specific question that you
10 want to clear up with Butler, I -- I'll certainly allow you
11 to ask that question again, to make it clear on the record
12 without asked -- asked and answered any type of objection on
13 that. If there's a specific question you need to -- to clear
14 that the -- the problem up there.

15 MS. OUTTEN: Right. He just needs -- there -- just to
16 understand, your Honor, he just needs to have asked her about
17 a specific statement that she made.

18 THE COURT: Right.

19 MS. OUTTEN: She needs to have asked her before she
20 gets off of the stand.

21 MR. MCGUIRE: I'll do it. Yeah, that's what -- that's
22 what I'm saying. He told me to do that. He's going to clean
23 it up.

24 MS. OUTTEN: Right.

25 MR. MCGUIRE: Right here.

1 MS. OUTTEN: I just --

2 MR. MCGUIRE: As best I can. Well -- well, you know
3 what I mean.

4 THE COURT: All right -- all right. We're ready.
5 Ready to bring them in. State is ready?

6 MS. OUTTEN: Yes, Judge.

7 THE COURT: Defense, you're ready? All right. Sir?

8 MR. MCGUIRE: Yes, sir.

9 THE COURT: All right. Let's go ahead and bring the
10 jury back in. Go, get back on the stand there Ms. Singleton,
11 where you were and we'll continue on.

12 (Jury enters courtroom.)

13 THE BAILIFF: Judge, all jury is present and seated.

14 THE COURT: All right. Thank you. Everyone else will
15 be seated now. We're going to continue with the examination
16 -- cross-examination of Ms. Singleton by Mr. McGuire.

17 MR. MCGUIRE: Thank you, Judge.

18 BY MR. MCGUIRE:

19 Q. Ms. Singleton, I want to clear just one thing out.
20 Ms. Butler -- Detective Butler, when you were trying to tell
21 your story to her, did you say that you were the one saying,
22 "Who is that? Who is that? Who would do that?"

23 A. Yes. I was asking, "Who was that?"

24 Q. Okay. And you were asking Javon that?

25 A. Yes.

1 Q. And your position was, you didn't know who was in
2 the car?

3 A. No.

4 Q. Okay. And that's the way your story started,
5 right? To Butler?

6 A. That's what I told her.

7 Q. Okay. And then that changed to, "I know who was
8 in that car, Courtney and Emonie?"

9 A. Yes.

10 Q. And I -- we heard about your testimony about
11 leaving the scene and you never called 911?

12 A. I did. My phone died, so somebody behind me said
13 that they called and was calling them also.

14 Q. So the moment that was critical that you called
15 911 because your boyfriend got shot, your phone died in that
16 moment?

17 A. Yes.

18 Q. Okay. And when you were fired from Walmart, what
19 really happened was Javon came to Walmart, found you there,
20 argued with you, became so disorderly that the cops were
21 called?

22 A. Javon never came to Walmart with me that day.

23 Q. The police never came and took Javon out of
24 Walmart?

25 A. No.

1 Q. Javon, your boyfriend, never came to Walmart and
2 became fussy with you to the extent that they called the
3 police?

4 MS. OUTTEN: Objection, asked and answered.

5 THE COURT: I -- I'm going to allow that. All right.
6 Mr. McGuire, you -- I guess you are done with your
7 cross-examination?

8 MR. MCGUIRE: I'm done, Judge.

9 THE COURT: Okay. All right. Any re-direct?

10 MS. OUTTEN: Briefly -- brief re-direct, Judge.

11 RE-DIRECT EXAMINATION

12 BY MS. OUTTEN:

13 Q. Ms. Singleton, when did Emonie Burgess live with
14 you? What year?

15 A. You said, "Emonie Burgess?" Emonie?

16 Q. Emonie, excuse me.

17 A. That was like 2018.

18 Q. And --

19 A. 2019.

20 Q. We were talking about -- on cross-examination,
21 talking about you leaving the scene. Was your interview with
22 Detective Butler the same day that Javon died?

23 A. Yes.

24 MS. OUTTEN: I beg the Court's indulgence.

25 BY MS. OUTTEN:

1 Q. And -- and one last thing, Mr. McGuire just asked
2 you whether Javon came to Walmart the day you were fired.
3 Did that happen?

4 A. No,

5 MS. OUTTEN: I don't have any further questions.

6 THE COURT: All right. Did you have anything else for
7 this witness?

8 MR. MCGUIRE: Nothing further, Judge.

9 THE COURT: All right. You can step down. Thank you.

10 THE WITNESS: Thank you.

11 THE COURT: You can step down. Can I see the attorneys
12 up here?

13 (Bench conference.)

14 THE COURT: All right. Ladies and gentlemen, we're at
15 a good stopping point for our lunch break. What I'm going to
16 ask you to do is, obviously, as my prior instructions, please
17 do not discuss the case or -- or look at any social media or
18 do any Google searches, anything like that while you're at
19 lunch.

20 Obviously, you can go to lunch with the jurors and if
21 your other fellow jurors, if you want to just -- you know,
22 just talk about little things.

23 We're going to have a -- a break until 1:00. I would
24 like everybody be back in your jury room at 1:45 -- 1:45,
25 that's going to give you a little bit more than an hour for

1 lunch. I know it's probably busy this time of day, but
2 hopefully that'll give you a chance to go get some lunch if
3 you like it. We're going to be in recess until 1:45. All
4 right? All right. Thank you.

5 (Off the record.)

6 THE COURT: We're going to go -- go back on the record
7 briefly. I think the parties, if you -- you can all talk --
8 speak to each other during lunch, and we're trying to work
9 out some logistics. If you could be back in the courtroom at
10 1:30. At 1:30, I'd like to get started.

11 We -- we've got a lot of witnesses to get to this
12 afternoon and so, I'd like to get started as soon as we could
13 with that. So if you can be back at 1:30, we'll address any
14 of those issues. Maybe y'all have worked them out, who
15 knows, but maybe we could do that. But anything else from
16 the State or the Defense before we start our lunch break.

17 MS. OUTTEN: Nothing from the State.

18 MR. BISCHOFF: Nothing from the Defense.

19 THE COURT: All right -- all right. Y'all have a good
20 lunch. We'll see you at about 1:30.

21 (Off the record.)

22 THE COURT: All right. Everybody be seated.
23 Mr. McGuire got called out by Judge Jefferson for a bond
24 hearing, so I know why he was not present that the Court
25 started back. So just make sure I understand. I understand

1 where you were.

2 MR. MCGUIRE: Sure. But I -- I do want to put
3 something on the record.

4 THE COURT: Yeah, sure.

5 MR. MCGUIRE: My understanding is that Judge Jefferson
6 communicated to, your Honor, that I made a statement to her
7 that significant matters were being decided in chambers
8 without my presence.

9 THE COURT: Yes, sir.

10 MR. MCGUIRE: She lied to you. That didn't happen.

11 THE COURT: All right.

12 MR. MCGUIRE: And I'll tell you that I got a
13 communication from a person in my office that Scott was in
14 chambers. In my -- in my response to the Court about being
15 called over for a bond hearing that I asked for a continuance
16 for some time ago. Solicitor agreed with me. We both set
17 communications to the Court and have it rescheduled. I found
18 out literally minutes before 1:30 I was supposed to be there
19 because I've been here.

20 THE COURT: Yes.

21 MR. MCGUIRE: Not with -- not with the phone on. I put
22 on the record that I thought her behavior was retaliatory
23 based upon a grievance I filed for -- filed some time ago
24 against her where she was recused for one of my capital
25 cases.

1 So I believe that she's, again, being retaliatory
2 against me by communicating to you that I was making some
3 sort of statement that the Court was engaging in some sort of
4 significant -- it was entertaining some significant important
5 matters without my presence. I did not say that to her. It
6 is untruthful and it's a lie.

7 THE COURT: All right. Well, I appreciate you sharing
8 that with us and we're ready to move forward. We did have
9 in-chambers meeting a few minutes ago, and just discussed
10 basically our planning, and scheduling, and witnesses coming
11 forward. But we're going to be putting everything on the
12 record just for your benefit.

13 MR. MCGUIRE: Sure.

14 THE COURT: Make sure everybody's on the same page.

15 MR. MCGUIRE: Sure. And the only thing --

16 THE COURT: You certainly don't have any objection that
17 we have our --

18 MR. MCGUIRE: Oh gosh. No, no, no. No, I just said
19 that it was inappropriate for the Judge to call me there when
20 I'm being split from my Co-counsel over this crucial period
21 of lunch where I -- interviewed two significant witnesses. I
22 wanted to meet with Mr. Bischoff to discuss further issues
23 that are coming up today. And I expressed my displeasure at
24 the absurdity of me being called over there having requested
25 a continuance last week that the prosecutor joined me in.

1 And for her to make statements that I was complaining
2 to her about the Court's actions. I want you to know, Judge,
3 I didn't say anything negative about this Court at all, or
4 that anything here was improper. I just said, "My
5 understanding is Mr. Bischoff in chambers. I need -- I want
6 to be there."

7 THE COURT: All right. All right. Well, I think we've
8 cleared all that up. So, I'm going to put a -- a few things
9 -- we're going to put a few things on the record. I'm going
10 to be returning to the State the photographs marked
11 State's Exhibit 29, and they're both marked
12 State's Exhibit 29. These are the photographs that were
13 subject to -- of the pretrial motions. One of them is black
14 and white, one of them is color.

15 I'm returning these to the State. The State
16 understands, as the Defense does -- my ruling earlier that
17 the black and white photo -- so, you know, as long as the
18 proper foundation is laid that -- that I would allow this
19 photo under a 403 analysis because we're using the black and
20 white. So, I'm handing that back to the State at this time.

21 All right. The next matter, we were dealing with the
22 -- the cell phone issue. The cell phone where we had a
23 search warrant issue on the cell phone. My understanding,
24 Mr. Bischoff, that -- that he has received the information
25 that he -- he needs in that -- in that -- in regards to the

1 search warrant and the cell phone extraction. And I believe
2 you told me you wanted to put something on the record about
3 that. This is -- you can certainly do that at this time.

4 MR. BISCHOFF: I do, your Honor. We brought up an
5 issue before the Court regarding a search warrant in this
6 case. The search warrant pertains to Courtney Richards' cell
7 phone. The issue that we had was that the cell search
8 warrant was obtained on a particular date, and seemingly was
9 not executed for some 18 months later. We have since cleared
10 that issue up.

11 I have seen an official document from the prosecutor
12 who received it from Detective Riedel with
13 North Charleston Police Department. Detective Riedel was the
14 one who received the cell phone from Detective Butler on the
15 day the search warrant was executed.

16 The document that I've seen is a document that is
17 specific to Graykey, the forensic technology that is run to
18 try to hack, for lack of a better word, into phones when law
19 enforcement is not with a password.

20 And the information in the Graykey report satisfied me
21 -- that the search warrant was executed in a timely manner.
22 And therefore, I -- I don't have any other objection to the
23 cell phone evidence coming in regarding this issue with the
24 search warrant. I think it's been satisfied and it's no
25 longer an issue.

1 THE COURT: So, you're withdrawing that objection?

2 MR. BISCHOFF: I'm withdrawing the objection
3 specifically regarding the staleness of the search warrant
4 for purposes of the Defendant's cell phone, I guess.

5 THE COURT: And you had stipulated to the -- the text
6 messages without having the detective here for that
7 previously.

8 MR. BISCHOFF: Correct.

9 THE COURT: All right. Thank you. All right. The
10 third matter that y'all were going to talk about over lunch,
11 and I think you did -- is about the distances in a report
12 from -- we think the next witness who is a detective, I
13 believe it's Detective Jodi Hunt?

14 MS. OUTTEN: Corporal.

15 THE COURT: Corporal Jodi --

16 MS. OUTTEN: Not really matters though.

17 THE COURT: That's okay. Corporal Jodi Hunt is a crime
18 scene technician and she testified in another hearing on this
19 matter, and some distance material was turned over. And I
20 believe the parties had had worked out how the -- the -- they
21 want the material to be presented in Court. And at this
22 time, I'll let the Solicitor relay that to the Court.

23 MS. OUTTEN: Thank you, your Honor. The State intends
24 to offer testimony from Corporal Hunt, which will be
25 approximately as follows: That she was crime scene tech that

1 day. She responded to the scene. As part of documenting on
2 scene, she noted several fired cartridge cases in front of --
3 front of one house leaving the approximate address of 2019
4 Comstock.

5 She also noted the presence of several fired cartridge
6 cases in front of 2006 Comstock. The State then -- and
7 during pretrial meeting with her, have her measure those
8 distances between 2019 and 2006, I believe some other
9 distances were measured such as 2006 Comstock where the
10 victim's body was found.

11 The State intends to elicit the testimony regarding the
12 measurements as from address to address. And we've
13 instructed the witness not to mention that the fired
14 cartridge cases to -- fired cartridge cases -- and those were
15 not on the scene when she made measurements.

16 THE COURT: And I believe those were all noted in the
17 prior hearing with placards. And she's -- so it sounds like
18 to me, she's not going to be giving any testimony that she
19 measured from placard 11 to placard 32, or whatever it would
20 be.

21 MS. OUTTEN: No, your Honor.

22 THE COURT: Okay. And Mr. Bischoff, you have -- you
23 want to be heard on that at this time?

24 MR. BISCHOFF: I do, Judge.

25 THE COURT: All right.

1 MR. BISCHOFF: And -- and chambers, and this came up in
2 the stand your ground hearing, I believe it was of course
3 exhibit number one in the stand your ground hearing. The
4 report that we're talking about are measurements that were
5 done a couple of weeks ago from today's date. And that of
6 course is about 29 months, give or take, from the date of the
7 incident that we're here to trial on.

8 There are references to measurements in here regarding
9 estimations, where shell casings were located on the scene
10 that day, some 29 months ago. We take objection to any
11 measure -- any reference to those measurements because
12 they're not done contemporaneous for taking pictures and
13 contemporaneous with where the placards were located on the
14 scene.

15 There's also evidence, I believe admitted testimony as
16 well, that a fire truck drove through the scene. Two patrol
17 cars drove through the scene. So, I think the reliability of
18 where those shell casings were is already compromised, but
19 the added layer of the unreliability of measurements some
20 29 months later, both of those together, I think warrant the
21 instruction essentially that Detective or Corporal Hunt is
22 not permitted to testify in the distances to the casings
23 themselves.

24 But rather, if a casing is outside 2021 Comstock, for
25 example, distances between fixed points like a house, or the

1 width of a road, or a telephone pole that's certainly fine
2 with us. We don't have any objection to that. And I think
3 we're all on the same page based on our conversation in
4 chambers.

5 THE COURT: All right. Is -- is that statement -- the
6 State is her -- Defense Counsel's issue with the distances,
7 have you instructed Corporal Hunt about how to handle the
8 distances?

9 MS. OUTTEN: Yes, your Honor. I told her -- I told her
10 that we were speaking about fixed point to fixed point, and I
11 also told her that I wouldn't be asking the question in
12 another manner.

13 THE COURT: All right. Thank you.

14 MR. BISCHOFF: Judge, and just for the record, our
15 objection would be on 401 and 403 at this point.

16 THE COURT: All right. Thank you. I'm -- I'm going to
17 allow the fixed point to fixed-point measurements. I -- I do
18 believe because based on our prior hearing, there'll be
19 photographs of various shell casings in front of fixed-point
20 areas.

21 And I -- I -- I cannot recall the addresses at this
22 time, but -- and some of them are going to be seen as the
23 blue house or the -- or -- or green house, or what have you.
24 But I believe the fixed point to fixed point, or telephone
25 pole, if it were, I'm going to allow her to give those

1 distances. But I just want the State to be aware that they
2 need -- they need to advise the witness -- that the Court's
3 ruling and the State within those parameters.

4 The -- the State has a -- has told me they're going to
5 have to make a motion to -- to be able to have the jury see
6 some distance point. I don't know what that distance point
7 is, but I'll be happy to hear from them now on that issue.

8 MS. OUTTEN: Judge, you would just -- and -- and -- and
9 part of the reason why I did this in the Duncan hearing was
10 to establish how far the courtroom is. It's about 30 feet.
11 The measurements at issue in this case are much longer. We
12 did kind of our own little demonstration this morning.
13 Basically, that long hallway out there, which, your Honor, as
14 it seems, all represents you very similar to how the
15 Greenville County courthouse is set up. It's a long hallway,
16 it's about 170 feet. If the jury stands by the elevators
17 where they come in in the morning and measure down, we would
18 just simply like the opportunity for them to see that actual
19 distance. I think that that's important evidence.

20 I think that we can all -- I -- I would assume we all
21 agree that in this case, you know, who said what, who saw
22 what, and who heard what are going to be extremely important
23 to them making their decision. And so, I just believe that
24 that demonstration would be necessary of the fixed point to
25 fixed-point distance as we discussed.

1 THE COURT: And the -- and the 100 -- I think you just
2 mentioned, 170 feet is a fixed point to fixed point?

3 MS. OUTTEN: Yes, your Honor. It is a fixed point.

4 THE COURT: All right. So, you want to have a
5 demonstrative exhibit pulling a tape, I assume.

6 MS. OUTTEN: Yes, your Honor.

7 THE COURT: Pulling a tape -- and you want the jury to
8 be able to leave the jury box. We seal the hall and they
9 witness the 170-feet pool?

10 MS. OUTTEN: Yes.

11 THE COURT: Okay.

12 MR. BISCHOFF: Judge, this is exactly what I was
13 talking about in chambers. I mean, unless I'm
14 misunderstanding, 170 feet is the exact distance on this
15 report from the cluster of 9mm cartridge casings to the
16 cluster of .45-caliber cartridge casings. I mean, that
17 170 distance you shouldn't even be talking about.

18 THE COURT: I don't know if the 170 -- now -- to your
19 point, I don't know if the 170 relates to a fixed point or
20 not. That's why this asked. I don't know.

21 MR. BISCHOFF: I -- I understand. I just want to make
22 sure the Court's aware that 170 -- that number I don't think
23 should come in at all.

24 THE COURT: All right. We'll have to figure out how --
25 where we got 170. I don't know the answer.

1 MS. OUTTEN: And, Judge, I -- I'll just -- I referenced
2 this in chambers as well, and I'm looking at the report that
3 was generated by Corporal Hunt, that's been turned over to
4 the Defense a long time ago. She says, "Upon our -- my
5 arrival, I advised -- the scene began near 2019 Comstock
6 Avenue where five .45-caliber cartridge casings were located
7 in a cluster."

8 So then when we went out with her, we then find
9 9mm cartridge cases were located in front of
10 2006 Comstock Avenue. So, what we did when we went out with
11 her was we said, "Can you tell us how far
12 2019 Comstock Avenue -- where per her report the Defendant's
13 fired cartridge cases were found and 2006 Comstock Avenue
14 where per her report the victim's fire cartridge cases were
15 found."

16 And just -- would like to know for the record, this is
17 a public street in a public neighborhood. All of this
18 information was available, measurements were able to be done.
19 We did them very quickly.

20 So I -- I believe that she's one tested that -- I
21 believe he's allowed to pause her about the fact that she
22 went out there after the fact that she didn't measure that
23 day, that she didn't have the placard out there that day.
24 That is all moderate cross-examination and non-suppression of
25 evidence, I believe goes its weight and not to its

1 admissibility.

2 THE COURT: Yes, sir.

3 MR. BISCHOFF: Distances from house to house, Judge, I
4 have no objection to, I would've maybe picked another number
5 to use for our example of discussion, but I think that number
6 -- the way the report is written, is more to the cartridge
7 casings themselves. But if you're not going to mention --
8 mention the cartridge casings, you're going to talk about an
9 address to an address. I have no objection to that.

10 I do, however, have an objection to allowing the jury
11 to stand up and go into the hallway, and have them walk off
12 170 feet in the courtroom hallway -- or the courthouse
13 hallway rather. It's not within the context of the crime
14 scene. And I don't think we need to assist the jury in
15 knowing how far 170 feet are -- we all know measurements and
16 -- and feet.

17 They can do -- like, your Honor, already suggested. If
18 you can see in the courtroom from one fixed point to another,
19 and that's 50 feet, then multiply it by three plus 20 and
20 you've got 170 feet, I don't think we need to put them in a
21 hallway that is narrowly focused, all the way down to a fixed
22 point that gives the impression of this tunnel-light vision
23 that I just don't think is the same as being out in the open
24 in the neighborhood.

25 THE COURT: All right. I'm going to -- I'm going to

1 grant their request to do the measurement demonstration, but
2 it would be done in the courtroom and they can multiply
3 whatever distance, and I cannot remember the distance that
4 you did the other day from the witness stand to the door.

5 They can -- at that time if they wish, they can
6 instruct the jury of that. That is, you know, the distance
7 of 170 feet, that's four times the distance to that door.
8 I'll allow it in that context.

9 MR. BISCHOFF: Thank you, Judge.

10 THE COURT: Okay. Does everybody understand?

11 MS. OUTTEN: Thank you, Judge.

12 THE COURT: All right. Are we ready to proceed?
13 Defense ready?

14 MR. BISCHOFF: Yes, sir. Yes, sir.

15 THE COURT: All right. State ready?

16 MS. OUTTEN: Yes, your Honor.

17 THE COURT: All right. Let's get -- bring the jury.

18 (Jury enters courtroom.)

19 THE BAILIFF: Yes, your Honor. Judge, all jurors are
20 present and seated.

21 THE COURT: Thank you. Please be seated. Ladies and
22 gentlemen, we're going to start our afternoon session. I --
23 we're -- we're a little bit later than -- than we thought,
24 but I want you to know that we were working, and that's, you
25 know -- just because you're not out here doesn't mean we

1 weren't working here in the courtroom. So with that being
2 said, State will call your next witness, please.

3 MS. OUTTEN: State calls Jodi Hunt.

4 JODI HUNT,

5 having been duly sworn, testified as follows:

6 THE CLERK: State your full name for the record,
7 spelling your last name.

8 THE WITNESS: Jodi Hunt, H-U-N-T.

9 DIRECT EXAMINATION

10 BY MS. OUTTEN:

11 Q. Good afternoon, Corporal Hunt.

12 A. Good afternoon.

13 Q. Where do you work?

14 A. At the North Charleston Police Department.

15 Q. And about how long have you been there?

16 A. Six years.

17 THE COURT: You can pull that mic over if you need to.

18 THE WITNESS: Okay.

19 THE COURT: All right. She's good.

20 BY MS. OUTTEN:

21 Q. And what's your current role and what are your job
22 responsibilities?

23 A. I'm a crime scene investigator. I'm also the
24 supervisor of the crime scene unit and a latent print
25 examiner.

1 Q. Can you please tell the jury about your education,
2 training, experience?

3 A. I'm originally from New Jersey. I have a
4 bachelor's degree in criminal justice and prior to working at
5 North Charleston Police Department, I was in the same role at
6 Dorchester County Sheriff's Office.

7 Q. And back in February of 2022, did you have the
8 same role and job responsibilities?

9 A. Yes, ma'am.

10 Q. Were you involved in this case, the State versus
11 Courtney Richards?

12 A. Yes.

13 Q. Please explain to the jury how you got involved in
14 this case.

15 A. I was dispatched to Union Heights in reference to
16 a call of a shooting -- victim lying on the ground.

17 Q. And where specifically did you respond to?

18 A. [REDACTED] Comstock Avenue.

19 Q. And is that -- is Comstock Avenue in
20 Charleston County?

21 A. Yes, ma'am.

22 Q. Approximately, what time did you arrive on the
23 scene?

24 A. Approximately 1330 hours.

25 Q. In -- in a 12-hour time?

1 A. Yes.

2 Q. How --

3 A. So, it'd be -- it'd be 1:30 p.m.

4 Q. Can you describe to the jury what that area looks
5 -- looks like?

6 A. It's a narrow one-way street. There's no
7 sidewalks, and the houses are, like, right up on top of each
8 other.

9 Q. So just generally speaking, what procedure do you
10 follow when you respond to a crime scene?

11 A. When I first arrive on scene, I'll speak with the
12 detectives and officers that first responded, to get a
13 general idea of what's going on -- on the scene. And once I
14 know the general idea, I'll take overall photographs, and
15 then once that's complete, I'll put little photo placards
16 down next to whatever they consider to be relevant items of
17 evidence. And then, I'll take mid-range, and then close-up
18 photographs.

19 Q. Did you follow that procedure in this case?

20 A. Yes.

21 Q. Okay. I'm going to show you what's been marked as
22 State's Exhibits 29 through 81. You could just flip through
23 these for me. Do you recognize these photos?

24 A. Yes, ma'am.

25 Q. And how do you recognize them?

1 A. I took them.

2 Q. And are they a fair and accurate depiction of what
3 the crime scene looked like that day?

4 A. Yes.

5 MS. OUTTEN: This time, State will offer
6 Exhibit 29 through 81 into evidence.

7 MR. BISCHOFF: No objection.

8 THE COURT: State's 29 to 81 are in evidence with no
9 objection.

10 (State's Exhibits 29 through 81 admitted into evidence.)

11 MS. OUTTEN: Permission to publish, your Honor?

12 THE COURT: And to publish them, yes.

13 BY MS. OUTTEN:

14 Q. I am going to show you first what was -- what is
15 State's Exhibit 67. What does this photo show?

16 A. It's an overall photograph from the west end of
17 Comstock near 2019.

18 Q. And --

19 A. Comstock or 2021 Comstock.

20 Q. And approximately how wide is this street that
21 we're looking at?

22 A. It's approximately 15 and a half feet wide.

23 Q. And down here it's kind of far, you see a white
24 tent. What is that tent covering?

25 A. The decedent's body.

1 Q. And is that the policy of the
2 North Charleston Police Department to cover bodies while
3 still processing a crime scene?

4 A. It's the common practice just to preserve the
5 dignity of the deceased.

6 Q. So if -- when we're looking at this photo, you are
7 taking it from the opposite end of Comstock where the
8 victim's body --

9 A. Yes, ma'am.

10 Q. -- Javon Thomas's body was found?

11 A. Yes.

12 Q. And then right here, this might sound like an
13 obvious question, but what is this yellow tape right here?

14 A. It's a crime scene tape.

15 Q. And who's responsible for putting that up?

16 A. The first responding officers will do that to
17 secure the scene.

18 Q. So once the crime scene tape has been put up, does
19 that define what area you're going to be searching in?

20 A. Yes.

21 Q. And is there any reason why you would go outside
22 of the tape to search for anything?

23 A. No.

24 Q. I'm going to show you what's been admitted as
25 State's Exhibit 32. What does this photo show?

1 A. That's a mid-range photo of the previous picture.

2 Q. And right here we see a fire truck. Why was that
3 on the scene?

4 A. Fire will respond beforehand to attempt to render
5 aid to the victim.

6 Q. Would the fire -- so the fire truck would've come
7 through before you had the opportunity to be on scene?

8 A. Yes.

9 Q. I'm showing you now what's been admitted as
10 State's Exhibit 29. What does this photo show?

11 A. It's a photo of the decedent.

12 Q. And had the decedent received any sort of EMS or
13 medical attention when you took this photo?

14 A. Yes, ma'am.

15 Q. Did you move the body in any way before taking
16 this photo?

17 A. No, ma'am.

18 Q. I am showing now -- it's been admitted as
19 State's Exhibit 30. And what does this photo show?

20 A. It's a photo that's -- seeing it from a different
21 view.

22 Q. And where approximately on Comstock Avenue was the
23 victim's body when you arrived on scene?

24 A. [REDACTED] Comstock Avenue.

25 Q. Did you recover any items from around the victim's

1 body?

2 A. Yes, ma'am.

3 Q. What did you recover?

4 A. Glock firearm.

5 Q. I'm going to show you what's been admitted as
6 State's Exhibit 80. Is that the firearm that you recovered?

7 A. Yes, ma'am.

8 Q. And what's this red sort of tarp right here?

9 A. Fire EMS had placed that up to block the view from
10 the fence line.

11 Q. And then, is this the edge of the white tent we
12 were talking about earlier?

13 A. I'm not sure if that's the tent or if that's the
14 -- the body bag. Because we had already removed the
15 decedent.

16 Q. Okay. And then, I'm just going to show
17 State's Exhibit 81 and what's that photo?

18 A. That's a close-up photograph of the -- the
19 firearm.

20 Q. Now, I'm going to go to State's Exhibit 49. What
21 does this photo show?

22 A. That's a mid-range photograph of fire -- excuse
23 me, fired cartridge casings.

24 Q. And so, are these markers here, what are those --
25 markers represent?

1 A. That's where the casings are.

2 Q. And generally speaking, what is a fire cartridge
3 case?

4 A. Generally speaking, that's what's left over once a
5 firearm's been fired.

6 Q. And so, based on the photo, how many do we -- how
7 many fired cartridge cases do we see in this photo?

8 A. Five.

9 Q. And did all of these fired cartridge cases
10 visually match each other?

11 A. Yes.

12 Q. And when you're looking at a fired cartridge case,
13 how do you know that they'll match each other?

14 A. First, I'll check the caliber, and if the caliber
15 -- once the calibers match, I'll group them, and then we will
16 look at similarities in the headstamp of it. There'll be a
17 breach face, a firing pin impression, and sometimes ejector
18 marks. And I'll look at those descriptors to see if they are
19 similar, and that's how I match them.

20 Q. I'm going to show State's Exhibit 54. So, when
21 we're talking about a headstamp, is that a headstamp?

22 A. Yes, ma'am.

23 Q. And so, all of that kind of information you were
24 just talking about, you see some of it on the head stamp?

25 A. Yes.

1 Q. Correct? And then some of it visually looking at
2 it?

3 A. Yes.

4 Q. And going back to State's 49, where were these --
5 where on Comstock were these fired cartridge cases found?

6 A. These casings are in front of
7 2006 Comstock Avenue.

8 Q. So, I am going to show you what's been marked as
9 State's Exhibits 17 through 21. I am showing you what's been
10 marked for identification as State's Exhibits 17 through 21.
11 Do you recognize these?

12 A. Yes.

13 Q. And how do you recognize them?

14 A. I packaged them.

15 Q. And are they a fair and accurate depiction of
16 items that you packaged that day from the crime scene?

17 A. Yes.

18 MS. OUTTEN: This time the State would offer
19 Exhibits 17 through 21 into evidence.

20 THE COURT: Any objection?

21 MR. BISCHOFF: No, your Honor.

22 THE COURT: That's fine.

23 BY MS. OUTTEN:

24 Q. So those --

25 THE COURT: States' -- hold on.

1 State's Exhibits 17 through 21 are in evidence without
2 objection.

3 (State's Exhibits 17 through 21 admitted into evidence.)

4 BY MS. OUTTEN:

5 Q. So are the -- do those fired cartridge casings
6 represent fired cartridge cases that were collected where
7 those placards are?

8 A. Yes.

9 Q. I'm going to show you what's been admitted as
10 State's Exhibit 31. So then, we kind of talked about this --
11 a photo similar to this, but what is this photo showing us?

12 A. That's a photograph of the casings that were in
13 front of 2019 Comstock.

14 Q. And similar to the last photo, what did these all
15 -- these different markers represent?

16 A. Fire -- fire -- sorry. Fired cartridge casings.

17 Q. And what kind of fired cartridge casings were
18 these?

19 A. These were .45-caliber casings.

20 Q. And how would you characterize these in relation
21 to one another?

22 A. I would characterize them as being an -- like a
23 cluster.

24 Q. And did you collect the fired cartridge cases that
25 these markers represent?

1 A. Yes.

2 Q. And it I was to show them to you to see if you
3 would you recognize them?

4 A. Yes.

5 Q. Showing the witness what's been marked for ID as
6 State's 12 through 16. Do you recognize these?

7 A. Yes.

8 Q. And how do you recognize them?

9 A. I packaged them.

10 Q. And are they the -- excuse me. Are they the same
11 -- substantially same condition as when you packaged them?

12 A. Yes.

13 MS. OUTTEN: At this time, State offers
14 Exhibits 12 through 16 into evidence.

15 THE COURT: Any objection?

16 MR. BISCHOFF: No objection.

17 THE COURT: All right. State's 12 through 16 is
18 entered into evidence without objection.

19 (State's Exhibits 12 through 16 admitted into evidence.)

20 BY MS. OUTTEN:

21 Q. So following your response to the scene that day,
22 did you generate a report?

23 A. Yes.

24 Q. And is that your usual practice?

25 A. Yes.

1 Q. And does that report include approximate addresses
2 or fixed points where items of evidence are located?

3 A. Yes.

4 Q. And why do you include that detail? Just as a
5 general practice?

6 A. Just to help refresh my memory on where everything
7 was located.

8 Q. And in preparation for this trial, did you return
9 to the crime scene?

10 A. Yes, I did.

11 Q. And was anyone from my office was present when you
12 did that?

13 A. Yes.

14 Q. Who was present?

15 A. You were present, as well as
16 Solicitor Stephanie Linder and Investigator Jennifer Butler.

17 Q. And what did we -- what did you do when you were
18 out on the scene that day?

19 A. When I was there, I took measurements and a few
20 photographs.

21 Q. So, when we were discussing the report and those
22 fixed measurements -- so where again are these fired
23 cartridge cases located on Comstock Avenue?

24 A. The ones on the screen?

25 Q. Yes.

1 A. 2021 Comstock Avenue.

2 Q. And where on Comstock Avenue were these fired
3 cartridge cases located?

4 A. 2006 Comstock Avenue.

5 THE COURT: (Crosstalk) would you please come again?

6 MS. OUTTEN: I'm sorry, I just showed
7 State's Exhibit 31 and I'm showing State's Exhibit 49.

8 BY MS. OUTTEN:

9 Q. And did you perform a measurement between those
10 two points on Comstock Avenue?

11 A. Yes.

12 Q. And what was the distance?

13 A. The distance between those two addresses was
14 approximately 170 feet.

15 Q. And do you include addresses in your report so
16 that you would be able to go back and take measurements at a
17 later time?

18 A. Yes.

19 Q. Okay. I'm going to show what's been marked as
20 State's Exhibit 30, where -- and this photo show -- what does
21 this photo show?

22 A. It is a picture of the decedent.

23 Q. And where was the decedent found then?

24 A. He was at [REDACTED] Comstock, right -- on the
25 right-hand side of the front sidewalk -- walkway.

1 Q. And. I'm going to show State's Exhibit 31 again,
2 which is the 9mm cartridge cases, correct?

3 A. Those -- those are the .45-caliber.

4 Q. I'll just ask a few. I appeared I was going to do
5 that. So sorry. State's Exhibit 49 are the fired cartridge
6 cases, the 9mm?

7 A. Yes, ma'am. Those are the nine.

8 Q. And where are those in front of?

9 A. Those are in front of 2006.

10 Q. Did you measure the distance between
11 [REDACTED] Comstock Avenue and 2006 Comstock Avenue?

12 A. Yes.

13 Q. And how far -- approximately how far are those two
14 addresses from each other?

15 A. Approximately 60 feet.

16 MS. OUTTEN: Your Honor, at this time we would like to
17 do the demonstration with the (inaudible).

18 THE COURT: All right. Go ahead. You can proceed.

19 BY MS. OUTTEN:

20 Q. All right. Ms. Hunt, I'm just going to ask you to
21 hold the end of this measuring tape here.

22 MS. OUTTEN: I actually -- if it's okay with, your
23 Honor, I may have her come stay here, just so we have a brief
24 shot.

25 THE COURT: That's fine. As long as she's in the

1 jury's view.

2 BY MS. OUTTEN:

3 Q. What does the measuring tape read right now?

4 A. 21 feet.

5 Q. How about right now?

6 A. 31 feet.

7 Q. Thank you, Ms. Hunt. So aside from your
8 involvement from the crime scene, did you have any other
9 involvement --

10 A. Yes, ma'am.

11 Q. -- in this case?

12 A. Yes.

13 Q. And what involvement did you have?

14 A. I performed the -- executed a vehicle search
15 warrant on a 2013 Jeep Compass.

16 Q. And what is the typical procedure you follow, when
17 you're assisting with the search warrant of the vehicle?

18 A. I'll usually -- I'll arrive at our -- our
19 North Charleston warehouse to secure crime scene cage, and
20 I'll meet with the detectives there. I'll photograph and
21 review their search warrant to make sure that everything is
22 accurate, and then I'll photograph that, and then I'll begin
23 with exterior photographs of the vehicle, and then interior
24 photographs. And then the detectives will search, and then I
25 will photograph and collect anything that they find relevant.

1 Q. And did you follow that procedure in this case?

2 A. Yes.

3 Q. All right. I am approaching the witness with
4 what's been marked for the State 83, 84, 85, 87, 88, 89, 98,
5 and 99. Do you recognize these photos?

6 A. Yes, ma'am.

7 Q. And how do you recognize them?

8 A. I took them.

9 Q. And are they a fair and accurate depiction of
10 items you recovered from the car that day?

11 A. Yes.

12 MS. OUTTEN: Your Honor, at this time the State offers
13 those exhibits into evidence.

14 THE COURT: The Defense?

15 MR. BISCHOFF: No objection.

16 THE COURT: All right.

17 State's Exhibits 83, 84, 85, 87, 88, 89, 98 and 99 are
18 entered into evidence without objection.

19 (State's Exhibits 83, 84, 85, 87, 88, 89, 98, and 99 admitted
20 into evidence.)

21 MS. OUTTEN: Permission to publish, your Honor?

22 THE COURT: Yes, you can publish.

23 BY MS. OUTTEN:

24 Q. I am showing State's Exhibit 83. Is this the
25 vehicle you searched?

1 A. Yes.

2 Q. And now I'm going to show you State's Exhibit 88.
3 What does this photo represent?

4 A. That's the front-passenger compartment.

5 Q. And you sort of talked about your general
6 procedure. So, will you first try to photograph items as
7 they're found?

8 A. Yes.

9 Q. Before you search for them?

10 A. Yes.

11 Q. And -- and that's the -- and why is the reason for
12 that?

13 A. To show their state before anybody manipulated
14 them.

15 Q. And what is this item right here?

16 A. That's a prescription bottle.

17 Q. Showing State's Exhibit 89. Is that the close-up
18 photo of the prescription bottle?

19 A. Yes.

20 Q. And who's the prescription made out to?

21 A. Emonie Burgess.

22 Q. Showing State's 98. Is this an item you recovered
23 from a car?

24 A. Yes.

25 Q. And up here, when it's trying to get paid details,

1 what's the name on that?

2 A. Courtney Richards

3 Q. State's 99. Is this another item you recovered
4 from the vehicle?

5 A. Yes.

6 Q. And it's a -- and what's the name on the top of
7 that paper?

8 A. Courtney Richards.

9 Q. And was that the end of your involvement in this
10 case?

11 A. Other than processing the gun that was on the
12 scene? That was the end of my involvement.

13 MS. OUTTEN: I beg the Court's indulgence. I don't
14 have any more questions for you, but please answer any
15 questions that Mr. Bischoff might have.

16 THE COURT: Cross?

17 MR. BISCHOFF: May it please the Court, your Honor?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. BISCHOFF:

21 Q. All right.

22 A. Good afternoon.

23 Q. Good afternoon. I want to ask questions about the
24 search warrant first. Just another photo that I would like
25 you to take a look at.

1 A. The vehicle?

2 Q. Yes.

3 A. Okay.

4 Q. All right. Showing you what's marked as Defense's
5 Exhibit 9, (inaudible)?

6 A. Yes.

7 Q. And what is the photo of?

8 A. It's the front-passenger door.

9 Q. And you took that photo?

10 A. Yes.

11 Q. And that clearly depicts the same condition you
12 saw the car in?

13 A. Yes.

14 MR. BISCHOFF: You processed it. We move to admit
15 Defense's 9 and to publish.

16 THE COURT: All right. Defense's Exhibit 9. Is there
17 any objection, State? What's with the State?

18 MS. OUTTEN: Oh, no objection from the State, your
19 Honor.

20 THE COURT: All right. The Defense's Exhibit 9 is in
21 evidence without objection.

22 (Defense's Exhibit 9 admitted into evidence.)

23 BY MR. BISCHOFF:

24 Q. So, that's the passenger-side door with the Jeep
25 that you processed?

1 A. Yes.

2 Q. The locking mechanism there on the right side or
3 kind of in the middle?

4 A. Can you point to what you're -- sorry?

5 Q. Right here?

6 A. Yes.

7 Q. So regarding Defense -- I'm sorry. State --
8 there's a prescription bottle --

9 A. Yes, sir.

10 Q. -- located, correct?

11 A. Yes.

12 Q. The State submitted this sheet as State's 89. Do
13 you know what that medication is for?

14 A. No, sir.

15 Q. Never heard of that medication at all, Zofran?

16 A. I -- I don't -- not that I remember. Like --

17 Q. Okay. Now, ideally when you're responding to a
18 crime scene, you want to process it that day, correct?

19 A. Yes.

20 Q. And you -- one of the reasons that you want to do
21 that is because if you don't process it that day, then
22 evidence can be taken away?

23 A. Absolutely.

24 Q. And one of the other things that first responders
25 do after they tend to the individual -- that call is about --

1 is they walk off in the area that they call

2 "the incident scene" or the crime scene, correct?

3 A. Well, the scene has already been marked off prior.

4 Q. It's marked off prior to you getting here?

5 A. Yes.

6 Q. But someone -- one of your colleagues has already
7 done that?

8 A. Yes.

9 Q. And they put up this tape that you -- yellow tape
10 that marks the area off and nobody's supposed to go in or out
11 --

12 A. Yes.

13 Q. -- of that area, correct?

14 A. Correct.

15 Q. Now, protocol also requires typically that you
16 have a crime scene log?

17 A. Yes.

18 Q. Where someone is monitoring who goes in and out of
19 a particular scene while the scene is being processed?

20 A. Yes. One of the first refining officers is
21 responsible for that.

22 Q. Do you know who was responsible the day of the
23 incident?

24 A. No. It's -- I don't know who gets there on scene
25 first, but they generally -- that's the first thing they --

1 they do is, begin a log.

2 Q. Did you check in with the crime scene technicians
3 responsible for the log before you entered the scene?

4 A. I don't remember the scene in particular.

5 Q. So, you've never seen a crime scene log for this
6 particular case?

7 A. I can check if I have one. I have one, sir.

8 Q. You do?

9 A. Yes.

10 MR. BISCHOFF: May I approach?

11 THE COURT: Yes.

12 MR. BISCHOFF: Your Honor, will we approach?

13 THE COURT: Yes, sir.

14 (Bench conference.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to -- we're going to take a 15-minute recess. At this
17 time, I will ask you to take the jury back to their jury
18 room. Please do not discuss the case. Thank you.

19 (Jury exits courtroom.)

20 THE COURT: All right. Everyone can have a seat. I'm
21 going to go back on the record. We're back on the record.
22 We're taking a 15-minute recess. There's a crime scene log
23 that has been -- been passed up to Defense Counsel. He has
24 requested 15 minutes to review the -- the document along with
25 the solicitor. So we're granting that 15-minute recess now

1 to review the document.

2 MR. BISCHOFF: Judge, can we get copies of this for
3 both sides? I've not seen it on --

4 THE COURT: Absolutely. It is -- you can -- you can do
5 that, make a copy of it, and -- and then we can -- and y'all
6 deal with it. I don't know how you want to use it, but you
7 -- we can -- we can mark it if necessary. If you feel more
8 comfortable with that.

9 MR. BISCHOFF: Well, just for right now, just copies of
10 those sides to look at.

11 THE COURT: That - that'd be fine. Yes. If you would
12 -- yes. Just retain the original for the -- for
13 Corporal Hunt. Corporal Hunt, you're still under oath. You
14 need to get up, and walk around, and take a break, that's
15 fine. But please do not discuss anything with anyone in the
16 hall or anyone that attempts to discuss anything with you.
17 You need to let the Court know.

18 THE WITNESS: Yes, your Honor. Appreciate.

19 THE COURT: Thank you. We're in brief, 25 minutes.

20 (Off the record.)

21 THE COURT: All right. Have you had enough time to
22 review the log that we took a break for?

23 MR. BISCHOFF: I have, Judge. Thank you.

24 THE COURT: All right. The State ready to proceed?

25 MS. OUTTEN: Yes.

1 THE COURT: Defense ready to resume --

2 MR. BISCHOFF: Yes, sir.

3 THE COURT: -- the cross-examination? Okay. Let's
4 bring the jury. Corporal Hunt, you're still under oath.

5 MR. BISCHOFF: When they get here, we'll see. Yes. I
6 am diverting my attention to this now, I just have a couple
7 of minutes. I -- I said I don't want to hear, I don't want
8 you, I don't want you to sign to another judge.

9 (Jury enters courtroom.)

10 THE BAILIFF: Judge, all jurors are present and seated.

11 THE COURT: All right. Everyone be seated please.

12 Mr. Bischoff, you can resume your cross-examination, sir.

13 MR. BISCHOFF: Thank you, your Honor.

14 THE COURT: You're welcome.

15 BY MR. BISCHOFF:

16 Q. Corporal Hunt?

17 A. Yes, sir.

18 Q. Sorry for the delay. This is the first time I was
19 seeing this crime scene log. So, it was not your
20 responsibility?

21 A. No, sir.

22 Q. That you had a crime scene log. In fact, your
23 name is on here having arrived at 1352. Correct?

24 A. Yes, sir.

25 Q. And you -- though not shown on the log, it should

1 have been recorded what time people also departed or left the
2 crime scene, correct?

3 A. Yes.

4 Q. And even the person who recorded the log did not
5 indicate when he or she left the crime scene?

6 A. Correct.

7 Q. The reason I'm asking about that is because you
8 would agree with me that the integrity of the scene, the area
9 that is actually taped off with the yellow crime scene tape
10 that everyone's familiar with, that indicates an area within
11 which people should not be going in and out of without some
12 sort of purpose.

13 A. Correct.

14 Q. And when people go in and out of the crime scene,
15 then the chances of evidence being inadvertently taken away
16 increases?

17 A. Correct.

18 Q. Chance of evidence being manipulated or altered in
19 any way increases?

20 A. Yes, sir.

21 Q. And that in -- impacts your ability to do your
22 job, does it not?

23 A. Yes, sir.

24 Q. Because then when you're responding and taking
25 photographs, you're taking photographs as you see it at 1352,

1 perhaps not as it was maybe a minute or two, or five minutes
2 shortly after the -- the incident for which you're
3 investigating.

4 A. Absolutely.

5 Q. And in this case, usually, you actually have one
6 single perimeter, correct?

7 A. Yes. That's common.

8 Q. And in this case, there actually were two
9 established perimeters based on new information that you
10 received later on.

11 A. I don't understand the question. I'm sorry.

12 Q. Well, maybe a photograph will help with this. Let
13 me show you what's been marked as Defense's Exhibit 10. Do
14 you recognize that photograph?

15 A. Yes.

16 Q. And that's a photograph of what?

17 A. The scene -- you're talking about with the fire
18 truck that there's --

19 Q. Yes.

20 A. Yes. Yeah, but they were both set up when I got
21 there.

22 Q. But you took this photo?

23 A. Yes.

24 MR. BISCHOFF: Your Honor, I move Defense's Exhibit 10.

25 THE COURT: State's position?

1 MS. OUTTEN: No objection.

2 THE COURT: All right. Defense's Exhibit 10 is entered
3 with no objection.

4 (Defense's Exhibit 10 admitted into evidence.)

5 BY MR. BISCHOFF:

6 Q. So in Defense's Exhibit 10 we see a fire truck,
7 correct?

8 A. Yes.

9 Q. And that fire truck is in between the casings that
10 were found, that correspond to the area where
11 Courtney Richards was firing his gun?

12 A. Yes.

13 Q. And on the other side of this fire truck, we have
14 the other shell casings from where Javon Thomas was firing
15 his gun?

16 A. Yes.

17 Q. So, this fire truck drove over the area where the
18 shell casings were corresponding to Courtney Richards' gun?

19 A. Yes.

20 Q. Show you what has been marked as Defense's 13.

21 Ask if you recognize this photo.

22 A. Yes, sir.

23 Q. And you took that photograph?

24 A. Yes.

25 Q. The photograph from the scene, the day of the

1 incident?

2 A. Yes, sir.

3 MR. BISCHOFF: Your Honor, I move to admit
4 Defense's Exhibit 13.

5 THE COURT: Any objection?

6 MS. OUTTEN: None.

7 THE COURT: Defense's Exhibit 13 is entered without
8 objection.

9 (Defense's Exhibit 13 admitted into evidence.)

10 BY MR. BISCHOFF:

11 Q. And Corporal, correct me if I'm wrong, but these
12 are the placards of this photograph, Defense's -- sorry,
13 Defense's 13. You see three different placards that
14 correspond to the shell casings that were connected to the
15 .45-caliber weapon.

16 A. Yes, sir.

17 Q. That's Courtney Richards' firing?

18 A. This from what I understand. Yes.

19 Q. From what you're understanding?

20 A. Yeah.

21 Q. And if you zoom in here, what do you see about
22 placard number 1?

23 A. The fired cartridge casing is indented.

24 Q. Indented? Do you know by looking at State's --
25 what package -- this is a package you have in evidence?

1 A. Yes, sir.

2 Q. Correct?

3 A. Yes.

4 Q. Do you know by looking at this package with
5 State's Exhibits 12, 13, 14, 15, 16, which shell casing
6 corresponds to placard one?

7 A. Yes.

8 Q. Could you please pull that out for us?

9 A. So, they've been taken out by SLED, so it'll take
10 me a second. It's -- this one should be this one.

11 Q. So the condition within which this shell casing
12 was found, that is not a normal way for a shell casing to
13 come out of a firearm, is it?

14 A. No, it's not.

15 THE COURT: Do we have a number that we can refer it
16 to?

17 MR. BISCHOFF: Sure. Your Honor, this is --

18 THE WITNESS: It's -- so for -- for me it's photo
19 placard 1, but SLED needs some --

20 MR. BISCHOFF: It's photo placard 1, Judge, but I don't
21 believe it corresponded to the specific exhibit, your Honor.

22 THE WITNESS: Oh, 12, I'm sorry. Yes, it's 12.

23 MR. BISCHOFF: 12? All right.

24 THE COURT: So the State's Exhibit 12?

25 MR. BISCHOFF: State's Exhibit 12.

1 THE COURT: Thank you. Please continue.

2 BY MR. BISCHOFF:

3 Q. And so, that bullet has been manipulated -- or
4 shell -- shell casing, sorry. Shell casing has been
5 manipulated?

6 A. Yes.

7 Q. Presumably by a large vehicle, like a fire truck?

8 A. Most likely. Yes. Yeah.

9 Q. It -- it -- it takes a lot of pressure -- a lot of
10 weight to manipulate a shell casing, correct?

11 A. Correct.

12 Q. So of the .45-caliber shell casings, you found
13 five of those?

14 A. Yes, sir.

15 Q. Now, I'm going to show you what's been marked as
16 Defense's Exhibit 11. You recognize that photo, correct?

17 A. Yes. Yep.

18 Q. And that photo corresponds with the shell casings
19 that are connected to the 9mm weapon?

20 A. Yes, sir.

21 Q. Which is a different level?

22 A. Yes.

23 Q. Distinctly different than a .45-caliber?

24 A. Yes, sir.

25 MR. BISCHOFF: I move to admit Defense's Exhibit 11.

1 THE COURT: Any objection?

2 MS. OUTTEN: No objection from the State, your Honor.

3 THE COURT: All right. Defense's Exhibit 11 is entered
4 without objection.

5 (Defense's Exhibit 11 admitted into evidence.)

6 BY MR. BISCHOFF:

7 Q. All right. So in this photograph is the placards
8 6, 7, 8, 9, and 10, correct?

9 A. Yes, sir.

10 Q. And those are all the shell casings for the
11 9mm weapon belonging to Javon Thomas that were recovered at
12 the scene, correct?

13 A. Yes, sir.

14 Q. And what do you see at the top right-hand corner
15 of Defense's Exhibit 11?

16 A. The -- are you speaking of the patrol vehicle?

17 Q. Yes. The patrol vehicle is on the exterior of the
18 crime scene, correct?

19 A. Yes. Of the crime scene tape anyway. Yes.

20 Q. Do you know whether or not that officer responded
21 before anybody else? Is that one of the initial responding
22 vehicles?

23 A. I would believe so, but I don't know for sure.

24 Q. Because you wouldn't park a vehicle like that
25 after everyone was arrived. Correct? That seems to be a